FEDERAL GOVERNMENT
OF SOMALIA

Financial Governance Report

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WORLD BANK GROUP

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PREFACE

The 2020 Financial Governance Report (FGR) was prepared by the Financial Governance Committee (FGC). It presents the collective view of FGC members on recent developments in financial governance in Somalia and on priorities for the year ahead.

It is the fourth annual report by the FGC and covers the period from July 2019 to June 2020. Previous FGRs are available on the FGC website.[1] For the first time, this year's report includes in-depth analysis of a 'spotlight issue' that is of particular relevance to financial governance in Somalia. The topic selected for this edition is public procurement and concessions.

Work by the FGC Secretariat in producing this report is gratefully acknowledged.

[1] See website for further information: https://mof.gov.so/fgc

ABBREVIATIONS

AfDB	African Development Bank
ALSF	Africa Legal Support Facility
AML/CFT	Anti-Money Laundering/Combating the Financing of Terrorism
CBS	Central Bank of Somalia
COVID-19	Coronavirus Disease 2019
ECF/EFF	Extended Credit Facility/Extended Fund Facility
EIIT	Extractives Industries Income Tax
EU	European Union
FGC	Financial Governance Committee
FGR	Financial Governance Report
FGS	Federal Government of Somalia
FMS	Federal Member State(s)
GPE	Global Partnership for Education
HIPC	Highly Indebted Poor Countries (debt relief initiative)
IATA	International Air Transport Association
ICAO	International Civil Aviation Organisation
ICRIC	Independent Constitutional Review Commission

IMCC	Inter-Ministerial Concessions Committee
IMF	International Monetary Fund
INPB	Interim National Procurement Board
MoF	Ministry of Finance
MoPMR	Ministry of Petroleum and Mineral Resources
MoU	Memorandum of Understanding
NISA	National Intelligence Security Agency
OAG	Office of the Auditor General
PFM	Public Financial Management
PPA	Public Procurement Authority
PSA	Production Sharing Agreement
SDR	Special Drawing Rights
SFMIS	Somalia Financial Management Information System
SNA	Somalia National Army
TSA	Treasury Single Account
UN	United Nations

EXECUTIVE SUMMARY

Introduction

Good financial governance is an essential element of Somalia's state and institution-building process. It concerns how resources are raised and spent, and it supports multiple high-level public policy objectives. In the absence of good financial governance, there is considerable scope for wastage and misappropriation of public funds. Well-functioning and prosperous economies rely on the trust of citizens and businesses in how public money is managed. A lack of trust discourages business, deters investment, and ultimately lowers tax yields. The Federal Government of Somalia (FGS) recognises that strengthening financial governance is a vital element of its state-building efforts.

The Financial Governance Committee (FGC) is a high-level advisory panel, comprising government and international representatives. It has a core remit to advise FGS institutions on strategic financial governance and to brief the international community on emerging issues. The FGC's areas of focus include public financial management (PFM), public procurement and concessions, fiscal federalism, natural resource revenue management, central bank governance, and asset recovery. The FGC has a formal mandate to review all FGS concession agreements and all FGS procurement contracts above US$5 million in value.

The purpose of the annual Financial Governance Report (FGR) is to assess developments and progress on issues discussed by the FGC during the past year. A novel feature of the 2020 FGR is the inclusion of a 'spotlight issue' that allows for a deeper dive into a key topic and to describe the state of play in greater detail. It looks beyond the report's typical one-year time frame to identify lessons, persistent barriers to progress, and potential reform priorities.

Spotlight Issue: Strengthening Public Procurement and Concessions

Progress and challenges since 2013

Providing advice to the FGS on public procurement and concessions has been a core part of the terms of reference for the FGC since its inception in early 2014. Over the past six years, and across two FGS administrations, the FGC has formally reviewed 49 FGS procurement contracts and concessions agreements.

The FGC has documented multiple challenges arising between 2013 and February 2017. These include, notably, contracts awarded as a result of unsolicited proposals, contracts negotiated bilaterally between firms and line ministries with minimal transparency, unclear specifications for scope of work that sometimes overlapped among different contracts, few performance standards or reporting requirements to enable FGS to hold contractors to account, the absence of key contract provisions such as termination clauses, and incomplete documentation for accountability purposes. The consequences of these shortcomings were often poor value for money, considerable FGS risk exposure, and strong perceptions of corruption.

Three achievements since March 2017 stand out. First, there has been a shift towards competitive tendering for public procurements, such as rations contracts, allied with a stronger role for the Procurement Department of the Ministry of Finance (MoF) in managing FGS procurements above US$100,000. Second, FGS commenced the renegotiation of two major concession agreements. It has concluded a new agreement for that Mogadishu airport and has nearly completed renegotiations for the Mogadishu port. Third, improvements have been made to the legal framework for public procurement through an amended Procurement Act and new supporting regulations.

Yet significant challenges remain. A number of flawed and problematic contracts signed by the government between 2013 and February 2017 await resolution. Oil and gas contracting needs to be conducted in full compliance with all aspects of Somalia's legal framework. Although FGS institutions are making greater efforts to comply with the tender and approval processes for concessions agreements, understanding of the legal requirements remains limited. In addition, benefits from competitive tendering are weakened in cases where FGS procuring entities provide poor contract specifications and inadequate lead times for tender processes, and where bidders lack the capacity to comply with tender requirements. There are gaps in the legal framework covering concessions. Finally, the institutional capacity of FGS for managing concessions is extremely limited.

Lessons and recommendations

A number of reflections and lessons emerge from the experience of the past seven years.

- Sustained political commitment to due process at the centre of government is critical to future progress.
- Building institutional capacity for stronger procurement and concessions management is a long-term undertaking, far beyond a four-year government term.
- FGS has limited scalable capacity for any increase in public procurement, yet it is likely that demand will continue to grow in line with increased revenue.
- Management of petroleum resources poses particular financial governance risks in Somalia that make strong compliance with the legal framework critical.
- Clearer legal provisions for dealing with unsolicited proposals for government contracts would help reduce inappropriate pressure on FGS from business entities.
- International development partners have paid limited attention to the procurement agenda and, in particular, to capacity development, in spite of the evident needs.

The FGC recommends that FGS complete four sets of priority actions within the next twelve months. Central to their success will be political leadership from the top of government.

- Establish, empower, and build capacity within oversight bodies to undertake procurement and concessions.
- Build stakeholder awareness of the legal and regulatory framework for public procurement.
- Build technical expertise and capacity for conducting, or participating in, procurement processes.
- Continue to enhance the procurement and concessions framework.

The Year in Review: July 2019 to June 2020

Two issues have dominated the policy context in Somalia over the past year. The negotiation and achievement of the Decision Point for debt relief under the Heavily Indebted Poor Countries (HIPC) initiative was a major milestone for FGS and the international community. It reflects Somalia's significant progress in strengthening financial governance over the past four years. Achievement of the HIPC Completion Point and full debt relief is expected to take an additional two years or more. The ongoing worldwide COVID-19 pandemic came hard on the heels of the Decision Point and has had severe economic consequences in Somalia, primarily as a result of restrictions on movement and disruption to trade, but also due to the initial impacts on global remittances. FGS and its Federal Member States (FMS) are experiencing significant COVID-related shortfalls in revenues.

FGC support during 2019–20 focused on PFM, fiscal federalism, oil and gas licensing, concessions and contracts, and central banking. The FGC provided analysis, advice, and critical challenges to FGS through Advisory Notes and Contract Reviews.

Public financial management

FGS made significant progress in passing legislation in 2019–20. The Revenue Act (October 2019) establishes the basis for modernising revenue administration and identifies the categories of revenue that are subject to FGS jurisdiction. The PFM Act (December 2019) regulates all aspects of national budget preparation and execution, and establishes procedures for borrowing, debt management, and natural resource revenue management. Amendments to the Procurement Act (February 2020) enable central oversight of high-value contracts and non-standard bidding methods. The Audit Bill has not yet been passed into law, however. The Upper House has made amendments to strengthen the role of Parliament in the appointment and removal of the Auditor General and returned it to the Lower House.

A Supplementary Budget was submitted by FGS to Parliament in June 2020. The timing was earlier than usual in response to the COVID-19 emergency and because of the need to enable debt service payments to international financial institutions following achievement of the HIPC Decision Point. FMS additional revenue needs are reflected in the Supplementary Budget, and increased intergovernmental transfers are planned.

A significant milestone for FGS in 2019 was taking over responsibility for the collection of Somalia's overflight revenues from the United Nations (UN) after more than 25 years. These revenues are estimated at approximately US$15–18 million per year, although revenues in 2020 will be affected by reduced air traffic as a result of COVID-19. The revenues are remitted to the Treasury Single Account (TSA) and are reflected in the Somalia Financial Management Information System (SFMIS).

FGS undertook a second round of biometric registration for national security sector personnel in 2019–20. Owing to progress made with verification and direct payments to bank accounts, it was possible to include a US$70 monthly salary increase for all security sector personnel in the 2020 Budget. Soldiers are now paid US$200 each month, comprising US$170 in wages and US$30 for rations. This is double the amount they received before the security sector registration process began, when each soldier was paid US$100 in cash.

The Office of the Auditor General (OAG) undertook a statutory audit of the FGS's 2018 financial statements, as well as compliance audits of a number of FGS institutions. These reports were submitted to Parliament and made available online in October 2019. Completion of the 2018 audits in accordance with the International Standards of Supreme Audit Institutions was a significant milestone. It demonstrates the FGS's commitment to transparency and the progress made in strengthening the capacity of the OAG. The 2018 institutional audits indicated areas in which further system strengthening is required, including with regard to donor funds spent by FGS institutions outside the SFMIS or without supporting documentation.

Donor funding to FGS institutions received off-budget and spent outside the SFMIS remains a financial governance concern. A forensic audit conducted by the OAG into donor funds provided outside government systems to the Ministry of Health from 2017 to 2019 found multiple instances of fraudulent payments, and in June 2020 a number of senior FGS officials were arraigned in court on charges of embezzlement.

Bypassing established budgeting, treasury, and accounting processes reduces transparency and accountability and exposes donor funds to significant risk of misuse.

Furthermore, when donors provide funds to FGS institutions outside government systems, even if unintentionally, they undermine efforts to establish due process in financial management. The PFM Act requires all donor grants to FGS institutions to be appropriated in the FGS Budget and to be paid into the TSA. It also requires all donor grants to FGS institutions to be signed by the Minister of Finance and registered with the OAG. Improved compliance with the PFM Act will require strengthened efforts on the part of both FGS institutions and development partners.

Multiple new government agencies have been created or are proposed in response to sector legislation and donor benchmarks. Increases in FGS revenues risk being absorbed by rising government administrative costs, rather than being used to fund service delivery or public infrastructure. Unchecked creation of new agencies also has implications for government effectiveness. FGS has prepared a draft policy for Cabinet consideration that sets out the conditions under which the establishment of any new agency is appropriate.

Fiscal federalism

Securing agreement between FGS and the FMS on a credible political framework for intergovernmental relations, including revenue sharing, continues to be a critical challenge.

The ongoing constitutional review process provides an opportunity to establish a mechanism for equalising revenue shares across FMS, so that overall revenue shares are not determined entirely by individual sector agreements. In January 2020, the Parliamentary Oversight Committee endorsed a draft version of the revised Federal Constitution prepared by the Independent Constitutional Review Commission (ICRIC). It proposes establishing a Revenue Sharing Commission responsible for making recommendations on fair and equitable distribution of resources between FGS and the FMS, including revenues from natural resources. Consultations on the draft commenced in the FMS in March 2020, before being interrupted by COVID-19.

FGS has received natural resource revenues in the past year from petroleum and tuna licensing. In July 2019, Shell paid US$1.7 million in petroleum surface rental arrears to FGS, and these funds were distributed to the FMS in line with the 2018 Baidoa Agreement on petroleum revenue sharing. In February 2010, FGS received US$1.68 million in revenue from the 2019 tuna licensing round. It will be distributed to the FMS in line with the terms of the 2019 Addis Interim Fisheries Agreement.

Oil and gas licensing

The Ministry of Petroleum and Mineral Resources (MoPMR) conducted an oil and gas road show in London in February 2019, following which it published a Model Production Sharing Agreement (PSA). The FGC undertook a detailed review of the 2019 Model PSA and compared it with the Model PSA adopted by the MoPMR in 2017. The FGC noted that extensive changes had been made to the PSA's fiscal terms. While some of the changes in the 2019 Model PSA seemed beneficial to FGS, others appeared to weaken its ability to protect its interests. The MoPMR has reported that it is working on a new set of revisions to the Model PSA, taking into account the recommendations made by the FGC. The new draft had not been shared with the FGC for review by the end of June 2020.

In May 2020, the MoPMR made a pre-announcement for the 2020 licensing round covering seven blocks and published an overview of its proposed PSA terms online. Further work is still required to assure the full compliance of the revised Model PSA and licence round tender protocol with Somalia's legal framework. The fiscal terms of the Model PSA must be aligned with the Extractives Industries Income Tax (EIIT) Bill drafted by the MoF. The tendering and award of oil and gas concessions is governed by the provisions of both the 2016 Procurement Act and 2020 Petroleum Act. Consistent with the requirements of the Procurement Act, all licence round documentation, including the Model PSA, must be approved by the Inter-Ministerial Concessions Committee (IMCC). FGS has also made an undertaking to its international partners that it will not issue any oil exploration licences until the Petroleum Act is made operational, the EIIT Bill is enacted into law, the Model PSA is finalised, and PFM Act regulations on natural resource management are issued. Enactment of the EIIT Bill is a HIPC Completion Point trigger. FGS adherence to commitments made to partners is critical for achieving debt relief.

Concessions and contracts

Negotiations resumed on a revised Mogadishu port contract in August 2019. The objective is to achieve more efficient operation of the port by enabling necessary capital investment, ensuring transparency, clarifying the relevant parties' roles and responsibilities, and adjusting tariff levels and revenue shares. A revised agreement with the port concessionaire, Al Bayrak, is expected to be signed during the third quarter of 2020, following IMCC approval and registration with the OAG. Compared to the original 2013 agreement, the revised agreement is expected to include improvements such as new provisions on port investment, commercial basis, operating requirements, taxation, monitoring and reporting, and termination.

The Ministry of Internal Security initiated a tender process in May 2020 to select a new passport supplier. The FGC advised the Ministry that substantial adjustments to the documentation and draft contract were required to ensure compliance with the Procurement Act, provide clarity to bidders and to protect FGS financial interests. With FGC support, independent external legal advice funded by the European Union (EU) was retained to recommend adjustments to the legal provisions of the draft contract, to better protect the interests of FGS.

FGS successfully concluded the competitive tender of four security sector rations contracts in September 2019. FGS monthly expenditure obligations for security sector rations contracts have been cut nearly in half as a result of these new contracts, with annual savings amounting to approximately US$6.7 million. Some of these savings have been driven by a reduction in the volume of rations purchased as a result of a clearer specification of force numbers following the security sector registration process. Competitive tendering has also reduced the unit prices of most goods—in many cases by at least 10 percent. New tenders are being prepared to replace the current contracts, which expire in September 2020.

Central banking

The Central Bank of Somalia (CBS) has made good progress in implementing the Financial Sector Reform Roadmap. It has strengthened the legal and regulatory framework by issuing Mobile Money Regulations and Anti-Money Laundering Regulations. A number of other bills are being drafted, including the National Payment Bill, the Insurance Bill, and the revised Financial Institutions Law.

To strengthen the governance of the CBS, the President of FGS appointed five experienced non-executive directors to the board of CBS in March 2020. Appointments were also made to three critical senior management positions in line with the CBS transition plan.

COVID-19 disruptions to remittance routes in 2020 have highlighted the difficulties faced by Somali money transfer businesses owing to the lack of correspondent banking relationships. Moreover, disruptions in global travel have exposed the vulnerability of current stop-gap remittance mechanisms, such as flying cash from remitting countries to clearance hubs. These disruptions have also highlighted the critical importance of financial sector reforms to restore Somalia's correspondent banking relationships over the medium term. As a result of the COVID-19 crisis, CBS has increased the frequency of its monitoring of financial institutions and money transfer businesses from a quarterly to a monthly basis.

CBS managed to recover modest legacy assets held by Credit Suisse. Progress is being made in recovering legacy assets held in the United Kingdom by Crown Agents, but the process is not yet complete. No progress was made in accessing sizeable assets held in Italy by Banca Intesa Sanpaolo, which has been unresponsive to requests by CBS.

Significant progress was made by CBS in integrating its core banking system with the SFMIS. The integration, launched in October 2019, reduces operational risk and has made CBS more efficient by eliminating duplicative, paper-based processes. It allows MoF and the Accountant General to see account balances before making a payment. It prevents CBS from making a payment on behalf of FGS if an account has an insufficient balance.

The Year Ahead: Key Priorities for 2020-21

Strategic context

A confluence of events will shape the policy context for Somalia in the next twelve months. First, the adverse fiscal effects of the COVID-19 emergency will persist. FGS priorities will need to broaden to encompass further investments in the health system as well as socioeconomic recovery from the crisis. Second, political attention will focus increasingly on the upcoming 2021 elections and, consequently, fiscal pressures are likely to build. Third, final negotiations and agreement are expected on a revised Federal Constitution, which will need to address the complex fiscal relationship between FGS and the FMS. Finally, the licensing round for oil and gas concessions is scheduled to launch in August 2020 and to run until March 2021. Yet uncertainties remain about the adequacy of institutional preparations for issuance of PSAs.

These events represent a highly significant year of transitions, and they carry a number of risks for financial governance in Somalia.

- Pressure for problematic procurements and concessions may rise in the coming twelve months, especially in response to the continuing COVID-19 emergency and in anticipation of a possible change in administration. Oil and gas licensing constitutes a special category of potentially high-risk concessions.
- COVID-19 appears in the short term to have increased incentives for constructive dialogue between FGS and FMS on fiscal and financial matters. The underlying political economy remains challenging, however, and could work against durable progress.
- There are high expectations of consistent progress towards the HIPC Completion Point and achievement of the floating triggers. FGS will require substantial political and technical bandwidth in 2020–21 to maintain momentum on these reforms, which will need to continue into the tenure of a new administration.

The recent passage of legislation such as the PFM Act and the Procurement Act Amendments will provide a stronger institutional basis for good financial governance and will mitigate some of the risks in the coming year. Procedures are needed for their implementation, however, and in some cases new agencies may need to be established. In all cases, the requirement is to move beyond paper-based reforms to demonstrated implementation.

The central challenge for FGS, as it navigates this context, is how to make the gains of the past four years resilient to any political transition in 2021.

Priorities for the year ahead

The FGC has identified four strategic priorities for FGS in strengthening financial governance in the year ahead.

Consolidate fiscal reforms and strengthen institutional capacity. It will be important for FGS to conclude the enactment of relevant legislation and develop and implement supporting regulations. The Audit Bill and EIIT Bill are especially critical to financial governance. Another priority will be to clarify and deepen the arrangements for fiscal federalism through finalisation of the revised Federal Constitution. On the external financing side, FGS should use the revised and updated legal and institutional framework to ensure that all aid to FGS institutions is appropriated in the FGS Budget and managed through the TSA. Similarly, the MoF should invoke the powers given to it by the PFM Act to tackle the fiscal costs of institutional proliferation in the form of new FGS agencies.

Maintain a continuous focus on procurement and concessions. FGS should deepen understanding across all federal institutions of due process in public procurement and concessions, and it should maintain a firm commitment to compliance at the ministerial level. As FGS resources continue to increase and the government further expands the range of public procurement and concessions, additional guidance and tools will be required to support and maintain a robust system. Developing the capacity of FGS procurement officials in procuring entities will be a priority.

Ensure transparency and due process in natural resource management. It will be important for FGS to ensure that oil and gas contracting is conducted in a manner that is fully compliant with all legal requirements, including the approval requirements set out in the concessions section of the Procurement Act. Sequencing is critical so that the Model PSA aligns with the EIIT Bill, and so that the IMCC has adequate time to scrutinise and approve the proposed tender process and documentation. Transparency will be essential so that Somali citizens and international funding providers can have confidence in the FGS process and decision making. The 2020 tuna licensing round will be an opportunity for FGS to refresh the licence holders and expand the level of revenue received.

Continue to strengthen central bank governance and financial sector development. Priorities in 2020–21 reflect the Roadmap for Financial Sector Development and cover the institutional strengthening of CBS, currency reform, mobile money regulations, and cross-border payment mechanisms. Work is progressing on implementation of the CBS transition plan, and further activities should continue over the next twelve months. CBS is working with the World Bank on currency exchange and reform, and it will need support from the FMS in the fight against counterfeiters. Implementation of the Mobile Money Regulations, issued in 2019, is a high priority for the year ahead. Work with the international community will need to continue to resolve any COVID-19 related obstacles to inward money transfers, notably remittances, as well as to address underlying structural constraints.

Financial governance priorities for 2020–21

Area of focus	Specific priorities
Protect fiscal reforms	• Conclude enactment of legislation relating to financial governance and commence implementation • Clarify and deepen the arrangements for fiscal federalism through finalisation of the revised constitution • Work with the international community to bring all aid to FGS institutions on budget/on treasury • Review all proposed laws for their fiscal implications prior to submission to Cabinet
Maintain a focus on procurement and concessions	• Deepen understanding across FGS institutions of due process in public procurement and concessions • Maintain a firm commitment to compliance • Strengthen capacity of oversight bodies and technical units • Seek development partner support for capacity development
Ensure transparency and due process in natural resource management	• Align the Model PSA with the EIIT Bill • Ensure oil and gas contracting is compliant with all legal requirements, including the approval requirements in the Procurement Act
Strengthen central bank governance and financial sector development	• Continue to implement CBS transition plan • Implement the 2019 Mobile Money Regulations • Progress plans for first phase of currency reform • Maintain and develop the interface between CBS systems and SFMIS • Implement national payment and settlement system • Seek resolution of the obstacles to inward money transfers

I. INTRODUCTION

Importance of good financial governance

Good financial governance is an essential element of Somalia's state- and institution-building process. It concerns how resources are raised and spent, and it supports the following objectives:

- Ensuring that public resources are used for national priorities, such as combating insecurity and delivering essential services to citizens.
- Strengthening trust between the government and the public, between the government and investors, between levels of government, and between the government and the international community.
- Safeguarding fiscal sustainability and financial stability.
- Fostering inclusive growth and social cohesion, generating employment, and enabling investment in long-term recovery and development.
- Strengthening accountability by holding public officials accountable for the use of state resources.

In the absence of good financial governance, there is considerable scope for wastage or misappropriation of public funds, which undermines the sustainability of state-building efforts. Funding by international development partners is likely, in those circumstances, to be provided through non-government channels. The avoidance of government systems in turn risks reducing the relevance of the state to its citizens.

Well-functioning and prosperous economies rely on the trust of citizens and businesses in how public money is managed. A lack of trust discourages business, deters investment, and ultimately lowers tax yields. Somalia found itself in that situation for over two decades following the collapse of the Siad Barre regime. The Federal Government of Somalia (FGS) recognises that strengthening financial governance is a vital element of its state-building efforts—while also being conscious of the low base of trust, capacity, and systems from which its efforts have begun.

Good financial governance is the responsibility of all levels of government, including the Federal Member States (FMS). Lack of consensus over critical elements of financial governance harms Somalia's reputation nationally and internationally, whilst deterring investment and undermining political stability.

Role of the Financial Governance Committee

The Financial Governance Committee (FGC) is a high-level advisory panel, comprising government and international representatives. It has a core remit to advise the institutions of the FGS on strategic financial governance, and to brief the international community on emerging issues.[2] It has been operational since early 2014 and meets in Mogadishu every six weeks.

The FGC provides advice through a combination of critical challenge, technical analysis, stakeholder engagement, formal Advisory Notes and Contract Reviews, and commissioned technical assistance. The FGC has a formal mandate to review all FGS concession agreements and all FGS procurement contracts above US$5 million in value.[3]

The FGC's areas of focus include public financial management (PFM), public procurement and concessions, fiscal federalism, natural resource revenue management, central bank governance, and asset recovery. The FGC identifies, flags, and monitors any emerging financial governance issues that individual FGC members consider merit FGS attention and potential action. There is a balance of emphasis across matters of policy, compliance, and institutional reform.

Detailed discussions and advice in FGC meetings are confidential, with a summary published on the Ministry of Finance (MoF) website following each meeting. Individual FGC Advisory Notes may be made available to other stakeholders at the discretion of the FGC Chair.

FGC membership consists of the Minister of Finance (FGC Chair), the Governor of the Central Bank of Somalia (CBS), representatives of the President and the Prime Minister, the Chair of the Budget and Finance Committee of the Lower House, the State Attorney General, and four international delegates representing the International Monetary Fund (IMF), African Development Bank (AfDB), World Bank, and bilateral donors (including the European Union, or EU). The FGC receives expert support from a dedicated Concessions Adviser and an FGC Secretariat. Funding for FGC operations is

[2] See website for further information: https://mof.gov.so/fgc

[3] Concession agreements grant an interest in a public asset to a private entity for a specified period in return for a fee, royalty or other consideration, whereas procurement contracts govern the purchase of public goods, works and services.

provided by the World Bank[4] and the EU.

While the FGC is not a formal institution with a statutory basis, it retains a link to the Economic Committee of the Cabinet through the Minister of Finance and the Office of the Prime Minister. The effective functioning of the FGC is a safeguard measure as part of the budget support agreement between FGS and the EU. The FGC mandate is renewed annually by mutual consent of the FGS and participating international institutions.

International members of the FGC provide periodic updates on issues that are salient to the international community through briefings of the Financial Governance Forum. There has been growing interest in the distinctive model of the FGC, its achievements since 2014, and potential lessons for other countries.[5] Highlighted results from FGC advice to date include improvements in the value for money of government spending through competitive tendering of rations contracts, strengthened accountability through the registration of security sector personnel, renegotiation of fiscal terms to improve concessions contracts, improvements to the legal framework for PFM and public procurement, and the recovery of CBS assets.

Purpose of the Financial Governance Report

The purpose of the annual Financial Governance Report (FGR) is to assess developments and progress on issues that have been discussed by the FGC during the past year. Its scope is informed, in principle, by the objectives of good financial governance as set out above and by the remit of the FGC. The FGR does not attempt to provide a comprehensive report on all economic and financial governance issues in Somalia, beyond those discussed within the FGC.

A novel feature of the 2020 FGR is the inclusion of a chapter dedicated to one particular area of FGS financial governance (a 'spotlight issue'). The intention is to take a deeper dive into the selected topic to describe the state of play, and to look beyond the general single-year time frame of the FGR to identify lessons, persistent barriers to progress, and potential reform priorities. Procurement and concessions have been a consistently strong focus of the FGC since its formation in 2014, so it is an obvious choice for a spotlight analysis in the 2020 FGR.

Organisation of the Report

Following this introduction, the report is organised into three chapters and associated annexes. **Chapter II** presents the selected spotlight issue on strengthening public procurement and concessions. It reviews the main challenges encountered across two different FGS administrations since the launch of the FGC (2013–16 and 2017–20), reflects on the progress made by FGS since 2013, and makes broad recommendations to strengthen the FGS's future approaches and avoid the recurrence of past challenges. A list of contracts formally reviewed by the FGC since 2014 is included in Annex A. Annex B presents a recap of FGS institutional roles in the management, oversight, and approval of concession agreements and procurement contracts. Recommended actions for strengthening the management of procurement and concessions are set out in Annex C.

[4] World Bank funding to the FGC is provided through the Multi Partner Fund. The Multi Partner Fund is funded by the EU, Finland, Germany (KfW), Denmark, Norway, Sweden (Swedish International Development Cooperation), the United Kingdom, Italy, Switzerland (Swiss Agency for Development Cooperation), the United States (United States Agency for International Development), and the World Bank.

[5] See https://www.worldbank.org/en/results/2019/11/11/the-subtle-art-of-reforming-financial-governance-in-somalia

Chapter III provides a review of financial governance over the past year, from July 2019 to June 2020. It describes a policy context dominated first by debt relief under the Heavily Indebted Poor Countries (HIPC) initiative and achievement of the HIPC Decision Point, and then by the onset of COVID-19 and the emergency measures taken by FGS to protect citizens and the economy. The review covers progress in PFM, fiscal federalism, oil and gas licensing, concessions and contracts, and central banking. A summary of progress against the priorities identified by the FGC in the 2019 FGR is included in Annex D, and a list of FGS autonomous and semi-autonomous agencies is set out in Annex E.

Chapter IV sets out financial governance priorities for 2020–21. It presents a year characterised by four major transitions: COVID-19 recovery, parliamentary and presidential elections, a revised Federal Constitution, and oil and gas licensing. These transitions will form the policy context for FGS and will pose risks to financial governance. Accordingly, priorities identified by the FGC include protecting fiscal reforms by strengthening institutional capacity and implementing legislation, maintaining a focus on procurement and concessions, ensuring transparency and due process in natural resource management, and further strengthening central bank governance and financial sector development.

Boxes are used throughout the report to highlight additional details related to Somalia's financial governance in general or to work undertaken by the FGC in particular.

II. SPOTLIGHT ISSUE: STRENGTHENING PUBLIC PROCUREMENT AND CONCESSIONS

Providing advice to the FGS on public procurement and concessions has been a core part of the terms of reference for the FGC since its inception in early 2014. FGC Contract Reviews assess whether a concession or procurement was appropriately tendered, and whether the contract terms protect the interests of FGS and offer value for money. The reviews make recommendations to FGS on how to address any identified shortcomings.

Over the past six years, and across two FGS administrations, the FGC has formally reviewed 49 FGS procurement contracts and concessions agreements (Annex A). It has provided regular advice on the development and implementation of the FGS legal framework for procurement and concessions. It has supported efforts by FGS to initiate competitive procurement for rations contracts and has provided guidance in cases where FGS has sought to renegotiate concessions contracts and navigate contractual disputes.

Such in-depth experience places the FGC in a good position to reflect constructively on the challenges that FGS has faced in managing procurement and concessions since 2013.[6] This 'spotlight' chapter of the 2020 FGR reviews the main challenges faced by two FGS administrations since 2013, reflects on the progress made, and recommends actions to strengthen the future management of procurement and concessions. The emphasis is on helping FGS to avoid a recurrence of past challenges and problems.

Progress and Challenges 2013-20

Early steps: 2013 to February 2017

Between 2013 and 2016, FGS had limited revenues with which to purchase goods and services. Most of its contracting activity centred on concessions. Those concessions covered the management of infrastructure assets (such as the port, airport, and public land and buildings), the management of natural resources (including seismic data acquisition, oil and gas exploration,

6 The challenges have been documented in three FGC Concessions and Contracts Reports, published in 2015 and 2016, and in three annual FGC Financial Governance Reports, published in 2017, 2018, and 2019. See https://mof.gov.so/fgc

and fisheries management), and the delivery of government services (such as tax and non-tax revenue collection, production and sale of textbooks, and vehicle licensing).

Given the prevailing low-revenue and low-capacity environment, granting concessions to private sector entities in exchange for a fee or royalty was, in theory, a sound strategy. It had the potential to generate revenue and to bring private sector expertise to the management of public assets and services. FGS lacked the necessary technical capacity to execute this approach effectively, however, and there were major shortcomings in the way the concession agreements were developed.

Common problematic features of the FGS concession processes and agreements during this period included the following:

- Unsolicited proposals made by individual firms, which were not well-targeted to the needs of the government or to end users and which placed an inappropriate risk burden on the government.
- Ambiguity in the scope of services and few (if any) performance standards, making it difficult to execute the agreement effectively or hold the concessionaire to account.
- Different agreements overlapping with one another in scope, leading to a conflict over the rights assigned—particularly in cases where the government had granted exclusivity.
- Inadequate contract drafting, with either major contract elements lacking (such as termination provisions) or incomplete documentation (for example, missing information or blank annexes).
- No reporting requirements placed on the contractor to enable the government to provide proper oversight.
- Inconsistent record keeping by the government, diminishing its ability to manage the concession.
- Lack of competition, combined with poor specification of the contract scope, leading to agreements that offered questionable value for money.
- Agreements negotiated bilaterally between the firm and the relevant government institution, without the knowledge of the rest of government. This lack of transparency in the negotiation process fuelled suspicions that individuals within the government were opportunistically taking advantage of systemic weaknesses in the operating environment to further their own business, personal, or political interests.

Aside from concessions, several rations contracts for the security sector and two major procurement contracts for coast guard vessels and services (signed by FGS in 2013) suffered from similar problems. Moreover, the coast guard contracts were unaffordable relative to the FGS budget. Oil and gas concessions presented yet more challenges (Box 1).

Box 1 Oil and gas contracts from 2013 to February 2017

The FGC reviewed six contracts related to oil and gas in 2014 and 2015. Five of these were negotiated by the FGS, and one was negotiated by an FMS government. The FGC noted that the way in which these contracts had been developed lacked transparency, and it identified instances in which their scopes overlapped. Of the six contracts, two were adjusted in line with FGC recommendations, one proceeded without incorporating FGC recommendations, and three did not proceed.

Overall, the FGC voiced its concern that oil and gas agreements were being developed in parallel by FGS and some FMS in the absence of a clear legal and fiscal framework for petroleum management that covered the assignment of ownership and management rights as well as an agreement on revenue sharing. The FGC noted that this risked creating dangerous and destabilising competition among different levels of government. It recommended that no exploratory drilling by international oil companies be permitted until a new legal and fiscal framework for petroleum was agreed.

In a major step forward, in late 2016, the Ministry of Petroleum and Mineral Resources (MoPMR) shared its Model Production Sharing Agreement (PSA) with the FGC for review. The FGC reviewed the fiscal terms, and its recommendations were fully incorporated in early 2017, just before the change of government.

In some cases, the FGS amended or set aside contracts following FGC recommendations. In other cases, however, no action was taken and the contracts remained effective. Those contracts either continued to be implemented as signed or remained in place but were simply not enforced. Poor information sharing across government, disagreements within government, and a lack of technical capacity were all reported as factors hindering remedial action by FGS.

In 2015, FGS sought to bring greater order to the contracting process by requiring all contracts with international entities to be approved by Cabinet. It established an interim mechanism (the Interim National Procurement Board, or INPB) for the approval of large-value procurement (that is, contracts above US$2 million in value) and all concessions. These interim arrangements were intended to bridge gaps in the institutional framework for procurement and concessions until such time as the Procurement Act, signed into law in 2016, was fully implemented. In September 2015, the President required all security sector logistics contracts to be tendered with the oversight of the INPB.

These initiatives worked only imperfectly. Several small concession agreements were signed by individual FGS institutions, without oversight by the INPB. The Somali Police Force and the National Intelligence Security Agency (NISA) carried out rations tenders without INPB oversight, although the final contracts were shared with the FGC for review and some recommendations were subsequently addressed. It took more than a year for the Somalia National Army (SNA) to initiate a competitive tender for its rations contract. The FGC supported the INPB in overseeing the tender process, and a contract was awarded competitively in February 2017, shortly before the change of government in March 2017. The INPB also reviewed a number of smaller concession contracts, related to the outsourcing of government services, most of which were also reviewed by the FGC.

Emerging consolidation: March 2017 to 2020

A new government took office in March 2017. It took early action to review and cancel a number of the concessions awarded by the previous administration to private sector companies for the collection of non-tax revenues.[7] It was considered by the incoming government that these concessions did not provide FGS with value for money. Despite resistance from some of the affected companies, the rights and services reverted to government responsibility.

Some of the previous administration's contracting practices persisted, however. The new command of the army summarily cancelled the SNA rations contract that had been awarded competitively in February 2017, and instead awarded a new contract directly and without competitive tender to another company. It took more than a year of concerted effort by the MoF and the Economic Committee of the Cabinet before the Ministry of Defence annulled the new award on the grounds of irregularity.

Despite the early action mentioned above and, faced with multiple other priorities and the general challenges of transition, the new government did not immediately focus on systemic challenges in procurement and concessions. In late 2017, recognising that FGS lacked the institutional capacity for near-term implementation of the Procurement Act, the Cabinet approved a set of Interim Public Procurement Requirements. These interim requirements reaffirmed the principles of the Procurement Act, including the principle of competitive bidding, whilst stipulating that FGS institutions must carry out all public procurement for contracts valued in excess of US$100,000 in conjunction with the MoF's Procurement Department. The interim requirements reaffirmed the role of the INPB in reviewing tender processes and approving contracts for major public procurements (above US$2 million) and all concessions. The FGC's mandate to review FGS contracts was retained (Annex B).

Some notable areas of FGS activity and progress since 2017 warrant fuller description.

There has been a shift towards competitive tendering for public procurements. As required by the Interim Public Procurement Requirements, the MoF's Procurement Department has acted as procurement agent for FGS institutions making purchases above US$100,000. This role has driven a gradual shift towards competitive tendering. Competitive tenders were conducted for security sector rations and fuel contracts in 2019. The impetus was provided by both the broader FGS security sector reform programme and the Interim Public Procurement Requirements, leading to competitively awarded rations contracts for SNA (replacing the contract that was awarded directly by the SNA in 2017), for the police, and for NISA. The MoF's Procurement Department has supported a number of other competitive procurements for goods, services, and works by FGS institutions.

Major concession agreements have been subject to renegotiation. In 2018, FGS embarked on a renegotiation of the port and airport management concessions. Renegotiation of these contracts was the subject of a structural benchmark under the IMF's Third Staff Monitored Programme, which ran from May 2018 to April 2019. FGS was unable to meet the benchmark (requiring the contracts to be renegotiated by the end of December 2018) because the two renegotiations took considerably longer than anticipated. In both cases, initial delays reflected an underestimation of the complexity of concession agreements. There was a need to obtain donor support for the hiring of expert advisers and then to manage those advisers appropriately in support of FGS objectives. FGS

[7] Road tax, property transfer tax, and vehicle licensing.

continued with the negotiations despite missing the benchmark and was able to bring the airport contract renegotiation to a successful conclusion in May 2019. The port negotiations are still ongoing a year later, as the concessionaire has shown considerably less commitment to revising the contract on fair terms. Significant political involvement has been required to move the negotiations forward and will remain necessary if these negotiations are to conclude in the second half of 2020, as intended (Chapter III).

Adjustments have been made to the legal framework for procurement. The 2016 Procurement Act established a highly decentralised approach to procurement, whereby each FGS institution is expected to be certified as a procuring entity. The institution is responsible for carrying out its own procurement in accordance with the Act, using its own procurement unit and procurement committee. The capacity of many spending agencies to implement the law remains extremely limited, however. In response, FGS introduced a number of Amendments to the Procurement Act in 2019 to strengthen oversight of the entities undertaking procurement. The Amendments, passed in February 2020, enable central oversight of high-value contracts and non-standard bidding methods and allow the Procurement Authority to de-certify a procuring entity in the event of consistent failure to conduct procurement in accordance with the law. The Amendments require procuring entities to register contracts with the Office of the Auditor General (OAG) as a condition of contract effectiveness. Regulations to the Act were issued in February 2020.

Overall, the efforts made by FGS since 2017 to improve how contracts are tendered and awarded have yielded positive results. There has been a significant reduction in non-transparent, bilateral contract negotiations between FGS institutions and individual firms. FGS institutions appear generally to be aware that contracts should be tendered, and that decisions to sole-source or use restricted tendering require approval. They are also aware that procurements above US$100,000 should be tendered with the help of the MoF's Procurement Department.

Challenges outstanding in 2020

Despite the considerable progress made, public procurement capacity in FGS remains limited. A number of challenges experienced in past years are still apparent.

FGS has not resolved all issues relating to the contracts signed by the government between 2013 and February 2017. While FGS has taken steps to renegotiate the largest concession agreements (for example, for the Mogadishu port and airport), a number of other contracts are still effective even though they deliver poor value for money or expose the FGS to risk.[8] Efforts by the MoF to follow up with the FGS institutions responsible for these contracts have met with limited success. FGS also faces an arbitration case in the Netherlands with respect to coast guard contracts signed in 2013, in which the contractor has made a large legal claim relating to non-payment by FGS. That case is a clear reminder of the consequences of entering into contracts that are poorly specified and have not been reviewed carefully for affordability, value for money, and the protection of FGS interests.

Oil and gas contracting needs to be conducted in full compliance with all aspects of Somalia's legal framework (Box 2; Chapter III).

[8] Those contracts include a number of concessions (for example, for the airport taxi, dry port, and visa issuance) and property lease agreements (such as tourism land and property leases, the SYL Hotel lease, and the Somali Fuel Company lease).

Box 2 Oil and gas contracting and the legal framework, 2019–20

In 2019, the MoPMR held an oil and gas road show and released a Model PSA and tender protocol before the fiscal or legal framework for petroleum was complete. The Model PSA and tender protocol were not approved by the Inter-Ministerial Concessions Committee (IMCC) as required by the Procurement Act or reviewed by the FGC. When the FGC subsequently reviewed the 2019 Model PSA, it found that it differed substantially from the previous model adopted in 2017. In some cases, these changes appeared advantageous to FGS, but in others they did not.

The MoPMR subsequently updated the petroleum legal framework to capture provisions on petroleum ownership, management, and revenue sharing that had been agreed between FGS and the FMS in Baidoa in 2018. The revised Petroleum Act was signed into law by the President in February 2020.

The fiscal framework for oil and gas contracting is still under development. The MoF has drafted an Extractives Industries Income Tax (EIIT) Bill, which will govern the terms of any PSA, but work is still needed to align the fiscal terms of the Model PSA with the bill. In May 2020, the MoPMR announced the timetable for a 2020 licensing round and shared information with bidders through virtual roadshows on the licensing round website. The relevant documentation (including the Model PSA) has not been shared with the FGC or submitted to the IMCC for approval, as required by the Procurement Act.

There are gaps in the legal framework for concessions, and FGS capacity for concessions management is extremely limited. It is increasingly evident that the concessions section of the Procurement Act has a number of deficiencies, such as the absence of any legal process for dealing with unsolicited proposals and the inclusion of procedural requirements that may undermine competitive tendering processes. Moreover, FGS has only limited access to the type of specialised technical and legal expertise required to develop bespoke contractual arrangements and tender documents for concessions. FGS also lacks specialised capacity to enable the IMCC to perform its oversight responsibilities. These challenges result in an inability to tender and award concessions that deliver value for money and protect the interests of FGS.

FGS institutions have a limited understanding of the tendering and approval process that applies to concessions. The Procurement Act requires all concessions tenders and awards to be approved by the IMCC (Annex B).[9] While the IMCC approved the renegotiated airport management concession contract in 2019, there are instances in which FGS institutions have attempted to initiate tender processes for concessions without IMCC approval. In addition, two concessions have been tendered and awarded without prior approval by IMCC or review by FGC (one of them—a central bank property lease—is now on hold, while the status of the other—an Education Certificates concession—is unclear). In a more positive development, a concession tender for passport services was submitted to the IMCC for review recently. This represented the first time that a concessions tender was submitted for IMCC approval in line with legal requirements (Chapter III).

There is limited capacity among FGS institutions to develop clear contract specifications. Contract specifications are critical to define what the government requires from a contractor. Yet poor specification of contract terms has been observed repeatedly in rations tenders, as well as in the documentation for concessions tenders. When contracts are poorly specified, FGS risks achieving poor value for money or not obtaining the goods, services, or investments that it requires. Poor specifications expose the FGS to risk and may create disputes with contractors that require time and energy to resolve. For example, a failure to identify detailed requirements for the supply of rice has resulted in a dispute between FGS and a rations contractor.

FGS institutions often provide inadequate lead times for tender processes, even when the need has been known for some time. This approach generally results from an underestimation of the complexity of the contracting process and a lack of awareness of the minimum timeframes required by law. Although the Procurement Act requires the annual development of procurement plans, the failure to establish and empower the institutions needed to enforce the law has meant that such planning does not occur. The absence of adequate planning in turn creates pressure for tenders to be conducted in ways that contravene the Procurement Act, or for non-standard procurement methods to be used even though their circumstances do not justify such methods under the Procurement Act.

Bidders demonstrate an inadequate level of know-how to understand and comply with FGS tender requirements. A high percentage of bidders are rejected as a result of procedural issues, which reduces competition and choice in public procurement. Bids are frequently assessed to be substantially unresponsive to the request for proposals. Those shortcomings indicate inadequate capacity among bidders to understand the documentation that must be submitted or the evaluation process that FGS will follow. The high proportion of non-compliant tenders may also suggest that the standard bidding requirements are insufficiently adapted to the Somali context.

Reflections and Recommendations

FGS has made tangible progress since 2017 in managing public procurement processes and addressing legacy contracts. This progress has required strong political leadership and commitment from the MoF and the Office of the

[9] The INPB, which has largely the same composition as the IMCC, has served to undertake the basic responsibilities of the IMCC prior to the effectiveness of the Procurement Act.

Prime Minister. In the case of the renegotiation of the Mogadishu port and airport concessions, the FGS effort has been supplemented by sustained and targeted external legal, technical, and financial support to the negotiation teams.[10] A small number of FGS officials from the MoF and the Office of the Prime Minister have carried a significant operational workload across the procurement and concessions agenda.

Given the low starting point of FGS technical capacity and the range of contextual challenges, progress has necessarily been incremental. The achievements made thus far remain vulnerable to gaps in administrative capacity and to weak procedural understanding by FGS institutions that carry out procurement. Challenges emanate, too, from the political pressure exerted by vested interests in Somalia. The cumulative gains are therefore fragile and at risk of reversal. It is likely that existing FGS capacity and systems would be overwhelmed in the event of a rapid increase in government financial resources (for example, debt relief or budget support) that led to scaling up procurement. They are also likely to be tested by the pressures imposed by the upcoming election year (Chapter IV).

The foregoing assessment gives rise to a number of reflections that the FGC commends to FGS for further consideration and early action.

Sustained political commitment and leadership are central to continued progress in resolving 'live' contractual issues and in building stronger institutions. Owing to uneven understanding and interest across FGS institutions, considerable political effort is required on a continuing basis to sustain and deepen due process. Individual FGS institutions, from the political leadership downward, require frequent and repeated sensitisation on their roles and responsibilities under the Procurement Act, as well as the processes they are required by law to follow. The MoF, supported by the Office of the Prime Minister, needs gradually to increase its use of enforcement tools. It could, for example, more systematically suspend payment on contracts awarded without due process or require incorrectly awarded contracts to be voided.

Resolving problems in existing contracts and building institutional capacity for managing procurement and concessions is a long-term undertaking. It requires considerably more time than the four years afforded by a term of government. Even after eight years of FGC engagement, there remains a significant unfinished agenda. FGS needs progressively to establish, empower, and build capacity within the broader institutional arrangements envisaged by the amended Procurement Act (for example, the Public Procurement Authority and the IMCC's Concessions Technical Unit). Stronger institutionalisation would help sustain the important gains made by FGS through a potential political transition.

FGS has limited scalable capacity to deal with any increase in the volume of public procurement and concessions. It is critical that existing institutional capacity increase, both in the MoF and in other FGS institutions, before FGS experiences a significant expansion in resource inflows (for example, from petroleum, debt relief, or donor budget support). Limited operational bandwidth, especially in MoF given its critical role in all procurements over US$100,000, is particularly challenging when there is time pressure caused by the imminent expiry of current contracts. A sudden increase in the volume of procurement would either create bottlenecks or risk unsound tenders.

Clearer legal provisions for dealing with unsolicited proposals would help reduce inappropriate pressure on FGS from well-connected businesses and vested interests.

[10] Support has been provided by the AfDB's Africa Legal Support Facility (ALSF), the World Bank, and the EU.

The concessions section of the Procurement Act needs to be reviewed and revised as a priority to address this weakness. Debt relief can be expected to lead to an increase in the number of unsolicited proposals that FGS receives. Without proper legal provisions in the Act, it may be difficult for the MoF and FGS oversight entities to resist the ensuing pressure, thereby compromising the adequate protection of FGS financial interests.

Management of petroleum resources poses particular financial governance risks in Somalia that make strong compliance with the legal framework critical. Close attention will need to be paid to sustaining the support and involvement of FMS as oil and gas licensing proceeds. The oil and gas licensing round and award of PSAs must be overseen by the IMCC, as required by the Procurement Act. Stakeholder consultation on oil and gas licensing, as required by the Procurement Act, should also be emphasised to build support among FMS. The fiscal provisions of the Model PSA must be consistent with the eventual Extractives Industries Income Tax Act.

Development partners have shown a disappointing lack of interest in supporting FGS to develop its capacity for public procurement and concession tendering (Box 3). Now that the amended Procurement Act is in force, capacity development support is an even greater priority. The reason for development partners' limited interest may be that most donor-funded procurement does not use FGS procurement rules or systems. With only a small number of donors providing budget support, many do not pay close attention to the strength of government procurement systems and processes. FGS will need to make the case strongly to development partners for a sustained programme of capacity support and development, for both public procurement and concessions.

Box 3 Donor support to FGS procurement and concessions

Procurement: Between 2013 and 2016, FGS received support from the AfDB and the World Bank in drafting the Procurement Act and preparing some of the tools required for its implementation. Subsequently, however, FGS has received relatively little support for procurement capacity development from development partners—beyond the World Bank and AfDB providing a small amount of technical assistance to the MoF's Procurement Department. Given the highly decentralised approach to procurement established by the Procurement Act, whereby every FGS institution is expected to establish its own procurement unit and procurement committee, procurement capacity development needs across FGS are extensive.

Concessions: FGS has received transactional support from the AfDB's Africa Legal Support Facility (ALSF), the World Bank, and the EU. This support has provided technical and legal assistance for specific concessions (including the port, airport, oil and gas, and passports).

As financial resource flows from FGS to the FMS increase, FGS and development partners need to pay greater attention to procurement capacity and practices at the FMS level. Valuable lessons from the FGS's experience in strengthening procurement and concessions could be shared at the FMS level and could usefully inform development partners' approaches to support. A considerable share of the financial flows from FGS to the FMS are funded by donor support.

Drawing on these reflections, recommended actions for FGS in the next twelve months focus on four areas (Annex C):

- Establish, empower, and build functional capacity within FGS oversight bodies for procurement and concessions.
- Build stakeholder awareness of the legal and regulatory framework for public procurement through increased transparency.
- Build technical expertise and capacity for conducting, or participating in, procurement processes.
- Continue to enhance the legal and regulatory framework for procurement and concessions.

In the context of critical challenges posed by the COVID-19 response and the pressures of an election year, early progress on these actions is especially important.

III. THE YEAR IN REVIEW: JULY 2019 TO JUNE 2020

Policy Context for Financial Governance

Two issues have dominated the policy context for financial governance in Somalia during the twelve months from July 2019 to June 2020. Progress towards HIPC debt relief was followed by the COVID-19 pandemic.

In March 2020, Somalia entered a new three-year Extended Credit Facility and Extended Fund Facility (ECF/EFF) with the IMF and reached the Decision Point under the HIPC Initiative. Achievement of the HIPC Decision Point was a major milestone for FGS and is a testament to significant progress in strengthening financial governance over the past four years. Somalia has now cleared its external arrears with the World Bank, AfDB, and IMF. Further progress is required before FGS reaches the HIPC Completion Point and receives full debt relief, a process that is expected to take an additional two years or more (Box 4). However, FGS is already unlocking additional resources from international financial institutions—particularly the IMF, World Bank, and AfDB—as a result of the arrears clearance.

Box 4 Triggers for the floating HIPC Completion Point

Poverty reduction strategy implementation

- Satisfactory implementation for at least one year of Somalia's full poverty reduction strategy, as evidenced by an Annual Progress Report on the implementation of the poverty reduction strategy submitted by the government to the World Bank's International Development Association and the IMF.

Macroeconomic stability

- Maintain macroeconomic stability, as evidenced by satisfactory implementation of the three-year ECF-supported program.

Public financial and expenditure management

- Publish at least two years of the audited financial accounts of the FGS.
- Issue regulations to implement the PFM Act's provisions on debt, public investment, and natural resource revenue management.

Domestic revenue mobilisation

- Adopt and apply a single import duty tariff schedule at all FGS ports (which will also foster greater trade integration).

Governance, anticorruption, and natural resource management

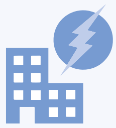
- Enact the Extractive Industry Income Tax Law.
- Ratify the United Nations Convention Against Corruption.

Debt management

- Publish at least four consecutive quarterly reports outlining the outstanding stock of general government debt; monthly debt-service projections for the next 12 months; annual principal payment projections (for at least the next five years); and key portfolio risk indicators (including the proportion of debt falling due in the next 12 months, proportion of variable rate debt, and projected debt service-to-revenues and debt service-to-exports for the next five years).

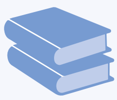
Social sectors

- Establish a national social registry as a functional platform that supports registration and determination of potential eligibility for social programs.
- FGS and FMS Ministers of Health adopt a joint national health sector strategy.
- FGS and FMS Ministers of Education adopt an agreement defining their respective roles and responsibilities on curriculum and examinations.



Growth/structural reform

- Enact the Electricity Act and issue supporting regulations to facilitate private sector investment in the energy sector.
- Issue Company Act implementing regulations on minority shareholder protection (to encourage private sector investment).



Statistics

- Publish at least two editions of the "Somalia Annual Fact Book."

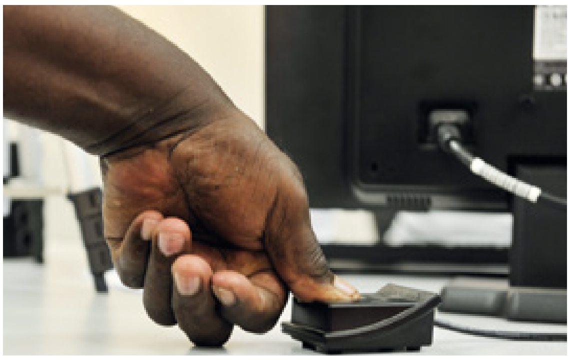
Source: IMF. 2020. Second Review of the Staff Monitored Programme, IMF Country Report 20/85 (March).

FGS requested a three-year blended ECF/EFF with the IMF to support its policy and development efforts. It will anchor FGS policies and reforms as it moves from the HIPC Decision Point to the Completion Point. Reforms will focus on four areas: continued strengthening of public finances to meet Somalia's development needs while balancing fiscal sustainability considerations, continued deepening of central bank capacity, efforts to improve the business environment and governance, and initiatives to enhance statistics. The three-year blended ECF/EFF arrangement will amount to SDR 291 million (equivalent to about US$408 million). The full amount of the EFF arrangement (SDR 38 million, or about US$53 million, under the IMF General Resources Account) will be available in the first disbursement. Access under the ECF arrangement (SDR 253 million, or about US$355 million, under the Poverty Reduction and Growth Trust) will be phased evenly.

The COVID-19 pandemic came hard on the heels of the FGS's achievement of the HIPC Decision Point. The health crisis has had severe economic consequences in Somalia, primarily as a result of movement and trade disruptions, but also due to impacts on global remittances. FGS and the FMS are experiencing significant COVID-related revenue shortfalls. Initial estimates indicate that FGS will lose up to US$67 million in domestic revenues in 2020, equivalent to 30 percent of the revenue originally budgeted for the year. The shortfalls are expected to arise mainly from lower customs revenues and sales taxes on imports, as well as certain categories of non-tax revenues such as overflight fees and port revenues. Revenue losses in the FMS and Banadir are estimated at US$70 million, while revenue losses in Somaliland are estimated at US$34 million. Measures to reduce the transmission of the virus have led to a reduction in demand, and there has been a drop in revenues from livestock exports and other international trade.

FGS has secured additional external budget support funding from the World Bank and AfDB to help compensate for the shortfall in revenues due to COVID-19. This financing will provide an additional US$99.6 million to the FGS Budget in 2020 on a net basis.[11] It will also fund transfers to offset some of the revenue shortfalls anticipated by the FMS, Banadir, and Somaliland, but unless further donor funding can be secured, FGS will not be able to offset the anticipated shortfalls completely.

COVID-related disruptions to remittance transfer mechanisms have exposed longstanding challenges in the financial sector. Of the total remittance flows to Somalia in March and April 2020, 15 percent (US$56 million) were blocked initially as a result of limitations in transport routes to clearing houses in the United Arab Emirates and elsewhere. Reliance on these mechanisms in the absence of international correspondent banking relationships has exposed underlying challenges in financial sector development. In addition to the transmission channels, there is concern that the level of remittances may fall once diaspora incomes are affected by COVID-related unemployment and recession in Europe and the United States. The World Bank has provided FGS with an additional US$55 million in project financing to support its social safety net and crisis response programmes, but Somali households remain vulnerable to a reduction in private remittances, which amount to over US$1.5 billion annually.



The scale of the COVID-19 emergency represents an extreme stress test of Somalia's financial governance systems—both on the revenue side and on the expenditure side, where FGS has faced unprecedented demands for emergency spending. In spite of these pressures, FGS has taken steps to strengthen its systems. Early responses include fiscal consolidation in the national budget by bringing together FGS, FMS, and Somaliland; wider use of a system for petty cash; awareness of the need for better integration of off-budget aid with government systems; and identification of a need for detailed policy guidance on emergency procurement procedures.

Notable Developments in Financial Governance

FGC support during 2019–20 has focused on five main policy areas, each of which is reviewed in detail below

- Public financial management
- Fiscal federalism
- Oil and gas licensing
- Concessions and contracts
- Central banking

The FGC has provided analysis, advice, and challenge to FGS on all of these agendas. Formal inputs included Advisory Notes and Contract Reviews (Box 5). In addition, the FGC has kept track of FGS progress on priority issues identified in the 2019 FGR (Annex D).

[11] The World Bank provided an extra US$100 million in budget support funding to the 2020 Budget, while the AfDB provided US$12 million. The World Bank's Recurrent Cost Financing Support was reduced by US$4.7 million, while the EU's budget support funding fell by US$7.7 million, as some EU budget support funds were used to help with arrears clearance.

Box 5 FGC Advisory Notes and Contract Reviews 2019–20

International delegates to the FGC prepared 13 Advisory Notes on policy issues for discussion at the seven FGC meetings held between July 2019 and June 2020.

- Conducting a functional review of government
- Collection and management of overflight fees
- Financial benefits of security sector rations tendering
- Approval requirements for the oil and gas licensing round
- 2018 audit findings
- Bringing donor aid to FGS institutions on budget and on treasury through implementation of the 2019 PFM Act
- The 2019 PFM Act and the budgetary implications of creating new agencies
- Somalia's performance on the 2019 Corruptions Perceptions Index
- Alignment of the EIIT Bill and the Model Oil and Gas PSA
- Revenue-sharing terms of the Spectrum seismic data agreement
- Auditing the International Civil Aviation Organisation (ICAO) Overflight Trust Fund
- Lessons learned on procurement and concessions 2014–20
- Exceptional procurement procedures

The FGC also prepared Contract Reviews or issued specific Advisory Notes on nine FGS tender processes and contracts. It provided ad hoc support on procurement and concessions policy and for several other concessions and contracts.

Public financial management

Legal framework and regulations

FGS made significant progress in passing legislation related to PFM.

- The Revenue Act, signed into law in October 2019, establishes the basis for modernising revenue administration and identifies the categories of revenue that are subject to FGS jurisdiction.

- The PFM Act, signed into law in December 2019, regulates all aspects of national budget preparation and execution and establishes procedures for borrowing, debt management, and natural resource revenue management.

- The Procurement Act Amendments, signed into law in February 2020, enable central oversight of high-value contracts and non-standard bidding methods, require procuring entities to register contracts with the OAG, and empower the Procurement Authority to de-certify a procuring entity in the event of consistent failure to comply with the law.

Some legislation has yet to be passed. The Audit Bill was returned to the Lower House after amendments were made by the Upper House to strengthen the role of Parliament in the appointment and removal of the Auditor General. It has not yet been passed by the Lower House.

Table 1 summarises the status of all legislation relating to PFM. The required sequence for each piece of legislation is passage by both Houses of Parliament, signature by the President, registration with the OAG, gazetting and publication by the State Attorney General's Office, and official translation into English by the relevant ministry.

The focus is now shifting to regulations and implementation, with the Procurement Regulations now approved and work on the PFM Regulations underway. Issuing regulations to implement the provisions of the PFM Act on debt, public investment, and natural resource revenue management is a HIPC Completion Point trigger—as is passage of the EIIT Bill (Box 4).

Table 1 Status of legislation relating to PFM

	Status					
Legislation	**Passed by both houses of Parliament**	**Signed by President**	**Registered with OAG**	**Gazetted by State Attorney General**	**English translation prepared**	**Notes**
PFM Act	✓	✓	✓	✓	In process by MoF	Sensitisation meetings with ministries, departments, and agencies postponed due to COVID-19. Work underway in MoF to develop PFM Regulations.
Revenue Act	✓	✓	✓	✓	In process by MoF	
Companies Act	✓	✓	✓	✓		
Procurement Act Amendments	✓	✓	✓	✓	In process by MoF	Procurement Regulations issued.
Customs Act Amendments	✓	✓				
Audit Bill						Approved with amendments and returned to Lower House. Main issue relates to independent appointment of Auditor General, which remains contested.
Statistics Act	✓	✓				
Petroleum Act	✓	✓				
Extractive Industries Income Tax Bill						In final stages of development by MoF, with assistance from IMF, before submission to Cabinet and thereafter Parliament.
Mining Code						Draft developed by the MoPMR with assistance from ALSF; shared with IMF for alignment with EIIT Bill.

Budget transparency

The 2019 Open Budget Index, published in April 2020, rated Somalia among countries that have 'scant or no' budget transparency.[12] This rating was given largely because FGS was considered to have published key budget documentation late, or to have not made it public, rather than because it did not produce it at all. The survey used a cut-off date of December 31, 2018, for its assessment, and therefore did not reflect improvements in the availability and timeliness of budget documents and fiscal reports that occurred in 2019–20. The MoF makes all budget documentation available on its website[13] and regularly publishes quarterly fiscal reports.

Ordinarily, the MoF prepares a Supplementary Budget midway through the year to reflect any changes in its resource envelope and expenditure needs that necessitate a change in annual budget appropriations. In 2019, the Supplementary Budget was prepared in the third quarter of the year and received parliamentary approval alongside the 2020 Budget. In 2020, however, the FGS prepared a Supplementary Budget in the second quarter and submitted it to Parliament in June 2020. The earlier timing was in response to the COVID-19 emergency and the dramatic fall in revenues as a consequence of shutdown measures, as well as the need to cater for debt service payments to international financial institutions following achievement of the HIPC Decision Point. The 2020 Supplementary Budget was prepared in compliance with the 2019 PFM Act and with IMF performance benchmarks. It incorporated a deficit of US$76.5 million, reflecting FGS and FMS estimates of funding needs for which further donor funding will be sought. FGS has committed not to execute these contingent expenditures unless additional funding materialises.

From a financial governance perspective, it is a positive development that FMS additional revenue needs are reflected in the budget and intergovernmental transfers are planned. The Supplementary Budget submitted to Parliament does not show how the transfers will be distributed among FMS, but MoF has confirmed that information on how the transfers are executed between FMS is available in FGS fiscal reports.

Overflight revenues

FGS achieved a significant milestone in 2019–20 by taking over responsibility for the collection of Somalia's overflight revenues from the United Nations (UN) after more than 25 years and bringing them on budget. These revenues are estimated at approximately US$15–18 million per year, although revenues in 2020 will be affected by reduced air traffic as a result of COVID-19.

From 1995 to 2019, Somalia's overflight revenues were collected by the International Air Transport Association (IATA) and deposited into a trust fund managed by the International Civil Aviation Organisation (ICAO), which is a UN specialised body. The overflight fees were used to cover the costs incurred by the UN in managing Somalia's airspace.

In June 2019, FGS agreed with ICAO and IATA that IATA would continue to collect Somalia's overflight fees but would disburse them directly to FGS from August 1, 2019, on. After initial delays caused by difficulties in establishing a transfer mechanism, IATA payments have now been regularised and arrive on a monthly basis with a one-month lag. FGS has also received all the unencumbered balances remaining on the ICAO trust fund. The revenues are remitted to the Treasury Single Account (TSA) and are reflected

[12] See: https://www.internationalbudget.org/open-budget-survey/open-budget-survey-2019-0

[13] See: https://mof.gov.so/public-expenditure

in the Somalia Financial Management Information System (SFMIS). The Civil Aviation Authority has received an increase in its 2020 budget appropriation to cater for the costs associated with taking over responsibility for management of Somalia's airspace from the UN. The Civil Aviation Authority continues to receive support from ICAO for the purchase of equipment, funded by balances on the ICAO trust fund that had been previously committed for this purpose.

FGS has expressed an interest in understanding the flows in and out of the trust fund in their entirety (from 1995 to 2018) and possibly requesting a complete audit. Total inflows into the trust fund over its 25-year lifetime are estimated to have been in the region of Can$142–145 million (equivalent to US$192–196 million at June 2020 exchange rates). The FGC has provided advice to FGS on how to initiate this audit.

Security personnel registration

In 2018–19, FGS successfully completed a biometric registration exercise for national security sector personnel, covering all SNA forces (including those based in the FMS), the Somali Police Force at FGS level, the Federal Custodial Corps (prisons), and NISA. The registration exercise enabled the FGS to create a comprehensive payroll register for each force, linked to the SFMIS. Since February 2019, all registered soldiers have been paid, directly to their bank account, their monthly salary and a portion of their rations stipend (amounting to US$30 per month). The updated force numbers informed the specifications for the security sector dry rations contracts, which were awarded in September 2019 following a competitive tender process (see the "Procurement and Concessions" section below for details).

In 2019–20, FGS undertook a second round of the registration process to re-verify the information collected in the first round, and to capture additional details on security personnel such as age, gender, physical attributes, and medical conditions. This information will help prepare for retirements in line with the Army Pensions Bill. Data entry is being managed using a human resource database that was developed initially for NISA. Capturing future information on personnel changes will be important for sustainability. Commanders in the field are asked to send an update on any changes by the 15th of each month, for inclusion in the database.

Progress made on security sector registration and direct payments to bank accounts enabled FGS to award a US$70 monthly pay raise to all security sector personnel in the 2020 Budget. Soldiers are now paid US$200 to their bank account each month, comprising US$170 in wages and US$30 for rations. This is double the amount they received before the security sector registration process began, when each soldier was paid US$100 in cash each month.

Electronic payment of security sector salaries, which account for almost half of overall FGS salary payments, remains a significant milestone in FGS efforts to strengthen expenditure management and reduce the risk of leakage of funds. Implementation of this technical reform was enabled by strong and sustained political commitment from the FGS leadership in the face of some resistance. Continuing political commitment is essential for this reform to be sustained. In addition, FGS must maintain and develop its capacity to capture changes in the security sector payroll on a monthly basis, so that all salary payments can continue to be made through the system.

Office of the Auditor General audits for 2018

In 2019, the OAG undertook a statutory audit of the FGS's 2018 financial statements, as well as compliance audits of a number of FGS institutions. These reports were submitted to Parliament and made available online in October 2019.[14] Completion of the 2018 audits using the International Standards of Supreme Audit Institutions represented a significant milestone in the FGS's efforts to improve transparency and accountability in the use of public funds. It demonstrates the progress made in strengthening the capacity of the OAG.

Much of the initial media response focused on the OAG's finding that FGS's 2018 financial statements covered only the bank accounts held in the TSA. FGS balances held in accounts outside of the TSA were not included. The audit report therefore found the 2018 financial statements to understate FGS revenues from external assistance by US$18.4 million.

The Minister of Finance's management response to the OAG[15] clarified that FGS intentionally keeps some external assistance funds outside of the TSA in order to provide a 'fiscal buffer' to help the government sustain critical expenditures and avoid arrears in the face of volatile revenues. The response corrected some anomalies in the figures presented by the OAG in the audit report. The minister nonetheless congratulated the OAG on completing the audit and welcomed the report. In future, the FGS financial statements will include the balances held on all bank accounts of the FGS, not just those held in the TSA. FGS financial statements are now prepared to include all bank balances held by the FGS under the TSA framework, including the fiscal buffer. The Accountant General's Office reports that, in future and in a gradual manner, bank balances held on bank accounts outside the TSA will be incorporated into FGS accounts.

From a financial governance perspective, the 2018 institutional audits usefully indicated a number of areas in which further system strengthening is required. Issues identified included: revenues collected and spent at the source, lack of compliance with procurement procedures, and donor funds spent by agencies outside of the SFMIS and/or without supporting documentation. The audits also identified a 50-year land lease agreement between the Ministry of Ports and the Somali Fuel Company about which the FGC was previously unaware.

The MoF has instigated a follow-up with those agencies identified as collecting and spending revenues at the source (Ministry of Transport, Civil Aviation Authority, Police Criminal Investigations Department, and Somali National University) and is attempting to obtain a copy of the Somali Fuel Company lease. The FGC is continuing to provide support to the FGS on strengthening procurement processes and procedures (Chapter II; Annex C for detailed recommendations).

Aid and the use of government systems

The FGC expressed concern in the 2019 FGR that a number of donors are providing funding to FGS agencies outside of government systems. The Auditor General's 2018 compliance audit findings, published in October 2019, provided confirmation. The Ministry of Fisheries was found to have spent US$53,500 in 2018, from the UN Food and Agricultural Organisation, outside the budget and without adequate supporting documentation. The Ministry of Health was found to have spent US$302,000 of donor project funds outside the budget and the SFMIS.

In April 2020, the Attorney General requested the OAG to conduct a forensic audit of payments made by the Ministry of Health from 2017 to 2019. The OAG audit focused on funds provided by the international community to the Ministry of Health outside of government systems. Between 2017 and 2019, three donors provided funds to the Ministry of Health that were not appropriated in the FGS budget, did not disburse through the

[14] See: http://oag.gov.so/audit-reports/

[15] See: http://mof.gov.so/news/management-response-auditor-generals-fgs-accounts-financial-year-ended-2018

FGS treasury, and were held in bank accounts opened privately outside of the central bank. The forensic audit found multiple instances of fraudulent payments using these funds, and in June 2020 a number of senior FGS officials were arraigned in court on charges of embezzlement.[16]

This episode demonstrates FGS commitment to using the institutional procedures at its disposal to detect malfeasance in the use of public funds. It also illustrates the increasing capacity of the OAG and underlines the importance of having a strong audit function. At the same time, it underscores the risks to donors of providing funds to FGS institutions outside of government systems. Bypassing established budgeting, treasury, and accounting processes reduces transparency and accountability and exposes donor funds to a significant risk of misuse. Furthermore, when donors provide funds to FGS institutions outside of government systems, even if unintentionally, they undermine FGS's efforts to establish due process in financial management.

Following the passage of the PFM Act, provision of donor funds through government systems is no longer a matter of policy, it is also a legal requirement. The PFM Act requires all donor grants to FGS institutions to be appropriated in the FGS Budget ('on budget') and to be paid into an account held in the Consolidated Fund/TSA ('on treasury'). It requires all donor grants to FGS institutions to be signed by the Minister of Finance and registered with the Auditor General (Box 6).

Box 6 The PFM Act and donor funding to FGS institutions

Relevant provisions of the PFM Act concerning donor grants to FGS institutions are as follows:

- All donor grant agreements, with any FGS institution, must be signed by the Minister of Finance (Article 38:2).
- All donor grant agreements, with any FGS institution, must be registered with the Auditor General (Articles 11:1(c) and 38:5).
- All donor grants received by an FGS institution must be appropriated in the FGS Budget (Articles 4:2, 4:3(g) and 38:1).
- All FGS revenues from donor grants, received by any FGS institution, must be paid into the FGS Consolidated Fund/TSA within one working day (Articles 4:2, 4:3(g) and 42:4).
- FGS institutions can only open bank accounts with the written authorisation of the Accountant General (Article 42:3).
- The Accountant General has powers to close the bank account of any FGS institution and, with authorisation of the Minister of Finance, to transfer balances to the FGS Consolidated Fund/TSA (Article 42:5).

The PFM Act does not require donor support provided directly to FMS or non-governmental organisations to be appropriated in the FGS budget or to pass through the FGS treasury. Instead, the Act establishes reporting requirements for these entities to report to FGS on the aid they receive. It is ambiguous whether donor funds provided directly to service delivery units (for example, schools or health facilities) are covered by the provisions of the Act.

[16] See: https://www.garoweonline.com/en/news/somalia/health-officials-arraigned-in-somalia-court-over-corruption-involving-donor-funds

Bringing donor aid to FGS institutions on budget and on treasury will require strengthened compliance by both FGS institutions and development partners. The positive experience of the FCG's engagement with the Global Partnership for Education (GPE) and its Secretariat and Grant Agents in Somalia (CARE/Concern and Save the Children) shows what can be accomplished with donor and FGS commitment. GPE funding to the Ministry of Education in support of the Education Sector Strategic Plan was successfully brought on budget in 2020 and is now disbursing through the TSA. New GPE grant support to the Ministry of Education, approved in April 2020, has been reflected in the 2020 Supplementary Budget and will also disburse through the TSA.

Early lessons from the GPE's experience in using government systems will feed into future practice. One challenge still to be addressed relates to the time it takes to process payments through the TSA. Alongside the SFMIS, there is a parallel, paper-based payment approval process that slows payments down due to the multiple extra steps involved. Some FGS institutions have raised concerns about the resulting delays, and the IMF has recommended that the commitment control and budget execution processes be streamlined.[17] The Accountant General's Office is already working towards operating a paperless office environment.

Agency creation and cross-government functional review

Over the past year, the FGC has continually flagged concerns over the fiscal and institutional consequences to FGS of the unchecked establishment of new government agencies.

Multiple new government agencies have been created or proposed as the consequence of sector legislation and donor benchmarks (Annex E). The FGC is concerned that increases in FGS revenue may be absorbed by rising government administrative costs, rather than funding service delivery or infrastructure. Moreover, unchecked creation of new agencies has implications for government effectiveness. Scarce human resources are likely be diverted to the establishment of new institutions when existing sector ministries are not yet fully established and functional. This problem may be exacerbated to the extent that agencies, authorities, and commissions are able to establish their own remuneration scales that exceed those of the civil service pay scale. Individuals will prefer to work in the better-remunerated agencies rather than line ministries, thereby hampering line ministry implementation capacity.

The 2019 PFM Act includes provisions that require all draft laws to be reviewed by the MoF for an assessment of, and an opinion on, their budgetary implications prior to submission to Cabinet. All draft laws submitted to Parliament must be accompanied by a statement on their budgetary implications. These provisions are an important and powerful instrument to support FGS's efforts to monitor and control the fiscal costs of agency creation. It is essential that these provisions be implemented systematically. The FGC has also recommended that FGS establish a policy to set out the conditions under which the creation of a new agency is appropriate. A draft policy has been prepared for Cabinet consideration.

To develop a clear understanding of each ministry's responsibilities, FGS drafted a law in 2019 for "Defining the Duties of Each Ministry" (No. 48/01/2019). The FGC has recommended that FGS undertake a cross-government functional review to ensure that this law promotes appropriate decisions when 'right-sizing' and to determine appropriate mandates across all government functions.

[17] IMF. 2019. *Developing Public Financial Management Regulations for Somalia.* IMF Fiscal Affairs Department Technical Report (August). Washington, DC: IMF.

Fiscal federalism

Revenue sharing and the constitutional review process

Securing agreement between FGS and the FMS on a credible political framework for intergovernmental relations, including revenue sharing, continues to be a critical challenge. In line with Article 44 of the 2012 Constitution, FGS has established revenue-sharing agreements with the FMS for the distribution of petroleum and fisheries revenues.

In June 2018, FGS reached a milestone agreement with the FMS on the ownership, management, and sharing of petroleum and mineral resources (the Baidoa Agreement). The 2020 Petroleum Act (Article 6) requires all petroleum resources to be shared in accordance with this agreement. The FGC has previously noted that, under the terms of the Baidoa Agreement, there could be significant disparities between FMS revenue shares depending on whether or not they produce oil. It has advised that the terms of the agreement be reviewed periodically. FMS acceptance of the revenue-sharing arrangements set out in the Baidoa Agreement remains contentious.[18]

FGS has reached two agreements with the FMS on fisheries management and revenue sharing. In February 2018, it reached an agreement in principle on tuna licensing and the management of revenues. In March 2019, it reached an interim agreement on how fisheries revenues would be distributed between the FGS and the FMS for a period of 18 months.

The MoF has been holding discussions with the FMS-level Ministries of Finance to establish how other resources might be shared. An agreement was reached in principle in September 2019 that donor funds would be shared 60/40 between the FGS and the FMS. The FMS are obliged to spend two-thirds of the funds on service delivery and security programs. To date, the funds have been divided equally among the FMS. The MoF subsequently proposed in October 2019 that all 'shared revenues' be distributed in the same proportions. Shared revenues were not defined, and details were not provided on the distribution among FMS.

The main risk at present is that the distribution of resources is being driven by various specific revenue-sharing initiatives, without any process in place to assess whether the overall allocation between FMS is equitable, as required by Article 50(e) of the 2012 Constitution. The current constitutional review process provides an opportunity to establish a mechanism for equalising revenue shares across FMS, so that overall revenue shares are not determined entirely by individual sector agreements.

In May 2019, the FGC prepared an Advisory Note on the structure and possible content of the Public Finance Chapter to help inform technical discussions between the MoF and the Ministry of Constitutional Affairs. Many of the 'building blocks' of the fiscal chapter are already in place, as primary legislation governing most issues has been established (including the Revenue Act, PFM Act, Central Bank of Somalia Act, and Procurement Act). The major outstanding issue for decision is how revenues will be allocated between FGS and the FMS, in line with expenditure responsibilities and principles of equitable development. The FGC has provided advice on various ways in which this objective could be achieved through the revised constitution.

In January 2020, the Parliamentary Oversight Committee endorsed a draft version of the revised Federal Constitution prepared by the Independent Constitutional Review Commission

[18] After the 2020 Petroleum Act was signed into law, Puntland issued a statement rejecting it, in part because it believed it to violate Article 44 of the 2012 Constitution.

(ICRIC). Its proposals for the fiscal chapter are well aligned with the provisions of existing primary legislation. In terms of revenue sharing, the draft proposes establishing a Revenue Sharing Commission responsible for making recommendations on the fair and equitable distribution of resources between FGS and the FMS, including revenues from natural resources. If a Revenue Sharing Commission is established to determine the allocation of all revenues between FGS and the FMS, including from natural resources, then the implication is that the Baidoa Agreement will no longer guide the sharing of petroleum revenues. Consultations on the draft commenced in the FMS in March 2020, before being interrupted by COVID-19.

At the technical level, in June 2020, a Memorandum of Understanding (MoU) was signed between the MoF and the FMS-level Ministries of Finance on improving intergovernmental fiscal relations on sharing information about fiscal reporting. This information sharing includes submitting monthly revenue and expenditure reports, as well as convening monthly ministerial meetings. This type of technical cooperation is critical for a functioning system of fiscal federalism. FGS is also developing a policy paper on principles to guide FGS transfer allocations, as required by program benchmarks under the World Bank Recurrent Cost and Reform Financing Project.

Tuna licensing and revenue sharing

In July 2018, the Ministry of Fisheries signed an MoU on tuna fishing with the Chinese Overseas Fishing Association, on the basis of which it issued one-year licences to 31 vessels in September 2018. In November 2019, the Ministry of Fisheries renewed these licences for an additional year, as enabled by the MoU, although at an increased licence fee.

A total of US$1.68 million was received in February 2020 as revenue from the 2019 tuna licensing round. This amount will be distributed to the FMS as per the Addis Agreement.

Petroleum revenue sharing

In July 2019, FGS reached agreement with Shell on the payment of outstanding surface rental fees under its legacy oil and gas concession. Shell subsequently paid US$1.7 million to FGS, of which US$1.169 million was shared with four FMS and the Banadir Regional Administration in line with the terms of the Baidoa Agreement on revenue sharing. Jubaland did not receive a share of the surface rental payment as, under the terms of the Baidoa Agreement, surface rental payments are shared only with those FMS covered by the concession. The Baidoa Agreement earmarks a portion of surface rental payments for the FMS, and a portion for the districts within the FMS that are covered by the concession.

FGS transferred both portions to the FMS, including the share earmarked for oil-producing districts within the FMS for onward distribution, because FGS has no mandate to send funds directly to a district.

Oil and gas licensing

In February 2019, the MoPMR held an oil and gas road show in London, at a meeting held with representatives of the international oil industry. The MoPMR show-cased Somalia’s seismic data and gave an overview of its proposed fiscal terms for oil and gas revenue (e.g. royalties and profit share), with the aim of soliciting industry feedback. The following day, the MoPMR released a model PSA on its website and issued a tender protocol that would govern a licensing round. The tender protocol anticipated signed PSAs being in in place by January 2020.

The FGC subsequently raised a number of concerns with the MoPMR. It noted that the Model PSA released in February 2019 contained many changes from the previous Model PSA, which had been developed with support from the World Bank and ALSF and extensively reviewed by the FGC prior to its adoption in 2017. The 2019 PSA and tender protocol had not been reviewed by the FGC or approved in accordance with the requirements of the 2016 Procurement Act. The FGC also noted that the licensing round timetable was ambitious and did not provide sufficient time to meet the requirements of the 2016 Procurement Act and enable stakeholder consultation.

The Minister of Petroleum agreed to an FGC review of the changes that had been made to the Model PSA, particularly its fiscal terms. The FGC submitted a detailed review to the Minister in August 2019. The FGC noted that extensive changes had been made to the PSA's fiscal terms. The intent appeared to be to bring forward revenues to FGS in the early years of oil production, at the expense of the revenues in the later years. Detailed economic modelling would be required to ascertain the overall impact of what was being proposed. The review identified certain changes in the 2019 PSA that were beneficial to the FGS. However, a number of others potentially weakened the ability of the FGS to protect its interests, or otherwise created ambiguity that is not conducive to sound implementation of long-term contracts. The FGC recommended further revisions to enable the development of a PSA that could be used appropriately in a bid round. The FGC also noted that it is essential that the bid round, including approval of the PSA and tender documents, comply fully with the requirements of the Procurement Act.

The MoPMR has reported that it is working on a new set of revisions to the Model PSA, taking into account the recommendations made by the FGC, and using the 2017 PSA as a base. The new draft has not yet been shared with the FGC for review. Nonetheless, in May 2020 the MoPMR made a pre-announcement for the 2020 oil and gas licensing round, with seven blocks identified. The MoPMR also published an overview of its proposed PSA terms online. The licensing round is due to commence on August 4, 2020, and run to March 12, 2021.

Further work is still required to assure the full compliance of the revised Model PSA and licence round tender protocol with Somalia's legal

framework. The tendering and award of oil and gas concessions is governed by the provisions of both the 2016 Procurement Act and 2020 Petroleum Act. Following the requirements of the 2016 Procurement Act, all documentation for an oil and gas licensing round, including the Model PSA, must be approved by the Inter-Ministerial Concessions Committee (IMCC) prior to its commencement. The FGC reminded MoPMR of this legal requirement in November 2019. As of June 2020, MoPMR had not submitted the revised Model PSA and tender protocol for the 2020 licence round to the IMCC for review.

Separately, with the support of the IMF, the MoF has drafted an EIIT Bill that will govern the fiscal terms of the PSA. Enactment of the EIIT Bill is a HIPC Completion Point benchmark (Box 5). The fiscal terms of the Model PSA must be aligned with the EIIT Bill. The MoPMR has provided comments on the draft Bill to the MoF. However, aligning the two documents is an extensive undertaking. It requires the continued involvement of both the MoF and the MoPMR, as well as technical support from the IMF and ALSF. In particular, the Model PSA needs to be consistent with the EIIT Bill's provisions on royalties and other taxes. The fiscal terms that determine revenue sharing between the FGS and the contractor may need to be recalibrated in light of the EIIT provisions to enable the overall fiscal terms of the PSA to remain balanced.

In addition to the requirements of Somalia's legal framework, FGS has made an undertaking to its international partners that it will not issue any oil exploration licenses until the Petroleum Act is made operational, the EIIT Bill is enacted, the Model PSA is finalised, and PFM Act regulations on natural resource management are issued.[19] Enactment of the EIIT Bill is a HIPC Completion Point trigger. FGS adherence to commitments made to partners is critical for achieving debt relief.

The FGC has repeatedly flagged the importance of ensuring that the MoPMR has access to technical support for management of the oil and gas tender process, including finalisation and implementation of PSAs in a manner that protects the interest of the FGS. The ALSF has approved a grant to support FGS in its PSA negotiations. ALSF support is expected to support MoPMR in reviewing the Model PSA for consistency with the Petroleum Law, and to provide advice on the licensing round documentation and process as a whole.

Concessions and contracts

The FGC's support on concessions and contracts in 2019–20 has covered advice on procurement policy, reviews of specific contracts and tender processes, advice on contract renegotiations, and regular follow-up on outstanding contracts. In terms of procurement policy, the FGC has supported the finalisation of the Procurement and Concessions Regulations, which were issued in February 2020 following the passage of the 2020 Procurement Act Amendments, and an update of the Prime Minister's 2018 Procurement Decree to reflect the Procurement Act Amendments. The FGC has also provided advice on a policy on emergency procurements. This need has become evident as a result of the COVID-19 crisis. In terms of advice on contracts and concessions, the FGC's has focused predominantly on the competitive tendering of security sector rations contracts, the renegotiation of the Mogadishu port contract, the passport concession tender, and reviewing the 2019 Model PSA.

Emergency procurements policy

The COVID-19 crisis has shone a spotlight globally on the critical importance of speed and flexibility in government procurement during emergencies. At the same time, it has highlighted some of the fiduciary risks associated with faster and more flexible procurement approaches. Somalia's Procurement Act, as amended in February 2020, establishes the basic principle of altering procedures and processes in emergency situations. But neither the Act nor the accompanying Regulations provide guidance or direction on specifically how procedures and processes should be altered.

The FGC has advised FGS of the need to develop policy guidance on this issue. The aim is to strengthen FGS's ability to achieve the required speed and flexibility in emergency procurement, while preserving its ability to ensure accountability and achieve value for money in the use of public resources. The guidance is expected to help define the procedures that apply to emergency procurement, including documentation requirements, and to establish parameters for when those emergency procedures should apply. FGS plans to seek short-term, specialised procurement expertise to develop this policy on emergency procurement.

[19] IMF. 2020. *Second Review of the Staff Monitored Programme.* IMF Country Report 20/85 (March). Washington, DC: IMF.

Mogadishu port renegotiation

In 2018, following FGC advice, FGS commenced renegotiation of the Mogadishu port contract which had been signed with a Turkish firm, Al Bayrak, in 2013. The stated objective of the renegotiation was to achieve efficient operation of the port by enabling necessary capital investment, ensuring transparency, clarifying the roles and responsibilities of the parties, and adjusting tariff levels and revenue shares as necessary. The parties met on a number of occasions throughout 2018 and reached agreement on many elements of a term sheet that would form the basis of a long-form revised agreement. However, the parties were unable to reach agreement on a number of key commercial terms, including revenue share and investment amounts. The contractor did not provide justification for its position on these issues and the renegotiation process ground to a halt, culminating in a last and final offer sent by FGS to the contractor in December 2018.

The FGS did not take further action until May 2019, when the FGS met with the Turkish government and representatives of the contractor in Turkey. During this meeting the parties committed to finding a way forward and reached a high-level agreement on revised commercial terms, enabling the renegotiation process to move forward. Negotiations resumed in August 2019, taking the high-level agreement as a starting point. In November 2019, a number of other issues not resolved via negotiations were elevated to FGS senior leadership for discussion. In March 2020, discussions between the contractor and FGS achieved some progress on the unresolved issues, and shortly thereafter negotiations recommenced on a largely virtual basis.

FGS has submitted a final version of the revised concession agreement to the contractor for review. The revised agreement is expected to be signed during the third quarter of 2020, following IMCC approval and registration with the OAG, as required by the Procurement Act. Legal support funded by the ALSF and technical support funded by the World Bank and, more recently, by the EU have played an important role in supporting FGS to develop a revised agreement that marks a significant step towards comparative good practice.

The main improvements captured in the Revised Agreement, as compared to the 2013 agreement, are as follows:

- Port investment: The Revised Agreement enables FGS to require the contractor to undertake essential investments in the Mogadishu port.
- Commercial basis: The proposed sharing of port revenue between the parties has been updated based on estimated costs for port operations and investments.

- Operating requirements: The Revised Agreement captures a clearer specification of contractor operating obligations.

- Taxation: The Revised Agreement requires the payment of taxes according to prevailing legislation.

- Monitoring and reporting: The Revised Agreement provides clear requirements for the reporting and audit of operational and financial data related to the operation of the port.

- Termination provisions: The Revised Agreement adds clear language around the events that would give rise to a right to terminate and the consequences of termination.

The Revised Agreement requires that the FGS play an active role in its management. This is particularly true with respect to monitoring required investments. The Revised Agreement places on FGS the responsibility for closely monitoring the execution of the Implementation Plan and for working continually with the contractor to review and approve specifications for investment requirements not covered by the initial Implementation Plan. The FGS will be supported technically by a qualified engineer. FGS will still need to pay close attention, however, to ensure that it meets its own obligations under the contract. Failure to review or approve/reject submissions from the contractor in a timely manner may affect FGS's ability to hold the contractor to its responsibilities as spelled out under the Revised Agreement.

The need for active contract management is not unique to the port concession agreement. For long-term partnerships, such as concessions, the active engagement of the conceding authority is generally a requirement to ensure value for money and protect the interests of the government. Following the signature of the renegotiated concession agreement for the Mogadishu airport, the FGC recommended that FGS retain specialised support to assist in fulfilling its obligations under the agreement. These obligations include the review of detailed designs and works to be completed, the monitoring of performance standards, and financial reporting. The FGC further recommended that the IMCC require updates from the conceding authority, the Ministry of Transport and Civil Aviation, every six months to keep apprised of progress and fulfil FGS obligations. These recommendations do not appear to have been considered seriously. Little information is currently available on the status of implementation of key provisions of the airport concession agreement, including basic financial reporting.

Passports tender

The Passport Production Contract that FGS signed with Ebtkaarat Smart Systems in 2013 has been extended in conjunction with Almadina Development & Supply and now runs until February 2021. The Ministry of Internal Security has initiated a tender process to select a new passport supplier. The FGC advised the Ministry that substantial adjustments were required to the tender documentation and draft contract to ensure compliance with the Procurement Act, provide clarity to bidders and to protect the financial interests of FGS. It recommended that FGS retain the services of a consultant with extensive international experience to help address the issues identified, while exploring interim solutions to the delivery of passport services after February 2021 as necessary.

Owing to time constraints associated with the expiration of the current contract, FGS decided to work internally on the issues raised by the FGC regarding the clarity and consistency of the bid documentation. With FGC support, independent external legal advice funded by the EU recommended a number of adjustments to the legal provisions of the draft contract, to better protect the interests of FGS.

Security sector rations contracts

The FGS has made considerable efforts over the past two years to regularise a number of its security sector rations contracts, as most of them had not been procured in line with due process and suffered from a number of contractual deficiencies. These efforts provide evidence of FGS's commitment to following due process in contracting, despite the highly politicised business space prevailing in Somalia, as well as its commitment to security sector reform.

In April 2020, FGS issued competitive tenders for four contracts to provide dry rations to the SNA, police, and NISA. In total, 21 firms participated in the tenders, and FGS was able to achieve sizeable price reductions against the previous contracts.

Following the award of the new contracts in September 2019, FGS's monthly expenditure obligations for security sector rations contracts have been cut nearly in half, with annual savings amounting to approximately US$6.7 million. Some of these savings have been driven by a reduction in the volume of rations purchased, particularly by SNA and NISA, as a result of a clearer specification of force numbers following the security sector registration process. Competitive tendering has enabled FGS to achieve a significant reduction in the unit prices of most goods, with the exception of beans. In most cases, unit prices were lower by at least 10 percent, and in some cases, they were lower by up to a third. In general, FGS was able to achieve the lowest unit prices for the larger contracts, which attracted the most bids, thus demonstrating that competition helps lower prices.

New tenders are being prepared to replace the current contracts, which expire in September 2020. A tender is also planned for the Prisons rations contract, as the five-year contract awarded in 2015 is due to expire. Retendering of this contract is welcome because the current contract has numerous deficiencies.

Central banking

Somalia's financial sector has demonstrated great entrepreneurialism, successfully bringing financial services to the Somali people under difficult conditions in recent decades. The sector has evolved largely without regulations, however, and it faces many challenges. In response to these challenges, CBS has developed a financial sector reform initiative, set out in the Financial Sector Development Roadmap. CBS made good progress towards implementation of the Roadmap in 2019–20, with particular focus on improving CBS capacity for core functions and organisation, developing a national payments system and facilitating international transfers, reforming the legal and regulatory framework, and developing financial infrastructure.

Institutional strengthening

A modernised and effective central bank is a prerequisite for many of the policy actions identified by the Financial Sector Development Roadmap. The internal reorganisation of CBS has moved ahead, with strong appointments to three key senior management positions (Executive Director, Monetary, Financial, and Regulatory Policy; Executive Director, Currency and Banking Operations; and CBS General Manager). FGS also appointed five experienced non-executive directors to the CBS Board in March 2020 to strengthen the governance of the institution.

Core banking system integration

CBS made significant progress in integrating its core banking system with the SFMIS following the launch of the integration process in October 2019. Integration reduces operational risk and has made CBS more efficient by eliminating duplicative, paper-based processes. It allows the MoF and the Accountant General to see their account balances before making payments, thus preventing CBS from making a payment on behalf of FGS if an account has an insufficient balance.

Legal and regulatory framework

CBS strengthened the financial sector legal and regulatory framework in 2019–20 by issuing Mobile Money Regulations and Anti-Money Laundering Regulations. Three further bills are being drafted and will be processed for Cabinet approval after stakeholder consultations. These are the National Payment Bill, the Insurance Bill, and the revised Financial Institutions Law.

Asset recovery

During 2019–20, CBS recovered modest legacy assets held by Credit Suisse. No progress has been made, however, in accessing sizeable assets held in Italy by Banca Intesa Sanpaolo, which has been unresponsive to requests. Progress is being made in recovering legacy assets held in the United Kingdom by Crown Agents, but the process is not yet complete.

Cross-border payments

Disruptions to remittance routes as a result of the COVID-19 pandemic have highlighted the difficulties faced by Somali money transfer businesses owing to the lack of correspondent banking relationships for transfers to Somalia. Moreover, disruptions to global travel have exposed the vulnerability of current stop-gap remittance mechanisms, such as flying cash from remitting countries to clearance hubs. These disruptions have also highlighted the importance of CBS's ongoing financial sector reforms, which—if implemented successfully—are expected to restore Somalia's correspondent banking relationships over the medium term. As a result of the COVID-19 crisis, CBS has increased the frequency of its monitoring of financial institutions and money transfer businesses from a quarterly to monthly basis.

CBS has normalised relations with the Federal Reserve Bank of New York and reopened its bank account after decades of dormancy. This will reduce corresponding banking pressure for the CBS in receiving donor funds on behalf of FGS and will provide a less risky alternative banking service through which the CBS can build its reserves.

IV.THE YEAR AHEAD: KEY PRIORITIES FOR 2020-21

Strategic Context for Financial Governance: A Year of Transitions

A confluence of four major events will shape the policy context for Somalia in the twelve months from July 2020 to June 2021. These events will have both separate and combined impacts on financial governance.

Four major transitions

The COVID-19 emergency will persist globally until a vaccine is proven effective and widely available. The fiscal effects of the pandemic have already been felt in Somalia through increased health sector spending and a steep fall in revenues to FGS and FMS. If COVID-19 is compounded by additional locust swarms or by a seasonal drought, the effects will be even more severe. FGS priorities will need to broaden in the coming year to encompass further investments in the health system and socioeconomic recovery. Priorities will range from stabilising FMS revenues, to encouraging higher levels of enrolment following the reopening of schools, to supporting households and economic activity following remittance disruptions and the abrupt curtailment of livestock exports. The policy challenges for FGS will be profound.

Three other significant transitions are expected before the end of June 2021. First, federal elections for the Lower and Upper Houses of Parliament are due to take place in February 2021. Neither the date nor the voting system has been confirmed. Political attention and energy will be diverted to focus increasingly on the elections, and pressures on fiscal policy and financial governance will build.

Second, the coming year is expected to see final negotiations and agreement on a revised Federal Constitution, which must address the complex fiscal relationship between FGS and FMS. Contested issues among levels of government may create further political and policy instability.

Finally, as noted above, the licensing round for oil and gas concessions is scheduled to launch on August 4, 2020, and run until March 2021. The 2020 Petroleum Act requires holders of legacy rights to convert them into PSAs by February 2021 or to see their rights lapse. Major uncertainties remain over the feasibility of proceeding with the licensing round given low global oil prices. Uncertainties also remain over the adequacy of institutional preparations for the issuance of PSAs and commencement of petroleum exploration. Considerable work will be needed to align the Model PSA with Somalia's legal framework and to establish the institutions that will be responsible for overseeing exploration activities. There are questions, too, about how the proposed new constitution will relate to the Baidoa Agreement on sharing of oil revenues.

Any one of these four events—COVID-19 recovery, elections, the revised Federal Constitution, and oil and gas licensing—would on its own weigh significantly on financial governance in Somalia. In combination they represent a highly significant year of transitions. Those transitions, and the associated political pressures to which they give rise, carry several risks for financial governance in Somalia.

Financial governance risks

The recent passage of legislation such as the PFM Act and the Procurement Act Amendments will provide a stronger institutional basis for good financial governance and help to mitigate some of the risks faced in the coming year. However, having appropriate laws in place is only one step towards stronger financial governance. Detailed procedures for the implementation of those laws by FGS institutions need to be spelled out in the form of regulations or operational guidelines. In some cases, new agencies need to be established (for example, the Public Procurement Authority and the Somalia Petroleum Authority) to give practical capacity and effect to laws and rules. Beyond these formal steps, continued political commitment to adhering to the rule of law is essential. Moving beyond paper-based reforms to demonstrated implementation is a priority in 2020–21, but there is a risk that progress will be halted or subverted by the anticipated events and transitions.

Pressure for problematic procurement and concessions may rise in the coming year, especially in response to the continuing COVID-19 emergency and in anticipation of a possible change in administration. Oil and gas licensing represents a special category of potentially high-risk concessions, which have yet to undergo the required checks and balances (for example, FGC review and IMCC approval). Positive steps were seen in the domain of procurement and concessions in 2019–20, as the FGC was given a chance to review tender documentation and provide advice ahead of its issuance. It is likely, however, that the urgency and expediency of procurement and concessions will only increase, so FGS needs to empower the institutional bodies with relevant oversight roles and ensure that they have the capacity to perform those roles.

COVID-19 appears in the short term to have increased incentives for constructive dialogue between FGS and the FMS on fiscal and financial matters. Increased reliance on external financial support by donors and international financial institutions—for example, through World Bank budget support—offers all levels of government in Somalia some benefit if they coordinate positions and agree to intergovernmental funding channels. The underlying political economy remains challenging, however, and other transitions (namely elections, constitutional revisions, and oil and gas licensing) could militate against easy and durable progress on resource sharing and fiscal federalism.

One of the biggest successes in 2019–20 was Somalia's achievement of the HIPC Decision Point for debt relief. Optimism and ambition on both sides of the negotiations have increased as a consequence of the progress made. There are high expectations of consistent advancement towards the Completion Point, and the floating triggers reflect that ambition. FGS will require substantial political and technical bandwidth in 2020–21 to maintain momentum on these reforms, which need to continue into the tenure of a new administration in order to meet Completion Point requirements. COVID-19, the revised Federal Constitution, and oil and gas licensing will all test that capacity and resolve. Risks around ownership of the reform programme and attainment of triggers will be high in the context of a transition in administration.

It is this strategic context for financial governance that FGS must navigate over the coming twelve months. The central challenge is how to mitigate the financial governance risks in order to consolidate and advance the gains made in the past four years and to make them resilient to any potential political transition in 2021. This question sets up and informs the FGC agenda for 2020–21.

Recommended Priorities for the Year Ahead

The FGC has identified four strategic priorities for FGS in strengthening financial governance over the course of the next year. First, it will need to protect fiscal reforms by strengthening institutional capacity and implementing legislation. Second, it will be important to maintain a continuous focus on procurement and concessions. Third, there is a need to ensure transparency and due process in natural resource management. Fourth, FGS will need to continue to strengthen central bank governance and financial sector development. In all of these areas, the FGC will continue to provide analysis, advice, and critical challenge.

Table 2 Financial governance priorities for 2020–21

Area of focus	Specific priorities
Protect fiscal reforms	• Conclude enactment of legislation relating to financial governance and commence implementation • Clarify and deepen the arrangements for fiscal federalism through finalisation of the revised constitution • Work with the international community to bring all aid to FGS institutions on budget/on treasury • Review all proposed laws for their fiscal implications prior to submission to Cabinet
Maintain a focus on procurement and concessions	• Deepen understanding across FGS institutions of due process in public procurement and concessions • Maintain a firm commitment to compliance • Strengthen capacity of oversight bodies and technical units • Seek development partner support for capacity development
Ensure transparency and due process in natural resource management	• Align the Model PSA with the EIIT Bill • Ensure oil and gas contracting is compliant with all legal requirements, including the approval requirements in the Procurement Act
Strengthen central bank governance and financial sector development	• Continue to implement CBS transition plan • Implement the 2019 Mobile Money Regulations • Progress plans for first phase of currency reform • Maintain and develop the interface between CBS systems and SFMIS • Implement National Payment and Settlement System • Seek resolution of the obstacles to inward money transfers

1 *Consolidate fiscal reforms and strengthen institutional capacity*

It will be important for FGS to conclude the enactment of legislation relating to financial governance and commence its implementation through the development of supporting regulations. Priorities for completed passage are the Audit Bill and the EIIT Bill. Any bills not passed by the time of the election in 2021 will need to be resubmitted following the reconstitution of Parliament, and valuable time will be lost. The Audit Bill and EIIT Bill are especially critical to financial governance matters. Moreover, issuance of regulations in support of various aspects of the PFM Act, including debt management and natural resource revenue management, is included as a performance measure in various donor funding agreements and will be a priority for implementation.

Embedded in the dialogue and negotiations over a revised constitution are questions about Somalia's approach to fiscal federalism. Despite countless analytical reports and repeated rounds of consultation and debate, supported largely by the United Nations Development Programme and the World Bank, progress has tended to be partial and gradual. Now that the Oversight Committee of Parliament has endorsed the ICRIC proposals and embarked on consultations, a priority for the coming year will be to clarify and deepen the arrangements for fiscal federalism through finalisation of the revised Federal Constitution.

The legal and institutional framework, as already revised and updated, is a powerful tool for FGS, and in particular MoF, to address some of the thorny fiscal issues discussed in successive FGRs. FGS could usefully utilise these tools in 2020–21 to tackle the well-documented problem of donors providing off-budget funding to FGS institutions, thereby undermining FGS's attempts to strengthen PFM. The OAG institutional audits for 2018 revealed multiple examples of non-compliance with the PFM Act, while a 2020 forensic audit in the health sector exposed specific instances of fraud. The OAG's 2019 institutional audits should provide further opportunities to identify the scope and nature of the problem. Working with the international community to bring this practice to an end should be a priority in the coming year.

As the fiscal costs of institutional proliferation in the form of new FGS agencies continue to rise, the MoF should invoke the powers given to it by the PFM Act to review all proposed laws for their fiscal implications prior to submission to Cabinet. A priority for the year ahead should be to bring these potential costs under more active scrutiny within the decision-making process.

Triggers for the HIPC Completion Point require FGS to strengthen its capacity for debt management. Specifically, there will be a need to prepare and publish the following: quarterly reports outlining the outstanding stock of general government debt, monthly debt-service projections for the year ahead, annual principal payment projections, and key portfolio risk indicators. It will be a major task for FGS to scale up its capacity in these areas, and substantial foundational progress will be necessary in 2020–21. These will be high priorities for the MoF.

The FGC will provide advice in the coming year on implementing legislation; managing resource sharing; limiting institutional fragmentation; bringing donor support to ministries, departments, and agencies on budget; and responding to audit findings.

2 *Maintain a continuous focus on procurement and concessions*

To strengthen progress in this year's 'spotlight' area, the FGS will need to focus on the dual objectives of deepening understanding across FGS institutions of due process in public procurement and concessions, and maintaining a firm commitment to compliance at ministerial level.

Actions by FGS in the next twelve months will need to focus on strengthening the legal and procedural framework, the capacity of oversight bodies and of FGS technical units and cadres, and the awareness of stakeholders across government and in the private sector. (See also Annex C for recommendations on strengthening the management of public procurement and concessions). The challenges posed by the COVID-19 response and by the pressures of an election year make the need for early progress with these actions especially important.

Passage of the Procurement Act Amendments and adoption of associated Regulations have already improved the framework for procurement and concessions in Somalia. As FGS resources continue to increase and the government further expands the range of public procurement it undertakes and concessions it wishes to implement, a culture of continuous improvement will be needed. That will require additional guidance and tools to support and maintain a robust system. FGS may also discover that aspects of the legal framework are not well enough adapted to the Somali context and will thus require further adjustment.

Three FGS bodies in particular should play critical roles in overseeing the procurement and concessions processes, namely the Public Procurement Authority, the MoF Contracts Committee, and the IMCC. FGS must establish them where necessary, support and strengthen them to understand their roles and adopt basic operating procedures, guarantee that they have the necessary expertise to perform those roles effectively, and ensure that they have the political support and enforcement tools needed to drive compliance.

FGS has taken steps to inform procuring entities and commercial bidders of their obligations. Additional and more active communication is required about recent changes to the legal framework. That work should be accompanied more generally by continuing initiatives to build awareness, on the part of both procuring entities and prospective bidders, about the specific requirements in the Procurement Act. In addition to providing better information, there is a need to develop the capacity of FGS procurement officials in procuring entities. Further support for capacity development should be sought from the international community.

FGC will continue to provide advice on the management of concessions and contracts, and to conduct Contract Reviews with the aim of protecting FGS revenues and financial interests. Where possible, it will also begin to monitor the status of procurement and concessions in FMS, given the increased resources being channelled through the FGS budget to the FMS.

3 *Ensure transparency and due process in natural resource management*

In view of its critical importance for future FGS and FMS revenues, and for protecting the financial interests of those governments, proper stewardship and oversight of any oil and gas licensing round conducted in 2020–21 will be among the highest financial governance priorities.

FGS should ensure that oil and gas contracting is conducted in a manner that is fully compliant with all legal requirements, including the approval requirements set out in the Concessions section of the Procurement Act. Sequencing is critical so that the Model PSA aligns with the EIIT Bill (and thereafter EIIT Act), and so that the IMCC has adequate time to scrutinise and approve the proposed tender process and documentation ahead of a decision to proceed. Given the long-term fiscal implications and the well-documented experiences of other countries entering natural resource production, financial governance considerations must be brought to fore in discussions involving oil and gas concessions. Transparency will be essential so that Somali citizens and international funding providers can have confidence in the FGS process and decision making—and, indeed, so that prospective bidders receive assurance of a credible counterparty.

The 2020 tuna licensing round will be an opportunity for FGS to refresh the licence holders and to expand the level of revenue received. It will also need to seek to build understanding and confidence among Somali citizens in the principle of foreign-owned fishing fleets operating in Somali waters under this framework. FGS should maintain an open and transparent process and that enables all licence fees to be remitted to the TSA in a timely fashion, accurately recorded and properly assigned. Addressing the problem of unlicensed or unauthorised foreign vessels fishing in Somali waters will also be on the FGS agenda.

The FGC will continue to monitor the licensing round processes and provide support to the IMCC in reviewing oil and gas tender documents and awarding PSAs. It will monitor the distribution of natural resource revenues in line with existing agreements and advise on the implications of any changes to resource-sharing arrangements (for example, through agreement on a revised Federal Constitution).

4 *Continue to strengthen central bank governance and financial sector development*

Financial sector development and continued strengthening of CBS governance can help to mitigate the risks associated with the transitions that are anticipated over the next twelve months. Progress in these areas will make important contributions to the wider environment of financial governance in Somalia. Strategic financial governance, as covered by the FGC, intentionally includes both the fiscal and financial sectors.

Overarching direction is provided by the Financial Sector Development Roadmap, as approved in December 2018, and the CBS Strategic Plan 2020–24, as approved by the CBS Board in October 2019. Priorities for 2020–21 relate to currency reform, the national payment and settlement system, mobile money regulations, cross-border payments mechanisms, and institutional capacity strengthening in CBS.

Work is progressing on implementation of the CBS transition plan, including the appointment of key senior staff under the revised CBS organisational structure. Further implementation activities, including recruitment of short-term experts and enhancement of information and communication technology infrastructure, should continue. It will be important to maintain and further develop the interface between CBS systems and the SFMIS.

Work by the CBS on the implementation of a national payment and settlement system is a priority for the year ahead. It will bring significant change to the financial ecosystem in Somalia for the benefit of all stakeholders. It provides a transformative service to banks and others in the financial sector, which includes Automated Clearing House batch payments, real-time gross settlement, instant funds transfer, and payment switch.

CBS is working with the World Bank to develop an implementation plan and operational framework for currency exchange and reform. Reintroducing the Somali shilling after almost three decades in a challenging environment will require collective effort from FGS and the FMS. One particular area in which CBS will need support from the FMS is the fight against counterfeiters. CBS will ask all FMS presidents to sign an MoU to document their commitment for the support of this national project.

Work will continue on the legal and regulatory framework for the financial sector. Implementation of the Mobile Money Regulations, issued in 2019, is a high priority for CBS. The mobile money sector has developed largely without regulation and poses a significant systemic risk. Passage of key legislation, such as the targeted Financial Sanctions Law and the revised Financial Institutions Law, as well as issuance of regulations for the latter, remain priorities.

Efforts will continue to be needed to resolve COVID-related obstacles to inward money transfers, notably remittances. CBS will target longer-term solutions for cross-border financial transfers by individuals and firms. However, reforms to the Money Transfer Operator system, including through digitalisation, may take time given the structural issues and the nature of their work. The formalisation of the financial sector in general faces continuous challenges. One of the main obstacles is the lack of correspondent banking relations, which relates closely to Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) initiatives and to financial sector supervision. The development of national identification and a country risk assessment for AML/CFT are ongoing projects in which CBS is playing active role, jointly with other FGS agencies. This agenda should remain in focus during 2020–21. The obstacles to remittance transfers in the first stages of the COVID-19 global lockdown could be used as an entry point to energise international actors to build greater momentum to find a long-term solution.

Finally, CBS will continue its efforts to recover FGS financial assets stranded in foreign bank accounts.

FGC will monitor developments in these areas and provide advice as required.

ANNEXES

ANNEX A: CONTRACTS AND CONCESSIONS REVIEWED BY THE FGS SINCE 2014

#	FGS institution	Contract	Contractor	Contract type	FGC formal review	Status
1	Central Bank of Somalia	Land lease and redevelopment	Riverside Holding	Concession	2016, 2018	On hold
2	Central Bank of Somalia	Asset recovery	Shulman, Rogers, Gandal, Pordy & Ecker PA	Concession	Not reviewed	Cancelled
3	Commerce and Industry	Import/export quality assurance	Proje Gözetim Mühendislik (PGM Project)	Concession	2015, 2016	Incorporated FGC recommendations
4	Defence	SNA Rations	AGETCO	Procurement	2016	Contract cancelled
5	Defence	SNA Rations	AGETCO	Procurement	2017	Contract awarded following a tender under the oversight of INPB; subsequently cancelled
6	Defence	SNA Rations	Kasram	Procurement	2017	Contract annulled shortly prior to expiration, on the basis that the award was irregular
7	Defence	SNA Rations – Lot 1	Scandinavian Trading	Procurement	2019	Competitively awarded; operational
8	Defence	SNA Rations – Lot 2	East Africa Trading	Procurement	2019	Competitively awarded; operational
9	Defence	Supply of 6 marine patrol boats	AMO Shipping Company Ltd.	Procurement	2014	Subject to an arbitration claim
10	Defence	Equipping and training Coast Guard	Atlantic Marine and Offshore Group	Procurement	Not reviewed	Subject to an arbitration claim
11	Defence	Logistics	SKA	Unclear	2018	Status unclear; letter to Prime Minister from MoF conveyed FGC recommendation to annul via notification to contractor
12	Education	Textbooks	Beder Printing House	Concession	2018	Operational, recommended to be renegotiated and/or cancelled
13	Education	Certificates	Security Printing Press	Concession	2019	Unknown

#	FGS institution	Contract	Contractor	Contract type	FGC formal review	Status
14	Finance	Collection of property transfer registration tax	M&T Solutions Ltd	Concession	2016	Cancelled
15	Finance	Collection of road tax	Smart General Service Ltd.	Concession	2016	Cancelled
16	Finance	Khat tax collection on behalf of FGS	The ADCO Group of Companies	Concession	2015	Cancelled; contract replaced by direct tax
17	Fisheries and Marine Resources	Protecting, licensing, and promoting policy and institutional development of fisheries sector	Somalia-FishGuard Ltd.	Concession	2014	Did not proceed
18	Galmudug Regional Government	Oil production sharing agreement	Petro Quest Africa (CN)	Concession	2014	Did not proceed
19 -24	Information, Culture, and Tourism	6 leases for development of property in Mogadishu	Various	Concession	2019	Status unclear; recommended to be cancelled or revised
25	Somali Police Force	Police rations	Perkins Logistics	Procurement	2016	Partially incorporated FGC recommendations; contract has now expired
26	Somali Police Force	Police rations	Muna Transport	Procurement	2019	Competitively awarded; operational
27	Immigration Directorate	Visas	Empire Tech Solutions Ltd.	Concession	2018	Operational; recommended to be cancelled or revised
28	Immigration Directorate	Passport Production	Ebtkaraat Smart System	Concession	2018	Operational; recommended to be retendered
29	Immigration Directorate	Passport Production Tender Documents		Concession	2020	Still in draft
30	National Security Force	NISA rations	Horn Logistics	Procurement	2016	Partially incorporated FGC recommendations; contract has now expired

#	FGS institution	Contract	Contractor	Contract type	FGC formal review	Status
31	National Security Force	NISA rations	Express logistics	Procurement	2019	Competitively awarded; operational
32	National Security	Scanning services for Mogadishu port	M&T Solutions Ltd	Concession	2016	Contract signed but inactive; recommended to be terminated
33	Justice	Prisons rations	Bakhaari Logistics	Procurement	2018	Operational; recommended to be retendered
34	Petroleum and Mineral Resources	Model terms for petroleum exploration, development, and production	Model Oil and Gas Production Sharing agreement	Concession	2016	Incorporated FGC recommendations
35	Petroleum and Mineral Resources	Model terms for petroleum exploration, development and production	Model Oil and Gas Production Sharing agreement	Concession	2019	Unknown; no feedback on whether FGC recommendations have been considered or incorporated
36	Petroleum and Mineral Resources	Seismic data analysis	Mubadala Oil and Gas Holding Company LLC (CN)	Concession	2014	Agreement expired
37	Petroleum and Mineral Resources	Seismic exploration	Soma Oil and Gas Exploration Limited	Concession	2014	Operational; did not incorporate FGC recommendations
38	Petroleum and Mineral Resources	Geospatial analysis	CGG Data Services AG/Robertson GeoSpec International Ltd.	Concession	2014, 2015, 2016	Operational; incorporated FGC recommendations
39	Petroleum and Mineral Resources	Collation, analysis, and marketing of petroleum data	Spectrum ASA	Concession	2015	Operational; incorporated FGC recommendations
40	Petroleum and Mineral Resources	Acquisition, processing, and marketing of geophysical data	TGS-NOPEC Geophysical Company ASA	Concession	2014	Did not proceed
41	Presidency	Rations	Regional Suppliers Company Ltd.	Procurement	2018	Recommended to be retendered after expiry
42	Ports and Shipping	Management of port operations	Albayrak Turizm Inşaat Ticaret A.Ş.	Concession	2014	Operational; under renegotiation

#	FGS institution	Contract	Contractor	Contract type	FGC formal review	Status
43	Ports and Shipping	Harbour, fishing port, and related infrastructure developments	Great Horn Development Company	Concession	2014	Did not proceed
44	Ports and Shipping	Lease and concession for operating Mogadishu port container terminal	Mogadishu Port Container Terminal and Simatech International	Concession	2014	Did not proceed
45	Ports and Shipping	Management and operation of a container yard and freight station at Mogadishu dry port	Mogadishu International Port and Simatech International	Concession	2016	Construction complete, not operational; renegotiation required pending resolution of Albayrak renegotiation
46	Posts and Telecoms	Telecoms gateway	VBH Holdings SPA	Concession	2016	Did not proceed
47	Power and Water	Electricity generation	Polaris Energy SDN BHD	Concession	2015	Did not proceed
48	Transport and Aviation	Airport operations	Favori LLC	Concession	2014, 2019	Operational; renegotiated agreement signed May 2019
49	Transport and Aviation	Vehicle licensing	Modern Technology Ltd.	Concession	2016	Cancelled
50	Transport and Aviation	Airport taxi shuttle service	Sahel	Concession	2017	Operational; recommended to be renegotiated
51	Transport and Aviation	Airport hotel	Sat Service LLC	Concession	2018	Draft contract under review

ANNEX B: FGS INSTITUTIONAL ROLES IN THE MANAGEMENT, OVERSIGHT, AND APPROVAL OF CONCESSION AGREEMENTS AND PROCUREMENT CONTRACTS

	Tender process	Contract awards
Concession agreements Any size	• FGS institution wishing to develop a concession is required to prepare a feasibility study and undertake public consultations. • Minister of Finance issues Concession Certificate. This indicates approval that the relevant project is appropriate for delivery through a concession mechanism. • IMCC approval of tender documentation, including draft contract, tender rules, and procedures.	• IMCC nominates the evaluation committee. It approves benchmarks for negotiation and the evaluation report, including the recommendation to award the contract. • FGC is required to review all contracts prior to signature.
Public procurement contracts Any size	• FGS procuring entities should complete annual procurement plans capturing all procurements anticipated given allocated budget. • Public Procurement Authority (PPA) approval is required for use of non-standard bidding methods or documentation before the tender process starts.	
Less than US$100,000	• Procuring entity manages tender process.	• Evaluation Committee constituted by the procuring entity recommends contract award. • Award is approved by the procuring entity.
US$100,000 up to US$2 million	• MoF Procurement Department acts as a procuring agent to manage the tender process on behalf of the procuring entity.	• Evaluation Committee constituted by the MoF recommends contract award. • Award is approved by the procuring entity.
US$2 million up to US$5 million	• MoF Procurement Department acts as a procuring agent to manage the tender process on behalf of the procuring entity.	• Evaluation Committee constituted by the MoF recommends contract award. • MoF Contracts Committee approves contract award.
US$5 million and over	• MoF Procurement Department acts as a procuring agent to manage the tender process on behalf of the procuring entity.	• Evaluation Committee constituted by the MoF recommends contract award. • MoF Contracts Committee approves contract award. • FGC review is required prior to contract signature.

ANNEX C: FGC RECOMMENDATIONS ON NEAR-TERM PRIORITY ACTIONS FOR PUBLIC PROCUREMENT AND CONCESSIONS

Establish, empower, and build capacity within FGS oversight bodies for procurement and concessions

Three FGS bodies in particular will need to play critical roles in overseeing the procurement and concessions processes. Establishing these bodes and making them routinely operational should be the first priority. FGS then needs to support and strengthen them to understand their roles and adopt basic operating procedures,[20] to guarantee that they have the necessary expertise to perform those roles effectively, and to ensure that they have the political support and enforcement tools necessary to drive compliance.

Priorities for the key entities are as follows:

a. Public Procurement Authority – The PPA Board and a Director need to be appointed. Procedures should be established to govern their working relationship with the MoF Procurement Department, which will serve as PPA staff in the short term. A longer-term plan to build up the PPA should be developed and approved for implementation.

b. MoF Contracts Oversight Committee – The Contracts Committee needs to be convened first to establish its operating procedures and then to start reviewing and approving large-value procurement contract awards,[21] as required by the amended Procurement Act.

c. Inter-Ministerial Concessions Committee – The IMCC has so far met ad hoc to review tender documentation and approve concession contract awards. Its meetings have not been systematic, and its role in the concession process is intended to be broader than contract approvals. The IMCC should be convened for a series of meetings to make concrete progress on the following matters:

i. Reviewing the range of IMCC responsibilities under the Procurement Act and regulations, and agreeing on operating procedures to allow the IMCC to perform these responsibilities;

ii. Determining how to access the specialised technical expertise that IMCC requires to perform its responsibilities until such time as the Concessions Technical Unit created by the Procurement Act is established and its capacity strengthened; and

iii. Agreeing on an approach to enhancing understanding among IMCC members of concessions and their benefits and pitfalls, and arranging any high-level training necessary to enable IMCC members to protect the financial and commercial interests of FGS.

20 The FGC Concessions Advisor is available to support the FGS to develop terms of reference for these institutions, to the extent that they have not yet been developed, and to provide advice to these institutions as they develop operating procedures and determine additional capacity requirements.

21 Large-value procurement includes publicly procured goods and services contracts over US$1 million and works contracts over US$2 million.

Build stakeholder awareness of the legal and regulatory framework for public procurement

FGS has already taken steps to inform procuring entities, and even commercial bidders, of their obligations. Additional and more active communication is required, however, about recent changes to the legal framework. That work should be accompanied more generally by continuing initiatives to build awareness among both procuring entities and prospective bidders about the specific requirements in the Procurement Act.

Two particular actions are high priorities:

a. Providing notification and access to information on the revised legal framework for procurement. The Procurement Act Amendments and recently adopted Regulations need to be disseminated. Official English/Somali translations need to be prepared and published permanently on the MoF website as a matter of urgency. In addition, FGS policy on procurement due process should be strengthened by updating and reissuing the Prime Minister's 2018 Decree on Contracting.

b. Increasing regular publication of procurement information. There is a need to expand the amount of information that is published with respect to procurement processes, in line with the requirements of the Procurement Act. This information should include notification of contract awards for all concessions and public procurement over US$100,000 (Regulations 92 and Article 24), publication of annual procurement plans (Article 27), and notification of all direct contracting (sole sourcing) processes (Article 89.4).

Build technical expertise and capacity for conducting, or participating in, procurement processes

A capacity building programme needs to be developed for FGS procurement officials (in procuring entities and in oversight entities) and for prospective bidders. Implementation of this programme will benefit from drawing on the knowledge of current FGS officials, as well as from seeking technical or financial support from development partners.

The programme should cover the following groups involved in FGS procurement:

a. Procurement officials in procuring entities. In-depth training is required for procuring entity staff engaged in procurement activities across FGS and could also be offered to relevant FMS officials. This training should be a mix of formal training programmes with certification, and practical or on-the-job sessions related to the specific requirements of the Somali legal framework and to common challenges faced by Somali procurement officials. Key areas would include:

i. Basic procurement rules and procedures required by law

ii. Use of standard bidding documents

iii. Development of specifications for goods, services, or works contracts

iv. Procurement planning

b. Procurement officials with supervisory or oversight roles. Public procurement practitioners in central and oversight roles require additional expert knowledge to deal with more complex procurement. Giving staff in the MoF Procurement Department and the Public Procurement Authority access to specialised training (and potentially on-call external advice or coaching) would help those FGS officials to guide procuring entities that encounter novel situations requiring adaptation of standard processes and bidding documents or other specialised support. The FGS should work with development partners to ensure a programme of continuous formal training and professional development, as well as to identify on-call expertise to support on-the-job training.

c. Domestic bidders. Somali bidders are adjusting to the new legal framework for procurement. Increasing their understanding of the FGS procurement process will ease pressure on procurement officials and drive more compliant and competitive processes, which should result in better value for money to FGS. The PPA and the MoF Procurement Department could usefully:

i. Hold information sessions regularly and routinely for interested Somali firms to explain FGS tender process rules and requirements. The scope would cover both general procurement procedures and specific procurements where there is a high level of bidder interest.

ii. Consider special information sessions and the development of Frequently Asked Questions documents to post on the MoF website to cover common areas of difficulty observed by the MoF Procurement Department across the bids it receives.

Continue to enhance the procurement and concessions framework

The Procurement Act Amendment and the adoption of associated Regulations have improved the framework for procurement and concessions in Somalia. As FGS expands further the range of public procurement it undertakes and concessions it wishes to implement, a culture of continuous improvement will be necessary. That will require additional guidance and tools to support and maintain a robust system. FGS may also discover that aspects of the legal framework are not well enough adapted to the Somali context and will thus require adjustment.

Potential areas of focus in the short term include the following:

a. Concessions legal framework. The amended Procurement Act provides a basis for the award of concessions but does not include many features common in modern legislation on public-private partnerships. Additional provisions that may be useful to FGS include procedures for managing unsolicited proposals, support for contract management, and good-practice features of tendering for public-private partnerships. FGS should work with development partners to review the legal framework covering concessions to determine whether a more comprehensive framework is necessary.

b. Specialised guidance on public procurement. As FGS conducts a broader range of procurements, exceptional situations arise that require non-standard approaches to contract awards. Examples include emergency situations (such as COVID-19) or instances involving national security. Additional guidance on procurement procedures in such circumstances may be necessary. The purpose is to enable flexible procurement approaches, where necessary, without undermining the ability to secure value for money and maintain accountability. Assistance from development partners should be sought to develop this guidance (see also a separate FGC Advisory Note on this topic, dated May 2020).

c. Standardised bidding documents. The MoF Procurement Department has tailored standard FGS bid documents for the procurement of goods through the course of repeated tenders. Standard bidding documents for works and services procurement have also been adopted, although it is not clear whether they have been refined sufficiently for standard use in Somalia. It is also unclear whether these documents are disseminated across the FGS and stipulated for use by all procuring entities, as required by the Procurement Act. Further work is needed to appropriately tailor a suite of standard bidding documents covering all types of public procurement, to review them thoroughly, and to disseminate them to all procuring entities.

ANNEX D: PROGRESS AGAINST 2019-20 FGC PRIORITIES

Areas of planned FGC engagement	Progress in 2019–20
1. Security sector expenditures i) Maintain and build on the registration and direct-to-bank payment system for security sector salaries and rations stipends ii) Complete the re-tendering of rations contracts iii) Strengthen internal security sector financial controls, including for rations verification and delivery	i) Achieved ii) Achieved iii) Work in progress
2. Constitutional review i) Ensure the provisions of the Fiscal Chapter are informed by existing primary legislation ii) Consult adequately on proposals for resource-sharing principles and allocation mechanisms iii) Establish a constitutional requirement that revenue-sharing arrangements are periodically reviewed	i) Reflected in ICRIC/Oversight Committee proposals ii) Consultations ongoing in FMS, but interrupted by COVID-19 iii) Reflected in ICRIC/Oversight Committee proposals
3. Procurement capacity i) Adopt proposed amendments to the Procurement Act ii) Secure donor support for procurement and concessions capacity development iii) Start developing a separate legal framework for concessions	i) Achieved ii) No progress iii) Commencing with support of World Bank/ International Finance Corporation
4. Legacy contracts i) Complete seaport concession renegotiations ii) Resolve other legacy contracts	i) Nearing completion ii) Passport tender process underway to replace 2013 contract
5. Oil and gas i) Adjust the licensing round timetable so that the process adheres to the requirements of the 2016 Procurement Act and allows sufficient time to establish the necessary regulatory institutions and consult with stakeholders ii) Acquire technical capacity for the management of the licensing round process iii) Assess the fiscal implications of the new Model PSA	i) No progress to date ii) ALSF is in the process of procuring technical and legal support for FGS iii) Assessed by FGC, but no feedback provided by MoPMR
6. Fisheries i) Maintain the annual tuna licensing process ii) Distribute the revenues to all FMS in accordance with the Addis Agreement	i) Licences awarded to current licence holders for a further year, as enabled by their 2018 MoU with FGS ii) US$1.6 million received in 2020; distribution planned, but not completed as of end-June 2020
7. Revenue mobilisation i) Ensure FGS–FMS agreement on customs modernisation and harmonisation ii) Ensure FGS–FMS agreement on the assignment of national taxes proposed in the Domestic Revenue Harmonisation Bill	i) Work in progress ii) Incorporated in the 2019 Revenue Act
8. Bringing aid on budget i) Establish clear procedures for disbursement of donor funds to FGS agencies and FMS	i) Procedures established in the PFM Act, signed into law in February 2020
9. Controlling the cost of government i) Establish and implement a policy to limit institutional proliferation and monitor implementation	i) Policy drafted, due for submission to Cabinet
10. Financial sector reforms i) Develop and implement Mobile Money Regulations ii) Enhance supervision of commercial banks and Money Transfer Operators to promote financial market integrity, AML/CFT compliance, and connectivity to international financial systems iii) Strengthen the integration of the SFMIS and core banking systems	i) Regulations issued, implementation in progress ii) On track iii) Achieved

ANNEX E: FGS AUTONOMOUS AND SEMI-AUTONOMOUS AGENCIES AS OF JUNE 2020

Agencies in the FGS 2020 Budget	Agencies created in law but not yet in the FGS Budget	Agencies proposed in draft legislation submitted to Parliament	Agencies being proposed in dialogue with the international community	Agencies that exist but with unclear legal status
1. Judicial Service Commission	1. Parliamentary Service Commission	1. Somali Bureau of Standards	1. Fisheries Authority (EU Budget Support)	1. National Higher Education Commission[22]
2. Human Rights Commission	2. Inter-State Commission	2. National Professional Health Council	2. Investment Promotion Agency (Mutual Accountability Framework)	
3. Anti-Corruption Commission	3. National Security Commission	3. Somali Film Agency	3. Drug Regulatory Authority (Mutual Accountability Framework)	
4. Boundaries and Federation Commission	4. Office of the Ombudsman	4. Agricultural Research Agencies	4. National Institute for Health (Mutual Accountability Framework)	
5. National Independent Electoral Commission	5. Procurement Authority			
6. Truth and Reconciliation Commission	6. Petroleum Authority			
7. Constitutional Review Commission				
8. Civil Service Commission				
9. Somali National Telecommunications Authority				
10. Somalia Refugees and Internally Displaced Persons Commission				
11. Somali Marine Research				
12. Somali Civil Aviation and Meteorology Authority				
13. National Disability Agency				
14. Somali National Statistics Bureau				

22 Inaugurated by the Minister of Education in September 2019.

FEDERAL GOVERNMENT
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