



Construction
Sector
Transparency
Initiative



Zambia

Zambia CoST Baseline Study Report



Department of Civil & Environmental Engineering



COLMAK ASSOCIATES

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ACRONYMS

COMESA	-	Common Market for Eastern and Southern Africa
CoST	-	Construction Sector Transparency Initiative
DfID	-	Department for International Development
dgMarket	-	Development Gateway Market
EITI	-	Extractive Industries Transparency Initiative
EPRCP	-	Enhancing of Procurement Reforms and Capacity Project
ICB	-	International Competitive Bidding
M&E	-	Monitoring and Evaluation
MoE	-	Ministry of Education
MoH	-	Ministry of Health
MoWS	-	Ministry of Works and Supply
MPI	-	Material Project Information
NCC	-	National Council for Construction
NMSG	-	National Multi-Stakeholder Group
PEs	-	Procuring Entities
RDA	-	Road Development Agency
UNDB online	-	United Nations Development Business online
zMSG	-	Zambia Multi-Stakeholder Group
ZPPA	-	Zambia Public Procurement Authority



EXECUTIVE SUMMARY

The Construction Sector Transparency (CoST) initiative is aimed at enhancing the transparency and accountability of procuring entities (PEs) and construction companies for the cost and quality of public sector construction projects. It was designed to achieve this by disclosing to the public ‘Material Project Information’ (MPI) at all stages of the construction project cycle, from the initial identification of the project to final completion.

A set of core baseline indicators relating to bidding statistics, public availability of MPI, project duration and cost changes were developed to record transparency practice and measure the impact of the CoST initiative in the longer term, in a manner that could also allow cross country comparisons to be made. To provide a point of reference against which changes to the indicators could be recorded over time, a baseline study was undertaken in each CoST pilot country. This is the baseline report for the Zambian CoST initiative.

The study was anchored on the five objectives outlined below abstracted from the Terms of Reference presented in Appendix III.

Objective 1: Identify MPI required to be released into the public domain

The legal requirement for the release of MPI from the PP Act No. 12 of 2008 of the laws of Zambia was focused on the disclosure of the best evaluated bidder. The disclosure of the winning contractor, consultant’s name and the contract value were among the main details required for disclosure. The other MPIs that were required to be released included scope of the project; tender procedure; list of tenderers; contract programme; and details of any re-award of the main contract. For the pre-tender MPIs, only the Environmental Impact Assessment was permitted by law to be released.

Objective 2: Assess MPI currently released into the public domain on sample projects

All reviewed sample PEs **never** disclosed pre-contract MPI such as: feasibility studies; financing agreements; project cost estimates; and the tender evaluation report. All the sampled PEs also **never** disclosed the following post-contract MPIs: significant changes to contract price and programme scope with reasons; individual changes to the contract which affect the price and the reasons for those changes; individual changes to the contract which affect the programme and the reasons for those changes; and the total payments made. MPIs that were being made **publicly available** by sampled PEs, with the exception of MoE and MoH that were disclosing some of the information only in the ‘minority of cases’, included: tender procedures; contractors’ names; contract price; and details of any re-award of the main contract. However, for reviewed projects, there were no instances of re-award.

Objective 3: Assess the barriers to the release of MPI

Major barriers to the release of MPI that emerged from the study included:

- inadequacy of the law in terms of provisions for PEs to release necessary project information into the public domain;
- cost implication of disclosure with regards to the value added to the release of any necessary information;



- confidentiality Clause 40 of the PPA Act that prohibit PEs from disclosing other pertinent project information;
- perceptions within PEs that the release of more MPIs may be for little benefit compared to the resource expenditures involved; and
- the potential risk of litigation that the public could use MPIs against the PEs.

Objective 4: Provide a point of reference for core indicators expected to change over time

The baseline study spreadsheets provide the basis for comparison against any future changes in the MPIs as well as a point of reference for benchmarking against other countries.

Objective 5: Provide information on on-going initiatives and how they relate to CoST

The report gives a summary of existing and on-going transparency, anti-corruption and good governance initiatives, their focus and how they relate to CoST.

Structure of the report

This report is divided into the following chapters:

- **Introduction** includes an overview of the baseline study and its objectives;
 - **Study methodology** adopted to undertake the assignment;
 - **Baseline background information** includes the preliminary tasks relating to the collection of data on the number and type of procuring entities in Zambia, a summary of procurement laws and regulations and other on-going transparency and good governance initiatives;
 - **Baseline indicators** include the results of the baseline survey addressing the key CoST baseline indicators; and
- Findings** include a narrative of the findings of the baseline survey of twenty sample projects and any perceived methodological shortcomings, with recommendations for mitigation of their effects.



1.0 INTRODUCTION

The Construction Sector Transparency (CoST) initiative is an international multi-stakeholder programme designed to achieve greater transparency and accountability in the public construction sector. The aim of the initiative is that governments and consumers "get what they pay for". The programme is designed to achieve greater transparency and accountability in the public construction sector through disclosure to the public of 'Material Project Information' (MPI) at all stages of the construction project cycle, from the initial identification of a project to its final completion. The CoST initiative recognizes that mismanagement during construction can undermine social and economic benefits, and hence is intended to:

- a) enhance accountability in expenditure on publicly funded construction projects;
- b) enhance transparency during the implementation of publicly funded construction projects by supporting open and transparent tendering processes;
- c) promote an attractive environment for both domestic and foreign direct investment that financial transparency in the implementation of construction projects may bring; and
- d) incorporation of a multi-stakeholder group that can play an important oversight and interpretative role in ensuring greater transparency in the execution of publicly funded construction projects.

The CoST initiative is sponsored by the Department for International Development (DFID) of the United Kingdom and the World Bank (WB). It builds on the experience of the Extractive Industries Transparency Initiative (EITI) that has resulted in improved transparency in the oil and mining industries.

CoST is principally about achieving transparency through the release of information about publicly funded construction projects into the public domain. It is important that the information that is released through CoST is both accurate, and available in a form that can easily be understood by stakeholders. To achieve this, the disclosed information should, to the extent necessary, be verified and interpreted by experts, in the Assurance Team, appointed for this purpose. The function of the Assurance Team, answerable to a National Multi-Stakeholder Group (NMSG) responsible for CoST, is to play an interpretative role in helping to make raw data disclosures more intelligible to a wider range of affected stakeholders.

CoST comprises two components: the disclosure of MPI on a sample of selected construction projects; and a structure to provide a framework within which all stakeholders, including civil society, can engage effectively. The core disclosures relate to the key project information during: the tendering phase; at contract award; and through to final completion, together with significant changes during project execution. Disclosures relating to earlier phases in the project cycle are important, since difficulties that arise during contract execution may have their origins in these stages. Disclosures are envisaged on a sample selection of projects to ensure that CoST is manageable and practicable.

The structure of CoST includes a National Multi-Stakeholder Group (NMSG) representative body comprising key stakeholders, including government, the construction industry, the Anti-corruption Commission and civil society. The NMSG oversees the implementation of CoST. At a technical level the NMSG is supported by an independent Assurance Team that plays an interpretative role in helping to simplify raw data disclosures for the NMSG, and to enable



appropriate conclusions to be drawn. Overall responsibility for ensuring that CoST is implemented is exercised by a senior level government representative, or a ‘CoST champion’, who, in the case of Zambia is the Minister of Works and Supply (MWS). Figure 1 shows the structure of CoST.

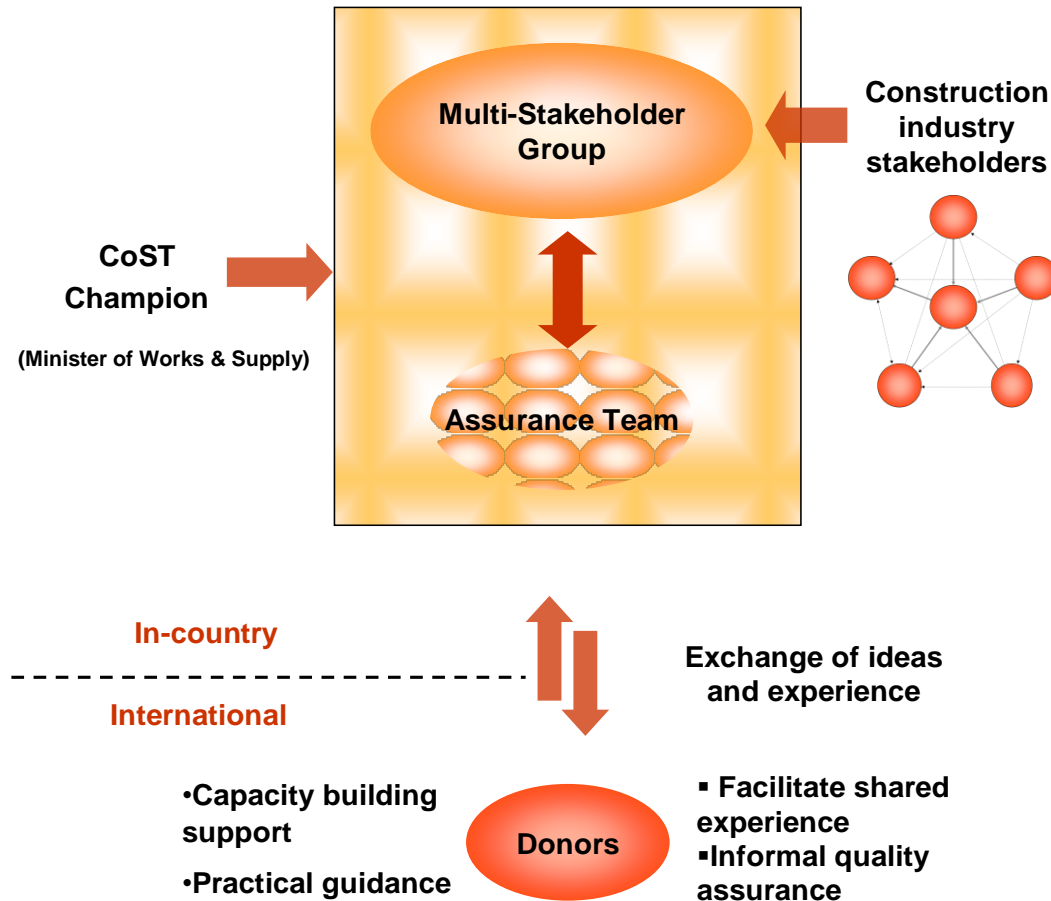


Figure 1.1: Structure of CoST in Zambia
(Adapted from Andreski, 2007)

CoST was piloted in seven countries under the direction of NMSGs set up for the purpose. The seven countries were Ethiopia, Malawi, Philippines, Tanzania, UK, Vietnam, and Zambia. The pilot was initially for two years. Whether or not the pilot period would be extended or expanded would depend to a large extent on the lessons learned from the monitoring and evaluation of the project.

A monitoring and evaluation (M&E) consultant was appointed and developed a framework and approach to monitor progress and assess the effectiveness of CoST during the pilot phase. The approach would be based on a comparison of the outcomes of CoST projects with the outcomes of a group of projects, fulfilling similar criteria, not included in CoST. This comparison would largely use information generated internally during the implementation of the project.

The M&E consultant also defined a set of core indicators to measure the impact of the project, including broader spill-over effects within the sector in the longer term, in a manner that would also allow cross country comparisons to be made. A baseline study was necessary to provide a point of reference against which to assess change over time in some of these indicators. Other indicators will only be measured once CoST disclosure starts.

1.1 Objectives of the CoST baseline study

The main objective of CoST is to enhance the transparency and accountability of procuring entities (PEs) for the cost and quality of public sector construction projects. This will be achieved through disclosure to the public of 'Material Project Information' (MPI) at all stages of a construction project cycle, from the initial identification of the project to the completion of its construction.

A set of core baseline indicators relating to bidding, public availability of MPI, project duration and cost changes was developed to record current baseline transparency practices and to measure the impact of the CoST initiative in the longer term. The baseline indicators would also, in future, allow cross country comparisons to be made. This study was designed to provide a baseline point of reference against which changes to the indicators could be recorded over the period the CoST initiative would be implemented in Zambia.

At the international level, the purpose for the baseline study is to:

- assess and compare levels of transparency across pilot countries;
- compare key indicators of project performance across pilot countries; and
- position CoST among other national and international initiatives.

At the country level, the purpose of undertaking the baseline study is to:

- benchmark current levels of transparency against which to assess future progress;
- identify indicators of project performance against which to assess progress in future; and
- identify other national initiatives and assess how CoST can be embedded in the local context.

Following from the main objective, the specific objectives of the baseline study are:

- i. to identify which items of 'Material Project Information' (MPI) are currently required to be released into the public domain by the agencies responsible for procuring construction projects;
- ii. to assess, from a sample set of PEs, which items of MPI are currently being released into the public domain;
- iii. to assess, from the same sample set of PEs, barriers, both legal and administrative, to the release of this MPI;
- iv. from a sample set of projects completed no earlier than December 2006 and selected at random from the sample set of PEs, to provide a point of reference for the core indicators that are expected over time to be subject to change as a result of CoST; and
- v. to provide information on other on-going initiatives affecting the procurement and management of construction contracts and how these might complement and support activities under CoST.



2.0 STUDY METHODOLOGY

The methodology adopted in the study was prescribed by the CoST Secretariate and involved: preliminary tasks; identification of Procuring Entities (PEs) and sample projects; and data collection concerning the release of Material Project Information (MPI).

2.1 Preliminary tasks

Preliminary tasks involved collection of data from secondary sources and compilation of:

- i. number and type of procuring entities in the country, at national and local level;
- ii. a summary of procurement laws and regulations regarding procurement of publicly funded construction projects, including recent changes and progress of reforms;
- iii. other on-going or planned transparency, anti-corruption and good governance initiatives that affect the construction sector, focusing on processes and outcomes and the way in which they relate to CoST;
- iv. requirements under the law for the release of any of the identified MPI; and
- v. barriers to the release of MPI.

2.2 Identification of Procuring Entities and sample projects

Under the Public Procurement Act of 2008 a Procuring Entity (PE) is described as a government agency, parastatal body or any other body or unit established and mandated by government to carry out procurement using public funds. Due to the high number of PE's and the high volume of projects completed a project matrix was made available by the MSG to assist the consultant in the selection projects for the study. Due to time and budget constraints the number of PE's was reduced from 6 to 4 and the type of sector of the targeted PE was agreed before commencement of the assignment namely buildings, roads, health and education. From the available three selection matrix for small, medium and large scale pilot, the table for medium scale pilot of 15 – 20 projects as shown in Table 2.1 below was recommended by the MSG.

Table 2.1: Selection matrix for medium-scale pilot of 15-20 projects

Sub-sector	Gov't Small Works	Gov't Large Works	Foreign Large Works	Foreign Cons't Service	Region	Sub-total
Buildings	1-2	2-3				3-5
Roads	1-2	2-3	2-3	1-2	Vary	5-8
Health	1-2	2-3			Vary	3-5
Education	3-5				Vary	3-5
Sub-total	5-8	6-8	2-3	1-2		15-20

After consideration of the above matrix, the consultant used the information to select the actual PE's as the Buildings Department under the Ministry of Works and Supply (MoWS), Ministry of Education (MoE), Ministry of Health (MoH) and Road Development Agency (RDA). At the



negotiation meeting held on 4th March, 2010 the number of targeted projects was reduced from 27 originally prescribed to 20.

Most of the reviewed projects met the MSG criteria. For example, all projects were completed after December 2006. The number of foreign large works and consultancy projects reviewed was within the MSG targeted figures. There was a requirement that one small works project should be at regional (provincial) level. In the study, one of the projects under Ministry of Works and Supply, Chaisa Health Clinic, was at the provincial level.

Contrary to targets, there were four (4) more projects in the small works and one (1) less than had earlier been planned for government large works. The main reason for the variation was because the consultant did not have control over the selection of the actual projects that were reviewed. The National Council for Construction (NCC) guidelines were utilized in categorizing the small and large works. According to NCC the classification of contractors, Grades 1-3 was for large scale contractors. The limit of contract value of large scale works was K7.5 billion and above for building works and K40 billion and above for road works. Table 2.2 compares the MSG targeted projects and the actual projects reviewed. Despite the variance in the number of small and large government projects, 100% of the targeted total number of projects was reviewed.

Table 2.2: Comparison of Targeted vs. Actual Projects Reviewed

No	PE	Government Contracts				(Development Partner) Foreign Contracts				Actual total
		Small		Large		Foreign Construction		Foreign Consultancy		
		Target	Actual	Target	Actual	Target	Actual	Target	Actual	
1	Buildings (MoWS)	1-2	4	2-3	1	-	-	-	-	5
2	Roads (RDA)	1-2	3	2-3	1	2-3	2	1-2	1	7
3	Health (MoH)	1-2	3	2-3	2	-	-	-	-	5
4	Education (MoE)	3-5	2	-	1	-	-	-	-	3
Total		5-8	12	6-8	5	2-3	2	1-2	1	20

The details of the projects selected for the baseline study are summarized in Table 2.3.

Table 2.3: Summary of actual projects reviewed

No.	Description	Procuring Entity / sector	Size	Contract Amount (Zambian Kwacha)	Type	Source of funds
1	Chaisa Health Clinic	Buildings (MoWS)	small	1,379,410,104.00	Works	Govt
2	Office of the Auditor General	Buildings (MoWS)	Large	11,402,148,983.25	Works	Govt



No.	Description	Procuring Entity / sector	Size	Contract Amount (Zambian Kwacha)	Type	Source of funds
3	Passport Office, Lusaka	Buildings (MoWS)	small	2,316,080,609.96	Works	Govt
4	Anti-Corruption Commission, Solwezi	Buildings (MoWS)	small	1,687,082,334.19	Works	Govt
5	Ministry of Finance and National Development data Centre	Buildings (MoWS)	small	211,838,029.87	Works	Govt
6	2 Basic Schools in Mkushi and Serenje, Central Province	Education (MoE)	small	3,752,516,100.00	Works	Govt
7	2 Basic Schools in Chongwe, Lusaka Province	Education (MoE)	small	4,141,125,620.00	Works	Govt
8	Lukwesa Day High School	Education (MoE)	Large	23,242,829,415.84	Works	Govt
9	Rehabilitation of Rural Health Centres in Western and Southern Provinces Lot 2 contract 1	Health (MoH)	Large	9,052,012,538.03	Works	Govt
10	Rehabilitation of Rural Health Centres in Eastern and Lusaka Provinces Lot 2 contract 2	Health (MoH)	Small	5,306,777,288.16	Works	Govt
11	Construction of Cancer Center at UTH	Health (MoH)	Large	No information	Works	Govt
12	Construction of Chadiza District Hospital (Phase 2)	Health (MoH)	small	4,174,603,712.10	Works	Govt
13	Construction of Lufwanyama District Hospital	Health (MoH)	small	2,847,663,937.00	Works	Govt
14	Periodic Maintenance of Senanga-Mongu Road	Roads (RDA)	Large	45,992,729,905.00	Works	Danida
15	Rehabilitation of feeder roads U15 in Kapiri Mposhi District	Roads (RDA)	small	7,116,169,286.00	Works	European Union Sector Budget Support
16	Project (Periodic Maintenance of Monze-Niko- Chitongo & Hamusonde-Maala Roads - D365)	Roads (RDA)	small	22,203,485,519.00	Works	Govt
17	Project (Periodic Maintenance of Kafue - Mazabuka Road - T1)	Roads (RDA)	small	10,022,335,812.50	Works	Govt
18	Periodic Maintenance of Solwezi - Mutanda - Mwinilunga Road -T5	Roads (RDA)	large	46,681,509,921.00	Works	Govt



No.	Description	Procuring Entity / sector	Size	Contract Amount (Zambian Kwacha)	Type	Source of funds
19	Project (Chiawa Bridge)	Roads (RDA)	N/A		Consultancy	World Bank
20	Periodic Maintenance of Kitwe-Kalulushi Road -M7	Roads (RDA)	small	7,181,388,047.00	Works	Govt

After the identification of PEs and sample projects, the consultant proceeded to collect data. Data collection was broken down in two stages. The stages ran concurrently. Stage I involved investigation into methods of storage, modes of release and legal issues regarding the release of MPI into the public domain. Stage II concerned collection of procurement statistics of the sample projects in the selected PEs.

2.3 Data collection concerning the release of MPI

This phase of the assignment involved recording on the spreadsheet provided by the International CoST Secretariat in the UK, which of the standard MPI was:

- i. stored by the PE and whether it was
 - a. available in a hard copy file;
 - b. available in hard copy but would need to be searched out; and/or
 - c. was stored electronically as a management resource;
- ii. forwarded from the PE and stored by others such as project implementation agencies or procurement oversight authorities;
- iii. released into the public domain such as on website and by indicating on a sliding scale of always, majority of cases, minority of cases or never;
- iv. made available to the public on demand by indicating on a sliding scale of always, majority of cases, minority of cases or never;
- v. required by law to be made available to the public;
- vi. prevented by law from being made available to the public; and
- vii. prevented by other factors such as political, cultural, managerial or administrative from being made available to the public.

2.4 Data collection concerning procurement statistics

From the files of each of the selected projects the following were recorded on the spreadsheet provided by the International CoST Secretariat in the UK:

- i. number of companies expressing interest in the main contract for works;
- ii. number and proportion of short-listed companies subsequently bidding for the main contract for the works;
- iii. number of companies expressing interest in bidding for the contract for project supervision;
- iv. number and proportion of short-listed companies subsequently bidding for the contract for contract supervision;
- v. number of companies expressing interest in the contract for project design;
- vi. number and proportion of short-listed companies subsequently bidding for the contract for project design;



- vii. time from contract commencement date to completion date as a % of the original contract programme at commencement date;
- viii. for site supervision contracts: the % change from (a) initial estimated price to contract price on commencement date and (b) from contract price on commencement date to final cost at completion date;
- ix. for the main contract for works: the % change from (a) engineers, project manager or quantity surveyors estimated cost to contract price on commencement date and (b) contract price on commencement date to final cost at completion date;
- x. instances of re-award of the main contract with recorded reasons;
- xi. number and value of formal instructions to remedy defective works (a) issued and (b) implemented; and
- xii. any other recorded indication, for example, in project completion reports, of the contractor failing to meet the specification, listing the source of the information and a brief comment on the nature and severity of the failure.



3.0 BASELINE STUDY BACKGROUND INFORMATION

The background information related to the study as a fulfillment of one of the set objectives of the study outlined in the preliminary tasks to be performed by the consultant is presented in this section. The background information that required to be presented as detailed in the Terms of Reference was outlined as follows:

- i. an overview of the number and type of procuring entities in the country, at national and local level;
- ii. a summary of the procurement laws and regulations, in particular the procurement of publicly financed works, including recent changes and progress of reforms;
- iii. other on-going or planned transparency/anti-corruption/good governance initiatives that affect the construction sector, focusing on processes and outcomes and the way in which they relate to CoST (Baseline Study Objective 5);
- iv. identify the legal requirements for the release of any of the MPI (Baseline Study Objective 1); and
- v. document the barriers to the release of MPI (Baseline Study Objective 3).

Below is a detailed summary of each of the above tasks.

3.1 Overview of the number and type of Procuring Entities

The procuring entities are well documented in Zambia. The Zambia Public Procurement Authority has a list (see Appendix I) that describes the type and numbers of the procuring entities in their various categories. The Act prescribes the composition of the procuring entities, their functions, duties of the key staff, establishment of the procurement committees and their powers, functions and tenure of office.

There are a total of 174 PEs categorized as follows:

1. Ministries and government Departments;
2. Statutory Bodies;
3. Parastatal Bodies;
4. Banking and Lending Institutions;
5. Local Authorities;
6. Training/Higher Institutions of Learning;
7. Media Institutions;
8. Health Institutions;
9. Water and Sanitation Utility Institutions; and
10. Other Institutions.

Table 3.1: Type and number of Procuring Entities

Item	Category	No.
1	Ministries and government Departments	37
2	Statutory Bodies	35
3	Parastatal Bodies	11
4	Banking and Lending Institutions	3
5	Local Authorities Local Authorities	23
6	Training/Higher Institutions of Learning	27
7	Media Institutions	3
8	Health Institutions	17
9	Water and Sanitation Utility Institutions	6
10	Other Institutions	12



3.2 Procurement laws and regulations

The procurement legislative and regulatory framework in Zambia is anchored to the Public Procurement Act No. 12 of 2008. The act is divided into nine parts covering preliminary issues, the Zambia Public Procurement Authority, procuring entities, methods of procuring, general procuring rules, procurement process, bidders and suppliers, arbitration clauses, and general provisions. There are, however, other laws which have a bearing on the activities of procurement such as the Anti-Corruption Act, CAP 91, the Public Interest Disclosure (Protection of whistleblowers) Act No. 4 of 2010, the Competition and Fair Trading Act, CAP 417, and the Criminal Procedure Code.

3.2.1 The Public Procurement Act No.12, 2008

The current Procurement Legal Framework in Zambia is hinged on the Public Procurement Act No.12 of 2008. This Act applies to all procurement carried out by procuring entities using public funds

The Act re-establishes the continuation and renaming of the Zambia National Tender Board that existed by virtue of the repealed Act, CAP 394 of 1982 into a new body corporate named the Zambia Public Procurement Authority. In general terms this body corporate is an independent regulatory body with responsibility for policy, regulation, standard setting, compliance and performance monitoring, professional development and information management and dissemination in the field of public procurement.

The Act is general in nature and by virtue of Section 83 of the Act the Minister may, on the recommendation of the ZPPA, by statutory instrument, make regulations for the better carrying out of the provisions of the Act. Currently these regulations do not exist. The former regulations were repealed together with the parent Act Chapter 394. However, discussions with Procuring Entities and ZPPA revealed that the repealed regulations under the repealed Act are still being used as a standard. It should be mentioned here that the drafts for the new regulations have been completed and are currently with the Ministry of Justice for review.

3.2.2 The Anti-Corruption Act

The Anti-Corruption Act, Chapter 91 of the Laws of Zambia establishes the Anti-Corruption Commission which is a body corporate with perpetual succession. It establishes the functions of the commission which among others include:

1. prevention of corruption in public and private bodies;
2. enlisting and fostering public support against corrupt practices;
3. investigating complaints of alleged corrupt practices; and
4. act as an advisory body on corruption matters.

3.2.3 The Penal Code Act

The Penal Code Act, Chapter 87 of the Laws of Zambia, which is the principal legislation prescribing crimes and their penalties criminalizes certain practices relating to procurement. This Act contains a number of provisions dealing with corruption, abuse of office and the exercise of public authority.



3.2.4 The Public Interest Disclosure (Protection of whistleblowers) Act No. 4 of 2010

This Act provides for the disclosure of conduct adverse to the public interest in the public and private sectors; provides a framework within which public interest disclosures are independently and rigorously dealt with; provides for procedures in terms of which employees in both the private and the public sectors may disclose information regarding unlawful or irregular conduct by their employers or other employees in the employ of their employers; safeguards the rights, including employment rights, of persons who make public interest disclosures; it also provides a framework within which persons who make a public interest disclosure shall be protected; and for matters connected with or incidental to the foregoing.

3.2.5 The Competition and Fair Trading Act, CAP 417

This is an Act to encourage competition in the economy by prohibiting anti- competitive trade practices; to regulate monopolies and concentrations of economic power; to protect consumer welfare; to strengthen the efficiency of production and distribution of goods and services; to secure the best possible conditions for the freedom of trade; to expand the base of entrepreneurship; and to provide for matters connected with or incidental to the foregoing.

3.2.6 Public Service Terms and Conditions of Service

Public Service Terms and Conditions of Service also come in handy as it regulates the functioning of the public service. Chapter IV of the Terms and Conditions relate to Conduct and Discipline of public workers.

3.2.7 International Agreements

Zambia has ratified a number of international conventions. In 2007 the United Nations Convention against Corruption and the African Union Convention on Preventing and Combating Corruption were ratified by the Zambian government.

COMESA also has established COMESA Procurement Directives which were passed by the Heads of States and Government in 2003. Through the Enhancing of Procurement Reforms and Capacity Project (EPRCP) the COMESA tries to enhance the public procurement systems of member states by modernizing and harmonizing the laws, regulations and procedures and by strengthening the member states' capacities to manage modern public procurement systems. The focus has been the harmonization of public procurement rules and regulations, improvement of national procurement systems, capacity building in procurement and the encouragement of more awareness of procurement systems through the use of website-driven information technologies. Zambia is a member state and therefore is affected by these procurement directives.

3.3 Current and on-going transparency, anti-corruption and good governance initiatives

This section addresses Baseline Study Objective 5 which focuses on providing information on other on-going initiatives affecting the procurement and management of construction contracts and how these relate to CoST. These are mainly government initiatives. Table 3.2 provides a summary of existing and on-going initiatives in Zambia.



Table 3.2: Existing and on-going initiatives

Initiative	Ownership	Focus	Relationship with CoST	Comments
Public Procurement	Government/ ZPPA	Strengthening of the Public Sector procurement systems in Zambia	Procurement of works tenders can be done in a transparent manner	CoST needs to work closely with ZPPA in matters relating to works tenders and awards
Whistle Blowing	Government	Framework within which whistle blowing is supported	Corruption can be reported easily	The Anti- Corruption Commission has an online whistle blowing mechanism
E-Governance	Government	Existence of an E-government portal which can enhance doing business in Zambia	Procurement of works tenders and reporting of corruption issues	E-Commerce is spreading at a fast rate in the world and Zambia cannot be left behind
Director of Public Prosecutions	Government	The DPP undertakes criminal proceedings and ensures that investigations initiated by the police and other investigative agencies and conducted in accordance	Criminal issues relating to procurement of works tenders	
The Auditor General	Government	Audits public offices in following prescribed accounting procedures	Agencies of Government are Audited including those that deal with works procurement	The Auditor General's reports can reveal very useful information that CoST can use
The Commission for Investigations	Government	Focuses on abuse of office, unnecessary delays, erroneous decisions, misapplication and misinterpretation of laws and regulations	CoST can work with this office on matters relating to procurement of works	At the moment the only limitation is that this office is just in Lusaka
ACT- Against Corruption Together	Government through ACC funded by DFID	Five year programme to help ACC implement the ant- corruption Policy and implementation programme	Since it emphasizes sector tailor made programmes and The road development programme is already ear marked for this Cost can tap in this	The Memorandum of Understanding has been already been signed by Government
Draft Freedom of Information Bill	Government	Would provide the citizenry with legal backing to seek information on public projects. and the sensitization of the public on the need of government to mainstream anti-corruption measures in all government policies	Release of information would be in line with CoST requirements	Civil Society Organizations who are the most vocal and visible organization engaged in anti-corruption activities would assist CoST achieve its aims



Initiative	Ownership	Focus	Relationship with CoST	Comments
Electronic Communications and Transactions Bill	Government	create a safe, secure and effective environment for the consumer, business sector and the Government to conduct and use electronic communication; promote legal certainty and confidence, and encourage investment and innovation in the electronic communications industry; facilitate the creation of secure electronic communication systems and networks;	E procurement would enhance storage of MPIs	e-procurement is a great potential for growth in Zambia
Stakeholder institutions	Zambia Institute of Architects Engineers Institution of Zambia Association of Building & Civil Engineering Contractors, Association of Consulting Engineers, Surveyors Institute of Zambia	Impact the process of public procurement in overseeing the performance of contractors, suppliers and consultants.	Also keep MPI and could disclose if allowed	They are valuable pressure groups on public procurement issues.

3.4 Legal requirements for the release of MPI

To investigate which items of MPI were required to be released into the public domain, the project cycle was categorized into pre-contract and post-contract stages, with contract award as the dividing point. The pre-contract stage is from inception to contract award and involve design, planning and tendering processes. The post-contract stage, from commencement of construction to expiry of the defects liability period, involves the physical erection of a facility.

Identified pre-contract MPIs were:

- project identification;
- project funding;
- tender process for the contract for project design;
- tender process for the contract for project supervision; and
- tender process for the main contract for works.

On the other hand, post-contract MPIs included:

- details of the contract for project supervision;



- details of the main contract for works;
- execution of the contract for project supervision;
- execution of the main contract for works; and
- post contract details of the main contract for works.

As shown in Figure 2.1, the CoST initiative identifies the post contract stage as the core area of disclosure.

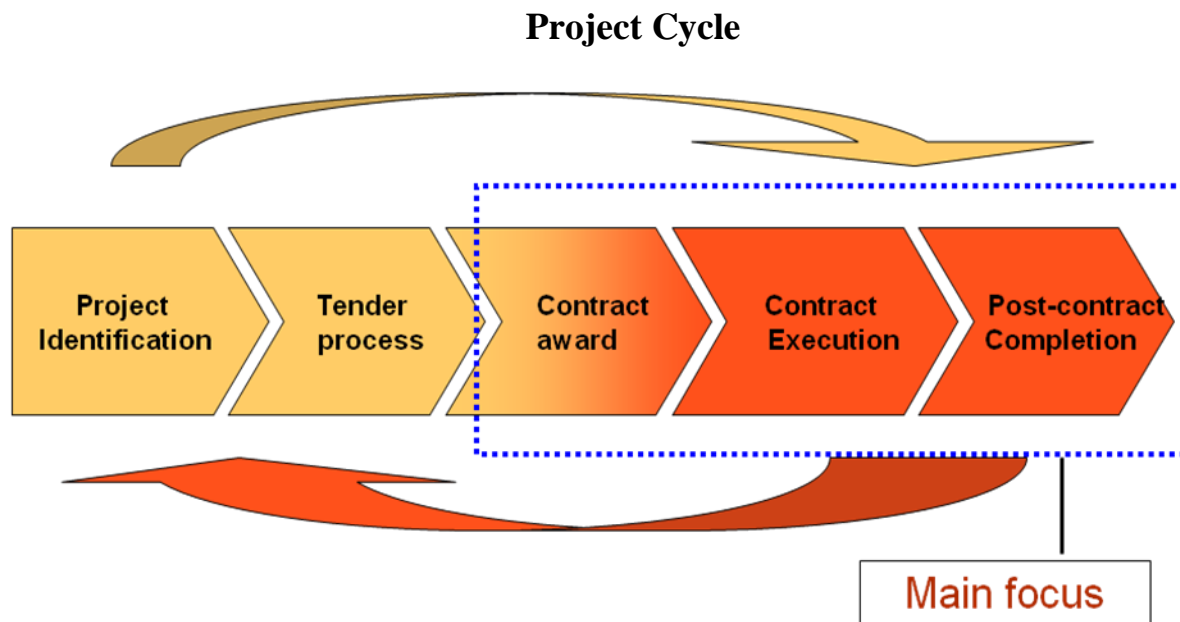


Figure 2.1: CoST main area of focus
(Adapted from Andreski, 2007)

4.0 STUDY FINDINGS

Chapter 4 presents study findings on: legal requirements for the release of MPI; the performance of the sampled PEs against the baseline indicators; and the barriers to the release of MPI.

4.1 Material Project Information (MPI)

Table 4.1 outlines the legal requirements for the release of MPI into the public domain. It reveals that the legal requirement for the release of MPI from the PP Act No. 12 of 2008 of the laws of Zambia, which is the core law on procurement, is focused on the disclosure of the best evaluated bidder. Clause 53 states that *“a procuring entity shall within seven days of award of a contract, prepare a notice indicating the **best evaluated bidder** and the **value of the proposed contract** and send the notice to all bidders who submitted bids”*. Therefore the disclosure of the contractor/consultant name and the contract value are the required details for disclosure. The disclosures carried out by PEs are governed by the type of procurement method adopted. Clause 25 states that *“all PE shall use open bidding for procurement of all goods, works and non consulting services”*. For instance, in cases of open tendering, the advertisement should include pre-contract MPIs such as project specification and location. There are no standard bidding documents for goods and services. The practice is that World Bank standard documents are adopted for non-ICB procurement by Procuring Entities that benefit from Bank financing for projects. Open tendering calls for placement of an advertisement in the public media such as newspapers. The advertisement’s purpose is to supply information to enable potential bidders to decide on their participation. Open tendering normally incorporates public opening of tenders and disclosure of tender prices.

Clause 35.4 of the World Bank standard bidding documents for Procurement of Works states that *“The Employer shall publish in UNDB online and in the dgMarket the results identifying the bid and lot numbers and the following information: (i) name of each Bidder who submitted a Bid; (ii) bid prices as read out at Bid Opening; (iii) name and evaluated prices of each Bid that was evaluated; (iv) name of bidders whose bids were rejected and the reasons for their rejection; and (v) name of the winning Bidder, and the Price it offered, as well as the duration and summary scope of the contract awarded. If, after notification of award, an unsuccessful bidder wishes to ascertain the grounds on which its bid was not selected, it should address its request to the Employer. The Employer will promptly respond in writing to the unsuccessful bidder”*.

The legal requirements for the release of MPI into the public domain in Zambia are clearly spelt out in Table 4.1.



Table 4.1 Legal requirements for the release of MPIs

Stage in Project Cycle		Initial List of Disclosures	Required to be released	Legal references	Comment
Prior disclosures in support of CoST	<i>Project identification</i>	Project specification	No		Usually put in the tender document/solicitation document. It's not a legal requirement per se
		Purpose	No		Usually put in the tender document/solicitation document. It's not a legal requirement per se
		Location	No		Usually put in the tender document/solicitation document. It's not a legal requirement per se
		Intended beneficiaries	No		Usually put in the tender document/solicitation document. It's not a legal requirement per se
		Feasibility study	No		The Environmental Council of Zambia regulations require that the Environmental and social impact assessment component of the feasibility study be disclosed
	<i>Project funding</i>	Financing agreement	No		
		Budget	No		
		Engineer's estimate	No		Usually kept confidential although the information seems to leak privately
	<i>Tender process for the contract for project design</i>	Tender procedure	Yes	PP ACT under Part Six – Procurement Process	
		Name of main consultant	Yes	PP ACT under Part Six – Procurement Process	
	<i>Tender process for the contract for project supervision</i>	Tender procedure	Yes	PP ACT under Part Six – Procurement Process	
		Name of main consultant	Yes	PP ACT under Part Six – Procurement Process	
	<i>Tender process for the</i>	Tender procedure	Yes	PP ACT under Part Six –	



Stage in Project Cycle		Initial List of Disclosures	Required to be released	Legal references	Comment
	<i>main contract for works</i>			Procurement Process	
		List of tenderers	Yes	Under clause 49 of PP ACT under Part five – General Procurement Rules	A procuring entity shall maintain record of all procurement proceedings and at tender opening any interest member of the public may attend
		Tender evaluation report	No		Usually treated as confidential. An unsuccessful bidder may be given information on request only relating to their bid
	<i>Details of the contract for project supervision</i>	Contract price	Yes	Under clause 53 of PP Act	
		Contract scope of work	Yes	Under PP ACT	
		Contract programme	Yes	Under PP ACT	
Core disclosures in support of CoST	<i>Details of the main contract for works</i>	Contractor name	Yes	Under PP ACT	
		Contract price	Yes	Under PP ACT	
		Contract scope of work	Yes	Under PP ACT	
		Contract programme	Yes	Under PP ACT	
	<i>Execution of the contract for project supervision</i>	Significant changes to contract price, programme, scope with reasons	No		No law requires this to be disclosed
	<i>Execution of the main contract for works</i>	Individual changes to the contract which affect the price and reasons for those changes	No		No law requires variations to be disclosed
		Individual changes to the contract which affect the programme and reasons for those changes	No		
		Details of any re-award of main contract	Yes		It can be linked to the law that requires the successful bidder to be publicized
	<i>Post contract completion details of the main</i>	Actual contract price	No		No law requires the disclosure of this information



Stage in Project Cycle		Initial List of Disclosures	Required to be released	Legal references	Comment
	<i>contract for works</i>	Total payments made	No		No law requires the disclosure of this information
		Actual contract scope of work	No		No law requires the disclosure of this information
		Actual contract programme	No		No law requires the disclosure of this information
		Project evaluation and audit reports	No		No law requires the disclosure of this information



The surveyed PEs stored some of the identified MPI. Most of the stored information was frequently in hard copy. The MPIs forwarded to other public bodies such as the ZPPA was the tender process for the main contract for works for purposes of obtaining No Objection. The general pattern showed that the sampled PEs, such as RDA released some of the identified MPI into the public domain through newspaper notices, and others such as MOE in PE publications like the Infrastructure Operation Plan, an annual publication. In addition, other methods of disclosing MPIs included site billboards. The MPI that was commonly released via website was Environmental and Social Impact Assessment by the Environmental Council of Zambia (ECZ).

Table 4.2 presents 31 MPI items identified by the CoST Secretariate that were investigated. It further indicates which of the MPI items were actually being released into the public domain by the sample PEs in the study. From the table, ‘the legal requirement’ column indicates the status of which MPIs were required by law to be disclosed to the public. In the Table ‘the required’ column, Req., represents the PEs’ perception of what was required by law to be released and the ‘actual’ column, Act., indicates which MPIs the PEs’ actually disclosed.

4.1.1 Pre-Contract MPIs

Table 4.2 indicates that all the reviewed PEs **never** disclosed the following pre-contract MPIs:

- feasibility studies;
- financing agreements;
- project cost estimates; and
- the tender evaluation report. Though by law feasibility studies are required to be disclosed.

4.1.2 Post-Contract MPIs

In addition all PEs **never** disclosed the following post-contract MPIs:

- significant changes to contract price and programme scope with reasons;
- individual changes to the contract which affect the price and the reasons for those changes;
- individual changes to the contract which affect the programme and the reasons for those changes; and
- the total payments made.

MPIs that were being **disclosed** by sampled PEs, with the exception of MoE and MoH that were disclosing some of the information in the ‘minority of cases’, included:

- tender procedures;
- contractors’ names
- contract price; and
- details of any re-award of the main contract. All as required by law.



Table 4.2: Summary of required and actual MPI disclosure for sampled PEs

MPI	Description	Legal Requirement	Procuring Entities							
			MoWS		MoE		MoH		RDA	
			Req.	Act.	Req.	Act.	Req.	Act.	Req.	Act.
Project Identification	Project Specification	No	Yes	Never	No	Never	Yes	Never	Yes	Always
	Purpose	No	Yes	Never	No	Minority of cases	Yes	Never	Yes	Always
	Location	No	Yes	Never	No	Minority of cases	Yes	Never	Yes	Always
	Intended beneficiaries	No	Yes	Never	No	Never	No	Never	No	Majority of cases
	Feasibility study	No	Yes	Never	No	Never	No	Never	No	Never
Project Funding	Financing agreement	No	No	Never	No	Never	No	Never	No	Never
	Budget	No	Yes	Never	No	Minority of cases	Yes	Never	No	Minority of cases
	Project Cost estimate	No	No	Never	No	Never	No	Never	No	Never
Tender process for the contract for project design	Tender procedure	Yes					Yes	Never	Yes	Always
	Name of main consultant	Yes					Yes	Never	Yes	Always
Tender process for the contract for project supervision	Tender procedure	Yes					Yes	Never	Yes	Always
	Name of main consultant	Yes					Yes	Never	Yes	Always
Tender process for the main contract for works	Tender procedure	Yes	Yes	Always	Yes	Majority of cases	Yes	Minority of cases	Yes	Always
	List of tenderers	Yes	Yes	Always	No	Never	No	Never	No	Minority of cases
	Tender evaluation report	No	No	Never	No	Never	No	Never	No	Never
Details of the contract for project supervision	Contract price	Yes					No	Never	Yes	Always
	Contract scope of works	Yes					No	Never	Yes	Always
	Contract programme	Yes					No	Never	Yes	Always
Details of the main contract for works	Contractor name	Yes	Yes	Always	Yes	Minority of cases	Yes	Minority of cases	Yes	Always
	Contract price	Yes	Yes	Always	Yes	Minority of cases	Yes	Minority of cases	Yes	Always
	Contract scope of works	Yes	Yes	Always	No	Never	Yes	Never	Yes	Always
	Contract programme	Yes	Yes	Always	No	Never	Yes	Never	Yes	Always
Execution of the contract for project supervision	Significant changes to contract price, programme scope with reasons	No					No	Never	No	Never
Execution of the main contract for works	Individual changes to the contract which affect the price and the	No			No	Never	No	Never	No	Never




MPI	Description	Legal Requirement	Procuring Entities							
			MoWS		MoE		MoH		RDA	
			Req.	Act.	Req.	Act.	Req.	Act.	Req.	Act.
	reasons for those changes									
	Individual changes to the contract which affect the programme and the reasons for those changes	No			No	Never	No	Never	No	Never
	Details of any re-award of main contract	Yes	Yes	Always	Yes	Minority of cases	Yes	Minority of cases	Yes	Always
Post contract details of the main contract for works	Actual contract price	No			No	Never	No	Minority of cases	No	Majority of cases
	Total payments made	No			No	Never	No	Never	No	Never
	Actual contract scope	No			No	Never	No	Minority of cases	No	Never
	Actual contract programme	No			No	Minority of cases	No	Minority of cases	No	Never
	Project evaluation and audit reports	No								

Key

Req = Required disclosures

Act = Actual disclosures

 = Service provided by PE



It was noted that there was variance in the PEs understanding of what was required to be released. The variance could be attributed to the differences in understanding and experiences of the respondents. For instance, PEs like RDA receive funding from Cooperating Partners who may require higher levels of disclosure than legally permitted by Zambian Law. As an example, RDA disclosed 20 of the 31 MPIs as opposed to the 15 required by Zambian law.

Figure 4.1 shows sample PEs and their respective disclosure rates at pre and post contract stages against the requirements by CoST, as well as averages of the two stages. From Figure 4.1, of the sample PEs:

- the legal requirement for disclosure MPIs in Zambia is 48% of that required by CoST;
- RDA performed better in terms of the average disclosures with an average 65% disclosure rate, suggesting that it discloses more of the identified MPIs than is legally required;
- MoE was second with an average disclosure rate of 26%;
- MoWS followed in the third place with an average disclosure rate of 23%; and
- MoH was the worst with an average disclosure rate of 10%.

With the exception of RDA, the disclosure rate of all the PEs was less than 48%, the legal requirement for Zambia suggesting that the rate of disclosure among the sampled PEs was lower than was required by law.

The high disclosure rate of RDA could be attributed to the fact that RDA was an autonomous body governed by a Board of Directors whereas the other PEs were civil service institutions.

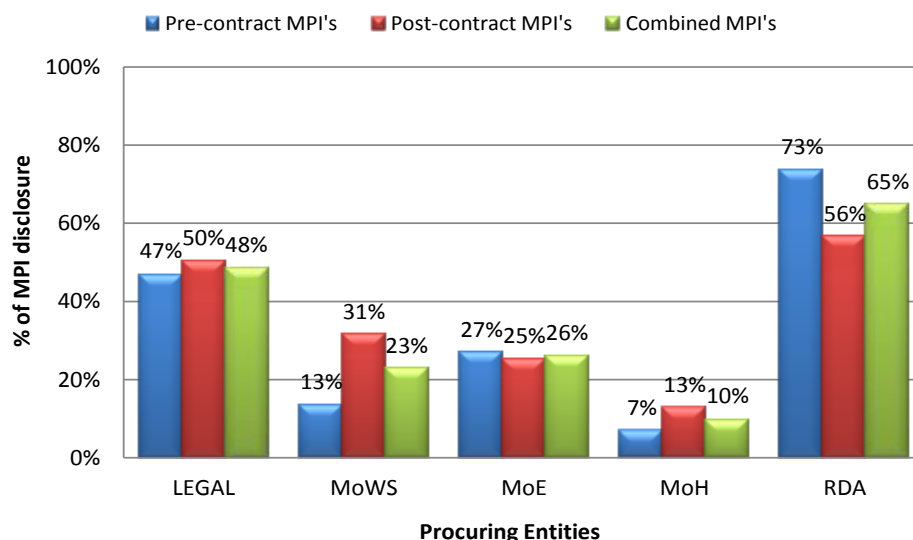


Figure 4.1: Disclosure rates of sample PEs

4.2 Baseline indicators

Accessibility of information held by the PEs by the public in Zambia was determined to be difficult as relevant authority was required for the release of the MPI. Information such as tender evaluation reports could not be released because the law prohibited such release.

MoE and MoH did not have MPI regarding bidding statistics such as number of companies expressing interest in projects because in most cases they rarely prequalified. These PEs relied heavily on the prequalification done by the National Council for Construction.

For project design and supervision services, bidding statistics in certain cases were not available because the surveyed PEs such as MoWS and MoE have full in-house consultancy teams and therefore rarely outsourced. Both RDA and MoH did not have full in-house consultancy teams. This difference in project delivery makes comparison between the projects both difficult and potentially inaccurate.

The number and value of formal instructions to the contractors to remedy defective work was misconstrued by the PEs to mean variations to the contract. After clarification most PEs indicated that instructions issued to remedy defective works issued during project implementation were recorded in the site minutes or in daily site dairies as Project Managers instructions. This information was not readily available with the PEs as it was most likely kept by the contractors and project supervisors. Formal instructions to the contractor to remedy defective work were issued at physical completion before handover to the clients. These instructions were in the form of a snag list. For instructions implemented, the study revealed that the cost of implementing the defects was the contractor's responsibility and the value would not therefore affect the contract sum

Table 4.3 presents the baseline values against which comparisons can be made in any future changes to the indicators. Summary of Disclosure data is shown in Appendix II.



Table 4.3: Baseline Indicators



Construction
Sector
Transparency
Initiative

BASELINE STUDY

LIST OF INDICATORS																										
	PROCURING ENTITY:					MINISTRY OF WORKS AND SUPPLY					MINISTRY OF EDUCATION			MINISTRY OF HEALTH					ROAD DEVELOPMENT AGENCY							AVERAGE
	Project (Chaisa Health Clinic)	Project (Office of the Auditor General)	Project (Passport Office, Lusaka)	Project (Anti-Corruption Commission, Solwezi)	Project (Ministry of Finance and National Development data Centre)	Project (2 Basic Schools in Mkushi and Serenje, Central Province)	Project (2 Basic Schools in Chongwe, Lusaka Province)	Project (Lukwesa Day High School)	Rehabilitation of Rural Health Centres in Western and Southern Provinces	Rehabilitation of Rural Health Centres in Eastern and Lusaka Provinces	Construction of Cancer Center at UTH	Project of Construction of Chadiza District Hospital (Phase2)	Project of Construction of Lufwanyama District Hospital (Phase 1)	Project (Periodic Maintenance of Senanga-Mongu Road)	Project (Rehabilitation of feeder roads U15 in Kapiri Mposhi District)	Project (Periodic Maintenance of Monze-Niko-Chitongo & Hamusonde-Maala Roads -	Project (Periodic Maintenance of Kafue - Mutanda - Mwinilunga Road -T5)	Project (Chiawa Bridge)	Project (Periodic Maintenance of Kitwe-Kalulushi Road -M7)							
1.	BIDDING STATISTICS																									
	For the Contract of Works:																									
	Number of companies expressing interest:																									
	5.00				10.00																7.50					
	4.00		8.00		7.00	7.00	8.00	4.00													6.33					
	If companies who expressed interest who went on to be shortlisted:																									
	% of companies shortlisted who went on to bid:																									
	0.80					0.70																	0.84			
	For the Contract for Project Supervision:																									
	Number of companies expressing interest:																									
	Number of companies shortlisted:																									
	Number of companies bidding:																									
	If companies who expressed interest who went on to be shortlisted:																									
	% of companies shortlisted who went on to bid:																									
	For the Contract for Project Design(Optional):																									
	Number of companies expressing interest:																									
	Number of companies shortlisted:																									
	Number of companies bidding:																									
	If companies who expressed interest who went on to be shortlisted:																									
	% of companies shortlisted who went on to bid:																									
2.	DURATION																									
	For the Contract of Works:																									
	123%	128%	260%	200%	250%	169%	100%		116%	273%				105%	122%	129%	130%	144%	258%	140%						
	ZMK	ZMK	ZMK	ZMK	ZMK	ZMK	ZMK	ZMK	ZMK	ZMK	ZMK	ZMK	ZMK	ZMK	ZMK	ZMK	ZMK	ZMK	ZMK	ZMK						
	For the Main Contract of Works:																									
	Percentage of Initial estimated price to contract price on commencement date																									
	32%	2%	12%	0%	0%	-5%	-5%	1%	4%	-8%				5%	-11%	-10%	0%	-1%	-6%	-8%						
	For Project Supervision Contract:																									
	Percentage of Initial estimated price to contract price on commencement date																									
	Contract price on commencement date to final cost at completion date																									
	Instances of re-award of the main contract for works, with reasons																									
	Formal instructions to remedy defective:																									
	Number of those issued																									
	Number of those implemented																									



From Table 4.3 a number of observations could be made.

4.2.1 Bidding Statistics

For the works contract sampled there were no calls for expression of interest undertaken. For consultancy work, most design and supervision assignments were done in house except for RDA which invariably outsourced consultancy work. The low availability of statistics on the number of bidders in most of the cases could be attributed to all sampled PEs **never** disclosing pre-contract MPI such as the tender evaluation report which would invariably contain information on the number of companies bidding or expressing interest.

4.2.2 Duration

From all the sampled projects only one was delivered within the original contract period. All the other sampled projects experienced contract overruns, typifying the experiences of most projects in Zambia. On average the sampled projects experienced contract schedule overruns of 140%

4.2.3 Contract Price

Information regarding the initial estimated price of proposed contracts was scanty as the PEs rarely disclosed this particular MPI. Findings were that on average the main works were completed within budget. This may not be representative of most projects in Zambia as the sample was too small to generalize the results. Furthermore, the Consultant did not have the full autonomy to select the sampled projects.

4.2.4 Instances of re-award of the main contract for works

There were no instances of re-award of the main contract for works found in the sampled projects.

4.2.5 Formal instructions for remedy of defects

Formal instructions to remedy defective works were recorded as snag lists and issued before handover of projects.

4.3 Barriers to the release of MPI

The following were found to be the most obvious barriers to the release of Material Project Information:

- a) procedure for obtaining authority to access information is very bureaucratic;
- b) Information Management Systems – In some cases it is apparent that the filing systems are not working very well. It has been difficult for instance to find project documents such as evaluation reports, final accounts, and contract documents in one place;
- c) suspicion on the use of the information requested – It appears that with many corruption cases going on in the country public officers are not very free to release information. The levels of trust are quite low; and
- d) the inadequacy in the legal requirements to compel PEs to release MPI.



5.0 CONCLUSIONS, RECOMMENDATIONS AND STUDY LIMITATIONS

Chapter 5 presents the conclusions, recommendations and study limitations arising from this study.

5.1 Conclusions

Against the stated study objectives, below were the conclusions drawn from this study.

Objective 1: Identify MPI required to be released into the public domain

The legal requirement for the release of MPI from the PP Act No. 12 of 2008 of the laws of Zambia is focused on the disclosure of the best evaluated bidder. The disclosure of the winning contractor and consultant's name and the contract value were the only details required for disclosure. The other MPIs that are required to be released include scope of the projects; tender procedure; list of tenderers; contract programme; and details of any re-award of main contract. The pre-tender MPIs only the Environmental Impact Assessment is permitted by law to be released.

Objective 2: Assess MPI currently released into the public domain on sample projects

All reviewed sample PEs **never** disclosed pre-contract MPI such as: feasibility studies; financing agreements; project cost estimates; and the tender evaluation report. All the sampled PEs also **never** disclosed the following post-contract MPIs: significant changes to contract price and programme scope with reasons; individual changes to the contract which affect the price and the reasons for those changes; individual changes to the contract which affect the programme and the reasons for those changes; and the total payments made. MPIs that were being made **publicly available** by sampled PEs, with the exception of MoE and MoH that were disclosing some of the information only in the 'minority of cases', included: tender procedures; contractors' names; contract price; and details of any re-award of the main contract. However, for reviewed projects, there were no instances of re-award.

Objective 3: Assess the barriers to the release of MPI

Major barriers to the release of MPI that emerged from the study included:

- inadequacy of the law in terms of provisions for PEs to release necessary project information into the public domain;
- cost implication of disclosure with regards to the value added to the release of any necessary information;
- confidentiality Clause 40 of the PP Act that prohibit PEs from disclosing other pertinent project information;
- perceptions within PEs that the release of more MPIs may be for little benefit compared to the resource expenditures involved; and
- the potential risk of litigation that the public could use MPIs against the PEs.

Objective 4: Provide a point of reference for core indicators expected to change over time

The baseline study spreadsheets provide the basis for comparison against any future changes in the MPIs as well as a point of reference for benchmarking against other countries.

Objective 5: Provide information on on-going initiatives and how they relate to CoST

The report gives a summary of existing and on-going transparency, anti-corruption and good governance initiatives, their focus and how they relate to CoST.



5.2 Recommendations

Arising out of this study, the following are recommended:

- a) the law should be strengthened in terms of provisions for PEs to release necessary project information into the public domain;
- b) the Confidentiality Clause 40 of the PP Act that prohibit PEs from disclosing other pertinent project information should be repealed;
- c) PEs should be sensitised about the need and importance for the release of MPI into the public domain in order to enhance transparency and good governance in the construction sector;
- d) mechanism for enforcement of the existing laws should be strengthened in order to enhance compliance with the legal requirement to disclose MPI to the public; and
- e) information management systems should be strengthened to ensure easy accessibility and retrieval of MPI.

5.3 Study limitations

The study was not without challenges. During the execution of the assignment the consultants faced the following hurdles:

- a) regarding project sample selection for the study some procurement entities seemed not to want to release files for certain projects, a situation that forced the consultants to substitute such projects;
- b) with regards the design of the spread sheets, it is the experience of the consultants that it was restrictive in terms of the responses to be obtained. For example you could not get more than one response that covers more than one method of releasing information such as hard copy at head office, in newspaper and on to a web site;
- c) certain terms in the Cost spread sheets should have been defined to make the required information clear in terms of detail, for example, were detailed MPIs of some particular level. For example programme information was not clear as to whether it was detailed one or one just showing major milestones such as start and end dates;
- d) procedure for obtaining authority to access information is very bureaucratic - For example, It took one (1) week for the Permanent Secretary in one procurement entity to send a letter authorizing the release of project files to the Director Planning then another one (1) week for the same letter to reach the Head of Planning and finally a further one and a half (1.5) weeks for the letter to reach the Head Infrastructure. The Infrastructure Unit also required a few days to find the information. The authorization and accessing of required information took over one month and involved moving from office to office;
- e) Information Management Systems – In many cases it is apparent that record keeping of the PEs was poor. It was difficult for instance to find project documents such as evaluation reports that would indicate number of bidders, final accounts, and contract documents in one place; and
- f) suspicion about the use of the information requested – It appeared that with many corruption cases going on in the country, public officers were not very free to release information. The levels of trust are quite low. This also explains why the study took so long to complete.



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Appendix I: Procuring Entities in Zambia

Ministries and Government Departments

1. The Permanent Secretary
Ministry of Agriculture & Cooperatives
Lusaka
2. The Permanent Secretary
Ministry of Community Development & Social Services
Lusaka
3. The Permanent Secretary
Ministry of Commerce, Trade & Industry
Lusaka
4. The Permanent Secretary
Ministry of Communications & Transport
Lusaka
5. The Permanent Secretary
Ministry of Defence
Old Cabinet Office
Independence Avenue
Lusaka
6. The Permanent Secretary
Ministry of Energy & Water Development
Lusaka
7. The Permanent Secretary
Ministry of Home Affairs
Lusaka
8. The Permanent Secretary
Ministry of Foreign Affairs
Lusaka
9. The Permanent Secretary
Ministry of Finance & National Planning
Lusaka
10. The Permanent Secretary
Ministry of Education
Lusaka
11. The Permanent Secretary
Ministry of Information & Broadcasting Services
Lusaka
12. The Permanent Secretary
Ministry of Labour & Social Security
New Government Complex
Lusaka



13. The Permanent Secretary
Ministry of Lands
Lusaka
14. The Hon. Minister of Justice & Attorney General
Ministry of Justice
Lusaka
15. The Permanent Secretary
Ministry of Local Government & Housing
Church Road
Lusaka
16. The Permanent Secretary
Ministry of Mines & Minerals Development
Lusaka
17. The Permanent Secretary
Ministry of Science, Technology & Vocational Training
Lusaka
18. The Permanent Secretary
Ministry of Sports, Youth & Child Development
Lusaka
19. The Permanent Secretary
Ministry of Tourism, Environment & Natural Resources
Lusaka
20. The Permanent Secretary
Ministry of Works & Supply
Lusaka
21. The Permanent Secretary
Gender in Development
Lusaka
22. The Permanent Secretary
Ministry of Health
Ndeke House
Lusaka
23. The Permanent Secretary (A)
Cabinet Office
Lusaka
24. The Permanent Secretary
Provincial Administration
Central Province
Kabwe
25. The Permanent Secretary
Office of the President
Copperbelt Province
Ndola



26. The Permanent Secretary
Provincial Administration
Eastern Province
Chipata
27. The Permanent Secretary
Provincial Administration
Luapula Province
Mansa
28. The Permanent Secretary
Provincial Administration
Lusaka Province
Lusaka
29. The Permanent Secretary
Provincial Administration
Northern Province
Kasama
30. The Permanent Secretary
Provincial Administration
Southern Province
Livingstone
31. The Permanent Secretary
Office of the President
Provincial Administration
North Western Province
Solwezi
32. The Permanent Secretary
Provincial Administration
Western Province
Mongu
33. The Chief Administrator
The Judiciary
Central Administration
Lusaka
34. The Director
Office of the Vice President
Lusaka
35. The Comptroller
State House
Independence Avenue
Lusaka
36. National Coordinator
Disaster Management & Mitigation Unit
25 Tito Road
Lusaka



37. The Air Commander
Zambia Airforce Headquarters
Lusaka

Statutory Bodies

1. The Director General
Anti Corruption Commission
Lusaka
2. The Auditor General
Office of the Auditor General
Haile Salassie Avenue
Lusaka
3. The Investigator General
Commission for Investigation
Lusaka
4. The Chief Executive Officer
The Communications Authority
Heavy Industrial Area
Lusaka
5. The Commissioner
Drug Enforcement Commission
Government Road
Lusaka
6. The Director
Electoral Commission of Zambia
Haile Selassie Avenue
Lusaka
7. The Executive Director
Energy Regulation Board
8th Floor, Premium House
Lusaka
8. The Director
Environmental Council of Zambia
Lusaka
9. The Council Secretary
Examination Council of Zambia
Lusaka
10. The Executive Director
Food Reserve Agency
Industrial Area
Lusaka
11. The Managing Director
Kariba North Bank Company
Lusaka



12. The Managing Director
Medical Stores Limited
Lusaka
13. The Clerk of the National Assembly
National Assembly
Parliament Buildings
Lusaka
14. The Executive Director
National Council for Construction
Lusaka
15. The Executive Director
National Heritage Conservation Commission
Livingstone
16. The Chief Executive
National Housing Authority
Lusaka
17. The Director
National Road Fund Agency
Lusaka
18. The Secretary
Teaching Service Commission
Lusaka
19. The Director
Zambia Bureau of Standards
Lechwe House, Freedom Way
Lusaka
20. The Director
Zambia Law Development Commission
Lusaka
21. The Chief Executive Officer
Zambia Development Agency
Privatisation House, Nasser Road
Lusaka
22. The Commissioner General
Zambia Revenue Authority
Revenue House
Lusaka
23. The Managing Director
Zambia Tourist Board
Lusaka
24. The Director General
Zambia Wildlife Authority
Kafue Road
Chilanga



25. The Chief Executive Officer
Nitrogen Chemicals of Zambia
Kafue
26. Occupational Health & Safety Management Board
Lusaka
27. The Commission Secretary
Police & Prisons Service Commission
Investment House
Lusaka
28. The Registrar
Revenue Appeals Tribunal
Lusaka
29. The Director & Chief Executive Officer
Road Development Agency
Fairley Road
Lusaka
30. The Director
Road Transport & Safety Agency
Dedan Kimathi Road
Lusaka
31. The Chief Executive Officer
Rural Electrification Authority
Sheki Sheki Road
Lusaka
32. The Managing Director
National Airports Corporation
Lusaka
33. The Registrar
The Registrar of Companies
Lusaka
34. The Director
Human Rights Commission
Human Rights House
Independence Avenue
Lusaka
35. The Chief Executive
Public Service Management Division
Lusaka

Parastatals

1. The Chief Executive
Public Service Pensions Fund
Lusaka



2. The Managing Director
Zambia Educational Publishing House
Lusaka
3. The Managing Director
Indeni Petroleum Refinery
Ndola
4. The Managing Director
Local Authorities Superannuation Fund
Lusaka
5. The Director General
National Pension Scheme Authority
Lusaka House
Lusaka
6. The Managing Director
Zambia National Building Society
Century House
Lusaka
7. The Postmaster General
Zambia Postal Services Corporation
Ndola
8. The Managing Director
Zambia Telecommunications Company Limited
Ndola
9. The Managing Director
Zambia Electricity Supply Corporation Limited
Lusaka
10. The Managing Director
Zambia State Insurance Corporation Limited
Lusaka
11. The Chief Executive Officer
Citizens Economic Empowerment Commission
Longacres
Lusaka

Banking & Lending Institutions

1. Deputy Governor Administration
Bank of Zambia
Lusaka
2. The Managing Director
Development Bank of Zambia
Development House
Lusaka



3. The Managing Director
National Savings & Credit Bank of Zambia
Lusaka

Local Authorities

1. The Council Secretary
Chama District Council
Chama
2. The Council Secretary
Chibombo District Council
Chibombo
3. The Town Clerk
Chililabombwe Municipal Council
Chililabombwe
4. The Town Clerk
Choma Municipal Council
Choma
5. The Council Secretary
Kafue District Council
Kafue
6. The Council Secretary
Kaoma District Council
Kaoma
7. The Acting Town Clerk
Kasama Municipal Council
Kasama
8. The Council Secretary
Kawambwa District Council
Kawambwa
9. The Town Clerk
Kitwe City Council
Kitwe
10. The Town Clerk
Livingstone City Council
Livingstone
11. The Town Clerk
Lusaka City Council
Civic Centre
Lusaka
12. The Town Clerk
Mazabuka Municipal Council
Mazabuka



13. The Town Clerk
Mongu Municipal Council
Mongu
14. The Acting Town Clerk
Ndola City Council
Ndola
15. The Council Secretary
Nyimba District Council
Nyimba
16. The Council Secretary
Samfya District Council
Samfya
17. The Council Secretary
Nchelenge District Council
Nchelenge
18. The Council Secretary
Petauke District Council
Civic Centre
Petauke
19. The Council Secretary
Senanga District Council
Senanga
20. The Council Secretary
Sesheke District Council
Sesheke
21. The District Secretary
Kaputa
22. The Council Secretary
Chinsali District Council
Chinsali
23. The Council Secretary
Chadiza District Council
Chadiza

Training /Higher Institutions of Learning

1. The Executive Director
Zambia Centre for Accountancy Studies
Lusaka
2. The Executive Secretary
National Science & Technology Council
Haile Selassie Road
Lusaka



3. The Executive Director
National Technology Business Centre
New Government Complex, 8th Floor
Lusaka
4. The Principal
Charles Lwanga College of Education
Monze
5. The Registrar
Copperbelt University
Kitwe
6. The Principal
Copperbelt Secondary Teachers Training College
Kitwe
7. The Principal
David Livingstone College of Education
Livingstone
8. The Principal
Evelyn Hone College of Applied Arts & Commerce
Church Road
9. The Principal
Kabwe Trades Training Institute Management Board
Kabwe
10. The Director
Kafue Gorge Regional Training Centre
Lusaka
11. The Principal
Kitwe Teachers' Training College
Kitwe
12. The Principal
Livingstone Institute for Business & Engineering Studies Management Board
Livingstone
13. The Principal
Luanshya Technical & Vocational Teachers' College Management Board
Luanshya
14. The Principal
Luanshya Trades Training Institute
Luanshya
15. The Principal
Lukashya Trades Training Institute
Kasama
16. The Principal
Mufulira Teachers Training College
Mufulira



17. The Principal
National College for Management & Development Studies
Kabwe
18. The Executive Director
National Institute for Scientific & Industrial Research
International Airport Road
Lusaka
19. The Principal
Natural Resources Development College
Airport Road
Lusaka
20. The Executive Director
National Institute of Public Administration
Lusaka
21. The Principal
Northern Technical College
Ndola
22. The Vice Chancellor
The University of Zambia
Lusaka
23. The Director
Tropical Diseases Research Centre
Ndola
24. The Executive Director
Zambia Institute of Advanced Legal Education
Lusaka
25. The Principal
Zambia Air Services Training Institutes
Lusaka International Airport
Lusaka
26. The Principal
Kasama Teachers' Training College
Kasama
27. The Vice Chancellor
Mulungushi University
Kabwe

Media Institutions

1. The Director General
Zambia National Broadcasting Corporation
Lusaka
2. The Managing Director
Times Printpak Zambia Limited
Ndola



3. The Managing Director
Zambia Daily Mail
Longolongo Road
Lusaka

Health Institutions

1. The Executive Director
Chainama Hills College Hospital Board of Management
Lusaka
2. The District Director of Health
Chingola DMHT
Chingola
3. The Director
Lusaka Urban District Management Team
Lusaka
4. The Executive Director
Kabwe General Hospital
Kabwe
5. The District Director of Health
Kawambwa District Health Management Board
Kawambwa
6. The Executive Director
Kitwe Central Hospital
Kitwe
7. The Executive Director
Mansa General Hospital
Mansa
8. The Director
Mazabuka Health Management Board
Mazabuka
9. The District Director of Health
Monze Health Management Board
Monze
10. The Executive Director
Nchanga General Hospital
Chingola
11. The Executive Director
Ndola Central Hospital
Postal Agency Ndola Central Hospital
Ndola
12. The District Director of Health
Samfya District Health Management Board
Samfya



13. The District Director of Health
Mansa District Health Management Board
Mansa
14. The Executive Director
Ronald Ross General Hospital
Mufulira
15. The District Director of Health
Senanga District Health Management Board
Senanga
16. The Managing Director
University Teaching Hospital
Lusaka
17. The District Director of Health
Sinazongwe District Council
Sinazongwe

Water & Sanitation Utility Institutions

1. The Director
National Water Supply & Sanitation Council
164 Mulombwa Close
Lusaka
2. The Managing Director
Nkana Water & Sewerage Company
Investment House
Kitwe
3. The Managing Director
Copperbelt Solid Waste Management Company Limited
Kitwe
4. The Managing Director
Kafubu Water & Sewerage Company Limited
B12 Vitanda Street
Ndola
5. The Managing Director
Lusaka Water & Sewerage Company Limited
Lusaka
6. The Managing Director
Mulonga Water & Sewerage Company Limited
Solwezi

Other Institutions

1. The Director
State Lotteries Board
Lusaka



2. The Director
TEVETA
Birdcage Walk
Lusaka
3. The Commissioner
The Workers' Compensation Commissioner
Workers' Compensation Fund Control Board
Ndola
4. The General Manager
Zambia Forestry & Forest Industries Corporation Limited
Ndola
5. The Acting Director
Zambia Agency for Persons with Disabilities
Lusaka
6. The Managing Director
Zambia Export Processing Zones Authority
Lusaka
7. The General Manager
Mukuba Hotel
Ndola
8. The General Manager
Mulungushi International Conference Centre
Lusaka
9. The General Manager
Mulungushi Village Complex
Lusaka
10. The Director
Small Enterprises Development Board
Lusaka
11. The Executive Director
Programme Against Malnutrition
Lusaka
12. The Executive Director
National AIDS Council of Zambia
Independence Avenue
Lusaka



Appendix II: Summary of disclosure data

DISCLOSURE OF PROJECT INFORMATION PART 1.			
Which of the following items of project information is required to be released into the public domain under current legislation (e.g. Procurement Act)			
Select one box X			
1.0	Pre-tender		
1.1	Project feasibility study	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
1.2	Environmental and social impact assessment	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
1.3	Financing agreement	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
2.0	Tender process		
2.1	Tender evaluation report for appointment of consultants for design and supervision	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
2.2	Tender evaluation report for appointment of main contractor	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
3.0	Contract award		
3.1	Details of main contract award (e.g. name of contractor, contract price, scope of work)	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
4.0	Contract implementation		
4.1	Significant changes to the contract price, scope of work or programme	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
4.2	Completion report (e.g. actual contract cost, programme and scope of work)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
4.3	Project evaluation reports (e.g. financial and technical audits).	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
5.0 SUMMARY OF DISCLOSURE DATA (PART 2)			
5.1	Which of the items of project information that is required to be released into the public domain is actually being released? (give references to data sheets)		
All PEs disclose the following MPI <ul style="list-style-type: none"> ○ Tender procedure ○ Contractor name ○ Contract price 			
5.2	What proportion of sampled procuring entities are actually disclosing this information? (give references to data sheets)		
All PE are releasing the above MPIs			
5.3	How is the information being disclosed? (give references to data sheets)		
Available information is stored in hard copy			
5.4	Are there any barriers (legal or administrative) to the disclosure of items of project information not mentioned in 5.1 above? (give references to data sheets)		
There are no barriers			



Appendix III: Terms of Reference

1.0 Background

The Construction Sector Transparency (CoST) initiative is an international multi-stakeholder programme designed to achieve greater transparency and accountability in public sector construction, with the aim that governments and consumers "get what they pay for". It will do this by disclosing to the public 'Material Project Information' (MPI) at all stages of the construction project cycle, from the initial identification of the project to the final completion. The full list of information to be disclosed is outlined in Annex A.

The CoST initiative is sponsored by the Department for International Development (DFID) of the United Kingdom and the World Bank (WB). It builds on the experience of the Extractive Industries Transparency Initiative (EITI) that has resulted in improved transparency in the oil and mining industries.

CoST is principally about achieving transparency through the release of information into the public domain. It is important that the information that is released through CoST is both accurate, and available in a form that can easily be understood by stakeholders. To achieve this, the disclosed information will, to the extent necessary, be verified and interpreted by experts (an "Assurance Team") appointed for this purpose. The role of the Assurance Team, who will be answerable to a National Multi-Stakeholder Group (NMSG) responsible for CoST, is to play an interpretative role in helping to make raw data disclosures more intelligible to a wider range of affected stakeholders.

CoST is currently being piloted in seven countries under the direction of NMSGs set up for the purpose. The seven countries are Ethiopia, Malawi, Philippines, Tanzania, UK, Vietnam, and Zambia. The pilot is initially two years. Whether or not it is extended or expanded will depend to a large extent on the lessons learned from the monitoring and evaluation of the project.

A monitoring and evaluation (M&E) consultant has been appointed and has developed a framework and approach to monitor progress and assess the effectiveness of CoST during the pilot phase. The approach is based on a comparison of the outcomes of CoST projects with the outcomes of a group of projects, fulfilling similar criteria, not included in CoST. This comparison will largely use information generated internally during the implementation of the project.

The M&E consultant has also defined a set of core indicators to measure the impact of the project (including broader spill-over effects within the sector) in the longer term, in a manner that will also allow cross country comparisons to be made. A baseline study is now needed in each pilot country to provide a point of reference against which to assess change over time in some of these indicators (others will only be measured once CoST disclosure starts). The relevant indicators for the baseline study are shown in Annex B.

2.0 Objectives

The purpose of the baseline study is to provide information against which to evaluate the short term effects and longer term impact of CoST, during the pilot project and any subsequent phase.

The specific objectives of the study are:

1. To investigate which items of 'Material Project Information' (MPI) are currently required to be released into the public domain by the agencies responsible for procuring construction projects (Procuring Entities or PEs);
2. To assess, for a sample set of PEs, which items of MPI are currently being released into the public domain;
3. To assess (for the same sample set of PEs) the barriers (legal, administrative and other) to the release of this information;
4. For a sample set of projects completed no earlier than December 2006 and selected at random from the sample set of PEs, to provide a point of reference for those core indicators that are expected over time to be subject to change as a result of CoST (others will be identified and measured as part of routine project reporting);
5. To provide information on other on-going initiatives affecting the procurement and management of construction contracts and how these might complement, support or otherwise affect activities under CoST.



3.0 Scope of Work

The consultant will be expected to perform the following:

Preliminary task

- Study and become fully conversant with the objectives, design and documentation on the CoST project. The consultant will be briefed by the MSG and/or the International Secretariat
- Collect data from secondary sources (laws, regulations, reports, etc.) and present a summary of the following (with sources):
 1. Number and type of procuring entities in the country, at national and local level¹
 2. Summary of the Laws and Regulations on procurement, in particular the procurement of works, including recent changes and progress of reforms
 3. Other on-going or planned transparency/anti-corruption/good governance initiatives that affect the construction sector, focusing on processes and outcomes and the way in which they relate to CoST
 4. Requirements under the law for the release of any of the MPI listed in Annex A
 5. Documented barriers to the release of MPI listed in Annex A
- In close consultation with the NMSG, set up a database at national level to record the information collected during the baseline study. A recommended structure for the database has been provided by the International Secretariat.

Stage One

- Meet with the MSG to discuss and agree the sample set of procuring entities (PE) to be involved in the gathering of data on key indicators: where possible obtain the agreement of the PEs (at least in principle) to cooperate in supplying data. Guidelines for the selection of the sample are set out in Annex C.
- For each of the selected PEs record, on the spreadsheet provided by the International Secretariat, which of the standard list of MPI (see Annex A) is:
 1. Stored by the PE, indicating whether it is
 - Available in a hard copy file
 - Available in hard copy but would need to be searched out; and/or
 - Stored electronically as a management resource.
 2. Forwarded from the PE and stored by others (e.g. project implementation agency, procurement oversight authority)
 3. Released into the public domain (e.g. on website) (indicating a sliding scale of always/majority of cases/minority of cases/never)
 4. Made available to the public on demand (indicating a sliding scale of always/majority of cases/ minority of cases/never)
 5. Required by law to be made available to the public
 6. Prevented by law from being made available to the public
 7. Prevented by other factors (political, managerial, administrative) from being made available to the public
- Summarise the data compiled above in the format provided in Annex D

The above information to be recorded on the spread sheets (one for each PE) provided by the International Secretariat.

Stage two

- Agree with the MSG the criteria for the selection of projects completed no earlier than December 2006 from the participating PEs and select a sample set of completed projects from each of the selected PEs, following the procedures set out in Annex C.
- From the records of each of the selected projects record, on the spreadsheets provided, the following:

¹ Suggested sources for this information include national procurement capacity assessments using the OECD/DAC Methodology for Assessment of National Procurement Systems.



- **Prequalification and tender**

1. Number of companies expressing interest in the main contract for works
2. Number of companies shortlisted
3. Number of shortlisted companies subsequently bidding for the main contract for works
4. Number of companies expressing interest in bidding for the contract for project supervision
5. Number of companies short-listed
6. Number of shortlisted companies subsequently bidding for the contract for contract supervision
7. Number of companies expressing interest in the contract for project design²
8. Number of companies short-listed
9. Number of shortlisted companies subsequently bidding for the contract for project design

- **Project execution**

1. Estimated length of project (commencement date to completion date) in weeks at commencement date
2. Actual length of project (commencement date to completion date) in weeks at the completion of the project
3. For site supervision contracts: (a) initial estimated price (b) price at contract start date (c) price at completion date
4. For the main contract for works: (a) initial estimated price (b) price at contract start date (c) price at contract completion date
5. Instances of re-award of the main contract with recorded reasons
6. The number and value of formal instructions to remedy defective works (a) issued (b) implemented
7. Any other recorded indication (e.g. in project completion reports) of the contractor failing to meet the specification, listing the source of the information and a brief comment on the nature and severity of the failure

The above information to be recorded on the spreadsheets provided by the International Secretariat.

4.0 Outputs

The outputs of this assignment will be:

1. An editable electronic format report outlining
 - The procedures used to select a sample set of PEs to be targeted for data collection
 - The procedures and criteria used for selecting a sample set of projects for data collection
 - Summary of the indicators
 - The summaries of background information (as highlighted under preliminaries above)
 - A concise associated narrative overview of the findings of the baseline survey and any perceived methodological shortcomings, with recommendations for mitigation of their effects.
2. A series of data sheets in excel recording the raw data collected from the PEs (five data sheets) and from the **25 projects (25 sheets)**

5.0 Reporting Requirements

The consultants will be required to:

- Meet with the CoST NMSG to discuss the M&E exercise before work commences and at specified milestones during implementation (e.g. initial briefing, selection of PEs, interim findings, draft final report).
- Discuss with the International Secretariat any questions in the original brief, or issues arising during the course of the work, on which further clarification is required
- Provide further detail on progress, or submit drafts of the outputs, upon request by the NMSG, or the International Secretariat.
- Submit a draft report within six weeks of the signing of the contract and a final report within two weeks of receiving comments on the draft

² Items 7, 8, 9 are optional, for those countries who have decided to include design contracts in CoST



Annex A: List of material project information (MPI)

Stage in Project Cycle		Initial List of Disclosures
Prior disclosure in support of CoST	<i>Project identification</i>	<ul style="list-style-type: none"> • Project specification • Purpose • Location • Intended beneficiaries • Feasibility study
	<i>Project funding</i>	<ul style="list-style-type: none"> • Financing agreement • Budget • Engineer's estimate
	<i>Tender process for the contract for project design</i>	<ul style="list-style-type: none"> • Tender procedure • Name of main consultant
Core disclosure in support of CoST	<i>Tender process for the contract for project supervision</i>	<ul style="list-style-type: none"> • Tender procedure • Name of main consultant
	<i>Tender process for the main contract for works</i>	<ul style="list-style-type: none"> • Tender procedure • List of tenderers • Tender evaluation report
	<i>Details of the contract for project supervision</i>	<ul style="list-style-type: none"> • Contract price • Contract scope of work • Contract programme
	<i>Details of the main contract for works</i>	<ul style="list-style-type: none"> • Contractor name • Contract price • Contract scope of work • Contract programme
	<i>Execution of the contract for project supervision</i>	<ul style="list-style-type: none"> • Significant changes to contract price, programme, scope with reasons
	<i>Execution of the main contract for works</i>	<ul style="list-style-type: none"> • Individual changes to the contract which affect the price and reasons for those changes • Individual changes to the contract which affect the programme and reasons for those changes • Details of any re-award of main contract
	<i>Post contract completion details of the main contract for works</i>	<ul style="list-style-type: none"> • Actual contract price • Total payments made • Actual contract scope of work • Actual contract programme • Project evaluation and audit reports

Note:

The intent of the above disclosures is that information should be disclosed regarding the major contracts for financing, design, project management, construction, operation and maintenance (where appropriate) of the project. In traditional contractual arrangements, the main contracts for works and/or services will generally be between the procuring entity and each relevant contractor. However, increasingly, procuring entities are contracting out, to one or more parties, responsibility for design, construction, financing, operation and maintenance. In such cases, the above information should be disclosed in relation to the first tier contract between the procuring entity and the prime contractor(s), and in relation to the second tier contracts between the prime contractor and those providing finance, design, project management, construction and operation.



Annex B: List of indicators for baseline study

- Bidding statistics
- Number of companies expressing interest in projects (design, supervision, works)
- Number and percentage of shortlisted companies bidding for projects (design, supervision, works)
- Material Project Information (MPI)
- What MPI is required to be made publicly available?
- What MPI is being made publicly available (for a sample of Procuring Entities)

- Time from contract commencement date to completion date as a % of the original contract programme at commencement date (main contract for works)

- For countries looking at the contract for works supervision. Average % change from:
 - Initial estimated price to contract price on commencement date, and
 - Contract price on commencement date to final cost at completion date

- For the main contract for works. Average % change from:
 - Estimated project cost to contract price on commencement date and
 - Contract price on commencement date to final cost at completion date

- Instances of re-award of the main contract for works, with reasons

- Number and value of formal instructions to the contractor to remedy defective work:
 - Issued
 - Implemented



Annex C: Note on sampling

Ideally the information required to meet objectives 2, 3, 4 should be collected from all PEs in the country and for all projects. But in many countries the number of PEs is in the hundreds and projects initiated or completed each year are in the thousands. The time and cost required to cover all clearly make this unrealistic. Sampling is therefore required.

Selecting a sample of PE's (to meet objectives 2 and 3)

PEs differ according to size (number and value of projects commissioned each year), sector (roads, buildings, water, power etc.) and whether they are national or local agencies. The consultant should agree with the MSG the selection of a sample of PEs on which to focus. It is suggested that five such agencies would be an appropriate number to include.

In countries where the MSG has already decided to focus on particular sectors (e.g. roads) or particular agencies (PEs), the same sectors/agencies should be used for the collection of baseline data. Where the agencies selected are all at national level the list should be supplemented by inclusion of at least one agency at sub-national (local) level.

Where the focus is on one sector (e.g. roads) at least two agencies involved in other sectors (e.g. buildings) should be included.

In countries where the MSG has not yet decided to focus on particular agencies, the consultant should discuss with the MSG on the agencies most likely to be involved in a CoST project and include at least some of these in the sample. If possible the sample should include a cross section of agencies by size, sector and location.

Selecting a sample of completed projects (to meet objective 4)

The sampling procedure adopted should closely mirror that used for the selection of projects for inclusion in CoST. The procedure involves (i) defining the criteria to be used for the selection of projects (ii) listing all projects that meet the criteria (iii) using a random procedure to select projects from the list.

As far as possible the selection criteria should reflect those identified by the MSG for projects to be included in CoST. Criteria for the baseline study selection might include size of project, type, source of funds, procurement procedure, form of contract etc. All projects should have already been completed at the time of the survey. It is suggested that 5 projects per PE would be an appropriate number.



Annex D: Summary of disclosure data

DISCLOSURE OF PROJECT INFORMATION PART 1.			
Which of the following items of project information is required to be released into the public domain under current legislation (e.g. Procurement Act)			
			Select one box X
1.0	Pre-tender		
1.1	Project feasibility study	Yes <input type="checkbox"/>	No <input type="checkbox"/>
1.2	Environmental and social impact assessment	Yes <input type="checkbox"/>	No <input type="checkbox"/>
1.3	Financing agreement	Yes <input type="checkbox"/>	No <input type="checkbox"/>
2.0	Tender process		
2.1	Tender evaluation report for appointment of consultants for design and supervision	Yes <input type="checkbox"/>	No <input type="checkbox"/>
2.2	Tender evaluation report for appointment of main contractor	Yes <input type="checkbox"/>	No <input type="checkbox"/>
3.0	Contract award		
3.1	Details of main contract award (e.g. name of contractor, contract price, scope of work)	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.0	Contract implementation		
4.1	Significant changes to the contract price, scope of work or programme	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.2	Completion report (e.g. actual contract cost, programme and scope of work)	Yes <input type="checkbox"/>	No <input type="checkbox"/>
4.3	Project evaluation reports (e.g. financial and technical audits).	Yes <input type="checkbox"/>	No <input type="checkbox"/>

Note: you must provide sources and references to data sheets



5.0 SUMMARY OF DISCLOSURE DATA (PART 2).	
5.1	Which of the items of project information that is required to be released into the public domain is actually being released? (give references to data sheets)
5.2	What proportion of sampled procuring entities is actually disclosing this information? (give references to data sheets)
5.3	How is the information being disclosed? (give references to data sheets)
5.4	Are there any barriers (legal or administrative) to the disclosure of items of project information not mentioned in 5.1 above? (give references to data sheets)

Appendix IV: Baseline study spreadsheets

