

## PROJECT PROCUREMENT RISK ASSESSMENT

### I. Introduction

1. The project procurement risk assessment (PPRA) was prepared in accordance with the ADB *Guide on Assessing Procurement Risks and Determining Project Procurement Classification* (August 2015). The World Bank *Tajikistan - Country Procurement Status Review* (May 2013) was referred as guidance for Tajikistan conducted by World Bank in collaboration of ADB and other IFIs.

2. The PPRA was undertaken during December 2016. Preparation activities included reviewing documents, ADB's ongoing procurement experience, and interviews with counterpart staff and discussions with stakeholders. The PPRA includes assessment of the proposed executing agency (EA) of the project, the State Agency for Hydrometeorology (Hydromet).

#### A. Expected Procurement

3. The main procurement foreseen under the project includes: (i) small works for the modernization of the new Hydromet campus; (ii) goods consisting of equipment and specialized software; and (iii) consulting services to assist the project.

#### B. General Procurement Environment Assessment

4. Tajikistan's public procurement regulatory framework is generally recognized as compliant as to International Good practice as defined by the 2011 UNCITRAL Model Law on Public procurement. Public Procurement in Tajikistan is regulated by the Public Procurement Law (PPL) enacted in 2006, with a series of amendments thereafter (latest amendment in 2012). However in its application there are a number of shortcomings which include: (i) complex and unclear legal framework; (ii) unclear and sometimes conflicting roles of the regulatory body; (iii) insufficient institutional and legislative safeguards for the integrity of review procedures; (iv) lack of sufficient detail in procedural rules, and absence of standard bidding documents, guidelines on procurement procedures and clear definition of qualification requirements and evaluation criteria; and (v) besides conflict of interest, no clear statement relating to corruption, fraud, or coercive and collusive practice is included in the PPL.

5. Overall procurement capacity in the country remains very low, with governance and integrity risks identified as "High". The fiduciary risks for ADB require close oversight of procurement transactions and contract execution.

6. In this context, it is suggested that all procurement strictly follow ADB guidelines and use ADB standard bidding documents for small works and goods and consultant selection documents. The following provisions will be needed to ensure compliance with ADB procurement procedures.

- (i) All bidding will require prior ADB review;
- (ii) Bidding shall not be restricted. All registered firms meeting required qualifications shall be allowed to participate;
- (iii) To increase participation in NCB, procurement documents including drawings, specifications and forms will be translated into the national language by the project implementation consultant hired for survey and design;
- (iv) Advertisement of bids shall be posted on the National Procurement Notice Board and placed in national newspapers of wide circulation, In addition,

Procurement shall be posted on the ADB website. For NCB, additional advertisement will be posted in national (and regional for works biddings) newspapers in the national language;

- (v) Specifications for works and goods will consist of items general descriptions of quality and performance. The use of brands and models will be avoided. To the extent possible International standards will be specified, especially for the procurement of equipment;
- (vi) Bidding time allowed for NCB will not be less than 28 days and for ICB not less than 42 days;
- (vii) Where required, bid security will be in the form of a bank guarantee from a reputable bank or bid securing declaration as per bidding documents;
- (viii) Bids shall be opened in public, immediately after the deadline for submission of bids,
- (ix) The date and time for the public opening will be provided in the bid announcement and in the bidding documents;
- (x) The contract shall be awarded to the bidder which offered substantially responsive and lowest evaluated bid (technically responsive bid that offers the lowest evaluated price);
- (xi) Bids shall not be rejected and new bids solicited without ADB's no objection;
- (xii) All goods and services will be procured from eligible ADB countries;
- (xiii) Contract award notices will be published on the National Procurement Board and national newspapers for all contracts awarded; and
- (xiv) For complaints submission, contracts will include provision of contact information for ADB's appointed officer at the Resident Mission.

## **II. Project Procurement Risk Assessment**

### **A. Overview**

7. It is proposed to classify the project as 'Category B':
  - (i) The project will be managed by a project implementation group (PIG) comprising qualified management staff including a procurement specialist;
  - (ii) The project will procure the services of a consultant firm to support implementation of the project and build Hydromet/PIG capacity including procurement; and
  - (iii) Hydromet has experience implementing a World Bank project.

### **B. Organization and Staff Capacity**

8. Overall risk rating for the organizational and staff capacity of Hydromet is "High".
9. Hydromet's capacity to procure is weak, in line with the conclusion made under the general procurement environment assessment. Hydromet doesn't have certified procurement unit, but procurement functions are under the Economics Department (ED) of Hydromet. However, the procurement staff don't have adequate technical skills to undertake procurement in line with ADB requirements. No international procurement has been undertaken in the past by ED. None of staff of ED is fluent in English.
10. The head of ED with its 3 staff handles the procurement valued at less than TJS10,000 (equivalent to US\$1,200) and mostly through direct contracting. For larger procurement (>TJS10,000) the Public Procurement Agency (PPA), despite its regulatory body status, conducts for all government agencies in a centralized manner. Hydromet has no accreditation to conduct its procurement funded under the state budget except for small

value procurement. Under the World Bank (WB) funded project within Hydromet,<sup>1</sup> a project management unit (PMU) helps the Hydromet in project procurement. However, PMU has experience in goods and consulting services procurements only. The WB PMU is currently functioning without procurement officer as is in the completion stage.

11. Hydromet deals only with direct contracting so there is no tender committee, but under the PPA there is a Procurement Committee that assigns Committee chairman and other members (minimum 2) from Hydromet. As for the PMU of WB financed project it has the chairman from Hydromet (one of the Deputy Directors) which is not independent from the head of agency.

12. Under the proposed additional financing project, Hydromet with a new PIG will be responsible for conducting procurement needed under the project, it will need assistance of experienced procurement consultants in preparation of bidding documents, bid evaluation reports (BERs), contract management. Procurement consultants (International and National) will be required to be fluent in English and also in Russian and Tajik languages.

### **C. Information Management**

13. Overall risk rating for the information management is assessed as “Substantial”. As required by national legislation, Hydromet is maintaining record of its respective procurement proceedings along with all associated documentation for a minimum period of 3 years. Hydromet has maintained referencing system, which provides identification of each procurement activity.

14. However, there are some shortcomings: Filing within Hydromet is split between two departments: Economic and Financial. Economic department retains only Contract copies. Finance Department retains: evaluation reports received from PPA, copies of contracts, invoices and payment orders. The documents are distributed to several files: contracts with BER, invoices, and payment orders.

15. The PPA and the WB PMU keep all procurement documentation in one single file. Bids and related files for procurement done by PPA aren't transferred to Hydromet, they are kept within PPA.

16. However, it is recommended that for the proposed project, Hydromet designates staff resources for document control and record keeping. It is also recommended that Hydromet should regularly post and update information pertaining to tenders, evaluation and contract awards on its web site for public access.

### **D. Procurement Practices**

17. Overall risk rating for procurement practices is assessed as “Significant”.

18. Hydromet recently has undertaken procurement of goods and selection of consultants related to foreign assistance through the WB PMU. However, it didn't undertake works procurement, which will be most considerable part of this project. Systematic process to identify procurement requirements is in place. Hydromet follows procurement planning process. Invitations to bid/selection are advertised in respective media by PPA or WB PMU. Time limits for submission of bids are provided in the advertisements. Bids/proposals evaluated by the respective committees and contracts awarded to lowest evaluated

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<sup>1</sup> World Bank, 2011. *Central Asia Hydromet Modernization Project*. Project Appraisal Document. Washington D.C.

responsive bidders after seeking MEF approval for the decision. Bids submitted after the prescribed time can be accepted in case of PPA, but rejected in case of WB PMU and returned without being opened.

#### **E. Effectiveness**

19. Overall risk rating for effectiveness is assessed as “Moderate”.
20. Hydromet through dedicated project staff systematically monitors the performance of the contractors and the consultants/firms hired for project development and implementation. The agency diligently tracks its contractual payment obligations; however, there is still need of improvement in follow up mechanism.
21. Hydromet is implementing a complaint management system, that address grievances related to procurements and contract administration. The contracts signed by the agency entail a dispute resolution mechanism clause to settle the disputes among the contracting parties through Economic Court of Tajikistan. However, not identified and listed in the procurement documents what corrupt practice means.

#### **F. Accountability Measures**

22. Overall risk rating for accountability measures is assessed as “Moderate”.
23. Detail provisions on conflict of interest leading to ineligibility are clearly mentioned in regulations, which are fully complied with during the entire procurement process. However procurement involved persons aren’t required to formally commit to it, there is no requirement for any certification.
24. Hydromet’s accountability mechanism in place is simple and can be triggered through application to head of the agency. Once a complaint is received, an 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.

#### **G. Strengths**

25. Hydromet outsources larger procurement to PPA as it doesn’t have enough procurement capacity. PPA keeps records of the procurements and transfers to Hydromet signed BERs and contracts.
26. 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.
27. Complaint management mechanism is in place, which addresses grievances related to Procurements and Contract administration.
28. Hydromet is maintaining record of their respective procurement proceedings along with acquired documentation for a minimum period of 5 years.

#### **H. Weaknesses**

29. **Organizational and staff capacity.**  
 (i) Staff capacity isn’t enough to conduct procurement under ADB funded

- projects;
- (ii) Staff has no experience in conducting of civil works procurement;
  - (iii) Staff isn't familiar with procurement valued more than USD12,000 as civil works and goods are outsourced to PPA which has more experience, but largest contract for Civil Works is around USD 100,000;
  - (iv) Not enough staff to conduct additional procurement; and
  - (v) There is no PMU staff ready to conduct ADB procurement.
30. **Information management.**
- (i) Filing is split between 2 departments inside Hydromet, and PPA as well keeps only the files of procurement conducted by PPA, only copies of BERs and contract originals are sent to Hydromet for filing;
  - (ii) Not adequate resources for filing in Economic department; and
  - (iii) There is no single contract file
31. **Procurement Practices.**
- (i) No experience in procurement of works and even PPA doesn't have experience for larger works, at least with value of more than USD100,000; and
  - (ii) Period of preparation of bids let to bidders by Hydromet is 3 days (caused by small amounts) and in PPA 1 week which is not adequate.
32. **Effectiveness.**
- (i) Not identified and listed corrupt practice meaning in PPL; and
  - (ii) Follow up mechanism needs improvement.
33. **Accountability measures.**
- (i) Declaration of potential conflict of interest is within legislation (Law directs conflict of interest issues in clause #8) but no formal mechanism was found (not mentions about Conflict of Interest declaration) and not enforced ethics and anticorruption measures; and
  - (ii) No ethics standards are identified, neither of declaration of ethics standards.

#### **D. Procurement Risk Assessment and Management Plan (P-RAMP)**

34. See Annex I below.

### **III. Capacity Building Strategy and Planning**

#### **A. Strategy**

35. The proposed capacity building strategy may be implemented through the following phases:

<b>Phases:</b>	<b>Prior to the loan project implementation</b>	<b>During loan project implementation</b>
For Hydromet/PIG:	Start up training for Hydromet/PIG	Annual repeating/ advance trainings for PIG
For Business community:	Using mass media tools promoting project activities implementation to the community	
	Workshops to promote project to the business community	

## B. Planning

36. **Actions for Hydromet.** The Procurement Capacity Assessment shows that Hydromet has no knowledge and experience in ADB's procedures on procurement. There may be difficulties for staff to understand and use of content of procurement guidelines or standard bidding documents, which in the end may cause risky influence procurement/selection processes and/ or contract implementation. Hydromet has almost no knowledge and practice on ADB selection of consultants, consultant selection guidelines and standard selection procedures described in standard request for proposals.

37. The capacity building plan is proposed to solve these above shortages in Hydromet's procurement capacity:

- (i) Clearly describe/ perform each of procurement/ selection methods;
- (ii) Define activities to be performed at each steps;
- (iii) Identify the deliverables/ outputs required;
- (iv) Understand the nature of each requirements;
- (v) Mobilize the necessary resources, so that the following targets are aimed and achieved:
  - Correctly implementing of procurement/ selection process at high standard;
  - Reach the efficiency in timing, costing, and resources mobilized; and
  - Best practices on procurement/ selection, contract management, filing and file keeping are on hand and be ready to use.

38. The Procurement Capacity Building campaign framework for Hydromet staff is proposed as below:

- (i) Face to face meetings with staff directly involved in procurement;
- (ii) Obtain previously technical specifications from engineers and specialists;
- (iii) 2-3 day meeting about ADB guidelines Procurement and Consultants selection;
- (iv) Training about salient features of BD - sections 2, 8, etc; and
- (v) Preparation in groups documents which may become master documents.

39. **Actions for Bid Evaluation Committees (BECs) and Contract implementation body (PMU).**

- (i) Training of BEC and technical committee;
- (ii) Training of control bodies;
- (iii) Training for engineers/supervisors; and
- (iv) Training in management – managers, supervisors

40. **Training for local Business community.**

- (i) Consult with other Project Management Units of Tajikistan ADB projects with similar activities to identify current bidders/ contractors having its operation in the country;
- (ii) Together with announcement on the local mass-media tools (TV, Radio, Newspaper...), it is recommended to send invitation directly to the above bidders/ contractors for the workshop;
- (iii) At the workshop, using questionnaire to collect data from these potential contractors, this will help to identify their qualification' range;
- (iv) Workshop contents, especially on the ADB regulations, the main difference between ADB procurement and Government procurement (the procedure, use of the standard templates), anti-corruption policy, best practices in participating in ADB procurement...etc will be presented; and
- (v) These trainings for local bidders can be conducted twice a year.

41. **Applicable templates are on ADB web-site.**
- (i) For National Competitive Bidding of Goods and Works:
    - i. [SBD Works \(Small Contracts\) Single-Stage: One-Envelope, December 2016](#)
    - ii. [Single-Stage: One-Envelope bidding document, December 2016](#)
  - (ii) For Shopping of Goods and Works:
    - i. Sample document Shopping for Goods, June 2013
    - ii. Sample document Shopping for Works, June 2013
  - (iii) For consulting services:
    - i. Expression of Interest for All Selection Methods (firm)
    - ii. Expression of Interest for Individual Consultants
    - iii. Request for Proposal, August 2013.

#### IV. CONCLUSION

42. Overall project procurement risk is 'Substantial'. Key sources of risk identified include (i) lack of qualified procurement staff in Hydromet, (ii) lack of experience and unfamiliarity with competitive procurement processes consistent with ADB Procurement Guidelines, (iii) insufficiently centralized record keeping, and (iv) inadequate integrity and anticorruption measures in place. Recommended mitigation measures to address these risks including: (i) recruitment of experienced and qualified staff for the PIG, (ii) provision of procurement support and training under the PIC, (iii) providing training in ADB procedures related to procurement including use of ADB standard bidding documents, and (iv) use of prior review procedures. Based on the assessment above, it is concluded that the procurement arrangement with appropriate mitigation measures is satisfactory.

### Annex I – Procurement Risk Assessment and Risk Management Plan

Risk Description	Risk Assessment	Mitigation Measures or Risk Management Plan
Hydromet has insufficient qualified staff to efficiently undertake the procurements required to implement the project.	Substantial	The efforts of Hydromet in preparing of procurement plan and packaging will be supported by ADB project preparation team. ADB should provide formal training (including on-the-job training) in ADB procurement and consulting services procedures and practices Support from international and national consultants and on-the-job training in procurement will be provided to the executing and implementing agencies during project implementation.
Hydromet is unfamiliar with undertaking competitive procurement processes consistent with ADB Procurement Guidelines	Substantial	ADB should apply prior-review process for all procurement activities (except for shopping) undertaken under the project. Sufficient time for bid validity will be provided to allow time for review. The capacity building and institutional strengthening component of the project will further reduce this risk.
Nonexistence of standard bidding documents and detailed guidelines No experience in preparation of ADB bidding documents	Substantial	ADB standard bidding documents will be used in all procurement approved under the project.
Limited competition in bidding by:  Limiting time for bidding, Language barrier for participating in biddings Lack of transparency in the bidding process	Low	Competitive bidding under ADB prior review procedures should be applied for all procurement process.
Advertisement and bid preparation period is shorter than ADB standard	Low	Monitor application of ADB specific timelines in advertisement of ADB-funded procurement packages
Record keeping is not centralized, in various binders which make difficult audit. No single controlled file and all subsequent contractual correspondence.	Substantial	Centralization of record keeping will make easier management and administration of contracts. Easier for audit of the project.
Unclear and complex regulations in the PPL	Moderate	ADB procedures will be followed and templates will be used in all procurement under the project
No experience in preparation of ADB bidding documents	Substantial	The capacity building and institutional strengthening component of the project



		will further reduce this risk.
Late bids accepted	Substantial	ADB close monitoring will be provided
Not public opening	Moderate	ADB close monitoring will be provided
RFP sold to consultants	Low	ADB close monitoring will be provided
Hydromet has inadequate ethics and anticorruption measures in place. Standard statement of ethics not exist and not formally committed by involved people.	Substantial	ADB standards regarding ethics and anticorruption measures will be introduced.
Absence of contract administration and dispute resolution systems	Substantial	ADB will monitor the progress of dispute resolution cases and support strengthening of contract implementation monitoring by civil society organizations.
General absence of an effective control and audit system at the local level	Substantial	International audit will be conducted and supported by ADB.
<b>Overall</b>	Substantial	