

## Procurement Capacity Assessment Report and Recommendations

<b>Proposed Project Name:</b> <b>Takhiatash Power Plant Efficiency Improvement Project</b>	<b>Proposed Amount US\$: approx. \$500million for the Power Plant and Decommissioning Component and approx. \$ 8 million for the Consultancy Component</b>
<b>Executing Agency: Uzbekenergo</b>	<b>Source of Funding: ADB and Uzbekistan Fund for Reconstruction and Development</b>
<b>Assessor: C. Pappas/PPTA Consultant</b>	<b>Date: 25 May 2013</b>
<b>Expected Procurement</b> <p>Procurement under the subject Takhiatash Power Plant Efficiency Improvement Project (the Project) will consist of three major contracts: (i) a turnkey contract for the construction of a 2x255 Megawatt combined cycle gas power plant and associated decommissioning of existing plant with an estimated value of approx. \$500 million, (ii) a project implementation consulting services contract with an estimated value of approx. \$6 million and (iii) a capacity development consultancy services contract of \$2 million (excl. small external audit contracts). The turnkey contract for the construction of the combined cycle gas power plant and decommissioning of existing plant will be procured following ADB's two-stage international competitive bidding (ICB) procedure using ADB's Standard Bidding Document for Procurement of Plant: Design, Supply and Install. Consulting services will be procured following ADB's Quality- and Cost-Based Selection (QCBS) method.</p>	
<b>Assessment of the National Environment</b> <p>ADB's Country Strategy and Program 2006-2010 for Uzbekistan included findings of ADB's Operations and Evaluation Department from the year 2002 with regards to portfolio implementation problems. Common problems listed are as follows: (i) lack of political will to carry out reforms, (ii) unclear ownership of projects, (iii) over complex design and ambitious</p>	

policy frameworks, (iv) time consuming internal decision making processes within the Government, (v) weak local project preparatory, coordination and management capacity. The review further highlighted the problem of incompatibility of national procurement legislation and procedures with procurement guidelines of international financial institutions as well as problems of time-consuming contract registration requirements and post contract approval price verification and negotiation. Additional portfolio implementation issues included lack of decision making autonomy of project implementation units, shortage of qualified staff and excessive bureaucratic and administrative procedures.

Although some progress has been made in certain areas many of the above problems remain valid concerns today. The ADB country assistance program evaluation (CAPE) report of 2012 has pointed out that in particular price verification after award of contract as part of contract registration caused delays and the CAPE recommended ADB to strengthen dialogue with the government on raising the efficiency of the public procurement system.

There is no single national procurement law in Uzbekistan. The key documents governing procurement activities are: (i) Cabinet of Ministers Resolution No. 456 (21 November 2000 and revised in 2013.) "On measures for improving the organization of tenders" with attachment on "Procedures for organizing tenders for procurement of raw materials, spare parts and equipment"; (ii) Cabinet of Ministers Resolution No. 302 (3 July 2003) "On measures for organization of tenders for civil works and associated services in the Republic of Uzbekistan"; (iii) Resolution No. 1588 (30 June 2006) of the Ministry of Foreign Economic Relations, Investment and Trade (MFERIT), Ministry of Finance and State Customs Committee of the Republic of Uzbekistan "On procedures for registration of export contracts and expertise of import contracts signed by economic entities of the Republic of Uzbekistan" and (iv) Cabinet of Ministers Resolution No 110 (7 June 2007 and revised in 2012), on Approving Regulations for Preparation, Conducting, Examination and Approval of Tender Documents of Investment Projects.

According to the above resolutions, tenders for procurement of goods and works can only be announced for the amount for which the funding has been confirmed either in the form of a budget allocation or in the form of a signed loan or grant agreement with foreign financiers or international financial institutions. There are two common types of tenders: (i) tenders open to all interested bidders and (ii) tenders restricted by a decision of the Cabinet of Ministers to only a selected number of bidders to whom invitations to bid are sent by the executing agency. Tenders can be with or without prequalification, and single-stage or two-stage. Tenders are

officially advertised in the local mass media.

Procurement of consulting services is not explicitly stated in these documents. However it falls under the general category of 'services' which does not distinguish between the advisory and supervisory nature of consulting services. Procedures stipulated in these documents apply to procurement of goods and works to be funded from the State Budget, non-budgetary funds, sovereign credits and grants from international financial institutions. In this context it should be noted that if the legal and loan documents signed by the Government of Uzbekistan with an international financial institution stipulate different procurement procedures than local legislation, then the procedures of the international institution shall apply.

There is no single government entity to oversee public procurement activities. This responsibility is shared among the EA and the line ministries responsible for procurement. For projects in excess of \$1million (including consulting services) the government appoints an inter-agency Tender Committee to oversee procurement. The Tender Committee is headed by the Deputy Prime Minister acting as Chairman, and usually consists of 15 members including the Chairman. The members of the Tender Committee are chosen from the following Ministries/Agencies/Government Departments; Cabinet of Ministries, Ministry of Foreign Economic Relations Investment and Trade, Ministry of Economy, Fund of Reconstruction and Development, Ministry of Finance, State Committee of the Republic of Uzbekistan (RUz) for Architecture and Construction, State Tax Committee, National Bank of Uz, Uzpromstroybank, State Committee of RUz on Privatization, Demonopolization and Development, Agency "Uzstandard", "Uztyajneftegazximproject" Institute, State Joint stock Railway Company "Uzbekistan Railways" and SJS "Uzbekenergo". Resolution 456 states that representatives of the EA cannot exceed 30% of the member of the Tender Committee and that the Tender Committee should comprise 9-11 members. In practice only 1 representative of the EA takes part as a member of the Tender Committee and the committee was comprised of 15 members for the most recent cases. The Tender Committee in turn is assisted by a Working Group whose members are drawn also from the same Ministries/Agencies/Government Departments. The number of working Group members will vary depending on the complexity of the project.

The existing system with dispersed procurement responsibilities is a major bottleneck since it imposes frequent and lengthy internal approvals on procurement decisions that sometimes are very time-consuming and resource intense.

In an attempt to ensure transparency and to fight potential fraud and corruption, MFERIT is

mandated to carry out examination/assessment for registration and price verification after the award of all import contracts. The contract is then registered by the EA's local servicing bank. This re-examination and price verification is in addition to the fact that MFERIT's staff are members of the tender evaluation committees and sign minutes approving award of contracts. In this context it should be noted that price verification with intent to influence the outcome of a competitive bidding process is contrary to ADB's procurement policies to which the Government commits by signing an ADB loan agreement. However, the Ministry is somehow forced to the extent possible to follow both, ADB's and the Government's requirements which are often in conflict with each other. Moreover, the Ministry lacks proper procedures and adequately trained staff to implement this task in a transparent and effective manner.

Similarly, the treasury department under the Ministry of Finance conducts price verification prior to registration of local contracts which are funded from the state budget. Without a registration contracts cannot be registered with commercial banks and customs (for imported goods) and therefore cannot become effective. Delays in the registration of contracts have led to delays in project implementation and disbursements under ADB funded projects. In some instances these delays resulted in the cancellation of contracts, in other cases these delays have caused loan extensions that had financial implications for the Government. Price verification solely for internal Government purposes with no impact whatsoever on a competitive bidding process is not objected by ADB.

In general, the capacity to conduct, control and supervise procurement activities remains weak at all levels of administration. Most public officials responsible for procurement do not have clearly defined terms of reference and usually have not received any formal procurement training. Moreover, there are no specialized agencies who can offer such public procurement related training programs.

### **General Agency Resource Assessment**

Uzbekistan has no Ministry of Energy. Instead State Joint-Stock company Uzbekenergo is charged with energy related matters in the country. The Foreign Economic Relations, Investment and Trade Department (DFERIT) within Uzbekenergo together with the current and future staff of the project management unit (PMU) has been charged with the coordination of all procurement related matters for this contract. It reports to the first deputy chairman of Uzbekenergo. However, there is no procurement department within Uzbekenergo handling this

project. DFERIT is responsible for management and coordination of procurement including procurement of large scale investment projects. It coordinates with several other technical and commercial departments within Uzbekenergo including Uzbekenergo Management, TEP (Teploelectroproject), and procurement subsidiaries Uzbekenergo Taminlash and Impex as well as with ministries and agencies outside Uzbekenergo like the Ministry of Foreign Economic Relations, Investment and Trade (MFERIT), Ministry of Finance and the Ministry of Economy. This decentralized approach to procurement and project management has risks of decreased efficiency and effectiveness, coordination, quality of decision-making and accountability associated with it. For minor and major day to day and routine procurement Uzbekenergo uses its subsidiaries Uzbekenergo Taminlash and Impex which both specialize in procurement related activities.

The staff of DFERIT have written terms of reference and are familiar with local procurement legislation and procedures. DFERIT has only 3 officers dedicated to procurement itself but only one of them is assigned to the current project. DFERIT is adequately equipped with technical facilities. EA staff take part in some implementation related training programs organized by the Ministry of Economy with the “Uztyajneftegaeximproject” Institute but still does not have any formal procurement related training programs. The staff of the PMU established for this particular project are not familiar with ADB procurement guidelines and policies. Lack of proficiency in the English language is another difficulty. Therefore, it is of paramount importance to ensure that the PMU is staffed with an adequate number of procurement experts with the experience and skills required for handling the proposed complex procurement and contract management.

Turn-over of EA staff is high as none of the Talimarjan PMU procurement staff is available for appointment to the current project. At present, Uzbekenergo has allocated only 1 procurement expert to the PMU for this project and ADB has hired one national consultant on full-time basis to conclude recruitment of the implementation consultants and familiarize PMU with ADB procedures but this is grossly inadequate for a project of this size. Within the PMU itself, there should be at least 2 procurement experts and preferably 3. This will also increase the probability that at least one or two of the PMU staff will be available for any subsequent project of this type. It is expected that the international project implementation consultant would be primarily responsible for procurement and contract management. However, the implementation consultants will need to be familiar with ADB procurement procedures to ensure timely approval of bid documents and bid evaluation reports by ADB. As responsibility for procurement of this turnkey contract and its implementation fully rests with the EA and its PMU, the responsible staff

should possess adequate experience and a sound basis to work alongside the international consultants. This will also ensure effective knowledge transfer.

#### **Agency Procurement Processes: Goods and Works**

The main challenge for the EA and the PMU will be to prepare the complex technical specifications, bidding documents, bid evaluation reports and supervise implementation of the turnkey contract. The EA's capacity for construction supervision can be assessed as average. Its implementation of past projects, was of mixed results as its JICA financed projects show. The EA's experience and capacity in preparing bidding documents and conducting the bid evaluation according to ADB procedures is limited. Notwithstanding, the EA is slowly acquiring experience with procurement of works and turnkey contracts under ADB and other donor-funded projects as the successful procurement of the Talimarjan Power Project has shown.

#### **Agency Procurement Processes: Consulting Services**

The EA has successfully completed the recruitment of consulting services for the international implementation consultants for the ADB funded Talimarjan Power Project and the Advanced Electricity Metering Project and has acquired sufficient expertise to undertake recruitment of international implementation consultants for the current project.

#### **Process Control and Oversight**

In accordance with local legislation, the prime responsibility for control and oversight of procurement activities rests with the EA, whose staff are represented in a tender committee to review and endorse technical specifications and decisions on contract award. However, in addition to the EA, other government agencies play key roles in the procurement process, for example, related to contract award and contract registration decisions. In case of diverging opinions the EA must take ultimate responsibility. In addition the Prosecutors Office, Treasury, and Control & Revision Department under the Ministry of Finance play a major role in ensuring that the EA's procurement activities are in accordance with appropriate Uzbek legislation.

### **Records Keeping and Audit**

In general, the control and oversight system including records keeping in the EA appears to be set up appropriately. A trail of auditable documents is set up too. However, it is difficult to assess how internal regulations and guidelines are actually being implemented. Bidding documents, bid evaluation reports, contracts, contractual correspondence and payment claims are all properly kept by the EA in secure places, for the duration of 3-7 years depending on the importance of the documents. Documents are kept up to 25 years and some for an indefinite period of time.

### **Summary Assessment and Recommendations**

Taking into account the project size, the capacity of the EA and the PMU staff is considered to be less than adequate and, as such, this poses a serious risk to efficient and effective project implementation.

While the EA has set up a PMU during project processing to provide interim support to ADB missions for project design, the skills level is currently not sufficient to implement a project of this scale. Therefore ADB has to immediately reach an agreement with the EA on appointing additional PMU staff with appropriate skills and experience before the project is approved and the implementation consultants are fielded. This will ensure that appropriate counterpart staff are available when the consultants are fielded and to ensure a proper knowledge transfer right from the start of the procurement activities. This is of extreme importance for a successful start up of the project and this is particularly relevant to procurement and financial management positions. ADB needs to closely monitor that there are no discrepancies in the cost estimates and implementation arrangements between the RRP and the local feasibility study as approved by the Government. Detailed project implementation arrangements should be included in the PAM and must be given special attention for the whole duration of this project.

Since the Project will have only three major contracts, immediate priority should be given to development of measures on how ADB could provide support to the EA and the PMU in procurement activities. However, it is equally important that the EA familiarize itself as soon as possible about ADB procurement procedures. ADB will also ensure that the Project Implementation Consultant provides hands-on procurement and project implementation training to the PMU staff including preparation of bidding documents, bid evaluation, contract award and contract management. More details are given in specific recommendations below.

<p>ADB on its side needs to ensure the following: (i) establishment of a commercially and technically experienced project management team within ADB, (ii) carrying out continuous due diligence through frequent missions and constant project management supervision, (iii) providing hands on project management, procurement and contract administration support to the EA and the Consultants, (iv) ensure that the technical specifications of the bidding document are best practice and drawn up in a way to enable bidders to submit responsive proposals and to permit widest possible competition, (v) Close coordination with other IFIs ,including AFD, in the country and take into account lessons learned from their past projects (JICA and Islamic Development Bank), (vi) close coordination with World Bank during their processing on procurement related matters, (vii) joint donor reviews of project progress to ensure intended outcomes, (viii) close monitoring of knowledge transfer and capacity building efforts of Consultants, (ix) establish an early warning system and critical path for the timely project implementation and putting in place rectification strategies for potential issues related to project management and procurement, (x) bi monthly progress reports.</p>		
<p><b>General Recommendations, Procurement Environment</b></p>		
<p><b>Capacity Constraint</b></p>	<p><b>Recommended Action</b></p>	<p><b>Responsibility and comment</b></p>
<p>There is a wide discrepancy between ADB's and the Government's procurement procedures, which may seriously impede smooth project implementation.</p>	<p>During project processing and at loan negotiations ADB has to emphasize to the Government that all procurement activities shall be undertaken in strict compliance with ADB procedures and based on ADB's standard bidding documents, and that the Government's procedures will not apply for this ICB. This shall be recorded in the Minutes of Loan Negotiations.</p>	<p>Relevant government agencies, the EA, the PMU and ADB.</p>

	<p>Furthermore, as government procedures restrict the evaluation of bids to the working group only and as members of the working group do not have the necessary expertise to do the evaluation for a project of this complexity, a sub-working group consisting of experts from other departments of Uzbekenergo, the PMU and the implementation consultants shall be formed to assist the working group. The sub-working group itself will be sub-divided into a technical group and an economic group. This too shall be recorded in the minutes of loan negotiations.</p> <p>The government shall ensure that a statement to this effect is included in the Cabinet of Ministers Resolution for project implementation</p>	
<p><b>General Recommendations, EA Capacity</b></p>		
<p><b>Capacity Constraint</b></p>	<p><b>Recommended Action</b></p>	<p><b>Responsibility and comment</b></p>
<p>Low PMU Capacity</p>	<p>ADB held a brief procurement seminar for the PMU of Uzbekenergo and explained</p>	<p>ADB Fact-Finding Mission</p>

	<p>the basic principles of ADB Procurement and provided specific procurement advice and recommendations related to this particular project. ADB also conducted an EA procurement capacity assessment during the Fact-Finding mission.</p>	
<p>Inadequate capacity of the PMU staff who are responsible for procurement and contract administration. This poses serious risk to timely completion of procurement and proper implementation since this may lead to delays in project implementation and subsequent delays in payments to contractors and ADB disbursement, disputes and suspension of activities (JICA). Given the size and nature of the turn key contract in question, such delays would have an immediate negative impact on the project implementation schedule. This may later on result in loan extensions which, given the size of the proposed project would have serious financial implications (increased interest during construction</p>	<p>The EA procurement capacity assessment confirmed the low capacity of the current PMU and EA staff in terms of procurement and financial management. The EA must increase the number procurement staff within the PMU to minimum of 2 and preferably 3 persons from the present single person.</p> <p>ADB needs to ensure that project readiness filters in accordance with ADB's Project Administration Instructions are applied. This includes proper project implementation arrangements and the EA providing an adequate number of skilled and qualified staff. To ensure continuity and avoid high staff turnover proper compensation mechanisms should be put in place. High staff turnover,</p>	<p>The EA, Ministry of Finance, ADB.</p>

<p>and reduced revenue income) for Uzbekenergo.</p>	<p>directly or indirectly, almost always results in project delays.</p>	
<p><b>Specific Recommendations, Project Implementation</b></p>		
<p><b>EA Capacity Constraint</b></p>	<p><b>Recommended Action</b></p>	<p><b>Responsibility and comment</b></p>
<p>The EA and the PMU staff are not familiar with ADB's <u>consultant recruitment</u> procedures.</p>	<p>During Fact-Finding, a full set of documents for recruitment of consultants (standard RFP using QCBS) has been provided to the concerned PMU staff. The EA should also be advised to immediately start familiarizing themselves with ADB procurement procedures.</p>	<p>The EA, the PMU, MFERIT, ADB.</p>
<p>The EA and the PMU staff are not familiar with ADB's <u>procurement</u> procedures.</p>	<p>During Fact-Finding, a full set of procurement documents has been provided to the concerned PMU staff. ADB's standard bidding documents for two stage bidding for Procurement of Plant: Design, Supply and Install have been provided to the concerned PMU staff to enable them to familiarize themselves with the document.</p>	<p>The EA, the PMU, MFERIT, State Committee for Architecture and Construction, ADB.</p>

	<p>The project implementation consultant shall bear prime responsibility for;</p> <ul style="list-style-type: none"><li>(i) Preparation of all bidding documents including preparation of the technical specifications for the project.</li><li>(ii) assisting the PMU in bid evaluation, (iii) assisting the PMU in contract negotiations and (iv) assisting in the preparation of the contract document in conjunction with Uzbekenergo legal experts.</li></ul> <p>The PMU shall be responsible for all internal approvals of bidding documents and all other internal approvals. It is suggested that ADB together with the EA draw up a comprehensive plan of all required internal and government approvals and come up with a comprehensive list.</p>	
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## Procurement Capacity Assessment Appendix 1 General Procurement Environment Assessment

<b>Risk Ratings</b>	Extremely High	High	Average	Low
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### I. Specific Assessment and Ratings

Question	Answer	Narrative Explanation	Risk
<b>A. LEGAL AND REGULATORY FRAMEWORK</b>			
1. Is there a procurement law? <i>Is there a single law governing procurement that is consistent with internationally accepted principles and practices; or is procurement governed through various laws, decrees etc.?</i>	No	Cabinet of Ministers (COM) Resolution 456 (21 November 2000) covers procurement of goods, and COM Resolution 302 (3 July 2003) covers procurement of works. A number of other resolutions at ministerial/agency levels guiding procurement of specific types of goods, works and services also exist.	Extremely High
2. Does the procurement law have implementing regulations? <i>Does the procurement law have implementing rules and regulations that support it by providing the details that are not normally found in a law? Are these clear, comprehensive and consolidated as a set of regulations that are available in a single and accessible place? Are these regularly updated?</i>	No	There is no single procurement law.	Extremely High
3. Are the procurement law and regulations clear and concise? <i>If there is a single law that is easy to follow, then the risk is "low". If</i>	No	The 2012 Public Expenditure and Financial Accountability Assessment (PEFA) states that there are conflicts among the	High

Question	Answer	Narrative Explanation	Risk
<p><i>the law is complex and difficult to follow, then the risk is "average". If there is no single law, then the risk is "extremely high" or "high".</i></p>		different resolutions.	
<p>4. What does the procurement law/regulation cover?  <i>If there is a single law, the risk will be "low" if it covers drafting and use of standard bidding documents, evaluation, contracting through to the management of contracts, including payment, warranty and defects liability periods. The less the procurement process is covered the higher the risk. If there is no single law, then the risk is "extremely high" or "high".</i></p>	N/A	There is no single procurement law.	High
<p>5. Does the procurement law/regulation cover the procurement of consulting services?  <i>If there is a single procurement law that also covers consulting services, then the risk is "low". If consulting services are not covered, or there is no law, then the risk is "extremely high" or "high".</i></p>	N/A	There is no single procurement law. There are no government resolutions covering procurement of consulting services.	High
<p>6. Does the procurement law/regulation differentiate between processes for goods, works and consulting services?  <i>If there is a single law that deals separately with consulting services, then the risk is "low". If there is a single law that provides some</i></p>	N/A	There is no single procurement law. There are only two COM resolutions that separately cover procurement of goods and civil works.	High

Question	Answer	Narrative Explanation	Risk
<p><i>differentiation, but the processes are similar, then the risk is "average". If there is no single law, or it applies the same processes to consulting services as for goods and works, then the risk is "extremely high" or "high".</i></p>			
<p>7. Does the law/regulation require the advertisement of all procurement opportunities?  <i>A "low" risk may be indicated if advertisement is required for all procurements above \$25,000. An "average" risk may be indicated if advertisement is required only for procurements above \$100,000. A "high" risk may be indicated if advertisement is required for all procurements above a threshold that is higher than \$100,000. An "extremely high" risk should be indicated if no advertisement is required.</i></p>	No	<p>According to the PEFA, under COM Resolutions 456 and 302, open tender is only used for contracts with estimated costs that are more than US\$100,000, and that "closed" or limited bidding is allowed with prior approval from the Cabinet of Ministers. As such, the advertisement rule does not apply to all procurement opportunities. However, this is mitigated by the fact that the e-procurement system is now publishing invitations to bids for contracts between US\$300 and US\$100,000.</p>	Average
<p>8. Are contract awards advertised?  <i>The same thresholds as stated at A7 should be applied.</i></p>	No	<p>According to the PEFA, contract awards are not published in any government website. However, it states further, that the work is underway to have the contract awards published in a special web-site on state procurement at <a href="http://www.xarid.uz">www.xarid.uz</a>.</p>	High
<p>9. Are there restrictions on goods, works and services on the basis of origin?  <i>If there is no limitation, restriction and/or preference scheme, then</i></p>	Qualified	<p>Under COM Resolution 456, in international competitive bidding procedures financed by the government funds, a preferential rate of 20% is given to domestic</p>	Average

Question	Answer	Narrative Explanation	Risk
<p><i>the risk is "low". If there are restrictions or a national preference scheme, then the risk is "average". If procurement is solely limited to those of national origin, then the risk is "extremely high" or "high".</i></p>		<p>manufacturers and suppliers under all other equal conditions.</p> <p>Although the preference is linked to the nationality of the bidder, there is a vague instruction to compare prices with imported goods.</p>	
<p>10. Does the procurement law or relevant legislation and regulation provide acceptable provisions for the participation of state-owned enterprises (SOEs)? <i>If an exception is given to SOEs that are legally and financially autonomous and are not dependent agencies of the purchaser/employer, then the risk is "low". Otherwise, the risk is "extremely high" or "high".</i></p>	No	There is no clear provision on the treatment of SOEs.	High
<p>11. Are there restrictions on the nationality of bidders and consulting firms to be invited? <i>If there is no limitation, restriction and/or preference scheme, then the risk is "low". If there are nationality restrictions or a national preference scheme, then the risk is "average". If procurement is solely limited to national firms and individuals, then the risk is "extremely high" or "high".</i></p>	Qualified	Under COM Resolution 456, in international competitive bidding procedures financed by the government funds, a preferential rate of 20% is given to domestic manufacturers and suppliers under all other equal conditions.	Average
<p>12. Are foreign bidders and consultants forced to submit offers through or with local partners? <i>If this is never required, then the risk is "low". If this is required</i></p>	Yes	COM Resolution 302 provides that under investment projects financed by foreign loans and grants, executed by foreign	High

Question	Answer	Narrative Explanation	Risk
<p><i>under certain circumstances, then the risk is "average". If this is always required, then the risk is "extremely high" or "high".</i></p>		<p>contractors and paid in freely convertible currency, the tender documentation shall include provisions for local partners' participation in the execution of works (services), in the amount of not less than 50 percent of the works (services), unless otherwise provided for in the loan agreements with international and foreign financial institutions.</p>	
<p>13. Is there a domestic preference scheme?  <i>If there is no scheme, then the risk is "low". If it is applied in limited circumstances, then the risk is "average". If a domestic preference scheme is applied across the board, then the risk is "extremely high" or "high".</i></p>	Yes	<p>Under COM Resolution 456, in international competitive bidding procedures financed by the government funds, a preferential rate of 20% is given to domestic manufacturers and suppliers under all other equal conditions.</p>	High
<p>14. Is there a national standard mandated for the use for quality control purposes?  <i>If there are no mandated national standards or if these have direct and accessible international equivalents, then the risk is "low". If there are mandated national standards that have no international equivalents, then the risk is "high".</i></p>	No	<p>There are strict rules that contractors and purchasers shall comply with specific quality standards in the provision of goods and works. Such standards are specified in the bidding documents, and compliance with these is a prerequisite for commissioning and acceptance of goods and facilities by the concerned government agencies, as well as for release of final payment to contractors and suppliers.</p>	Low

Question	Answer	Narrative Explanation	Risk
<p>15. Are any agencies or parts of public expenditure exempt from the procurement law/regulation? <i>If yes, such as defense equipment, then the risk may range from "average" to "extremely high, depending on the extent of the exemption. For example, if an exemption is outrightly granted to medicines, text books or other similar commodities, then the risk is "extremely high".</i></p>	Yes	<p>According to the PEFA, limited or "closed" tenders (<i>i.e.</i> without advertisement) are allowed for military and defense. COM Resolution 456 also has a vague provision stating that it does not apply to purchases of goods procured in accordance with special resolutions adopted by the Cabinet of Ministers.</p>	High
<p>16. Is the default method for procurement open competition? <i>If yes, then the risk is "low". If no, or if it is not clearly established, then the risk may be "extremely high" or "high".</i></p>	Yes	<p>In COM Resolutions 456 and 302, open tender is the default method of procurement for contracts above US\$100,000. For contracts below US\$100,000 shopping procedure is used.</p>	Low
<p>17. Is open competition easily avoided? <i>If avoidance requires the approval of an oversight agency, then the risk is "low". If open competition can be avoided by senior management decision, then the risk is "average". If the procurement law/regulation allows the avoidance of open competition above a certain national threshold on the basis of circumstances that are not in response to natural disasters, <i>i.e.</i> simple urgency, then the risk is "extremely high" or "high".</i></p>	Yes	<p>COM Resolution 456 has a vague provision stating that open tenders do not apply to purchases of goods procured in accordance with special resolutions adopted by the Cabinet of Ministers.</p> <p>According to the PEFA, there is a lack of reliable data on procurement following different methods of procurement (particularly on Direct Contracting, Single Source, restricted tenders, etc.).</p>	High
<p>18. Does the procurement law/regulation require pre-qualification?</p>	Yes	<p>There is a provision on preliminary qualification, but there appears to be no clear</p>	High

Question	Answer	Narrative Explanation	Risk
<p><i>If it is only for complex or high value contracts, then the risk is "low". If no pre-qualification is allowed, then the risk is "average". If it applies to all contracts, then the risk is "high".</i></p>		<p>standard criteria to set the parameters of this exercise. Neither is there a clear definition on what circumstances preliminary qualification of bidders shall apply.</p>	
<p>19. Does the procurement law/regulation require the pre-registration of bidders? <i>If no pre-registration is required, then the risk is "low". If it is only required for special types of goods, such as medicines, then the risk is "average". If yes, then the risk is "extremely high" or "high".</i></p>	Yes	<p>There is no requirement for pre-registration of bidders, whether foreign or local. All who express interest may purchase the bidding documents.</p>	Low
<p>20. Does the procurement law/regulation mandate the use of standard documents? <i>If it does and there are documents for goods, works and consultants services, then the risk is "low". If it is required just for only two of the three procurement types, then the risk is "average". If it is required for only one of the procurement types, or it is required but no documents have yet been issued, then the risk is "high". If standard documents are not required, then the risk is "extremely high".</i></p>	No	<p>Although COM Resolution 456 has several clauses on the preparation of tender documents, there are no standard bidding documents that may be used as a reference by all procuring agencies.</p> <p>Under projects funded by international financial institutions and bilateral donors, procuring agencies use the standard bidding documents of those institutions.</p>	Extremely High
<p>21. Have these standard documents been approved for use on ADB projects? <i>If yes, then the risk is "low". If some, but not all, then the risk is "average". If no, then the risk is "extremely high" or "high".</i></p>	N/A	<p>There are no standard bidding documents.</p>	Extremely High

Question	Answer	Narrative Explanation	Risk
<p>22. Is there a national procurement manual or guide?  <i>If an omnibus procurement manual or guide exists, then the risk is "low". If a manual exists, but it is out of date or is not widely used/distributed, then the risk is "average". If there is no manual, then the risk is "extremely high" or "high".</i></p>	No	No such document exists. All procedures are provided in COM Resolutions 456 and 302.	Average
<b>B. INSTITUTIONAL FRAMEWORK</b>			
<p>23. Which body oversees public procurement?  <i>If there is a regulatory body at an adequate level in government, and financing is secured by the legal/regulatory framework, then the risk is "low". If the body is at an adequate level, but financing is subject to administrative decisions and can be changed easily, then the risk is "average". If the level of the body is too low or financing is inadequate for proper discharge of its responsibilities, then the risk is "high". If there is no body, or the body is too low with no independence to perform its obligations, then the risk is "extremely high".</i></p>	Control and Revision Unit (CRU), MOF; Treasury. MOF	<p>There is no procurement-focused body at an adequate level to propose policies and monitor the implementation of procurement rules/policies.</p> <p>According to the PEFA, the CRU focuses on monitoring the execution and use of public funds. The Legal/Commitments and Price Monitoring Department within the Treasury also conducts ex-ante controls to ensure that only contracts for which budgets are allocated are registered in the Treasury system, and checks to ensure that valid payment orders and invoices are in line with registered contracts. The Treasury conducts price verification prior to registration of local contracts that are funded from the state budget.</p> <p>The Ministry for Foreign Economic Relations, Investments</p>	Extremely High

Question	Answer	Narrative Explanation	Risk
		<p>and Trade (MFERIT), the Ministry of Finance (MOF) and the State Customs Committee issued a joint Resolution that requires examination and registration of export and import contracts.</p> <p>As part of this process, MFERIT carries out price verification by comparing the award price with the international market prices for similar good, works and facilities. However, the methodology for such verification is not elaborate.</p> <p>Without registration by MFERIT, contracts cannot be registered with commercial banks and customs (for imported goods) and, therefore, cannot become effective.</p> <p>Based on ADB's experience, delays in contract registration by MFERIT, which sometimes take several months although internal rules provide a period of 10 working days, significantly delay project implementation and reduce the number of interested foreign bidders. This, in turn, reduces the level of competition and increases the bid prices.</p>	
<p>24. What powers does the oversight body have? <i>The rating may range from "low" to extremely high", depending on</i></p>	<p>N/A</p>	<p>There is no procurement-focused body at an adequate level to propose policies and monitor the implementation of procurement</p>	<p>Extremely High</p>

Question	Answer	Narrative Explanation	Risk
<p><i>whether the body exercises all, some, a few or none of the following responsibilities: providing advice to contracting entities, drafting amendments to the legal/regulatory framework, monitoring public procurement, providing procurement information, managing statistical databases, reporting on procurement to other parts of government, developing/supporting the implementation of initiatives for improvements to the public procurement system, and providing implementation tools and documents to support capacity development.</i></p>		<p>rules/policies.</p>	
<p>25. Is there a nationwide procurement training plan?  <i>If procurement trainings are regularly implemented nationwide and needs are regularly assessed, then the risk is "low". If there is an existing program, but it is insufficient to meet national needs, then the risk is "high". If there is no formal training program, then the risk is "extremely high". Consider also the existence of a helpdesk.</i></p>	<p>No</p>		<p>Extremely High</p>
<p>26. Is there a procurement accreditation or professionalization program?  <i>If there is an externally recognized program, then the risk is "low". If</i></p>	<p>No</p>		<p>High</p>

Question	Answer	Narrative Explanation	Risk
<p><i>it is a government sponsored program, then the risk is "average". If there is no accreditation or professionalization program, then the risk is "high".</i></p>			
<p>27. Are major projects identified within agencies' appropriations or budgets? <i>If yes, then the risk is "low". If no, but a system is in place for the ring-fencing of project funds, then the risk is average. If neither condition exists, then the risk is "high".</i></p>	Yes	<p>According to the PEFA, information on individual budget organization transactions is reliable and predictable under the Management Information System (MIS), which provides a common information pool across MOF and Treasury. The information includes budget organizations' expenditure commitments on contracts, planned spending and actual payments.</p>	Low
<p>28. Is the procurement cycle tied to an annual budgeting cycle, <i>i.e.</i> can procurement activity only commence once a budget is approved? <i>If yes, and a medium-term expenditure framework is in place, then the risk is "low". If an activity may start up to, but excluding contract award, then the risk is "average". If the procurement cycle is not tied to an annual budget, then the risk is "extremely high" or "high".</i></p>	Yes	<p>Based on the PEFA, the Treasury applies commitment and payment controls to commitments and payments from budgetary funds (except commitment controls for expenditures funded by foreign grants and loans) and extra-budgetary funds, including State Targeted Funds (STFs), ministerial funds and the development funds of budget organizations. Thus, procuring agencies may initiate procurement activities only if there is an approved budget registered with the Treasury system.</p>	Low

Question	Answer	Narrative Explanation	Risk
		<p>The budget cycle is as follows:</p> <p>Spending ministries/budgetary organizations prepare their cost estimates (broken down into economic classification, such as salaries, capital expenditures, etc.) and an annual cash flow utilization forecast, for their approved budgets, divided into monthly allocations. The cost estimates are submitted to MOF, which is responsible for registering these into the expenditure control system as ceilings (or permits) for expenditure commitment, managed by the Treasury.</p> <p>Ex-ante controls are conducted to ensure that only contracts covered by expenditure cost estimates are registered in the Treasury system.</p> <p>The approved cost estimates are the basis for in-year spending control exercised by the Treasury. Changes to the budget organizations' approved budget and cost estimates are initiated either by MOF or budgetary organizations (requiring approval of MOF), who then make appropriate amendments to the cost estimates, which then forms the basis of budget execution.</p>	

Question	Answer	Narrative Explanation	Risk
<p>29. Once an appropriation or budget is approved, will funds be placed with the agency or can the agency draw them down at will?  <i>If yes, then the risk is "low". If not, such as when additional bureaucratic controls are imposed (such as a cash release system), then the risk is "extremely high" or "high".</i></p>	No	<p>According to the PEFA, comprehensive expenditure commitment controls are in place and effectively limit commitments to actual cash availability and approved annual budget allocations. Processes require budget organizations to bring documents (contracts, invoices and payment orders) to treasury branches for review and acceptance. These mandatory registration procedures strictly control the targeted use of budget funds, ensure the correct performance of contract obligations, prevent arrears, provide consistency of contracts with expenditure cost estimates, and establish strict control over accounts payable for all legally binding contracts.</p>	Low
<p>30. Is there a nationwide system for collecting and disseminating procurement information, including tender invitations, requests for proposals, and contract award information?  <i>If there is an integrated information system that provides up-to-date information and is easily accessible at no or minimum cost, then the risk is "low". If there is such an integrated information system that covers majority of contracts, but access is limited,</i></p>	No	<p>According to the PEFA, there is an e-procurement system that covers contracts from US\$300 to US\$100,000, and the publication of the invitation for bids in the provided websites has significantly improved public access to the procurement opportunities. However, the data on different methods of procurement (<i>i.e.</i> competitive, single source and restricted), procurement plans, complaints resolved, and contract awards are</p>	High

Question	Answer	Narrative Explanation	Risk
<p><i>then the risk is "average". If there is a system, but it only provides information on some of the contracts and is not easily accessible, then the risk is "high". If there is no procurement information system, except for some individual agency systems, then the risk is "extremely high".</i></p>		<p>not available in the public domain.</p>	
<p>31. When an agency is implementing a project using funds from the national budget, are there general experiences/reports of funding delays that significantly hamper procurement? <i>If no, then the risk is low. If yes, then the risk is "extremely high" or "high".</i></p>	<p>Yes</p>	<p>According to the PEFA, internal rules and procedures incorporate a comprehensive set of controls, which are widely understood; but in some areas are excessive, and lead to inefficiency of staff use and unnecessary delays. ADB experience shows that sometimes under contracts co-financed by ADB and Government, payment of counterpart portion is delayed to contractors which has negative impact on their performance.</p>	<p>Extremely High</p>
<p>32. Is consolidated historical procurement data available to the public? <i>If yes, then the risk is "low". If the data is too much or too little, then the risk is "average". If none, then the risk is "extremely high" or "high".</i></p>	<p>No</p>	<p>As indicated above, procurement information in the public domain is currently fragmented.</p>	<p>Extremely High</p>
<p>33. Does the law/regulation require the collection of nationwide statistics on procurement? <i>If yes and statistics are actually collected, then the risk is "low". If yes, but data is not collected or used, then the risk is "average". If</i></p>	<p>No</p>	<p>The e-procurement system still needs further development. Also, the PEFA reports that there is a lack of data on procurement.</p>	<p>Extremely High</p>

Question	Answer	Narrative Explanation	Risk
<i>there is no requirement, then the risk is "extremely high" or "high".</i>			
<b>C. PROCUREMENT MARKET AND OPERATIONS</b>			
<p>34. Do formal mechanisms exist to encourage dialogue and partnerships between the government and the private sector, and are these well established in the procurement law/regulation?  <i>If such mechanisms exist, such as programs to build the capacity of private companies and small businesses to participate in public procurement, and these are effective, then the risk is "low". If such mechanisms exist, but there is no proof of its effectiveness, then the risk is "average". If no such mechanisms exist, then the risk is "extremely high" or "high".</i></p>	No	<p>There is currently no policy to encourage dialogues with the private sector, or such other measures as a feedback mechanism or a focused training program for the private sector.</p>	High
<p>35. Are private sector institutions well organized and able to facilitate access to the market?  <i>If the private sector is competitive, well organized and able to participate in open competition, then the risk is "low". If there is a reasonably well functioning private sector, but competition for large contracts is concentrated in a relatively small number of firms, then the risk is "average". If the private sector is relatively weak and/or competition is limited owing to monopolistic or oligopolistic features in important segments of the market, then the risk is "high".</i></p>	No	<p>There are generally a large number of small firms with insufficient experience and capacity to implement complex and large scale investment projects. The number of large private firms with strong financial base capable of implementing large contracts is limited.</p> <p>As indicated above, access to procurement information is also hampered by the fragmented data available in the public domain.</p>	High

Question	Answer	Narrative Explanation	Risk
<p><i>If the private sector is not well organized and lacks capacity and access to information for participation in the public procurement market, then the risk is "extremely high".</i></p>			
<p>36. Is there an alternative disputes resolution process independent of the government and courts?  <i>If there is an arbitration law with an independent process, then the risk is "low". If there is no arbitration law, but the standard contracts use ICC or similar dispute resolution provisions, then the risk is "average". If alternative dispute resolution is not practiced, or if arbitration is through the courts or can be overturned by the courts, then the risk is "extremely high" or "high".</i></p>	<p>Yes</p>	<p>The new Arbitration Act of Uzbekistan entered into force on 1 January 2007.</p> <p>The United Nations Development Programme (UNDP) in Uzbekistan reports the following (see <a href="http://www.undp.uz">http://www.undp.uz</a>):</p> <p>The presidential decree "On further improvement of the system of legal protection of enterprise entities" of June 14th, 2005 provided the legal framework for operation of the arbitration courts in Uzbekistan. It was followed by adoption of the Law "On arbitration courts" of August 26th, 2007. The main purpose of the Law is to address the shortcomings of legal regulation on establishment, functioning and termination of activity of arbitration courts in the Republic of Uzbekistan.</p> <p>The Chamber of Commerce and Industry (CCI) was entrusted with the broad mandate in development of the arbitration in the country and enforcement of</p>	<p>Low</p>

Question	Answer	Narrative Explanation	Risk
		<p>the above-mentioned law. The Chamber established Arbitration Court and its local branches in Tashkent, Syrdarya, Khorezm, Bukhara, Ferghana, Samarkand, Namangan and Andijan regions. Since 2007, the Chamber established the arbitration courts in all regions of Uzbekistan.</p>	
<b>D. INTEGRITY OF THE PROCUREMENT SYSTEM</b>			
<p>37. Are there systematic procurement process audits?  <i>If yes, then the risk is "low". If only financial audits are conducted, then the risk is "average". If no systematic audits are conducted, then the risk is "extremely high" or "high".</i></p>	<p>Qualified</p>	<p>The following findings are based on the PEFA:</p> <p>In accordance with the Budget System Law, the Chamber of Accounts (COA) audits the execution of the State Budget within 35 days of receipt from the annual report from the Cabinet of Ministers for purposes of external audit and evaluation. However, the COA has a modest staffing complement, and its approach relies on desk studies to identify unusual or suspicious activity, with field visits focused on areas of concern within budget organizations. This approach is not in accordance with international auditing standards, and the current control/inspection framework places reliance on the extensive external financial control activities undertaken by CRU. Nevertheless, the audit of the annual budget execution report is completed and</p>	<p>Average</p>

Question	Answer	Narrative Explanation	Risk
		<p>submitted to the Oliy Majlis on a timely basis, and there is an effective process of handling audit findings and recommendations.</p> <p>It is apparent that procurement audits are not part of the standard/routine tasks of COA.</p>	
<p>38. Does the procurement law/regulation contain provisions for dealing with misconduct, such as fraud and corruption? A cross reference to an anti-corruption law will suffice. <i>If yes, then the risk is "low". If no, then the risk is "extremely high" or "high".</i></p>	N/A	There is no single procurement law.	High
<p>39. Is fraud and corruption in procurement regarded as a criminal act, whereby the penalty includes imprisonment? <i>If yes, then the risk is "low". If no, then the risk is "extremely high" or "high".</i></p>	Qualified	<p>The following are based on the 2010 report of the OECD Anti-Corruption Network for Eastern Europe and Central Asia on Uzbekistan: Assessment and Recommendations:</p> <p>Corrupt activities linked with procurement, such as active and passive bribery, are covered by the Criminal Code of Uzbekistan. However, there is no law that specifically deals with procurement corruption, and the scope of the criminalized conduct does not fully meet the requirements of international anti-corruption standards.</p>	High

Question	Answer	Narrative Explanation	Risk
		Uzbekistan does not provide special measures against or sanctions for corruption, as blacklisting and banning the companies with a previous history of corruption to engage in business activities, or requesting anti-corruption declarations from the bidders, etc. No information is available also in regard to the value, number of purchases from a single source or non-competitive procurement, as well as the number of court appeals per year, the percentage of positive and negative decisions, and the number of cancelled contracts.	
<p>40. Have there been prosecutions for fraud and corruption?  <i>If there have been successful prosecutions for fraud and corruption, then the risk is "low". If prosecutions seem to focus solely on low grade/junior staff, then the risk is "average". If there is no evidence of any prosecution, then the risk is "extremely high" or "high".</i></p>	N/A	As indicated above, there is no information on the number of court appeals per year, the percentage of positive and negative decisions, and the number of cancelled contracts.	High
<p>41. Does the legal/regulatory framework allow for sovereign immunity to agencies for claims against them?  <i>If plaintiffs can sue the government for contractual non-performance, then the risk is "low". If they cannot, then the risk</i></p>	Yes	<p>It seems that government agencies may be used for contractual non-performance.</p> <p>The PEFA also states the following:</p>	Average

Question	Answer	Narrative Explanation	Risk
<p><i>is "extremely high" or "high".</i></p>		<p>A separate independent complaint handling mechanism is not available, but any complaint can be considered legally in the Higher Economic Court. Data on resolution of procurement complaints is not available in the public domain.</p>	
<p>42. Do the regulations allow for the debarment of firms and individuals?  <i>If there is a debarment process that is transparent and equitable, and undertaken by an independent oversight agency, then the risk is "low". If there is a process and it is administered by a single agency, such as the Ministry of Finance, then the risk is "average". If it is administered by the procuring agency, then the risk is "high". If there is no debarment mechanism, then the risk is "extremely high".</i></p>	<p>No</p>	<p>As indicated above, Uzbekistan does not provide special measures against or sanctions for corruption, as blacklisting and banning the companies with a previous history of corruption to engage in business activities, or requesting anti-corruption declarations from the bidders, etc.</p>	<p>Extremely high</p>

**II. General Ratings**

<b>Criterion</b>	<b>Risk</b>
<b>A. Legal and Regulatory Framework</b>	High
<b>B. Institutional Framework</b>	Extremely High
<b>C. Procurement Market and Operations</b>	High
<b>D. Integrity of the Procurement System</b>	High
<b>OVERALL RISK RATING</b>	High

## Procurement Capacity Assessment Appendix 2 Agency Questionnaire

Risk Ratings	Extremely High	High	Average	Low
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### I. Specific Assessment and Ratings

Question	Answer/Finding	Risk
<b>A. ORGANIZATIONAL AND STAFF CAPACITY</b>		
A.1. How many years experience does the head of the procurement department/unit have in a direct procurement role?	From Department of Foreign Economic Relations, Investments and Trade (DFERIT), SJSC "Uzbekenergo" – 6 years, Project implementation unit (PMU) Open Joint Stock Company (OJSC) "Takhiatash TPP"-2 years.	Low
A.2. How many staff in the procurement department/unit are:		
i. Full Time?	1 person in PMU	High
ii. Part Time?	3 persons in DFERIT	Low
iii. Seconded?	none	
A.3. Does the procurement staff have English language proficiency?	DFERIT-Yes, PMU-no	High
A.4. Are the number and qualifications of the staff sufficient to undertake the additional procurement that will be required under the proposed project?	No it is not. There is only 1 dedicated staff with procurement qualifications assigned to the project. This is insufficient and as a bare minimum one more staff with adequate qualifications needs to be appointed and if possible another prior to recruitment of international implementation consultants.	High
A.5. Does the unit have adequate facilities, such as PCs, internet connections, photocopy facilities, printers, etc., to	The level of logistical support including PCs, internet connections, photocopy facilities, printers, etc. is sufficient.	Low

Question	Answer/Finding	Risk
undertake the planned procurement?		
A.6. Does the agency have a procurement training program?	Separately no, but in general for implementation of investment projects for the republic of Uzbekistan, the Ministry of Economy organizes permanently operating courses in the "Uztyajneftegaschimproject" Institute. These courses touch briefly on procurement procedures of IFI's such as WB and ADB. However they are intended mainly to familiarize staff with Uzbek internal procurement procedures including custom clearance and taxation requirements.	High
A.7. Does the agency have a Procurement Committee that is independent from the head of the agency?	Yes. In particular for aid-funded and large investment projects( >\$1million), there is a government appointed Inter-agency Tender Committee(ITC) for the procurement of commodities, works and services implemented in the field of geology, fuel-energy complex, chemical, petrochemical and metallurgical industry under the Cabinet of Ministers of the Republic of Uzbekistan (RUz). The ITC is headed by the Deputy Prime Minister acting as Chairman, and consists of 15 members including the Chairman. The members of the ITC are chosen from the following Ministries/Agencies/Government Departments; Cabinet of Ministers, Ministry of Foreign Economic Relations, Investment and Trade(MFERIT) , Ministry of Economy, Fund of Reconstruction and Development, Ministry of Finance, State Committee of RUz for Architecture and Construction, State Tax Committee, National Bank of Uz, Uzpromstroybank, State Committee of RUz on Privatization,	Average

Question	Answer/Finding	Risk
	Demonopolization and Development, Agency "Uzstandard", "Uztyajneftegazzimproject" Institute, State Joint stock Railway Company "Uzbekistan Railways" and SJSC "Uzbekenergo"	
A.8. Does the agency have a procurement department/unit, including a permanent office that performs the function of a Secretariat for the Procurement Unit, and which serves as the main support unit of the Procurement Committee??	Not as such but for internal procurement <\$1million, DFERIT acts as a procurement department for all projects of SJSC "Uzbekenergo". PMU handles procurement for the project of OJSC "Takhiatash TPP". However neither DFERIT nor the PMU have a secretariat as such.	Average
A.9. If yes, what type of procurement does it undertake?	Commodities, works and services.	
A.10. At what level does the department/unit report (to the head of agency, deputy etc.)?	At PMU level, to head of DFERIT and Director of Takhiatash Power station.	Low
A.11. Do the procurement positions in the agency have job descriptions, which outline specific roles, minimum technical requirements and career routes?	Procurement positions for both DFERIT and PMU have job descriptions but not career routes.	Low
A.12. Is there a procurement process manual for goods and works?	Not as such but there is the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No.456 of 21 November 2000 that provides appropriate guidance for consulting services and tenders under projects with participation of IFI (ABD,WB, IDB and others).	Average
A.13. If there is a manual, is it up to date and does it cover foreign-assisted projects?	Meets the requirements. See A12.	
A.14. Is there a procurement process manual for consulting services?	No but with revision of 2013 Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 456 (of 21 November 2000) now also covers consulting services under projects with participation of IFI	

Question	Answer/Finding	Risk
	(ABD,WB, IDB and others).	
A.15. If there is a manual, is it up to date and does it cover foreign-assisted projects?	Meets the requirements. See A14	
A.16. Are there standard documents in use, such as Standard Procurement Documents/Forms, and have they been approved for use on ADB funded projects?	No but Standard bidding documents are used for the projects with participation of IFI (ABD, WB, IDB and others) after agreement/coordination with relevant agencies of RUz.	
A.17. Does the ToR follow a standard format such as background, tasks, inputs, objectives and outputs?	Yes, it does.	
A.18. Who drafts the procurement specifications?	For Uzbekenergo funded projects, OJSC "TEP" (Design Institute) prepares the technical part and list of equipment on request by Client and with the participation of local consultants. For complex projects in addition to the Design Institute, international consultants are recruited.	Average
A.19. Who approves the procurement specifications?	Bidding documents, which include specifications, are approved by Inter-agency Tender Committee on the procurement of commodities, works and services under investment projects implemented in the field of geology, fuel-energy complex, chemical, petrochemical and metallurgical industry under the Cabinet of Ministers of the Republic of Uzbekistan (RUz).	
A.20. Who drafts the bidding documents?	Depending on complexity of the project, PMU or specific agencies (e.g. Design Institute) prepare bidding documents with participation of consultants.	
A.21. Who manages the sale of the bidding documents?	PMU	
A.22. Who identifies the need for	Executing Agency	

Question	Answer/Finding	Risk
consulting services requirements?		Low
A.23. Who drafts the terms of reference (ToR)?	PMU jointly with consultant.	
A.24. Who prepares the request for proposals (RFPs)?	PMU jointly with consultant.	
<b>B. INFORMATION MANAGEMENT</b>		
B.1. Is there a referencing system for procurement files?	In paper form.	Average
B.2. Are there adequate resources allocated to record keeping infrastructure, which includes the record keeping system, space, equipment and personnel to administer the procurement records management functions within the agency?	Yes, there are.	Low
B.3. For what period are records kept?	Depending on the document content 5 to 7 years. Afterwards, sent to archives where they are permanently kept. Archived documents are not destroyed.	Low
B.4. Are copies of bids or proposals retained with the evaluation?	Yes, they are.	Low
B.5. Are copies of the original advertisements retained with the pre-contract papers?	Yes, they are.	Low
B.6. Is there a single contract file with a copy of the contract and all subsequent contractual correspondence?	Yes, there is.	Low
B.7. Are copies of invoices included with the contract papers?	Yes, it is.	Low
<b>C. PROCUREMENT PRACTICES</b>		
<b>Goods and Works</b>		
C.1. Has the agency undertaken foreign-assisted procurement of goods or works recently (last 12 months, or last 36 months)? (If yes, please indicate the names of the development partner/s and the Project/s.)	Yes. Talimarjan Power Project-ADB, Advanced Electricity Metering Project-ADB, Talimarjan Transmission Project-WB, Tashkent CCGT Project, JICA	Low
C.2. If the above answer is yes, what were	The process of agreement/coordination	

Question	Answer/Finding	Risk
the major challenges?	with ministries and agencies of RUz and ADB no-objection taking too long to be given	
C.3. Is there a systematic process to identify procurement requirements (for a period of one year or more)	No, there is not.	Average
C.4. Is there a minimum period for preparation of bids and if yes how long?	No, there is not.	Average
C.5. Are all queries from bidders replied to in writing?	Yes, they are.	
C.6. Does the bidding document state the date and time of bid opening?	Yes, it does.	
C.7. Is the opening of bids done in public?	Procurement opening of bid proposals is done with participation of bidders and interested persons. However for some government financed procurement the Government still permits no public bid opening	Low
C.8. Can late bids be accepted?	No, they cannot be.	
C.9. Can bids be rejected at bid opening?	No, they cannot be.	
C.10. Are minutes of the bid opening taken?	Yes, they are.	Low
C.11. Who may have a copy of the minutes?	Bidders and EA.	
C.12. Are the minutes free of charge?	Yes, they are.	
C.13. Who undertakes the evaluation of bids (individual(s), permanent committee, ad-hoc committee)?	<p>For contracts &gt;\$1million a Working Group, established by Inter-agency Tender Committee. However for the current project the Working Group will be assisted by a Sub-Working group, consisting of experts from Uzbekenergo and the international Implementation Consultants.</p> <p>For contracts less than \$1million again a Working Group and a Tender Committee are set up within Uzbekenergo.</p>	Low

Question	Answer/Finding	Risk
C.14. What are the qualifications of the evaluators with respect to procurement and the goods and/or works under evaluation?	Sufficient. The evaluation for this project will primarily be done by the International Implementation Consultants with the assistance of the PMU.	Average
C.15. Is the decision of the evaluators final or is the evaluation subject to additional approvals?	It's subject to additional approval. For the Takhiatash project the Working Group will endorse the evaluation and the Inter-Departmental tender Committee will give approval.	Average
C.16. Using at least three real examples, how long does it normally take from the issuance of the invitation for bids up to contract effectiveness?	Approximately 8 to 9 months  For Talimarjan it took 2 ¼ years to contract signing.	Average
C.17. Are there processes in place for the collection and clearance of cargo through ports of entry?	Yes, there are.	Low
C.18. Are there established goods receiving procedures?	Yes, there are.	Low
C.19. Are all goods that are received recorded as assets or inventory in a register?	Yes, they are.	Low
C.20. Is the agency/procurement department familiar with letters of credit?	Yes, it is.	Low
C.21. Does the procurement department register and track warranty and latent defects liability periods?	PMU does.	Low
<b>Consulting Services</b>		
C.22. Has the agency undertaken foreign-assisted procurement of consulting services recently (last 12 months, or last 36 months)? (If yes, please indicate the names of the development partner/s and the Project/s.)	Yes. ADB and JICA. ADB: Talimarjan Power Project and Metering Project JICA: Navoi, Power Plant	Low
C.23. If the above answer is yes, what were the major challenges?	The process of agreement/coordination with ministries and agencies of RUz.	
C.24. Are assignments and requests for	Yes, they are.	

Question	Answer/Finding	Risk
expressions of interest (EOIs) advertised?		Low
C.25. Is a consultants' selection committee formed with appropriate individuals, and what is its composition (if any)?	There is an Inter-agency Tender Committee on the procurement of commodities, works and services under investment projects implemented in the field of geology, fuel-energy complex, chemical, petrochemical and metallurgical industry under the Cabinet of Ministers of the Republic of Uzbekistan (RUz). The composition includes the heads of involved governmental agencies of RUz.	Average
C.26. What criteria is used to evaluate EOIs?	For the projects with participation of ADB: 1. Technical Competence 2. Geographical Experience 3. Management Competence	Low
C.27. Historically, what is the most common method used (QCBS, QBS, etc.) to select consultants?	QCBS	Low
C.28. Do firms have to pay for the RFP document?	No, they don't.	Low
C.29. Does the proposal evaluation criteria follow a pre-determined structure and is it detailed in the RFP?	Yes, it does.	Low
C.30. Are pre-proposal visits and meetings arranged?	Not usually but if required by consultants meetings are arranged to answer questions.	Low
C.31. Are minutes prepared and circulated after pre-proposal meetings?	If meetings are arranged minutes are prepared.	
C.32. To whom are the minutes distributed?	To all short-listed applicants	
C.33. Are all queries from consultants answered/addressed in writing?	Yes, they are.	Average
C.34. Are the technical and financial proposals required to be in separate envelopes?	Yes, they are.	Low
C.35. Are proposal securities required?	No, they are not.	Low

<b>Question</b>	<b>Answer/Finding</b>	<b>Risk</b>
C.36. Are technical proposals opened in public?	Yes they are	Low
C.37. Are minutes of the technical opening distributed?	Yes, they are.	
C.38. Do the financial proposals remain sealed until technical evaluation is completed?	Yes, they do.	Low
C.39. Who determines the final technical ranking and how?	Working Group, established by Inter-agency Tender Commission and according to the bidding procedures (methods of selection).	
C.40. Are the technical scores sent to all firms?	Yes, they are.	Low
C.41. Are the financial proposal opened in public?	Opening of financial proposal is done with participation of bidders and interested persons.	
C.42. Are minutes of the financial opening distributed?	Yes, they are.	
C.43. How is the financial evaluation completed?	According to the bidding procedures (methods of selection).	Average
C.44. Are face to face contract negotiations held?	Yes, they are.	
C.45. How long after financial evaluation is negotiation held with the selected firm?	On average 1 to 2 months.	
C.46. What is the usual basis for negotiation?	1. Decision of Tender Commission to award the contract. 2. Approval of IFI. 3. Letter of invitation to the contract negotiations.	
C.47. Are minutes of negotiation taken and signed?	Yes, they are.	
C.48. How long after negotiation is the contract signed?	On average one month.	Average
C.49. Is there an evaluation system for measuring the outputs of consultants?	It's evaluated upon performance/execution of the works (services).	Low
<b>Payments</b>		

Question	Answer/Finding	Risk
C.50. Are advance payments made?	Yes, they are.	Low
C.51. What is the standard period for payment included in contracts?	Two months.	Low
C.52. On average, how long is it between receiving a firm's invoice and making payment?	One month.	
C.53. When late payment is made, are the beneficiaries paid interest?	Yes, it is. Penalty is paid at the rate specified in the contract.	
<b>D. EFFECTIVENESS</b>		
D.1. Is contractual performance systematically monitored and reported?	Yes, it is.	Average
D.2. Does the agency monitor and track its contractual payment obligations?	Yes, it does.	Low
D.3. Is a complaints resolution mechanism described in national procurement documents?	No it is not	High
D.4. Is there a formal non-judicial mechanism for dealing with complaints?	No it is not	High
D.5. Are procurement decisions and disputes supported by written narratives such as minutes of evaluation, minutes of negotiation, notices of default/withheld payment?	Yes they are.	Low
<b>E. ACCOUNTABILITY MEASURES</b>		
E.1. Is there a standard statement of ethics and are those involved in procurement required to formally commit to it?	Yes there is	Average
E.2. Are those involved with procurement required to declare any potential conflict of interest and remove themselves from the procurement process?	Yes, they are.	Average
E.3. Is the commencement of procurement dependent on external approvals (formal or de-facto) that are outside of the budgeting process?	No there is not	Low

Question	Answer/Finding	Risk
E.4. Who approves procurement transactions, and do they have procurement experience and qualifications?	The head of Uzbekenergo for procurement > \$100,000 but <\$1million. For amounts <\$100,000 the Manager of the relevant department of Uzbekenergo.	Average
E.5. Which of the following actions require approvals outside the procurement unit or the evaluation committee, as the case may be, and who grants the approval?		
a) Bidding document, invitation to pre-qualify or RFP	Yes, depending on the value of the contract.; Head of Uzbekenergo for contracts <\$1million.	
b) Advertisement of an invitation for bids, pre-qualification or call for EOIs	No	
c) Evaluation reports	Yes, depending on the value of the contract.; Head of Uzbekenergo for contracts <\$1million.	Low
d) Notice of award	No	
e) Invitation to consultants to negotiate	No	
f) Contracts	Yes, MFERIT	
E.6. Is the same official responsible for: (i) authorizing procurement transactions, procurement invitations, documents, evaluations and contracts; (ii) authorizing payments; (iii) recording procurement transactions and events; and (iv) the custody of assets?	No, it is not.	Low
E.7. Is there a written auditable trail of procurement decisions attributable to individuals and committees?	Yes, there is.	Low

**II. General Ratings**

<b>Criterion</b>	<b>Risk</b>
<b>A. Organizational and Staff Capacity</b>	<b>Organizational: Average Staff capacity: High</b>
<b>B. Information Management</b>	<b>Low</b>
<b>C. Procurement Practices</b>	<b>Low</b>
<b>D. Effectiveness</b>	<b>Average</b>
<b>E. Accountability Measures</b>	<b>Average</b>
<b>OVERALL RISK RATING</b>	<b>AVERAGE</b>