Zambia CoST Baseline Study Report
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<th>Position</th>
<th>Department</th>
<th>Ministry/Organisation</th>
</tr>
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<tbody>
<tr>
<td>Michael Bwalya</td>
<td>Permanent Secretary</td>
<td>Lusaka</td>
<td>Lusaka Provincial Administration</td>
</tr>
<tr>
<td>Stead Kabanga</td>
<td>Senior Quantity Surveyor</td>
<td>Buildings Department</td>
<td>Ministry of Works and Supply</td>
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<tr>
<td>Martha Lupiya</td>
<td>Quantity Surveyor</td>
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<td>Odetta Kaoma</td>
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<td>Senior Quantity Surveyor’s Assistant</td>
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<tr>
<td>Lelo Sakala</td>
<td>Chief Purchasing and Supplies Officer</td>
<td>Procurement and Supplies Unit</td>
<td>Ministry of Works and Supply</td>
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<tr>
<td>Robin Musamba</td>
<td>Provincial Engineer</td>
<td>Lusaka Provincial Buildings Department</td>
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<td>Ilishebo Minyoi</td>
<td>District Works Supervisor</td>
<td>Lusaka Provincial Buildings Department</td>
<td>Ministry of Works and Supply</td>
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<tr>
<td>Elias Mwange</td>
<td>Electrical Engineer</td>
<td>Planning - Infrastructure Unit</td>
<td>Ministry of Education</td>
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<tr>
<td>Phillip Muyumbana</td>
<td>Technical Advisor - Quantity Surveyor</td>
<td>School Infrastructure Section</td>
<td>Ministry of Education</td>
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<td>Joseph Ngulube</td>
<td>Technical Advisor - Quantity Surveyor</td>
<td>School Infrastructure Section</td>
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<tr>
<td>Akakulubelwa Malalelo</td>
<td>Chief Planner</td>
<td>Planning and Infrastructure</td>
<td>Ministry of Health</td>
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<tr>
<td>Patson Mwanza</td>
<td>Principal Planner</td>
<td>Planning and Infrastructure</td>
<td>Ministry of Health</td>
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<td>Gary Simbeye</td>
<td>Principal Architect</td>
<td>GES Architects</td>
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<td>Godfrey Iyombwa</td>
<td>Principal Quantity Surveyor</td>
<td>GK Quantity Surveyors</td>
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<tr>
<td>Isaac Ndahiro</td>
<td>Procurement Expert</td>
<td>Procurement Reforms</td>
<td>Common Market for Eastern and Southern Africa (COMESA)</td>
</tr>
<tr>
<td>Charles Mushota</td>
<td>Procurement Manager</td>
<td></td>
<td>Road Development Agency</td>
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<td>Goodwell Lungu</td>
<td>Director</td>
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<td>Senior Officer</td>
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<td>Anti Corruption Commission</td>
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<td>Gloria Ngoma</td>
<td>Acting Director, Inspections</td>
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<td>Kelvin Haule</td>
<td>Director – Information Technology</td>
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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
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 all the PEs that were sampled included: tender procedures; contractors’ names; contract price; and details of any re-award of the main contract. However for samples reviewed 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
EXECUTIVE SUMMARY

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.

![CoST Structure Diagram]

**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**

<table>
<thead>
<tr>
<th>Sub-sector</th>
<th>Gov’t Small Works</th>
<th>Gov’t Large Works</th>
<th>Foreign Large Works</th>
<th>Foreign Cons’lt Service</th>
<th>Region</th>
<th>Sub-total</th>
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<tbody>
<tr>
<td>Buildings</td>
<td>1-2</td>
<td>2-3</td>
<td></td>
<td></td>
<td></td>
<td>3-5</td>
</tr>
<tr>
<td>Roads</td>
<td>1-2</td>
<td>2-3</td>
<td>2-3</td>
<td>1-2</td>
<td>Vary</td>
<td>5-8</td>
</tr>
<tr>
<td>Health</td>
<td>1-2</td>
<td>2-3</td>
<td></td>
<td></td>
<td>Vary</td>
<td>3-5</td>
</tr>
<tr>
<td>Education</td>
<td>3-5</td>
<td></td>
<td></td>
<td></td>
<td>Vary</td>
<td>3-5</td>
</tr>
<tr>
<td>Sub-total</td>
<td>5-8</td>
<td>6-8</td>
<td>2-3</td>
<td>1-2</td>
<td></td>
<td>15-20</td>
</tr>
</tbody>
</table>

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 4\textsuperscript{th} 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>
<thead>
<tr>
<th>No.</th>
<th>PE Description</th>
<th>Procuring Entity / sector</th>
<th>Size</th>
<th>Contract Amount (Zambian Kwacha)</th>
<th>Type</th>
<th>Source of funds</th>
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<tbody>
<tr>
<td>1</td>
<td>Chaisa Health Clinic</td>
<td>Buildings (MoWS)</td>
<td>small</td>
<td>1,379,410,104.00</td>
<td>Works</td>
<td>Govt</td>
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<td>2</td>
<td>Office of the Auditor General</td>
<td>Buildings (MoWS)</td>
<td>Large</td>
<td>11,402,148,983.25</td>
<td>Works</td>
<td>Govt</td>
</tr>
<tr>
<td>No.</td>
<td>Description</td>
<td>Procuring Entity / sector</td>
<td>Size</td>
<td>Contract Amount (Zambian Kwacha)</td>
<td>Type</td>
<td>Source of funds</td>
</tr>
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<td>3</td>
<td>Passport Office, Lusaka</td>
<td>Buildings (MoWS)</td>
<td>small</td>
<td>2,316,080,609.96</td>
<td>Works</td>
<td>Govt</td>
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<tr>
<td>4</td>
<td>Anti-Corruption Commission, Solwezi</td>
<td>Buildings (MoWS)</td>
<td>small</td>
<td>1,687,082,334.19</td>
<td>Works</td>
<td>Govt</td>
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<td>5</td>
<td>Ministry of Finance and National Development data Centre</td>
<td>Buildings (MoWS)</td>
<td>small</td>
<td>211,838,029.87</td>
<td>Works</td>
<td>Govt</td>
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<td>6</td>
<td>2 Basic Schools in Mkushi and Serenje, Central Province</td>
<td>Education (MoE)</td>
<td>small</td>
<td>3,752,516,100.00</td>
<td>Works</td>
<td>Govt</td>
</tr>
<tr>
<td>7</td>
<td>2 Basic Schools in Chongwe, Lusaka Province</td>
<td>Education (MoE)</td>
<td>small</td>
<td>4,141,125,620.00</td>
<td>Works</td>
<td>Govt</td>
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<tr>
<td>8</td>
<td>Lukwesa Day High School</td>
<td>Education (MoE)</td>
<td>Large</td>
<td>23,242,829,415.84</td>
<td>Works</td>
<td>Govt</td>
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<td>9</td>
<td>Rehabilitation of Rural Health Centres in Western and Southern Provinces Lot 2 contract 1</td>
<td>Health (MoH)</td>
<td>Large</td>
<td>9,052,012,538.03</td>
<td>Works</td>
<td>Govt</td>
</tr>
<tr>
<td>10</td>
<td>Rehabilitation of Rural Health Centres in Eastern and Lusaka Provinces Lot 2 contract 2</td>
<td>Health (MoH)</td>
<td>Small</td>
<td>5,306,777,288.16</td>
<td>Works</td>
<td>Govt</td>
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<td>11</td>
<td>Construction of Cancer Center at UTH</td>
<td>Health (MoH)</td>
<td>Large</td>
<td>No information</td>
<td>Works</td>
<td>Govt</td>
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<td>12</td>
<td>Construction of Chadiza District Hospital (Phase 2)</td>
<td>Health (MoH)</td>
<td>small</td>
<td>4,174,603,712.10</td>
<td>Works</td>
<td>Govt</td>
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<td>13</td>
<td>Construction of Lufwanyama District Hospital</td>
<td>Health (MoH)</td>
<td>small</td>
<td>2,847,663,937.00</td>
<td>Works</td>
<td>Govt</td>
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<td>14</td>
<td>Periodic Maintenance of Senanga-Mongu Road</td>
<td>Roads (RDA)</td>
<td>Large</td>
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<td>Works</td>
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<td>Rehabilitation of feeder roads U15 in Kapiri Mposhi District</td>
<td>Roads (RDA)</td>
<td>small</td>
<td>7,116,169,286.00</td>
<td>Works</td>
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<tr>
<td>16</td>
<td>Project (Periodic Maintenance of Monze-Niko- Chitongo &amp; Hamusonde-Maala Roads - D365)</td>
<td>Roads (RDA)</td>
<td>small</td>
<td>22,203,489,519.00</td>
<td>Works</td>
<td>Govt</td>
</tr>
<tr>
<td>17</td>
<td>Project (Periodic Maintenance of Kafue - Mazabuka Road - T1)</td>
<td>Roads (RDA)</td>
<td>small</td>
<td>10,022,335,812.50</td>
<td>Works</td>
<td>Govt</td>
</tr>
<tr>
<td>18</td>
<td>Periodic Maintenance of Solwezi - Mutanda - Mwinilunga Road -T5</td>
<td>Roads (RDA)</td>
<td>Large</td>
<td>46,681,509,921.00</td>
<td>Works</td>
<td>Govt</td>
</tr>
</tbody>
</table>
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:

1. 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;
2. forwarded from the PE and stored by others such as project implementation agencies or procurement oversight authorities;
3. 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;
4. made available to the public on demand by indicating on a sliding scale of always, majority of cases, minority of cases or never;
5. required by law to be made available to the public;
6. prevented by law from being made available to the public; and
7. 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:

1. number of companies expressing interest in the main contract for works;
2. number and proportion of short-listed companies subsequently bidding for the main contract for the works;
3. number of companies expressing interest in bidding for the contract for project supervision;
4. number and proportion of short-listed companies subsequently bidding for the contract for contract supervision;
5. number of companies expressing interest in the contract for project design;
6. 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>
<thead>
<tr>
<th>Item</th>
<th>Category</th>
<th>No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Ministries and government Departments</td>
<td>37</td>
</tr>
<tr>
<td>2</td>
<td>Statutory Bodies</td>
<td>35</td>
</tr>
<tr>
<td>3</td>
<td>Parastatal Bodies</td>
<td>11</td>
</tr>
<tr>
<td>4</td>
<td>Banking and Lending Institutions</td>
<td>3</td>
</tr>
<tr>
<td>5</td>
<td>Local Authorities</td>
<td>23</td>
</tr>
<tr>
<td>6</td>
<td>Training/Higher Institutions of Learning</td>
<td>27</td>
</tr>
<tr>
<td>7</td>
<td>Media Institutions</td>
<td>3</td>
</tr>
<tr>
<td>8</td>
<td>Health Institutions</td>
<td>17</td>
</tr>
<tr>
<td>9</td>
<td>Water and Sanitation Utility Institutions</td>
<td>6</td>
</tr>
<tr>
<td>10</td>
<td>Other Institutions</td>
<td>12</td>
</tr>
</tbody>
</table>
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

<table>
<thead>
<tr>
<th>Initiative</th>
<th>Ownership</th>
<th>Focus</th>
<th>Relationship with CoST</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Procurement</td>
<td>Government/ZPPA</td>
<td>Strengthening of the Public Sector procurement systems in Zambia</td>
<td>Procurement of works tenders can be done in a transparent manner</td>
<td>CoST needs to work closely with ZPPA in matters relating to works tenders and awards</td>
</tr>
<tr>
<td>Whistle Blowing</td>
<td>Government</td>
<td>Framework within which whistle blowing is supported</td>
<td>Corruption can be reported easily</td>
<td>The Anti- Corruption Commission has an online whistle blowing mechanism</td>
</tr>
<tr>
<td>E-Governance</td>
<td>Government</td>
<td>Existence of an E-government portal which can enhance doing business in Zambia</td>
<td>Procurement of works tenders and reporting of corruption issues</td>
<td>E-Commerce is spreading at a fast rate in the world and Zambia cannot be left behind</td>
</tr>
<tr>
<td>Director of Public Prosecutions</td>
<td>Government</td>
<td>The DPP undertakes criminal proceedings and ensures that investigations initiated by the police and other investigative agencies and conducted in accordance</td>
<td>Criminal issues relating to procurement of works tenders</td>
<td></td>
</tr>
<tr>
<td>The Auditor General</td>
<td>Government</td>
<td>Audits public offices in following prescribed accounting procedures</td>
<td>Agencies of Government are Audited including those that deal with works procurement</td>
<td>The Auditor General’s reports can reveal very useful information that CoST can use</td>
</tr>
<tr>
<td>The Commission for Investigations</td>
<td>Government</td>
<td>Focuses on abuse of office, unnecessary delays, erroneous decisions, misapplication and misinterpretation of laws and regulations</td>
<td>CoST can work with this office on matters relating to procurement of works</td>
<td>At the moment the only limitation is that this office is just in Lusaka</td>
</tr>
<tr>
<td>ACT- Against Corruption Together</td>
<td>Government through ACC funded by DFID</td>
<td>Five year programme to help ACC implement the anti-corruption Policy and implementation programme</td>
<td>Since it emphasizes sector tailor made programmes and The road development programme is already ear marked for this Cost can tap in this</td>
<td>The Memorandum of Understanding has been already been signed by Government</td>
</tr>
<tr>
<td>Draft Freedom of Information Bill</td>
<td>Government</td>
<td>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</td>
<td>Release of information would be in line with CoST requirements</td>
<td>Civil Society Organizations who are the most vocal and visible organization engaged in anti-corruption activities would assist CoST achieve its aims</td>
</tr>
<tr>
<td>Initiative</td>
<td>Ownership</td>
<td>Focus</td>
<td>Relationship with CoST</td>
<td>Comments</td>
</tr>
<tr>
<td>------------</td>
<td>-----------</td>
<td>-------</td>
<td>------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>Electronic Communications and Transactions Bill</td>
<td>Government</td>
<td>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;</td>
<td>E-procurement would enhance storage of MPIs</td>
<td>E-procurement is a great potential for growth in Zambia</td>
</tr>
<tr>
<td>Stakeholder institutions</td>
<td>Zambia Institute of Architects Engineers Institution of Zambia Association of Building &amp; Civil Engineering Contractors, Association of Consulting Engineers, Surveyors Institute of Zambia</td>
<td>Impact the process of public procurement in overseeing the performance of contractors, suppliers and consultants.</td>
<td>Also keep MPI and could disclose if allowed</td>
<td>They are valuable pressure groups on public procurement issues.</td>
</tr>
</tbody>
</table>

### 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;
3.0 BASELINE STUDY BACKGROUND INFORMATION

- 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.

**Project Cycle**

![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

<table>
<thead>
<tr>
<th>Stage in Project Cycle</th>
<th>Initial List of Disclosures</th>
<th>Required to be released</th>
<th>Legal references</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Project identification</strong></td>
<td>Project specification</td>
<td>No</td>
<td></td>
<td>Usually put in the tender document/solicitation document. Its not a legal requirement per se</td>
</tr>
<tr>
<td></td>
<td>Purpose</td>
<td>No</td>
<td></td>
<td>Usually put in the tender document/solicitation document. It’s not a legal requirement per se</td>
</tr>
<tr>
<td></td>
<td>Location</td>
<td>No</td>
<td></td>
<td>Usually put in the tender document/solicitation document. It’s not a legal requirement per se</td>
</tr>
<tr>
<td></td>
<td>Intended beneficiaries</td>
<td>No</td>
<td></td>
<td>Usually put in the tender document/solicitation document. It’s not a legal requirement per se</td>
</tr>
<tr>
<td></td>
<td>Feasibility study</td>
<td>Yes</td>
<td></td>
<td>The Environmental Council of Zambia regulations demand that this should be made public</td>
</tr>
<tr>
<td><strong>Project funding</strong></td>
<td>Financing agreement</td>
<td>No</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Budget</td>
<td>No</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Engineer’s estimate</td>
<td>No</td>
<td></td>
<td>Usually kept confidential although the information seems to leak privately</td>
</tr>
<tr>
<td><strong>Tender process for the contract for project design</strong></td>
<td>Tender procedure</td>
<td>Yes</td>
<td>PP ACT under Part Six – Procurement Process</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Name of main consultant</td>
<td>Yes</td>
<td>PP ACT under Part Six – Procurement Process</td>
<td></td>
</tr>
<tr>
<td><strong>Tender process for the contract for project supervision</strong></td>
<td>Tender procedure</td>
<td>Yes</td>
<td>PP ACT under Part Six – Procurement Process</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Name of main consultant</td>
<td>Yes</td>
<td>PP ACT under Part Six – Procurement Process</td>
<td></td>
</tr>
<tr>
<td><strong>Tender process for the main contract for works</strong></td>
<td>Tender procedure</td>
<td>Yes</td>
<td>PP ACT under Part Six – Procurement Process</td>
<td></td>
</tr>
</tbody>
</table>
## Stage in Project Cycle

<table>
<thead>
<tr>
<th>Initial List of Disclosures</th>
<th>Required to be released</th>
<th>Legal references</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>List of tenderers</td>
<td>Yes</td>
<td>Under clause 49 of PP ACT under Part five – General Procurement Rules</td>
<td>A procuring entity shall maintain record of all procurement proceedings and at tender opening any interest member of the public may attend</td>
</tr>
<tr>
<td>Tender evaluation report</td>
<td>No</td>
<td></td>
<td>Usually treated as confidential. An unsuccessful bidder may be given information on request only relating to their bid</td>
</tr>
<tr>
<td><strong>Details of the contract for project supervision</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contract price</td>
<td>Yes</td>
<td>Under clause 53 of PP Act</td>
<td></td>
</tr>
<tr>
<td>Contract scope of work</td>
<td>Yes</td>
<td>Under PP ACT</td>
<td></td>
</tr>
<tr>
<td>Contract programme</td>
<td>Yes</td>
<td>Under PP ACT</td>
<td></td>
</tr>
<tr>
<td><strong>Details of the main contract for works</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contractor name</td>
<td>Yes</td>
<td>Under PP ACT</td>
<td></td>
</tr>
<tr>
<td>Contract price</td>
<td>Yes</td>
<td>Under PP ACT</td>
<td></td>
</tr>
<tr>
<td>Contract scope of work</td>
<td>Yes</td>
<td>Under PP ACT</td>
<td></td>
</tr>
<tr>
<td>Contract programme</td>
<td>Yes</td>
<td>Under PP ACT</td>
<td></td>
</tr>
<tr>
<td><strong>Execution of the contract for project supervision</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Significant changes to contract price, programme, scope with reasons</td>
<td>No</td>
<td></td>
<td>No law requires this to be disclosed</td>
</tr>
<tr>
<td><strong>Execution of the main contract for works</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Individual changes to the contract which affect the price and reasons for those changes</td>
<td>No</td>
<td></td>
<td>No law requires variations to be disclosed</td>
</tr>
<tr>
<td>Individual changes to the contract which affect the programme and reasons for those changes</td>
<td>No</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Details of any re-award of main contract</td>
<td>Yes</td>
<td></td>
<td>It can be linked to the law that requires the successful bidder to be publicized</td>
</tr>
<tr>
<td><strong>Post contract completion details of the main contract for works</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Actual contract price</td>
<td>No</td>
<td></td>
<td>No law requires the disclosure of this information</td>
</tr>
<tr>
<td>Total payments made</td>
<td>No</td>
<td></td>
<td>No law requires the disclosure of this information</td>
</tr>
<tr>
<td>Stage in Project Cycle</td>
<td>Initial List of Disclosures</td>
<td>Required to be released</td>
<td>Legal references</td>
</tr>
<tr>
<td>------------------------</td>
<td>----------------------------</td>
<td>-------------------------</td>
<td>------------------</td>
</tr>
<tr>
<td>Actual contract scope of work</td>
<td>No</td>
<td></td>
<td>No law requires the disclosure of this information</td>
</tr>
<tr>
<td>Actual contract programme</td>
<td>No</td>
<td></td>
<td>No law requires the disclosure of this information</td>
</tr>
<tr>
<td>Project evaluation and audit reports</td>
<td>No</td>
<td></td>
<td>No law requires the disclosure of this information</td>
</tr>
</tbody>
</table>
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 Secretariat 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 made disclosed by all Procuring Entities included:
- tender procedures;
- contractors’ names
- contract price; and
- details of any re-award of the main contract. All as required by law.
<table>
<thead>
<tr>
<th>MPI</th>
<th>Description</th>
<th>Legal Requirement</th>
<th>MoWS</th>
<th>MoE</th>
<th>MoH</th>
<th>RDA</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Purpose</td>
<td>No</td>
<td>Yes Never</td>
<td>No Never</td>
<td>Yes Never</td>
<td>Yes Always</td>
</tr>
<tr>
<td></td>
<td>Location</td>
<td>No</td>
<td>Yes Never</td>
<td>No Minority of cases</td>
<td>Yes Minority of cases</td>
<td>Yes Always</td>
</tr>
<tr>
<td></td>
<td>Intended beneficiaries</td>
<td>No</td>
<td>Yes Never</td>
<td>No Never</td>
<td>No Never</td>
<td>No Majority of cases</td>
</tr>
<tr>
<td></td>
<td>Feasibility study</td>
<td>Yes</td>
<td>Yes Never</td>
<td>No Never</td>
<td>No Never</td>
<td>No Never</td>
</tr>
<tr>
<td>Project Funding</td>
<td>Financing agreement</td>
<td>No</td>
<td>No Never</td>
<td>No Never</td>
<td>No Never</td>
<td>No Never</td>
</tr>
<tr>
<td></td>
<td>Budget</td>
<td>No</td>
<td>Yes Never</td>
<td>No Minority of cases</td>
<td>Yes Minority of cases</td>
<td>No Minority of cases</td>
</tr>
<tr>
<td></td>
<td>Project Cost estimate</td>
<td>No</td>
<td>No Never</td>
<td>No Never</td>
<td>No Never</td>
<td>No Never</td>
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<tr>
<td></td>
<td>Tender procedure for the contract for project design</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Name of main consultant</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Tender procedure for the contract for project supervision</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Name of main consultant</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Tender procedure</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>List of tenderers</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Tender evaluation report</td>
<td>No</td>
<td>No Never</td>
<td>No Never</td>
<td>No Never</td>
<td>No Never</td>
</tr>
<tr>
<td>Details of the contract for project supervision</td>
<td>Contract price</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Contract scope of works</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Contract programme</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Details of the main contract for works</td>
<td>Contractor name</td>
<td>Yes</td>
<td>Yes</td>
<td>Always</td>
<td>Yes</td>
<td>Always</td>
</tr>
<tr>
<td></td>
<td>Contract price</td>
<td>Yes</td>
<td>Yes</td>
<td>Always</td>
<td>Yes</td>
<td>Always</td>
</tr>
<tr>
<td></td>
<td>Contract scope of works</td>
<td>Yes</td>
<td>Yes</td>
<td>Always</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Contract programme</td>
<td>Yes</td>
<td>Yes</td>
<td>Always</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

Table 4.2: Summary of required and actual MPI disclosure at sample PEs
<table>
<thead>
<tr>
<th>MPI</th>
<th>Description</th>
<th>Legal Requirement</th>
<th>MoWS</th>
<th>MoE</th>
<th>MoH</th>
<th>RDA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Execution of the contract for project supervision</td>
<td>Significant changes to contract price, programme scope with reasons</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Never</td>
<td>No</td>
</tr>
<tr>
<td>Execution of the main contract for works</td>
<td>Individual changes to the contract which affect the price and the reasons for those changes</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Never</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Individual changes to the contract which affect the programme and the reasons for those changes</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>Never</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Details of any re-award of main contract</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Always</td>
<td>Yes</td>
</tr>
<tr>
<td>Post contract details of the main contract for works</td>
<td>Actual contract price</td>
<td>No</td>
<td>No</td>
<td>Never</td>
<td>No</td>
<td>Minority of cases</td>
</tr>
<tr>
<td></td>
<td>Total payments made</td>
<td>No</td>
<td>No</td>
<td>Never</td>
<td>No</td>
<td>Never</td>
</tr>
<tr>
<td></td>
<td>Actual contract scope</td>
<td>No</td>
<td>No</td>
<td>Never</td>
<td>No</td>
<td>Minority of cases</td>
</tr>
<tr>
<td></td>
<td>Actual contract programme</td>
<td>No</td>
<td>No</td>
<td>Minority of cases</td>
<td>No</td>
<td>Minority of cases</td>
</tr>
<tr>
<td></td>
<td>Project evaluation and audit reports</td>
<td>No</td>
<td>No</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**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. See Figure 4.1 shows the percentage of MPIs disclosed by the sampled PEs against those 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

#### BASELINE STUDY

<table>
<thead>
<tr>
<th>LIST OF INDICATORS</th>
<th>1. BIDDING STATISTICS</th>
<th>2. DURATION</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PROCURING ENTITY</strong></td>
<td><strong>MINISTRY OF WORKS AND SUPPLY</strong></td>
<td><strong>MINISTRY OF EDUCATION</strong></td>
</tr>
<tr>
<td><strong>PROJECTS</strong></td>
<td><strong>PROJECTS</strong></td>
<td><strong>PROJECTS</strong></td>
</tr>
<tr>
<td><strong>PROJECTS</strong></td>
<td><strong>PROJECTS</strong></td>
<td><strong>PROJECTS</strong></td>
</tr>
<tr>
<td><strong>BASELINE STUDY</strong></td>
<td><strong>LIST OF INDICATORS</strong></td>
<td><strong>PROCURING ENTITY</strong></td>
</tr>
<tr>
<td><strong>PROCURING ENTITY</strong></td>
<td><strong>MINISTRY OF WORKS AND SUPPLY</strong></td>
<td><strong>MINISTRY OF EDUCATION</strong></td>
</tr>
<tr>
<td><strong>LIST OF INDICATORS</strong></td>
<td><strong>PROCURING ENTITY</strong></td>
<td><strong>MINISTRY OF WORKS AND SUPPLY</strong></td>
</tr>
<tr>
<td><strong>BASELINE STUDY</strong></td>
<td><strong>LIST OF INDICATORS</strong></td>
<td><strong>PROCURING ENTITY</strong></td>
</tr>
<tr>
<td><strong>PROCURING ENTITY</strong></td>
<td><strong>MINISTRY OF WORKS AND SUPPLY</strong></td>
<td><strong>MINISTRY OF EDUCATION</strong></td>
</tr>
</tbody>
</table>
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 137%

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.

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 filling 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 all the PEs that were sampled included: tender procedures; contractors’ names; contract price; and details of any re-award of the main contract. However for samples reviewed 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.
REFERENCES


Republic of Zambia Public Service Terms and Conditions of Service

Republic of Zambia The Competition and Fair Trading Act, CAP 417

Republic of Zambia The Penal Code Act, Chapter 87 of the Laws of Zambia

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 Superanuation 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**

---

**Appendix I**  
**Procuring Entities in Zambia**

**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**
### 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

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<thead>
<tr>
<th>1.0</th>
<th>Pre-tender</th>
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<tbody>
<tr>
<td>1.1</td>
<td>Project feasibility study</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>1.2</td>
<td>Environmental and social impact assessment</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>1.3</td>
<td>Financing agreement</td>
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<tbody>
<tr>
<td>2.1</td>
<td>Tender evaluation report for appointment of consultants for design and supervision</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>2.2</td>
<td>Tender evaluation report for appointment of main contractor</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3.0</th>
<th>Contract award</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1</td>
<td>Details of main contract award (e.g. name of contractor, contract price, scope of work)</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4.0</th>
<th>Contract implementation</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>4.1</td>
<td>Significant changes to the contract price, scope of work or programme</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>4.2</td>
<td>Completion report (e.g. actual contract cost, programme and scope of work)</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>4.3</td>
<td>Project evaluation reports (e.g. financial and technical audits)</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

### 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
- 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 spreadsheets (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 design
  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
   o The procedures used to select a sample set of PEs to be targeted for data collection
   o The procedures and criteria used for selecting a sample set of projects for data collection
   o Summary of the indicators
   o The summaries of background information (as highlighted under preliminaries above)
   o 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
### List of Material Project Information (MPI)

<table>
<thead>
<tr>
<th>Stage in Project Cycle</th>
<th>Initial List of Disclosures</th>
</tr>
</thead>
</table>
| **Project Identification** | • Project specification  
• Purpose  
• Location  
• Intended beneficiaries  
• Feasibility study |
| **Project Funding** | • Financing agreement  
• Budget  
• Engineer's estimate |
| **Tender process for the contract for project design** | • Tender procedure  
• Name of main consultant |
| **Tender process for the contract for project supervision** | • Tender procedure  
• Name of main consultant |
| **Tender process for the main contract for works** | • Tender procedure  
• List of tenderers  
• Tender evaluation report |
| **Details of the contract for project supervision** | • Contract price  
• Contract scope of work  
• Contract programme |
| **Details of the main contract for works** | • Contractor name  
• Contract price  
• Contract scope of work  
• Contract programme |
| **Execution of the contract for project supervision** | • Significant changes to contract price, programme, scope with reasons |
| **Execution of the main contract for works** | • 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 |
| **Post contract completion details of the main contract for works** | • 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)

<p>| | | |</p>
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<td>Select one box</td>
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<tr>
<td>1.1</td>
<td>Project feasibility study</td>
<td>Yes</td>
</tr>
<tr>
<td>1.2</td>
<td>Environmental and social impact assessment</td>
<td>Yes</td>
</tr>
<tr>
<td>1.3</td>
<td>Financing agreement</td>
<td>Yes</td>
</tr>
</tbody>
</table>

| 2.0 | Tender process |   |
| 2.1 | Tender evaluation report for appointment of consultants for design and supervision | Yes | No |
| 2.2 | Tender evaluation report for appointment of main contractor | Yes | No |

| 3.0 | Contract award |   |
| 3.1 | Details of main contract award (e.g. name of contractor, contract price, scope of work) | Yes | No |

| 4.0 | Contract implementation |   |
| 4.1 | Significant changes to the contract price, scope of work or programme | Yes | No |
| 4.2 | Completion report (e.g. actual contract cost, programme and scope of work) | Yes | No |
| 4.3 | Project evaluation reports (e.g. financial and technical audits) | Yes | No |

**Note:** you must provide sources and references to data sheets
### 5.0 SUMMARY OF DISCLOSURE DATA (PART 2).

<p>| | |</p>
<table>
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<tr>
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<tbody>
<tr>
<td><strong>5.1</strong></td>
<td>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)</td>
</tr>
<tr>
<td><strong>5.2</strong></td>
<td>What proportion of sampled procuring entities is actually disclosing this information? (give references to data sheets)</td>
</tr>
<tr>
<td><strong>5.3</strong></td>
<td>How is the information being disclosed? (give references to data sheets)</td>
</tr>
<tr>
<td><strong>5.4</strong></td>
<td>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)</td>
</tr>
</tbody>
</table>
Appendix IV
Baseline study spreadsheets