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I. Country Context

The social uprising that recently led to the sudden end of the almost three decade rule of President Blaise Compaore and the dominant CDP party marks a historic turning point for Burkina Faso. President Blaise Compaore held the presidency since 1987, leading the *Congres pour la Démocratie et le Progrès* (CDP) party through successive presidential and legislative electoral victories. Until recently, the country achieved relative political stability in contrast to the other countries in the region. However, from 2011, citizen dissatisfaction with the Government escalated. By 2014, the ruling elite's attempt to extend the constitutional limitation on presidential tenure to allow President Compaore to stand for another term in 2015 was met with massive resistance from the population. Unprecedented public protests across the country and the burning of the Parliament ultimately forced the President to step down. The Government was dissolved, the constitution suspended and a transitional government was installed, with the support of the Economic Community of West African States (ECOWAS), to assist the country in moving towards peaceful and democratic elections.

This profound political change took place in a national context of persistent poverty, weak human development outcomes and low citizen trust in Government. Burkina Faso has maintained higher than average growth rates relative to the sub-region since 2000, the average growth rate per year has been 5.5 percent and annual growth rates in 2012 and 2013 reached 9 percent and 7 percent respectively. This provided opportunities for increased public expenditures on health, education and water and sanitation, as well as for more targeted social service provision.¹ Burkina Faso has also received significant aid flows in the last decade, being a relatively good performer in terms of its Country Policy and Institutional Assessment (CPIA)

¹ The budget for pro-poor spending increased from 5.3 percent of GDP in 2006 to 7.6 percent in 2011 and is projected to reach 7.8 percent by 2015.

score.² Yet a high population growth rate of 3.2 percent, the non-inclusive pattern of growth and the sub-optimal performance of the public administration have limited the impact of economic growth and stability on poverty reduction, anti-corruption and service delivery. Burkina Faso continues to be ranked among the poorest countries in the world, with 46.7 percent of the population living below the poverty line in 2010, a modest improvement since 2003 when the poverty incidence was 51 percent. Burkina Faso also ranks third last in the United Nations Human Development Index³ and is unlikely to meet many of the Millennium Development Goals (MDG).⁴ The rise in unrest reflects, in part, a decline in public trust and growing disillusionment in the Government's capacity to deliver and to be held accountable to its citizens.

As the country begins anew, the critical challenge for the Burkinabe Government will be to restore public confidence by strengthening governance institutions as well as developing a modern and accountable administration that is capable of delivering quality services and tangible development outcomes. Despite the cautious optimism that prevails during the transitional period, political and social stability remain fragile. There remains a risk that potentially negative developments could unfold in the post-election period. Distrust towards the government and wide-ranging discontent with the social and economic conditions are lingering. Against this background, there is a need to strengthen public sector governance institutions as well as increase efforts to meet the development objectives outlined in the Strategy for Accelerated Growth and Sustainable Development (*Stratégie de Croissance Accélérée et de Développement Durable* - SCADD).

II. Sectoral (or multi-sectoral) and Institutional Context

Government effectiveness in Burkina Faso is comparatively weak. The country scores poorly on a range of selected public sector and governance indicators. In terms of the quality and professionalism of the public administration, Burkina Faso scores lower than other countries in the region (Ghana and Senegal) and lower than both the averages for Sub-Saharan African countries and low income countries according to the Global Integrity Indicators. The Doing Business and Enterprise Survey indicators also highlight public sector inefficiencies in the country, notably with respect to judicial performance. These inefficiencies are reflected in the low execution rates of public investment budgets in key sectors.⁵

Performance on public sector reform has been uneven. On the one hand, the country is regarded as being one of the top performers on public financial management reform in the West African Economic Monetary Union (WAEMU) region. In addition, the first and second generation of public sector reforms in Burkina Faso laid the legal and regulatory foundations and introduced modern systems for an effective and efficient administration. On the other hand, none of these reforms translated into improvements in the performance of the public administration in delivering services. A culture of evasion of responsibility and lack of accountability for results persists within the administration. A rise in the level and number of civil servant strikes in recent

² Burkina Faso's CPIA score since 2010 has been 3.78, making it one of the best performers in West Africa.

³ In 2013, Burkina Faso's score on the United Nations Human Development Index was 0.343, giving the country a low ranking of 183 out of 186 countries.

⁴ The under-five mortality and infant mortality rates per 1,000 live births in 2012 were 102 and 66 respectively, well above the MDG targets of 69 and 35. Illiteracy rates also remain high at 28.7 percent. The proportion of the population with access to improved sanitation facilities in 2012 was 17 percent, compared to the MDG 2015 target of 54 percent.

⁵ The execution rate of public investments in 2010, 2011 and 2012 were respectively: 59 percent, 26 percent and 32 percent.

years also points to growing levels of frustration amongst civil servants with regard to their working conditions.

Past attempts at public sector reform have done little to improve the performance of the public administration:

- a) Burkina Faso enacted the first generation of public sector reforms in the early 1990s. These reforms aimed at adapting the public sector to the changing economic environment – which involved a shift from a planned economy to a market based economy. The reforms focused predominantly on technical improvements to the *modus operandi* of the central administration without necessarily addressing the highly centralized structure of the public administration system.
- b) The second generation of public sector reforms, which began in 1998, involved a focus on decentralization and civil service reforms. In 1998, the recommendations of the independent *Commission Nationale de la Décentralisation* informed a wave of legislation to advance decentralization reforms.⁶ The main objective of the new set of legislation was to devolve decision-making authority in order to improve allocative efficiency in service delivery. The General Code for Local Government (*Code Général des Collectivités Territoriales--CGCT*) adopted in 2004, envisaged a combination of decentralized and deconcentrated local government structures.⁷ However, the implementation of these reforms remains slow and lacks synchronicity.
- c) Civil service reforms introduced during the second generation of reforms principally involved strengthening the legal and regulatory framework,⁸ including the enactment of legislation governing civil servant employment which set forth the general conditions for employment as a civil servant. The reform efforts also focused on establishing systems to manage human resources and payroll. However, the application of these systems has been inconsistent and slow-paced.

The shortcomings of earlier reform efforts reflect a combination of political inertia, as well as strategic, institutional coordination and implementation failures. Public sector reform is, by nature, a traditionally complex reform area. Despite government commitment to public sector reform in the past and the existence of reform-minded senior level bureaucrats, there was limited political engagement and weak institutional leadership during the reform implementation process. Accordingly, insufficient resources were allocated to the reform processes and successes were measured on the basis of outputs (usually in the form of legal and regulatory texts) rather than improvements in the performance of the public administration. At the same time, the

⁶ The legislation enacted in this period included: (i) Loi N° 040/98/AN du 3 août 1998 (JO 1998 N°38) portant orientation de la décentralisation au Burkina Faso which defines basic principles for decentralization in Burkina Faso; (ii) Loi N°041/98/an du 06 août 1998 (JO N°38 1998) portant organisation de l'administration du territoire au Burkina Faso which establishes the distinction between administrative circumscriptions (village- department- province) and the decentralized entities (municipality and province); (iii) Loi n°042/98/AN du 06 août 1998, portant organisation et fonctionnement des collectivités locales which describes governance structures (executive and legislative branches) of decentralized entities, local administrations, state agents in decentralized entities, consultative bodies at the local level; and (iv) Loi N° 43/98/AN du 6 août 1998 (JO 1998 N°38) portant programmation de la mise en œuvre de la décentralisation which lays out the timetable for implementation of decentralization reform.

⁷ Deconcentrated units are the representatives of the central government and have supervision (tutelage) responsibility over decentralized units.

⁸ The legislation enacted in this period included: (i) Loi N° 10/98/AN du 21 avril 1998 portant modalités d'intervention de l'Etat et répartition de compétences entre l'Etat et les autres acteurs du développement; (ii) Loi N°013/98/an du 28 avril 1998 portant régime juridique applicable aux emplois et aux agents de la Fonction Publique; (iii) (iii) Décret N°2000-86/PRES/PM/MFPDI du 13 mars 2000 portant fixation de la date d'entrée en vigueur du système d'évaluation des fonctionnaires et des agents contractuels de la Fonction Publique.

process of developing consensus upstream and engaging potential opponents to reform, including the union movement, was underestimated. Resistance to reform not only slowed the pace of implementation, but it resulted in policy reversals and extensive government efforts downstream to negotiate with unions. Reform shortcomings also reflected institutional coordination issues. In Burkina Faso, diffuse coordination of the Public Sector Governance (PSG) reform agenda by three central ministries (Ministry of Economy and Finance, Ministry of Territorial Administration and Ministry of Civil Service) was compounded by the limited engagement of sectors in implementing the reforms. Sector ministries have incentives, driven by donor-financed projects, to focus on service delivery results rather than tackling with institutional issues. The implementation of medium-term public sector reforms were therefore sidelined in favor of quick wins, e.g. school construction. Finally, as with all reform efforts in Burkina Faso, implementation challenges linked to limited resources and weak capacity played an important role.

As a result, the performance of the public administration in Burkina Faso is presently hampered by a series of shortcomings:

First, the highly centralized nature of decision-making authority and the concentration of financial and human resources at the center limit the administration’s capacity to respond to the needs and expectations of citizens. The administrative system is built on a notion of *ex ante* controls rather than *ex post* performance monitoring. Decisions on budget and human resources are made by key ministries, such as the Ministry of Economy and Finance (MEF) and Ministry of Civil Service, Labor and Social Security (MFPTSS), and the role of other ministries is largely confined to carrying these out. As a result of the high level of concentration of decision-making power at the center, service delivery ministries have limited administrative authority to ensure effective implementation of public policies. At the same time, the central ministries, most notably the MFPTSS, are poorly capacitated to provide strategic orientation to the line ministries. Concentration of decision-making powers at the central level is accompanied by concentration of financial and human resources at the center. For example, more than 56 percent of civil servants reside in the Centre region where the capital city, Ouagadougou, is located (see Table 1). In the education and justice sectors, there are a disproportionately high proportion of front-line service delivery professionals (teachers and magistrates) working as administrators in each ministry.⁹ The combined effect of the concentration of financial and human resources is the lack of availability of resources to front-line service delivery.

Table 1: Distribution of Civil Servant across regions

Region	Number of Civil	Share
Boucle du Mouhoun	4.588	4.91%
Cascades	1.834	1.96%
Centre	52.594	56.33%
Centre-Est	3.720	3.98%
Centre-Nord	4.823	5.17%
Centre-Ouest	4.437	4.75%
Centre-Sud	2.103	2.25%
Est	3.337	3.57%
Hauts-bassins	5.106	5.47%
Nord	4.088	4.38%
Plateau Central	1.716	1.84%
Sahel	2.346	2.51%
Sud-Ouest	2.668	2.86%

⁹ For example 30 percent of magistrates are assigned to administrative functions in the Ministry of Justice.

Total	93,360	100.00%
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Source: European Union Report, 2010.

Second, the process of decentralization/de-concentration has yet to yield measurable improvements in public service delivery. While political decentralization has been consolidated in the last decade, with the last round of local government elections held in 2012, the central government, through its *tutelle* authorities, still retains large *ex ante* controls on most decisions taken by decentralized local governments. Local governments are constrained from carrying out their mandates by the limited (and often late) resources that are devolved from the center and by the absence of qualified civil servants. The process of de-concentration was intended to: (i) accompany the new and poorly capacitated local governments in carrying out their mandates; and (ii) facilitate improved access by the population to services provided by the central government. Due to the slow and varied pace of de-concentration in the sectors, local governments do not receive adequate levels of support from regional offices of ministries and de-concentrated departments have not consistently succeeded in bringing the public administration closer to local populations.

Finally, the civil service environment lacks appropriate incentives to motivate administrators and front-line public service providers to deliver results. Various attempts have been made by successive governments to improve human resource management and strengthen the institutional capacity of the public administration. However these efforts have failed both to attract and motivate a capable and performance-driven corpus of civil servants and to optimize the use of human resources for the efficient provision of services. A culture of evasion of responsibility and lack of accountability persist, whilst civil servants have become increasingly disgruntled by their working conditions. Critical factors that influence this civil service environment include:

- a) **Weak civil service reform coordination and implementation capacity:** From a strategic perspective, the MFPTSS remains poorly equipped, both in terms of financial resources and in terms of expertise, to lead a coherent and results-oriented strategic direction for human resource management that is operationally relevant to the individual ministries. The devolution of responsibility for human resource management to the line ministries and the regional departments of the MFPTSS that started in 2005 paved the way for a more efficient and responsive management of the state's human resources. However, these de-concentrated structures have limited capacity or authority to manage human resources effectively.
- b) **Inadequate information systems:** Concerted efforts have been made to streamline and strengthen civil service information systems in recent years through the introduction of the Integrated Human Resource Management System (*Système Intégré de Gestion Administrative et Salariale du Personnel de l'Etat*—SIGASPE), however the Government has not completely shifted to a consolidated system for capturing all human resource processes.¹⁰ Accordingly, recruitment, career management and retirement processes are often delayed and neither the MFPTSS nor the line ministries possess easily accessible and up-to-date information on the civil service for planning, budgeting and monitoring of the

¹⁰ There are two major systems integration issues: (i) the coverage of SIGASPE is limited within the administration as several ministries are not connected to the system; and (ii) its interface with other information systems, such as the Individual Employee File system (*Dossier Individuel des Achevé Numérisé* - DIAN), the Employee Access to Employment Files system, (*Système D'Access Dossiers Individuel Numérisé des Agents* - SADINA) and the On-line Pay and Civil Service Employment Administration system (*Access en Ligne Information Administratif et Salarié* - ALIAS) is not completed.

- wage bill.
- c) **Limited effectiveness of HR and career management processes:** Efforts to promote pay for performance is hampered by the lack of clearly defined job descriptions, career plans and poorly defined performance contracts. Furthermore, individual civil servants have very little incentives for performance as there are very limited opportunities for in-service training and career advancement in addition to the lack of linkage between objective performance evaluation and promotions.
 - d) **Low institutional capacity:** The weak capacity of mid to senior level managers within the civil service to strategically manage and monitor reform programs limits accountability for results. A lack of regular in-service training on planning, programming and monitoring and evaluation, as well as weaknesses in the systems and processes for developing, implementing and monitoring reform programs substantially contribute to this capacity deficit.
 - e) **Poor working conditions** remain a particular concern at all levels of the civil service, particularly for front-line service delivery units. Deteriorated office spaces, restricted availability of basic office supplies, the uncontrolled, inefficient and limited use of information technology and the absence of reliable archiving facilities limit efficiency and impact upon morale.
 - f) **Political economy factors**, including the prevalence of patronage within the administration, have had the effect of politicizing the civil service and creating entrenched rent-seeking interests. This has in turn minimized incentives for ensuring the effective implementation of civil service reforms, particularly amongst mid to senior level managers.

Shortcomings in public sector performance impact upon service delivery outcomes across the sectors and ultimately influence levels of trust in government. In Burkina Faso, cross-cutting efforts to modernize the public administration and reform the civil service have often failed to make the nexus between public sector performance and improvements in service standards. Accordingly, efforts to improve capacity, strengthen legal and regulatory frameworks and improve internal processes have seldom been accompanied by perceptible changes to the manner in which services are provided to citizens. In the current national context, establishing service standards in *key sectors* and creating the appropriate incentives and operating environment for civil servants to meet those standards, would help to strengthen the compact between the Government and the Burkinabe population. The proposed Program aims to improve selected service standards in the labor, primary education and justice sectors. Each of these three ministries provides services that are strategically relevant to strengthening public trust in Government and enhancing social cohesion.¹¹

Situation in the Labor Sector:

The Government's regulation and protection of labor standards represents a strategically critical service for workers, particularly in a country with strong socialist leanings. During the period under President Sankara's leadership in the 1970s, the rights of workers became a central element of the national discourse. Three decades later, this concern for the protection of worker's rights continues and is reflected in the influence of the trade union movement across the public and private sectors. Labor problems in one sector often trigger solidarity strikes across

¹¹ For further details on the strategic relevance and rationale behind the selection of the three ministries, refer to Annex 4 and Section 2 of the Technical Assessment.

the public and private sectors. As an acknowledgement of the need to uphold labor standards for all workers, the Government merged the ministries of civil service and labor together in 2011.

However, in both the formal and informal sectors, compliance with Labor laws by employers is weak and registration of employees in the National Social Security Fund remains limited. In the formal private sector, only 42.5 percent of workers have a written contract of employment and 44.5 percent have a pay stub.¹² The situation is worse in the informal sector: only 7 percent of employees have a work contract and 3.8 percent a pay stub. In the formal private sector, 55.8 percent of high level executives do not have paid annual leave, 63.7 percent do not benefit from social security retirement contributions and only 13.7 percent benefit from healthcare coverage. As for employees and workers in the formal private enterprises, 68.1 percent do not have paid annual leave and 79.5 percent do not benefit from social security retirement contributions. In order to provide social protection services (paid leave, social security, and retirement benefits) to workers in compliance with Labor laws, there is a need to increase efforts to register them with the National Social Security Fund (*Caisse Nationale de Sécurité Sociale*, CNSS).

Labor inspections are strategically significant to the Government's efforts to enforce laws. Labor inspections create visibility with respect to the conditions to which workers are subjected at the enterprise level. They also offer a valuable opportunity for the sensitization of employers with respect to their obligations towards employees. At present both the coverage and frequency of labor inspections are limited, leaving a significant proportion of the formal and informal workforce, including those in high risk sectors (mining, construction) with little to no government surveillance over their employers.

Situation in the Primary Education Sector:

Primary education represents a core service provided by the Government in Burkina. Improving educational outcomes through the provision of accessible and quality education is vital to achieving the National Education and Training Sector Program (*Programme Sectoriel de l'Education et de la Formation* - PSEF) objective of strengthening human capital. The quality of service delivery in primary education also has a direct influence on citizen perceptions of the public administration and a spill-over effect on social cohesion. The closest contact that much of the population has with civil servants is through their interactions with primary school teachers. Teachers represent the most regionally disperse corpus of civil servants, providing front-line services at the village level. Teachers also make up over one third of all civil servants in the country¹³ and have historically been amongst the most active and influential civil servants with regards to industrial action and strike activity.

Notwithstanding significant improvements in access,¹⁴ the quality of education represents a binding constraint to achieving educational development outcomes. The completion rate, though improving significantly from 41.7 percent in 2008 to 55 percent in 2012, remains low, with vast regional disparities (including a 33 percent difference in completion rates between urban and rural areas). Poor learning outcomes are also observed in the sector. In grade 6 for example, about 65 percent of students do not acquire the basic competencies specified in the

¹² *Institut National de la Statistique et de la Démographie*. BURKINA FASO - ENQUETE 1-2-3 2001-2003, PHASE 1 : ENQUETE EMPLOI, Dernière modification Nov 25, 2013 (National Institute of Statistics and Demography, *Institut National de la Statistique et de la Démographie*—INSD).

¹³ 50,331 civil service agents were employed in the Ministry of National Education and Literacy (MENA) in 2012, representing 42 percent of the entire civil service: *Annuaire Statistique*, MFPTSS, 2012.

¹⁴ The Gross Enrollment Rate reached 79.6 percent in 2012, up from 72.4 percent in 2008.

curriculum.¹⁵

The instructional time provided to students in classrooms has a particular impact on the quality of education. Student instruction time has featured as a priority area of reform in Burkina since 2001. Under the current PSEF, a specific objective of Program 2 on improving the quality of education is to improve the hours of instruction in primary schools.¹⁶ In 2008, the then Ministry of Basic Education and Literacy (MEBA), commissioned a report¹⁷ to assess actual instructional time and to identify the principal factors that limit teacher time on task. The report estimated that actual teacher time on task averaged 574 hours, representing a loss of 40 percent of time in the school calendar year. The report highlighted the linkages between instruction time, teacher management and broader civil service reform. It concluded that institutional factors related to the inefficient management of the school year and teachers accounted for almost half of the instructional time lost.

Government efforts to address teacher time on task have had limited success for the following reasons:

- a) *Difficulties in measuring instruction time.* The monitoring mechanism introduced in 2010 is not reliable. Reporting has not been undertaken in a detailed manner, there are no internal or external controls over reporting and the manual process is both cumbersome and susceptible to errors. These shortcomings are reflected in the 2011 report,¹⁸ in which the average actual instructional time in five pilot regions was reported at 930 hours, a figure that is well above the new national norm of 770 hours instruction time.
- b) *Substantial delays in teacher recruitment:* The process for teacher recruitment is regularly delayed and teachers are often not available in schools in time to start the school year in October. Registration for civil service examinations for teachers starts as early as April of each year and recruitment is now conducted on a regional basis. However, the sheer volume of applicants, the increased number of teacher recruits¹⁹ and the cumbersome and manual processes for registering applicants, marking examinations and hiring and allocating recruits present ongoing challenges for the MFPTSS and the Ministry of National Education and Literacy (*Ministère de l'Éducation Nationale et Alphabétisation – MENA*).
- c) *Teacher management:* Inefficient and bureaucratic human resource management processes result in teachers having to spend significant periods away from classrooms attending to their administrative matters related to career and salary. Although the progressive de-concentration of human resource management and payroll have limited the distances that teachers have to travel to resolve these issues, challenges remain. For example, continued reliance on manual processes for teacher transfers and the payment of indemnities require teachers to invest time and resources in preparing hard copy dossiers for submission to human resource departments and payroll.

¹⁵ Country Status Report 2012.

¹⁶ Activities identified in the PSEF to support this objective include (i) the reorganization of the school week; (ii) the timely recruitment of placement of teachers to start the school year, (iii) the timely distribution of school supplies; (iv) the implementation of a mechanism to monitor teacher time on task, (v) the implementation of incentives to reward schools that demonstrate high levels of teacher time on task.

¹⁷ *Etude Relative au Volume Horaire effectif de l'Enseignement Primaire au Burkina Faso*, CTB/I&D. January 7, 2008

¹⁸ Monitoring Report of the Implementation of the Dispositive for Measuring Instructional Time in Primary Education, MENA, 20-24 September 2011.

¹⁹ In recent years, the Government has undertaken a concerted recruitment drive to address poor teacher to student ratios and to take in to account the rate of demographic growth. In 2014 alone, 7,000 teachers were recruited.

d) *Control over absenteeism:* Absenteeism is rarely taken into account for the evaluation of teacher performance or promotion purposes. In addition, sanctions related to absenteeism are poorly defined and seldom applied by school principals or controlled by technical inspectors. Though performance evaluation was re-introduced for teachers since 2011, it remains embryonic. Controllers in MENA lack appropriate resources to conduct field missions and, at the de-concentrated level, they seldom have adequate office or archiving space.

Situation in the Justice Sector:

In Burkina Faso, the performance of the judicial branch of government has had a significant impact on citizen's trust in government and on levels of social cohesion. The judiciary provides both (i) a critical accountability check on executive action and public administration and (ii) a formal channel through which the grievances of citizens, including civil servants, can be addressed. The two most significant incidents of socio-political unrest in Burkina Faso over the last two decades were precipitated, in part, by public dissatisfaction with the state of the justice system. The alleged assassination of a journalist, Norbert Zongo, in 1998 and the death of a student, Justin Zongo, while in police custody in 2011 sparked widespread protests over the perceived culture of impunity, executive influence over the judiciary and the shortcomings in judicial process and the rule of law. These incidents prompted national dialogue on justice reform which further highlighted deep-seated frustrations with regard to the performance of the judiciary.

In particular, the weak performance of the administrative tribunals hampers the extent to which the public administration is held accountable to citizens downstream and limits the formal recourse that civil servants have against the State as an employer. In Burkina Faso, the 24 administrative tribunals are vested with responsibility for all matters concerning civil servant employment, land tenure, public procurement, taxation and local elections.²⁰ Improving the administrative justice system is therefore a principal downstream element of enhancing public sector performance and a necessary condition for protecting citizens' rights *vis a vis* the State.²¹

The average time taken by administrative courts to issue judgments remains lengthy.²² In 2013, average case processing time was 1 year and 6 months, an increase of two months in comparison with the averages of 2011 and 2012. At the same time, demand in the administrative jurisdictions has increased threefold in the last decade, with the highest case load concentrations in Ouagadougou and Bobo-Dioulasso. Improvements in case processing times in administrative jurisdictions are likely to have a significant impact upon individual litigants and upon broader civil service and public perceptions of the accountability of the public administration in Burkina. For example, the timely resolution of civil servant grievances would have significant effects on

²⁰ The jurisdiction of the courts include : (i) contentious matters between civil servants and the State regarding their employment from recruitment to retirement, (ii) procurement- related matters including attribution, execution, interpretation and termination of contracts between private entities and the State, (iii) fiscal matters related to taxation disputes, (iv) electoral matters including irregularities in electoral lists, voting and vote counting procedures, and (v) all other administrative law matters.

²¹ The African Commission has determined that the right to a fair and public hearing is a general principle applicable to all legal proceedings, including administrative: see "Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa", African Commission, DOC/OS 247, section A – General Principles Applicable to All Legal Proceedings, <http://www1.umn.edu/humanrts/research/ZIM%20Principles_And_G.pdf>.

²² There is however no absolute time limit in international law for the completion of administrative judicial proceedings, and the reasonableness of the length of proceedings is dependent on the particular circumstances of the individual case.167 *König v Germany*, ECtHR, 28 June 1978, para 99.

levels of civil servant motivation and accelerated resolution of land disputes could help to minimize the escalation of localized social tensions.

Furthermore, the poor performance of the local departmental and district courts in resolving local level conflicts affects social cohesion. The most proximate courts to rural populations are the local departmental and district courts. These courts are responsible for delivering civil registry documents to citizens and they also have limited jurisdiction over civil and commercial matters to the value of USD \$200 and over minor infringements (crop damage, animal wandering, perimeter breaches). For civil and commercial disputes, local courts are required to first attempt conciliation between the parties. If conciliation fails, the courts are required to proceed to a formal arbitration of the matter – at which point the case is legally termed ‘a contentious matter.’²³ Local courts rarely exercise their jurisdiction over contentious matters and local populations are forced to resort to informal and unenforceable means of conflict resolution.²⁴

The effective delivery of judicial services in Burkina is impeded by:

- a) **Limited capacity for coordination and implementation of reforms.** Poor systems and weak capacity for coordination within the Ministry of Justice (MJ) and between the MJ and the judiciary, combined with fallible monitoring processes hamper efforts to improve the quality of judicial services. At the level of the individual jurisdictions, performance is hampered by poor working conditions, continued reliance on inefficient case management systems, limited access to laws and jurisprudence, and rent seeking behavior.
- b) **Limited accountability for outcomes** in the judiciary which is induced by weaknesses in the production of sector statistics,²⁵ ineffective performance evaluation and heavily politicized career advancement processes.
- c) **Court coverage is insufficiently de-concentrated to ensure access to justice.** While the construction of Superior First Instance Courts (*Tribunal de Grande Instance* – TGI) in the regions has advanced in recent years, these regional jurisdictions are often poorly equipped and lack adequate and quality human resources. At the local level, the local district and departmental courts are presided over by the prefect of the department who is, in principle, assisted by appointed assessors. Prefects and assessors are poorly trained in conciliation and arbitration; they are seldom paid their sitting allowance.

The Government’s vision for the third generation of public sector reforms in Burkina Faso is focused on developing a modern performance-oriented public administration system. The Ten Year Strategic Plan for the Modernization of the Administration 2011 - 2020 (*Plan Strategique Decennal de Modernisation de l’Administration* - PSDMA) was approved in 2011. The objective of the PSDMA is to improve the quality of the public administration system to provide better services for sustainable development. The strategic plan aims to provide a federating framework to improve public management across the administration and create the necessary foundations upon which sector policies can be pursued more effectively. The PSDMA was developed following an extensive and inclusive process of national consultation. It is expected to be endorsed in April 2015 by the new transitional Government through the adoption

²³ Article 53, la loi 028-2004 portant modification de la loi 010/93 ADP, portant organisation judiciaire au Burkina Faso.

²⁴ While the local courts are in high demand for the processing of civil registry matters, they seldom exercise jurisdiction over civil and commercial disputes and rarely go beyond conciliation in such cases. According to information based on a quantitative background analysis of rural access to justice conducted in 2012, for civil and commercial disputes, local populations continue to resort predominantly to customary and informal avenues for the resolution of their disputes.

²⁵ The Ministry of Justice does not collect statistics on case load or case processing for the local courts.

of the Second Action Plan to facilitate its implementation.

Implementation of the PSDMA needs to be reinvigorated. The implementation of the PSDMA started with the first action plan covering the period of 2011 to 2013. The budget allocation for the implementation of the first action plan was around 37,800,000 USD (18,619,000,000 CFA) of which 5,600,000 USD (2,800,000,000 CFA) came from the national budget. The implementation of the first action plan was fraught with many of the same challenges that earlier reform efforts had encountered. High level political commitment did not translate into adequate leadership. The National Public Administration Modernization Committee (*le Conseil National de Modernization de l'Administration*),²⁶ which is charged with overseeing the coordination of the PSDMA, did not convene once in the three year period as envisioned in the strategy document. The Permanent Secretariat for the Modernization of the Administration (*le Secretariat Permanent de la Modernization de l'Administration*, SPMA), which is charged with day to day coordination remained underfunded and poorly equipped to lead reform efforts. And the continued lack of results orientation and weak monitoring and evaluation framework made the task of monitoring progress or keeping line ministries engaged and accountable for results difficult. The new Government has developed a Second Action Plan for the period of 2015 to 2018. The objective of the Second Action Plan is to strengthen public management for improved service standards within the administration.

The Program seeks to draw from the lessons learned from earlier public sector reform efforts to revive the implementation of the PSDMA in a new political era. It harnesses the renewed political and social commitment to reform that has been induced by the recent change in political settlement. It seeks to address the institutional coordination and implementation failures that have previously affected implementation of the PSDMA and earlier public sector reform efforts. In particular, it will focus on strengthening reform coordination and creating pecuniary incentives for selected line ministries to engage in the cross-cutting reform process and achieve results. It will also use many of the levers that proved successful to public financial management reforms in Burkina Faso.

III. Program Scope

The PSDMA sets the short to longer term strategic orientations for the Government to improve public sector performance in achieving the country's ambitious development goals. The objective of the PSDMA is to improve the quality of the public administration system to provide better services for sustainable development. The objective of the Second Action Plan of the PSDMA is specifically to strengthen public management for improved service standards within the administration. The Strategic Plan consists of five pillars:

Pillar No 1: Improving the Efficiency and the Quality of Public Service Delivery: The overall objective of this pillar is to enhance public administration performance for sustainable development and streamline the decision-making processes, procedures and structures within the public administration.

Pillar No 2: Upgrading and Improving Human Resource Capacity of the Public Administration: The purpose of the second pillar is to focus on the human resource capacity

²⁶ The PSDMA is implemented under the guidance of the National Public Administration Modernization Committee which is chaired by the Prime Minister. The National Committee includes the ministers of MFTPSS, MEF, Communications and Territorial Administration, Decentralization and Security (MATDS) as vice-chairs. The day-to-day management of the modernization efforts under the leadership of the National Committee is trusted to a Permanent Secretariat.

framework and improve staff working conditions which are affected by outdated equipment and physical infrastructure.

Pillar No 3: Promotion of Accessibility and Transparency in the Public Administration: The objective of the third pillar is to improve access to services and to establish the principle of accountability across the entire public administration.

Pillar No 4: Promotion of E-governance: The fourth pillar seeks to improve the quality of public services through the use of ICT.

Pillar 5: Promotion of Deconcentration and Decentralization: The fifth pillar envisages deconcentration to promote an effective decentralization in favor of local development.

The PSDMA is a unifying framework which provides the foundations for the development and implementation of sectoral reform strategies in Burkina Faso. It identifies cross-cutting reforms that are applicable horizontally across the entire administration. Vertically, individual ministries each have longer term sector strategies that articulate the vision of the Government with respect to the particular sector and that identify specific service delivery outcomes. The effective alignment and coordination of sector strategies around the PSDMA ensures consistency across the Burkinabe public administration, whilst simultaneously better connecting public sector performance and public service delivery. The following sectoral strategies are relevant to this Program:

The Strategy for Strengthened Capacity in the Ministry of Civil Service, Labor and Social Security (Strategie de Renforcement des Capacities du Ministere de la Fonction Publique, du Travail et de la Securite Sociale 2014-2025), was recently adopted as the long term strategic vision of the MFPTSS. The objective of the strategy is to improve the human, infrastructural, technological and material capacity of the public administration to ensure decent working conditions for all workers, including civil servants, by 2025.

The Sectoral Program of Education and Training (Programme Sectoriel de l'Education et de la Formation 2012-2021 - PSEF) articulates the Government's vision for the entire education sector and incorporates the sub-sector strategies for preschool, primary, primary non-formal, post-primary and vocational training. The objective of the PSEF is to achieve an efficient and inclusive education system by 2021 whereby all citizens have the educational opportunities to enable them to contribute to the socio economic development of the country.

The National Justice Sector Policy (Politique Nationale de Justice 2010-2019 - PNJ) reflects the Government's justice sector priorities. The main objectives of the PNJ are to (i) improve the performance of the justice sector by reinforcing its capacities, (ii) promote access to justice by reducing the obstacles faced by users, and (iii) reinforce and reaffirm the rights and liberties of citizens. The policy was revised in 2013 to enhance its alignment with the PSDMA.

The PforR ("The Program")

The Program is a results-based approach to supporting the implementation of the PSDMA's Second Action Plan 2015-2018 in three ministries in Burkina Faso. The Program is designed to support a subset of the Second Action Plan (see Annex 4) and to improve coordination between the PSDMA's national public sector modernization objectives and sectoral reform efforts in the MFPTSS, MENA and MJ.

The Program will provide incentives for the achievement of specific, measurable and strategically significant service standards in each of the selected ministries resulting from

the targeted implementation of the PSDMA. In doing so, the Program will focus on strengthening the nexus between cross-cutting public sector management reform and tangible service delivery results in particular sectors. It will contribute to both the achievement of targeted results in each of the three ministries and systemic improvements to the quality of the public administration as a whole. A detailed explanation of the results chain is provided in Annex 4.

The Program will cover discrete elements of the Government's PSDMA expenditure program. The Program will promote the attainment of service standards in each of the selected ministries by focusing on three cross-cutting Results Areas: (i) improved human resource management capacity and performance; (ii) strengthened institutional capacity for policy planning, implementation and monitoring and evaluation; and (iii) strengthened coordination capacity for public sector reforms. Each of these Results Areas corresponds to specific elements of the Government's expenditure program. The full scope of the PSDMA Second Action Plan expenditure program and the Program's coverage of expenditures through the Results Areas are detailed in the Technical Assessment, which is summarized in Annex 4.

The three ministries targeted by the Program were selected on the basis of their strategic relevance and on the basis of the World Bank's engagement and expertise in the sector. Each of the three ministries provides services that are strategically relevant to strengthening public trust in Government and enhancing social cohesion (see sectoral context above and Annex 4 for further details). These ministries also face particularly challenging or acute public sector management weaknesses, which have a critical effect on the quality of service provision. The World Bank's engagement and expertise in the selected ministries was also taken into account. The World Bank has long been a leading development partner on civil service and education reform in Burkina Faso. While the World Bank has not extensively engaged in the justice sector to date, a recent background review of the justice sector in Burkina Faso, including a political economy analysis of reform implementation in the sector, has provided a strong rationale for strategic World Bank engagement.

The Program will be complemented by existing and planned sectoral support to the three ministries provided by other development partners. While the Program will not receive the direct support of other development partners, it has been designed to ensure complementarity with other development partner support to the selected ministries. Annex 10 provides detailed information on development partner support. It is anticipated that the Program will also stimulate additional donor financing for the implementation of the PSDMA.

Program Activities

The Program provides financing for specific activities identified in the PSDMA Second Action Plan. The Program's three Results Areas incorporate the following PSDMA activities (more detailed information on activities is included in Annex 1):

Results Area 1 – Improved Human Resource Capacity and Performance: Under the Program, the MFPTSS will lead efforts to modernize and harmonize human resource management processes and to strengthen the capacity of the de-concentrated human resources (HR) departments in the relevant ministries. The MFPTSS will support: (i) the elaboration and application of sector specific HR tools (in-service training, needs projections and staff planning, career plans, sectoral motivation strategies, job profiles etc.); (ii) the improvement of HR information systems, including an expansion of the coverage of the SIGASPE internally within the three ministries, the up-dating and computerization of personnel files and an upgrading of the SIGASPE functionality, including its interfacing with other information systems, such as the Individual

Employee File system (*Dossier Individuel des Achevé Numérisé*, DIAN), the Employee Access to Employment Files system, (*Système D'Access Dossiers Individuel Numérisé des Agents*, SADINA) and the On-line Pay and Civil Service Employment Administration system (*Access en Ligne Information Administratif et Salarié*, ALIAS); and (iii) the training of personnel in the human resource departments of each ministry and the further de-concentration of certain HR responsibilities. The activities will also include the refinement and implementation of modern and merit-based civil servant performance management and promotion processes to further entrench a results-based focus in the public administration.

Results Area 2: Strengthened Institutional Capacity for Policy Planning, Implementation and Monitoring and Evaluation: The Program will promote strengthened institutional capacity of the three selected ministries to develop, implement and monitor public policies. Emphasis will be placed upon: (i) strengthening the capacity of civil servant agents through in-service professional training (including managerial training in policy formulation, program budgeting, monitoring and evaluation), (ii) enhancing the systems and processes involved in policy planning, implementation and monitoring evaluation (including statistical systems, coordination and review mechanisms), (iii) improving the working environments of civil servants at the central and de-concentrated levels; and (iv) further developing the use of information and communication technology (ICT) (e-Government) to improve the efficiency of information management and dissemination.

Results Area 3 – Strengthened Coordination Capacity for Public Sector Reforms: The activities will assist the SPMA in coordinating the implementation of the Program and the overall PSDMA. The activities make up a significant proportion of the Program Action Plan (see Annex 8 for details) and will seek to (i) improve the technical dimensions of the PSDMA and the formal rules and procedures governing the organization and management of the systems used to implement the Program; (ii) enhance the capacity and performance of the SPMA and sectoral focal points in each selected ministry; and (iii) address the fiduciary, social and environmental risks identified in the integrated risk assessment of the Program. The activities will also strengthen national *ex ante* control systems for fiduciary oversight with respect to the Program. The external audit institution, the Court of Accounts (*Cour des Comptes*), will be supported to effect external controls over the Program in the later years of implementation. The High State Control Authority (*Autorite Supérieure de Contrôle d'Etat*—ASCE) and the ministerial technical inspectorates will also be supported to strengthen the capacity for internal controls in the three ministries.

IV. Program Development Objective(s)

The proposed Program Development Objective is to improve selected service standards in selected ministries.²⁷

V. Environmental and Social Effects

In accordance with the requirements of OP 9:00, *Program-for-Results Financing*, a comprehensive technical assessment (Environmental and Social Systems Assessment – ESSA) was conducted to identify the strengths, weaknesses, and shortcomings of the Program's Environmental and Social Management System (ESMS) with a view to assessing the adequacy of the ESMS for PforR financing and identifying key actions to improve the environmental and

²⁷ The improvements are in the labor, education and justice sectors as well as human resource management in the civil service. The service standards selected are drawn from the sector strategy of each ministry. For the purposes of this program, service standards refer to services provided by government ministries both internally within the administration and externally to citizens.

social management performance of the Program. A summary of the objectives, methodology and findings of the assessment is included in Annex 6.

The ESSA was conducted by the World Bank with the support and collaboration of the borrower and stakeholders. Consultations with stakeholders took place in June and August 2014 and a national consultation is planned for April 2015. The objectives of the ESSA were to : (i) verify that the potential environmental and social risks and impacts of the Program are subject to an adequate initial screening, (ii) ensure that environmental and social mitigation measures to avoid, minimize, offset, and/or compensate any adverse impacts and promote environmental and social sustainability will be applied to activities that will have potential environmental and social negative impacts; and (iii) identify suitable measures to strengthen the ESMS for inclusion in the Program Action Plan.

To date, two key social risks have been assessed:

- a. *Involuntary land acquisition*: Some building construction and rehabilitation are planned under the Program. Though the Government plans to mobilize and use only public land, the ESSA considers potential impacts in terms of loss of revenues, habitats and sources of revenues, in particular in rural areas where land titling is not systematic and customary laws are still practiced.
- b. *Gender and inclusion*: The Program is gender informed and there are no major gender and inclusion risks deriving directly from the implementation of the program activities. However, the ESSA considers a few potential indirect impacts due to inherent system weaknesses, including: (i) insufficient representation of female civil servants in particular in management positions in rural areas; (ii) limited access of beneficiaries to administrative services due to lack of adequate communication and transport material and staffing; and (iii) limited physical accessibility of buildings for handicapped persons.

The ESSA concludes that the Program ESMS is adequate for PforR financing and that the activities to be funded under the Program should, by their nature, characteristics and size, generate low-to-moderate social impact and generally bring beneficial and positive social impact. The national project screening system in place provides adequate mitigation measures in the case of large infrastructure activities that would have significant and/or negative OP 4.12 related impacts. The ESSA further concludes that, subject to the adoption of the recommendations outlined below, the ESMS is appropriately equipped with the necessary tools and processes to identify, mitigate, and report on possible social impacts of Program activities. Accordingly, it finds that the risk of negative social impacts is addressed through the relevant ESMS provisions and operational procedures (subject to the incorporation of Bank recommendations).

The overall recommendation of the ESSA is that the ESMS needs to:

- a. Reinforce coordination and harmonization between relevant administrative stakeholders in rural areas in terms of land administration and procedures,
- b. Avoid and/or minimize resettlement of people,
- c. Take into account informal occupants/squatters (this point is still under review),
- d. Include monitoring and evaluation processes in case of resettlement,
- e. Prepare a positive discrimination mechanism in teacher hiring to give priority to female teachers.

Specific recommendations include the need to:

- c. develop monitoring processes and tools (screening sheets, compensation mechanisms and other relevant documentation included in the ESSA),
- d. establish institutional mechanisms (focal person at central and local levels in charge of monitoring social related impacts and mitigation measures),
- e. for gender and inclusion, include accessibility structures (ramps) in planning and construction of buildings financed under the Program and raise gender awareness amongst civil servants for better service delivery.

The Bank has agreed with the Borrower on the above recommendations which have been built into the Program Action Plan. The Bank team will work closely with the Borrower throughout the implementation support period to assist toward the effective implementation and completion of any agreed actions to improve and strengthen the ESMS.

Communities and individuals who believe that they are adversely affected as a result of a Bank supported PforR operation, as defined by the applicable policy and procedures, may submit complaints to the existing program grievance redress mechanism or the WB’s Grievance Redress Service (GRS). The GRS ensures that complaints received are promptly reviewed in order to address pertinent concerns. Affected communities and individuals may submit their complaint to the WB’s independent Inspection Panel which determines whether harm occurred, or could occur, as a result of WB non-compliance with its policies and procedures. Complaints may be submitted at any time after concerns have been brought directly to the World Bank’s attention, and Bank Management has been given an opportunity to respond. For information on how to submit complaints to the World Bank’s corporate Grievance Redress Service (GRS), please visit <http://www.worldbank.org/GRS>. For information on how to submit complaints to the World Bank Inspection Panel, please visit www.inspectionpanel.org.

VI. Financing

Program expenditures are estimated to total US\$46 million and the implementation period is anticipated to be four years from 2016 to 2019. The Program expenditures will finance a subset of activities in the Second Action Plan of the PSDMA. These activities are directly linked to the achievement of the DLIs and to the PDO. The Program expenditures exclude wage and salary expenditures. The salaries of the civil servants are not part of the PSDMA or the Program. The Program expenditures are direct expenditures of the reform efforts.²⁸

VII. Program Financing (\$ Million)

Source	Amount	% of Total
Government	5,974,400	12.8
IBRD/IDA	40,000,000	87.2
Total Program Financing	45,974,400	100

VIII. Program Institutional and Implementation Arrangements

The SPMA, as the designated coordinator of the PSDMA, will be the lead agency for the Program and act as the interlocutor with the Bank on behalf of the Government. The SPMA will develop the Implementation Strategy for the PSDMA. The SPMA is responsible for ensuring the implementation of the activities that will produce the results targeted by the Program, in

²⁸ The Program (and PSDMA) aims institutional strengthening of the targeted ministries. In that sense, it finances activities for public sector modernization, which are mainly non-wage and salary expenditure.

coordination with the Ministries of Education and Justice and other agencies (such as the Court of Accounts, the ASCE and the ministerial technical inspectorates). The SPMA is also directly responsible for activities identified under Results Area three of the Program.

The World Bank will disburse funds to the MEF based on the submission of consolidated, verified information on the performance of the DLIs. The MEF will then be responsible for the release of funds to the participating ministries following the agreed Program Fund Flow Guidelines.²⁹

IX. Contact point

World Bank

Contact 1: Mercy Miyang Tembon
Title: Country Manager
Email: mtembon@worldbank.org

Contact 2: Serdar Yilmaz
Title: Senior Economist
Tel: 202 473-9350
Email: syilmaz@worldbank.org

Borrower/Client/Recipient

Contact: Lassane Kabore
Title: Director General (DGCOOP)
Tel: 226 50 31 25 50
Email: lassane.kabore@finances.gov.bf

Implementing Agencies

Name of Agency: Ministry of Civil Service, Labor and Social Security
Contact: Jacques Sosthene Dingara
Titre: Secrétaire permanent de la modernisation de l'administration
Tel: 226 70 28 73 16
Email: dijaso@yahoo.fr

X. For more information contact:

The InfoShop
The World Bank
1818 H Street, NW
Washington, D.C. 20433
Telephone: (202) 458-4500
Fax: (202) 522-1500
Web: <http://www.worldbank.org/infoshop>

²⁹ To be developed post-negotiations.