

## CASE STUDY 1

## PUBLIC PROCUREMENT

# Strengthening Competitive Procurement in Somalia

Strengthening procurement of high-value contracts in Somalia's security sector

## Overview

After years of state collapse, a new Federal Government administration took over in Somalia in 2012 and began to try to regain the confidence of the Somali public, its semi-autonomous regions and the international community. Against a backdrop of conflict, warlordism and corruption, improving national security and re-establishing good financial governance practices were central to the new administration's credibility. This nascent credibility received an early blow when the Governor of the Central Bank resigned in 2013, citing concerns over corruption. In 2014, the government and international community established an innovative joint body called the Financial Governance Committee (FGC), whose purpose was to provide confidential expert advice to the government on strengthening financial governance. The FGC identified improved procurement practices as central to the credibility of government expenditures, and in particular noted the corruption and security risks associated with sole-source contracting of rations supplies in the security sector. Rations procurement was not under heavy scrutiny from international actors, despite being the government's largest non-wage recurrent cost. As a result of sustained attention from the FGC over a number of years, and convening and maintaining a reform coalition at the center of government, rations have finally been competitively tendered and large fiscal savings have been realized.

## Introduction

The new Federal Government of Somalia took office in September 2012 amidst strong support from the international community, but with lingering doubts about its ability to rein in the corruption that had been considered to be endemic during previous transitional administrations. Some actors in the international community wanted to establish direct control over government finances through a joint-signatory arrangement analogous to the approach previously used in Liberia. However, President Hassan Sheikh Mohamud argued that this would impinge on the new government's sovereignty, and asked that the administration be given space to prove its commitment to better management of government resources.

In November 2013, the Governor of the Central Bank of Somalia resigned after only seven weeks in the job, dealing a blow to the administration's credibility. "From the moment I was appointed, I have continuously been asked to sanction deals and violate my fiduciary responsibility to the Somali people as head of the nation's monetary authority," said Yussur Abrar in her resignation letter.<sup>34</sup> Abrar alleged that she had come under pressure to open an account outside the Central Bank of Somalia to divert recovered assets.<sup>35</sup> It also came to light that the government had signed a contract with an American law firm on questionable

terms to assist with the recovery of Somalia's frozen assets abroad.

International partners' confidence in the federal government was dented, and it became accepted that a new approach to strengthening financial governance was needed to restore confidence: *'business as usual'* would not suffice. The government needed to implement concrete measures to strengthen financial governance, in particular in asset recovery, Central Bank governance, and government procurement of contracts and concessions, in order to restore the confidence of the international community and the Somali public more broadly.

President Hassan Sheikh Mohamud knew he needed help to implement those reforms. Mohamud called for measures that would provide him and his team with confidential expert advice to help make informed decisions on sensitive financial governance matters, while also respecting Somali sovereignty.

Led by the World Bank, the federal government and the international community reached an agreement in early 2014 on the establishment of a Financial Governance Committee (FGC) to provide a forum for dialogue on strategic financial governance issues. The FGC's formation was a direct response to the crisis of confidence that followed Abar's resignation. It aimed to enable the federal government to access independent and confidential international advice on important areas of financial governance, while also building the international community's confidence in the federal government. The FGC's initial terms of reference required it to "provide advice on existing concessions [and] contracts the Federal Government of Somalia has entered into." This remit was subsequently extended by the federal government to include reviewing all draft concessions and contracts worth over USD5 million, until such time as capable new national institutions could take over the review function.

The FGC is chaired by the Minister of Finance and its membership includes the Governor of the Central Bank, representatives from the Office of the President and Office of the Prime Minister, the State Attorney General, and the Chair of the Parliamentary Finance Committee. The international community is represented by delegates from the World Bank, African Development Bank, and the International Monetary Fund and a delegate appointed by the EU to represent bilateral donors. The FGC is supported by a specialist adviser on

public concessions and contracts and a Secretariat. The FGC has met on an almost monthly basis for the past six years since its inauguration in early 2014.

One of the FGC's most pressing goals was to reintroduce competitive procurement practices, especially for major government expenses like security sector food rations. Security as a whole accounted for approximately 42% of the federal government's operational expenditure, and other than wages, food rations for security personnel were the security sector's biggest expense.<sup>36</sup> In 2018, security sector food rations accounted for about 20% of total government non-wage recurrent costs, or USD14 million.

A lack of transparency and competition in the supply of 'dry' rations (beans, cooking oil, sugar, etc.) was suspected to be fueling corruption and patronage in the sector, as contracts were directly awarded to well-connected local business people without scrutiny of unit costs or justification of volumes. It was also suspected that misallocation of the rations was compromising the effectiveness of the security forces, as the rations either did not necessarily reach the fighting forces, or were being purchased in excess of need, diverting scarce resources away from other expenditures. In addition, a large proportion of the security sector's expenditures was transacted in cash, as the commanders were given funds to purchase 'wet' (fresh) rations for their units and to pay individuals' salaries, creating high potential for corruption and limited accountability. FGC advice consistently flagged the need for rations contracts to be competitively procured to improve transparency and reduce costs, and for salaries and fresh food allowances to be paid direct to individuals' accounts, to limit the scope for diversion of funds.

## The implementation process

Since security sector rations constituted the single largest goods purchase within the federal budget, the FGC sought to promote improved transparency and competition in the award of rations contracts. At first, the FGC found it difficult to obtain any pre-existing rations documentation from security sector institutions, and it appeared that supplies were being delivered and payments made without formal contracts. Somalia's legal framework for procurement dated back to the 1960s, and was no longer used to govern government purchases. However, FGC's advocacy for improved

transparency and competition in the sector received the support of the President, who announced in September 2015 that food and logistics contracting for security sector institutions would be managed on a competitive basis.

At the time, a new legal framework for procurement had been submitted to Parliament and was subsequently passed in 2016. However, it established a decentralized approach to public procurement, which was not well aligned with existing institutional capacities. Line ministries lacked procurement expertise, and the Procurement Authority—whose role it was to certify line ministries' procurement units—had not been established. The FGC therefore recommended that the government adopt a set of Interim Public Procurement Requirements that required all procurements above USD100,000 in value to be conducted by the Ministry of Finance's Procurement Department until such a time as line ministries had certified procurement units.

The Ministry of Finance launched an open tender for the supply of dry rations to the Somali National Army in 2016, and, following FGC review, the contract was awarded in February 2017. The FGC also reviewed the outcomes of rations tender processes for the police and the National Intelligence and Security Agency (NISA). In line with FGC advice, the government began to strip out the cash components that had been included in the contracts; the intention had been to require contractors to provide cash to the force commanders for fresh rations purchases, in addition to delivering dry rations. The FGC argued that paying contractors to deliver cash was not good practice, and that cash requirements for fresh rations purchases should be regularized through the payment system and paid to the bank accounts of individual security personnel.

However, following elections in early 2017 the incoming army commander summarily cancelled the competitively awarded contract and issued a new contract to a different contractor without following due process. This reversion to nontransparent direct contracting, with associated implications of patronage, presented a test of resolve for the FGC and the center of government more generally. The supplier whose contract had been cancelled raised a formal complaint, and the Ministry of Finance, at the recommendation of the FGC, responded by conducting a legal review in July 2017, which determined that the contract cancellation and re-award was irregular. The Economic Committee of the Council of Ministers then resolved in September

2017 that the contract should be retendered.

It took a year of sustained follow-up by the FGC before the contractor was finally served a termination notice by the Minister of Defense in September 2018. During this period, there were several changes in both the Minister of Defense and the army commander, which delayed the termination process. The Ministry of Finance finally launched a fresh tender process in October 2018, covering the supply of dry and fresh rations to all army units. However, during bid evaluation it became clear that the contract scope provided by the army had not been well specified. It proved too ambitious to expect a single contractor to deliver dry and fresh rations to all army units ('sectors') across a wide geographic area, encompassing both Mogadishu, the capital city, and the rest of Somalia. This demonstrated that, in addition to overcoming overt resistance, the procurement reform process also needed to address the limited capabilities of key institutions.

In February 2019, the Cabinet issued a set of financial management procedures for the security sector, which required immediate competitive retendering of all rations contracts. It also required payment of salaries direct to individuals' bank accounts, following the completion of a security sector personnel biometric registration process, which had been initiated in the second half of 2018. The Ministry of Finance subsequently launched four separate tenders in April 2019 for one-year delivery of dry rations to two army units ('sectors') located in Mogadishu,<sup>37</sup> the police and NISA. Twenty-one different firms submitted bids for the various contracts. The FGC reviewed each tender process and was satisfied that each had been sufficiently competitive and transparent to justify contract award. Following the competitive re-tenders, the government's monthly expenditure obligations on rations contracts nearly halved, generating an annual saving of USD6.7 million.<sup>38</sup>

A significant portion of the savings was driven by a reduction in the volume of rations purchased. The security sector personnel biometric registration process, coupled with a re-organization of the security forces, enabled the leadership of each force to provide more accurate specifications for its required rations volumes, based on the actual number of personnel that required feeding. NISA saw the greatest reduction in its rations volumes (78%), followed by the army (36%). The re-tendering also enabled the government to achieve a significant reduction in the unit prices of most goods,

which were reduced by at least 10% in most cases. In general, the government was able to achieve the lowest unit prices for the larger contracts which attracted the most bids (army and police), demonstrating that competition helps lower prices. The unit prices achieved under the smaller NISA contract, which attracted fewest bidders, were in most cases higher than for the larger contracts.<sup>39</sup>

In parallel to reforming security sector rations procurement, the successful completion of the biometric registration exercise for national security sector personnel enabled the government to create a comprehensive payroll register for each force, linked to the Somalia Financial Management Information System. As a result, the salaries of security personnel are now paid direct to their bank accounts, instead of being distributed to them in cash by their commanders. This reform was able to overcome vested interests within the higher ranks of the security forces and has significantly improved the accountability and transparency of security sector wage payments. It has also had a positive impact on the transparency and accountability of fresh rations payments, since all registered soldiers are now paid a USD30 stipend for fresh rations direct to their bank account, whereas previously this cash had been received and managed on their behalf by their commanders.

Despite these achievements, major gaps remain. For example, significant effort needs to be put into verifying the delivery of goods and services. The gains made in improving the tendering and transparency of rations contracts will count for little if there is limited visibility on whether goods and services are delivered. Given the public mistrust of the government's financial management, it may not be sufficient at this stage to rely solely on inspection reports from the receiving spending agency as proof of delivery. The FGC has recommended that the Ministry of Finance establishes an inspection function responsible for verifying the delivery of goods and services. In addition, to date rations delivery to the prisons service has remained outside of the reform process, as prisons already had an ongoing five-year rations supply contract. However, this contract expires in 2020 and it is anticipated that a tender process for prisons' rations will commence alongside a new tender process for the army, NISA, and the police, to replace the contracts awarded in 2019 at the expiry of their one-year term.

## Reflections

The case study highlights how the FGC has been successful in Somalia, and how its approach might be applied to other settings. At a strategic level, the FGC helped draw key decision makers' attention to Somalia's procurement problem and suggested a pragmatic approach to solve it. The committee's regular meetings generated reform momentum among a coalition of top officials, establishing a common problem definition and achieving consensus in an environment beset by low intra-governmental levels of coordination and technical capacity. Vested interests and institutional fragility, including frequent personnel changes, meant the issue required sustained attention and follow-up over a five-year period.

Competitive tendering combined with a better specification of needs cut costs by USD6.7 million per year.<sup>40</sup> The clear return on investment fostered wide support for competitive tendering, illustrating how concrete results can generate a push for expanding the effort to other sectors.

The new procurement policy was implemented in tandem with other inter-related reforms, including the comprehensive biometric registration exercise of security personnel and moving from cash to electronic payments for salaries and fresh rations. However, key challenges remain, including the need to sustain competitive tendering going forward, to improve capacity within the security sector for specifying their procurement needs, and to strengthen the process for rations delivery verification.

The FGC used its reputational credibility, which came from the expertise and experience of its international members, as a lever to promote the reintroduction of due process in procurement. While the FGC was a voluntary arrangement, the international community closely monitored the extent to which the federal government adhered to FGC advice, making it difficult for the government to leave FGC recommendations unaddressed. By combining representatives of the World Bank, IMF, and AfDB in its membership, the FGC brought together the key institutions with which the federal government was seeking to re-engage, and hence that had most weight in the domain of economic governance. This is given added weight by the support of an expert FGC Concessions Advisor to provide detailed technical review and advice on

## BOX 1.1

## Timeline on Somali National Army Rations Re-tendering

- Presidential Press Release commits that “All tenders for logistic supplies will be carried out through the Interim Procurement Board”, 9 September 2015.
- FGC asserts that it should review any draft contracts before signing and seeks to obtain copies of legacy contracts, Ministry of Finance concludes there are no formal contracts by August 2016.
- The federal government launches a competitive tender for army rations in September 2016.
- FGC reviews the tender process in February 2017.
- Competitively tendered army rations contract with new supplier signed 13<sup>th</sup> March 2017.
- The army cancels the contract in May 2017 and makes arrangements with another provider non-competitively.
- Competitively awarded supplier complains in June 2017.
- The Ministry of Finance reviews the case in July 2017 and writes to Ministry of Defence to say that the competitively procured contract should stand. Ministry of Defence agrees.
- Economic Committee of Cabinet determines in October 2017 that the non-competitive contract should be cancelled, and a competitive re-tender process commenced.
- Army rations contractor is served a termination notice by the Minister of Defence in October 2018.
- A new army rations tender process is launched in October 2018, but is not concluded.
- February 2019, federal government issues a set of financial management procedures for the security sector which also required immediate competitive retendering of all rations contracts.
- The government issued a tender for two army rations contracts, for supply of dry rations in two army sectors in April 2019.
- The bid submission deadline passed by May 2019, and bids were opened by June 2019.
- The government completed the procurement process for supply of dry rations in two army sectors (12 April and Hamar), Police and NISA by September 2019.
- The FGC reviewed all four processes and advised that they are an appropriate basis for contract award by September 2019.



procurement processes in a confidential manner. The FGC also derived credibility from its reputation among major bilateral actors, many of whom were major security sector actors in Somalia. These actors could follow FGC deliberations—without confidential details—at bi-monthly informal briefings led by the FGC’s international delegates.

In comparison with more standard internationally supported procurement reform efforts, the FGC approach has been unusual in two ways. First, it is often widely assumed that adopting a “best practice” legal and regulatory framework is the essential foundation for procurement reform, and that the adoption of good rules (usually defined as those applied in other places) will alone drive out bad practices. By contrast, part of the FGC’s work has entailed reviewing and supporting the revision of the Procurement Act (which was passed in 2017 and heavily mirrored Liberia’s decentralized procurement law) to better adapt it to the Somali context and government capabilities.

Second, procurement reforms often push for Ministry of Finance-centered reforms of business processes to be applied to all government procurements, often involving adoption of an e-GP system as a necessary reform step. By contrast, the FGC has focused on a specific set of contracts over a sustained period, combining high-level engagement with a key coalition of institutions at the center of government (and in a

manner that explicitly acknowledged both the politics and the multi-dimensionality of the reform effort) with hands-on expert confidential advisory support. In so doing, the FGC’s attention to procurement has cut through the “*form over function*” problem often prevalent in procurement reforms, where the appearance of best practice rules and systems often conceals the underlying true practices.<sup>41</sup>

Sustained focus over a long period, with multiple incremental reform steps and willingness to persevere in the face of setbacks, was crucial given the challenging and fragile environment. By maintaining government attention on this complex problem over a long period, as well as raising the issue with the international community, the FGC kept actors focused on the matter over a period of six years. By consistently coordinating key economic agencies at the center of government as well as international partners, the FGC was able to build and maintain a sufficiently powerful reform coalition to overcome security sector actors seeking to revert to non-competitive practices, as well as to provide technical advisory support to help rectify procurement missteps resulting from weak government capability. As a result, the FGC helped the federal government to manage the transition from a period of non-adherence to due process in public procurement, to gradually establish high-level commitment to and some of the institutional underpinnings for due process in public procurement.