

**SOCIALIST REPUBLIC OF VIET NAM
INTERNATIONAL LABOUR ORGANISATION**

**SMALL-SCALE CONTRACTING FOR
INFRASTRUCTURE
WORKS IN VIET NAM**

REPORT

**Prepared by: P.H. Bentall
Consultant**

**In collaboration with: Centre for Rural Development Planning
(CERPAD)
Ministry of Construction**

**Ha Noi
November 2001**

ACKNOWLEDGEMENTS

This consultancy took place between 20 October and 19 November with visits to Bangkok and Ha Noi followed by the report writing in the U.K. Whilst in Ha Noi visits were made to Provinces and Districts with meetings being held with local officials of the Ministry of Construction and others. Visits were also made to working sites following discussions with local contractors. The Consultant wishes to express his gratitude for the full and friendly cooperation of all those people met and interviewed and particularly the working relationship with the colleagues of the Centre for Rural Development Planning (CERPAD) who provided such valuable and essential assistance and without whom the mission would not have been possible. Those especially involved were,

Mr Dam Quang Tuan	Director
Mr Tran Nguyen Chinh	Vice-Director
Ms Nguyen Anh Thu	Rural Economist

Acknowledgement is also due to the Bangkok ASIST-AP colleagues and the Ha Noi ILO staff who also provided invaluable support both before and during the mission.

The views and the opinions expressed in the Report are those of the Consultant and they do not necessarily reflect the position or policy of the ILO.

INTERNATIONAL LABOUR ORGANISATION

Small-Scale Contracting for Infrastructure Works in Viet Nam

Contents

Acknowledgements	
List of Abbreviations	2
Executive Summary	4
1. Introduction	8
2. Rural Infrastructure Development Projects	11
3. Donor Procurement Policy	18
4. Contract Documents	20
5. Decent Work Practice	25
6. Legal Framework for the Construction Sector	26
7. Contracts Management Procedure	34
8. Contracting Environment	38
9. Overall Conclusions	44
10. Potential for ILO-ASIST Support	48
Annexes	52
1. Terms of Reference	
2. List of Persons Met	
3. Survey Questionnaire on Contracting (WSP)	
4. List of Discussion Papers - VACC Workshop	
5. Translation of Memorandum No 4 Chapter IV	
6. Translation of Decree 52 Classification of Investment Projects	
7. Translation of Simple Lumpsum Contract	
8. Form 4 & 5 RTP2 Operations Manual	
9. Flow Charts - Operations Manual RTP2	
10. Government Planning Process - Flow Charts	
11. Press Cuttings - Viet Nam News	

List of Abbreviations.....

ADB	Asian Development Bank
AFD	Agence Francais pour Developpement
AustAID	Australian Agency for International Development
CERPAD	Centre for Rural Development Planning
CPC	Commune Peoples Committee
Danida	Danish International Development Agency
DFID	Department for International Development
DPC	District Peoples Committee
FIDIC	International Federation of Consulting Engineers
GOV	Government of Viet Nam
HWRU	Hanoi Water Resources University
ICE	Institution of Civil Engineers (UK)
IFAD	International Fund for Agricultural Development
ILO	International Labour Organisation
IPRS	Interim Poverty Reduction Strategy
JICA	Japanese International Aid Agency
LDF	Local Development Fund
MARD	Ministry of Agriculture & Rural Development
MOC	Ministry of Construction
MOF	Ministry of Finance
MOLISA	Ministry of Labour, Invalids & Social Affairs
MOT	Ministry of Transport
MOU	Memorandum of Understanding
MPI	Ministry of Planning and Investment
MRDP	Mountains Rural Development Programme
NCB	National Competitive Bidding
NEC	New Engineering Contract (UK)
NIURP	National Institute for Urban & Rural Planning
NMPRP	Northern Mountains Poverty Reduction Project
PAD	Project Appraisal Document
PDOC	Provincial Department of Construction
PDOT	Provincial Department of Transport
PID	Project Implementation Division
PMU	Project Management Unit
PPC	Provincial Peoples Committee
PPMU	Provincial Project Management Unit

RDAC	Rural Development Assistance Center
RTP2	Rural Transport Project
RTU	Rural Transport Unit
SA	Special Account
SIDA	Swedish International Development Agency
SOE	State-Owned Enterprise
TA	Technical Assistance
TDSI	Transport Development Strategy Institute
UARD	University of Agriculture & Rural Development
UNCDF	United Nations Capital Development Fund
UNDP	United Nations Development Programme
VACC	Viet Nam Association of Construction Contractors
VAS	Vietnamese Accounting System
VND	Vietnamese Dong
WB	World Bank

Executive Summary

1. The Government of Vietnam is very concerned about the country's unemployment particularly in the rural areas where 80 percent of the population lives. GOV is looking for fresh opportunities to tackle the problem and the ILO employment generation activities that have been effective elsewhere can play a part.
2. The traditional State Owned Enterprises (SOE) are being reformed and there is a policy emphasis on the increasing use of the private sector in construction. Easing the rules relating to the registration of companies at Provincial level has rapidly increased the number of firms wishing to take advantage of the opportunities at the local level.
3. The administrative systems and procedures, well structured in the forms of laws, decrees and other regulations, are moving to a decentralised environment in an effort to streamline the whole planning and implementation process and to allow greater grassroots participation in decision making. The major emphasis of government policy is focussed on rural development.
4. The major funding agencies have increasingly supported this policy and their programmes (ongoing and proposed) total many hundreds of millions of dollars, much of which will be directed to small-scale infrastructure works.
5. ILO has previous involvement in workshop contributions on the potential for appropriate technology in construction works and this study looks at ways for increasing ILO assistance in this field, in its support of ongoing programmes and in new initiatives where appropriate.
6. A number of the funded programmes are described briefly and it is noted that the policy direction and the actual co-funding collaboration of the agencies appears much more developed than in many other countries.
7. Several of the programmes include a component for the encouragement and/or development of the small-scale contractors in some way, but most are short on the practical details. This is an area for a possible ILO initiative.

8. The traditional procurement situation, with its emphasis on the larger construction packages and the use of International Competitive Bidding, has been considerably modified with the World Bank taking a significant lead in simplifying the procurement process and the associated documentation.
9. There does exist within the construction industry a range of contract documents from the international FIDIC conditions down to a single page local lumpsum contract for a locally-based contractor in a District. The government regulations are flexible and several of the technical assistance inputs to the funded projects are looking at these issues.
10. Two areas of concern that were identified were the quality of the engineering designs and the works supervision where much reliance appears to be placed on the integrity of the contractors (which, on visual evidence at one site, was not misplaced).
11. One body which continues to discuss all these issues surrounding the construction industry is the Viet Nam Association of Construction Contractors (VACC) which within two years or so has become the largest such association in the country with members in 51 of the provinces.
12. The Labour Code, which was established with ILO assistance, covers all the necessary conditions for good working practice but it is not clear how this operates at the site level. The settlement of disputes appears to lack the independent procedure enshrined in most international contract conditions.
13. The legal framework for the construction sector is primarily covered by two Decrees: 52 and 88 and their associated amendments and supplementary regulations. The planning process is being covered in a parallel consultancy which also looks in details at the flow of funds for development projects.
14. The contracts management system within government operates through Project Management Units (PMU) which are established at all levels of administration. These are likely to have also a Project Implementation Division (PID), indicating a very structured arrangement for approvals, checking and eventually the flow of funds in

the payment process. Each Unit has clearly defined responsibilities, and the funding agencies (apart from AusAid) are working within this well established framework. Technical Assistance teams expect to assist the evolution of more streamlined procedures to ensure that projects are implemented with maximum efficiency.

15. Although professional staffing levels at provincial and district level are affected by the public sector retrenchment policy there are units within the ministries, such as the Institute for Urban and Rural Planning, the Centre for Rural Development Planning which appear to be well staffed and well equipped. In addition there are the academic institutes such as the Hanoi Water Resources University which has a special interest in rural development issues and graduate training.
16. The contracting environment sees the government policy of SOE reform and the rapid emergence of private companies following the relaxation of registration procedures. The Viet Nam Association of Construction Contractors (VACC) aims to encompass the full range of SOE and private companies. It continues discussions with government on the various Decrees and regulations governing construction with the aim of finding a more equitable balance between the concerns of the client and the contractors. Training plays a large part in VACC activities which include collaboration with the Asian Institute of Technology (AIT). One main concern for contractors, as elsewhere, is access to credit, but equipment is generally not seen as a problem.
17. The contract process is established in the Decrees which give the Ministry of Construction the obligation to publish unit costs for all items of construction, labour plant and materials to be used in the bidding process. Under these circumstances it is not clear that a fully competitive bidding system exists but it is a working system that contractors appear to accept. In a 2-step bidding process contractors need to gain 70% of the allocated marking for technical competence before proceeding to the financial assessment and eventual award.
18. As a national body the VACC is seen as a vehicle for moves towards the steady improvement of this contracting environment with the focus on the small-scale enterprises which all funded projects see as the focus for their rural development proposals.

19. The overall conclusions of the study indicate that
- there is huge potential in workload funded through government and the aid agencies
 - the numbers of private contractors are rapidly increasing
 - contractor development proposals are largely project-based
 - there is a need to take a national perspective on training particularly the smaller enterprises
 - the contracting environment should steadily improve with the project initiatives and the activities of bodies such as VACC
 - the management capacity to implement projects varies, and is weaker in the remote areas, but several professional Centres and Institutes have a pool of appropriate expertise. The constraints lie more in the bureaucratic process
 - contractors appear to accept the current situation without expressing areas of concern which ILO might attempt to address.
20. There are areas of potential ILO-ASIST support, summarised as
- continue to support ongoing projects as requested
 - liaise with new project proposals eg AusAid to assist in contractor development components
 - continue collaboration with Hanoi University of Water Resources
 - initiate a national strategy in consultation with government for small-scale contractor development, working with bodies like VACC and the provincial training departments
 - contribute as occasion arises to the pursuit of a more effective contracting environment
 - assist with other ILO initiatives with regard to the traditional concerns of the workers environment.
21. The good working relationship established with CERPAD should be developed to create a partnership for suitable future initiatives.



International Labour Organisation

**Small- Scale Contracting for
Infrastructure Works in Viet Nam**

1. Introduction

Considerable progress has been made in the 1990s in reducing poverty in Viet Nam. Current estimates (according to a World Bank background paper) suggest that the incidence of poverty has declined from more than half the population in 1992/93 to about one third in 1997/98. However, progress in poverty reduction has not been evenly spread between different groups in the population and in different part of the country. Of particular concern are the Northern Mountains Region, the Central Highlands and western parts of the North Central Coast and South Central Coast with poverty at its worst in the upland areas of these regions.

The effects of this situation were highlighted in a newspaper article in Viet Nam News (5:11:01) where it was stated that *"the jobless rate in both urban and rural areas has reached an alarming high despite Government action to create jobs and ease the pain if economic restructuring..... In rural areas where 80 percent of the total population lives there are more than 615 000 people without jobs-over 5 percent if the population. If the under-employed are included in these figures the number soars to 1.2 million."*

There have been shifts in the population as people seek fresh economic opportunities and *"Hanoi alone has received some 200.000 immigrants from neighbouring provinces"*. Another factor is that *"unemployment is rising as the tempo of reform at state-owned enterprises (SOE) accelerates. Ailing SOE are being reorganised or dissolved with an expected 30% of the SOE workforce, amounting to some 80.000" people losing their jobs.* The article concluded that *....job creation schemes will need to be rethought and reoriented in response to these changes"*.

In many other countries the ILO has been active in the field of employment generation, particularly in rural areas, through the development of small-scale labour-based contractors for infrastructure projects. This policy would seem to fit with that stated by the Government of Viet Nam for an increased involvement of the private sector and an emphasis on the use of labour-based technology to the extent possible. Traditionally the private sector was not much involved in the construction sector in Viet Nam, which accounts for the existing legacy of a very large number of SOE, established initially by Government Departments at both central and provincial level, to carry out a full range of building and civil works. Over the last few years this situation has been changing rapidly through the relaxation of the relevant business laws of the country and there is much evidence throughout Viet Nam of a newly thriving private sector.

Given that the administrative structure in the country is so well developed through the People Committees reaching down to Commune level Viet Nam has considerable advantages over many other developing countries where taking development to the grassroots level is so often hampered by the lack of formal, effective, administration.

A World Bank Study (Viet Nam: Fiscal Decentralisation and the Delivery Of Rural Services: An Economic Report 1996) concluded that although*"The Central Government continues to give high priority to development of rural services in poor areas, making substantial budget transfers from rich areas.....most capital development funds are spent at province and district levels and rarely reach the commune level"*. With the advantages of the structured administration can also come the in-built inertia of the various systems and procedures within the planning and implementation processes and the Bank saw the need for *"local administrations to be given more flexibility in determining the allocation of most public expenditure (including infrastructure)"*.

"Traditional communities, particularly villages, have been at the centre of local development efforts. They play a regular role in mobilising labour for development and relief; planning construction and maintenance of small-scale infrastructure works". The principles of labour-based technology have been well-established for centuries and there still remains the requirement of each citizen to provide 10 days of obligatory labour each year on work of benefit to their own local community.

In addressing this situation the Government pursues a decentralization policy through a series of laws, decrees and regulations including a new Budget Law to ensure that at provincial level there is greater awareness of the need to involve local communities in planning and implementation of development activities. The 1998 Directive on Grassroots Democracy (30-CT/TW) states that people at the community level should participate more actively in planning and decision making by,

- (a) being better informed about the law
- (b) participating in local decision making before final decisions are made and,
- (c) supervising, controlling and evaluating the operations and activities of their local authorities.

In these circumstance it is not surprising that all the major aid agencies are now focusing their development assistance not only at the poorest areas of the country but specifically at the lowest administrative levels for involvement in the planning, preparation and implementation of the rural projects. This naturally leads away from the few larger scale and value integrated programmes of the past, which were in theory more easy to control and monitor, to a very large number of grassroots small infrastructure works. One document even suggests that there may be up to 1000 separate small contracts to be awarded, which has its own repercussions on administration and financial management. Thus many programmes aim to assist in capacity and institutional development, within the existing Government structures, in parallel with the physical implementation of works. The key principle here being that capacity building is not a theoretical exercise, somehow acquired through courses, seminars and workshops but through the actual implementation of works and the day-to-day management of the systems and procedures which can be then modified and adapted as necessary. The aim is always to achieve the best process for the disbursement of funds to the areas of implementation to ensure the most rapid and efficient completion of the projects for the benefit of the local communities. The pressure to improve the systems thus comes from both above and below as people at all levels become more involved in their own decision making and take an active role in implementation through the devolved responsibility for project management.

ILO has built up a particular expertise through experience in many countries and was involved in 1997 in co-sponsoring with

the Hanoi Water Resources University (HWRU) a workshop on "Upgrading Training Capacity for Sustainable Rural Development in Viet Nam". Some 13 professional papers were presented which identified and attempted to address the needs of the rural areas of Viet Nam. They were all very practical in nature, making specific proposals in detail for achievement targets, construction standards, training for rural infrastructure engineers and collaboration between the academics and the field implementation. The Proceedings of the workshop give an indication of the existing capacity of expertise in this field, which is outside of the formal government structures.

HWRU has 300 staff and about 500 students (1997) and in the final Action Plan agreed at the workshop was the specific proposal to continue cooperation with the ILO in the field of rural infrastructure. It is the aim of the current study to investigate other areas for potential ILO assistance to this development while seeking to avoid either the duplication of previous work or creating an impression of competition with the activities of others already involved.

In parallel with this study another consultant was looking at "Integrating Local Resource-based Infrastructure Planning in Viet Nam" which is the essential activity before the implementation phase. To some extent the two studies have overlaps e.g. in the analysis of the flow of funding for rural development projects, and it is not the intention to repeat in detail the same material. Also the Terms of Reference include some areas, which are the particular concern and part of project activities of the Rural Transport Project 2 (RTP 2) for which DFID is a co-financing agency. There is therefore some reference to the ongoing inputs of the technical assistance consultants (WSP International) and some areas in which they will be doing more in-depth study than can be achieved in a short mission. This report is seen as, hopefully, complementary to these other activities.

2. Rural Infrastructure Development Projects.

2.1 Project Descriptions

A number of major donors are active in this sector with the large programmes being co-financed which has the advantage of closer collaboration between the donors and a definite move towards the adoption of common or compatible procedures, particularly in the areas of procurement. Since Viet Nam has a well documented and structured administrative system there is also a common desire amongst donors to work within these

systems with some necessary adjustments to accommodate their own regulations. The following summarises the on-going and immediate future programmes of the donors.

A: World Bank:

(i) First Rural Transport Project (RTP 1):

This project is coming to a close and the performance is assessed by the Bank as generally good with physical achievements and disbursements on budget. Of particular note were

- the quality of works was generally good
- the performance of the private contractors exceeded expectations
- one third of the contracts were won by private contractors (although at one stage this was around (50%))
- a computerised monitoring and evaluation system was developed

One of the major constraints experienced was stated as *"the many layers of review and approvals required by the central government slowed down project implementation and limited the capacity-building efforts provided to the provincial government to plan and implement the projects"*.

(ii) Second Rural Transport Project (RTP 2): Co-finance DFID and GOV.

The objectives of this project as stated in the Project Appraisal Document (PAD) are to,

- improve the access of rural communities in the project provinces to markets, off-farm economic opportunities and social services.
- develop central, provincial and local capacity to improve and sustain the level of service of the rural transport network
- foster the development of small-scale private contractors.

The total project value is \$US 145 million over a 5 year implementation period. The responsible government agency is the Ministry of Transport (MOT).

The Project is designed to

- build the capacity of the Provincial Departments of Transport (PDOT), district authorities and communes in planning, managing and implementing road rehabilitation and maintenance programmes.
- strengthen the capacity of the MOT.
- provide basic road access (provincial, district and commune) and introduce maintenance management systems
- improve the environment for domestic contractors by decentralising implementation and training contractors and PDOT staff.

A provision of \$US 129.2 million is made for the rehabilitation of roads and \$US 3.5 million for road maintenance, with \$US 0.6 million being allocated to the Contractors development. The IDA Credit Provinces are 36 and DFID Grant Provinces are 4 (in the PAD)-increased to 6.

DFID has an anticipated total of about 620 Kms of roads in districts, communes and villages estimating a cost of around \$ 13.300 per km.

The MOT implementation is carried out by the Project Management Unit 18 (PMU 18) assisted by technical assistance consultants (Louis Berger International), for the capacity building of the Provincial Project Management Units (PPMU).

In addition DFID is funding the technical assistance (WSP International) to the MOT Rural Transport Units which are responsible for road transport strategy, maintenance and the domestic contracting capacity building. MOT sets policy and strategy and defines standards, issues guidelines and establishes norms and procedures.

The emphasis of this component is very much on maintenance and development of a maintenance culture and strategy. It is the establishment of the Rural Transport Unit which is the key to this.

The PAD notes that the DFID experience with the Ha Tinh Poverty Alleviation Project has piloted the use of community-managed labour-based methods for civil works and it is intended to incorporate this in to RTP2 particularly in relation to maintenance in the communes and districts.

(iii) Northern Mountains Poverty Reduction Project (NMPRP):
co-financing by DFID and GOV.

The value of this project is around \$100 million for the beneficiaries population of around 1 million people. This forms part of the Government's Project 135 which targets the poorest communes in the country. The NMPRP covers 7 areas of development in 6 provinces and intends to shift the emphasis to employment creation on a paid basis under the GOV Interim Poverty Reduction Strategy (IPRS), rather than using the obligatory labour provision. In the past it has proved difficult to find contractors employing local labour, preferring to use their own itinerant labour force.

15% of the total fund goes to Community Development budgets under the management and control of the communes. Contractors may handle part of the works with commune sub-contracting on a labour-only basis, to build up a core set of commune skills for other local projects. Up to 30% of the total project funds has been allocated to road works, typically the rehabilitation of up to 5 km in length.

The implementation will be through the existing provincial and district administrations with the aim of trying to build on and improve the systems in place. The funding will be disbursed to the level of implementation. The capacity at the province and district levels will vary and there is an emphasis on the necessary capacity building.

The WB approval for this project was noted in the Viet Nam News on 27 October with the acknowledgement of the assistance of Japan and Denmark in the design stages.

B: SIDA
Mountain Rural Development Programme 1996-2001.

This project is about to finish and is the latest in the 20 year support that SIDA has given to this region, mainly in forestry, pulp factory and land resource management. This project has been a forerunner in many respects to the NMPRD mentioned above. Future commitments for SIDA are currently under discussion following the signing of a new country agreement. Amongst the considerations are

- co-financing with IFAD of a \$30 million mountains development project of which 40% would be allocated to rural infrastructure.

- a further phase of MRDP (but other agencies are already committed in that area)
- working with applied research in rural development, where "tried" systems have failed.

Other suggestions involving hydro schemes raise issues about environment and resettlement and mention was made of a joint working group in the Ministry of Agriculture and Rural Development (MARD) with about \$5-6 million per year investment in rural development.

The overall strategy will focus upon Decree 29 Grassroots Democracy

- support for decentralisation policy
- local empowerment at commune and village level
- funding and decision making to that level.

C: UNCDF

Rural Infrastructure Development Fund 1996-2001/2.

This Central Area Project worth \$11.0 million started with traditional roads and bridges construction and developed into a Local Development Fund (LDF) as UNCDF redefined its development policy. In 1998 Australian Aid (AusAid) and UNDP became co-financers. There remain about 300 items to complete before June 2002 with all operations now locally managed. There has been some difficulty in finding contractors to work in the mountain areas and projects were packaged to try to encourage them.

UNCDF is considering its future support since Viet Nam has moved out of the least developed country status which is the category which the Fund targets. UNCDF noted that the new Budget Law which aims to give decentralised financial empowerment has resulted in provinces enjoying increasing autonomy.

D: Asian Development Bank (ADB)

Rural Infrastructure Project 1998-2001: \$150 million co-financing from AFD and GOV with 10% beneficiaries contribution.

This project covers 23 provinces and lower income districts in the mountainous areas, Mekong delta and Central region. The focus is on roads; irrigation; water supply and markets with the participation of local labour and a concern for gender issues, and ethnic minorities. The beneficiaries contribution,

assessed at 10% may sometimes be forthcoming after the implementation as the benefits materialise.

With the over-arching goal of poverty reduction the concentration was on smaller infrastructure projects for livelihood improvement. Initially most contracting was with the SOE but ADB is working with the WB on SOE reform and the introduction of new enterprises into the construction market.

A second project is currently under negotiation (with signing scheduled imminently) for around \$43 million (ADB loan) and \$ 16.5 million (DFID grant) for technical assistance targeting development at the commune level rather than the province which was the focus of the first project.

The new project should have a component for training private sector contractors including technical, social and gender issues but further discussions with GOV are needed to develop these ideas. Competitive bidding which is fair to both SOE and the private sector is seen as an important issue.

E: Australian Aid (AusAid)

As a co-founder of the UNCDF rural infrastructure project the agency contributed 2 million Australian dollars to one District where the works were contracted out to local contractors. The results were not totally satisfactory with the bidding under-priced (problems already noted elsewhere) and the works of generally poor quality as a result. Disbursement was through the government system.

For the new 30 million Australian dollar project about to start the agency will use its normal procedure with the works managed by an Australian contractor using local firms as the sub-contractors. Disbursement will be direct to the managing contractor. The project provides for a Rural Infrastructure Adviser and attention will be paid to the packaging of contracts to encourage the developing contractors and could include some specific contractor development component. The project is currently in the design stage (4 to 5 months).

F: Danida

The Agency is operating in the areas of urban and rural water supplies; agriculture, fisheries and the environment. There is also a separate private sector partnership programme. Also in the country some Danish engineering consultancies are working on the aided and other projects. Danida has assisted the GOV

and the MOC and MARD in developing the National Rural Clean Water Supply and Sanitation Strategy to the year 2020, which was officially adopted by Decision 104 of August 2000. This comprehensive document sets out the existing situation, details the main strategic solutions and proposes an Action Plan for the initial 5 years, starting in 15 pilot provinces. This particularly includes the needs for the training of staff and for the upgrading of the capacity and skills of private and state owned enterprises to meet the demands of service provision and the construction of water supply and Sanitation facilities. The emphasis will naturally be on a very large number of small-scale construction projects for which locally based contractors using community labour will be required. The average annual expenditure over the 20 year period is estimated at 1786 billion VND (1998 prices) - around USD 120 million per year. In connection with the programme the Viet Nam Water-Supply and Sewerage Association was established in July 2001, on similar lines to the VACC, with which Danida is cooperating. Danida sees a great need to support and encourage the private sector in this area of development and identified the constraints in the existing contracting procedures (already noted elsewhere).

2.2 Conclusions

There are a number of general conclusions that may be drawn from this brief analysis of on-going and forthcoming development investments being made by the major funding agencies.

- there is a real shift away from major, centrally managed integrated development projects
- there is a large amount of collaboration and co-financing of projects (which is where DFID is primarily involved)
- this leads to a greater consensus of approach and the use of similar systems and procedures
- there is total support for the decentralisation of planning, decision making; grassroots implementation; local empowerment and small-scale widespread project components
- social, gender, environment, employment and local capacity building issues are emphasised
- the use of the private sector and more labour-based construction are specific components in most projects
- the shift from SOE towards a developing private sector is positively supported

- the opportunities for extensive involvement of small scale contractors across a whole range of rural development activities is clear.
- major constraints have been highlighted in most projects as
 - the bureaucracy of the well structured system in the whole project process;
 - the need to ensure decentralised financial management to ensure the most rapid disbursement of funds
 - the institutional and management capacity at the various levels of public and private sectors.

These issues are all, in one way or another, incorporated in the projects with perhaps the major emphasis being on the capacity and management within the government authorities at the various levels. However attention is also given to matters of technical standards of construction; supervision of works; monitoring and auditing which are all issues to be considered within any proposals for contractor development programmes. What is not in dispute is the need for a vibrant and viable private sector to meet the construction demands of the development programmes over the next 5 to 10 years.

Also several of these projects include a component, even if not spelled out in much detail, about the encouragement and/ or the development of private contractors for the implementation of the works. The remark was made that in Viet Nam "contracting is a way of life" and there is unlikely to be a shortage of suitable candidates if the contracting environment is conducive.

It is Government policy to phase out the SOE and new statements appeared in the Viet Nam News (23 October) under the heading "State Enterprise reform reaches new turning-point", where it was said that *"Government has opened a new chapter in SOE reform programme allowing them to transform themselves into sole proprietary limited liability companies the new structures will clarify the company ownership status and will anchor salaries, bonuses and penalties to business performance and efficiency.....making it harder for SOE covertly to rely on State subsidies, and also heighten their sense of financial responsibility"*. In terms of number the SOE declined from more than 12300 in 1991 to 5655 in 2000, when the SOE contribution to the GDP was 39%. Such moves would be expected to encourage further the emergence of strong and viable private sector enterprises as the competitive field becomes mere level.

3. Donor Procurement Policy

In the past one major constraint to the establishment of a uniform contracting procurement policy has been an insistence by donors on their own, often rigid systems and procedures which are part of their internal operating requirements.

Also projects were often consisting of major packages of construction mainly suitable for the investment of foreign contractors under International Bidding rules. This was particularly evident in African countries (e.g. Integrated Roads Project in Tanzania) and was due mainly to the absence of a viable local construction industry, and the often chronic state of the national road networks. This situation does not pertain in Viet Nam where there is a marked absence of foreign companies for all but the most major projects, and constructing capacity (largely SOE) exists at all levels.

It is clear than even on the large value aid-projects such as the World Bank the intention is to use the National Competitive Bidding (NCB) process with work packages being formed in appropriate sizes to allow local companies to compete.

Also, not all works will be subject to strict competitive bidding with those under \$50,000 using the standard "shopping" process requiring only three quotations, often on a lump sum basis. The ADB is expected to adopt the same procedure as the WB, which in effect, conforms closely with a few amendments to the GOV regulations.

Other, smaller, investments which aim at the lower administrative levels of commune and even, if permissible, villages will simply follow the existing government system with an eye only to adjusting the size of packages if it is found that contractors need some encouragement to operate in the remoter areas.

Qualification criteria are built into the NCB process and one possible modification may be needed to allow recently established companies without the current 3 years activities, to be allowed to compete for some of the works. On several projects locally-based SOE are precluded from bidding in their own areas in order to create a fairer balance between them and the private sector companies.

The Japanese (JICA) Bridges Project has a 50% allocation to the traditional approach of Japanese consultants, contractors and materials with the remaining 50% open to local investment, using Japanese materials only.

The conclusion is that all agencies are showing a more flexible approach than has often be the case in the past and there is policy of working within the existing government systems and procedures with an intention of assisting in their stream - lining in order expedite implementation.

In addition to the current situation and to indicate its shift from major construction works programme to projects based on decentralisation and participatory policies for rural development, the World Bank has developed new "Guidelines for Simplified Procurement and Disbursement for Community-based Investments". There is a tacit acknowledgement that*"with experience, it has become evident that the World Bank procurement and disbursement procedures and processes, as defined in various manuals and guidelines, are not usually appropriate for these new types of investments, which contain hundreds and sometimes thousands of community-level subprojects. The Bank's procurement and disbursement procedures were originally prepared for large investment projects andthey still appear cumbersome to allow effective and speedy implementation of numerous small localised programmes by a new type of actors"*.

With this new approach the environment should be much easier for the development of the smaller-scale contractors within the rural development fields.

4. Contract Documents

4.1 General

The Ministry of Construction produces a number of standard documents for bidding and construction works. Those for building comprise several volumes and some have been in existence for over 10 years. The World Bank is working with the Ministry on the contract procedure since it is acknowledged that works may become delayed in the current planning and construction procurement process, which until recently has been largely centralised.

The regulations of Investment and Construction Management are in Decree 52-1999 and the Regulations on Bidding are in Decree 88-1999 but within these documents there is no obligation to use a particular form of contract. FIDIC is cited as a good model but not specifically the latest edition (1999) or the Short Form for Minor Works (1998). It has often been the case that donor agencies have used their own documents for aided

projects and thus there has been a wide variety of documents in circulation in recent years.

The Ministry has also produced very much simplified documentation to be used at district level in conjunction with the decentralisation policy. Both this study and the RPT2 consultants have obtained examples of these and contractors interviewed seemed quite familiar with them. These take the form more akin to a Memorandum of Understanding (MOU).

For the World Bank projects (with other donors possibly following the lead) the procurement of Works-Smaller Contracts first introduced in 1995 (which suggested that contracts up to \$10 million were envisaged) has been modified in the Operations Manual for RPT2. Although many of the standard forms (e.g. Tender, Bid Security; Bank Guarantee etc.) remain the same there is a considerable simplification in the Conditions of Contract. From the 63 clauses of the "Red Book" the "Form of Agreement and Conditions of Contract" has been reduced to 28 which brings it very much in line with other internationally recognised short forms such as FIDIC; ICE or NEC. (both the latter being United Kingdom forms).

Further to that, the proposed format in the Guidelines for Simplified Procedures and Disbursements for Community-based Investments (mentioned above) contains only 10 clauses, each without sub-clauses, making it a very simple and understandable document.

Regulations and relevant manuals state the range of contract values for which the various document forms are appropriate and the conclusion supports that of the WSP study that *"existing regulations are not creating any restraint on the development of private contractors..."*

The Government regulations referred to are subject to regular amendment, a recent one of which allows for the direct appointment of a contractor for works of value less than one billion VND (around \$66,000). One example of such a contract was seen at District level where the District Peoples Committee (DPC) under the conditions of Decree 52 awarded the contract at a non-negotiated fixed price. The contract document was simply on two sides of a single sheet, (see annex)

Further down the scale the *"RTP1 developed and used a form of contract for routine maintenance work valued at less than \$ 10,000.... for letting work to private contractors through the PPMU"* (WSP report).

4.2 Analysis of Documentation.

In the competitive bidding context the documentation generally follows the traditional pattern including

- Invitation to bid (e.g. Media advertisement)
- Instructions to Bidders (including qualification criteria)
- Standard Form of Bid
- Letter of Acceptance
- Form of Agreement and Conditions of Contract
- Bill of Quantities (with preamble)
- Certificate of Site visit
- Security for Bid
- Performance Bank Guarantee
- Advance Payment Guarantee

The basic variations between the documents are small but a general comment might be that the contractors rights are not accorded the inclusion that is beginning to be seen elsewhere. Traditionally the contractor has always been expected to take the risks and there are no provisions for example about Employer's risks or Default by the Employer. Liquidated Damages may be more often described as Penalties. Also Extensions of Time; Claims for Additional Payments and settlement of Disputes are not always fully covered.

However, the situation is largely a great improvement on that elsewhere where full FIDIC conditions are often applied to all contracts however simple, low value and relatively risk free they may be.

The climate does appear to be one of regular amendment and update, with the RTP2 having the responsibility to review the operational procedures in the light of implementation experience. Recommendations for modifications to the current procedures need to evolve over time and several different parties need to be involved. One omission in the terms of reference for the various projects in this regard would appear to be any mention of the contracting organizations themselves being involved.

As is common in many countries indications given in discussions are of variations between the theoretical conditions and their practical implementation as works proceed and are completed. Although small contractors do talk of projects for private

clients their major source of work remains with government and there is a natural reluctance to damage a good working relationship, particular in circumstance where contracts are the subject of direct award.

4.3 Quality of documents

Two areas that were highlighted during the study in this regard were technical design standards and supervision. It was noted in a World Bank Review Mission report that some roads were being constructed without any provision for essential drainage works which is a key issue given the climate of Viet Nam.

Another technical issue is one of appropriate pavement design and construction for road-works and in particular rural roads. The traditional penetration macadam is widely used and observation of one small contractor in a mountainous district indicated an excellent quality of work with, incidentally, no site supervision by the client in evidence. However this method involves the use of very large quantities of bitumen compared to other options. These are issues being actively considered in the ongoing projects and they may lead to modified designs and new specifications. Introduction of new techniques may require an associated programme for the retraining of contractors including, for example, the inclusion of a higher level of site supervision as any new techniques are implemented.

Site supervision and quality control are always problematic in the remote areas for small-scale works when the client's resources may be stretched. Considerable reliance may be placed on the skill and integrity of the contractor (not misplaced in the one example visited). This aspect may not be specifically improved through amendment of the contract documents but the issue of a technical specification written for the particular works (eg. use of local materials) and specific requirements about quality control might be modifications to consider.

Certainly there is no perceived need to recommend the introduction of international forms of contract documentation such as FIDIC; NCE (UK) as such since the principle of using shorter and appropriate forms appears to be well established in the existing system and these will be further developed as the ongoing and proposed projects are implemented.

4.4 Compatibility and Standardisation of Documents

In this connection the approach of the World Bank is of significance. In line with the policy of working within

government systems and procedures the PAD for the Rural Transport Project 2 noted that the Decree 88 was in line with World Bank Procurement Guidelines in most respects. The only differences were in the areas of

- scope and areas of application
- advertising
- selecting mode for bidders
- eligibility
- bidding and bid evaluation
- bank guarantees

The Bank's proposed amendments to Decree 88 were accepted and incorporated into the Operations Manual.

The other specific requirements considered the procedure for the range of contract values eg.

- Contracts up to \$50.000, lump-sum fixed price or unit-cost price contracts to be in accordance with simplified procedures similar to "shopping"
- contracts up to \$300.000 to be under National Competitive Bidding (NCB).

Such requirements may vary slightly, in terms of contract value, between agencies but the principle of this approach seems generally accepted.

With many major projects being co-financed this coordinated approach becomes much clearer and if the implementation experience is consistently fed back into the process the standard of project design and documentation can only improve over time.

4.5 Other Initiatives-VACC

The various government Decrees and their explanatory Regulations remain under review and one body which has an on-going dialogue with government in the field of construction regulations is the Viet Nam Association of Construction Contractors (VACC). This organization is described in more detail in a later section but it sees one of its key roles in this area of construction procurement and contract documentation.

Reference has already been made to the situation with SOEs and the private sector and to the impression that contract procedures still largely favour the client. VACC, which in two

years of existence, has become the largest such Association in the country is working towards levelling the playing field for contractors and its views would be important in any proposals to modify or amend the current procedures in response to the experience gained on the various projects.

5. Decent Work Practice

The original Labour Code in Viet Nam is dated 1995. There are 17 chapters as follows,

General Provision	Occupational Health and Safety
Employment	Special Provisions for Female Workers
Vocational Training	Special Provisions for Young People and other Categories
Labour Contract	Social Security
Collective Labour Agreement	Trade Unions
Wages	Labour Dispute Settlement
Time of Work-Time of Rest	Labour Administration
Labour Discipline	State Labour Inspection Implementation Provisions.

Amongst the provisions within these chapters of particular concern for working conditions on small-scale labour-based contracts are,

- female equality: non-discrimination and encouragement for advancement
- no young person less than 15 years: with maximum working hours 7 per day and 42 per week
- conditions for older workers: men above 60 women above 55
- labour contracts may be
 - a) indefinite term
 - b) definite term (revised to more than 1 year)
 - c) seasonal work on specific task-less than 12 months
- trial periods not greater than 30 days
- minimum wage to be laid down by the State
- employer has the right to select the method of payment (time based: piece-work: by-the-job)
- allowances, bonuses, incentives are allowable

- working hours 8 per day: 42 per week: annual leave with full pay after one year employed.

The revised Social Security provision states that workers who have contracts of less than 3 months will have social security payments included in the salaries so that they can join voluntary social security or insurance schemes or find other solutions. If such a contract expires and the worker continues then the compulsory scheme applies for which the worker's contribution is 6%.

For the Settlement of Disputes there is a Labour Conciliation Council which may be followed by resort to the Peoples Court failing a satisfactory resolution.

Contract documents make specific mention of the requirement for the contractors to abide by all the provisions of the laws and regulations in force and those interviewed at the lower levels of administration were well aware of these provisions. However, no assessment could be made in the context of the study on how far the implementation complies at the practical site level. The only partial evidence was one discussion with a working contractor who explained the task work system being operated on his site, and the view of others that in order to try to make a profit in the difficult contracting climate the contractor would need to look for the cheapest source of labour available. As an alternative to paying less he would need to increase productivity in order to recruit fewer labourers and so reduce costs. It needs to be remembered that the contractor is somewhat constrained in his bidding by the fixed unit costs on which he is obliged to base his bidding calculations (more fully explained in a later section).

It was also noted in several project documents that there is an emphasis given to social and environmental issues and some technical assistance teams include professionals to assist in these related activities.

Copies of the ILO guide: Employment-Intensive Infrastructure Programmes-Labour Policies and Practices were evident in several offices.

The government agency responsible for these matters is the Ministry of Labour, Invalids and Social Affairs (MOLISA)

6. Legal Framework for the Construction Sector.

6.1 General

The two Decrees which are most relevant to the construction sector are,

i) No 52-1999-ND-CP-Decree on Management of Investment and Construction

ii) No 88-1999-ND-CP- Decree on Tendering

Both are issued pursuant to the law on the Organization of the Government dated 30 September 1992 at the proposal of

i) the Minister of Construction: the Minister of Finance and the Minister of Planning and Investment

ii) the Minister of Planning and Investment: the Minister of Construction and the Minister of Trade

Decrees contain the practical rules and regulations for enacting the basic law and can be regularly supplemented by other documents such as Memoranda where further explanation and guidance is required.

Similar Decrees covering the Planning Process and Budget Law are being reviewed in detail in the parallel study.

In the various discussions held at the different levels of government administration these Decrees were constantly referred to as being the guidelines for the systems and procedures, and with the major emphasis taking place on decentralisation, greater devolution of budgetary control and the privatisation of SOE, the importance of such guidelines is clear. To indicate that this remains a lively process the issue of the above Decree 52 replaces similarly titled Decree 42 of 1996 and 92 of 1997, and 88 replaces and 93 of 1996 and 1997 respectively.

6.2 Decree 52 -Management of Investment and Construction

After issue in July 1999 this Decree already had one published amendment (Decree 12-2000) in May 2000. The stated aims of the Decree are

i) To encourage investment in production and trading by all economic sectors in accordance with the strategy and planning for national social and economic development in each period in order to transform the structure of the economy in the direction of industrialisation and modernisation; accelerate

economic growth and improve the material and spiritual lives of the people.

ii) To utilise more effectively invested capital sources controlled by the State and to prevent embezzlement and waste.

iii) To ensure construction in accordance with the plans for construction and architectural designs, which satisfy durability and aesthetic requirements and protect the ecological environment; to create fair competition in construction in order to introduce advanced technology, to ensure quality of, and time-limits for, construction at a reasonable cost with all works being warranted.

The Decree contains eight Chapters incorporating 70 Articles,

(i) Chapter I- General Provisions

In Article 7 is set out the responsibilities for management of investment and construction between the Ministries of Planning and Investment (MPI): Construction (MOC) and Finance (MOF). In brief

- MPI is responsible for regulations; laws, licences; 1 and 5 year plans; guidelines for Tendering (Decree 88)
- MOC is responsible for state administration of construction; standards, norms, rules and regulations; design evaluations; guidelines for operation of construction enterprises; coordination with other Ministries.
- MOF is responsible for the organisation and allocation for funds; state guarantees; audits; guidelines.

In addition line Ministries exercise functions which are accorded to them and Peoples Provincial Committees (PPC) exercises state administration in their legally established localities.

The succeeding Articles deal with the management of,

- Planning Projects
- Capital for planning
- State Budget funding
- Credit facilities
- SOE investments
- Other capital sources

Article 10 for example sets out the criteria and responsibility at central, provincial, district and commune levels specifying

the type of projects (eg. Canals, ditches, rural roads, schools, health clinics, cultural works) which are included.

Article 17 describes the investment planning process at all levels with MPI having the overall responsibility to consolidate investment of all economic sectors.

(ii) Chapter II covers Investment Participation with a defined division of projects into Group A:B:or C depending upon importance (nationally) and, to some extent, value. Details are given of feasibility studies and subsequent evaluations.

(iii) Chapter III covers Investment Implementation setting out a ten stage process to completion, which includes detailed requirements on technical design, evaluation, supervision of quality and personal responsibility. It covers contracts for consultancy, procurement of equipment, and construction and installation.

It also refers to the responsibilities of the MOC and Ministry of Justice in the area of contractual disputes (breakdown) and arbitration.

Article 49-Payments of Invested Capital gives specific detail about matters of Advance of capital and Recovery of advance-clauses which would be translated directly into contracts. It acknowledges that in the case of foreign capital special provisions may apply.

(iv) Chapter IV-Completion of Construction and Project Commissioning sets out a 6 stage process from acceptance and delivery through to approval of the balance sheet, and includes details of the warranty periods for the different classes of project, again with the provision that foreign capital may have different conditions.

(v) Chapter V- Forms of Project Management and Implementation, covers three categories

- direct project management and implementation by the investor
- project management by a project manager
- turn- key form

and it emphasises that for all categories it is a requirement to have professional, competent project management. There is a limited allowance for self-implementation where capital is raised by an organisation or an individual.

(vi) Chapter VI- Construction Costs

This has three Articles covering preparation for estimates; control of costs and estimated budgets with a requirement for the MOC to control construction costs. The (provincial) Department of Construction... *"shall prepare a set of construction unit prices in their respective localities for submission to the provincial peoples committees for promulgation and application to construction works of the State or State owned enterprises in the respective provinces and cities"*. (It is these unit-costs which the contractors are obliged to use in the bidding process)

(vii) Chapter VII- Inspection and Examination and Dealing with Breaches states that all construction activities are subject to inspection and criminal procedures may be instigated against those failing to comply with the regulations.

(viii) Chapter VIII- Implementation Provisions gives the responsibility for implementation to the specific Ministries.

The appendix gives, in tabular form, the Classification of Investment Projects under Group A:B and C. This table is reproduced in an annex to this report

6.3 Decree 88-Tendering

This Decree forms the basis for the implementation of projects such as RPT2 for which the World Bank has annexed some classifications where it differs from the WB procurement guidelines.

The stated objectives, basis, and process of tendering are,

- the objective of tendering is to apply objectivity, fairness and competitiveness in the tendering process for the purpose of selecting suitable tenderers and ensuring the economic efficiency of projects.
- tendering shall be carried out on the basis of the tender packages.
- the process of tendering comprises tender preparation; tender organisation; tender consideration, evaluation and approval; negotiations for finalisation and signing of contracts.

(i) Chapter 1- General Provisions

This defines the scope and interpretation of terms, which includes the definition of

- small-scale tender package means a tender package of under 2 billion VND (\$130.000) for procurement of goods or construction and installation.

It identifies the Forms of selecting tenderers (Article 4) as

- open tendering
- limited tendering (not less than 5 invited tenderers)
- appointment of tenderer
- competitive offers (less than 2 billion VND: at least 3 offers)
- direct procurement (supplementary to an existing contract)
- self management
- special procurement

The methods of tendering are (Article 5)

- single envelope tendering
- dual envelope tendering
- two phase tendering

These provisions include in detail the tendering process and requirements that will normally be included in the contract document under Instructions to Tenderers and give set time-scales for the various steps in the process.

(ii) Chapter II-Tendering for Selection of Consultants

(iii) Chapter III-Tendering for Procurement of Goods

These are similarly detailed in describing the steps in the tender process

(iv) Chapter IV-Tendering for Construction and Installation

This chapter itemises 9 steps in the process from the pre-qualification of tenderers (if required) through to the submission of the contents of the contract for approval and the signing of the contract. Pre-qualification is required for packages exceeding 200 billion VND

The Articles clearly define what shall comprise the invitation, the instructions, the tender content and its assessment. The assessment first considers the responsiveness to the instruction requirements and then carries out a two step process.

- Step 1: assessment of technical aspects in order to select a shortlist
Tenders are assessed according to the stated criteria and those tenderers achieving 70% or more of the total technical scores shall be short-listed.
- Step 2: assessment of the financial and commercial aspects.
This includes error rectification and discrepancy adjustment to obtain the assessment prices of the tenders after which an award is proposed.

(v) Chapter V- Tendering in Respect of Small-scale Tender Packages.

This process is limited to locally-based enterprises (unless these are less than 3 available), and includes the single envelope system only. The process consists of four stages as basically as simplified form of that of the previous chapter. It specially states that the documents shall be simple and clear.

(vi) Chapter VI-Tendering for Selection of Partners for Implementation

This is for particular application

(vii) Chapter VII-State Administration of Tendering

This identifies the Ministry of Planning and Investment as the focal body to assist the Government in the administration of tendering. Other Ministries assume state administration within the scope of their responsibilities as do Chairmen of Peoples Committees at all levels down to wards and communes.

The Articles then clearly define the

- functions of the state administration of tendering (Art. 50)
- responsibilities of the authorised person or competent authority (Art. 51)
- delegation of responsibility for tendering(Group A: Band C Projects)
- delegation of authority for approval and evaluation of tendering results (this is detailed in tabular form).

Others deal with time limits for tender assessment, problems; and confidentiality

(viii) Chapter VIII: Inspection of Tendering

This includes inspection and dealing with breaches

(ix) Chapter IX: Implementing Provisions

This identifies the responsibility of the MPI to coordinate with MOF: Ministry of Trade and MOC in providing guidelines for implementation.

These two Decrees, with their amendments provide the basic legal framework for public works contracting and these are supplemented by various clarification documents in a continuing review and amending process.

One such supplement is Memorandum No 4 to the Decree on Tendering which in Chapter IV for example defines under 5 items the procedure for the Assessment of a Tender for small-scale bids. The objective is to conduct an assessment to ensure quickness, accuracy and fairness.

Item I Principles for assessment

- indicate OK or not OK against the technical qualification requirements
- determine the prices for comparison

Item II Preliminary assessment

- examine tender for compatibility with administrative and legal requirements of the bid invitation

Item III Detailed technical assessment

- assess the technical solutions in the bid and implementation time in order to make a short-list

Item IV Defining prices for tender comparisons

- this includes error correction and readjustment.
- lowest assessed bid will be classified first option.

There is then an example given in the annex using actual figures. A full translation of this document is given in the annex to this report.

The issues of arbitration and settlement of disputes are written into the contract documents without a specific reference to the legal regulations promulgated through the Ministry of Justice and no reference was found to an independent Arbitration procedure, it appears that final resolution through the Peoples Courts.

As started above the inclusion in the contract documents for workers and third party protection is covered by the Labour Code which again is under regular review and in which the ILO has a particular interest.

7. Contracts Management Procedure

7.1 General

The responsibility levels for project management have been described above under the relevant Decrees and it is also clear that the donor agencies intend to operate at different levels of authority. Implicit in this is the intended flow of funds since for effective management to be decentralised, as is the objective, decentralisation of the disbursement process is an equal necessity. It is in support of this that almost all projects include the capacity-building component and it is only AusAID, of those donors contacted that intends, in line with its universal policy, to disburse funds itself in contrast to using the government administrative structures. These structures are well defined and it is therefore easy for the donors to decide the appropriate level of operation for their particular investment intervention. This is unlike other countries, such as Cambodia where project management organisations have been established outside the government structures.

7.2 Central Level to Provincial Level.

Within each Ministry contract management is carried out by a Project Management Unit (PMU) which is likely to have a Project Implementation Division (PID). The PID has the overall management responsibility for the project on a day-to-day basis and administers and coordinates the implementation activities.

The responsibilities for the central PID are under the headings of,

- (a) General Coordination-which mainly involves

planning and budgeting based on provincial data in order to finalise annual plans for Government approval

- (b) Project Management-which consists of the monitoring and evaluation system; reporting; and policy and guidelines recommendations
- (c) Financial Management and Accounting-which includes preparation and submission of payment applications to the State Treasury where the funds have not be decentralised to provincial level.
- (d) Training-of its own and provincial staff

The functions of the Provincial Project Management Units (PPMU) are similarly,

- (a) Planning-the detailed annual work programme for submission to PID
- (b) Operations-which includes the engineering designs, definition of bidding packages, preparation of bidding documents and conduct of the tender process; followed by works supervision
- (b) Management-providing data for the monitoring and evaluation process

Organisation charts for the World Bank RTP2 are show in the annex as examples of project management structures.

In conjunction with this is the Financial Management structure and this should be in accordance with the Vietnamese Accounting Systems (VAS) which controls the financial management at the various levels of government organisation. This was established by the Decision of the Minister of Finance in November 1996. The main concern is with the flow of funds (which is a main component of the other consultancy) which follows the procedure set out in Decision 1860A/1998/QD-BTC and the Inter-Ministerial and further procedures included in Circular 81/1998 and Cicular 06/1998.

Where foreign funds are involved, as for the WB RTP2 the final disbursement to contractors will be from two sources, the Special Account and the State account at the provincial level. Copies of the flow charts are included in the annex.

7.3 Project Management at Lower Levels

For a project, such as the Northern Mountains Poverty Reduction Project (NMPRP), which targets infrastructure at the lowest levels, the management structure and decision responsibility is devolved to the lower levels. For NMPRP the project

coordination is the responsibility of MPI through a central PMU in the Department of Agriculture and Rural Development. Project Provinces and Districts then establish their own PMU which take the lead responsibility for planning and implementing those subprojects which occur above the Commune level. The responsibility for the smallest subproject components, in terms of planning, prioritisation and works, rests with the Commune Peoples Committees (CPC). In the initial stages capacity at that level is likely to vary and such projects include a competent for specific capacity-building at the level. As noted previously 15% of the funding for this project goes to the Commune Development Budget, to be disbursed at that level. The Asian Development Bank similarly expects disbursement to be at Commune level in its forthcoming project on the same lines.

7.4 Strengths and Weaknesses

The main strength of the project management system is its established structure at all levels as each organisation is mirrored at the level below.

The associated weakness is that such structured organisations may become very bureaucratic with a whole coordinated system of submissions and approvals, checks and balances. Such structures can also only function effectively if all responsibility including the vital financial component is properly devolved to the appropriate level. If, for example, Communes have no planning decision making powers then it is of no use making proposals in the knowledge that the decisions are made at district level and handed down.

Also capacity will vary greatly between the different administrative levels and between the different provinces and districts. It is clearly admitted that the poorer, remoter areas suffer in this respect and hence project management skills will be lacking, with implementation being subject to frustration and delay. In addition, the creation of the many and various PMU for the stream of aided projects implies a pressure on staffing and the availability of competent people to take on the responsibilities. At the same time the Government has a public sector retrenchment policy which must tend to exacerbate the situation.

However the major problem identified with regard to project management was in the technical inputs for design and supervision. The WB Review noted the absence of drainage provision for roads being constructed under RTP2 and the same was observed on one site visit in this study. Excellent work on

the pavement may be undone without attention to the drainage; and the need to examine more cost-effective pavement alternatives has also been noted previously.

The question of site supervision by the project management organisation was also raised on many occasions and the problem appears to be widespread. Since no payment certificate can be agreed without quality contract approval the contract testing tends to take place after construction completion (akin to the French system) rather than the monitoring of works as they proceed which is the more generally favoured practice. This is an area which most projects will be particularly addressing in their capacity building activities.

7.5 Provincial and District Departments.

During field visits to Provinces and Districts the organisational structures of the Provincial Departments of Construction (PDOC) and Districts were discussed.

In one small province the PDOC had a headquarters staff (professional) of 30 divided between 6 sectors, headed by a Director and 2 Vice-Directors

- Human Resource Department
- Administration
- Financial
- Urban Planning and Land Use
- Technical Control
- Legal Affairs

There were currently about 6 vacancies and under the government retrenchment policy they are unlikely to be filled.

Under the PDOC these are 8 branches, each a State-Owned Enterprise (SOE), totalling around 1200 staff. These include design consultants: contractors and materials supplies. There is also a responsibility for Training for the development of the private sector.

The District organisation is under the Chairman of the District Peoples Committee, who in this case was also head of PMU 747 responsible for that government rural development project. His staff was involved only in administration and management and all technical services required at that level were hired. This would include consulting services for design and supervision incorporating quality control.

A second PDOC had a very similar organisation, a Director, 2 Vice-Directors and 5 technical sections, 33 head office staff (6 vacancies) and 1800 in SOE.

Projects are managed by PMU at provincial and district level.

Those officials interviewed were very experienced professionals one having been in the same province for 20 years. There is no shortage of capacity and experience at the top levels and a brief inspection of office facilities revealed the younger professional staff mostly working on computers.

Some other offices visited e.g. the Institute of Urban and Rural Planning in Hanoi had up-to-date satellite imagery processing equipment for use on its own planning work and for other agencies.

8. Contracting Environment

8.1 General Situation

There are a number of initiatives taking place with a view to addressing the current contracting environment in Vietnam. The overall picture is one of a well established large contracting sector composed mainly of the State-owned Enterprises (SOE) which have been the main vehicles for development in all sectors of the economy. Some of these SOE would have annual turnovers in excess of \$300 million whilst others are found at Provincial level as transport, building and materials supply companies. The presence of foreign construction companies has reduced to an involvement in only the largest of national projects.

However the performance of the SOE has given much cause for concern, based on their subsidised status rather than free economic market conditions and the government is pursuing a reform policy following the revision of the laws regulating private enterprise in the early 1990s. An article from the Viet Nam News (23:10:01) gave the latest situation stating that the reform has reached a new turning-point (see annex).

One ongoing study by WSP states in its initial report, that *"with the data currently available it is difficult to generalise on the capacity, efficiency and condition of a typical company but one such in a Province would have the capacity to construct about 10km of bitumen and 30km of gravel road per year, with an additional maintenance contract for*

100km of national and provincial road". This data collection is continuing and a more definitive picture will emerge but it is not expected to show major variations over the particular project provinces.

Since the change in government policy the growth of private enterprises has been rapid. As the WSP study notes again "during the 1999 provincial surveys for the Rural Transport Strategy Study (RTSS) 16 private construction enterprises were identified in one province and three in another. In the more recent surveys carried out by the RTP 2 team these numbers had increased to over 40 in one of them. Also 71 private companies had put in bids for seven RTP2 construction packages". One reason for this is that the procedures for registering a private construction enterprise have become much easier. As the WSP study notes..... "Previously it was necessary to register with the Provincial Department of Construction (PDOC), detailing turnover, equipment, staff experience etc which could all be checked by the Department. With this registration completed, the enterprise would then have to obtain a permit from the Provincial Department of Planning and Investment (PDPI) to allow it to operate in the province for the registered areas of work. Now, under the Article 14 of the Investment Law of Vietnam, it is only necessary to apply directly to PDPI stating initial investment capital, details of ownership and area of interest".

Discussions in the provinces indicate that there appears to be no financial criteria for registration or even the need for a bank account.

Other study initiatives in this field include the contractor evaluation and training needs assessment by the other RPT2 technical assistance team (Louis Berger) and the more comprehensive Work Bank study. This latter one has circulated up to 1000 questionnaires to construction enterprises generally and the results are in the process of collation and analysis. This information will be of particular value for project implementers in rural infrastructure in identifying the potential capacity for small-scale construction. It seems reasonable to conclude, from data gathered to-date, that availability of contractors is not the main problem. This study was told of 20 private enterprises, in addition to SOE, in one Province; with 5 in one of the provincial districts and 40 private plus 10 SOE in another province. Of these 40, 10 were considered to have sufficient capacity for all works and 30 only for the smaller projects.

8.2 Vietnam Association of Construction Contractors (VACC)

The best source of information on the situation in the industry is the VACC. This Association has been in existence for a little over 2 years but is already the largest Association of its type in the country, with above 400 members. Mostly these are contractors, both SOE and private companies with also joint ventures and others, for example, materials suppliers and plant organisations. 51 of the provinces have members and the VACC has offices in 3 centres to date, with more being planned. Its activities are divided into

- publishing : a monthly newsletter and Annual Directory
- training : an annual programme of training courses in association with, for example the Asian Institute of Technology (AIT)
- quality control : supporting enterprises to reach ISO levels
- foreign activities : including Regional associations and conferences.

A major function is as a lobbying group with government and it is engaged in continuing dialogue with GOV on the regulations of Decree 88 which VACC believes favours the client at the expense of the contractors.

VACC acknowledges that the private sector capacity, although increasing, is not strong and a large majority of its members are the SOE. Most private companies do not yet have the capacity for Group B and C contracts although they may work as sub-contractors to the SOE in some cases. The initial policy was to gain SOE as the first group of members but now there is a drive to take up the smaller private firms, and the study discussions found evidence of this in one province and also an NGO member in Ha Noi. As yet there is no national classification of contractors and VACC is working on proposals for this. The aim of the Association is to incorporate and support all contractors and the private sector will have equal emphasis since that is the way government policy is leading. The training programmes (the 2002 schedule is still in preparation) included project management topics in seminars and longer courses. Also the introduction of new technology (where AIT is involved) is a key issue. Training is seen as a self-financing exercise and is one of the sources, together with membership fees, of income for the Association.

In a general discussion the VACC officials expressed reasonable optimism on the constraints facing the contractors,

- access to credit : this is admittedly a problem and VACC may be able to help in future on the question of guarantees or bonds.
- access to equipment : there is reasonable access for all and many items are locally manufactured eg compaction equipment
- payment : depends on the source, but interest is paid on delayed payments, (they claimed)
- contract documents : no problems were noted. Simple documents do exist for small contracts.

VACC claims to be in good standing with the government and to be independent of its control, with its own income generation being sufficient for its activities.

The Annual Directory is produced in bi-lingual form and gives comprehensive details of each of the members in terms of,

- year of establishment
- company status (SOE or limited company)
- paid up capital
- total employees
- activities and major project experience.

A brief analysis of the publication shows that the SOE members are the large majority with the national ones having many thousands of employees and the locally based ones several hundred, or fewer (one even has 29 only). Those, few, limited companies included show employee levels generally less than 100, with the odd exception of around 150. The project descriptions of the largest of the SOE indicate an involvement in the major construction projects of the last decade in the building and civil engineering sectors. All the signs are that VACC is a well established, expanding organisation with the avowed intention of being all-inclusive in its membership aims. The published Charter (1999) clearly sets out its constitution, objectives and financial sources under a General Assembly and a Board of Management.

8.3 The Contract Process

As described above the contract process is governed by the Decree 88: Tendering and it is in this area that the major constraints to contractor development would seem to lie. The VACC held a workshop, as part of its 2001 training programme, on the Existing Problems in the Construction Contracting Industry. Many of the 31 listed papers dealt with the regulations surrounding the bidding process including competitiveness; contractor selection; "breaking" of bid prices and general problems. The official proceedings are in Vietnamese but some translated comments are included as an annex to the WSP report. Most of these highlight the inbuilt advantages of the SOE in the bidding process. Some of the comments are,

- SOE try to discount the price to prevent private companies from winning
- SOE are only interested in immediate turnover
- SOE have easier access to capital than private companies
- SOE have a large equipment holding
- SOE have been established by the Client organisation
- SOE are not as financially vulnerable as the private sector.

One specific area highlighted in the WSP report concerned the equipment rates which are used in the bidding process, *"It is obvious that the rates do not cover the costs of replacement and are probably insufficient for proper maintenance and repair. This may be less of a problem for SOEs where much of the equipment is old and fully depreciated. It is also understood that the state enterprises benefit from favourably low rates of interest"*. The RTSS carried out a comparison exercise of Vietnam construction equipment costs against international norms which showed local costs as only about 15-20% of general figures.

As noted previously Decree 88 requires national and provincial Departments of Construction to publish the unit cost rates for all construction items ie plant, materials and labour (which are regularly updated - 6 monthly was mentioned). These figures are obligatory on all bidders as are the allowed percentages for overheads and profit. The immediate question raised by this arrangement is how bids can therefore be competitive since it might be expected that final calculations come up with the same total figure. It was not clear exactly how contractors reduced their bids in an effort to win the

contracts. Areas such as increasing the productivity of labour; using plant more efficiently; buying materials at discount prices were mentioned, as were, unofficially, the potential to skimp on construction standards and under-paying labour. Whatever the actual mechanisms it seems clear that contractors do not enjoy the free competitive bidding environment which is normally accepted elsewhere.

Discussions with contractors however failed to elicit any real complaints about this situation. Even one contractor, working on a fixed , non-negotiated, price contract for which the lump sum payment was to be made only on completion, still maintained that he was able to make a profit which was sufficient for his needs, despite obviously having to pre-finance the whole operation. This contractor has worked on this basis for 20 years in the same district, and has 40-50 permanent employees. His mode of operations includes borrowing money and materials from relatives and friends, and making his own gravel. Although many of his contracts are lump-sum he was in the process of bidding (for which he used a consultant) for a 1 billion VND contract for a secondary school building. He does own a small amount of equipment and has about 6 engineers on his staff. Another, provincial, contractor has similar opinions although many more of his contracts resulted from the bidding process. This competition always included SOE but he found no great difficulty with that. He believed that the contract awards had a great deal to do with the policy of the provincial leader as to whether he was a supporter of the private sector. He also hires a consultant to do the bidding calculations. He was one of the few private sector members of the local VACC branch, and he had attended a provincial training course run by the PDOC. Neither of the contractors would consider borrowing money from a bank.

All those interviewed (client and contractors) agreed that bid price was a very important factor in the contract award but there are always other considerations. In the open bidding situation (2-step) the technical assessment (and others eg social) is made and those gaining 70% of the allocated marking move to the financial consideration. The smaller value contracts are more likely to be under the 1 step process where the assessed price (after error correction and adjustment) is the one consideration - an example is given in the annex. In reality other considerations, but not specified, may play a part in the final award and certainly the reputation and the previous performance of the contractor appears to be a key consideration.

8.4 Conclusions

As a national body VACC rightly sees itself as the vehicle for any moves towards the steady improvement of the general contracting environment especially as it pertains to the development of the private sector, which it clearly states includes the smaller-scale, emerging contractors. The current system, although viewed from the outside as having some unusually constraining features, works with little adverse comment (at least not willingly expressed) from those immediately involved. Most of the aid-funded projects in the rural development field anticipate a major involvement of the small-scale contractor and the agencies are fully aware of the contracting situation. Several have technical assistance teams whose terms of reference include working with government to improve and streamline current systems with a major aim to ensure full transparency of the contracting procedures. To this end, collaboration with a body like VACC would appear to be extremely useful.

9. Overall Conclusions

9.1 Contractors and Potential Work

The first objectives in the Terms of Reference were the assessments of the potential workload in the field of rural development and the availability of local contractors to fulfil the demands of the proposed developments.

Even without any detailed calculations of the investments ongoing and in the pipeline it is clear that for aided projects alone the sums run into hundreds of millions of US dollars. But the most significant point is that, without exception, the major funding agencies are all looking at the grassroots level of development, involving the communities in the participatory process and seriously expecting the private sector to be fully involved in the implementation.

Disbursement of large amounts of project funds over the traditional 4-5 year implementation periods has often proved problematic in developing countries where the administrative infrastructure and staff skills shortages have proved to be considerable constraints. Many of such projects have been the large value contracts involving foreign or the major local contracting companies and with the emphasis now turned to the smaller-scale stage those constraints may well be multiplied.

For that reason most of the proposals include a large capacity building component for the client staff in the public sector. The concern will therefore be not in the amount of work available but in the ability of the project management structures to deliver the projects to time and within cost.

The visual evidence in the country even from a relatively brief visit is that private enterprise and initiative is thriving, although in some of the remoter areas naturally less so than the rest. This situation is evident in the construction sector with the noted rapid increase in registered companies in the years since the regulations were eased. Figures of 30-40 registered contractors in the provinces have been given in various reports and confirmed by discussions during this study. The increasing and widening membership of VACC also confirms the general availability. The only serious constraint noted was that, under the bidding system in operation, it has not been always easy to find contractors for small contract packages in the remoter areas, where the fixed unit costs do not allow sufficient margin to cover the additional construction costs involved.

An expanding workload is likely to increase the numbers of small contractors seeking registration and this would be a good opportunity for a national contractor classification system which the VACC is trying to bring about.

9.2 Contractor Development

With this noted emphasis on private sector involvement in largely small-scale works and the general availability of contractors the question of contractor development arises, in order to ensure that the smaller companies have the technical skills, management and administrative capacity, and access to the required resources that are needed to produce the standards of implementation which are acceptable to the client and also profitable for the contractor.

Of those projects which include a component for contractor development an examination of the project documents reveals a lack of very much detail as to how, in practice, this is to be achieved. One indicator in the RTP2 logframe suggests that number of contracts awarded to the private sector will be the measure of success for this component. Another mentions courses for contractors focusing on the bidding process, which is also the emphasis of the Provincial training programmes that were described during the mission. The WSP technical assistance input, though yet to be set out in detail, will

focus on the project objectives which relate to establishing a maintenance culture and introducing a maintenance management system involving the smallest contractors at the lowest administrative level. These components certainly have not been given the forward planning that other project interventions have had, and even appear to be included as something of an after-thought.

One of the shortcomings of small-scale (mainly labour-based) contractor development programmes over the last decade is that they have been project based, largely non-institutionalised and at the end of the project the success achieved has not often been expanded into a national strategy. Also many of the projects have been for rural road construction giving an impression perhaps that this technology only applies to a limited field of work. The current activities in Vietnam in this respect would appear to be following similar lines. The contractor development inputs may meet the immediate needs of the project objectives but will do little for the national needs of small contractors. There are also no signs that the training intended is to be institutionalised, with no suggestions of collaboration with nationally based training organisations.

The Inception Report for RTP2 (WSP) talks of setting up small training cells, first in the pilot provinces and then expanding them to fully fledged training centres, and further to all the rural provinces. However this is all in the context of the establishment of the RTU within the Ministry of Transport.

There appears to be a need to take a wider perspective since so many other projects across the full spectrum of rural development activities will need contractors trained in a wide range of construction skills. There could be serious problems if these projects assume that suitably experienced contractors will emerge at the appropriate time and perform to a satisfactory standard.

Preliminary discussions suggest that the major donors would be willing to contribute to a nationally orientated development programme which would produce contractors for the project works that the agencies are funding.

9.3 Contracting Environment

The systems, procedures and regulations which form a major part of the contracting environment are very well structured and detailed. They are also under fairly regular review with

supplementary guidelines being issued at intervals. It is suggested that these regulations will give scope for flexibility in the contract tendering and award procedures at province and district level. It was also noted in several places that it is the bureaucracy involved which slows the whole process and constrains the projects from meeting their implementation objectives. There are also some technical aspects of project designs which are currently being addressed, for example, the potential for pavement design options as alternatives to penetration macadam.

The contract documentation in use does include some examples of very simple forms, modified World Bank Small Contracts conditions and others in addition to the national documents for the major contracts. The regulations do clearly allow for the use of appropriate models and these, too, would remain under review. This is a more encouraging situation than in many countries and is supported by the donors not insisting upon their own form of contract being used for their funded projects.

The bidding process seems to have general acceptance (but contractors have little choice) and it is an area that VACC sees as important to modify to be less unfavourable to the contractors.

Contractors access to equipment was nowhere suggested as a constraint, whereas access to finance, as always, was. The informal borrowing market of family and friends operates.

Improvements to the contracting environment will evolve through the experience of projects, where recommended modifications to systems and procedures may be tested. Bodies like VACC will continue to press for a better deal for contractors.

No particular, additional, initiatives would be recommended in these current circumstances. As projects proceed occasion may arise for specialist input needs, or further study on specific topics for which ILO experience may be a valuable contribution. One such area could involve the practical application of the labour code on the smaller construction sites, which has not been a noted concern in the project documents studied, apart from the more general gender issue and the environmental issues as they may relate to site construction works.

9.4 Management Capacity

The government public sector retrenchment policy has an effect on the management capacity at the province and district levels with the odd half-dozen vacancies unlikely to be filled. However these posts are in the administrative function areas, with the planning, design and implementation being managed in the Departmental branches (the SOEs). Here staffing levels remain high. In the remoter areas the staffing situation may be more critical and the experience and capacity is more variable. Incentives are given to staff to move to these areas but this does not always have the desired result.

In addition, within the Ministry of Construction, for example, there exist well staffed units, the Centre for Rural Planning and Development (CERPAD), with whom this study collaborated, part of the National Institute for Urban and Rural Planning. This National Institute has 6 Divisions and over 300 staff inclusive of engineers, architects and other professionals. These are the organisations which carry the specific professional expertise in the areas of planning and development. The Ministry of Transport has its Transport Development and Strategy Institute (TDSI) which acts as the counterpart to WSP on the RTP2 and other Ministries have similar centres of particular expertise.

To this may be added the professional capacity at Institutions such as the Hanoi Water Resources University providing the academic background for rural development. The conclusion is not that a lack of professional and management capacity exists but rather, perhaps, that the structured system within which that capacity has to operate is the key factor in development implementation. The small-scale contractors remain at the end of the operational system and suffer accordingly.

On the contractors side it was difficult to elicit much response to their perceived needs regarding training and development, simply a willingness to attend any such opportunities which might be offered, with some having already done so. As most seemed to hire consultants to do the bidding calculations for them this is one area of recognised need, since it might be more appropriate for one of their own engineering staff to be involved.

10. Potential for ILO-ASIST Support

The background section of the Terms of Reference describes the current contracting situation and this has been confirmed in

this study. The decentralised administrative and contract management systems are well structured (ie bureaucratic) and in place and most projects are operating within these systems, hoping to achieve some improvements and streamlining over the period of their operations. Since they all have a particular eye on private sector participation and since mostly a locally-based SOE is not eligible to bid in its own area, and since it has become much easier for small contractors to register at the provincial level, the situation is not discouraging. The issues raised concerning the needs of the decentralisation policy are being addressed in the ongoing projects, particularly World Bank RPT2.

Similar comments apply to the questions regarding contract documents and the flow of funds, all parties are very much aware of the situation and the issues are being, or will be addressed. At this stage therefore no specific recommendations, other than continuing support for the ongoing initiatives, are being made. The ASIST programme is generally well known, with the possible exception of the Australian Aid, and occasions for specific assistance and support will arise from continuing regular contracts.

However, taking the overall objective as the development of small-scale contracting in Vietnam there is a major gap identified in terms of a comprehensive programme to address this issue. The planned initiatives, such as they are, are project-based and therefore have relatively limited objectives. The details of the various proposals remain rather vague and the concern is that the massive infrastructure investment may well be constrained by the lack of the necessary numbers of really effective small-scale contractors to carry out the works. This could lead to a situation that reverses the current policy of a large number of small contract packages to a reliance of the larger companies undertaking larger packages which would be less likely to result in the increased use of labour-based technology, and its benefits to local communities.

This is the area recommended for the main ASIST initiative, working at the national level, with for example VACC and the Provincial training departments, to establish a major programme of training both in the essential management skills and in the essential technical and site operations activities. The focus should be more on the latter using the ongoing projects as the practical training grounds. This recommendation is based on the previous experience built up by the ILO on these programmes elsewhere, those which have been the most successful have

included a large component of on-site training including both contractors and the client staff.

This approach was discussed with all the interested parties and the responses were favourable. In this way the initiatives of each project would be better coordinated into a national perspective and an institutionalised training unit would be on hand to support each project within an overall training framework.

One other area which needs to be explored further relates to the Action Plan prepared at the end of the ILO/HWRU Workshop referred to above where specific continuing collaboration with ILO was envisaged for the development of, and training of, Rural Infrastructure Engineers. Elsewhere, particularly in Africa, undergraduate and post-graduate courses in this appropriate technology have been introduced at several universities and this is one of the best long-term investments that can be made - to produce a generation of design engineers and engineering contractors who have a sound basic understanding of appropriate technology.

Within these types of initiative the core ILO interests of labour standards, working conditions, gender issues etc need to be included in addition to the separate opportunities for highlighting them as part of the normal ILO activities.

In summary the potential for ASIST support is seen as

- Continue to support the ongoing projects with specific interventions as requested
- Liaise with new project proposals, eg AusAid new project to assist in the contractor development component, if any.
- Continue (or re-activate) collaboration with the HUWR (and other appropriate academic bodies) for the training of professionals
- Initiate a national strategy (in consultation with government) for small-scale contractor development, working with bodies such as VACC and the provincial training departments
- Contribute as occasion arises in the pursuit of a more effective contracting environment in terms of the planning, contracts, documentation and process, flow of funds etc through the ongoing project implementation

- Assisting with other ILO initiatives with regard to traditional ILO concerns with good working practice and conditions.

Having established a good working relationship with CERPAD these initiatives should be pursued in collaboration with this Centre (and others as appropriate) in order to transfer the knowledge and experience in this field that ILO has built up over many years.

ANNEXES

List of Annexes

1. Terms of Reference
2. List of Persons Met
3. Survey Questionnaire on Contracting (WSP)
4. List of Discussion Papers of VACC Workshops
5. Translation of Memorandum No 4 Chapter IV
6. Translation of Decree 52. Classification of Investment Projects
7. Translation of Simple Lumpsum Contract
8. Form 4 & 5 RTP2 Operations Manual
Bidders Qualification Check & Compliance
of Bid Check
9. RTP2 Operations Manual
Flow Charts for Approvals Process & Flow of Funds
10. Government Planning Process Flow Charts
(translations)
11. Press Cuttings from Viet Nam News

ANNEX 2. LIST OF PERSONS MET

Dam Quang Tuan	Director CEPPAD
Tran Nguyen Chinh	Vice-Director CERPAD
Nguyen Anh Thu	Rural Economist CERPAD
Vu Gia Quynh	Secretary General VACC
Nguyen Hong Tien	Vice-Director NIURP
Duong Quoc Nghi	NIURP
Ngo Trung Hai	Chief R&D Division NIURP
Pham Gia Xen	Chief Legal Officer. MOC
Director	PDOC Hon Binh Province
Vice-Director	PDOC Hon Binh Province
Chief of Supervision	PDOC Hoa Binh Province
Le Trong Tien	Contractor Da Bac District
District Chairman	DPC Da Bac District
Pham Gia Thuy	Vice-Director PDOC Nam Dinh Province
Lam Chien	Contractor Nam Dinh Province
Nguyen Thinh	Director Rural Development Assistance Centre
- Thun	Director of Implementation RDAC
Nguyen Cuong	Economist RDAC
Ola Motter	Embassy of Sweden
Jan Moller Hansen	Royal Danish Embassy
Steve Ray	DFID. British Embassy
Shireen Sandhu	AusAid. Australian Embassy
Tran Trung Kien	Procurement Analyst. World Bank
Vo Truc Dien	Economist. Asian Development Bank
Manu Tonnar	UNDP/UNCDF Programme Officer
Edwin Shanks	DFID Adviser MPI
Michael Green	Project Manager WSP. MOT
Rob Petts	AT Adviser WSP. MOT
Rob Taylor	Deputy Project Manager WSP. MOT
Pham Gia Tuan	Materials Engineer TEDI MOT
Ms Nga	Contracts Adviser TEDI MOT
William Curtis	Team Leader. Louis Berger PMU18
Patrick Morrissey	Accounting Adviser. Louis Berger PMU18
Ian Barwell	Rural Infrastructure Adviser. IT Transport RTP1
RoseMarie Greve	Director ILO Hanoi
Ms Nga	Assistanct ILO Hanoi
Nori Palarca	Consultant. Infrastructure Planning

District PC
PMU of PC
No. Contract/XD

Socialist Republic of Viet Nam
Independence. Freedom-Happiness

CONTRACT

Name of Project:

Location:

- Based on law of economics contract dated 25/Sept/1999 of the Government Committee and guidelines.
- Based on Decree 52 CP dated 8/July/1999 of the Government about investment management and construction.
- Based on Decree 88/1999ND/CP dated 1/Sept/1999 of the Government about competitive bidding.
- Based on Decision No..... QD/UB/XDCB dated..... day / month year of the PC on approval of the project documents
.....
- Based on the document No..... day / month / year/... of the PC or bidding award of the project.....
- Based on the Decision No..... QD/UB/XDCB dated..... of the PC on the recommendation of the District PMU.
- Today, day..... month..... year, at the Office of the District PMU, there is a meeting to sign the contract for building the project.....

I. On behalf of Client (A side): District PMU

1. Mr.....	Director.....
2. Mr.....	Vice-Director
3. Mr.....	Accountant
4. Mr.....	

Bank Account:

Finance Reserve

Telephone:

II. On behalf of the Contractor (B Side)

1. Mr.....
2. Mr.....
3. Mr.....

this company is established by The Decision
No.....day.....month.....199..... of
the PC.

Bank Account:

Telephone:

Content of the Contract

The District PMU..... awards the Company above the
right to build the project.....

Article 1: Awarded company must invest a beginning fund
to build and finish items of the project as following.

Article 2: Responsibilities of the Client side:

- supply all documents consisting of designs and estimated
costs that are approved, hand over all centre line; length
of section, and surface clearance to the contractor.
- Send the supervisor (of the A side)

Article 3: Value of the Contract

- Total value of the project
- In which
- Construction Value
 - Other Structures
- Value of the contract is:

Article 4: Insurance and Advance

- Contractor side must be insured for 3% of the contract
value and submit the insured document to the PMU before
signing the contract, with the total as.....VND
- Client (A side) does the procedure for the Contractor (B
side) to obtain the advance payment, when the authorised

administration agrees. Funds paid depending on the volume of done work, advance payment not more than 80% of the total value of the project.

Article 5: Method of payment

- Payment depending on the finished works in each period; and agreed by supervisor, when the project is completed and transferred.
- Payment by cheque to the B side, no less than 15 days, from the day the Investment Bureau of Finance gives the funds to the Client.

Article 6: Time for construction and guarantee of the Project

- Beginning time:
- Finishing time:
- Guarantee months, from the day of completion and final supervision approval and transfer. B side must guarantee by amount of 5% of the total value of the contract.

Article 7: Common memorandum

- In the process of implementing the contract, if there is a difficulty or misunderstanding, the two sides should meet and resolve together, based on the law and regulations issued by the Government.
- The two sides agree to implement the above contract, if there is violation by either side, he may be sued and have legal responsibilities.
- The contract is made, approved and agreed to sign with 6 (six) copies and have the same value.

Representative of A side

Representative of B side

