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The World Bank**

**TUNISIA URBAN DEVELOPMENT AND LOCAL GOVERNANCE
PROGRAM**

FIDUCIARY SYSTEMS ASSESSMENT ¹REPORT

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Executive Summary

As part of the preparation of the Tunisia Urban and Local Governance Program (ULGP) using the Program for Results (PforR) instrument of the World Bank, the Bank task team carried out a Fiduciary Systems Assessment (FSA) of the Program in accordance with OP/BP 9.0. Based on the findings of the FSA, it is concluded that Program Fiduciary Systems have the capabilities to provide reasonable assurance that the financing proceeds will be used for intended purposes. However considering the existing weaknesses in Program Fiduciary systems, the residual fiduciary risk rating for the Program is rated as Substantial.

The Program will finance a portion of the Government of Tunisia's (GoT) existing program for financing municipal service delivery that involves a combination of Capital Grants, and Loans in addition to the Own Source Revenues generated by the municipalities themselves. The PforR Program intends to reform the system of Capital Grants by making it predictable and based on an allocation formula that is principle based and transparent. It has been agreed with client counterparts that GoT will issue a Decree prior to the start of the Program that will spell out the design and operating rules of the reformed capital grant. Indicative allocations for Capital Grants will be included in the Five Year Plans and indicative allocations will be provided by MoEF in advance of the annual plan preparations. The budget allocations for Capital Grants will be transferred from the Treasury Current Account at the Central Bank (BCT) to the *Caisse des Prêts et de Soutien des Collectivités Locales* (CPSCL) (referred to as the Caisse), who will act as the Program Manager for the ULGP. Caisse will in turn transfer the grant funds to municipalities in accordance with the operating rules for the Unconditional and Conditional Capital Grants. Preliminary assessment of the Program expenditure framework shows that in addition to the changes in the design of the Capital grant through the proposed decree, additional steps such as publishing the indicative allocations of capital grants in advance and reforming the existing system of multiple ex-ante checks and controls into a coordinated system of ex-post controls are necessary for the efficient implementation of the proposed Program.

Municipalities will utilize the Capital grants to implement various investment projects that are approved under their Five Year and annual plans and are included in their annual budget. All municipalities are adequately staffed with technical, financial management and procurement skills adequate for management of the municipal work program. Municipalities have financial managements systems adequate for the custody, accounting and reporting of Program funds. The expenditure cycle for municipalities is submitted to the same controls applicable for the Central Government. The *Contrôle Général des Dépenses* under the Prime Minister's office has to approve ex ante, at the commitment stage, every single expenditure through the ADEB system. Then the *receveur* (municipal accountant) *exercises* control over the payment process (*contrôle concomitant*). Municipalities are subject to the oversight and supervision of the General Inspectorate of the Ministry of Interior, by the *Contrôle Général des Finances* (Internal Audit of the MoEF) and, the *Cour des comptes* (Supreme audit Institution). The controls and audit framework related to LGs provides some level of fiduciary comfort but at the same time constitutes a major risk of not achieving desired results due to their weaknesses in

implementation and capacity. For strengthening the accountability framework of municipalities an agreement has been reached with the Cour des Comptes to carry out annual financial audit of municipalities. The capacity building element of the Program will provide the necessary support to the Cour des Comptes to carry out the annual audits in time.

Procurement processes and systems at the municipal level are adequate for the efficient implementation of the Program. Despite the weak capacity of smaller municipalities, the procurement process at municipalities are found to be more efficient than even many line Ministries' at the central level in terms of the time required to complete the procurement process. Tunisia has recently promulgated a new Decree for public procurement that emphasizes transparency and efficiency and the provisions of which will apply to municipalities also. The Local Governments' compliance with national procurement regulations is also found to be good. Tunisia has a functioning institutional structure for the handling of complaints relating to public procurement. The Haute Instance de la Commande Publique (HICOP) provides overall technical guidance on public procurement and monitors the compliance of procurement standards and practices. The Comité de Suivi et d'Enquête sur les Marchés (COSEM) receives complaints relating to public procurement and takes follow up action. However, despite the strengths of the procurement system, the multiple layers of controls and approvals that are required by municipalities pose a risk to the efficient and timely execution of the municipal budget and thereby affect the achievement of the Program results to a certain extent. As part of the Program Action Plan, the Bank has recommended to transform the role of CPSCCL role by moving it from ex-ante control and prior clearance to post-review and ex-post control in order to shorten significantly the average duration of procurement processes. The Program Action Plan also recommends designing a procurement capacity building program after a systematic assessment of local government requirements, and implementing it as part of the capacity building element of the Program. To enhance the transparency of the procurement process, all contracts awarded by municipalities will be displayed in the national procurement portal of the observatory.

The design of the PforR Program relies on many of the existing institutions and systems of Governance in Tunisia as well as introduced a few additional ones as part of Program design for mitigating possible risks relating to Fraud and Corruption in the proposed Program. The Program will interface with existing institutions of Governance like the Haute Instance de la Commande Publique (HICOP), the Comité de Suivi et d'Enquête sur les Marchés (COSEM) as well as the Secrétariat d'Etat à la Gouvernance et à la Fonction Publique. Tunisia has recently formulated a National Strategy on Anticorruption that is based on the International Convention on Anticorruption. There is a high powered body in the Prime Minister's office that will be responsible for the implementation of the strategy and all Government programs (including the PforR Program) will be under the scope of the body. The National Authority for Fighting Corruption ("Instance Nationale de Lutte contre la Corruption") is responsible for the investigation of complaints relating to corruption. In addition there is an Anticorruption hot line and a website where any citizen can file complaints/grievances which are both functional. Municipalities have a Citizens Relations Bureau where citizens can submit grievances. The Bank will rely on the existing country systems and processes for preventing and combating corruption. The Caisse will maintain an up-to-date list of contractors debarred by the Bank and convey such information to all municipalities. The Program

is financing the design and implementation of an E-Portal where all relevant information (both financial and operational) relating to the implementation of the projects that are part of the annual plan and budget will be displayed for public information. The municipalities will be preparing their plans and budgets in a participative manner in consultation with their citizens. The Performance Assessment of municipalities will include areas relating to transparency, accountability and participation in municipal management and the performance of each municipality on these areas will be evaluated.

As Program Manager, Caisse will also be responsible for preparing the Program Financial Statements compiling them from municipal financial reporting as well as financial reporting from other agencies, if any. The annual audit of the Program financial statements will be carried out by an independent auditor acceptable to the Bank.

Section 1: Introduction

As part of the preparation of the ULGP (hereafter referred to as the “Program”), the World Bank task team carried out a Fiduciary Systems Assessment (FSA) of the Program in accordance with OP/BP 9.0 of the World Bank Operations Manual. In addition, the FSA was carried out according to the OPCS Guidance Notes for PforR Operations. The objective of the assessment was to examine whether Program systems provide reasonable assurance that the financing proceeds will be used for their intended purposes, with due attention to the principles of economy, efficiency, effectiveness, transparency, and accountability. Accordingly, the Program procurement assessments were assessed to find out the extent to which the planning, bidding, evaluation, contract award and contract administration arrangements and practices provide a reasonable assurance that the Program procurement systems will enable the achievement of intended results. The financial management systems were assessed to gauge the extent to which the planning, budgeting, accounting, controls, funds flow, financial reporting and auditing systems and practices provide a reasonable assurance on the appropriate use of Program funds and safeguarding of its assets. The FSA also considered how Program systems handle the risks of fraud and corruption and how such risks will be managed and/or mitigated.

The FSA was carried out by an experienced team of World Bank staff that included Financial Management and Procurement Specialists. The team went through the existing country and sector reports, discussed with client counterparts both at the Central Government as well as at the Local Government levels. The team also visited a sample of municipalities to assess the working of systems on the ground. The initial findings were discussed informally with client counterparts to get validation on the findings and conclusions. Based on the feedback, the draft assessment was finalized. The findings of the assessment will be incorporated in the Program documents for the proposed PforR operation.

1.1 Program Design and Expenditure Framework: The proposed PforR Program involves an outlay of \$300 million as World Bank financing and is part of the overall GoT program of financing municipal service delivery. GoT’s existing program for financing municipal service delivery includes a combination of capital financing (through PIC allocations), loans to municipalities (through the Caisse) as well as the Own Source Revenues (OSRs) of the municipalities. The development objective of the ULGP is to enhance the institutional performance of the municipalities of Tunisia in order for them to be better able to respond to the Constitutional decentralization mandate. The proposed PforR operation takes a subset of the Government’s program and supports it. This subset called the Bank financed Program (the “Program”) intends to support the following:

- 1. Performance based Capital Grants for Municipal Infrastructure.** The Program will provide performance-based Capital grants to incentivize LGs to achieve improved standards of institutional performance in key areas of their municipal functions. The target would be for 60% of LGs to achieve scores of 70% or more on their evaluation for the fifth year of the Program. To achieve the targeted outcomes, the Program provides resources under the capital grant for investments in local infrastructure services, with funding levels modulated by each LG’s ability to meet annual performance standards applicable to unconditional grants as measured by annual Minimum Mandatory Conditions

(MMCs) and Performance Assessments (PAs) undertaken according to agreed criteria. The annual performance standards include implementation of participatory planning and transparency initiatives.

2. Targeted Capital Grants for Improving Access to Basic Municipal Service in Disadvantaged Neighborhoods. This conditional capital grants represents a vehicle for the government to address policy priorities. Currently, government priority is focused on upgrading service levels in disadvantaged neighborhoods. A total of TDN 225 million has been allocated under the conditional grant for the PIC 2014-2018 period for this purpose. Due to resource constraints and the uneven distribution of disadvantaged neighborhoods across LGs in the country, a regional consultation process (involving elected officials from the National Constituent Assembly, representatives from regional and local governments, civil society, deconcentrated agencies) was undertaken to pre-identify neighborhoods and municipalities that would qualify to receive these grant funds during the FY2014-2018 cycle. Municipalities currently covered by ongoing urban upgrading programs are not targeted by the Program.

3. Capacity support for improved LG institutional development and accountability. The capacity support would contribute to the LGs ability to achieve the standards required under the performance assessment system in order for them to access their full entitlement to the capital grants. It will focus on the key support required to assist municipalities to achieve MMCs and performance criteria, and thus contribute to the achievement of the Program Development Objective.

The proposed Program will be included in the annual budget of the Government of Tunisia under the budget allocation head for the Caisse. Indicative allocations for Capital Grants will be included in the Five Year Plans and will be informed to the municipalities in advance of the preparation of the annual plans and budgets. The annual Capital Grant allocations will be included in the annual Investment Budget of GoT and will appear in the Ministry of Interior's budget as transfers to the CPSC² (the Caisse) (Titre II, line 2.1³). There will be specific budget lines that will provide for each of the elements of the Program. As part of the reform to the existing system of capital grant allocations, the MoEF will issue separate decree that will spell out the changes in the mode of allocation and utilization of the Performance based Capital Grants. The Program Operations Manual will describe the access conditions, as well as operating rules for the Capital grants. The budget allocations for Program elements will be transferred from the Treasury Current Account at the Central Bank (BCT) to the Caisse, in one or more tranches per year. Caisse will in turn transfer the grant funds to municipalities as well as other Program implementing entities in accordance with the Program Operating rules.

1. ² *Caisse des Prêts et de Soutien des Collectivités Locales* (the Caisse), is a municipal development fund operating within the jurisdiction of the Ministry of Interior (Moi), but reporting to its own Board. The Caisse was formed by Article 4 of Law No 75-37 of May 14, 1975, and operates under the provisions of Decree 97-1135 as issued in 1992 and amended in 1997.

³ See link

http://www.finances.gov.tn/index.php?option=com_jdownloads&Itemid=712&view=finish&cid=537&catid=1&lang=fr p. 15 of the document

The PforR Program is bringing a critical shift in the financing and expenditure model for Capital Grants. Currently the municipalities are forced to adopt a financing mix comprising of Capital grants (PIC allocations), loans provided by Caisse and a pre-specified share of own revenue contribution. As a result municipalities are able to access grant funds only after they have availed of loans which have resulted in many municipalities having taken on debt when they did not require such loans or could not afford them. An adverse consequence of this model has been that municipalities with weak revenue and tax base and often with significant demands for urban services are not able to access grant funds as they are already severely indebted. The PforR Program aims to reform this model by delinking the Capital Grants from loans and in this regard the GoT has already started the process of issuing a Decree and Circular that will clearly delink the Capital Grant allocation from debt financing. Accordingly allocation and disbursement of capital grants will be made of a simple set of criteria that incentivizes municipal performance rather than their ability to avail of loans. In addition a significant aspect of the reform of the Capital Grant system will be the replacement of the existing system of ex-ante review and clearance of project proposals with an ex-poste review of Program implementation and results which will be elaborated in the Program Operations Manual. This is expected to expedite the approval, allocation and disbursement of the Capital Grants annually.

As part of the annual allocation process for Capital Grants, municipalities will be required to satisfy certain Minimum Mandatory Conditions (MMCs) upon which they will be allotted their eligible annual Capital Grant allocations. The annual allocation of the Unconditional Capital grants (horizontal) will be based on a formula that will be communicated to the municipalities well in advance. The allocation for the conditional Capital Grants will be based on the municipalities satisfying one or more MMCs in addition to the MMCs for the unconditional grants. Those municipalities that satisfy the MMCs will receive their eligible grant allocations from Caisse at the start of the financial year. The Caisse transfers the necessary funds to the account at the Postal Service (CCP) maintained by the accountant of the local government (*receveur*), who will in turn make payments based on payment invoices issued by the municipality.

Preliminary assessment of the expenditure framework has revealed that the MoEF makes adequate budget allocations every year as a matter of course for meeting the financing requirements of the annual plans. However in the current system, municipalities do not receive any advance information on the annual allocations in advance nor do they know the list of specific projects that will be allotted funding. This makes municipal budgeting a guessing game and results in inefficient and unaccountable allocation of budgetary resources. The proposed PforR Program aims to reform this model by insisting on MoEF providing information on indicative Capital Grant allocations in advance to municipalities and in turn municipalities preparing their annual plans and budget in a realistic manner. At the same time the previous system of allocation of Capital grants based on a project basis and after a series of ex-ante review and control processes had also resulted in significant delays in project implementation cycles and the result delay in the utilization of budget allocations resulting in the accumulation of budget allocations in the hands of the implementing entities. Recognizing this, the MoEF has relaxed its annual fiscal year rule for transfers to municipalities and as a result municipalities are not required to return unspent budget allocations (relating to Capital Grants) at the close of the fiscal year. With the reform of

the Capital Grant process, this issue is expected to be resolved with a more efficient financial planning and budget execution system in place, the Program design will, in consultation with the relevant Government counterparts, will put in place adequate safeguards that will prevent the accumulation of unspent balances at the municipal level and thereby raise a fiduciary risk.

Another related issue regarding the Program Expenditure Framework is the difficulty in obtaining a clear picture of the various fiscal and financial flows to local governments from the existing budget documentation for a variety of reasons. First, the specific booklet for the CPSC is not public and is with the government's representative at the Caisse (*administrateur*). Second, a number of financing flows are directly on the budget of line ministries and it is not clear whether they are for operating or investment expenses, whether there are certain conditions attached to their use. Besides, they are not processed through the Caisse but directly within the Treasury and are not consolidated in terms of reporting. To address this issue and to bring about greater transparency in local governance, the DGCPL is designing a "E-Portal" that will provide comprehensive data on the spatial, demographic, financial, and service delivery aspects of municipalities.

The sustainability of the investments being made by municipalities through the Capital Grants will depend on the ability of the municipalities to improve the mobilization of their own revenues as well as on the ability of both GoT and the municipalities to restructure the municipal lending program. Currently Agence Française de Développement (AFD) is conducting a study to advise the Caisse to redesign their lending policies and appraisal methods with the objective of transforming Caisse into a financial intermediary that will operate in accordance with the rules and regulations applicable to financial institutions. Though there is an ongoing program for debt rescheduling for the seriously indebted municipalities, the PforR Program will help the MoF and DGCPL to put in place a financial recovery plan to enable municipalities to undertake prudent debt management strategies and will provide necessary incentives for their speedy implementation. Also the PforR Program will also incentivize municipalities to improve own source revenue mobilization by including this as a key performance area under the performance measurement system. In addition, efforts are underway to carry out a PEFA assessment of local governments that is expected to enhance the Public Financial Management framework of municipalities.

1.2: Institutional arrangements for Program Implementation: the legal and institutional framework for the Program is well defined. Chapter 7 of the recently approved Constitution provides for administrative and fiscal decentralization and empowers local governments to deliver accountable and responsive local services. The GoT is currently in the process of revising the existing Organic Laws and Decrees to reflect better this Constitutional focus on decentralization and local governance.

The Program scope includes all the 264 municipalities in Tunisia and those which might be created at a later stage. The Ministry of Interior is in charge of supervising all local governments through its *Direction Générale des Collectivités Publiques Locales* (DGCPL). The Ministry of Economy and Finance (MoEF) contributes to the financial and budget supervision of municipalities. Administratively, the country is organized under 24 Governorates (*waliyas*) headed by a Governor. The Governor, who is appointed by

the President, is the representative of the Central Government at the regional level and is responsible for the regional administration including the supervision of the deconcentrated arms of line ministries. The Governor and the Regional Council provides overall oversight of local government affairs as well as coordinates the support of the deconcentrated arms of line ministries to the municipalities.

Municipalities are headed by a Mayor who is elected from among town councilors for a period of five years. The Mayor chairs the municipal council and has responsibility for planning, public security, traffic, environment management. The municipal council drafts the municipal development plan, levies municipal taxes and prepares and implements the municipal budget. The Mayor is assisted by a Secretary General who is the executive head of the municipal administration as well as other technical and financial staff. Following the Revolution, the elected municipal councils were replaced by appointed interim councils namely, "*Delegations Spéciales*". However, as part of the reform, reinstatement of municipal elections is now anticipated for late 2014 or early 2015.

The Central Government and its line ministries also provide direct and indirect support to municipalities in service delivery. Each municipality has a government accountant attached to it (*le receveur*). This accountant is paid and managed by the General Directorate of Accounting of the MEF and implements the Accounting Code which applies to all accountants at central and local levels. This accountant uses the IT systems of the government (ADEB for expenditures, RAFIC for revenue, SIADE for debt) which are accessible at every point in the system and allows immediate issuance of financial reports.

Program Implementation at the municipal level: Municipalities will utilize the Capital grants to implement various investment projects that are approved under their PIC and annual plans and are included in their annual budget. All municipalities are adequately staffed with technical, financial management and procurement skills adequate for management of the municipal work program. Wherever there are staff or skill deficiencies, municipalities rely on the back up support provided by the deconcentrated unit of the Ministre de l'Équipement at the Gouvernerate level. For specialized activities relating to slum upgrading (using the Conditional grant funds) the municipality will rely on the services of national agencies like the ARRU or on contractors. The Caisse will be coordinating the capacity building activities supporting the Program in consultation with DGCPL as well as the municipalities.

Tunisia has a long history of local governance starting with the establishment of the Municipality of Tunis in 1858. There are 264 municipalities and their roles and responsibilities are well defined in the Constitution as well as through various executive orders (Decrees and Arrêtés). Chapter 7 of the recently approved Constitution lays out clearly the intention of the country to move towards greater decentralization and for a transparent and accountable system of local governance. Municipalities, the lowest tier of the State being close to citizens, are expected to fulfill their mandate to provide local services in a responsive and accountable manner. The Program design is built around this fundamental principle and therefore fits in well with the current priorities of the country to strengthen governance, including participatory governance.

Local Governments in Tunisia report administratively to the *Direction Générale des Collectivités Publiques Locales* (DGCPL), within the Ministry of Interior. Administratively, the country is organized

under 24 Governorates (Wilayas) headed by a Governor. The Governor, who is appointed by the President, is the representative of the Central Government at the regional level and is responsible for the regional administration including the supervision of the deconcentrated arms of line ministries as well as the 165 rural communes. The Governor, on behalf of the Ministry of Interior, exercises broad administrative and regulatory supervision over local governments and is the approving authority for local government budgets. In addition, the deconcentrated arms of the line ministries at the Governorate level provide technical and administrative support to local governments in the implementation of programs and projects funded from the Central Government budget on an as needed basis.

Municipalities are headed by a Mayor who is elected from among town councilors for a period of five years. The Mayor chairs the municipal council and has responsibility for planning, public security, traffic, environment management. The Mayor is assisted by a Secretary General who is the executive head of the municipal administration as well as other technical and financial staff. The Mayor and the Municipal Council are responsible for the day today management of municipal affairs and provide the necessary guidance to and oversight of the executives. The Municipal Council will exercise oversight over the implementation of the municipal plans and budgets that include the Capital grants provided through the Program. The existing Municipal Councils are appointed (not elected) and the elections are schedule for next year.

The Program will be managed by the *Caisse de Prêts et de soutien aux collectivités locales (CPSCCL)* or the “Caisse” under the overall direction of the Secretary General, Ministry of Interior. The Caisse is an autonomous agency created by law (*établissement public non-administratif*) and governed according to the provisions of decree 92-688 of 16 April 1992. The Caisse has its own Board of Directors chaired by the Minister of Interior and its day to day management is handled by a Chief Executive. The Caisse in its capacity of Program Manager will exercise Program oversight especially in the implementation of capital investment plans at the municipal level. In addition, the Caisse in its capacity as the lender to municipalities will exercise financial due diligence as part of the review of loan application packages. The roles and responsibilities of the Caisse relating to Program governance and oversight will be described in the Operations Manual for the Program.

1.3 Transparency and Accountability

The Program is subject to the oversight of existing system of public sector oversight in Tunisia that includes the external audit by the Cour des Comptes (the Supreme Audit Institution in Tunisia), the inspection by the Inspector General of the Ministry of Interior and the Inspector General of the Ministry of Finance. Though the Constitution has brought about a shift from the stiff ex ante controls imposed by the previous “tutelle” system, the day to day operating rules and procedures have not been revised. Therefore there exists to a large extent the system of process controls imposed by the Ministry of Interior (for example the budget of municipalities are reviewed by the Governor) as well as those laid out by the country’s PFM system for making payments. Thus the recently approved Procurement Decree continues to insist that the adherence of municipalities to procurement rules are verified and approved by the regional branch of the *Contrôle Général des Dépenses* before contracts can be awarded. Similarly

prior approval is required from the *Contrôle Général des Dépenses* before any payment can be made by the municipality.

Transparency: coming out of a system that was centrally driven (“tutelle”) and with very low levels of transparency, the Governance system in Tunisia is making rapid progress to embed the principle of transparency in the public sector including local governments. The current system of allocation of financial resources from the Central Government to Local Governments is very opaque. The proposals submitted by the municipalities as part of the annual PIC (Plan d’investissement communal) process are revised at the discretion of the Ministry of Interior without any consultation or recourse by municipalities. At the municipal level, there is essentially no sharing of information between the municipality and its citizens. A household survey just undertaken in a municipality in the greater Tunis area showed that only around 2% of households had received any information at all from the municipality in the past year. At the same time there are several changes happening at the country level that will help to strengthen overall transparency. A new decree providing Access to Information (Decree # 2011-41) has recently been issued that allows citizens to have easier access to Government documents and records. There are independent initiatives by Civil Society Organizations such as the website called Marsoum41 (<http://www.marsoum41.org/en>) that provides a platform for access to information. A national Procurement website is a place where all contract awards by public sector entities including local governments are required to be uploaded and thereby making all information relating to contract awards available to the public. The Program intends to build upon these measures and will be strengthening participative planning where the municipality will be required to present the proposed five year and annual plan proposals to their residents in open meetings and obtain public validation of the plans.

The Program intends to strengthen transparency through the following specific measures to strengthen transparency:

- Creation of a national level E-Portal that will be populated with relevant geographic, spatial, demographic, financial, service delivery performance data of each municipality. The E-Portal will be maintained by the CPSCCL and will be updated regularly and will have easy and ready access to citizens. The E-Portal will also be linked to municipal websites wherever feasible.
- Key information relating to the local government such as financial reports, audit reports, procurement plans, contract awards etc. will be displayed either in the municipal website (if such a website is up and running) and also at a designated place in the municipal offices. Additionally, municipalities will be encouraged and assisted in disseminating budget and plan information to its residents through various media. Caisse, as the Program Manager will display all relevant information connected with the Program in its website.

Accountability: Tunisia’s new Constitution has put in place a strong accountability framework for local governments. The PforR Program reinforces this Constitutional mandate through the unconditional capital grants system that will provide resources to municipalities to be used at their discretion to meet local service delivery responsibilities. Municipalities will be incentivized to prepare Five Year and Annual Plans and Budgets in a participative manner, which will need to be validated by their residents in

dedicated public meetings. Municipalities will be accountable to their citizens as well as to the Central Government for meeting their institutional and service delivery responsibilities. The Program will strengthen downward accountability of the municipality to its citizens, and better reflect citizens' service priorities through the strengthening of citizen participation in the municipality's planning and budgeting process. The Performance Assessment system introduced by the Program will measure institutional performance and will make the results available to the public which will strengthen the accountability relationships between the local government and its citizens. Formal channels of upward accountability such as regular and timely financial reporting, independent annual external audits will be strengthened under the Program.

Participation: the extent of public participation in local governance has been very weak in Tunisia partly because of the centralized nature of the State previously. The Tunisian Revolution and the consequent changes resulting in the new Constitution that focusses on decentralization provide a significant fillip to enhanced public participation in local governance. Article 134 of the new Constitution states that "Local Governments will adopt the mechanisms of participatory democracy and the principles of open government so as to ensure the widest participation of citizens and civil society in the preparation and planning of development projects and monitoring of their implementation, in accordance with the law". The DGCPL has recently issued a Circular (dated March 7, 2014) where local governments are required to adopt a participative approach and consult with their citizens during the preparation of their five year and annual plans. The Program builds upon the existing momentum in Tunisia on enhancing citizen participation and provides for specific measures such as:

- The Five Year Plans and annual Plans of municipalities will be prepared/finalized after consultation/validation with citizens. This will be part of the Mandatory Minimum Conditions (MMCs) for local governments to receive the Capital Grants.
- The Program intends to provide incentives to local governments to introduce participative budgeting in municipalities around a small proportion of their capital investment grants as part of their annual planning and budgeting process.
- The Capacity Building component of the Program will provide training to municipalities to strengthen their communication with citizens and capacity to effectively implement participatory planning and participatory budgeting.

Grievance Handling: Tunisia has established a system for receiving grievances and their resolution. At the municipal level, each municipality is required to establish a Citizens Relations Bureau, where any citizen can file a grievance on any issue relating to the municipality. Field level assessment has revealed that while the Bureaus exist in many municipalities, their functioning is poor. The Program will provide incentives, via the participatory planning process, for municipalities to strengthen the existing grievance mechanisms, including by ensuring complaints are systematically logged and resolved in a timely fashion under the Bureau's guidance. The grievance log and timely resolution of the complaints will be an indicator for the municipality's performance assessment. The Program Action Plan will recommend the establishment of the Bureaus in all municipalities as part of the Program Action Plan. The Good Governance Cell in the Ministry of Interior will monitor the efficiency of grievance handling by the

Citizens bureaus and their effectiveness in the resolution of citizens' grievances. The Annual Performance Assessment process will assess the performance of the grievance handling mechanisms.

Section 2: Program Financial Management Systems

Financial Management of the Program is proposed to be carried out using Tunisia's existing systems and processes for Public Financial Management. The Program will be located within the country's budgetary framework the will rely on existing institutional systems for implementation.

2.1 Institutions involved in Program Financial Management

1. The Ministry of Economy and Finance: The MoEF is responsible for the formulation of the Budget and its implementation and in particular in relation with the grants transferred to municipalities and other LGs. In terms of Budget formulation, the *Comité de Préparation du Budget* is the relevant entity which coordinates with the various sectors, including the Ministry in charge of LGs (Interior). The *Direction Générale des Finances Locales* is the General Directorate under the General Directorate of accounting and Resource collection that is in charge of managing the implementation of LGs's budget and transfers to LGS from central government. This Directorate supervises and manages the network of government accountants assigned to municipalities (*receveurs*).

The MoEF elaborates the standards and processes for local financial management. Its guidance is reflected in the organic law for municipal finance will be replaced soon to comply with the new Constitution. The current organic law for municipal finance has been reviewed and does not entail negative implications for the Program. The Public Sector Accounting Code (*Code de la Comptabilité Publique*) applies at both central and local levels for budget implementation and accounting rules. The systems maintained by the MEF provide a guarantee in terms of fiduciary risks.

2. The Ministry of Interior (MOI): The Ministry in charge of LGs is the Ministry of Interior, and in particular the General Directorate for Local Government (*Direction Générale des collectivités Publiques Locales, DGCP*). The DGCP has a monitoring and supervision role ("*tutelle*") as well as a policy and advisory role towards LGs. The MOI is the *tutelle* of Governors.
3. The *Caisse de Prêt et de soutien aux collectivités locales (CPSCL)* : The *Caisse* was created by law (#75-37 of 14 may 1975) and replaced a *Caisse de Prêts aux Communes* that existed since 1902. It is a non-administrative autonomous agency (*établissement public non-administratif*) now organized according to decree 92-688 of 16 April 1992. It is not a bank and its missions are defined by the government and aim at economic and social development of municipalities. The CPSCL manages 4 regional branches in Beja, Gafsa, Sousse and Sfax. The *Caisse* manages approximately half (the proportion varies each year) of the Common Fund for Local Government

(*Fonds commun des collectivités locales*) which is the global subsidy of the State to LG's operating costs. It manages also investment subsidies (Titre II).

The Caisse's resources are: (i) its share of the FCCL; (ii) return on loans it makes available; (iii) loans received from external donors (World Bank, AFD, BEI) or internal; (iv) product of financial operations; (v) other resource created by decree or law; (vi) transfers from the Budget (Titre II).

The Caisse has a substantial experience in implementing Bank-funded project and ensuring fiduciary responsibility. Its systems of financial management have been assessed regularly and recently (2013) and have been deemed to provide sufficient guarantee to manage Bank proceeds. Caisse's FM staff capacity has been assessed and is deemed acceptable. Caisse has also capacity to monitor the activity of municipalities and provide advice. Caisse's financial statements are audited annually as per the law by an independent audit firm. Caisse's financial statements are compiled according to business accounting standards. The Cour des comptes conducted 2009 a performance audit of the Caisse covering the period 2002-2009 that has led to a number of useful recommendations but also a generally positive assessment of the general management, including financial management of the Caisse.

2.2 Planning and Budgeting

Municipalities' investment budget (Titre II) is funded i) through grants that appear in the Interior Ministry's budget as transfers to the CPSC (the Caisse) (Titre II, line 2.14); ii) through local tax and non-tax revenues and the balance of previous year's current budget (auto-financement).

In the existing system, the municipality prepares a financing request to Caisse based on the 5-year investment plan (PIC). A Financing Committee comprising of representatives from the Ministries of Finance, Interior, Development and Planning as well as the Caisse approves the request which triggers the procurement process. Before payment, the Board of the Caisse (headed by Minister of Interior, with Finance, Development and Planning, Central Bank, Cities 'Federation, Public Works and State Council), which meets every three months, has to issue a "final agreement" to allow issuance of a joint decision (*arrêté conjoint*, Finance/Interior) or a loan agreement. The whole process takes approximately 8 months when everything goes well but municipalities have reported delays and cancelations often due to excessive formalism of the procedure.

The Central Government Budget shows the annual PIC allocations to local governments as transfers to the Caisse. Funds are transferred from the Treasury current account at the central bank (BCT) to an account of the Caisse in 4 tranches per year. The Caisse never make advances from its own resources to municipalities. According to a schedule of payments the Caisse transfers the necessary funds to the

⁴ See link

http://www.finances.gov.tn/index.php?option=com_jdownloads&Itemid=712&view=finish&cid=537&catid=1&lang=fr p. 15 of the document

account at the Postal Service (CCP) maintained by the accountant of the local government (*receveur*) who makes the final payment.

The Program will substantially modify the role of the Caisse as the funds that are provided as capital grants are in the nature of fiscal transfers (unconditional and conditional) instead of project financing. The municipality has the discretion to use the funds to finance capital investment projects of its choice and as reflected in its annual plan and budget. Accordingly, once the municipality satisfies the Mandatory Minimum conditions (MMCs) for gaining access to the funds, Caisse will disburse the funds to the municipality. Each municipality will enter into an agreement/ Memorandum of Understanding with Caisse that will spell out the roles and responsibilities for both. The Program Operations Manual will provide details of the frequency and timing of the disbursement of grant funds by the Caisse to the municipalities.

2.3 Payments and Flow of Funds

All payments of the Program will be made through the centralized Treasury system of Bank accounts held at the Central Bank of Tunis (which uses also the network Postal Current Accounts, *comptes chèques postaux, CCP*). For each municipality, the *receveur* is in charge of making the payment and the Tunisian PFM system, including at the local level, is based on the principle of the separation between those who order payments (*ordonnateurs*) and those who make the payments and record it in the accounting system (*comptables*, here *receveurs*). Program funds will be entirely reflected in the central government budget under the budget line for Caisse and will then be channeled through the Caisse to municipalities for conditional and unconditional grant as well as for capacity building activities. For unconditional grants, the funds will be released based on the attainment of minimum conditions (MMCs) as well as based on a performance assessment later in the Program. These funds may then be mixed with loans and own source revenues by the municipality.

2.4 Accounting and Financial Reporting

Accounting principles to be followed by LGs are specified in organic local Budget law (75-35 completed by 2007-65 of 18 December 2007) which details the chart of accounts for the formulation of the Budget as well as for accounting. This is a cash-based single entry accounting. The Budget is voted by the LG's council and after this submitted to the "*tutelle*" for approval. The Budget is annual and comprehensive (all financial operations must be reflected). If a budget is not voted before the start of the fiscal year the expenditures are incurred based on a quota of one twelfth of previous year's budget. Virements and transfers during the year from one credit line to the other are strictly defined by the law. Budget must be balanced between resources and expenditures.

Strong central government systems are supporting LG finances. (i) each municipality has a government accountant attached to it (*le receveur*). This accountant is paid and managed by the General Directorate

of Accounting of the MEF and implements the Accounting Code which applies to all accountants at central and local levels. This accountant uses the IT systems of the government (ADEB for expenditures, RAFIC for revenue, SIADE for debt) which are accessible at every point in the system and allows immediate issuance of financial reports. ADEB allows for the production of real-time fiscal situation of municipalities; (ii) this accountant is submitted to a comprehensive control and audit framework (ref. infra); (iii) the accountant works also with the head of the municipality and municipal staff in terms of resource collection and expenditure cycle.

Though generally well structured, this system presents several weaknesses. In particular, the accounting and financial reporting framework is based on a budget execution framework and the system does not allow for the production of financial statements that would present financial assets and liability. This single entry accounting is also a weakness that is well known and analyzed at the central level where there is an effort to generalize double entry accounting in 2014 and then a plan designed to progressively move towards accrual accounting.

Financial information at the LG level will therefore rely on the "*compte de gestion*" produced by the accountant and sent systematically to the Cour des comptes. These end-of-year accounts provide the annual balance of all accounts used by the LG for collecting resources and incurring expenditures. The capacity of these *receveurs* has been evaluated and is satisfactory. They are part of a national cadre of government accountants and are recruited through competitive exams. They are on average well trained and skilled.

2.5 Controls and Audits

The control framework comprises several layers. They are:

The Caisse follows a good set of internal control procedures before making disbursements to municipalities. The funds are released through a check which cannot be used for other purposes than the payment it is meant to cover (*fonds affectés*). The Caisse keeps an accounting book for each municipality which produces financial statements, which are provisional the 30th of June and final, 31st of December and are based on commercial accounting standards (modified to reflect the quasi-banking nature of the activities). The accounting department of the Caisse also follows separately payment arrears of municipalities, for which central government is the guarantor. ADEB, the IT system used by government accountants (including municipalities) is accessible at the Caisse but it does not seem that it is reconciled with the accounting done by the Caisse. The Internal Audit Unit of the Caisse, (4 staff, including a lawyer and 2 finance specialists) includes the Program within the scope of its work and will submit reports to the Board of Directors of the Caisse.

(ii) The expenditure cycle for municipalities is submitted to the same set of controls as that of central government departments. The *Contrôle Général des Dépenses* under the Prime Minister's office has to approve ex ante, at the commitment stage, every single expense through the ADEB system. Then the *receveur* has to control the whole process and the justifications before making the payment (*contrôle concomitant*). This systematic ex-ante control is being reformed at the central government level and is

evolving towards a more strategic and risk-based approach whereby only around 20% of operations (representing 80% of the total expenditure) are systematically controlled while the smaller and more simple operations are controlled only through randomized samples. The government is receiving support from the EU on this. This system of ex-ante control of expenditures should be progressively extended to the control of municipalities' expenditures, which would be in line with the objectives of the Program as well as with the formulation of the new Constitution.

(iii) Municipal *receveurs* are controlled ex post by the General Inspectorate of the Ministry of Interior, by the *Contrôle Général des Finances* (CGF, Internal Audit of the MEF) and systematically by the *Cour des comptes*, Supreme audit Institution. The Inspector General the Ministry of Interior implements an annual program of inspection that involves a substantial sample of municipalities each year.

Independent external audits on an annual basis are an important instrument for ensuring oversight as well as to enforce public sector accountability. In Tunisia the *Cour des Comptes* has the mandate to carry out the external audit of municipalities. The *Cour des comptes* is equipped with a dedicated chamber at the central level (7 magistrates) as well as four regional chambers covering the entire territory. However due to internal capacity issues as well as the pressure to complete the audit of the Central Government and its agencies, the *Cour* is not able to carry out the audit of all the municipalities on a regular and timely manner. Currently, the *Cour* audits all LGs once in three to five years (though that audit will cover in its scope all those years since the previous audit). These audits are meant to be compliant with INTOSAI norms and vary in intensity and modalities based on the size and risk level of the municipality. The Constitution approved in January 2014 changes the control framework by establishing the principle of management autonomy of LGs, the removal of ex-ante controls and the strengthening of ex-post audits under the responsibility of the *Cour*. The *Cour* has the mandate over performance and financial external audit of LGs and municipalities in particular.

As part of the Program design, it has been agreed with the *Cour des Comptes* that they will initiate a program to carry out annual external audit of municipalities within a reasonable time period after the end of the financial year. Since this is a substantial change from the current practice and creates a significant demand on the capacity and resources of the *Cour*, the President of the *Cour* has agreed with the Bank to schedule the annual audits in a phased manner so that majority of municipalities will be subject to an annual financial audit by the end of the Program. It has also been agreed that capacity building support will be provided to the *Cour* under the Program that will enable it to carry out the annual external audit of municipalities in a timely manner.

The Program Financial Statements will be audited by an independent external auditor in accordance with the country practices. The audited Program financial statements will be sent to the Bank no later than 6 months after the end of the fiscal year.

2.6 Disbursement arrangements from the Bank

Disbursements of the IDA credit proceeds will be made at the request of the borrower upon achievement of Disbursement-Linked Indicators (DLIs). Loan proceeds will be disbursed into a single treasury account held at the Central Bank and then transferred through the Caisse to the bank account

of the LG held within the Treasury system. Disbursements requests will be submitted to the Bank using the Bank's standard disbursement forms thru the e-disbursement functionality in the Bank's Client Connection system. It was identified that advances under the PforR operation might be necessary in order to allow the borrower to achieve the results for one or several DLIs, quantification of specific needs for advancement as well as determination of the need of prior results to be achieved prior to the signing of the legal agreement will be further developed in next stages.

Section 3: Program Procurement Systems

Municipal public procurement has been so far governed by the Decree 2002-3158 of 27 December 2002 on the regulation of public procurement as amended and supplemented by Decree 2003-1638 of 4 August 2003, Decree 2004-2551 of 2 November 2004, Decree 2006-2167 of 10 August 2006, Decree 2007-1329 of 4 June 2007, Decree 2008-561 of 4 March 2008, Decree 2008-2471 of 5 July 2008, Decree 2008-3505 of 21 November 2008 and Decree 2009-3018 of 19 October 2009. The Tunisian procurement system was found to be very bureaucratic and unnecessarily procedural, lacking transparency and accountability, and was characterized by an excessive number of redundant prior reviews leading to a very lengthy processing time. However, since the Revolution, the Interim Governments have embarked on the revision of the existing public procurement decree to address the major weaknesses while ensuring transparency and efficiency of the system. This has resulted in the promulgation of two additional public procurement decrees (decree 2011-623 of 23 May 2011 and Decree 2012-515 of 2 June 2012) modifying and completing the provisions of the decree 3158. The revisions brought by the 2 decrees aimed at increasing the transparency and efficiency of public procurement. In parallel, the Government launched with the World Bank and African Development Bank support a thorough review of the procurement system using the (OECD-DAC/MAPS) Methodology for the assessment of procurement systems to undertake a more comprehensive reform in order to modernize the institutional and regulatory frameworks in line with international standards. This exhaustive review has resulted in the enactment of a consolidated and revamped procurement decree (No 2014-1039 dated March 13th, 2014) which will come into effect on June 1st, 2014.

Municipal Procurement procedures: Municipalities are responsible for the entire procurement process and contracting process, which encompass the following: (i) planning; (ii) preparation of bidding documents; (iii) receipt and evaluation of bids or proposals; (iv) finalization and signing of the contract; (v) monitoring the execution; and (vi) filing and archiving documents. Large municipalities have a Receveur Municipal/Tresorier at the level of the Municipality and small municipalities have one at the level of the "Recette des Finances" for smaller ones. However, each governorate has a Bureau Regional de Controleur(s) de Depenses in charge of conducting ex ante control of procurement processes within the Municipal or Regional procurement committee. The Bureau Regional de Controleur(s) de Depenses is in charge of all procurement oversight at the regional (governorate) level which includes, inter alia, municipality's procurement. The number of controllers per Regional Office depends of the regional budget size. Nevertheless, it is important to mention that some big municipalities such as Tunis have their own "controleur".

Technical preparation, technical oversight and technical Audit: Municipalities manage core procurement processes (such as preparation of bid documents, design of construction and infrastructure works) in a variety of ways. While large municipalities have their own strong in-house capacity, small and medium municipalities rely on technical support from the deconcentrated line ministries at the Governorate level or contract out with private sector consultants. For the PforR Program, the Ministry of Interior may keep a technical oversight role, but it is mainly the role of the CAISSE to provide technical oversight including physical field inspections.

The procurement processes at the municipal level are subject to various levels of oversight and approvals. Based on the cost estimate for a contract, the municipality could be subject to one or more (1) of the following procurement committees: Before going to the High Tender Board, all steps of procurement subject to prior review shall be submitted first to the ministerial procurement committee for a preliminary prior review before being submitted to the High Tender Board:

	Local/Municipal committeeⁱ	Regional Committee	Ministerial Committee	High tender Board
Works	Up to TND 2 millions	Up to TND 5 millions And up to TND10 Million for regional projects	up to TND10 Million	above TND10 Million
Goods and non-consulting service	Up to TND 400K	Up to TND1 million	Up to TND 4 million	Above TND4 million
IT equipment	Up to TND300 K	Up to TND1 million	Up to TND4 million ⁱⁱ	Above TND4 million
Software and IT services	Up to TND300 K	Up to TND500K	Up to TND2 million	Above TND2 million
Consulting Service (Etudes)	Up to TND150 K	Up to TND200 K	Up to TND300 K	Above TND 300 K
Preliminary breakdown of estimated quantities and cost and force account	Up to TND2 Million	Up to TND5 Million	Up to TND7 Million	Above TND7 million

All commitments are submitted, before contract signature, to the prior clearance by the controleur de Depenses (as per art. 12 of Decree no2012-2878 dated November 19th, 2012 governing the “Controle des Depenses Publiques”. Only Municipalities whose annual budget exceeds and amount to be defined by decree have their own municipal procurement committee and the procurement committee of Municipality of Tunis has its own procurement committee whose competency thresholds are up to those of the High tender Board. Quality and Cost Based Selection, QBS: Quality Based Selection and LCS: Least Cost Selection newly added by the new decree.

The procurement methods thresholds are summarized in the table below:

	Purchase Order	Shopping (simplified procedures)	Competitive bidding
Works	Up to TND200 K	Up to TND500 K	Above TND500 K
IT Goods and services	Up to TND100 K	Up to TND200 K	Above TND200 K
Other Goods and services	Up to TND100 K	Up to TND300 K	Above TND300 K
Consulting services	Up to TND50 K	Up to TND100 K	QCBS, QBS and LCS ⁱⁱⁱ

Tunisia has been engaged in the past years with the Bank in a dialogue for procurement systems reform, starting with punctual improvements through two revisions of the public procurement decree dated May 2011 and June 2012, which resulted mainly in (i) simultaneous opening of technical and financial bid envelopes in the same public session, (ii) publication of invitations to bid, awards, and decisions of the complaints body in the web based public procurement portal (iii) introduction of a standstill period for complaints, (iv) higher prior review thresholds, (v) of post reviews for small contracts, (vi) reduction of the award process mandatory minimum duration. The Tunisian national public procurement and program systems have very recently been entirely re-organized by the PUBLIC PROCUREMENT REGULATION DECREE (PPD) No 2014-1039 dated March 13, 2014, published in Tunisian Gazette No 22 dated March 18, 2014. This decree which applies to all local Government levels when they act as public procuring entities has filled in several gaps with international good practices as mentioned in the action plan annexed to the MAPS /OECD-DAC self-assessment report dated August 2012.

BOX B: FEATURES OF THE NEW NATIONAL PROCUREMENT DECREE (PPD) (DECREE #2014-1039 dated March 13, 2014)

The main improvements and new measures introduced by the new decree are the following:

***Article 5:** the Purchase Order (simplified shopping) is used up to the following thresholds:

- **TND200K** for works (*instead of 100K previously*)
- **TND100K** for goods and non-consulting services (*instead of 50K previously*)
- **TND50K** for Consulting services (*Instead of 15K previously*)

***Articles 50-51:** Increase of "simplified procedures" (Shopping) thresholds. **Under this method, the "Purchaser's procuring committee" is in charge of the whole procurement process prior review and oversight without needing to wait for regional procurement Committee clearances.**

The method's thresholds are:

- **TND200K-500K** for works (*instead of 100K-200K previously*)
- **TND00K-300K** for goods and non-consulting services (*instead of 50K-100K previously*)
- **TND50K-100K** for Consulting services (*instead of 15K-50K previously*)

*** Article 4 and title 4 (Arts 136-142):** For State Owned Enterprises (SOEs) working in a competitive environment, the procurement of some activities (to be detailed in another decree) is not submitted to public procurement procedures but shall follow a manual of procedures approved by the SOE Board

*** Article 6:** Sustainable development and good governance are newly added as fundamental principles of public procurement

*** Article 8:** the preparation and publication on the national Public Procurement portal of an annual

procurement plan (at least 30 days before launching any procurement process) is henceforth MANDATORY

* **Article 9:** timeline for procurement is clearly set forth in the decree (*it used to be in the Circular letter*)

* **Article 53:** the time for bids preparation and submission is now set at 30 days in normal circumstances

* **Article 58:** the time for the bid opening is henceforth the same as the submission deadline (*it no longer needs to be prescribed as NCB provision – see appendix-*)

* **Article 73:** The contract award information to be advertised on the HICOP and Observatory website includes: name of the winning bidder, the final total contract price, duration and summarized scope of the contract (only the name of the winning bidder and contract price previously)

* **Article 74:** the standstill period has been increased to 5 days (instead of 3 days previously) (*still less than the internationally accepted standard standstill period of 10 days*)

* **Article 77-82: (NEW)** Electronic Procurement mechanism based on electronic signature is introduced.

* **Article 123-126: (NEW)**-The decree has introduced for the first time specific QCBS, QBS and LCS methods for consulting services

* **Article 143-146: (NEW)**-Establishment of a CONSULTATIVE "National Procurement Council" within Prime Ministry.

* **Article 147-156: (NEW)**-Establishment of the High Authority of Public Procurement (HICOP-Haute instance de la Commande Publique) which is comprising the previous CSM, PP Observatory and Complaint Body (COSEM).(A new layer of control is therefore added and separation of functions not respected :-().

* **Articles 171-179: (NEW)** - Sanctions against Fraud and Corruption and black listing (by the HICOP) are newly introduced by the decree. The black listing process will be detailed in a separate decree

* **Articles 184: (NEW)**- the COSEM (complaint Body)'s Decision is henceforth binding (*No longer consultative*) and COSEM's decisions are periodically published on the public procurement portal

It must be noted that the threshold for entities' own tender committees or "commission d'achats" allows municipalities to procure or purchase without seeking review and clearance of the Governorate level regional tender boards – the "Commissions regionales des marches"- has been raised up to the new shopping threshold of 500K TND for works, 300 K TND for goods, 100 K TND for consultancy services (approx. 50 K Euros).

There are several aspects of the institutional systems for public procurement that can be helpful to the Program. An electronic procurement System called "Tuneps" is being piloted which could possibly be scaled up to municipalities. The national public portal of the "Observatoire des Marches publics" – National Observatory – is operational and available to all national procuring public entities including municipalities for mandatory advertising of procurement opportunities and for the upcoming publishing of awards rendered mandatory under the new PPD decree.

There is a functional system for handling complaints relating to public procurement and municipalities come within their ambit. The *Comité de Suivi et d'Enquête sur les marchés publics* (COSEM) is part of the

HICOP and is responsible for receipt, follow up and resolution of procurement complaints. Statistics available with the COSEM showed that the complaints recorded were 350 in 2013 (number increasing year after year: was 316 in 2012) , out of which 149 were judged irrelevant, 108 accepted for instruction with legitimate grounds, 54 not related to competence of COSEM, and 39 awaiting the response of procuring entity. According to the new PPD decree, COSEM decisions are now binding and no longer consultative, and a new standstill period of 5 days is slightly increased compared to 3 days before, however it remains less than the international good practice of 10 days. They also are periodically advertised on the public procurement portal, and therefore access to information is furnished to all citizens.

Specific complaints relating to Procurement: All complaints relating to the procurements done by the Program including those at the municipal level will be filed with the *Comité de Suivi et d'Enquête sur les marchés publics* (COSEM) that is part of the Haute Instance de la Commande Publique (HICOP). As part of the existing system, the municipalities will be publishing all Invitations to Bids in their website and in the local news media and posting all approved contracts in the National Procurement website. Any aggrieved party will have the opportunity to file a complaint within a period of five days after the contract awards are posted in the website. The COSEM will examine the complaints and resolve them with a specified time period. The Program Manager (Caisse) in consultation with the DGCPL will put in place measures to coordinate the processing and follow up of complaints between the COSEM and the National Authority for Corruption so that there is no duplication in processing of complaints.

However, there are a few weaknesses in the system that could potentially result in a fiduciary risk to the Program. They are the following:

(a) the institutional architecture, which remains characterized with too many layers of prior controls and back and forth ex ante review and clearance redundant loops, bureaucratic practices delaying the procurement process (commission municipale des marchés, commission régionale des marches, contrôleurs des dépenses, contrôle de la Caisse CPSCS . This results in an overall time for the procurement process which exceeds by 2 to 3 times the minimum mandatory time per decree regulation), and

(b) lack of respect of the principle of separation of functions, more particularly in the new decree No 2013-5096 Dated November 22, 2013 creating the High Institution for public procurement “HICOP”: “Haute Instance de la Commande Publique”, which includes under the same presidency the policy role as well as the oversight large transactions

(c) there is no clear definition of the roles and responsibilities for the follow up of complaints relating to corruption involving procurement. According to article 173 of the PPD the HICOP is clearly in charge of fraud and corruption cases for what concerns the sanctions and blacklisting part of the procedure (the investigation role is somewhat fuzzy in case of allegation when not transmitted to courts and the distinction between the role of the Investigation Committee – still being implemented - of the High Institution fighting fraud and corruption (INLCC “Instance Nationale de Lutte contre la Corruption”

which includes a “Comite d’investigation des cas de corruption et de malversation” and was created in the “decret –loi” No 2011-120 dated November 2011).

(d) The heterogeneous fiduciary capacity of procuring entities with the upper end of the spectrum mostly the large municipalities having strong and developed technical and procurement skills, procurement methods and procedures and at the other end of the spectrum small remote municipalities with low capacity and with low procurement skills. This weakness in procurement capacity could possibly pose a fiduciary risk to the Program. Therefore it is proposed to organize as part of the capacity building component, a systematic baseline assessment of all LG procuring entities using a simplified set of procurement capacity assessment questionnaire. Depending on the questionnaire based findings, appropriate capacity building support will be designed and provided through the Capacity Building elements of the Program.

Section 4: Fraud and Corruption Risks and Mitigation

The fiduciary assessment also specifically examined the potential risks relating to fraud and corruption in the Program and the institutions and processes for mitigating such risks both at the Central and Local Government levels and assessed their applicability to the design and implementation of the proposed PforR Program. Discussions were held with key institutions responsible for the policy and implementation aspects of addressing fraud and corruption. Relevant documents and studies relating to Governance and Anticorruption in Tunisia were referred to. This section, summarizes the findings of the assessment and proposes a Program Action Plan that recommends additional measures to mitigate the risks relating to governance and corruption for the proposed Program.

Though Tunisia is a signatory of the UN Convention Against Corruption (UNCAC) since 2004, the country’s record of recognizing and fighting corruption was very weak under the former regime until the Tunisian Revolution in 2011 brought the issue of corruption into center stage. The subsequent changes in the country that built upon the strong public opinion against corruption and favoring good governance have resulted in the setting of a policy and institutional framework for good governance and anticorruption at all levels of Government. This has culminated in the specific provisions included in Article 130 of the country’s new Constitution that provides for the setting up of a Commission for Good Governance and Anti-Corruption.

Institutional arrangements for handling Corruption and their applicability for the Program: Tunisia has set up a robust institutional framework for preventing and combating corruption. At the national level, the Department of Good Governance and Anticorruption (Département chargé de la Gouvernance et de la lutte contre la Corruption) headed by Secretary of State sets the broad policy framework for governance and anticorruption. As mentioned above, the new Constitution provides for an independent Commission for Good Governance and Anticorruption composed of independent impartial members and who shall be in charge of monitoring cases of corruption within the public and private sectors,

investigating and confirming them, and submitting them to the relevant authorities. Steps are currently on for providing institutional form to this Constitutional provision.

The Department is currently in the process of preparing a National Strategy for preventing and combating corruption with the support of UNDP. As part of its efforts to strengthen transparency and good governance the department has set up a website called <http://www.anticor.tn/> that provides a platform to bring together the main national stakeholders committed to anti-corruption by being more open and transparent to civil society organization and citizens' contributions and provides a repository of laws and decrees relating to anticorruption as well as articles and documents relating to good governance and anticorruption. The Department of Good Governance through circular # 16-2012 (March 2012) has required all line ministries, Governorates and public institutions to set up a cell for good governance under the supervision of the head of the organization. The key responsibilities of the good governance cells according to circular#55-2012 include:

- 1) Alerting the Secretary of State of Governance and Public service of any cases of corruption and mismanagement reported directly to them or through the general control bodies or the departmental inspections.
- 2) Following up on all the corruption allegations that are being investigated by the appropriate body.
- 3) Preparation and execution of the good governance guidelines in the institution to which the cell belongs to.
- 4) Following up on all the decisions and planned reforms related to administrative and financial management procedures and assess their adequacy with the good governance guidelines.
- 5) Coordinating with the control bodies/internal audit or inspection agencies of the institution to which the cell belongs to carry out preliminary investigation regarding allegations that comes to its knowledge.

The Fiduciary Systems assessment revealed that even though good governance cells have now been established in most line ministries at the Central level, they have not been established and functional at the municipal level. The Program will recommend the setting up of the good governance cell in all municipalities as part of the Program Action Plan and monitor their performance through the annual performance assessment.

The National Authority for Fighting Corruption ("Instance Nationale de Lutte contre la Corruption") is responsible for the investigation of complaints and for taking follow up action. Established by Article 12 of the Decree 2011-120 of 14 November 2011, the authority is composed of its president, board, general secretary and the prevention and investigation committee. The National Authority is administratively under the Department of Good Governance and Anticorruption, and is headed by a President and comprise of twenty staff. The Authority is empowered to receive and investigate corruption allegations in all public and private organizations and includes municipalities in their scope. The Authority receives complaints either through the national anticorruption website (www.anticorruption-idara.gov.tn) directly through mail. According to Article 34 of the Decree referred to above, it is obligatory for local governments to report any allegations/complaints of corruption to the National Authority. The National

Authority for Fighting Corruption is in the process of setting up of a national portal for complaints and for reporting corruption cases called “E-People” to better manage, track and collect complaints and corruption allegations. In addition to the above, there are initiatives by civil society organizations that provide a platform for citizens and civil society to bring issues relating to corruption into the public domain. (Please see text box below)

www.Bilkamcha.tn

www. Bilkamcha.tn is a crowd-map developed by I WATCH Tunisia to help citizens report cases of corruption. “Bilkamcha” means in Tunisian dialect “Caught Red Handed”. Its aim is to empower the citizen and engage her/him in the long fight against corruption. The platform allows receiving information through electronic messages about corruption and for records to be made available to bloggers and media.

Complaints Handling: Citizens can file complaints relating to the municipality directly through the national anticorruption website to the Department of Good Governance and Anticorruption as well as send written complaints to specialized agencies such as the National Authority for Fighting Corruption and to the Good Governance cells maintained by the Ministry of Interior. Those complaints received by the Department of Good Governance and the Ministry of Interior’s Good Governance cells and relating to allegations of corruption will be conveyed to the National Authority for Fighting Corruption for investigation. Those complaints relating to irregularities in the procurement processes will be conveyed to the COSEM for further follow up action. The Caisse will compile a list of complaints filed relating to the Program and will monitor their follow up.

After a preliminary scrutiny of the complaints, the Authority carries out detailed investigations of credible complaints to establish whether there is a prima facie case of corruption involved. Once a prima facie case is established, the Authority transfers the case to criminal investigation authorities for initiating prosecution steps under the Criminal law of the country. Though the Authority is making serious efforts to provide speedy resolution, the huge backlog of cases (relating to the previous regime in the country) has reduced the Authority’s ability to process new complaints quickly. The Authority is currently in the process of addressing this issue through donor supported technical assistance. The Authority is also working together with the Department of Institutional Integrity (INT) of the World Bank it is expected that an agreement will be signed soon to exchange information and experiences between the two organizations as well as for joint investigations and capacity building.

The complaints handling and processing systems of the Authority are found adequate for the purposes of the PforR operation. It was discussed and agreed with the Authority that complaints relating to the Program, if any, will be conveyed to the Authority through the existing complaints handling mechanisms functioning at the Central and local government levels. The Authority will take steps to investigate the complaints expeditiously in accordance with its procedures and convey the results of the investigation through a report to the Secretary General, Ministry of Interior with a copy to the Caisse, who will in turn

share the report with the World Bank. In accordance with the INT guidelines for PforR operations, if any further follow up investigations are required, the Bank will rely on the Authority to carry out such investigation and will rely on the findings of such investigation for initiating any follow up action. The Program will provide specific support to the Authority for carrying out specific investigations in an expeditious manner through consultant and/or logistical support as necessary, which will be organized by the Caisse. The Program Operations Manual will describe the procedures for the conveyance of complaints and the sharing of the investigation results in detail.

Debarment of Contractors: in accordance with the Bank's AntiCorruption guidelines for PforR operations the Program will take steps to ensure that "any person or entity debarred or suspended by the Bank is not awarded a contract under or otherwise allowed to participate in the Program during the period of such debarment or suspension". At the conclusion of the procurement process for each contract and prior to the award of the contract, each municipality will convey the details of the contract in a specific format that will include the names and details of the contractor as well as relevant particulars relating to the contract. Caisse will verify the names of the contractor against the World Bank's list of debarred or suspended contractors to ensure that no such contractor is awarded any contract under the Program. The Caisse will convey the results of the verification to the municipality within two business days of the receipt of the receipt of the information from the municipality. Caisse will maintain a master list of contractors awarded contracts under the Program and will periodically compare the list with the Bank's list of debarred/suspended contractors to ensure compliance.

Section 5: Program Implementation, Audit and Disbursements

Caisse will be the Program Manager for the PforR Program and will be responsible for the disbursement of the Capital Grants to municipalities as well as for the management of the capacity building support provided under the Program. Caisse will also be responsible for preparing the Program Financial Statements compiling them from municipal financial reporting as well as financial reporting from other agencies, if any. Unaudited quarterly financial reports covering the entire program will be produced by the CPSCl at the disbursement and payment stage (using information produced by the CPSCl and ADEB). The protocols for the receipt and compilation of annual Program financial statements will be discussed and agreed with counterparts by appraisal. The annual audit of the Program financial statements will be carried out by independent external auditors in accordance with existing country practices.

Section 6: Program Fiduciary Risk Assessment

Assessment of Program Financial Management Systems: The lack of a comprehensive information system at the municipality level and at the aggregated level is a major weakness that emerged during the preparation of the Program and that has been noticed by the Cour des comptes in its various audits. The Cour noted that very often the auditor has to produce the information they are supposed to audit. The creation of an e-platform, which has been envisaged as part of the Program could efficiently

mitigate this risk if it is accompanied with a substantial effort to design a system of data collection for municipalities.

The CPSCCL and municipalities have substantial cash reserves amounting to respectively (200 MTND and 350 MTND), which has been confirmed by the Director General of CPSCCL. These reserves seem to correspond to projects that are already launched and for which most of the funds have been committed but there seems to be a disagreement between the MEF and the Caisse on the conclusions to be drawn from this. To mitigate the risk of funds getting accumulated at the municipal level without being spent, the Program will build in suitable mitigation measures such as monitoring and rewarding good expenditure performance by municipalities, rigorous internal and external audits that will include the quality and efficiency of spending within the scope of the audit Terms of reference, strengthened social accountability processes such community participation, sharing of information through the e-portal etc.

It is difficult to have a clear vision of municipal financing based on published budget documentation. First, the specific booklet for the CPSCCL is not public and is with the government's representative at the Caisse (*administrateur*). Second, a number of financing flows are directly on the budget of line ministries and it is not clear whether they are for operating or investment expenses, whether there are certain conditions attached to their use. Besides, they are not processed through the Caisse but directly within the Treasury TSA and are not consolidated in terms of reporting. To mitigate the risk of lack of transparency, the Program is supporting the design and implementation of a "E-Portal" that will display all relevant information relating to municipalities. In addition municipalities will be encouraged to maintain an up-to-date website of their own that will also provide all relevant information.

The controls and audit framework related to LGs provides some level of fiduciary comfort but at the same time, these controls are redundant, overlapping and seem to create risk avoidance behaviors if not situations of failure to implement projects. The Program will help promote a new balance through a strengthening of ex-post controls and audits and less stringent ex-ante controls on expenditures. This could create a risk in the transition period between the two phases. Therefore the capacity building program for financial management needs to start as early as possible.

Nevertheless, the PFM systems in the country are generally considered solid by international standards as it is reflected in the 2010 Tunisia PEFA assessment. In particular, PI-8 on intergovernmental fiscal relations has received a score of B. Other PFM diagnostics have confirmed this favorable judgment. The fact that financial management of municipalities relies on strong and tried FM systems (ADEB, Accounting Code, Single Treasury account system maintained at the Central Bank) provides overall a guarantee that the specific risks detailed above will not prevent Program's FM arrangements to be acceptable.

It is assessed that Program's Financial Management arrangements relying on country wide system are acceptable in terms of procedures and results after appropriate mitigation. Program's FM systems present no significant risk against result achievements, with respect to Program resources management and financial information for the stakeholders. The country wide system helps central government and local governments (i) to keep close control of fiscal risks and to maintaining overall budget discipline, (ii)

to plan and execute the budget in line with its set priorities; and (iii) to effectively manage public resources to deliver services. The country PFM at central and local levels gives reasonable assurance that fiduciary risks would be maintained at substantial level and could be mitigated through the implementation of appropriate mitigation measures; the Program can be implemented through the existing PFM system, provided that some identified challenges, at the country and local levels, are addressed, either through the PAP or other initiatives (accounting and reporting, internal and external audit). Based on the elements above, the overall fiduciary risk is rated Substantial.

Assessment of Program Procurement Systems: The assessment of the current program procurement systems for public procurement of Local Governments, based on post review during missions of a sample of 6 cases documented in the archives of the Caisse and from the field visits to selected municipalities it was found that municipalities complete the whole procurement process up to award and signature of the contract much more quickly than national level procuring entities such as line ministries. Also it was found that there exists a very high level of compliance with the procedures and very low risk of corruption in Local Government procurement which is illustrated by the fact that over one full year only one case of noncompliance was detected, and this case is a minor violation of a provision in the decree relating to the constitution of an evaluation committee. Therefore the main procurement risk for the program arises from the slow/sluggish procurement process that results in high overall time for completing the procurement process (5 to 7 months due to redundant ex ante controls). Therefore based on the assessment, the Procurement risk for the Program is rated as "Moderate".

Based on the findings of the assessment the following improvements in the Program Procurement systems are recommended:

The ex-ante procurement control model of the Caisse needs to be reformed and changed into an ex-post control which will be supplemented by the ex-post audit by the Cour Regionales des Comptes. Use the freed capacity and skilled workforce of the CPSCS procurement staff to alleviate the role of procuring LG services and provide them assistance for the verification of the debarment, anti-money laundering and other mandatory Bank databases (or of other international organizations in application of article 1 of the PPD) which are only accessible in English language through internet. Municipalities to be equipped with internet network access to transmit to CPSCS their proposed contracts award information among other MIS and monitoring information.

At the program level, this national complaints treatment system should be completed by (i) the internet connection of all municipalities to report all complaints and allegation cases to the Caisse, and (ii) at central program level the Caisse recording and follow-up system, (with electronic monitoring and archiving of the results), which should aim at making sure that the complainants obtain a response in a reasonable time frame.

Assessment of Fraud and Corruption Risks Mitigation systems: The Fiduciary Systems Assessment found that Tunisia is in the process of establishing a robust system of dealing with fraud and corruption at the national and local government levels. There is monitoring by the Central Government departments as part of their inspection and oversight responsibilities. Though Audits are well established they are not

regular or timely. Systems for grievance handling and redressal are being established. The National Anti-Corruption agency has established a strong procedural framework to deal with complaints of corruption. There is a growing civil society involvement in monitoring the public sector. However most of these initiatives are still in the early stages and therefore requires considerable capacity support from the State and other agencies to be sustainable. Also capacity and experience at the local government level is also weak to make full use of these systems to deal with instances of fraud and corruption.

Based on the assessment, it is concluded that the Program Fiduciary Systems have the capabilities to provide reasonable assurance that the financing proceeds will be used for intended purposes. However there are significant gaps and weaknesses in these systems which need to be addressed as part of Program implementation. These gaps and weaknesses have the potential to make the fiduciary risk of the Program to be high thereby impacting the ability of the Program to achieve its intended results. Therefore a Program Action Plan is recommended based on the findings and conclusions of the Fiduciary Risk Assessment that will mitigate to a large extent the fiduciary risks and weaknesses identified. Considering the existing weaknesses in Program Fiduciary systems and the time and effort required to implement the Program Action Plan and the capacity building initiatives, the residual fiduciary risk rating for the Program is rated as **Substantial**.

Section 7: Recommended Program Action Plan

Sl #	Program Action	Base line	Responsibility	Schedule	Verification
1	All Municipalities to publish their budgets and annual plans, annual financial statements and audit reports in the e-Portal (and the municipal website if available)	Not published now	Municipalities	Starting with the second year of the Program	Annual Performance Assessment and Program Reports
2	Municipal Councils to prepare annual action plan to address audit findings within a period of six months after the receipt of the audit report	No such action plan exists	Municipalities	Starting from the first year of the Program	Annual Performance Assessment and Program Reports
3	The Citizens Bureau in each Municipality to be operationalized and their performance in speedy and effective resolution of grievances monitored by the Municipal Council	Citizens Bureau exist in all municipalities but are functional only in about 25%	Municipalities	Starting from the first year of the Program	Annual Performance Assessment and Program Reports
4	Good Governance Cells established in all municipalities	Cells not set up in most municipalities	Municipalities	By the start of the third year of the Program	Annual Performance Assessment and Program Reports
5	Municipalities to publish the award of all tendered contracts (NCB and simplified shopping procedures), on national public procurement web site.	Some municipalities do it occasionally	Municipalities	Starting from the first year of the Program	Performance Assessment
6	Staff capacity and skills of municipalities in financial management and public procurement to be assessed and a suitable capacity building program to be designed and implemented	No such assessment is in place	CFAD	Starting from the first year of the Program	Performance Assessment

Proposed DLIs in the Program

1. E-Portal to be designed and made operational in Year one of the Program
2. Cour des Comptes to carry out annual financial audits of municipalities

Section 8: Implementation Support

Implementation support will focus on implementation of the Program Action Plan, and will be part of the implementation support provided by the World Bank for the Urban and Local Governance Program. From a fiduciary perspective, the implementation support will focus on the following:

- Fraud and corruption: Supervise the implementation of the agreed fraud and anti-corruption measures under the program and provide guidance in resolving any issues identified;
- Procurement: review of procurement performance of the central level entities implementing the program as well as the municipalities. In addition, the task team will help to design and coordinate the capacity support provided to local governments.
- Financial Management: the task team will review the Program financial statements and audit reports as well as the Program reports such as the Results Verification reports prior to disbursement. The task team will coordinate the results reporting for the DLIs with the disbursement of the IDA credit funds.

The Bank has a strong fiduciary team based in Tunis who will play the lead role in implementation support. Additional support will be provided by international staff as part of the implementation support missions.

ⁱ Only Municipalities whose annual budget exceeds and amount to be defined by decree have their own municipal procurement committee and the procurement committee of Municipality of Tunis has its own procurement committee whose competency thresholds are up to those of the High tender Board