

PARAGUAY

UPDATE OF THE COUNTRY PROCUREMENT ASSESSMENT REVIEW

(CPAR Update Report)

30 April 2007

Document of the Inter-American Development Bank and the World Bank

CURRENCY EQUIVALENTS

Currency Unit = Guarani (Gs.)

US\$1 = Gs.5,404 (April 2007)

Acronyms and Abbreviations

AGPE	Office of the Government Auditor General
AII	Internal Institutional Audit Unit
ANDE	National Electricity Administration
BCP	Central Bank of Paraguay
BLI	Baseline Indicator
CFAA	Country Financial Accountability Assessment
CGR	Office of the Comptroller General
CI	Compliance Indicator
CISNI	Consejo Impulsor del Sistema Nacional de Integridad ("Council to Promote the National Integrity System")
CNI	National Integrity Commission
COPACO	Compañía Paraguaya de Comunicaciones S. A.
CPAR	Country Procurement Assessment Report
DGCP	General Directorate of Public Procurement
eGP	Electronic government procurement
ICB	International Competitive Bidding
ICM	Initiating Concept Memorandum
IDB	Inter-American Development Bank
MEC	Ministry of Education and Culture
MH	Ministry of Finance
MIC	Ministry of Industry and Trade
MJyT	Ministry of Justice and Labour
MOPC	Ministry of Public Works and Communications
MP	<i>Ministerio Público</i> (Attorney General's Office)
MSPyBS	Ministry of Public Health and Social Welfare
NCB	National Competitive Bidding
OECD/DAC	Organization for Economic Co-operation and Development/ Development Co-operation Directorate)
PETROPAR	Petróleos Paraguayos
SIAF	Integrated Financial Administration System
SICP	Public Procurement Information System
SUOC	Procurement Operations Subunit
UEP	Project Implementation Unit
UNDP	United Nations Development Programme
UOC	Procurement Operations Unit
USAID	United States Agency for International Development
WB	World Bank

IDB		World Bank	
Vice President:	Daniel M. Zelikow	Vice President:	Pámela Cox
Regional Manager:	Manuel Rapoport	Country Director:	Axel Van Trotsenburg
Dep. Manager:	Luis Rains	Regional Manager of	
Team Leader	Cristian Santelices	Procurement:	Enzo de Laurentiis
embers:	Fernando Fernández	Team members:	Efraím Jiménez
	María Eugenia Roca		Andrés MacGaul
	Jorge Claro		

TABLE OF CONTENTS

PARAGUAY	1
UPDATE OF THE COUNTRY PROCUREMENT ASSESSMENT REVIEW.....	1
(CPAR Update Report).....	1
30 April 2007	1
Document of the Inter-American Development Bank and the World Bank	1
CURRENCY EQUIVALENTS.....	2
I. EXECUTIVE SUMMARY.....	5
1. Introduction.....	5
2. The purpose of the CPAR	6
3. General considerations on the operating environment of government procurement	6
4. Main conclusions of the CPAR.....	6
5. Outline of the recommended action plan	9
6. Methodology	11
7. Expert validation by the IDB/World Bank fiduciary assessment team.....	12
II. THE REPORT	13
A. PREFACE.....	13
1. Date and Basis of the Report	13
2. Acknowledgments.....	13
3. Participating government organisations.....	14
4. Other cosponsors/contributors	14
5. The Joint Assessment Team.....	14
B. BACKGROUND	15
1. Information on the country	15
2. The country portfolio of the Banks	18
3. Government participation in the assessment.....	19
C. DEBATE AND ANALYSIS OF FINDINGS.....	20
1. Pillar I: Legislative and Regulatory Framework.....	20
2. Pillar II: Institutional Framework and Management Capacity.....	28
3. Pillar III. Procurement operations and market practices	33
4. Pillar IV. Integrity and transparency of the public procurement system	40
D. RECOMMENDED ACTION PLAN (PRELIMINARY).....	52
E. IMPACT ON SUPERVISION BY THE BANKS	58
1. General risk assessment	58
2. Performance of projects financed by the Inter-American Development Bank	59

3. Performance of projects financed by the World Bank	60
4. The role of the UNDP	61
III. OUTCOMES FROM THE EVALUATION OF THE PILLARS	63
1. Results and preliminary scores assigned to the Baseline Indicators and Compliance Data.....	63
2. Validation of scores and main lines of action identified in the November 2006 workshop	85
IV. APPENDICES.....	92
Appendix I: Statistical List of Procurement Transactions (2004, 2005 and 2006)	92
APPENDIX II: LIST OF LAWS, DECREES AND REGULATIONS GOVERNING THE NATIONAL PUBLIC PROCUREMENT SYSTEM	95
APPENDIX III. BACKGROUND AND SUPPORTING DOCUMENTATION FOR THE TEAM'S FINDINGS	96
APPENDIX IV: PARTICIPANTS IN THE WORKSHOP AND PLENARY MEETING FOR THE PARAGUAY CPAR	97
V. ANNEXES	98
ANNEX I: ADDITIONAL INFORMATION ON THE PUBLIC PROCUREMENT SYSTEM.....	98
2. Pillar II. Institutional Framework and Management Capacity	105
3. Pillar III. Procurement operations and market practices	108
4. Pillar IV. Integrity of the Public Procurement System	111
ANNEX II. Analysis of the Electronic Public Procurement System	112

I. EXECUTIVE SUMMARY

1. Introduction

The Country Procurement Assessment Report, CPAR, forms part of the overall country strategy of the financial institutions, and is of great importance for the country and for the Banks.

In 2002 the World Bank, with the support of the IDB and other institutions and the active participation of the Government of Paraguay, conducted a Country Procurement Assessment Review of Paraguay. That evaluation found serious shortcomings in the government procurement system, including: (i) uncertainty about project budgets and the lengthy process for the release of funds; (ii) absence of procurement manuals and standard bidding documents; (iii) the requirement that works-related documents be approved by external bodies; (iv) mandatory registration of works contractors and consultants; (v) vague bid evaluation procedures; and (vi) absence of a methodology for selection and employment of consultants.

With respect to risk, the document noted that "[i]n view of the general country environment highly prone to corruption, and the existing shortcomings, the procurement risk in Paraguay is assessed as high". The document also proposed a detailed action plan that included: (i) restructuring of the legislative and regulatory framework; (ii) institutional strengthening; (iii) appointment of senior officials of the DGCP through public competition; (iv) development of a human resources plan for government procurement; (v) development of an organisational model for the DGCP and other purchasing units; (vi) development and implementation of a training plan and operating manuals; (vii) development of standard bidding documents; (viii) the signing of integrity pacts; (ix) preparation of a draft law authorising electronic signatures; (x) development and creation of an electronic procurement website; and (xi) modernisation of contract management.

In addition to the foregoing, the IDB and the World Bank conducted a "Country Financial Accountability Assessment" (CFAA) of Paraguay in 2003, the report for which was published in August 2004. It found that while the country had made some significant progress in terms of strengthening the control environment and enhancing transparency, much remained to be done in this area. The report noted that the principal changes introduced related to budgeting and accounting aspects, and that the government had taken steps to modernise legislation and to provide greater information on financial administration. Thus, in 2004 an integrated financial administration system had been partially implemented, backed by appropriate legislation, and Congress had begun to approve laws to reform the tax and pension systems, as well as the financial and banking sector.

By the beginning of 2006 the previous CPAR action plan had been implemented almost in full, measures with respect to procurement were well advanced, and significant progress had been made in developing the electronic procurement website, "ContratacionesParaguay" (www.contratacionesparaguay.gov.py) and in modernising the financial administration system. Consequently, Paraguay and the Banks agreed to conduct a joint update of the CPAR, using the new assessment methodology developed by the OECD-

DAC/WB/IDB. Paraguay also agreed with the OECD to serve as a pilot country for use of the methodology.

2. The purpose of the CPAR

The main purpose of updating the CPAR was to assess the procurement system in its entirety, in order to determine the impact of reforms to date in both the financial and the purchasing areas, and to evaluate the quality of the country's current procurement system. In addition, the assessment process gave rise to important dialogue with the government on the reforms still needed for improving and optimising the system.

3. General considerations on the operating environment of government procurement

Government procurement in Paraguay takes place within a framework of policy centralisation and operational decentralisation. Procurement contracts are implemented by the municipalities, regional or provincial governments (*gobernaciones*), autonomous entities, and dependencies of the three branches of State, totalling 307 bodies covering more than 1,000 contracting units.

With the exception of the Project Implementation Units (UEPs), government procurement in Paraguay is conducted by contracting units that have no clear terms of reference for the responsibilities and tasks of the procurement officer, and the minimum qualifications for members of the UOCs (Procurement Operations Units) have not been defined. The public sector in Paraguay employs some 200,000 persons, of whom approximately 5% are university graduates. Public-sector salaries are low in comparison with similar the positions in the private sector. This differential is most pronounced at the professional and managerial levels, although the comparison is less unfavourable when weighted by actual working hours. In most cases, this means that public servants will hold down two jobs or positions in order to supplement their incomes. There is also a discrepancy in the technical quality of human resources among the various procurement units. The IDB is supporting a programme to modernise the civil service, the cornerstone of which has been the promulgation of a new Civil Service Act. That law has been only partially implemented, because of various challenges and questions raised against it.

The private sector in Paraguay is small, and its capacity to supply the State efficiently is limited. Firms are for the most part micro, small and occasionally mid-sized businesses, and many still have an informal status that limits their access to credit. There is a general mistrust of government procurement procedures, although among business people (who are better informed of recent progress in this area) complaints tend to be confined to frustrations over late payment rather than the transparency of the system.

There are a number of NGOs in Paraguay that make it their business to monitor and supervise the transparency and efficiency of public affairs. The "Citizen Oversight Network" (*Red de Contralorías Ciudadanas*) and Transparency Paraguay, among others, enjoy government support and encounter no constraints on their access to information from the DGCP.

4. Main conclusions of the CPAR

The principal conclusions from this exercise relate to the four basic pillars of the methodology. They also note successes to date in implementing the recommendations from the previous CPAR, and progress with the electronic procurement website.

(i) Pillar I. The legal framework

In 2003, Paraguay approved a new Public Procurement Act (*Ley de Contrataciones Públicas*) modifying the existing legal framework, and creating a regulatory body, the "Central Policy and Technical Unit" (*Unidad Central Normativa y Técnica*, UCNT), now known as the General Directorate of Public Procurement, or DGCP. The new legal framework and the dynamic performance of the recently created DGCP have introduced substantial changes in procurement practices. The principles of economy and efficiency, fairness and free competition, transparency and publicity are expressly set out in the new law, and have been observed for the most part since its approval.

The Law covers all procurement transactions by the municipalities, State entities and autonomous agencies, and establishes a common legal framework for procurement by all national bodies

With respect to electronic procurement, the system has been developed, and most purchases and contracts are now published at its website (<http://www.contratacionesparaguay.gov.py>).

With respect to possible legislative reforms, it should be noted that the International Competitive Bidding procedure (ICB) is not the preferred or default mechanism for large or complex procurement operations, and is applied only as an exception to National Competitive Bidding (NCB), where foreign firms not established in Paraguay cannot compete. ICB in fact is used only when required by international agreements, or where it can be demonstrated that there are no local suppliers. That said, however, most contracts for amounts exceeding US\$500,000 have been awarded through ICB.

(ii) Pillar II. Institutional framework and management capacity

The DGCP is part of the Financial Administration Branch (*Subsecretaría*) of the Ministry of Finance. Its location within the Ministry of Finance gives it institutional clout and facilitates its operational capacity. The DGCP enjoys budgetary autonomy, and is funded through allocations equal to 0.5% of the value of contracts awarded through the public system.

The system of policy centralisation and operational decentralisation has a weak link: the DGCP has only limited influence over the UOCs and the UEPs, which are under the administrative control of each entity, with the result that their personnel, hierarchy, composition, experience and other operational characteristics are beyond the control of the DGCP. In operational terms, the UOCs have no standard procedures for the regular and systematic recording of documentation relating to procurement, nor is there any protocol relating to file security or the maintenance of up-to-date records on procurement. There is also a lack of adequate records relating to quality and quantity inspection prior to acceptance of goods.

The budgetary management of procurement has improved substantially with the introduction of control and planning tools—Budget Availability Codes (CDPs) and Annual Procurement Plans (PACs)—but there is still a significant gap in institutions not connected to the Integrated Financial Administration System (SIAF). These entities, which accounted for 59% of total public procurement in 2004 and 57% in 2005, have no real-time control over budget availability. There is thus a risk that funding will not be available when it comes time to pay for procurement, and the capacity to monitor expenditure for financial administration purposes is limited.

Development and implementation of the Government Procurement Information System (SICP) is a milestone in the country's procurement management. The use of this system as an operational and control tool and as a database is the cornerstone of the procurement system, and the DGCP is taking steps to expand its functionalities. The system offers key facilities both for internal users (government) and for external users (suppliers and civil society).

(iii) Pillar III. Procurement operations and market practices

Officials responsible for managing procurement receive exhaustive training from the DGCP. The capacities within the UOCs and the UEPs are uneven, reflecting the differing rank of each UOC within its organisation. Among the UEPs, the degree of training is generally higher, and staff are offered courses and workshops sponsored by financial organisations. One of the problems in developing local procurement management capacities is the high turnover rate of personnel in these units.

Training for the private sector has barely begun, although the DGCP has plans to expand courses and workshops for suppliers, dealing primarily with the preparation and presentation of bids and the contents and procedures established in the new law.

Paraguay has no law authorising public-private partnerships. However, there are forums for dialogue and coordination with business chambers and associations, such as for example the National Integrity Programme (PNI) and the Council to Promote the National Integrity System (CISNI), of which Transparency Paraguay is a member, and which serves as the citizen oversight body for the procurement process. The Ministry of Finance has also created a Transparency and Citizen Participation Unit, an Internal Investigations Unit, and a system for protecting whistleblowers in the public and private sectors (INECIP, with the support of USAID) as a key focus of control.

In operational terms, agreements have been signed between business chambers and private sector firms and the DGCP. There are understandings, for example, with respect to limitations on the need for bidders to submit documentation, and work is underway to establish a Voluntary Registry of Suppliers, which will replace those submissions in each process.

Another area where improvements are being made is in payment management, which was identified as one of the weak points of the system. Payment delays generate inefficiencies in the system: they tend to discourage participation in public tenders, or they will be reflected in higher price quotes, which will contain a margin to cover the financial costs associated with such delays. They also work to the disadvantage of small and medium-sized enterprises. The DGCP has begun to make direct payments to suppliers from the Treasury, and this has substantially reduced payment times. That initiative is still in its initial stages, but it is planned to extend the procedure to most government suppliers. Payment to contractors and suppliers falls within the realm of government financial management, and generally speaking the procurement units have little control over it. However, the credibility of procurement systems can be undermined by late payment, and also by situations where "privileged" contractors are paid on time, and it is important therefore that steps to systematise and regularise payments should be energetically promoted in the reform and modernisation of government procurement.

(iv) Pillar IV. Integrity and transparency of the public procurement system

Paraguay has substantially improved its relative ranking in the Corruption Perceptions Index (CPI) published by Transparency International: after being ranked 141 among 146 countries in 2004, and 147 among 159 countries in 2005, Paraguay has improved its position to 111 among 163 countries in the 2006 CPI.

Despite the improvement with respect to corruption perceptions, Paraguay's control mechanisms remain weak and inefficient. There are limitations in terms of policies, the scope of control procedures and the audit methodology used by the Comptroller General's Office (CGR) and the Government Auditor General (AGPE) as they relate to procurement, with the result that internal control relies essentially on institutions' internal audit units (AII), which are less effective because they report directly to the management of each institution. The CGR focuses its audits on cases where irregularities have been reported, and this takes up much of its staff time, leaving little additional time to conduct ex officio controls or to initiate investigations.

As well, audits tend to concentrate on verifying compliance with formal financial requirements, after the procurement process is irreversible. The audit methodologies used do not incorporate risk analysis for determining the appropriateness, the nature and the scope of the procedures to be followed or the type of transactions and processes to be audited. The CGR, then, is reactive and not proactive and this limits its capacity for the timely prevention, detection and correction of improper procedures.

The reports of the Internal Audit Units (AII) are submitted to the Government Auditor General (the "Auditor General of the Executive Branch", AGPE). There is however no provision for regular feedback on follow-up to those reports, a situation that adds to the general picture of weak control, with little corrective or enforcement action. At the present time, administrative sanctions (disqualification by the DGCP) are being applied effectively and in accord with due process. However, criminal conduct is not pursued: cases are simply handed over to the justice authorities, and there is no subsequent tracking of them. The CGR may file complaints with the prosecution only if it can demonstrate financial prejudice to the State. In all other cases, penalties are confined to the administrative realm. There are glaring weaknesses in the capacity to punish officials, in particular those holding senior positions.

There is no code of ethics for the civil service, nor any specific rules for resolving conflicts of interest: this represents an important regulatory gap. While civil servants must file sworn statements of assets, they are not required to do so on a regular basis, and such statements lose their validity if they are not updated. Nor are there any legal or regulatory provisions relating to collusion among suppliers, which means that the authorities have no legal tools to identify and punish such practices in the private sector.

5. Outline of the recommended action plan

The government's proposed action plan arises from the workshop discussions and the recommendations of participants themselves, who not only identified the weaknesses of the system but also proposed measures to address them. The details of those recommendations are to be found in Chapter II, paragraph D of the report. During the first half of 2007 a workshop will be held to discuss that report in detail, and to establish priorities and identify the needed cooperation for implementing it.

(i) Legislative and regulatory framework

- Regulate aspects relating to prequalification time limits and the submission of proposals for consulting services.
- Consider establishing an independent body or tribunal to handle challenges and complaints.
- Make mandatory the use of standard bidding documents.
- Develop standard bidding documents for minor procurement operations.
- Complete development of the Catalogue of Products and Services.
- Reduce resort to sole-sourcing ("direct contracting by exception").

- Consider the utility of introducing other procurement procedures, in particular International Competitive Bidding (ICB).
- Complete the Manual of Procurement Procedures.
- Develop a performance tracking system for procurement transactions and for contract management and payment.
- Require the periodic updating of PACs.
- Establish quality control over the information entered in the SICP.

(ii) Institutional framework

- Incorporate into the SIAF all the entities that are currently outside the system.
- Establish the necessary linkages within each institution's financial systems to the respective PACs.
- Encourage greater use of the mechanism of direct payment to suppliers.
- Streamline the handling of payments to suppliers not included in the direct payment system.
- Establish rules that will promote stability among senior staff of the DGCP.
- Begin work on transforming the website into a transactional tool.
- Secure congressional approval of the Digital Signatures Law.

(iii) Market practices

- Expand the training strategy to include a specific programme for the private sector.
- Develop a procurement officer career stream.
- Set the minimum standards of responsibilities and functions for key positions in procurement offices.
- Prepare specific terms of reference for those positions.
- Establish a training and certification mechanism for procurement officers, specialists and managers.
- Adjust seniority, stability and compensation for government purchasing agents.
- Establish formal dialogue with the private sector, through appropriate consultation bodies.
- Include public-private partnerships within the legal framework.
- Simplify bidding and market access requirements.
- Complete the voluntary registry of government suppliers

(iv) Integrity and transparency

- Develop a uniform and adequate framework of internal control.
- Examine the roles and responsibilities of the internal audit units (AII), the Government Auditor General (AGPE) and the Comptroller General's Office (CGR), to enhance efficiency in government procurement.
- Bring the AIIs within the AGPE structure, giving them administrative independence.
- Give the audit units a proactive and preventive role.
- Define suitable professional profiles for the audit function.
- Give the audit units at all three levels sufficient support tools (computers, communications, travel allowances etc.).
- Build quality audits into procurement management.
- Develop, implement and maintain systems for monitoring findings and recommendations from audits in each contracting entity, and in each of the audit units.
- Analyse and report periodically on the timely implementation of recommendations.

- Maintain, improve and disseminate coordination with the public prosecutors for bringing criminal cases to the courts.
- Establish compulsory municipal audits.
- Define and implement a mass communication strategy on the functions, duties and achievements of the DGCP.
- Consider the utility of creating a National Transparency Office.
- Develop and enforce a code of ethics for civil servants.

6. Methodology

The analytical methodology used for updating the CPAR was based on Version 4 of the indicators developed by the OECD-DAC, jointly with the IDB and the World Bank. That methodology assesses the capacity of government procurement systems on the basis of 12 baseline indicators (BLI) with their respective compliance indicators (CI), arranged under four pillars: (i) Legislative and Regulatory Framework; (ii) Institutional Framework and Management Capacity; (iii) Procurement Operations and Market Practices; and (iv) Integrity and Transparency of the Public Procurement System.

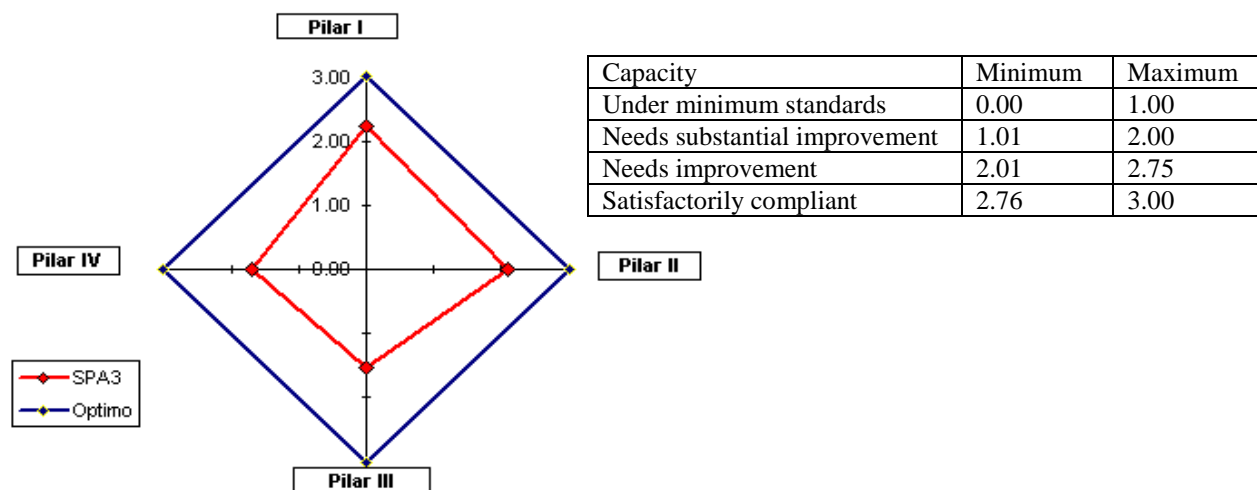
The following chart summarises the assessment of performance for each of these four pillars:

Summary Table of Fiduciary Capacity Republic of Paraguay

(Averages for baseline indicators and compliance)

	Indicators	PPS 1/	Optimal	Capacity
1	Legislative and Regulatory Framework	2.22	3.00	Needs improvement
2	Institutional Framework	2.08	3.00	Needs improvement
3	Operational Capacity	1.53	3.00	Needs substantial improvement
4	Integrity and Transparency	1.68	3.00	Needs substantial improvement

1/Public Procurement System



7. Expert validation by the IDB/World Bank fiduciary assessment team

The joint Bank team participated actively in all the work of updating the CPAR, which reviewed the terms of reference and the work of the consultants, and interacted with all stakeholders during the workshops conducted in Asunción with the participation of the government and civil society. As noted in this report, it is clear that Paraguay has made great progress in the regulatory and institutional aspects of government procurement, that it has introduced substantial improvements in purchasing processes and in dispute settlement, and that the general perception is one of much improvement, both in the quality of processes and in their efficiency and effectiveness.

Nevertheless, it is also clear that, in terms of market openness and efficiency and of transparency and control, there are opportunities for significant further improvements in order to bring the performance for the system as a whole up to levels that, in accordance with the methodology used, are considered satisfactory internationally.

As this report points out, there are inefficiencies in the public procurement process in Paraguay, with a large percentage of contracts awarded directly, and there are also inefficiencies in the financial management of contracts. The Law favours national over foreign firms, and this poses a significant limitation to international participation in procurement processes. Moreover, while the DGCP is an independent entity, its staff is still vulnerable to the vagaries of politics when it comes to controlling transparency, there are major weaknesses in the control systems, with virtually no follow-up to sanctions, and a recurrence of irregular practices, all of which makes for a climate that seems to tolerate non-transparent procedures.

Because of the limitations indicated in this report, and despite the efforts made and the progress achieved to date, the procurement system is out of balance. The legal and institutional framework, while it could certainly be improved, can be regarded as satisfactory overall, but in operational terms, substantial improvements are needed in market practices and in the area of integrity and transparency.

Based on the work performed, the joint IDB/World Bank fiduciary assessment team considers that Paraguay's national procurement system requires substantial improvements in its market development practices and in its transparency, internal control, and internal and external auditing. To a less pressing extent, improvements are also needed in the regulatory framework to give stability to key personnel of the DGCP, and to adopt systems that will contribute to monitoring, performance evaluation and oversight of payments. The commitment of the government and civil society, together with timely moves to implement the measures in the action plan, will help to consolidate the achievements that Paraguay has made since the last joint Bank assessment in 2003. These issues will be covered in the Banks' strategy discussion with the country, and they will be reflected in the programming of the Banks' project portfolios.

II. THE REPORT

A. PREFACE

1. Date and Basis of the Report

This report results from a joint undertaking between representatives of the Government of Paraguay—primarily the UCNT/DGCP—and the joint fiduciary assessment team of the Inter-American Development Bank (IDB) and the World Bank (WB).

The purpose of this document is to update the assessment and the available information on the Paraguayan public procurement system. The previous report issued by the Banks dates from January 2003, and since that time substantive changes have been made in the regulatory framework and also in the government institutions involved in procurement, and in their practices and procedures.

There have also been substantive changes in the analytical methodology used to update the study. It is based on the indicators developed by the OECD-DAC, jointly with the IDB and the World Bank, using Baseline Indicators (BLI) and Compliance and Performance Indicators (CI) for four pillars: (i) Legislative and Regulatory Framework; (ii) Institutional Framework and Management Capacity; (iii) Procurement Operations and Market Practices; and (iv) Integrity and Transparency of the Public Procurement System. Further information on this aspect was already included in the Initiating Concept Memorandum (ICM). It should be noted that Paraguay has agreed to serve as a pilot country for the first-time application of the new methodology.

The CPAR update began with a discussion workshop in May 2006. The Initiating Concept Memorandum (ICM) was worked out between the Paraguayan government, the IDB and the World Bank in August of that year. Bank consultants and officials conducted analytical work between August and October, and on 14 and 15 November 2006 a workshop was held to analyse and validate the preliminary results of the study. That workshop involved representatives of the Government of Paraguay, system users, the Banks, NGOs active in monitoring procurement transparency and efficiency, representatives of government oversight agencies, officials of the Procurement Operations Units (UOCs), private-sector businesses, and representatives of civil society. The outcomes of this report, as well as its recommendations and suggested action plan, reflect the contributions of all participants in that workshop.

The report was prepared between October and December 2006, with inputs from the above-mentioned workshop and the fieldwork of a number of consultants in different areas.

2. Acknowledgments

The team that drafted this report is grateful to the Government of Paraguay, and in particular to the Central Policy and Technical Unit/General Directorate of Public Procurement, for the support and the facilities provided during its work of compiling and analyzing information and preparing the final document, as well as for their contributions and their comments on the preliminary versions of the report.

In particular, we wish to thank Juan Max Rejalaga, Director of the DGCP; Fabiola Cristaldo, Information and Systems Coordinator; Dr. Jorge Zárate, Standards and Control Coordinator; Dr. Federico Gill, Legal Adviser; Rosana Ledesma, Training Coordinator; and Rosana Espinola, Head of the Financial Administration Unit.

3. Participating government organisations

Representatives of the following institutions contributed their time and valuable information to the effort:

Office of the Comptroller General (*Contraloría General de la República*)

- Octavio Airaldi – Contralor General de la República
- Victoria Rivas – Directora General de Licitaciones
- Maricel Bejarano – Directora del Área General de Licitaciones

Government Auditor General (*Auditoria General del Poder Ejecutivo*) (AGPE)

- Alberto Cabrera Villalba – Auditor General del Poder Ejecutivo

Procurement Operations Units (*Unidades Operativas de Compras*) (UOCs) and internal audit units of the following preselected entities:

- National Electricity Administration – ANDE
- Central Bank of Paraguay – BCP
- Compañía Paraguaya de Comunicaciones S.A. – COPACO
- Ministry of Education and Culture – MEC
- Ministry of Public Works and Communications – MOPC
- Ministry of Health and Social Welfare – MSPyBS
- Petróleos Paraguayos – PETROPAR

4. Other cosponsors/contributors

Other participants and cosponsors contributing their time and valuable information were:

- Transparency Paraguay (local office of Transparency International)
- Red de Contralorías Ciudadanas
- INECIP
- UNDP
- Centro de Información y Recursos para el Desarrollo
- Consejo Impulsor del Sistema Nacional de Integridad (CISNI)
- Business chambers and other professional associations

5. The Joint Assessment Team

The government's working team was headed by Juan Max Rejalaga, Director of the DGCP; Fabiola Cristaldo, Information and Systems Coordinator; Dr. Jorge Zárate, Standards and Control Coordinator; Dr.

Federico Gill, Legal Adviser; Rosana Ledesma, Training Coordinator; and Rosana Espinola, Head of the Financial Administration Unit.

The IDB working team was headed by Cristian Santelices (RE 1) and comprised Fernando Fernández (DEV), María Eugenia Roca, Procurement Specialist in the IDB Country Office in Paraguay, Jorge Claro (Senior Consultant) and José Moscoso (Assistant Consultant).

The World Bank team consisted of Efraím Jiménez, Principal Procurement Specialist and Andrés MacGaul, Senior Procurement Specialist, both of LCSPT.

The preparatory work was done by four local consultants: Dr. Enrique Sosa Arrúa contributed the legal analysis; Santiago de Filippis, an economist, evaluated the institutional framework and the administrative capacity of the system, the firm BDO Rubinsztein & Guillén analysed the compliance indicators; and the consulting firm First conducted the opinion surveys on perceptions of integrity and transparency. At the same time, an international consultant, Alejandro Barros, analysed aspects relating to connectivity, information systems, and electronic procurement (e-GP)

The peer review of the document within the Banks was done by Sabine Engelhardt, Principal Procurement Adviser DEV/PRM; Orlando Reos, Chief of the State and Civil Society Programmes Division RE1/SC1, and Gerardo Reyes Tagle, for the IDB. For the World Bank: Enzo de Laurentiis, Regional Procurement Adviser, and Jean-Jacques Verdeaux of the Legal Department.

B. BACKGROUND

1. Information on the country

(a) Historical and economic overview

Paraguay is a landlocked country, with no outlet to the sea. Its economy is one of the smallest in the region. According to the 2002 census, it has a population of approximately 5.5 million, of which 57% lives in rural areas. Agriculture and hydroelectric generation are the most important sectors of the Paraguayan economy. Agriculture is based on soybeans and livestock, production of which is competitive and is destined primarily for export. Cotton is also grown, but production is inefficient. The sector generates 40% of employment and accounts for 75% of exports.

Hydroelectric generation is a substantial source of government revenues (accounting for 4% of GDP). Both sectors coexist with an industrial sector that is relatively small and produces only for the domestic market, and a services sector that is of growing importance (45% of GDP) but externally uncompetitive.

A successful reform of the education system has increased the coverage of basic education to 92%; public spending on education rose during the 1990s, reaching 4.4% of GDP by 2002. According to the 2003 household survey, only 2% of adults between 15 and 24 years of age are unable to read. Health services are concentrated in urban areas, and 81.6% of the population (93.1% in rural areas) has no health insurance. The infant mortality rate (at 26 per 1000 births) and the maternal mortality rate (at 1.7 per 1000 births) are high, and the country is unlikely to meet the millennium development goals.

MERCOSUR has been an important factor in integrating Paraguay with its neighbours, and more than half of the country's exports now go to those countries. Brazil is the main trading partner, accounting for one-third of imports and exports, while Uruguay is the second most important export market. In 2004 Paraguay received recognition in terms of asymmetries of market size, and it will be the main beneficiary of the structural development fund constituted by member countries.

In comparison with other Latin American countries, Paraguay's government apparatus is considered fairly weak. Its institutional capacity is low, and this is reflected in poor indicators in terms of the rule of law, regulation, governance and efficiency in the provision of basic public services. Nevertheless, the current administration has managed to improve public perceptions of the government apparatus, and has restored sustainability to the public finances through tax reforms, efforts to combat corruption, and cuts to public expenditure. As a result, the external debt declined to around 30% of GDP by mid-2006.

The following international indicators are noteworthy with respect to modernisation of the State and the efficiency and transparency of public management:

- Paraguay has improved its ranking in the Corruption Perceptions List of Transparency International: in 2006 it stood in position 111 among 163 countries. Previously it had ranked 147 among 159 countries.
- According to the "Global e-Government Readiness Report"¹, Paraguay ranks 16th out of 20 countries in the region that were analysed in 2005.
- According to the World Economic Forum's Growth Competitiveness Index², Paraguay ranks 100 out of 104 countries analysed.

The Paraguayan economy has shown signs of recovery in the last three years, following a period of eight years during which per capita incomes declined substantially and the banking system was severely weakened. The GDP growth rate in 2005 was 3%: while this was lower than 2003 (3.8%) and 2004 (4.1%), it is considered satisfactory, taking into account the major shock in the terms of trade (-12.7%) and the persistent three-year drought.

(b) Financial and procurement management and control system

In 2003, the IDB and the World Bank conducted a Country Financial Accountability Assessment (CFAA) for Paraguay, the results of which were published in August 2004. That report found that while the country had made some significant progress in terms of strengthening the control environment and enhancing transparency, much remained to be done in this area.

The report noted that the principal changes introduced related to budget management and accounting, and that the previous government had taken steps to modernise legislation and to provide greater information on financial administration. Thus, an integrated financial administration system had been partially implemented, backed by appropriate legislation, and Congress had begun to approve laws to reform the tax and pension systems, as well as the financial and banking sector.

¹ The Global e-Government Readiness Report is a United Nations report that measures the development and use of e-government for the dissemination of information and the delivery of services in 191 countries of the world

² The Growth Competitiveness Index (GCI) is published by the World Economic Forum (WEF), and measures the capacity of 104 countries to achieve sustainable economic development over the medium and long term, on the basis of an average of three indices: (i) macroeconomic environment, (ii) public institutions, and (iii) technological readiness.

The report identified two priority areas for action in coming years: (i) move towards establishing a proper control environment, and (ii) establish a stronger control function, both internal and external.

The most important weaknesses and shortcomings that threatened financial accountability in Paraguay at that time were:

1. Weak control environment.
2. Numerous and serious exceptions in the application of the financial administration law and regulations.
3. Weak internal audit and control, especially in revenue collection agencies.
4. The disproportionate share of time and resources that the Auditor General devoted to ad hoc review requests.
5. Congressional introduction of budget increases without provision for corresponding financing.
6. Trade liabilities incurred by executing agencies but unrecorded if they exceeded the authorised cash programme.
7. Many exceptions to generally accepted accounting and auditing standards and financial statements not prepared in compliance with Government's own regulations.

The CPAR update includes an analysis of these issues, covering internal and external control and the institutional relationship between the DGCP and the CGR, the Government Auditor General (AGPE), the Court of Accounts, the Office of the Prosecutor General, and the internal control system.

This document also assesses the transparency and integrity of the control systems, as well as the role of private sector entities and the effectiveness of social oversight.

(c) The 2003 CPAR

The previous Country Procurement Assessment Report for Paraguay was issued in January 2003 (Report No. 25908). That assessment found that public procurement suffered from a number of shortcomings, in particular:

- uncertainty about project budgets and lengthy process for the release of funds;
- absence of procurement manuals and standard bidding documents;
- the requirement that works-related documents be approved by external bodies;
- mandatory registration of works contractors and consultants;
- vague bid evaluation procedures; and
- absence of a methodology for selection and employment of consultants.

With respect to risk, the document noted that "[i]n view of the general country environment highly prone to corruption, and the existing shortcomings, the procurement risk in Paraguay is assessed as high". The document also proposed a detailed action plan that included:

1. Restructuring of the legal framework to introduce the amendments proposed; drafting and dissemination of the regulatory decree;
2. Updating the implementation plan to reflect the new legal framework.

3. Institutional strengthening:
 - Development of TORs, competition and appointment of senior officials of the DGCP;
 - Development of a human resources plan for government procurement;
 - Development of an organisational model for the DGCP and other purchasing units;
 - Development and implementation of a training plan;
 - Development of operating manuals;
 - Development of standard bidding documents;
 - Signature of integrity pacts;
 - Preparation of a draft law authorising electronic signatures;
 - Development and creation of an electronic procurement website;
 - Modernisation of contract management.

The action plan from the 2003 CPAR had been almost fully implemented by the time of this update, although the standard bidding documents had yet to be circulated and made compulsory, and the Procurement Manual had not been developed. The computerised procurement system is operating with functionalities that exceed those called for in the previous CPAR, although the e-procurement mechanism has not yet been incorporated. The task of modernising contract management involves essentially the provision of training for the executing units. While the theoretical framework has been completed (with development of the training course contents and issuance of instructions for contract management), the training process is an ongoing one, and will need to be pursued further.

2. The country portfolio of the Banks

Paraguay is emerging from a long period of economic stagnation, and the government has set itself four strategic objectives for introducing significant economic reforms and reducing opportunities for corruption:

- restoring confidence in State institutions and their representatives;
- promoting active participation by civil society in constructing democratic institutions;
- reviving the economy and creating jobs through a sustainable development model; and
- combating poverty, corruption and insecurity.

The strategy agreed with the World Bank, involving a project portfolio of some US\$325 million for fiscal years 2004/2007, is supporting: (i) the fiscal and financial reforms sent to Congress; (ii) enhanced governance and transparency in public administration; (iii) sustained growth; and (iv) social inclusion.

In support of these objectives, the strategy agreed with the IDB for 2004-2008, involving a potential portfolio of between US\$350 and 450 million, includes: (i) laying the basis for sustainable growth; (ii) reducing poverty; and (iii) strengthening governance, in an effort to restore the credibility of government institutions so that they can coordinate the process of economic development by promoting more efficiency and transparency in public management, greater citizen participation, and the consolidation of democratic institutions.

Consequently, the update of the CPAR, intended to promote efficiency, effectiveness and transparency in public procurement, is directly relevant and is an integral part of the IDB and World Bank's country strategy.

Together with the CPAR, and with a view to supporting governance and transparency in public management, the IDB has approved technical cooperation for development of the electronic government

(e-government) strategy. This includes measures of coordination with the strategy for developing electronic procurement (e-GP), for which there has also been technical cooperation in place for some time.

The IDB's active loan portfolio at 30 September 2006 stood at US\$500 million, with an available balance of US\$232.4 million (46.5% of the portfolio), and an average age of 5.3 years.

Paraguay also benefits from some 37 regional projects, amounting to US\$16.5 million, in relation to the expanded MERCOSUR.

At 30 September 2006, the portfolio was distributed among strategic areas in the following manner: sustainable growth 59.06%; poverty reduction and improved living conditions 29.1%; and governance 11.9%.

In the last three years the qualitative aspects of the portfolio's performance have improved, as measured by the elimination of "problem" projects (0 versus 3 in August 2003), the number of projects on "alert status" (unchanged from August 2003, at 8), and the decline in projects rated "unsatisfactory" (7 in 2003 versus 3 in September 2006), and project outcomes have improved because operations have been better aligned with the government's current programme. While investment loan disbursements declined from US\$68.4 million in 2003 to US\$60.6 million in 2004, and to US\$52.3 million in 2005, the pace of disbursements has picked up since 2004, rising from 16.4% in that year to 17.9% in 2005, and it is likely to reach 20% in 2006.

Of the World Bank's portfolio, 80% is in support of poverty reduction programmes, through loans to improve government and public sector service delivery. Recognising the weaknesses in government control entities, the World Bank has placed greater emphasis on supervising the fiduciary aspects of its project operations, at both the preparation and the implementation stages.

At the end of August 2006, the available balance of approved World Bank loans was US\$27.4 million (covering a rural water and sanitation project, a community development project, an intermediate education project, and a natural resources project), and the total of loans pending congressional approval was US\$103.5 million (for projects relating to maternal-infant health, modernisation of the State, and road maintenance).

3. Government participation in the assessment

In contrast to similar undertakings in other countries, the assessment of Paraguay's national procurement system was conducted jointly with the national authorities, who demonstrated full commitment and ownership with respect to the assessment. Moreover, representatives of civil society and the private sector participated in the launching session and the workshops.

The consultants received steady commitment and support in producing the base study. Consistent with the working methodology agreed, the consultants prepared independent reports reflecting their personal appreciations of the system's operation, and assigning preliminary scores for each baseline indicator and compliance indicator. Next, a workshop was held in which representatives of the government, civil society, business and labour associations and the private sector reviewed each comment, finding and score awarded by the consultants, confirming or correcting them, in order to prepare a summary table, to which were added recommendations for correcting problems and optimising the system. Government authorities also took part in discussing and validating the criteria and scores, and they accepted all the recommendations for improvement.

Appendix IV to this report contains all the basic studies, individual reports, summaries, spreadsheets and recommendations, as well as the list of participants in the workshops, and reflects the degree of commitment and ownership on the part of the government.

C. DEBATE AND ANALYSIS OF FINDINGS

The analysis of the main findings from this assessment is based on a summary of the consultants' work prepared by the joint Government-Banks team, as validated by participants in the above-mentioned workshop. Those findings are detailed below, for each pillar and each indicator:

1. Pillar I: Legislative and Regulatory Framework

Indicator 1. The public procurement legislative and regulatory framework achieves the agreed standards and compliance with applicable obligations.

(a) Scope of application and coverage of the legislative and regulatory framework

The essential legal framework governing procurement comprises, by order of precedence: (i) the Constitution; (ii) international treaties; (iii) Law 2051/03 on procurement and supplementary legislation; (iv) regulatory decrees issued by the executive branch; and (v) resolutions issued by the DGCP.

The Constitution, which is the supreme law of the land, makes no direct reference to public procurement, but it establishes principles, provisions and guarantees that sustain the applicable principles of efficiency, fairness and free competition, and transparency and publicity. Those constitutionally enshrined precepts include the principle of equality before the Law (article 47), free access to public sources of information (article 28), and the primacy of the public interest (article 128), among other provisions.

Duly ratified international treaties are legally subordinate to the Constitution, but take precedence over domestic legislation. Paraguay recently signed the MERCOSUR Protocol on Public Procurement, but has not yet ratified it. Other treaties are in force, however, and they contain special provisions on specific aspects of procurement, such as those relating to the binational entities of Itaipu and Yacyreta.

The most important piece of legislation governing public procurement is Law 2051/03, the Public Procurement Act, which unified in a single statute all the previously dispersed provisions relating to procurement. That law abolished most of the provisions of the Public Works Act (Law 1533), although it left in place several articles relating to measurement and payment, implementation, acceptance and supervision of works. The charters of certain institutions also contain procurement provisions, but they refer essentially to the powers of their internal bodies³, and not to the aspects regulated by Law 2051/03.

³ For example, the Municipal Organisation Act, Law 1294/87, regulates the procurement activity of the municipal councils and mayors with respect to tendering, approval of bidding documents, awards, signature and approval of contracts.

The regulations to Law 2051/03 are contained in Decree 21909, which was subsequently amended by Decree 5174/05. There are also procurement provisions in the annual regulatory decrees accompanying the national budget each year. For example, Decree 7070, regulating Law 2869 approving the general government budget for fiscal year 2006, contains provisions on annual procurement programmes and other procurement-related budgeting rules.

Finally, the DGCP issues resolutions of a general nature dealing with various operational aspects of the procurement system, such as time limits for the submission of offers under direct contracting (“shopping”), the submission of sworn declarations by bidders, and the use of procurement codes.

Further information on the legal aspects of procurement can be found in Annex I of this report.

(b) Procurement methods

Law 2051/03 establishes the following procurement methods:

- (i) Competitive bidding, when the amount exceeds 10,000 *jornales mínimos*, i.e. 10,000 times the minimum wage (approximately US\$76,728).
- (ii) Invitations to tender (*Concurso de ofertas*), for amounts between 2,000 and 10,000 *jornales* (approximately US\$15,345-US\$76,728);
- (iii) Direct contracting or “shopping”, which requires at least three proposals, for amounts less than 2,000 *jornales* (up to US\$15,345);
- (iv) Imprest-fund (petty cash) procurement, up to 20 *jornales* (up to US\$153.45).

In addition, there are exceptional situations where sole-source procurement can be used, without competition. Notwithstanding the procurement methods mentioned, the Law also allows resort to supplementary modalities such as prequalification mechanisms, multiple evaluation stages, with “Dutch auctions”, with financing granted by the supplier or contractor, or any other legal and appropriate method.

According to the Law, public agencies, entities and municipalities must give preference in international competitive bidding to goods produced in Paraguay with a domestic content of at least 50%. To this end, a margin of up to 10% must be added to the prices of imported goods in the economic comparison of proposals.

Bidding partnerships or consortiums are optional. There is no requirement for foreign bidders to partner with domestic bidders in public bidding, as there was under the previous Public Works Act. However, it must be noted that national public bidding is closed to bidders not domiciled in Paraguay and not partnered with domestic bidders.

Table 1.1. Contracts awarded in 2005, by procurement method

Value of contracts (US\$) by procurement method in 2005							
Value (US\$)	ICB	NCB	CO	CD	CE	TOTAL	Percentage
0 to 25,000	166,635	8,758,415	12,114,866	30,881,239	8,312,544	60,233,699	8.88%
25,000 to 100,000	2,284,561	34,791,079	18,339,337	440,452	13,430,016	69,285,445	10.21%
100,000 to 500,000	16,159,151	92,705,485	943,723	282,926	24,338,316	134,429,600	19.81%
500,000 to	12,514,953	42,353,357	-	-	9,941,585	64,809,895	9.55%
>1,000,000	198,812,559	118,852,495	-	-	32,091,517	349,756,570	51.55%
TOTAL	229,937,859	297,460,831	31,397,925	31,604,616	88,113,977	678,515,208	1.00
Percentage	33.89%	43.84%	4.63%	4.66%	12.99%		

Number of contracts by procurement method in 2005							
Value (US\$)	ICB	NCB	CO	CD	CE	TOTAL	%
0 to 25,000	16	1078	1358	12041	1 8 6 6	16,359,00	88.19%
25,000 to 100,000	39	657	446	10	2 7 4	1,426,00	7.69%
100,000 to 500,000	59	433	6	2	1 1 4	614,00	3.31%
500,000 to 1,000,000	20	62			1 4	96,00	0.52%
> 1,000,000	15	30			9	54,00	0.29%
T O T A L	149,00	2,260,00	1,810,00	12,053,00	2,277,00	18,549,00	1.00
Percentage	0.80%	12.18%	9.76%	64.98%	12.28%		

Average value 1,543,207 131,620 17,347 2,622 38,697
36,580

Source: Authors' calculation using DGCP data

ICB International Competitive Bidding (*Licitación Pública Internacional*)

NCB National Competitive Bidding (*Licitación Pública Nacional*)

CO Invitations to Tender (*Concurso de Ofertas*)

CD Shopping (*Contratación Directa*) [Spanish reads "*Concurso de precios*"]

CE Sole-sourcing (*Contratación Directa por Excepción*)

The combined total of international and national competitive bidding represented 77.73% of total awards, by value, in 2005. However, by number of contracts, only 12.98% were awarded through open competition.

On the other hand, exceptional sole-sourcing represented 12.9% of total awards in 2005, by value, and a similar percentage in terms of the number of awards, even higher than other methods that are less formal than competitive bidding, such as invitations to tender and shopping, which together represented 9.29% of awards by value. A similar pattern emerges from procurement data for 2006 (to September) which, together with those for 2004, are annexed to this report.

From the above table it will be seen that more than 88% of contracts do not exceed the equivalent of US\$25,000 in value, and also that such contracts represent less than 9% of the total value of procurement. At the other extreme, contracts exceeding US\$1 million account for only 0.3% of contracts, but 51% of contract value. Contracts in the middle (between US\$25,000 and US\$100,000) and upper-middle (US\$100,000-US\$500,000) brackets represent 7.7% and 3.3% of transactions, and 10% and 20% of contracted amounts, respectively. Consideration should be given, therefore, to grouping smaller contracts into larger bidding packages that can be tendered through more formal and competitive procedures.

Once again, it will be noted that 13% of the total value of procurement is awarded directly, by exception, and that such transactions account for more than 12% of contracts by number. Transparency Paraguay reports the growing practice of holding off new calls for tender for supplies or services until some time after the previous contract has expired, during which period sole-sourcing can be justified as an exception.

Further information on the procedural aspects of procurement is contained in Annex I to this report.

(c) Advertising rules and time limits

The Law and its regulatory decrees set rules on the advertising of tenders, bidding documents and conditions, awards, and contracts, as well as the annual planning of procurement, and these allow potential bidders and the general public to be informed about procurement activities.

All notices of competitive bidding, invitations to tender, and shopping must be published in advance through the SICP, ensuring thereby that potential bidders and the general public have free access to

information on such notices. A similar information obligation applies to sole-sourcing, although in some cases (involving urgency) subsequent rather than prior notice will suffice.

Table 1.2. Average implementation times by method of procurement

Procedure	DGCP review	SI publication	CP	Preparation of bids	Total	Evaluation	Final total
ICB	5 working days	3 calendar days		20 calendar days	28 days	20 days	48 days
NCB	5 working days	3 calendar days		40 calendar days	48 days	20 days	68 days
Invitation to tender	5 working days	N/A		10 calendar days	15 days	10 days	25 days
Shopping	5 working days	N/A		Five calendar days	10 days	5 days	15 days

An agreement was signed in 2005 between the DGCP, the IDB, the World Bank and the UNDP, whereby procurement contracts exceeding US\$10,000 for goods and services, and US\$30,000 for consulting services and works, must be reported to the DGCP for publication at the Public Procurement Website.

In 2006, a decree regulating the Budget Law provided that all procurement transactions by Project Implementation Units (UEPs) financed by international lending agencies must be reported to the DGCP for publication at the Public Procurement Website, regardless of the amount and source of financing.

That regulatory decree provides that the call for prequalification must be published on three consecutive days through the same channels as will be used to issue the call for tenders. Preselection of consulting firms, which is mandatory for amounts exceeding 10,000 *jornales*, must also be initiated through a public notice that is to be posted at the SICP website and published in a newspaper of national circulation on three consecutive days.

In short, while the legal framework is adequately regulated with respect to ordinary competitive bidding procedures, this is not the case when it comes to prequalification and preselection of consulting firms, where there are as yet no rules establishing time limits for presenting applications. Moreover, there is no precise regulation governing the time limit for presenting technical offers and prices for consulting services.

From the sample of contracts compiled by the consulting firm as part of the preparatory work for this report, it was found that 100% of tender calls had been publicly announced, and that the average time elapsing between the notice and the deadline for submission of bids was 35 days. This is considered acceptable and in accordance with the practices established for preparation and submission of bids.

(d) Rules on participation

The Law enshrines the principle of fairness and free competition, by virtue of which any potential supplier or contractor who has the technical, economic and legal capacity to do so, and who meets the requirements established in the Law, the regulations and the bidding documents, may participate without restriction and on an equal footing in procurement proceedings. The Law prohibits procuring entities from imposing on participants any requirements other than those established in the Law, and any elements that are not essential, if by so doing they would limit the possibility of potential suppliers or contractors to compete.

In national public bidding situations, only physical and legal persons domiciled in Paraguay may participate. There is no restriction on the capital ownership of firms or the origin of the goods, but bidders

who are not domiciled in the country are not allowed to participate, even if they are associated with bidders who are.

International Competitive Bidding, which permits participation by non-domiciled bidders, whether or not associated with local ones, may only be used in the cases established by law. While the Law does not determine clearly whether this requirement applies to the eligibility to bid or to be awarded contracts, in practice it serves to limit participation, since the time needed to establish a company or business in the country exceeds the contract award time limits by a wide margin. [*Translator's note*: this paragraph seems self-contradictory. Perhaps the second sentence belongs to the previous paragraph?]

The Law expressly prohibits procuring entities from requiring any type of registration as a precondition for participating in procurement proceedings, and it nullifies a former executive decree that required registration in the Central Registry of Government Suppliers as a condition for doing business with the State.

Only 3% of bidding documents and contract awards covered in the sample examined by the consulting firm revealed any provision limiting competition, other than the qualifications or exclusions accepted by the Law.

Annex I to this document includes detailed information on this matter.

(e) Tender documentation and technical specifications

The Law establishes the minimum content of bidding documents and conditions and requires procuring entities to make these documents available to interested parties at their premises as well as through the SICP website, from the date of publication of the call for tenders until the date for the submission and opening of bids.

Drafts have now been prepared for a number of standard documents and these are publicly available at the official website. However, they have not yet been approved as compulsory documents for the public sector. These documents were prepared on the basis of standard bidding documents of the World Bank and the Inter-American Development Bank.

It should be noted that all bidding documents are reviewed ex-ante by DGCP staff, as to their form and content. Internally, this review is based on a control sheet or checklist with 47 information fields. Because some 16 sets of documents are submitted for review every day, and the relevant office ("Competitive Bidding, Sole-Source Procurement and Invitations to Tender") has only three staffers, two of whom are assistants, it can be concluded that the review of these documents is not exhaustive, especially since the UOCs are not currently obliged to use standard documents.

Among the bid evaluation processes for the contracts analysed by the consulting firm, only 1% of bids were disqualified as technically non-responsive. It may be concluded, then, that the technical specifications are not normally restrictive. The mandatory use of standard bidding documents and goods catalogues will minimise cases where technical specifications are too open or generic.

(f) Submission, receipt and opening of tenders

The Law and its regulations contain rules on the submission, receipt and opening of tenders, and they call specifically for the public opening of tenders. According to the Law, technical and economic offers are to be submitted jointly, in a sealed envelope, with security precautions that will ensure their safekeeping and prevent disclosure of their contents. The deadline for delivery must be the date and time indicated for

submission and opening of bids. If bids are delivered outside the date, time and place indicated in the bidding documents, they will be deemed not to have been submitted.

The Law enables bidders, at their option, to deliver their offers either directly to the procuring entity, by mail or courier service (at the bidders' risk), or electronically through the Public Procurement Information System (SICP). However, this latter method has not yet been implemented because of the lack of specific legal rules governing electronic signatures, required to give security and confidentiality to the system.

All (100%) of bids in the case is examined by the consulting firm were received and opened publicly.

(g) Tender evaluation and award criteria

The rules for evaluation established in the Law, and formulated in accordance with the procurement policies and standard documents of the World Bank and IDB, are as follows:

- (i) Bids must be evaluated by an Evaluation Committee, applying the methodology and parameters established in the Law, the regulations and the bidding documents.
- (ii) The committee must not evaluate those conditions intended merely to facilitate the submission of bids and to speed the bidding process, or any other requirement that in itself is not essential and does not affect the legality and validity of the proposals.
- (iii) Defects of form rather than substance, and calculation errors, may be corrected if this does not imply changes to unit prices, and are not in themselves sufficient to disqualify the proposal.
- (iv) Scoring mechanisms that involve assigning points or percentages may not be used, except in the case of services where such mechanisms are demonstrably appropriate.
- (v) In evaluating offers of goods, a set of criteria must be used that includes factors such as transportation, variant forms of payment, delivery times, operating costs and efficiency.
- (vi) The weighted factors must be translated into monetary terms, to the extent possible.
- (vii) In public works tendering, procedures that automatically disqualify bids above or below the reference price are not allowed.
- (viii) In international tendering, margins of preference must be taken into account.

By law, the award must be based on the evaluation report and must go to the compliant bidder who (i) meets the legal and technical conditions stipulated in the bidding documents; and (ii) has the qualifications and capacity necessary to carry out the contract. If two or more bids meet all the requirements, the contract must be awarded to the lowest-priced bid.

In the case of consulting services, article 97 of the Law requires that the evaluation and selection be based on one of the following methods: (i) quality and cost; (ii) quality, which applies only to highly complex consulting services where the price factor is weighted zero; (iii) least price, which may be used in simple consulting services that do not require the knowledge of experts, provided the proposals have exceeded a minimum technical acceptability score; (iv) fixed budget, when the bidder [sic] has a fixed budget; (v) background of the consultant, for smaller contracts. These methods constitute exceptions to the above-mentioned rules for evaluation and award, since they allow for scores and accord appropriate importance to quality.

The Regulatory Decree makes the evaluation process confidential and requires that, after the public opening of bids, no information concerning the analysis, clarification and evaluation of bids is to be disclosed to bidders or other persons not officially involved in the evaluation process, until the award is made.

Table 1.3. Public perception of confidentiality in the evaluation process

<p>As part of the preparation of this report, a polling firm was hired to conduct opinion surveys on public procurement processes, focusing on three key groups: (i) civil society, (ii) private-sector firms that have been awarded public contracts; and (iii) government officials. The private sector perception of procedural confidentiality differed greatly between those who participated in the processes and those who did not. There was found to be an asymmetry of information between those who bid for public procurement and those who do not; the latter group's opinions are similar to those of civil society. Bidding participants and winners have a positive perception of confidentiality</p>

None of the evaluation criteria in the cases analysed by the consulting firm included any unquantifiable parameters.

(h) Complaints system structure and sequence

The legal framework establishes the right of interested parties to challenge the decisions of the contracting entities in the procurement procedure. The mechanism of administrative review or protest may be invoked at any stage of the proceedings, against any act that contravenes the relevant provisions of the Law. Complaints must be submitted within 10 working days after the decision, or after the plaintiff has knowledge of the decision. At the end of the period established by law, the right of complaint lapses, without prejudice to ex officio action by the administration.

Indicator 2. Existence of implementing regulations and documentation

(a) Implementing regulations for processes and procedures

According to the Law, the responsibility for preparing, issuing and updating general rules with respect to the planning, implementation, monitoring and evaluation of contracts lies with the DGCP, as the Central Policy and Technical Unit. As such, this unit has issued a number of resolutions (of lower hierarchy than decrees and laws) dealing with various operational aspects of the procurement system, such as minimum time limits for submitting "shopping" bids, submission of sworn declarations by bidders, and the use of procurement codes.

All of these provisions are freely available at the Public Procurement Information System website (www.contratacionesparaguay.gov.py).

Consistent with the principle of policy centralisation, regulatory decrees and resolutions issued by the DGCP apply to all public agencies and entities, including the municipalities. These regulatory provisions are updated as necessary to provide clarifications or make operational adjustments. The regulations are made publicly available at the SICP website as soon as they come into effect.

(b) Model tender documents

By law, the DGCP is to prepare and disseminate procedural manuals, bidding documents and model contracts to standardise internal procedures. As well, the Law regulates the minimum content of calls for tender, bidding documents, and contracts. As noted under point 1(e) above, standard model documents are in the process of preparation and introduction. They contain general conditions that may not be amended by procuring entities, and they leave room for information specific to each process.

The preparation of the specific bidding documents is up to each procuring entity. Those documents must be consistent with the Law, the regulatory decree, and the standard bidding documents prepared by the DGCP. At the time this report was written, the DGCP was still in the process of approving the standard bidding documents. Nevertheless, draft standard bidding documents for the procurement of goods, works

and consulting services, based on the standard documents of the multilateral banks, had been prepared and were in the process of discussion and approval.

In 96% of the tendering processes examined by the consulting firm, the bidding documents contained standard clauses or common contents. This reflects the fact that, even though standard bidding documents are not yet approved and mandatory, generally accepted models are widely used, and the UOCs are unlikely to encounter major difficulties when the standard models become mandatory.

(c) Procedures for prequalification

The Law allows for prequalification as a supplementary modality, without prejudice to legal procurement procedures. However, it leaves it to the regulations to determine the procedure and the cases in which prequalification may be used, when this is in the public interest.

To date, model prequalification documents exist in draft, based on the World Bank's standard documents, for the contracting of works. Those drafts are now in the process of discussion and approval, and are not yet mandatory. However, they are already available for reference purposes at the SICP website.

In all 11 cases analysed by the consulting firm, prequalification procedures followed the principles and situations stipulated in the Law. As well, the criteria applied for determining compliance with respect to the qualification of bidders have been objective and relevant to the procurement in question.

(d) Procedures for contracting consulting services

The Law provides the following models for selecting and contracting consulting services:

- (a) quality (70-80%) and cost (30-20%);
- (b) quality, for highly complex services where the weighting of the price factor is zero;
- (c) least price, which may be used in simple consulting services that do not require the knowledge of experts, provided the proposals have exceeded a minimum technical acceptability score;
- (d) fixed budget, when the bidder has a fixed budget;
- (e) qualifications of the consultant, for smaller contracts.

When the amount of the contract exceeds 10,000 *jornales*, Regulatory Decree 5174/05 requires the prequalification or preselection of consulting firms, and this must be based solely on the capacity of potential tenderers to perform the contract satisfactorily, taking into account: the experience of the firm and its previous record of compliance in similar contracts, and the capacity of the firm's personnel.

(e) User's guide or manual for contracting entities

By law, the Central Policy and Technical Unit (UCNT) is empowered to prepare and disseminate procedural manuals, bidding documents and model contracts with a view to standardising internal procedures.

The UCNT has prepared a number of guides or manuals for the UOCs. For example, there is an "Organisation and Functions Manual for the Procurement Operations Units" and a "Manual for Entering Changes to the Annual Procurement Programme (PAC) in the SIAF", both of which are available at the SICP website. There are also manuals used for training officials.

As noted above, drafts of standard bidding documents have been prepared and are available at the SICP website, but they are not yet mandatory. There are however no user's guides or manuals for using those

bidding documents, nor any single manual detailing all the procedures for proper application of procurement laws and regulations.

(f) General Conditions of Contracts (GCC)

The Law refers to rules governing the general conditions of contracts, in its mention of public bidding documents and the minimum content of contracts. These conditions form part of the bidding documents and are not subject to negotiation by participants.

In the sample of contracts examined by the consulting firm, 96% applied standardised GCC. Those GCC are common to different entities and sectors, which means that contractual conditions are relatively uniform across the public sector.

2. Pillar II: Institutional Framework and Management Capacity

Indicator 3. The public procurement system is mainstreamed and well integrated into the public sector governance system

(a) Procurement planning and budgeting

Paraguay's public procurement system has strong operational linkages to both the budgeting and the financial administration areas. For the preparation of budgets, the Ministry of Finance issues general instructions, through memos or directives addressed to all institutions of the central administration and decentralised entities. Each budgetary unit prepares its annual budget and submits it to the Ministry of Finance, which corrects it and incorporates it into the general government budget, for submission to Congress.

Once the general budget is approved by Congress, the Ministry of Finance issues a regulatory decree for the practical application of the budget for the fiscal year. In this respect, the UOCs have until February of each year to prepare their PAC. Such preparation is technically mandatory, for it is not possible to make purchases through the SICP if the UOC does not have a PAC. These PACs are sent to the DGCP for approval; subsequently, an identifying code is issued for each procurement, and this will be the reference for future operations relating to that process within the SICP.

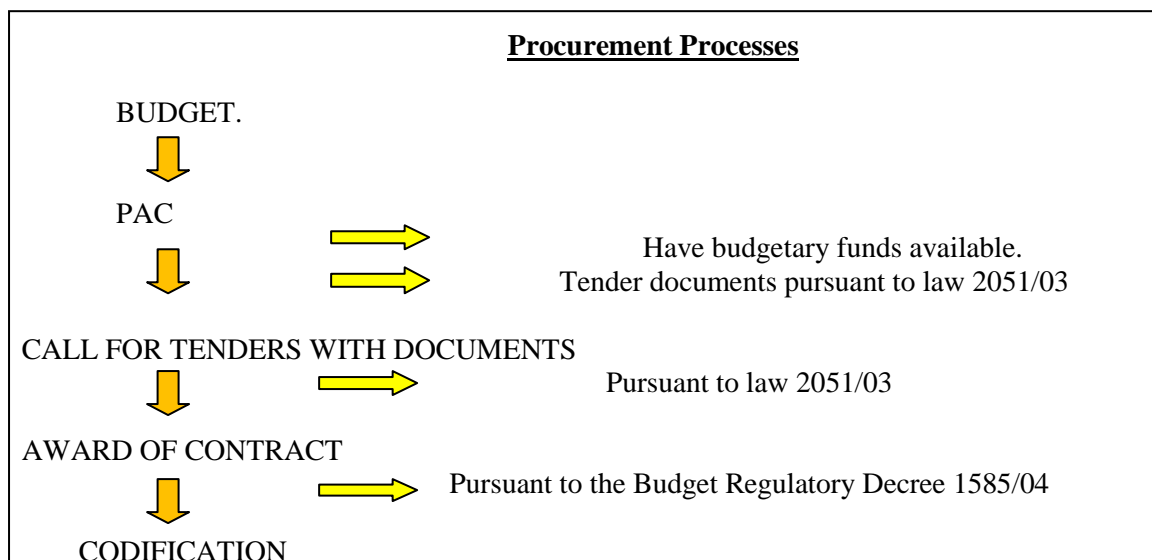
The general budget is approved on an annual basis, but the PACs have both annual and multiyear data. Each PAC includes a reference indicating whether the corresponding procurement is multiyear or not. Article 12 of the Public Procurement Act provides rules for preparing each institution's PAC, including projects that extend over more than one fiscal year, and article 15 establishes the rules to be followed by institutions in preparing cost estimates for each procurement.

Because there is no multiyear budgeting, procurements planned under this modality require an annual certification of budgetary availability.

The decree regulating the budget law provides that when they advise the UCNT that they are initiating a procurement, entities must provide the corresponding Budgetary Availability Certificate (CDP): in the case of institutions connected to the Integrated Financial Administration System (SIAF), which now covers all entities of the central administration, availability is certified through the SICP, linked to the PAC of the procuring institution, which ensures consistency between the cost estimate and the available budget; and finally, when publishing the call for tenders, the CDP is confirmed and the budgetary funds are

automatically reserved. Under this mechanism, it is impossible to apply the same budget availability code to more than one tender, which means that the reserve funds act as real caps on budget overruns.

Figure 1.1. Procurement processes in the SICP



(b) The relationship between the budget law and procurement procedures

When a CDP code is issued against a call for tenders, a budgetary reserve is set aside, thereby reducing the contracting entity’s available funds in an amount equal to the contract being tendered. Once the contracting process has been concluded and approved by the DGCP, the SICP issues a Procurement Code (CC) which authorises payment for that contract in the SIAF. The Law provides that the CC must be issued no later than three days after the transaction is recorded in the DGCP, and in practice it is issued more quickly.

However, not all contracting institutions are included in the SIAF, which covers all institutions of the central administration but not the autonomous entities or the municipalities. This means that the financial administration system does not cover the entire public sector, as the public procurement system (SICP) does.

In total, there are 21 entities that are not incorporated into the SIAF. Moreover, the 232 municipalities that have budgetary autonomy are also missing from the system. In relative terms, entities outside the SIAF contracted procurement in 2004 in the amount of Gs.1,470,453,100,984 (approximately US\$249.2 million) out of a total of US\$417.4 million, or 59.7%, and in 2005 such contracts amounted to US\$386.4 million in a total of US\$676.5 million of public procurement, or 57.11%.

Because it is not subject to SIAF mechanisms, each institution outside the system is able to generate its own budget availability code, and consequently it is not subject to the control mechanisms imposed by the funding reserves. However, at the end of each fiscal year, every entity outside the SIAF must reconcile its accounts with the General Treasury.

Payments are always subject to budgetary availability, and they are also closely tied to the financial plan of each institution, which means in practice that payments are not always made within the expected time limits. The Public Procurement Act requires contracting institutions, at the time they issue their calls for

tenders, to advise potential bidders of the manner, timing and conditions of payment, and to establish a deadline for presenting the awards. At the time this report was prepared, the DGCP was working with other sections of the Ministry of Finance to prepare a mechanism of direct payments to suppliers, in order to minimise payment times.

In practice, nearly all payments (98% of the sample examined by the consulting firm) were made late. The average time taken in paying approved invoices or works certifications is 44 days, and this is excessive. In the case of contracts denominated in local currency (which are by far the majority) this is prejudicial to the contractor, both because of the exchange rate risk and because of the depreciation resulting from local inflation. It should be noted that contracts in foreign currency are usually awarded in much larger amounts and to much larger firms, and while they too experience payment delays they are protected from depreciation in the value of the contract.

Payment management is identified as one of the greatest weaknesses in the system, and it imposes incremental costs on public procurement because of the hedging margins included in the price is quoted. For the sake of greater efficiency in the system, it is essential to improve these mechanisms. A gradual move to direct payment for suppliers should not divert attention from developing the efficient and timely payment mechanisms that are absolutely essential in the UOCs.

(c) Budgetary backing for the initiation of procurement actions

The Procurement Act provides that "no payment may be committed unless it is expressly provided for in the General Budget of the Nation or in the respective municipal budget, or in a subsequent law or ordinance", and stipulates further that "contracts for purchases, leasing, and services may only be awarded when the funds are available in the corresponding budget item".

At the initiative of the UCNT, provisions have been introduced into the decree regulating the General Budget, and into the budget law for the subsequent fiscal year, whereby the corresponding budgeting code (CDP) must be included in the report to the UCNT notifying each procurement action.

With institutions that are connected to the SIAF, funding availability is certified through the SICP and linked to the institution's PAC. This ensures consistency between the cost estimate and the available budget. When the call for tenders is issued through the Procurement Website, it is posted as a provisional charge to the PAC, guaranteeing that no other call for tenders can use the same code and hence the same estimate. The CDP is also confirmed in the SICP, guaranteeing that those funds cannot be used for another tender. Entities not connected to the SIAF issue their own budgetary availability certification.

(d) Systematic completion reports are prepared for certification of budget execution and for reconciliation of delivery with budget programming

As indicated above, there are 21 institutions that are not integrated into the SIAF, and together they account for slightly over half of public procurement in Paraguay. It is clear that the procurement system is not fully integrated into the government's financial management system in a way that would provide timely and interactive input on procurement expenditure to support overall budgetary and financial management.

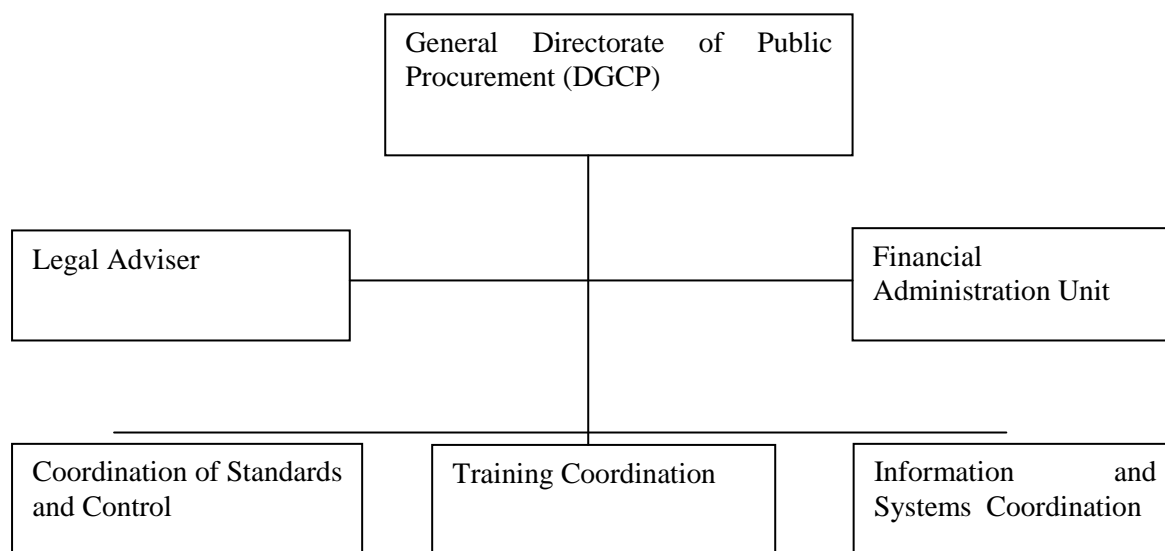
In practice, few agencies have integrated the procurement system with their own financial and budget management. There are few systems capable of monitoring procurement execution, and when they are used at all it is normally for purposes of reconciling the year-end accounts, rather than as a monitoring and control tool during implementation. With respect specifically to completion reports, the UOCs have no systematic completion reports available to certify budget execution and reconcile it with the budget programme.

Indicator 4. The country has a functional normative/regulatory body

(a) The regulatory function

The DGCP reports to the Undersecretary of Financial Administration in the Ministry of Finance, and is structured in accordance with the organisation chart shown below. It is financially autonomous: according to article 41 of the Law 2051, regardless of the procurement method used, agencies, entities and municipalities must withhold the equivalent of 0.5% (net of any taxes) of each invoice or works certificate submitted by suppliers and contractors, and such funds are to be used to implement, operate, maintain and update the Public Procurement Information System (SICP). In practice, these funds are deposited in an individual account earmarked for this purpose, in the name of the Director General of Procurement.

The independence of the DGCP needs to be reinforced by providing protection for its key personnel against arbitrary removal from office or potential constraints on their management capacity and tools. The DGCP does not itself conduct procurement procedures, and conflicts of interest therefore do not arise except, perhaps, with the Ministry of Finance of which it is part.



Indicator 5. Existence of institutional development capacity

(a) Systems for collecting and disseminating procurement information

(b) Systems and procedures for collecting and monitoring national procurement statistics

The Public Procurement Information System (SICP) is the basic public procurement support tool, both for the DGCP and for suppliers, contractors and consultants. The creation and implementation of the SICP is stipulated in the Law (articles 64 to 68) and it began operations in 2004. According to the Law, its objective is "to make publicly available, through the mass electronic communications media, information on calls for tender, bases and conditions, the contracting process, awards, cancellations, amendments, and any other related information, including contracts awarded, regardless of the method or type of procurement used."

The UCNT is responsible for creating and maintaining the system, pursuant to article 5 of the Law. Subsequently, Decree 21909/05 (article 8) created the Information and Systems Coordination Office with the following functions:

- (i) to design, develop and keep up-to-date a Public Procurement Information System (SICP);
- (ii) to develop and maintain a public registry of disqualified suppliers and contractors; and
- (iii) such other functions as the Director General may assign.

Currently, the SICP functions both as an instrument of information for potential suppliers and civil society and as an operational and control tool within the DGCP. When a procuring entity has its budget approved, the corresponding PAC is sent to the DGCP and entered in the SICP, at which time a process identification number is issued, for use as reference for both internal and external consultations on the process.

When the DGCP receives requests for specific calls for tender (accompanied by their CDP), the entire procedure is recorded in the system, thereby guaranteeing that the legal requirements will be fulfilled for moving to the next stage, e.g. issuing the bidding documents, verifying budgetary availability, or reviewing the bid evaluation and the contract signed, for issuance of the Procurement Code (CC), which releases payment in the SIAF.

The SICP has a procurement website (www.contratacionesparaguay.gov.py) which serves as an external information instrument. The website is being constantly improved to enhance its usefulness and accessibility. The website can be accessed by Internet, and can be used to:

- obtain information on existing legislation and on the structure and functions of the DGCP;
- confirm the status of procurement processes;
- consult the Catalogue of Products and Services;
- inspect the PAC and the budgets of the contracting entities;
- identify contract awards;
- track payments to suppliers;
- conduct citizen audits;
- access the complaint system anonymously;
- obtain general statistics.

Paraguay has one of the lowest Internet penetration rates in Latin America. Moreover, the cost of Internet services is among the highest in the region, three or four times the cost for similar bandwidths in Argentina, Brazil and Chile. For this reason, the DGCP has set up Internet booths in the municipalities and in other institutions where people without Internet can access the website freely and without charge. Website consultations are expected to increase significantly as Internet use spreads more widely and connection costs decline.

With respect to the reliability of the information, it is provided directly from the procuring institution in each case, and it must be accurate in order to pass review by the DGCP and thus be certified. All information obtained is examined in advance by each department, pursuant to Law 2051/03, and is then published at the website. As an additional mechanism to guarantee the accuracy of information, each institution reviews its information once posted at the website. Information is entered and updated in the system on a daily basis.

There are also plans to create a Registry of Government Suppliers within the system, in order to simplify the process of presenting recurrent information during procurement proceedings (accounting, legal, tax information etc.). By explicit legal stipulation, this registry will not constitute a precondition for

participation in procurement processes, but will serve instead as a database. Work on developing the corresponding software was to start in December 2006.

For the sake of efficiency, there are plans to adapt website access to potential users (RSS services) so that procurement data can be retrieved more rapidly through website manager software.

(c) Procurement training strategy

There are permanent and substantive training programmes covering the entire procurement process as stipulated in the Law, as well as use of the website. The programme has eight modules. There has been no formal evaluation of the training programme, but its individual courses have been assessed and found highly satisfactory. The DGCP keeps statistics on training provided, and these show that a total of 10,034 individuals have been trained to date, of whom 9,809 related to UOCs, 192 to suppliers, and 33 in projects.

The formal training provided by the UCNT has been almost exclusively (98%) for UOCs staff, i.e. procurement specialists or officials in the procurement operations units and the enforcement authorities.

In this initial stage of the system, procurement training has not been provided as a postgraduate course. As an interim step, the training process is being expanded by offering courses and seminars in private, university-level institutions ("outsourced training").

While the training is open to all interested parties, private-sector suppliers had taken little advantage of the courses offered by the UCNT up to 2005. The DGCP training courses are held twice a week, and the average waiting time is at most one week. For the exclusive courses offered to government institutions or private associations, or courses provided outside the capital city, the waiting time depends on availability, but does not generally exceed three weeks.

(d) Quality control standards

The Civil Service Act, Law 1626, Article 35, calls for the performance of public servants to be evaluated periodically, and makes promotion dependent on merit and aptitude. However, there is no evidence of any routine quality monitoring or of systematic performance evaluations of personnel. Normally, professional promotions are based for the most part on personal acquaintance, and much less on documented performance.

3. Pillar III. Procurement operations and market practices

Indicator 6. Procurement operations and market practices

(a) The level of procurement competence among government officials within the entity is consistent with their procurement responsibilities.

Procurement in Paraguay is conducted by UOCs, which are specialised units within each ministry, municipality or autonomous entity, and by the UEPs, which are the units responsible for externally financed projects. There are currently around 550 UOCs and 47 UEPs.

Law 2051 transformed purchasing units into UOCs, requiring that their professional staff be knowledgeable about accounting, processes, systems etc. In practice however, positions in the new UOCs were filled for the most part by personnel already in place when the Law came into force, and consequently there was no open, selective and competitive process for choosing qualified candidates. Consequently, staff

of the UOCs do not as a rule have the qualifications needed to perform their work properly. As a remedial measure, the DGCP has:

- (i) established an ambitious training programme, and has already provided training in basic procurement aspects for all staff of the UOCs and the UEPs (with the possible exception of recently hired staff); and
- (ii) it has established a permanent technical support line, accessible by telephone or electronically, that can respond to questions.

In practice, the UOCs have no pre-established administrative ranking: this depends on management decisions within each entity. The manager of each entity will determine their makeup and the range of their responsibilities. Thus, some UOCs are suitably staffed at a level consistent with their functions, while others are not: in the Ministry of Education for example, where procurement is very important in terms of both the number of processes and the amounts awarded, the UOC consists of three persons, only one of whom is a full-time staffer, while the other two are contract personnel.

(b) Training programmes meet current demand

There is no structured capacity analysis for each UOC, and hence no assessment of training needs. The DGCP has approached its training efforts with an institutional rather than personnel focus, treating institutions as the primary recipient of its courses, irrespective of the officials who participate. Incentives and premiums have recently been introduced in institutions to encourage staff to take training.

The programmes were designed in line with the DGCP's perception of demand, covering essentially instruction about the provisions of the new law and operational use of the SICP. Subsequently, adjustments were made and courses or seminars were added, sometimes as a result of course evaluations. In addition to the original modules described in the previous section, the current year's programme includes:

1. Preparation of the 2006 PAC—Internet and stand-alone system.
2. Digital data entry workshop.
3. Entering calls for tender and awards via Internet and stand-alone.
4. Procurement booths in the municipalities.
5. Training campaign on the Public Procurement Website for municipal and provincial officials.
6. Training campaign for government suppliers.
7. Catalogue of products and services.
8. Direct payment to suppliers.

Training courses are offered to the public on a regular basis, generally once a week, and all the basic modules are covered. In addition, courses are held outside the institution and beyond the capital city. Waiting times for these courses are very reasonable, and applicants can usually sign up for the next one scheduled. These courses are fairly short (one or two days) and are offered at least twice a week.

(c) Maintenance of procurement records and documentation

Current legislation details the procurement records that must be maintained in the UOCs, and identifies those that must be available for inspection by other entities, auditors and the public. The UOCs of the institutions in the sample considered in this report do not have documentation relating to final payments or disbursement data, nor do they have any systematic completion reports to certify budget execution and reconcile it with the budget programme.

From a sample of institutions examined by the consulting firm for preparing the compliance indicators (see Section IV, Table II), it is apparent that 27% of the contracts reviewed did not have complete files. Not all units have filing systems for proper organisation and safekeeping of records, which means that appropriate and timely documentation is often not available.

Nor are there any uniformly applied security protocols governing the orderly and systematic conservation of documents, access restrictions, and consultation records. No rules have been established for the physical characteristics of archive areas or security measures. There are no legal requirements to keep electronic backup files, and in practice few UOCs do so.

Within the larger UOCs there are procurement operations subunits (SUOCs), representing a further degree of decentralisation in operations and files management. In these cases, the team noted inadequate coordination and information flows relating to procurement documents between the UOCs of the Ministry of Education and Culture and the Ministry of Public Health and Social Welfare and their respective subunits, which report to the UEPs or other entities of each ministry.

To these shortcomings must be added:

- High turnover of staff in the UOCs and SUOCs (discretionary appointments), as a result of changes in the senior management of each entity.
- Poor communication between the managers of the central UOC and the SUOCs.
- The central UOC does not have full documentation on procurement by the SUOCs.
- Inadequate record-keeping on procurement transactions by the central UOC and the SUOCs (information outdated and insufficient). The UOCs of the selected entities have no documentation on final payments or disbursements made by their institutions. Nor do they have any systematic completion reports to certify budget execution and reconcile it with budget planning.
- The staff assigned to the UOC or SUOCs are only liable for protecting records and documents and updating information pertaining to their term in office.

The management of files and maintenance of documentation on procurement is at a very primitive stage, and is of no help in control work or in guaranteeing the security of documentation over time. Specific instructions and rules should be issued on this point, together with the policy for incorporating new technologies relating to the computerisation of files and the physical parameters of security. The DGCP has no authority over the UOCs or the UEPs, which means that this matter will have to be addressed by the managers of each institution. As an immediate step, however, the DGCP could issue instructions on best practices to guide the necessary changes.

(d) Delegation of authority

There is no legal provision for the delegation of authority to levels below the rank of Minister or equivalent, and senior management has absolute discretion to delegate contract signing powers or not. The initial articles of the regulatory decree to Law 2051/03 delegate some activities to the UOCs or SUOCs, but the most important actions—e.g. issuing calls for tender, deciding awards, and signing contracts—are performed by the senior authorities.

The managers of each institution are personally and financially liable for their administrative actions, and as a result there is very little delegation. Normally, contracts are signed by the minister or the head of the institution, and in some cases by the vice minister or his equivalent, or an authorised official with the rank of administrative director. Authority in this area is absolute: the signing officer has the power, for example, to reject the conclusions and recommendations of an evaluation commission.

Indicator 7. Functionality of the public procurement market

(a) Public-private partnerships

There are formal mechanisms for dialogue with the private sector, such as the National Integrity Programme (PNI) and the CISNI, Transparency Paraguay (which oversees the procurement process) and the whistleblower protection system for the private and public sector (INECIP), but their focus is primarily to exert control rather than to foster dialogue and understanding between buyers and suppliers. Given the significant shortcomings of the control bodies and the high indices of perceived corruption, it is not surprising that the first approach to relations with the private sector should be focused on attacking the problems flowing from the lack of effective controls over public procurement.

There have been other experiments that have involved placing private sector representatives on the advisory or operating boards of internationally financed projects. For example, the Investment and Export Network of the Ministry of Industry and Trade (REDIEX MIC) has a board with business representatives, similar to the model of Project PR 100 to support SME competitiveness. There have been few experiments to date with concession contracts. Examples include a highway concession (Ruta 7, the Tapé Porá Consortium), water supply concessions in the interior of the country recognising the de facto rights of private water carriers, and a power distribution concession in the city of Villarica.

While the government encourages public-private partnerships in isolated instances relating to public procurement, there is no regulatory framework underpinning them.

With respect to the development of private firms, the government has programmes to support the competitiveness of SMEs, designed to enhance their general capacities and competitiveness (IDB programme PR 100).

(b) Private sector institutions are well organised and able to facilitate access to the market

More than 80% of businesses in Paraguay are SMEs, and there are business associations of SMEs, micro-enterprises, industrialists and producers (CGP), cattle breeders, and road builders, to cite the most representative ones. The private sector is relatively weak. Business associations generally carry little weight in national decision-making. Some sectors have moderately strong business associations or chambers, but this is not generally the case. For major contracts, competition is oligopolistic (e.g. in road construction), because there are few suppliers and little effective competition. Despite the great number of SMEs, more than 80% of total procurement (in monetary terms) has been awarded to big companies.

(c) There are no major systemic constraints (e.g. inadequate access to credit, contracting practices, etc.) inhibiting the private sector's capacity to access the procurement market.

The private sector in Paraguay faces great difficulties in its development and in participating competitively in public procurement. One of the most important constraints is access to credit, especially for small firms that today have the capacity to be government suppliers. Access to credit is limited by the informal nature of many businesses: they are unable to supply the documentation required by financial institutions, which are also subject to provisioning requirements when such firms fall into arrears. The Paraguayan economy is still to a large extent an informal one.

The distribution of contract performance risks between the procuring institution and the supplier is governed in some cases by the Law, and in other cases by the still-unapproved standard documents. Generally speaking, the distribution of risks is equitable and is not a significant negative factor. Articles 56 and 61 of the Public Procurement Act require price adjustments to offset substantial fluctuations, and the

payment of penalty interest on payment arrears. The draft standard documents contain provisions for situations where award deadlines are exceeded (more than 40 days after the planned date of award), allowing the bidder to adjust prices or not to extend the validity of the offer. Tax changes that affect the prices offered are also covered in the standard documents.

An exception to the foregoing relates to contracts denominated in foreign currency, where there are no provisions to offset exchange rate fluctuations, and where the bidder consequently assumes the exchange risk.

The payment provisions established in the bidding documents are fair. Nevertheless, in practice there are usually substantial delays in payment. The costs of doing business with the government translate into higher quotes. The new standard bidding documents (not yet approved) contain equitable payment conditions, and mechanisms are under study to ensure that payments are made when due. One option already implemented is to pay suppliers directly from the Treasury, upon authorisation from the contracting entity.

(d) There are clear and transparent rules to determine whether to engage international or national markets, in line with sound business and development principles

The criteria for resorting to International Competitive Bidding are not based on sound commercial principles, in the sense of making most efficient use of public funds. Article 18 of Law 2051/03 provides that ICB must be used when there is an international obligation (pursuant to international treaties to which Paraguay is a party, or when stipulated in loan agreements with multilateral agencies), or if there are no domestic suppliers capable of meeting the need (when market research by the UOCs finds no qualified suppliers, or when a domestic call for tenders has produced no bids). In practice, NCB is normally used for contracts exceeding 10,000 *jornales* (approximately US\$76,000), and ICB is reserved for the cases stipulated in the Law.

Indicator 8. Existence of contract administration and dispute resolution provisions

(a) Contract administration

Contract administration procedures are spelled out in articles 55 to 63 of Law 2051/03, which establish the rights of the parties, procedures for contract termination, cancellation, price adjustments, and amendments.

There are no express rules governing acceptance of final products, except for public works. This gap was corrected in the preparation of the new standard bidding documents, which include general contractual conditions and clauses consistent with established international practice, as well as procedures for the acceptance of final products.

Article 71 of Law 2051 empowers public auditors (the Government Auditor General and institutional auditors) to verify the quality of the goods acquired, at any time. Pursuant to article 5 of that law, the UCNT may issue instructions concerning acceptance inspections and testing for products and works. To date, there are no explicit procedural regulations, except those included in the standard documents. There is no regulation governing laboratory tests or certifications by quality inspection firms, and indeed these are not normal practice. Article 46 of the Public Works Act, Law 1533/00, provides for independent internal or external control, but this choice is left to the discretion of the inspector.

When it comes to making timely payment, article 37 of the Financial Administration Act, Law 1535, stipulates the "payment procedure", and article 60 of Regulatory Decree 8127/00 stipulates that payments must be made against availability of funds and approved cash plans. The Public Works Act provides that

payment must be made within 30 days after approval of the works certificates. The draft standard bidding documents provide that payments are to be made promptly, within a deadline of 60 days. In practice, as indicated above, actual payment times regularly exceed those established in the respective contracts.

Part of the preparatory work for this report was performed by a specialised polling firm, which interviewed public officials, business people who had been awarded public contracts, and civil society organisations. The business group were asked eight questions about various aspects of the procurement system in Paraguay. The following table collates the responses of this group to the assertion that the procurement system is functioning properly and efficiently.

Table 1.4

Question/ Answer	1	2	3	4	5	6	7	8	Average
Agree totally	5.8%	9.5%	6.8%	15.2%	9.2%	6.4%	7.7%	6%	8.2%
Agree	69.2%	59.3	61.5%	53%	77.2%	51%	51.4%	59.8%	60.2%
Disagree	25%	28.8%	31.7^	29.3%	10.8%	34.3%	34.8%	27.8%	27.7%
Disagree totally		2.4%		2.5%	2.8%	8.3%	1.3%	6.4%	3.9%
	100%	100%	100%	100%	100%	100%	100%	100%	100%

Source: Ad hoc survey by First S.A.

Counting the "agree totally" and "agree" responses, 68.4% of opinions are favourable.

(b) Dispute settlement procedures

Paraguay has legislation governing mediation and arbitration, in the form of Law 1879/02. This law is consistent with generally accepted international practices for neutrality of arbitrators, due process, expediency and enforceability. The Law is based, in fact, on the model law on international commercial arbitration produced by the United Nations Commission on International Trade Law (UNCITRAL). Provisions for alternative dispute settlement are included in Law 2051/03 and in regulatory decree 21909/03, as well as in the draft standard bidding documents.

Paraguay accepts international arbitration as an alternative dispute settlement mechanism. According to Law 2051/03, the acceptance of arbitration is at the discretion of the procuring institution. For contracts financed by multilateral agencies, international commercial arbitration is generally included as the preferred method of dispute settlement.

In the sample of contracts analysed, 95% included alternative dispute settlement mechanisms, which is a satisfactory ratio. In fact, once the standard bidding documents come into force, that proportion will rise to 100% of contracts.

(c) Enforcement of dispute settlement decisions

Paraguay is a party to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, which was incorporated into domestic law by Law 948 of 9 September 1996 with no reservations (date of deposit: 8 October 1997). It is also a party to the 1975 Inter-American Convention on International Commercial Arbitration, which it ratified through Law 611 of 1976. Law 1879/02 on mediation and arbitration contains procedures whereby the winning party to a dispute may enforce the decision through the courts.

The public sector has no system for monitoring contracts. There are some agreements in place between the public and private sectors, e.g. in the private sector there is the Paraguay Centre for Arbitration and Mediation (CAMP): this operates within the National Chamber of Commerce and

Services, which has the regulations, the list of arbitrators and some of their functions [?? - *comments by the translator*], and there are also private arbitrators. The DGCP has received training from the CAMP and is now developing a contract monitoring system.

4. Pillar IV. Integrity and transparency of the public procurement system

Indicator 9. The country has effective control and audit systems

(a) Legal framework, organisation, policy and procedures for internal and external control of public procurement

The legal framework contains provisions on mechanisms and institutions responsible for supervising public procurement. Those institutions include: Office of the Comptroller General (CGR), a constitutionally instituted body with financial and administrative autonomy that oversees the economic and financial activities of the public sector; The Government Auditor General (AGPE) and the "Internal Institutional Audit Units" (AII).

The CGR exercises external administrative control over public procurement management. It performs that task through various mechanisms, including audits, special examinations, and review of accounts for the fiscal year. Control may be exercised from the outset of the procurement process, although the legislation does not require a prior opinion from the CGR as a condition for initiating procedures or formalising contracts.

The Office of the Government Auditor General reports to the President of the Republic and exercises internal control of the executive branch. To this end, it may audit the agencies and entities of the executive branch, and regulate and supervise the working of the internal institutional auditors. Pursuant to Law 1535, the Financial Administration Act, it exercises "deliberate and *a posteriori* control".

The internal institutional audit unit (AII) is a specialised control body established within each government institution to exercise deliberate control over its administrative acts, in accordance with generally accepted audit standards. The internal audit function reports direct to the senior authority of each institution, and its main task is to exercise control over operations underway, verifying obligations and their payment against satisfactory delivery of goods, works and services, under the conditions, timing and quality contracted.

According to the Public Procurement Act, the AGPE and AIIs are empowered to intervene, *ex officio* or upon request, at any stage in the public procurement process, without prejudice to the powers of the CGR. They may at any time verify that purchases, leases, services and public works are performed according to law and other applicable provisions. They may also conduct visits and inspections to the Procurement Operations Units and may ask the officials, suppliers and contractors involved in procurement procedures to supply any relevant data and reports.

The Public Procurement Act also gives auditors the power to verify the quality of goods, through laboratories, educational and research institutions, and other means. The auditors may also conduct *ex officio* investigations and may even suspend a procurement process under the conditions established by the Law (e.g. serious indications of unlawful acts or possible damage to the procuring entity, provided suspension would not harm the public interest).

During the fieldwork for preparing this report, it was found that in the period analysed (2004 to April 2006) there were certain limitations on the policies and scope of internal and external control procedures for reviewing and verifying public procurement, in particular the following:

Office of the Comptroller General (CGR)

- The CGR generally focuses its reviews and inspections on reported cases of irregularity, and these take up much of its staff time.
- The annual external audit or control plans include only exceptional reviews of procurement transactions.

Government Auditor General's Office (AGPE)

- The structure of the AGPE, when examined, was inadequate to fulfil its legislated functions.
- The AGPE has no power over decisions to hire and remove the internal auditors of entities of the public administration, a power that lies entirely at the discretion of the senior authority of each institution.
- While the AGPE has access to the periodic reports issued by the internal auditors, its limited resources make it impossible to monitor them regularly.
- There is no proper coordination between the AGPE and the AII in the joint pursuit of their priorities.

Internal Institutional Auditors (AII)

- There is no established professional profile for staff in the AII units.
- Staff are generally appointed without competition.
- Annual activity plans make insufficient provision for reviewing public procurement.
- The AII generally lack the resources (staff, equipment, inputs, ongoing training) needed to perform their duties.

The CGR and the AGPE are currently involved in institutional strengthening programmes financed by the IDP and USAID, and it can be hoped that over the medium term both institutions will be able to overcome the weaknesses indicated above.

(b) Enforcement and follow-up of findings and recommendations of the control bodies

Generally speaking, the recommendations issued by the internal and external auditors with respect to public procurement are favourably received, i.e. they are implemented within a reasonable time frame (typically within six months) and they are taken into account in subsequent procurement.

Procurement reviews and audits are conducted by the internal audit units at least once a year, and complaints are followed up case-by-case, at the request of the institution's senior authority or the AGPE.

In the case of the CGR and the AGPE, their reviews are limited in scope, confined essentially to individual complaints. Their annual audit schedule does not include (or does not result in) programmed inspections of procurement in institutions under their joint control. Generally speaking, such audits are reactive and not proactive, and they are not concurrent audits but instead are based on ex-post reviews.

All of the foregoing points to a control environment that is extremely fragile, inefficient and ineffective. Transparency Paraguay notes among the recommendations from the evaluation of DGCP procedures:

- (i) the need to establish operating agreements with the Auditors General of the three branches of State and with the Office of the Comptroller General to enhance control over procurement and contract management and to ensure that disciplinary actions are not suspended for lack of information or follow-up; and
- (ii) the reporting of DGCP decisions to the Secretariat of the Public Service and to the Government Attorney General in cases where civil servants have been found administratively or criminally liable.

(c) The internal control system provides timely information on compliance to enable management action

Regular reports on made to management during the course of the year. Those reports are also submitted to the Government Auditor General, but there is no general provision for feedback on follow-up to those reports. Procurement reviews are limited.

(d) The internal control systems are sufficiently defined to allow performance audits to be conducted

Each UOC has internal control routines and procedures defined in writing. The AII have procedural manuals, although most of these are out of date. The scope of the audits performed by the AII is however very limited, and focuses for the most part on individual complaints. The annual audit schedules do not provide for procurement audits, and there is consequently no effective framework of control beyond the process controls exercised by the DGCP.

If the AII were ever to have the capacity to conduct systematic procurement audits, they could do so on the basis of the records kept by the UOCs, which contain key documentation both on processes and on internal control. It cannot be argued, then, that audits are unfeasible because of lack of documentation in the contracting entities: other reasons will have to be found to explain why the currently weak control environment has remained unchanged at a time when significant efforts are being made to enhance the quality, efficiency and transparency of public procurement.

(e) Auditors are sufficiently informed about procurement requirements and control systems to conduct quality audits that contribute to compliance.

The auditors who examine procurement matters demonstrate knowledge of the area. In general, they have received or are undergoing formal training by the DGCP on procurement requirements, principles, operations, laws, regulations and processes.

Nevertheless, quality audits are the exception rather than the rule. In addition to an understanding of the rules governing public procurement, audit methodologies need to be developed in accordance with internationally accepted standards, and a clear and comprehensive audit plan established.

Indicator 10. Efficiency of appeals mechanisms

(a) Decisions are deliberated on the basis of available information, and the final decision can be reviewed and ruled upon by a body (or authority) with enforcement capacity under the Law; and

(b) The complaint review system has the capacity to handle complaints efficiently and a means to enforce the remedy imposed.

The legal framework establishes the right of interested persons to challenge decisions by contracting entities during the procurement process. Such challenges or protests are filed with the DGCP, which is a body separate from the procuring entities, except for procurement matters relating to the Ministry of Finance, of which it is part.

The DGCP will decide on a protest in accordance with the rules of due process, in which the interested parties are allowed to intervene and to produce and inspect evidence. Decisions of the UCNT relating to protests, which may lead to nullification of the challenged actions, are binding on the procuring administration.

Protests must be filed within 10 days after knowledge of the act challenged. After preliminary formalities, the DGCP has 10 working days to issue a resolution. According to the report from the BDO consulting firm, 100% of cases are resolved within the terms established by law (see Section IV of this report, Pillar I, subindicator 1 (h), compliance indicators).

If the challenging party disagrees with the decision taken by the DGCP, it can appeal the ruling by filing an administrative dispute claim with the Court of Accounts.

The following table summarises statistics on the handling and resolution of protests in the current year:

Table I.5

2006 - Average duration of protest proceedings, in days					
January	February	March	April	May	June
33.2	31.0	24.8	30	31.4	34

As the table shows, the average length of time for handling a protest, from initiation to final resolution, is about 30 days. All these cases resulted in a decision, and in all cases the legal time limits were observed

As defined in the Law, the 10-day time limit "after knowledge of the act" is rather ambiguous, since there is no assured way of determining that date, and it is open to manipulation by the protesting party. It would be advisable to establish more concrete rules for defining the time limits, e.g. 10 days after publication in the official media and at the SICP website.

(c) The system operates in a fair manner, with outcomes of decisions balanced and justified on the basis of available information.

Statistics provided by the DGCP yield the following data:

Table 1.6

Protests resulted during 2004-2006	218
Protests pending resolution	9

Number of appeals filed with the Court of Accounts against resolutions on protests issued by the UCNT	8
Judgments issued by the Court of Accounts revoking resolutions of the UCNT	1
Precautionary measures requested by appellants against resolutions of the UCNT rejected by the court	3
Precautionary measures requested by appellants against resolutions of the UCNT granted by the court	0

As these data show, of the 218 protests decided by the UCNT, only eight were appealed to the Court of Accounts, and to date only one UCNT resolution has been revoked. While there are still no final judgments in these proceedings (all are still pending), it may be noted that in no case has the Court of Accounts ordered that the effects of the challenged UCNT resolution be suspended as a precautionary measure.

The team also reviewed the outcomes of surveys on this point, reflecting the perception of civil society and of suppliers and bidders with respect to the challenges system. The majority of civil society representatives surveyed (71.3%) considered that the responses to procurement protests were not fair, efficient or independent. Suppliers and bidders had different perceptions: 59.1% considered that the decisions taken were fair and independent, while only 36.1% were of a contrary opinion.

The UCNT has the power to nullify the procurement procedure or act challenged, and to establish guidelines to bring the act into conformity with the Law. There is no doubt that this power enables the UCNT's decisions to be enforced, particularly when a contract has not been signed and work has not begun. The problem arises in cases where contracts have already been put into execution. In these situations, the decision of the UCNT is unlikely to result in measures that would remedy the irregularity.

(d) Decisions are published and made available to all interested parties and to the public

Article 64 of Law 2051 on public procurement requires that all decisions be posted at the website. The decisions covered by this requirement relate to calls for tender, documents and conditions, contracting procedures, awards, cancellations, amendments, and any related information, including disqualifications and sanctions. During preparation of this report, it was found that the website does indeed contain this information.

(e) The system ensures that the complaint review body has full authority and independence for resolution of complaints

Complaints must be filed with the DGCP, which as noted above is part of the Financial Administration Branch of the Ministry of Finance. That body also has policy and technical functions, but it has no legal personality or autonomy. Nevertheless it is distinct from the body that is directly involved in the procurement process, except in the case of procurement by the Ministry of Finance itself.

Consequently, the complaint review body is not autonomous or independent. It does however have financial autonomy, since it is financed by 0.5% of the value of payments or work certificates

issued by the contracting entities. Its independence is relative, then, with the exception of procurement by the Ministry of Finance.

Indicator 11. Degree of access to information

(a) Information is published and distributed through available media with support from information technology when feasible.

Information on public procurement in Paraguay is available by law and is published via the Internet in the SICP, which is readily accessible and broadly available. The information provided is centralised at the Internet website. It is relevant and complete with respect to all stages of the public procurement process, from budgeting to final award.

The DGCP has made efforts to facilitate connectivity and access to information by installing computer terminals offering free access to SICP information in the municipalities, provincial governments, and autonomous enterprises. Paraguay has one of the lowest Internet penetration rates in the world, at 1.6% of the population.

Indicator 12. Ethics and anticorruption policy and measures

(b) Provisions addressing corruption, fraud, conflict of interest, and unethical behaviour.

The Public Procurement Act obliges procuring entities to include reference in bidding documents to acts of fraud, corruption, conflicts of interest and unethical behaviour. That obligation includes the following:

- The bidding documents must require a "Declaration of Integrity", in which bidders declare that they will refrain from any conduct that would induce officials of the procuring entity to influence or alter the proposal evaluations or the outcome of the proceeding, or take any other step that would grant the bidder an unfair advantage over other participants.
- Procuring entities are prohibited from including specifications or conditions that unduly favour any participant.
- They may not accept bids from public officials or employees involved at any stage of the process, either directly or through their relatives or other parties with whom they have a professional, labour or business relationship.
- Bids may not be accepted from persons who are or have been involved in quality analysis and control work, in the preparation of specifications, budgets or any other document related to the procedure at hand.
- Bids may not be accepted from persons seeking a contract to perform supervision, audits, expert opinions and valuations when these are to be used to resolve discrepancies arising from contracts to which those persons are parties.
- Duly demonstrated fraud or collusion on the part of the contractor or supplier, from award to finalisation of the contract, will be grounds for cancelling the contract.
- Bids may not be accepted from persons disqualified from contracting, including those who have been penalised for providing false information or who have acted in bad faith in any procurement procedure, in the signature of the contract or during its term, or in the presentation or discharge of a conciliation or protest procedure.

There are also drafts of the standard bidding documents adapted from those of multilateral lending agencies that are now in the process of discussion and approval. Those documents contain

provisions on fraud, collusion and corruption. While their use is not mandatory, they are available to procuring entities at the SICP website.

There is no code of ethics for the civil service nor any specific law for resolving conflicts of interest. This represents an important regulatory gap. While civil servants are obliged to submit sworn declarations of assets, there is no rule governing their renewal, which means that they are frequently out of date.

Nor is there any rule penalising or regulating collusion among suppliers, which means that the authorities have no legal tools to identify and punish such behaviour by the private sector.

(b) The legal system defines responsibilities, accountabilities, and penalties for individuals and firms found to have engaged in fraudulent or corrupt practices

The Public Procurement Act contains provisions on preventing acts of corruption and conflicts of interest, and on promoting integrity in public procurement procedures. As noted above, the Law provides a system of administrative sanctions for suppliers or contractors who act in bad faith in procurement proceedings (three months to three years disqualification from contracting). The system also provides for creation of a registry of persons disqualified to contract with the State, and this is publicly available at the SICP website.

In summary, the legal framework governing public procurement contains some specific provisions, such as the system of penalties for suppliers and contractors. Other aspects are left to criminal legislation. There are some gaps, and other points that should be improved: for example, legislation on conflicts of interest relating to senior officials and former civil servants.

(c) Evidence of enforcement of rulings and penalties exists

The UCNT has no data on judicial cases involving criminal acts of corruption in public procurement, or on any penalties imposed. Nor are there any data on disciplinary actions taken against public servants for violating procurement rules, or on sanctions applied in such cases.

The reporting system of the UCNT records the number of complaints submitted over irregularities in procurement processes, without distinguishing whether they constitute criminal acts or not. There is evidence on the measures taken by the UCNT to deal with such complaints, for example suspension or cancellation of procurement proceedings, orders to amend documents, correction of published calls for tenders, and referral of complaints to the competent bodies (CGR, Attorney General's office). Nevertheless, the system lacks information on the status of compliance submitted to those bodies.

There are statistics available on the number of complaints received by the UCNT and the number and type of measures taken by that agency. It should be noted that, as of July 2006, new tools were implemented under a project to protect persons who report acts of corruption, through an agreement negotiated by the DGCP with the NGO "INECIP", supported by USAID. The new tools include steps to protect the personal data of the whistleblower (this point is examined in further depth under indicator 12 f). Data provided by the legal adviser of the UCNT detail complaints submitted before and after those tools came into force.

The findings show a lack of adequate data on the enforcement of criminal penalties for acts of corruption and on disciplinary actions taken against officials involved in irregular acts. Nevertheless, there are data on measures taken by the UCNT to deal with irregularities reported

through the complaints system. Those data do not include reports on follow-up to the cases submitted to other competent bodies for investigation of complaints or imposition of penalties (Attorney General's office, CGR, etc.).

(d) Special measures exist to prevent and detect fraud and corruption in public procurement

Since 2000, the country has had in place a National Integrity Plan, previously known as the National Anticorruption Plan. That plan arose as a result of surveys of perceptions relating to institutional performance, corruption and governance factors among civil servants, public service users and private firms, conducted in 1999 with financing from the World Bank.

The National Integrity Plan seeks to strengthen the institutional factors that facilitate the reduction of corruption in the public sector, through effective coordination of the various initiatives launched by the public sector, civil society, and international cooperation agencies, under a global strategy.

The National Integrity Plan involves five strategic components: (a) institutional reforms for modernisation and transparency in public management; (b) improvements to the legal framework; (c) interagency coordination; (d) active participation by civil society; and (e) awareness-raising campaigns about corruption. The action plan focuses on three critical areas: (a) the judiciary, (b) the customs service, and (c) public procurement. The plan calls for a series of measures in each area, in line with the strategic components, with respect to institutional strengthening and interagency relations, legal strengthening, and the promotion of citizen participation. The plan includes all stakeholders in the procurement system, with active involvement by civil society

To give impetus to the National Integrity Plan, the government issued Decree 14778/01 and Decree 15997/02, creating the *Consejo Impulsor del Sistema Nacional de Integridad* ("Council to Promote the National Integrity System", CISNI), comprising representatives of the public and private sectors and of civil society organisations. The CISNI conducts systematic monitoring of implementation of the National Integrity Plan and prepares semi-annual and annual reports on achievement of its objectives, on the basis of information supplied by the participating institutions, including those involved in public procurement. The National Integrity Plan is in the course of preparation, by consultants contracted with technical cooperation funds from the IDB (ATN/SF-8962-PR). The plan will be submitted to public consultation by the end of July 2006.

As indicated earlier, the DGCP is responsible for providing and updating information on public procurement, in particular through the electronic website of the Public Procurement Information System. The CISNI obtains the information it needs to monitor the public procurement system from data supplied directly by the DGCP, as well as from that website.

Nevertheless, there is no public executive authority beyond the DGCP with sufficient rank to act as the counterpart of the CISNI and to facilitate coordination and implementation of the measures proposed in the plan. Nor are institutions obliged to provide the information required for monitoring the plan. This is entirely up to the discretion of the authorities of each institution. The situation impedes implementation and monitoring of the plan, including those aspects relating to public procurement that do not depend directly on the UCNT. Those aspects include, for example, measures relating to professional standards of entry and promotion for officers in the Procurement Operations Units, application of administrative and criminal sanctions on civil servants involved in acts of corruption in public procurement, adequate control over conflicts of interest, etc.

In summary, while there is a national anticorruption plan that focuses specifically on public procurement, and a mixed public-private body responsible for monitoring the plan, the lack of a public sector executing authority with sufficient seniority and capacity impedes full implementation of the plan, as well as its coordination and monitoring.

The survey conducted as part of the background work to this report yielded responses on perceptions of the effectiveness of the anticorruption measures that the government has taken in public procurement. The responses offered by civil society representatives differed from those of businesspeople who had been awarded public contracts and were regular participants in bidding processes. Thus, 81.2% of civil society responses disagreed in part or totally with the statement that measures are effective and minimise the risks of corruption. The prevailing comment in these responses is that no results can be seen, because no legitimate efforts are being made to combat corruption. By contrast, 65.8% of business people were in full or partial agreement with the statement.

Under a technical cooperation arrangement with the IDB (ATN/SF-8659-PR), Transparency Paraguay has been monitoring tendering and "shopping" transactions by various public institutions (MEC, IPS, MSPBS, PETROPAR, INDERT, SETAMA). It has also prepared "risk maps" and negotiated integrity pacts.

The IDB subsequently approved another technical cooperation project, ATN/SF-9438-PR, to be implemented by Transparency Paraguay, to promote greater participation by civil society organisations in overseeing public management, primarily in the process of procuring goods and services for government, and at the same time supporting the design and construction of integrity indices for State institutions at the national level.

In addition, civil society is playing an important role both in implementing the e-procurement process and in applying Law 2051/03 on public procurement. With the cooperation of civil society representatives, standard bidding documents have been prepared, possible acts of corruption have been investigated, and tainted procurement processes have been cancelled.

The DGCP has held meetings with private sector representatives, such as the Paraguayan Construction Chamber and the Dairy Chamber which are actively involved in enforcing the Public Procurement Act, in order to seek suggestions and recommendations on enforcing the Law. It has also held training courses for civil society and suppliers.

Tables 1.7 and 1.8. Perception of efficiency in anticorruption methods

**CIVIL SOCIETY RESPONSE TO THE STATEMENT:
"THE GOVERNMENT'S ANTICORRUPTION MEASURES ARE EFFECTIVE AND
MINIMISE THE RISKS OF CORRUPTION"**

Reasons why you disagree/disagree totally	%
I don't see any results. They're not doing anything real to combat corruption	40.5%
There are no real anticorruption measures	16.7%
The State produces corruption. Civil servants take bribes	14.3%
There is no political will to do away with corruption	8.3%
We need to wait longer to see if they are effective and can reduce corruption	8.3%
They've just created more bureaucracy	8.3%
We need more measures and they have to be really enforced	6%
CISNI is more corrupt than anybody	4.8%
We still see situations of corruption/there are still complaints	2.4%
There are no cross controls and the system is vulnerable	2.4%

**PRIVATE SECTOR RESPONSE TO THE STATEMENT:
"THE GOVERNMENT'S ANTICORRUPTION MEASURES ARE EFFECTIVE AND
MINIMISE THE RISKS OF CORRUPTION"**

Reasons why you disagree/disagree totally	TOTAL
I don't see any results. They're not doing anything real to combat corruption	24.5%
They are not effective because corruption has not yet disappeared	21.1%
There are no real anticorruption measures	17%
We still see situations of corruption/there are still complaints	10.2%
They've changed the modus operandi but the cliques are still there	9.5%
We need more measures and control	6.1%
They've just created more bureaucracy	5.4%
The rules make for more corruption	4.1%
There is no political will to do away with corruption	2%

(e) Stakeholders (private sector, civil society, and ultimate beneficiaries of procurement/end-users) support the creation of a procurement market known for its integrity and ethical behaviour

There are civil society organisations such as Transparency Paraguay, *Red De Contralorías Ciudadanas* ("Citizen Observatory"), PNI/CISNI and INECIP (with a whistleblower protection

programme). All these institutions are in some way representative of civil society and have an oversight role in the process of procurement and social audit.

Organisations have access to procurement processes, particularly bidding, and in some cases they participate in the process and have even prepared integrity pacts. There are no restrictions on participation in the processes. There is legal support, there is public access to information, and controls are thereby better.

There is evidence that they have made important contributions by promoting integrity pacts in bidding processes, and protection programmes for people who report criminal behaviour in procurement. All these institutions take part in the bid opening sessions.

(f) The country should have in place a secure mechanism for reporting fraudulent, corrupt or unethical behaviour.

There is a system for the public to report acts of corruption. In July 2006, new tools were implemented as part of the whistleblower protection programme, under an agreement between the DGCP and INECIP (an NGO), with support from USAID, under which any person who becomes aware of a possible act of corruption can report it with the certainty that his identity will not be revealed and that, if the act is proven, it will not go unpunished.

To this end, the Public Procurement Website contains a link where the plaintiff can enter the minimum data on the tainted process and a brief description of the facts, and this triggers the entire investigation process by the DGCP legal advisor's office. Information on the mechanism used, the date of the complaint, the institution named, the procurement process, and the type of procurement is published at the website and is freely available. The basic data to be entered on the form available at the website are the following: reporter's e-mail address, entity reported, identification number of the process, method of procurement, person reported, name of the process to which the complaint relates.

No evidence was found of complaints or investigations questioning or showing any vulnerability in the confidentiality mechanism. The statistics provided by the UCNT show that, since the whistleblower protection system was implemented (July 2006), 31 complaints have been submitted, totalling Gs. 5,870,858,527 (equivalent to US\$1,097,356).

The system also reports data on follow-up to the complaint, indicating the actions taken by the DGCP. There are no data for tracking complaints that are submitted to other responsible institutions such as the Attorney General's office or the CGR.

Investigations have been launched, both ex officio and upon referral, to prevent possible acts of corruption. This has been made possible by the amendment to the regulatory decree for the Procurement Act which allows the DGCP to pursue investigations within its field of competence.

However, there was no evidence of follow-up to these investigations once they were turned over to the enforcement agencies.

(g) The existence of codes of conduct/codes of ethics for participants that are involved in aspects of the public financial management systems that also provide for disclosure for those in decision-making positions. [This is the unfortunate wording of the OECD document!! Comment by the translator]

There is no code of conduct applicable to all government officials. In recent years, codes of conduct have been approved for staff of the CGR, for judicial magistrates, and for deputies. Those codes were approved through resolutions issued by their own authorities.

The Civil Service Act contains prohibitions on career employees relating to ethical conduct and conflicts of interest. Failure to observe these obligations exposes civil servants to disciplinary penalties and, if appropriate, to criminal or civil liability. As indicated above under subindicator 12 (b) of this Pillar, these prohibitions do not apply to senior officials excluded from the scope of the Law, nor to persons working in the civil service under temporary contract. There are no rules of ethical conduct applicable to former officials covering a reasonable period of time after they leave their position.

There is no code of conduct for officials involved in procurement processes, beyond the rules established in the Civil Service Act, and the prohibitions or limitations on contracting stipulated in the Public Procurement Act.

D. RECOMMENDED ACTION PLAN (PRELIMINARY)

This action plan flows from the discussion in the workshop and the recommendations of participants themselves, who not only identified weaknesses in the system but also offered measures to improve it.

Objective	Action	Responsibility	Action taken/under way	Est. deadline	Priority
I. Pillar I	Legislative and Regulatory Framework				
1. Complete normative aspects	1. Promote greater use of ICB in procurements of large amounts or high complexity, taking particular account of the size of the national market and treaties signed.	DGCP	Agreement signed with the UIP	Jan-07	
	2. Consider establishing an independent body or tribunal to hear challenges and complaints	DGCP		Dec-08	Low
	3. Issue DGCP resolutions governing: (i) time limits for pre-qualifying bidders; (ii) time limits for submitting proposals for consulting services	DGCP		Dec-07	Medium
2. Make more efficient the preparation and review of bidding documents	1. Require all procuring entities to use standard bidding documents	DGCP	Standard model documents	Jun- 07	High
	2. Standard documents covering the procurement methods for smaller transactions typical of the municipalities, e.g. Invitations to Tender and Shopping.	DGCP		May-08	Medium
	3. Give the DGCP sufficient qualified staff to review the technical areas of bidding documents submitted to it, or establish an advisory group of selected specialists	DGCP	Public hearings. Agreement with universities	May-07 Mar-08	High Medium
	4. Complete the Catalogue of Products and Services based on the UNSPSC (standardised technical specifications) and make its use compulsory. Currently up to level 5; objective: level 9	DGCP	Defined in the 2007 budget law	Dec-08	Medium

3. Reduce inefficiencies in procurement procedures	1. Substantially reduce resort to sole sourcing (currently 13% of total amount) through better procurement planning and contract management.	DGCP	Clarify allowable exceptions. Leases	Dec-07	High
	2. Consider introducing new procurement methods such as framework contracts.	DGCP		Dec-07	High
	3. Use Reverse auctions, bearing in mind the size of the national	DGCP		Dec-08	Medium
4. Increase efficiency in the procuring entities	1. Complete the Manual of Procurement Procedures and require its use in all UOCs. (Resolutions)	DGCP	Manual completed	Dec-07	Medium
	2. Establish common file management and maintenance parameters for all agencies, to ensure the preservation of documentation not only on selection processes but also on contract execution.	DGCP/UOCs	Decree drafted	Oct-07	Medium
	3. Develop, operate and maintain in each UOC a system for monitoring procurement, contract management and contract payment	DGCP/CGR	Direct payment to suppliers implemented. Contractual verification implemented	Jan-07 Dec-08	Medium
	4. Establish clear rules and mechanisms for delegating authority for smaller and less complex procurements.	DGCP	Resolution 363/06	Dec-06	
	5. Establish basic criteria and develop capacities for inspections prior to acceptance of goods, services and civil works (quantity and quality)	DGCP	Law 1535 calls for works inspections; standard bidding documents [PBC - ??] for goods	Jun-07 Oct-07	Medium
	6. Develop and implement clear and effective mechanisms for managing inventories	UOCs		Dec-07	Medium
	7. Establish a performance monitoring mechanism for procurement, in particular to reduce the percentage of sole-source transactions.	DGCP	Statistics programme at the procurement website	Dec-06	

Objective	Action	Responsibility	Action taken/ under way	Est. deadline	Priority
5. Improve the planning of procurement	Amend the website to require each procuring entity to update its PAC regularly. The PACs should be updated according to a schedule determined by the DGCP (e.g. monthly), online at the SICP portal, by each procuring entity, and must include information on the status of each call for tenders, as well as information on contracts already awarded, with amounts, date and name of winning bidder.	DGCP		Dec-08	Low
6. Ensure the quality and timeliness of information	1. Establish quality control over the information entered in the SICP, and equip the DGCP with a mechanism for verifying and filtering information not generated by the DGCP, before it is publicly posted.	DGCP		Dec-08	Medium
	2. Encourage use of and accessibility to the SICP through greater coverage of procurement booths in municipal and provincial government offices (<i>Municipalidad</i> and <i>Gobernación</i>)	DGCP	All entities governed by Law 2051 have procurement booths installed	Mar-08	Medium
7. Keep methods and procedures updated over time	1. Maintain a permanent watch over progress and improvements in procurement systems in the region in order to adopt best practices.	DGCP		Dec-08	Low
	2. Harmonise documentation with the IFIs	DGCP/ IDB/ WB		Dec-08	Low
II. Pillar II	Institutional Framework				
7. Achieve better integration of budgeting, procurement and financial management systems.	1. Incorporate into the SIAF all the autonomous entities currently outside the system, the municipalities and the provincial governments. Revise legislation to make the process mandatory.	MH		Dec-08	High
	2. For each institution, establish the necessary linkages in its financial system to the respective PAC, for real-time control over amounts paid and committed for each procurement, and crosschecking against the actual cash (and not merely budgetary) availability of each entity	MH		Dec-08	High
8. Enhance the efficiency of the supplier payment system	1. Encourage enterprises to make greater use of the mechanism of direct payments to suppliers	MH		Dec-07	Medium
	2. Examine the intermediation role of the DGCP in the process (the procuring entity should send the payment order directly to the Treasury, after receiving the Procurement Code from the DGCP)	MH		Dec-07	Medium
	3. Streamline payments to suppliers not included in the direct payment system (simplify the authorisation and issuance of cheques, establish deadlines for each process).	DGCP/UOCs		Dec-07	Medium

Objective	Action	Responsibility	Action taken/ under way	Est. deadline	Priority
9. Reinforce the independence of the supervisory body	Issue rules to encourage stability among key DGCP policy personnel and prevent their removal, demotion or suspension for reasons not related to their professional performance or ethical questions.	MH			High
10. Strengthen the functionalities of the SICP	1. Include at the website historical information on procurement, at least since 2004.	DGCP		Jan-07	
	2. Start work on making the website not only a database and communication tool but one that can facilitate e-procurement transactions and management.	DGCP		2007/ 2008	Medium
	3. Secure congressional approval of the Digital Signatures Act.	National Congress	Draft law submitted	Mar-08	High
Pillar III	Procurement Operations and Market Practices				
11. Develop procurement management capacities	1. Expand the training strategy to include a specific programme for the private sector.	DGCP	Ongoing weekly forums for the private sector	Jan-07	
	2. Design and develop a procurement officer career stream; set minimum standards of responsibilities and functions for key procurement positions and prepare specific terms of reference for those positions.	DGCP/SFP		2007/ 2008	Medium
	3. Prepare specific terms of reference for each entity, based on minimum standards issued by the DGCP	UOCs		2008/ 2009	Low
	4. Establish a training and certification mechanism for procurement officers, specialists and managers, perhaps through agreements with specialised private sector institutions.	DGCP		2007/ 2008	Medium
	5. Adjust the seniority, stability and compensation of procurement officers, specialists and managers within the public service pay scale, in proportion to their responsibilities.	Procuring entities			Medium
12. Develop the private sector	1. Formalise dialogue with the private sector and establish permanent forms of consultation.	DGCP	Forms and agreements- Continuous	May-08	Medium
	2. Include public-private partnerships in the regulatory framework so as to incorporate formally their contributions to optimising the procurement system.	DGCP	Laws/Regulations	Mar-08	Medium

Objective	Action	Responsibility	Action taken/ under way	Est. deadline	Priority
	3. Simplify participation requirements to encourage public procurement bidding by micro, small and medium-sized enterprises.	DGCP/MIC/ MJyT		Dec-07	High
	4. Finalise the development of the voluntary registry of government suppliers	DGCP		Oct-07	High
IV. Pillar IV	Integrity and Transparency of the Public Procurement System				
13. Strengthen control over public procurement	1. Develop a uniform and adequate framework of internal control, including modern elements of risk management through adoption of the COSO – ERM scheme.	DGCP		2007/ 2008	Medium
	2. Examine the roles of the internal institutional auditors (Alls) the Government Auditor General (AGPE) and the Comptroller General (CGR) in order to clarify their areas of competence, increase their efficiency, and ensure an effective control framework for procurement.	CGR/AGPE		2007/ 2008	Medium
	3. Give the Alls administrative independence by incorporating them into the structure of the AGPE, and removing them from the structure of the entities they audit.	National Congress		2007/ 2008	Medium
	4. Give the audit units a proactive role in preventing irregularities. Balance prevention and investigation priorities.	CGR		2007/ 2008	High
	5. Define suitable professional profiles for the audit function, including its hierarchical ranking, and bring compensation into line with the private sector.	National Congress		2007/ 2008	Medium
	6. Give the audit units at all three levels sufficient support tools (computers, communications, travel allowances etc.)	National Congress		2007/ 2008	Medium
	7. Build quality audits into procurement management.	Procuring entities / CGR/AGPE		2007/ 2008	Medium
	8. Develop, implement and maintain systems for monitoring findings and recommendations from audits in each contracting entity (within its electronic management system), and in each of the audit units. Analyze and report periodically on the timely implementation of recommendations.	Procuring entities / CGR/AGPE		2007/ 2008	High

Objective	Action	Responsibility	Action taken/ under way	Est. deadline	Priority
	10. Maintain, improve and disseminate coordination with the public prosecutors for bringing criminal cases to the courts	DGCP/MP		2007/ 2008	Medium
	11. Establish compulsory municipal audits. These could be paid for from the royalties or transfers that each municipality receives, and the auditors could be hired by the CGR	National Congress /CGR/ MH		2007/ 2008	Medium
14. Increased transparency	1. Define and implement a mass communication strategy on the functions, duties and achievements of the DGCP	DGCP		2007/ 2008	Medium
	2. Consider creating a National Transparency Office (or anticorruption office) to centralise all investigations; it should have full functional and budgetary autonomy and be staffed with personnel highly trained in specific anticorruption issues. The office would conduct basic investigations to determine whether there has been an act of corruption, and if so, it should turn over to the public prosecutors all the documentation needed to begin judicial proceedings immediately and without the need for further investigation.	CISNI/ National Congress / MP		2007/ 2008	High
	3. Develop and enforce a code of ethics for civil servants, applicable to all State employees, identifying cases of conflict of interest; the contents, periodicity and publicity of sworn statements of assets; and the explicit penalties for improper conduct.	National Congress / SFP		2007/ 2008	High

E. IMPACT ON SUPERVISION BY THE BANKS

1. General risk assessment

Considering the overall scoring outcomes from the evaluation by pillars, it may be said that the normative and institutional frameworks are close to acceptable levels, while operational aspects and the transparency and integrity of the system need substantial improvements.

The most important risks identified are these:

(a) Inefficiencies in the discretionary award of procurement contracts. While the legal framework is modern and reflects internationally accepted practices, the fact remains that 13% of all contracts are awarded through non-competitive methods. International Competitive Bidding (ICB) is the exception rather than the rule, and is not the default mechanism for use in procurements involving large amounts and high complexity, even though the country has a very limited domestic industrial capacity. National Competitive Bidding (NCB) excludes participation by bidders not established in Paraguay. Thus, instead of favouring national industry, barriers to international participation in effect favour local importers of foreign products, and this inevitably results in overpricing and inefficiency.

(b) Administrative and political vulnerability of key personnel of the DGCP. The regulatory and technical body of the system, the DGCP, was a key factor in the improvements that have been made to public procurement in Paraguay over the last three years. Nevertheless, it depends hierarchically on the Ministry of Finance, and at this time there are no measures to protect its key personnel from removal for political considerations when senior officials are replaced. Thus, there is no guarantee of continuity in efforts to modernise and improve public procurement over the medium and long terms.

(c) Inefficiencies in the financial management of contracts. The degree of integration and control of the 307 entities currently covered by the public procurement system is uneven: the municipalities, the provincial governments (*Gobernaciones*) and 21 autonomous entities are not integrated into the financial administration system, with the result that it is impossible to monitor budgetary implementation and cash availability in real time. The case of the municipalities is even more critical because, although in total they do not account for more than 2% of national procurement, they have a substantial influence on public perceptions, and more than 90% of them are not subject to audit. It may be noted that the 21 autonomous entities not integrated into the SIAF account on average for around 58% of national procurement.

(d). Transparency and corruption. While society has expressed its frustration with corruption in the country, and despite the improvements in Paraguay's standing in the TI Corruption Perceptions Index, the atmosphere in which public procurement is conducted today does not completely deter such practices. On one hand, there is a certain social tolerance of corrupt acts involving minor amounts or petty favouritism, while cases of larger scope are broadly debated and repudiated by civil society. Nevertheless, under both circumstances, the control framework is incapable of serving as a preventive mechanism, and the courts have had little success in punishing those who violate the law for their own benefit.

The computerised procurement system represents substantial progress in ensuring publicity and transparency for procurement processes, but the control bodies are still extremely weak: they have been unable to establish mechanisms to prevent irregularities, and they confine themselves to investigating acts already committed. Even more critical is the fact that these investigations do not result in sanctions beyond administrative disqualification by the DGCP, which means that the full spectrum of criminal penalties is not applied even to the most flagrant cases. This produces a sense of impunity that encourages recurrent irregularities in public procurement.

Improvements in the normative and operational framework have established standardised procedures that are clearer and more efficient, with fewer possibilities for discretion. The DGCP, which is the control entity during the selection process, has substantially improved the quality of that process, but there is still a gap in the management and supervision of contracts awarded by the responsible entities and, as might be expected, the control framework is ineffective.

On the basis of the work performed, the joint Bank fiduciary evaluation team considers that Paraguay's national procurement system requires substantial improvements, primarily with respect to market development practices and transparency, internal control, and internal and external audits, and to a lesser extent in strengthening the existing regulatory framework and ensuring stability for key staff of the DGCP. The commitment of government and of civil society, as well as timely action to implement the measures in the Action Plan, would help to consolidate the major achievements that Paraguay has made since the last evaluation conducted by the Banks in 2003.

With respect to the thresholds for procurement of works and goods through ICB (US\$3 million and US\$250,000 respectively) and through NCB (US\$250,000-US\$3 million, and US\$50,000-US\$250,000, respectively), the Banks are of the opinion that these brackets should be maintained. As well, for purposes of constituting shortlists of consultants, confined to national firms, the estimated contract amount should not exceed the US\$200,000 ceiling.

2. Performance of projects financed by the Inter-American Development Bank

The qualitative aspects of portfolio performance have improved, as measured by the elimination of “problem” projects (0 versus 3 in August 2003), the number of projects on “alert status” (unchanged from August 2003, at 8), and the decline in projects rated “unsatisfactory” (7 in 2003 versus 3 in September 2006), and project outcomes have improved because operations have been better aligned with the government's current programme. Now that the portfolio alignment process has been concluded, the conditions are in place to accelerate the execution of operations, and over the medium term less emphasis will be placed on ex-ante supervision in order to develop supervisory capacities within government institutions. It may be noted that the pace of disbursements has picked up since 2004, rising from 16.4% in that year to 17.9% in 2005, and it is likely to reach 20% in 2006.

Performance with technical cooperation projects (TCs), where 50% of the portfolio (US\$6.7 million) is still available, suggests that inadequate use is being made of concessional funds, considering that 62.7% of the 39 TCs represent operations that have been in execution for more than 18 months. If operations by the MIF and the Social Entrepreneurship Programme are added to the TCs, the available balance comes to US\$11.5 million, of which 36% corresponds to operations that have been in execution for four years or more.

This issue is particularly important when it is recalled that, during this first phase of the government, the Bank offered strong support by approving nonreimbursable operations of more than US\$10.4 million (US\$4.8 million for governance, US\$4.2 million for poverty reduction and improved living standards, and US\$1.4 million for competitiveness). The bank is working with the authorities to regularise these inadequately used resources, and to cancel them if necessary.

3. Performance of projects financed by the World Bank

During supervision of projects in Paraguay, problems of a fiduciary nature have emerged, such as cases of fraud and irregular use of funds, distorted budgets, lack of capacity among personnel assigned to management, high turnover of staff, delays in congressional approval of projects, leaking of information during procurement processes, collusion among bidders, excessively cumbersome internal payment procedures, and weaknesses in internal control.

The World Bank has taken steps to deal with the fiduciary aspects of operations at both the country and the project level, through: (i) including in projects components to enhance governance, such as the workshop activities under the Road Maintenance and Sustainable Rural Development Programme; (ii) results-oriented operations, such as design of the Maternal-Child Health Insurance Programme; (iii) joint Government-Bank activities, such as publication and distribution of information on project procurement; and (iv) anticorruption initiatives led by the World Bank Integrity Department (WBI).

With respect to procurement specifically, there has been a notable improvement in the Project Implementation Units (UEPs), thanks to several factors

- (i) The UEPs are making great use of standard World Bank bidding documents. In fact their use has been extended to projects not financed by the Bank, and they have served as the basis for developing national standard documents that are about to become mandatory.
- (ii) The practice of calling for tenders in lots, with the objective of attracting greater competition by allowing both large and small firms to participate.
- (iii) Use of international arbitration mechanisms for resolving disputes arising from contracts.

Procurement supervision revealed the following problems:

- (i) The prices quoted in tenders for civil works are normally higher than the official cost estimates. The Bank is considering use of a price monitoring mechanism, as it has done with some projects in Argentina.
- (ii) Many delays and errors were detected in the processing of payment certificates, and it is planned to use private audit firms either to supervise construction or at least to audit progress measurements prior to issuance of payment certificates.
- (iii) There has been little or no attention to inspecting goods against delivery, either for quality or for quantity.

The initiative of paying suppliers directly from the Treasury would seem to be an appropriate measure that should be put into practice if the pilot experiments now underway achieve good results.

When it comes to financial management of the World Bank's project portfolio, its success is due primarily to active supervision. The Bank has reacted effectively when it detected irregularities, as was the case with the Natural Resources Management Project, where it was decided to outsource financial management to the UNDP after serious weaknesses were detected in the UEP.

4. The role of the UNDP

The local UNDP office provides administrative, cash management and payment services to the country, in connection with the management of multilaterally financed projects. The Community Development Project financed by the World Bank is administered by the UNDP, and it is planned that (at least in the initial stage) the Sustainable Rural Development Programme, now under preparation, will subcontract cash management and payment services to the UNDP. The government, however, considers that UNDP participation is a burden (the administrative cost averages 3% of the funds disbursed), and that it does not contribute in any substantive way to creating the necessary national capacity. The 2006 Budget Law declares the government's intention to suspend

outsourcing of these activities to international cooperation entities. Yet it should be noted that for the time being the UNDP constitutes the only short-term means available for overcoming the management limitations in various government units. In a situation where the management of multilaterally financed projects is subject to pressures for prompt implementation, and where there are serious control weaknesses, lack of capacity in some UEPs, and high staff turnover, it is quite possible that eliminating the UNDP role in administrative and financial services will adversely affect project performance.

III. OUTCOMES FROM THE EVALUATION OF THE PILLARS

1. Results and preliminary scores assigned to the Baseline Indicators and Compliance Data

Baseline Indicators			Compliance and Performance Data		
	Conclusions	Score	Compliance or performance indicator	Evaluation of come	Score
PILLAR I. Legislative and Regulatory Framework					
1 Regulatory Framework					
a) Scope of application and coverage of the regulatory framework and public access to legislation	The legal framework is adequately recorded and organised in a hierarchical form (laws, decrees, regulations, procedures). The order of precedence of the different legal instruments is clearly set out in the Constitution; all laws and regulations are published and readily accessible to the public, free of charge; they cover all products, works and services (including consulting services) for all procurements funded from the national budget. This conclusion does not consider excluded procurement which is governed by multilateral loan agreements and bilateral treaties (e.g. procurement for Itaipu and Yacyreta).	3			

Baseline Indicators			Compliance and Performance Data		
	Conclusions	Score	Compliance or performance indicator	Evaluation of come	Score
b) Procurement methods	The legal framework establishes competitive bidding as the method for procurements in amounts equal to US\$76,000 or more. The "direct contracting" method is competitive in that it requires the submission and evaluation of at least three valid bids; this method is the equivalent of "shopping" in the Banks' procedures. The fractioning of bidding packages is explicitly prohibited.	3	Percentage of procurement (in volume and by number of contracts) carried out through open tendering	ICB and NCB represent together 78% of total procurement by value, but only 13% by number of transactions. "Shopping" accounts for 88% of processes. Sole-source procurement accounts for 13% by value (see Annex I).	
c) - Advertising rules and time limits.	All procurement notices are published with the exception of sole-source procurement. While the legal framework is adequately regulated with respect to ordinary competitive bidding procedures, this is not the case with prequalification and preselection of consulting firms, where rules have still to be established on minimum time limits for presentation of prequalification applications. Moreover, there is no specific regulation on the time limit for presenting technical and price offers for consulting services.	2	a) –percentage of invitations for open tenders publicly advertised. b) –average number of days between invitation to tender advertisement and tender opening by type of procurement.	a) All competitive tenders and, in total, 87.72% of procurement processes are publicly advertised.. b) For competitive bidding, the average time between notification and presentation of bids is 35 days..	2
d) -Rules on participation and qualitative selection.	The legal framework fulfils the participation conditions established in the criteria. Public enterprises generally award contracts directly without competition, by signing interagency agreements.	3	Percentage of open tender documents that include provisions barring groups of bidders from participating for reasons other than qualifications or acceptable exclusions.	3% This indicator should show a low percentage of tender documents containing exclusions of the type described in this baseline sub indicator.	2

Baseline Indicators			Compliance and Performance Data		
	Conclusions	Score	Compliance performance indicator	or Evaluation of come	Score
e)- Tender documentation and technical specifications.	The law establishes the minimum content of bidding documents and requires use of neutral technical specifications	3	Percentage of tenders rejected in each process.	1% . This indicator should show a low percentage of rejected bids, since a high rejection rate (more than 40%) would indicate that the specifications are restrictive, that the information in the bidding documents is insufficient, that the bidding rules are applied too legalistically, or that the market lacks capacity to meet requirements.	3
f) - Tender evaluation and award criteria	The evaluation criteria are relevant and precisely specified in the tender documents. The nonmonetary criteria are evaluated on a pass/fail basis; proposals for consulting services are evaluated primarily on the basis of quality, and to a lesser extent price, in some methods; information is not disclosed to participants or others not involved in the evaluation process.	3	a) -percentage of tenders including nonquantifiable or subjective evaluation or post-qualification criteria.	0% This indicator shows the number of cases where there were criteria that could not be measured quantitatively.	3
			b) -public perception of confidentiality of tender evaluation process.	The private sector's perception of the confidentiality of the process is quite different, between those participating in processes and those not participating. 61.3% of civil society representatives consider that it is not confidential, while 68.8% of businesses consider that it is.	2
g) – Submission, receipt and opening of tenders.	The legal framework requires the public opening of bids in a defined and regulated proceeding immediately following the closing date for bid submissions. Records of proceedings for bid openings are retained and are subsequently available.	3	Percentage of open tenders opened publicly and recorded.	67% This indicator suggests that the percentage of open tenders opened publicly and recorded will in fact be high.	3

Baseline Indicators			Compliance and Performance Data		
	Conclusions	Score	Compliance performance indicator	or Evaluation of come	Score
	There is a clear definition of opening procedures to avoid unnecessary rejection of bids. "Disclosure of specific sensitive information during debriefing" was not considered. The regulations allow bidders to sign the minutes and other documents they request, so that they can review the bids of their competitors. This possibility is not considered contrary to best practices. Confidentiality, and the consequent prohibition on disclosing information, begins with the evaluation process immediately after signature of the minutes.				
h) – Complaints system structure and sequence	The legal framework establishes the right of review for participants in a procurement process. It includes provisions to respond to the DGCP on requests for review. A timeframe of five days is indicated for the DGCP to issue its decision.	3	Percentage of cases resolved within the terms established in the legal framework.	100% (16 cases resolved) This indicator shows to some extent whether protests are resolve promptly. Protests and their resolution are published at the DGCP website.	3
2) Implementing regulations and documentation.					
a) –Implementing regulation that provides defined processes and procedures.	While important implementation rules have been developed, such as regulatory decrees and resolutions issued by the UCNT, some steps are still pending, such as implementation rules that require use of standard bidding documents.	1			

Baseline Indicators			Compliance and Performance Data		
	Conclusions	Score	Compliance performance indicator	or Evaluation of come	Score
b) – Model tender documents for goods, works, and services	While drafts of standard bidding documents exist, based on those of the multilateral lending banks, their use is not yet mandatory. Moreover, there may be more than one version of these documents in voluntary use. Standard documents are now being developed	2	Percentage of open tenders that use model tender documents or clauses	96% This indicator shows whether there are model or standard documents or a set of mandatory clauses, and the extent to which they are actually used.	2
c) – Procedures for prequalification.	There is guidance on the timing of the prequalification procedure, with criteria for selecting prequalified bidders. However, the standard bidding documents spelling out the conditions and specifications of these procedures in further detail have not yet been approved. As well, the UCNT has not established minimum guidelines for submitting applications, which means that procuring entities could set very short deadlines that would discourage or impede the submission of prequalification requests.	2	a)–percentage of cases for which prequalification was used appropriately as prescribed in the legal framework. b)–percentage of cases that used objective pass/fail prequalification criteria as opposed to subjective qualitative ones.	100% (11 cases) This indicator shows whether prequalification is generally used in accordance with the established criteria. 100% (11 cases) This indicator shows whether the criteria used are objective and relevant for the procurement in question.	3
d) –Procedures for contracting for services or other requirements in which technical capacity is a key criterion.	The legal framework establishes the conditions under which selection based exclusively on technical capacity is appropriate, and when price and quality considerations are appropriate.	2			

Baseline Indicators			Compliance and Performance Data		
	Conclusions	Score	Compliance performance indicator	or Evaluation of come	Score
	It also indicates the procedures and methodologies for assessing technical capacity and for combining price and technical capacity under different circumstances. However, there is no clear indication of what should be the basic factors for assessing technical capacity.				
e) – User's guide or manual for contracting entities.	Although some manuals exist and the UCNT has the authority to produce them, there are no user's guides to the standard bidding documents nor any unique procurement manual detailing all procedures for the correct administration of procurement regulations and laws. There are no provisions in the regulatory framework requiring the UOCs to prepare or use a manual.	1			
f) – Existence and coverage of General Conditions of Contracts (GCC) for public-sector contracts.	The law establishes the minimum contents of contracts, which must be observed by all procuring entities. The draft standard documents are fully consistent with international practice, and are based on the general conditions in the standard documents of the multilateral development banks. However, those standard documents have not yet been approved.	2	Percentage of tenders that use the GCC, standard causes or templates as applicable.	96% This indicator shows the proportion of tenders that use the GCC. A high percentage is desirable.	2

Baseline Indicators			Compliance and Performance Data		
	Conclusions	Score	Compliance performance indicator	or Evaluation of come	Score
PILLAR II. Institutional Framework and Management Capacity					
3) Integration and mainstreaming of the public procurement system into the public sector governance system					
a)– Procurement planning and data on costing are part of the budget formulation and multiyear planning.	The real link is the General Budget of the Nation, Annual Procurement Program, and Budget Availability Certificate, in that order. The link is strong, and the UOC cannot undertake procurement if it does not have a PAC, and it cannot use the same budget funds for more than one procurement. There is a significant limitation when it comes to entities not included in the SIAF (which account for 58% of total procurement on average), where financial availability cannot be assessed in real time	2			
b)– Budget law and financial procedures support timely procurement, contract execution, and payment	The budget law and procedures assign funds automatically and immediately through the CDP. Payment conditions are published together with the calls for tender, and they provide full information on the process. With respect to payment terms, these are specified in the bidding documents. However, there is a dependency between approval of each institution's cash plans and the real availability of funds for transfer.	2	a) –percentage of late payments (e.g. exceeding the contractually specified payment schedule). b)–average number of days in arrears.	a) 98% b) an average of 44 days elapses after approval of the invoices until payment.	1

Baseline Indicators			Compliance and Performance Data		
	Conclusions	Score	Compliance performance indicator	or Evaluation of come	Score
c) – Procurement actions not initiated without budget appropriations.	The law so requires and there is a system in place. The system is not fully applied, because of the independence of the municipalities and the decentralised entities that are not connected to the SIAF and are not subject to the CDP constraint. However, those not connected to the SIAF submit a certification to this effect.	2			A review of a sample of bidding processes showed that in all cases institutions not connected to the SIAF fulfilled the requirement of certifying budget availability before initiating the formal process of bidding or contracting.
(d) – Systematic completion reports are prepared for certification of budget execution and for reconciliation of delivery with budget programming.	Some entities are not integrated into the SIAF, and consequently the "procurement system" is not fully integrated into the government's financial management system. Information on contract completion is sporadic or is available only long after the end of the fiscal year.	1	a)–percentage of major contracts with completion reports. b)–average time after final contract liquidation within which completion reports are finalised.		The UOCs have no completion reports for certifying budget execution and reconciling delivery with budget programming.
4) Normative and regulatory functions					
a) – Normative/regulatory functions are established and assigned (to one or several agencies) in the legislative and regulatory framework.	From the surveys conducted it may be concluded that: a) there are functions defined within the DGCP; b) the DGCP operates quite independently within the regulatory framework;	3			

Baseline Indicators			Compliance and Performance Data			
	Conclusions	Score	Compliance performance indicator	or	Evaluation of come	Score
	d) there is adequate coordination between the DGCP and other organisations responsible for procurement.					
b)– The responsibilities include at least those required in this sub indicator:	The eight functions indicated (providing advice to contracting entities; drafting amendments to the legislative and regulatory framework and implementing regulations; monitoring public procurement; providing procurement information; managing statistical databases; reporting on procurement to other parts of government; developing and supporting implementation of initiatives for improvements of the public procurement system; and providing implementation tools and documents to support training and capacity development of implementing staff) are clearly assigned to the DGCP by law, and there is no overlapping of responsibilities	3				
c)– Adequacy of organisation, funding, staffing, and level of independence and authority (formal power) to exercise the duties under (b).	The organisation [of the DGCP] is determined by law and is adequate to its functions. It is financed directly by the 0.5% withheld by procuring entities from the payments they make. However, it is a functional dependency of the financial administration branch of the Ministry of Finance.	2				

Baseline Indicators			Compliance and Performance Data		
	Conclusions	Score	Compliance performance indicator	or Evaluation of come	Score
d) – Separation and clarity so as to avoid conflict of interest and direct involvement in the execution of procurement transactions.	The DGCP has no direct responsibility for procurement operations.	3			
5. Institutional development capacity					
a)– System for collecting and disseminating procurement information and accessibility.	The SICP fulfils the functions of receiving and processing the necessary information on public procurement and making it available to users. The accessible data refer only to the current year, and there is now no possibility of consulting information from 2004 and 2005.	2			
b)– Systems and procedures for collecting and monitoring national procurement statistics.	There is a system for collecting procurement data. The information has the level of detail requested in indicator (b), and it is routinely analysed, published and fed back into the system. However, while the UCNT has the role of controlling the information, the information is not verified by audits.	2	. Number of days by which the information is outdated	. The officials responsible for the system place great importance on the timeliness of information in the SICP. The information that must be published is stipulated in the law, as are the time limits within which it must be posted at the website, and in practice those time limits are observed with relative ease.	3
c) – Strategy and training capacity to provide training, advice and assistance to develop the capacity	There are permanent and substantive training programs covering the entire procurement process stipulated in the law, as well as use of the website. Permanent assistance is also provided by various means of communication. This requirement is met.	3	a) –number of procurement officers in the central government receiving formal training in the year.	Available data show that the UCNT has focused its formal training almost exclusively on UOC personnel. About 98% of persons trained along to the UOCs; there are around 600 UOCs, and some 9800 employees have been trained, for an average of 16 employees per UOC over three years.	2

Baseline Indicators			Compliance and Performance Data		
	Conclusions	Score	Compliance performance indicator	or Evaluation of come	Score
			b) –average waiting time to get into a formal training event.	Waiting times during the period under evaluation were quite reasonable, bearing in mind that the formal training offered by the UCNT has focused on modules relating to the system.	
d) – Quality control standards and staff performance evaluation for capacity development	The system has laws and regulations dealing with quality standards, but it is not clear that there is any routine monitoring of quality or evaluations of staff performance, although the law requires this.	1			
PILLAR III. Procurement Operations and Market Practices					
6. Efficiency of procurement operations and practices					
a) – Adequacy of procurement competence among government officials.	Only some of the specialised procurement positions have defined staffing profiles. Staff involved in procurement activities do not always have the knowledge they need, but they do have access to professional support staff in the DGCP. Not all positions are filled through competitive recruitment, nor is there necessarily a systematic matching of skills against requirements for recruitment.	1			

Baseline Indicators			Compliance and Performance Data		
	Conclusions	Score	Compliance performance indicator	or Evaluation of come	Score
b)– Procurement training and information programs	The training programs offered by DGCP are based on its own perception of needs. The courses are short and specific, and are targeted mainly at officials and staff of the UOCs. Waiting times are acceptable. The training is essentially procedural. There is a need for more formal and complete training in all aspects of procurement, with a clear development of the theoretical pillars behind the procedures. There is a high risk that DGCP may be overwhelmed by growing demand for courses and the inclusion of new training areas.	2			
c) – Norms for the safekeeping of records and documents related to transactions and contract management	The legal framework details the procurement records that the UOCs must keep, and those that must be made available for public inspection. The UOCs of the preselected entities have no documentation on final payment and/or disbursement data, nor are there systematic completion reports to certify budget execution and reconcile delivery against budget programming.	1	Percentage of contracts found with incomplete records as per the list given for this sub indicator	27% This indicator shows the number of cases with incomplete records.	1
d) – Provisions for delegation of authority.	The regulations allow delegation of authority in very limited terms, only for the UOCs and for very specific questions.	1			

Baseline Indicators			Compliance and Performance Data			
	Conclusions	Score	Compliance performance indicator	or	Evaluation of come	Score
7. Functionality of the public procurement market						
a)– Effective mechanisms for partnerships between the public and private sector.	The government encourages open dialogue with the private sector and has established formal legal mechanisms with associations, essentially as suppliers of input to the procurement process (oversight and audit); such dialogue is less frequent and more informal with suppliers of outputs (goods and services). There is no legal framework for public-private partnerships. There are however programs to build capacity in the private sector	2				
b)– Private sector institutions are well organised and able to facilitate access to the market. .	The private sector is weak and competition for large contracts is severely limited.	1	Average number of tenders submitted in each process.		Based on the sample analysed, there is a reasonable level of participation in all selected institutions. It may be said that in all cases there was reasonable competition: on average at least five tenders were submitted	2
c) – Systemic constraints inhibiting the private sector's capacity to access the procurement market	There are important constraints limiting private sector access, particularly for SMEs, to the public procurement market. For example, business credit markets are still underdeveloped, many firms operate in part informally, which makes it difficult for them to qualify for credit or, in some cases, to meet the requirements for submitting tenders.	2				

Baseline Indicators			Compliance and Performance Data		
	Conclusions	Score	Compliance performance indicator	or Evaluation of come	Score
d) – Clarity and transparency of rules for determining whether to engage international or national markets.	The law clearly establishes when international or national competitive bidding is to be used. However, it limits access to national bidding to firms established in the country. The rule is that competitive bidding will be national except in exceptional circumstances. Those circumstances are treaties of reciprocity, obligations imposed by multilateral lending institutions, lack of local suppliers, or lack of response to a previous NCB. The criterion is not to obtain the best value for money, but rather to buy locally, except where this cannot be done or where international obligations establish otherwise.	2			
8. Existence of contract administration and dispute resolution provisions					
a) – Procedures are clearly defined for undertaking contract administration responsibilities.	Compliance with the requirement to have procedures for acceptance of final products and for issuance of contract amendments is only partial, since acceptance procedures are stipulated in the still-unapproved standard documents. The same holds for the requirement to incorporate internationally accepted practices in contracts.	2	Percentage of satisfactory opinions on performance of the system.	68.4% . The percentage of favourable opinions on functioning of the system is 68.4% of those surveyed.	2

Baseline Indicators			Compliance and Performance Data		
	Conclusions	Score	Compliance performance indicator	or Evaluation of come	Score
	. The requirement for quality control by competent officers or specialised inspection firms is fulfilled in part, as there is no provision to outsource testing to laboratories or firms. The requirements of qualified supervision of civil works and prompt payment are met				
b) – Contracts include adequate dispute resolution procedures	All requirements are met, except the requirement that provisions for alternative dispute resolution (ADR) conform to the international standard wording: there is provision to this effect in the draft standard documents, but these have not yet been implemented.	2	Percentage of contracts that include EDR provisions.	This indicator shows the proportion of contracts containing ADR provisions.	
c)– Procedures exist to enforce the outcome of the dispute resolution process.	Paraguay is party to the New York Convention on enforcement of international arbitration awards, and it has procedures in place to enable the winner in a dispute to enforce the outcome through the local courts. However, the country has no process for monitoring this area of contract administration and for addressing contract performance issues.	1			
PILLAR IV. Integrity and Transparency of the Public Procurement System					
9. Effectiveness of control and audit systems					
a) – Legal framework, organisation, policy, and procedures for internal and external control and audit of public procurement	The legal framework provides specific mechanisms and institutions to supervise the procurement function. However, there are weaknesses in terms of policy limitations and the scope of control procedures exercised by the CGR and	1			

Baseline Indicators			Compliance and Performance Data		
	Conclusions	Score	Compliance performance indicator	or Evaluation of come	Score
	the AGPE over procurement: internal control is based essentially on the work of the internal audit units, which are less effective because they report directly to the management of each institution.				
b)- Enforcement and follow-up on findings and recommendations of the control.	Internal audits are generally performed at least once a year. As well, the internal or external procurement audit recommendations are responded to within a reasonable time (six months) and are taken into account in subsequent procurement processes. However, the scope of external controls is limited, and is confined essentially to investigating reported cases.	1	Number of critical recommendations outstanding for more than one year.	The CGR and the AGPE have issued 140 critical recommendations, addressing essentially specific reported cases. Neither the CGR, the AGPE nor the All keep data on monitoring or application of recommendations and findings. There is no specific monitoring of the implementation of recommendations, and it is therefore impossible to determine the number of critical recommendations outstanding for more than one year.	1
c)- The internal control system provides timely information on compliance to enable management action	There is periodic reporting to management throughout the year. While such reports are also sent to the AGPE, there is in general no adequate feedback in terms of follow-up. Procurement reviews are limited.	1	Number of qualified external audit opinions citing critical weaknesses of internal control, or number of critical recommendations relating to internal controls outstanding at the time of the assessment.	From the sample analysed by the audit firm, it appears that there is no follow-up to audit recommendations. In the best of cases, the observations and findings from the audits are taken into account in future procurement processes, in order to avoid repeating mistakes.	1

Baseline Indicators			Compliance and Performance Data		
	Conclusions	Score	Compliance performance indicator	or Evaluation of come	Score
	e) – Auditors are sufficiently informed about procurement requirements	2			
	Internal auditors working on procurement audits received or have received training on procurement requirements, principles, operations, laws, and regulations and processes.				
10. Efficiency of appeals mechanism					
a) – Decisions are deliberated on the basis of available information, and the final decision can be reviewed and ruled upon by a body (or authority) with enforcement capacity under the law	The legal framework meets the conditions specified in the scoring criteria, but it must be noted that the UCNT is also involved in protests against decisions of the Ministry of Finance of which it is a dependency.	3	a)–percentage of complaints processed within the time limit posted or set out in the legal framework. b)– percentage of decisions taken that have been actually enforced.	100% of cases in the sample complied with the deadlines established in the law, and to date 100% of decisions taken have been enforced, with the exception of one that was revoked	3
b) – Capacity of the complaint review system and enforcement of decisions.	Thanks to Law 2051 and the Regulatory Decree the complaint review system has precise and reasonable conditions and time frames, and the UCNT has clear enforcement authority and mechanisms. Its powers include that of suspending proceedings and nullifying the challenged act or purchases made. The legal framework meets the conditions specified in the scoring criteria	3	a)–percentage of complaints processed within the time limit posted or set out in the legal framework. b)– percentage of decisions taken that have been actually enforced.	100% of cases in the sample were decided within the time limits established by law. Only one out of 218 complaints decided between April 2004 and September 2006 was revoked. The rate of effective enforcement is 99.95%.	3

Baseline Indicators			Compliance and Performance Data		
	Conclusions	Score	Compliance performance indicator or	Evaluation of come	Score
c) –Fairness of the complaints system.	The team's review shows that a very low proportion of decisions are challenged before the courts, and that in general they are not revoked. However, the score must take into account the limited effectiveness of UCNT decisions in the case of contracts that have already begun execution.	2	Percentage of favourable opinions by the participants in the system on the fairness of the process.	59.1% of business people have a favourable opinion. The other 40.9% consider that explanations are ambiguous and are communicated too late, and that officials want nothing to do with the problem. It should be noted that the results of the survey on this item are not reliable, as respondents did not understand the formal meaning of the term "complaint".	2
d) – Public access to decisions.	Article 64 of Law 2051 on public procurement requires that all decisions be posted at the website. The decisions covered by this requirement relate to calls for tender, documents and conditions, contracting procedures, awards, cancellations, amendments, and any related information, including disqualifications and sanctions. The team accessed the website and found that it contains this information. The law and the public procurement website fulfil all the requirements.	3			

Baseline Indicators			Compliance and Performance Data			
	Conclusions	Score	Compliance performance indicator	or	Evaluation of come	Score
e) – Independence of the administrative review body	The UCNT is part of the Ministry of Finance, reporting to the Undersecretary for Financial Administration. It is distinct from the body conducting the procurement directly, except in the case of procurement by the Ministry of Finance, of which it is part.	2				
11. Accessibility to information						
Publication and distribution of information.	Public procurement information is published in the SICP, which is readily accessible and widely available. The information provided is centralised at the website. It is relevant and complete and covers all public procurement processes, from budgeting to contract award. However, it must be recognised that Paraguay has one of the lowest Internet penetration rates in the world, which means that, while information is available through the SICP, it cannot be effectively accessed by the general public because of the country's low level of digital development.	2				

Baseline Indicators			Compliance and Performance Data		
	Conclusions	Score	Compliance or performance indicator	Evaluation of come	Score
12. Ethics and anticorruption policy measures					
a) – Legal provisions on corruption, fraud, conflict of interest, and unethical behaviour	The legal framework contains provisions relating to corruption, fraud, conflict of interest and unethical behaviour, and establishes the actions that may be taken with regard to such conduct. However there are no approved standard documents in mandatory use that include such references.	2			
b) - Definition in legal system of responsibilities, accountabilities, and penalties for fraudulent or corrupt practices	The legal framework contains some specific provisions, such as the system of penalties for suppliers and contractors. Other aspects are left to criminal legislation. There are some gaps, and other points that should be improved: for example, legislation on conflicts of interest relating to senior officials and former civil servants.	2			
c) – Enforcement of rulings and penalties	This analysis must look at the entire system of investigation and punishment (criminal, administrative etc.) and not solely at the measures taken by the UCNT. The findings show a lack of sufficient data on the enforcement of criminal penalties for acts of corruption and on disciplinary penalties imposed on officials involved in irregular acts. Nevertheless, there are data on the measures taken by the UCNT in the face of irregularities reported through the reporting system.	1	a) percentage of corruption accusations that go to trial.	Same comment as that for baseline indicator.	

Baseline Indicators			Compliance and Performance Data		
	Conclusions	Score	Compliance performance indicator	or Evaluation of come	Score
	Those data do not include information on follow-up to cases handed to other competent bodies for investigation or prosecution (Attorney General's office, CGR, etc.).		b) percentage of those that actually result in application of sanctions or penalties		
d) – Measures exist to prevent and detect fraud and corruption in public procurement.	There is a national anticorruption plan that includes a specific focus on public procurement, and a mixed (public-private) body responsible for monitoring that plan. However, the lack of an executive authority in the public sector with sufficient seniority and capacity impedes full implementation of the plan, as well as its coordination and monitoring	1	Percentage of favourable opinions by the public on the effectiveness of the anticorruption measures	Only 18.9% of persons interviewed expressed favourable opinions about the efficiency of anticorruption measures. The remaining 81.2% considered that government anticorruption measures were not effective or capable of minimising the risk of corruption. They believe that there are no results because there are no real efforts to combat corruption. However, when it comes to the responses from business people, 65.8% had a favourable opinion.	1

Baseline Indicators			Compliance and Performance Data			
	Conclusions	Score	Compliance performance indicator	or	Evaluation of come	Score
e) – Stakeholders support the creation of a procurement market known for its integrity and ethical behaviour	There are nongovernmental organisations that exercise social audit and control. They enjoy the support of civil society and the cooperation of the government authorities. However, their impact is still limited because pro-transparency organisations and projects are relatively recent.	2				
f) – Mechanisms for reporting fraudulent, corrupt, or unethical behaviour	The system meets the scoring criteria. However, it is important to note the deficit in the system for monitoring reports when these are handed on to other institutions.	2				
g) - Codes of Conduct/Codes of Ethics for participants and provision for disclosure for those in decision-making positions	There is no code of conduct or of ethics applicable to officials of the public procurement system. There are various rules of conduct stipulated in the Civil Service Act and the Public Procurement Act. Failure to observe those rules exposes officials to disciplinary penalties and, if necessary, to criminal or civil liability.	1				

2. Validation of scores and main lines of action identified in the November 2006 workshop

Revised Assessment of the Capacity of the Public Procurement System					
BLI: Baseline indicator		CI: Compliance indicator			
INDICATORS		Revised assessment		Actions	
		BLI	CI		
PILLAR I. Legislative and Regulatory Framework					
1	The public procurement legislative and regulatory framework achieves the agreed standards and compliance with applicable obligations – S1	2.88	2.57		
a	Scope of application and coverage of the regulatory framework and public access to legislation	3		Make the legal framework more widely available, free of charge, via the SICP website.	
				Improve the website's technology to speed access.	
				Expand the availability of public Internet procurement booths in other State institutions.	
				Establish public information centres relating to procurement in government agencies	
				Provide training to public-sector executives on application of the Procurement Act	
b	Procurement methods	3	2	Improve controls over resort to sole-source procurement	
c	Advertising rules and time limits	2	2	Issue a DGCP resolution on the time limits for submitting prequalification and preselection applications by consulting firms.	
c				Issue a DGCP resolution on the time limits for submitting technical and price offers for consulting services.	
d	Rules on participation and qualitative selection	3	2		
e	Tender documentation and technical specifications	3	3		
f	Tender evaluation and award criteria	3	3	2	Prepare guidelines for the evaluation of tenders
g	Submission, receipt and opening of tenders	3	3		

h	Complaints system structure and sequence	3	3		
2	Implementing regulations and documentation - S2	1.67	2.3	3	
a	Implementing regulation that provides defined processes and procedures	1			Approve rules making the use of standard documents mandatory for all procurement transactions
a					Issue regulations to article 5 (e) of the Law establishing the technical and regulatory review capacity of the UCNT
a					See action 1 c.
a					Issue a rule making use of the Catalogue of Products and Services (Standard Technical Specifications) mandatory
b	Model tender documents for goods, works, and services	2	2		See action 2 a.
c	Procedures for prequalification	2	3		See action 1 c.
d	Procedures for contracting for services or other requirements in which technical capacity is a key criterion	2			Prepare a users' guide to the standard bidding documents, including use of the catalogue of products and prepare criteria for qualification and evaluation (responsible agency: UCNT)
e	User's guide or manual for contracting entities	1			Prepare a single user manual on procedures for procuring entities (responsible agency: UCNT)
e					Issue a rule establishing mandatory use of the single user manual.
e					See action 2 d.
f	Existence and coverage of General Conditions of Contracts (GCC) for public-sector contracts	2	2		Issue a rule making use of the contracts included in the standard documents mandatory.

PILLAR II. Institutional Framework and Management Capacity				
3	Integration and mainstreaming of the public procurement system into the public sector governance system - S2	1.75	1.0 0	
a	Procurement planning and data on costing are part of the budget formulation and multiyear planning	2		Increase connectivity for public entities to the SIAF, to 75% by 2008 and to 100% by 2009. Develop an IT application that facilitates preparation of the PAC and its integration into the financial systems, with continuous updates.
b	Budget law and financial procedures support timely procurement, contract execution, and payment	2	1	Ensure that payments are made to suppliers in no more than 30 days. The CDP should be issued by the SIAF, based on the financial plan.
c	Procurement actions not initiated without budget appropriations	2		See comments at 3.a.
d	Systematic completion reports are prepared for certification of budget execution and for reconciliation of delivery with budget programming	1	1	The UOCs should receive contract completion reports immediately. Establish a management and administration system in public entities or control agencies to make contracts accessible via the Internet, with graphs, photographs and an alert system (colour-keyed folders)
4	The country has a functional normative/regulatory body - S1	2.75		
a	Normative/regulatory functions are established and assigned (to one or several agencies) in the legislative and regulatory framework	3		
b	The responsibilities include at least those required in this sub indicator	3		
c	Adequacy of organisation, funding, staffing, and level of independence and authority (formal power) to exercise the duties under (b).	2		The DGCP has financial autonomy, but it should be more independent from political decisions that could affect its functioning through factors unrelated to performance. Thus, rules should be established to limit removal, demotion or suspension of key personnel for reasons not related to performance or ethical questions.
d	Separation and clarity so as to avoid conflict of interest and direct involvement in the execution of procurement transactions	3		
5	Institutional development capacity - S1	2.00	2.5 0	
a	System for collecting and disseminating procurement information and accessibility	2		Procurement information from previous years should be available at the new website.
b	Systems and procedures for collecting and monitoring national procurement statistics	2	3	The national control bodies should step up their efforts to control the quality of information published. Alternatively, the DGCP could consider outsourcing the quality control service.
c	Strategy and training capacity to provide training, advice and assistance to develop the capacity	3	2	Expand training for the private sector and introduce a system of certification by/for [??] the government purchaser.

d	Quality control standards and staff performance evaluation for capacity development	1			Establish institutional target indicators and evaluate their results. The DGCP could consider outsourcing the evaluation of staff performance and target achievement.
---	---	---	--	--	---

PILLAR III. Procurement Operations and Market Practices					
6	Efficiency of procurement operations and practices - S2	1.25	1.00		
a	Adequacy of procurement competence among government officials	1			Consistent with the procurement strategy, define staff profiles to ensure effective and efficient performance of the function, and a professional and salary ranking scale, to ensure that newly hired employees are suitable. It is very important to guarantee stability so that changes at the political level will not produce massive turnover of trained staff, which could undermine efficiency.
b	Procurement training and information programs	2			Consistent with the procurement strategy, define the contents, scope and level of training programs in order to maintain a program of certification or accreditation for procurement professionals.
c	Norms for the safekeeping of records and documents related to transactions and contract management	1	1		Revise article 103 of Decree 21909 to make sure that the documentation to be retained includes information on payments and disbursements. Define the security and confidentiality protocol for procurement information and records.
d	Provisions for delegation of authority	1			Establish a clear and simple system for delegating authority based on the nature of the procurement and its inherent risks. Revise the regulation to establish more clearly the criteria for delegating authority and accountability for application to the UOCs. These measures should be implemented jointly with a redefinition of the control mechanisms to ensure adequate accountability, to reinforce the internal audit function, and to make the judicial system more effective in enforcing sanctions.
7	Functionality of the public procurement market - S2	1.75	2.00		
a	Effective mechanisms for partnerships between the public and private sector	2			Make the public-private dialogue systematic. Prepare programs to facilitate the work of firms and to enhance the capacity of micro-businesses and SMEs to participate in public procurement
b	Private sector institutions are well organised and able to facilitate access to the market	1	2		1. Take steps to foster competition and facilitate access to markets, e.g. promote credit under appropriate terms and conditions. 2. Define clearly the conditions for participating in tenders.
c	Systemic constraints inhibiting the private sector's capacity to access the procurement market	2			idem (b)1, and in addition take the steps needed to ensure timely and proper payment.

d	Clarity and transparency of rules for determining whether to engage international or national markets	2			
8	Existence of contract administration and dispute resolution provisions - S1	1.50	2.00		
a	Procedures are clearly defined for undertaking contract administration responsibilities	2	2		Take steps to approve the standard bidding documents and ensure that entities make effective payment arrangements, in accordance with the stipulations in the bidding documents. Improve quality control procedures
b	Contracts include adequate dispute resolution procedures	2	2		idem with respect to improving standard documents
c	Procedures exist to enforce the outcome of the dispute resolution process	1			1 Take steps to strengthen the judicial enforcement of arbitration awards. 2 Create and implement contract monitoring systems, including a system for evaluating contractual compliance and supplier performance, in relationship with the registry of suppliers that is being developed.
d	Standards for quality control and staff performance evaluation for capacity development	1			Introduce indicators for institutional targets and evaluate their results. The DGCP could consider outsourcing the evaluation of staff performance and the achievement of targets.
Pillar IV. Integrity and transparency of the public procurement system					
9	The country has effective control and audit systems - S1	1.20			
a	Legal framework, organisation, policy, and procedures for internal and external control and audit of public procurement	1			(a) Priority should be given to the AII's. Start by updating the procedures manuals, including requirements for the position of auditor, create conditions for producing annual audit plans and evaluating their capacity, and in due course include funding for fulfilling the plans. Shift their reporting relationship to the AGPE, which will require a change to the Financial Administration Act, and would thus be a medium-term action, and the same for consideration of risk levels; (b) introduce annual external audits of the municipalities (outsourced and paid with royalties, reporting to the CGR)
b	Enforcement and follow-up on findings and recommendations of the control	1		1	The AGPE should monitor the recommendations of the AII's, and advise the CGR as necessary. The municipal auditors report to the CGR.
c	The internal control system provides timely information on compliance to enable management action	1		1	Make provisions for electronic sharing of audit reports between interested parties; the systems must be updated.
d	The internal control systems are sufficiently defined to allow performance audits to be conducted	1		1	Revise the terms of reference of the AGPE.

e	Auditors are sufficiently informed about procurement requirements	2			Continue the training program of the DGCP.
10	Efficiency of appeals mechanism - S1	2.60			
a	Decisions are deliberated on the basis of available information, and the final decision can be reviewed and ruled upon by a body (or authority) with enforcement capacity under the law	3	n-a		
b	Capacity of the complaint review system and enforcement of decisions	3	3		
c	Fairness of the complaints system	2	2		
d	Public access to decisions	3			
e	Independence of the administrative review body	2			
11	Accessibility to information - S2	2.00			
	Publication and distribution of information	2			
12	Ethics and anticorruption policy measures - S2	1.57			
a	Legal provisions on corruption, fraud, conflict of interest, and unethical behaviour	2			
b	Definition in legal system of responsibilities, accountabilities, and penalties for fraudulent or corrupt practices	2			
c	Enforcement of rulings and penalties	1	0		(a) Continue to implement procedures for preparing criminal cases (CGR support unit, DGCP monitoring unit) and (b) introduce procedures for disciplining officials (to be worked out with the Civil Service)
d	Measures exist to prevent and detect fraud and corruption in public procurement	1	1		Through the CISNI, evaluate the possibility of creating a National Transparency Office (or anticorruption office). Should this report to the Prosecutor General? Would there be duplication?
e	Stakeholders support the creation of a procurement market known for its integrity and ethical behaviour	2			
f	Mechanisms for reporting fraudulent, corrupt, or unethical behaviour	2			
g	Codes of Conduct/Codes of Ethics for participants and provision for disclosure for those in decision-making positions	1			Introduce a code of conduct applicable to all civil servants.

IV. APPENDICES

Appendix I: Statistical List of Procurement Transactions (2004, 2005 and 2006)

2006

Value of contracts (US\$) by procurement procedure in 2006							
	ICB	NCB	CO	CD	CE	TOTAL	Percentage
0 to 25,000	178,707	5,530,071	6,366,226	23,500,368	6,018,517	41,593,889	8.43%
25,000 to 100,000	1,263,547	18,645,289	14,091,487	0	7,983,870	41,984,192	8.51%
100,000 to 500,000	5,505,285	48,767,309	0	0	10,657,952	64,930,546	13.15%
500,000 to >1,000,000	4,453,179	28,226,510	0	0	2,503,413	35,183,102	7.13%
>1,000,000	209,433,185	70,103,674	0	0	30,38,8,954	309,925,813	62.79%
TOTAL	220,833,903	171,272,853	20,457,713	23,500,368	57,552,705	493,617,542	1.00
Percentage	44,74%	34,70%	4,14%	4,76%	11,66%		

Number of contracts by procurement method in 2006							
	ICB	NCB	CO	CD	CE	TOTAL	%
0 to 25,000	16.00	620.00	740.00	8,556.00	1,273.00	11,205.00	89.60%
25,000 to 100,000	24.00	352.00	330.00	-	164.00	870.00	6.96%
100,000 to 500,000	24.00	2,42.00	-	-	62.00	328.00	2.62%
500,000 to >1,000,000	7.00	44.00	-	-	3.00	54.00	0.43%
>1,000,000	7.00	35.00	-	-	6.00	48.00	0.38%
TOTAL	78.00	1,293.00	1,070.00	8,556.00	1,508.00	12,505.00	1.00
Percentage	0.62%	10.34%	8.56	68.42%	12.06%		

Average value 2.831.204 132.462 19.119 2.747 38.165 39.474

Statistical Basis: Information on the sample used to assess the compliance indicators

1. For indicators 1 (b), (c), (d), (e), (f), (g) and (h); 2 (b), (c), and (f); 3 (b) and (d); 6 (c); and 8 (b), a consulting firm specialised in auditing, BDO Rubinsztein & Guillén, was contracted to evaluate a sample of procurement transactions recorded in the DGCP database between January 2004 and April 2006

The selected procurements related to seven entities, identified in the following tables. Of those entities, three are ministries and four are autonomous entities (*entidades autárquicas*).

The following tables show the total value and the number of procurement transactions conducted by each entity between January 2004 and April 2006. On the following page, data are presented for the samples selected for preparing the Compliance Indicators.

Total number of contracts by entity and method (*)

Entity	Number of procurement transactions			
	Competitive bidding	Invitations to tender	Shopping	Total
ANDE	234	340	844	1,418
BCP	21	40	100	161
COPACO	38	33	87	158
MEC	47	113	715	875
MOPC	106	101	572	779
MSPyBS	199	330	7,309	7,838
PETROPAR	41	45	252	338
Total	686	1,002	9,879	11,567
Participation %	6	9	85	100

Entity	Millions of Guaraníes				%
	Competitive bidding	Invitations to tender	Shopping	Total	
ANDE	507,744	64,938	19,382	592,064	1
BCP	25,339	8,929	1,828	36,096	2
COPACO	89,304	7,477	3,175	99,956	2
MEC	63,928	21,874	15,226	101,028	9
MOPC	357,527	21,534	13,213	392,273	12
MSPyBS	399,446	63,401	92,240	555,088	61
PETROPAR	2,702,796	7,461	4,094	2,714,351	49
Total	4,146,084	195,614	149,158	4,490,856	
Participation %	92	5	3	100	

*The data were provided by the General Directorate of Public Procurement (DGCP)

Sample (number of transactions) by entity and method

Number of transactions selected

Entity	Competitive bidding	Invitation to tender	Direct contracting	Total sample
ANDE	14	6	6	26
BCP	4	3	3	10
COPACO	6	1	3	10
MEC	4	2	6	12
MOPC	10	2	7	19
MSPyBS	11	5	8	24
PETROPAR	14	2	9	25
Total	63	21	42	126
Participation %	50	17	33	100

Sample (total value of transactions) by entity and method

Entity	Value (in Millions of Guaranies)				Total contracted	% sample
	Competitive bidding	Invitation to tender	Direct contracting	Total sample		
ANDE	101,653	1,148	193	102,994	592,064	17
BCP	7,065	784	44	7,893	36,096	12
COPACO	22,298	231	83	22,612	99,956	22
MEC	10,104	495	178	10,777	101,028	23
MOPC	81,613	181	142	81,936	392,273	11
MSPyBS	79,859	1,383	106	81,348	555,088	21
PETROPAR	1,880,830	275	221	1,881,326	2,714,351	15
Total	2,183,422	4,497	967	2,192,317	4,490,856	69
Participation %	<u>99.75</u>	<u>0.21</u>	<u>0.04</u>	<u>100.00</u>		49

II. For indicators 10 (b) and 12 (c) a legal consultant was hired to access the DGCP databases.

III. For indicators 1 (f); 5 (b) and (c); 7 (b); 8 (a) and (b); and 10 (b) a macroeconomist was retained as a consultant to examine the legal framework and conduct interviews with DGCP and representatives of civil society and business associations.

IV. For indicators 4 (c) and (d); 7 (a); 8 (a); 10 (c); and 12 (d), a public opinion polling firm, First Analysis y Estudios, was engaged to conduct qualitative and quantitative surveys as follows:

- (i) 250 interviews with public officials.
- (ii) 400 interviews with firms or business associations.
- (iii) 100 interviews with civil society representatives

**APPENDIX II: LIST OF LAWS, DECREES AND REGULATIONS GOVERNING THE
NATIONAL PUBLIC PROCUREMENT SYSTEM**

1. Law 2051/03: Public Procurement Act
2. Decrees 21909/03 and 5.174/05: Regulations to the Public Procurement Act
3. Law 1533/00: Public Works Act, articles 41 to 46.
4. Resolutions of the DGCP (available at www.contratacionesparaguay.gov.py)

Related legislation:

5. Law 1535/99: Financial Administration Act
6. Law 1626/00: Civil Service Act

APPENDIX III. BACKGROUND AND SUPPORTING DOCUMENTATION FOR THE TEAM'S FINDINGS

1. Review of the legislative and regulatory framework for updating the Country Procurement Assessment Report for the Republic of Paraguay, by Dr. Enrique Sosa Arrúa.
2. Evaluation of the "Operational Effectiveness" pillar for updating the Country Procurement Assessment Report for the Republic of Paraguay, by the economist, Santiago De Filippis.
3. Report on Compliance Indicators for updating the Country Procurement Assessment Report for the Republic of Paraguay, by BDO Rubinsztein & Guillén.
4. Survey to evaluate compliance and performance of the National Procurement System for updating the Country Procurement Assessment Report for the Republic of Paraguay, by First Análisis y Estudios.
5. Evaluation Report on the Electronic Procurement System – eGP, by Alejandro Barros.

APPENDIX IV: PARTICIPANTS IN THE WORKSHOP AND PLENARY MEETING FOR THE PARAGUAY CPAR

LIST OF PARTICIPATING INSTITUTIONS

ANDE - UOC, Division de Adquisiciones
Auditoria General del Poder Ejecutivo
Banco Central del Paraguay: UOC
Cámara Paraguaya de la Vivienda – CAPAVI
Cámara de Constructoras Viales Paraguayas – CAVIALPA
Cámara Nacional de Comercio y Servicios del Paraguay
Cámara Paraguaya de Consultores
Cámara Paraguaya de la Industria de la Construcción –CAPACO
Centro de Información y Recursos para el Desarrollo –CIRD
Centro de Políticas Públicas de la Universidad Católica
Comisión de las Comunidades Europea - UE
Consejo Impulsor del Sistema Nacional de Integridad – CISNI
Contraloría General de la República
COPACO: Departamento de Contrataciones
Federación de la Producción, la Industria y el Comercio –FEPRINCO
Grupo Especial de Trabajo de la Sociedad Civil –GETSC
Organización Paraguaya para la Cooperación Intermunicipal – OPACI
Ministerio de Educación y Cultura: UOC
Ministerio de Hacienda,
 Dirección de Contabilidad, Subsecretaria de Administración Financiera
 Dirección de Crédito Público
 Dirección General de Informática y Comunicaciones
 Subsecretaría de Estado de Tributación
Ministerio de Obras Públicas y Comunicaciones: UOC
Petróleos del Paraguay (PETROPAR) – UOC
United Nations Development Program – UNDP
Red de Contralorías Ciudadanas del Paraguay - RCCP
Transparencia Paraguay
Unidad Central de Inversión Pública - UCIP
Unión Industrial del Paraguay- UIP
Universidad Nacional de Asunción - Centro Nacional de Computación – CNC

V. ANNEXES

ANNEX I: ADDITIONAL INFORMATION ON THE PUBLIC PROCUREMENT SYSTEM

1. Pillar I. Legislative and Regulatory Framework

(a) Legal aspects

Law 2051/03 governs the planning, programming, budgeting, contracting, implementation, payment and control of purchases and leases for all kinds of goods, the contracting of services in general, consulting services, and public works and related services, performed by:

- Agencies of the central administration, comprising the legislative, executive and judicial branches, the Office of the Comptroller General, the Office of the Public Defender, the Office of the Prosecutor General, the Office of the Attorney General, the Council of the Magistrate Church, the *Jurado de Enjuiciamiento de Magistrados* (Disciplinary Chamber of the Judiciary) and similar State bodies, referred to generically as *organismos* ("agencies").
- The autonomous and “autarkic” bodies, regulatory and supervisory bodies, social security institutions, national universities, public and mixed enterprises, corporations in which the State is majority shareholder, government financial institutions, the Central Bank of Paraguay, government departments, and other entities of the Decentralised Public Administration, generically referred to as *entidades* ("entities").
- The municipalities.

The institutional scope of application of the Law thus extends to the entire public sector, which includes all the agencies and entities of State and the subnational governments. There are exceptions in the material scope of the Law's application. While as a general rule the Law applies to all procurement of works, services, purchases and leases by the public sector, it excludes certain forms of procurement:

- Personal services regulated by the Civil Service Act.
- Concessions for works and public services, which are governed by Law 1618/2000.
- Permits, licenses or authorisations for the use and exploitation of public property, such as those granted for oil prospecting, exploration and exploitation.
- Contracts pursuant to international treaties to which the Republic of Paraguay is a party, for example contracts signed by the binational entities for Itaipu and Yacyreta.
- Contracts financed by international lending agencies of which Paraguay is a member, such as the World Bank and the Inter-American Development Bank, without prejudice to the provisions of the Public Procurement Act, which apply in a subsidiary manner when expressly stipulated or when no special regime is established.

- Contracts or agreements among or between agencies, entities and municipalities. The Law makes clear that this exception does not apply when the agency, entity or municipality outsources the provision of goods or services or the implementation of works.
- Contracts relating to public credit transactions, monetary, financial and exchange regulation, and in general, financial transactions.
- Contracts for the transport of international and domestic mail.

The Law provides that procurement is to be governed by the principles of economy and efficiency, fair and free competition, transparency and publicity, administrative simplification and modernisation, and normative centralisation and operational decentralisation.

(b) Procedural aspects

"Competitive bidding" (*Licitación Pública*) is mandatory for procurement transactions in the amount of 10,000 minimum wages⁴ (approximately US\$76,728) or more. Competitive bidding must be done through calls for tender advertised for at least three days in at least one daily newspaper of national circulation, and through the Public Procurement Information System (SICP).

Competitive bidding procedures are classified as national and international. Participation in "National Competitive Bidding" (NCB) is limited to individuals or firms domiciled in the country, but there is no restriction in this regard on the ownership of their capital or the origin of the goods⁵. While the Law does not say so specifically, this limitation applies to eligibility to bid and not as a precondition for the award of a contract.

International Competitive Bidding (ICB) allows participation by bidders not domiciled in the country. ICB may only be used in the following cases: (i) when it is mandatory as a result of international treaties to which Paraguay is a party; (ii) when it is stipulated in loan contracts signed with multilateral agencies; (iii) when market research by the Operational Procurement Unit (UOC) reveals no offer from national suppliers or contractors that would be responsive to the quality and quantity of goods, services or works required; and (iv) when a previous call for tenders (NCB) has produced no proposal, or none that meets the requirements.

In any call for tenders, whether national or international, the bidding documents must specify, among other aspects, the currency to be quoted and the currency of payment. In the case of goods and services sourced outside the national territory, the currency of offer and payment must be the national currency. If the goods and services are supplied by suppliers or contractors not domiciled in Paraguay, they may be quoted and paid in foreign currency. Neither the Law nor the regulations contain provisions on adjustments for taxation.

The procedure of "Invitations to Tender" (*Concurso de Ofertas*, "comparison of offers" CO) must be used for procurement where the amount is between 2,000 and 10,000 *jornales* (approximately US\$76,728). This differs from competitive bidding in the following aspects: (i) it does not have to be advertised in the printed media, although it must be published through the Public Procurement Information System; (ii) the time limits for tendering may be reduced by up to 50%, provided the purpose is not to limit the number of potential bidders or to grant unfair advantage to any bidder; (iii) direct invitations to bid are to be sent to at least five potential bidders, although any other bidder may participate.

⁴ The minimum wage (*jornal mínimo*) is 40, 660, and the exchange rate used is US\$1 = Gs. 5,350.

⁵ Foreign-owned firms may participate as long as they are established in the country.

The "Shopping" procedure (*Contratación directa*, literally "direct contracting") may be used for procurement transactions less than the equivalent of 2,000 *jornales* (approximately US\$15,345). Invitations are issued in writing and through the SICP to potential bidders, who are to submit their technical and economic proposals in a sealed envelope or electronically. For the award to be made there must be at least three offers, unless the nature of the goods or services involved is such that this number of bidders cannot be achieved.

Procurement may be paid from petty cash or imprest funds (*fondo fijo*) for amounts not exceeding 20 *jornales* (US\$153.45), for the items listed in the regulations. This procedure may not be used to pay for previous purchases, to acquire fixed assets, or to build inventories.

The Law also provides for exceptions to bidding in specific situations where the procuring entity may contract directly without competition. Those situations are the following: (i) contracts that may be signed with a specified person, in the case of works of art, patent rights, copyright or other exclusive rights; (ii) in the case of natural disasters that affect or threaten the social order, the economy, public services, public health and safety, or the environment in any zone or region of the country; (iii) when required to guarantee the security of the nation; (iv) when there are justified reasons of urgency or technical considerations for procuring or leasing the goods in this manner, or (v) when two invitations to tender have been issued without response.

The Law expressly prohibits the fractioning or subdivision of the amount of contracts or project execution with the intention to evade the procedures established in the Law. According to Decree 21909, a contract is deemed to have been fractioned or subdivided with the intention of evading the procedures established in the Law if: (i) the goods, works or services are acquired or executed separately in parcels, stages, or lots of lesser value when they could have been programmed for delivery or execution in a greater amount; or (ii) if services supplementary to the supply of goods or execution of works, representing a value less than the main object of the contract, are performed in one or more contracts separate from the main contract.

The Law does not provide a specific procedure for hiring consulting firms, but it requires consultants to be selected under one of the following models: (i) quality and cost; (ii) quality; (iii) price; (iv) fixed budget; (v) background of the consultant. The regulations cover cases in which these selection models may be used, and the procedure to be followed. They also require the prequalification of consultants for contracts exceeding 10,000 *jornales*, and specify that at least three and no more than six firms are to be preselected.

(c) Rules governing advertising and time limits

The Law provides that calls for competitive bidding must be published in at least one newspaper of national circulation, for at least three days, and in the official publication organ. Regulatory Decree 21909/03 identifies that official organ as the website of the Public Procurement Information System (SICP). In this way, potential bidders may be informed of calls for tender either through notices published in a national-circulation newspaper or by consulting the SICP website. The three-day publication of notices in newspapers applies equally to national and international competitive bidding. Notices are to be posted permanently at the website.

Announcements of invitations to tender and "shopping" do not have to be published in the printed media, but as noted above they must be advertised in advance at the website of the SICP. Consequently, any potential bidder, and the general public, may access information on procurement conducted through these procedures.

The time that elapses between publication of the call for tenders and the deadline for submission and opening of bids varies depending on whether the bidding is national or international.

According to the Law, the minimum timeframe for submission and opening of bids is as follows:

- (i) NCB: 20 calendar days from the date of the last public notice;
- (ii) ICB: 40 calendar days calculated in the same manner.

In the case of invitations to tender, the Law allows procuring entities to shorten those timeframes by up to 50%, provided the intent is not to limit the number of potential participants or to grant unfair advantage to any bidder.

With respect to "shopping", the DGCP has issued Resolution 121/04, setting a minimum timeframe for the submission of offers at five days from issuance of the notice and its publication at the SICP website.

The timeframes for preparing bids in Paraguay's legislation are shorter than those established in the procurement rules of the Banks for the same methodologies. However, the value thresholds for applying these methodologies are different: a procurement in an amount (in US dollar terms) that would require NCB under Paraguayan law could be handled through shopping under Bank rules. In this case, the time limits for NCB under domestic legislation are consistent with the minimum time limits applied by the Banks.

(d) Rules on participation

The Law defines the cases of prohibition or limitation for submitting bids and for doing business with the State. They include the following:

- (i) Public employees involved at any stage of the procurement procedure who have a personal, family or business interest in the supplier.
- (ii) Persons who are ineligible pursuant to the Civil Service Act.
- (iii) Bidders or contractors who, for reasons attributable to themselves, have had more than one contract revoked administratively (under rules established in the same law) within two calendar years.
- (iv) Individuals or legal persons disqualified by decision of the DGCP (pursuant to the procedural rules established in the Law and the regulatory decree).
- (v) Suppliers or contractors already engaged in executing contracts, for reasons attributable to those contracts.
- (vi) Individuals or legal persons engaged in composition, bankruptcy or liquidation proceedings.
- (vii) Individuals or legal persons who have been declared in arrears on their taxation or social security obligations, among other cases.

When it comes to participation of national public enterprises, the contracts signed by procuring entities with such enterprises are negotiated directly and formalised through interagency agreements.

(e) Bidding documents and technical specifications

According to the Law, the technical specifications, time limits, tolerances, percentages or other similar provisions contained in the bidding documents must be consistent with the following rules: (i) they must be as broad as possible, given the specific nature of the contract, so as to attract the greatest number of offers; (ii) they must be sufficiently clear, objective and impartial to avoid favouring any participant; (iii) any reference to known types of materials, artefacts or equipment, if they can only be characterised in whole or in part through trademarks or through terminology, symbols, or signs that are not universal, may be only indicative, and should be consistent with accepted international standards.

The regulatory decree provides that the Central Policy and Technical Unit (UCNT) must prepare standard bidding documents, including as a minimum: (i) standard documents for the procurement of goods; (ii) standard documents from the procurement of works; (iii) standard documents for the contracting of consulting services.

The Regulatory Decree also specifies the sections that must be contained in bidding documents for the procurement of goods and the contracting of works. These include instructions to bidders, bidding data, general conditions of contract, and special conditions of contract. For consulting services, the sections are: letter of invitation, information for consultants, terms of reference, and standard contract form.

Drafts have now been prepared for these standard documents, and they are available at the official website. They are pending approval in order to make their use mandatory for the public sector. These documents were prepared on the basis of standard bidding documents of the World Bank and the Inter-American Development Bank. They are still in the stage of consultation with different users. The standard documents prepared are:

- Procurement of Domestic Goods.
- Procurement of International Goods.
- Acquisition of Travel Tickets.
- Contracting for Works.
- Contracting for Consulting Services.
- Contracting for Insurance.
- Contracting under the National *Vaso de Leche* ("Milk Glass") Programme.

In addition, there are plans to standardise the documentation that participants must submit in the course of procurement processes.

(f) Submission, receipt and opening of tenders

By law, the opening of tenders in a competitive bidding process must be done in a formal and public session. According to the regulations, the tenders must be opened at the closing date for submission of proposals, or promptly thereafter.

The Law provides that, in addition to the bidders, any interested individual or legal person may attend the big opening session, including persons who have not purchased the bidding documents and conditions, provided they register their attendance and abstain from intervening actively. Nevertheless, such persons are able to request that any comments or observations they wish to make should be noted in the record of the session.

The regulations establish rules on the format and signature of the tender, its marking, the number of copies, the manner of presentation, the period of validity etc., and bidders must comply with these requirements in submitting their tenders.

The regulations also detail the proceedings of the opening ceremony. When the bids are opened, the name of the bidder and the price of the tender, and any other detail that the procuring entity deems it appropriate to announce, are read aloud and are entered in the record of the session. That record must contain a preliminary and merely quantitative verification of the documentation submitted by the bidders, without going into detail as to the contents; this is left to the process of evaluating the bids. If it is found, during the quantitative verification of the documents submitted, that any formal document, substantive or not, is missing, this will be recorded. Such omissions will be examined in the course of evaluating the bids, for

purposes of taking the appropriate decision. When the bids are opened, only those bids, applications to withdraw, or amendments to bids submitted after the date and time set for submission of bids may be rejected, and they are to be returned unopened to the bidder.

Article 54 of the Law indicates, in its last paragraph, that "representatives of the bidders shall be asked to sign the record and any other documents they request". In practice, this means that each bidder signs the bids of his competitors, and thus in effect that competing offers are "on view".

The procuring entity is required to prepare a record of the opening of bids and distribute copies of that record to all bidders. Bidders may sign the record and any other documents they request. In addition, by law, the UOC are required to retain orderly and systematic files of all documentation substantiating the records of the procurement procedure. This information includes the record of the submission and opening of bids.

(g) Complaints system structure and sequence

Protests must be filed with the DGCP, which is part of the Financial Administration Section in the Ministry of Finance. That body also has policy and technical functions, but it has no legal personality or economy. It is however distinct from the body handling the procurement directly, except in the case of procurement by the Ministry of Finance itself.

Protests must be submitted in writing, although the Law allows use of any electronic communications media established by the DGCP. Such a facility has not yet been implemented in the SICP, in the absence of legislation authorising use of electronic signatures.

Until the protest is resolved, the DGCP may suspend the procurement process if: (i) there are indications of serious violations of the applicable provisions, or if continuing the process would cause damages or injury to the procuring entity; and (ii) if such suspension would not be prejudicial to the public interest or violate legal provisions. If the party filing the protest requests suspension, it must post surety for any damages or injury in an amount established by the DGCP.

The DGCP must issue its resolution within 10 working days. If it does not do so, the protest will be deemed denied. If the protest is accepted, the resolution will have the effect of: (i) nullifying the irregular act or acts, and establishing as appropriate the measures needed to restore legality; (ii) cancelling the entire process.

The resolution issued by the DGCP may be challenged by the interested parties, who may file an administrative appeal with the Court of Accounts. The Law requires this appeal to be filed within five working days, but the Supreme Court has ruled that time limit unconstitutional in some cases, giving the parties up to 18 working days, which is the same time the Administration has to contest the appeal.

All the protests submitted within the sample of contracts examined by the consulting firm were resolved within the legal time limits.

(h) Prequalification procedures

The Regulatory Decree to the Law provides for prequalification as a prior step for submitting tenders under competitive bidding or invitations to tender, if the procuring entity considers it useful to preselect candidates. This prequalification is mandatory in competitive bidding processes for works of large scale and considerable complexity, or in any other circumstance where the high cost of preparing detailed bids could discourage competition, for example in the case of works contracts that include design, custom-made

equipment, industrial plants, specialised services, and turnkey, design-and-build, or administration contracts.

According to the regulatory decree, prequalification must be based exclusively on the minimum capacity of potential participants to carry out the contract satisfactorily, bearing in mind: (i) their experience and performance under similar contracts; (ii) their capacity in terms of personnel, equipment and construction or manufacturing facilities; and (iii) their financial situation.

The prequalification procedure must be initiated with publication of notice, on three consecutive days, in the same media as will be used for the subsequent call for tenders. To date, the DGCP has yet to establish rules on the minimum time limits for submitting prequalification applications.

The regulations also provide that, upon expiry of the deadline for receiving prequalification applications, the procuring entity will examine and evaluate them in accordance with rules established in the bidding documents and conditions (prequalification documents). The outcome of the prequalification must be reported to all participants in writing, and to the DGCP, before the prequalified bidders are invited to tender.

(i) Procedures for contracting consulting services

The procedure to be followed in each model is regulated by Regulatory Decree 21909. It establishes clearly the method for considering technical quality under each model, using a scoring system. For example, in the "quality and cost" selection model, quality is weighted at 70 to 80% and price at 20 to 30%. The regulations also determine the way in which factors will be combined in this method. It should be stressed that, according to the regulations, procuring entities must give preference to the "quality and cost" selection method. Other methods may be used under circumstances specified in the regulations.

If the amount of procurement exceeds 10,000 *jornales* (US\$76,728), Regulatory Decree 5174/05 makes it compulsory to prequalify or preselect consulting firms, exclusively on the basis of the capacity of potential bidders to carry out the contract satisfactorily, bearing in mind:

- (i) the experience of the firm and its prior compliance with similar contracts, and
- (ii) the capacity of the firm's personnel.

(j) General Conditions of Contract (GCC)

The Law requires procuring entities, among other things: (i) to indicate the currency of payment, which must be the national currency when the goods and services originate in the national territory; payment in foreign currency is allowed when the goods and services are provided by suppliers not domiciled in Paraguay; (ii) deadline and conditions of delivery; price and payment conditions; (iii) methods and variables to be used in calculating allowable readjustments or additions; (iv) contractual penalties for delay in the delivery of goods, provision of services or execution of works.

The Law lists the minimum content of contracts, including: (i) identification of the budgetary appropriation to cover the commitment flowing from a contract; (ii) unit price and total value payable for the goods, services or works, indicating whether the price is fixed or subject to adjustment, and in the latter case the formula or condition under which it will be calculated; (iii) time, place and conditions; (iv) place of execution; (v) contractual penalties; (vi) dispute resolution mechanisms.

Consulting contracts must specify, if possible, that any copyright or other exclusive rights that may be generated shall belong to the contracting party.

The Law stipulates that suppliers may outsource a portion of the contract to another party when that party has the capacity to contract and is not covered by prohibitions or limitations on contracting with the State. Subcontracting may be used only when the contract so permits or when the contracting entity so authorises. In these cases, the subcontractor's rights relate only to the supplier. The rights and obligations flowing from contracts may not be transferred in whole or in part to any other person, except for rights of collection, in which case there must be consent by the contracting entity. The principal contractor is at all times liable to the contracting entity for all obligations flowing from the contract.

There are also provisions in the Law on the rights of the contracting entity, the rights of suppliers or contractors, termination of contracts, grounds for cancellation attributable to the contractor, grounds for termination attributable to the contracting entity, price adjustments, amendments to contracts, dispute settlement through arbitration or conciliation proceedings, etc.

The draft standard bidding documents for works and goods include a section on general conditions of contract. That section has also been incorporated into the draft standard documents for the contracting of consulting services. The included sections were adapted from the standard contract documents issued by the multilateral lending banks. Those drafts are now in the process of discussion and approval, but they are already available for reference at the SICP website.

2. Pillar II. Institutional Framework and Management Capacity

(a) Procurement Planning and Budgeting

Table II .1. Public entities not included in the SIAF

CONSEJO NACIONAL DE LA VIVIENDA
INSTITUTO DE BIENESTAR RURAL
INSTITUTO NACIONAL DE DESARROLLO RURAL Y DE LA TIERRA
COMISION NACIONAL DE TELECOMUNICACIONES
CAJA DE JUBILACIONES Y PENSIONES DEL PERSONAL DE LA ANDE
CAJA BANCARIOS
CAJA DE JUBILACIONES Y PENSIONES DEL PERSONAL MUNICIPAL
ADMINISTRACION NACIONAL DE ELECTRICIDAD
ADMINISTRACION NACIONAL DE NAVEGACION Y PUERTOS
PETROLEOS PARAGUAYOS
INDUSTRIA NACIONAL DEL CEMENTO
COMPAÑÍA PARAGUAYA DE COMUNICACIONES S.A
EMPRESA DE SERVICIOS SANITARIOS DEL PARAGUAY S.A.
CANAS PARAGUAYAS S.A.
FERROCARRILES DEL PARAGUAY S.A.
BANCO NACIONAL DE AHORRO Y PRESTAMO PARA LA VIVIENDA
CREDITO AGRICOLA DE HABILITACION
FONDO GANADERO
CAJA DEFENSA
FONDO DE DESARROLLO CAMPESINO
AGENCIA FINANCIERA DE DESARROLLO

(b) Responsibilities and roles of the policy and regulatory body

By law, the UCNT has the following powers:

- (a) To issue general rules respecting the planning, execution, monitoring and evaluation of contracts governed by the Law and the regulations.
- (b) To design and issue general policies on public procurement that must be observed by agencies, entities and municipalities, and to prepare and disseminate manuals of procedures, bidding documents and model contracts, for standardising internal procedures.
- (c) To create and maintain a Public Procurement Information System (SICP).
- (d) To advise, train and provide guidance to the Operational Procurement Units (UOCs), and to receive and process information from those units.
- (e) To conduct technical and regulatory reviews of the matters referred to in a) and b) above, and to ask the Auditor General, in duly substantiated cases, to conduct investigations to verify compliance with the provisions of the Law.
- (f) To impose penalties on suppliers and contractors for non-observance of the provisions of the Law, under the terms set out in Title Seven.
- (g) To create and maintain a registry of disqualified suppliers and contractors, through the SICP.
- (h) Upon request, to conduct conciliation proceedings pursuant to Title Eight, Chapter 2, of the Law.
- (i) To promote and support the development of training programmes and academic specialisation in public procurement, together with the Secretariat of the Civil Service, to be provided by universities and other civil society institutions, for the benefit of officials and public employees.
- (j) Other powers attributed to it by the executive branch, pursuant to this law, via the respective decrees.

(c) Organisation, structure, functioning and hierarchical level of the regulatory entity

Article 5 of Regulatory Decree 21909/03 and Amending Decree 5174/05 give the DGCP the following structure:

1. Office of the Director General.
2. Coordination of Standards and Control.
3. Coordination of Training.
4. Coordination of Information and Systems.
5. Legal Advisor's Office.
6. Financial Administration Department.

Each coordination office is headed by a coordinator, and all report to the Director General. All management positions must be filled through public competition. Moreover, the minimum professional requirements for each candidate must include a university degree, broad familiarity with public procurement, experience in human resource management, and other requirements applicable to senior positions in the public administration. Article 6, 7 and 8 establish the principal responsibilities of the coordinators of standards and control, training, and information systems.

(d) Procurement training strategy

There are permanent and substantive training programmes covering the entire procurement process as stipulated in the Law, as well as use of the website. The programme has eight modules, as detailed below:

Table II.2 Training modules

TRAINING	MODULE
Legal framework	I
UOC – UCNT	II
PAC	III
Tendering procedures (CD-CO-LP-CDE)	IV
Documents and contracts	V
Evaluation and award	VI
Challenge and dispute mechanisms	VII
SICP	VIII

Source: DGCP

DGCP statistics on training activities show the following results:

Table II.3 Number of Persons Trained

Total persons trained	2003/2004	2005	Total
UOC	6,816	2,993	9,809
Suppliers	154	38	192
Projects		33	33
Total	6,970	3,064	10,034

Source: DGCP

Table II .4. Total courses offered

Total courses conducted, 2003/2004	187
Total courses conducted, 2005	89
Total	276

Source: DGCP

Table II .5. Outsourced training

Institution	Events	Total persons trained
AGFCCA-UCA	10 of 10 seminars	419
AGFCCA-UCA	5 of 5 courses	223
EDAN – UCSA – ISAF	10 of 10 seminars	167
EDAN – UCSA – ISAF	7 of 7 courses	162
CEMAF	10 of 10 seminars	131
CEMAF	4 of 8 courses	148
TOTAL		1,250

Source: DGCP

3. Pillar III. Procurement operations and market practices

(a) The level of procurement competence among government officials within the entity is consistent with their procurement responsibilities.

Law 2051 transformed purchasing units into UOCs, requiring that their professional staff be knowledgeable about accounting, processes, systems etc. In practice however, positions in the new UOCs were filled for the most part by personnel already in place when the Law came into force, and consequently there was no open, selective and competitive process for choosing qualified candidates. Staff of the UOCs, then, do not as a rule have the qualifications needed to perform their work properly. As a remedial measure, the DGCP has:

- (iii) established an ambitious training programme, and has already provided training in basic procurement aspects for all staff of the UOCs and the UEPs (with the possible exception of recently hired staff); and
- (iv) it has established a permanent technical support line, accessible by telephone or electronically, that can respond to questions.

(b) Training programmes meet current demand

The programmes were designed in line with the DGCP's perception of demand, covering essentially instruction about the provisions of the new law and operational use of the SICP. Subsequently, adjustments were made and courses or seminars were added, sometimes as a result of course evaluations. In addition to the original modules described in the previous section, the current year's programme includes:

1. Preparation of the 2006 PAC—Internet and stand-alone system.
2. Digital data entry workshop.
3. Entering calls for tender and awards via Internet and stand-alone.
4. Procurement booths in the municipalities.
5. Training campaign on the Public Procurement Website for municipal and provincial officials.
6. Training campaign for government suppliers.
7. Catalogue of products and services.
8. Direct payment to suppliers.

Training courses are offered to the public on a regular basis, generally once a week, and all the basic modules are covered. In addition, courses are held outside the institution and beyond the capital city. Waiting times for these courses are very reasonable, and applicants can usually sign up for the next one scheduled. These courses are fairly short (one or two days) and are offered at least twice a week.

(c) Maintenance of procurement records and documentation

In principle, Law 2051 establishes standards for the maintenance of archives, indicating the following:

- UOCs must maintain orderly and systematic files of all documentation substantiating procurement activities and contracts, for at least as long as the legally prescribed duration.
- Each unit must keep a record of public procurement transactions, in the form of physical and electronic files, with contract data duly codified, for the minimum time established in the previous paragraph, and must also submit the information to the SICP.

- Each UOC must keep an orderly and systematic record of all documentation substantiating procurement activities and contracts, in particular:
 1. Bidding documents and conditions.
 2. Call for tenders, record of the opening of envelopes, award decisions and resolutions.
 3. Contracts, guarantees and their annexes, any amendments, records of acceptance and resolutions issued by the contracting entity during contract implementation.
- Each UOC must keep a record of procurement processes, updated monthly by the responsible officer, and indicating the current status of the process.
- Information substantiating any annotations to the record indicated above must be filed and kept in chronological order, until the conclusion of the contract. At that time, the contracting entity may use any other means for conserving information for the legally prescribed duration.
- Decree 21909/03 requires the UOC to submit an annual summary report to the UCNT on procurement transactions performed, and the terms defined by the DGCP. Each institution is responsible for managing its own files, and the DGCP has no power to regulate procedures in this area: it can only insist that the annual report be filed and, in special cases, it may require specific information on a process.

(d) Delegation of authority

The Financial Administration Act, Law 1535/99 and its Regulatory Decree 8127/00 make no reference to any delegation by amounts. The articles relating to delegation of signature for procurement provide as follows:

- (i) Article 37, on the payment process, indicates who may be authorised by the senior or substitute authority.
- (ii) Article 45, for loan contracts, with authorisation of the president; and
- (iii) Article 72, which requires the executive branch to establish the model for organisation and functions of the administration and finance units mentioned in the Law.

Regulatory Decree 8127/00 (articles 101 and 102) sets out the powers and responsibilities of the administration and finance units, but does not establish amounts for contract signature. Regulatory Decree 21 909/03 to the Public Procurement Act establishes (article 10) the powers of the UOC, which must submit all bidding documents and conditions, evaluation commission reports, technical specifications and other documentation to the administrative superior of the person initiating the procurement.

Private sector institutions are well organised and able to facilitate access to the market

Table III .1. GDP by sector and principal business chambers

GROSS DOMESTIC PRODUCT AT BUYER PRICES		
COMPOSITION BY ECONOMIC SECTORS		
Percent of total		
	2005	CHAMBER
Agriculture	17.2%	CAD ELPA, Cotton Chamber of Paraguay - CAPECO, Paraguayan Chamber of Exporters of Cereals and Soybeans
Livestock	6.5%	ARP, Asociacion Rural del Paraguay
Forestry	1.9%	
Fishing	0.1%	
Mining	0.1%	
Industry	14.5%	UIP, Union Industrial Paraguaya
Construction	4.0%	CAVIALPA, Road Construction Chamber and CAPACO Paraguayan Construction Chamber
Total goods production	44.2%	There Is a Federation of Producers' Associations, a Federation of Industry and Commerce, and an Association of Christian Enterprises
Electricity and water	1.7%	
Transportation	3.9%	There are various chambers for different services
Communications	3.4%	Chamber of Mobile Operators
Commerce	18.7%	
Finance	2.1%	ABP, Paraguayan Bankers' Association
Housing	1.9%	
Services to businesses	2.5%	
Hotels and restaurants	1.2%	
Services to households	5.7%	
General Government	6.9%	
Total production of services	48.0%	
Gross Value Added	92.2%	
Taxes on products	7.8%	
GDP at Buyer Prices	100.0%	
(*): provisional figures		

Economic Studies Branch, National Accounts and Internal Market Department

4. Pillar IV. Integrity of the Public Procurement System

The legal system defines the responsibilities, accountability and penalties for individuals and businesses found to have been involved in fraudulent or corrupt practices

For public officials, the Civil Service Act also contains prohibitions intended to prevent conflicts of interest. These prohibitions do not apply to persons working in the civil service under temporary contract, or to senior officials excluded from the scope of the Law (e.g. ministers of the executive branch).

The legislation contains no restrictions applicable to former officials covering a reasonable period of time after they leave their position.

Criminal legislation punishes various acts of corruption related to public procurement. The most important laws include:

- The Criminal Code, which specifies as criminal behaviour acts of bribery, coercion, and breach of trust.
- Law 2535/04 which defines and punishes illicit enrichment and influence peddling.
- Law 2880/06 which punishes acts that prejudice State assets.

(b) Evidence of enforcement of rulings and penalties exists

From August 2005 until 26 July 2006 (when the new tools came into effect), a total of 102 reports were received involving procurement processes totalling Gs. 46,689,800,624 (the equivalent of US\$8,727,065). Of those processes, three are still under investigation in the UCNT, and 99 have been settled. A total of 26 proceedings have been cancelled, 14 bid opening acts have been suspended, amendments have been ordered to eight bidding documents (technical specifications), four notices published at the website have been rectified, and 14 complaints have been handed on to other competent bodies.

Since the introduction of the new tools on 26 July 2006, 31 complaints of irregularities have been received, amounting to Gs. 5,870,858,523 (equivalent to US\$1,097,356). Four procurement proceedings have been cancelled, six bid openings have been suspended, amendments have been ordered to bidding documents (technical specifications), among other measures.

ANNEX II. Analysis of the Electronic Public Procurement System

Paraguay is now implementing an e-government strategy that includes a series of activities for installing and developing an e-procurement system (e-GP). As a result of the first stage of this strategy, the SICP electronic procurement website is up and running, at www.contratacionesparaguay.gov.py

To bring greater transparency, publicity and security to public procurement, the government has also prepared and is implementing a series of projects to enhance the use of e-commerce. Those projects include:

- (i) Development of a catalogue of products and services: work is based on the United Nations catalogue (UNSPSC), with certain adaptations. The fourth level of specification has now been completed, and work has begun on the fifth level. This will make it possible to unify and standardise technical specifications for goods and services procured by the State.
- (ii) Electronic signature. There is a draft law pending approval by Congress that would establish the necessary legal framework, and the operational aspects are now being defined.
- (iii) Direct payment to suppliers, which is being implemented on a pilot basis in two institutions.

The country faces serious challenges in terms of connectivity: statistics show that in 2004, only 24,000 persons had access to the Internet. According to the Chamber of Operators of the service (CAPADI), only 1.6% of the estimated population of 5,860,000 has access to the Internet, while rural telephone service reaches only 2% of potential demand, according to 2004 data from the Statistics and Census office (DGEEC).

According to the most recent information from the National Computerisation Centre of the National University of Asunción, in 2006 Paraguay had only 250,000 Internet users. Of that number, 55,000 have e-mail or make sporadic use of the Web with prepaid access cards. Thus, Paraguay has one of the lowest Internet penetration rates in the world, at only 1.36% percent of the population.

To facilitate remote access to the SICP website in areas where there is less connectivity, the DGCP has launched a project to install "procurement booths" that offer computers, furnishings, Internet connection, software and training in premises of the 227 municipalities and 17 provincial governments of the country. While this is a positive step, and is helping to overcome connectivity shortages, it will have to be supplemented with a long-term strategic plan to permit permanent mass access to information on public procurement.

(b) Self-evaluation of eGP

As part of the background work for this report, a consultant was retained to evaluate the electronic procurement system in Paraguay. The most important outcomes and findings of that analysis are detailed below. The evaluation was based on a self-evaluation questionnaire prepared jointly with the Multilateral Development Banks, with a scoring range of 1 to 4. The overall results are shown below:

Component	Level of readiness
Leadership in government	2.59
Human resource administration	2.39
Planning and management	2.44
Policies	2.45
Legislation and regulation	3.07
Internet infrastructure and services	2.34
Standards	2.88
Private-sector integration	2.34
Systems (current eGP initiatives)	2.89
Overall average	2.60

The detailed analysis produced the following observations on each factor:

(i) Leadership

Through the UCNT, the government is promoting introduction of an electronic government procurement system (eGP), as part of an ambitious initiative to modernise procurement and give it a more transparent and efficient platform for handling procedures. The UCNT has developed a normative and institutional framework and a procurement information system (SICP), which is now operational. The UCNT has given a strong boost to this process over the last two years, but its leadership owes more to the personal determination of the current Director than to any institutional commitment, which raises doubts about the sustainability of the project if the current Director should be replaced. One problem to be addressed is that the UCNT does not have the full political support needed to proceed with future changes, in particular during the second stage of development, which will be more transactional and will have a sharp impact on sensitive sectors of society. The UCNT needs to develop a medium-term strategic plan, and disseminate it to participants in the system.

(ii) Human resources

The UCNT has put together a structure that is sufficient for the initial stage of developing eGP, but it is inadequate for the projects now being designed, some of which will be launched before the end of the year. All these new initiatives demand a more robust and structured IT organisation, with clearly defined roles and responsibilities. They will also require significant efforts in terms of methodology for the design, control and management of projects. Training has also become an essential element for mounting work teams with the skills needed in the internal environment. As to the procurement website, the UCNT needs to develop tools and a more structured method for providing training and use of the website. Today, the website is not especially complex to use, and the current training approach is adequate, but in the future new training schemes will have to be developed, using both classroom and distance techniques, so as to obtain greater coverage. In this setting, the initiative to develop access centres in regional governments is very important, and must be accompanied by steps to ensure that new users will take to the system.

(iii) Planning and management

The self-evaluation revealed weaknesses in strategic planning and also in operational planning of eGP. The government currently lacks a strategic plan, one that at least has a roadmap for eGP that includes

objectives, scopes, outcomes and a clear forward-looking plan for evolution of the website. Further background on this issue is presented in the institutional analysis chapter. The current website represents an initial stage of evolution, and from that viewpoint Paraguay is on the right track, but as the use of digital procurement becomes more widespread and the number of users grows, it will be essential to have a clear plan.

The government lacks a clear policy for technological planning, both at the central government level and within the Ministry of Finance. This can be appreciated in the differing viewpoints of the UCNT and the Ministry's IT division over the future of the existing systems for the sector. While the UCNT insists that they should remain in place once the technological platform is developed and operating, the IT division believes that the overhauled financial management system (SIAF) and the procurement portal should rely on a single database. While this proposal would at first glance offer the advantages of unification and standardisation, it raises the problem of keeping the evolution of the website to the speed at which the SIAF (now in its very early stages) can be developed.

(iv) Policies.

Paraguay has set itself the objectives of achieving transparency and efficiency in procurement and, to a lesser extent, of fostering the competitiveness and development of SMEs. It has focused heavily on procedural transparency, and many of its activities have gone into developing control mechanisms, to the detriment of efficiency in the procurement cycle. As the process goes increasingly online, attention will have to be paid to those control elements that most affect efficiency. If [control] is to remain the basic focus, it will have to be disseminated more strongly, and the costs associated with foregone efficiency gains will have to be assumed.

The current policy has produced very good results in terms of making processes more transparent and supervising them more closely. The requirement to obtain an authorisation code for each procurement means that government purchases are backed by funds in the national budget.

Regional development objectives are still weak [sic], but they are supplemented with initiatives to establish access centres in regional and municipal governments. These efforts should be more closely related to other measures to modernise and improve public accessibility.

(v) Legislation and regulation

Title V of the Procurement Act (Law 2051 of 21 January 2003) governs the various aspects of the Public Procurement Information System (SICP):

Article 64. Publication through the system

The UCNT is to make publicly available, through the mass electronic communications media, information on calls for tender, bidding documents and conditions, the contracting process, awards, cancellations, amendments, and any other related information, including contracts awarded, regardless of the method or type of procurement used.

The SICP is the goal of the public procurement system, and it is intended gradually to replace the use of manual systems. However, during the transition period the two systems will be in simultaneous use and suppliers and contractors will be able to choose the system that best suits their interests.

Article 65. Consultation and purchase of bidding documents

Individuals and legal persons wishing to participate in procurement processes conducted by UOCs may consult and purchase the bidding documents from the UCNT by electronic means.

Article 66. Submission of tenders by electronic means

The envelopes containing tenders may be delivered, at the option of the bidder, by remote electronic communication means, in accordance with administrative provisions to be set by the UCNT.

In this case, the envelope will be generated with the use of technologies that safeguard the confidentiality of the information and keep it inviolable, pursuant to technical provisions to be established by the UCNT.

Tenders submitted via the system will use the tamperproof electronic identification means employed by the UCNT, and these will produce the same legal effects as private instruments bearing an autograph, and hence will be just as valid and binding.

Article 67. Certification of electronic identification

The UCNT shall create, operate and maintain a system for certifying the electronic identification submitted by bidders and shall be responsible for overseeing that system, safeguarding the confidentiality of the information so submitted. The regulations to this Law shall prescribe the technique and the administrative procedures to be used.

Article 68. Regulatory provisions

For purposes of applying this Title, the regulations shall establish the technical and administrative guidelines for use of remote electronic communications media.

The normative framework makes indirect reference to electronic signature, and consequently this piece of legislation (at least its article 67) is related to the draft law that, according to information provided by the UCNT, is currently under discussion in Congress.

(vi) Internet infrastructure and services

The connectivity situation in Paraguay is highly deficient: only 2% of the population has (low-speed) Internet access, as a result of two elements: lack of infrastructure and high costs. The following table reproduces figures delivered by the State communications enterprise, COPACO and the Modernisation Council, which give a picture of the current connectivity situation.

Component	Number
Number of connections	30,000
Estimated number of users	100,000 – 120,000
Basic telephone lines	380,000
Users with e-mail	5% of the population
Cell phones	2,000,000

The costs of access to the Web are high, at US\$34 a month for a 64 Kbps connection (an extremely low speed for conducting electronic transactions), according to data supplied by COPACO⁶. Together with the indicators mentioned above, this gives a fairly complete view of connectivity. In addition, there are the costs of computer equipment: as a benchmark, a standard domestic computer costs around US\$600.

In the perception of participants, Internet infrastructure and services are the component where readiness levels are lowest.

This issue needs to be addressed as part of a broader public policy, in which the UCNT can take some initiatives, as with the access centres in municipal and regional government offices, a project now under way⁷. But the UCNT should work with other stakeholders to create a process that will expand access to the Internet and thereby reduce the existing digital divide.

If the government expands its policy of providing mass access to buyers, this will have a multiplier effect in boosting suppliers' access to the Web.

(vii) Standards

The self-evaluation noted the lack of information available in the private sector on progress in the development of standards, highlighting the management of catalogues. The UCNT has recently developed a process for redesigning its cataloguing system, and this will be available at the new website. It is essential for the UCNT to launch a publicity and training campaign for this new tool, if it is to become an effective implement for standardisation.

The UCNT is now standardising the bidding documents in sectors deemed critical, where the greatest distortions tend to occur:

- Travel tickets.
- International goods.
- National goods.
- International consulting services.
- National consulting services.
- Vehicle maintenance.
- Works.
- The *Vaso de Leche* programme⁸.
- Insurance.

In terms of standards, the UCNT has taken a strong stance on the intensive use of open systems, and in particular the use of open-source basic software tools. A review of the components from which its website has been developed shows that it is based on open-source software (for further background on software components see the chapter on technological architecture). The definition adopted by the UCNT has led other areas of the administration, and in particular the Informatics Division of the Ministry of Finance, to specify open-source software as the architecture for the new financial management system. University

⁶ This is the most widely used broadband connection.

⁷ The project involves installing access centres in the 227 municipal and regional governments. In some regions, satellite links will need to be established. The total cost of the project is estimated at US\$630,000.

⁸ A social nutrition programme sponsored by several public institutions.

representatives see this initiative as an important element for introducing extensive use of open-source software within the government apparatus.

With respect to security, and authentication and non-repudiation mechanisms, the government is in the process of approving a specific law on electronic signatures for public procurement transactions. It must be noted that at the present time authentication mechanisms are quite basic, relying on user keys, with the additional drawback that secure session mechanisms⁹ are not used at the time of authentication, which means that the keys are transferred in plain, non-encrypted text between the client and the server¹⁰.

The current system also lacks mechanisms for encrypting documents, and has no means of checking them for viruses, and this poses important security risks as well as potential legal ones, especially if the website does not have a section on use policies for limiting the liability of users.

(vii) Integration of the private sector

The team found that integration with the private sector is inadequate, and indeed does not seem to be a significant concern in public policy. The private sector is a very important stakeholder in government procurement transactions, and public-private partnerships¹¹ should therefore be established. For this purpose, business associations, and in particular the chambers, could be very useful counterparts in the relationship.

At the present time, the most advanced procurement practices have recognised the importance of such partnerships and have established mechanisms for mutual cooperation.

One component that over time can become a public-private meeting point is the registry of suppliers, which should be turned into a mechanism for reducing procurement transaction costs for suppliers. Through this means, the government will have the information it needs on suppliers, and will not have to ask for it to be submitted in every procurement process. This would simplify the process, and achieve better value for money, and allow suppliers to focus on the essential elements of their bid, rather than assembling paperwork to fulfil the requirements in the bidding documents.

Another area where private sector views are relevant has to do with framework agreements and reverse auctions, recognising the impact that processes of this kind can have on a given market. Forums for discussion and dialogue with the private sector should therefore be established to assess the potential impact of such processes, in particular with respect to SMEs.

(ix) Systems (current eGP initiatives)

The Government of Paraguay has a purchasing and procurement website (www.contratacionesparaguay.gov.py) that centralises procurement processes for 307 institutions of the central government, regional governments, municipalities and public enterprises. That website constitutes a system for publishing calls for tender and subsequently publishing the outcomes (contract awards and comparative tables).

The current website represents a first-generation electronic procurement system, based on the publication of documents relating to the procurement process (administrative documents, technical documents,

⁹ HTTPS protocol

¹⁰ Browser and Web server

¹¹ PPPs

questions and answers, comparative tables, records of award). Generally speaking, participants have a positive view of this initiative, although some (primarily suppliers) complain that the site is not user friendly, particularly when it comes to mechanisms for searching business opportunities.

A standing issue in the development of e-procurement websites is to strike a balance between control of the process and its transparency and efficiency, and thereby to reduce procurement costs and times. The government has favoured control over efficiency, incorporating into the process stages that require third-party intervention (other systems and information analysis). This emphasis has a cost in terms of the efficiency of the process, at least from the viewpoint of automating it, and this should be evaluated and stated.

The website has incorporated some functionalities for publicising proceedings through various mechanisms: a bulletin is sent twice a week to the e-mail addresses of suppliers who have requested it. That bulletin includes procurement notices published in recent days. In addition, the website has a mechanism for notifying procurement through text messaging¹² to cell phones.

Within this component, an issue that must be dealt with is the registry of suppliers. The evaluation accorded the weakest score on this point. The DGCP is aware of the issue, and it has plans to develop a registry of suppliers, a task that is now in the process of tendering. There is a legal risk associated with the registry, in that Law 2051 prohibits the use of a suppliers' registry. The UCNT has obtained a legal opinion to the effect that it could implement a registry if it is voluntary.

On another front, the UCNT has redesigned the catalogue of products and services on the basis of the United Nations standard, and this is now being implemented.

The UCNT is evaluating procurement methods that are more transactional, such as framework conventions and reverse auctions. Such functionalities require an in-depth feasibility analysis on several fronts:

- Legal. The legal framework allows for such methods, but it currently mentions the concept of "information system" rather than electronic purchasing, which could have different legal interpretations.
- Operational. Both methods require operating infrastructure that the UCNT does not have today. Both require a capacity for supplier management and catalogue administration (technical specifications, commercial conditions).
- Applications. The application of e-commerce requires functionalities that are highly complex in their design and development.

One element that the UCNT has not addressed at all is the handling of historic information. As websites of this kind come into wider use, the volumes of historic data will increase significantly. The UCNT has not established any clear policy for managing historic information, e.g. the length of time (years) that it is to be maintained online. From the operational viewpoint, it would also be advisable to separate spot data from historic data.

Recognising Paraguay's connectivity problems, the website should in future have faster and more efficient mechanisms for accessing information, i.e. functionalities for researching opportunities, and a "light version"¹³ of the website that does not require the downloading of heavy images and icons, so that the website can be navigated efficiently.

¹² SMS

¹³ The concept of the "light version" refers to pages that favour text over other multimedia elements (icons, images, video etc.) and that make it easier to reach the ultimate information on procurement processes.

The current system is structured to request information from other systems, essentially the tax system (SSET) for checking the tax status of suppliers, and the financial administration system (SIS) for committing funds needed to conduct a procurement process. That integration is currently developed in an asynchronous modality: if the website is to revolve into a more transactional one, that connectivity must migrate to a synchronous scheme and one with system-to-system connectivity based on current standards (SOAP-XML).

(c) Analysis of connectivity and institutional arrangements

Paraguay is currently lagging behind other Latin American countries: of the 75 million Internet users in Latin America and the Caribbean, only 145,000 are in Paraguay. The growth rate in mobile telephony is low, which could signify a market development opportunity.

The Networked Readiness Index ranks Paraguay 76 among 82 countries assessed; among Latin American and Caribbean countries it ranks 18th.

The organisation of the informatics area is now in the process of structuring. The following graph shows its current structure.

		IT Coordinator		
Development	Operations	Assistance to external users/quality	Catalogue	Procurement/legal support
DB Adm.	OS and network adm.	Helpdesk		

The IT audit conducted in May of this year¹⁴ noted as an important element that the current IT organisation is not completely formalised and documented. Its organisation betrays a strong bias towards development and cataloguing, with little emphasis on operational areas, particularly since the evolution strategy proposed by DGCP favours internal development and maintains low levels of externalisation.

That audit also shows that the IT coordinator's office in the UCNT does not have a strategic systems plan setting out actions, objectives, and short and medium-term plans.

(d) Main recommendations

The main recommendations for developing the eGP system relate to the following areas:

(i) Strategic:

- Develop a strategic eGP plan that embraces the main areas of electronic procurement, and disseminate this to the main participants.
- Evaluate the transparency-versus-efficiency relationship, and consider the impact and cost of each, recognising that an excessively control-oriented model may make more automated procurement mechanisms unworkable.
- Assess the market and the potential impact of new procurement methods, such as framework agreements and reverse auctions.
- Establish a clear policy for PPPs to boost the market and improve relations with the private sector.
- Keep development of the procurement website within the UCNT, and at the same time seek partnerships with other services to strengthen its platform and operations.
- Link the reform of public procurement more closely to other initiatives for modernising the State.

(ii) Institutional:

- Reorganise the UCNT, in light of the new challenges that will arise, to include a structure for dealing with users (training, adoption and back office). This is essential if the organisation is to move to more advanced stages of electronic procurement.
- Strengthen the role of the UOCs, for which purpose of the UCNT will have to propose changes in some public agencies.

(iii) Website:

- Pursue the development of standards. Today, the UCNT can play a very important role in introducing a series of standards that could benefit Paraguay in different spheres including: the cataloguing of products and services, e-documents, and interoperability within the State.

¹⁴ IT audit performed by the consulting company, Clemotte & Peralta Aso, which used as evaluation methodologies COBIT, International Audit Standards, and ISO Standard 17799

- Document the current system. The current application is not documented and most of the know-how is in the hands of the application programmers, implying heavy dependencies and risks. The documentation should allow external [users] to join in future developments in a structured way.
- Define the application architecture that the website will need to have, regardless of whether the current system is compatible with that architecture. This frame of reference will provide a roadmap for the future.
- Conduct a market analysis before adopting the e-procurement procedure known as reverse auctions or framework agreements, with a view to defining a model that will not disadvantage suppliers, in particular SMEs.
- Examine the most recent international experiments with B2B-type authentication systems or government websites that permit adequate levels of security, non-repudiation and reliability of the information stored in the system.
- Modularise its components: as its complexity increases, platform management will become impracticable without a system of modules.
- Simplify the webpage, which today holds too much information. The UCNT is well aware of this issue and is working on it.
- Incorporate some software components that will improve operations, such as a content administrator (CMS) and files administrator (DMS), which can assist in day-to-day operation of a website with these characteristics.
- Separate the different environments, i.e. buyer, supplier, and general public. This will allow information to be segmented by environment, and new developments can be introduced without affecting all users.
- Incorporate a mechanism to enhance the security of the platform, such as SSL, using HTTPS protocol, at least in those areas that so require. It is essential to determine clearly which areas are to incorporate these functionalities, since this type of protocol increases the processing burden by 10% to 15%. In any case, it is a prerequisite in any transactional platform.
- Define and document at the website the policies for use of the platform, delimiting the user liabilities of buyers and suppliers as well as the liabilities of the UCNT.
- Develop a lighter environment from the viewpoint of data downloading, so that users with poor connectivity can access the website more readily.