

Procurement Risk Assessment

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Canal Extension Project

**PEHUR HIGH LEVEL CANAL EXTENSION PROJECT
(PHLCEP)
Project Procurement Risk Assessment (PRA)**

EXECUTIVE SUMMARYES-1

1.	AGENCY WISE PROCUREMENT RISK ASSESSMENT.....	1
1.1	Assessment of KP Irrigation Department/ Small Dams Organization.....	1
1.2	Assessment of Public Health Engineering Department (PHED)	6
1.3	Assessment of “On Farm Water Management” Directorate	6
1.4	Conclusions	8
2.	PROJECT PROCUREMENT RISK ASSESSMENT	10
2.1	Khyber Pakhtunkhwa Irrigation Department (KPID).....	10
	Procurement Classification: “Category B” projects.....	15

APPENDICES:

1. Appendix 1: Agency Procurement Assessment Tool-Summary Sheet for KPID/SDO and OFWMD
2. Appendix 2: Agency Procurement Assessment Questionnaire for KPID/SDO and OFWMD
3. Appendix 3- Project Procurement Risk Assessment Questionnaire
4. Appendix 4- Project Procurement Risk Analysis

List of Tables

Table 1: Overall Procurement Risk Rating of KP Irrigation Department/ Small Dams Organization	5
Table 2: Procurement Risk Assessment and Management Plan (P-RAMP) for Agencies Procurement Assessment	5
Table 3: Overall Procurement Risk Rating of OFMD Directorate	8
Table 4: Procurement Risk Assessment and Management Plan (P-RAMP) for Agencies Procurement Assessment	8
Table 5: General Ratings	13
Table 6: Procurement Risk Assessment and Management Plan (P-RAMP) for Project Procurement Assessment.....	13
Table 7: Procurement Classification: “Category B” projects.....	15

Abbreviations and Acronyms

ADB	Asian Development Bank
ADP	Annual Development Program
JV	Joint venture
KPID	KP Irrigation Department
KP PPRA	KP Public Procurement Regulatory Authority
NAB	National Accountability Bureau
OFWM	On farm water management
P&A	Prevention and Awareness
PEC	Pakistan Engineering Council
PMC	Project Monitoring Cell of KPID
PSDP	Public Sector Development Plan
QCBS	Quality and cost based selection
RFP	Request for Proposal
SBD	Standard bidding document
SDO	Small Dams Organization
USAID	United States Agency for International Development

A. EXECUTIVE SUMMARY

1. General environment for procurement in Pakistan/agency 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 Pukhtoonkhwa 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 KP 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 regulations. 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.

B. INTRODUCTION

3. This report encompasses Procurement Risk Assessment (PRA)-Part 1 and Project Procurement Risk Assessment (PPRA)-Part 2¹.

4. The Procurement Risk Assessment (PRA) has been prepared in accordance with the approach to assessing “Country and Sector/Agency Procurement Risk Assessment” (CSA) to (i) identify risks that national or sector systems and/or practices could result in sub-optimal use of national and/or ADB resources, either through leakage or inefficiency; and (ii) assess the severity of the risk; and (iii) develop a practical 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’s public procurement system with a view 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 work in practice; and (ii) prepare an action plan for further improvements in the system. The PRA includes assessment of the agencies involved including KPID and OFWM Directorate.

5. The project procurement risk assessment (PPRA) has also been prepared in accordance with the Guidelines for Assessing Country, Sector and Project Procurement Risks (August 2014).

6. Both PRA and PPRA were undertaken through October 2014-March 2015. Preparation activities included reviewing documents, ADB’s ongoing procurement experience, and interviews with counterpart staff and discussions with stakeholders. The PPRA includes assessment of KPID, which is the proposed EA and IA of the Project.

¹ The PRA & PPRA Reports along with the related Appendices have been developed using ADB “Guide on Assessing Procurement Risks and Determining Project Procurement Classification” –April 2014.

1. AGENCY WISE PROCUREMENT RISK ASSESSMENT

1.1 Assessment of KP Irrigation Department/ Small Dams Organization

1.1.1.1 Overview

1. The KPID is headed by the Secretary, who is assisted at the secretariat level by Additional Secretary, Deputy Secretary (Tech) and Planning & Monitoring Cell (PMC). In all technical matters the Secretary is assisted by the PMC, who prepares the draft proposals for the Annual Development Program (ADP) and Public Sector Development Plan (PSDP). The PMC prepares plans, liaises with Federal Government and international financing agencies regarding new schemes, and also monitors progress of implementation of the existing portfolios. The KPID/SDO follow Khyber Pakhtunkhwa Public Procurement of Goods, Works and Services Rules, 2014.

2. Execution of the water sector schemes and their operation are carried out by attached departments. Small Dam Organization (SDO) is one of them, which is headed by a Director General.

1.1.1.2 Legislative and Regulatory Framework

3. Government of KP (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 KP 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 KPID/SDO, KP 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 nationwide advertisement of public procurement notices but also reviews in advance the procurement notices advertised by different procuring agencies. KP-PPRA often withholds publication of those notices, which appear to be in violation of KP PPRA rules; and advises the procuring agency to rectify those shortcomings. In addition to that by virtue of collection and disclosure of record of procurements, the KP-PPRA website also serves as a database of

procurement that includes basic information of all the procurements and therefore furnishes data for all the watchdogs on public procurement.

8. While KP-PPRA exercises its mandate of procurement regulations and operations, other organizations such as NAB (National Accountability Bureau under its initiative of P&A (Prevention and Awareness) 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. 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. KPID 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. KPID relevant procurement staff is competent and well versed with local procedures; however they have limited knowledge of ADB's procurement guidelines. Procurement related trainings are conducted by PPRA at the federal level and KPID staff were often send for announced training; however, such training programs were insufficient to enhance the capacity of the concerned staff undertaking procurement in public sector.

1.1.1.4 Procurement Operations and Market Practices

11. The projects undertaken by KPID/Small Dams Organization are identified within the Department/Organization and are approved by the competent forum; and accordingly budget is sanctioned at the start of the fiscal year for the Department/Organization. Budget availability is confirmed prior to solicitation of tenders. Regulations require procurement plan to be prepared and formulated in the beginning of the fiscal year. KPID and SDO follow the procurement planning process; however, they are 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 authority website and also in national media. Time limits for submission of bids are provided in the advertisements. KPID and SDO follow response time of **fifteen days** for national competitive bidding and **thirty days** for international competitive bidding from the date of publication of advertisement or notice. 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 relate 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 however detailed bidding documents on goods, works and 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. KPID/SDO identifies processes, manages, evaluates, and monitors procurement of consultant/consulting services that have been identified. The selection system is determined by KPID/SDO prior to issuance of the RFPs from prospective consultants. KPID/SDO may use Quality based selection, Quality and cost based selection, least cost selection, single source or direct selection; and fixed budget selection methods for selection of consultants/firms.

16. KPID/SDO will both maintain a record of their respective procurement proceedings along with all associated documentation for a minimum period of five years as per regulations.

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 Act and regulations or guidelines to be framed under it. Bid documents/RFPs/Contracts clearly state the mechanism to receive and handle observations and complaints. KPID/SDO is developing a complaint management mechanism, which will address grievances related to Procurements and Contract administration. The contracts signed by the user units entail a two tier dispute resolution mechanism clause to settle the disputes among the contracting parties.

18. 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 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. In that regard, numerous statements were made to the effect that there simply are very few complaints given the practice and business environment in the country.

19. Comprehensive information on procurement is easily and freely accessible from KP-PPRA website, as well as in media of wide circulation. KP Rule “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 on authority’s website.

20. Bidding documents prepared by KPID/SDO 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 indulging 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, provided that any contractor or consultant who is to be blacklisted shall be accorded adequate opportunity of being heard in person.

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

- Government of KP 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 KP Public Procurement Regulatory Authority (KP PPRA) under KP-PPRA Act 2012.
- NAB (National Accountability Bureau) under its initiative of P&A (Prevention and Awareness) also reviews major public procurements carried out by different agencies to prevent any mis-procurement.
- 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.
- All bids submitted after the time prescribed are rejected and returned without being opened
- KPID/SDO are developing a complaint management mechanism, which will address grievances related to Procurements and Contract administration. The contracts signed by the user units entail a two tier dispute resolution mechanism clause to settle the disputes among the contracting parties.
- KPID/SDO 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
- 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.
- Current staff deployed in the procurement section is well versed with the PP Rules, 2014.

1.1.1.7 Weaknesses

- KPID/SDO have not carried out any ICB contract(s) in the last 36 months in general and under ADB financing in particular.
- Process to identify procurement requirements needs improvement.
- Procurement planning including packaging, technical specifications, and contracting strategy lacks scheduling and forecasting
- KP PPR 2014, are fairly new and not fully coordinated in the KP province. PPR 2004/2010 and PEC regulations are still referred to for project procurement interventions.
- SBD for procurement of works/goods for pre/ post qualification available on the PEC/PPRA web site are commonly used.
- Considering the scope of the proposed project, there is shortage of staff in the procurement section of agency.

- There is no specialized procurement training program for the procurement section staff, which may enhance the effectiveness and efficiency in delivery of outputs.
- 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.
- Guidelines are available to check the adequacy and accuracy of cost estimates and proposed variation. However, KPID mostly lack in resources and capacity and hire services of expert consultants/firms to assist them in carrying out such interventions.
- The KPID/SDO grievance and accountability mechanism is in place, however it can be made more transparent and unbiased by appointing a member of the committee as a third party outside of the line department.

1.1.1.8 Overall procurement risk rating of KP Irrigation Department/ Small Dams Organization

Table 1: Overall Procurement Risk Rating of KP Irrigation Department/ Small Dams Organization

Indicators/Questions	KPID/SDO	
	Score ²	Rating ³
1. Legislative and Regulatory Framework	Average=2.5	Moderate
2. Institutional Framework/Management Capacity	Average=2.3	Moderate
3. Procurement Operations/ Market Practices	Average= 2.6	Moderate
4. Integrity and Transparency of the Public Procurement System	Average=2.65	Moderate
OVERALL SCORES	Average=2.5	Moderate

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

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

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	Substantial	KP-PPRA/Provincial Regulatory Authorities need to devise a 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 interventions.

² Scores have been given to each question in the corresponding Appendix 2-ranging from 1-3. **Score 1=High, Score 1.1-2=Substantial, Score 2.1-2.75=Moderate, Score 2.75-3=Low.**

³ 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

Risk Description	Risk Assessment	Mitigation Measures or Risk Management Plan
concerned staff undertaking procurement in public sector.		The staff may be given training in ADB's Procurement Guidelines at the start of the Project by a procurement expert (consultant) in collaboration with ADB Pakistan Resident Mission procurement team.
Lack of experience of agency in ICB contracts.	High	Capacity building and enhancement through hiring of individual consultants to assist the Agency in timely, efficient and transparent procurement.
Overall	Moderate⁴	

1.2 Assessment of “On Farm Water Management” Directorate

1.2.1.1 Overview

22. OFWM pilot project was initiated during 1976-77 with the assistance of USAID. The project started renovation of watercourses, land levelling and development of farmers' fields. Implementation of the USAID program created a desire among the farming community for improvement of the watercourses and land levelling after realizing its benefits. The success of this program encouraged other financing agencies to come forward and fund similar projects. OFWM has now been extended to different parts of the province including non-irrigated areas. In order to translate saved water into increased production, an important component of OFWM, Irrigation Agronomy, and the Field Staff extends new ideas to the farmers regarding Agronomy and Irrigation practices through establishing farm demonstration centres under the command area of renovated water courses.

1.2.1.2 Legislative and Regulatory Framework

23. In general, the OFWM follows the provincial legal framework and procurement Rules (as described in section 1(a) above) that supports non-discriminatory participation and transparent procurement processes. The procurement processes is mandatory through open competition, properly advertised with sufficient response time, in addition proper complaint mechanism is in-place.

1.2.1.3 Institutional Framework and Management Capacity

24. OFWM Directorate is governed by the institutional framework of KP-Public Procurement Regulatory Authority (KP-PPRA) described in section 1(b) above. OFWM Directorate 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 unit during the preceding years. OFWM Directorates' relevant procurement staff is competent and well versed with local practices; however they have limited knowledge of ADB's procurement guidelines. Training of staff in ADB's procurement guidelines will be needed at the start of the Loan Project.

1.2.1.4 Procurement Operations and Market Practices

25. OFWM Directorates' projects are identified within the Department of Agriculture and approved by the competent forum and accordingly budget is sanctioned at the start of the fiscal year for the Directorate. Budget availability is confirmed prior to solicitation of tenders. OFWM Directorate follows procurement planning process; however, it is not linked to multiyear operation plans and budget formulations.

26. All bids submitted after the time prescribed shall be rejected and returned without being opened.

OFWM Directorate maintains a record of their respective procurement proceedings along with all associated documentation for a minimum period of five years. Such maintenance of record is subject to the regulations framed in this regard from time to time.

1.2.1.5 Integrity and Transparency of Public Procurement System

27. OFWM Directorate is developing a complaint management mechanism, which will address grievances related to Procurements and Contract administration. The contracts signed by the user units will entail a two tier dispute resolution mechanism clause to settle the disputes among the contracting parties as per KP-PPRA rules. Bid documents/RFPs/Contracts will clearly state the mechanism to receive and handle observations and complaints.

1.2.1.6 Strengths

- Khyber Pakhtunkhwa Public Procurement of Goods, Works and Services Rules, 2014 regulated through the KP Public Procurement Regulatory Authority (KP PPRA).
- NAB (National Accountability Bureau) also reviews major public procurements.
- 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.
- OFWM Directorate is developing a complaint management mechanism, which will address grievances related to Procurements and Contract administration. The contracts signed by the user units entail a two tier dispute resolution mechanism clause to settle the disputes among the contracting parties.
- OFWM Directorate is maintaining record of their 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.
- OFWM Directorate is implementing the \$33 million Gomal Zam Command Area Development financed by USAID.

1.2.1.7 Weaknesses

- Considering the scope of the proposed project, the existing procurement section of agency would require further strengthening in human resource through hiring of Procurement Specialist along with staff for assistance.
- There is no specialized procurement training program for the procurement section staff, which may enhance the effectiveness and efficiency in delivery of outputs.
- The OFWM accountability mechanism in place, however it be made more transparent and unbiased while appointing a member of the committee as a third party outside of the line department.

1.2.1.8 Overall procurement risk rating of OFMD Directorate

Table 3: Overall Procurement Risk Rating of OFMD Directorate

Indicators/Questions	OFWMD	
	Score ⁸	Rating ⁹
1. Legislative and Regulatory Framework	Average=2.5	Moderate
2. Institutional Framework/Management Capacity	Average=2	Substantial
3. Procurement Operations/ Market Practices	Average= 2	Substantia
4. Integrity and Transparency of the Public Procurement System	Average=2.65	Moderate
OVERALL SCORES	Average=2	Substantial

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

Table 4: Procurement Risk Assessment and Management Plan (P-RAMP) for Agencies Procurement Assessment

Risk Description	Risk Assessment	Mitigation Measures or Risk Management Plan
There is no mandatory accredited training program on public procurement in the province/country. Absence of such trainings is creating capacity issues of the concerned staff undertaking procurement in public sector.	Substantial	PPRA/PEC/KP-PPRA/Provincial Regulatory Authorities need to devise a 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 interventions. The staff may be given training in ADB's Procurement Guidelines at the start of the Project by a procurement expert (consultant) in collaboration with ADB Pakistan Resident Mission procurement team.
Lack of experience of agency in ICB projects	High	Capacity building and enhancement through hiring of individual consultants to assist the Sector/Agency in timely, efficient and transparent procurement.
Overall	Substantial¹⁰	

1.3 Conclusions

28. Procurement Risk Assessment of KPID and OFWMD are evaluated as “**Moderate**” risk.

29. 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

⁸ Scores have been given to each question in the corresponding Appendix 2-ranging from 1-3. **Score 1=High, Score 1.1-2=Substantial, Score 2.1-.2.75=Moderate, Score 2.75-3=Low.**

⁹ Overall rating describe the 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
¹⁰ 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

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.

30. It is noticed that implementing agencies lack experience in ICB contracts over the last three years and it will remain as a challenge to the proposed project and requires mitigation right from the start of the project. There is only one ICB contract to be procured under the project. Upfront support will be provided through engagement of one individual procurement consultant by ADB.

2. PROJECT PROCUREMENT RISK ASSESSMENT

2.1 Khyber Pakhtunkhwa Irrigation Department (KPID)

2.1.1.1 Introduction

31. The project procurement risk assessment (PRA) was prepared in accordance with the Guide on Assessing Procurement Risks and determining Project Procurement Classification (August 2014). The assessment was undertaken during March 2015. Preparation activities included reviewing documents, ADB's ongoing procurement experience, and interviews with counterpart staff and discussions with stakeholders. The PRA includes assessment of KPID, the proposed EA/ IA of the project.

2.1.1.2 Overview

32. The Project involves a broad range of procurement of contracts for each subproject covering consulting services, goods and works. For goods and works contracts, the main procurement method for works will be ICB and NCB; while shopping will be applied for low value items. For consulting services for loan implementation, QCBS (80:20) will be adopted.

2.1.1.3 Organization and Staff Capacity

33. Overall risk rating for the organizational and staff capacity of KPID is assessed as "High". KPID do not have separate procurement unit and office that may act as secretariat of the procurement committee neither has sufficient no. of staff to undertake additional procurement for the proposed project moreover lack dedicated program on procurement training. Project management unit for the proposed project has not been in place neither the existing staff KPID is sufficient to undertake additional procurement nor the exiting office resources (i.e., equipment) is sufficient. Though, KPID has dedicated staff for procurement interventions, which is supervised by the designated procurement committee in light of KP-PPR 2014. The respective procurement staff is found to have adequate technical skills to undertake procurement of consultancy services, and the procurement of goods and works however is not sufficient in number as mentioned above.

34. There are also established arrangements for handling the various stages of procurement from preparation of bid documents, tender invitation, bid evaluation, contract award, to construction supervision and contract performance monitoring. Checking and control of procurement processes are also in place.

2.1.1.4 Information Management

35. Overall risk rating for the information management is assessed as "Moderate". As required KPID is maintaining record of its respective procurement proceedings along with all associated documentation, for a minimum period of 5 (five) years. The agency has maintained referencing system, which provides unique identification of each procurement activity. It is however recommended that for the proposed project, the KPID will be requiring designated human resource 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 KPID 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

36. Overall risk rating for procurement practices is assessed as “High”. KPID 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. KPID follows procurement planning process; however packaging, technical specifications, and contracting strategy lacks scheduling and forecasting. 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. 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

37. Overall risk rating for “Effectiveness” is assessed as “Low”. Generally, KPID through dedicated supervisory staff 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 margin of improvement in follow up mechanism and timely release of payment. KPID is implementing a complaint management system, that address grievances related to Procurements and Contract administration. 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

38. Overall risk rating for “Accountability Measures” is assessed as “Moderate”. Detail provisions on conflict of interest leading to in-eligibility are clearly mentioned in rules and bidding documents, which are fully complied with during the entire procurement process. It is however noticed that same person is responsible for all the activities starting from procurement invitation to evaluation and contract award and subsequently authorizing the payment and managing assets. Such practice can lead to conflict of interest and lack of transparency and all activities should therefore be segregated to different personnel.

39. The agency’s’ accountability mechanism in place is simple and can be triggered through application to head of the agency. 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

- 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.
- Finance Department KP and KP-PPRA provide advice to KPID and carries the mandate to review the amendments to legal/regulatory frame work, monitors public procurement, and requires KPID to keep record of the procurements, develops/supports the implementation of initiatives for improvements to public procurement

- 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.
- All bids submitted after the time prescribed are rejected and returned without being opened
- Complaint management mechanism is in place, which addresses grievances related to Procurements and Contract administration.
- KPID is maintaining record of their respective procurement proceedings along with arequired documentation for a minimum period of 5 years.
- KP-PPRA Rules 2014 under rule 40 abstain from placing any provisions that may restrict the competition under the title "Discriminatory and Difficult Conditions".
- KP-PPRA Rules 2014 under rule 43 provide provision for disqualification on misrepresentation thereby enforces provision for transparency and correctness in the bidding process.
- KP-PPRA Rules 2014 under rule 49 instruct the government agencies to pay the Contractor within due time thereby ensure equitable contracting practices.
- 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 contract.
- KP-PPRA Rules under rule 53 requires all agencies to disclose information related to evaluation and award of each contract and thus promote transparency.
- KP-PPRA Rules 2014 under rule 54 allows for punitive action on misprocurement.

2.1.1.9 Weaknesses

- Lack of capacity of project staff to undertake projects following ADB guidelines.
- Procedural delays within KPID for procurement document preparation, bids/proposal evaluation and contract signing may adversely affect the planned procurement/project activities.
- There is no specialized procurement training program for the staff involved for undertaking procurement.
- KPID lacks resources and capacity and will require services of expert consultants/firm to assist them in planning and implementing the proposed project.
- The complaint resolution may be made more transparent and unbiased while appointing a member of the committee as a third party outside of the line department.
- KP-PPRA Rules 2014 is ambiguous on post bid negotiation under rule 42.

2.1.1.10 General Ratings

Table 5: General Ratings

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

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

Table 6: Procurement Risk Assessment and Management Plan (P-RAMP) for Project Procurement Assessment

Risk Description	Risk Assessment	Mitigation Measures or Risk Management Plan
No dedicated procurement unit and insufficient staff.	High	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	High	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	High	Capacity development; hiring of individual consultants to assist the Department in timely procurement
Same official responsible for authorizing procurement transactions, procurement invitations, documents, evaluations and contracts; (ii) authorizing payments; (iii) recording procurement transactions and events; and (iv) the custody of assets.	High	The processes of procurement, payment and custody of assets should be decentralized to avoid non transparency and conflict of interest leading to any complication.
Written auditable trail of procurement decisions attributable to individuals and committees	High	All the documents, evaluations and decisions should be properly documented and recorded through minutes to avoid any ambiguity and ensure ownership.

Risk Description	Risk Assessment	Mitigation Measures or Risk Management Plan
There is no training program in KP PID (EA for the project) neither mandatory 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.	Substantial	PPRA/KP-PPRA/ PEC/ 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 execution of procurement interventions. The staff may be given training in ADB's Procurement Guidelines at the start of the Project. The EA/IA staff will be imparted training in ADB's Procurement Guidelines by ADB's individual procurement consultant in collaboration with procurement team of ADB Pakistan Resident Mission.
No specific Regulations on the participation of state-owned enterprises in public procurement needs.	High	KP-PPRA 2014 shall state regulations on the participation of state-owned enterprises in public procurement which are currently missing. ADB's provisions regarding SOEs participation in bidding may specifically be highlighted in PAM is required.
Negotiation on post Bid Evaluation under KP-PPRA Rules 2014, Rule 42	Substantial	No post bid evaluation negotiation should be allowed in procurement of works unless specifically permitted by ADB and may be highlighted in PAM.
Overall	High¹¹	The overall risk rating will be from "moderate" to "low" once the mitigation measures are in place.

2.1.1.12 Conclusion

40. Overall risk rating for Project Procurement Risk Assessment is rated as "High." However, after the mitigation measures are in place the overall risk rating will be from moderate to low. KPID procurement staff has adequate technical skills to undertake procurement of consultancy services, and the procurement of goods and works under provincial procurement system, however, the staff lacks capacity in procurement of goods, works and services under ADB procurement guidelines. KPID 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. KPID follows procurement planning process, moreover, the agency diligently tracks its contractual payment obligations; however, there is still room for improvement in follow up mechanism and timely release of payment. Engagement of a team of international and domestic implementation consultants to build project management capacity including procurement capability during the project implementation is recommended.

¹¹ 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 7: 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. KPID and OFWM Directorate are expected to implement the Project with KPID as Lead. All three agencies have experience in ADB/Donor funded projects
Are multiple contract packages and/or complex and high value contracts expected (compare to recent donor projects in DMC)?	No. There are no multiple contract packages. There is only one straight ICB of \$40 million which would not be a problem as there will be strong hand-holding of individual consultant as well as ADB prior review. The remaining contracts are small NCBs where ADB SBDs for Small Works will be used as identified in the Procurement Plan.
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.
OVERALL PROJECT CATEGORIZATION RECOMMENDED	B