

REPORT NO: 89252

**UNITED MEXICAN STATES
STATE OF OAXACA**

**FIDUCIARY SYSTEMS ASSESSMENT OF THE
OAXACA WATER AND SANITATION SECTOR MODERNIZATION PROGRAM**

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ABBREVIATIONS AND ACRONYMS

ADOSAPACO	<i>Administración Directa de Obras y Servicios de Agua Potable y Alcantarillado de la Ciudad de Oaxaca</i> (Direct Administration of Drinking Water and Sewerage Works and Services of the City of Oaxaca)
APAZU	<i>Programa de Agua Potable, Alcantarillado, y Saneamiento en las Zonas Urbanas</i> (Water, Sewerage, and Drainage in Urban Areas Program)
ASEO	<i>Auditoría Superior del Estado de Oaxaca</i> (State Supreme Audit Institution)
ASF	<i>Auditoría Superior de la Federación</i> (Federal Supreme Audit Institution)
ATI	Access to Information
BANOBRAS	<i>Banco Nacional de Obras y Servicios Públicos</i> (National Bank of Public Works and Services)
CEA	<i>Comisión Estatal del Agua</i> (State Water Commission)
CONAC	<i>Consejo Nacional de Armonización Contable</i> (National Council of Accounting Harmonization)
CONAGUA	<i>Comisión Nacional de Agua</i> (National Water Commission)
F/C	Fraud and Corruption
FM	Financial Management
FMIS	Financial Management Information System
GoO	Government of Oaxaca
GRP	Governmental Resource Planning
IPF	Investment Project Financing
IVA	Independent Verification Agent
LAASSP	<i>Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público</i> (Law of Acquisitions, Leases and Services of the Public Sector)
LOPSRM	<i>Ley de Obras Públicas y Servicios Relacionados con las Mismas</i> (Law of Public Works and Related Services)
PFM	Public Financial Management
PAP	Program Action Plan
PforR	Program for Results
RBA	Risk Based Approach
SAPAO	<i>Servicios de Agua Potable y Alcantarillado de Oaxaca</i> (Water supply and sewerage services of Oaxaca)
SCTG	<i>Secretaría de la Contraloría y Transparencia Gubernamental del Estado de Oaxaca</i> (Secretariat of the Comptroller and Governmental Transparency of the State of Oaxaca)
SEFIN	<i>Secretaría de Finanzas del Estado de Oaxaca</i> (Secretariat of Finance of the State of Oaxaca)
SFP	<i>Secretaría de la Función Pública</i> (Secretariat of the Public Function)
SHCP	<i>Secretaría de Hacienda y Crédito Público</i> (Federal Ministry of Finance)
SINFRA	<i>Secretaría de las Infraestructuras y el Ordenamiento Territorial Sustentable del Estado de Oaxaca</i> (Secretariat of the Infrastructures and the Sustainable Territorial Planning of the State)

	of Oaxaca)
SINPRES	<i>Sistema Integral de Presupuesto</i> (Budgetary Integral System)
TA	Technical Assistance
WSS	Water Supply and Sanitation

UNITED MEXICAN STATES
OAXACA WATER AND SANITATION SECTOR MODERNIZATION PROGRAM
FIDUCIARY SYSTEMS ASSESSMENT

Contents

I.	EXECUTIVE SUMMARY.....	6
II.	BACKGROUND AND PROGRAM LEGAL AND INSTITUTIONAL ARRANGEMENTS.....	7
A.	<i>Background.....</i>	7
B.	<i>Legal Framework</i>	8
C.	<i>Institutional arrangements.....</i>	9
III.	PROGRAM FIDUCIARY PERFORMANCE.....	10
A.	<i>Planning and budgeting</i>	11
B.	<i>Budget Execution – Procurement</i>	12
C.	<i>Transparency</i>	17
D.	<i>Accounting and financial reporting</i>	17
E.	<i>Treasury management and funds flow.....</i>	18
F.	<i>Internal controls and internal audit.....</i>	19
G.	<i>Control systems in procurement.....</i>	20
H.	<i>Program audit.....</i>	22
IV.	FRAUD AND CORRUPTION RISKS	22
V.	FIDUCIARY RISKS AND MITIGATION MEASURES	23
VI.	IMPLEMENTATION SUPPORT.....	24
	<i>Annex 1: Program Action Plan.....</i>	25

MEXICO

OAXACA WATER AND SANITATION SECTOR MODERNIZATION PROGRAM

FIDUCIARY SYSTEMS ASSESSMENT

I. EXECUTIVE SUMMARY

The fiduciary systems supporting the MAS Oaxaca Program provide reasonable assurance that the Program funds will be used for the purposes intended with due attention to the principles of economy, efficiency, effectiveness, transparency, and accountability, given the fiduciary arrangements among the implementing and executing entities of the Program. These arrangements include key elements for an adequate implementation of the Program and are addressing risks, including of fraud and corruption, and define how the risks would be mitigated during implementation of the Program. Based on the fiduciary risks identified as part of the fiduciary systems assessment, the overall fiduciary risk after mitigating measures is Substantial, and the salient aspects of the fiduciary systems assessment are summarized below and described in the sections following this Executive Summary.

Public Financial Management of the Mexican Federal administration relies on open and orderly Financial Management (FM) systems based on a strong legal framework, policies, and procedures for execution of public expenditures. These FM country systems are partially replicated in the State of Oaxaca and, in particular, in the Secretariat of Finance (*Secretaría de Finanzas*, SEFIN), which will be coordinating the overall implementation of the Program, and in the executing entities, the State Water Commission (*Comisión Estatal de Agua*, CEA) and the Oaxaca Metropolitan Area Water Utility (SAPAO), which will be responsible for carrying out technical activities under the Program. Although SEFIN has limited experience in managing Bank-financed operations, and CEA and SAPAO have no such experience, the overall conclusion of the FM assessment is that SEFIN, CEA and SAPAO¹ have suitable financial management arrangements, which include the key elements for an adequate implementation of the Program, such as: (i) a formal process of budget planning and execution based on comprehensive legal and normative frameworks; (ii) the approval of the State Expenditures Budget on an annual basis by the State Legislature; (iii) an integrated budgeting and accounting system (SINPRES), which allows for the management and control of financial resources; (iv) organizational structures with adequate segregation of duties, documented in the appropriate Functions and Organizational Manuals, and (v) experienced staff.

Moreover, BANOBRAS, which will be the legal borrower, will provide implementation support and oversight to SEFIN, drawing on its many years of experience in the implementation of Bank-financed projects. Given the proposed implementation arrangements for the Program, and to ensure adequate planning, managing, control and generation of relevant and reliable financial information under it, the assessment identified areas for strengthening of the systems and institutional capacity of SEFIN, CEA and SAPAO.

Likewise, the procurement system provides reasonable assurance that the fiduciary principles of transparency, economy efficiency and integrity will be met under the Program. It also provides an adequate mechanism to ensure the right of appeal in individual bidding processes. The applicable

¹ When SAPAO is referred, consider that the assessment was carried out for the entity formerly named ADOSAPACO.

procurement procedures both Federal and State are enshrined in the Article 134 of the Constitution of the United Mexican States that defines the principles governing procurement at national level, mandating that resources for procurement of goods, works and services be administered with efficiency, effectiveness, and probity. Competitive bidding is identified as the default method. The agencies in charge of procurement under the Program, CEA and SAPAO have reasonable capacity built on their historic experience of conducting similar programs consisting mostly of small works contracts and related services. The assessment has identified however some risks that if addressed can increase the ability of the Program to deliver timely and quality services to the Program beneficiaries: delays in budget allocation of federal and state programs, especially for the APAZU, challenges to competition, contract implementation issues that increase the transactions cost of procurement and result in less optimal outcomes.

The proposed actions to mitigate the fiduciary risks identified during the assessment and performance indicators to monitor their implementation are included in the Program Action Plan (Annex 1) and are attached to this assessment. The actions included in the PAP are consistent with the federal and state financial management and procurement systems contributing to their further strengthening.

II. BACKGROUND AND PROGRAM LEGAL AND INSTITUTIONAL ARRANGEMENTS

A. Background

The Bank operation, called Water Supply and Sanitation Sector Modernization Program (MAS2 Oaxaca), is using a hybrid Program for Results (PforR) / Investment Project Financing (IPF) financial instrument, the latter funding a Technical Assistance (TA) Component supporting the achievement of the Development Objective of the Program. The use of both instruments is complying with the requirements of OP/BP 9.00 and OP/BP 10.00 respectively.

Through this operation, the Bank will support a portion of the Government of Oaxaca's (GoO) Water Supply and Sanitation (WSS) program focusing on (i) the modernization of the WSS sector institutional framework, financed through the State's own financing stream, and, (ii) the improvement of service quality and financial sustainability of water utilities in selected urban areas, financed through the Water, Sewerage, and Drainage in Urban Areas Program (*Programa de Agua Potable, Alcantarillado, y Saneamiento en las Zonas Urbanas, APAZU*) of the National Water Commission (*Comisión Nacional de Agua, CONAGUA*).

Through the PforR instrument complemented by the TA Component, the Bank will support an integrated set of institutional reforms, institutional strengthening activities and investments in participating institutions to achieve the Program's objectives. These Program's activities have been structured in four Results Areas: (i) Modernization of the legal and regulatory framework of the WSS sector in the State, (ii) Improvement of water services in Oaxaca Metropolitan Area, (iii) Improvement of water services in secondary towns, and (iv) Improvement of information in rural areas.

For Results Areas 2 and 3, the Program will finance the state contribution for the APAZU, which is a well-established federal governmental program channeled through CONAGUA to the eligible State Water Commissions and local water utilities. APAZU operates based on annually revised Operation Rules (*Reglas de Operación*) issued by CONAGUA.

² *Modernización del sector Agua potable y Saneamiento de Oaxaca (MAS Oaxaca)*

B. Legal Framework

The MAS Oaxaca Program will be subject to an ample set of legal and regulatory financial management and procurement arrangements.

With respect to the financial management arrangements, the following Laws and regulations are relevant: (a) the annual Expenditure Budget Act and Public Revenue Law, (b) the State Budget and Fiscal Responsibility Law, (c) the Fiscal Coordination Law, and (d) the General Law on Government Accounting. Each of these legal considerations have been taken into account in the Program FM arrangements, and their impact on the Program are described within each of the dimensions (budget, accounting, internal controls, transparency, external oversight) discussed in the performance section of this assessment.

With regard to the procurement arrangements, article 134 of the Constitution of the United Mexican States establishes the applicable principles that rule procurement at national level (Federal or State), determining that resources for procurement of goods, works and services must be administered with efficiency, effectiveness, and probity to satisfy their objectives. This article determines that, as a rule, procurement shall be carried out through open competitive bidding procedures. Eligible activities under the MAS Oaxaca Program will be procured observing two different procurement legal frameworks: (i) Result Areas 2 and 3 – Federal legislation and APAZU operation rules, and (ii) Result Areas 1 and 4 - Oaxaca State legislation.

In the case of those contracts financed with federal proceeds (such is the case of APAZU- Result Areas 2 and 3 of the Program³), the applicable law for civil works and related services is the Law of Public Works and Related Services (LOPSRM)⁴; and for goods and services, the Law of Acquisitions, Leases and Services of the Public Sector (LAASSP)⁵, complemented with their respective Regulations⁶ and General Application Administrative Manuals⁷.

For contracts financed with Oaxaca's State resources (Result Areas 1 and 4⁸), the regulatory framework is set out in the Law on Public Works and Related Services of the State of Oaxaca⁹ and Law for Acquisitions, Leases and Services of the State of Oaxaca¹⁰.

Both the Federal and State legislation distinguish between consulting services related to civil works and other types of consulting services.

The Federal system has developed regulations promoting open competition, transparency, publication of all tenders, through a federal electronic platform CompraNet, which is publically accessible. For procurement of civil works and goods, national competitive process is the procurement method by default while other less competitive processes can be exceptionally used (contract amounts under determined thresholds or specific exceptions determined by law). However, the total value of awards under these less

³ Civil works, consulting services and goods

⁴ Published in the Official Journal of the Federation (Diario Oficial de la Federación) 01/04/2000, most recent amendments 04/09/2012.

⁵ Published in the Official Journal of the Federation (Diario Oficial de la Federación) 01/04/2000, most recent amendments 01/16/2012

⁶ Published in the Official Journal of the Federation (Diario Oficial de la Federación) 07/28/2010

⁷ Published in the Official Journal of the Federation (Diario Oficial de la Federación) 08/09/2010, most recent amendments 11/21/12

⁸ Exclusively consulting services

⁹ Published in the Official Newspaper of the State of Oaxaca (Periódico Oficial del Estado de Oaxaca) 09/11/2001, most recent amendments 12/30/2008

¹⁰ Published in the Official Newspaper of the State of Oaxaca (Periódico Oficial del Estado de Oaxaca) 04/19/2008, most recent amendments 02/09/2013

competitive methods (restrictive invitation to at least 3 suppliers or contractors and direct award) cannot exceed 30% of the annual budget for works, goods and services. As a rule for consulting services, invitation to at least 3 consultants is the applicable procedure and merit point evaluation is mandatory.

While noting that the same general constitutional principles apply to Oaxaca's procurement legal framework, there are certain differences between the Federal and the State procurement systems that may have effect on the way the government of Oaxaca will carry out procurement procedures with Federal or with State resources. For the purpose of the Program, only those differences that may have impact on the Program will be further mentioned, fundamentally referred to consulting services considered for Result Areas 1 and 4 of the Program.

An important difference between the Federal and the State legal framework is the procurement method to be used. In the case of procurement of consulting services not related to civil works, State legislation considers consulting services equal to any other service and the default method is competitive bidding, except if the estimated amount of the contract is below the annually established threshold for competitive bidding¹¹. Merit point evaluation is not permitted and award is to the lowest evaluated bid. In the case of procurement of consulting services related to civil works, direct award is endorsed by law almost as a default method, nevertheless information obtained during the assessment notes that this has not been the rule for procurement of consulting services in the executing agencies and that invitation to at least three consultants is generally the applied method.

Another discrepancy is that under Oaxaca's legal system State financed contracts are awarded to those companies or persons already registered in rosters (*padrones*) administrated by the Secretariat of the Infrastructures and the Sustainable Territorial Planning (*Secretaría de Infraestructura, SINFRA*) applicable to consulting services related to civil works-, and by the Secretariat of Administration (*Secretaría de Administración*) - for any other type of consulting service; thus procurement of consulting services subject to Oaxaca's legal regulations will require registration in the State Contractor Register for contract award purposes.

C. Institutional arrangements

Due to the legal framework for international indebtedness for the Mexican States, the legal borrower of the loan will be *Banco Nacional de Obras y Servicios Públicos* (BANOBRAS), which, in turn, will lend to the State of Oaxaca the proceeds of the loan. Given that the borrower itself is BANOBRAS, the Federal Ministry of Finance (SHCP) will not designate a financial agent, and BANOBRAS would be responsible for managing and transferring loan proceeds to the Secretariat of Finance of the State of Oaxaca (*Secretaría de Finanzas – SEFIN*), while providing overall implementation support and oversight, including the fiduciary aspects of the Program.

Implementation of the Program involves three government entities SEFIN, CEA and the Oaxaca Metropolitan Area Water Utility (SAPAO¹², formerly ADOSAPACO). SEFIN will be the responsible entity for the overall coordination and implementation of the MAS Oaxaca Operation. SEFIN will coordinate the technical implementation of the Program activities with the two other executing entities: CEA and SAPAO on the implementation of their respective activities financed through the Program. While Result Area 1 will be implemented by both CEA and SAPAO, Result Area 2 will be executed by SAPAO and Result Areas 3 and 4 will be executed by CEA.

¹¹ This threshold was approximately USD140 thousand in 2013.

¹² On October 31, 2013 the State congress approved the law creating SAPAO, an autonomous State water utility, replacing ADOSAPACO, a State department. When SAPAO is referred, consider that the assessment was carried out for the entity formerly named ADOSAPACO.

The MAS Oaxaca Program, implementing agencies, eligible activities and applicable legal framework for procurement activities, can be summarized as follows:

Table 1: Implementing agencies, eligible activities and legal framework

<i>MAS Oaxaca Program</i>		<i>Implementing agency</i>	<i>IBRD/APAZU (federal counterpart)</i>	<i>TOTAL</i>	<i>Legal Framework</i>	<i>Types of Activities</i>
<i>Program</i>	<i>1. Modernization of the State's sector legal and regulatory framework</i>	CEA/SAPAO	4.5 M/-	4.5 M	State	Consulting
	<i>2. Improvement of water services in the Oaxaca Metropolitan Area</i>	SAPAO	8.5 M/8.5 M	17 M	Federal (APAZU)	Civil works, related consulting and goods
	<i>3. Improvement of water services in secondary towns</i>	CEA	30 M/30 M	60 M	Federal (APAZU)	Civil works related consulting and goods
	<i>4. Improvement of information in rural areas</i>	CEA	2 M/-	2 M	State	Consulting Goods
Total (US\$)			45M/38.5 M	83.5 M		

Institutional arrangements are embedded within the existing institutional framework of GoO's WSS sector and only limited adjustments have been made to the existing structure to strengthen inter-institutional coordination, results reporting, and verification. Hence, from the fiduciary perspective, the Administrative Units of SEFIN, CEA, and SAPAO will be responsible for using the existing institutional planning, budgeting, procurement and accounting processes and systems to implement the Program with the additional mitigating measures or actions as recommended in the Program Action Plan (PAP), to strengthen inter-institutional coordination, results reporting and verification.

It is worth mentioning that, based on the recently approve transformation of *Administración Directa de Obras y Servicios de Agua Potable y Alcantarillado de la Ciudad de Oaxaca* (ADOSAPACO) to SAPAO, as an independent governmental agency with its own legal personality, which allows it to receive the funds and process payments directly, without administrative intervention of SINFRA, SAPAO is now in position to take on the responsibilities of fiduciary implementation for its technical activities. However, it should be noted that the current SAPAO's institutional capacity is still limited, and, thus, it should be strengthen, mainly through hiring qualified staff and carrying out staff training in budgeting, governmental accounting, internal controls, and operation of SINPRES in those modules which currently staff from SAPAO does not have experienced, as documented in the PAP, during the first semester of the implementation of the MAS Oaxaca Program.

III. PROGRAM FIDUCIARY PERFORMANCE

This section summarizes the adequacy of the key elements of the State Fiduciary (Public Financial Management (PFM) and Procurement) systems taking into account the institutional arrangements to carry out the FM and procurement responsibilities for the Program. The section is organized to describe the strengths and areas in need of improvements to support the Program in the different fiduciary dimensions being evaluated as part of this integrated assessment.

A. Planning and budgeting

The Program's Results Areas 2 and 3 will finance the state contribution for the APAZU. According to the Operations Rules of the APAZU program, once the technical implementation Annexes of the Coordination Agreements between CONAGUA and participating States are signed (expected by March 31 of each year), and the State contribution is transferred to a designated banking account, administered by the State Secretariat of Finance, CONAGUA transfers a certain percentage, which could vary between 40 and 80%, depending on the type of activity to be financed, of the program's federal contribution to the same designated account. However, the major obstacles for the program implementation in various States including in the case of Oaxaca historically have been delays in signing of the *Expedientes Técnicos* as well as transfers of the local State contribution. Specifically, in CY13, the Annexes were signed and the State funds were transferred in August 2013 (five months after the due date). This could have negative impact on the timing and quality of the program outputs and outcomes, as all program funds should be duly incurred by the State by December 31 of each year. It is worth mentioning that due to the systematic delay in the implementation of APAZU by several States (not only Oaxaca), the Operation Rules could eventually include a grace period for program's execution of three month for certain FYs (but it was not a case for the FY13).

The MAS Oaxaca Operation's budget for all activities, including the Program and TA Component, will be embedded in the standard budgetary procedures of the State executive branch, including planning, formulation, execution, monitoring and control. Hence the MAS Oaxaca Operation will be subject to the annual Expenditure Budget Act and Public Revenue Law, the State Budget and Fiscal Responsibility Law, the Fiscal Coordination Law, as well as the General Law on Government Accounting.

The budget formulation and execution for all implementing entities will be carried out: (i) based on the budget classifications (e.g. administrative, functional, and economic), which were already harmonized with those used at the federal level in compliance with the General Law on Government Accounting; (ii) through the Budgetary Integral System (*Sistema Integral de Presupuesto*, SINPRES), which is an integrated Financial Management Information System (FMIS), developed internally by SEFIN and used by the entire State executive branch, including SEFIN, CEA, and SAPAO. This system includes several modules, such as budget formulation and execution, accounting, and public debt, among others. Moreover, the MAS Oaxaca Program funds would be earmarked with a specific code (*clave de financiamiento*) at both federal and state levels in order to allow its prompt identification.

However, it should be noted that one area for improvement identified in the process of budget formulation and execution is that the revenues and treasury management are not included in SINPRES. While State public revenues are monitored and controlled through SAP Governmental Resource Planning (GRP) system; the payments made by the public entities are processed internally by each governmental entity without reporting these transactions in the budget module of SINPRES. Nevertheless, a suitable control and filing systems for all supporting documentation are in place, which is also subject to internal and external audits by the Secretariat of the Comptroller and Governmental Transparency of the State of Oaxaca (*Secretaría de la Contraloría y Transparencia Gubernamental*, SCTG) and the State Supreme Audit Institution (*Auditoría Superior del Estado de Oaxaca*, ASEO). Hence, it was agreed with SEFIN to ensure that SINPRES would produce Program consolidated financial reports, including the information on payment to the Program's consultants, providers, and final beneficiaries.

Both the Federal and the State procurement laws establish that public entities must prepare annual procurement plans (one for works and related services and another for goods and services in general) and their corresponding budget. The actions considered in these procurement plans may be subsequently

modified, suspended or cancelled without responsibility for the entity, as long as valid reasons support these modifications.

Differences in provisions regarding approval and publishing of procurement plans (PP) at the Federal and State level are shown in the following chart:

Table 2: Procurement plans at Federal and State level

	<i>Federal</i>	<i>State of Oaxaca</i>
Approval of procurement plans	Reviewed by procurement committees and approved by the head of the corresponding public entity or by the administrative head of the entity.	PP for goods and services in general (establishing priorities) must be sent to SEFIN by the responsible entity, on a date that SEFIN will establish annually. PP for works and services related to works must be sent to SEFIN, at the latest, the last day of March. PPs are considered to be of informative nature. SEFIN will approve actions to be financed under the assigned budget.
Publishing of procurement plans	PPs must be published in CompraNet by January 31 of each year.	No provisions for publishing of PP are established by law.
Publishing of modifications to procurement plans	Updating of PP, if applicable, must be published in CompraNet on a monthly basis (within the last 5 days of the month).	No provisions for publishing of updates in PP are established by law.

As the Program will mainly finance procurement related to a federal program (APAZU), procurement actions that the State of Oaxaca plans to undertake with resources from this (and any other federal program), must be reflected in a procurement plan as established in the Federal procurement laws (LOPSRM and LAASSP). Thus, planned procurement for CEA's and SAPAO's participation in APAZU must be published in CompraNet in their corresponding PP involving federal programs, and follow regulations regarding updates to these PP.

Procurement planning is based on an approved Annual Operating Plan (*Plan Operativo Anual, POA*) which consists of a list of civil works considered in each program with their corresponding estimated budget.

B. Budget Execution – Procurement

During the assessment, an important gap was noted between budget considered in CEA's 2012 POA for two of its Federal Programs and contracts effectively awarded, evidencing a need to establish mechanisms that may improve procurement planning and execution in procurement procedures. Data obtained is shown in the following chart:

Table 3: CEA's Annual Operating Plan FOR prossapYs AND Agua Limpia Programs (2012)

<i>Program</i>	<i>Programmed Budget</i>	<i>Total contract amount</i>	<i>% of programmed budget effectively executed</i>
PROSSAPyS	\$236,119,859.47	\$69,840,856.88	29.58%
AGUA LIMPIA	\$5,111,669.00	\$2,904,485.38	56.82%

One of the reasons of low budget execution is the fact that the budget for Federal programs is assigned late in the calendar year due to late signing of the *Expedientes Tecnicos* with CONAGUA, causing the majority of procurement procedures to be carried out in the last quarter of the year with; among others, the following consequences on the procurement process and in contract management: (i) reduced time to carry out procedures, (ii) lack of sufficient competition due to reduced periods for presentation of bids, (iii) contracts with insufficient execution time that lead to constant contract amendments and (iv) planned procurement cannot be executed as foreseen and the unused assigned federal resources that are not spent before the end of the fiscal year must be returned to the Federation.

The PAP provides for actions to address these challenges, *inter alia* to ensure that *Expedientes Tecnicos* are submitted on time triggering the timely release of the budget and that the bidding documents are ready when budget is released.

1. *The procurement profile*

The procurement profile under the Program is generally consistent with the procurement currently carried out by the agencies: CEA and SAPAO under the ongoing national program. The bulk of procurement carried out by both implementing agencies (CEA and SAPAO) will be for small and standardized contracts. The order of magnitude is provided in the table and narrative below that captures the current procurement experience of both implementing agencies. Given the level of complexity and the size of the contracts it is not expected that they will attract international competition. The majority of the funds are allocated to civil works contracts. Consultants contract mostly focus on supervision of the civil works. Strategic, complex consulting contracts are procured under the TA Component and follow Bank Guidelines.

CEA Under the Program, CEA will procure: (i) works for improvement of water services in secondary towns, (ii) consulting services for supervision and the modernization of the legal and regulatory framework in the state water sector and (iii) relatively small goods contracts (e.g. vehicles, computers and topographic equipment).

These procurement activities build on the existing CEA experience. During 2012, CEA awarded 180 contracts for a total amount of approximately USD 37,000,000; distributed as shown in the following chart:

Table 4: Procurement carried out by CEA (2012)

<i>Procurement category</i>	<i>Number of Contracts</i>	<i>%</i>	<i>Total contract amount USD</i>	<i>%</i>	<i>Average contract USD</i>
Works	118	65.6	32,134,990	87.12	272,330
Consultants	61	33.8	4,597,512	12.4	75,369
Goods	1	0.6	154,156	0.42	154,1566
	180	100	36,886,659	100	204,926

In CEA, civil works represent 66% of the total number of contracts and 87% of the total amount of procurement. While there was one large contract of about USD15,000,000, the majority of contracts are between USD155 thousand and USD538 thousand. Procurement of goods has been marginal.

SAPAO. Under the program SAPAO will carry out civil works to improve the water services in the Oaxaca Metropolitan Area, associated consulting services and some good contracts (chemicals, small equipment).

The program work under the project builds on the current SAPAO procurement activities. Procurement during the period 2011-2012 was exclusively for 96 civil works contracts, for a total amount of approximately USD 13,000,000 per year. Average contract amount does not generally exceed USD 260 thousand. Last year they started do their own procurement for consultants (previously conducted by SINFRA).

Although SAPAO has institutional capacity for procurement, the lack of recent experience in implementing CONAGUA programs or carrying out the procurement cycle as a whole¹³ must be taken into account. This executing entity must ensure the knowledge and proficiency on federal procurement legislation and the use of CompraNet for a more efficient performance of the procurement procedures to be required for the PforR Program. Capacity building actions are going to be carried out under the TA component to support this objective.

SEFIN. Under the Program, SEFIN will be responsible for procurement of some activities within the TA Component, which will mainly include contracts for consulting services. World Bank guidelines and procedures will be applicable.

SEFIN is currently the executing agency in a World Bank grant, so program work under the Operation builds on recent current SEFIN procurement activities. Areas responsible for procurement of consulting services received training in 2013 on World Bank procurement guidelines and have had support for this type of procurement by an independent consultant. This experience will be useful for the execution of the mentioned TA Component.

During 2012, SEFIN carried out 61 procurement procedures for the selection and employment of consultants for a total amount of approximately USD 9,000,000 (Local and Federal systems for procurement of consulting services). Average amount for SEFIN's consultant services contracts generally does not exceed USD 150,000.

¹³ Before the transformation of ADOSAPACO to SAPAO, procurement actions were shared with SINFRA.

Operational arrangements of the executing agencies – CEA, SAPAO, and SEFIN - were analyzed during the assessment period. The results of this analysis are summarized as follows:

Table 5: Operational arrangements of the executing agencies

	<i>CEA</i>	<i>SAPAO</i>	<i>SEFIN</i>
Area within the entity responsible for procurement	<i>Departamento de Precios Unitarios, Licitaciones y Contratos</i>	<i>Departamento de Control de Obra</i>	<i>Departamento de Recursos Financieros</i>
Number of procurement staff	6	6	3
Experience in procurement	Type: Civil Works and related consulting services Framework: Federal, State and external credit financing (IADB)	Type: Civil Works Framework: Federal and State	Type: Consulting services Framework: State, Federal and external credit financing (IBRD)
Recent experience implementing CONAGUA programs	Yes	No	Not applicable
Procurement by method during the reviewed period ⁽ⁱ⁾	(2012) CB – 18% I3 – 36% Sole source – 35% IADB short list – 11%	(2011-2012) CB - 6% I3 - 79% Sole source - 15%	(2012) Only consulting services I3 – 17% Sole source – 83%

(i) CB – competitive bidding. I3 – Invitation to at least three suppliers or contractors

2. *Competition in the Program procurement procedures*

Based on the sample assessed there is room for increased competition with improved results on prices and quality and delivery of services under the Program. It was noted that less competitive procurement processes (restrictive invitations and direct contracting) constitute the method of procurement for an important part of the number of contracts and contract amount of the executing agencies as illustrated in the Box below.

In CEA, during 2012, procurement by invitation to at least three contractors accounted for 36% of the number of contracts and 23.4% of total contract amount, and direct award represented 35% of the number of contracts and 4.5% of total contract amount. For the period 2011-2012, SAPAO (formerly ADOSAPACO) awarded more than 90% of its contracts (that represent 57% of total contract amount) using less competitive procurement procedures.

Although, as mentioned, most of the executing agencies' contracts are for small works of minor complexity and magnitude and, generally, for amounts below the thresholds established for open competitive bidding, the rule for Federal financed programs is that the total value of the processes awarded under less competitive methods cannot exceed 30% of the annual budget for procurement

Key causes identified are:

- Under restricted invitation procedures only three contractors are invited to quote, while both Federal and State legislation establish three to be the minimum and not the maximum of invitations. As most contracts are of similar scope and there is an important number of local or national contractors that could execute the required works, extending invitations to participate to a greater number of contractors would increase competition and transparency in these less competitive procedures and may result in more competitive prices. The PAP addresses this issue making recommendations to further enhance and monitor the competition.
- Multiple contracts with similar purposes (same type and characteristics of works and within a common geographical area in the State) are procured separately (either by restricted invitation or direct award), when the possibility could be the consolidation of needs in a sole competitive bidding procedure, divided in lots if appropriate. The PAP supports the use of consolidation and “slice and package” approaches that will form also the object of the capacity building activities to be financed under the Program.
- Budgetary constraints within the fiscal year and late budget allocation lead to fragmentation of contracts and limited competition in an effort to fit within the time limits and financial resources available.
- Civil works contracts funded through Federal programs are always awarded using a merit point evaluation format (established by SINFRA) with common criteria for all contracts, regardless of their complexity or size. There is lack of justification for the defined criterion, taking into account that the majority of contracts are for small and standardized civil works. This practice could generate disproportionality between the low value and low complexity of the activities and the evaluation requirements.
- Federal procurement legislation, applicable to Federal programs, does not establish the use of merit point evaluation for contracts estimated to cost below USD 1.5 million.
- In order to enhance transparency and efficiency in these procurement procedures, the “binary” (lowest evaluated bid) evaluation method should be applicable for lower value contracts, consistent with the Federal law that requires that such contracts less than USD 1.5 mil be subject to a “binary” evaluation method.

3. Efficiency in contract management

Constant and prolonged deferrals of award notification in procedures carried out by CEA were observed as a result of delays in the internal process for obtaining the official signature in the contract award document, and resulting in the reduction of execution periods of the contracts. Minor modifications in this administrative process (for example: delegation of signature of the contract award document within the entity’s procurement area) could enhance efficiency in the procurement process and avoid reduced contract execution periods and possible future contract amendments.

Mostly as a result of budget-related issues, execution deadlines are reduced artificially in the contracts. This action leads to multiple contract amendments during execution in order to extend the original contract deadline. Procurement procedures and contract management efficiency could be greatly

improved in this sense with the budget-related actions included in the Program PAP to ensure that budget is released on time.

C. Transparency

SEFIN posts an ample set of information on its web site (www.finanzasoaxaca.gob.mx) on a regular basis, including the documentation classified according to the following structure: (i) legal framework, which include a complete set of legal and normative documents, including Laws, By laws, and other relevant guidelines on public finances, procurement and financial management; (ii) budget and accounting manuals, including annual budget classifications. (iii) financial reports, which includes, the annual State Public accounts (*Cuenta Pública del Estado de Oaxaca*), quarterly reports on public debt, and quarterly financial reports (starting in 2013); (iv) accounting harmonization information, including disclosure of financial information required by the General Law on Governmental Accounting, as well as the relevant normative documents issued by the National Council of Accounting Harmonization (*Consejo Nacional de Armonización Contable*, CONAC), which, in turn, were ratified by SEFIN at the State level; (v) annual credit ratings reports of all big three agencies; and (vi) relevant information on the State annual budget. Therefore, taking into account that the Program will mainly finance the APAZU, which is an existing federal program, its financial information will be regularly reported in the financial reports mentioned above.

Despite the information published by SEFIN, it should be noted that the information published by CEA, and SAPAO on their web pages is not as comprehensive and updated as that published in SEFIN's web page. Moreover, more than one month after the general elections in the State, SAPAO's web page was still temporarily suspended, as it is usual with most of Oaxaca's public entities' web pages in order to minimize the influence of the public program financed by the government over election results.

Transparency in procurement at the Federal level (federal entity procurement or state entity procurement with federal resources) is enhanced by the mandatory use of *CompraNet* in all procedures. *CompraNet* (www.compranet.gob.mx) is an electronic public procurement information system that, among other applications, publishes free public information regarding all stages of all the procurement procedures carried out by public entities when estimated contract amount is over MX\$20,000 (approximately USD 1,500). These include procedures by open competitive bidding, invitation to at least three suppliers or contractors and direct awards. Information in CompraNet is updated on a daily basis.

At the State level, the GoO site includes a transparency webpage “*Ventanilla única de acceso a la información*” (www.infopublica.oaxaca.gob.mx) posting information regarding contracts of the State Government entities. Notwithstanding, this information refers only to concluded procedures during a period of time (generally on a six month or yearly basis) and includes only data on: object of contract, contract amount, awarded supplier, contractor or consultant, and contract time frames.

As the Program will mainly finance procurement to be carried out under federal legislation, as APAZU is a federal program, the use of CompraNet will be mandatory, thus information of procurement procedures within APAZU must be published and will be publicly available.

D. Accounting and financial reporting

The accounting records of the MAS Oaxaca Operation are subject to compliance with the General Law on Governmental Accounting based on the harmonized chart of accounts and financial reporting standards issued by CONAC. Moreover, MAS Oaxaca Program's accounting will be also recorded and monitored through the same system (SINPRES). This system allowed recording of all transactions for budgeting and accounting effects, as well as preparation of financial and budget reports in real time. All MAS Oaxaca

Program's supporting documentation will be appropriately maintained to facilitate ex post reviews and the annual external audits.

As mentioned above, SEFIN publishes on its web page on regularly basis three different kind of reports, including: (i) relevant quarterly information of the complete list of public debt contracted by the State, including the information on the amounts, outstanding balances, interest rates, maturity dates, financial source from where the capital and debt service will be paid; (ii) quarterly detailed information on economic and financial situation of public finances, revenues, expenditures, federal transfers to the State and municipalities, financial statements (which only includes balance sheet), as well as a very detailed progress report on use of federal transfers; (iii) annual report, including detailed information on economic and financial situation of the State, public revenues, budget reports by sector and different classifications, consolidated financial statements (balance sheet and statement of changes in net assets) and their notes.

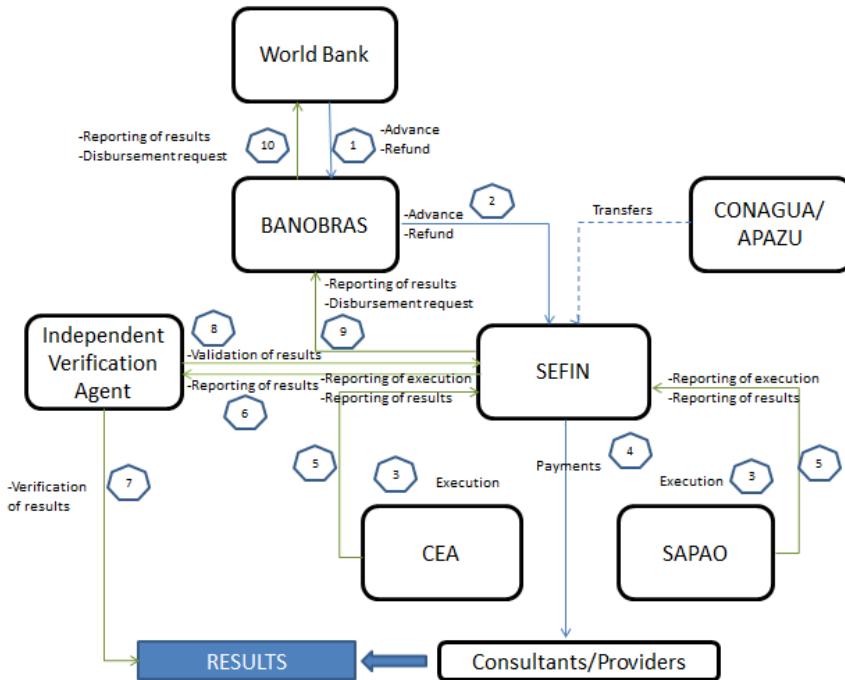
The Program consolidated financial reports will be generated by SINPRES, and will include information according to the budget economic classification by implementing entity, and Results Areas under the Program.

E. Treasury management and funds flow

The treasury management system is decentralized and it is not integrated into SINPRES. As a result, SEFIN has limited control and information on payments to final Program's beneficiaries processed by each implementing entity. Moreover, the Program flow of funds is also affected by the delays in: (i) process of signing of the *Expedientes Tecnicos* of the Coordination Agreement between CONAGUA and SEFIN; and (ii) availability and transferring of the State contributions to the Program designated banking account, administrated by SEFIN. While the timely signing of the *Expedientes Tecnicos* and the transfers of local funds would be addressed by the fact that part of the Operation will finance the State contribution to the APAZU program, strengthening of the treasury management system has been included in the Advisory Services for Strengthening Public Sector Management RAS (P129050). This initiative includes, among others, the development of the conceptual model and functional design of a new integrated FMIS as part of the Strengthening of the Financial Administration and Performance Management System. Nevertheless, this initiative does not include implementation of the new FMIS and its closing date is October 31, 2014. Hence, in order to ensure the Program's flow of funds is properly controlled and monitored, including the records of payments to the final beneficiaries of the expenditures to be financed by the MAS Oaxaca Program it was agreed that all Program's payments would be centrally processed by the SEFIN's Treasury unit.

The primary disbursement method for the Program will be advances to a Program account in US\$ to be administered by BANOBRAS, which, in turn, will be channeling the funds through SEFIN. The description of the funds flow is presented in the following diagram:

Figure 1: Flow of Funds



- The Bank advances the authorized amount into Program account, administered by BANOBRAS, which, in turn transfers the advanced amount to SEFIN.
- CEA, SAPAO, and SEFIN execute the Program activities, and request SEFIN's Treasury unit to process payments to Program's consultants and providers.
- CEA and SAPAO report results to SEFIN, which submits these results to Independent Verification Agent (IVA).
- IVA verifies and valid the results, and submits its report back to SEFIN.
- SEFIN formally submits the report to BANOBRAS, and requests documentation of the advances and refund of the remaining funds after achievement of the DLIs.
- BANOBRAS, based on the DLI Verification Protocol, requests documentation of the advance and remaining funds based on the achieved and validated results.
- The Bank disburses the remaining funds to the Program account.

F. Internal controls and internal audit

The Government of Oaxaca issued on September 25, 2010 an internal control regulation applicable to all the public sector entities across the State. Although this regulation is somewhat basic, it is aligned with the norm issued by the Federal Government on internal controls, and to some extent to best international practices, namely, the Internal Control Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Committee (COSO).

Among other aspects, the Oaxaca internal control regulation establishes that the head of each public entity is responsible for maintaining an adequate internal control environment, along with a suitable risk management system. In other words, the responsibility relies within each entity, reason why it is quite relevant to make sure that the entities that will implement the MAS Oaxaca Program have established

adequate measures on this regard, specially, because on risk management, which is a concept quite new for all levels of the Mexican Public Sector.

In this regards, it is worth mentioning that, in addition to the Operational Guidelines of the Internal Control Committees, issued by the SCTG on September 18, 2010, the recently approved reform (November 2013) to the Organic Law of Executive Branch (*Ley Orgánica del Poder Ejecutivo del Estado de Oaxaca*) includes in its article 47.XXXII a new responsibility of the SCTG to manage and coordinate the creation and operation of the internal control units within each governmental agency of the executive branch. In this regards, the head of SCTG confirmed during appraisal that the Internal Control Units within SEFIN and SAPAO were already created, while the CEA's Internal Control Unit is about to be created prior to negotiations. The main objective of the Internal Control Units would be the design, implementation, and evaluation of the internal control systems within each implementing agency.

On the other hand, all Program implementing entities have a solid operational set of guidelines, which includes Internal Bylaws, Function and Organizational Manuals, including clear segregation of main FM-related functions. Nevertheless, some of these manuals have been in the process of updating for the past few years. Thus, some of the entities have parallel organizational structures that were not formally approved as yet. Moreover, due to the recent legal transformation of ADOSAPACO into SAPAO, its administrative structure and manuals are being revised and updated, with the objective to ensure that the entity would have sufficient institutional capacity to implement the Program, and take on the administrative functions which used to be supported by SINFRA in the case of ADOSAPACO.

In terms of internal audit, the SCTG, which, similar to the Secretariat of the Public Function (*Secretaría de la Función Pública*, SFP) at the federal level, is in charge of the internal audit function of the State of Oaxaca, has also issued a set of guidelines and manuals of procedures that are mainly focused in the administrative parts of the audit process. However, it appears that the Government is pursuing the performance of audits under Risk Based Approach (RBA), which, from the methodological perspective, is at a very early and basic stage. Moreover, as result of the assessment it was noted that no system for control and timely follow-up on internal audit findings and implementation of recommendations is currently in place. Therefore, it is recommended to evaluate the possibility to finance with local counterpart funds activities towards: (i) strengthening of SCTG's methodologies and systems for conducting audits under a RBA; (ii) development and implementation of an automated system that would allow monitoring and timely follow-up on findings resulting from internal audits conducted by SCTG.

G. Control systems in procurement

1. Federal level

Definition and division of roles and responsibilities for procurement, both for the contracting procedure and the administration of contracts, is set in the General Application Administrative Manuals for procurement (one for works and related services and another for goods and services in general) issued by the *Secretaría de la Función Pública* (SFP). Additionally, in particular, each entity must establish responsible areas and hierarchical levels according to their own policies, bases and guidelines.

The General Application Administrative Manuals establish for each particular stage of the procurement process which area or areas within the entity will be responsible of carrying out the necessary actions for the fulfillment of the legal or normative provisions required for each of these stages.

At the federal level, exceptions to public competitive bidding for contract amounts above the established thresholds must pass through a legally established procurement committee (its structure, functions and responsibilities are established in the law) and be supported by justification of a circumstance of

exception specifically provided for in the law. Exceptions to public competitive bidding for contract amounts below the thresholds cannot surpass 30% of the entity's annual budget for procurement of works and related services or goods and services in general.

Amendments to public works contracts that do not surpass 25% of the original contract amount or of the execution period agreed in the contract - and that do not involve substantial changes to the original project - may be undertaken at the entity's sole responsibility. In duly justified cases where amendments need to be over 25% of original contract amount or execution period, previous authorization must be issued by SFP

SFP is authorized by law to verify, at any moment of the procurement process or during contract execution, that actions have been carried out by the contracting entities according to all legal provisions.

2. *State level*

The legal framework of the State of Oaxaca includes specific provisions for control mechanisms by the SCTG on procurement performed by State entities (regardless of whether procurement is with State or Federal resources):

- *Pre-bidding period:* 5 business days before scheduled publication of the public bid notice or issuing of invitations to participate, entities must send all bidding documents to the SCTG for review, opinion and approval. If SCTG has any comments, the entity is notified and has a new 3 day period to make the necessary adjustments or changes. Procurement process may not begin until there is a positive reply from SCTG.
- *Bidding period:* SCTG participates in all stages of the public events during the procurement process (clarification meetings, opening of bids, and notice of award).
- *Post-bidding period:* within 15 days after contract signature, entities must send the SCTG documentary evidence of all proceedings during the procurement process, a copy of the contract and of the securities provided by the contractor/supplier. Additionally, 10 days after finalization of contract, SCTG must receive a copy of the official document that certifies completion of the works. This provision also applies to contract amendments.

At the State level, exceptions to public competitive bidding for contract amounts above the established thresholds are authorized by the Head of the entity who must issue an agreement that supports and justifies the circumstance of exception specifically provided for in the law.

Neither the Federal Government nor the Government of the State of Oaxaca has formally defined model bidding documents. Both Federal and Oaxaca procurement legislation provide the minimum content that bidding documents and contracts must observe, and each public entity may draft its own according to these legal provisions. Legal provisions at both levels require that bidding documents furnish all information necessary for a prospective bidder to prepare a bid.

However, in the case of procurement of works or works-related services both CEA and SAPAO currently use general model bidding documents (templates) provided by SINIFRA for procedures subject to either Federal law or State law. These documents also include a model contract. In this sense they can be considered, in practice, model documents.

H. Program audit

APAZU, as a federal government program implemented at sub-national level, is subject to multiple levels of external audit. Hence, in case of the State of Oaxaca, the program is audited on periodic basis by the Federal Supreme Audit Institution (*Auditoría Superior de la Federación*, ASF), SFP, ASEO, and SCTG.

The external audit function at the State level, based on the Constitution of the State of Oaxaca and the Supreme Audit Law (*Ley de Fiscalización Superior*, LFS), is a responsibility of the ASEO, which, in turn, is mapped to the State legislative branch. According to the articles 3 and 4 of the LFS, ASEO has budget, technical and management independence from the state Congress and its main mandate is to audit the use of public funds at the state and municipal levels, including all public entities of the three branches of the Governments and Municipalities, as well as any person or firm that has spent public funds during the audited period. Even though, the ASEO has a solid legal and normative background, as well as a strong coordination with the Supreme Audit Institution at the Federal level (*Auditoría Superior de la Federación*), it is also characterized by (i) limited annual budget (approximately US\$5 million for the CY12); (ii) large audit universe (more than 680 public entities); (iii) high staff turnover; and (iv) non-competitive salaries. All these factors eventually have impacted the institutional capacity, quality and scope of audits conducted by ASEO. Hence, the Bank's FM team is evaluating the possibility of providing a technical assistance to the ASEO in order to ensure that the institution has sufficient capacity to conduct annual audits of both Program and the TA component based on the Terms of Reference acceptable to the Bank in the future.

In the meanwhile, the Program financial audit would be performed by a private firm and based on ToRs acceptable to the Bank. The financial audit of the Program will cover one fiscal year of the borrower, except that the first audit may cover from the effectiveness of the Program and up to the end of the second fiscal year of the borrower.

IV. FRAUD AND CORRUPTION RISKS

Overall, the fiduciary framework is deemed sound and strong enough to prevent, detect, investigate and sanction Fraud and Corruption (F/C) under the Program. Yet some issues or concerns exist such as the limited market reflecting a specific community of vendors in Oaxaca and the resulting reluctance by bidders to submit complaints about the procurement process for fear of retribution (e.g. that they will not be invited to participate in future bidding processes if one company complains against another). There is no whistleblower protection or incentive provided for bidders who come forward with a complaint. Despite limited experience in managing Bank-financed projects, both CEA and SAPAO were evaluated to be suitable for the implementation of this operation, but include which raises risks that are addressed through other mechanisms, including the TA component for institutional strengthening.

One of the preventive risk management measures for F/C risks that support greater social accountability for this Program is the existence of an Access to Information (ATI) Law and institutional capacity for its implementation, both at the state and federal level. Public access to key fiscal information is strong in Mexico as a general matter and most budgetary and financial information is available through the Internet, in accordance with both State and Federal Transparency and ATI legislation. By law, each public entity is required to publish information about their regulatory framework, budget, and financial reports on-line. Furthermore, *CompraNet*, a web-based, on-line procurement system using a variety of hardware and software, is used as a platform to disclose information about procurement requirements and government suppliers. Any information regarding the disqualification of suppliers or contractors by the Federal Secretariat of Public Administration (SFP) is also made available on this site. It should be noted, however, that many of the entities' websites include outdated information and are not regularly

maintained; this weakness could be strengthened by greater management attention to such issues under the Program.

All bidding processes, according to the Law of State Expenditures, must go through SINFRA. Bidders may submit complaints regarding procurement processes to the SFP, either directly or through *CompraNet* within a period of six working days from the date of the alleged wrongdoing. Alternatively, because the SFP has established a coordination agreement with the Comptroller's Office (*Contraloría*), bidders can submit their claim to the Comptroller General's Office as well. It typically takes the SFP 45 days to respond to a complaint, depending on whether it has been received directly or from the Comptroller's Office. Sanctions often involve a disqualification from future bidding processes for periods ranging from 3 months to 5 years and are dependent on the intentional nature of the offense; the gravity of infringement; and the conditions of the offender.

V. FIDUCIARY RISKS AND MITIGATION MEASURES

As described in the Executive Summary, the overall fiduciary risk after mitigating measures is Substantial, and the identified risks have been addressed with mitigating measures which are included in the PAP. The specific FM and procurement risks within the different assessed dimensions of the assessment are described below.

Main financial management risks & mitigating measures

The main FM risks for the Program and identified during the assessment are: (i) decentralized treasury management system, which is not currently integrated into the institutional FMIS; (ii) limited information on payments to final beneficiaries processed by each co-implementing entity (CEA and SAPAO) in SEFIN; (iii) major delays in the APAZU's annual flow of funds and overall implementation of program activities; (iv) a well-established internal control function in each of the implementing entities; (v) limited institutional capacity of all implementing entities in terms of internal controls and risk management; (vi) lack of automated system to follow-up on findings raised from internal audits conducted by SCTG; (vii) limited institutional capacity of the State Supreme Audit Institution in terms of financial and human resources.

Some of the proposed mitigating actions to address the identified FM risks have been addressed by the implementing entities before appraisal, such as the case of the centralization of cash management and payments to Program beneficiaries by SEFIN, and the creation of the Internal Control Units in each of the implementing entities. Other actions will take a longer term and have been addressed in the PAP such as the integration of consolidated financial reports for the Program, the prompt updates of the Program financial execution for all executing entities, and the strengthening of SAPAO.

Main procurement risks & mitigating measures

The procurement system provides reasonable assurance that the fiduciary principles of transparency, economy efficiency and integrity will be met under the Program. It also provides an adequate mechanism to ensure the right of appeal in individual bidding processes.

The applicable procurement procedures both Federal and State are enshrined in the Article 134 of the Constitution of the United Mexican States that defines the principles governing procurement at national level, mandating that resources for procurement of goods, works and services be administered with efficiency, effectiveness, and probity. Competitive bidding is identified as the default method.

The agencies in charge of procurement under the Program have reasonable capacity built on their historic experience of conducting similar programs consisting mostly of small works contracts and related supervision services.

The assessment has identified however some risks that if addressed can increase the ability of the Program to deliver timely and quality services to the program beneficiaries: delays in budget allocation of federal and state programs, challenges to competition, contract implementation issues that increase the transactions cost of procurement and result in less optimal outcomes

Late procurement due to delays in budget allocation for federal programs may be mitigated assuring that, when budget becomes available, all the necessary master plans, bidding documents and sample contracts are ready initiate contracting procedures.

Actions that include a wider use of open competitive bidding for a greater amount of contracts (even if below the threshold) and application of “slice and package” procedures can diminish risks related to issues that challenge competition. Transparency in procurement can be enhanced with the insertion of SAPAO’s procurement procedures in CompraNet, adding to the use of State contractors/suppliers registries for participation in procurement for the Program and extending invitation to more than three contractors/suppliers in restricted invitation procedures, when feasible.

SAPAO institutional capacity for procurement in Federal Programs can be increased with training on federal procurement framework and in the use of CompraNet, both provided, free of charge, by the SFP to entities that register as purchasing units in this procurement information system.

The proposed actions to mitigate these risks and performance indicators to monitor their implementation are included in the Program’s PAP and are fully consistent with the federal and state procurement systems contributing to their further strengthening.

VI. IMPLEMENTATION SUPPORT

The fiduciary team will monitor the implementation progress of the PAP fiduciary actions and will help the implementing entities to achieve the expected results of the Program through continued joint implementation support field missions, expected at least two staff weeks in the first year of implementation, and adjust the implementation support plan accordingly for the remaining of the Program.

The team will also monitor the changes in the fiduciary risks to the Program and, as relevant, will monitor the compliance of the fiduciary legal provisions/covenants. There will also be a monitoring of the Program performance through desk review of Progress Reports and financial audits of the Program.

Other technical assistance activities to strengthen institutional capacity for internal controls and external oversight to the State oversight institutions (i.e. SCTG and ASEO) may be undertaken in parallel through other Bank’s sources of financing and instruments during the implementation of the Program, however, this technical assistance will not be monitored as part of the Program.

Annex 1: Program Action Plan

	Description of Measure	DLI	Legal Cov.	Date	Respons.	Compliance Measure
<i>Building the capacity of the Program's institutions</i>						
1	<p>Ensure that SAPAO has the necessary institutional capacity to implement the Program in accordance with its fiduciary arrangements:</p> <ul style="list-style-type: none"> (i) It will obtain certification as a purchasing unit in CompraNet. (ii) It will have access to all SINPRES modules from its offices. (iii) Personnel will be trained, through the means stipulated by the Civil Service Secretariat, in the use of CompraNet as a purchasing unit. (iv) Personnel will be trained in federal regulations for public contracting (works, goods and services), through courses offered by the Civil Service Secretariat or by specialized third parties officially certified in this subject. (v) Personnel will be trained, through the means provided by SEFIN, in matters concerning government accounting, budget and use of SINPRES. (vi) SEFIN will approve the internal regulations and organizational manual. (vii) The Administrative Unit will be strengthened in terms of human resources. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Three months after Program's effectiveness date	SAPAO	<p>Inclusion of SAPAO in CompraNet's registry of purchasing units.</p> <p>Certification of SAPAO personnel as CompraNet users, and evidence of training in federal regulations for public contracting, government accounting, budget and use of SINPRES.</p> <p>SAPAO has the institutional access code to SINPRES.</p> <p>SAPAO has the necessary administrative structure to ensure the Program's sustainability.</p>
<i>Strengthening the Program's systems</i>						
2	Ensure that the SCTG's internal control Delegations in SEFIN, CEA and SAPAO, in accordance with the recent modification of the State of Oaxaca's Executive Authority, are operating during the Program's implementation.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	During Program's duration, starting July 1, 2015	SEFIN/ CEA/ SAPAO	Existence of a work program in the Delegations of each entity.
3	<p>Promote competition, efficiency, transparency and economy in the procurement procedures (contracting of goods, services, works and works-related services) of CEA and SAPAO:</p> <p>a) The annual program of works and work-related services, and 100% of contracting procedures (public bidding, invitation to at least three suppliers, and direct award) conducted for the Program and financed by the federal budget are inputted in CompraNet, as required by the applicable regulation.</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	At end of each year of Program execution	CEA/SAPAO	<p>Official institutional report on the State Government's transparency website, detailing the procedures conducted under the Program.</p> <p>Information on CompraNet report regarding procedures that have been concluded and that are being supervised by the corresponding</p>

	<p>b) At least 70% of the Program's total amount for contracting public works and related services is conducted by means of public bidding.</p> <p>c) In all cases of smaller works costing less than \$20 million pesos, the "binary" criteria will be used to evaluate bids; evaluations using points and percentages will be used only for more complex and/or larger works.</p> <p>d) In cases where various small works of the same type, which may be executed by contractors with the same specialization and experience, are scheduled to be contracted, consolidated contracting will be conducted by means of batch bidding (these may be awarded to one or several contractors). When this modality is not used simultaneously for bids that include similar contracts, justification must be provided and recorded.</p> <p>e) In at least 50% of procedures in which invitations are issued to at least three contractors, the invitation to participate is extended to more than three contractors meeting the requirements of timely response, skills, experience and specialization for the planned contracting, with the aim of including the larger number of those contained in the internal lists and those who have expressed interest in participating through CompraNet.</p>				purchasing unit. Results of audits conducted.
4	Ensure that CEA and SAPAO keep their Internet portals updated (including financial information) on a quarterly basis, in accordance with the regulation of the National Council for the Harmonization of Accounting Standards (<i>Consejo Nacional de Armonización Contable</i> [CONAC]), in terms of transparency.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	30 days after end of each four-month period of the Program	CEA/ SAPAO Notification to SEFIN about link in Internet portal.