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Former Yugoslav Republic of Macedonia Country Fiduciary Assessment

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ACRONYMS AND ABBREVIATIONS

ACC	Anti-Corruption Commission	IMF	International Monetary Fund
BLIs	Base-Line Indicators	INTOSAI	International Organization of Supreme Audit Institutions
BEEPS	Business Environment and Enterprise Performance Survey	IPSAS	International Public Sector Accounting Standards
CAS	Country Assistance Strategy	ISA	International Standards on Auditing
CFA	Country Fiduciary Assessment	MOES	Ministry of Education and Science
CFAA	Country Financial Accountability Assessment	MOF	Ministry of Finance
CIPFA	Chartered Institute of Public Finance and Accounting	NBRM	National Bank of the Republic of Macedonia
CPAR	Country Procurement Assessment Review	OBL	Organic Budget Law
CPS	Country Partnership Strategy	OECD	Organization for Economic Cooperation and Development
CPIs	Compliance/Performance Indicators	PCC	Procurement Complaints Committee
DAC	Development Assistance Committee	PDPL	Policy Development and Planning Loan
DFID	Department for International Development (UK)	PEFA	Public Expenditure Financial Accountability
DG	Directorate General (of European Commission)	PEIR	Public Expenditure and Institutional Review
EAR	European Agency for Reconstruction	PFM	Public Financial Management
EBF	Extra-budgetary funds	PIFC	Public Internal Financial Control
EC	European Commission	PIU	Project implementation unit
ECA	Europe and Central Asia Region	PPB	Public Procurement Bureau
ERBD	European Bank for Reconstruction and Development	PPL	Public Procurement Law
EIB	European Investment Bank	PSMAC/L	Public Sector Management Adjustment Credit/Loan
EU	European Union	ROSC	Reports on the Observance of Standards and Codes
GFS-2001	Government Financial Statistics, 2001 version	PRSP	Poverty Reduction Strategy Paper
HCI	Health care institution	SAO	State Audit Office
HIF	Health Insurance Fund	SIGMA	Support for Improvements in Governance and Management
IA	Internal Audit	SOE	State-owned enterprise
IIF	Institute of Internal Auditors	TSA	Treasury single account
IAS	International accounting standards	USAID	US Agency for International Development
ICB	International competitive bidding		

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INTRODUCTION AND EXECUTIVE SUMMARY

INTRODUCTION

Objectives and Scope

1. This Country Fiduciary Assessment (CFA) follows upon the Country Financial Accountability Assessment (CFAA) issued in 2003 and the Country Procurement Assessment Report (CPAR) issued in 2002. Because procurement is integral to the concept of public financial management (PFM), this CFA integrates procurement and financial management assessment into a single report. The report has three objectives:

- i. Provide the Bank and other donors with an updated assessment of fiduciary progress since 2003. This includes: (i) fiduciary risk related to the budget environment in the former Yugoslav Republic of Macedonia¹; and (ii) need for supporting meaningful progress, possibly through future development policy lending instruments.
- ii. Assist the government in its commitment to Public Financial Management (PFM) reforms to secure more efficient and effective use of public sector resources. This will include: (i) an assessment of the government-wide budgeting and accounting system, using the PEFA measurement framework; (ii) a review of reforms being implemented in the Health Insurance Fund (HIF); and (iii) assessment of another potentially high risk sector with large capital budgets or significant shortfalls in actual project expenditures versus approved capital budgets.²
- iii. Help the government measure progress in procurement reform by comparing operations with international standards, providing information to monitor system performance and identifying weaknesses. Donors can use this to develop a strategy for supporting a capacity development plan to improve procurement. This would include assessing the alignment of FYR Macedonia's procurement systems and practices with EU *Acquis Communautaire* and other internationally accepted standards.

2. Fiduciary risk comprises several elements. Funds may be diverted and used for unauthorized purposes outside of the government's financial management control system. Even if funds reach intended recipients, they may be misused for inappropriate, unauthorized, unknown, or corrupt purposes. Procurement is particularly susceptible to the latter abuse. There are also risks from misallocation of authorized funds, even if for legal purposes, and from late, unreliable, or incomplete financial reporting on budget execution. Finally, budget implementation may fail to achieve its objectives.³ This 2007 CFA provides recommendations to mitigate these risks.

¹ Hereafter known as FYR Macedonia.

² Possible mitigation measures will inform future Bank-supported Development Policy Lending (DPL). The Bank mission met with the Minister of Finance and other government counterparts in Skopje on February 12, 2007. The government indicated its preference for the education sector.

³ World Bank, *Albania Country Fiduciary Assessment*, August 2006, p 31.

Related Work

3. Since 2003, several studies have been conducted by IMF and the EC, and their findings have been supported by projects by: the World Bank; the IMF; the EC through various means, including EAR, Director General Budgets, Director General Internal Market and Services, and SIGMA; the government of the Netherlands (Dutch Trust Funds, the Netherlands Court of Audit); DFID; and USAID.
4. World Bank projects included the Public Sector Management Adjustment Credit and Loans, and the Policy Development and Planning Loan institutional strengthening projects, which fostered improvements in the MOF public financial management system and other government ministries, extra-budgetary funds, and key sectors such as health, education, private sector, business environment, and justice. Several CFAA/CPAR recommendations were implemented by these projects, funded by the Bank or by Dutch Trust Funds administered by the Bank. Implementation was under the purview of the Country Assessment Strategy and the Public Expenditure Institutional Review, which provided the context and broad strategic umbrella for the projects.
5. The Country Partnership Strategy (CPS) (March 02, 2007) strongly supports FYR Macedonia's efforts to join the EU, and supports two core pillars: first, fostering economic growth, job creation, and higher living standards for all; and second, improving the governance and transparency of public service delivery to support the market economy.⁴ The CPS will assist FYR Macedonia in its progress toward better governance and reduced corruption, enhancing sector governance where necessary, and improving transparency and accountability in service delivery and public sector management.⁵ CPS envisages preparation and delivery of this Country Fiduciary Assessment as one of the core diagnostics for FY07.
6. The IMF continued its engagement in issues affecting macroeconomic stability, as well as undertaking specific activities to improve macro-forecasting, multiyear fiscal and economic planning, treasury development, GFS-2001-compliant chart of accounts, central bank operations, and Reports on the Observance of Standards and Codes (ROSC). There was close cooperation between the IMF-Fiscal Analysis Division missions and the World Bank teams.
7. The EC has significantly increased its involvement since FYR Macedonia was accepted as an EU accession candidate in December 2005, resulting in the investment of EC funds across the spectrum of its *Acquis Communautaire*, including financial management (Chapter 32) and procurement (Chapter 5). The EC is naturally assuming the lead for improvements in procurement, internal audits, internal controls (the requirements for Public Internal Financial Control, or PIFC), and external audit functions. Additionally, the Dutch Trust Fund continues to support financial management improvements, and the Netherlands Court of Audit has partnered with the Macedonian State Audit Office (SAO) to guide its further development.
8. Consequently this CFA focuses more on procurement. For financial controls, it summarizes progress in implementing CFAA and other donor PFM recommendations; and it provides assessments and recommendations in areas of financial management not addressed by other donors. These include a follow-up on implementing the plan to reduce high fiduciary risks in the Health Insurance Fund and, at the request of the Minister of Finance, an assessment of fiduciary risk in the Ministry of Education and three other education entities. The CFA uses international performance indicators to assess procurement

⁴ World Bank, *Country Partnership Strategy for the Former Yugoslav Republic of Macedonia FY 2007-FY2010*, March 2, 2007

⁵ *Ibid*, p. 34.

and a subset of indicators to assess PFM performance.⁶ The results of these assessments form the basis for assessing the level of procurement risk and PFM fiduciary risk for the Bank and for FYR Macedonia.

Basis of the Report

9. In preparing this report, the World Bank Team worked closely with officials from the government, particularly the Ministry of Finance (including Department of Budget, Treasury, Internal Audit, International Finance Department, and Public Procurement Bureau), Complaints Committee, Ministry of Education, and Health Insurance Fund. The Baseline Indicator (BLIs) assessment on the procurement is based on substantial input from and several consultations with Public Procurement Bureau. The team also sought views from the private sector such as Economic Chamber of FYR Macedonia, representatives from construction industry and from suppliers of Information Technology. A scoping mission was undertaken in December 1-5, 2006 to seek government's views followed by main mission in February 12-23, 2007. Support for Improvements in Governance and Management (SIGMA) which is a joint initiative of OECD and the European Union and are advising the government under an EC-funded contract on legislation and capacity building joined the main mission. SIGMA provided their input on issues related to EU *Acquis Communautaire*.

The above participation by SIGMA was with full support from DG "Internal Market" of European Commission. Bank also gratefully acknowledges valuable inputs received from EC in preparation of this report.

⁶ OECD/DAC/WB indicators for procurement performance and PEFA indicators for PFM performance.

EXECUTIVE SUMMARY

As stated earlier, this report focuses on fiduciary risks in the public financial management (PFM) and procurement systems of the former Yugoslav Republic (fYR) of Macedonia. PFM and procurement were examined separately in previous Bank studies—the Country Procurement Assessment Report (CPAR, 2002) and the Country Financial Accountability Assessment (CFAA, 2003). The two topics are combined in the present Country Financial Assessment (CFA).

Since the CFAA in 2003, the government—in particular, the Ministry of Finance—has exerted considerable effort to improve its core budgeting, reporting, internal control, and internal auditing. These components are key to efficient public financial management systems. Donor assistance to the external audit office helped to implement far-reaching changes, bringing its practice more in line with accepted international practice. Work remains to be done in each of these areas. Since fYR Macedonia was accepted as a candidate for EU membership, the EC has assumed the major responsibility for further upgrading of the public internal financial control systems. The role of the Bank and other donors has been reduced. This report therefore identifies areas where the EU is active; however, it makes no significant recommendations on areas now being addressed by EC staff.

Procurement is a different matter. Despite considerable legislative progress in coordination with the EC, the legislative framework for procurement is not aligned with the latest EU legislation⁷ or latest international best practices. Implementation of the existing laws and regulations is lacking. Thus, this report includes a substantial discussion on procurement, including numerous recommendations. Throughout this report, recommendations are signaled with arrow-type bullets.

Procurement:

Legal Foundation

The Public Procurement Law (PPL) of fYR Macedonia (2004) made positive strides toward greater transparency, accountability, and efficiency. However the existing PPL still contains features which are not consistent with EU procurement legislation and the latest international best practices. These provisions mainly relates to administrative barriers inhibiting competition and discriminatory provisions that could limit access to government contracts. In particular the key weaknesses are as under:

- ***There is an absence of an independent complaints review body*** that provides protection to bidders against arbitrary action of contracting entity. Procurement Complaints Committee, a body that operates with part time members has no institutional set-up lacks mandate to enforce its decision;
- ***There are several administrative barriers*** (for example delays in providing authorization by Drug Bureau) and need for furnishing documentation such as proof of solvency from central registry and “opinion” from them;
- ***The PPL also lacks key features of the EU procurement system***, including environmental criteria for evaluation and provisions for concessionary works;
- ***There are procedural discretion to procuring agencies*** contrary to international principles

⁷ See the EU Directives on Procurement, 2004.

and best practices;

- **Framework agreements and design contests are not limited in scope as it should be** and reserved for specific contracts—for example to low value and simple contracts for operating costs in case of framework agreement and contracts of esthetical in nature in case of design contest.

SIGMA has opined that the new law on public procurement will address many Bank concerns. In their view the EC directive and the present CFA take somewhat different approaches to evaluation criteria and for consultancy contracts. These differences will need to be reconciled by secondary legislation. SIGMA also indicated that EC is currently working to create a uniform approach on state defense and security (Article 296, Treaty of Rome) for all member states. These issues are discussed in the section on “Alignment with EU *Acquis Communautaire*”.

Implementation issues

It is expected that an amended or a new legislation may bring marginal improvements in the overall public procurement system but serious deficiencies in implementation needs to be handled on a priority basis. These deficiencies are related to the linkage between the budget system and procurement plan, capacity of implementing ministries, functioning of complaint review committee and on procurement information system. The CFA team looked specifically into the working of MOES and HIF. The report covers these implementation aspects in details and few critical issues are listed below:

- **Procurement plans are normally prepared based on annual or multiyear operating plans but links with budget planning are weak.** There are instances when plans are not matched with available budgetary allocation before expenses are committed;
- **Complaints review mechanism is not effective.** Procurement Complaints Committee is under-resourced and complainants lack direct access to the committee. Involvement of Central Internal Audit Unit of MOF procurement complaints review is contrary to established practices. The role of CIAU is normally for carrying out audit on ex post basis;
- **Implementation capacity is weak in ministries.** This is considered to be the weakest part of the procurement system as also opined by SIGMA and EC. The situation is exacerbated with “undue influence” from senior levels in the ministry who oftentimes overrules the decision of procurement committee without any justification which jeopardizes the integrity of the procurement process. These situations significantly contribute to fiduciary risk for the procurement system;
- **Regarding procurement related to Health Insurance Fund, there are several administrative barriers.** These barriers have resulted into a situation that for a recent ICB tender for procurement of pharmaceuticals for a value of Euro 65 million attracted very few qualified applicants. HIF is redoing the prequalification process. Section 3.34 of this report elaborates how removal of these barriers could enhance competition and savings could result as a result of ICB ;
- **A national public procurement information system to monitor performance is lacking.** Though notice for tender and information on award of contracts are published there are no reliable data to enable compilation and publication of compliance/performance indicators on how the national procurement system operates and to identify trends. Meaningful assessment of the economy and efficiency of procurement is difficult in the absence of such data ;

- ***There is a need to carry forward recent Electronic Government procurement*** initiatives which can raise the standards of transparency in government, reduce the opportunities and incentives for fraud and corruption, and improve equity and distributional efficiency in public procurement ;
- ***There is lack of support from private sector representatives of suppliers and civil society representatives to enable an open and competitive procurement market place.*** Further no effective public voice is available to advocate maintaining a sound procurement environment);and
- ***Complaints and appeals arise due to procurement irregularities as reported by Procurement Complaints Committee to the Bank team.*** These include : (i) use of imprecise definition of goods and services to be procured; (ii) exclusion of bidders at the bid opening, rather than at evaluation;(iii) introduction of sub-criteria and additional quality specifications that are tailored to specific suppliers or unfairly exclude other bidders; and (iv)splitting the contract contrary to provisions in the tender document.

Summary of procurement assessment

The CFA examined procurement in FYR Macedonia using an internationally recognized diagnostic, the OECD-DAC-WB Assessment Methodology.⁸ This tool assesses the quality and effectiveness of national systems. It is commonly used to support capacity-building initiatives for procurement staff, and it helps to pinpoint significant fiduciary risks and mitigation strategies. Baseline Indicators (BLIs) provide a “snapshot” comparison of the actual system against international standards. The assessment methodology also envisages Compliance/Performance Indicators (CPIs), which monitor performance data to determine level of compliance. This CFA covers only BLIs. CPIs are not covered because of lack of data. The BLI tool is based upon four pillars, each including several indicators and sub-indicators—Pillar I (legislative and regulatory framework); Pillar II (institutional framework and management capacity); Pillar III (procurement operations and market practices); and Pillar IV (integrity and transparency of public procurement systems).

A scoring system rates how well specific criteria comply for each pillar, the indicator, and sub-indicators. Scores range from 3 to 0, with 3 indicating full achievement of the stated standards. A score of 2 is given in areas where achievement is partial and improvements are needed. A score of 1 is assigned where substantive work is needed to meet the standard. Zero is the residual, indicating failure to meet the proposed standard. The full analysis is presented in Annex A, which is based on the laws and regulations that are currently in force.

As explained above whereas the legislative and regulatory framework is slightly more developed than other pillars there are serious weaknesses in implementation of the law, capacity of implementing agencies, operation of complaints review mechanism and access to information, which has resulted in lower scores on other pillars. As shown in ES-1, the score for the legislative and regulatory framework (Pillar I) is 2.0, slightly higher than for the other three pillars—institutional framework and management capacity (1.7); procurement operations and market practices (1.4); and integrity and transparency (1.5). These four pillars are further divided into 12 indicators. Procurement performance by pillars and further indicators are also presented below.

⁸ OECD, DAC, WB, Methodology for Assessment of National Procurement System, Version 4, July 2006.

Figure ES-1. Procurement Performance by Pillar

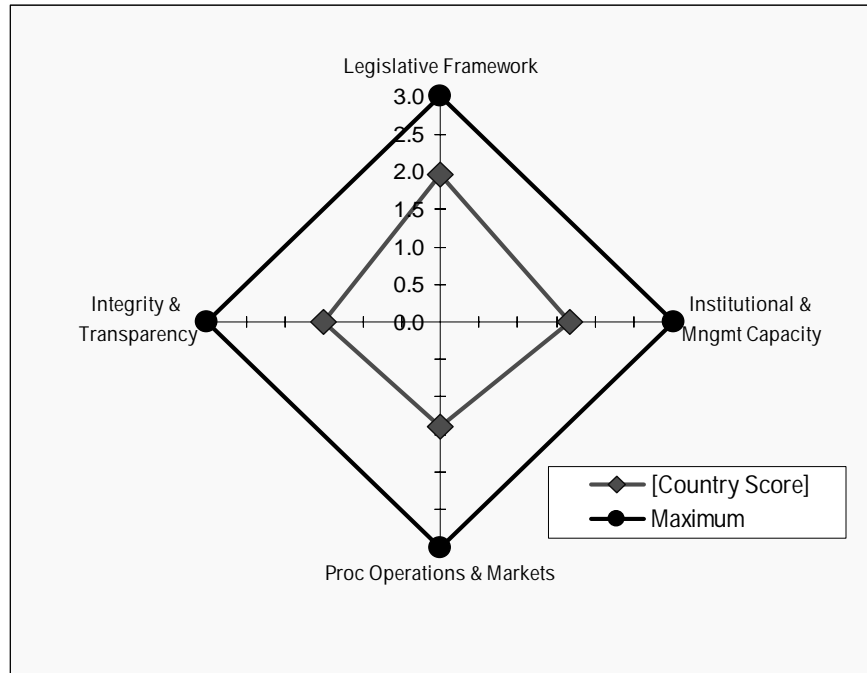


Figure ES-2. Procurement Performance by Indicator

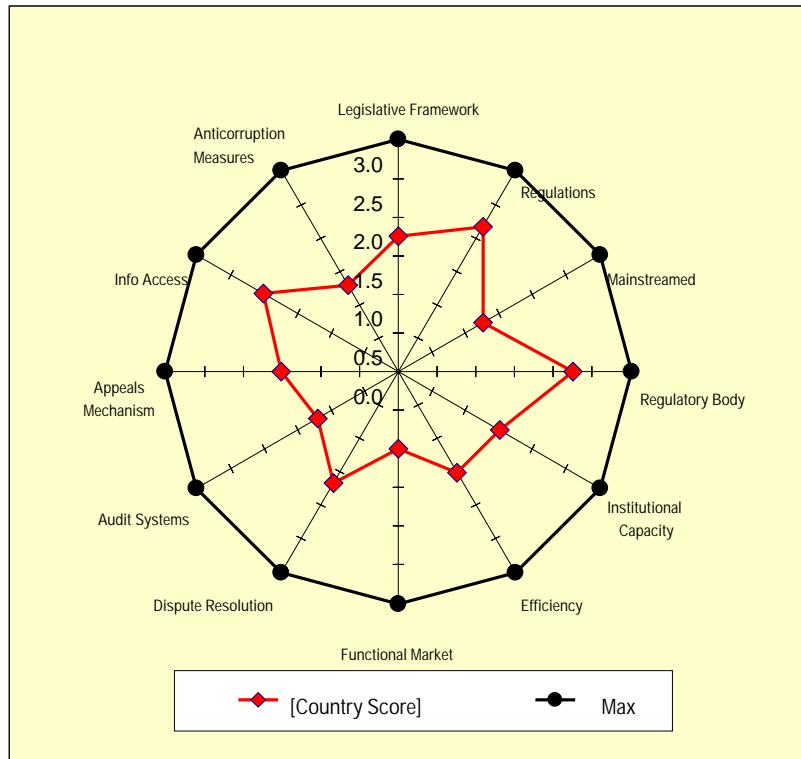


Figure ES-2 illustrates the general lack of maturity in the Macedonia Public Procurement System. As shown, most indicators are rated below 2.

Key Procurement Recommendations

Detailed recommendations on procurement are provided in the main body of the report. The key procurement recommendations are as follows (Priorities indicated as ***Immediate or Medium-term or Long-term***):

- ***Change the legal framework for public procurement to comply with EU requirements.*** This would include provisions for openness for participation by international bidders, elimination of restrictions and hidden barriers to entry and strengthened oversight provisions (***Medium-term***);
- ***Strengthen the framework for procurement planning and management capacity*** through improved investment planning and linkages to the budget, transparent and complete reporting of procurement activities and improved delegation of authorities to accountable decision-makers within the contracting ministries(***Medium-term***);;
- ***Establish an effective and independent complaints review body*** with full mandate to enforce its decision and staffed with full time members(***Immediate***);
- ***Improve compliance with procurement law and regulations*** for large value contracts by requiring the MOF Internal Audit Unit to audit them on an ex post basis, in close cooperation with the State Audit Office(***Immediate***);
- ***Implement a continuous and rigorous program on training*** in all aspects of procurement for all ministry procurement and internal audit staff to build capacity to support the report's recommended reforms (***Long-term***);
- ***Establish and maintain a system of national procurement statistics to monitor performance.*** The information system should enable compilation of Compliance/Performance Indicators (CPIs) to track performance consistent with OECD-DAC- World Bank methodology, PPB to select relevant CPIs that provide information that is useful to the management of the system and can also pin point specific areas of risk or weakness in the implementation process(***Medium-term***);
- ***Publish complete and timely information on the website of Public Procurement Bureau on contract awards*** which should include names of bidders, bid process, value of contract awarded consistent with EU modelled contract award notices.(***Immediate***);
- ***Design special measures to detect and prevent fraud and corruption in procurement.*** This will require: (i) implementing a coordinated procurement-related anticorruption agenda; and (ii) use of electronic Government Procurement (e-GP) as a tool. These steps can raise the standards of transparency in government, reduce the opportunities and incentives for fraud and corruption, and improve equity and distributional efficiency in public procurement (***Long-term***).

Financial Management

Issues in the education sector and in HIF

The current state of the general PFM systems is measured using the PEFA performance indicators described below. However, the CFA also includes analysis of the PFM practices in the health and education sectors.

For the education sector the assessment reveals significant shortcomings in the compliance and proper utilization of the core PFM systems and procedures in ministries and agencies. These relate to strength of the budgeting process, internal financial controls, and audit. The team rated MOES fiduciary risk in financial management as high. There are strong indications that key financial control processes are not followed, which is corroborated by SAO audit observations. The MOES weaknesses in internal controls present a significant PFM risk. It will require major efforts by MOES to redress them. The team detected no such efforts underway.

In the health sector, particularly in the HIF, a continuation of the work in progress on establishing sound PFM systems both on budgeting and budget execution need to be reinforced to ensure more consistent compliance with rules and regulations and to ensure further improvements in the efficient utilization of public resources, for example in the procurement of drugs. Fiduciary risks in HIF PFM system have been reduced from high in 2003 CFAA to significant in this report. Reform processes agreed by the government and the HIF management team are still underway, and a full assessment of the results of reforms on budgeting and internal control systems is premature. However, the trend is positive due to the commitment of new management team.

The report makes several recommendations for improvements.

Summary of the general financial management assessment

The assessment of financial management follows PFM structures of budgeting, accounting and reporting, audit and oversight. This report utilizes a subset of applicable PEFA performance indicators that reflect the current situation in FYR Macedonia.

A full PEFA identifies six critical dimensions of performance of an open and orderly PFM system: (i) Credibility of Budget; (ii) Transparency and Comprehensiveness; (iii) Policy-based Budgeting; (iv) Predictability and Control in Budget Execution; (v) Accounting, Recording, and Reporting; (vi) External Scrutiny and Audit and further indicators related to Donor-related PFM system. (Annex B provides details on PEFA performance indicators; a total 28 indicators on 6 dimensions plus three donor related PFM system indicators are required to be scored.)

This CFA does not cover the parts of PEFA assessment on: (i) transparency and comprehensiveness—this envisages that budget and the fiscal risk oversight are comprehensive and fiscal and budget information is accessible to the public; (ii) policy based budgeting— this requires that the budget is prepared with due regard to government policy; and (iii) tax related indicators for predictability and control in budget execution. This report has used PEFA performance indicators to support its recommendations as required by the scope of the task.

Similar to scoring for the procurement indicators, the numeric equivalents (0 to 3) are assigned to the letter scores (*D* to *A*) for the individual categories, with a half point added for positive ratings. These indicators provide input to the risk assessment ratings. Figure **ES-3 and ES-4** depicts the situation for

FYR Macedonia PFM system in 9 areas.

Figure ES-3. PEFA Performance Indicators

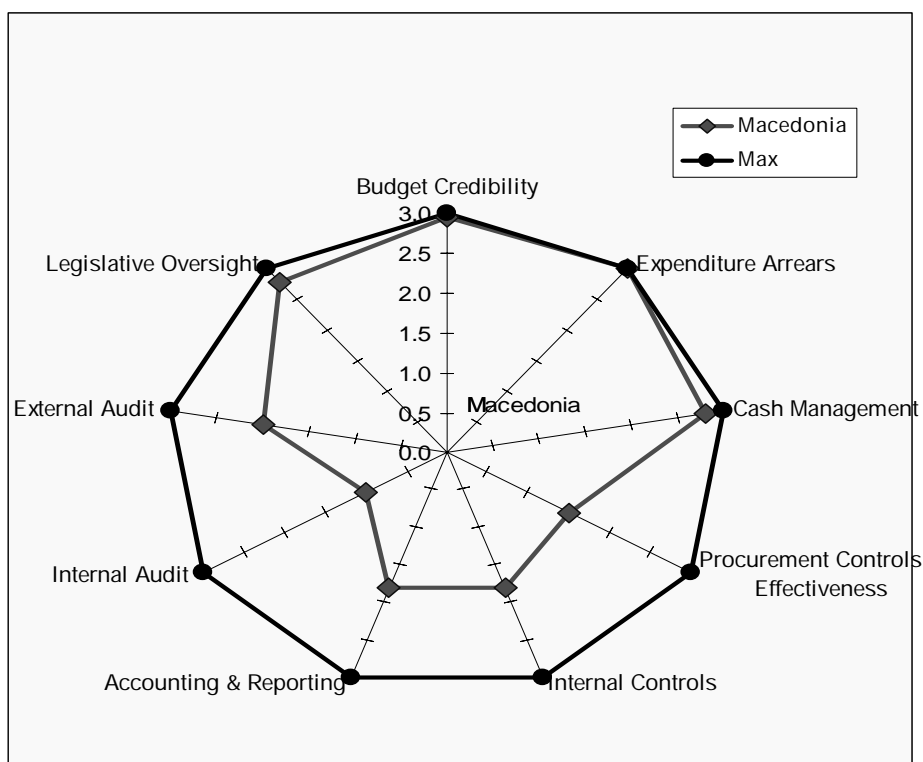


Figure ES-4. Indicators Used in PEFA and Scores

PFM Areas	Macedonia	Max	Scores used
Budget Credibility	3.0	3.0	Expenditure outturn (1), Expenditure composition outturn (2), Revenue outturn (3)
Expenditure Arrears	3.0	3.0	Payment arrears (4)
Cash Management	2.8	3.0	Cash-flow planning (16), Management cash, debt and guarantees (17)
Procurement Controls & Effectiveness	1.5	3.0	Procurement (19)
Internal Controls	1.8	3.0	Payroll controls (18), Internal controls (20)
Accounting & Reporting	1.8	3.0	Account reconciliation (22), Info service delivery units (23), In-year executive reports (24), Audited financial statements (25)
Internal Audit	1.0	3.0	Internal audit (21)
External Audit	2.0	3.0	External audit reports (26)
Legislative Oversight	2.8	3.0	Legislative scrutiny budget law (27), and audit reports (28)

The scores for budget credibility, expenditure arrears, cash management and legislative oversight are higher (better) than for other indicators. Central budgeting processes are generally well developed and yield credible and effective budgets. The remaining categories indicate additional effort will be required to bring their effectiveness up to those levels now achieved in the budgeting domain. This is illustrated in Figure ES-4.

The CFA team found deficiencies on three dimensions of PFM performance:

- ***In budget execution*** the following areas show low scores: (i) effectiveness of payroll control; (ii) competition, value for money, and control in procurement; and (iii) effectiveness of internal audit. These areas came out as major issues also in the sectoral analysis.
- ***Accounting, recording, and reporting.*** Although timely and regular financial reporting is produced, three scores came out low, namely: (i) availability of resource information received by service delivery units; (ii) timeliness, quality, and dissemination of in-year executive report; and (iii) timeliness of audited financial statements submitted to legislature.
- ***External audit*** has improved considerably and gets a fairly good rating on the scope, nature and follow-up of external audit reports. On the external scrutiny of Parliament the annual budget law shows adequate involvement but Parliament's role in the scrutiny of external audit reports scores low.

Key Financial Management Recommendations

The following recommendations for improved public financial management are targeted toward the Ministry of Finance, the State Audit Office, the Ministry of Education and Science, and the Health Insurance Fund (Priorities indicated as ***Immediate or Medium-term or Long-term***):

- ***The Ministry of Education and Science needs to address the significant weaknesses in its internal financial controls.*** This would include a detailed analysis and diagnosis of the current practices by external private-sector audit firm, developing written procedures for the internal control including appropriate delegation of approval and monitoring of financial transactions (***immediate***);
- ***The Health Insurance Fund should consolidate its general commendable progress on financial management.*** In 2009 a broad governance review of progress should be undertaken. Immediate progress in procedures on procurement using International Competitive Bidding, registration to meet international norms in drug procurement and other improvements in the prequalification process – all supported by further development of the internal audit (***medium-term***);
- ***Strengthen the financial statement preparation by carefully plan a transition towards internationally accepted accrual based accounting principles.*** This will include a plan for submission of audited financial statements with the final budget in Parliament (***long-term***);
- ***Continue the development of a strong internal audit function according to the EC's PIFC principles.*** Allocation of additional resources to internal audit, enhanced communication between all members of the internal audit community, and an aggressive program of continuing education would support the needed strengthening. A special effort should be made to audit compliance with the procurement law on large value contracts through ex post reviews (***immediate***); and
- ***The SAO should further improve its public reporting.*** The SAO should also utilize the work by

the Anticorruption Commission in the fight against corruption. An enhanced cooperation between institutions such as the ACC and the SAO, as well as improvements in the efficiency of both institutions is needed to tackle the corruption. Full transparency of these efforts is important (*immediate*).

Assessment of Fiduciary Risk

Overall, considerable progress has been made since the previous assessment in setting up the central elements of a sound PFM and procurement system. However, changes in actual performance are far from complete across ministries and levels of government—an observation that was well confirmed by the ongoing work in HIF and the CFA assessment of MOES. Certainly, this is understandable. The government reforms represent a major change in organizational and political culture. For this change to fully permeate the government, additional work will need to be done at all ministry levels. Only then will the benefits of sound procurement and PFM practices be fully realized.

Thorough completion of this implementation within and across ministries should be a major MOF priority. Individual ministries should be assessed for their contribution to PFM and procurement risk; prescriptive plans should be prepared to ensure that the reforms are effectively embedded; and MOF should closely monitor progress.⁹

Lack of compliance with existing public procurement law and administrative regulations poses significant risk to the government. The team reviewed the central institutions that support public procurement operations. Their mandates require changes that will increase their capacities and effectiveness. In some cases, additional resources are needed to handle heavy caseloads. The Bank team and the internal and external auditors discussed their reports on compliance with the Public Procurement Law and its related regulations. In general, compliance appears to be weak, and observation confirmed through several discussions with internal audit units within the budget entities. Significantly improved compliance should become a government priority.

In assessing the overall fiduciary risk associated with the government budget system, the report considers that PFM is one component of overall fiduciary risk. The other risk is related to public procurement system (traditionally reflected in CPAR). The fiduciary risk is deemed to be *low, moderate, significant, or high*. Procurement risk was assessed as *high* in the 2002 CPAR (based on earlier classification of *low, average, high*). Since then, the government has made considerable progress setting up a modern procurement function. That process is still underway, however; and much is yet to be accomplished. ***The Bank team has therefore assessed procurement risk as “significant”***

The Financial Management part of fiduciary risk remains moderate. The central budget system, including the Treasury, is well developed; and additional improvements are under way. Core internal controls are generally in place. These are likely to improve as the Internal Control Harmonization Unit—within the Public Internal Financial Control (PIFC) Secretariat—implements its work program in conjunction with the EC PIFC initiative. Nascent internal audit units have been set up in all major budget entities, including local governments. To fully meet PIFC requirements for EU candidacy, internal controls, audit, and budgeting must continue to develop across ministries. The external audit function will also continue to evolve under EC PIFC auspices. Continuous improvements are expected in all areas as Macedonia continues down the road toward EU accession.

⁹ The SAO could also monitor and report on ministerial progress using information obtained through its regular audit activities.

The overall fiduciary risk for the PFM system (including procurement) is considered ***moderate to significant***.

Recommended Action Plan and Priorities

Recommendations summarized in this executive summary are presented in greater detail in Chapter 8 of the report showing key recommendations in each area of action with priorities listed as ***Immediate, Medium-term and Long-term***. Implementation of these recommendations will require sustained policy dialog with the government.

1. BACKGROUND

PFM IMPROVEMENT INITIATIVES

1.1 The foundational analyses of the public financial management and procurements systems of FYR Macedonia were conducted by the IMF and the World Bank. Bank missions in 2002 and 2003 led to key recommendations to improve operations of these key systems (Table 1.1), which have been almost fully implemented by the government, supported by a number of Bank interventions, and served as a guide for additional PFM activities by other donors.

1.2 The IMF has continued to focus on macroeconomic issues and related PFM implications. These include improving budget preparation processes; adopting budget ceilings and links to the multiyear fiscal plan; developing a GFS-2001-compliant chart of accounts with program-based classifications; implementing the Treasury system, the Treasury Single Account, and related cash management activities; enhancing the Central Bank of Macedonia; and improved fiscal reporting. A recent fiscal transparency ROSC¹⁰ reviewed progress in these areas and recommended further support to the newly established internal audit units across the government. It increased funding for the SAO, as well as greater follow-up in implementing previous SAO recommendations.¹¹ It also noted that the three-year Public Investment Program does not incorporate sector priorities and has only limited links with the annual budget process. The operating budget implications of completed capital projects are not specified in capital expenditure planning processes.

1.3 FYR Macedonia's acceptance as a candidate for EU Accession resulted in a major increase in EC support for all components of the EC's *Acquis Communautaire*. Individual components cover financial management (Chapter 32) and Procurement (Chapter 5). As a result, regular discussions with the EC are ongoing in these two areas, with Public Internal Financial Control activities covering internal control, internal audit, external audit and the future control of EU funds.¹² In procurement, the EC's identified areas of improvement include an amended Public Procurement Law that fully complies with EC directives, matching regulations and procurement instruments to implement new procurement processes, developing and implementing procurement training and information measures, creating an EC-compliant procurement complaints review mechanism, e-Procurement, and new organizational and procurement process improvements.

ASSESSMENT FRAMEWORK

1.4 An important component of a fiduciary risk assessment is identifying and analyzing key sectors of high risk. In the 2003 CFAA, extra-budgetary funds (EBFs) were highlighted. Subsequent Bank activities focused on improving the Health Insurance Fund, which was identified as posing the greatest fiduciary risk among the EBFs. This work is ongoing. Progress and risk are addressed in the report.

1.5 The team was asked to identify and address other fiduciary risks, including social and pension payments, and the inability to use the capital budgets of large ministries, such as of the Ministry of Education and Ministry of Transport. The inability to use capital for investment is a common problem and represents a risk to efficient and effective resource use. Discussions with the Minister of Finance

¹⁰ IMF, *fYR Macedonia: Report on Observance of Standards and Codes—Fiscal Transparency Module*, July 2006.

¹¹ SAO monitoring and reporting on the government's implementation of SAO recommendations—past and current—was required in the 2004 amendments to the Law on State Audit.

¹² All undertaken by DG Budget.

identified these items, with the minister expressing a preference for the Ministry of Education and Science. As a result, the team agreed to examine the education sector to assess its fiduciary risk.

1.6 The CFA uses recently developed quantitative and qualitative indicators to assess Public Financial Management (PFM) and fiduciary risk. Three assessment criteria sets are employed. First, selected Public Expenditure and Financial Accountability (PEFA) indicators¹³ provide a quantitative assessment of performance of key components of the public financial management system. Second, the OECD/DAC/WB Methodology for the Assessment of National Procurement Systems¹⁴ is used to evaluate the government's procurement system. Third, the anticorruption analyses performed by the OECD, INTOSAI, and the World Bank are used to analyze the misuse of public funds to the extent that such information is publicly available.

Table 1.1. World Bank's Earlier Recommendations in PFM and Procurement

Area	Description	Implementation Status
Budgeting	Incorporate EBFs into TSA.	EBFs fully consolidated into TSA.
	Adopt multiyear framework for fiscal and expenditures that link to policy decisions and budget cycle. Incorporate in Treasury system commitments (also IMF recommendation).	Multiyear macroeconomic forecasting unit established and three-year fiscal revenue and expenditure plans established; matching commitment module in Treasury system.
	Amend Law on Payments to remove government from court-ordered payments for non-contractual payment disputes.	Not implemented; MOF advised that it was not practical to achieve.
Procurement	Issue and disseminate widely a comprehensive set of implementing regulations that include standard contents of bidding documents and bid evaluation.	In 2005, government adopted a comprehensive implementing regulation, promulgated standard procurement documents and form of contract.
	Upgrade the current Public Procurement Division to full-scale Public Procurement Department of the Ministry, with powers and resources to oversee LPP enforcement of the LPP and exercise authority over contract award decisions.	Government established a state administrative body for public procurement within the MOF.
	Arrange for specialist training in public procurement for the staff of the Public Procurement Department and provide training for staff of procuring entities.	Procurement training sessions financed through EC CARDS project
	Enact new law on public procurement to address weaknesses in current law and to match Macedonian law with EU law.	New law on public procurement enacted in March 2004 substantially in line with international standards and best practices.
	Implement detailed regulations to support new LPP, including standard bidding documents with conditions of contract for procuring goods, works and services.	14 detailed implementing regulations and set of standard bidding documents were issued.

¹³ PEFA Secretariat, *Public Expenditure and Financial Accountability and Performance Measurement Framework*, 2005.

¹⁴ Methodology for Assessment of National Procurement Systems (based on indicators from OECD-DAC/World Bank round table, version 4, July 17, 2006)

Area	Description	Implementation Status
	<p>An Internet Web site dedicated to public procurement, on which all tenders are advertised and award notices publicized.</p> <p>Reform laws in arbitration and Build-Operate-Transfer (BOT) transactions.</p> <p>Identify educational institutions to develop and deliver training in procurement and contracting.</p> <p>Strengthen the control environment for public procurement by strengthening internal and external auditing functions.</p> <p>Facilitate the prosecution of procurement-related fraud and corruption by defining these actions in the Criminal Law as criminal offences.</p>	<p>Tenders are published on the Web sites as also the contract award notices.</p> <p>Law on international trade arbitration was published in 2006. No progress on BOT.</p> <p>No such training institutions were identified.</p> <p>Law on internal audit passed in 2004 and implementation is ongoing. More attention needed to develop audit guide on procurement by internal auditors.</p> <p>The Criminal Code of Macedonia: <i>“misuse of official position and authority as criminal act”</i> but it is not clear if the code defines procurement related fraud and corruption in specific terms</p>
Accounting and reporting	<p>Issue revenue and expenditure accounting guidelines for EBFs.</p> <p>Incorporate Agency bank accounts into Central Bank and the TSA.</p> <p>Examine consolidated financial statement reporting according to international standards.</p> <p>Improve HIF and HCI reporting on a monthly, quarterly and annual basis for use by HIF management, MOH, MOF and the donor community.</p>	<p>EBF revenue and accounting guidelines issued within three months. .</p> <p>All agency bank accounts now in TSA except HIF branch offices.</p> <p>The 2006 general government financial statements consolidated EBFs although not fully in compliance with cash IPSAS.</p> <p>Expanded monthly, quarterly and annual reporting was established (with IMF).</p>
Internal control	<p>Strengthen internal controls using international best practice such as EU PIFC system to reduce fiduciary risk and corruption. MOF to champion the improvements in internal controls and audit. Use SAO and Internal Audit to monitor effective implementation on internal control framework.</p> <p>Improve internal management and controls in the Health Insurance Fund.</p>	<p>Law on Internal Audit required IA units in all major government entities and established MOF as functional leader in internal control and audit. 2004 amendments to SAO law require audits of IA implementation in key entities.</p> <p>Consultant study completed on all aspects of HIF internal controls, budgeting, accounting and reporting. Government approved an HIF action plan in 2005. Implementation is proceeding under new management, including a Chief Financial Officer.</p>
Internal audit	<p>Establish internal audit unit in MOF, develop and implement plans for IA units in all significant entities. Allocate more resources to Internal Audit.</p> <p>Implement internal audit in HIF.</p>	<p>Law on Internal Audit passed in 2004. By end of 2006, all 29 key ministries, 20 municipalities had IA units established and staffed. MOF IA unit allocated 7 PYs in 2005.</p> <p>Two person IA unit established in 2005; unit now consists of six auditors.</p>

External audit	Amend Law on State Audit to enhance transparency and reporting and monitor implementation of SAO recommendations. Increase resources dedicated to the SAO function.	Done in 2004 amendments to the Law on State Audit. By the beginning of 2007, resources increased to 79 staff, 75 percent of which are auditors. Additional staff expected for SAO capacity to audit EU funds.
Capacity development	Develop and implement comprehensive HR plan to identify and meet future FM needs.	Partial implementation. Functional plans developed for internal and external auditing, and additional internal control resources trained for major Health Care Institutions under HIF control.
Bank projects	Formal assessment of capacity of international and local firms to audit Bank-financed projects. In medium term, develop pool of qualified financial specialists, familiar and experienced with WB requirements, in line ministries and executing agencies.	Assessment performed in 2006.

2. PUBLIC PROCUREMENT

PROGRESS SINCE THE 2002 CPAR

2.1 The 2002 CPAR identified deficiencies in the Public Procurement Law (PPL) that led to misapplication and facilitated circumvention of its provisions, and weak institutions to support implementation. Short-term recommendations included: issuing comprehensive implementing regulations; widely disseminating the PPL and its implementing regulations; and upgrading the MOF public procurement division. Longer term recommendations included enacting a new Law on Public Procurement with implementing regulations and standard bidding documents.

2.2 Several improvements have taken place in procurement since the CPAR:

- A new PPL, substantially in line with international standards and best practices, was enacted in March 2004 as part of the PSMAL program.
- The government has adopted a comprehensive implementing regulation, promulgated standard procurement documents and contracts, and established a state administrative body for public procurement in the Ministry of Finance.
- This Public Procurement Bureau (PPB) was made fully operational with staff, resources, and appropriate terms of reference.
- The PPB is working with an EC-financed consultant implementing an MOF Web site for the Register of Performed Public Procurement.

2.3 All these PSMAL second tranche conditions were met in May 2005. The law was amended in 2005 to introduce electronic procurement, a one-stop-shop system for central registration of tenderers' qualifications, and the requirement to publish all contract notices on the Public Procurement Bureau's Web site.

2.4 In 2006, SIGMA assessed the Public Procurement System, the Public Internal Financial Control (PIFC) system, and the Public Expenditure Management System. SIGMA concluded that the Public Procurement Law attempts to transpose old EC Directives and reflects the procedures of the directives, but full compliance has not been achieved. SIGMA recommended procedural improvements to establish a legal framework that complies with EC Directives and promotes sound procurement. The report recommended further strengthening the PPB and considered the complaint and remedy system as the weakest part of public procurement.

2.5 SIGMA recently released a paper on Central Public Procurement Structure and Capacity in Member States of the European Union¹⁵ that analyzes the functions, structure, status within the government, and capacity of the central public procurement bodies of Member States. The situation in Macedonia is covered in the Chapter on Alignment with the *Acquis Communautaire*.

OECD-DAC-WB ASSESSMENT METHODOLOGY

2.6 Increasing the effectiveness, efficiency and transparency of procurement systems is an on-going concern of governments and the international development community. There is a methodology for assessing national procurement systems that is intended to be a common tool that developing countries and donors can use to assess quality and effectiveness. This tool is used for capacity development

¹⁵ SIGMA *Central Public Procurement Structures and Capacity of Member States in the EU*, 2007.

planning and risk mitigation in operations that donors fund. The long term goal is for countries to improve their procurement systems to meet international standards, enabling greater effectiveness in using funds to meet country obligations.¹⁶ The analysis is based on four pillars divided into 12 indicators and further divided into subindicators:

- Pillar I: Legislative and Regulatory Framework
- Pillar II: Institutional Framework and Management Capacity
- Pillar III: Procurement Operations and Market Practices
- Pillar IV: Integrity and Transparency of Public Procurement Systems

2.7 Scores range from 0 to 3 for each subindicator. A 3 indicates full achievement of the standards. A 2 indicates less than full achievement, with improvement needed. A score of 1 is for areas where substantive work is needed to meet the standard. A 0 indicates failure to meet the standard.

2.8 Based on the World Bank team’s discussions with the PPB and other agencies, the following section presents the team’s findings, followed by a summary assessment of each subindicator. Detailed findings are provided in Annex A.

LEGISLATIVE AND REGULATORY FRAMEWORK (PILLAR I)

2.9 A legislative and regulatory framework is the starting point for sound governance. Pillar I of the OECD-DAC/World Bank Baseline Indicators (BLI) assessment has two indicators—a legislative and regulatory framework for procurement that meets standards and complies with applicable obligations (Indicator 1), and implementing regulations and documentation (Indicator 2). The BLI (Baseline Indicator) summary assessment and scores for legislative and regulatory framework are shown in Table 2.1.

Table 2.1 Legislative and Regulatory Framework (Pillar I)

Indicator/ Subindicator	Summary Assessment	Score
1(a). Scope of application and coverage of the legislative and regulatory framework.	The legislative and regulatory body of norms is adequately recorded and organized hierarchically (laws, decrees, regulations, procedures) and precedence is clearly established but clarity required as to entities not covered (with justification); there is no justification for excluding defense related items that are not “hard defense” and exclusion of services for voice telephony and satellite services (according to PPB, specifications of military equipment are listed in the decision for determining equipment, goods and services for defense). The new draft law is expected to bring more clarity.	2
1(b). Procurement methods.	Open bidding appears to be default method though not expressed explicitly. Reasons associated with using negotiation are broad and vague. Possibility of misuse of design contest for civil engineering tasks rather than for contracts of aesthetic nature (Scored as 2 as in practice open bidding is dominant method of procurement).	2

¹⁶ See OECD, *Methodology for Assessment of National Procurement System*, Version 4, July 17, 2006.

Indicator/ Subindicator	Summary Assessment	Score
1(c). Advertising rules and time limits.	The LPP has adequate advertising; sufficient time limits for tender submission, and provides for publishing notice of contract award.	3
1(d). Rules on participation.	There are administrative barriers to participation requiring “proof of solvency” from Central Registry and “license from competent body” and “opinion” issued by Central Registry, with a negative opinion excluding a bidder from participation. No level playing field for private sector competing with public enterprises that are subsidized.	1
1(e). Tender documentation and technical specifications.	Article 36 of LPP defines content of tender documents. Need to define clearly where deviation from reference to EU or international standard is justified to prevent misuse of article 33 (New draft law is expected to bring more clarity)	2
1(f). Tender evaluation and award criteria.	For goods and works, point system of evaluation does not have sufficient objectivity in award process. No detailed procedure for consultant services, according to Art. 71 (2), but evaluation committee could conduct concurrent negotiations. Not clear from law (Article 7) if confidentiality of selection is maintained until the winner is selected, as the article merely mentions confidentiality of data about bidders.	1
1(g). Submission, receipt and opening of tenders.	Article 45 requires public bid opening including minutes of opening, with public opening to continue if there are at least two bidders with complete documentation. Bids are not evaluated at bid opening. Article 47-2 specifies that bidders who submit incomplete documentation “shall be excluded from the procedure and their bids shall not be reviewed,” which may lead to unnecessary rejection of tender.	1
1(h). Complaints.	The complaint mechanism as described in the law is satisfactory. Conditions of operation of the Complaint Committee, with no permanent institution and numerous complaints, make this institution ineffective despite the dedication and professionalism of its members.	2

Indicator 2. Existence of implementing regulations and documentation

2(a). Implementing regulation that defines processes and procedures not included in higher level legislation.	Subindicator 2(a) requirements are met.	3
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Indicator/ Subindicator	Summary Assessment	Score
2(b). Model tender document for goods, works, and services.	In accordance with Article 28, paragraph 1, line 5 of the law, the Public Procurement Bureau has prepared standard tender documents for procuring goods, services and works for open and restricted bids. Tender documentation for open and restricted bids has been prescribed in Article 36. The requirements of this Subindicator are met.	3
2(c). Procedures for prequalification.	Circumstances of its application require clarity. Foreign bidders may find requirements of having their solvency determined by Central Registry onerous. Article 40 is not clear if missing documentation may be asked as clarification. This Subindicator is only partially met.(new draft law is expected to bring improvements)	1
2(d). Procedures for contracting for services or other requirements where technical capacity is a key criterion.	The LPP does not indicate how this aspect shall be implemented in case of consultancy services of an intellectual nature.	1
2(e). User's guide or manual for contracting entities.	Guide for public procurement available. The Web page contains frequently asked questions.	3
2(f). General Conditions of Contract (GCC) for contracts covering goods, works and services with national requirements and, when applicable, international requirements.	There are GCC for most common types of contracts, which are available on the Web site. These are generally consistent with international practices. Improvements are needed based on actual experience, and there is need to develop a request for proposal document for consultancies of an intellectual nature.	2

Recommendations for Pillar I

2.10 The government, to improve the legislative and regulatory framework for procurement in FYR Macedonia, should institute the following measures:

- Include in the scope of application of the Law on Public Procurement defense related items that are not “hard defense” and voice telephony and satellite services.(new draft law is expected to bring more clarity)
- Make it more explicit in all procurement regulations and documentation that open bidding is the default method of procurement.(in practice open bidding is dominant method of procurement)
- Remove barriers to competition and a level playing field that require proof of solvency from Central Registry, license from competent body and opinion from Central Registry.
- Determine liquid asset/lines of credit based on information given by bidders as evidenced by their financial statements and/or certified by commercial banks.
- Narrow the justification for the use of negotiated procurement procedures.
- Examine the possibility of misuse of design contests for civil engineering tasks rather than for contracts of aesthetic nature, thereby restricting competition.
- Define more clearly where deviation from reference to EU or international standard is justified to prevent misuse of Article 33.
- Amend LPP Article 47-2 that states that bidders who submit incomplete documentation “shall be

excluded from the procedure and their bids shall not be reviewed” to permit the procuring entity to ask for missing information that is historical and does not change price or substance of the bid.

- Clarify application of prequalification principle. Foreign bidders may find requirements of having solvency determined by Central Registry onerous.
- Issue implementing regulations to elaborate provisions of Article 69 of the LPP as applicable for consultancy services of intellectual nature like issuance of expression of interest to short list , technical scoring methodology based on quality etc.

INSTITUTIONAL FRAMEWORK AND MANAGEMENT CAPACITY (PILLAR II)

2.11 Pillar II examines how procurement is operating in practice through the institutions and management systems that are part of overall public sector governance .BLI summary assessment and scores for Institutional Framework and Management Capacity are shown in Table 2.2.

Table 2.2. Institutional Framework and Management Capacity (Pillar II)

Indicator/ Subindicator	Summary Assessment	Score
Indicator 3. Public procurement is mainstreamed and well integrated in public sector governance		
3(a). Procurement planning and data on costing are part of the budget formulation process and contribute to multiyear planning.	Procurement plans are normally prepared based on annual or multiyear operating plans. Links with budget planning are weak and plans are not required to match budgetary allocations before expenses are committed. Investment plans are not linked to current budget to provide ongoing O&M when capital projects are completed.	1
3(b). Budget law and financial procedures support timely procurement, contract execution, and payment.	No standard payment terms apply to procurement contracts of similar types. The Treasury system precludes over commitments of appropriation chapters, including those for goods and services and capital.	1
3(c). No initiation of procurement without budget appropriations.	Law requires certification of availability of funds before solicitation takes place. This is performed by the Budget Department when request to commit funds is processed.	2
3(d). Systematic completion reports are prepared for certification of budget execution and reconciliation of delivery with budget programming.	Information on the completion of contracts is incomplete or delayed considerably after the fiscal budgetary period.	1
Indicator 4. The country has a functional normative/regulatory body		
4(a). Status and basis for normative /regulatory body is covered in legislative and regulatory framework.	There is a regulatory body or functional designation but there are gaps or overlaps of regulatory responsibilities in complaints review as a result of involvement of Central Internal Audit Department in complaints review.	2

Indicator/ Subindicator	Summary Assessment	Score
4(b). The body has defined responsibilities that include but are not limited to a set of 8 identified functions.	There is a defined set of responsibilities for PPB. There are overlaps in complaints review because Central Internal Audit Unit is involved as well as Complaints Committee.	2
4(c). The body's organization, funding, staffing, independence, and authority (formal power) to exercise its duties should be sufficient and consistent with its responsibilities.	Legal status, organizational setting, staffing of Public Procurement Bureau as authority within Ministry of Finance are consistent with its legislatively-mandated functions. The Bureau has a staff of 13 and operates within the budget of the Ministry of Finance. Additional resources are required. The Public Procurements Bureau does not have financial autonomy as it is dependent on MOF.	2
4(d). Responsibilities should provide for separation and clarity to avoid conflict of interest and direct involvement in procurement.	Public Procurement Bureau is not responsible for carrying out public procurement. Employees of the Public Procurement Bureau cannot work for an evaluation commission because this would be conflict of interest.	3

Indicator 5. Existence of institutional development capacity

5(a). There is a system to collect and disseminate procurement information, including tender invitations, requests for proposals, and contract award information.	There is a system providing information on some contracts. The information is not comprehensive.	1
5(b). The country has systems and procedures for collecting and monitoring procurement statistics.	Limited information on contract awards available on Web site. Comprehensive information is needed, including total quantity of procurement by number, value, method of procurement, time to award, number of bidders and unit price, to assess economy, efficiency, and competition. This will help establish Compliance/Performance Indicators on operation of national procurement system and identify trends. Without data it is difficult to assess economy and efficiency of procurement.	1
5(c) A sustainable strategy and training capacity exists to provide training, advice and assistance to develop capacity of government and private sector participants to understand rules and regulations and their implementation.	Training and capacity building strategy provides for substantive permanent training program for procuring entities of suitable quality and content, but lacks initiative in training private sector participants.	3

Indicator/ Subindicator	Summary Assessment	Score
5(d). Quality control standards disseminated and used to evaluate staff performance and address capacity development.	Team could not find quality standard document with standards for processing time for procurement action and replying to inquiries, which provide a basis for staff performance evaluation.	1

Recommendations for Pillar II

Significant actions are required in the area of institutional framework and management capacity. The team recommends the following actions:

- Implement the outstanding IMF and CFAA recommendations to more closely link the development of the annual investment plan with MOF's annual budget preparation process, so that the procurement plan is fully funded in the entity's approved budget.
- Review staffing levels of the Public Procurement Bureau in the context of its workload and case backlog.
- Establish a system of national procurement statistics that provides complete information on all key aspects of public procurement.
- Provide procurement process training for private sector training firms.

PROCUREMENT OPERATION AND MARKET PRACTICES (PILLAR III)

2.12 This indicator assesses the professionalism and knowledge of the procurement staff. It focuses on effectiveness and efficiency of implementing entities responsible for individual actions. Summary assessment and scores for Procurement Operation and Market Practices are shown in Table 2.3.

Table 2.3. Procurement Operation and Market Practices (Pillar III)

Indicator/Subindicator	Summary Assessment	Score
Indicator 6. The country's procurement operations and practices are efficient		
6(a). Level of procurement competence of officials in the entity is consistent with responsibilities.	Specialized procurement skills are available in a few of the larger procuring entities. Procurement committees are often composed of officials with little experience in procurement.	1
6(b). Procurement training and information programs for government officials and private sector participants are consistent with demand.	Training programs are sufficient in terms of content and frequency for government participants but there are few programs for private sector.	2
6(c). There are established norms for safekeeping of records and documents related to transactions and contract management.	There are established norms for safekeeping of records and established security protocols.	3
6(d). There are provisions for delegating authority to others who have capacity to exercise responsibility.	Contract awards and payment decisions payment are overly centralized, making the procurement process inefficient and prone to political influence. Sometimes responsible staffs do not accept Public Procurement Committee decisions.	0
Indicator 7. Functionality of the public procurement market		
7(a). There are effective mechanisms for public-private partnerships.	Government encourages open dialog with the private sector, but no program exists to build capacity of private sector and for small business.	1
7(b). Private sector institutions are well organized and facilitate access to the market.	The private sector is relatively weak and competition is limited as a result of oligopolistic features in important sectors of the market.	1
7(c). There are no major systemic constraints (inadequate access to credit, contracting practices) inhibiting private sector access to procurement market.	BEEPs and CPS have reported cost of financing and access to financing, anticompetitive practices and enforcement of contract as major obstacles to private sector development.	1
Indicator 8. Existence of contract administration and dispute resolution provisions		

Indicator/Subindicator	Summary Assessment	Score
8(a). Procedures are clearly defined for undertaking contract administration, including inspection and acceptance procedures, quality control procedures, and methods to review and issue contract amendments in a timely manner.	Procedures on contract administration are clearly defined but supervision of civil works by independent engineering firms is lacking. Independent supervision could promote better quality of work.	2
8(b). Contracts include dispute resolution procedures providing an efficient and fair process to resolve disputes arising in contract performance.	There is an arbitration law that is consistent with UNCITRAL.	2
8(c). Procedures exist to enforce the outcome of the dispute resolution process.	There is an arbitration law that is consistent with UNCITRAL, but enforcement is weak as reported in surveys such as BEEPS.	1

Recommendations for Pillar III

2.13 To improve procurement operations and market practices, the government should:

- Ensure that the procurement evaluation committee members are selected from ministry staff who have received adequate procurement training, or will receive such training before assuming their responsibilities as committee members.
- Review delegations of authority for procurement decisions within ministries to ensure that most award decisions are made at levels below the Minister.
- Ascertain that the dispute resolution mechanism is sound, and ensure that bidding and contract documents contain standard provisions for dispute settlement.
- Use more independent construction supervisors to improve quality of public works.
- Increase competition by seeking new approaches to reduce the cost of bidder financing and improve access to available financing.

INTEGRITY AND TRANSPARENCY (PILLAR IV)

2.14 Pillar IV covers four indicators related to operation with integrity, implementing the system in accordance with the legal and regulatory framework, and measures to address corruption. The summary assessment and scores for Integrity and Transparency are shown in Table 2.4.

Table 2.4. Integrity and Transparency (Pillar IV)

Indicator/Subindicator	Summary Assessment	Score
Indicator 9. The country has an effective control and audit system		
9(a). A legal framework, organization, policy, and procedures for internal and external control and audit of public procurement operations are in place to provide a functioning control framework.	A Law on Internal Audit has been passed and nascent internal audit units have been established in all major budget entities. The MOF PIFC unit has an audit policy group to prepare guidelines; more attention is required on procurement audit guides and monitoring compliance and implementation of procurement recommendations.	2
9(b). Enforcement and follow-up on findings and recommendations of the control framework provide an environment that fosters compliance.	There is little evidence of management follow-up on audit recommendations. SAO audit recommendations relating to procurement are monitored for implementation by the SAO.	1
9(c). Internal control systems provide timely information on compliance to enable management action.	Internal control system for procurement is weak and requires significant strengthening, as evidenced by the frequent audit observations of noncompliance.	1
9(d). Internal control systems are sufficiently defined for performance audits to be conducted.	The internal audit units are too new to conduct performance audits; these are at least 3-5 years away for any reasonable quality performance audits to be produced.	0
9(e). Auditors are sufficiently informed about procurement requirements and control systems to conduct quality audits that contribute to compliance.	Auditors are knowledgeable about procurement requirements and can conduct compliance audits based on them. Associated control systems are not now being addressed, although as internal auditors gain experience, this will increase.	2
Indicator 10. Efficiency of the appeals mechanism		
10(a). Decisions are deliberated based on available information, and final decisions can be reviewed and ruled upon by a body (or authority) with legal enforcement capacity.	A Procurement Complaints Committee is in place with the mandate to accept and review all procurement-related complaints from suppliers and citizens. Although the PCC is a Court of the Second Instance, it has no enforcement mandate.	1

Indicator/Subindicator	Summary Assessment	Score
10(b). Complaint review system can handle complaints efficiently and has a means to enforce remedies imposed.	The PCC is overloaded with complaints and has a shortage of committee members. Because the PCC lacks an enforcement mandate, it has no means to enforce compliance with its decisions.	1
10(c). The system operates in a fair manner, with outcomes of decisions balanced and justified with available information.	The Committee is independent and approaches its caseload in a fair and balanced manner. However it lacks resources and complainants have no direct access. While the legal framework ensures fairness, it is not respected and many requirements are not met in procurement decisions. Anecdotal information indicates bias in procurement decisions, although the team did not witness this.	2
10(d). Decisions are published and made available to all interested parties and to the public.	Decisions are published on PPB website. It is not clear if this is comprehensive and timely.	2
10(e). The complaint review body has full authority and independence to resolve complaints.	The PCC has had difficulty in exercising its authority to ensure compliance with its decisions.	1

Indicator 11. Degree of access to information

11(a). Information is published and distributed through media with support from information technology when feasible.	The public procurement Web site on July 16, 2007 had 3951 contract notices (from 2006), 995 entries on contract awarded, and decisions of 97 meetings of complaints committee, all in Macedonian. However there are no timely reports during the year on individual decisions and the reasons for them.	2
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Indicator 12. The country has ethics and anticorruption measures in place

12(a). The legal and regulatory framework for procurement, including tender and contract documents, includes provisions addressing corruption, fraud, conflict of interest, and unethical behavior; it sets out (directly or by reference to other laws) actions to be taken for such behavior.	There is an Anticorruption Commission in place. It is an independent body established to identify and combat instances of fraud and corruption in all aspects of government operations, including procurement. Instances of contracting violations are passed to the Public Prosecutor's Office, but actual prosecutions are few. Though there are general provisions on the matters addressing corruption, fraud, conflict of interest and unethical behavior in PPL, the law or the tender document does not define what is considered fraud and corruption	2
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Indicator/Subindicator	Summary Assessment	Score
12(b). The legal system defines responsibilities, accountabilities, and penalties for individuals and firms found to have engaged in fraudulent or corrupt practices.	Law on Corruption Prevention and Criminal Code of Macedonia contains general provisions such as “misuse of official position and authority” and penalties for misuse.	2
12(c). Evidence of enforcement of rulings and penalties exists.	Many violations are not penalized. The system does not vigorously pursue procurement violations to completion. No data was available on number of corruption cases reported and prosecuted.	1
12(d). Special measures exist to prevent and detect fraud and corruption in public procurement.	Anticorruption activities are not coordinated. Further initiatives needed on electronic Government Procurement (e-GP) system which could reduce corruption. The team found no special measures to detect and prevent fraud and corruption.(current website on e- procurement https://e-nabavki.gov.mk)	1
12(e). Stakeholders (private sector, civil society, and ultimate beneficiaries of procurement and/or end users) support the creation of a procurement market known for integrity and ethical behavior.	Private sector representatives of suppliers and civil society support open and competitive procurement. However, there are few organizations involved, and there is no effective public voice to maintain a sound procurement environment.	1
12(f). There is a secure mechanism for reporting fraudulent, corrupt, or unethical behavior.	There are mechanisms for fraud reporting through the Anticorruption Commission and the Procurement Complaints Committee Their mandate and resources need strengthening. There is a mechanism in place but its effective functioning is not evidenced.	1
12(g). Existence of codes of conduct and ethics for participants in financial management systems. Disclosure provided for decisionmakers.	There is a code of conduct but determination of accountability is unclear	1

Recommendations for Pillar IV

2.15 To improve the integrity of public procurement system the government should:

- Ensure that possible corruption in large value procurements are examined ex ante by ministry management and ex post by the SAO, the Anticorruption Commission and the internal audit function in ministries and in MOF.
- Develop and implement an electronic Government Procurement strategy that creates a more competitive marketplace for suppliers and negates efforts to corrupt outcomes of bid evaluation processes.

ALIGNMENT WITH THE EU *ACQUIS COMMUNAUTAIRE*

2.16 On December 16, 2005 the European Council granted candidate country status to Macedonia, so aligning its public procurement system with the latest directives is a government priority. This chapter presents the team's perspective on an issue that ideally would have been addressed by EC representatives, which was not possible given the timing of the mission. The Bank received assurances of the EU's cooperation from DG Internal Market. Accordingly the team met with SIGMA staff during its mission in February 2007 and April 2007.

2.17 These interactions centered on the legislative framework of procurement and need for a new Public Procurement Law, and the structure and capacity of public procurement bodies, including the complaints review body. It was agreed that the team would provide suggestions based on international best practices which are not in conflict with EU *Acquis Communautaire*.

2.18 In its 2006 assessment, SIGMA concluded that the PPL was an attempt to transpose the old EC Directives and largely reflected the basic procedures of the directives, but full compliance was not achieved. It recommended procedural improvements to establish a legal framework that complies with EC Directives and promotes good and sound procurement practices. The report recommended further strengthening of PPB and considered the remedies system as the weakest part of public procurement. The government decided to enact a new law that will be substantially in line with the latest EC Procurement Directives. World Bank has agreed to provide comments.

Approximation to International Best Practices

2.19 In regard to EU procurement legislation¹⁷ and international best practices, the team noted:

- The PPL contains provisions that may limit access to government contracts and reveals potential discrimination. The requirement for licenses or proof of solvency could easily impede bidders from participating. Of concern is the potential exclusion of bidders who lack licenses from a competent authority. This requirement applies equally to foreign bidders who should provide licenses and proofs delivered by licensing authorities in their countries.
- Bidders may also be rejected if a "negative opinion" has been issued by a Central Registry about their solvency without determining their financial capacity with respect to the scope of the concerned operation.
- In regard to standards for technical specifications, the law is confusing and allows the use of national standards in instances such as when applying EU standards "would cause disproportional costs or technical difficulties" or when in absence of European standards, technical specifications shall be defined in reference to Macedonian standards (Article 34).

2.20 In addition, the PPL lacks specific features of the EU procurement system such as competitive dialogue, use of environmental criteria for evaluation, provision for concession of works, and excludes "state defense and security" procurement from the scope of the law, when EU Directive includes contracts awarded by contracting authorities in defense.¹⁸ It is essential that award of public contract does not cause any distortion of competition in relation to private tenderers.

¹⁷ EU Directives of 2004.

¹⁸ Except as provided by Article 296 of the Treaty of Rome.

2.21 In regard to international principles and best practices, the team made several observations:

- The law gives procuring agencies and government excessive discretion that adversely affects the overall transparency and integrity of transactions and the overall procurement system;
- Procuring entities may use various methods with few, if any, restrictions; this discretion does not make open bidding the standard method as required by international standards;
- Points system and nonobjective criteria could be used for evaluation irrespectively of the nature of the contracts procured;
- Framework agreements and design contests are not limited in scope whereas the conditions for using these types of procedure should be strictly reserved for specific contracts;
- The PPL authorizes interference from authorities who should not be directly involved in procurement. The Ministry of Finance may decide which entities are covered by the law and the “responsible person” for the procuring agency could annul if he/she determines that the “proposal is prepared in contradiction to the criteria in the tender documentation.”

2.22 SIGMA has indicated that many of the Bank’s concerns shall be addressed in the new law on public procurement. Further as there are differences in approach on evaluation criteria, treatment of consultancy contract between EC Directive and those recommended in this CFA, these would require to be covered by secondary legislation. SIGMA also indicated that on the issue of “state defense and security” EC is currently working (Article 296 of the Treaty of Rome) for a uniform approach by Member states. In CFA team’s view there are other areas like use of framework agreement (subject to misuse), participation of government-owned enterprise (causing distortion in competition) that require attention while framing the new law.

Recommendations for Acquis Communautaire

- Amend or enact Legislation to ensure that procurement system is substantially in line with the latest EC Directives on Procurement and also international best practices.
- The MOF should address all the above shortcomings in the context of the procurement reforms as part of the EU Accession program.

3. BUDGETING, ACCOUNTING, AND REPORTING

GOVERNMENT-WIDE BUDGET FORMULATION AND EXECUTION

3.1 As previously indicated, the government has made significant progress in improving its central budgeting processes. The implementation of a multiyear fiscal plan, the associated government priorities and an expenditure ceiling for the coming budget year, and the functional budget classification coding enabled a new budget circular with functional budget ceilings. Improved ex ante controls resulting from the Treasury system now apply to all budget entities and the EBFs, which has given the MOF greater control over budget execution utilization and improved its performance. Summary of other donor comments are indicated in the Box below.

Box 3.1. Summary of Other Donor Comments

1. The legislative base is clear and comprehensive, with a good division of fiscal powers between the legislature and the executive. The budget process is fully defined in the Organic Budget Law (OBL), and annual budget laws provide MOF with a strong role in defining the budget process and the responsibilities of all parties. Fundamental budget principles of annuality, unity, completeness, transparency, accountability, legality, economy, efficiency, and effectiveness are well defined.
2. The OBL was amended in 2005 to provide for annual strategic priority setting, medium-term macroeconomic forecasts, and budget ceilings. The macro-forecasting unit of MOF requires further development to improve economic forecasts, with a clear process for updating these forecasts during the year. The government should introduce medium-term fiscal targets in terms of a balance or surplus for general government financial savings and a medium-term expenditure ceiling.
3. Fiscal risks, including contingent liabilities, are not disclosed in budget documents. The medium-term fiscal framework is important for assessing future liabilities. The three-year Public Investment Program is prepared late in the budget cycle and is not integrated into the budgeting process. The investment budget does not estimate operating costs after project completion for the current budget.
4. The budget framework for EBFs is transparent, but is not fully integrated into the budget process. Full integration would lead to improved coordination and management of EBFs.

Sources: IMF, SIGMA, DG Budget.

3.2 MOF Treasury provided details on the 2004–06 general government budgets, which consist of all budget entities and the extra-budgetary funds. The data highlight the sound aggregate budget performance using the first three of the PEFA indicators.

3.3 Effective budgeting requires that budget expenditure and revenue forecasts match actual expenditures and revenues, and the budgeted composition of expenditures should align with the actual composition, as reflected in PEFA Indicators 1-3. For an A rating, the absolute deviation between budget and actual expenditures, their composition and revenues cannot exceed 5 percent in more than one of the past three years. Tables 3.1, 3.2, and 3.3 show this to be the case.

Table 3.1. Aggregate Expenditure Out-Turn versus Original Approved Budget

Central Government Budget (billion denars)	Budget 2004	Actual 2004	Diff*	Budget 2005	Actual 2005	Diff*	Budget 2006	Actual 2006	Diff*
TOTAL	66.2	61.0	5.2	64.6	62.9	1.7	64.0	65.5	-1.5
EXPENDITURES									
Wages and allowances	21.9	21.5	0.3	22.5	22.3	0.2	23.4	22.9	0.5
Goods and services	12.1	10.6	1.6	11.9	11.3	0.6	10.6	11.0	-0.4
Transfers	23.4	22.5	0.9	22.7	22.2	0.5	22.5	24.9	-2.4
Capital Expenditures	8.8	6.4	2.4	7.5	7.1	0.4	7.5	6.7	0.8
Variance total in percentages			7.8%			2.6%			-2.3%

Source: MOF Treasury Department.

* Difference is budget-actual.

Table 3.2. Expenditure Out-Turn Composition—Actual vs. Original Budget (in percentage)

Year	Total Expenditure Deviation	Total Expenditure Composition Deviation	Expenditure composition Deviation exceeding Total Expenditure Deviation
2004	7.8%	11.7%	3.9%
2005	2.6%	5.5%	2.9%
2006	2.3%	7.0%	4.7%

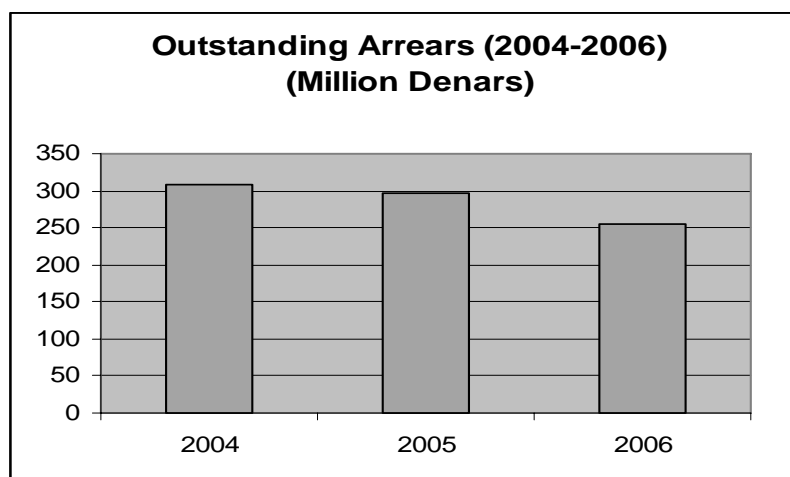
Source: MOF Treasury Department

Table 3.3. Aggregate Revenue Out-Turn Compared to Original Approved Budget

Central Government									
Budget (million denars)	Budget 2004	Actual 2004	%	Budget 2005	Actual 2005	%	Budget 2006	Actual 2006	%
TOTAL REVENUES	57.3	57.0	-0.5	56.5	61.2	1.2	60.3	63.1	4.9
Tax Revenues	52.9	52.5	-0.8	52.3	55.0	5.2	56.8	58.9	3.7
Personal Income Tax	8.1	7.8	-3.7	8.0	8.1	1.3	8.1	8.4	3.7
Profit Tax	3.5	2.4	-31.4	2.6	2.8	7.7	3.2	4.7	46.9
VAT	24.0	25.9	7.9	25.6	27.1	5.8	28.3	27.2	-3.9
Excises	10.7	10.3	-3.7	11.0	11.1	9.0	11.8	11.5	-2.5
Import Duties	6.0	5.9	-1.7	4.7	5.3	12.8	4.8	5.4	12.5
Other Taxes	0.4	0.6	50.0	0.5	0.7	40.0	0.6	1.6	66.7
Non-tax Revenues	3.9	3.9	—	3.6	5.3	47.2	3.0	2.8	-6.7
Capital Revenues	0.6	0.7	16.7	0.6	0.9	50.0	0.5	0.9	8.0
Revenues from repayment of loans							0.0	0.4	—

Source: MOF Treasury Department.

3.4 Sound budgeting supports the government desire to reduce year-end arrears. Where this had previously been a concern to MOF, performance over the last three fiscal years resulted in a steady decline in expenditure arrears, which are well under the one percent threshold of arrears to total expenditures that would result in the highest rating for Indicator 4 on expenditure arrears.

Figure 3.1. Stock of Year-End Expenditure Arrears

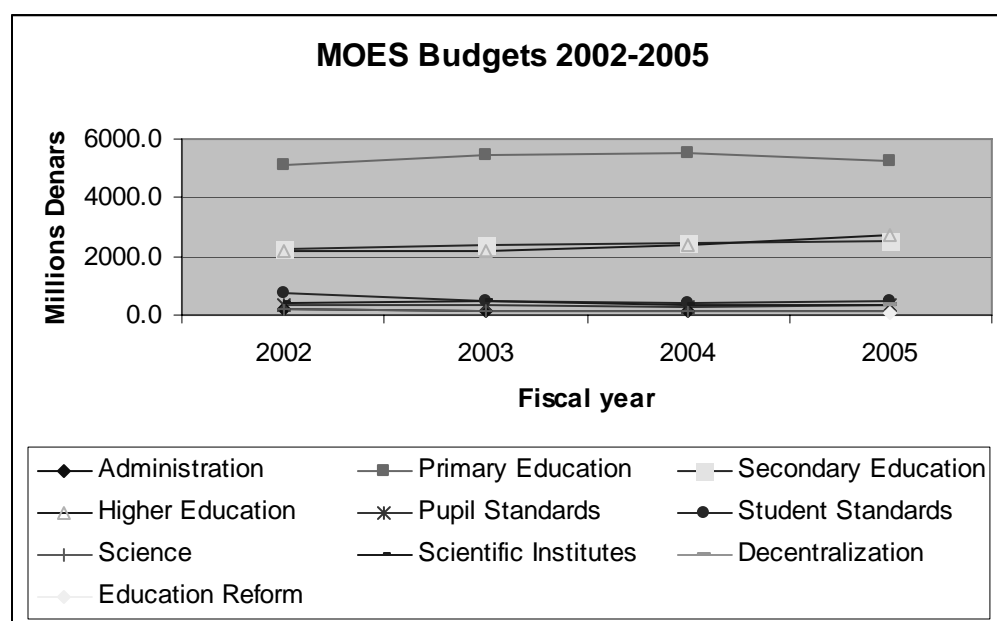
Source: MOF Treasury Department.

Budget fiduciary risk

3.5 Based on overall performance in budgeting, the team's assessment is that global fiduciary risk from budgeting is *moderate*. This is less than the best risk rating (*low*) because of the lesser implementation of central budgetary reforms in ministries, departments, and agencies.

EDUCATION SECTOR BUDGETING

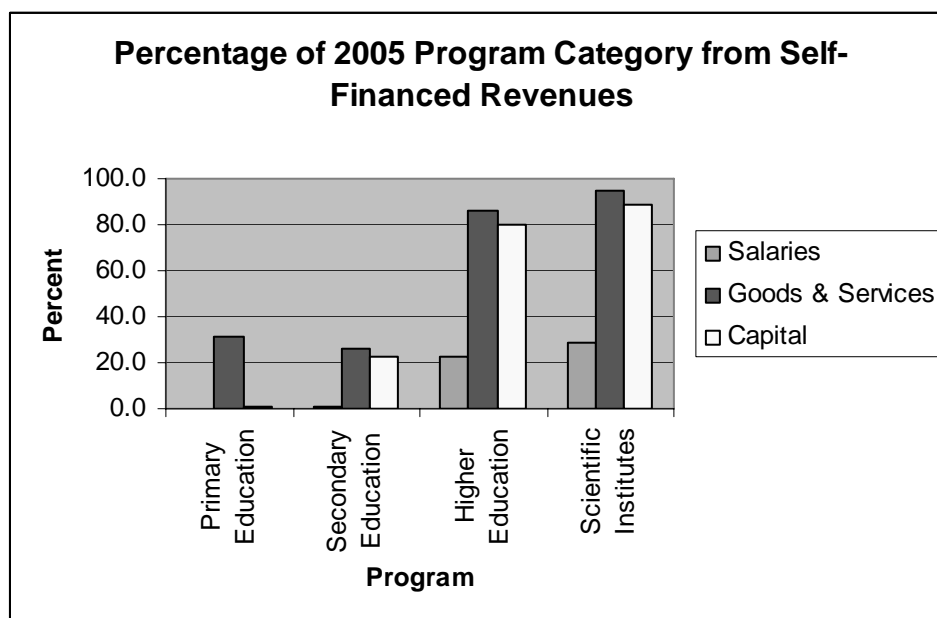
3.6 Several factors led to giving special attention to education. The Minister of Finance identified the sector as of interest because it had completed the first phase of decentralization, and operating and maintenance expenditures have been delegated to local self-governing municipalities on a per capita basis. The government is weighing the implementation of phase two of the decentralization process, involving teacher salaries and related benefits. The government had already signaled to the PDPL team that it would like more assistance in education in its next phase. Figure 3.2 shows trends in budgets by program.

Figure 3.2. MOES Budgets 2002-2005

Source :MOES

3.7 Primary education consistently receives the largest share (35 percent of the sector budget), followed by secondary and higher education at 20 percent each. These proportions have remained constant over the period examined. The areas of greatest potential fiduciary risk are the main product lines of MOES—primary, secondary and higher education.

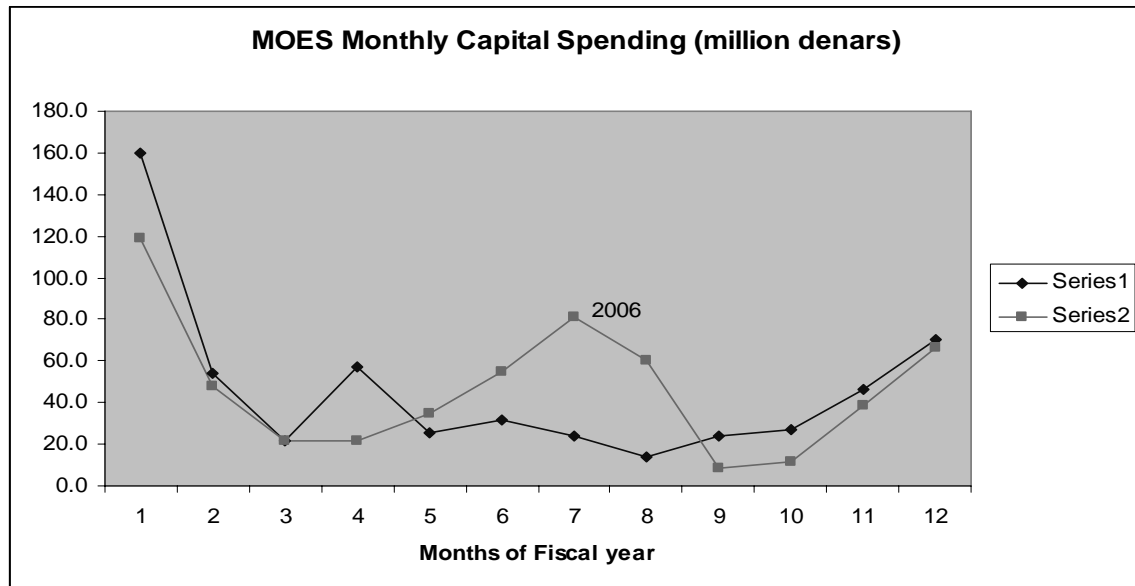
3.8 There are significant differences in funding for these key sectors. There are major differences in self-generation of revenues between these programs, with higher education accounting for the greatest absolute revenues and percentages of all three categories—wages, goods/services, and capital (Table 3.3). Control of revenues received will be an area for future attention from internal auditors and from the SAO.

Table 3.3. Percentage of 2005 Budget from Self-Generated Revenues

Source: MOF Treasury Department.

3.9 The team examined monthly MOES capital budget utilization in the past two years to see if expenditures reflected the planned use of capital expenditures peaking in June–September, when schools are closed and most construction is planned. Virtually all capital expenditures are used to maintain existing facilities, so the budget cannot support significant new construction (Figure 3.4). This was clearly seen in 2005, with higher capital spending in June–August. In 2006, this did not happen, likely a result of the election and uncertainty about budget priorities.

3.10 Budget planning in education is a bottom-up, nontransparent process of the ministry’s budget department. It includes the budgets of the Ministry of Education and Science, the Agency for Youth and Sport, and the Academy of Arts and Sciences. A fourth component is the Bureau for the Development of Education (BDE), a legally constituted entity that nevertheless has its budget planning administered by MOES. The budget submissions of the various entities are based on the previous year’s approved budgets, adjusted for government priorities or additional needs. They are subjected to a challenge function in MOES and negotiated with MOF. None of the associated budget agencies are present during MOF negotiations.

Figure 3.4. MOES Monthly Capital Expenditures

Source: MOF Treasury Department.

MOES budget execution

3.11 Recent audits by the SAO have identified a number of budget problems (Box 3.2), and the team noted the lack of a well-defined process for capital budgeting and the non-transparent decision criteria for project selection. The Minister also made most decisions on budgets for items that would normally be delegated.

Box 3.2. SAO Observations on MOES Budgeting

Significant irregularities have occurred in MOES and BDE financial management, including:

- MOES failed to allocate its approved budget to individual budget entities, making it impossible for them to prepare their annual budget execution plans.
- The Minister only authorized spending according to article 55 of the Law on Organization and Work of State Administration Bodies, which enables decisions contrary to law.
- Capital expenditure decisions are unsupported by formal written assessment criteria.

Source: State Audit Office

3.12 MOF Treasury Department advised that the sector exhibited a higher than normal rate of rejected payment transactions. In 2006, they totaled 10,500 rejections out of a total of 263,000 transactions, for a 4 percent rejection rate.¹⁹ This may be partly explained by the absence of internal controls and criteria governing expenditure management identified by the SAO audit.

¹⁹ MOF did not respond to a request for the overall government rate, although Treasury officials did indicate that MOES rejection rates were “high.”

MOES investment budget

3.13 MOF noted that investment budget management in MOES is weak. There have been numerous requests for additional capital funds when funds were available in existing general programs. Sometimes when additional funds were allocated, they were not all used during the fiscal year. These problems were most apparent in primary and secondary education.

3.14 Decentralization has reduced the MOES role in managing primary and secondary school budgets, but initially without information to monitor decisions at the local level. Following the initial implementation of decentralization in 2005, sector ceilings for municipalities were based on previous year's budgets. In 2006, with USAID assistance, the ministry developed an allocation formula based on economic, population, and financial factors. Once allocations are established, they are submitted to MOF as an addendum to the MOES budget request.²⁰

3.15 There is no process to enable MOES to monitor municipalities' use of these funds and their own funds for education maintenance. The ministry thus does not know what actual maintenance spending is and what its sources are. A commission within MOES examined the problem, but no clear decisions have been reached. If implementation of Phase 2 of the decentralization initiative proceeds, with teacher salaries and benefits transferred to municipalities, it will be critical for MOES to monitor performance of the municipalities and allocations to schools of these transfers.²¹

MOES fiduciary PFM risk

3.16 The team rated MOES fiduciary risk in budgeting as *high*. There are strong indications that key financial control processes are not followed, which is corroborated by the SAO audit observations. The minister's use of powers under Article 55 of the Law on Organization and Work of State Administration Bodies has enabled him to make decisions contrary to the OBL.

PROCUREMENT IN MOES

3.17 The team interviewed executives involved in procurement in the ministry to assess their compliance with the Law on Public Procurement, and concluded that the ministry was not compliant with existing procurement processes. Several reasons support this conclusion:

- Absence of delegated procurement authority. The minister authorizes all procurement decisions and signs all payment orders. While this clearly establishes the locus of responsibility for procurement, it is inappropriate for the Minister to assume full responsibility for these decisions, and introduces fiduciary risk into procurement.
- Missing procedures and criteria. Clear criteria and formal written procedures are lacking for many normal transactions. This lack of transparency and the vesting of signing authority in a single individual have been identified by INTOSAI as a high risk situation for corruption,²² which should be corrected on a priority basis.
- Composition of the procurement evaluation committee. The team concluded that the members of

²⁰ The same procedure is followed by all ministries that make allocations to municipalities under the decentralization initiative.

²¹ The team was advised that the commission was requesting on-line access to the Treasury database. This was being resisted by Treasury, and in the opinion of the team, is unnecessary. Regular batch reports (daily, weekly or monthly) can readily be provided by Treasury to meet all needs of MOES in this area.

²² INTOSAI, *Workshop on SAIs and Corruption*, Report of the Working Groups, undated.

the evaluation committee, appointed by the Minister, lacked knowledge of public procurement processes and had no training. A senior member from the minister's office was on the committee (Box 3.3), which further elevated the potential fiduciary risk of decisions made on grounds other than economy, efficiency, and effectiveness.

Box 3.3. MOES Public Procurement Commission Members

Chief of the Cabinet of the Minister (President) State Secretary (Deputy President) Chief of Cabinet of Advisors to the State Secretary Selected Sector Representatives (not all represented)
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Source: MOES.

- Varying Procurement Committee decisions. Article 53 of the LPP authorizes intervention from authorities who are not directly involved in procurement. The minister of finance may decide which entities are covered by the law, and the “responsible person” for the procuring agency can annul a procurement decision if he/she determines that a “proposal is prepared in contradiction to the criteria in the tender documentation.” This has happened in the Ministry of Education where, without adequate documentation, the minister has not followed recommendations from the evaluation committee.

MOES procurement risk assessment

3.18 The team rated MOES procurement risk as *high*. Based on the above examples of noncompliance, the risk of public expenditures that are neither economic nor efficient is *high*.

Recommendations on MOES procurement

- MOES should develop explicit, formally approved criteria to manage, control, and approval all classes of operating expenditures. These should be codified in a book of procedures and distributed to all staff with financial responsibilities.
- MOES should prepare, in consultation with MOF, a system of delegating spending and commitment authority by the minister to accountable senior officials.
- The delegation instrument should establish material thresholds to enable most transactions to be authorized by senior officials and not the minister.
- MOES should review the composition and qualifications of its Procurement Review Committee to ensure that members are trained and qualified to render decisions on bids.
- MOES working group on the municipal transfers monitoring system should complete its deliberations and implement the system on a timely basis to support the government when it decide to implement Phase 2 of its decentralization initiative.

HEALTH INSURANCE FUND BUDGETING

3.19 The Health Insurance Fund (HIF) was extensively analyzed in the previous CFAA. It noted the almost total absence of financial management controls over budget planning, budget execution, budget reporting and oversight, internal controls, accounting, and internal audit. There were also governance

deficiencies in the structure and functioning of its board of directors. Following a Bank-financed internal control study by external consultants,²³ the government approved an action plan to address deficiencies in HIF budgeting and in internal controls. The key thrust was to establish accountability for financial and service performance in health care delivery by the HCIs and by the management of the HIF (Box 3.4).

Box 3.4. HIF Action Plan Reforms

- Establish an appropriate policy base for reforms to the health care system.
- Impose fixed budget ceilings on HCIs.
- Improve controls over HCI budget execution, reporting, reforecast, and arrears.
- Establish a preliminary set of HCI financial and service performance indicators.
- Strengthen internal and external audit.
- Strengthen procurement activities of the HIF.
- Strengthen governance structures and accountability of the HIF and the Board.

Source: HIF, *Action Plan for the Health Insurance Fund*, 26 April 2005.

3.20 Progress has been made. A new management team was put in place by the new government, consisting of executives with a private sector appreciation of sound budget formulation, effective budget execution within approved budgets, and transparent reporting. Identified reform initiatives have been accelerated. All HCIs now operate under contract to the HIF, with financial budget ceilings and performance measures to monitor HCI performance. During 2007, a full year of performance data will have been collected for all HCIs that will be used to allocate up to 30 percent of the 2008 budget.

3.21 HIF debt obligations were reduced from MDen 4.4 billion at the end of 2005 to MDen 3.9 billion at the end of 2006. HIF arrears were eliminated (down from MDen 450 million at year-end 2005) and HCI arrears declined from 2.6 billion to 2.3 billion denars. A multiyear debt elimination strategy will be implemented in 2008. Management and donors are discussing the implementation of a financial management system for the HIF and its 30 district offices and linking the system to MOF district treasury offices for an effective HIF sub treasury function.

3.22 A new, seven-person board of directors has been set up, trained, and actively controls HIF operations. The HIF internal audit unit was expanded to five auditors with a possible increase of two more this fiscal year. The board approved the internal audit plan for 2007, with 20 audits in areas of high risk, and the SAO is scheduled to perform 10 external audits of HCIs this year.

HIF fiduciary PFM risk

3.23 Fiduciary risks in the HIF PFM system have been reduced from *high* in the 2003 CFAA report to *significant* in this CFAA. Reform processes agreed by the government and the HIF management team are still underway, and a full assessment of the results of reforms on budgeting and internal control systems is premature. However, the trend is positive, and a reappraisal of the situation following the 2008 financial year is desirable. A new management team is in place, one that understands the need for regular financial and results-based reporting, budget discipline, and HCI compliance with the terms of their newly established financial and performance contracts. The CFA team believes that a reassessment of the HIF fiduciary risk at the end of the 2008 fiscal year would be an appropriate time to measure management's overall progress in this area.

²³ Ernst & Young, *Final Report: HIF Action Plan*, 26 August, 2004.

PROCUREMENT WITHIN HIF

3.24 Under the Bank's first Health Project,²⁴ in 2005 the HIF undertook its first international tender to procure pharmaceuticals. The estimated value of the contract was €50 million, using the International Restricted Invitation open to all at the prequalification stage. This procurement was to meet the needs of the Health Insurance Fund and its healthcare institutions for at least a year.

3.25 The procurement was lengthy. Initially, 38 applicants submitted the prequalification documents, with only four applicants rejected. Following Bank input and oversight, International Competitive Bidding (ICB) documents were issued in November 2004 and 26 firms submitted bids. On March 1, 2005, the HIF's Public Procurement Commission completed the bid evaluation process and informed bidders of the results. There were 17 complaints related to selection criteria and exclusion for incomplete documentation. All complaints were resolved satisfactorily.

Savings through International Competitive Bidding

Virtually all the savings achieved through the first ICB tender are attributable to competitive bids.

Items receiving multiple bids declined in price by €8.48 million.

For items receiving a single bid, the total savings were only €66,000.

3.26 While the tender resulted in savings of 17 percent (€ 8.57 million) compared to the previous tender, the process was not as competitive as had been hoped, as the number of items receiving multiple bids was fewer than expected. Out of a total of 729 items subject to tender, only 268 (37 percent) received multiple bids—either as part of complete lots or (in the case of lots with fewer than two complete bids) on an item by item basis. A total of 309 items received only one bid, and 152 received no bids at all.

3.27 Under Macedonian procurement law, items receiving fewer than two bids must be retendered. Only after a second tender fails to produce additional bidders can negotiations proceed with the original bidder. The Ministry of Finance waived this condition to allow immediate direct negotiations for items receiving only one bid.

3.28 HIF discretion in negotiating bids was limited. The Procurement Complaints Committee ordered HIF to accept the initial prices of all bidders with exclusive rights to market the items in question.²⁵ On this basis, the HIF signed contracts with 19 of the 20 winners of competitive bids on which multiple bids were received.²⁶ The total value of these contracts was €14.2 million, or 31 percent of the value of the international tender. The HIF also signed 16 contracts for items with a single bid and a single marketing authorization, with a total value of €2.6 million. Contracts for remaining bids in this category were in the final stages of preparation and signing. The HIF was preparing to re-bid the remaining items that have more than one authorized supplier but received only one bid. This group had 70 items with an estimated value of €2.6 million.

3.29 The Bank had recommended several follow-up measures by HIF, including repeating the ICB process for more drugs; increasing the number of bidders in the next round; analyzing the largest item on the one-bid list; contacting alternative major manufacturers to ascertain why they did not bid; and reevaluating the list to exclude items which were no longer required.

²⁴ This was also a component of the PSMAL and PDPL-I and PDPL-II projects.

²⁵ By law, prices can only be negotiated in cases where more than one supplier has a marketing authorization.

²⁶ The remaining contracts were delayed for technical reasons.

3.30 In April 2007, the second ICB for pharmaceuticals was launched using the International Restricted Invitation open to all at the prequalification stage. The estimated contract value is €65 million. By the end of February, the deadline for submissions, 29 applications were received.

3.31 To participate in the second phase of the process, the prequalification document required that applicants provide written proof from the Ministry of Health that they have initiated the procedure to register the pharmaceuticals they intend to bid on. This is effectively a nontariff barrier to competition in the Macedonian market. Although there is an abridged procedure of 60–90 days for reference countries,²⁷ the full procedure for other countries may take up to 210 days. This has the effect of disqualifying suppliers of unregistered drugs from nonreference countries.

3.32 The LPP is more onerous for internal suppliers. Article 40 (5) requires that a foreign legal entity or natural person, as a bidder, must submit an audit report, which has to be positive and issued by a reputable foreign audit institution. The report must contain information on overall economic performance of the foreign bidder for the last three years. Domestic applicants are only required to provide proof of solvency from the FYR Macedonian government Central Registry. This time, 16 applications were rejected, primarily for missing documentation and failure to submit documents from Central Registry and proof of creditworthiness. The process continues.

3.33 The team concludes that new management understands changes to the HIF management control system required to establish effective internal financial management control. It concludes that the improvements in the HIF and the HCIs are proceeding as per the government-approved work plan. Further improvements in HIF procurement and greater use of international tenders with a wider list of registered suppliers should be carried out for future drug procurement.

3.34 Procurement risk in HIF is considered *high* from the perceptions of foreign bidders on HIF capacity to conduct fair procurement, unnecessary administrative barriers of proof of solvency, and unwillingness to ask for clarification at prequalification to improve competition.

Recommendations on HIF procurement

- In 2009, the SAO should review the impact of the governance, budget, internal control, and procurement changes and assess the progress of the management improvement initiatives and the performance of the health care system.
- HIF management should launch an internal study to ascertain barriers to increased competition that reduce savings from international competitive bidding. The results of this study should be shared with MOH, MOF and the Bank and reflected in future ICBs.
- The operations of the Drug Bureau should be audited on a priority basis to identify methods of accelerating their registration process to meet international norms.
- The HIF should exercise Article 8 of the LPP and Clause 15 of the Prequalification Document to request bidders to provide additional (missing) information that does not affect the substance of bids instead of disqualifying them. This practice should cease and suppliers should be requested to provide the missing information without disqualification.

²⁷ USA, Canada, Australia, Japan, European Union member states, and former Yugoslav countries.

ACCOUNTING

3.35 The IMF has continued to focus on the accounting and reporting aspects of the government's performance monitoring and reporting. Its 2006 fiscal transparency ROSC report noted that the general government definition is consistent with government finance statistics principles, government activities are clearly distinguished from financial and nonfinancial corporations, and all central government fiscal activity is in the budget.²⁸

3.36 Accounting practices are disclosed in a manual to the Law on Budget Institution Accounting and Internal Control. The standards do not fully meet cash-based IPSAS, and SAO has reported several problems with compliance to the rules set by MOF.²⁹ Pressure will grow to change the accounting basis as the government implements program management accountability for program expenditures and results. Cash-based accounting does not capture receivables or payables, does not fully reflect government assets or liabilities, and does not support the intention to increase program management accountability for performance and results. Cost-effective management must be supported by a system that discloses the full economic costs of service provision, which can only be provided by accrual accounting.

3.37 The government should develop a multiyear plan to migrate from a cash basis of accounting to an accrual basis (Table 3.5). This migration will take many years to complete. What is important is that the government should have a plan to guide this development, and this plan should provide the context for future financial systems developments, such as a new treasury system or a ministry-level budget preparation and reporting system. Summary of other donor's comment in this respect is given below:

Box 3.4. Summary of Other Donor Comments on Accounting

1. The government employs cash-based accounting with a chart of accounts with economic classifications conforming to the GFS-2001 requirements. Classification by programs has been recently introduced, using policy implementation activities to identify programs. Linking programs to policy objectives or to outputs and outcomes requires more refinement. Using performance information in the budget process is extremely difficult and should not be rushed.
2. Accounts are reconciled regularly, but the SAO noted discrepancies in data used for reconciliation. While the government has no plans to move to an accrual basis of accounting, the treasury should work toward incorporating accounts receivable and accounts payable in its accounting system.
3. The TSA has increased control and reduced liquidity requirements since its 2002 implementation. Monthly, weekly, and daily cash management forecasts can be prepared, but there is considerable daily volatility in the forecasts, resulting in a larger cash surplus on hand.
4. The government should develop a comprehensive strategy to improve sector accounting and reporting. At present, there are different accounting bases for Treasury accounting and budget-user accounting. Given the trend toward improved accountability of management for results, a medium-term plan for accrual accounting migration should be considered.

Sources: IMF, SIGMA, DG Budget.

²⁸ *Ibid*, pp 4-5.

²⁹ This results in a C assessment as one part of performance indicator 25.

Table 3.5. Potential Long-Term Migration Plan to Accrual Accounting

Phase	Description	Components
1	Strengthen cash-based accounting	Develop migration strategy from cash to accrual basis Implement IPSAS cash-based accounting standards Develop and disseminate GFS 2001-compliant Chart of Accounts
2	Incorporate receivables and payables, financial assets and liabilities into government accounts and reports	Compile all financial assets and liabilities, following IPSAS recognition principles Compile all receivables and payables, following IPSAS recognition principles
3	Incorporate nonfinancial and contingent assets and liabilities into government accounting and reporting	Identify and record contingent liabilities and government guarantees (including EBFs and SOEs) Record new fixed assets purchased and disposed Identify and record major and other assets and liabilities Record consumption of fixed assets on annual basis

Source: IMF Consolidating Public Expenditure Management Reforms, January 2004.

Predictability in availability of funds for commitments

3.38 The government has made solid progress in implementing its cash-based treasury system. The MOF Treasury prepares regular weekly, monthly, and yearly reports on budget utilization, as well as for projections of cash flows. Budget entities receive reliable information on commitment ceilings at least quarterly. Cash surpluses and issuance of short-term treasury bonds balance volatility in day-to-day cash availability. Significant in-year adjustments to budget allocations take place only once a year with Parliament approval. Special revenue “accounts” earmarked to each budget entity diminish the role of the budget. While budget control over special revenue is weak, spending controls are sound—if resources do not materialize no spending occurs. Ratings for the three areas are **A**, **B**, and **B** respectively, yielding a B+ global rating for indicator 16.

Recording and managing cash balances, debt, and guarantees

3.39 Domestic and foreign debts are reported monthly, but the information and analysis can be improved. Public debt data is available monthly from both MOF and the National Bank. Cash balances are calculated and consolidated daily. For debt and guarantees, the 2005 Public Debt Law established sound rules for loans and guarantees according to a three-year debt management strategy. Foreign sovereign guarantees require parliamentary approval. Domestic and municipal guarantees for municipal public enterprise borrowing require MOF and Cabinet approval. This results in an **A** on Indicator 17.

3.40 Timeliness and regularity of accounts reconciliation is excellent. The Treasury reconciles daily with the Central Bank of Macedonia and reconciliation and clearance of suspense accounts take place at least quarterly, with few balances brought forward, for a rating of **A**.

Recommendations on accounting

- The government should develop a multiyear plan to migrate from a cash basis of accounting to an accrual basis.

REPORTING

3.41 MOF produces comprehensive reports on budget execution for the central government using its treasury accounting system that allows direct comparison to the original budget. Monthly reports are issued within 40 days. There have been no material concerns about data accuracy. Reports only cover cash payments.³⁰ A consolidated government financial statement is prepared and submitted to Parliament annually.

3.42 Government reporting complies with most but not all the requirements for government using cash accounting. This is generally recognized as the minimum level of reporting for governments, and the IPSAS standards themselves recognize that additional, supplementary reporting is useful to help readers understand the financial condition and results from operations of the reporting government. Threads of this are to be found in the recommendations of donors over the past several years (Box 3.5).

Box 3.5. Summary of Other Donor Comments on Reporting

1. Budget users' financial reports conform to IPSAS standards for cash-based accounting systems.³¹ Monthly budget reports are prepared by Treasury, distributed within a few days of month end, are published on the MOF Web site. A semi-annual report on budget execution is sent to the government no later than July 31. The government has shown improvements in meeting the legal deadlines for submitting its final accounts to Parliament by June 30.
2. The new OBL requires that contingent liabilities be reported in the budget; they will also be included in the semiannual debt reporting required under the new Public Debt Law. Reports on SOE assets and liabilities are submitted to the Central Registry at the end of each year.
3. To improve fiscal transparency, the government should provide regular information on fiscal risks, contingent liabilities, and tax expenditure in the budget, budget execution, and final accounts. Similarly, comprehensive data on financial assets should be compiled and published.
4. Reporting on state-owned enterprises and state assets should be strengthened to include government policy objectives and the specific stance toward individual SOEs. Shared responsibility for managing state assets in the government should be better defined, and the financial statements of SOEs should be published regularly.

Source: IMF, SIGMA, DG Budget.

3.43 As a preliminary step, the government should submit with its final accounts a set of summary financial statements for the central government.³² It already prepares monthly statements of revenue and expenditure. The year-end revenue and expenditure statements should be accompanied by a balance sheet of financial assets and financial liabilities, and a set of notes that provide key accounting policies and relevant information to help readers understand the financial statements. In addition, the opinion of the General State Auditor on these financial statements should be included as an integral component of the statements, in keeping with international practice. The changed basis of preparation will permit both the MOF and the SAO to develop and refine their reporting and audit assurance processes until they meet

³⁰ PI-24 Rating C+.

³¹ The Bank team noted that not all IPSAS requirements are met, despite the views of another donor.

³² The central government entity includes the budget entities and the four EBFs.

international standards, and the government could then make them their official summary financial statements.

3.44 Reporting procurement activities on a systematic and regular basis is not fully developed. No process ensures that the MOF Procurement Review Committee receives information on all ministry procurements, and the Procurement Complaints Committee does not provide reasons behind its judgments when decisions are made public. Tightening to improve compliance with existing reporting requirements and providing reasons by the PCC is required.

3.45 Monthly reports covering central government are produced regularly (within 40 days of month end), but frequently miss the deadline. Rating: **B**. Reports do not cover expenditures at the commitment stage, only at the payment stage. Direct comparison to the budget is available. Rating: **C**. Data accuracy is high. Rating: **A**. Overall assessment is **C+** due to the lack of commitment reporting.

3.46 Cash expenditures are captured at the unit level, but in-kind assistance is not. There is no comprehensive reporting by school including in-kind assistance, although schools do report to the Ministry of Education. The team believes that this situation in MOES is indicative of most ministries. Budget management focuses at item level, such as O&M or salaries. Assessment is **C** for performance Indicator 23.

3.47 Consolidated government statements are prepared annually and include full information on revenue, expenditure, and financial assets/liabilities. Rating: **B**. Statements are submitted for external audit within six months of the end of the fiscal year. Rating: **A**. Accounting practices are disclosed in a manual to the Law on Budget Institution Accounting and Internal Control. The standards are not fully according to cash-based IPSAS and SAO has reported problems with compliance to MOF rules. Scores of **B**, **A**, and **C** respectively yield a **C+** overall rating.

PFM fiduciary risk rating

3.48 The central financial reporting system continues to improve. The treasury system will also continue to improve as new systems are implemented to capture commitments. As ministries develop their own FMIS that communicate with the MOF treasury system, timeliness and accuracy will improve. The global risk rating for reporting is therefore *moderate*.

Recommendations on reporting

- The government should prepare a set of financial statements for the new central government and table it with the final budget in Parliament. These statements should include: (i) revenue and expenditure for the year; (ii) financial assets and liabilities; (iii) notes to financial statements containing key financial policies and other information to help readers understand the statements; (iv) opinion of the General State Auditor on the fair presentation and completeness of the financial statements.
- When the underlying processes of financial statement preparation and the expression of the external auditor's opinion have been fully developed, the government should make the statements the official financial statements of FYR Macedonia.

4. INTERNAL CONTROLS AND INTERNAL AUDIT

INTERNAL CONTROLS

4.1 The EC now plays the key role in developing Macedonia's internal control and audit systems. In August, 2006, MOF signed an Administrative Cooperation Agreement with EC's DG Budget that ensured DG Budget's agreement on all financial control, audit law, and policy compliance with Chapter 32 of the *Acquis*. A PIFC department has been established with four units—two for establishing policies (central harmonization units) for internal controls and for internal audit, a central internal audit unit, and an anti-fraud office. This considerably expands the role of the Internal Audit (IA) Department, based on a 2003 Bank CFAA recommendation. The government has approved a PIFC policy paper containing key elements required by the *Acquis* for sound public internal financial control (Box 4.1). This will enable the integration of several initiatives of the past four years to improve internal controls and make audit into a single, compliant PIFC system.

Box 4.1 Key Components of the PIFC Policy Paper

1. Preparation and passage of a new framework law to reflect PIFC principles, with amendments to the 2004 Internal Audit Law and regulations on internal control elements and standards.
2. Create the PIFC department with four constituent units appropriately staffed.
3. Elaborate financial management and control, including management accountability for maintaining cost-effective internal controls; segregation of duties for financial transaction processing; internal control procedures in ministries; and training courses. For internal audit: establish an internal audit charter for all IA units; establish the title of State Internal Auditor and related training to achieve auditor qualifications; transfer public procurement audit responsibilities to the Public Procurement Bureau; harmonize internal audit salaries with those of SAO auditors. Establish a unit to monitor and control EC pre-accession funds.
4. In cooperation with CIPFA and the Center of Excellence in Finance in Ljubljana, establish a training and certification program for accountants during 2006–10.

Source: MOF PIFC, Strategy for Developing Public Internal Financial Control in Macedonia, April 2006.

- 4.2 The approved PIFC strategy will address identified shortcomings of internal controls, including:
- Management accountability for establishing and maintaining cost-effective internal controls.
 - Establishing internal audit units as independent sources of advice to management on the functioning of internal controls with recommendations to mitigate shortcomings.
 - Developing controls based on an assessment of financial risks.
 - Designating the PIFC department in MOF as responsible for the cost-effective implementation of the PIFC system.
 - Establishing basic structures for financial control, such as defining financial process responsibilities in job descriptions, segregating duties and responsibilities for approvals that conform to *Acquis* requirements, and developing appropriate and transparent written procedures and guidelines for all aspects of financial management processes.

4.3 Implementing the PIFC EC-Macedonia program should be completed by the end of 2007. The CFA team and SIGMA feels this is too ambitious, given the magnitude of the changes involved. Ongoing monitoring will be performed by DG Budget.

4.4 The team examined several internal controls subject to PEFA indicator assessment criteria.

Effective payroll controls

4.5 The rating of payroll controls are **C+**, composed of four ratings: integration and reconciliation between personnel records and payroll data; timeliness of changes to personnel records and payroll; soundness of internal payroll records and controls; and existence of payroll audits. Details follow.

- MOF maintains a comprehensive database of all 71,000 central government employees, including information on staff (personal details, posts, experience, and education) and remuneration. A Wage Control Unit in the Budget Department of MOF maintains the database. Spending units report monthly to MOF's Wage Control Unit, providing electronic lists of personnel and payroll statements. The unit checks these submissions with their records and approves wage payments. Employees of EBFs and employees in health institutions and municipalities are not included in the database. Rating: **B**.
- Personnel records and payroll are updated with monthly payroll submissions. Rating: **A**.
- Internal controls over MOF database are sound. MOF needs to approve new employment in the central government, which is also processed by the Wage Control Unit. Internal controls in submissions of payroll records by spending units are weak. Rating: **C**.
- Payroll audits are conducted regularly to identify weaknesses and ghost workers. Internal audit and SAO audit payroll as part of their audits. Recently almost all internal audit units—as part of the training project—were required to audit payroll controls. Rating: **B**.

Non-salary expenditure

4.6 Effectiveness of internal controls for non-salary expenditure is based on expenditure commitment controls. MOF's treasury and budget departments limit commitments to actual cash availability and budget allocations with minor exceptions. Rating: **B**. Basic rules governing comprehensiveness, relevance, and other internal control rules and procedures are understood; though some controls have minor deficiencies. Rating: **B**. Treasury ensures that most rules are complied with. Rating: **B**. The global rating is **B**.

Competition and value for money

4.7 Competition, value for money and controls in procurement is partially indicated through evidence on use of open competition for awarding contracts that exceed the nationally established threshold for small purchases. From the statistics with PPB of 2006, out of 5098 contracts, 4090 were by open tender (US\$ 195 million out of US\$231 Million). The total value of procurement is about 3.2% of GDP (a very low figure compared to other countries) and does not appear to be a complete data. Rating: **B**. There was no supporting data to justify the use of less competitive procurement methods. Rating: **D**. The procurement complaints mechanism is provided by the under-resourced and overloaded Procurement Complaints Commission. Rating: **C**. The global rating is **D+**; detailed discussion is found in Chapter II.

Overall global assessment of PFM risk

Assessment of PFM internal control risk is *moderate*, reflecting reasonable controls for central core systems. Individual ministry situations vary considerably, and there is the potential for variations to materially affect future ratings.

MOES INTERNAL CONTROLS

4.8 The SAO audits also made significant observations on weaknesses in internal controls (Box 4.2).

Box 4.2. SAO Observations on MOES Internal Controls

- Inventory records not reconciled with accounting records. BDE failed to include MDen 6 million of new construction in its asset register.
- No recorded outstanding obligations to suppliers and no formal criteria for supplier selection.
- Lack of BDE internal controls over spending regulated by MOF Treasury resulted in money not spent as authorized and illegal virements.
- Significant recurring travel payment irregularities, lack of supporting documentation.
- Extra compensation for MOES staff (overtime, payment for work defined in job description) that are illegal or unsupported by documentation of approval.
- Procurement without supporting procedures, without MOF approval, and with contract splitting.
- Cash revenue from tender documentation sales improperly controlled by unauthorized personnel.
- Undeclared assets in private banks and dividend payments not included in ministry accounts.

Source: SAO Audit reports.

4.9 These MOES weaknesses in internal controls present a significant PFM risk. It will require major efforts by MOES to redress them. The team detected no such efforts underway during its meetings with budget staff from MOES and MOF or with MOES internal auditors. The team believes that the newly created PIFC unit in MOF should use MOES as a pilot ministry to implement the process changes required to bring internal financial control and procurement processes to PIFC standards. The quality of the information available was such that external auditors gave an adverse opinion on MOES revenue statements and denied an opinion on its expenditure statements.

Recommendations on internal controls

- MOES should move quickly to address the significant weaknesses in its internal control systems by engaging an external private-sector audit firm to perform a detailed analysis and diagnosis, with detailed recommendations for a multiyear improvement plan.
- MOF's newly created PIFC unit should assist MOES in making the process changes required to bring its internal control and procurement processes to PIFC standards.

INTERNAL AUDIT

4.10 MOF has implemented internal audit units across the government and municipalities, as also required by the Bank's PDPL-1 loan program. By the end of 2006, they had implemented internal audit units in 49 key entities (29 ministries and 20 larger municipalities); and trained internal audit staff had increased from 57 in 2005 to 79 in 2006. Approximately 100 internal audits were conducted by internal auditors, half of which were performed by the MOF central internal audit unit.

Effectiveness of internal audit

4.11 There are only one or two auditors with basic training in each budget unit, and their skills are weak. More auditor and management training is needed to benefit fully from the introduction of internal audit. Rating: *C*. Audit reports are issued regularly and sent to the auditee. Only the annual audit report is sent to MOF—and to SAO only upon request. Rating: *C*. Managers take some action on major issues, but often with delay. Managers need to better understand the benefit of recommendations from internal audit units. Systematic reporting on a number of findings and measures taken is not available. Rating: *C*. The overall assessment for internal audit is *C*, recognizing the nascent stage of its development across government ministries.

4.12 MOF's PIFC Unit should institute regular communication with all members of the internal audit community in the government. The unit should provide information on the major changes resulting from PIFC implementation and its impacts on internal auditors' practices and procedures. Community meetings should be held quarterly, hosted by the PIFC director in a convenient location. It should be open to all internal auditors (though attendance by IA unit heads should be mandatory). The agenda should include updates from the MOF PIFC unit on progress of PIFC implementation, items of interest to internal auditors, and feedback from internal auditors. The agenda could also include a report by a ministry unit on a "best-practice audit" of general interest, as well as other efforts to build a broader community spirit. Minutes of these meetings should be prepared by the PIFC Directorate and circulated electronically. The Minister of Finance should open the first meeting to provide his perspective on the relevance and importance of financial management and procurement development to the IA community.

Recommendations on internal audit

- The MOF PIFC Unit should institute regular communication with all members of the internal audit community in the government.
- The PIFC Directorate should continue educating its internal auditors throughout the public sector to increase capacity for auditors to perform modern internal audit functions.

HIF Internal Audit

4.13 Senior management supports internal audit functions and regular meetings with management maintain the flow of information on audit conclusions. The director and chief financial officer understand the value of a modern internal audit unit, and support its development. They discussed with the IA team their role and functions in HIF and priorities for 2007. Additional resources have been allocated to the HIF internal audit unit, which now has six auditors conducting audits in the HIF and the HCIs. In 2006, the unit completed three audits of HCIs in accordance with the work plan and identified weaknesses in financial records and controls. Audits are compliance focused; additional auditor training is necessary for audits that examine operations of internal control systems, identify systemic risks, and make recommendations for risk mitigation.

4.14 The 2007 audit plan foresees 20 audits, selected on a risk basis. Audits in 2007 will focus on HIF operations and district offices. In addition, the SAO will perform 10 audits on HCI operations and financial reports. Continued attention by internal audit on financial management control processes will be required over the next several years, with monitoring and recommendations that address deficiencies in the HIF/HCI internal control systems. HIF and HCI procurement activities entail significant fiduciary risk and will require internal audit attention.

4.15 The team rated internal audit risk at *moderate*. This score should improve as auditors gain experience and as management better understands the full benefits of internal audits.

Recommendations on HIF internal audit

- The HIF director should provide additional training for internal auditors. The need greater capacity to identify risks in the internal control systems of HIF and the HCIs, as well as to formulate risk-mitigation recommendations for senior management.

MOES INTERNAL AUDIT

4.16 The MOES internal audit group was established in 2006 pursuant to the Law on Internal Audit. It has now two trained auditors. In 2006, eight audits were performed. MOES auditors performed compliance audits and made recommendations to strengthen a fragmented procurement planning process and clarify the nontransparent selection criteria for public procurement. They reported a systemic breakdown of compliance with the requirements of the Law on Public Procurement.

4.17 Other observations included the lack of effective delegation for signing authority in the ministry, which results in the minister signing all payment requests and approving all contracts.³³ Deficiencies were found in salary controls and payments where schools can change pay lists from approved documents. The team confirmed that there were no audits of assets under ministry control, neither project based nor for regular ministry operations. Safeguarding physical assets is a major component of financial control that needs to be included in each audit unit’s annual plan.

4.18 The IA group prepares a three-year audit plan from which the annual audit plan is prepared. The focus is on areas of high risk, and the minister plays an important role in establishing priorities.³⁴ The minister is active in internal audits, providing input on priorities, acting as client for IA reports and monitoring implementation of recommendations. Given the weaknesses in internal control in MOES, the minister should allocate more staff to increase the number of annual audits.

4.19 MOES auditors have no ongoing contact with the MOF internal audit unit. Aside from training, the only contact was distribution of a reporting template for their annual report, a mechanical listing of audit activities and baseline data. This should be expanded to permit auditors to identify more systemic aspects of their results. The auditors responded favorably to a suggestion that MOF should be more proactive with the IA community across the government. It could do so by holding regular meetings, exchanging information (MOES auditors were unaware that the MOF IA unit had been transformed into the PIFC department) in both directions, and by presenting best practices.

Box 4.3. The MOES Internal Audit Unit

- Created in Q4/2005, the unit consists of two auditors with basic and advanced audit training from MOF- IAD. Reports directly to the Minister; there is no audit committee.
 - Input from all Directors when preparing annual audit plan; selection of audits is risk based. Minister also has input.
 - Eight 2006 audits were conducted with a compliance and control system focus; one systemic finding was the widespread breach of procurement requirements.
 - Some audits included an assessment of control systems risks and mitigation measures; one noted an absence of criteria for selecting capital projects and a lack of transparency.
 - Additional auditor resources for the audit unit are required to meet the ambitious workload.
- Source : MOES Internal Audit Unit*

³³ In 2006, there was a delegation for payment approval to the Head of Financial and Material Operations, but this position was vacant at the time of the mission.

³⁴ Following criticisms of the Tetovo higher educational institution, the minister directed additional audits of other higher education institutions.

4.20 The MOES Internal Audit is a nascent unit that has senior management support. However, it has only two auditors, and audit needs are large, particularly as MOES internal controls are weak. Risk assessment is *significant*, with a *C* rating on performance indicator PI-21.

Recommendations

- MOES should allocate additional audit resources in 2008 to strengthen the internal audit function and direct auditors to continue assessing internal control systems risks and the monitoring of the implementation of outstanding audit recommendations.

5. EXTERNAL AUDIT

5.1 The external audit function was the subject of several recommendations in the 2003 CFAA. These were implemented as part of the Public Sector Management Adjustment Credit / Public Sector Management Adjustment Loan PSMAC/PSMAL programs and included recommendations designed to (i) require auditors to express opinions on the fairness and completeness of financial statements; (ii) focus the SAO on broader, systemic problems, rather than on specific instances of noncompliance; (iii) require the SAO to use a risk basis for selecting audits in their planning activities, rather than having mandatory audits of 1,500 separate entities annually; (iv) introduce performance auditing on a limited basis; (v) require the SAO to post its audit and annual reports on its Web site on a timely basis after report completion and tabling; and (vi) authorize the SAO to conduct press conferences and other activities to publicize conclusions of its audit reports.³⁵

5.2 Attention has recently focused on having SAO operations meet the requirements of the EU *Acquis*. The DG Budget noted³⁶ that constitutional amendments should ensure an appropriate role and independence of the office. It also recommended extending SAO audit coverage and a focus on systems-based auditing of government internal control systems. A more detailed analysis was conducted by SIGMA (Box 5.1). Its recommendations are being taken into account by the government in its *Acquis*-related compliance activities for PIFC requirements.

Box 5.1 Summary of SIGMA Comments on SAO

1. The SAO does not perform an audit of consolidated state accounts, but reports on results of individual, unconsolidated audits. This approach is disconnected from the budget process. The audit report does not focus on overall budget execution, and the SAO has not audited revenues. This is not consistent with a key output of any SAI—producing a report on implementing the consolidated state budget.
2. The SAO should change its audit approach to focus more on high-risk areas.
3. More attention should be paid to systems audit, in parallel with the development of internal audit and internal control procedures in public administration.
4. Performance audit work has only begun. Most SAIs of CEE countries comparable to Macedonia have adopted a “client-oriented” structure, which allows for better coordination between financial and performance audits and for common training and practice of the staff in both areas.
5. Staff controls maintained by MOF have resulted in the SAO being severely under-resourced during its initial operations and constitutes a weakening of SAO financial and operational independence.
6. Parliament has shown little interest in the work of the SAO. Although the budget committee receives SAO reports, these reports have no impact on the annual state budget.

Source: SIGMA *Assessment of the State Audit Office in the FYR Macedonia*, July 2006.

5.3 The SAO was assisted by Dutch funding for technical assistance during 2004–06, when a twinning arrangement with the Dutch Court of Accounts was established. New audit methodologies and training were introduced; staff education was initiated; and additional resources were made available to

³⁵ A proposal to establish the independence of the SAO in accordance with INTOSAI standards was not accepted by the government.

³⁶ EC DG Budget, op cit.

the SAO. Its authorized budget for 2007 totals MDen 93.3 million, 52.3 million for salaries and 21 million for goods and services.

5.4 Coverage of past audits has varied. As high-risk entities, EBFs have been regularly covered in annual audits. From 2003 to 2005, the coverage of budget entities decreased and was replaced by more audits in the municipal sector. It remains to be seen whether the SAO's increased emphasis on risk-based audit planning will result in significant changes. The SAO should report its audit coverage statistics in terms of percentage of total budget (Table 5.1). This should include an explanation of significant trends.

Table 5.1. SAO Audit Coverage by Entity Type, 2003–06 (% Total Entities)

Audit Year	% Budget Entities Audited	% EBFs Audited	% Municipalities Audited
2003	46.3	100.0	22.6
2004	42.0	67.2	39.9
2005	27.5	83.2	50.6
2006	50.4	84.1	38.9

Scope, nature, and follow-up of external audit

5.5 The PEFA requires all central government entities to be audited. As only 75 percent of total expenditures were audited in the years 2003 to 2005 the rating is **B**. While all 1,669 spending units are subject to the state audit, only 100 are audited annually in a continuous process according to the annual plan. Although formal responses are made in a timely manner, management follow-up on implementation of SAO audit recommendations remains spotty. Rating: **B**.

5.6 Attest audits for financial statements of the audit entities show a low percentage of unqualified (clean) audit opinions (generally under 30 percent of attest audits conducted).

5.7 Compliance audits have a similar pattern for unqualified opinions. The recent performance of the PFM system is not good (Table 5.2). The PIFC unit should use unqualified external audit opinions as one measure of the effectiveness of implementation of the PIFC system in the government.

Table 5.2. Compliance and Attest Audit Results 2003–05

Opinion	Number of audit reports issued		
	2003	2004	2005
Compliance total	n.a.	137	194
Unqualified	n.a.	36	63
Attest total	187	137	196
Unqualified	51	25	61

External audit risk assessment

5.8 The team assesses external audit risk as *moderate*. The SAO continues to mature and to receive technical assistance from the EC and from its twinning SAO, the Dutch Court of Accounts.

5.9 One CFAA recommendation that was not implemented, which was also raised by the IMF and

SIGMA in their reviews of the external auditor's work, relates to providing an audit opinion on government financial statements. This important recommendation will require major changes to the procedures for planning and conducting the annual audits of the entities, and will require heightened risk-based procedures to be developed and implemented by the SAO to enable it to discharge this audit responsibility (such as developing material thresholds for selecting high-risk entities to audit and for issuing an adverse audit opinion on government financial statements).

5.10 It is timely to implement this recommendation. The MOF recently completed the third set of consolidated financial statements, covering central government, EBFs and municipalities. The team recommends that MOF prepare cash-based financial statements for the new central government budget (old budget entities plus extra-budgetary funds), using IPSAS cash-based reporting standards. It would be appropriate for the SAO to audit these statements and to issue an opinion on the financial statement. As SAO is in a twinning program with the Netherlands Court of Accounts, they are ideally placed to assist SAO in developing the needed processes and procedures.

Recommendations

- The SAO should continue to report on its annual audits, expanding the report to include percent coverage of the number of entities and the percentage of the total budget involved.
- The SAO should assess and develop the internal procedures necessary to enable the General State Auditor to issue an opinion on the central government consolidated financial statements. This work should be completed to permit the SAO to issue an opinion on the government's summary financial statements for the 2008 fiscal year.
- The MOF PIFC unit should use the percentages of unqualified external auditor opinions as one measure of the effectiveness of implementation of the PIFC system in the government.

6. ANTICORRUPTION MEASURES

6.1 Several anticorruption measures have been put in place, including the internal audit function, the external audit function; as well as a number of anticorruption laws, amendments, and regulations.³⁷ Because procurement is prone to corruption, the government has also established an Anticorruption Commission and a Procurement Complaints Commission. However, these two entities are only partly effective. Cooperation and bureaucratic support has been lukewarm.

6.2 The Bank, the EU, and the government recognize that corruption restrains higher economic growth and increased foreign investment. The most recent BEEPS survey³⁸ noted more than 50 percent of firms surveyed reported corruption as a significant obstacle. Transparency International's corruption perception index for Macedonia remains at 2.7 out of 10. In the 2006 survey, FYR Macedonia was rated 105th out of 163 nations participating.³⁹ Procurement violations dominate the internal and external audit reports on individual entities' operations. The EU assessment wondered if the administrative law was sufficiently robust to enforce civil penalties for corrupt activities.

6.3 Some progress has been made. The Bank's Country Partnership Strategy (CPS) noted that the Trade and Transport Facilitation in South East Europe project—to monitor border and inland customs

³⁷ The Law on the Prevention of Corruption (2002) and amendments (2004), the State Programme for the Prevention and Repression of Corruption (2003) and the amendment extending it to local governments.

³⁸ World Bank, *Macedonia: BEEPS at a Glance*, February 2007.

³⁹ http://www.transparency.org/news_room/in_focus/2006/cpi_2006_1/cpi_table

points—resulted in a 70 percent reduction in clearance times during its life; the BEEP measure of customs bribery was halved during 2002-2005;⁴⁰ and business licensing times and related bribes have exhibited similar reductions.⁴¹ However, levels remain well above the EU, and corruption remains a challenge.

ANTICORRUPTION COMMISSION

6.4 The Bank team examined the Anticorruption Commission (ACC). The recently appointed chair of the commission, several members, and staff were interviewed, and their public reports were studied.

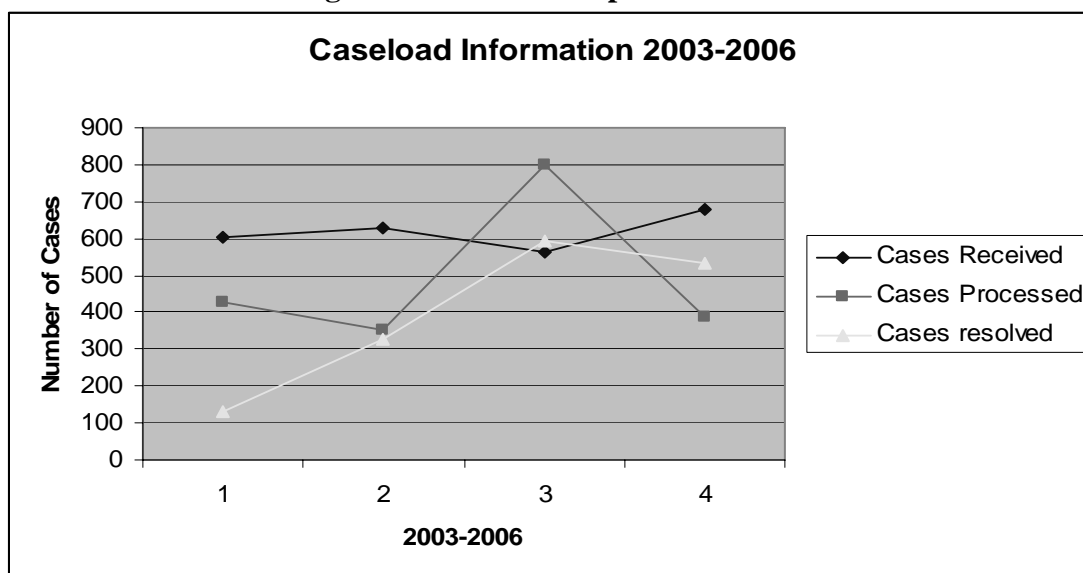
Description

6.5 Established in 2002, the ACC⁴² is an independent body. It consists of a chairperson and six members, supported by a secretariat. The commission was constituted by the new government in January 2007. It has consulted with experts on corruption and key stakeholders—including, for example, the Ministry of Justice, Ministry in the Interior, State Prosecutor's Office, the Public Revenue Office, and the State Audit Office—in a series of plenary sessions. Commission members serve five-year terms, in order to be off-cycle with the four-year government terms. This offsets any tendency to stack the commission with government-friendly members and reduce criticism.

Operations

6.6 Regular ACC meetings are held three times per week, more often if the backload becomes high. The chair indicated that the workload is heavy, resulting in 86 meetings in 2006. This was up from 63 in 2005 and 56 in 2004. Figures 6.1 show the relative workloads. The ACC also conducts public education campaigns using the media to publicize its work and violators whose cases have been addressed. It also operates a toll-free number via an NGO to encourage anonymous reporting of corruption concerns.

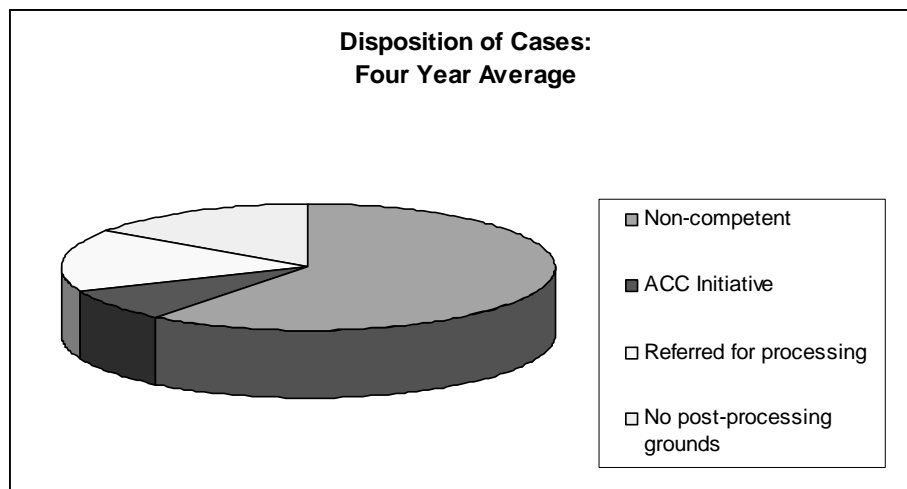
Figure 6.1. Anti-Corruption Caseload



⁴⁰ World Bank, *Country Partnership Strategy for the FYR of Macedonia, 2007–2010*, 2007, pp. 15–19.

⁴¹ *Ibid.*, p. 18.

⁴² A.k.a. The State Commission for the Prevention of Corruption.

Figure 6.2. Case Disposition—Four-Year Average

Source: Anticorruption Commission.

Figure 6.2 shows the disposition of cases over four years. Approximately 2,450 cases were submitted to the ACC in 2003–06. About 67 percent were accepted and addressed. Complaints have not dropped as expected, because citizens distrust other public institutions to provide effective redress.⁴³ Many submitted cases were outside the commission’s jurisdiction (non-competent), because they involve disputes between private individuals (the majority) or because legal proceedings are already underway. Thirteen percent were sent to other entities for further investigation,⁴⁴ and the balance was investigated by the ACC. Of this number, another 15 percent were resolved and will require no further processing.

6.7 Examination of complaints by nature and type revealed recurring areas of corrupt behavior, including irregularities in privatization; work of state bodies and local self-governments (accounting irregularities, urban planning violations, property tax violations, and construction inspectors’ activities); public enterprises; health and educational institution public procurements through directed contracts; political corruption; and judiciary complaints. The ACC also prepares an annual report on the use of donor funds by government entities.

Areas of concern

6.8 An ongoing challenge for the ACC is to attract and retain the cooperation of the counterpart agencies and those ministries for whom complaints were received. There appears to be limited action by the internal financial control staff of ministries to implement ACC recommendations. Follow-up on ACC recommendations represents a significant gap; it needs to be addressed through stronger internal and external audit functions. This should include the MOF internal audit unit and the SAO in its regular audits, as well as its mandate to monitor government implementation of SAO recommendations. In this way, internal auditors could report to the government on the implementation of ACC recommendations, and the SAO could report their findings to Parliament and to the public.

6.9 The ACC should work with the MOF and the SAO to ensure that their audit guides reflect the areas of greatest potential for corruption and ACC priorities for the coming three years of the SAO audit plan. A procurement audit guide would be useful, given the noncompliance with existing requirements.

⁴³ *Annual Report 2005 on the Work of the State Commission for Prevention of Corruption*, p. 19.

⁴⁴ The team was advised that the SAO was an active supporter and investigated all referenced cases sent to it by the ACC.

The Institute of Internal Auditors (IIA) and the International Organization of Supreme Audit Institutions (INTOSAI) technical standards should be used as appropriate.

6.10 As a new component in its public awareness campaign, the ACC should provide feedback to complainants on the ongoing and final disposition of complaints. The ACC should also educate the public on the issues that are not within their competence in order to reduce the number of complaints that are ruled as outside their competence.

6.11 The ACC should regularly present measures of its operating efficiency and effectiveness in reducing corruption. This would enable it to request additional resources for processing cases as its workload increases. To support this, it should enhance its workload statistics to include the average length of time to complete a complaint (a single number measuring time in days from date received, or self-initiated to the date of work completed). This should be reported publicly on a quarterly basis. The ACC should also consider adopting a measure of effectiveness in terms of outcomes (not outputs). For example, this could be an improved third party ranking in a global or regional survey of corruption, or a joint Bank-Macedonia periodic survey on corruption.

Recommendations on anticorruption measures

- The ACC should work closely with both the SAO and the MOF Internal Audit Harmonization Unit to ensure follow-up on outstanding ACC recommendations.
- The MOF Internal Audit unit should develop anticorruption audit guidelines for use in all audit manuals and specific guides for high-risk areas, such as procurement.
- The ongoing process of amending the Law on State Audit should require the SAO to: (i) regularly follow up on implementation of ACC recommendations when the SAO monitors the entities' implementation of its recommendations; and (ii) report follow-up in the same manner that it reports on implementation of SAO recommendations.
- The ACC should: (i) work with the SAO and MOF's Internal Audit Harmonization Unit to ensure that all audit guides appropriately reflect ACC areas of concern and norms for assessing corrupt activities and behavior; (ii) provide the SAO with its priority areas for the next three years, so that the SAO can incorporate them into its multiyear plan.
- The ACC should implement a simple document control system for complaints. This should include: date complaint received; type of complaint; date investigations started or complaint ruled outside of its competence; date investigation completed; date complaint referred to another entity for investigation; date received back from entity; results of investigation; action taken; and date file closed.
- The ACC should develop measures of efficiency and program effectiveness to monitor its ongoing operations and report them publicly on a regular basis. These data could also be used to support requests for resources in terms of expected workload.

PROCUREMENT COMPLAINTS COMMITTEE

Description

6.12 The Procurement Complaints Committee (PCC) is a Court of the Second Instance for complaints

about public sector procurement.⁴⁵ It is independent and its decisions are final. The court itself consists of a chair and five members appointed by the government, supported by a secretariat. A new PCC was appointed by the new government; the current chair had been in his part-time position for little over two months when interviewed by the Bank team in February 2007.

6.13 The function of the Court is to make legal decisions on complaints and appeals relating to procurement. The court decide in four ways:

- Reject the appeal, because it was made too long after the incident.
- Reject the appeal, for lack of merit.
- Annul the decision of the Court of the First Instance and reallocate the points awarded in the bid analysis, or otherwise direct how points are to be awarded.
- Annul the entire procurement process, because of pervasive violations of the Law on Public Procurement.

6.14 On receipt of an appeal against a procurement activity, the bid process is automatically suspended for three days. However, the PCC has 15 days to make its ruling. This is an important mismatch in the process, which should be remedied. The Committee does not have the resources to provide its decisions within the 15 days specified under the law.

Operations

6.15 The PCC meets four times for a full day each month. They process 30–40 cases per session, and each case takes an hour of committee time. The workload is extremely heavy, with few committee members. This issue should be raised with the government. Workload and service data should be used to support requests for additional members. There is an unexplained variance in these statistics, likely in the average length of processing time.⁴⁶ In its first three months of operation, the new committee received 425 complaints. A backlog of 110 outstanding complaints was left unresolved by the previous committee. Taking into account the scarcity of resources to address the current volume as well as the backlog of complaints, most complaints and appeals cannot realistically be completed within the stipulated time

Major areas of concern

6.16 The PCC informed the Bank team of several areas of procurement irregularities that frequently give rise to complaints and appeals:⁴⁷

- Use of imprecise definition of goods and services to be procured. Sometimes, a promise is made that more precise data will follow—and then it does not. This breaches the principle of transparency and legality of technical specifications of product and quality.
- Pressure from senior government executives to approve bids that were not subject to competitive tender, or to allow increases in the ceiling for contract value.
- Exclusion of bidders at the bid opening, rather than at evaluation.
- The rule book is not followed for the content of the minutes of opening of bids.
- Introduction of subcriteria and additional quality specifications that are tailored to specific suppliers or unfairly exclude other bidders. This often occurs by using an “expert opinion” in a bid evaluation that was not included in the specification of the bid request.
- Splitting the contract contrary to provisions in the tender document.
- Award made at higher prices than estimates, without justification to firms who have not

⁴⁵ The *Court of the First Instance* is the ministry level public procurement bureau.

⁴⁶ This would be 12 minutes per case if they worked for 8 hours per meeting, exclusive of breaks and lunch.

⁴⁷ Source: Commission correspondence of 23 February 2007 and team interviews.

- submitted acceptable and complete bids.
- Incomplete documentation furnished by procuring entities (contrary to Article 92 of PPL), which leads to unnecessary delay in handling complaints.
- The use of a sidestepping tactic to avoid competitive bidding (see Box 6.1).

Box 6.1 Sidestepping Competitive Bid Requirements

- The approved procurement plan sets a project value, which is included in the budget proposal.
- When approved, this estimate is the maximum authority for this contract.
- LPP says that if there are two unsuccessful bid processes because bidders were over the maximum approved limit for the contract, then a direct contract may be made.
- Ministry management often misrepresents the bids in order to have two unsuccessful bid evaluations and then award the contract to their preferred supplier.

Source: Procurement Complaints Committee.

Legal issues

6.17 Legal problems with the current system must also be addressed:

- While the Law on Public Procurement provides for a court challenge process, it does not specify which court should receive and consider the challenge.
- There is no statute of limitations on when an appeal can be launched.⁴⁸
- The LPP does not provide for the execution of the decisions of the PCC; therefore, the Court of First Instance could, in theory, ignore the PCC decision and proceed to contract, although this rarely happens.

⁴⁸ The team was told that some appeals materialize as late as 10 years after the fact.

Reporting

6.18 The PCC reports statistics on the activities of the committee on a monthly basis. No other analytical work is performed or reported. Expanded reporting should analyze problems encountered in the procurement function—especially those that give rise to complaints or appeals, as well as the reasoning behind PCC decisions when it serves as a Court of the Second Instance.

Recommendations on anticorruption measures

- The Law on Public Procurement should be amended to provide for: (i) extending the period of suspension of bid processing from 3 to 15 days, to match the statutory period by which the commission is to process complaints; (ii) a specified interval (one year) in which to launch complaints with the Procurement Complaints Committee; (iii) enabling authorities for the PCC to enforce implementation of its decisions.
- The Committee should request the appointment of an additional member. The chair should establish two subcommittees consisting of three members and the chair. This would speed the pace of processing. The chair and two members would comprise a quorum.
- The Committee should refer all uncompetitive bids above a certain threshold for audit to the SAO. (The commission and SAO should mutually determine this threshold.)
- The SAO should include these issues in its regular audit activities and report on instances of noncompliance in its Annual Report.
- The Committee should analyze complaints by type of problems; explain the decisions of the Committee, and provide an explanation of violations to educate government entities and the public on good procurement practices. This analysis should be incorporated into the Commission's annual report. Above all, the report needs to be made public.

7. FIDUCIARY RISK ASSESSMENT OF BANK PORTFOLIO

7.1 This chapter provides a fiduciary risk assessment for the World Bank portfolio in FYR Macedonia and the risk-mitigating initiatives utilized. It also assesses the broader management of foreign aid from other donors.

7.2 The World Bank's active portfolio in country amounts to some US\$112.8 million implemented through nine projects. Table 7.1 provides an overview of the active project portfolio in 2006.

Table 7.1. World Bank Portfolio in FYR Macedonia, as of 31 December 2006

Project	Principal	Disbursed
Education Modernization	5.0	0.3
Social Protection	9.8	3.8
BERIS	11.3	0.7
ECSEE APL 3 Energy	25.0	2.8
Cadastre	14.0	1.9
Railway Reform	19.4	0.0
Health Sector Management	10.0	1.0
Sustainable Energy (GEF)	5.9	0.0
Legal and Judicial	12.4	1.3
Total	112.8	11.8

Note: Figures are in \$US million equivalent.

7.3 Project-specific financial management and procurement arrangements have mitigated the overall fiduciary risk of the World Bank portfolio. The level of risk is considered as *moderate* under the financial management and *significant to high* for procurement arrangements in force. Additional control measures, beyond those for public administration, are designed for individual projects. World Bank projects have typically been carried out through standalone PIUs (project implementation units). Disbursement, procurement, financial reporting, and auditing arrangements are agreed with the Bank. Also, the PIU staff typically has been paid with project funds and more generously remunerated than civil servants. The Bank's policies encourage the gradual shift from carrying out projects through autonomous PIUs toward realization through regular administrative structures of government. This ensures strengthening of public administration, capacity building, and the sustainability of interventions. This transfer has occurred for all new projects. Only the education, social protection, and health projects still have separate PIUs, although efforts to increase involvement by the Ministry of Education, for example, are ongoing.

7.4 All current projects operate a separate financial management system in addition to their use of Treasury accounts (designated/special accounts for projects are opened at the central bank within the Single Treasury Account, except for state-owned enterprises such as those in railways and energy. This creates duplication of work in some areas, but is justified by the need to have more-detailed project financial information than provided by Treasury reporting on matters such as execution of contracts.

7.5 Project financial management functions are adequately staffed. An increasing number of specialists with project financial management responsibilities are regular employees of their respective ministries or other implementing entities. By training the staff in accounting and financial management, long-term development of the country's human capital base is enhanced.

7.6 Quarterly project financial reports are generally timely and of satisfactory quality. However, annual audits of project financial statements are not always received by deadline. For example, all audit reports for 2005 financial statements, which were due by June 30, 2006, were not received until year's end. The capacities of audit firms to perform the role of project external auditors were recently assessed (Box 7.1).

Box 7.1. Assessment of External Audit Companies

Thirteen audit firms were assessed in the autumn of 2006 for acceptability to audit bank projects. Two firms were rated fully acceptable and three companies were rated acceptable for project audits only. The increased reliance on the MOF Treasury system has decreased the need for external auditors to have specialized knowledge of Bank policies. A reasonable number of accountants and procurement specialists are now available in FYR Macedonia.

7.7 In two projects the auditors raised issues that were promptly followed up by the Bank, and corrective actions were taken. The quality of the audit work is satisfactory. The issues auditors spotlight most frequently in management letters are related to weaknesses in internal control systems, reflecting similar concerns expressed by the SAO on the government's internal controls. In the Bank's financial management supervision, greater emphasis is put on strengthening internal controls and creating robust internal procedures to guarantee that project funds are used for intended purposes.

FOREIGN EXCHANGE AND FUND-FLOW ARRANGEMENTS

7.8 To determine the adequacy of arrangements for management of foreign exchange reserves, Bank staff are instructed to rely primarily upon relevant IMF assessments. If IMF assesses the operations of the central bank as low risk, no further action is required. Similarly, World Bank staff need take no further action if the IMF indicates that the risk is higher but a remedial action plan has been established, with periodic reports indicating that the plan is being satisfactorily implemented.

7.9 The IMF updated its safeguards assessment in February 2006. The previous assessment was completed in April 2003. The update found that the National Bank of the Republic of Macedonia (NBRM) had taken steps to strengthen its safeguards framework, and recommendations from the earlier assessment had been implemented. Notwithstanding this progress, the report made recommendations in the reporting and audit areas, including (i) review by the NBRM internal audit function of processes for compiling monetary data reported to the IMF under the program and (ii) completion of annual external audits on a timely basis as prescribed by the central bank law. The NBRM has started to conduct internal audit reviews on the processes for compiling monetary data reported to the IMF.

7.10 Imposition of additional fiduciary safeguards appears unwarranted. Based on the above, additional fiduciary safeguards on the NBRM also appear unwarranted, particularly the use of a ring-fenced account in another bank to hold foreign currency received from the World Bank.

USE OF COUNTRY SYSTEMS

Public financial management

7.11 The changes in the framework introduced in 2004 for determining the eligibility of Bank-funded expenditures enhances the possibility of relying on country systems for future project implementation and monitoring. Changes in the framework for determining the eligibility of expenditures and the introduction of Country Financing Parameters for Macedonia permitting up to 100 percent financing of project costs enable the World Bank to streamline disbursement procedures—for instance, a project might have a single disbursement category. This simplifies the reporting and accounting requirements.

7.12 It is mandatory that all projects use the Treasury system. However most ongoing projects have added standalone software and special PIU staff to manage the reporting and disbursement. Later projects are relying increasingly on the Treasury for its reporting, supplemented by additional information on contracts and forecasting for report-based disbursement. A mix of government staff working in their normal positions and externally hired project staff ensure that government systems procedures are followed and that project beneficiaries are involved. Bank financial manuals are produced to ensure that Bank-specific procedures and normal government procedures are defined clearly. When these measures are combined with regular audits and Bank supervision, they provide sufficient assurance that funds are used for intended purposes.

Procurement

7.13 It was agreed with the Joint Venture on Monitoring of the Paris Declaration that procurement baseline indicators would be used to help monitor the qualitative procurement target of the declaration (Target 2b). This target requires a reliable country system for monitoring and qualitatively scoring the nation's procurement system. World Bank policy on a country system's role in procurement is still evolving. It is recommended: (i) to continue use of national competitive bidding up to a threshold (currently US\$1 million in FYR Macedonia) that may be reviewed for upward revision and additional provisions (unacceptable NCB condition) to be agreed with the government based on the PPL in force, which shall be included as part of the Financing/Loan Agreement for each respective project; (ii) to use baseline indicators as a complement for CPAR, which is being done; and (iii) to do project-level assessments to determine the capacity of implementing agencies.

Management of donor funds

7.14 Despite many improvements (in coverage, recording of transactions, and other areas), the budgeting and budget execution processes of foreign-financed aid still suffer from poor record keeping, especially of grants received directly by budget users. The MOF does not receive the needed data about usage of these grants. Improvements are necessary, considering that a substantial part of planned public sector investments are financed by foreign aid and loans. Past failure to accomplish budget expenditure targets typically has been due to non-disbursements on foreign-financed projects. This delays project execution and also winds up redirecting scarce resources from other projects that might have a larger potential impact.

7.15 The extent of this problem differs substantially among donors. With donors such as the World Bank, EU, EBRD, and EIB the government is actively involved in preparation of their multi-annual strategies and possesses certain information about their planned activities. With other donors (UNDP, USAID, and other foreign governments or governmental institutions), the government of FYR Macedonia is not involved in preparation of their multiannual strategy papers. In fact, the government sometimes only learns of certain donor activities prior to project start-up. Some donors operate through project implementation units well established within the line ministries, thereby providing valuable and timely information to the government; but most donor-funded projects are implemented through decentralized

implementation arrangements, and the authorities have little insight into project activities.

7.16 The PEFA indicators related to management of donor funding confirm this analysis (Table 7.2).

Table 7.2. PEFA Indicators for Donor Practices

D. Donor Practices		Score
D-1	Predictability of direct budget support	D
D-2	Financial information provided by donors for budgeting and reporting	C
D-3	Proportion of aid that is managed by use of national procedures	D

7.17 However, the main foreign assistance challenge for Macedonia as a candidate country for EU membership will be to set-up the necessary structures to manage pre-accession funds.

Recommendations on fiduciary risk management

- The MOF should continue its efforts to get reliable information on budgets and budget execution for all donor funding, including the information in regular financial reporting. Donors should be encouraged to use country systems to the extent as possible.
- The government needs to establish the appropriate structures to certify management of EU pre-accession funds.
- Unacceptable National Competitive Bidding conditions to be discussed and agreed with the government based on the Public Procurement Law in force.

8. DETAILED RECOMMENDATIONS

The key recommendations for procurement and financial management are indicated below. Detailed recommendations and key action are prioritized as Immediate, Medium-term or Long- term.:

- Serious deficiencies in implementation of public procurement law to be handled on priority deficiencies are related to the linkage between the budget system and procurement plan, capacity of implementing ministries, functioning of complaint review committee and on procurement information system.
- Significant shortcoming in education sector to be addressed in the budget process, internal financial controls and audit
- In health sector, particularly in HIF, to continue progress on establishing sound PFM both on budgeting and budget execution to ensure consistent compliance with rules and regulations

Sr#	Recommendation and Key Action	Priority
8.1	Pillar I—Legislative and Regulatory Framework : The following measures by government are recommended to improve the legislative and regulatory framework for procurement within FYR Macedonia:	
1	Extend coverage of the Law on Public Procurement to defense-related items that are not “hard defense” as well as to voice telephony and satellite services.(the new draft law is expected to bring clarity)	Medium Term
2	Establish an effective and independent complaint review body with full mandate to enforce its decision.	Immediate
3	Remove administrative barriers that work to impede competition and a level playing field—for example, requiring proof of solvency from the Central Registry, a license from a competent authority, and an opinion from the Central Registry leads to lack of participation by bidders.	Immediate
4	Determine liquid assets/lines of credit based on information given by the participants for a particular bidding and demonstrated by their financial statements and/or certification by commercial banks.	Immediate
5	Open bidding does not appear to be the default procurement method and restricted bidding is not apparently equivalent to open bidding with prequalification (in practice the open bidding is dominant method of procurement.)	Medium Term
6	Narrow with great specificity the justification for using negotiated procurement procedures to prevent its misuse.	Medium Term
7	Examine the possibility of misuse of design contests for routine civil engineering tasks, rather than for contracts of an esthetical nature like architectural work, thereby restricting competition.	Medium Term
8	Define more clearly when deviation from referencing EU or international standards is justified, to prevent misuse of PPL Article 33.	Medium Term

Sr#	Recommendation and Key Action	Priority
9	Amend PPL Article 47-2—which specifies that bidders submitting incomplete documentation “shall be excluded from the procedure and their bids shall not be reviewed”—to permit the procuring entity to ask for missing information that is historical in nature and does not change the price or substance of the bid offer.	Medium Term
10	Clarify application of prequalification principle. Foreign bidders may find requirements to have their solvency determined by the Central Registry to be onerous.	Immediate
11	Issue implementing regulations to reflect the provisions of Article 69 of the PPL. as applicable for consultancy services of intellectual nature like issuance of expression of interest to short list, technical scoring methodology based on quality etc.	Medium Term
<p>8.2 Pillar II—Institutional Framework and Management Capacity: Significant actions are required to strengthen the institutional framework and management capacity. The team recommends that the government take the following steps:</p>		
1	Implement the outstanding IMF and CFAA recommendations to more closely link development of the annual investment plan within MOF’s annual budget preparation process, so that the procurement plan is fully funded in the entity budget.	Medium Term
2	Review staffing levels of the Procurement Complaints Committee in the context of its existing workload and case backlog.	Immediate
3	Establish a system of national procurement statistics to monitor performance that provides complete information on all key aspects of public procurement transactions.(like value and number of contract, method of bidding,time taken to award, number of bidders in each bid, time taken to resolve complaint etc)	Medium Term
4	Support procurement process training for private sector suppliers by private sector training firms.	Long Term
<p>8.3 Pillar III—Procurement: To improve procurement operations and market practices, the government should take the following actions:</p>		
1	Ensure that members of procurement evaluation committees in procuring entities are selected from ministry staffs who have adequate procurement training, or will receive such training before assuming their responsibilities on a committee.	Medium Term
2	Review delegations of procurement decision-making authority within each ministries to ensure that most award decisions are in practice made by levels other than the minister.	Immediate
3	Ascertain if the existing dispute resolution mechanism is sound, and if so, ensure that the bidding and contract documents contain standard provisions for dispute settlement.	Medium Term
4	Use more independent construction supervision consultants to encourage higher quality in public works.	Medium Term

Sr#	Recommendation and Key Action	Priority
5	Increase competition by seeking new ways to reduce bidder financing costs and improve access to currently available financing.	Long Term
8.4 Pillar IV—Integrity and Transparency: To improve the integrity of the public procurement system, the government should undertake the following reforms:		
1	Ensure that possible corrupt activities in large-value procurements are closely examined ex ante by ministry management and ex post by the SAO, the Anticorruption Commission, and the internal audit function in ministries and in MOF.	Medium Term
2	Develop and implement an e- Government Procurement strategy that creates a more competitive marketplace for suppliers and negates efforts to corrupt the outcomes of bid evaluation processes.	Long Term
8.5 EU Accession Considerations: The MOF, as part of the EU Accession program, should address all the following weaknesses when considering procurement reforms		
1	The law gives procuring agencies and government excessive discretion in procurement procedures, which adversely affects the overall transparency and integrity of transactions and the entire procurement system.	Medium Term
2	Point systems and nonobjective criteria can be used for evaluation even if they do not suit the nature of the contracts involved-Complaints committee has also indicated its misuse.	Medium Term
3	Framework agreements and design contests are not limited in scope, whereas the conditions for using these procedures should be strictly reserved for specific contracts types – like contracts low value and simple item for framework agreement and aesthetical content for design contest.	Medium Term
8.6 Procurement Complaints Committee		
1	The government should amend the Law on Public Procurement to extend the suspension of bid processing from 3 to 15 days to match the statutory period in which the Procurement Complaints Committee is to process complaints, set a specified interval (one year) in which complainants can file a grievance with the Procurement Complaints Committee and enable authorities for the PCC to enforce implementation of its decisions.	Medium Term
2	To increase the throughput in complaints processing, the Procurement Complaints Committee should request the appointment of one additional member and permit the chair to establish two subcommittees of three members and the chair. A quorum would be the chair and two members	Immediate
3	The Procurement Complaints Committee should refer to the SAO for subsequent audit examination all noncompetitive bid awards above a threshold amount to be determined by the Committee in consultation with the SAO	Immediate

Sr#	Recommendation and Key Action	Priority
4	The SAO would include above issues as a regular part of its audit activities and report on these instances on noncompliance in its annual report.	Medium Term
5	The Procurement Complaints Committee should prepare an analysis of complaints by the types of problem encountered, using Committee decisions and explanations of violations to educate government entities and the public on good procurement practices. This report should be prepared annually, incorporated into the Committee's annual report, and disseminated in the media.	Medium Term
8.7 Internal Controls in the Ministry of Education and Science		
1	MOES should move urgently to address the significant weaknesses in its internal control systems by engaging an external private-sector audit firm to perform a detailed analysis and diagnosis, and provide detailed recommendations for a multiyear improvement plan	Immediate
2	MOF's newly created PIFC unit should assist MOES in implementing the changes required to bring its internal financial control and procurement processes up to PIFC standards	Immediate
3	MOES should develop explicit and formally approved criteria for the management, control, and approval of all classes of operating expenditures. These should be codified in a book of procedures and distributed to all staff with financial responsibilities.	Immediate
4	MOES should prepare, in consultation with MOF, a system for delegation of spending and commitment authority by the minister to accountable senior officials.	Immediate
5	The delegation instrument should establish materiality thresholds that would enable the vast majority of transactions to be authorized by senior officials and not the minister.	Immediate
6	The ministry should review the composition and qualifications of its Procurement Review Committee to ensure that members are trained and qualified to render decisions on bids.	Medium Term
7	The MOES working group on the municipal transfers monitoring system should complete its deliberations and implement the system on a timely basis to support the government when it decides to implement the second phase of its decentralization initiative.	Medium Term
8.8 Internal Controls in the Health Insurance Fund		
1	The team recommends that in 2009, the SAO review the governance, budget, internal control, and procurement changes within HIF and assess the progress of the improvement initiatives and their affect on performance in the health care system.	Medium Term
2	HIF management should launch an internal study to identify barriers to increased competition that reduce potential savings from international competitive bidding. The results of this study should be widely shared with MOH, MOF, and the Bank and reflected in	Immediate

Sr#	Recommendation and Key Action	Priority
	future International Competitive Bidding	
3	Drug Bureau operations should be audited on a priority basis to identify methods of accelerating their registration process to meet international norms	Medium Term
4	The HIF should exercise its right under Article 8 of the PPL and Clause 15 of the Prequalification Document to request additional (missing) information that does not affect the offer from a bidder. The present practice of automatic disqualification for missing information should cease.	Immediate
8.9 Accounting and Reporting		
1	The government should begin now to develop a multiyear plan to migrate in a carefully controlled manner from a cash basis to an accrual basis of accounting.	Medium Term
2	The government should prepare a set of financial statements for the new central government entity and FYR Macedonia submit it with the final budget in Parliament.	Medium Term
3	When the underlying processes of financial statement preparation and the expression of the external auditor's opinion have been fully developed, the government should make the statements the official financial statements of the FYR Macedonia	Medium Term
8.10 Internal Audit		
1	To improve compliance with procurement law and regulations for large value contracts, MOF internal audit branch should audit them on an ex-post basis in close cooperation with SAO.	Immediate
2	The PIFC Directorate should ensure an aggressive program of continuing education for its internal auditors throughout the public sector. This will ensure greater capacity to perform the modern internal auditing functions of identifying systemic weaknesses in internal control systems and formulating recommendations for mitigation.	Medium Term
3	The PIFC Unit in MOF should institute a program of regular communication with all members of the internal audit community government-wide. The major changes occurring through PIFC implementation and the significant impacts on internal auditors' practices and procedures make such communication essential.	Immediate
4	The MOES should allocate additional resources in its 2008 budget to strengthen the internal audit function, and direct audits toward assessment of the significant number of high-risk internal control systems and toward monitoring implementation of all outstanding audit recommendations on behalf of senior MOES management.	Immediate

Sr#	Recommendation and Key Action	Priority
8.11 External Audit		
1	The SAO should continue to report on the coverage of its annual audits, expanding the information to include the percentage of entities covered and the percentage of the total budgets involved.	Immediate
2	The SAO should begin now to assess and develop the internal procedures the General State Auditor needs to issue an audit opinion on the consolidated financial statements of the central government. This work should be completed so the SAO can issue an audit opinion on the government's summary financial statements for the 2008 fiscal year.	Medium Term
3	MOF's PIFC unit should use the percentages of unqualified external auditor opinions as one measure of the effectiveness of PIFC system implementation within the government of FYR Macedonia.	Medium Term
8.12 Anticorruption Commission		
1	The Anticorruption Commission should cooperate closely with both the SAO and the MOF's Internal Audit Harmonization Unit to ensure follow up on outstanding ACC recommendations; develop anticorruption auditing guidelines for use in all existing and new audit manuals; and develop specific auditing guides for high-risk areas of management, such as procurement.	Immediate
2	The current Law on State Audit should be amended to require the SAO to regularly follow up on audit entity implementation of ACC recommendations whenever the State Audit Office is monitoring entity implementation of its own prior recommendations, and report both sets of findings in the same manner and location.	Medium Term
3	The Anticorruption Commission should (i) work with the SAO and MOF's Internal Audit Harmonization Unit to ensure that all auditing guides appropriately reflect ACC areas of concern and norms for assessing corrupt activities and behavior, and (ii) provide the SAO with a list of ACC priority areas for the next three years so that the SAO can incorporate them into its multiyear audit-planning activities.	Immediate
4	Complaints. data should include the date a complaint is received; its type; the date an investigation starts or is ruled outside the commission's competence; the investigation completion date; the date of referral to another entity for investigation; the date the complaint is received back from an entity; investigative results; action taken; and the date of file closure.	Immediate
5	The Anticorruption Commission should develop measures of efficiency and program effectiveness to monitor its ongoing operations and regularly report results publicly. Findings can be used to support requests for new resources to meet expected	Medium Term

Sr#	Recommendation and Key Action	Priority
	workload	
8.13 Fiduciary Risk in Bank Projects		
1	The MOF should continue its efforts to get reliable information on budgets and budget execution for all donor funding, include the information in regular financial reporting, and encourage donors to use country systems.	Immediate
2	The government needs to establish the appropriate structures to certify management of pre-accession EU funds	Medium Term
3	Unacceptable National Competitive Bidding conditions to be discussed and agreed with the government based on the Public Procurement Law in force.	Medium Term

ANNEX A. PROCUREMENT BASE-LINE INDICATORS (BLIS ASSESSMENT)

PILLAR 1—LEGISLATIVE AND REGULATORY FRAMEWORK

A legislative and regulatory framework is the starting point for a sound governance system. This is covered in Pillar I of the OECD-DAC/World Bank Baseline Indicators (BLI) assessment. Pillar I encompasses two indicators—a legislative and regulatory framework for public procurement that achieves the agreed standards and complies with applicable obligations (Indicator 1), and the existence of implementing regulations and documentation (Indicator 2).

Indicator 1: Public procurement legislative and regulatory framework achieves the agreed standards and complies with applicable obligations

This indicator covers the legal and regulatory instruments from the highest level (national law, act, regulation, decree, and so on) down to the detailed regulation, procedures, and bidding documents formally in use. The indicator is broken down into eight subindicators (a–h), which are individually scored.

Subindicator 1(a): Scope of application and coverage of the legislative and regulatory framework

This subindicator measures the structure and regulatory framework governing public procurement, the extent of its coverage, and public access to laws and regulations.

Regulation of public purchasing in the Republic of Macedonia began with enactment of the Public Procurement Law (PPL) by the Parliament of the Republic in June 1998.⁴⁹ The PPL and its associated bylaws established a legal framework for the behavior of purchasers and bidders in public procurements. The experience from implementation of this law, as well as the need for further harmonization of the Macedonian legislation with that of the European Union, require additional changes and the enactment of a new law, based on EU principles and international standards.

The PPL covers central and local governments, public entities, public companies, and also some private entities. However, deciding which exact public and private entities are covered is left to the Minister of Finance. This gives the government large discretion in setting the scope of the law by deciding who is affected. Instead of listing the entities covered by the law, the Ministry of Finance may designate those not covered, though each designee should be justified.

Some contract types are not covered by the law. In particular, “items concerning state defense and security” are excluded under Article 3. This category actually may include goods, services, and works that are not directly related to defense purposes, in violation of the law’s intent. Other excluded contracts are services for voice telephony, satellite services, and radio telephony. These exclusions are hard to justify. The Public Procurement Law as well as associated bylaws are published in the *Official Gazette* and are available on the Web.

⁴⁹ The current Public Procurement Law was enacted by the Parliament of the Republic of Macedonia in March 2004 (*Official Gazette of the Republic of Macedonia*, No. 19/2004). It was later amended in December 2005 (*Official Gazette of the Republic of Macedonia*, No. 109/2005).

Indicator/Subindicator	Summary Assessment	Score
1(a). Scope of application and coverage of the legislative and regulatory framework	The legislative and regulatory body of norms is adequately recorded and organized hierarchically (laws, decrees, regulations, procedures, and precedence are clearly established, but clarification is needed for designation of entities not covered (with justification). Moreover, excluding defense-related items that are peripheral to national defense and security and services for voice telephony, satellite services, and radio telephony is unjustified. (According to PPB specificity of the military equipment are listed in the Decision for determining the equipment, goods, and services of defense character)	2

Subindicator 1(b): Procurement methods

This subindicator assesses whether the legal framework includes (a) a clear definition of permissible procurement methods and (b) the circumstances under which each method is appropriate.

There is a hierarchy of procurement methods and associated conditions. Under the PPL, the procuring agency may implement a public procurement by applying one of the following methods: an open invitation for bids, a restricted invitation for bids, negotiated procedures, a design contest, and a restricted invitation for consultant services. These procurement options may be used by procuring entities with few, if any, restrictions. This discretion means that open bidding is not the standard default method required by international procurement standards.

Restricted bidding may, under certain conditions however, be considered as an open bidding with prequalification. In that case all qualified bidders should be selected to submit a bid and not only those selected at the discretion of procuring entities. Article 60 of the PPL is not clear in this respect. Therefore, to fulfill the condition expressed by OECD/DAC subindicator 1(b), all qualified bidders should be invited to bid and no condition such as the one provided by Article 76 should be allowed. (According to PPB, all qualified candidates can submit bids after phase 1 of the open call.)

The design contest procedure is provided by the EU Directive. It gives a jury, chosen by the procuring entity, the opportunity to award a contract on unobjective criteria; this largely discretionary method should be reserved for projects with high esthetic content and should not be used for contracts such as civil engineering and data processing work.

Justification for use of negotiated procedure is too broad and vague, as suggested by Article 67, paragraph 1, and Article 77 that allow the use of this procedure for “technical, intellectual, or performance reasons.” These reasons for noncompetitive selection are open to abuse. Low-value procurement: contracts should be awarded to the lowest price and not to the “most favorable bid.” The latter justification gives the procuring entity too much discretion in awarding the contract. Restricting this type of procurement to one per year may be unrealistic; usage instead should be based on a procurement plan to avoid procurement splitting. Finally, conditions for concluding a framework agreement should be limited strictly to operating costs, avoiding capital investment expenditures.

Various provisions related to procurement methods are in compliance with international procurement standards:

Box A.1. International Standards that also Apply to Macedonia

- Public procurement, in accordance with Article 9, paragraph 1, of the PPL, must not be divided into parts nor its estimated value reduced to avoid implementation of a specific procedure determined by law.
- The rule book for assessing procurement value prescribes valuation procedures for public purchasing of goods, services, and works.
- According to paragraph 3 of Article 12 of the PPL, if the value of the procurement of goods and services exceeds the MKD equivalent of €400,000 or the value of works exceeds the MKD equivalent of €1 million, the procurement procedure must be implemented by publishing an international tender.
- Procurement using publication of an international tender is also permitted when the value is below the cited thresholds if the procuring agency deems it necessary.
- The procuring agency, according to Article 32, paragraph 2, of the PPL, shall define the technical specifications in accordance with the technical regulations and standards in force in the Republic of Macedonia, the European Union, or international standards

Indicator/Subindicator	Summary Assessment	Score
1(b). Procurement methods	Open bidding appears to be the implicit default method. Reasons associated with the use of negotiated procedure are too broad and vague. The design contest procedure may be misused if applied to routine civil engineering tasks rather than to work with high esthetic content.(in practice open bidding is dominant method of procurement)	2

Subindicator 1(c): Advertising rules and time limits

This subindicator assesses whether the legal framework includes requirements to publish contract awards as a matter of public interest and to promote transparency; publication of business opportunities is widely and easily accessible; and adequate time is provided between publication of opportunities and the submission date, consistent with the method and complexity of procurement, to prepare and submit proposals. Provisions of the legal framework related to this subindicator appear compliant with international and EU-accepted standards.

According to the PPL, if the value of the procurement exceeds the MKD equivalent of €3,000 the procuring agency must implement the procurement through one of the following types of procedure: open bid, restricted bid, competition for design preparation, or a restricted bid for consultant services.

The procurement invitation must be published in the *Official Gazette of the Republic of Macedonia*, and posted free of charge on the Web page of the Public Procurement Bureau within three days after the electronic version is submitted.

Open Bid Conditions:

The final deadline is determined by the procuring agency. It cannot be shorter than 52 days from the day of announcement. For an accelerated procedure, the deadline may not be shorter than 36 days from the day of announcement. Box A.2 contains other requirements.

Box A.2. Tender Announcement Requirements

The announcement for the open bid must contain the following:

- The name, address, and headquarters of the procuring agency, with telephone and fax numbers
- The number of the announcement, a description of the procurement good and the desired quantity, the place of delivery, a description of performance for works or execution for services
- Stipulation of the possibility to divide the procurement into parts, depending on the type of goods, equipment, and service, the place, and conditions for issuance of tender documentation
- The amount and method of payment required to purchase tender documentation
- The final deadline for submission of bids and the address to which bids should be sent
- Persons authorized to participate in the opening of the bids
- Date, hour, and place for unsealing the bids
- Requests to submit bid security and performance security
- Evidence and documentation whereby the bidder can prove its economic and technical capability
- The validity period of the bid
- Criteria for selection of the most favorable bidder and for contract award
- Description of the method of bid preparation, form and content of the bid, and other information pertinent to the procurement.

An accelerated procedure shall be implemented for the planned annual procurements of the procuring agency and is to be published two months in advance on the Web site of the PPB or when the urgency of the procurement requires implementation by deadlines shorter than those prescribed for the regular procedure.

The procuring agency shall determine the final date for receipt of bids within the deadline framework stipulated in Article 58 of the PPL. The final deadline for bid submission shall be expressed as a specific date and time and shall be determined in accordance to the nature of the public procurements, taking into account the reasonable needs of the procuring agency, the time needed for bid preparation, whether foreign bidders are expected to participate, and whether the minimal time limits are in accordance with the obligations undertaken by the government.

If the public announcement is published in the *Official Journal of the European Union* and in other official media outside of the EU (international tender), the final bid submission deadline cannot be shorter than 52 days from the day of announcement.

The deadline for submission of requests in a restricted bid cannot be sooner than 37 days following the day of announcement. The deadline for receiving the bids cannot be sooner than 40 days from the day of submission of the written invitation. When urgency is a consideration, the deadline for bid reception cannot be shorter than 30 days from the day the written request was sent out.

In accordance with Article 85(5) of PPL, a procuring agency must publish notice of a concluded contract on the Public Procurement Bureau Web site within 30 days of signing the contract.

Indicator/Subindicator	Summary Assessment	Score
1(c). Advertising rules and time limits	The PPL envisages adequate advertising, sufficient time limits for tender submission, and publication of notice of contract awards.	3

Subindicator 1(d): Rules on participation

This subindicator assesses participation and selection policies to ensure that they are nondiscriminatory.

Determination of bidder qualification is a key process. In Macedonia, there is confusion about the requirements involved. The provisions of Article 15 of the PPL (titled “Qualification of Bidders”) actually appear to apply to procuring entities (this might be a question of mistranslation). Articles 40 and 41 stipulate the documentation whereby bidders prove their financial, economic, and technical capability. The PPL contains no provisions for local, regional, and national privileges during implementation of procurement procedures. In accordance with Article 6, procurement agencies shall provide for fair competition among bidders accorded equal and nondiscriminatory positions; procurers must not discriminate based on bidder nationality or the country of origin of goods.

However the PPL also contains provisions that constitute a barrier to procurement operations and adversely affect the principles of equality and nondiscrimination established in the law. In the list of documents required to show their financial and economic capacity, bidders shall provide “proof of solvency” from the Central Registry and a “license from a competent body.” Accordingly a bidder will be excluded from the procedure if “the bidder fails to register in the appropriate court registry for performing the activity referred to in the procurement” or “does not have the license delivered by a competent authority for its operations.” The same conditions for exclusion apply to foreign bidders that fail to submit documents issued by equivalent domestic or foreign authorities; if no corresponding licensor exists in the bidder’s country of origin, it actually may be denied the opportunity to bid.

The determination of a bidder’s solvency is based on an “opinion” issued by the Central Registry and is not governed by rules for objectively determining the financial capacity of the bidder to fulfill the contract. If the Central Registry issues a “negative opinion,” the procurer has to reject the bidder, even if the financial criteria required by the contract have been met. In practice, a negative opinion by the Central Registry is tantamount to debarment for all future contracts. (According to PPB, solvency is determined by the Rulebook and on the basis of a firm’s economic and financial capability.)

Finally, the provisions of the law are sometimes confusing about standards (Article 35) and seem to impose national standards⁵⁰ on procurement quality.

If the law does not overtly restrict bidder participation, some provisions requiring a previous registration or a license to demonstrate quality may unintentionally or otherwise hinder equal access to procurement. Any qualification determination should be made on criteria specific to the procurement and not necessarily on preregistration or possession of a license.

⁵⁰ Such as MKS EN-4500.

No specific provision in the PPL guarantees fair competition for private entities competing with public enterprises whose operations may be subsidized. Public enterprises established by the state and the units of local self-government can apply as bidders under the same conditions as other bidders.

Indicator/Subindicator	Summary Assessment	Score
1(d). Rules on participation	Administrative barriers to participation arise from requiring “proof of solvency” from the Central Registry and a “license from a competent body.” The need for an “opinion” by the Central Registry is particularly onerous since a negative verdict excludes a bidder from further participation. No level playing field is guaranteed when private sector firms compete with public enterprises (which may be subsidized).	1

Subindicator 1(e): Tender documentation and technical specifications

This subindicator assesses the degree to which the legal framework specifies the content of tendering or solicitation documents to enable suppliers to understand clearly what is requested from them and how the tendering process is to be carried out.

The procuring agency shall prepare tender documentation in a way that enables the bidder to submit a valid offer. Tender documentation shall be prepared in accordance with the needs of the procuring agency and the prescribed standards and rules for the respective types of procurements of goods, services, and works. The tender documentation contains the invitation for bid submittal, instructions to bidders, the bid form, technical specifications, model contracts, and other items. The tender documentation does not include general and specific conditions of the contract, which are a required element of the tender documents.

Technical standards should be based on neutral specifications, citing international practice. In tender documentation, the procuring agency must not tailor the technical characteristics of the procurement subject to a specific brand, model, type, or origin of production. A monetary fine will be levied against the person within the entity responsible for violating this requirement. When the procuring agency cannot describe in the tender documentation the subject of the procurement in a way that will make the specifications sufficiently understandable for bidders, the stipulation of elements such as trademark, patent, or type of producer must include the words “or equivalent.” Although PPL Article 31 refers to “European Technical Approvals,” this normally refers to approvals granted by European technical organizations, and should not be confused with state-authorized bodies as suggested by PPL Article 2(1).

In addition, even though the PPL requires technical specifications to be compliant with national, EU, and international standards, no order of preference is indicated, allowing national standards to be substituted for international standards. Furthermore, when European standards or European Technical approvals do not exist for a particular procurement item, specifications shall be defined by reference to Macedonian standards and Macedonian approvals without any reference to equivalence as required by Article 23 of the EU Directive.

Finally, Article 33 provides a list of exceptions justifying procurers not referencing EU technical

standards, particularly if the use of such standards causes disproportional costs or technical difficulties (hyphen 3 of paragraph 1). Since the reasons for ignoring EU or international standards are so broad, they may create hidden discrimination against foreign bidders.

Indicator/Subindicator	Summary Assessment	Score
1(e). Tender documentation and technical specifications	Article 36 of the PPL defines content of tender documentation.. Not referencing EU or international standards needs to be defined more clearly to prevent misuse of Article 33.	2

Subindicator 1(f): Tender evaluation and award criteria

This subindicator assesses the quality and sufficiency of legal framework provisions for maintaining objectivity and transparency of bid evaluations; and the degree of confidentiality kept during the process to minimize the risk of undue influences or abuse.

Disclosure and use of evaluation criteria:

The procuring agency shall enclose the evaluation criteria in the invitation and the tender documentation and can only apply the criteria there. The law does not specify the methodology for stating the criteria in monetary terms which may be addressed in a secondary regulation.

Criteria expressed monetarily or as pass/fail are based either on the lowest price or the most economically advantageous tender in terms of price, delivery deadline, operating costs, efficiency, quality, and so forth. Except for esthetics and “quality,” these criteria may be evaluated objectively if expressed in monetary terms known in advance to the bidders; however, the PPL retains a point system that does not offer sufficient objectivity in the award process, except for consultant services.

Therefore the team recommends different award methods, depending on the nature of the contract. This may include contracts for consulting services, construction, goods, or current services. For instance, technical merits and a point system may be required for consultant services to account for the quality of the proposal. On the other hand, for operating expenses the lowest price may be an adequate method to use when below a determined threshold. In all other procurement activities for goods, construction, and services, selection criteria should be restricted to those that can be evaluated objectively. The contract should be awarded to the responsive bid costing the least after computing all criteria evaluated monetarily. Without further information on the correlation among evaluation criteria, award methods, and procurement types, the overall quality of the evaluation process is difficult to assess.

Evaluation of consulting services:

Consultant services relate to intellectual products (studies, designs, research, experiments, and examinations) and may involve use of copyright. Selection of consulting services is governed by the provisions for “restricted invitation,” but no specific evaluation and award method is specified. It therefore appears that consultant services may be treated like procurement of goods or construction despite the great differences in nature and the anomalies that arise from using the same basis for evaluation. In addition, the evaluation committee could conduct concurrent negotiations since it can interview each bidder, giving bidders the opportunity to re-specify, complete, or modify their proposals. This violates the internationally accepted principle that negotiation should not be allowed except in very

specific circumstances.

Confidentiality of the evaluation:

The PPL requires the purchaser to “keep confidential all data about the bidders contained in their bids, classified as confidential pursuant to the law.” This provision is slightly different from the principle that information about the examination and evaluation of tenders is kept private during the evaluation process. The law seems to limit the scope of nondisclosure to the information legally classified as confidential; whereas the information in the bids and the discussions of the evaluation committee should not be disclosed until the winning bid is announced.

Indicator/Subindicator	Summary Assessment	Score
1(f). Tender evaluation and award criteria	For goods and works, an evaluation point system brings insufficient objectivity to the award process. Not only is a detailed procedure for consultant services lacking, but Article 71(2) permits the evaluation committee to conduct concurrent negotiations. The law (Article 7) is unclear if selection process confidentiality is to be kept till the winner is chosen. This article focuses only on the confidentiality of data about bidders.	1

Subindicator 1(g): Submission, receipt, and opening of tenders

This subindicator assesses how the legal framework regulates the process of receipt of tenders and tender opening.

Bid opening:

The PPL requires that the unsealing of bids for the open-bidding and the second stage of the restricted bidding processes shall be public. The public opening of the bids shall begin at the place and time determined in the bidding invitation, but shall not occur later than one hour after the expiration of the deadline for submission of the documentation. When reading the bids, the following is said aloud: the bidder’s name, the price of the bid and the currency in which it is denominated, the possible discount provided, and the offered guarantee.

Confidentiality of bids before bid opening:

The procuring agency shall keep secret bidders names and the submitted bids until the specified time for unsealing the bids. According to Article 8 from the Law on Changes and Additions to the PPL, electronically conducted public procurement shall be implemented using an open and a restricted bid in accordance with the provisions of the existing law and the law on data in electronic form and electronic signatures. The electronic system for public procurement shall ensure that the communication and exchange, as well as the storage of information are performed in a way that secures data integrity and preserves the confidentiality of the bids and applications; and the procuring agencies will review the content of the bids and applications only upon expiration of the specified submission deadline. Data exchange (bids and documents) during electronic implementation of public procurement shall be encrypted and saved in that form, and the computer system shall automatically decrypt them and make them visible and accessible only on the day of bid opening to preserve security.

Records for bid opening:

The commission shall be obligated to keep minutes of the procedure of public opening of the bids in accordance with the provisions of the PPL. These minutes shall contain data on the procuring agency, place and time of bid opening, the number of the invitation to bid and the subject of the procurement, first and last names of the members of the Public Procurement Commission and of the authorized representatives of the bidders, the number of received bids, the title (name) and address of the bidders, or the code of the bidder if the competition is anonymous according to the order of submission of the bids, the offered prices and the omissions and remarks of the bidders. The minutes shall be signed by all members of the Public Procurement Commission. A copy of the minutes of the public opening of the bids will be submitted to all bidders which will ask for this and whose bids have been opened on the public bid opening within five days from the day of receipt of the request for a copy of the minutes.

Reasons for rejection:

The PPL specifies that public bid openings should continue if at least two bidders have submitted a proper documentation. Consequently, if any bidder is left alone, as the only one with the proper documentation, his bid should be rejected according to the law; there is no reason to reject a proper and valid bid based on the noncompliance of the other and that any valid bid should be evaluated.

Incomplete documentation:

Article 47(2) specifies that bidders who have submitted incomplete documentation “shall be excluded from the procedure and their bids shall not be reviewed.” Rejection of bids based on unsubstantial elements such as incomplete or invalid documentation, however, should be decided as a last resort, when all bids have been evaluated and only after having invited bidders to provide the missing information. Early rejection of bids restricts the competition.

Indicator/Subindicator	Summary Assessment	Score
1(g). Submission, receipt, and opening of tender	Article 45 requires a public bid opening, with minutes kept of the proceedings. The public opening must proceed if at least two bidders have provided complete documentation. Bids are not evaluated at bid opening. Article 47(2) specifies that bidders who have submitted incomplete documentation “shall be excluded from the procedure and their bids shall not be reviewed.” This may lead to unnecessary rejection of tenders and prematurely narrow competition.	1

Subindicator 1(h): Complaints

Confidence in a procurement system is a powerful incentive for encouraging competition. This indicator assesses whether the legal framework establishes the right to review, the matters subject to review, the time frame for reviews, and the different steps in the review process. A fundamental component is the right to procurement decision review by an efficient and functionally independent process.

The mechanism for handling procurement complaints is satisfactorily described in the PPL. The law

establishes an independent review body, known as the Public Procurement Complaint Committee⁵¹ that is independent of the procuring entities and the public sector. The government chooses the committee chairman and members from citizens in private life as a token of nominal independence. PCC independence should be guaranteed by the public profile of committee members and by the level of resources available to perform their tasks. The allowance received by committee members should be substantial, and at least equal the professional income they sacrifice from not performing their regular jobs as lawyers, auditors, or engineers. Unfortunately, the favorable statutory language is belied by the unfavorable conditions under which the Complaint Committee must operate. The lack of a permanent institutional set up coupled with the huge number of complaints to process renders the committee ineffective despite the dedication and professionalism of its members.

Scope of procurement process reviews:

The review process is open to all actual participants under the PPL, which permits all discontented bidders and those who have purchased tender documentation to “file objections against the method of work and the method of reviewing and assessment of the submitted bids.” The concept of “persons who have participated in the public procurement procedure” is not limited to actual bidders but includes those rejected during the first stage.⁵²

Complaints are not restricted to award decisions. The PPL notes that “legal protection shall be provided “in all stages of public procurement procedure,”⁵³ a very positive feature. Unfortunately, the two-day time limit to complain is too short and should be extended.

Timely review of complaints:

The law gives the Complaint Committee 15 days after receiving a complaint to rule on its merits. Filing a complaint apparently stops the procurement process, creating a de facto suspension. This is a positive feature, except for those cases in which the suspension may irremediably affect final performance of the contract (emergency situation).

Effect of the review:

If the allegations are valid and substantiated, the Complaint Committee shall cancel the selection decision or the whole procedure. For lesser violations, such as inconsistencies or mistakes in the bidding documents, the Complaint Committee is vested with the power to instruct the procuring entity to take corrective action for the violation. The Complaint Committee decision is final, but may be challenged at the judicial level (Article 98). According to this article, the committee decision should be enforceable against procuring entities found to be in violation; however, no provision addresses the available legal means for the Committee actually to enforce its decisions.

⁵¹ See Article 99.

⁵² See Article 92 (1).

⁵³ See Article 90 (2).

Indicator/Subindicator	Summary Assessment	Score
1(h). Complaints	The complaint mechanism described in the law is satisfactory; however, the conditions under which the Complaint Committee operates (with no permanent institutional set up) to process a huge number of complaints, makes it ineffective despite the dedication and professionalism of its members.	2

Indicator 2: Implementing regulations and documentation

This indicator verifies the existence, availability, and quality of implementing regulations, operational procedures, handbooks, model tender documentation, and standard contract conditions.

Subindicator 2(a): Implementing regulations that provide defined processes and procedures not included in higher-level legislation

This verifies the existence, clarity, accessibility, and comprehensiveness of administrative regulations that further detail and clarify application of the PPL.

According to the Public Procurement Law, the Ministry of Finance codifies secondary administrative law through implementing regulations: including a list of the entities subject to the Public Procurement Law; a variety of rule books covering such items as the form and content of the annual plan for public procurements, the procedure for unsealing and announcing bids from an open and a restricted bidding; the form for keeping minutes of the bid opening; the content of the document for creditworthiness; the criteria for determining the equipment, materials, and services related to national defense and public safety; the rules for assessing procurement value in various contingencies; the form, content, and method for maintaining the register of contracts executed by the procuring agencies and the unique register; the mandatory elements of tender documentation; the methodology for expressing evaluation criteria in points; the method, conditions, and procedure for selection of experts to verify the regularity of the public procurement procedure; and the software and protocols for using an electronic public procurement system. These and other relevant bylaws are published in the *Official Gazette of the Republic of Macedonia*. All enacted bylaws can also be found on the Web site of the Public Procurement Bureau, in Macedonian and English.

Indicator/Subindicator	Summary Assessment	Score
2(a). Implementing regulations that provide defined processes and procedures not included in higher-level legislation	Subindicator 2(a) requirements appear to be met.	3

Subindicator 2(b): Model tender documents for goods, works, and services

Model documents of good quality promote competition and increase confidence in the system. To ensure uniform application of the law and its bylaws, the Public Procurement Bureau has prepared standard

tender documentation for the procurement of goods, services, and works through open and restricted bidding. The content of the tender documentation for the open and the restricted bid is prescribed by law.⁵⁴ It requires that tender documentation for an open bid and the second phase of a restricted bid shall contain an invitation to submit a bid; instructions to bidders on bid preparation; the form of the bid; the form of the statement whereby bidders accept the conditions of the call; a model contract; the type, technical characteristics, quality, quantity, and description of the subject of the procurement (goods, works, or services); the method of implementing control and providing quality assurance guarantees; a time schedule for execution; where the execution of works or services or the delivery of goods is to be made; the technical documentation and plans; the form of the invoices; and a stipulation of the types of financial guarantees and other elements that, depending on the subject of the particular procurement, are necessary for the preparation of the bid.

According to paragraph 8 of the same article, the tender documentation in the first phase of the restricted bid should contain an invitation for application submission; application preparation instructions; the application form; and the form for determining bidder qualifications, along with instructions about how bidders prove their bona fides. In addition, the rulebook for tender documentation prescribes the mandatory items to be included for an open bid and the second stage of the restricted bid, as well as the form of the bid, the statement for accepting the conditions from the invitation to bid, the application for the first stage of the restricted bid, and the form for determining bidder qualifications and the instructions to bidders on how to prove their qualifications.

Indicator/Subindicator	Summary Assessment	Score
2(b). Model tender documents for goods, works, and services	The Public Procurement Bureau has prepared standard tender documentation for the procurement of goods, services, and works for open and restricted bids. The content of tender documentation for open and restricted bids has been prescribed with Article 36. Requirement of this subindicator is met.	3

Subindicator 2(c): Prequalification procedures

Prequalification of participants in a procurement is normally limited to complex high-value procurement using pass/fail criteria. This subindicator is only partially met. Articles 40 to 42 of the PPL list the documents that may be required to prove the financial and technical capability of the bidders, but there is apparently no expressed requirement in the law that a contract shall be awarded to a qualified bidder except for “restricted invitation.” While Article 15 refers to the “competence of bidders,” the provision applies only to procuring entities. There are requirements for solvency, which involve an opinion from the Central Registry. The law is unclear if the procuring entity can ask for missing documentation or what happens if it does so. This suggests the possibility that qualifications may not be considered for open bidding and the other forms of bidding, which would constitute a significant departure from accepted international standards.

⁵⁴ LPP, Article 36, paragraphs 6 and 8.

Indicator/Subindicator	Summary Assessment	Score
2(c). Procedures for prequalification	Application of these procedures requires clarity. Moreover, foreign bidders may find requirements to have their solvency determined by the Central Registry to be onerous. Article 40 is unclear if missing documentation may be requested by the procuring agency rather than peremptorily disqualifying the bidder. This subindicator is only partially met	1

Subindicator 2(d): Procedures suitable for contracting for services or other requirements in which technical capacity is a key criterion

The law does not spell out how this aspect shall apply to consultancy services of an intellectual nature. “Technical capacity” is not a criterion reserved for consultant services but for other types of procurements. No detailed provision is present in the law explaining how the criterion is to be used to determine the award; however, according to the list of rulebooks, secondary legislation exists and details the methodology for using a point system.

Indicator/Subindicator	Summary Assessment	Score
2(d). Procedures suitable for contracting for services or other requirements in which technical capacity is a key criterion	The law does not spell out how this aspect shall be applied to consultancy services of an intellectual nature.	1

Subindicator 2(e): User’s guide or manual for contracting entities

This subindicator covers the existence of user’s guide or manual for contracting entities. The Public Procurement Bureau is required to provide instructions and prepare practical manuals, handbooks, and comments about the rules of public procurement and publish a bulletin. A user’s manual is not presently available; it will be prepared as a component of the EU Cards program. A training guide for public procurement has been prepared. This is a solid base procuring agencies can rely on to correctly apply the law when implementing public procurement procedures. The manuals are on the bureau’s Web page, along with FAQs (frequently asked questions) to inform the reader on the application of specific provisions of the law.

Indicator/Subindicator	Summary Assessment	Score
2(e). User’s guide or manual for contracting entities	A guide for public procurement is available. The Web page contains frequently asked questions.	3

Subindicator 2(f): General Conditions of Contracts (GCC) for public sector contracts covering goods, works, and services consistent with national requirements and, when applicable, international requirements

General Conditions of Contracts for the most common types of contract are available on the Web site. These are generally consistent with international practices. Improvements based on actual experience are required, as is a standard RFP (request for proposal) document for consultancy of an intellectual nature. According to the PPB, several provisions in GCCs will have to be agreed by both parties on such issues as the following: conditions for contract termination, compensation for damages, the agreed penalty for delays and failure to complete the contract, the penalty interest rate for payment delays, indemnification, resolution of disputes, and others. These clauses shall be standard and not subject to negotiation unless to specify provisions such as currency, procuring entity names, and similar matters.

Indicator/Subindicator	Summary Assessment	Score
2(f). General Conditions of Contracts (GCC) for public sector contracts covering goods, works, and services consistent with national requirements and, when applicable, international requirements	GCC are available for the most common types of contract and are posted on the PPB Web site. These are generally consistent with international practices. Improvements are needed based on actual experience, and request-for-proposal document needs to be developed for consultancy of an intellectual nature.	2

PILLAR II—INSTITUTIONAL FRAMEWORK & MANAGEMENT CAPACITY

Pillar II looks at how the procurement system in a country is operating in practice through the institutions and management systems that are part of overall public sector governance.

Indicator 3: The public procurement system is mainstreamed and well integrated into the public sector governance system

In Macedonia, *the public procurement system is decentralized* and provides procurement authority to central government entities and the units of local self-government. The latter includes the municipalities as well as the legal entities established by them⁵⁵ to procure goods, services, and works. The Public Procurement Law says that procuring agencies start implementation of public procurement only if they have planned for it and provided funds in their budget, financial plan, or investment program. When a public procurement lasts for several years, then the obligations for the next years, should be planned and provided for in the procuring agency's budget process, financial plan, or investment program. The Budget is the annual plan of revenues and expenditures, and the one prepared in 2008 in the context of a multiyear fiscal and expenditure plan.

Subindicator 3(a): Procurement planning and associated expenditures are part of the budget formulation process and contribute to multiyear planning

⁵⁵ These include public enterprises, joint stock companies, and limited liability companies established by the central or local government or in which the central or local governments own a significant part of the capital or have a majority of shareholder votes.

Formulation of annual budgets are based on the outcomes or outputs that the government as a whole and its agencies expect to achieve in a particular period. Proper preparation of budgets needs reliable cost data and time tables for planned procurement. According to Article 11, paragraph 1, of the PPL, based on the determined sources of funding, the procuring agencies shall enact a plan of their total procurement needs in the current year by type of products, services, and works. The public procurements plans of the procuring agencies have to correspond to the budget or financial plan. Since the planning horizon to date has been restricted to the budget year, there is no linkage between multiyear investment plans and the annual procurement plans reflected in the annual budget. Public enterprises are self-financing and submit their annual financial plans and investment programs to their boards of directors. The proposed plans are adopted by the management boards of utilities, and if they are public enterprises controlled at the municipal level (such as utilities) they are referred to the local self-government. These plans are enacted annually and are used to prepare the public procurement plans for the year. For each subsequent year, depending on the realization of the previous public procurement plan, an appropriate amount of funds for public procurement are planned for the investment program for that year.

In all entities, public procurement planning is constrained by the availability of financial resources. This means that the annual investment plan cannot be fully implemented because budgetary resources are unavailable. This may be offset partially by lapses in the estimated cash flows associated with slower-than-anticipated implementation of capital projects. Thus there is risk that some entities may have incurred contractual liabilities for projects that they are unable to fund during the current year or undertaken liabilities for signed contracts that cannot be realized by the agreed deadlines.

Indicator/Subindicator	Summary Assessment	Score
3(a). Procurement planning and associated expenditures are part of the budget formulation process and contribute to multiyear planning	Procurement plans are normally prepared based on annual or multiyear operating plans. Links with budget planning are weak, and plans are not required to match available budgetary allocation before expenses are committed. The investment plans are not linked to the current budget to provide ongoing O&M (Operation and Maintenance) when the capital projects are completed.	1

Subindicator 3(b): Budget law and financial procedures support timely procurement, contract execution, and payment

This subindicator assesses the degree to which budget law and financial management procedures are adequate to meet procurement needs. The procurement budget and financial management systems should interact in a way that once procurement decisions are made, they trigger corresponding actions on the budgetary and financial side. As previously mentioned, there is no direct linkage between the investment plan and the budget, requiring adjustments in the procurement plans to accommodate variations between the investment plan and the procurement plan. There are no prescribed standards for procuring agencies related to the deadline and the method of payment and the maturity of obligations. Rather the method of payment and invoicing is defined in each contract separately. Supplier arrears, once a major problem in the Macedonia PFM system, have been largely eliminated with the introduction of the Treasury system and its commitment controls.

Indicator/Subindicator	Summary Assessment	Score
3(b). Budget law and financial procedures support timely procurement, contract execution, and payment	There are no standard payment terms that apply to all procurement contracts of similar types. The Treasury system precludes overcommitment of appropriation chapters, including those for goods and services and capital.	1

Subindicator 3(c): No initiation of procurement actions without existing budget appropriations

This indicator assesses whether system safeguards preclude initiation of procurement actions unless funds have been allocated for the procurement in question. Entities start implementation of the public procurement procedure only if they have planned and provided funds in their budget, financial plan, or investment program. Thus the public procurement procedure can commence if the funds are planned for and provided in the budget, financial plan, or investment program. The procuring agencies, which are budget users, are obligated to request confirmation for provided funds and permission to sign a contract from the Ministry of Finance before a public procurement contract can be concluded. The MOF Budget Department controls commitments against the budget; these extend to multiyear commitments in the case of major capital projects.

Indicator/Subindicator	Summary Assessment	Score
3(c). No initiation of procurement actions without existing budget appropriations	The law requires certification of availability of funds before solicitation of tender takes place. This is performed by the Budget Department when the request to commit funds to the project is processed.	2

Subindicator 3(d): Systematic completion reports are prepared for certification of budget execution and for reconciliation of delivery with budget programming

This subindicator is a measurement of the feedback mechanism needed to ensure that information on contracts covering major budget expenditures is provided to the budgetary and financial management systems in a timely manner to support the overall public financial management system. Each budget user and local authority prepares its final accounts for annual revenues and expenditures for submission to MOF. At the same time, each procuring agency is obligated to submit its register of performed public procurements to the Public Procurement Bureau, together with copies of all individual contracts exceeding €3,000. For 2006 the bureau received data on 5098 signed contracts for public procurement, with a total value of MKD 10,409,491,510(US\$ 231 Million). However this information appears incomplete since data on signed contracts for 2006 are constantly coming in and the database is updated daily. (According to PPB, large procuring entities regularly report).

Indicator/Subindicator	Summary Assessment	Score
3(d). Systematic completion reports are prepared for certification of budget execution and for reconciliation of delivery with budget programming	Information on the completion of contracts is erratic or normally is submitted with considerable delay after the fiscal budgetary period.	1

Indicator 4: The country has a functional normative and regulatory body

This indicator focuses on the independence of regulatory function, the scope and effectiveness of its performance, and the degree of coordination between responsible organizations. The Public Procurement Bureau began operating in June 2005. It is the central-level institution responsible for development of a public procurement system that complies with accepted principles of public purchasing: legality, rationality, efficiency, transparency, nondiscrimination, and equal treatment of bidders. It is also charged with encouraging competition.

The Public Procurement Bureau is ensconced within the Ministry of Finance and is not a legal entity. The bureau is managed by a director, appointed by the government. While the PPB is not financially independent, it is independent operationally and in its decisions. It is organized in two departments: the department for promotion of the public procurements system focuses on normative and regulatory activity; and the department for register and analysis collects and analyses statistical data about public procurement procedures.

According to the Public Procurement Law, the Commission of the Government of the FYR of Macedonia for Appeals on Public Procurements (also known as the Procurement Complaints Committee, or PCC) adjudicates appeals of decisions rendered during public procurements. The committee consists of a president and four members and their deputies, who are appointed from a pool of renowned professionals: lawyers, notaries, commercial auditors, engineers, and others appointed by the government of the FYR of Macedonia.

Subindicator 4(a): The status and basis for the normative/regulatory body is covered in the legislative and regulatory framework

The Public Procurement Bureau is a national-level institution authorized to monitor and promote the public procurement system in the Republic of Macedonia. The competencies of the Public Procurement Bureau are generally provided in Article 28 of the Public Procurement Law, but some are provided in other provisions.⁵⁶ Gaps in the system still exist. Articles 103 and 104 of PPL require the Central Internal Audit Unit to probe for irregularities and faults in the performance of “procurement procedures in progress,” creating overlaps with the the PPB and the Complaints Commission. The latter, moreover, though independent, lacks a formal structure. A complainant cannot be sure what process will be followed in handling a complaint since the commission has no permanent structure and an enormous number of

⁵⁶ The competencies of the Commission of the Government of the Republic of Macedonia for appeals on public procurements are provided in Articles 94 through 98 of the Law.

complaints to handle, making its performance ineffective.⁵⁷

Indicator/Subindicator	Summary Assessment	Score
4(a). The status and basis for the normative/regulatory body is covered in the legislative and regulatory framework	There is a regulatory body or functional designation, but there are gaps or overlaps of regulatory responsibilities for complaints review due to involvement by the Central Internal Audit Department.	2

Subindicator 4(b): The body has a defined set of responsibilities

The Public Procurement Bureau has a comprehensive set of responsibilities, including the following: initiates proposals to the Ministry of Finance for adopting legal and other acts for public procurements; monitors and analyses implementation of public procurement laws and regulations, the functioning of the public procurement system, and proposes amendments for system improvement; issues opinions about provisions and applications of the PPL; advises and assists entities on procurements questions; prepares standard tender documentation and standard forms for open and restricted-invitation procedures and for the negotiation procedure; maintains the unique register and subregister for procuring entities' procurements and updates and makes them available to the public through the bureau's Web site; undertakes measures and immediately informs the government and the Ministry of Finance about irregularities found in public purchasing; determines minimal professional qualifications of public procurement personnel; organizes and conducts training for civil servants and other professionals about public procurement according to previously enacted programs; cooperates with international institutions and other foreign entities to develop the public procurement system; mediates international cooperation with the public procurement system and plans and coordinates appropriate foreign technical assistance; submits an annual report to the government on activities to strengthen the public procurements system and how it operates; prepares manuals, handbooks, and commentaries of public procurement rules and publishes a bulletin; appoints the expert who will check, upon bidder's request, the regularity of public procurement procedure for tenders whose value exceeds €30,000 in Macedonian denar equivalent; and performs other activities prescribed by law.

Indicator/Subindicator	Summary Assessment	Score
4(b). The body has a defined set of responsibilities	There is a defined set of responsibilities for PPB, but overlaps/conflicts exist in the complaints review mechanism by involving the Central Internal Audit Unit in addition to the Complaints Committee.	2

Subindicator 4(c): The body's organization, funding, staffing, and level of independence and authority (formal power) to exercise its duties should be sufficient for and consistent with its responsibilities

⁵⁷ See also indicator 1(f).

Indicator/Subindicator	Summary Assessment	Score
4(c). The body's organization, funding, staffing, and level of independence and authority (formal power) to exercise its duties should be sufficient for and consistent with its responsibilities	The existing legal status, the organizational setting, the staffing of the Public Procurement Bureau as the authority within the Ministry of Finance are consistent with its legislatively mandated functions. The bureau has a total staff of 13 and operates within the budget of the Ministry of Finance. Additional resources are required. The Public Procurements Bureau does not have financial autonomy but depends on the MOF.	2

Indicator 4(d): The responsibilities also should provide for separation and clarity to avoid conflict of interest and direct involvement in the execution of procurement transactions

Indicator/Subindicator	Summary Assessment	Score
4(d). The responsibilities also should provide for separation and clarity to avoid conflict of interest and direct involvement in the execution of procurement transactions	The PPB has no responsibility for carrying out public procurements, nor may its staff take part in the work of an evaluation commission since that would create a conflict of interest.	3

Indicator 5: Existence of Institutional Development Capacity

This indicator assesses the extent to which the country or an agency has systems to support and monitor the performance of the procurement system, and to formulate and implement improvement plans. The Public Procurement Bureau has developed a system of support, monitoring, and development for public purchasing. The comprehensive data submitted to the bureau provides the raw material for analyses to formulate solutions for public procurement problems and strengthen systemic performance.⁵⁸ The Republic of Macedonia has developed a system for collecting statistical procurement data through a procurement register in which procuring agencies enter detailed information on purchases and contracts.⁵⁹

Subindicator 5(a): The country has a system for collecting and disseminating procurement information, including tender invitations, requests for proposals, and contract award information

The Public Procurement Bureau has established information systems for collection and dissemination of data on public procurements. The information is updated daily and is available on the PPB Web site (<http://javni-nabavki.finance.gov.mk>) for free access by any interested party. Most procuring agencies in FYR Macedonia submit their required data on time, and it is placed on the Web site by the legally prescribed deadline.

⁵⁸ Data covers planning, type of procedure, interested bidders, contract signing, and more.

⁵⁹ The information is posted on the bureau's public Web site and is used by PPB for analytical purposes.

Published information includes annual public procurement plans of government entities; all open and restricted invitations (domestic and international) without compensation; data on most (but not all) signed contracts, as well as information on the public procurement procedure followed. The Web site also provides additional detailed information on public procurement procedure, including legal regulations and legislated model templates, contracts and tender documentation, bylaws, and other data. Interviews with PPB indicate that it will publish periodic reports during 2007 on implemented public procurement procedures, including detailed statistical procurement data.

Indicator/Subindicator	Summary Assessment	Score
5(a). The country has a system for collecting and disseminating procurement information, including tender invitations, requests for proposals, and contract award information	There is a system for providing information on some contracts. The information is not comprehensive.	1

Subindicator 5(b): The county has systems and procedures for collecting and monitoring national procurement statistics

Statistical information on procurement is essential to evaluate policies and operation of the system. Collection of statistical public procurement data occurs through the register of implemented public procurements by procuring agency, as well as submissions of RJN-1 forms to the bureau after each contract signing. While the system is in place, it is not used consistently by all procuring entities, and key data are omitted. The absence of these data make it difficult to assess the economy and efficiency of procurement.

Indicator/Subindicator	Summary Assessment	Score
5(b). The county has systems and procedures for collecting and monitoring national procurement statistics	Limited information on awarded contracts is available on the Web site. More-comprehensive information is needed, including total procurement by number, value, purchasing method, time lines for awarding, number of bidders per tender, and unit prices to assess economy and efficiency and competition. Filling these gaps will also help in establishing compliance/performance indicators on how the national procurement system operates and to identify trends. Absence of these data makes it difficult to assess the economy and efficiency of procurement.	1

Indicator 5(c): A sustainable strategy and training capacity exists to provide training, advice, and assistance to develop the ability of government and private sector participants to understand the rules and regulations and how they should be implemented

Since establishment of the Public Procurement Bureau, 18 public procurement training sessions have been held.⁶⁰ Approximately 350 participants attended from all entities subject to the Law on Public Procurement. These sessions addressed the management of public procurement and the subtleties of implementing regulations, and provided typical solutions for common problems arising during public purchasing. The procuring agencies have ongoing access to the Public Procurement Bureau via multiple channels: texting questions through the Web portal; calling by telephone; or in writing. The bureau also provides assistance in designing and preparing tender documentation for various types of procurement.

Indicator/Subindicator	Summary Assessment	Score
5(c). A sustainable strategy and training capacity exists to provide training, advice, and assistance to develop the ability of government and private sector participants to understand the rules and regulations and how they should be implemented	A training and capacity-building strategy provides for a substantive permanent training program of suitable quality and content for building skills among procuring entity personnel. But initiative is lacking in training private sector participants.	3

Subindicator 5(d): Quality control standards are disseminated and used to evaluate staff performance and address capacity development issues

This subindicator verifies the existence, relevance, and comprehensiveness of quality assurance and standards for processing procurements and to ensure their systematic application in monitoring of performance. The PPL requires that every procuring agency constitute a committee for public procurement, whose members are selected from the pool of employees. Depending on the complexity and specificity of the public procurement, the committee may also involve experts from the area related to the subject of a particular procurement. The qualitative standards for implementing public procurements are detailed in the publication *Guide to Public Procurements*, and are available on the PPB Web site at <http://javni-nabavki.finance.gov.mk>.

The method and procedures governing the work of the Public Procurement Committees are subject to internal audit by the MOF, although this report recommends that this practice of ex ante review should cease. Rather, procurement audits should be conducted ex post by the internal auditor within the procuring entities. Simialr audits are also performed by the State Audit Office.

⁶⁰ These were financed under the CARDS 2004 project.

Indicator/Subindicator	Summary Assessment	Score
5(d). Quality control standards are disseminated and used to evaluate staff performance and address capacity development issues	The Report Team could not find a quality- standards document that sets time lines for processing procurement or replying to inquiries, which also can be used to for staff performance evaluation	1

PILLAR III—PROCUREMENT OPERATION AND MARKET PRACTICES

This indicator assesses the degree of professionalism and knowledge of the staff responsible for implementing procurement activities. It focuses on the operational effectiveness and efficiency of the procurement system at the level of the implementing entity responsible for conducting individual purchases.

The procedure for public procurement is implemented by the permanent Public Procurement Committee of the procuring agency. Its members are appointed by the head of the procuring agency for a term of two years,⁶¹ and they constitute the permanent body for implementation of public procurement procedures. However, in most cases these officials lack previous knowledge of public procurement, creating a potentially major fiduciary risk. Thus ministries staff procurement committees with inexperienced members who also lack access to assistance from expert specialists or from a specialized department dedicated to procurement.

In a limited number of entities that conduct large procurements, specialist officers assist the committee's work in preparation of the technical specifications or the technical documentation for a specific type of purchase. These entities also may have departments with expert staff to organize public procurements and assist the committee in implementing them.

Subindicator 6(a): The level of procurement competence among government officials within the entity is consistent with their procurement responsibilities.

The purpose of this indicator is to assess the degree of professionalism and knowledge of those responsible for implementation of procurement activities.

Indicator/Subindicator	Summary Assessment	Score
6(a). The level of procurement competence among government officials within the entity is consistent with their procurement responsibilities	Skilled procurement specialists are available in a few large procuring entities, and procurement committees often are composed of officials with little purchasing experience.	1

⁶¹ They can be reappointed for a second term, after which they must step down.

Subindicator 6(b): The procurement training and information programs for government officials and for private sector participants are consistent with demand

This assesses the sufficiency of the procurement training and information programs provided by the PPB. Its training record already has been reported in indicator 5(d). The provision of adequate training sessions is a legal obligation of the bureau, which has been met to date. However, the bureau staff is busy preparing a new Law on Public Procurement, and procurement training is in abeyance. The Report Team was advised that training will resume after the new PPL has been drafted.

Private sector suppliers presently are not included in training sessions, although there have been enquiries by interested persons. Certain private institutions also organize training for some issues related to public procurement, based on programs that have been developed in house. These training sessions are commercial in nature and not coordinated with PPB.

Indicator/Subindicator	Summary Assessment	Score
6(b). The procurement training and information programs for government officials and for private sector participants are consistent with demand	The training programs are sufficient in content and frequency for government participants, but programs for the private sector are in short supply.	2

Subindicator 6(c): There are established norms for the safekeeping of records and documents related to transactions and contract management

The ability to look at implementation performance is dependant upon availability of information and records that track each procurement action. The safekeeping of records is prescribed in the Law on Public Procurement. In practice most procuring agencies keep the records created during the public procurement procedures for a time, prescribed by regulations, for archives and office work.

The legislative framework is general, and determination of which public procurement documents to be keep is made by the procuring agency with an internal act. These time periods are as follows: announcements of calls—permanently; tender documentation—five years; minutes—permanently; report from the evaluation of bids—permanently; documentation for filed objections and appeals; copies of signed contracts, and annex contracts—permanently for contracts of larger value; documents for procedures related to appeals from bidders; and invoices and payments—permanently. These records are accessible to law enforcement agencies and investigatory authorities for use as evidence in criminal proceedings for corruption and fraud. They are also accessible to those responsible for monitoring and auditing the full cycle of the public procurement process.

Safety protocols for protection of data and documentation are covered by the Law on Classified Information.⁶² This law prescribes the rules and regulations for the safety protocols and also categorizes the data depending on the safety risk. In practice, the above data are easily accessible for perusal by auditors, as well as by bidders on request.

⁶² *Official Gazette of the Republic of Macedonia*, No. 09/2004.

Indicator/Subindicator	Summary Assessment	Score
6(c). There are established norms for the safekeeping of records and documents related to transactions and contract management	There are established norms for safekeeping of records and established security protocols.	3

Subindicator 6(d): There are provisions for delegating authority to others who have the capacity to exercise responsibilities

Delegation of authority and responsibility is essential for a well-functioning procurement system, especially when it is decentralized. The procuring entity's Public Procurement Committee is required to prepare a proposal for selection/nonselection of the most favorable bid or nullification of the call; it is then submitted to the responsible person for acceptance or rejection of the committee recommendation. When making the decision for the selection of the most favorable bidder, the Minister (responsible person) has authority to make decisions on selection. The public procurement commission is responsible for implementation of the decision. Often, the responsible person deviates from the recommended choice of the Public Procurement Committee. Moreover, discussions with certain ministries showed that all decisions are taken at the minister's level, even clearing the invoice for payments. This represents a potentially high fiduciary risk to the entire procurement and PFM process.

Indicator/Subindicator	Summary Assessment	Score
6(d). There are provisions for delegating authority to others who have the capacity to exercise responsibilities	Contract awards and payment decisions are overly centralized, which makes the procurement process inefficient and prone to political influence. The responsible person often does not accept the recommended decision of the Public Procurement Committee.	0

Indicator 7: Functionality of the public procurement market

This indicator assesses the market response to public procurement solicitation.

Subindicator 7a): There are effective mechanisms for partnerships between the public and private sector

This subindicator assesses the adequacy of dialogue channels between government and the private sector and the reliance upon private capacity through public-private partnership arrangements in the provision of goods and services. Small enterprises compete in the public procurement marketplace and actively respond to government procurement requests. The PPB has organized several forums with the private sector, including firms from the health care sector, computer and IT technology firms, chambers of commerce, and others. It also has consulted with chambers of commerce to solicit advice from the business community about new legislative solutions.

Indicator/Subindicator	Summary Assessment	Score
7(a). There are effective mechanisms for partnerships between the public and private sector	Government encourages open dialogue with the private sector, but no program exists to build private sector capacity or target such capacity building to small business.	1

Subindicator 7(b): Private sector institutions are well organized and able to facilitate access to the market

This examines the capacity of the private sector to respond to public procurement in the country, including the organizational capacity of small and medium enterprises (SMEs). The number of bidders in public procurement procedures is usually sufficient to provide true competition, and the law stipulates that at least two bids be made for an open call to be successful. There are some problems with procurement of drugs and equipment maintenance services due to the limited field of competitors in these areas.

For most procurements competition exists, but some market segments have monopolistic tendencies, with large contracts concentrated among large companies. In some specific procurement groups, contracts for acquisition of goods or services or execution of works receive bids from only a few companies, resulting in a weak market capacity to meet government requirements.

Indicator/Subindicator	Summary Assessment	Score
7(b). Private sector institutions are well organized and able to facilitate access to the market	The private sector is relatively weak, and competition is limited due to monopolistic features in important market sectors.	1

Subindicator 7(c): There are no major systemic constraints (for example, inadequate access to credit, contracting practices, etc.) inhibiting the private sector's capacity to access the procurement market

Indicator/Subindicator	Summary Assessment	Score
7(c). There are no major systemic constraints (e.g. inadequate access to credit, contracting practices, etc.) inhibiting the private sector's capacity to access the procurement market	Access to credit and reasonable contracting provisions improve the degree of competition. BEEPs and CPS have identified high financing costs, limited access to credit, anticompetitive practices, and weak contract enforcement as major obstacles to private sector development.	1

Indicator 8: Existence of contract administration and dispute resolution provisions

This indicator assesses the quality of contract administration, which begins after the contract award and

continues through acceptance and final payments.

Subindicator 8(a): Procedures are clearly defined for undertaking contract administration responsibilities that include inspection and acceptance procedures, quality control procedures, and methods to review and issue contract amendments in a timely manner

The Public Procurement Bureau envisaged two model contracts, one for procurement of goods and the other for construction works. Both are available on the PPB Web site free of charge and are in wide use. These contracts utilize standard clauses that are applied in practice. The payment method and invoice processing occur in accordance with the signed contract and the payment deadline stipulated in the contract.

The Procuring Agency is obligated in all public works contracts to make provision for forming a supervisory authority to monitor that the design documentation is adhered to and that the standards and conditions stipulated in the contract are met. The mandatory obligation is derived from the Law on Construction.⁶³ This supervisory authority is independent from the contractor and is formed by the investor.

Inspection supervision also can be performed by the State Inspectorate for Construction and Urbanism through construction inspectors and authorized construction inspectors of the municipalities, or authorized construction inspectors of the municipality in the city of Skopje.

For procurements of goods and services, the Procuring Agency shall regulate the method of control and quality management during contract execution, and payment shall be made using standard financial operational procedures. After execution of the contract, the State Audit Office shall have the right to audit the results and determine whether the subject of the bid has been delivered. Every ministry also must have a department for internal audit.

The audit for public works procurement and capital investments is performed primarily by the State Audit Office. Ongoing supervision of civil works is not performed by independent engineering firms who have the experience, independence, and professional competence to do so.

Indicator/Subindicator	Summary Assessment	Score
Subindicator 8(a). Procedures are clearly defined for undertaking contract administration responsibilities that include inspection and acceptance procedures, quality control procedures, and methods to review and issue contract amendments in a timely manner	Procedures for contract administration are clearly defined, but supervision of civil works by independent engineering firms is lacking. Independent supervision could promote higher-quality work.	2

Subindicator 8(b): Contracts include dispute resolution procedures that provide for an efficient and fair process to resolve disputes arising during the performance of the contract

⁶³ Official Gazette of the Republic of Macedonia, No. 51/05.

The FYR Macedonia has enacted a law on international trade arbitration.⁶⁴ All possible disputes and misunderstandings that could arise during contract realization should be resolved by the procuring agency and the selected bidder by mutual agreement in the spirit of good business relationships. If this does not yield a result within 10 days, the dispute will be resolved before an arbitration committee comprising three members, one from each party to the contract and the third selected jointly by the parties from the pool of Arbitration judges at the Chamber of Commerce of the FYR Macedonia.

Indicator/Subindicator	Summary Assessment	Score
8(b). Contracts include dispute resolution procedures that provide for an efficient and fair process to resolve disputes arising during the performance of the contract	There is an arbitration law in the country that is consistent with UNCITRAL	2

Subindicator 8(c): Procedures exist to enforce the outcome of the dispute resolution process.; Disputes during the performance of the contract are a common occurrence. In order to avoid long delays a good resolution process should be defined in the contract that provides for fair and timely resolution.

If the contract is signed with a foreign vendor, any dispute or misunderstanding that could arise from this contract or be related to it, or any violation, termination, or cancellation of the contract shall be resolved in accordance to the arbitration rules of UNCITRAL, which are in force. There should be a provision stipulating the competent court authorized to resolve any disputes that may arise during execution of the contract.

Indicator/Subindicator	Summary Assessment	Score
8(c). Procedures exist to enforce the outcome of the dispute resolution process	There is an arbitration law in the country that is consistent with UNCITRAL, but enforcement is weak as reported in surveys such as BEEPs.	1

PILLAR IV—INTEGRITY AND TRANSPARENCY OF THE PUBLIC PROCUREMENT SYSTEM

Pillar IV covers four indicators that provide for a procurement system that operates with integrity, has appropriate controls that keep procurement implementation in accord with the legal and regulatory framework, and has appropriate measures in place to address the potential for corruption.

Indicator 9: The country has an effective control and audit system

This indicator determines the quality, reliability, and timeliness of the internal and external controls.

Subindicator 9(a): A legal framework and the organization, policy, and procedures for internal and

⁶⁴ *Official Gazette of the Republic of Macedonia*, No. 39/2006.

external control and audit of public procurement operations are in place to provide a functioning control framework

FYR Macedonia has established a legislative framework for internal control and audit that, with a few exceptions, meets international standards and the EU PIFCS requirements.⁶⁵ It covers all budget entities, extra-budgetary funds, and local governments. Nascent internal audit units have been established in MOF and in all significant ministries; budget entities and local governments and staff have been recruited and trained. Further improvements in staffing levels, training of auditors, management's effective use of internal audit reports, and the improvements flowing from implementation of internal audit recommendations will continue to develop over the coming years. Within MOF, a PIFC secretariat has been established, consisting of a Central Internal Audit Unit, financial control and internal audit harmonization (policy) units, and an antifraud unit. The Central Internal Audit Unit has produced audit guidance and handbooks for use by ministerial internal auditors.

These internal audit activities complement the work of the external auditor, the Chamber of Accounts. The COA has the mandate to audit all entities receiving funds from the Republic's budget, either directly or indirectly as in the case of beneficiaries and entities-beneficiaries of funds from the budgets. It also audits public enterprises, the National Bank, legal entities in which the state is majority shareholder, political parties financed from budget funds, agencies and other institutions established by law, other institutions financed from public funds, and the beneficiaries of funds from the European Union and other international institutions.

Despite regular, widespread, and persistent negative audit observations on procurement from the internal and external auditors, there has not been specific audit guidance for internal auditors on the audit of procurement activities and processes. Given that one role of the internal auditor is to review the strength of the internal control processes and recommend steps to mitigate risks from weak processes, the lack of focus on procurement audits is a serious limitation that requires redress.

Indicator/Subindicator	Summary Assessment	Score
9(a). A legal framework and the organization, policy, and procedures for internal and external control and audit of public procurement operations are in place to provide a functioning control framework	A Law on Internal Audit has been passed, and nascent internal audit units have been established in all major budget entities. The MOF PIFC unit has an audit policy group to prepare guidelines, but more attention is required for procurement audit guides and the monitoring of compliance with and implementation of procurement recommendations.	2

Subindicator 9(b): Enforcement and follow-up on findings and recommendations of the control framework provide an environment that fosters compliance

This indicator reviews the extent to which internal and external audit recommendations are implemented within a reasonable time. The Law on State Audit requires the external auditor to monitor and report on management's implementation of audit recommendations and to report the status of all recommendations in the auditor's Annual Report. Similarly, internal audit units are required to monitor management's implementation of their internal audit reports and to include a complete list of all outstanding

⁶⁵ Law on Internal Audit in the Public Sector, *Official Gazette of the Republic of Macedonia*, No. 69/2004.

recommendations in their audit report to management and MOF, as well as identifying specific implementation actions taken by management since the previous annual report. Given that this is a relatively new requirement, the incidence of the reporting of management noncompliance with audit recommendations is expected to increase significantly in the next few years, until management's understanding of its role in maintaining appropriate internal procurement controls increases, and permeates the organization in question.

Indicator/Subindicator	Summary Assessment	Score
9(b). Enforcement and follow-up on findings and recommendations of the control framework provide an environment that fosters compliance	There is limited evidence of management follow-up on the limited number of audit recommendations produced. The SAO audit recommendations on procurement are monitored for implementation by the SAO.	1

Subindicator 9(c): The internal control systems provide timely information on compliance to enable management action

This indicator verifies that written standards exist for the internal control unit to convey issues to management, depending on the urgency of the matter at hand; regular periodic reporting is given to management throughout the year; and the established time frames and written standards are followed.

Under the agreement between the government and the EU, a Public Internal Financial Control secretariat has been established within MOF. As previously discussed, there are separate divisions devoted to internal control policies and procedures and for internal audit policies, procedures, manuals, and training aids. Both units are in place and staffing is proceeding. As quarterly and annual audit reporting and Central Internal Audit Unit inspections increase and become more effective, both the internal control directorate and the internal audit units in MOF will receive a stream of useful information about performance of the internal controls system and solutions to mitigate the associated fiduciary risks.

Indicator/Subindicator	Summary Assessment	Score
9(c). The internal control systems provide timely information on compliance to enable management action	The internal control system for procurement is weak and requires significant strengthening, as evidenced by the frequent audit observations of noncompliance.	1

Subindicator 9(d): The internal control systems are sufficiently defined to allow performance audits to be conducted

This indicator validates the written internal control routines and procedures, including an internal audit and control manual, and the existence of sufficient information for auditors to verify that written internal controls are adhered to. Pursuant to Article 15 of the Law on Internal Audit in the Public Sector, the internal auditor is obliged to carry out his work in accordance with the law, bylaws, standards, and the ethical code, as well as the instructions for work and the charter of the unit for internal audit. The Minister of Finance prescribes the main elements of the operational work guidelines as well as the Charter for Internal Audit Units.

The newly established internal audit units are only beginning to plan and execute performance audits. It will be another three to five years before adequate and consistent quality performance audits can be conducted on the internal control systems. In the meantime, isolated instances of performance audits on internal controls are beginning to appear.

Indicator/Subindicator	Summary Assessment	Score
9(d). The internal control systems are sufficiently defined to allow performance audits to be conducted	The internal audit units are too new to conduct performance audits; production of any reasonable-quality performance audits is three to five years away.	0

Subindicator 9(e): Auditors are sufficiently informed about procurement requirements and control systems to conduct quality audits that contribute to compliance

This indicator examines the system in place to ensure that auditors working on procurement audits receive adequate training or are hired with sufficient knowledge.

Within the COA, the professional requirements for state auditors are strict. A COA auditor must be a citizen of FYR Macedonia with a higher education in law or economy, be certified as an Authorized State Auditor, and take an oath to comply in carrying out work with the rules of the INTOSAI Code of Ethics. A minimum of five-years working experience in accounting and finance and three-years working experience in audits or controls also is required to become an Authorized State Auditor. Procurement audits are considered as compliance audits, using the legal requirements of the underlying legislation (the PPL and related construction and financial laws) as the basis for the audit examination.

The internal auditor, in addition to the general conditions for employment established by the Law, also must have a university degree in economics, law, or another area in accord with the Organization and Systematization Acts, and must have a minimum two years of working experience in internal audit, external audit, or finance. There are no specific audit guides or training courses designated for procurement audits.

Indicator/Subindicator	Summary Assessment	Score
9(e). Auditors are sufficiently informed about procurement requirements and control systems to conduct quality audits that contribute to compliance	Auditors are knowledgeable about procurement requirements and can conduct compliance audits based on them. The associated control systems are not presently being addressed, although this will increase as the internal auditors gain experience.	2

Indicator 10: Efficiency of appeals mechanism

This assesses a range of ways in which efficiency of appeals mechanism strengthens the national environment for compliance in and the integrity of the public procurement system. It includes an appeals

process for handling public procurement disputes in which decisions are deliberated using available information, with the final decision reviewable by a body (or authority) able to enforce its judgments under the law. This indicator looks at how the process of reviewing and resolving complaints is structured and identifies certain conditions that provide for fairness and due process. Protection from breach of the PPL during public procurement procedures is provided through supervision and control, in accordance with the principles of legality, urgency, availability, efficiency, and a two instance principle.⁶⁶

As previously described, legal protection is provided during all phases of public procurement procedure by providing legal recourse through the Public Procurements Appeal Committee of the Government of Macedonia. Unsatisfied bidders, as well as the persons that obtained the tender documentation, can file appeals against decision, against the bid evaluation methodology used by the Public Procurements Committee.⁶⁷ If the bid evaluation committee does not accept the appeal, the complainant can forward it to the Appeals Committee. Complaints shall be filed within two days of discovering a breach, and the Complaints committee must respond within three days of the filing.

A bidder dissatisfied with the result has seven days to file a plea with the Appeals Committee after receiving notification of elimination from the first phase in limited calls or elimination from an open call. Persons that obtained the tender documents have the same right to appeal. The appeal is filed in duplicate with the committee in charge of the first-instance procedure—with the second copy for the Public Procurement Bureau. The appeal is filed by registered mail. The committee that was in charge of the first-round procedure sends the appeal, an explanation of its decision, and copies of the overall documentation of the public procurement procedure that has been carried out to the Appeals Committee. The Appeal Committee then has 15 days from submittal of the appeal to rule upon it.

The team has concluded that the main principles and intention of the Law on Public Procurement provide a opportunity for legal protection in the public procurement procedures. For this purpose the following legal tools are available:

- Initiation of supervision and control over the legality of the procurement procedure by unsatisfied bidders, during the entire procedure, with the right for appeal to the Public Procurements Committee of the and the right to appeal to the Appeal Committee for Public Procurements of the Government of Macedonia
- Initiation of supervision and control over the legality of the procurement procedure, on an ex post basis by the Ministry of Finance and the Public Procurements Bureau, by imposing an audit supervision through the Central Internal Audit
- The right for protection in front of the competent Basic Court against the final decision of the Appeal Committee
- The right to demand cancellation (nullification) of the already signed agreement for procurement from the competent court, as well as filing of request for initiation of offense or criminal procedure if, during procurement procedure, offense or criminal act has been committed.

Subindicator 10(a): Decisions are deliberated based on available information and the final decision

⁶⁶ Law on Public Procurements, Article 90, paragraph 1.

⁶⁷ Ibid. Article 91, paragraph 3.

can be reviewed and ruled upon by a body (or authority) with enforcement capacity under the law

Indicator/Subindicator	Summary Assessment	Score
10(a). Decisions are deliberated based on available information and the final decision can be reviewed and ruled upon by a body (or authority) with enforcement capacity under the law.	A Procurement Complaints Committee is in place with the mandate to accept and review all procurement-related complaints from suppliers and citizens. Although the PCC is a Court of the Second Instance, it has no enforcement mandate.	1

Subindicator 10(b): The complaint review system has the capacity to handle complaints efficiently and a means to enforce the remedy imposed

This indicator deals specifically with the question of efficiency and capacity of the complaints review system and its ability to enforce the remedies imposed. Pursuant to Article 98 of the PPL, the decision of the Appeals Committee is final. The filer of the appeal has the right to ask for protection against this final decision before the competent Basic Court.

The Appeals Committee for Public Procurements is an independent body consisting of persons who are not civil servants but are selected from well-known experts in appropriate fields—attorneys, lawyers, notaries, commercial auditors, engineers, and other professional occupations. The person appointed to be president of the Appeals Committee has the same legal qualifications as a judge serving on the Basic Court. Committee members are appointed and dismissed under the same formulas as judges.

Indicator/Subindicator	Summary Assessment	Score
10(b). The complaint review system has the capacity to handle complaints efficiently and a means to enforce the remedy imposed	The PCC is overloaded with complaints, and there is a shortage of committee members. Because the PCC lacks an enforcement mandate, it has no means to compel compliance with its decisions.	1

Subindicator 10(c): The system operates in a fair manner, with outcomes of decisions balanced and justified with available information

This indicator examines whether decisions are rendered on the basis of verifiable information and are unbiased. The team was advised that extensive dossiers were prepared for use by committee members and distributed three days before the committee met. It was also advised that the caseload averaged 60–90 cases per session, with an average of 20 minutes devoted to each case heard. The mismatch between the two figures is self-evident; the committee is hard pressed to give appropriate consideration to each case, a conclusion that may be inferred by the operational statistics from the commission itself. Anecdotal evidence provided to the team indicated that the procurement system operates in a manner quite different from that specified in law, and that there is considerable opportunity for manipulation and favoritism in contract awards throughout the system.

Indicator/Subindicator	Summary Assessment	Score
10(c). The system operates in a fair manner, with outcomes of decisions balanced and justified with available information	The Complaints Committee is independent and approaches its caseload in a fair and balanced manner. However the Committee is underresourced and complainants lack direct access to the body. While the legal framework promises fairness, it is not respected and many requirements are unmet in daily procurement decisions. Anecdotal information indicates consistent bias in procurement decisions, although the team itself did not witness this.	2

Subindicator 10(d). Decisions are published and made available to all interested parties and to the public (these need to be posted in easily accessible places)

The Appeal Committee is obliged to notify the filer of the appeal about its decision, as well as to inform the committee of first instance. The Appeal Committee advises the government on its work through semi-annual reports, which are available on the Internet Web site of the Public Procurement Bureau. The government, on the basis of the bureau reports, informs the National Parliament annually on the number and types of public procurement audits carried out, the amount of funds for public procurements, and the problems that occurred in the implementation of procurements. Appeal Committee decisions are published on the Web site of the bureau and are available to the public.

Indicator/Subindicator	Summary Assessment	Score
10(d). Decisions are published and made available to all interested parties and to the public	Decisions are published on the PPB Web site. It is not clear if this reporting is comprehensive and timely.	2

Subindicator 10(e): The system ensures that the complaint review body has full authority and independence for resolution of complaints

This criterion examines whether the PCC decisions are free from bias, interference, or conflict of interest. The issue of conflict of interest is not well-developed in the government. The team encountered numerous incidences in which conflicts of interest were possible but not regulated by any government law or decree.

Indicator/Subindicator	Summary Assessment	Score
10(e). The system ensures that the complaint review body has full authority and independence for resolution of complaints	The PCC has had difficulty in exercising its authority to ensure compliance with its decisions.	1

Indicator 11: Degree of access to information

This indicator deals with the quality, relevance, ease of access, and comprehensiveness of information about the public procurement system.

Subindicator 11(a): Information is published and distributed through available media, with support from information technology when feasible

Public access to information is essential to transparency and creates a basis for social audits by interested stake holders. The Law on Public Procurements, its bylaws, and the common tender documentation can be obtained from the public procurements Web site (<http://javni-nabavki.finance.gov.mk>) of the Bureau for Public Procurements, both in English and Macedonian. The Public Procurements Bureau has a centralized management information system that gathers and disseminates public procurement information in Macedonia. The data published on the bureau Web site are obtained directly from the entities (procurers) through the form they fill in after the end of the procurement process and contract signing. This information is then published on the Web site in the public procurements register. The Web site information is updated daily and is easily accessible to the public. It also includes other information of interest to stakeholders who want to familiarize themselves with the procedures in the public procurement process.

The changes in the Law on Public Procurement, which took force in December 2005, recognized that procuring agencies must publish open calls for public procurement not only in the official gazette, but also on the Bureau Web site. Their IT system allows for development of reports that are sent to the World Bank semi-annually, and are related to the public procurement agreements signed. The large numbers of visits to the Bureau for Public Procurements Web site, as well as the questions that arrive by mail, are an excellent indicator of how important it is to have this medium and this type of communication with stakeholders.

Indicator/Subindicator	Summary Assessment	Score
11(a). Information is published and distributed through available media, with support from information technology when feasible	A search on the public procurement Web site on July 16, 2007, showed 3951 contract notices (from 2006), and the decisions of 97 meetings of complaints commissions—all in Macedonian. However there are no timely reports throughout the year on individual decisions and the underlying reasons behind them.	2

Indicator 12: The country has ethics and anticorruption measures in place

This indicator assesses the nature and scope of the anticorruption provisions in the procurement system

Subindicator 12 (a): The legal and regulatory framework for procurement, including tender and contract documents, contains provisions addressing corruption, fraud, conflict of interest, and unethical behavior; it sets out (directly or by reference to other laws) the actions that can be taken with regard to such behavior

This assesses the extent to which the law and regulations compel procuring agencies to include references to fraud and corruption, conflict of interest, and unethical behavior in tender documentation. The PPL requires⁶⁸ that the procurer not discriminate on the basis of the bidder's citizenship or on the basis of the country of origin of goods. It also prohibits any negotiations between the supplier (bidder) and the procurer, either in the open or limited call, about prices and bid changes. The procuring entity can ask for clarification of the bid but with no possibility to change it. The bidder provides the clarification to the Public Procurement Committee, and it becomes part of the official notes of the process.

The PPL identifies that procurement-related conflicts of interest exist with the management person, the head persons, or the members and experts from the Public Procurement Committee, using the following criteria:

- The procurement official is a spouse, direct relative, indirect relative up to the second generation, or is related by adoption, tutelage, or similar tie with the bidder, with the bidder's authorized legal representative (proxy), or with the members of its management, supervisory, or other bodies.
- In the last three years, the official was an employee or tender contractor or member of any management body of the bidder.
- There is another legal or factual relation with the bidder.

By the opening of bids, persons acting on behalf of the procuring entity, in accordance with public procurements procedure, are required to have filed a written statement that the cases/situations from paragraph 1 of this Article exist or do not exist. These signed statements are an integral part of the public procurement documentation. Other restrictions include provisions that an individual who is also the manager of the bidder cannot be personally (directly) the main carrier of the procurements; the procuring entity must invalidate any bidder if it has authentic proof (executive court verdict) that the bidder offered or promised a gift to any employee of the procuring agency in monetary or nonmonetary form, offered employment or any other benefit, object of service, in an effort to influence procurement decision making or the overall public procurement process. The procuring entity will also reject the bid if the bidder offers or provides specific benefit by misinterpreting the facts, thus trying to acquire certain advantage in relation to the other bidders. The bidder and the Bureau for Public Procurement must be notified in writing by the procuring entity about the reasons for rejections.⁶⁹

A person from the procuring entity who is involved in the planning, preparation, and implementation of the public procurement procedure, as well as in the administration of the implementation of the public procurement contract, is obliged to (a) impartially carry out his tasks so bidders obtain fair competitive access to the public procurements; (b) always act in the interest of and in compliance with the goals and procedures prescribed by the PPL; (c) not perform nor assist illegal activities, including requests or acceptance of inappropriate benefits; and (d) keep confidential all information he has about the public

⁶⁸ Pursuant to Article 6, paragraph 2, of the Law on Public Procurements.

⁶⁹ Ibid. Article 23.

procurement and the offers by bidders. In order to establish greater control and prevent corruptive behavior, a controlling mechanism is provided in Chapter 9 of the Law establishing legal protection in public procurement procedures and also in Chapter 10 of the Law establishing supervision over public procurement implementation.

A monetary penalty in the amount of MDen 150,000 to MDen 300,000 can be imposed on the procuring entity if it does not provide for fair competition between the bidders and give equal status to the bidders in the procurement procedure, if the entity allows a person to become involved in the public procurement procedure who is disqualified by Article 21 of the Law, and if the procurer does not exclude the bidder and does not reject the bid in the cases foreseen. Other fines exist.

Indicator/Subindicator	Summary Assessment	Score
12(a). The legal and regulatory framework for procurement, including tender and contract documents, contains provisions addressing corruption, fraud, conflict of interest, and unethical behavior; it sets out (directly or by reference to other laws) the actions that can be taken with regard to such behavior	There is an Anticorruption Commission in place. It is an independent body established to identify and combat instances of fraud and corruption in all aspects of government operations, including procurement. Instances of contracting violations are forwarded to the Public Prosecutor's Office, but actual prosecutions are few. Though the PPL contains general provisions on the matters addressing corruption, fraud, conflict of interest, and unethical behavior, neither the law nor the tender document defines what is considered to be fraud and corruption.	2

Subindicator 12(b): The legal system defines responsibilities, accountabilities, and penalties for individuals and firms found to have engaged in fraudulent or corrupt practices

This assesses the existence of legal provisions that define fraudulent and corrupt procurement practices and sets out responsibilities and sanctions for individuals or firms indulging in such practices. Fines may be imposed on the procuring entity if fair competition between bidders is violated and bidders are not given equal status in the procurement procedure; if the procurer allows an invalid person to become involved in the public procurement procedure; or if the procurer does not exclude the bidder and reject its bid in the cases foreseen by the Article 22 of the PPL.

There are also provisions in the criminal code about acts of “misuse of the official position and authority,” which includes benefiting by overstepping the limits of the official position and obtaining significant benefits. The code also proscribes two additional criminal acts: bribery by an official who will ask for or receive a gift or other benefits in order to perform/not perform some action that he had to do/did not have to do; and giving bribery, which targets sanctions to those who give or promise gifts to an official person to perform or not perform an official action. Imprisonment is prescribed for those found guilty of the above criminal acts.

The Law on Corruption Prevention⁷⁰ requires that (a) everyone has the right to act freely in the market and freely compete, with no fear that he can become the victim of monopolistic or discriminatory

⁷⁰ Official Gazette of the Republic of Macedonia, Nos. 28/02, 46/04, and 126/06.

behavior; (b) everyone has the right to prevent or inform about procedures in which the position, the public competencies, or the official position and status are used for gaining personal benefits or used to cause damage to somebody else, without fear of consequences; (c) the public competencies, the official position and status, and all other public interest actions are public and subject to public control; (d) no one can call for a law or other act to limit or exclude the public in order to hide the misuse of the function, public competencies, or the official position and status for gaining benefits or advantages for oneself or for others; (e) the appointed or elected official, responsible person in public enterprise, public institution, or any other legal entity that has state capital in its structure must not exert any influence on the body or the legal entity that decides upon bids submitted after announcement of an open call, competition, or bidding for public procurements of other public orders and works; (f) if among bidders applying to the public competition announced by any organ, public institution, or any other legal entity established by an appointed or elected official or a member of his family, or in which a family member is a responsible person, the official is obliged within 10 days to inform the State Committee for Corruption Prevention about its participation in the competition; and (g) the official person or the person responsible in the public enterprise, the public institution, or in another legal entity that has a state capital structure is obliged within 10 days to notify the state committee about its participation in public competition, announced by body or legal entity in which that person is an official, of legal person established by him or legal entity in which responsible person is member of his family (there could be some translation problems).

Indicator/Subindicator	Summary Assessment	Score
12(b).The legal system defines responsibilities, accountabilities, and penalties for individuals and firms found to have engaged in fraudulent or corrupt practices	The Law on Corruption Prevention and the Criminal Code of Macedonia contain general provisions like “misuse of official position and authority” and penalties for misuse.	2

Subindicator 12(c): Evidence of enforcement of rulings and penalties exists

This indicator concerns enforcement of the law and the ability to demonstrate enforcement by actions taken. The procuring entity will disqualify the bidder if it has authentic proof (executive court verdict) that the bidder offered or promised a gift for any employee of the procurer in monetary or nonmonetary form, offered employment or any other benefit, or object of service in an effort to influence the decision making or the overall public procurement process. Pursuant to paragraph 2 of the same Article, the procurer will reject the bid if the bidder offers or provides specific benefit by misinterpreting the facts, thus trying to acquire an advantage in relation to the other bidders.

Indicator/Subindicator	Summary Assessment	Score
12(c). Evidence of enforcement of rulings and penalties exists	Many violations are not enforced. The system does not appear to vigorously pursue procurement violations through to completion. No data was available on the number of corruption cases reported and the numbers of cases prosecuted.	1

Subindicator 12(d): Special measures exist to prevent and detect fraud and corruption in public procurement

This subindicator examines the existence of an anticorruption program and its extent and nature or other special measures that can help prevent/detect fraud and corruption specific to public procurement. Legal protection from breaches in public procurement procedures, which could happen due to corruptive and incompetent attitude, can be realized by the parties (bidders) by submitting appeals and objections, which Indicator 10 covers in more detail. The Ministry of Finance and the PPB supervise implementation of public procurement procedures and, accordingly, the identification and sanctioning of corruptive behavior that occurs contrary to legal provisions. Audits of implementation of public procurement procedures and contract realization are performed by the ministry and MOF internal audit units, as well as by the COA.

Also pursuant to Article 102 from the Law, the government, on the basis of bureau reports, once a year informs the National Parliament about the number and types of public procurement audits performed, the amount of funds for public procurements, as well as the problems that arose in implementation of the procurements.

The Bureau for Public Procurements, through comprehensive presentations of the legal provisions involved and drawing on the acquired experience of implemented public procedures, informs the entities that are subject to the PPL to increase the knowledge and awareness among procurers of how to consistently apply the legal provisions for public procurement procedures, thus narrowing the opportunities for corruptive behavior.

An electronic public procurements system is foreseen in the recently amended Law on Public Procurements,⁷¹ but is not operational yet due to system constraints and lack of capacity in the procuring entities. The government has isolated anticorruption activities not properly coordinated and absence of an e-procurement or e-governance system. There are new initiatives though on e-procurement through USAID project

⁷¹ Official Gazette of the Republic of Macedonia, No. 109/2005.

Indicator/Subindicator	Summary Assessment	Score
12(d). Special measures exist to prevent and detect fraud and corruption in public procurement	The government has a set of uncoordinated anticorruption activities. Further e-procurement or e-governance system initiatives required that could be used as a tool to reduce corruption. The team encountered no special measures designed specifically to detect and prevent fraud and corruption in procurement.	1

Subindicator 12(e): Stakeholders (private sector, civil society, and ultimate beneficiaries of procurement/end-users) support the creation of a procurement market known for its integrity and ethical behavior

This indicator assesses the strength of the public in maintaining a sound procurement environment. There are civil associations⁷² that share their key priority—the fight against corruption as a social phenomenon—through public events and campaigns, thus raising citizen awareness about the need for a more efficient fight against corruption in public procurement.

The government has established the State Committee for Corruption Prevention, which among other things, has launched a State Program for Prevention and Repression of Corruption and undertaken educational briefings for the enforcement bodies charged with identification and prosecution of corruption and other crimes. The committee also informs the public about the measures being taken and their results through regular annual reports, or news releases when appropriate. Few organizations are involved, and no effective public voice has emerged to lobby for a sound procurement environment.

Indicator/Subindicator	Summary Assessment	Score
12(e). Stakeholders (private sector, civil society, and ultimate beneficiaries of procurement/end-users) support the creation of a procurement market known for its integrity and ethical behavior	Private sector representatives of suppliers and civil society support an open and competitive procurement marketplace. However, few organizations are involved, and no effective public voice advocates maintaining a sound procurement environment.	1

Subindicator 12(f): The country should have in place a secure mechanism for reporting fraudulent, corrupt, or unethical behavior

This indicator checks if the country has a system that provides confidentiality for reporting fraudulent, corrupt, or unethical behavior. In many public enterprises and some other state bodies that are directly involved in the fight against crime and corruption,⁷³ mechanisms are in place for detection and reporting by citizens of corrupt behavior by officials. Evidence of effective application was not seen by the team.

⁷² For example, Transparentnost Makedonija.

⁷³ For example, the Public Revenues Office and the Customs Authority.

For some time, the state institutions in charge of areas with high potential for corruption have maintained free hotlines for citizens to report corrupt behavior. The team obtained no information about the extent of hotline use.

Indicator/Subindicator	Summary Assessment	Score
12(f). The country should have in place a secure mechanism for reporting fraudulent, corrupt, or unethical behavior	There are specific mechanisms for fraud reporting through the functions of the Anticorruption Commission and the Procurement Complaints Commission. Their mandate and resources need strengthening. A mechanism is in place, but evidence of its effective functioning is lacking.	1

Subindicator 12(g): Existence of codes of conduct and codes of ethics for participants in the public financial management systems, with disclosure provided for those in decision-making positions

The country should have in place a Code of Conduct /Ethics that applies to all public officials. Pursuant to Article 23 of the Law, a procuring entity staff member who is involved in the planning, preparation, and implementation of public procurements procedure, or in administration of the implementation of public procurement contracts, is obliged to: impartially carry out his tasks so bidders obtain fair competitive access to public procurements; always act in the interest of and in compliance with the goals and procedures prescribed by this Law; avoid conflicts of interest and inappropriate behavior in the realization of tasks and duties; not perform and not facilitate illegal activities, including requests or acceptance of inappropriate benefits; and keep the confidentiality of the information about the public procurement and offers by the bidders.

The Code of Ethics for Civil Servants has been adopted.⁷⁴ It prescribes in more detail the attitude and work of civil servants to guide their compliance with the principles of legality, professional integrity, efficiency, and loyalty in the realization of their official duties, including injunctions for state servants to avoid corrupt behavior during job tasks such as those related to public procurement procedures. The team saw no evidence that the code was in place and being respected.

Indicator/Subindicator	Summary Assessment	Score
12(g). Existence of codes of conduct and codes of ethics for participants in the public financial management systems, with disclosure provided for those in decision-making positions.	There is a code of conduct, but determination of accountabilities is unclear.	1

⁷⁴ *Official Gazette of the Republic of Macedonia*, Nos. 59/00, 112/00, and 34/01.

Procurement at a Glance

BASIS of Rating: OECD/DAC – WORLD BANK INDICATORS

Indicator Score	Average Score	Pillar Avg. age
		2.0

Pillar I – Legislative and Regulatory Framework

Indicator 1. Public procurement legislative and regulatory framework achieves the agreed standards and complies with applicable obligations.

Sub-indicator 1(a) - Scope of application and coverage of the legislative and regulatory framework.	2	1.8
Sub-indicator 1(b) Procurement Methods	2	
Sub-indicator 1(c) - Advertising rules and time limits	3	
Sub-indicator 1(d) - Rules on participation	1	
Sub-indicator 1(e) - Tender documentation and technical specifications	2	
Sub-indicator 1(f) - Tender evaluation and award criteria	1	
Sub-indicator 1(g) - Submission, receipt and opening of tenders	1	
Sub-indicator 1(h) - Complaints	2	

Indicator 2. Existence of Implementing Regulations and Documentation.

Sub-indicator 2a) - Implementing regulation that provides defined processes and procedures not included in higher-level legislation	3	2.2
Sub-indicator 2(b) - Model tender documents for goods, works, and services	3	
sub-indicator 2 (c) - Procedures for prequalification	1	
Sub-indicator 2(d) - Procedures suitable for contracting for services or other requirements in which technical capacity is a key criterion.	1	
Sub-indicator 2(e) - User's guide or manual for contracting entities	3	
Sub-indicator 2(f) - General Conditions of Contracts (GCC) for public sector contracts covering goods, works and services consistent with national requirements and, when applicable, international requirements	2	

Pillar II. Institutional Framework and Management Capacity

1.7

Indicator 3. The public procurement system is mainstreamed and well integrated into the public sector governance system.

Sub-indicator 3(a) - Procurement planning and data on costing are part of the budget formulation process and contribute to multiyear planning	1	
Sub-indicator 3(b) - Budget law and financial procedures support timely procurement, contract execution, and payment.	1	

Sub-indicator 3(c) - No initiation of procurement actions without existing budget appropriations.	2	1.3
Sub-indicator 3(d) - Systematic Completion Reports are prepared for certification of budget execution and for reconciliation of delivery with budget programming	1	

Indicator 4. The country has a functional normative/regulatory body.

Sub-indicator 4(a) - The status and basis for the normative/regulatory body is covered in the legislative and regulatory framework.	2	2.3
Sub-indicator 4(b) - The body has a defined set of responsibilities that include but are not limited to the following:	2	
Sub-indicator 4(c) - The body's organization, funding, staffing, and level of independence and authority (formal power) to exercise its duties should be sufficient and consistent with the responsibilities.	2	
Sub-indicator 4(d) - The responsibilities should also provide for separation and clarity so as to avoid conflict of interest and direct involvement in the execution of procurement transactions. (Due to the nature of this sub-indicator, scoring is either a 3 or a 0).	3	

Indicator 5. Existence of institutional development capacity.

Sub indicator 5(a) - The country has a system for collecting and disseminating procurement information, including tender invitations, requests for proposals, and contract award information.	1	1.5
Sub-indicator 5(b) -The country has a system for collecting and monitoring procurement statistics	1	
Sub-indicator 5(c) - A sustainable strategy and training capacity exists to provide training, advice and assistance to develop the capacity of government and private sector participants to understand the rules and regulations and how they should be implemented.	3	
Sub-indicator 5(d) - Quality control standards are disseminated and used to evaluate staff performance and address capacity development issues.	1	

Pillar III. Procurement Operations and Market Practices

1.4

Indicator 6. The country's procurement operations and practices are efficient.

Sub-indicator 6(a) - The level of procurement competence among government officials within the entity is consistent with their procurement responsibilities.	1	1.5
Sub-indicator 6(b) - The procurement training and information programs for government officials and for private sector participants are consistent with demand.	2	
Sub-indicator 6(c) - There are established norms for the safekeeping of records and documents related to transactions and contract management	3	
Sub-indicator 6(f) - There are provisions for delegating authority to others who have the capacity to exercise responsibilities.	0	

Indicator 7. Functionality of the public procurement market.

Sub-indicator 7a) - There are effective mechanisms for partnerships between the public and private sector.	1	1.0
Sub-indicator 7(b) - Private sector institutions are well organized and able to facilitate access to the market.	1	
Sub-indicator 7(c) - There are no major systemic constraints (e.g. inadequate access to credit, contracting practices, etc.) inhibiting the private sector's capacity to access the procurement market.	1	

Indicator 8. Existence of contract administration and dispute resolution provisions.

Sub-indicator 8a) - Procedures are clearly defined for undertaking contract administration responsibilities that include inspection and acceptance procedures, quality control procedures, and methods to review and issue contract amendments in a timely manner.	2	1.7
Sub-indicator 8(b) - Contracts include dispute resolution procedures that provide for an efficient and fair process to resolve disputes arising during the performance of the contract.	2	
Sub-indicator 8(c) - Procedures exist to enforce the outcome of the dispute resolution process.	1	

Pillar IV. Integrity and Transparency of the Public Procurement System

1.5

Indicator 9. The country has effective control and audit systems

Sub-indicator 9a) - A legal framework, organization, policy, and procedures for internal and external control and audit of public procurement operations are in place to provide a functioning control framework.	2	1.2
Sub-indicator 9b) - Enforcement and follow-up on findings and recommendations of the control framework provide an environment that fosters compliance.	1	
Sub-indicator 9(c) - The internal control system provides timely information on compliance to enable management action.	1	
Sub-indicator 9(d) - The internal control systems are sufficiently defined to allow performance audits to be conducted.	0	
Sub-indicator 9(e) - Auditors are sufficiently informed about procurement requirements and control systems to conduct quality audits that contribute to compliance.	2	

Indicator 10. Efficiency of appeals mechanism.

Sub-indicator 10(a) - Decisions are deliberated based on available information, and the final decision can be reviewed and ruled upon by a body (or authority) with enforcement capacity under the law	1	1.5
Sub-indicator 10(b) - The complaint review system has the capacity to handle complaints efficiently and a means to enforce the remedy imposed.	1	
Sub-indicator 10(c) - The system operates in a fair manner, with outcomes of decisions balanced and justified on the basis of available information.	2	
Sub-indicator 10(d) - Decisions are published and made available to all interested parties and to the public	2	
Sub-indicator 10(e) - The system ensures that the complaint review body has full authority and independence for resolution of complaints	1	

Indicator 11. Degree of access to information.

Sub-indicator 11a) - Information is published and distributed through available media with support from information technology when feasible.	2	2.0
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Indicator 12. The country has ethics and anticorruption measures in place.

Sub-indicator 12(a) - The legal and regulatory framework for procurement, including tender and contract documents, includes provisions addressing corruption, fraud, conflict of interest, and unethical behaviour and sets out (either directly or by reference to other laws) the actions that can be taken with regard to such behavior.	2	1.3
Sub-indicator 12(b) - The legal system defines responsibilities, accountabilities, and penalties for individuals and firms found to have engaged in fraudulent or corrupt practices.	2	
Sub-indicator 12(c) - Evidence of enforcement of rulings and penalties exists.	1	
Sub-indicator 12(d) - Special measures exist to prevent and detect fraud and corruption in public procurement.	1	

Sub-indicator 12(e) - Stakeholders (private sector, civil society, and ultimate beneficiaries of procurement/end-users) support the creation of a procurement market known for its integrity and ethical behaviors.	1	
Sub-criteria 12(f) - The country should have in place a secure mechanism for reporting fraudulent, corrupt, or unethical behavior.	1	
Sub-criteria 12(g) - Existence of Codes of Conduct/Codes of Ethics for participant that are involved in aspects of the public financial management systems that also provide for disclosure for those in decision making positions.	1	

APPENDIX B - PEFA PERFORMANCE INDICATORS

The PEFA manual was prepared as a joint exercise among many donors⁷⁵. It identifies six critical dimensions of performance of an open and orderly PFM system as shown in Box B.1.

Dimensions of PFM Performance

- Credibility of the budget—the budget is realistic and is implemented as intended.
- Comprehensiveness and transparency—the budget and the fiscal risk oversight are comprehensive and fiscal and budget information is accessible to the public.
- Policy-based budgeting—the budget is prepared with due regard to government policy.
- Predictability and control in budget execution—the budget is implemented in an orderly and predictable manner, and there are arrangements for the exercise of control and stewardship in the use of public funds.
- Accounting, recording, and reporting—adequate records and information are produced, maintained and disseminated to meet decision-making control, management and reporting purposes.
- External scrutiny and audit—Arrangements for scrutiny of public finances and follow up by executive are operating.

Source: PEFA Performance Management Framework, June 2005, p. 2.

It consists of a set of 31 performance indicators (PIs) for a public financial management system. These include four PIs relating to the performance of the system in terms of budget out-turns, six PIs that assess budget transparency and budget comprehensiveness, eleven PIs addressing budget preparation and execution, four PIs for accounting, recording and reporting, three PIs for audit and three relating to donor practices in their financing of in-country projects.

These comprehensive indicators are now being applied to an increasing number of countries undergoing PFM reviews by a variety of donors, including the Bank. In the case of Macedonia, not all of the PIs were measured. These are summarized below in the following tables, abridged from the original definitions in the PEFA Manual and with the assessments included where appropriate. In these tables the highest is *A* and the lowest is *D*. Pluses are used in multidimensional scoring involving more than one subcriterion for each PI.

⁷⁵ The World Bank, the International Monetary Fund, the European Commission, the United Kingdom's Department for International Development, the French Ministry of Foreign Affairs, the Royal Norwegian Ministry of Foreign Affairs, the Swiss State Secretariat for Economic Affairs, and the Strategic Partnership with Africa.

Summary Assessment—FYR Macedonia (Limited PEFA)

	INDICATOR	Score (2006/2007)
Budget Credibility		
1	Aggregate expenditure outturn compared to approved budget	A
2	Composition of expenditure outturn compared to approved budget	A
3	Aggregate revenue outturn compared to approved budget	A
4	Stock and monitoring of expenditure payment arrears	A
Transparency and Comprehensiveness		
5	Classification of the budget	A
6	Comprehensiveness of information in budget documentation	Not Scored
7	Extent of unreported government operations, including donor funds	Not Scored
8	Transparency of intergovernmental fiscal relations	Not Scored
9	Oversight of aggregate fiscal risk	Not Scored
10	Public access to key fiscal information	Not Scored
Policy-Based Budgeting		
11	Orderliness and participation in the annual budget process	Not Scored
12	Multiyear perspective in fiscal policy, planning, and budgeting	Not Scored
Predictability and Control in Budget Execution		
13	Transparency of taxpayer obligations and liabilities	Not Scored
14	Effectiveness of taxpayer registration and tax assessment	Not Scored
15	Effectiveness in collection of tax payments	Not Scored
16	Effectiveness of cash-flow planning, management, and monitoring	B+
17	Recording and management of cash balances, debt, and guarantees	A
18	Effectiveness of payroll controls	C+
19	Competition, value for money, and controls in procurement	D+
20	Effectiveness of internal controls	B
21	Effectiveness of internal audit	C
Accounting, Recording, and Reporting		
22	Timeliness and regularity of accounts reconciliation	A
23	Availability of resource information received by service delivery units	C
24	Timeliness, quality, and dissemination of in-year executive reports	C+
25	Timeliness of audited financial statements submitted to legislature.	C+
External Scrutiny and Audit		

	INDICATOR	Score (2006/2007)
26	The scope, nature, and follow up of external audit reports.	B
27	Legislative scrutiny of the annual budget law	B+
28	Legislative scrutiny of external audit reports.	C
Donor-Related PFM system		
D-1	Predictability of direct budget support	D
D-2	Financial information on projects	C
D-3	Proportion of aid managed by national procedures	D

PI-1 Aggregate Expenditure Outturn Compared to Original Approved Budget

INDICATOR	BRIEF EXPLANATION
Aggregate expenditure outturn compared to original approved budget	In no more than one of the last three years has the actual expenditure deviated from budgeted expenditure by an amount equivalent to more than 5 percent of budgeted expenditure. Aggregate expenditure was within 5 percent limit for past three years. Score: A

PI-2. Composition of Expenditure Outturn Compared to Original Approved Budget

INDICATOR	BRIEF EXPLANATION
Composition of expenditure outturn compared to original approved budget	Variance in expenditure composition exceeded overall deviation in primary expenditure by no more than 5 percentage points in any of the last three years. Condition met; maximum variance was between 2.9 and 4.7 percent. Score: A

PI-3. Aggregate Revenue Outturn Compared to Original Approved Budget

INDICATOR	BRIEF EXPLANATION
Aggregate revenue outturn compared to original approved budget	Actual domestic revenue collection was below 97 percent of budgeted domestic revenue estimates in no more than one of the last three years. Actual aggregate level was above 97 percent of forecast in all in three years and 95 percent in one year. Score: A

PI-4. Stock and Monitoring of Expenditure Payment Arrears

INDICATOR	BRIEF EXPLANATION
Stock and monitoring of expenditure payment arrears	The stock of arrears is low (below 2 percent of total expenditure). Reliable and complete data on the stock of arrears is generated through routine procedures at least at the end of each fiscal year (and includes an age profile). Stocks of arrears are reported monthly by the Treasury. Stock below 2 percent of expenditure for last 3 years. Score: A

PI-5. Classification of the Budget

INDICATOR	BRIEF EXPLANATION
Classification of the budget	Budget formulation and execution is based on administrative, economic, and subfunctional classification, using GFS/COFOG standards or a standard that can produce consistent documentation according to those standards. (Program classification may substitute for subfunctional classification if it is applied with a level of detail at least corresponding to subfunctional.) New GFS-compliant system is in place. Score: A

Indicators PI-6 to PI-15, which relate to comprehensiveness and transparency of budget and policy-based budget were outside the scope of this CFA and were not addressed.

PI-16. Predictability in the Availability of Funds for Commitment of Expenditures

INDICATOR	BRIEF EXPLANATION	SCORE
Predictability in the availability of funds for commitment of expenditures	Extent to which cash flow are forecasted and monitored. Weekly, monthly, and yearly projections on cash flows are produced regularly. Score: A	B+
	Reliability and horizon of periodic in-year information to budget users on ceilings for expenditure commitments. Budget entities receive reliable information on commitment ceilings at least quarterly. Cash surpluses and issuance of short-term Treasury bonds counter-balance the volatility in day-to-day cash availability. Score: B	
	Frequency and transparency of adjustments to budget allocations, which are decided above the level of management of budget users. Significant in-year adjustments to budget allocation normally take place only once a year with approval of Parliament. Special revenue “accounts” earmarked to each budget entity diminish the role of the budget. While budget controls over special revenue is weak, the spending controls are sound—if resources do not materialize no spending occurs. Score: B	

PI-17. Recording and Management of Cash Balances, Debt, and Guarantees

INDICATOR	BRIEF EXPLANATION	SCORE
Recording and management of cash balances, debt, and guarantees	Quality of debt-data recording and reporting. Domestic and foreign debt records are reported monthly. However, information and analysis can be improved. Public debt data is available monthly both from MOF and the National Bank (NBRM). Score: B	A
	Extent of consolidation of the government's cash balances. All cash balances are calculated and consolidated on a daily basis. Minor balances related to the Water Fund remain outside these cash balances as a foreseen change to the Water Law did not materialize. Score: A	
	Systems for contracting loans and issuance of guarantees. The Public Debt Law of 2005 sets appropriate rules on contracting of loans and issuance of guarantees according to a three-year debt management strategy. Foreign sovereign guarantees require Parliament approval. Domestic and municipal guarantees for municipal public enterprise borrowing require MOF and Cabinet approval. Score: A	

PI-18. Effectiveness of Payroll Controls

INDICATOR	BRIEF EXPLANATION	SCORE
Effectiveness of payroll controls	<p>Degree of integration and reconciliation between personnel records and payroll data.</p> <p>The MOF maintains a comprehensive and complete personnel database of all employees in the central government (around 71,000). The database contains extensive information of all staff (personal details, posts, experience, and education) and their remuneration. A Wage Control Unit within the Budget Department of the MOF maintains the database. All spending units report monthly to the MOF's Wage Control Unit, electronically providing lists of personnel and payroll statements. The unit checks these submissions with their records and approves wage payments. Employees of EBFs are not included in this database (Road Fund—30; Health Fund—600; Employment Agency—300; Pension Fund—400). Also, employees in health institutions (around 20,000) and municipalities (around 2,500) are not included in the database. Score: B</p>	C+
	<p>Timeliness of changes to personnel records and the payroll. Personnel records and the payroll are updated with each payroll submission, that is, monthly. Score: A</p>	
	<p>Internal controls of changes to personnel records and the payroll.</p> <p>Internal controls over the MOF database are sound. The MOF needs to approve all new employment in the central government, which is also processed by the Wage Control Unit. However, internal controls in submissions of payroll records by spending units are weak. Score: C</p>	
	<p>Existence of payroll audits to identify control weaknesses and/or ghost workers.</p> <p>SAO and Internal Audit are checking payroll as an integrated part of their audits. Recently almost all IA units—as part of the training project—were required to audit payroll controls. Score: B</p>	

PI-19. Competition, Value for Money, and Controls in Procurement

INDICATOR	BRIEF EXPLANATION	SCORE
Competition, value for money, and controls in procurement	Evidence on the use of open competition for awards of contracts that exceed the nationally established monetary threshold for small purchases. From PPB statistics of 2006, 4090 of 5098 contracts were by open tender (US\$195 million of US\$231 million available). The total value of procurement is about 3.2 percent of GDP (very low compared to other countries) and does not appear to be complete data. Score: B	D+
	Extent of justification for use of less-competitive procurement methods. No reliable data is available. Score: D	
	Existence and operation of a procurement complaints mechanism. The Procurement Complaints Committee is in place. It does not have a mandate for enforcement and is overloaded and underresourced. Score: C	

PI-20. Effectiveness of Internal Controls for Nonsalary Expenditure

INDICATOR	BRIEF EXPLANATION	SCORE
Effectiveness of internal controls for nonsalary expenditure	Effectiveness of expenditure commitment controls. Treasury and the budget department in MOF effectively limit commitments to actual cash availability and budget allocations, with minor exceptions. Score: B	B
	Comprehensiveness, relevance, and understanding of other internal control rules/procedures. Internal control rules and procedures are relevant and comprehensive and generally understood. Lack of delegation lead to some inefficiencies and delays. Score: B	
	Degree of compliance with rules for processing and recording transactions. Compliance with rules is fairly high with the Treasury playing an important role rectifying flaws. Score: B	

PI-21. Effectiveness of Internal Audit

INDICATOR	BRIEF EXPLANATION	SCORE
Effectiveness of internal audit	Coverage and quality of the audit function. Internal audit is operational in most central government entities but mostly comprised of one person only. Development of professional skills is a work in progress and most auditors only received basic training in audit methodology. Score: C	C
	Frequency and distribution of reports. Reports are issued regularly and sent to the auditee. Only the annual audit report is sent to MOF and to SAO only on request. Score: C	
	Extent of management response to internal audit findings. A fair degree of action (often delayed) is taken by many managers on major issues, but managers need to appreciate and understand the benefit of the recommendations given by the internal audit units. Systematic reporting on the number of findings and number of measures taken is unavailable. Score: C	

PI-22. Timeliness and Regularity of Accounts

INDICATOR	BRIEF EXPLANATION	SCORE
Timeliness and regularity of accounts reconciliation	Regularity of Bank reconciliations. Bank reconciliations are done on a regular basis, at least monthly. Score: A	A
	Regularity of reconciliation and clearance of suspense accounts and advances. Reconciliation and clearance of suspense accounts occur at least quarterly and with few balances brought forward. Score: A	

PI-23. Availability of Information on Resources Received by Service Delivery Units

INDICATOR	BRIEF EXPLANATION	SCORE
Availability of information on resources received by service delivery units	<p>Collection and processing of information to demonstrate the resources that were actually received (in cash and in kind) by the most common frontline service delivery units in relation to overall resources made available to the sector(s) irrespective of which level of government is responsible for the operation and funding of these units.</p> <p>Cash expenditures are captured at the unit level, but in-kind assistance is not. No comprehensive reporting per school with full inclusion of in-kind assistance is produced, although schools do report to the Ministry of Education. Budget management focuses on item by item, for example for O&M or salaries. Use of special surveys in education is unknown. In health, reporting on clinics is available.</p> <p>Score: C</p>	C

PI-24. Quality and Timeliness of In-Year Budget Reports

INDICATOR	BRIEF EXPLANATION	SCORE
Quality and timeliness of in-year budget reports	<p>Scope of reports in terms of coverage and compatibility with budget estimates.</p> <p>Monthly reports covering central government are produced regularly. Reports do not cover expenditures at the commitment stage, only at the payment stage. Direct comparison to the budget is available. Score: C</p>	C+
	<p>Timeliness and issuance of reports.</p> <p>Reports are prepared monthly and are ready for use by government within three weeks. Reports should be published within 40 days after the end of the month. However, frequently the deadline for publishing on the MOF Web site is not met. Score: B</p>	
	<p>Quality of information.</p> <p>There are no material concerns about data accuracy. Score: A</p>	

PI-25. Timeliness of the Presentation of Audited Financial Statements to the Legislature

INDICATOR	BRIEF EXPLANATION	SCORE
Timeliness of the presentation of audited financial statements to the legislature	Completeness of the financial statements. Consolidated government statements are prepared yearly and include, with few exceptions, full information on revenue, expenditure, and financial assets/liabilities. Score: B	C+
	Timeliness of submission of the financial statements. The statements are submitted for external audit within six months of the end of the fiscal year. Score: A	
	Accounting standards used. Accounting practices are disclosed in a manual to the Law on Budget Institution Accounting and Internal Control. The standards used do not fully meet cash-based IPSAS, and SAO has reported several problems with compliance to the rules set by MOF. Score: C	

PI-26. The Scope, Nature, and Follow-Up of External Audit

INDICATOR	BRIEF EXPLANATION	SCORE
The scope, nature, and follow-up of external audit	Scope of audits performed. Central government entities representing at least 75 percent of total expenditures are audited annually. Financial audits adhere to INTOSAI standards focusing on significant systemic issues. Score: B	B
	Timeliness of submission of audit reports to the legislature. All spending units subject to the State Audit (around 2,700 of them) are required to submit their financial statements. However, the SAO only audits some (around 100) based on an Annual Audit plan. The preparation of audit reports is continuous throughout the year. The SAO has around 15 teams that prepare around 130 reports or about 9 per team, which means that an audit report takes slightly less than a month to prepare. The audit starts beginning of March in the current year to the end of the current year and in some cases it finishes the commenced audits in current year in January or February next year. Reports are sent to Parliament as soon as they are completed. Furthermore the audit universe is divided into entities that need to be audited annually and entities that are audited every three years. In the latter case, audit reports actually may come a few years later. Score: B	
	Evidence of follow-up on audit recommendations. A formal response is made within the prescribed 90 days, but there is little evidence of systematic follow-up. Score: B	

PI-27. Legislative Scrutiny of the Annual Budget Law

INDICATOR	BRIEF EXPLANATION	SCORE
Legislative scrutiny of the annual budget law	Scope of the legislature's scrutiny. Parliament reviews fiscal policies and aggregates for the coming year, as well as detailed estimates of expenditure and revenue. Score: B	B+
	Extent to which legislative procedures are well established and respected. The Parliamentary procedures are sound. The budget goes through a number of commissions in which MOF representatives testify about its contents, before being forwarded for general discussion. Score: A	
	Adequacy of time for the legislature to respond to budget proposals. The Parliament has 1.5 months to review the budget proposals. Score: B	
	Rules for in-year amendments to budget. Clear rules exist for in-year budget amendments by the government. Rules usually are respected. Special revenue earmarked to the budget entities to some degree diminishes the role of the budget. Score: B	

PI-28. Legislative Scrutiny of External Audit Reports

INDICATOR	BRIEF EXPLANATION	SCORE
Legislative scrutiny of external audit reports	Timeliness of examination of audit reports by the legislature. Audit reports are normally discussed with the budget committee, but the Parliament failed to review even the SAO Annual Report last year. Similar treatment of the Audit report has been received from the Public Prosecutor. However, the State Commission for Prevention of Corruption has paid close attention to the reports, and now the government has set up a committee to look at them. The proposed amendments to the Book of Rules of the Parliament will require that a special session is held to discuss the SAO reports. Score: C	C
	Extent of hearing on key findings undertaken by the legislature. Hearings take place occasionally but are not covering all audited entities or include only MOF officials. Score: C	
	Issuance of recommended actions by the legislature and implementation by the executive. Actions are recommended by the budget committee but rarely acted upon by government. Score: C	

Donor Indicator (DI) 1. Predictability of Direct Budget Support

INDICATOR	BRIEF EXPLANATION	SCORE
Predictability of direct budget support	Annual deviation of actual budget support from the forecast provided by the donor agencies at least six weeks prior to the government submitting its budget proposals to the legislature. Deviations from forecast in 2005 and 2006 were 35 percent and 37 percent respectively. Score: D	D
	In-year timeliness of donor disbursements. Both in 2005 and 2006, actual disbursement delays exceeded 50 percent. Score: D	

DI-2. Financial Information Provided by Donors for Budgeting and Reporting on Project and Program Aid

INDICATOR	BRIEF EXPLANATION	SCORE
Financial information provided by donors for budgeting and reporting on project and program aid	Completeness and timeliness of budget estimates by donors for project support. Not all donors provide budget estimates, but at least 50 percent is covered. Forecasts are typically provided by spending units—not the donors. For example, on Bank projects very rarely does Bank staff get involved in preparing budget projections; typically PIUs would do this, and typically disbursement on Bank projects is less than 40 percent of budgeted amounts. However, data is typically provided when requested by the MOF—meaning it is in line with the budget cycle and more or less consistent with the government's budget classification. Score: C	C
	Frequency and coverage of reporting by donors on actual donor flows for project support. At least 50 percent of projects provide monthly or quarterly reports on actual disbursement although not with a breakdown consistent with the budget classification. Score: C	

DI-3. Proportion of Aid Managed by Use of National Procedures

INDICATOR	BRIEF EXPLANATION	SCORE
Proportion of aid managed by use of national procedures	Overall portion of aid funds to central government that are managed through national procedures. Most donors are not using any national procedures. The largest donors are WB, the Dutch, EU, and USAID. The WB and the Dutch use national procedures for fund flows, payments, and basic Treasury reporting for all projects. EU and USAID do not use national procedures. EU assistance is projected to flow through national procedures in 2008, but may be delayed. Other donors are marginal. Score: D	D

ANNEX C. LIST OF PERSONS MET

Name	Title
H. E. Trajko Slaveski	Minister of Finance
Georgi Trenkoski	General Manager, Health Insurance Fund (HIF)
Romela Trajkova Popovic	Chief Financial Officer, HIF
Zlatko Aleksov	Head of Procurement Department, HIF
Mare Bogeva Micovska	Director, Public Procurement Bureau (PPB)
Aleksander Argirovski	Advisor, PPB
Goran Anceski	Head of International Finance Department (MOF)
Maja Parnagjieva	Head of Public Debt Department (MOF)
Trajko Spasovski	Head of Central Internal Audit (MOF)
Tatjana Trajkovska	Head of Department, Central Internal Audit (MOF)
Tanja Tanevska	Deputy Head of Department, Central Internal Audit Department (MOF)
Toni Dimovski	Head of Budget Department (MOF)
Aleksandra Kostovska-Vangelovska	Head of Budget Execution Unit (MOF)
Mito Naumoski	Assistant General State Auditor (State Audit Office)
Maja Bogdanovska	Head of Department (Treasury), MOF
Julijana Petanovska	Assistant to HOD (Treasury), MOF
Sonja Petkovska-Janevska	Budget Department (Ministry of Education)
Ilija Eftimov	State Advisor, Ministry of Education
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Nade Velevska	Internal Audit Department, Ministry of Education
Nezaat Ramadani	Internal Audit Department, Ministry of Education
Dragoljub Arsovski	General State Auditor
Aco Spasovski	Director Economic Chamber of Macedonia
Elida Siljanovska	Economic Chamber of Macedonia
Ilmi Selami	Member, State Commission on Prevention of Corruption
Katerina Damevska	Executive Secretary, Macedonian Association of Information Technology

Name	Title
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Slagjan Mihajlovski	CEO, Infinite Solutions
Vlado Saveski	Marketing Manager, GRANIT construction company
Prof Dr. Borce Georgievski	General Manager to PHI UCCS
Slobodan Popovski	Complaints Committee
Vera Dzugumanova	Macedonian Customs Agency
Aneta Guleva	Euro Info Correspondence Centre
Xhevat Ademi	MP, Parliamentary Commission for Budget
Bert Van Selm	Resident Representative, IMF
Borko Handziski	Economic Affairs Officer, European Commission
Ruzica Andronikova	Economic Affairs Officer, European Commission