

# Procurement Risk Assessment Report

---

Project Number: 48289-002  
April 2017

Islamic Republic of Pakistan: Peshawar Sustainable  
Bus Rapid Transit Corridor Project



## CONTENTS

<b>EXECUTIVE SUMMARY .....</b>		<b>ES-1</b>
<b>1. AGENCY WISE PROCUREMENT RISK ASSESSMENT .....</b>		<b>1</b>
1.1 Assessment of Peshawar Development Authority .....		1
1.1.1.1 Overview.....		1
1.1.1.2 Legislative and Regulatory Framework .....		1
1.1.1.3 Institutional Framework and Management Capacity.....		2
1.1.1.4 Procurement Operations and Market Practices.....		2
1.1.1.5 Integrity and Transparency of Public Procurement System .....		3
1.1.1.6 Strengths .....		4
1.1.1.7 Weaknesses .....		5
1.1.1.8 Overall procurement risk rating of Peshawar Development Authority (PDA) .....		5
1.1.1.9 Procurement Risk Assessment and Management Plan (P- RAMP) for Agencies Procurement Assessment .....		6
1.2 Assessment of TransPeshawar (The Urban Mobility Company).....		7
1.2.1.1 Overview.....		7
1.2.1.2 Legislative and Regulatory Framework .....		7
1.2.1.3 Institutional Framework and Management Capacity.....		7
1.2.1.4 Procurement Operations and Market Practices.....		8
1.2.1.5 Integrity and Transparency of TransPeshawar Procurement System.....		8
1.2.1.6 Strengths .....		8
1.2.1.7 Weaknesses .....		8
1.2.1.8 Overall procurement risk rating of TransPeshawar .....		9
1.2.1.9 Procurement Risk Assessment and Management Plan (P- RAMP) for Agencies Procurement Assessment .....		10
1.3 Conclusions .....		11
<b>2. PROJECT PROCUREMENT RISK ASSESSMENT .....</b>		<b>12</b>
2.1 Peshawar Development Authority (PDA) .....		12
2.1.1.1 Introduction.....		12
2.1.1.2 Overview.....		12
2.1.1.3 Organization and Staff Capacity .....		12
2.1.1.4 Information Management .....		12
2.1.1.5 Procurement Practices.....		13
2.1.1.6 Effectiveness .....		13
2.1.1.7 Accountability Measures .....		13
2.1.1.8 Strengths .....		13
2.1.1.9 Weaknesses .....		14
2.1.1.10 General Ratings.....		15
2.1.1.11 Procurement Risk Assessment and Management Plan (P- RAMP) for Project Procurement Assessment.....		15
2.1.1.12 Conclusion.....		16

---

<b>3.</b>	<b>PROJECT PROCUREMENT RISK ASSESSMENT .....</b>	<b>17</b>
3.1	TransPeshawar (The Urban Mobility Company).....	17
3.1.1.1	Introduction.....	17
3.1.1.2	Overview.....	17
3.1.1.3	Organization and Staff Capacity .....	17
3.1.1.4	Information Management .....	17
3.1.1.5	Procurement Practices.....	18
3.1.1.6	Effectiveness .....	18
3.1.1.7	Accountability Measures .....	18
3.1.1.8	Strengths .....	19
3.1.1.9	Weaknesses .....	19
3.1.1.10	General Ratings.....	20
3.1.1.11	Procurement Risk Assessment and Management Plan (P-RAMP) for Project Procurement Assessment.....	20
3.1.1.12	Conclusion.....	21

#### **APPENDICES:**

- Appendix 1: Agency Procurement Assessment Tool-Summary Sheet for Peshawar Development Authority and TransPeshawar
- Appendix 2: Agency Procurement Assessment Questionnaire for Peshawar Development Authority and TransPeshawar
- Appendix 3: Project Procurement Risk Assessment Questionnaire for Peshawar Development Authority and TransPeshawar
- Appendix 4: Project Procurement Risk Analysis for Peshawar Development Authority and TransPeshawar

#### **List of Tables**

- Table 1-1: Overall procurement risk rating of Peshawar Development Authority
- Table 1-2: Procurement Risk Assessment and Management Plan (P-RAMP) for Agencies Procurement Assessment (Peshawar Development Authority)
- Table 1-3: Overall risk rating of TransPeshawar
- Table 1-4: Procurement Risk Assessment and Management Plan (P-RAMP) for Agencies Procurement Assessment (TransPeshawar)
- Table 2-1: General rating of Peshawar Development Authority
- Table 2-2: Procurement Risk Assessment and Management Plan (P-RAMP) for Project Procurement Assessment of Peshawar Development Authority
- Table 3-1: General rating of TransPeshawar
- Table 3-2: Procurement Risk Assessment and Management Plan (P-RAMP) for Project Procurement Assessment of TransPeshawar
- Table 4: Procurement Classification Table

## ABBREVIATIONS

ADB	=	Asian Development Bank
ADP	=	Annual Development Program
EA	=	Executing Agency
EPCM	=	Engineering Design, Procurement and Construction Management
GoKP	=	Government of Khyber Pakhtunkhwa
IA	=	Implementation Agency
JV	=	Joint venture
KP PPRA	=	KP Public Procurement Regulatory Authority
NAB	=	National Accountability Bureau
ODBM	=	Operations Design and Business Model
P&A	=	Prevention and Awareness
PDA	=	Peshawar Development Authority
PEC	=	Pakistan Engineering Council
PMCCB	=	Project Management Coordination and Capacity Building
PRA	=	Project Procurement Risk Assessment
PSBRTC	=	Peshawar Sustainable Bus Rapid Transit Corridor Project
PSDP	=	Public Sector Development Plan
QCBS	=	Quality and cost based selection
RFP	=	Request for Proposal
SBD	=	Standard bidding document
SPA	=	Sector/Agency Procurement Risk Assessment
TMTD	=	Transport and Mass Transit Department

---

## A. EXECUTIVE SUMMARY

1. General environment for procurement in Pakistan is satisfactory and, to large extent, harmonized with the internationally accepted practices and procedures. At provincial level, the Finance Department published *The Khyber Pakhtunkhwa Public Procurement of Goods, Works and Services Rules, 2014* and before that *Khyber Pakhtunkhwa Public Procurement Regulatory Authority Act, 2012* promulgated by provincial assembly to improve governance, management, transparency, accountability and quality of public procurement of goods, works, and services through the Khyber Pakhtunkhwa Public Procurement Regulatory Authority (KP PPRA).

2. Many of the rules and regulations either are direct references from guidelines of multilateral development banks (MDBs) such as World Bank and Asian Development Bank or are derived from their guidelines and procedures. Due to frequently assisted programs in Pakistan, many executing agencies in provincial governments appear to be well versed with different donor guidelines and procedures at concept level. Public procurement has therefore evolved/improved in terms of capacity building of human resource and processes/procedures though still a long way to maturity, optimal efficiency, and effectiveness.

3. Project preparation for the Peshawar Sustainable Bus Rapid Transit System Corridor Project (PSBRTC) is segregated in three phases namely: (i) project preparatory technical assistance for conceptual plans, preliminary design and estimates, operational model, project implementation roadmap, and support to Government of Khyber Pakhtunkhwa in institutional building; (ii) project design advance for detailed engineering design and cost estimates, final bus industry transition, bus rapid transit (BRT) operational plan and business model, selection of contractors for civil works and equipment; and (iii) contract signing and construction. For the execution of the project, ADB approved a loan amounting \$10 million under project design advance facility and three firms are recruited for Package 1: Detailed Engineering Design, Procurement and Construction Management Consultants (EPCM), Package 2: Project Management Coordination and Capacity Building Consultants (PMCCB), and Package 3: Operations Design and Business Model Consultants (ODBM).

## B. INTRODUCTION

4. This report encompasses Procurement Risk Assessment (PRA)-Part 1 and Project Procurement Risk Assessment (PPRA)-Part 2.<sup>1</sup>

5. The Sector/Agency Procurement Risk Assessment (SPA) has been prepared in accordance with the Guide on Assessing Procurement Risks and Determining Project Procurement Classification, August 2015 to: (i) identify risks originating out of national or sector systems and/or practices that could result in sub-optimal use of national and/or ADB resources, either through leakage or inefficiency; (ii) assess the severity of the risk; and (iii) develop a risk management plan to address at a minimum high or significant procurement risks at the country and sector level. The objective of the assessment is to carry out a broad assessment of the agency(ies) public procurement system to: (i) analyse its different components, including the existing legal framework, organizational responsibilities, control and oversight mechanisms, capacity, and current procedures and practices, as well as how well these works in practice; and (ii) prepare an

---

<sup>1</sup> The PRA and PPRA reports along with the related appendices have been developed using ADB Guide on Assessing Procurement Risks and Determining Project Procurement Classification, August 2015.

action plan for further improvements in the system. The PRA includes assessment of the agencies involved namely Peshawar Development Authority (PDA) and TransPeshawar.

6. The project procurement risk assessment (PRA) has also been prepared in accordance with the Guide on Assessing Procurement Risks and Determining Project Procurement Classification, August 2015.

7. Both SPA and PRA were undertaken from February to March 2017. SPA and PRA activities included reviewing documents, ADB's ongoing procurement experience, interviews with counterpart staff, and discussions with stakeholders from government agencies. The PRA includes assessment of PDA and TransPeshawar (The Urban Mobility Company), which are the proposed implementing agencies (IAs) respectively for civil works and BRT equipment (Goods) to be procured under the Project.





## **1. AGENCY WISE PROCUREMENT RISK ASSESSMENT**

### **1.1 Assessment of Peshawar Development Authority**

#### **1.1.1.1 Overview**

1. Greater Peshawar Metropolitan Authority (PMA) was created in 1975 under Urban Planning Act 1975. In 1978, the Provincial Government promulgated Urban Planning Ordinance (UPO) and under its Section-17, local area authorities were established and PMA was renamed as Peshawar Development Authority (PDA). Provincial Urban Development Board (PUDB) was established under section-3 of the UPO to run the affairs of the local area authorities under the administrative control of Physical Planning & Housing Department (PP&H), Provincial Government. In 2001, the local area authorities were devolved to respective city/district government under Local Government Ordinance 2001 and UPO of 1978 was repealed through an Ordinance in May 2002. In 2012, all the local area authorities under section 80 were placed under the administrative control of Local Government & Rural Development Department Government of Khyber Pakhtunkhwa. In 2013, all the local area authorities including PDA were placed under Local Government, Elections & Rural Development Department of Khyber Pakhtunkhwa.

2. The PDA is headed by the Director General (DG) who reports to Secretary Local Government. In all technical matters, the DG is assisted by the Directors of the concerned directorate, and there are seven technical directorates beside each directorate for Finance, P&D and Administration. PDA will act as the implementation agency for civil works under PSBRTC and will procure and administer the execution of all civil works (comprising three road packages and two building packages) assisted by the supervision consultants. PDA follows Khyber Pakhtunkhwa Public Procurement of Goods, Works and Services Rules, 2014 for its respective procurement.

#### **1.1.1.2 Legislative and Regulatory Framework**

3. Government of Khyber Pakhtunkhwa (in light of Section 36 Khyber Pakhtunkhwa Public Procurement Regulatory Authority Act, 2012 (Khyber Pakhtunkhwa Act No. XI of 2012)) on 3 February 2014 issued Khyber Pakhtunkhwa Public Procurement of Goods, Works, and Services Rules, 2014 to improve governance, management, transparency, accountability and quality of public procurement of goods, works, and services through the Khyber Pakhtunkhwa Public Procurement Regulatory Authority (KP PPRA).

4. Open competitive bidding is the principal method of procurement of goods, services and works. Rule 11 of KPPP Rules 2014, obligates that all procurements over one hundred thousand Rupees (equal almost \$1,000) are subject to mandatory advertisement on the Authority's website in the manner and format specified by regulation of the Authority from time to time. These procurement opportunities are advertised in print media, if deemed necessary by the respective procuring agency.

5. In general, the PDA follow the provincial legal framework and procurement rules that support non-discriminatory participation and transparent procurement processes under Rule 40 and 53 respectively. The procurement processes are mandatory through open competition under Rule 6, properly advertised with sufficient response time pursuant to Rule 34. In addition, proper complaint mechanism is in place under Rule 35.

### 1.1.1.3 Institutional Framework and Management Capacity

6. KP Public Procurement Regulatory Authority (KP-PPRA) being the lead regulatory organization serves as the centre and focal point of all public procurement and exercises oversights over all procurements carried out by the provincial agencies/departments.

7. In term of its operations, KP-PPRA through its website not only serves as the source for province/nationwide advertisement of public procurement notices but also serve as the data base for procurement in KP province by collection and disclosure of record of procurements and includes basic information of all the procurements and therefore furnishes data for all the watchdogs/observers on public procurement.

8. While KP-PPRA exercises its mandate of procurement regulations and operations, other organizations such as National Accountability Bureau (NAB) under its initiative of Prevention and Awareness (P&A) also reviews major public procurements carried out by different agencies at the provincial level to prevent any misprocurement, and ensures transparency in procurements and can seek briefing and explanation on any procurement from a procuring agency and is found continuously exercising this practice. Moreover, Chief Minister Inspection Team and Anticorruption department can act on complaints even anonymous or can review any procurement process on random sampling basis. Similarly, different nongovernmental organizations serving as local/international overseers (such as Transparency International, Whistle Blower, etc.) are found vigilant in observing compliance to public procurement rules/regulations and indicating whenever there is a violation.

9. PDA has a formal internal and external audit and control system. Annual audit is conducted regularly by the internal as well as external auditors of the procurement carried out by the agency during the preceding years.

10. PDA relevant procurement staff is competent and well versed with local procedures; however, they have limited knowledge of ADB's procurement guidelines and have not carried out any major ADB procurement during last 36 months. Procurement related trainings are conducted by KP PPRA at the provincial level and PDA staff were often send for announced training; however, these training programs are limited to KP PPRA act 2012 and KP PPRA rules 2014 rather than a broad-based training on procurement involving guidelines and procedures of international donors as well.

### 1.1.1.4 Procurement Operations and Market Practices

11. PDA generally undertakes projects identified and financed by PDA itself and the projects assigned to PDA in Annual Development Plan by the provincial government. The projects executed by the PDA are approved by the competent provincial forum; and accordingly, budget is sanctioned at the start of the fiscal year. Budget availability is generally confirmed prior to solicitation of tenders however advance procurement is also initiated in cases when approval is anticipated and timelines for construction are stringent, it is however ensured that contracts are only awarded when budget availability is confirmed. Regulations require procurement plan to be prepared and formulated in the beginning of the fiscal year pursuant to rule 30 of KP PPRA. PDA follows the procurement planning process; however, this is not linked to multiyear operation plans and budget formulations.

12. KP PPR 2014 Rule 10 specifies that invitations to tender above PKR100,000 shall be published on the procuring agency's or authority website and also in national media. Time limits for submission of bids are provided in the advertisements. PDA follow response time of **15 days**

for national competitive bidding and **30 days** for international competitive bidding from the date of publication of advertisement or notice (KP PPRA rule 34). All advertisements or notices expressly mention the response time allowed for that particular procurement along with the information for collection of bid documents which are issued till a given date, allowing sufficient time to complete and submit the bid by the closing date.

13. All bids submitted after the prescribed time are rejected and returned without being opened.

14. KPPPR 2014 Rules have provisions for evaluation and comparison of bids. While the rules provide principles, it does not provide details of evaluation methods and processes. Rather, the Rules require only that these be specified precisely in the bidding documents (Rule 33) however detailed bidding documents on goods, works and services comprising bidding document for procurement of works (large and small), goods (large and small) and consulting services have been prepared by KP-PPRA and uploaded on web. In addition, rules warrant that failure to provide for an unambiguous evaluation criteria in the bidding documents shall amount to misprocurement.

15. Chapter IV of KP-PPR 2014 covers “Procurement of Consultancy Services,” which are mandatory for all the provincial government departments to follow in procurement of consultant/consulting services. The government departments plan adequate funds for consultant/consulting services` procurement every year in case the need arises to hire consultants/consulting firms for technical assistance in any of the required fields. Provincial P&D mandate that the all the projects over PKR 50 million should be managed through hiring consulting services. PDA identifies processes, manages, evaluates, and monitors procurement of consultant/consulting services that have been identified. The selection system is determined by the concerned directorate prior to issuance of the Request for Proposals to prospective consultants. PDA generally use quality and cost based selection for selection of consultants/firms. KP PPRA rule 32 requires that each procuring entity shall constitute procurement committee with delegation of financial powers for goods, works and services. Consulting selection committee is formed for recruitment of consultants which comprise member from P&D, Finance and other provincial departments and headed by the secretary of the concerned department.

16. PDA maintains a record of their respective procurement proceedings along with all associated documentation for a minimum period of five years. KP PPRA Rule 52 mandate for the procuring entity to maintain record of all procurement transactions however limit of time period is not mentioned.

#### **1.1.1.5 Integrity and Transparency of Public Procurement System**

17. Under the rules, the respective bidders have a right to complain to the administrative secretary of the procuring entity or to file an appeal to the Authority in accordance with section 35 of the KP PPRA Act 2012. Bid documents/RFPs/Contracts clearly state the mechanism to receive and handle observations and complaints. The contracts signed by the employer entail a two-tier dispute resolution mechanism clause to settle the disputes among the contracting parties.

18. Though the KP PPRA website includes a separate tab for Grievance Redressal Mechanism, no data could be retrieved from the web. Since decisions on complaints are not publicly available, it could not be confirmed whether such decisions are based on available information. During discussions, it was revealed that decisions on complaints are reasoned and formally written up (at least with regard to formal complaints), but it is not clear what level of detail is provided given that no decisions were available for review. However, there was no indication that participants/stakeholders (i.e. bidders) in the complaint review process view the process as unfair. On the other hand, there appears to be general reluctance for bidders to avail themselves of the

complaint process. It is also believed that there are very few complaints given the contemporary practice of not complaining against the procuring agencies and business environment in the country.

19. Comprehensive information on procurement are easily and freely accessible from KP-PPRA website, as well as in media of wide circulation. KP Rule 53 “Public access and transparency” binds procuring agencies to announce reports and disclose information related to procurement processes including contract awards. The relevant section on KP-PPRA website is observed to have been regularly updated.

20. Bidding documents prepared by PDA entails mechanism and manner to permanently or temporarily bar, from participating in their respective procurement proceedings, suppliers, contractors and consultants who either consistently fail to provide satisfactory performances or are found to be indulged in corrupt or fraudulent practices or abandon the work prematurely resulting in loss to Government. Such barring action are duly publicized and communicated to the KP-PPRA and the bidder/supplier/contractors have the right to appeal against such decision under KP PPRA Act and rules.

21. Anybody found engaged in corruption can be held for investigation and can be preceded in accountability courts under National Accountability Bureau Ordinance 1999 by NAB and to be proceed for punitive measures under relevant law in accordance with Rule 54 of KP-PPRA. Furthermore, KP PPR 2014 rules mandate the procuring agencies to sign the integrity pact with the supplier/contractor wherein supplier/contractor undertake that he has not indulged in any corrupt business practices during the procurement process. Ethics and anticorruption measures are in-place.

#### **1.1.1.6 Strengths**

- (i.) GoKP on 3 February 2014 issued Khyber Pakhtunkhwa Public Procurement of Goods, Works and Services Rules, 2014 to improve governance, management, transparency, accountability and quality of public procurement of goods, works and services through the KP Public Procurement Regulatory Authority (KP PPRA) under KP-PPRA Act 2012.
- (ii.) NAB under its initiative of P&A, Chief Minister Inspection Team and Anticorruption department also reviews major public procurements carried out by different agencies to prevent any misprocurement. Moreover, DG M&E teams inspect post contract award performance evaluation of projects.
- (iii.) Processes for information management, effectiveness and accountability measures are simple and satisfactory and deficiencies can be addressed by additional staff and resources. External audits are budgeted for and conducted according to Government’s requirements.
- (iv.) All bids submitted after the time prescribed are rejected and returned without being opened
- (v.) PDA and other agencies through KP PPRA have a complaint management mechanism, which will address grievances related to Procurements and Contract administration. The contracts signed by the department(s) entail a two tier dispute resolution mechanism clause to settle the disputes among the contracting parties.
- (vi.) PDA maintains record of procurement proceedings along with all associated documentation for a minimum period of 5 years. The agency has maintained referencing system, which provides unique identification of each procurement activity.

- (vii.) KP-PPR 2014, does not provide specific provisions for foreign assisted projects however KP-PPRA Act 2012 section 17 allow international obligation of the government arising out of the bilateral or multilateral agreements including treaties, financing agreements or agreements by the government shall continue to remain and be valid, binding and operative.
- (viii.) Technical staff (Deputy Director and above) deployed in technical directorate are regularly involved in the procurement and are generally well versed with the KP PPRA Rules, 2014.

#### 1.1.1.7 Weaknesses

- (i.) PDA has not carried out any ICB contract(s) in the last 36 months in general and under ADB financing in particular.
- (ii.) Process to identify procurement requirements needs improvement.
- (iii.) Procurement planning including packaging, technical specifications, and contracting strategy lacks scheduling and forecasting.
- (iv.) KP PPRA rules 2014, are fairly new and not fully coordinated in the KP province. KP PPRA rules 2014 and bidding document issued by KP PPRA and PEC regulations are simultaneously used for project procurement interventions and therefore can pose conflict of provisions.
- (v.) SBD for procurement of works/goods for pre/ post qualification available on the PEC and KP PPRA web site are commonly used.
- (vi.) There is no specialized procurement training program for the procurement section staff, which may enhance the effectiveness and efficiency in delivery of outputs.
- (vii.) While the KP-PPR 2014 provides principles, it does not provide details of evaluation methods rather, specific Rule requires only that these be specified precisely in the bidding documents.
- (viii.) Guidelines are available to check the adequacy and accuracy of cost estimates and proposed variation. However, PDA mostly lack in resources and capacity and hire services of expert consultants/firms to assist them in carrying out such interventions.
- (ix.) KP PPRA two-tier grievance redressal mechanism is in place under the Act, however it is not confirmed how effectively it is utilized.

#### 1.1.1.8 Overall procurement risk rating of Peshawar Development Authority (PDA)

**Table 1-1: Overall procurement risk rating of Peshawar Development Authority**

Indicators/Questions	PDA	
	Score <sup>2</sup>	Rating <sup>3</sup>
1. Legislative and Regulatory Framework	Average=2.6	Moderate
2. Institutional Framework/Management Capacity	Average=2.0	Substantial
3. Procurement Operations/ Market Practices	Average= 2.0	Substantial
4. Integrity and Transparency of the Public Procurement System	Average=2.25	Moderate
OVERALL SCORES	Average=2.22	Moderate

<sup>2</sup> Scores have been given to each question in the corresponding Appendix 2-ranging from **1-3**.

**1=High, 1.1-2=Substantial, 2.1-2.75=Moderate, 2.75-3=Low**

<sup>3</sup> Overall rating describes following impact"

High	-	likely to occur, likely to have high impact if occurs
Substantial	-	unlikely to occur, but likely to have high impact if occurs
Moderate	-	likely to occur, but unlikely to have high impact if occurs
Low	-	not likely to occur, not likely to have high impact if occurs

### 1.1.1.9 Procurement Risk Assessment and Management Plan (P-RAMP) for Agencies Procurement Assessment

**Table 1-2: Procurement Risk Assessment and Management Plan (P-RAMP) for Agencies Procurement Assessment (PDA)**

Risk Description	Risk Assessment	Mitigation Measures or Risk Management Plan
There is no mandatory accredited training program on public procurement in the province. Absence of such trainings is creating capacity issues of the concerned staff undertaking procurement in public sector.	<b>Substantial</b>	KP-PPRA/Provincial Regulatory Authorities need to devise an accredited nationwide program for training in public procurement Rules/regulation and practices and make it mandatory part of concerned line agency annual training programs. Though KP PPRA has started the initiative of trainings for familiarity with KP PPRA rules and act however training should include hand on training and exposure on procurement practices so that capacity of the staff can be build to independently work in the domain of procurement. This will help a great deal in enhancing the capacity of respective government officials and staff tasked with execution of procurement interventions. The staff should be given training in ADB's Procurement Guidelines and procedures at the start of the Sector Loan Project to address capacity constraints.
Lack of experience of agency in ICB contracts.	<b>High</b>	Capacity building and enhancement through support of the consultants already hired in project design advance under "Package 1: Detailed Engineering Design, Procurement and Construction Management" from the start of the procurement process to address the capacity lag of PDA and carry out efficient and transparent procurement.
Absence of detailed provisions on COI	<b>High</b>	KP PPRA under Rule 24 discusses the avoidance of the conflict of interest for consultants however detailed provisions on conflict of interest are missing. The issue however will be addressed if ADB guidelines and procedures will be used as it includes detailed provisions/guidelines on COI.
Absence of guidelines on participation of state owned enterprises	<b>High</b>	KP PPRA rules as well as Act does not address the subject of participation of SOEs in the bidding process to ensure that SOEs do not have undue advantage compared to private entities in the bidding process. The issue however will be addressed if ADB guidelines and procedures will be used as it includes detailed provisions/guidelines on participation of SOEs.
<b>Overall</b>	<b>Moderate<sup>4</sup></b>	

ADB = Asian Development Bank, COI = conflict of interest, ICB = international competitive bidding, KP PPRA = Khyber Pakhtunkhwa Public Procurement Regulatory Authority, PDA = Peshawar Development Authority, SOEs = state owned enterprises.

<sup>4</sup> High - likely to occur, likely to have high impact if occurs  
Substantial - unlikely to occur, but likely to have high impact if occurs  
Moderate - likely to occur, but unlikely to have high impact if occurs  
Low - not likely to occur, not likely to have high impact if occurs

## **1.2 Assessment of TransPeshawar (The Urban Mobility Company)**

### **1.2.1.1 Overview**

22. TransPeshawar (The Urban Mobility Company) has been established and registered with SECP as a NPO company under section 42 of the Companies Ordinance, 1984 to carry out the project implementation, management and maintenance of urban rapid transit projects in Peshawar assigned by the Khyber Pakhtunkhwa Urban Mobility Authority (KPUMA) for the benefits of public at Large and organize training programs for selected bus operators and bus drivers. The company will operate under Public Sector Companies (Corporate Governance) Rules 2013 issued by SECP. The company is headed by Board of Directors (BOD), TransPeshawar and will be managed through Chief Executive Officer TransPeshawar who will also be the member of BOD. The company is proposed to comprise six departments/wings namely: (i) Legal, (ii) Human Resources and Administration, (iii) Information Technology, (iv) Planning and Construction, (v) Operations and Market Development, and (vi) Finance. The company has been established for part of execution under Peshawar Sustainable Bus Rapid Transit Corridor Project and subsequently the operations and development of the Peshawar Bus Rapid Transit System.

23. Since TransPeshawar is a newly established set-up, the dedicated staff will be hired during the execution of the project to establish a fully functional organization before the commencement of operations of bus transit system. TransPeshawar will also act as the IA for the outputs under Package 3 consultants i.e. Operation Design and Business Model. TransPeshawar as IA will carry out the procurement of BRT fleet, ITS equipment, traffic signals and traffic management centre and electronic fare collection system. TransPeshawar, however, does not have any institutional memory pertaining to the execution of the projects and the sector/agency assessment is therefore carried out based of the prevailing practices in transport sector/department in the province.

### **1.2.1.2 Legislative and Regulatory Framework**

24. In general, the TransPeshawar will follow the provincial legal framework and procurement rules that support non-discriminatory participation and transparent procurement processes under Rule 40 and 53, respectively. The procurement processes are mandatory through open competition under Rule 6, properly advertised with sufficient response time pursuant to Rule 34. In addition, proper complaint mechanism is in place under Rule 35.

### **1.2.1.3 Institutional Framework and Management Capacity**

25. TransPeshawar will be governed by the institutional framework of KP PPRA for public procurement whereas the organization will develop its corporate procurement rules and procedures for initiatives finance other than public exchequer.

26. TransPeshawar is proposed to have internal and external audit and control system. Annual audit will be conducted regularly by the internal as well as external auditors of the procurement carried out by the unit during the preceding years.

27. TransPeshawar currently does not have dedicated staff for procurement. However, one procurement specialist is proposed under Manager Finance as per proposed organogram. The company would however be required to develop a dedicated procurement unit for future projects and operations.

#### **1.2.1.4 Procurement Operations and Market Practices**

28. The projects of TransPeshawar will be identified by the management of TransPeshawar (headed by the CEO) and will be approved by the competent forum (i.e. BOD) and accordingly, budget will be sanctioned at the start of the fiscal year. As a practice, the budget availability is confirmed prior to solicitation of tenders in the sector and will be followed in TransPeshawar.

29. Regulations (i.e. KP PPRA Rules 2014) require procurement plan to be prepared and formulated in the beginning of the fiscal year. Like other government agencies, the TransPeshawar will follow procurement planning process and open competition bidding procedure in compliance with KP-PPRA 2014.

#### **1.2.1.5 Integrity and Transparency of TransPeshawar Procurement System**

30. As mentioned above, the TransPeshawar is a newly established setup and has not carried out any procurement transactions which may serve as evidence of integrity and transparency of the TransPeshawar procurement system. However, the company will follow the already established system in the sector. As a practice under the law, TransPeshawar will comply with the provisions of complaint management mechanism related to Procurements and Contract administration under para. 35 of the KP PPRA Act 2012. The contracts signed by the departments in the sector generally entail a two-tier dispute resolution mechanism clause to settle the disputes among the contracting parties as per KP-PPRA Act 2012. Bid documents/RFPs/Contracts clearly state the mechanism to receive and handle observations and complaints.

#### **1.2.1.6 Strengths**

- (i.) Khyber Pakhtunkhwa Public Procurement of Goods, Works and Services Rules, 2014 are in place and governed through the KP PPRA.
- (ii.) NAB, Chief Minister Inspection Team and Anticorruption department also reviews major public procurements to prevent any misprocurement. Moreover, DG, M&E inspection teams also inspect post contract execution of annual development programs.
- (iii.) Processes for information management, effectiveness, and accountability measures are simple and satisfactory and deficiencies can be addressed by additional staff and resources. External audits are budgeted for and conducted according to government's requirements.
- (iv.) Open competitive bidding is the principle method of procurement under KP PPRA Rule 6.
- (v.) All bids submitted after the time prescribed are rejected and returned without being opened.
- (vi.) Departments are maintaining record of their respective procurement proceedings along with all associated documentation for a minimum period of 5 years. The agency will maintain a referencing system as per contemporary practice, which will provide unique identification of each procurement activity.

#### **1.2.1.7 Weaknesses**

- (i.) There is no specialized procurement training program for the staff, which may enhance the effectiveness and efficiency in delivery of outputs. Training will be needed at the start of Loan Project.
- (ii.) While the KP-PPRA 2014 provides principles, it does not provide details of evaluation methods rather rule requires only that these be specified precisely in the bidding documents.



- (iii.) KP PPRA is carrying out the training of provincial government officials on KP PPRA Rules 2014 and Act 2012, however, familiarity with the KP PPRA still does not address the lack of hands on experience.
- (iv.) KP PPRA rules lack clear provisions to ensure that state owned enterprises participate in the bidding process without undue advantage compared to private entities.
- (v.) The procurement documents published by KP PPRA for procurement of goods, works and consultancy services have never been used on any ADB project neither is reviewed by ADB.

#### 1.2.1.8 Overall procurement risk rating of TransPeshawar

**Table 1-5: Overall procurement risk rating of TransPeshawar**

Indicators/Questions	TransPeshawar	
	Score <sup>5</sup>	Rating <sup>6</sup>
1. Legislative and Regulatory Framework	Average=2.6	Moderate
2. Institutional Framework/Management Capacity	Average=2.0	Substantial
3. Procurement Operations/ Market Practices	Average= 2.0	Substantial
4. Integrity and Transparency of the Public Procurement System	Average=2.25	Moderate
<b>OVERALL SCORES</b>	Average=2.22	Moderate

<sup>5</sup> Scores have been given to each question in the corresponding Appendix 2-ranging from **1-3**.

**1=High, 1.1-2=Substantial, 2.1-2.75=Moderate, 2.75-3=Low**

<sup>6</sup> Overall rating describe following impact"

High	-	likely to occur, likely to have high impact if occurs
Substantial	-	unlikely to occur, but likely to have high impact if occurs
Moderate	-	likely to occur, but unlikely to have high impact if occurs
Low	-	not likely to occur, not likely to have high impact if occurs

### 1.2.1.9 Procurement Risk Assessment and Management Plan (P-RAMP) for Agencies Procurement Assessment

**Table 1-6: Procurement Risk Assessment and Management Plan (P-RAMP) for Agencies Procurement Assessment (TransPeshawar)**

Risk Description	Risk Assessment	Mitigation Measures or Risk Management Plan
There is no mandatory accredited training program on public procurement in the province. Absence of such trainings is creating capacity issues of the concerned staff undertaking procurement in public sector.	<b>Substantial</b>	KP-PPRA/Provincial Regulatory Authorities need to devise an accredited nationwide program for training in public procurement Rules/regulation and practices and make it mandatory part of concerned line agency annual training programs. Though KP PPRA has started the initiative of trainings for familiarity with KP PPRA rules and act however training should include hand on training and exposure on procurement practices so that capacity of the staff can be build to independently work in the domain of procurement. This will help a great deal in enhancing the capacity of respective government officials and staff tasked with execution of procurement interventions. The staff should be given training in ADB's Procurement Guidelines and procedures at the start of the Sector Loan Project to address capacity constraints.
Lack of experience of agency in ICB contracts.	<b>High</b>	Capacity building and enhancement through support of the consultants already hired in project design advance under "Package 3: Detailed Engineering Design, Procurement and Construction Management and Package 2: Project Management Coordination and Capacity Building" from the start of the procurement process to address the capacity lag of PDA and carry out efficient and transparent procurement.
Absence of detailed provisions on COI	<b>High</b>	KP PPRA under Rule 24 discusses the avoidance of the conflict of interest for consultants however detailed provisions on conflict of interest are missing. The issue however will be addressed if ADB guidelines and procedures will be used as it includes detailed provisions/guidelines on COI.
Absence of guidelines on participation of state owned enterprises	<b>High</b>	KP PPRA rules as well as Act does not address the subject of participation of SOEs in the bidding process to ensure that SOEs do not have undue advantage compared to private entities. The issue however will be addressed if ADB guidelines and procedures will be used as it includes detailed provisions/guidelines on participation of SOEs.
<b>Overall</b>	<b>Moderate<sup>7</sup></b>	

ADB = Asian Development Bank, COI = conflict of interest, ICB = international competitive bidding, KP PPRA = Khyber Pakhtunkhwa Public Procurement Regulatory Authority, PDA = Peshawar Development Authority, SOEs = state owned enterprises.

<sup>7</sup> High - likely to occur, likely to have high impact if occurs  
Substantial - unlikely to occur, but likely to have high impact if occurs  
Moderate - likely to occur, but unlikely to have high impact if occurs  
Low - not likely to occur, not likely to have high impact if occurs

### 1.3 Conclusions

31. Sector/Agency Procurement Risk Assessment of PDA and TransPeshawar are evaluated as **“Moderate”** risk.

32. Primarily after the introduction of KP PPRA Rules 2014 and PPRA Act 2012 and previously due to federal government’s interventions through federal PPRA, the awareness, procedures familiarity and compliance with the public procurement rules has improved in the KP province and amongst the lined departments of the provincial government. KP PPRA, through publication of its own bidding documents and cyclic trainings for the government staff, has been successful in evolving the procurement practices in the province. It is mainly due to the harmonization of the prevalent practices in the province with internationally accepted practices that sector/agency procurement risk assessment is evaluated as moderate risk environment.

33. Due to frequently assisted programs in Pakistan, many executing agencies in provincial governments appear to be well versed with different financier’s guidelines and procedures at concept level. Public procurement has, therefore, evolved/improved in terms of capacity building of human resource and processes/procedures though still a long way to maturity, optimal efficiency and effectiveness. Moreover, appointment/relocation of government staff on foreign funded projects has provided exposure of project implementation under international donors.

34. TransPeshawar despite being a newly established organization is rated “Moderate” risk for sector/agency procurement risk assessment as the company will be functioning under the same legal and institutional frame work in accordance with the procurement practices and integrity and transparency system established and applicable for other government agencies.

35. It is however noticed that all the three agencies lack contemporary experience in international competitive bidding projects as well as donor funded projects (particularly ADB funded projects) over the last three years and will be discussed in detail in project procurement risk assessment of each agency.

## **2. PROJECT PROCUREMENT RISK ASSESSMENT**

### **2.1 Peshawar Development Authority (PDA)**

#### **2.1.1.1 Introduction**

36. The project procurement risk assessment (PRA) was prepared in accordance with the Guide on Assessing Procurement Risks and Determining Project Procurement Classification, August 2015 version. The assessment was undertaken during February 2017. Preparation activities included reviewing documents, ADB's ongoing procurement experience, and interviews with counterpart staff and discussions with stakeholders. The PRA includes assessment of PDA, which is the proposed IA for the civil works on the Project.

#### **2.1.1.2 Overview**

37. The Project component under implementation of PDA involves procurement of five civil contracts comprising three road packages (each amounting approximately \$50 million above) and two building packages (each amounting about \$14 million) as per preliminary design.

#### **2.1.1.3 Organization and Staff Capacity**

38. Overall risk rating for the organizational and staff capacity of PDA is assessed as "Substantial". PDA does not have separate procurement unit/section or office that may act as secretariat of the procurement committee, rather staff in each technical directorate is responsible for procurement of projects being executed under the directorate. The procurement initiated by the concerned directorate is supervised by the procurement committee which comprises members from directorate of P&D, Finance, Deputy Director from the concerned directorate who initiate procurement and is headed by the Director from the directorate other than the directorate which initiate the procurement. The Director responsible for the procurement is assisted by two deputy directors who are further assisted by two assistant directors and support staff. The staff in PDA is sufficient to carry out the procurement of civil works under the subject project and staff from PDA will be posted to project implementation unit for PSBRTC. It is, however, pertinent to note that PDA has not carried out any procurement through ICB procedure lately neither on ADB or other MDB financed project and therefore staff lack exposure of donor guidelines and procedures.

#### **2.1.1.4 Information Management**

39. Overall risk rating for the information management is assessed as "Low". PDA is maintaining record of its respective procurement proceedings along with all associated documentation, for a minimum period of 5 years. The agency has maintained referencing system, which provides unique identification of each procurement activity. It is however recommended for the subject project that PDA utilize computer applications i.e. software for document control and record keeping as the input required for information management would be much higher than the existing practice. It is also recommended that PDA should regularly post and update information pertaining to tenders, evaluation and contract awards on its web site for public access.

#### **2.1.1.5 Procurement Practices**

40. Overall risk rating for procurement practices is assessed as “High”. PDA has not carried out any ICB projects in the last 36 months neither any consulting services involving international competition have been procured during last 36 months. PDA follows procurement planning process and systematic process to identify procurement requirements is in place but still needs improvement. Invitations to bids for NCBs/ICBs are advertised in respective media. Time limits for submission of bids are provided in the advertisements in accordance with relevant KP-PPRA rules 2014. Response time for submission of bids is considerably less compared to ADB’s practice on normal projects. Bids submitted after the prescribed time are rejected and returned without being opened. Bids/proposals are evaluated by the respective committees and contracts awarded to lowest evaluated responsive bidders after seeking procurement/steering committee approval for respective bid.

#### **2.1.1.6 Effectiveness**

41. Overall risk rating for “Effectiveness” is assessed as “Low”. Generally, PDA through dedicated supervisory staff monitors the performance of the contractors and the consultants/firms are hired for project development and implementation. The agency diligently tracks its contractual payment obligations; however, considering that that subject project due to its stringent timelines of construction will involve hefty cash flow transactions to the contractor during the currency of the contract hence specialized mechanism should be ensured to make payments swiftly. The contracts signed by the agency entail a two-tier dispute resolution mechanism clause to settle the disputes among the contracting parties.

#### **2.1.1.7 Accountability Measures**

42. Overall risk rating for “Accountability Measures” is assessed as “Moderate”. Provisions on conflict of interest leading to ineligibility are mentioned in the bidding documents for the bidders. However, detailed provisions on conflict of interest related to the bidder and which may require to declare conflict of interest are missing in KP PPRA Rules 2014.

43. The agency’s’ accountability mechanism in place is simple and can be triggered through application to head of the agency under para. 35 of the KP PPRA Act 2012. Once a complaint is received, in-house three-member committee is constituted to evaluate and redress the complaint. The complaint resolution may however be made more transparent and unbiased, if one of the member of the committee is a third party outside the agency/line department.

#### **2.1.1.8 Strengths**

- (i.) The Law on Procurement is available; and the Khyber Pakhtunkhwa Public Procurement of Goods, Works and Services Rules 2014 published in February 2014 and before that in September 2012 Khyber Pakhtunkhwa Public Procurement Regulatory Act 2012 was came into force.
- (ii.) Processes for information management, effectiveness, and accountability measures are simple and satisfactory and deficiencies can be addressed by additional staff and resources. External audits are budgeted for and conducted according to Government’s requirements.

- (iii.) All bids submitted after the time prescribed are rejected and returned without being opened
- (iv.) Complaint management mechanism is in place, which addresses grievances related to Procurements and Contract administration as per KP PPRA Act 2012 Section 35.
- (v.) PDA is maintaining record of their respective procurement proceedings along with required documentation for a minimum period of 5 years.
- (vi.) KP-PPRA Rules 2014 under rule 40 abstain from placing any provisions that may restrict the competition under the title "Discriminatory and Difficult Conditions".
- (vii.) KP-PPRA Rules 2014 under rule 43 provide provision for disqualification on misrepresentation thereby enforces provision for transparency and correctness in the bidding process.
- (viii.) KP-PPRA Rules 2014 under rule 49 instruct the government agencies to pay the Contractor within due time thereby ensure equitable contracting practices.
- (ix.) KP-PPRA Rules 2014 under rule 51 instruct the employers/government agencies to issue defect liability certificate and final payment to the Contractor to diligently close the contracts.
- (x.) KP-PPRA Rules under rule 53 requires all agencies to disclose information related to evaluation and award of each contract and thus promote transparency.
- (xi.) KP-PPRA Rules 2014 under rule 54 allows for punitive action on misprocurement.

#### **2.1.1.9 Weaknesses**

- (i.) Lack of capacity of project staff to undertake project procurements on ICB or significantly large contracts, moreover, no recent experience of carrying out procurement on ADB financed projects.
- (ii.) As per contemporary practice, the Procurement committee is headed by a director who is from the directorate other than the concerned. This practice has the tendency to delay the procurement. In order to meet anticipated stringent timelines on PSBRTC, the constitution and mechanism for procurement committee should be such that procurements actions and approvals can be made expeditiously. In this regard, head of PIU should act as head of procurement committee with representation from other sections so that procurements can be transacted expeditiously.
- (iii.) There is no specialized procurement training program for the staff involved for undertaking procurement.
- (iv.) PDA has no or limited institutional memory of managing foreign aided projects neither the department plan to hire experience staff with requisite exposure from the market to meet this capacity constraint rather existing staff of PDA will be posted on the project.
- (v.) The complaint resolution may be made more transparent and unbiased by appointing a member of the committee as a third party outside of the line department.
- (vi.) KP PPRA Rules 2014 as well as Act 2012 does not provide information on participation of state owned enterprises in bidding process.

- (vii.) KP-PPRA Rules 2014 is ambiguous on post bid negotiation under rule 42 which is contrary to generally accepted practices on procurement of goods and works.

### 2.1.1.10 General Ratings

**Table 2-1: General Ratings of PDA**

Criterion	Risk
A. Organizational and Staff Capacity	Substantial
B. Information Management	Low
C. Procurement Practices	High
D. Effectiveness	Low
E. Accountability Measures	Moderate
<b>OVERALL RISK RATING</b>	<b>High</b>

### 2.1.1.11 Procurement Risk Assessment and Management Plan (P-RAMP) for Project Procurement Assessment

**Table 2-2: Procurement Risk Assessment and Management Plan (P-RAMP) for Project Procurement Assessment of PDA**

Risk Description	Risk Assessment	Mitigation Measures or Risk Management Plan
No dedicated procurement unit	<b>High</b>	Dedicated procurement unit/section with appropriate no. of qualified staff should be in place for the execution of the proposed project.
No fully functional PMU currently however it is anticipated that staff will be posted	<b>Substantial</b>	Fully functional PMU with adequate staff and facilities should be established at the start to avoid delays and ensure diligent planning of the project.
Lack of experience of agency in ICB projects in last 36 months	<b>High</b>	Capacity constraint is addressed through hiring of specialized consultant under Package 1: EPCM who will support the IA in carrying out the procurement and subsequently in project execution.
There is no training program in PDA neither mandatory provincial/nationwide accredited training program on public procurement in the province. Absence of such trainings is creating capacity issues of the concerned staff undertaking procurement in public sector.	<b>Substantial</b>	KP-PPRA, PPRA, PEC and other Federal/Provincial Regulatory Authorities need to devise an accredited nationwide program for training in public procurement Rules/regulation and practices and make it mandatory part of concerned line agency annual training programs. This will help a great deal in enhancing the capacity of respective government officials and staff tasked with procurement interventions. The staff should be given training on ADB's Procurement Guidelines at the start of the Sector Loan Project to address capacity constraints.

<b>Risk Description</b>	<b>Risk Assessment</b>	<b>Mitigation Measures or Risk Management Plan</b>
No specific Regulations on the participation of state-owned enterprises in public procurement needs.	<b>High</b>	KP-PPRA 2014 shall state regulations on the participation of SOEs in public procurement to ensure that SOEs do not have undue advantage compared to private entities in the bidding process. ADB's provisions regarding SOEs participation in bidding may specifically be highlighted in PAM.
Negotiation on post Bid Evaluation under KP-PPRA Rules 2014, Rule 42	<b>Substantial</b>	No post bid evaluation negotiation should be allowed in procurement of works unless specifically permitted by ADB and may be highlighted in PAM.
<b>Overall</b>	<b>High<sup>8</sup></b>	

ADB = Asian Development Bank, EPCM = Engineering Design, Procurement and Construction Management, IA = implementing agency, ICB = international competitive bidding, KP PPRA = Khyber Pakhtunkhwa Public Procurement Regulatory Authority, PAM = project administration manual, PDA = Peshawar Development Authority, PEC = Pakistan Engineering Council, PMU = project management unit, SOEs = state owned enterprises.

### 2.1.1.12 Conclusion

44. Overall risk rating for Project Procurement Risk Assessment is rated as "High". PDA staff has adequate experience of undertaking procurement in accordance with local guidelines and procedures, however, the staff lacks contemporary experience of procurement under ADB procurement guidelines and procedures. PDA is maintaining record of its respective procurement proceedings along with all associated documentation for a minimum period of five years. Systematic process to identify procurement requirements is in place. PDA follows procurement planning process, moreover, the agency diligently tracks its contractual payment obligations; however, since the subject project will require considerably large payment transaction due to relatively shorter envisaged construction period thus payment procedures should be aligned to ensure timely payments to the contractors. Engagement of consulting firm to support in procurement and contract administration and building project management capacity during the project implementation is necessary. Considering that the implementation agency (i.e. PDA) has not carried out projects of similar size, nature and complexity lately, it would have been appropriate to reduce the financial limits of ICB contracts and keep most of the procurements under prior review of ADB in the procurement plan. This aspect of lack of experience and capacity is however addressed in the project implementation design through inclusion of project design advance stage wherein a specialized consulting firm (i.e. Package 1: EPCM) is hired to provide detailed design, procurement and construction/contract management support to PDA for civil work contracts.

<sup>8</sup> High - likely to occur, likely to have high impact if occurs  
Substantial - unlikely to occur, but likely to have high impact if occurs  
Moderate - likely to occur, but unlikely to have high impact if occurs  
Low - not likely to occur, not likely to have high impact if occurs



### **3. PROJECT PROCUREMENT RISK ASSESSMENT**

#### **3.1 TransPeshawar (The Urban Mobility Company)**

##### **3.1.1.1 Introduction**

45. The project procurement risk assessment (PRA) was prepared in accordance with the Guide on Assessing Procurement Risks and Determining Project Procurement Classification, August 2015 version. The assessment was undertaken during March 2017. Preparation activities included reviewing documents, ADB's ongoing procurement experience, and interviews with Company Secretary TransPeshawar and discussions with stakeholders. The PRA includes assessment of TransPeshawar, which is the proposed IA for the procurement of goods and the Outputs (3 to 6) under consultancy contract of Package 3: ODBM, which include BRT fleet, ITS Equipment, traffic signals and traffic management centre and electronic fare collection system on the Project.

##### **3.1.1.2 Overview**

46. The Project component under implementation of TransPeshawar involves procurement of at least three goods contracts comprising one contract of fleet procurement, one contracts of ITS equipment, and one contract for bike sharing system as per preliminary design. The composition of packages may however change until the finalization of project administration manual and report and recommendation of the President.

##### **3.1.1.3 Organization and Staff Capacity**

47. Overall risk rating for the organizational and staff capacity of TransPeshawar is assessed as "High". TransPeshawar, which will act as the IA for the procurement of all the goods required to operationalize the BRT project, neither has adequate administrative staff nor the specialized technical staff to undertake the procurement currently. Neither dedicated staff for procurement is borrowed/posted form any lined department of the government with experience/credentials in procurement for the transitional phase of the project until the establishment of fully functional organization. Currently, only one full time staff in the form of Company Secretary is available. It is proposed under the organogram to recruit one procurement specialist in TransPeshawar whereas GM Planning and Construction will also have oversight role in procurement. However, a single procurement specialist will not be sufficient to carry out the procurement of \$90 million involving ICB for procurement of goods in an organization which has not carried out any procurement previously and is only established. It is therefore required to strengthen TransPeshawar through deployment of dedicated staff with professional exposure and experience of procurement in sufficient number and other specialities before commencement of formal procurement process.

##### **3.1.1.4 Information Management**

48. Overall risk rating for the information management is assessed as "Moderate", though the TransPeshawar has not carried out any procurement, practices established within transport department will be followed for the subject project. These practices are found consistent with generally accepted practices of procurement. TransPeshawar will be maintaining record of its respective procurement proceedings along with all associated documentation, for a minimum period of 5 years. The agency will maintain a referencing system, which will provide unique identification of each procurement activity. It is however recommended that that TransPeshawar utilize computer applications for document control

and record keeping for subject project as the input required for information management would be much higher than the existing practice. It is also recommended that TransPeshawar should regularly post and update information pertaining to tenders, evaluation and contract awards on its web site for public access. Though the TransPeshawar will follow the practices which are already established within Transport Department and are appropriate, risk is assessed as Moderate since the organization has not managed information on projects previously.

#### **3.1.1.5 Procurement Practices**

49. Overall risk rating for procurement practices is assessed as “High”. TransPeshawar has never carried out any procurement leaving aside the ICB procurement or recruitment of consultancy during last 36 months as assessed in the questionnaire. The established procurement practices within TransPeshawar are therefore not available which may be assessed. TransPeshawar will however follow the KP PPRA rules. In accordance with KP PPRA rules 2014, the Invitations to bids for NCBs/ICBs will be advertised in respective media whereas time limits for submission of bids are provided in the advertisements. Response time for submission of bids is considerably less in KP PPRA Rules compared to ADB’s practice on normal projects. Bids submitted after the prescribed time are rejected and returned without being opened as per KP PPRA rules 2014 whereas open competitive bidding is the principal method of procurement. Bids/proposals will be evaluated by the respective committees and contracts will be awarded to lowest evaluated responsive bidders after seeking procurement committee approval.

#### **3.1.1.6 Effectiveness**

50. Overall risk rating for “Effectiveness” is assessed as “Low”, though the TransPeshawar has not carried out any procurement however practices established within transport department and amongst the provincial departments/agencies which are commonly followed are consistent with generally accepted practices of procurement. The departments/agencies through dedicated supervisory staff monitor the performance of the suppliers/contractors. The government agencies diligently tracks their contractual payment obligations; however, considering that that subject project due to its stringent timelines of construction will involve hefty cash flow transactions to the supplier during the currency of the contract hence specialized mechanism should be developed to make payments swiftly.

#### **3.1.1.7 Accountability Measures**

51. Overall risk rating for “Accountability Measures” is assessed as “Moderate”. Provisions on conflict of interest leading to in-eligibility are mentioned in the bidding documents for the bidders, moreover, KPUMA act requires that register for conflict of interest should be maintained.

52. The agency’s’ accountability mechanism in place is simple and can be triggered through application to head of the agency under para 35 of the KP PPRA act 2012. Once a complaint is received, in-house three-member committee is constituted to evaluate and redress the complaint. The complaint resolution may however be made more transparent and unbiased, if one of the member of the committee is a third party outside the agency/line department.

### 3.1.1.8 Strengths

- (i.) The Law on Procurement is available; and the Khyber Pakhtunkhwa Public Procurement of Goods, Works and Services Rules 2014 published in Feb 2014 and before that in September 2012 Khyber Pakhtunkhwa Public Procurement Regulatory Act 2012 was came into force.
- (ii.) Processes for information management, effectiveness and accountability measures are simple and satisfactory and deficiencies can be addressed by additional staff and resources. External audits are budgeted for and conducted according to Government's requirements.
- (iii.) Open competitive bidding is the principal method of procurement as per KP-PPRA Rules 2014 under rule 6.
- (iv.) All bids submitted after the time prescribed are rejected and returned without being opened as per KP PPRA rules 2014.
- (v.) Complaint management mechanism is in place, which addresses grievances related to Procurements and Contract administration pursuant to Para 35 of the PPRA Act.
- (vi.) KP-PPRA Rules 2014 under rule 40 abstain from placing any provisions that may restrict the competition under the title "Discriminatory and Difficult Conditions".
- (vii.) KP-PPRA Rules 2014 under rule 43 include provision for disqualification on misrepresentation thereby enforces provision for transparency and correctness in the bidding process.
- (viii.) KP-PPRA Rules 2014 under rule 49 instruct government agencies to pay the Contractor within due time to ensure equitable contracting practices.
- (ix.) KP-PPRA Rules 2014 under rule 51 instruct the Employers/government agencies to issue defect liability certificate and final payment to the Contractor to diligently close the contracts.
- (x.) KP-PPRA Rules under rule 53 requires all agencies to disclose information related to evaluation and award of contract and promote transparency.
- (xi.) KP-PPRA Rules 2014 under rule 54 allows for punitive action on mis procurement.

### 3.1.1.9 Weaknesses

- (i.) TransPeshawar does not have dedicated procurement unit/section in the proposed organogram and staff proposed for procurement (i.e. 1 Procurement Specialist) will be insufficient to manage the procurement work and therefore at least two full time procurement professionals should be deployed in the agency.
- (ii.) TransPeshawar does not have institutional memory of managing and carrying out procurement, neither any staff associated with government department with experience in procurement has been posted in the transitional setup except the Company Secretary who has exposure of procurement however has significant other tasks to manage being a focal person for the TransPeshawar.
- (iii.) There is no specialized procurement training program for the staff involved for undertaking procurement.
- (iv.) KP PPRA Rules 2014 as well as Act 2012 does not provide information on participation of state owned enterprises in bidding process.

- (v.) KP-PPRA Rules 2014 is ambiguous on post bid negotiation under rule 42 which is contrary to generally accepted practices on procurement of goods and works.

### 3.1.1.10 General Ratings

**Table 3-1: General Ratings of TransPeshawar**

Criterion	Risk
A. Organizational and Staff Capacity	High
B. Information Management	Moderate
C. Procurement Practices	High
D. Effectiveness	Low
E. Accountability Measures	Moderate
<b>OVERALL RISK RATING</b>	<b>High</b>

### 3.1.1.11 Procurement Risk Assessment and Management Plan (P-RAMP) for Project Procurement Assessment

**Table 3-2: Procurement Risk Assessment and Management Plan (P-RAMP) for Project Procurement Assessment of TransPeshawar**

Risk Description	Risk Assessment	Mitigation Measures or Risk Management Plan
No dedicated procurement unit	<b>High</b>	Dedicated procurement unit/section with appropriate no. of qualified staff should be in place for the execution of the proposed project.
No fully functional PMU currently however it is anticipated that staff will be posted.	<b>Substantial</b>	Fully functional PMU with adequate staff and facilities should be established at the start to avoid delays and ensure diligent planning of the project.
Lack of experience of agency in ICB projects in last 36 months	<b>High</b>	Capacity constraint is addressed through hiring of specialized consultant under Package 3: ODBM and Package 2: PMCCB, who will support the IA in carrying out the procurement and subsequently in project execution.
Implementation agency does not have experience of managing contracts with letter of credit or contracts involving incoterms which are likely to be used in the procurement of goods.	<b>High</b>	Specialized consultants under project design advance and ADB should take lead in familiarizing the IA with the terms which are not commonly used but are likely to be used in the procurement of goods and supply contracts under the project. Many of goods will be imported from abroad and IA should be made to understand its obligations related to letter of credit, incoterms, custom duties etc.
There is no training program in PDA neither mandatory provincial/nationwide accredited training	<b>Substantial</b>	KP-PPRA, PPRA, PEC and other Federal/Provincial Regulatory Authorities need to devise an accredited nationwide program for training in public procurement Rules/regulation and practices and make it mandatory part of

<b>Risk Description</b>	<b>Risk Assessment</b>	<b>Mitigation Measures or Risk Management Plan</b>
program on public procurement in the province. Absence of such trainings is creating capacity issues of the concerned staff undertaking procurement in public sector.		concerned line agency annual training programs. This will help a great deal in enhancing the capacity of respective government officials and staff tasked with execution of procurement interventions. The staff should be given training on ADB's Procurement Guidelines at the start of the Sector Loan Project to address capacity constraints.
No specific Regulations on the participation of state-owned enterprises in public procurement needs.	<b>High</b>	KP-PPRA 2014 shall state regulations on the participation of state-owned enterprises in public procurement to ensure that SOEs do not have undue advantage compared to private entities in the bidding process. ADB's provisions regarding SOEs participation in bidding may specifically be highlighted in PAM.
Negotiation on post Bid Evaluation under KP-PPRA Rules 2014, Rule 42	<b>Substantial</b>	No post bid evaluation negotiation should be allowed in procurement of works unless specifically permitted by ADB and may be highlighted in PAM.
<b>Overall</b>	<b>High<sup>9</sup></b>	

ADB = Asian Development Bank, IA = implementing agency, ICB = international competitive bidding, KP PPRA = Khyber Pakhtunkhwa Public Procurement Regulatory Authority, PAM = project administration manual, ODBM = Operations Design and Business Model Consultants, PEC = Pakistan Engineering Council, PMCCB = Project Management Coordination and Capacity Building Consultants, PMU = project management unit, SOEs = state owned enterprises.

### 3.1.1.12 Conclusion

53. Overall risk rating for Project Procurement Risk Assessment of TransPeshawar is rated as "High". TransPeshawar lacks staff, experience of procurement in general and ADB's procurement in particular. TransPeshawar due to lack of capacity and experience to undertake procurement will be dependent on support of Package 3 and Package 2 consultants hired under project design advance to successfully procure the contracts. Engagement of consulting firm to support in procurement and contract administration and building project management capacity during the project implementation is therefore inevitable. Considering that the implementation agency (i.e. TransPeshwar) has not carried out projects/procurements of similar size, nature and complexity lately, it would have been appropriate to reduce the financial limits of ICB contracts and keep most of the procurements under prior review of ADB in the procurement plan. This aspect of lack of experience and capacity is however addressed in the project implementation through inclusion of project design advance stage wherein specialized consulting firms (i.e. Package 2: PMCCB and Package 3: ODBM) are hired to support to TransPeshwar for procurement of all the goods contracts.

<sup>9</sup> High - likely to occur, likely to have high impact if occurs  
Substantial - unlikely to occur, but likely to have high impact if occurs  
Moderate - likely to occur, but unlikely to have high impact if occurs  
Low - not likely to occur, not likely to have high impact if occurs

**Procurement Classification: “Category B” projects**

**Table 4: Procurement Classification: “Category B” projects**

Characteristic	Assessor’s rating: ‘Yes’ or ‘No’ with brief comments, if ‘Yes’
Is the Procurement Environment Risk for this project assessed as “High” based on the country and sector/agency risk assessments?	No
Are multiple (typically more than three) and/or diverse Executing (EAs) and/or Implementing Agencies (IAs) envisaged during project implementation? Do EAs/IAs lack prior experience in ADB project implementation?	Yes. Peshawar Development Authority and TransPeshawar are expected to implement the Project. Both the agencies do not have contemporary experience of ADB project implementation.
Are multiple contract packages and/or complex and high value contracts expected (compare to recent donor projects in DMC)?	Multiple contracts are not expected however civil work contracts of road packages will be high value international competitive bidding contracts each valuing approx. \$50 million and above.
Does the project plan to use innovative contracts (PPP, Performance-based, Design & Build, O&M, etc)?	No.
Are contracts distributed in more than three geographical locations?	No
Are there significant ongoing contractual and/or procurement issues under ADB (or other donor) funded projects? Has misprocurement been declared in the DMC?	No.
Does the DMC have prolonged procurement lead times, experience implementation delays, or otherwise consistently fail to meet procurement timeframes?	No
Do EAs/IAs lack capacity to manage new and ongoing procurement? Have EAs/IAs requested ADB for procurement support under previous projects?	Yes. The EA and IAs have not implemented any ADB project recently. The capacity constraint is however addressed through support of specialized consulting firm for procurement and construction management under project design advance.
<b>OVERALL PROJECT CATEGORIZATION RECOMMENDED</b>	<b>B</b>

**“Peshawar Development Authority (PDA)”**  
**SECTOR/AGENCY PROCUREMENT ASSESSMENT TOOL**  
**Summary Sheet**

Indicators/Questions	Initial Country Score	Verified Country Score	Sector/ Agency Scores	Comments
<b>1. Legislative and Regulatory Framework</b>	<i>Average</i>		<i>Average =2.6</i>	
1.1 Does the national public procurement law (including supporting regulations, standard bidding documents and operational manuals/guides) apply to the sector?			<b>2</b>	<p>Yes. GoKP (in light of Section 36 Khyber Pakhtunkhwa Public Procurement Regulatory Authority Act, 2012 (Khyber Pakhtunkhwa Act No. XI of 2012)) on 3 February 2014 issued Khyber Pakhtunkhwa Public Procurement of Goods, Works and Services Rules, 2014 to improve governance, management, transparency, accountability and quality of public procurement of goods, works and services through the Khyber Pakhtunkhwa Public Procurement Regulatory Authority (KP PPRA). The Khyber Pakhtunkhwa Procurement of Goods, Works and Services Rules, 2003 as adopted by the GoKP were repealed on coming into force of KP PPR 2014.</p> <p>KP Procurement Act 2012 state that procuring agency shall use the standard form of Biding documents prepared by KP-PPRA. These bidding documents are detailed documents and cover the whole procurement and contract management process from publication of award to defect notification period however neither reviewed by and nor used on any ADB financed project. For the subject loan, ADB standard bidding documents will be used.</p>
1.2 Is the supply market for the sector sufficiently competitive to give full effect to the national procurement law and/or open competitive tendering?			<b>3</b>	<p>Open competitive bidding is the principal method of procurement of goods, services and works. <i>Rule 11 of KP PP Rules 2014, obligates that all procurements over one hundred thousand Rupees are subject to mandatory open competition and shall be posted on the procuring entity's website or public procurement regulatory authority (PPRA's) or both. These procurement</i></p>

Indicators/Questions	Initial Country Score	Verified Country Score	Sector/ Agency Scores	Comments
				<p><i>opportunities may also be advertised in print media, if deemed necessary by the respective procuring agency.</i></p> <p>A large number of bidders regularly submit responsive bids. Though there is no restriction of minimum bidders to participate as long as competitive bidding process is adopted however 5 bidders on average submit bids / proposals per bid/proposal.</p> <p>100% of the procurement is undertaken through open competitive bidding.</p> <p>Average no. of participating bidders is five.</p> <p>The government agencies /executing agencies make sufficient efforts to attract bids by advertising in national press as well as in PPRA/agency website.</p> <p>Domestic availability of contractors, suppliers, labor force and/or related goods and services is sufficient; moreover, quality of output is generally observed to be appropriate. It should however be noted that similarity of experience for the civil work road contracts under the project which is judged based on physical size, nature and complexity will be available amongst limited no. of bidders.</p>
1.3 If there is a sector specific legal framework, does it support non-discriminatory participation, transparent tender processes (including advertisement, tender documentation, tender evaluation, complaints mechanism)?			<b>3</b>	<p>In general, PDA follows the provincial legal framework and procurement Rules that support non-discriminatory participation and transparent procurement processes under Rule 40 of KP PPRA rules 2014. The procurement processes is mandatory through open competition with proper</p>



Indicators/Questions	Initial Country Score	Verified Country Score	Sector/ Agency Scores	Comments
				<p>advertisement and sufficient response time for the prospective bidders to participate. In addition, proper complaint and grievance redressal mechanism with stringent provisions for accountability is in-place.</p> <p>3-5 bidders on average submit bids / proposals per bid/proposal. For small projects, 10-12 bidders submit bid/proposal.</p>
1.4 Is the sector subjected to excessive regulation or government control such that competition is limited or non-existent?			2	<p>There is no nationality restriction neither a domestic preference scheme.</p> <p>Generally, registration with Pakistan Engineering Council is mandatory for participation. KP-PPRA do not specifically require any registration. However, at federal level, PEC bylaws/bidding documents require that foreign bidders shall form JV before participation in any bidding in Pakistan which will be superseded by the ADB's guidelines of no restriction on participation by firms from member countries.</p> <p>Provisions on participation by state owned enterprises are not included in KP-PPRA rules. Apparently, there is no provision that may require SOEs to establish their legal and financial autonomy moreover ensures that they operate under the same commercial law as any other private entity to ensure that SOEs do not have a competitive advantage when participate in bidding process along with private entities.</p>
1.5 Does the legal and regulatory framework enable the sector/agency to use an e-procurement system.			3	<p>There is not much e-procurement used as per contemporary practice and advertising is the only feature of the e procurement which is commonly used. Though some provincial procurement rules apply to the e-procurement.</p>

Indicators/Questions	Initial Country Score	Verified Country Score	Sector/ Agency Scores	Comments
<b>2. Institutional Framework/Mgmt. Capacity</b>	<i>Average</i>		<i>Average =2.0</i>	
2.1 Is the procurement cycle in the sector required to be tied to an annual budgeting cycle ( <i>i.e.</i> can a procurement activity commence only when budget has been duly appropriated for it?)			<b>3</b>	<p>Projects are identified within agencies and approved by the competent forum and budget is sanctioned at the start of the fiscal year for each agency. Project included in Annual development plan are executed by PDA beside PDA's self-financed projects. Provincial P&amp;D approves ADP and PDA's self-financed projects are approved by Secretary local government.</p> <p>There is no set system in place that requires certification of availability of funds prior to solicitation of tenders. However, in general budget availability is confirmed prior to solicitation of tenders. In some cases, the process of tendering can be started however contract can not be awarded unless funding arrangements are confirmed.</p>
2.2 Does the system foster efficiency through the use of adequate planning?			<b>3</b>	Regulations requires procurement plan to be prepared and formulated in the beginning of the fiscal year. Mostly all government agencies/executing agencies follow procurement planning process; however, they are not linked to multiyear operation plans and budget formulations.
2.3 Does the procurement system in the sector feature an oversight/regulatory body?			<b>3</b>	Chief minister inspection team and anticorruption department have the mandate to review any or all procurement however contemporary practice is that they act on application (anonymous or mentioned) or select the project for review randomly. Moreover, NAB under its P&A can review any public procurement process. Moreover, Finance department has notified that all procurement above PKR 50 million should comprise a member from NAB.
2.4 Is there a public procurement capacity			<b>2</b>	Public procurement capacity building is carried out by KP PPRA. On average 40-60% of

Indicators/Questions	Initial Country Score	Verified Country Score	Sector/ Agency Scores	Comments
development or professionalization program?				<p>respective procurement staff is sent for training organized by PEC/PPRA.</p> <p>However, there is dire need for an accredited nationwide program for training in public procurement Rules/regulation and practices and make it mandatory part of concerned line agency annual training programs. This will help a great deal in enhancing the capacity of respective government officials and staff tasked with execution of procurement transactions.</p>
2.5 Is there a dedicated group institutionalized for e-procurement in the sector/agency's procurement unit?			1	Tender are invited by publishing NIT on web.
2.6 If an e-procurement system is used, is there a structured approach to capacity building and analysing its effective use?			0	No e-procurement is used.
<b>3. Procurement Operations/ Market Practices</b>	<i>Average</i>		<i>Average =2.0</i>	
3.1 Is private sector competitive, well organized and able to access the sector market?			3	<p>There is a reasonably well functioning private sector, but competition for large contracts (requiring ICB) is concentrated in a relatively small number of firms. Associations of consultants and contractor also exist in the country. Healthy competition is observed in public procurement from private sector entities in open competition.</p> <p>Civil society organizations such as transparency international and whistle blowers follow and observe the public procurement.</p>
3.2 Do measures exist in the sector to ensure the adequacy and accuracy of cost estimates before bidding, and to manage contract price variations?			2	CSR and MRS are in place to ensure consistency of estimates. Significant percentages (i.e. 90%) of contracts are awarded at or above original cost estimates.

Indicators/Questions	Initial Country Score	Verified Country Score	Sector/ Agency Scores	Comments
				Significant percentage (i.e. 90%) of contracts are completed at or above original cost estimates.
3.3 Is the private sector able to access and fully participate in the agency e-procurement activities.			1	<b>E-procurement has limited use in the industry currently.</b>
3.4 Is there a mechanism in the sector to receive and handle observations, complaints and protests?			2	<p><i>The redressal of grievances and disputes resolution mechanism is in place and governed under Section 35 of the KP-PPRA act2012. Moreover, the authority has made it mandatory for all the procuring agencies to post all the evaluation reports in the requisite format on the authority's web site. The relevant section is observed to have been regularly updated on authority's web.</i></p> <p>For respective procurement, there is an independent review body that has clear authority and is bound by reasonable procedures and timelines.</p> <p>Though the Rules and regulations call for a complaint/grievances mechanism and KP PPRA website has separate tab for grievance redressal, however, no record regarding complains could be retrieved from the KP PPRA web site.</p> <p>Not much of the bidders use complaint mechanism.</p>
<b>4. Integrity and Transparency of the Public Procurement System</b>	<i>Average</i>		<i>Average =2.25</i>	
4.1 Is there a formal internal control and audit framework in the sector?			3	<p>The law provides for a formal internal and external audit and control system <b>and is observed to be effectively in place.</b></p> <p>The agencies have adequate internal control mechanisms to oversee the procurement function.</p>

Indicators/Questions	Initial Country Score	Verified Country Score	Sector/ Agency Scores	Comments
				<p>The sector has an effective internal control framework including in the form of pre-audit.</p> <p>Annual financial statements and records are audited with reasonably time disposition of audit findings.</p>
4.2 Is information pertaining to public procurement in the sector easy to find, comprehensive and relevant?			<b>2</b>	Yes
4.3 Can bidders and other stakeholders easily access sector/agency's procurement information through the e procurement system?			<b>2</b>	<p>Civil society organizations regularly observe the information available in public domain related to procurement. All the prospective bidders and stakeholders can observe the agency's procurement transaction. More than 60% bids and award information are disseminated through KP PPRA web.</p>
4.4 Does the sector have ethics and anticorruption measures in place?			<b>2</b>	<p>Generally, the information supplied by the bidders are relied upon during the evaluation process however financial instruments are always verified, moreover, informal verification of experience, if required is also made during the evaluation process.</p> <p>The agency has mechanisms to debar firms for failure to perform and/or integrity violations, or mechanisms to report suspected violations to a provincial wide anticorruption body and also to Pakistan Engineering Council. The sector has sufficient supplier due diligence processes and the concept of conflict of interest is defined.</p> <p>There is practice in vogue to debar and black list contractors/suppliers (KP PPRA rule 44), moreover, register of debarred firms is maintained.</p>

Indicators/Questions	Initial Country Score	Verified Country Score	Sector/ Agency Scores	Comments
				Sector-specific integrity principles are not defined rather generalized integrity practices are observed. Integrity pact is sought as per KP PPRA rule 5.
<b>OVERALL SCORES</b>	<i>Average</i>		<i>Average =2.22</i>	

**“TransPeshawar”**  
**SECTOR/AGENCY PROCUREMENT ASSESSMENT TOOL**  
**Summary Sheet**

Indicators/Questions	Initial Country Score	Verified Country Score	Sector/ Agency Scores	Comments
<b>1. Legislative and Regulatory Framework</b>	<i>Average</i>		<i>Average =2.6</i>	
1.1 Does the national public procurement law (including supporting regulations, standard bidding documents and operational manuals/guides) apply to the sector?			<b>2</b>	<p>Yes, the provincial public procurement law is applicable on the sector. GoKP (in light of Section 36 Khyber Pakhtunkhwa Public Procurement Regulatory Authority Act, 2012 (Khyber Pakhtunkhwa Act No. XI of 2012)) on 3 Feb 2014 issued Khyber Pakhtunkhwa Public Procurement of Goods, Works and Services Rules, 2014 to improve governance, management, transparency, accountability and quality of public procurement of goods, works and services through the KPK Public Procurement Regulatory Authority (KPKPPRA).</p> <p>The Khyber Pakhtunkhwa Procurement of Goods, Works and Services Rules, 2003 as adopted by the Government of KPK were repealed on coming into force of KPK PPR 2014. All the agencies in the province carrying out procurement ou of provincial exchequer follow K PPR.</p> <p>KP Procurement Act 2012 states that procuring agency shall use the standard form of Biding documents prepared by KP-PPRA. These bidding documents are detailed documents and cover the whole procurement and contract management process from publication of award to defect notification period however these documents are neither reviewed by ADB nor used on any ADB financed project. For the subject Loan, ADB standard bidding documents will be used.</p>

Indicators/Questions	Initial Country Score	Verified Country Score	Sector/ Agency Scores	Comments
1.2 Is the supply market for the sector sufficiently competitive to give full effect to the national procurement law and/or open competitive tendering?			3	<p>Open competitive bidding is the principal method of procurement of goods, services and works. <i>Rule 11 of KPK PP Rules 2014, obligates that all procurements over one hundred thousand Rupees are subject to mandatory open competition and shall be posted on the procuring entity's website or public procurement regulatory authority (PPRA's) or both. These procurement opportunities may also be advertised in print media, if deemed necessary by the respective procuring agency.</i></p> <p>A large number of bidders regularly submit responsive bids. Though there is no restriction of minimum bidders to participate as long as competitive bidding process is adopted however 5 bidders on average submit bids / proposals per bid/proposal.</p> <p>As per KPPRA, open competitive bidding is the principle method of procurement and substantial percentage (more than 95%) of the procurement is undertaken through open competitive bidding beside the exceptions mentioned under Rule 2 of the KPPRA 2014 including emergency, procurement related to national security or sourcing to the government agency.</p> <p>Average no. of participating bidders is Five (05).</p> <p>The Government agencies/EA makes sufficient efforts to attract bids by advertising in national press as well as PPRA/agency website.</p> <p>Domestic availability of contractors, suppliers, labor force and/or related goods and services</p>



Indicators/Questions	Initial Country Score	Verified Country Score	Sector/ Agency Scores	Comments
				is sufficient; moreover, quality of output is generally observed to be appropriate. It should however be noted that similarity of experience for supply of goods (i.e. bus fleet procurement) under the project which is judged based on physical size, nature and complexity will be available amongst limited no. of bidders.
1.3 If there is a sector specific legal framework, does it support non-discriminatory participation, transparent tender processes (including advertisement, tender documentation, tender evaluation, complaints mechanism)?			<b>3</b>	<p>In general, the sector follows the provincial legal framework and procurement Rules that support non-discriminatory participation and transparent procurement processes under Rule 40 of KP PPRA rules 2014. The procurement processes is mandatory through open competition with proper advertisement and sufficient response time for the prospective bidders to participate. In addition, proper complaint and grievance redressal mechanism with stringent provisions for accountability is in-place.</p> <p>Average number of bidders for publicly bid contracts is Five (05).</p>
1.5 Is the sector subjected to excessive regulation or government control such that competition is limited or non-existent?			<b>2</b>	<p>There is no nationality restriction neither a domestic preference scheme.</p> <p>There are no established pre-registration requirements however requirement of registration varies on case to case basis and depends upon the nature of procurement. For works, registration of Pakistan Engineering council is generally sought.</p> <p>Provisions on participation by state owned enterprises (SOEs) are not included in KP-PPRA rules. Apparently, there is no provision that may require SOEs to establish their legal and</p>

Indicators/Questions	Initial Country Score	Verified Country Score	Sector/ Agency Scores	Comments
				financial autonomy, moreover, ensures that they operate under the same commercial law as any other private entity. The risk of undue advantage by SOEs in the bidding process can be mitigated by adopting ADB's guidelines.
1.5 Does the legal and regulatory framework enable the sector/agency to use an e-procurement system.			<b>3</b>	<p>There is not much e-procurement used as per contemporary practice and advertising is the only feature of the e procurement which is commonly used. Though some provincial procurement rules apply to the e-procurement.</p> <p>Specific provisions which only relate to e-procurement are not available.</p>
<b>2. Institutional Framework/Mgmt. Capacity</b>	<i>Average</i>		<i>Average =2.0</i>	
2.1 Is the procurement cycle in the sector required to be tied to an annual budgeting cycle ( <i>i.e.</i> can a procurement activity commence only when budget has been duly appropriated for it?)			<b>3</b>	<p>Projects are identified within agencies and approved by the competent forum and budget is sanctioned at the start of the fiscal year for each agency.</p> <p>In general budget availability is confirmed prior to solicitation of tenders. In some cases, the process of tendering can be started however contract cannot be awarded unless funding arrangements are confirmed (ref: PPRA Act , Section 22).</p>
2.2 Does the system foster efficiency through the use of adequate planning?			<b>3</b>	Regulations requires procurement plan to be prepared and formulated in the beginning of the fiscal year. Mostly the sector follow procurement planning process; however, they are not linked to multiyear operation plans and budget formulations.
2.3 Does the procurement system in the sector feature an oversight/regulatory body?			<b>3</b>	KPPRA reviews the procurement transactions of the agency (ies) after it is published. Moreover, Chief minister inspection team and anticorruption department have the mandate to review any or all procurement however contemporary practice is that they

Indicators/Questions	Initial Country Score	Verified Country Score	Sector/ Agency Scores	Comments
				act on application (anonymous or mentioned) or select the project for review randomly. Moreover, NAB under its P&A can review any public procurement process. DG M&E inspection teams also inspect post contract execution of annual development programs.
2.4 Is there a public procurement capacity development or professionalization program?			<b>2</b>	<p>Formal training program on procurement does not exist however KPPRA has arranged training program on familiarity with KPPRA rules, moreover, federal government through different institutes and Planning commission through Pakistan Planning and Management institute also carries out trainings for capacity building including procurement.</p> <p>However there is dire need for an accredited nationwide program for training in public procurement Rules/regulation and practices and to make it mandatory part of concerned line agency annual training programs. This will help a great deal in enhancing the capacity of respective government officials and staff tasked with execution of procurement transactions.</p>
2.5 Is there a dedicated group institutionalized for e-procurement in the sector/agency's procurement unit?			<b>1</b>	E-procurement is only used for E tenders (i.e. used for advertisement through web).
2.6 If an e-procurement system is used, is there a structured approach to capacity building and analysing its effective use?			<b>0</b>	No e-procurement is used.
<b>3. Procurement Operations/ Market Practices</b>	<i>Average</i>		<i>Average =2.0</i>	
3.1 Is private sector competitive, well organized and able to access the sector market?			<b>3</b>	There is a reasonably well functioning private sector, but competition for large contracts (requiring ICB) is concentrated in a relatively small number of firms.

Indicators/Questions	Initial Country Score	Verified Country Score	Sector/ Agency Scores	Comments
				<p>Associations of consultants and contractor also exist in the country. Healthy competition is observed in public procurement from private sector entities in open competition.</p> <p>Different civil society organizations are effective in observing public procurement such as transparency international, Whistle blower etc.</p>
3.2 Do measures exist in the sector to ensure the adequacy and accuracy of cost estimates before bidding, and to manage contract price variations?			<b>2</b>	<p>CSR and MRS are in place to ensure consistency of estimates. 10 % below estimates are acceptable as per C&amp;W rules beyond percentage of 10% contracts are awarded using enhanced performance securities. Generally, the contracts are awarded at par with the estimates.</p> <p>Generally works are completed within cost, moreover, variation up to 15 % in works is allowed as per rules.</p>
3.3 Is the private sector able to access and fully participate in the agency e-procurement activities.			<b>1</b>	<p>E-procurement has limited use (i.e. only to the extent of advertising) in the industry currently and private sector can easily access notices published on webs of procuring agencies and KP PPRA.</p>
3.4 Is there a mechanism in the sector to receive and handle observations, complaints and protests?			<b>2</b>	<p><i>The redressal of grievances and disputes resolution mechanism is in place and governed under Section 35 of the KP-PPRA act 2012. Moreover, the KP PPRA has made it mandatory for all the procuring agencies to post all the evaluation reports in the requisite format on the authority's web site. The relevant section is observed to have been regularly updated on authority's web.</i></p> <p>For respective procurement, there is an independent review body that has clear authority and is bound by reasonable procedures and timelines.</p>

Indicators/Questions	Initial Country Score	Verified Country Score	Sector/ Agency Scores	Comments
				<p>Though the Rules and regulations call for a complaint/grievances mechanism and KP PPRA website has separate tab for grievance redressal, however, no record regarding complains could be retrieved from the KP PPRA web site.</p> <p>Not much of the bidders use complaint mechanism.</p>
<b>4. Integrity and Transparency of the Public Procurement System</b>	<i>Average</i>		<i>Average =2.25</i>	
4.1 Is there a formal internal control and audit framework in the sector?			<b>3</b>	<p>The law provides for a formal internal and external audit and control system and is observed to be effectively in place.</p> <p>The agencies have adequate internal control mechanisms in the form of pre-audit to oversee the procurement function.</p> <p>The sector has an effective internal control framework including an independent internal audit function.</p> <p>Annual financial statements and records are audited with reasonably time disposition of audit findings.</p>
4.2 Is information pertaining to public procurement in the sector easy to find, comprehensive and relevant?			<b>2</b>	<p>Almost all the bids are published and the bidders can easily and freely access bid and contract award information from KP-PPRA website, procuring agencies websites as well as in media of wide circulation.</p> <p>Nearly all the contracts are advertised through medium which is easily accessible.</p> <p>Third party observers are usually invited to attend public bidding, moreover, KP PPRA rule 2014 mandate under Rule 53 to disclose</p>

Indicators/Questions	Initial Country Score	Verified Country Score	Sector/ Agency Scores	Comments
				information related to contract award and bid evaluation for public review. Finance department has notified that all procurement above PKR 50 M should comprise a member from NAB.
4.3 Can bidders and other stakeholders easily access sector/agency's procurement information through e-procurement system?			2	<p>Civil society organizations regularly observe the information available in public domain related to procurement through KP PPRA web.</p> <p>All the prospective bidders and stakeholders can observe the procurement transactions posted and awarded by the agencies in the sector through web.</p> <p>More than 60% bids and award information are disseminated through KP PPRA web whereas system to disclose procurement information is gaining acceptability and adherence.</p>
4.4 Does the sector have ethics and anticorruption measures in place?			2	<p>Generally, the information supplied by the bidders are relied upon during the evaluation process however financial instruments are always verified, moreover, informal verification of experience, if required is also made during the evaluation process.</p> <p>The sector has mechanism to debar firms for failure to perform and/or integrity violations, or mechanisms to report suspected violations to a provincial wide anticorruption body and also to Pakistan Engineering Council for works contracts. The sector has sufficient supplier due diligence processes and the concept of conflict of interest is defined.</p> <p>There is practice in vogue to debar and black list contractors/suppliers (KP PPRA</p>

Indicators/Questions	Initial Country Score	Verified Country Score	Sector/ Agency Scores	Comments
				<p>rule 44), moreover, register of debarred firms is maintained.</p> <p>Sector-specific integrity principles are not defined rather generalized integrity practices are observed. Integrity pact is sought as per KP PPRA rule 5 for each procurement above PKR 10 Million.</p>
<b>OVERALL SCORES</b>	<i>Average</i>		<i>Average =2.22</i>	

**“Name of the Agency: Peshawar Development Authority”  
SECTOR/AGENCY PROCUREMENT ASSESSMENT  
QUESTIONNAIRE**

Indicators/ Questions	Sector/Agency Questions	Score	Narrative
<b>1. Legislative and Regulatory Framework</b>			
1.1 Does the national public procurement law (including supporting regulations, standard bidding documents and operational manuals/guides) apply to the sector?	<p>Is the sector exempted by legislation from being subject to the national public procurement law?</p> <p>Even if subject to the national public procurement law, does the sector tend to follow it?</p> <p>Do agencies in the sector use government-issued public procurement manuals or guidance?</p> <p>Have government-issued documents been tailored to meet sector requirements?</p> <p>In absence of government-issued documents, does the sector have its own standard bidding documents/guidelines?</p>	2	<p>Yes. GoKP (in light of Section 36 Khyber Pakhtunkhwa Public Procurement Regulatory Authority Act, 2012 (Khyber Pakhtunkhwa Act No. XI of 2012)) on 3 Feb 2014 issued Khyber Pakhtunkhwa Public Procurement of Goods, Works and Services Rules, 2014 to improve governance, management, transparency, accountability and quality of public procurement of goods, works and services through the KPK Public Procurement Regulatory Authority (KPKPPRA).</p> <p>The Khyber Pakhtunkhwa Procurement of Goods, Works and Services Rules, 2003 as adopted by the Government of KPK were repealed on coming into force of KP PPR 2014.</p> <p>KP Procurement Act 2012 state that procuring agency shall use the standard form of Bidding documents prepared by KP-PPRA. These bidding documents are detailed documents and cover the whole procurement and contract management process from publication of award to defect notification period however neither reviewed by AND nor used on any ADB financed project. For the subject loan, ADB standard bidding documents will be used.</p>
1.2 Is the supply market for the sector sufficiently competitive to give full effect to the national procurement law and/or open competitive tendering?	<p>Is competitive bidding a common feature under the sector?</p> <p>Is there a core of suppliers in the sector who regularly submit responsive bids?</p>	3	<p>Open competitive bidding is the principal method of procurement of goods, services and works.</p> <p><i>Rule 11 of KPK PP Rules 2014, obligates that all procurements over one hundred thousand Rupees are subject to mandatory open competition and shall be posted on the procuring entity's website or public procurement regulatory authority (PPRA's) or both. These procurement opportunities may also be advertised in print media, if deemed necessary by the respective procuring agency.</i></p> <p>A large number of bidders regularly submit responsive bids. Though there is no restriction of minimum bidders to participate as long as competitive bidding process is adopted however 5 bidders on average submit bids / proposals per bid/proposal.</p>



Indicators/ Questions	Sector/Agency Questions	Score	Narrative
	<p>What proportion, by %, of the sector's procurement is undertaken through open competitive bidding?</p> <p>What is the average number of bidders for publicly bid contracts?</p> <p>Do EAs tend to make sufficient efforts to attract bids (eg. adequate advertising, bidding periods)?</p> <p>Is there availability and quality of suppliers, labor force and/or related goods and services in the domestic market?</p>		<p>As per KPPRA, open competitive bidding is the principle method of procurement and substantial percentage (more than 95%) of the procurement is undertaken through open competitive bidding beside the exceptions mentioned under Rule 2 of the KPPRA 2014 including emergency, procurement related to national security or sourcing to the government agency.</p> <p>Five</p> <p>The Government agencies/EA make sufficient efforts to attract bids by advertising in national press as well as PPRA/agency website.</p> <p>Domestic availability of contractors, suppliers, labor force and/or related goods and services is sufficient; moreover, quality of output is generally observed to be appropriate. It should however be noted that similarity of experience for the civil work road contracts under the project which is judged based on physical size, nature and complexity will be available amongst limited no. of bidders.</p>
1.3 If there is a sector specific legal framework, does it support non-discriminatory participation, transparent tender processes (including advertisement, tender documentation, tender evaluation, complaints mechanism)?	<p>Has the sector adopted non-discriminator, transparent tender processes?</p> <p>What is the average number of bidders for publicly bid contracts?</p>	3	<p>In general, PDA follows the provincial legal framework and procurement Rules that support non-discriminatory participation and transparent procurement processes under Rule 40 of KP PPRA rules 2014. The procurement processes is mandatory through open competition with proper advertisement and sufficient response time for the prospective bidders to participate. In addition, proper complaint and grievance redressal mechanism with stringent provisions for accountability is in-place.</p> <p>3-5 bidders on average submit bids / proposals per bid/proposal. For small projects 10-12 bidders submit bid/proposal.</p>
1.4 Is the sector subjected to excessive regulation or government control such	Does the sector apply a domestic preference scheme?	2	There is no nationality restriction neither a domestic preference scheme.

Indicators/ Questions	Sector/Agency Questions	Score	Narrative
that competition is limited or non-existent?	<p>Does the sector require pre-registration of bidders?</p> <p>Are there acceptable provisions in the sector for the participation of State Owned Enterprises?</p>		<p>Generally registration with Pakistan Engineering Council is mandatory for participation. KP-PPRA do not specifically require any registration. However, at federal level, PEC byelaws/bidding documents require that foreign bidders shall form JV before participation in any bidding in Pakistan which will be superseded by the ADB's guidelines of no restriction on participation by firms from member countries.</p> <p>Provisions on participation by state owned enterprises are not included in KP-PPRA rules. Apparently, there is no provision that may require SOEs to establish their legal and financial autonomy moreover ensures that they operate under the same commercial law as any other private entity. The risk of undue advantage by SOEs in the bidding process can be mitigated by adopting ADB's guidelines.</p>
1.5 Does the legal and regulatory framework enable the sector/agency to use an e-procurement system.	<p>Does the sector/agency abide by the rules, regulations and guidelines for the use of e-procurement incorporated in the national procurement laws?</p> <p>Are there tender/biding procedures, contract management processes and approval ceilings in the sector/agency e-procurement implementation.</p>	3	<p>There is not much e-procurement used as per contemporary practice and E-Tendering (i.e. advertising through web media) is the only feature of the e procurement which is commonly used. Though some provincial procurement rules apply to the e-procurement.</p> <p>Specific provisions which only relate to e-procurement are not available.</p>
<b>2. Institutional Framework and Management Capacity</b>			
2.1 Is the procurement cycle in the sector required to be tied to an annual budgeting cycle (i.e. can a procurement activity commence only when budget has been duly	<p>Are procurement plans in the sector prepared on as part of the budget planning and formulation process?</p> <p>Do systems and processes in the sector or key agencies in the sector require</p>	3	<p>Projects are identified within agencies and approved by the competent forum and budget is sanctioned at the start of the fiscal year for each agency. Project included in Annual development plan are executed by PDA beside PDA's self-financed projects. Provincial P&amp;D approves ADP and PDA's self-financed projects are approved by Secretary local government.</p> <p><b>In general budget availability is confirmed prior to solicitation of tenders. In some cases, the process of tendering can be started however contract cannot be awarded unless</b></p>

Indicators/ Questions	Sector/Agency Questions	Score	Narrative
appropriated for it?	certification of availability of funds before solicitation of tenders?		funding arrangements are confirmed (ref: PPRA Act, Section 22).
2.2 Does the system foster efficiency through the use of adequate planning?	Does the sector, or key agencies in the sector, have a formalized procurement planning process(s)?	3	Regulations requires procurement plan to be prepared and formulated in the beginning of the fiscal year. Mostly all Government agencies/EAs follow procurement planning process; however, they are not linked to multiyear operation plans and budget formulations.
2.3 Does the procurement system in the sector feature an oversight/regulatory body?	Does the sector fall under the remit of the national oversight/regulatory body?  If a national body does not exist, is there a sector-specific body that oversees/regulates procurement?	3	KPPRA reviews the procurement transactions of the agency(ies) after it is published. Moreover, Chief minister inspection team and anticorruption department have the mandate to review any or all procurement however contemporary practice is that they act on application (anonymous or mentioned) or select the project for review randomly. Moreover, NAB under its P&A can review any public procurement process.  Explained above.
2.4 Is there a public procurement capacity development or professionalization program?	What proportions of procurement-related officers and staff in the sector have been trained under the national or sector capacity development program or participated in any formal procurement training program?	2	Public procurement capacity building is carried out by KP PPRA. On average 40-60% of respective procurement staff is sent for training organized by PEC/PPRA.  However, there is dire need for an accredited nationwide program for training in public procurement Rules/regulation and practices and make it mandatory part of concerned line agency annual training programs. This will help a great deal in enhancing the capacity of respective government officials and staff tasked with execution of procurement transactions.
2.5 Is there a dedicated group institutionalized for e-procurement in the sector/agency's procurement unit?	Does the sector/agency use the national e-procurement system or does it use its own e-procurement system?  Is e-procurement strategically positioned in the sector/agency's governance map/long term development plan?	1	Tender are invited by publishing NIT.

Indicators/ Questions	Sector/Agency Questions	Score	Narrative
	<p>How is e-procurement positioned within the overall sector/agency structure?</p> <p>Does the sector/agency have sufficient IT infrastructure to support e-procurement</p>		
<p>2.6 If an e-procurement system is used, is there a structured approach to capacity building and analysing its effective use?</p>	<p>What is the sector/agency's e-procurement capacity to implement system?</p> <p>Does the agency/e-procurement unit recognize the need for knowledge and skill building for the new way of working under e-procurement.</p>	0	No e-procurement is used.
<b>3. Procurement Operations and Market Practices</b>			
<p>3.1 Is private sector competitive, well organized and able to access the sector market?</p>	<p>Is the private sector well organized and able to access the sector market?</p> <p>Do civil society organizations regard public procurement in the sector to be open and accessible to the market?</p>	3	<p>There is a reasonably well functioning private sector, but competition for large contracts (requiring ICB) is concentrated in a relatively small number of firms. Associations of consultants and contractor also exist in the country. Healthy competition is observed in public procurement from private sector entities in open competition.</p> <p>Civil society organizations such as transparency international and whistle blowers follow and observe the public procurement.</p>
<p>3.2 Do measures exist in the sector to ensure the adequacy and accuracy of cost estimates before bidding, and to manage contract price variations?</p>	<p>What percentages of contracts are awarded for values less than the original cost estimates?</p> <p>What percentage of contract variations amount to a cumulative impact of more than 10% of the original contract price?</p>	2	<p>Significant percentages (i.e. 90%) of contracts are awarded at or above original cost estimates.</p> <p>Significant percentage (i.e. 90%) of contracts are completed at or above original cost estimates.</p>

Indicators/ Questions	Sector/Agency Questions	Score	Narrative
3.3 Is the private sector able to access and fully participate in the agency e-procurement activities.	<p>What functions exist and are being used in the sector/agency e-procurement system?</p> <p>Are all forms available/accessible online?</p> <p>Do bidders pay any fees for the use of the system?</p> <p>What other government IT systems does the e-procurement system link to?</p> <p>Are foreign bidders able to participate in sector/agency's e-procurement?</p> <p>What percentage of sector/agency's total bids are transacted through the e-procurement system?</p>	1	<b>E-procurement has limited use in the industry currently.</b>
3.4 Is there a mechanism in the sector to receive and handle observations, complaints and protests?	<p>Are there sector-specific procedures to receive and handle observations, complaints and protests?</p> <p>Are complaints and protests in the sector processed within the maximum time limit provided for in the law?</p>	2	<p><i>The redressal of grievances and disputes resolution mechanism is in place and governed under Section 35 of the KP-PPRA act2012. Moreover, the authority has made it mandatory for all the procuring agencies to post all the evaluation reports in the requisite format on the authority's web site. The relevant section is observed to have been regularly updated on authority's web.</i></p> <p>For respective procurement, there is an independent review body that has clear authority and is bound by reasonable procedures and timelines.</p> <p>Though the Rules and regulations call for a complaint/grievances mechanism and KP PPRA website has separate tab for grievance redressal, however, no record regarding complains could be retrieved from the KP PPRA web site.</p>

Indicators/ Questions	Sector/Agency Questions	Score	Narrative
	Have bidders used the complaint and protests mechanisms?		Not much of the bidders use complaint mechanism.
<b>4. Integrity and Transparency of the Sector Public Procurement System</b>			
4.1 Is there a formal internal control and audit framework in the sector?	<p>Do key agencies in the sector have an independent internal audit function?</p> <p>Do key agencies in the sector have adequate internal control mechanisms to oversee the procurement function?</p> <p>Are key agencies in the sector subjected to regular performance or value for money audits?</p> <p>Are key agencies in the sector subjected to annual financial audits?</p> <p>Are internal or external audit findings/recommendations acted on in a timely fashion?</p>	3	<p>The law provides for a formal internal and external audit and control system <b>and is observed to be effectively in place.</b></p> <p>The agencies have adequate internal control mechanisms to oversee the procurement function.</p> <p>The sector has an effective internal control framework including an independent internal audit function.</p> <p>Annual financial statements and records are audited with reasonable time disposition of audit findings.</p> <p>Yes.</p>
4.2 Is information pertaining to public procurement in the sector easy to find, comprehensive and relevant?	<p>What percentage of bids is published in a medium that is easily and freely accessible?</p> <p>Can bidders easily and freely access bid information?</p> <p>What is the percentage of contract awards announced in medium that is easily and freely accessible?</p> <p>Are third party observers invited to attend public biddings?</p>	2	<p>Almost all the bids are published and the bidders can easily and freely access bid and contract award information from KP-PPRA website, procuring agencies websites as well as in media of wide circulation.</p> <p>Yes.</p> <p>Nearly all the contracts are advertised through medium which is easily accessible.</p> <p><b>Third party observers are usually invited to attend public bidding, moreover, KP PPRA rule 2014 mandate under Rule 53 to disclose information related to contract award and bid evaluation for public review. Finance department has notified that all procurement</b></p>

Indicators/ Questions	Sector/Agency Questions	Score	Narrative
4.3 Can bidders and other stakeholders easily access sector/agency's procurement information through e-procurement system?	<p>What is civil society's involvement in the e-procurement system?</p> <p>What kind of dynamics exist between/among private sector and other stakeholder groups.</p> <p>Are bidders and other stakeholders able to monitor all the sector/agency's e-procurement transactions?</p>	2	<p>above PKR 50 M should comprise a member from NAB.</p> <p>Civil society organizations regularly observe the information available in public domain related to procurement.</p> <p>All the prospective bidders and stakeholders can observe the agency's procurement transaction.</p> <p>More than 60% bids and award information are disseminated through KP PPRA web.</p>
4.4 Does the sector have ethics and anticorruption measures in place?	<p>Are there sector-specific procedures to verify a bidder's legitimate existence, track records, financial capacity and capacity to complete the job?</p> <p>Are there sector-specific procedures to rate performance and/or debar bidders, supplier, contractors and consultants for ethical or integrity violations?</p> <p>Does the sector, or key agencies in the sector, maintain a register of debarred suppliers, contractors and consultants?</p> <p>Are there sector-specific integrity principles and guidelines?</p>	2	<p>Generally, the information supplied by the bidders are relied upon during the evaluation process however financial instruments are always verified, moreover, informal verification of experience, if required is also made during the evaluation process.</p> <p>The agency has mechanisms to debar firms for failure to perform and/or integrity violations, or mechanisms to report suspected violations to a provincial wide anticorruption body and to Pakistan Engineering Council. The sector has sufficient supplier due diligence processes and the concept of conflict of interest is defined.</p> <p>There is practice in vogue to de bar and black list contractors/suppliers (KP PPRA rule 44), moreover, register of debarred firms is maintained.</p> <p>Sector-specific integrity principles are not defined rather generalized integrity practices are observed. Integrity pact is sought as per KP PPRA rule 5.</p>

**“Name of the Agency: TransPeshawar”**  
**SECTOR/AGENCY PROCUREMENT ASSESSMENT**  
**QUESTIONNAIRE**

Indicators/ Questions	Sector/Agency Questions	Score	Narrative
<b>1. Legislative and Regulatory Framework</b>			
<p>1.1 Does the national public procurement law (including supporting regulations, standard bidding documents and operational manuals/guides) apply to the sector?</p>	<p>Is the sector exempted by legislation from being subject to the national public procurement law?</p> <p>Even if subject to the national public procurement law, does the sector tend to follow it?</p> <p>Do agencies in the sector use government-issued public procurement manuals or guidance?</p> <p>Have government-issued documents been tailored to meet sector requirements?</p> <p>In absence of government-issued documents, does the sector have its own standard bidding documents/guidelines?</p>	2	<p>Yes, the provincial public procurement law is applicable on the sector. Government of KPK (in light of Section 36 Khyber Pakhtunkhwa Public Procurement Regulatory Authority Act, 2012 (Khyber Pakhtunkhwa Act No. XI of 2012)) on 3 Feb 2014 issued Khyber Pakhtunkhwa Public Procurement of Goods, Works and Services Rules, 2014 to improve governance, management, transparency, accountability and quality of public procurement of goods, works and services through the KPK Public Procurement Regulatory Authority (KPKPPRA).</p> <p>The Khyber Pakhtunkhwa Procurement of Goods, Works and Services Rules, 2003 as adopted by the Government of KPK were repealed on coming into force of KPK PPR 2014. All the agencies in the province carrying out procurement out of provincial exchequer follow K PPR.</p> <p>KP Procurement Act 2012 states that procuring agency shall use the standard form of Bidding documents prepared by KP-PPRA. These bidding documents are detailed documents and cover the whole procurement and contract management process from publication of award to defect notification period however these documents are neither reviewed by ADB nor used on any ADB financed project. For the subject Loan, ADB standard bidding documents will be used.</p>
<p>1.2 Is the supply market for the sector sufficiently competitive to give full effect to the national procurement law and/or open</p>	<p>Is competitive bidding a common feature under the sector?</p>	3	<p>Open competitive bidding is the principal method of procurement of goods, services and works.</p> <p><i>Rule 11 of KPK PP Rules 2014, obligates that all procurements over one hundred thousand Rupees are subject to mandatory open competition and shall be posted on the procuring entity's website or public procurement regulatory authority (PPRA's) or both. These procurement opportunities may</i></p>



Indicators/ Questions	Sector/Agency Questions	Score	Narrative
competitive tendering?	<p>Is there a core of suppliers in the sector who regularly submit responsive bids?</p> <p>What proportion, by %, of the sector's procurement is undertaken through open competitive bidding?</p> <p>What is the average number of bidders for publicly bid contracts?</p> <p>Do EAs tend to make sufficient efforts to attract bids (eg. adequate advertising, bidding periods)?</p> <p>Is there availability and quality of suppliers, labor force and/or related goods and services in the domestic market?</p>		<p><i>also be advertised in print media, if deemed necessary by the respective procuring agency.</i></p> <p>A large number of bidders regularly submit responsive bids. Though there is no restriction of minimum bidders to participate as long as competitive bidding process is adopted however 5 bidders on average submit bids / proposals per bid/proposal.</p> <p>As per KPPRA, open competitive bidding is the principle method of procurement and substantial percentage (more than 95%) of the procurement is undertaken through open competitive bidding beside the exceptions mentioned under Rule 2 of the KPPRA 2014 including emergency, procurement related to national security or sourcing to the government agency.</p> <p>Average no. of participating bidders is Five (05).</p> <p>The Government agencies/EA make sufficient efforts to attract bids by advertising in national press as well as PPRA/agency website.</p> <p>Domestic availability of contractors, suppliers, labor force and/or related goods and services is sufficient; moreover, quality of output is generally observed to be appropriate. It should however be noted that similarity of experience for supply of goods (i.e. bus fleet procurement) under the project which is judged based on physical size, nature and complexity will be available amongst limited no. of bidders.</p>
1.3 If there is a sector specific legal framework, does it support non-discriminatory participation, transparent tender processes (including advertisement, tender	Has the sector adopted non-discriminator, transparent tender processes?	3	In general, the sector follows the provincial legal framework and procurement Rules that support non-discriminatory participation and transparent procurement processes under Rule 40 of KP PPRA rules 2014. The procurement processes is mandatory through open competition with proper advertisement and sufficient response time for the prospective bidders to participate. In addition, proper complaint and grievance redressal mechanism with stringent provisions for accountability is in-place.

Indicators/ Questions	Sector/Agency Questions	Score	Narrative
documentation, tender evaluation, complaints mechanism)?	What is the average number of bidders for publicly bid contracts?		Five.
1.4 Is the sector subjected to excessive regulation or government control such that competition is limited or non-existent?	<p>Does the sector apply a domestic preference scheme?</p> <p>Does the sector require pre-registration of bidders?</p> <p>Are there acceptable provisions in the sector for the participation of State Owned Enterprises?</p>	2	<p>No.</p> <p>There are no established pre-registration requirements however requirement of registration varies on case to case basis and depends upon the nature of procurement. For works, registration of Pakistan Engineering council is generally sought.</p> <p>Provisions on participation by state owned enterprises (SOEs) are not included in KP-PPRA rules. Apparently, there is no provision that may require SOEs to establish their legal and financial autonomy, moreover, ensures that they operate under the same commercial law as any other private entity. The risk of undue advantage by SOEs in the bidding process can be mitigated by adopting ADB's guidelines.</p>
1.5 Does the legal and regulatory framework enable the sector/agency to use an e-procurement system.	<p>Does the sector/agency abide by the rules, regulations and guidelines for the use of e-procurement incorporated in the national procurement laws?</p> <p>Are there tender/bidding procedures, contract management processes and approval ceilings in the sector/agency e-procurement implementation.</p>	3	<p>There is not much e-procurement used as per contemporary practice and E-Tendering (i.e. advertising through web media) is the only feature of the e-procurement which is commonly used. Though same provincial procurement rules apply to the e-procurement.</p> <p>Specific provisions which only relate to e-procurement are not available.</p>
<b>2. Institutional Framework and Management Capacity</b>			
2.1 Is the procurement cycle in the sector required to be tied to an annual budgeting cycle (i.e. can a procurement	<p>Are procurement plans in the sector prepared on as part of the budget planning and formulation process?</p> <p>Do systems and processes in the sector or key agencies in the</p>	3	<p>Projects are identified within agencies and approved by the competent forum and budget is sanctioned at the start of the fiscal year for each agency.</p> <p>In general budget availability is confirmed prior to solicitation of tenders. In some cases, the process of tendering can be started</p>

Indicators/ Questions	Sector/Agency Questions	Score	Narrative
activity commence only when budget has been duly appropriated for it?	sector require certification of availability of funds before solicitation of tenders?		however contract cannot be awarded unless funding arrangements are confirmed (ref: PPRA Act, Section 22).
2.2 Does the system foster efficiency through the use of adequate planning?	Does the sector, or key agencies in the sector, have a formalized procurement planning process(s)?	3	Regulations requires procurement plan to be prepared and formulated in the beginning of the fiscal year. Mostly the sector follow procurement planning process; however, they are not linked to multiyear operation plans and budget formulations.
2.3 Does the procurement system in the sector feature an oversight/regulatory body?	Does the sector fall under the remit of the national oversight/regulatory body?  If a national body does not exist, is there a sector-specific body that oversees/regulates procurement?	3	KPPRA reviews the procurement transactions of the agency(ies) after it is published. Moreover, Chief minister inspection team and anticorruption department have the mandate to review any or all procurement however contemporary practice is that they act on application (anonymous or mentioned) or select the project for review randomly. Moreover, NAB under its P&A can review any public procurement process. DG M&E inspection teams also inspect post contract execution of annual development programs.  Explained above.
2.4 Is there a public procurement capacity development or professionalization program?	What proportions of procurement-related officers and staff in the sector have been trained under the national or sector capacity development program or participated in any formal procurement training program?	2	Formal training program on procurement does not exist however KPPRA has arranged training program on familiarity with KPPRA rules, moreover, federal government through different institutes and Planning commission through Pakistan Planning and Management institute also carries out trainings for capacity building including procurement.  However, there is dire need for an accredited nationwide program for training in public procurement Rules/regulation and practices and to make it mandatory part of concerned line agency annual training programs. This will help a great deal in enhancing the capacity of respective government officials and staff tasked with execution of procurement transactions.
2.5 Is there a dedicated group institutionalized for e-procurement in the	Does the sector/agency use the national e-procurement system or does it use its own e-procurement system?	1	Only used for E tenders (i.e. used for advertisement through web).

Indicators/ Questions	Sector/Agency Questions	Score	Narrative
sector/agency's procurement unit?	<p>Is e-procurement strategically positioned in the sector/agency's governance map/long term development plan?</p> <p>How is e-procurement positioned within the overall sector/agency structure?</p> <p>Does the sector/agency have sufficient IT infrastructure to support e-procurement</p>		
2.6 If an e-procurement system is used, is there a structured approach to capacity building and analysing its effective use?	<p>What is the sector/agency's e-procurement capacity to implement system?</p> <p>Does the agency/e-procurement unit recognize the need for knowledge and skill building for the new way of working under e-procurement.</p>	0	No e-procurement is used.
<b>3. Procurement Operations and Market Practices</b>			
3.1 Is private sector competitive, well organized and able to access the sector market?	<p>Is the private sector well organized and able to access the sector market?</p> <p>Do civil society organizations regard public procurement in the sector to be open and accessible to the market?</p>	3	<p>There is a reasonably well functioning private sector, but competition for large contracts (requiring ICB) is concentrated in a relatively small number of firms. Associations of consultants and contractor also exist in the country. Healthy competition is observed in public procurement from private sector entities in open competition.</p> <p>Yes. Different civil society organizations are effective such as transparency international. Moreover, in public sector, DG M&amp;E inspection teams also inspect post contract execution of annual development programs.</p>
3.2 Do measures exist in the sector to ensure the adequacy and accuracy of cost estimates	What percentages of contracts are awarded for values less than the original cost estimates?	2	CSR and MRS are in place to ensure consistency of estimates. 10 % below estimates are acceptable as per C&W rules beyond percentage of 10% contracts are awarded using enhanced performance securities. Generally, the contracts are awarded at par with the estimates.

Indicators/ Questions	Sector/Agency Questions	Score	Narrative
before bidding, and to manage contract price variations?	What percentage of contract variations amount to a cumulative impact of more than 10% of the original contract price?		Generally, works are completed within cost, moreover, variation up to 15 % in works is allowed as per rules.
3.3 Is the private sector able to access and fully participate in the agency e-procurement activities.	<p>What functions exist and are being used in the sector/agency e-procurement system?</p> <p>Are all forms available/accessible online?</p> <p>Do bidders pay any fees for the use of the system?</p> <p>What other government IT systems does the e-procurement system link to?</p> <p>Are foreign bidders able to participate in sector/agency's e-procurement?</p> <p>What percentage of sector/agency's total bids are transacted through the e-procurement system?</p>	1	E-procurement has limited use (i.e. only to the extent of advertising) in the industry currently.
3.4 Is there a mechanism in the sector to receive and handle observations, complaints and protests?	<p>Are there sector-specific procedures to receive and handle observations, complaints and protests?</p> <p>Are complaints and protests in the sector</p>	2	<p><i>The redressal of grievances and disputes resolution mechanism is in place and governed under Section 35 of the KP-PPRA act2012. Moreover, the KP PPRA has made it mandatory for all the procuring agencies to post all the evaluation reports in the requisite format on the authority's web site. The relevant section is observed to have been regularly updated on authority's web.</i></p> <p>For respective procurement, there is an independent review body that has clear authority and is bound by reasonable procedures and timelines.</p>

Indicators/ Questions	Sector/Agency Questions	Score	Narrative
	<p>processed within the maximum time limit provided for in the law?</p> <p>Have bidders used the complaint and protests mechanisms?</p>		<p>Though the Rules and regulations call for a complaint/grievances mechanism and KP PPRA website has separate tab for grievance redressal, however, no record regarding complains could be retrieved from the KP PPRA web site.</p> <p>Not much of the bidders use complaint mechanism.</p>
<b>4. Integrity and Transparency of the Sector Public Procurement System</b>			
<p>4.1 Is there a formal internal control and audit framework in the sector?</p>	<p>Do key agencies in the sector have an independent internal audit function?</p> <p>Do key agencies in the sector have adequate internal control mechanisms to oversee the procurement function?</p> <p>Are key agencies in the sector subjected to regular performance or value for money audits?</p> <p>Are key agencies in the sector subjected to annual financial audits?</p> <p>Are internal or external audit findings/recommendations acted on in a timely fashion?</p>	3	<p>The law provides for a formal internal and external audit and control system and is observed to be effectively in place.</p> <p>The agencies have adequate internal control mechanisms to oversee the procurement function.</p> <p>The sector has an effective internal control framework including an independent internal audit function.</p> <p>Annual financial statements and records are audited with reasonably time disposition of audit findings.</p> <p>Yes.</p>
<p>4.2 Is information pertaining to public procurement in the sector easy to find, comprehensive and relevant?</p>	<p>What percentage of bids is published in a medium that is easily and freely accessible?</p> <p>Can bidders easily and freely access bid information?</p> <p>What is the percentage of contract awards announced in medium that is easily and freely accessible?</p>	2	<p>Almost all the bids are published and the bidders can easily and freely access bid and contract award information from KP-PPRA website, procuring agencies websites as well as in media of wide circulation.</p> <p>Yes.</p> <p>Nearly all the contracts are advertised through medium which is easily accessible.</p>

Indicators/ Questions	Sector/Agency Questions	Score	Narrative
	Are third party observers invited to attend public biddings?		Third party observers are usually invited to attend public bidding, moreover, KP PPRA rule 2014 mandate under Rule 53 to disclose information related to contract award and bid evaluation for public review. Finance department has notified that all procurement above PKR 50 M should comprise a member from NAB.
4.3 Can bidders and other stakeholders easily access sector/agency's procurement information through e-procurement system?	<p>What is civil society's involvement in the e-procurement system?</p> <p>What kind of dynamics exist between/among private sector and other stakeholder groups.</p> <p>Are bidders and other stakeholders able to monitor all the sector/agency's e-procurement transactions?</p>	2	<p>Civil society organizations regularly observe the information available in public domain related to procurement through KP PPRA web.</p> <p>All the prospective bidders and stakeholders can observe the procurement transactions posted and awarded by the agencies in the sector.</p> <p>More than 60% bids and award information are disseminated through KP PPRA web.</p>
4.4 Does the sector have ethics and anticorruption measures in place?	<p>Are there sector-specific procedures to verify a bidder's legitimate existence, track records, financial capacity and capacity to complete the job?</p> <p>Are there sector-specific procedures to rate performance and/or debar bidders, supplier, contractors and consultants for ethical or integrity violations?</p> <p>Does the sector, or key agencies in the sector, maintain a register of debarred suppliers, contractors and consultants?</p> <p>Are there sector-specific integrity principles and guidelines?</p>	2	<p>Generally, the information supplied by the bidders are relied upon during the evaluation process however financial instruments are always verified, moreover, informal verification of experience, if required is also made during the evaluation process.</p> <p>The sector has mechanism to debar firms for failure to perform and/or integrity violations, or mechanisms to report suspected violations to a provincial wide anticorruption body and to Pakistan Engineering Council for works contracts. The sector has sufficient supplier due diligence processes and the concept of conflict of interest is defined.</p> <p>There is practice in vogue to de bar and black list contractors/suppliers (KP PPRA rule 44), moreover, register of debarred firms is maintained.</p> <p>Sector-specific integrity principles are not defined rather generalized integrity practices are observed. Integrity pact is sought as per KP PPRA rule 5.</p>

**PROJECT PROCUREMENT RISK ASSESSMENT QUESTIONNAIRE**  
**Peshawar Development Authority (PDA)**

QUESTION	RESPONSE	RISK <sup>10</sup>
<b>A. ORGANIZATIONAL AND STAFF CAPACITY</b>		
<b>PROCUREMENT DEPARTMENT/UNIT</b>		<b>Substantial</b>
A.1 Does the agency or Government have a Procurement Committee that is independent from the head of the agency?	Director General is the head of PDA. Procurement committee exists and DG PDA is not part of the committee. Procurement committee is headed by Dir. Eng. who acts as Chairman and signoff the procurement. Procurement committee seeks approval of the DG PDA for evaluation and recommendation of award.	Moderate
A.2 Does the agency have a procurement department/unit, including a permanent office that performs the function of a Secretariat of the Procurement Committee?	Centralized Procurement section does not exist. PDA comprises seven technical directorates; the concerned directorate in PDA initiate procurement and subsequently procurement committee perform the evaluation and award the contract.	Substantial
A.3 If yes, what type of procurement does it undertake?	Works, Goods and Consulting Services.	Low
A.4 How many years' experience does the head of the procurement department/unit have in a direct procurement role?	For the current project, one of the Directors will be nominated as head of the procurement committee who will conclude the procurement. The nominated director has 35 year experience of procurement and execution of the projects.	Low
A.5 How many staff in the procurement department/unit are: i. full time ii. part time iii. seconded	Each director who carries out the procurement is assisted by two deputy directors and each DD is assisted by two ADs.	Low
A.6 Do the procurement staff have a high level of English language proficiency (verbal and written)?	Yes	Low*
A.7 Are the number and qualifications of the staff sufficient to undertake the additional	Existing staff in the directorate is sufficient to carry out the procurement of civil works however has not carried	Substantial*

<sup>14</sup> Responses should include a discussion of the e-procurement component if an e-procurement system is in use or if is being planned for implementation.

<sup>15</sup> Questions indicated with \* are associated with potentially 'High' or 'Substantial' risks due to the impact being 'High' therefore the strategy for managing those risks should be addressed in the Project Procurement Risk Analysis (Appendix 3).



QUESTION	RESPONSE	RISK <sup>10</sup>
procurement that will be required under the proposed project?	out procurement of international competitive bidding and/or ADB funded procurement.	
A.8 Does the unit have adequate facilities, such as PCs, internet connection, photocopy facilities, printers etc. to undertake the planned procurement?	Newly formed unit will require adequate facilities.	Substantial
A.9 Does the agency have, or have ready access to, a procurement training program?	No.	High*
A.10 At what level does the department/unit report (to the head of agency, deputy etc.)?	Reports to the head of agency.	Low
A.11 Do the procurement positions in the agency have job descriptions, which outline specific roles, minimum technical requirements and career routes?	Staff in concerned technical directorate includes procurement as part of their job description in addition to their shared responsibilities related to project implementation; monitoring and supervision however dedicated procurement based positions are not placed in the directorate.	Moderate
A.12 Is there a procurement process manual for goods and works?	Guidelines exist in the form of KP PPRA 2014.	Low
A.13 If there is a manual, is it up to date and does it cover foreign-assisted projects?	Guideline does not cover the foreign assisted projects in detail.	High
A.14 Is there a procurement process manual for consulting services?	KP PPRA published a document on procurement of consulting services beside that P&D guidelines for selection of consultant are issued by P&D department.	Low
A.15 If there is a manual, is it up to date and does it cover foreign-assisted projects?	Guideline does not cover the foreign assisted projects in detail.	High
<b>Project Management Unit</b>		<b>High</b>
A.16 Is there a fully (or almost fully) staffed PMU for this project currently in place?	PIU has been established and will be strengthened through posting of dedicated staff.	High*
A.17 Are the number and qualifications of the staff sufficient to undertake the additional procurement that will be required under the proposed project?	PIU capacity will be enhanced with posting of additional dedicated staff.	High*
A.18 Does the unit have adequate facilities, such as PCs, internet connection, photocopy facilities, printers etc. to undertake the planned procurement?	No.	Moderate
A.19 Are there standard documents in use, such as Standard Procurement Documents/Forms, and have they been	No.	High*

QUESTION	RESPONSE	RISK <sup>10</sup>
approved for use on ADB funded projects?		
A.20 Does the agency follow the national procurement law, procurement processes, and guidelines?	Yes.	Low
A.21 Do ToRs for consulting services follow a standard format such as background, tasks, inputs, objectives and outputs?	Yes.	Low
A.22 Who drafts the procurement specifications?	Design Consultant drafts the procurement specifications.	Low
A.23 Who approves the procurement specifications?	Concerned Directorate/head of PIU in instant case will approve the procurement specifications.	Low
A.24 Who in the PMU has experience in drafting bidding documents?	Director PIU has past experience of drafting bidding document on PDA's project and recently on US AID financed Peshawar Ring Road project. Director has prepared document on ADB financed project way back in 1993.	Moderate*
A.25 Are records of the sale of bidding documents immediately available?	Yes except those who download the document.	Low
A.26 Who identifies the need for consulting services requirements?	KPPRA mentions that all projects above PKR 100 million will require consulting services beside that concerned directorate identifies the requirement of consulting services.	Low
A.27 Who drafts the Terms of Reference (ToR)	Concerned directorate.	Low
A.28 Who prepares the request for proposals (RFPs)	Concerned directorate.	Low
<b>B. Information Management</b>		<b>Low</b>
B.1 Is there a referencing system for procurement files?	Yes, reference numbers are assigned and kept in record.	Low
B.2 Are there adequate resources allocated to record keeping infrastructure, which includes the record keeping system, space, equipment and personnel to administer the procurement records management functions within the agency?	Yes	Low*
B.3 Does the agency adhere to a document retention policy (i.e. for what period are records kept)?	KPPRA mentioned the document retention policy however duration of retention is not mentioned. PDA keeps the record for five years.	Low*
B.4 Are copies of bids or proposals retained with the evaluation?	Yes	Low

QUESTION	RESPONSE	RISK <sup>10</sup>
B.5 Are copies of the original advertisements retained with the pre-contract papers?	Yes	Low
B.6 Is there a single contract file with a copy of the contract and all subsequent contractual correspondence?	Yes	Low
B.7 Are copies of invoices included with the contract papers?	Kept separately.	Low
B.8 Is the agency's record keeping function supported by IT?	No.	Moderate
<b>C. PROCUREMENT PRACTICES</b>		
<b>Goods and Works</b>		<b>High</b>
C.1 Has the agency undertaken procurement of goods or works related to foreign assistance recently (last 12 months or last 36 months)? If yes, indicate the names of the development partner/s and project/s.	No.	High*
C.2 If the answer is yes, what were the major challenges faced by the agency?	Not applicable.	High*
C.3 Is there a systematic process to identify procurement requirements (for a period of one year or more)?	Procurement plan is prepared and ADP is also prepared.	Low
C.4 Is there a minimum period for the preparation of bids and if yes, how long?	Yes, KPPRA mention the minimum period of 15 days.	Substantial*
C.5 Are all queries from bidders replied to in writing?	Yes and responded during the pre bid.	Low*
C.6 Does the bidding document state the date and time of bid opening?	Yes	Low*
C.7 Are bids opened in public?	Yes	Low*
C.8 Can late bids be accepted?	No	Low*
C.9 Can bids (except late bids) be rejected at bid opening?	No	Low*
C.10 Are minutes of the bid opening taken?	Yes	Low*
C.11 Are bidders provided a copy of the minutes?	Yes.	Low*
C.12 Are the minutes provided free of charge?	Yes.	Low*
C.13 Who undertakes the evaluation of bids (individual(s), permanent committee, ad-hoc committee)?	Adhoc committee.	Moderate
C.14 What are the qualifications of the evaluators with respect to procurement and the goods and/or works under evaluation?	Engineers for Works and engineers and financial specialist for goods.	Low*

QUESTION	RESPONSE	RISK <sup>10</sup>
C.15 Is the decision of the evaluators final or is the evaluation subject to additional approvals?	Recommendation of evaluation committee is final however formal approval is sought from DG PDA.	Moderate*
C.16 Using the three 'worst-case' examples in the last year, how long from the issuance of the invitation for bids can the contract be awarded?	45-60 days.	Low
C.17 Are there processes in place for the collection and clearance of cargo through ports of entry?	Services of custom clearing agents are hired on need basis.	Low
C.18 Are there established goods receiving procedures?	Inventory is prepared and recorded in stock register.	Low
C.19 Are all goods that are received recorded as assets or inventory in a register?	Yes	Low
C.20 Is the agency/procurement department familiar with letters of credit?	Not used recently.	Substantial
C.21 Does the procurement department register and track warranty and latent defects liability periods?	Yes	Low
<b>Consulting Services</b>		<b>Substantial</b>
C.22 Has the agency undertaken foreign-assisted procurement of consulting services recently (last 12 months, or last 36 months)? (If yes, please indicate the names of the development partner/s and the Project/s.)	No	High*
C.23 If the above answer is yes, what were the major challenges?	NA	High*
C.24 Are assignments and invitations for expressions of interest (EOIs) advertised?	Yes	Low*
C.25 Is a consultants' selection committee formed with appropriate individuals, and what is its composition (if any)?	CSC of government exists and carries out the procurement of consulting services. CSC is headed by secretary of concerned department with members from P&D, Finance and other provincial departments.	Low
C.26 What criteria is used to evaluate EOIs?	Management, Technical and Geographic experience	Low
C.27 Historically, what is the most common method used (QCBS, QBS, etc.) to select consultants?	QCBS	Low*
C.28 Do firms have to pay for the RFP document?	No	Low*

QUESTION	RESPONSE	RISK <sup>10</sup>
C.29 Does the proposal evaluation criteria follow a pre-determined structure and is it detailed in the RFP?	Yes	Low*
C.30 Are pre-proposal visits and meetings arranged?	Visits are not arranged but meetings are convened.	Low
C.31 Are minutes prepared and circulated after pre-proposal meetings?	Yes	Low*
C.32 To whom are the minutes distributed?	Precipitants, shortlisted consultants.	Low*
C.33 Are all queries from consultants answered/addressed in writing?	Yes and also responded during pre proposal.	Low*
C.34 Are the technical and financial proposals required to be in separate envelopes and remain sealed until the technical evaluation is completed?	Yes	Low*
C.35 Are proposal securities required?	No	Low*
C.36 Are technical proposals opened in public?	Yes	Low*
C.37 Are minutes of the technical opening distributed?	Yes	Low*
C.38. Do the financial proposals remain sealed until technical evaluation is completed?	Yes	Low
C.39 Who determines the final technical ranking and how?	CSC in accordance with the criteria in RFP	Low*
C.40 Are the technical scores sent to all firms?	Yes	Low*
C.41 Are the financial proposal opened in public?	Yes	Low*
C.42 Are minutes of the financial opening distributed?	Yes	Low*
C.43 How is the financial evaluation completed?	Financial proposals are evaluated based on consultants quoted prices and consistency with the technical proposal.	Low*
C.44 Are face to face contract negotiations held?	Yes	Low*
C.45 How long after financial evaluation is negotiation held with the selected firm?	Week Time	Low
C.46 What is the usual basis for negotiation?	Consistency with the Technical proposal and rationalization of out of pocket expenses quoted by the consultant.	Low
C.47 Are minutes of negotiation taken and signed?	Yes	Low*

QUESTION	RESPONSE	RISK <sup>10</sup>
C.48 How long after negotiation is the contract signed, on average?	Two weeks	Low
C.49 Is there an evaluation system for measuring the outputs of consultants?	Yes	Low
<b>Payments</b>		<b>Low</b>
C.50 Are advance payments made?	Yes against bank guarantee.	Low
C.51 What is the standard period for payment included in contracts?	30 Days	Low
C.52 On average, how long is it between receiving a firm's invoice and making payment?	10-15 days	Low
C.53 When late payment is made, are the beneficiaries paid interest?	Yes contracts include provision for delayed payment.	Low
<b>D. EFFECTIVENESS</b>		<b>Low</b>
D.1 Is contractual performance systematically monitored and reported?	Yes	Low
D.2 Does the agency monitor and track its contractual payment obligations?	Yes	Low
D.3 Is a complaints resolution mechanism described in national procurement documents?	Yes	Low
D.4 Is there a formal non-judicial mechanism for dealing with complaints?	Yes mechanisms for amicable settlement exist.	Low
D.5 Are procurement decisions and disputes supported by written narratives such as minutes of evaluation, minutes of negotiation, notices of default/withheld payment?	Yes	Low*
<b>E. ACCOUNTABILITY MEASURES</b>		<b>Moderate</b>
E.1 Is there a standard statement of ethics and are those involved in procurement required to formally commit to it?	Yes. Integrity pact is sought before signing of each contract valuing more than PKR 10 Million.	Low*
E.2 Are those involved with procurement required to declare any potential conflict of interest and remove themselves from the procurement process?	Bidding document include provisions on COI which state that the bidders will be declared non responsive if found that bidder has a close business relationship with someone in the procuring agency however bidding document or other documents do not mention requirement to declare a conflict of interest. KP PPRA rules also lack detailed provisions on COI.	High*
E.3 Is the commencement of procurement dependent on external approvals (formal	Yes	Low

QUESTION	RESPONSE	RISK <sup>10</sup>
or de-facto) that are outside of the budgeting process?		
E.4 Who approves procurement transactions, and do they have procurement experience and qualifications?	DG PDA	Moderate*
E.5 Which of the following actions require approvals outside the procurement unit or the evaluation committee, as the case may be, and who grants the approval?		
a) Bidding document, invitation to pre-qualify or RFP	DG PDA	Low
b) Advertisement of an invitation for bids, pre-qualification or call for EOIs	DG PDA	Low
c) Evaluation reports	DG PDA	Low*
d) Notice of award	Director	Low*
e) Invitation to consultants to negotiate	Government CSC	Substantial
f) Contracts	DG PDA	Moderate*
E.6 Is the same official responsible for: (i) authorizing procurement transactions, procurement invitations, documents, evaluations and contracts; (ii) authorizing payments; (iii) recording procurement transactions and events; and (iv) the custody of assets?	No	Low*
E.7 Is there a written auditable trail of procurement decisions attributable to individuals and committees?	Yes	Low*

## II. General Ratings

Criterion	Risk
<b>A. Organizational and Staff Capacity</b>	<b>Substantial</b>
<b>B. Information Management</b>	<b>Low</b>
<b>C. Procurement Practices</b>	<b>High</b>
<b>D. Effectiveness</b>	<b>Low</b>
<b>E. Accountability Measures</b>	<b>Moderate</b>
<b>OVERALL RISK RATING</b>	<b>High</b>

**PROJECT PROCUREMENT RISK ASSESSMENT QUESTIONNAIRE**  
(Name of Agency: TransPeshawar)

QUESTION	RESPONSE	RISK <sup>11</sup>
<b>A. ORGANIZATIONAL AND STAFF CAPACITY</b>		
<b>PROCUREMENT DEPARTMENT/UNIT</b>		<b>High</b>
A.1 Does the agency or Government have a Procurement Committee that is independent from the head of the agency?	Committee has been constituted headed by DG PDA (Director of BOD TransPeshawar) along with Director BOD and CEO Transpeshawar (District Nazim Peshawar and ex officio director of company) as members.	High
A.2 Does the agency have a procurement department/unit, including a permanent office that performs the function of a Secretariat of the Procurement Committee?	Not currently however will be established as hiring process has been initiated. Procurement Unit will have GM Planning and Construction and Procurement Specialist.	High
A.3 If yes, what type of procurement does it undertake?	Not applicable currently as the agency is only established however Trans Peshawar will be tasked with procurement of goods including Bus Fleet, ITS system etc.	Low
A.4 How many years' experience does the head of the procurement department/unit have in a direct procurement role?	Currently no one exists; however, 5 year experience is sought for potential candidate.	High
A.5 How many staff in the procurement department/unit are: i. full time ii. part time iii. seconded	Currently no one, however, one dedicated procurement specialist will be involved full time and GM planning and construction will also be involved.	Moderate
A.6 Do the procurement staff have a high level of English language proficiency (verbal and written)?	As mentioned above, currently there is no procurement staff however staff recruited will have the English level proficiency.	Low*
A.7 Are the number and qualifications of the staff sufficient to undertake the additional procurement that will be required under the proposed project?	Staff currently proposed (i.e. one procurement specialist) is not sufficient for the envisaged work however another procurement specialist is available in PMU TMTD which may engaged or additional support should be provided.	Moderate*
A.8 Does the unit have adequate facilities, such as PCs, internet connection,	Not currently available but will be procured.	Substantial

<sup>14</sup> Responses should include a discussion of the e-procurement component if an e-procurement system is in use or if is being planned for implementation.

<sup>15</sup> Questions indicated with \* are associated with potentially 'High' or 'Substantial' risks due to the impact being 'High' therefore the strategy for managing those risks should be addressed in the Project Procurement Risk Analysis (Appendix 3).



QUESTION	RESPONSE	RISK <sup>11</sup>
photocopy facilities, printers etc. to undertake the planned procurement?		
A.9 Does the agency have, or have ready access to, a procurement training program?	No. PMCCB, Package 2 consultants are however available for the capacity building.	High*
A.10 At what level does the department/unit report (to the head of agency, deputy etc.)?	Procurement Unit will report to the head of agency.	Low
A.11 Do the procurement positions in the agency have job descriptions, which outline specific roles, minimum technical requirements and career routes?	Yes staff will have specific job descriptions.	Low
A.12 Is there a procurement process manual for goods and works?	No procurement manual is available for goods and works however KPPRA bidding documents are available for goods and works. TransPeshawar intend to develop the manual for procurement during the course of this project.	Low
A.13 If there is a manual, is it up to date and does it cover foreign-assisted projects?	No manual is available neither clear detail guidelines are available on foreign aided project in KP PPRA Rules 2014. TransPeshawar intend to include provision for foreign funded projects in the Procurement Manual which it intends to develop.	High
A.14 Is there a procurement process manual for consulting services?	KP PPRA published a document on procurement of consulting services beside that P&D guidelines for selection of consultant are issued by P&D department.	Low
A.15 If there is a manual, is it up to date and does it cover foreign-assisted projects?	No manual is available neither clear detail guidelines are available on foreign aided project in KP PPRA Rules 2014.	High
<b>Project Management Unit (TransPeshawar)</b>		<b>High</b>
A.16 Is there a fully (or almost fully) staffed PMU for this project currently in place?	Recruitment of staff for execution of Peshwar Sustainable Bus Rapid Transit Project and subsequent operations of Trans Peshawar is in process.	High*
A.17 Are the number and qualifications of the staff sufficient to undertake the additional procurement that will be required under the proposed project?	One procurement specialist will not be sufficient to undertake the proposed procurement goods contracts under the project.	Substantial*
A.18 Does the unit have adequate facilities, such as PCs, internet connection, photocopy facilities, printers etc. to undertake the planned procurement?	Not currently available but will be arranged.	Substantial

QUESTION	RESPONSE	RISK <sup>11</sup>
A.19 Are there standard documents in use, such as Standard Procurement Documents/Forms, and have they been approved for use on ADB funded projects?	Since TransPeshawar doesnot have institutional memory of managing and executing projects hence no such documents exist. KP PPRA procurement documents are available for pubic procurement in the province however these documents are not reviewed/approved for use on ADB projects.	High*
A.20 Does the agency follow the national procurement law, procurement processes, and guidelines?	Agency has not carried out any procurement since its establishment however will follow KP PPRA for Public procurement. Moreover, Transpeshawar intends to develop its own rules and procedures harmonized with local guidelines and procedures as a corporate entity pursuant to the mandate provided to the board under para 7 (d) of the Public Sector Companies (Corporate Governance) Rules, 2013 by SECP.	Low*
A.21 Do ToRs for consulting services follow a standard format such as background, tasks, inputs, objectives and outputs?	Not currently as no consulting services have been procured by Trans Peshawar.	Moderate
A.22 Who drafts the procurement specifications?	Not previously done however ODBM will draft procurement specification for goods contracts under current project.	Low
A.23 Who approves the procurement specifications?	For subject project, respective procurement committee will approve in consultation with lined department and PMU.	Low
A.24 Who in the PMU has experience in drafting bidding documents?	Concerned professional is not available; however, Secretary of the company has previous experience of drafting the bidding documents.	Substantial*
A.25 Are records of the sale of bidding documents immediately available?	Though Trans Peshawar has not undertaken any procurement but as a practice in government agencies, the bidding documents are readily available after advertise.	Low*
A.26 Who identifies the need for consulting services requirements?	Not applicable currently however management of Trans Peshawar will identify the needs for consulting services.	Low
A.27 Who drafts the Terms of Reference (ToR)	Not applicable currently procurement specialist with assistance of concerned user unit of Trans Peshawar will draft the TORs.	Low
A.28 Who prepares the request for proposals (RFPs)	Not applicable currently procurement specialist with assistance of concerned user unit will prepare the RFP.	Low

QUESTION	RESPONSE	RISK <sup>11</sup>
<b>B. Information Management</b>		<b>Moderate</b>
B.1 Is there a referencing system for procurement files?	Not currently available, however, will be developed as it is an already established practice in government agencies and will be followed in Trans Peshawar.	Moderate
B.2 Are there adequate resources allocated to record keeping infrastructure, which includes the record keeping system, space, equipment and personnel to administer the procurement records management functions within the agency?	No dedicated resource is currently available however Data base officers/team will be hired for the functioning of Trans Peshawar.	Moderate*
B.3 Does the agency adhere to a document retention policy (i.e. for what period are records kept)?	Trans Peshwar will adhere to document retention policy in accordance with KP PPRA Rule 52, generally, records are kept for five years.	Moderate*
B.4 Are copies of bids or proposals retained with the evaluation?	The government agencies have the practice to retain the copies of bids / proposals and Trans Peshawar will adhere to it.	Moderate
B.5 Are copies of the original advertisements retained with the pre-contract papers?	The government agencies have the practice to retain the copies of original advertisements with the pre contract papers and Trans Peshawar will adhere to it.	Moderate
B.6 Is there a single contract file with a copy of the contract and all subsequent contractual correspondence?	Yes will be single contract file.	Moderate
B.7 Are copies of invoices included with the contract papers?	Yes will be included as per contemporary practice in government agencies.	Moderate
B.8 Is the agency's record keeping function supported by IT?	Currently No, however, will be supported by IT when the agency will be fully established.	Moderate
<b>C. PROCUREMENT PRACTICES</b>		<b>High</b>
<b>Goods and Works</b>		<b>High</b>
C.1 Has the agency undertaken procurement of goods or works related to foreign assistance recently (last 12 months or last 36 months)? If yes, indicate the names of the development partner/s and project/s.	No.	High*
C.2 If the answer is yes, what were the major challenges faced by the agency?	Not Applicable	High*
C.3 Is there a systematic process to identify procurement requirements (for a period of one year or more)?	No however will be established.	Low

QUESTION	RESPONSE	RISK <sup>11</sup>
C.4 Is there a minimum period for the preparation of bids and if yes, how long?	Minimum 15 days for NCB and 30 days for ICB under KPPRA Rule 34.	Substantial*
C.5 Are all queries from bidders replied to in writing?	Yes will be replied in writing.	Low*
C.6 Does the bidding document state the date and time of bid opening?	Yes.	Low*
C.7 Are bids opened in public?	Yes.	Low*
C.8 Can late bids be accepted?	No.	Low*
C.9 Can bids (except late bids) be rejected at bid opening?	No.	Low*
C.10 Are minutes of the bid opening taken?	Yes.	Low*
C.11 Are bidders provided a copy of the minutes?	Yes.	Low*
C.12 Are the minutes provided free of charge?		Low*
C.13 Who undertakes the evaluation of bids (individual(s), permanent committee, ad-hoc committee)?	Technical/Subcommittee will evaluate and submit the evaluation report. For current project this support will be provided by Package 2 consultants hired under project design advance i.e PMCCB.	Moderate
C.14 What are the qualifications of the evaluators with respect to procurement and the goods and/or works under evaluation?	Procurement specialists from TransPeshawar and consulting firms having appropriate professional qualifications will evaluate.	Low*
C.15 Is the decision of the evaluators final or is the evaluation subject to additional approvals?	Decision of respective procurement committee will be final.	Low*
C.16 Using the three 'worst-case' examples in the last year, how long from the issuance of the invitation for bids can the contract be awarded?	Not Applicable.	Substantial (as no previous case study is available thus enhance the uncertainty of efficient procurement cycle)
C.17 Are there processes in place for the collection and clearance of cargo through ports of entry?	No.	High
C.18 Are there established goods receiving procedures?	Not currently established however will be established.	High
C.19 Are all goods that are received recorded as assets or inventory in a register?	Will be recorded. It is standard operating procedure in government	High

QUESTION	RESPONSE	RISK <sup>11</sup>
	agencies that inventory register in maintained.	
C.20 Is the agency/procurement department familiar with letters of credit?	No.	High
C.21 Does the procurement department register and track warranty and latent defects liability periods?	Not Applicable.	Low
<b>Consulting Services</b>		<b>High</b>
C.22 Has the agency undertaken foreign-assisted procurement of consulting services recently (last 12 months, or last 36 months)? (If yes, please indicate the names of the development partner/s and the Project/s.)	No.	High*
C.23 If the above answer is yes, what were the major challenges?	NA	High*
C.24 Are assignments and invitations for expressions of interest (EOIs) advertised?	Yes as per KPPRA Rules 2014, it is mandatory to advertise.	Low*
C.25 Is a consultants' selection committee formed with appropriate individuals, and what is its composition (if any)?	Each procuring agency has to form its own Consultant Selection Committee (CSC) under KPPRA. No specific CSC exist currently however procurement committee also has the mandate of consultant selection who with the support of technical committee will selects the consultants. Moreover, respective procurement committee for selection of consultants will be formed.	Low
C.26 What criteria is used to evaluate EOIs?	Transpeshawar has not carried out any consultant recruitment however EOI criterion is developed on case to case basis and generally include Technical, Management and Geographic Competence.	Substantial
C.27 Historically, what is the most common method used (QCBS, QBS, etc.) to select consultants?	Not Applicable as the agency has not recruited consultants so far. <b>Response to questions C-28 to D-5 are based on the contemporary practice in government agencies/departments in accordance with KP PPRA rules as these procedures are yet to be followed in Trans Peshwar.</b>	Substantial*
C.28 Do firms have to pay for the RFP document?	Only publication cost is recovered for payment on account of RFP.	Low*
C.29 Does the proposal evaluation criteria follow a pre-determined structure and is it detailed in the RFP?	Yes.	Low*

QUESTION	RESPONSE	RISK <sup>11</sup>
C.30 Are pre-proposal visits and meetings arranged?	No requirement in KP PPRA but generally this practice is observed and will be followed in Trans Peshawar.	Low
C.31 Are minutes prepared and circulated after pre-proposal meetings?	Yes.	Low*
C.32 To whom are the minutes distributed?	Prospective consultants.	Low*
C.33 Are all queries from consultants answered/addressed in writing?	Yes.	Low*
C.34 Are the technical and financial proposals required to be in separate envelopes and remain sealed until the technical evaluation is completed?	Yes.	Low*
C.35 Are proposal securities required?	No.	Low*
C.36 Are technical proposals opened in public?	Yes.	Low*
C.37 Are minutes of the technical opening distributed?	Yes.	Low*
C.38. Do the financial proposals remain sealed until technical evaluation is completed?	Yes.	Low
C.39 Who determines the final technical ranking and how?	CSC/Technical evaluation committee in accordance with the criteria stipulated in RFP.	Low*
C.40 Are the technical scores sent to all firms?	Yes.	Low*
C.41 Are the financial proposal opened in public?	Yes.	Low*
C.42 Are minutes of the financial opening distributed?	Yes.	Low*
C.43 How is the financial evaluation completed?	In accordance with criteria in RFP.	Low*
C.44 Are face to face contract negotiations held?	Yes.	Low*
C.45 How long after financial evaluation is negotiation held with the selected firm?	One week.	Low
C.46 What is the usual basis for negotiation?	Technical and Financial proposal consistency, OPEs except rate negotiation.	Low
C.47 Are minutes of negotiation taken and signed?	Yes	Low*
C.48 How long after negotiation is the contract signed, on average?	Two weeks.	Low
C.49 Is there an evaluation system for measuring the outputs of consultants?	Consultant performance is evaluated on the basis of TORs.	Low
<b>Payments</b>		

QUESTION	RESPONSE	RISK <sup>11</sup>
C.50 Are advance payments made?	Yes against guarantees.	Low
C.51 What is the standard period for payment included in contracts?	30 days.	Low
C.52 On average, how long is it between receiving a firm's invoice and making payment?	Two months at most.	Moderate
C.53 When late payment is made, are the beneficiaries paid interest?	No.	Moderate
<b>D. EFFECTIVENESS</b>		<b>Low</b>
D.1 Is contractual performance systematically monitored and reported?	Yes.	Low
D.2 Does the agency monitor and track its contractual payment obligations?	Yes.	Low
D.3 Is a complaints resolution mechanism described in national procurement documents?	Yes.	Low
D.4 Is there a formal non-judicial mechanism for dealing with complaints?	Yes.	Low
D.5 Are procurement decisions and disputes supported by written narratives such as minutes of evaluation, minutes of negotiation, notices of default/withheld payment?	Yes.	Low*
<b>E. ACCOUNTABILITY MEASURES</b>		<b>Moderate</b>
E.1 Is there a standard statement of ethics and are those involved in procurement required to formally commit to it?	Yes under Rule 5 of KPPRA, integrity pact is to be sought for each contract valuing PKR 10 Million or above.	Low*
E.2 Are those involved with procurement required to declare any potential conflict of interest and remove themselves from the procurement process?	Register of COI is to be maintained as per KPUMA Act.	Low*
E.3 Is the commencement of procurement dependent on external approvals (formal or de-facto) that are outside of the budgeting process?	No.	Low
E.4 Who approves procurement transactions, and do they have procurement experience and qualifications?	Procurement Committee will approve the transactions supported by Technical Committee in evaluation.	Moderate* (If procurement committee is comprised of members outside the agency then it will have

QUESTION	RESPONSE	RISK <sup>11</sup>
		tendency of disowning and delaying the procurement process)
E.5 Which of the following actions require approvals outside the procurement unit or the evaluation committee, as the case may be, and who grants the approval?		
a) Bidding document, invitation to pre-qualify or RFP	Respective Procurement Committee.	Low
b) Advertisement of an invitation for bids, pre-qualification or call for EOIs	Company Management.	Low
c) Evaluation reports	Respective Procurement Committee.	Low*
d) Notice of award	Respective Procurement Committee.	Low*
e) Invitation to consultants to negotiate	Respective Procurement Committee.	Low
f) Contracts	Respective Procurement Committee.	Low*
E.6 Is the same official responsible for: (i) authorizing procurement transactions, procurement invitations, documents, evaluations and contracts; (ii) authorizing payments; (iii) recording procurement transactions and events; and (iv) the custody of assets?	No.	Low*
E.7 Is there a written auditable trail of procurement decisions attributable to individuals and committees?	Yes.	Low*

## II. General Ratings

Criterion	Risk
<b>A. Organizational and Staff Capacity</b>	<b>High</b>
<b>B. Information Management</b>	<b>Moderate</b>
<b>C. Procurement Practices</b>	<b>High</b>
<b>D. Effectiveness</b>	<b>Low</b>
<b>E. Accountability Measures</b>	<b>Moderate</b>
<b>OVERALL RISK RATING</b>	<b>High</b>



**PROJECT PROCUREMENT RISK ANALYSIS**  
**Peshawar Development Authority (PDA)**

SL No.	RISK	IMPACT	LIKELIHOOD	STRATEGY
A6, A7, A9, A16, A17, A23, C1, C2, C14, C22, C23	Procurement Department and/or PIU have insufficient staff currently to efficiently undertake the procurements required to implement the project. Moreover, PDA has not carried out any international competitive bidding or procurement under ADB financed project.	High	PIU developed within PDA currently lack the staff and it is planned o post staff from PDA in PIU however it can delay the project procurement if staff is not available. PIU staff with no experience of ADB's procurement will inadvertently delay the procurement.	Engagement of a specialized consultant under Package 1: EPCM will bridge the capacity lag and build project management capacity including procurement capability during the project implementation is recommended.
A19 – A20	The documents used by the agency (i.e. standard bidding documents published by KP PPRA) are not reviewed by ADB for use on ADB funded projects.	High	KP-PPRA rules 2014 and documents contradictory to ADB's guidelines (i.e. restrictions on SOEs, ICBs and Consultants' RFP response time)  Restricting foreign contractors/firms to participate directly in bidding, insisting on local counter guarantees in case of international bidding involving foreign bidders.	Loan agreement to ensure that ADB's guidelines, procedures are used.  Loan agreement between ADB and GoP shall supersede the local regulations
B2 –B3	Record-keeping is inadequate to enable internal or external audit of procurement processes.	Low	Unlikely	
A25, C4 - C12, C24- C44, C47, D5, E7	Agency does not promote non-discriminatory participation, transparent tender processes (including advertisement, tender documentation, tender evaluation, complaints mechanism)?	Low	Unlikely	
C15, E1 – E.6	The Agency has inadequate ethics and anticorruption measures in place.	Moderate	The sector does have ethics and anticorruption measures in place but not in detail.	Loan agreement shall mandate the use of ADB's guidelines, procedures and documents.

**PROJECT PROCUREMENT RISK ANALYSIS**  
**TransPeshawar (The Urban Mobility Company)**

SL No.	RISK	IMPACT	LIKELIHOOD	STRATEGY
A6, A7, A9, A16, A17, A23, C1, C2, C14, C22, C23	TransPeshawar is only established and does not have institutional memory of carrying out procurement of works or recruitment of consultancy services on donor financed/foreign assisted development projects. The proposed organogram also indicate that the company will not have dedicated procurement unit rather only one dedicated procurement specialist under CFO/Manager Finance will be available fulltime for procurement. Moreover, GM Planning and construction will partly overview the procurement. The company therefore have no staff currently and insufficient staff proposed in the organization to efficiently undertake the procurements required to implement the project.	High	TransPeshawar currently lacks the concerned staff for procurement and it is planned to recruit a procurement specialist. Delay in recruitment of staff can inadvertently delay the procurement.	Engagement of specialized consultants under Package 2: PMCCB and Package 3: ODBM will address the capacity constraint and build project management capacity including procurement capability during the project implementation, however, the company will need to establish and strengthen the procurement unit for future endeavours.
A19 – A20	The available documents for use by the agency (i.e. standard bidding documents published by KP PPRA) are not reviewed by ADB for use on ADB funded projects.	High	Provisions in KP-PPRA rules 2014 and documents contradictory to ADB's guidelines (i.e. no restrictions on SOEs, Response time on ICBs and Consultants' RFP)  Restricting foreign firms to participate directly in bidding, insisting on local counter guarantees in case of international bidding involving foreign bidders.	Loan agreement to ensure that ADB's guidelines, procedures are used.  Loan agreement between ADB and GoP should state the ADB's guidelines will supersede the local regulations.
B2 –B3	Record-keeping is inadequate to enable internal or external audit of procurement processes.	Moderate	Recruitment of staff to be expedited to ensure efficient document control during the procurement.	
A25, C4 - C12, C24-	Agency does not promote non-discriminatory participation, transparent	Low	Unlikely	

C44, C47, D5, E7	tender processes (including advertisement, tender documentation, tender evaluation, complaints mechanism)?			
C15, E1 – E.6	The Agency has inadequate ethics and anticorruption measures in place.	Low	Register of COI is to be maintained as per KPUMA Act.	Loan agreement shall mandate the use of ADB's guidelines, procedures and documents to ensure compliance with ADB's ethics and anticorruption measures.