Mainstreaming Governance in Tajikistan through It’s Energy, Extractives and Public Procurement Sectors

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Introduction
The Governance Partnership Facility (GPF)-supported program “Mainstreaming Governance in Tajikistan Portfolio” (FY10-14) was a landmark achievement in applying governance analysis and looking for entry points to improve transparency and accountability in key sectors in Tajikistan. This special brief provides recommendations from its energy-efficiency audit, the extractive industries sector, and public procurement authority pilot program.

PART I. TALCO: Stronger Governance for Energy Savings in the Aluminum Company

TALCO, the largest aluminum producer in Central Asia, is the cornerstone of Tajikistan’s industrial base. It accounts for 5–7 percent of the country’s GDP and about 40 percent of exports, and employs around 10,000 workers.

TALCO is also the single largest electricity user in the country, responsible for about 40 percent of total net electricity consumption. As such, TALCO contributes to the regular electrical overloads that plague Tajikistan in the winter. By pursuing greater energy efficiency, TALCO could play a critical role in reducing the occurrence of power shortages in the country.

Toward Transparency: the First Power Audit of the State-Owned Powerhouse

TALCO has demonstrated a commitment to seek energy savings and welcomed a review of its energy efficiency, marking a milestone on the way to transparency.

In 2012, the Government of Tajikistan and TALCO requested World Bank support for the first plant-wide assessment of energy-efficiency options. The energy-efficiency audit was carried out by a competitively selected consortium of Norwegian, Ukrainian, and Tajik companies supervised by the Bank in close cooperation with technical experts and TALCO management. The study covered all major equipment and production lines.

The findings inspired an Energy Efficiency Action Plan detailing 33 financially viable measures to help TALCO reduce annual...
energy consumption by more than 22 percent. If fully implemented, the Action Plan would substantially mitigate TALCO’s contribution to the power shortages that perennially affect the population in the cold winter months. Once TALCO is more energy efficient, household electricity consumption could be increased by roughly 25 percent in the winter season.

Modernizing Energy Management Practices

While most of the measures included in the Action Plan focused on technical efficiency improvements in the company’s main equipment and operating procedures, recommendations also touched on strengthening energy management practices. Making headway in establishing effective and transparent governance mechanisms can lead to improvements on multiple fronts, such as: (i) enhancing the adequacy and availability of key energy-related data (including cost centers); (ii) helping the company prioritize energy conservation investments in a transparent and employee-inclusive manner; (iii) transitioning toward energy management systems based on international standards; and (iv) improving the monitoring, evaluation, and reporting of the results achieved.

At the time of the energy-efficiency audit, TALCO had already incorporated some basic elements of global good practice in energy management. However, the audit also revealed that implementation of these practices, at least at the early stages, could be improved. The Action Plan outlined specific recommendations on next steps for implementing an integrated energy management system that is aligned with international standards. The starting point for rationalizing energy management at TALCO is establishing the specialized position of energy manager, trained by external consultants, in tandem with other steps including transitioning to an internationally recognized management system, improving documentation and reporting, and improving project management capacities.

Improving Communication and Reducing Fragmentation

Efficient energy management goes hand in hand with a revamp of management practices. In this connection, the audit touched on several crucial governance issues, including accountability and transparency.

For example, initiating dialogue and improving communication channels between TALCO management and expert staff could significantly assist in the development of an energy-efficiency strategy.

In the medium term, it is recommended that TALCO concentrate on reducing fragmentation and improving coordination between facility managers and process engineers. Company support units currently operate independently of each other, and facility managers rarely assume overall responsibility for their facility’s operations, resulting in poor horizontal exchange of information and cooperation between units and weak vertical accountability. Alignment with good practice would require that the company’s economists coordinate with procurement officers and plant engineering personnel to ensure that energy and material savings are taken into consideration in production planning and capital investment plans.

The transition to feedback-oriented management can also improve the phasing of the energy management reform process. TALCO’s management could identify “low-hanging fruit” more easily by consulting staff before proceeding with capital-intensive technology improvement projects. At the other end of the information chain, updating process engineers about the costs of energy losses could boost their motivation to save energy.

Better Management as a Key to Energy Efficiency: Accelerating Reform at TALCO

The energy-efficiency audit is a new instrument in Tajikistan. The Government and TALCO should be commended for taking up the opportunity to explore the possibilities for energy savings, which will help the company contribute to reducing Tajikistan’s winter power shortages. The audit’s extensive policy recommendations, designed to help TALCO adopt efficient-energy management practices aligned with international standards, are currently under implementation.

The findings of the audit suggest that improving corporate governance and modernizing management mechanisms are crucial for the broader reform process. Unleashing internal brainpower by promoting greater communication and coordination across management, specialists, and personnel, among other measures, can help TALCO establish ownership of the reform.

Local operators, management, and engineering staff are well placed to identify opportunities for energy savings. The benefits of including them in the reform dialogue include improved reporting on energy issues to the management and increased staff motivation, which, in turn, will help strengthen project development capacity and reduce implementation risks. Ultimately, collaboration across the management structure of TALCO will facilitate the development of a sustainable corporate energy strategy and improve corporate performance.

PART II. Institutional and Governance Elements of Extractive Sector Reform in Tajikistan

Tajikistan’s EITI Accession: A Driving Force of Extractive Sector Governance Reform

Tajikistan’s extractive sector offers considerable opportunities for growth and development. Recent mineral discoveries highlight the significant potential for expansion in the sector, which could raise the share of the mining industry from 1 percent of GDP to approximately 5 percent. The most promising of these discoveries, the Konimansur silver deposit, could become the largest silver mine in the world, potentially employing close to 16,000 people.

This strategic opportunity would enable Tajikistan to promote economic growth and decrease poverty. For the mining sector to become the engine of continued growth and development, reforms need to be undertaken to foster an enabling business
environment and attract foreign direct investment (FDI). However, these opportunities are unlikely to be realized while the industry’s system of governance remains a “black box,” making it difficult for investors to navigate the complex regulatory regime and layered institutional architecture.

The Government’s recent pledge to follow the guideposts of the Extractive Industries Transparency Initiative (EITI) has raised expectations for reform. To harness the full potential of Tajikistan’s mining industry, it would be important for the authorities to commit to removing multiple regulatory and institutional barriers and building stakeholder support for an open and well-sequenced reform process.

Reforming the Regulatory Framework: Embracing and Securing Foreign Investment

The legal framework for the extractive industries has three primary bottlenecks: the classification of geological data; the complexity and uncertainty inherent in the licensing process; and the ambiguous tax code.

At the top of the value chain, geological data is classified as a state secret under the Law on State Secrets. The only way for an exploration company to access data is to set up a subsidiary in Tajikistan and apply via the Department of Geology, a process that is costly for most junior investors. The data itself can only be released via a presidential decree.

Current licensing legislation does not guarantee security of tenure and title, nor does it support granting licenses on a first-come, first-served basis. The Subsoil Law and the Law on Concessions state that upon successful discovery of a deposit, the selection of the concession company is at the discretion of the Government, which alone possesses the power to decide whether or not the successful explorer should be “rewarded” with a license. Moreover, licensing legislation does not comply with international standards for bidding procedures. The bidding process in Tajikistan as outlined in the Law on Concessions is overly complex, requiring companies to provide legal documents, proof of technical experience, and current financial status as well as detailed plans for proposed mining operations. These provisions are considered unnecessary before the completion of a feasibility study and effectively disqualify junior exploration companies.

Moreover, the tax code makes it difficult to calculate the effective tax rate for a mining operation. The current tax code could apply as many as 21 potential tax instruments to investments such as Konimansur; it grants a maximum of only four years of tax incentive stability arrangements and does not provide clear guidelines on royalties. In practice, the tax structure for specific projects is decided on a case-by-case basis at a meeting held by the Tax Committee and the Ministry of Finance.

Restructuring the Institutional Architecture: Toward Open and Effective Governance

The institutions governing the extractive sector in Tajikistan need to address two systemic deficiencies to complete the reform process: the diffusion of responsibility between multiple institutions and the practice of discretionary decision making from the top down, which often circumvents official channels and thus increases uncertainty and risk.

Box 1. Global Good Practice in Extractive Sector Governance

Laws governing Tajikistan’s extractive sector could be further aligned with the following main principles of international good practice:

Security of tenure: junior companies with an Exploration License that meet all their legal obligations should carry an irrevocable right to receive a mining license. They can then sell their rights to larger mining companies with production capability at a market price.

Security of title: objective criteria for revoking licenses need to be clarified and upheld in line with the New York Convention, signed by Tajikistan in 2012, to reduce uncertainty in government-investor relations.

First come, first served: the Law on Concessions should ensure that the licensing process does not render investors vulnerable to shifts in the policy environment.

Auctions: the provisions for competitive bidding in the Law on Concessions should incorporate transparency and accountability safeguards.

Tajikistan’s mining sector has yet to overcome the legacy of excessive bureaucracy, characterized by a proliferation of institutions with overlapping responsibilities and a lack of accountability. The country has a three-tiered structure of government bodies with stakes in the extractive sector on the national level: offices under the presidency, principal offices under the prime minister (ministries and state committees), and smaller committees, departments, and agencies that also formally report to the prime minister. All of the key stakeholder entities are mirrored within the Executive Office of the President. Only a presidential decree can release geological data, and the president has to sanction any major legislative or institutional reform concerned with bidding, licensing, or taxation.

Tajikistan currently lacks a “one-stop shop” that would handle interaction with exploration companies and potential investors. There are up to four entities involved in the basic licensing process alone. The Department of Geology shares mining cadastre functions with the Department of Licensing at the Ministry of Industry and Energy; the former administers exploration licenses, and the latter deals with mining licenses. The Department for the State Supervision of Safety in Industry and the Mining Sector assesses mine development plans. The Ministry of Industry and Energy and the Ministry of Economic Development and Trade wield policy-making power, but they rarely coordinate their agendas or long-term strategies for the development of the extractive sector.
A “one-stop shop” would simplify this complex institutional set-up, streamline decision making, and ensure consistency in the application of government policy. One example is depicted in figure 1, although different institutional templates can be explored in order to tailor good practices to the needs of the local extractive sector. The Government could also demonstrate its commitment to reform by developing a pro-reform coalition of relevant government agencies, business representatives, donors, blue-ribbon experts, and civil society organizations (CSOs). Securing the go-ahead from the presidency for these institutional reforms is an essential first step.

**Figure 1. Extractive Sector Good Governance: Simplifying the Institutional Framework**

Source: World Bank Staff
Note: In the simplest reform scenario, a Mineral Resources Agency would fulfill the functions of the mining rights cadastre, geological survey, and mining inspectorate.

**Gradual Reform: From “Touching Up” to “Revamping”**

The transformation of Tajikistan’s extractive sector will be a gradual and long-term undertaking. The immediate follow-up on EITI candidacy should be the establishment of an official Advisory Committee for institutional and policy realignment. Ensuring that this advisory body consists of a wide range of stakeholders, including CSOs, would help initiate the kind of transparent and informed policy dialogue that should precede inclusive reforms.

The Advisory Committee would collaborate with the Government of Tajikistan to promote information sharing on Tajikistan’s EITI candidacy and the reform process in mining more widely across the private sector and among the general public, reaffirming their mutual commitment to implement good practices.

The Advisory Committee could assume a leadership role in pioneering an institutional review, and accordingly design subsequent reform plans to clarify the roles and responsibilities of institutions involved in the governance of Tajikistan’s mining sector. Immediate measures that would demonstrate the authorities’ readiness to step up EITI-related reforms include: improving the access to and quality of geological data; expediting the tax reform process; and developing a monitoring and evaluation framework that would allow stakeholders to assess the impact of ongoing institutional and policy reforms on the development of the mining sector.

**Conclusion**

Tajikistan’s recently acquired status of an EITI candidate country marks a milestone on the path toward greater transparency and accountability and provides a critical impetus for Tajik authorities to accelerate and intensify the reform process in the extractive sector.

By taking this strategic opportunity to pioneer policy and institutional changes rooted in good practices, the Government of Tajikistan could secure improvements in the business environment, attracting the FDI needed to develop the mining industry and helping the economy reach its full growth potential.

**PART 3: Toward Better Governance in Public Procurement in Tajikistan: Piloting a Procurement Performance Measurement Framework**

**Procurement Performance Management: Stepping on the Reform Path**

Procurement performance monitoring is far more than a generator of statistics. If implemented correctly, it becomes a radar for progress on good governance.

The World Bank’s 2013 Country Procurement Status Report (CPSR) for Tajikistan identified several opportunities for improvement of the country’s public procurement system. Leading CPSR recommendations encouraged the Government to “increase transparency in the use of public funds; establish a reliable system of collecting, reporting and disseminating procurement information; and prepare a comprehensive public annual procurement report.”

Based on the report’s conclusions, Tajik authorities launched comprehensive public procurement reform. In 2013, the Government drew on World Bank support and co-developed a Procurement Performance Measurement Framework (PPMF), with guidelines for data collection and analysis as well as a measurement of procurement performance effectiveness.

At the flash implementation stage in early 2014, the Public Procurement Authority (PPA) successfully piloted a limited number of indicators from the PPMF within 14 state enterprises and joint stock companies.

Extending the framework to all procuring entities would mark the next step toward greater efficiency, transparency, and fairness, and also reaffirm the Government’s commitment to fully converge its public procurement system with global good practice.

**PPMF Aspirations: Efficiency, Legal Compliance, and Good Governance**

Implementation of systematic procurement performance management has to be phased and tailored to existing capacity. There are three dimensions of procurement performance
measurement: efficiency, compliance, and good governance. Tajikistan started by measuring efficiency, because the PPA, as the oversight agency, and its procuring partners did not require additional support in terms of human resources to monitor this dimension. Once the procuring entities get results-oriented management under their belts and build capacity, they can turn to upgrading performance management by focusing on ensuring compliance with laws and regulations and promoting good governance as an overarching goal.

In the initial, efficiency-oriented phase, public procurement measurement has to incorporate methodological rigor and a clear division of responsibilities between all participating stakeholders. In the Tajikistan context, procuring entities supervised by the PPA are expected to systematize procurement monitoring by specifying indicators, data, and analytical methods, which should be regularly updated within a framework of adaptive management. They also have to take care to allocate tasks based on capacity, uncover and fill capacity gaps, and track delivery performance.

The PPMF aims to provide a standard procurement performance monitoring and evaluation tool for use by all procuring entities on a day-to-day basis. As the PPMF replaces the existing system, it will highlight best and worst practices, reveal weaknesses and delays in the procurement process, help compare prices against market standards, and assess the performance of procurement units and committees, as well as suppliers, contractors, and consultants. In the long term, the analysis of information submitted by the procuring agencies will enable more effective policy and decision making and strengthen good governance.

PPMF “Going Live”: Critical Areas, Performance Indicators, and Implementation

The PPMF has been adapted from the Organization for Economic Co-operation and Development’s Development Assistance Committee Methodology for Assessing Procurement Systems (OECD-DAC MAPS). In Tajikistan, the PPMF consists of 12 key performance indicators (KPIs) in four critical areas: (i) entity institutional framework and management capacity, (ii) compliance with the legal framework, (iii) procurement operations, and (iv) integrity/transparency.

The KPIs and 24 subindicators have been selected based on the core principles of Tajikistan public procurement policy as outlined in the public procurement law. These include securing maximum efficiency in public procurement; enhancing participation and competition between bidders; ensuring transparency and fairness; improving the performance of executive authorities, state-owned enterprises, and other organizations in the sphere of public procurement; and developing market-based relations in this arena.

The PPMF has a three-stage implementation schedule: first, flash implementation of 10 subindicators, which commenced in the first quarter of 2014; second, pilot implementation, which will add seven more indicators and begin in the first quarter of 2015; and third, rollout implementation, planned for the 2015 fiscal year.

In the flash implementation stage, the PPA will use the PPMF to collect and analyze data from the existing electronic Government Procurement (e-GP) system for a flash report. The PPA will assess whether the data available can support the chosen indicators and build confidence among officials to move on to the next level of PPMF implementation. During the pilot implementation stage, the PPA will capture data for a total of 17 subindicators and a representative sample of procuring entities and contracts. At the rollout implementation stage, all indicators, procuring entities, and procurement contracts funded by government or donor funds will be integrated into the PPMF. The final version of the PPMF should incorporate lessons from the pilot phase, adjusting indicators, data collection, and analytics accordingly.

PPMF Flash Report 2013: Reform Momentum and Challenges Ahead

The initial implementation phase generated overwhelmingly positive results and provided the confidence boost needed to extend the PPMF to more procurement entities and contracts. The data was collected for 10 subindicators based on the centralized procurement activities of 14 state enterprises and joint stock companies in 2013.

Under Key Area I, Compliance with the Legal Framework, Tajikistan’s procuring agencies received nearly perfect scores for tendering with unlimited participation as a percentage of total procurement amount (98.4 percent) and volume of total procurement (99.5 percent). The share of single source procurement contracts as a percentage of total procurement remained extremely low at 1.5 percent, while tendering with limited participation as a percentage of total procurement was nearly absent (0.0002 percent). The flash report also confirmed that the Government has a working website providing up-to-date information on procurement activities.

Figure 2. Number of Contracts by Procurement Method

![Figure 2. Number of Contracts by Procurement Method](source: World Bank Staff)

However, the flash implementation report also revealed areas where there is room for improvement and modernization ahead of the PPMF pilot implementation stage. For instance, e-GP is still used for only 2 percent of the total procurement volume and is not linked to other modules of support for procurement procedures. Hence, e-GP has yet to fulfill its purpose of automatically capturing all information and transaction records to monitor desired indicators and help generate reports for procurement performance measurement.

**Conclusion**

The Government of Tajikistan’s commitment to PPMF implementation marks a decisive step forward in aligning with good practice in procurement performance management. The 2014 flash report concluded that the PPA and procuring entities have made a smooth transition to data analysis based on a well-designed set of indicators and rigorous methodology. The PPA can now move on to the pilot implementation stage, which will test more indicators on a wider sample of procuring agencies.

In the medium term, as more of the procuring entities subscribe to the PPMF and thus demonstrate the buy-in to the provisions of the public procurement law and other procedures, monitoring has a potential to stimulate them to improve performance and may eventually help strengthen accountability.

In the long run, the Government’s goal is to use PPMF-generated procurement performance assessments and Annual Procurement Performance Reports (APPRs) as feedback that inform policy design. If the reform momentum can be sustained, Tajikistan has a potential to gradually converge to good practices in public procurement and improve its good governance ratings over time.