

**PROJECT INFORMATION DOCUMENT (PID)
APPRAISAL STAGE**

Report No.: PIDA2529

Project Name	Yemen Accountability Enhancement Project (P148288)
Region	MIDDLE EAST AND NORTH AFRICA
Country	Yemen, Republic of
Sector(s)	General public administration sector (100%)
Theme(s)	Other accountability/anti-corruption (100%)
Lending Instrument	Investment Project Financing
Project ID	P148288
Borrower(s)	Ministry of Planning and International Cooperation
Implementing Agency	Supreme National Authority for Combating Corruption (SNACC)
Environmental Category	C-Not Required
Date PID Prepared/Updated	05-Dec-2013
Date PID Approved/Disclosed	22-Jul-2014
Estimated Date of Appraisal Completion	05-Nov-2013
Estimated Date of First Grant Approval	12-Jun-2014
Decision	

I. Project Context

Country Context

After almost two years of crisis, in the wake of the Arab Spring movement, Yemen embarked on a political transition, with the formation of the Government of National Reconciliation and swearing in of a new President Abd Rabbuh Mansur Hadi. The transition is expected to end after the legislative and presidential elections, to be held under the new constitution. During the transition period, the Government is hosting a National Dialogue and drafting a new constitution. This will be followed by the election of a new president and formation of a new parliament. The National Dialogue is providing a forum for negotiating a new governance framework, under which future economic and social policies would be created and implemented. The transition National Reconciliation Government is currently made up of a coalition of elements of the previous regime and members of the opposition. The Council of Ministers has a total of 34 members – with 17 from the former regime and 17 from a coalition of opposition parties under a Joint Meeting Parties (JMP). The National Dialogue process has offered an opportunity to bring together rival factions and enhance the state's authority. The people of Yemen have high expectations of institutional change during this period.

Sectoral and institutional Context

Poor governance, corruption, and limited access to services and economic opportunities were key

triggers of the 2011 protests. The quality of governance and service delivery remains weak, aggravating the country's development challenges. Most institutions are relatively weak, as reflected by the country's low overall score of 3.0 out of 6.0 on the Country Policy and Institutional Assessment (CPIA). The civil service remains inappropriately staffed and adequate management and incentive systems are lacking. There are significant gaps in capacity and the pool of qualified staff is limited. The country's ranking on the Corruption Perceptions Index (CPI) has declined steadily since 2005 to 156th of 176 countries in 2012.

There has been good progress in instituting and implementing laws and regulations to improve the overall governance environment - including passage of a Right to access to information (RAI) law and registering a fifth largest increase in the world in its score in the Open Budget Index (OBI) from 10 to 25 - between 2008 and 2010. But serious challenges remain.

4. The national anti-corruption strategy was developed after significant diagnostic work and country-wide stakeholder consultations. It was launched in 2010 and rests on the following three pillars:

- (1) Prevention: Preventive measures to minimize opportunities for corruption;
- (2) Investigation: Effective investigation of reported corruption cases; and
- (3) Education: Educating and raising awareness amongst citizens for building constituencies and alliances to fight both grand and petty corruption.

However, the implementation of this strategy has been far from satisfactory because of several political, institutional and legal constraints.

There is immunity for high-level government officials under Section 10 of Law no. 6 of 1995, under which no official on the rank of Vice Minister or above, can be prosecuted or tried for any action done in discharge of their official duties unless by a decree by the President of the Republic or a suggestion of one-fifth (1/5) of the members of the parliament and endorsement of two third (2/3) of the members of the parliament. This provision also applies to corruption offences under Article 4 of the Law. As a result of this provision, no senior official has ever been prosecuted or punished in a corruption case since unification between the South and the North of Yemen in 1990.

The Supreme National Authority for Combating Corruption (SNACC) was established by Law no. 39 of 2006 and is supposed to receive corruption related complaints, make preliminary investigations, and submit its findings to the Attorney General Office (AGO), which is the authorized agency for conducting investigations into all crimes under National Law no. 13 of 1994 on Penal Procedures. This undermines the importance of SNACC because its investigation reports are subjected to scrutiny by the AGO, which usually conducts fresh investigations and does not necessarily reach the same conclusion as SNACC's. Thus, SNACC is unable to serve as an effective independent investigative agency for corruption cases.

As per Article (37) of Law no. 39 of 2006, the competence of judging in corruption crimes is limited to Public Fund Prosecution and Courts. However, many times a corruption case does not deal with public property or funds, and a case related with public funds or property does not involve corruption. As a result, the corruption cases do not get sufficient attention for a speedy trial.

8. The Civil Service Law provides for administrative sanctions in cases of corruption, but in a study done under the Bank's Technical Assistance, it was discovered that from amongst 165 employees convicted in a corruption crime between 2005 and 2007, no administrative action was

taken by the concerned line ministry or the civil service ministry. This sets a very bad example and makes a mockery of the legal system. No one feels threatened in committing a corruption crime as they know that first of all, they will not be caught, and if caught, they will likely not be punished, and in any case, if they are given punishment, it will not be enforced.

The High Authority for Tender Control (HATC) has launched a website on which procurement agencies are required to publish their bidding opportunities. However, in absence of a strong enforcement mechanism, agencies publishing their bidding opportunities are estimated to be only 20-30 percent. It has been observed that for national threshold of YER 250 million, in which the High Tender Board (HTB) is the procurement agency, the spending units are not sending their proposals for procurement to the HTB in all cases.

The Chairperson of Central Organization for Control and Audit (COCA) is appointed by the President and his minimum tenure is not fixed, thereby compromising his independence. Although all government agencies are under the jurisdiction of COCA's external audit and none are exempted under law, historically, few agencies including economic units constituting significant percentage of the state budget are not audited.

The Government of Yemen, in the Riyadh Donor Conference, on September 4, 2012, endorsed a Mutual Accountability Framework (MAF) with Development Partners (DP), which was later approved by the Council of Ministers on September 18, 2012. Under the MAF, amongst other things, the Government has committed to:

- Take the necessary steps for investigation, prosecution and trial of high officials charged with corruption.
- Initiate administrative action against civil servants against whom competent courts have issued conviction orders.
- Ensure autonomy of the SNACC and establish an Anti-Corruption Court (ACC).
- Observe budget transparency – including revenues from oil and gas and other natural resources.
- Initiate practical steps towards realizing the autonomy of COCA.
- Observe independent and transparent merit-based recruitment through vetting process of senior civil service appointments,
- Implement the program to remove ghost workers and ‘double dippers’ in the civil service system, including the military and security, and
- Release those that have been detained without charges.

The Development Partners (DP), on their part, have committed to:

- Provide financial and technical assistance to support public accountability, anti-corruption and human rights.

Subsequently, the Council of Ministers in its meeting on October 9, 2012, approved a Transparency and Anti-corruption Action Plan comprising the following policy and legislative decisions.

(i) Amending Article 4 of the Law No. 6 of 1995 on ‘Indictment and Trial Procedures for High Level State Executive Posts’, to allow investigation, prosecution and trial of officials in the rank of Vice Ministers and above for charges of corruption, fraud, bribery and embezzlement, without

- requiring approval of the President or the Parliament by 2/3rd majority.
- (ii) Establishing a three-judge Anti-Corruption Court (ACC) under the Public Funds Court of Sana'a to conduct trials of corruption cases on a centralized and exclusive basis in the country.
 - (iii) Ensuring compliance of court orders and Initiate administrative action against civil servants against whom conviction orders have been issued by competent courts as per Civil Service Law No. 19 of 1991 Supreme National Authority for Combating Corruption (SNACC)
 - (iv) Amending Law no. 13 of 1994 on Penal Procedures, to make 'investigations' into corruption cases a responsibility of Supreme National Authority for Combating Corruption (SNACC), which at present is that of Attorney General Office (AGO).
 - (v) Amending Law no. 39 of 1992 for 'Central Organization for Control and Audit (COCA)', to make COCA independent of the executive by (1) Appointment of President COCA to be based upon nomination by the President and approval by parliaments, or vice versa. (2) Fixing the minimum tenure of the President COCA for a 5 year term, with no more than two terms (3) Autonomy to President COCA to appoint his Deputies and other staff. (4) Reporting by COCA directly to the Parliament.
 - (vi) Initiating audit of accounts of government agencies and Economic Units that have not been audited by COCA since independence.
 - (vii) Approving the Re-engineering Plan (RP) of COCA prepared under Bank-funded Civil Service Modernization Project
 - (viii) Making the publishing of bidding opportunities, bidding documents and awards above YR 50 million mandatory on the unified national procurement portal, failing which, the consequent payment in the concerning contract to be disallowed and administrative action taken against the procurement officer.

This operation will support the government in preparing the legal amendments and policy decisions in respect of Legal/Policy decisions 1-6 and 8. The operation will also directly support in the implementation of Policy decisions 1-4. Complementary projects, especially the World Bank assisted Public Finance Modernization Project, will support the preparation of Policy Decision 7 and in implementing Policy Decisions 5-8. In addition, the project will also support the implementation of the newly-adopted Law on Right to Access of Information.

II. Proposed Development Objectives

The Project Development Objective is to enhance capacity of targeted accountability institutions to provide access to information and to improve enforcement of the anti-corruption law.

III. Project Description

Component Name

Component 1: Supporting the implementation of the National Anticorruption Strategy and Transparency and Anti-corruption Action Plan

Comments (optional)

This component would finance consultancy, goods and equipment, capacity building and training, and workshops and meetings.

Component Name

Component 2: Supporting the implementation of the Right to Access to Information (RAI) law

Comments (optional)

This component would finance consultant's services, goods and equipment, capacity building and training, and workshops and meetings.

Component Name

Component 3: Supporting the ‘Civil Society Coalition Against Corruption’ in raising demand for good governance in 7 pilot sectors

Comments (optional)

This component would finance consultant’s services, goods and equipment, capacity building and training, workshops and meetings, and operating costs of the CSCAC.

Component Name

Component 4: Project Management

Comments (optional)

This will provide for PMU staff salary, goods and equipment, training, consultant’s sces, & incremental operating costs of the PMU to support project coordination, implementation, M&E & Management.

IV. Financing (in USD Million)

Total Project Cost:	6.00	Total Bank Financing:	0.00
Financing Gap:	0.00		
For Loans/Credits/Others			Amount
Borrower			0.00
MENA Transition Fund - IBRD as Implementing Agency			6.00
Total			6.00

V. Implementation

The Supreme National Authority for Combating Corruption (SNACC) will be the Implementing Agency for this project. A new Board has been appointed for SNACC under the Presidential Decree No (54) issued in September 2013. A new Project Management Unit (PMU) has been established under SNACC. The PMU consisted of an Executive Director, Secretary, and a Financial Management Officer. SNACC has initiated selection of a Procurement Officer. An Operations Manual for this PMU has been jointly prepared by SNACC and Civil Society Coalition Against Corruption (CSCAC), and a new accounting system has been installed. The Operations Manual will be modified to reflect the additional activities that this PMU will be required to undertake this project. Two additional staff members – a legal expert and a communications expert - will be recruited to strengthen the PMU to manage activities under this project.

The Civil Society Coalition Against Corruption (CSCAC) will be co-Implementing Agency of this project. The CSCAC comprising of the following 17 CSOs:

1. Political Development Forum, Sana’a
2. Social Peace and Development Future Association, Marib
3. Awam Foundation for Development and Culture, Sana’a
4. Yemeni Coalition for Education for All, Sana’a
5. Supporting Democratic Orientation Foundation (CDF), Sana’a
6. Yemen Centre for Human Rights Studies, Aden
7. Yemen Centre for Civil Rights, Sana’a
8. Economic Studies and Media Centre, Sana’a
9. Parliamentarians Against Corruption (PAC)- Yemen Chapter, Sana’a

10. Civil Society Organizations Network, Sana'a
11. Yemeni Organization for Social Peace and Development, Sana'a
12. Brotherhood Association for Development and Local Peace, Shabwa
13. Yemeni Centre for Public Opinion, Sana'a
14. National Authority to Defend Freedom and Rights, Sana'a
15. National Organization for Society Development, Sana'a
16. Cultural Development Program Foundation (CDPF), Sana'a
17. Maeen Center for Community Development, Taiz, has joined this coalition. Now, the coalition comprises of 17 CSOs

The CSCAC will be co-Implementing Agency of this project. It will be fully responsible for implementing Component 3. The management function, including the procurement, financial management, human resources and monitoring and evaluation, will rest with the PMU. The PMU will include a CSO Coordinator to provide support to the CSCAC Secretariat. The staff of CSCAC including the observers and supervisors, who are the regular staff of different civil societies under the coalition, would visit the primary service delivery units of the 7 pilot sectors and collect evidence.

The project will provide only the per diem and travel costs of the CSCAC staff working on different activities of this project. The project will not finance the time of the CSCAC officials in any manner, including the salary and overtime. The CSOs within the coalition will use their existing staff, for which salaries and overtime, etc. is already arranged and being paid. The project would also finance other operating costs of conducting CSCAC activities like workshops, hiring of video cameras, venues for meetings, hiring of vehicles, etc. The Project would also bear the cost of capacity building of CSCAC staff.

A Steering Committee (SC) of this PMU has been established for supervising, coordinating and monitoring the activities of the SNACC, CSCAC, ICO and the MoJ. The Steering Committee (SC) consists of seven members – Chairperson SNACC as the chair of SC; two members each from SNACC and CSCAC respectively; the Information Commissioner; and, a representative of the MoJ. The SC will hold regular half-yearly meetings to approve the activity plan and monitor its progress.

VI. Safeguard Policies (including public consultation)

Safeguard Policies Triggered by the Project	Yes	No
Environmental Assessment OP/BP 4.01		x
Natural Habitats OP/BP 4.04		x
Forests OP/BP 4.36		x
Pest Management OP 4.09		x
Physical Cultural Resources OP/BP 4.11		x
Indigenous Peoples OP/BP 4.10		x
Involuntary Resettlement OP/BP 4.12		x
Safety of Dams OP/BP 4.37		x
Projects on International Waterways OP/BP 7.50		x
Projects in Disputed Areas OP/BP 7.60		x

Comments (optional)

VII. Contact point

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