

# SUDAN

## Country Integrated Fiduciary Assessment (CIFA) 2005-2007

**May 2010**

Financial Management and Procurement Groups  
Africa Region



**The World Bank**

**Currency exchange**  
US\$1.00 = SDG 2.20

**Fiscal Year**  
January 1—December 31

**Weights and Measures**  
Metric system

## **ABBREVIATIONS AND ACRONYMS**

BIT	Business income tax (individual)
CIFA	Country Integrated Fiduciary Assessment
CIT	Corporation income tax
COMESA	Common Market for Eastern and Southern Africa
CPA	Comprehensive Peace Agreement
CPI	Consumer Price Index
CPAR	Country Procurement Assessment Report
FFAMC	Fiscal and Financial Monitoring Allocations Commission
GDP	Gross domestic product
GFS	Government Financial Statistics
GNU	Government of National Unity
GoSS	Government of Southern Sudan
HIPC	Highly Indebted Poor Countries
IMF	International Monetary Fund
LTO	Large taxpayer office
MDAs	Ministries, departments, and agencies
MoFNE	Ministry of Finance and National Economy of GNU
MTO	Medium-size taxpayer office
OECD DAC	Organization for Economic Cooperation and Development - Development Assistance Committee
PEFA	Public Expenditure and Financial Accountability
PER	Public Expenditure Review
PFM	Public financial management
PIT	Personal income tax
SDG	Sudanese Pound (currency)
STO	Small taxpayer office
UNCITRAL	United Nations Commission on International Trade Law
VAT	Value added tax
WTO	World Trade Organization

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## **ACKNOWLEDGMENTS**

The Task Team Leader for this Country Integrated Fiduciary Assessment was Parminder Brar, Lead FM Specialist, Africa Region, World Bank. The report integrates the contributions of many staff members and consultants including: Richard Olowo, Senior Procurement Specialist; Moslem Alamir, Senior Economist; Rupert Bladon, Senior FM Specialist; Mohamed Yehia Abd El Karim, Senior FM Specialist; Dr. Saif El Din Abd Rhman, Consultant; Professor Medani M. Ahmed, Consultant; Mbuba Mbungu, Senior Procurement Specialist; Pascal Tegwa, Senior Procurement Specialist; Antonio Cittati, Senior Procurement Specialist; Narayan Sharma, Consultant; Abdalla M.A. Alobodi, Consultant; Abdelrahman Abbas Maghgoub, Consultant; and Elfatih Mohammed Eid, Consultant.

The CIFA assessment team is very grateful to Dr. Abu Ganaya, Undersecretary of the Ministry of Finance and National Economy who led the CIFA Steering Committee as well as to all the officials of GNU who provided their time and effort in making this study possible.

# **COUNTRY INTEGRATED FIDUCIARY ASSESSMENT: SUMMARY**

1. This Country Integrated Fiduciary Assessment (CIFA) evaluates the public financial management (PFM) system of Sudan for the financial years 2005 to 2007. It assesses the overall level of fiduciary risk through the performance of the entire PFM cycle — with special focus on procurement, which is a particularly high-risk area. The methodology followed uses internationally accepted standardized indicator sets. This assessment is therefore based upon (a) applying the Public Expenditure and Financial Accountability (PEFA) set of 31 indicators (the PFM Performance Measurement Framework) that covers the entire PFM cycle from budget planning, budget formulation, budget execution, accounting, reporting, audit, and oversight (results in Section 3 of CIFA); and (b) judging the strength of the national procurement system on the basis of the 4 OECD DAC procurement “pillars” (legislative and regulatory framework; institutional framework and management capacity; procurement operations and market practices; and integrity and transparency of the procurement system). Results of the procurement assessment are in Section 4 of this CIFA.

2. There is one caveat that needs to be stated upfront. The World Bank has not yet resumed lending to Sudan. It is however the administrator of the two multi-donor trust funds (MDTF) – one for the Government of National Unity (GNU) and the other for the Government of Southern Sudan. The MDTF operations are ring-fenced and do not use government systems. Due to this, unlike other countries where the Bank provides budget support or provides basket funding, the knowledge of the PFM system in Sudan is limited, including the Bank’s knowledge of the flow of funds and the overall fiduciary control environment both for expenditures and revenues – especially oil revenues. Despite those constraints, this CIFA does provide a substantial amount of information regarding the functioning of the PFM system in Sudan.

## **A. PEFA Assessment**

3. The first time applied to Sudan, the PEFA PFM Performance Measurement Framework comprises 28 country performance indicators (PI) and 3 donor (D) performance indicators. This indicator set has a specified methodology for assessment. Its objective is to provide a pool of information to key stakeholders in preparation of a baseline of PFM performance; this information helps better understand the main weaknesses in the PFM system and then decide on the direction and pace of PFM reforms. This approach does not evaluate the effectiveness of past reforms nor is it overly prescriptive in its approach.

4. Over the last five years, these performance indicators have been rolled out to more than 120 countries, in some cases more than once, which makes it possible to assess country performance over time as well as to do limited cross-country analysis. Table 1 presents the results of the assessment of performance for the years 2005 to 2007 against the PEFA indicator set.

5. The reporting against these indicators is a ‘snapshot’ of the state of affairs during 2005-2007. Where information is available on more recent developments in 2008 and 2009 (particularly developments that might result in a change to the assessment), this is indicated in the main report. However, such developments cannot be reflected in the scoring for 2005-2007. In two cases it has not been possible to assign a rating since the data was not available.

**Table 1. Summary of PEFA PFM Performance Scores**

<b>A. PFM-OUT-TURNS: Credibility of the budget</b>		<b>Scores</b>
PI-1	Aggregate expenditure outturn compared to original approved budget	<b>C</b>
PI-2	Composition of expenditure outturn compared to original approved budget	<b>C</b>
PI-3	Aggregate revenue outturn compared to original approved budget	<b>B</b>
PI-4	Stock and monitoring of expenditure payment arrears	<b>D+</b>
<b>B. KEY CROSS-CUTTING ISSUES: Comprehensiveness and Transparency</b>		
PI-5	Classification of the budget	<b>C</b>
PI-6	Comprehensiveness of information included in budget documentation	<b>C</b>
PI-7	Extent of unreported government operations	<b>Cannot score</b>
PI-8	Transparency of inter-governmental fiscal relations	<b>D</b>
PI-9	Oversight of aggregate fiscal risk from other public sector entities	<b>D+</b>
PI-10	Public access to key fiscal information	<b>C</b>
<b>C. BUDGET CYCLE</b>		
<b>C(i) Policy-Based Budgeting</b>		
PI-11	Orderliness and participation in the annual budget process	<b>B</b>
PI-12	Multi-year perspective in fiscal planning, expenditure policy and budgeting	<b>D+</b>
<b>C(ii) Predictability and Control in Budget Execution</b>		
PI-13	Transparency of taxpayer obligations and liabilities	<b>C</b>
PI-14	Effectiveness of measures for taxpayer registration and tax assessment	<b>D+</b>
PI-15	Effectiveness in collection of tax payments	<b>Cannot Score</b>
PI-16	Predictability in the availability of funds for commitment of expenditures	<b>D+</b>
PI-17	Recording and management of cash balances, debt and guarantees	<b>D+</b>
PI-18	Effectiveness of payroll controls	<b>D+</b>
PI-19	Competition, value for money and controls in procurement	<b>D</b>
PI-20	Effectiveness of internal controls for non-salary expenditure	<b>D+</b>
PI-21	Effectiveness of internal audit	<b>D+</b>
<b>C(iii) Accounting, Recording and Reporting</b>		
PI-22	Timeliness and regularity of accounts reconciliation	<b>C+</b>
PI-23	Availability of information on resources received by service delivery units	<b>D</b>
PI-24	Quality and timeliness of in-year budget reports	<b>D+</b>
PI-25	Quality and timeliness of annual financial statements	<b>D+</b>
<b>C(iv) External Scrutiny and Audit</b>		
PI-26	Scope, nature and follow-up of external audit	<b>B+</b>
PI-27	Legislative scrutiny of the annual budget law	<b>D+</b>
PI-28	Legislative scrutiny of external audit reports	<b>B</b>



<b>D. DONOR PRACTICES</b>		
D-1	Predictability of direct budget support	N/A
D-2	Financial information provided by donors for budgeting and reporting on project and program aid	D
D-3	Proportion of aid that is managed by use of national procedures	N/A

### ***Credibility of the budget***

6. The ability of a government to implement a legislature-approved budget is an important indicator of its ability to provide resources in a predictable manner to spending units and to services delivery. In Sudan there are serious challenges on both the revenue and expenditure front.

7. On the revenue side, the “B” rating is partly due to the fact that around 50 percent of GNU revenues accrue on account of oil. Oil is a commodity with large variability in prices. In 2006 the shortfall in revenue compared to the budget was around 15 percent; in 2007 actuals were close to the budget; and in 2008 revenues were 11 percent greater than the budget due to higher than expected oil prices. The steep fall in oil prices during 2009 has pressured budget execution since the price of Sudan crude is likely to remain below the budget reference price. Due to the global economic environment and lower capital inflows, non-oil revenues are also depressed.

8. On the expenditure side the variance of actual expenditure compared to original budget is high (rated “C”). During the period 2005-2007, the situation deteriorated markedly with deviation increasing from 1.22 percent (2005) to 13 percent (2007). The budget as a whole was therefore not a credible indicator of expenditure trends. Among spending units, the variability range is as high as 20 to 35 percent, meaning that there is significant uncertainty on the part of spending units as to how much of the budget they will actually receive during the course of the year.

9. Arrears remain a major area of concern. In 2008 the IMF estimated the current stock of arrears at SDG 2.6 billion (about 2.2 percent of 2008 GDP). The absence of an effective commitment control system has contributed to the build up of these arrears. While a major effort was made in 2008 to clear arrears for 2007, new arrears continue to build up. There is uncertainty about the stock of arrears especially since until a year ago outstanding payments were not considered arrears until the following year. A domestic debt unit has been set up, but its capacity is weak, and it currently does not have the resources for compiling this information effectively and sustainably. It is due to these reasons that this performance indicator could not be assessed.

### ***Comprehensiveness and transparency***

10. There have been recent improvements in budget comprehensiveness and transparency. The 2008 budget was the first one that was presented to the National Assembly on the basis of the 2001 Government Financial Statistics (GFS) compatible economic classification. The 2009 budget has also been presented in the same format. This classification system received

legal backing with the passage of the Financial and Accounting Procedures Law 2007. However, since the new classification system must still be applied consistently across all budget lines, it must be integrated into a revised chart of accounts and the financial regulations must be drafted and issued.

11. In terms of budget transparency (PI-6), Sudan is in compliance 4 of the 9 benchmarks. There is need to provide additional information with regard to the budgetary implications of new policy initiatives, include information on budget outturns for the previous year, provide additional details of financial assets, and better specify the fiscal deficit. The performance indicator (PI-10) related to the issue of transparency deals with public access to key fiscal information. In this area, Sudan does not comply with 4 out of 6 international benchmarks. There is clearly need to improve public disclosure to meet international standards.

12. There are ongoing challenges in raising revenue and managing extra budgetary funds. The annual reports of the Auditor General of Sudan provide details of the manner in which some budgetary units levy unapproved fees, keep resources off budget, open bank accounts without permission, and transfer government resources to trust funds under their control outside of the budget.

13. Since the signing of the Comprehensive Peace Agreement in 2005, there has been a major increase in transfer of resources to sub-national entities. There is a specified formula for fiscal transfers to sub-national governments. However, there are deviations in practice with regard to both vertical and horizontal allocations. The Fiscal and Financial Monitoring Allocations Commission (FFAMC) can be undermined by the Federal Government contesting the vertical split of resources between itself and the Northern States, and the horizontal allocation can be undermined through ‘normalization’ adjustments made to address emerging issues in some states, a practice that needs increased transparency. In 2009 a joint GNU/FFAMC Committee has been established to review the apparent differences of opinion surrounding the split of resources between the Federal Government and the Northern States. For actual budgetary allocations, there are challenges regarding the timing and flow of funds.

14. The GNU is exposed to high levels of fiscal risk through the operations of public sector entities. Public enterprises currently account for almost half the annual misappropriation of funds, and there is weak monitoring of the performance of or fiscal risks posed by sub-national governments.

### ***Policy-based budgeting***

15. The poverty reduction strategy for Sudan is under preparation. Currently, there is need to improve the focus on the macro framework, improve sectoral analysis, and better link policy priorities with capital and recurrent budgets, which are separate processes at present. In terms of the budget approval processes, Sudan probably has one of the most orderly and streamlined processes in Africa. The budget calendar is clearly specified and well respected, resulting in timely processing and passing of annual appropriation legislation. One area that could be improved is increasing the time allocated to the legislature for scrutinizing budget proposals. There are also some issues around the timeliness of information given to the Northern states. Due to these delays, the budget processes of these entities are somewhat undermined.

### ***Predictability and control in budget execution***

16. The Taxation Chamber has undergone significant reforms over recent years. Taxpayer Identification Numbers have been provided to roughly 150,000 taxpayers, a service-oriented culture is being introduced through the formation of large and medium-size taxpayer offices, value added tax (VAT) has been introduced, income tax exemptions have been removed, and the tariff structure has been rationalized. Among remaining challenges are improving the appeals process, further rationalizing the tax structure, enhancing systems so that there are proper linkages between different tax data bases, introducing risk-based tax audits, reviewing penalties to ensure some element of deterrence to noncompliance, and better monitoring of arrears

17. There have also been improvements in cash management over the last two years since the formation of the Cash Management Unit and the Cash Management and Release Committee, which is chaired by the Undersecretary of the Ministry of Finance and National Economy (MoFNE). Priority is given to ensure that Chapter I liabilities (salaries) are fully met and that priority expenditures (e.g. health) are also protected. Among issues that remain to be addressed are reducing the many bank accounts holding cash, improving linkage between cash and debt management, operationalizing the Treasury Single Account System, and improving cash flow forecasting and planning. The reality is that at present the budget is being implemented through cash rationing with a large amount of unpredictability surrounding the flow of funds to spending units.

18. Commitment control is weak, although the recent order to spending units to limit spending to quarterly cash plans should help address this chronic challenge and reduce the build up of arrears. In spending units, commitment control is deficient. Spending units make commitments against budgetary allocations (which are often not realized) rather than cash available, leading to a build-up of domestic arrears. There has been some progress on arrears with MoFNE repaying a substantial portion of the arrears accumulated in 2007 and through establishing a centralized debt unit.

19. Salary payments are the largest single charge on the budget. Around 70 percent of the overall budget is allocated to salary payments for 330,000 federal and state employees. There is no centralized human resources or payroll database so the entire process is manual. There is large discrepancy in the wage bill as presented in the budget documents and the reported size of the workforce and compensation levels. While the internal auditor oversees salary payments, there are significant fiduciary risks that still need to be addressed.

20. Internal controls remain weak while internal audit is gradually improving. The annual reports of the Auditor General of Sudan point to the many weaknesses in internal controls. Internal audit is primarily involved in transaction testing and does not use modern risk-based techniques. Only around 70% of Federal-level spending units have some sort of internal audit, and only 5 percent of public enterprises are covered. Internal audit reports are regularly submitted to top management and copied to the Auditor General. Recently there have been several examples of corrective action being taken in a timely manner by GNU on receipt of internal audit reports.

***Accounting, recording, and reporting***

21. Accounting is the responsibility of the Chamber of Accounts. It has 8,000 accountants. The entire system is manual, which is surprising considering the size of the budget (greater than US\$10 billion). At the Federal level, there are around 189 spending units with their own bank accounts. Bank reconciliation does take place on a regular and timely basis. However, there are many suspense accounts. A task force was formed in 2009 to deal with this issue.

22. Monthly reporting is on the basis of disbursements and not actual expenditures. This is due to the fact that around 40 percent of budgetary units do not submit regular reports. This only relates to GNU and does not cover states that do not submit in-year reports. There is therefore no presentation of consolidated budget outturn information for the Federal and state levels.

23. Service delivery units do not receive funds in a timely manner, and there is large variability between the budgeted figures and actual releases, especially for development expenditures. To date, the flow of funds to service delivery units have no independent assessment such as a Public Expenditure Tracking Survey, which the GNU is keen to start in the near future.

***External audit and scrutiny***

24. The external audit function is well developed and respected in Sudan. The National Audit Chamber is responsible for auditing all Federal, state-level budgetary units and public enterprises. Despite capacity and resource constraints, the Chamber is fulfilling its constitutional mandate. The current focus is largely on traditional transaction audits. Modernization of work practices is required along with the need to move to risk-based auditing and performance and value-for-money audits. Timely reports are submitted to the National Assembly, which are followed up by the Economic Affairs Committee. Legislative scrutiny of the reports is performed in a timely fashion, and relations between the Auditor General and the National Assembly are strong.

**B. Procurement Assessment**

25. The efficiency, fairness, and transparency of public procurement systems are important components of public sector management. The Country Procurement Assessment Report (CPAR) of Sudan evaluates the performance of the country's procurement system. A related objective is to present an agreed action plan to improve the procurement of goods, works, and services for Sudan's GNU. Transparency and broader governance concerns are an integral part of the Interim Strategy Note for Sudan. A comprehensive diagnostic of the fiduciary accountability environment, including an assessment of the public procurement system, is necessary to assess the risk to public resources.

### ***Scope of the assignment***

26. As stated above, the World Bank is the administrator of the MDTF for Sudan. The portfolio of the MDTF for Sudan National (as of end March 2009) comprises 11 projects under implementation and 4 pipeline projects. In addition to the fiduciary responsibility for this portfolio, the Bank's procurement function includes support to the development of the country's public procurement system.

27. The Bank has therefore assessed the Sudan national procurement system based on the 4 pillars developed by the OECD DAC and the World Bank:

- Existing legal framework that regulates procurement in the country;
- Institutional architecture of the system;
- Operation of the system and competitiveness of the national market; and
- Integrity of the procurement system.

Each pillar was assessed through a variety of indicators and sub-indicators. The assessment covered the GNU but not the Government of Southern Sudan, which is responsible for procurement under its own procurement regulations.

### ***Methodology***

28. The methodology of the assessment combined (a) desk-based review of public/government documents, (b) interviews with relevant persons in both the public and private sectors, (c) written questionnaires, (d) analysis of procurement and financial records and other data particularly on contracts, and (e) stakeholder workshop and meetings to validate the findings and recommendations.

29. The World Bank team was supported by national consultants who also translated some of the information from Arabic to English and worked closely with the MoFNE Public Procurement Department. The main challenge faced was the high expectations of government counterparts and the decision to proceed with drafting a procurement bill in parallel with conducting the assessment, an activity that the Bank team had no resources to support.

### ***Main Findings***

#### ***Strengths of the procurement systems***

30. Public procurement in Sudan is regulated under Chapter VIII of the Financial and Accounting Regulations 1995 that provide detailed legal interpretation of the Financial and Accounting Procedure Act 1995, which was revised in 2007. There are also administrative MoFNE-developed procedure manuals to guide the implementation of the procurement legal framework. The legal framework covers all GNU entities. The Minister of Finance has the mandate to fix the monetary thresholds above which open competitive tendering methods must be used.

31. The GNU ministries, departments, and agencies (MDAs) have staff that are charged with carrying out the procurement function. There is a practice of constituting committees to process procurement and to adjudicate contract award. The Public Procurement Department of MoFNE is responsible for overseeing the procurement of large-value contracts, capacity building in procurement, and monitoring compliance with the procurement regulations. On the other hand, the private sector is well organized within associations like the civil works contractors who are active and able to facilitate market access. The Sudan Arbitration Act 1999 is generally in line with established arbitration principles.

32. There is commitment at both the high and technical levels of GNU to improve the national procurement systems of Sudan. The National Assembly is actively involved in the process of improving the legislative framework governing procurement. It has therefore returned the draft bill titled National Organs Purchases and Sales (Organization) 2006 to MoFNE with the recommendation that its provisions be reviewed and strengthened. The MoFNE revised the bill and resubmitted it to the National Assembly as the Public Procurement (Act) Bill of 2007. The bill is pending enactment. These actions demonstrate both strong ownership and commitment to reforming the national procurement system.

### ***Weaknesses of the procurement systems***

33. The existing legal, policy and regulatory framework for public procurement are weak. Chapter VIII of The Financial and Accounting Regulations 1995 are being revised. The Public Procurement (Act) Bill of 2007, already presented to the National Assembly, fills the gap in the legal framework, but the Bill has several weaknesses that need to be addressed:

- (a) Discriminatory provisions would limit the participation of foreign contractors.
- (b) Conflicting and overlapping hierarchies of the various bodies are proposed in the Bill.
- (c) The Bill applies and incorporates in law the same standard form for use in contracting for works, goods, and consultants, each of which should have a different format.
- (d) The Bill allows for the change of scope and terms of contracts from those specified at the bidding stage.

34. The existing institutional framework with the Public Procurement Department, which has both operational responsibility and oversight mandate, does not assure the separation of roles and independence necessary to enforce the procurement regulations. The GNU is acutely short of proficient staff to effectively manage its procurements and contracts. Procurement as a profession has never been developed.

35. Discretionary use of procurement procedures and market practices is widespread in GNU due to lack of national standards for public procurement. Perceived lack of fairness in the awarding of contracts and the inordinate delays of contractual payments adversely affect the development of the local contracting industry and attraction of foreign bidders whose participation ensure adequate competition for public sector contracts.

36. Despite organized and active private sector associations, there seems to be inadequate involvement or consultation of the civil society in public procurement policy formulation and implementation. Thus the public procurement system is perceived as lacking integrity and transparency. With over a dozen newspapers in wide circulation in Sudan, the current system for publishing advertisements for bidding opportunities and contracts award does not assure a reasonable level of transparency.

### ***Risks and Recommendations for Mitigation of the Risks***

37. There are serious fiduciary risks due to the lack of a comprehensive procurement law and the weak procurement regulation capacity. The shortage of procurement professionals to implement public procurement affects the efficiency of public procurement. Subsidized government firms are allowed to compete for public tenders with private firms thereby undermining both the development of the local contracting industry and fair competition. This lack of fair competition is exacerbated by the inordinate payment delays under the system of using bonds to pay contractors, which may encourage bidders to include an added premium in their price offers.

38. The Public Procurement Act of 2007 before the National Assembly embodies the principles of transparency, accountability, economy, efficiency, and open competition, and provides for a framework for the institutional aspects of an accountable and transparent procurement system. However, the following recommendations should address some of the fundamental weaknesses:

- Do not discriminate in the bidding process, in order not to limit the participation of foreign contractors.
- Streamline the hierarchy of the various proposed bodies to ensure that there is no overlap or conflicts of functions between or within institutions and also to take into account staff capacity and the resources needed to match the requirements of the Act.
- Remove and ensure that the form of contract is not part of the Act and provide for different standard forms of contracts for works, goods and consultants.
- Award contracts for the scope and under the same terms specified at the bidding stage, as specified in the Act.
- Procurement should be decentralized to budget holders through the creation of procurement units to process procurement and statutory committees to adjudicate contracts award and an oversight body created to regulate procurement and also build procurement capacity.
- Standard Bidding Documents and a Manual of Public Procurement in both English and Arabic should be prepared and disseminated and a procurement monitoring system established.
- All stakeholders should be consulted when developing the public procurement system. A public procurement website should be launched from which

procurement rules, standard bidding documents, and manuals can be downloaded. The website should also be used to publish bidding opportunities and contracts award.

### **C. Assessment of the Impact of PFM Weaknesses**

#### ***Aggregate fiscal discipline***

39. The lack of credibility of the budget increases the risk of fiscal targets not being achieved. Fiscal discipline is undermined by weaknesses in Sudan's PFM systems:

- Budgets suffer from limited credibility, in terms of budgets compared to outturns, in terms of predictability of resource availability to MDAs and sub-nationals, and in terms of revenue projections. While the revenue projections are susceptible in part to external shock (in particular the volatility of the price of oil), improving adherence to good practice can influence many of the other aspects of poor credibility.
- Poor commitment controls (linked to allocations and not actual cash available) and insufficient in-year reporting/monitoring further compound problems of fiscal discipline through budget execution. There is the ongoing risk of the build-up of arrears. The control environment around both salary and non-salary expenditure is poor, posing serious threats to discipline.
- Poor oversight of public enterprises, limits to the comprehensiveness and oversight of governmental activities, and oversight issues of sub-national governments present potential risks to fiscal discipline.

#### ***Strategic prioritization***

40. At present, the lack of a medium-term approach to budgeting and poor linkages to the broader strategic policy framework undermines efforts to ensure strategic prioritization. Sector plans are not properly tied to the budget, and the absence of a poverty reduction strategy makes it difficult to form a consolidated view of policy intent – and therefore appropriate prioritization as expressed through budgetary processes. A poverty reduction strategy is under development. In-year variances in composition of expenditure outturn compared to budget also imply that prioritization is not strategic, or imbedded in the budget process. The absence of consolidation of sub-national outturns and no in-year reporting of actual MDA expenditures makes monitoring of the budget and its policy priorities extremely difficult. However, the move to GFS classification does at least provide a platform from which these issues can be addressed. Parliamentary oversight of budgetary decisions and outturns has the potential to help strengthen strategic prioritization, but the limited time given to the National Assembly to consider annual appropriation legislation means that this potential is not fully realized.



### ***Efficient service delivery***

41. Service delivery in Sudan, a decentralized and federal fiscal environment, is severely hampered by the uncertainties that surround the disbursement of funds to sub-national governments, the jurisdictions principally charged with service delivery. The Northern States are dependent on inter-fiscal transfers from Federal Government, yet budget allocations are rarely realized outside of Chapter I (i.e., salary and staff costs). This makes both the planning and delivery of services difficult. Poor commitment controls in the MDAs also add uncertainties since they are based on budget ceilings rather than actual cash available. Poor controls around procurement and budget execution, and weak information flows further compound these issues. The absence of reliable data around the receipt of resources by service delivery units makes monitoring, evaluation, and follow-up difficult.

### ***Prospects for reform planning and implementation***

42. Leadership is critical for PFM reforms to be successful and sustainable. Given the various initiatives underway, the MoFNE team does have the vision, leadership, and commitment for PFM reforms within Sudan. The MoFNE itself is being reorganized to make the institutional structure more efficient. Internal audit is being modernized to make it compliant with international standards. Cash management is undergoing major reforms. An Integrated Financial Management Information System (IFMIS) study is underway. Debt management is being strengthened. The establishment of a unitary tax authority is being considered. A new procurement law is underway. External audit is improving and there is effective follow up by the legislature on audit findings. Current priorities for which assistance is being sought by MoFNE include an institutional analysis of the ministry to complement ongoing reforms of the ministerial structure, expenditure tracking surveys, technical assistance to help with the preparatory work needed to start the implementation of an IFMIS, institutional strengthening of the MoFNE macro unit, capacity building in procurement operations and oversight, and capacity building of the MoFNE Debt Management Unit.

43. In the longer term, the MoFNE is looking to implement an IFMIS together with human resources and payroll modules, and to reform the institutional arrangements for revenue collection through establishing a unitary revenue authority, and improve debt management and procurement. It also plans to embark on institutional strengthening of oversight institutions and strengthening of the accounting and procurement professions.

44. These all speak to weaknesses identified by the PFM Performance Measurement Framework Report of this CIFA. MoFNE has indicated that it recognizes the CIFA as the diagnostic tool for developing a holistic PFM reform program that will provide the roadmap for sustainable and long-term PFM reforms. Hopefully this will give rise to a fully integrated strategy for reform, providing one focal point for the coordination and sequencing of PFM reform in government.

### ***Fiduciary risk***

45. The principal finding of the PEFA assessment is that there are widespread weaknesses in the PFM system in Sudan, namely that:

- The budget is not yet a credible instrument of public policy since there are variations of the budget between approved and executed.
- The budget is not comprehensive since there are many extra-budgetary funds.
- Transparency is weak.
- There is poor oversight over public enterprises.
- Sub-national governments pose significant fiscal risks.
- The poverty reduction strategy is not yet finalized.
- Tax systems need reform.
- The entire accounting system is manual with poor cash and debt management.
- Payroll systems are decentralized and weak.
- Internal audit is limited in coverage, and external audit is badly in need for capacity building.

Combined with this is the finding that non-transparent public procurement practices are unchecked due to the lack of a comprehensive procurement law and weak procurement regulations. The shortage of procurement professionals to implement public procurement makes public procurement inefficient and when subsidized government firms compete in tenders with private firms both the development of the local contracting industry as well as competition are undermined. This is exacerbated by the inordinate payment delays caused by the use of bonds for paying contractors, which encourages bidders to offer above market prices.

46. Due to these reasons, the fiduciary risk in Sudan is assessed as “High”.

## **SECTION 1. INTRODUCTION**

1. Efficient revenue collection, budget formulation, budget credibility, and budget execution and oversight are all essential for the effective implementation of government policies and meeting poverty reduction targets in Sudan. The Country Integrated Fiduciary Assessment (CIFA) is a diagnostic tool utilized for assessing the performance of the public financial management (PFM) system (which includes systems for public procurement). A comprehensive diagnostic of the fiduciary accountability environment, including an assessment of the public procurement system, is necessary to assess the risk to public resources.

2. This CIFA has a dual purpose. First, it has a fiduciary objective. It assesses risk regarding the use of public funds. Each critical component of the PFM system is assessed. Second, it has a developmental objective. The authorities can utilize the CIFA findings in formulating a work plan on the more immediate and medium-term needs that address weaknesses and improve systems and processes.

3. The Public Expenditure and Financial Accountability (PEFA) PFM methodology was utilized for assessing the overall performance of the PFM system. The methodology assesses the system against 31 criteria capturing all elements of the budget cycle. Results of the PFM assessment are in Section 3.

4. The objective of the Country Procurement Assessment Report (CPAR) is to establish the need for and present an agreed action plan to improve the system for the procurement of goods, works and services for Sudan's Government of National Unity (GNU). Transparency and broader governance concerns are an integral part of the Interim Strategy Note for Sudan and the efficiency, fairness, and transparency of public procurement systems are important features of good public financial management.

5. Assessment of the Sudan national procurement system was based on the four pillars developed between the OECD DAC and the World Bank: (a) existing legal framework that regulates procurement in the country; (b) the institutional architecture of the system; (c) the operation of the system and competitiveness of the national market; and (d) the integrity of the procurement system. Each pillar was assessed through a number of baseline indicators and sub-indicators. Results of the procurement assessment are in Section 4.

6. This CIFA focuses on the performance of the GFU. It does not cover sub-national entities such as the 15 Northern States nor does it cover local governments. And it does not cover the Government of Southern Sudan (GoSS), a semi-autonomous government for the South set up under the Comprehensive Peace Agreement (CPA) of 2005. The GoSS will be subject of a self-contained CIFA planned for the second half of 2009. Where relevant, the report does draw upon diagnostic work that was done on states either for the 2007 Public

Expenditure Report (PER) or for the CIFA.<sup>1</sup> To be as holistic as possible in reporting, issues relating to the Northern states are raised occasionally to enrich the background of this report. The budget for 2009 provides for 64 percent of public spending by the GNU, 24 percent by the Northern states, and 12 percent by the GoSS.

7. This report was prepared jointly by the development partners of Sudan, based on extensive consultation with Government authorities. There was active involvement of the GNU of Sudan. The CIFA Steering Committee, chaired by the Undersecretary of the Ministry of Finance and National Economy (MoFNE) provided guidance throughout the process.

8. The methodology used for preparing this CIFA incorporates interviews with key stakeholders and field visits to various states across Sudan. Information and data collected helped in preparing background reports. The PEFA assessment utilizes regular rounds of discussions with key MoFNE officials, the Office of the Auditor General, the public, and other stakeholders. The Country Procurement Assessment Report (CPAR) was based upon (a) desk-based review of public/government documents; (b) interviews with select relevant persons in both public and private sector; (c) written questionnaires; (d) analysis of procurement and financial records and other data, particularly on contracts; and (e) stakeholder workshops to validate findings and recommendations.

9. Support to the World Bank team by national consultants included translation of some information from Arabic to English. The team also worked closely with the MoFNE Public Procurement Directorate. Funding for this study was provided by DFID and the World Bank

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<sup>1</sup> The PER diagnostic reports were prepared for 4 states in the North (Red Sea, Gezira, North Kordofan, and the Dardur States), while the CIFA covered two additional states – Kassala and Khartoum.

## **SECTION 2. COUNTRY BACKGROUND**

10. At 2.5 million square-kilometers, Sudan is the largest country in Africa. It shares extensive borders with 9 countries. Because of its sheer size, the country encompasses diverse climatic and ecological zones. Vast stretches of the country are arid and prone to unpredictable weather conditions, resulting in bouts of extreme drought and /or substantial flooding. Diversity is also reflected in its people. Sudan is multi-cultural, multi-ethnic, multi-lingual, and multi-religious. The country is sparsely populated. The 2008 Census reports a population of 39 million, around 70 percent of whom live in rural areas. The vast majority of the population is poor, though per capita GDP has been more than US\$1,000 since 2007, more than a third higher than the average for Sub-Saharan Africa.

### **2.1 Sudan's Social and Political Situation**

11. Since Independence in 1956, Sudan's economic performance has been well below expectations partly due to the longest running civil war in Africa. This war raged for almost 50 years since Independence with only a brief respite after the Addis Ababa Peace Agreement of 1972. Educational levels are low. Disease is widespread, burdening the already weak health system. Roads, river traffic, railways power, water, telecommunications, irrigation facilities, and other infrastructure are either non-existent or underdeveloped and inadequate. And the little infrastructure that does exist is run-down due to prolonged neglect. Past attempts at dealing with these structural problems have proved to be inadequate due to the sustained migration of trained workers to the oil-rich Gulf countries, coupled with considerable deterioration in the quality and effectiveness of institutional capabilities. A difficult political situation since Independence contributes to a vicious cycle of political conflict, civil disturbances, and underdevelopment. It is indisputable that Sudan has faced a combination of substantial challenges, made more difficult by sanctions from some Western nations and high oil-price volatility, which, taken together, have imposed a serious burden on the country, and which makes the progress that Sudan has made over recent years noteworthy.

12. Sudan stands at the crossroads of major change. Peace seems finally to be at hand with the signing of the Comprehensive Peace Agreement in 2005. Major economic reforms undertaken over the past few years have resulted in improved economic performance and in setting the stage for more inclusive, equitable, and sustained economic growth. Though these developments are welcome, their interaction poses new challenges to the country — namely how to meet the immediate demands of the peace and maintain a favorable macro economic environment for enhanced growth and development.

### **2.2 Overall Government Reform Program**

13. Government reform in Sudan is driven by the need to implement the new legislative framework specified by the Comprehensive Peace Agreement and Interim National Constitution. A major focus is to rollout fiscal federalism and extensive decentralization. These policy

initiatives can only succeed if Sudan's public service is modernized. It currently suffers from overstaffing, mismanagement, under-resourcing, and acute staff recruitment and retention challenges. In concert with government reform, reform of the political and institutional architecture is vital for the nation to grow in an environment of peace, after 50 years of civil strife. This makes government reform a complex undertaking. It involves root-and-branch rather than incremental reform, a likely scenario demanding creation of new institutional structures that will underpin the revamped administrative structures to better serve the citizens of Sudan.

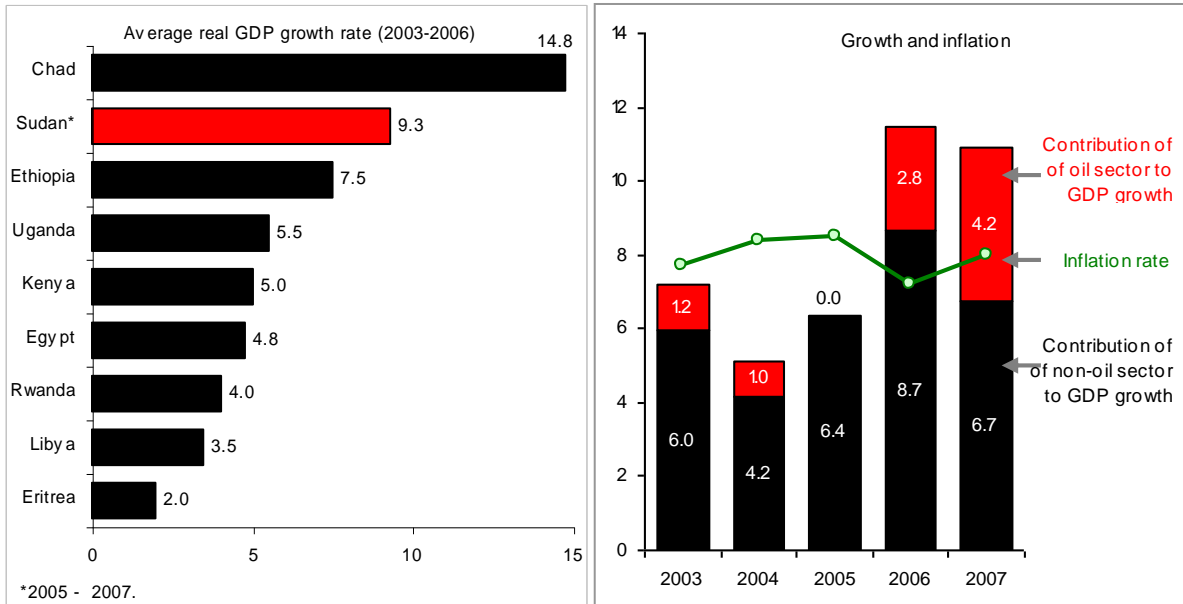
14. At the center of the reform is the need for capacity building in an effective and timely manner. Ongoing and future PFM reforms mirror the challenges of broader public sector reform issues in Sudan. Capacity issues are particularly severe at the sub-national level. Addressing these issues, coupled with strengthening the overall sub-national-level legislative and regulatory frameworks will continue to be a critical feature of the PFM reform landscape in Sudan for many years.

15. At federal level there are considerable challenges to strengthening the overall federal and decentralized fiscal framework. Linkages between the planning processes and the budget need to be strengthened. Now being drafted, the poverty reduction strategy will be the vision that drives government policy priorities. Fund flows need to be made more predictable so in turn sub-national governments are able to carry forward their mandates. The overall structures underpinning financial budgeting and accounting must be improved so that consolidated national reports can be produced in meaningful formats that in turn allow for effective monitoring and evaluation of public spending. The MoFNE is undergoing fundamental reform to allow it to carry out its mandate more effectively. Some noteworthy progress has already been made toward these goals, but considerable challenges remain.

### **2.3. Economic and Fiscal Performance**

16. Economic growth has been strong by regional standards during 2003-2008 (left panel, Figure 1, and Table 2). Overall real GDP growth averaged about 9 percent between 2003 and 2006, placing Sudan as one of the top performers in the region. Increases in oil production and international prices have contributed to this exceptional performance, both in terms of direct value added to the economy and the associated service sector activity, and the aggregate demand boost driven from absorption of inflows accruing to and distributed by the public sector. In contrast, real non-oil growth is driven largely by the service sectors and is vulnerable to reduced public consumption and investment, underscoring the need to promote sustainable non-oil growth while maintaining macro stability. However, real GDP growth outlook has been recently adjusted downward, largely on the basis of continued weakness in global oil markets. The 2008 fourth-quarter slowdown pulled the real annual rate of growth down to below 7 percent, and the 2009 outlook is likely to be near 4 percent (right panel, Figure 1). These figures are noticeably down from the double-digit growth in 2006 and 2007 and largely reflect stagnation in near-term domestic oil production and market signals for continued low oil prices. The recent year-on-year decline in the growth rate heightens concerns for structural balance and strengthening of the non-oil sectors, which are key for sustainable growth and poverty reduction efforts.

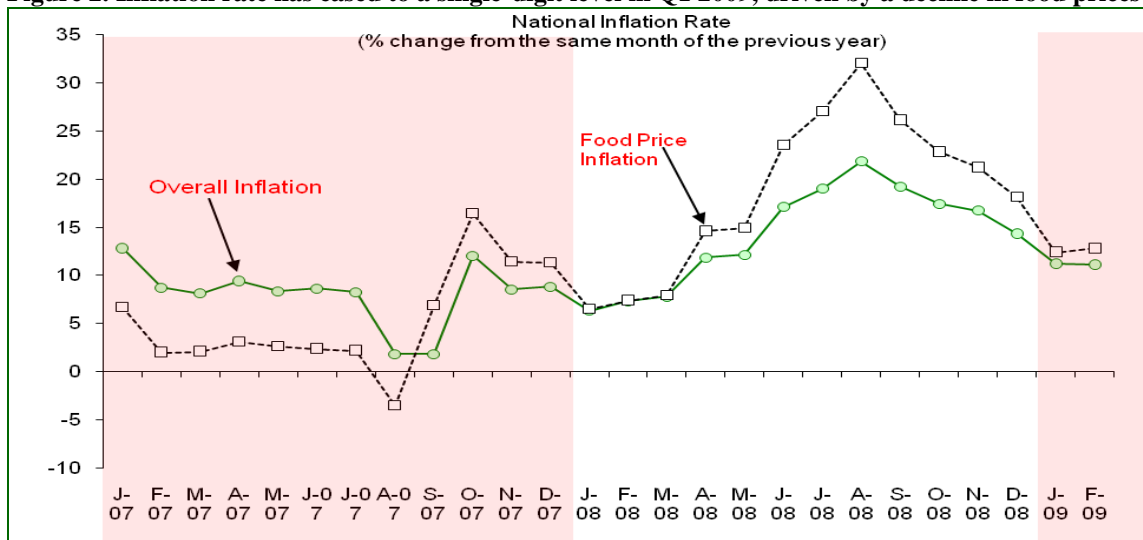
**Figure 1. Sudan has been a top growth performer in the region, with oil sector playing a pivotal role**



Source: World Development Indicators, IMF and World Bank staff estimates

17. The 12-month inflation during 2005-2007 has been kept at a single-digit level. However, rising world food prices pushed consumer price inflation to 14.3 percent in 2008 (Figure 2), up sharply from 7.2 percent in 2006. The annual average Consumer Price Index (CPI) has started to ease to a single-digit level in 2009 first quarter to its historical levels that are revealed in the first-half of 2008, driven almost entirely by a decline in food prices since the final quarter of 2008 (in line with a similar ease in world food and fuel prices).

**Figure 2. Inflation rate has eased to a single-digit level in Q1 2009, driven by a decline in food prices**



Source: Central Bureau of Statistics.

**Table 2. Select Macro Economic Indicators in Sudan, 2006-2009**

<i>Item</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>
	<i>Actual</i>	<i>Actual</i>	<i>Actual</i>	<i>Budgeted</i>
Real GDP growth (%)	11.3	10.2	6.8	4.0
Agriculture sector contribution to GDP (%)	36.5	35.3	33.0	36.1
Industry sector contribution to GDP (%)	32.8	30.5	31.0	31.9
Services sector contribution to GDP (%)	30.7	34.2	36.0	32.0
CPI inflation rate (%)	7.2	8.0	14.3	9.0
Money supply growth (%)	43.2	7.0	24.0	28.3
Average exchange rate (SDG/US\$)	2.17	2.02	2.09	-
Exports (US\$ million)	5,624.7	8,840.0	12,902.3	9,713.6
Imports (US\$ million)	7,494.2	7,518.0	10,075.0	7,101.5
Trade balance (US\$ million)	-1,869.5	+1,322	2,827.3	2,612.1
Total revenue (% of GDP)	20.0	19.9	19.8	13.2
Total expenditure (% of GDP)	24.3	23.0	21.4	19.4
Overall budget deficit (% of GDP)	-4.3	-3.1	-1.6	-6.2

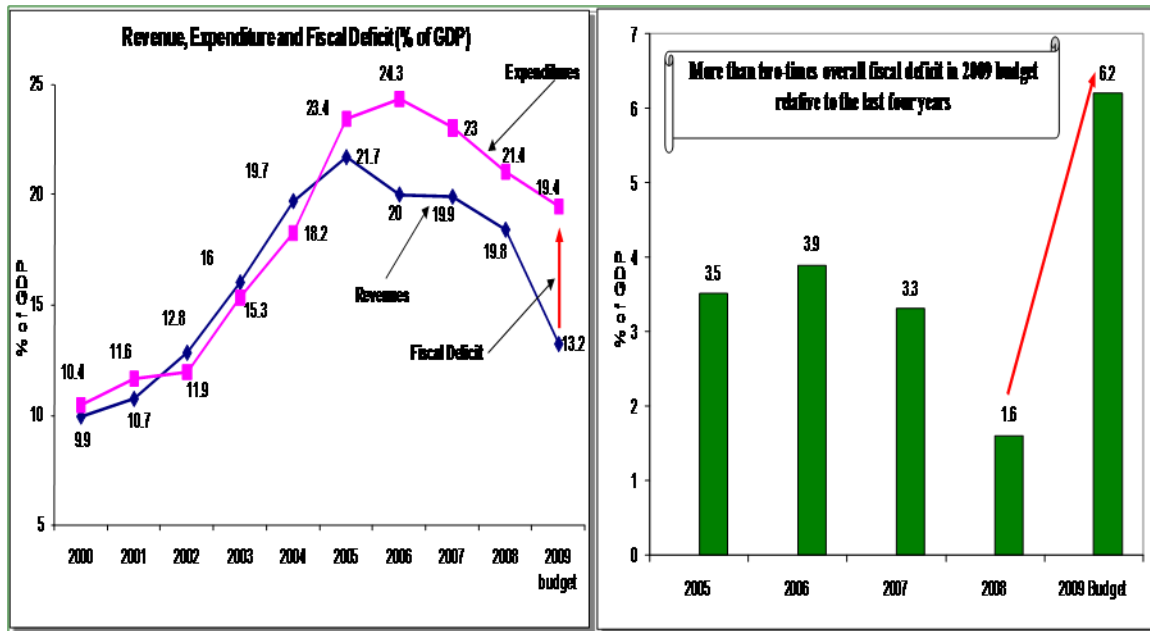
*Source:* MoFNE and Central Bank of Sudan.

18. The fiscal position markedly deteriorated since the Comprehensive Peace Agreement was signed, reflecting both revenue shortfalls and expanding expenditures with new obligations for the Federal Government and shifting sources of growth in the economy (Figure 3). The average cash deficit has remained slightly above 3 percent of GDP since 2005 relative to a surplus of 1.75 percent of GDP in 2002–04. The bulk of the deficit was domestically financed, especially by the non-bank sector, which has serious implications on investment and resource allocation through its impact on the cost of finance and the amount of credit available to the private sector.

19. Fiscal management since 2005 reflects the attempt to balance spending pressures with revenue increases that have been significantly below expectations. The Comprehensive Peace Agreement and Interim National Constitution have brought new obligations to sub-national governments, including revenue sharing with the South and enhanced fiscal federalism for the Northern states. Growth in the oil sector has increased the fiscal space for these new obligations. However, non-oil revenues were generally weak, largely on account of the narrow tax base as well as sizeable tax exemptions and incentives for businesses. At the same time, current and capital expenditures and transfers to regional governments grew even faster, resulting in the highest fiscal deficits since the macro instability of the early 1990s. The likelihood of meeting these expenditure pressures was low given oil revenue volatility, at least without high levels of domestic or external deficit financing. The pressure for expenditure cuts and reallocation was high, raising the relevance of the PER and the need for subsequent government action to address the current trajectory of fiscal imbalances and avoid weakening the country's hard-won macroeconomic credibility.



Figure 3. The GNU fiscal position has deteriorated since 2005, reflecting both revenue shortfalls and expanding expenditures



Source: MoFNE and World Bank Staff estimates.

20. The dominant affect of the Comprehensive Peace Agreement on the composition of GNU expenditures has been the large increase in transfers to sub-national governments to meet development needs and peace-related commitments under various peace agreements. This is consistent with devolving responsibility for basic service delivery but also underscores the already critical importance of addressing deficiencies in effective expenditure management at lower levels of government. The GNU transfers to the South are non-discretionary and dictated by the wealth-sharing protocol of the Comprehensive Peace Agreement. Transfers to Northern states, on the other hand, are discretionary; and the large increase in these flows reflects GNU commitment to the fiscal decentralization agenda. Nonetheless, equity and transparency of distribution across the 15 Northern states, as well as financial accountability on the use of the resources continue to be major concerns consistent with the first Sudan PER findings.

## 2.4 Allocation of Resources

21. The budget is organized by sectors and economic classification. The 11 sectors are agriculture, industry, transport, energy, presidency units, defense and security, economic and financial services, information and communication, health, education, and administrative and social services. The budget is divided into 3 parts:

*Part I. GNU expenditure* is made up of 3 sub-constituents or chapters:

- **Chapter I** is devoted to labor compensation for federal units.
- **Chapter II** in the federal government budget is designated for steering and centralized obligations, and at the state level for purchases of goods and services (running expenses) of the state; sometimes they include capital consumption.

- *Chapter III* is used for national development expenditures,) and capital contributions to government projects.

**Part II. GoSS transfers**

**Part III. Northern state transfers**

22. Table 3 shows actual budget allocations for the four chapters for 2004-2007. Recurrent expenditures on wages and goods and services are by far the largest items within federal spending, accounting for about three-quarters of total federal expenditure during 2005-2007. The share of national development spending in total expenditures rose from 14 percent in 2005 to 17 percent in 2007. Wages and salaries account for around a fifth of expenditures at the federal level, but for around half of spending by Northern states.<sup>2</sup> There is limited information available on spending at the local level, and even weaker information available regarding fund flows to service delivery units.

**Table 3. Actual Budget Allocations by Chapter Classification**

<i>Item</i>	2004	2005		2006		2007	
	<i>Actual</i>	<i>Budget</i>	<i>Actual</i>	<i>Budget</i>	<i>Actual</i>	<i>Budget</i>	<i>Actual</i>
	<i>(As percent of total federal expenditure)</i>						
Chapter I*	26.8	31.6	25.2	32.5	33.9	35.7	37.0
Chapter II**	42.8	39.8	45.8	39.2	35.9	35.8	34.3
Chapter III (capital)	n.a	n.a	n.a	n.a	n.a	1.6	1.7
Chapter IV (development)	30.4	28.6	29.0	28.4	30.3	27.0	27.0

*Source:* MoFNE and World Bank staff estimates. Taken from World Bank Review of GNU Budget Trends in Joint Assessment Mission Phase I, April 2008.

*Note:* \*Chapter I includes wages & salaries; social contribution (includes pensions); and compensation of employees reservation. \*\*Chapter II contains: (a) centralized items (i.e., obligation toward internal and external debt, contribution to the international and regional organizations, general reserve, capacity building plan, etc.); (b) goods and services; and (c) social subsidies.

23. In terms of functional classification of expenditures, the share of social sectors has been reduced by almost half during the last four years. Spending on health and education remain low at 1.85 percent and 1.46 percent of federal spending. Almost a third of federal spending is on general public services with national security accounting for more than four times total federal spending on health and education combined (Table 4).

**Table 4. Actual Budgetary Allocations by Sectors**

<b>Sector</b>	<i>Percentage of total federal expenditure</i>			
	2005	2006	2007	2008
Agriculture	9.69	11.04	15.87	12.45
Industry	0.74	2.98	0.98	1.06

<sup>2</sup> Federal transfers account for the bulk of state revenues. These transfers account for around 80 percent of revenues for states such as North Darfur, West Darfur, and North Kordofan. The average for the Northern states, with the exception of Khartoum and Red Sea states, is around 70 percent. Locally raised resources are therefore very limited. Localities within states are in turn almost completely dependent upon transfers from the State Government. This revenue accounts for around 80 percent of local-level budgets. This funding is used primarily for Chapters I and II with very little left for development spending.

Transport	3.39	3.06	2.43	4.31
Energy	3.20	3.77	6.97	8.92
Presidential units	21.92	25.78	20.24	23.93
Defense and security	7.78	21.28	25.00	22.60
Economy & financial services	34.66	20.23	15.04	14.73
Information & communication	0.54	0.66	0.57	0.58
Health	1.89	2.47	3.17	3.07
Education	2.10	2.69	3.39	2.43
Administration & social	14.09	6.06	6.34	5.92
	100.00	100.00	100.00	100.00

Source: MoFNE/PER functional budget outturn data, revised.

Note: 2008 data is budgeted rather than actual outturn. Sectoral data was not available but recreated from the functional budget constructed by World Bank staff. Assumptions in the model include allocating executive and legislative organs to the presidential units, consolidating policing and public order, and including social protection, housing, environmental protection and recreation in the administration and social sector. Sub-national transfers are also excluded from the analysis.

24. Work on the poverty reduction strategy is ongoing. There is a five-year plan, and planning is underway for each sector. However, links between the planning processes and the budget are not institutionalized and should be strengthened. The poverty reduction strategy should be placed at the center of the planning and budgeting architecture.

25. Pro-poor spending has nevertheless increased significantly over the last few years (as per the PER and GNU Budget Review), most marked by providing ever-increasing resources to the Northern states in an attempt to further roll-out service delivery at a decentralized level. The pre-CPA period (2000-2004) saw low levels and flat trends of pro-poor expenditure averaging roughly US\$16 per capita (19.3 percent of total GNU expenditures and 2.8 percent of GDP). Since the Comprehensive Peace Agreement, GNU poverty-reducing spending has increased significantly to US\$68 per capita in 2006 (24.8 percent of total GNU expenditures and 5.5 percent of GDP). This represents a commendable increase. Nevertheless, this is still below budget plans (6.6 percent of GDP), Joint Assessment Mission commitments (5.9 percent of GDP), the average for HIPC countries (7 percent of GDP), and spending in neighboring Ethiopia (19 percent of GDP) and Uganda (11 percent of GDP).

26. As seen in Table 5, the share of the Federal Government (as percentage of total GNU expenditure) has decreased from over 90 percent to close to 65 percent, while increasing amount of resources are transferred to the Northern states and to GoSS. The GoSS share was exceptionally high in 2008 due to the increase in oil prices and its share of oil revenues

**Table 5. Expenditure Shares across Levels of Government**

	<i>Percentage</i>				
	<i>2000 actual</i>	<i>2005 actual</i>	<i>2007 actual</i>	<i>2008 actual</i>	<i>2009 budgeted</i>
GNU (Federal Government)	92	72	63	51	64
Northern states	8	15	21	25	24
GoSS		13	16	24	12

Note: While there have been increased resource flows, some “increase” is on account of reclassification of expenditures relating to organs of government such as the judiciary, higher education, and the police.

## 2.5. Legal Framework for PFM

27. Sudan has a relatively well-developed system of legislation and financial regulations governing public financial management. This system has been prescribed in the Sudan's Constitution as well as in subordinate legislation. The existing PFM legal and regulatory framework is fairly comprehensive in identifying roles and responsibilities of the various institutions, prescribing provisions for internal control and the internal audit function and supporting external audit. The Financial and Accounting Act of 1995 as amended in 2007 largely prescribes the PFM framework. It covers almost the entire PFM cycle and has detailed provisions governing the budget process, the roles and duties of the Chamber of Accounts, regulations governing procurement, internal controls and internal audit, and oversight.

28. The 2007 amendment to the Financial and Accounting Act of 1995 brought about the main changes with the adoption of Government Financial Statistics (GFS) 2001 classification and modern accounting standards. The broad changes included the following:

- Increased control over public lending and debt-issuing operations and reporting;
- Increased accountability for budget execution and revenue management activities;
- Increased control over spending by public corporations and companies;
- Improved accounting and reporting demands on budget entities and public corporations;
- Enhanced powers regarding the oversight provided by GNU with regard to financial management activities of government entities;
- Recognition of the powers and responsibilities of GoSS, especially regarding external borrowing, budgeting, and reporting;
- Increased control over government banking arrangements including enhanced regulations over opening of government bank accounts;
- Improved regulations governing maintenance of register of assets by public entities;
- New provisions providing for improved access by MoFNE to fiscal and financial data of public entities; and
- Explicit penalties for inadequate accounting and reporting.

29. The constitutional framework has gone through a major reform process following the signing of the Comprehensive Peace Agreement in 2005 and the adoption of the Interim National Constitution. The Interim National Constitution governs the Sudan until 2011 when a referendum will be held to decide on the future of Southern Sudan. As per Article 24 of the Sudan Interim Constitution for 2005, Sudan is a decentralized country, with four levels of government, each with its own Assembly:

- GNU is responsible for protecting the national sovereignty and territorial integrity of the Sudan and promoting the welfare of its people.
- GoSS is responsible for the people and states in Southern Sudan;
- State-level government is responsible for the authority at the state level throughout the Sudan and has primary responsibility for service delivery.
- Local level of government is responsible for basic service delivery at community level.

## 2.6 Institutional Framework for PFM

30. Issues of fiscal federalism and decentralization are becoming increasingly important for Sudan. The country is divided in 25 states — 15 in the North and 10 in the South. Each state is sub-divided into municipalities and localities. The Interim National Constitution 2005 specifies the powers of the executive, legislative, and judiciary authorities. The following describes the main institutional arrangements:

- The legislative body is the National Assembly of 500 seats nominated during the transitory period in accordance with Comprehensive Peace Agreement.
- The President of the State is the Head of the Government. The President is elected by direct vote and nominates a council of ministers subject to the approval of the National Assembly. The President nominates two vice-presidents and assistants.
- The Sudanese public sector is composed of 184 entities of which 30 are federal ministries. Key institutions that impact the performance of the PFM system as a whole are the Ministry of Finance and National Economy, Civil Service Commission, and Central Bank of Sudan.
- At the national level, there is the Federal Government Chamber (a federal ministry) that has responsibility for co-ordination between the Federal Government and states.
- The Fiscal and Financial Monitoring Allocations Commission (FFAMC) is responsible for distribution of resources between the Federal Government and states. The GoSS share is governed by the Wealth Sharing Commission in accordance with the Comprehensive Peace Agreement. In the unlikely event of noncompliance with transfers, Article 198(6) of the Interim National Constitution empowers the Presidency to “take appropriate remedial actions in case of failure by the National Treasury to discharge any of the functions stipulated in Article 185(1).” Article 185(11) provides that disputes concerning the allocation of transfers may be brought by any level of government before the Constitutional Court or, in the case of governments in Southern Sudan, before the Supreme Court of Southern Sudan.
- Institutions at the state and local level are significantly weaker than the federal level. A major increase in resource flows down to state and local governments, without adequate capacity building, has greatly increased the fiduciary risk for these funds.
- The Auditor General is the Head of the National Audit Chamber. It is a constitutional body accountable to the National Assembly. Its powers are set out in the National Audit Chamber Act 2007, and it is mandated to inspect, audit, and report on the public accounts and the use of public resources. It is in need of capacity building, but within its current constraints, its reports are brief but comprehensive, and these are acted upon by the Legislative Oversight Committee.

31. The GoSS manages its own finances (budgeting, planning, execution, reporting, and audit) using primarily the resources transferred to it accorded by the Comprehensive Peace Agreement. The legal framework is somewhat different, and the systems have different characteristics. This CIFA report does not cover the detailed workings of GoSS, although the regime for transfers to GoSS (e.g., PI-8) is reviewed. A CIFA is planned for GoSS in the second half of 2009.

## SECTION 3. ASSESSMENT OF PFM SYSTEMS, PROCESSES, AND INSTITUTIONS

### 3.1 Budget Credibility

32. The ability to implement a budget as approved is a fundamental attribute of good governance. It reflects the commitment of Government to implement expenditure priorities and to deliver public services in an efficient manner. The first section of the PEFA assessment focuses on the issue of whether the budget is realistic and is being implemented as planned.

#### *PI-1. Aggregate expenditure outturn compared to original approved budget*

33. This indicator measures the extent to which actual expenditure compares to budgeted expenditure (excluding debt expenditure and donor-funded expenditure). Full analysis of budgeted and actual expenditure against functional heads is shown in Annex A. Table 6 shows the actual expenditure compared to that planned for the years 2006, 2007, and 2008 and calculates the expenditure deviation.

**Table 6. Deviations in GNU Aggregated Expenditure Outturn with Original Budget, 2005-2007**

	<i>SD million</i>		
	<i>2005</i>	<i>2006</i>	<i>2007</i>
Budgeted expenditure	14,510	19,996	22,768
Actual expenditure	14,334	17,617	19,794
Difference	176	2,379	2,974
Deviation	1.2%	11.8%	13.1%

*Source: PER 2007 (with figures adjusted for debt financing).*

34. Aggregate expenditure outturns are quite different for the components (or chapters) of the budget and the overall budget. For the Federal Government in 2005-2007, budget credibility was relatively high (Table 7). In 2006 and 2007, actual budget execution rates were in excess of 90 percent, while in 2005 actual spending was higher than budgeted. While there is a high degree of credibility regarding salary payments and transfers, the situation for operating expenditures (Chapter II) and development spending (Chapter IV) has deteriorated over the last three years.

**Table 7. Actual Federal Expenditure Performance Compared to Plan 2005-2007**

	<i>Percentage</i>		
	<b>2005 Actual</b>	<b>2006 Actual</b>	<b>2007 Actual</b>
Total Federal Government	108	91	91
Chapter I	86	95	94
Chapter II	125	83	87
Chapter III (capital)	n.a	n.a	97
Chapter IV (development)	109	97	91

35. Budget credibility remains a major challenge for transfers to Northern states. In 2007, transfers were around 30 percent below budgeted figures. This shortfall had major consequences for delivery of services that directly affect the poor, including primary health, basic education, and water. Along with the issue of overall lower transfers to National Government is the issue of timing of transfers. There was significant volatility in transfers to Northern states in 2006 when they received very few transfers during the first five months of the year, with 30 percent being provided in the two months of May and December. In 2007 the situation was slightly better, but a significant share of the transfers was still back-loaded with 18 percent taking place in the last month of the financial year.

<i>INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>PI-1 Aggregate expenditure outturn compared to original approved budget.</b>		<b>C</b>
(i) The difference between actual primary expenditure and the originally budgeted primary expenditure.	In 2007 and 2006 the expenditure deviation was nearly 12% and just over 13% respectively, resulting in a rating of "C"	C

***PI-2. Composition of expenditure outturn compared to original approved budget***

36. Budget credibility has been measured by looking at variations in original budget to actual outturn at sub-aggregate level. Where the composition of expenditure varies considerably from the original budget, the budget will not be a useful statement of policy intent. Annex A provides details of the variation calculations on the basis of functional classification of expenditures for the years 2005, 2006, and 2007. The results are shown in Table 8.

**Table 8. Actual Expenditure as Percentage of Budget by Functional Classification**

<i>Function</i>	<i>Percentage</i>		
	<i>2005</i>	<i>2006</i>	<i>2007</i>
<b>General public services</b>	70	92	88
<b>Economic affairs</b>	113	97	83
<i>Agriculture and livestock</i>	112	101	102

<i>Function</i>	<i>Percentage</i>		
	<i>2005</i>	<i>2006</i>	<i>2007</i>
<i>Transport, roads, and bridges</i>	111	78	54
<i>Energy and mining</i>	148	109	88
<i>Industry and construction</i>	95	396	85
<i>Communication</i>	77	78	70
<i>Other economic services</i>	104	43	32
<b>Social affairs</b>	130	71	90
<i>Health</i>	54	65	75
<i>Education</i>	57	79	97
<b>Others</b>	172	95	100
<b>Intergovernmental transfers</b>	81	82	86

37. The analysis shows that budget credibility is not strong because of large variations that take place within the year between votes for all sectors, partly due to the large-scale re-appropriations that take place during the course of the year. During the three years 2005-2007 there was high expenditure variance (Table 9).

**Table 9. Expenditure Deviation, Variance and Variance in Excess of Deviation for GNU, 2005-2007**

<i>Year</i>	<i>PI-1</i>		<i>PI-2</i>
	<i>Total expenditure deviation (%)</i>	<i>Total expenditure variance (%)</i>	<i>Variance in excess of total deviation (%)</i>
2005	1.22	35.06	33.85
2006	11.90	16.57	4.67
2007	13.06	20.15	7.09

38. The 35 percent expenditure variance and nearly 34 percent in excess of total deviation in 2005 is exceptional, showing the large-scale budget deviations that took place during the course of the year. This is probably due to in-year reconfiguration of expenditure priorities due to the signing of the Comprehensive Peace Agreement.

39. As part of the CIFA, an analysis of budget execution by the Ministry of Health was conducted. This analysis shows that four-fold increase in the budget between 2000 and 2006 coupled with significant variability in the amount received (Table 10). On average, the Ministry of Health received only around 78 percent of its annual budgetary allocation and only 65 percent of its development allocations during 2005 and 2006. This sort of variability severely impacts service delivery.

**Table 10. Budget Deviation Figures for the Ministry of Health, 2000-2006**

	<i>SD (million)</i>		<i>Actual as % budgeted</i>
	<i>Budgeted</i>	<i>Actual</i>	
2000	8,265.10	7,318.69	88.55
2001	11,317.80	9,468.76	83.66
2002	17,234.30	8,857.25	51.39
2003	17,339.00	11,428.24	65.91



	<i>SD (million)</i>		<i>Actual as % budgeted</i>
	<i>Budgeted</i>	<i>Actual</i>	
2004	20,937.30	18,551.74	88.61
2005	29,436.70	27,096.65	92.05
2006	39,373.40	29,811.77	75.72

Source: CIFA study on Ministry of Health.

<i>INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>PI-2 Composition of expenditure outturn compared to original approved budget.</b>		<b>C</b>
(i) Extent to which variance in primary expenditure composition exceeded overall deviation in primary expenditure.	Variance in the composition of primary expenditure exceeded the deviation in overall primary expenditure by more than 10% in one out of three years.	C

### **PI-3. Aggregate revenue outturn compared to original approved budget**

40. Accurate forecasting of domestic revenue is a critical factor for proper budget execution. In Sudan, around 85 percent of revenues are generated from oil, value-added tax, and Customs and Excise tax (Table 11). As both production and price of oil increased over the past few years, so did the proportion of oil as percentage of total revenues. Its share increased from around 40 percent in 2004 to 50 percent in 2007. In 2008, a year of exceptionally high oil prices, the share of oil revenues increased to 62 percent.

**Table 11. GNU Revenue Budget Credibility 2005-2007**

	<i>2005</i>			<i>2006</i>			<i>2007</i>		
	<i>SD (million)</i>		<i>%</i>	<i>SD (million)</i>		<i>%</i>	<i>SD (million)</i>		<i>%</i>
	<i>Budget</i>	<i>Actual</i>		<i>Budget</i>	<i>Actual</i>		<i>Budget</i>	<i>Actual</i>	
<b>Revenue</b>	<b>12,750</b>	<b>12,184.9</b>	<b>95.6</b>	<b>1,7094</b>	<b>15,195</b>	<b>88.9</b>	<b>18,246.0</b>	<b>17,940.6</b>	<b>98.3</b>
<b>Non-oil revenue</b>	<b>5,690</b>	<b>6,098.9</b>	<b>107.2</b>	<b>8,010</b>	<b>7,487</b>	<b>93.5</b>	<b>8,954.8</b>	<b>7,893</b>	<b>88.1</b>
<b>Tax revenue</b>	<b>4,674</b>	<b>5,008.8</b>	<b>107.2</b>	<b>6,760</b>	<b>5,809</b>	<b>85.9</b>	<b>7,394.8</b>	<b>6,529.5</b>	<b>88.3</b>
(a) Direct tax	950	951.0	100.1	1,050	960	91.4	1,194.8	1,097.1	91.8
(b) Indirect tax	3,724	4,057.8	109.0	5,710	4,849	84.9	6,200	5,432.4	87.6
<i>i. Trade tax</i>	<i>1,796</i>	<i>2,241.0</i>	<i>124.8</i>	<i>2,135</i>	<i>2,010</i>	<i>94.1</i>	<i>2,540</i>	<i>2,188.7</i>	<i>86.2</i>
<i>ii. Excise duties</i>	<i>990</i>	<i>949.8</i>	<i>95.9</i>	<i>1,210</i>	<i>1,129</i>	<i>93.3</i>	<i>1,260</i>	<i>1,162.2</i>	<i>92.2</i>
<i>iii. VAT</i>	<i>938</i>	<i>867.0</i>	<i>92.4</i>	<i>2,365</i>	<i>1,710</i>	<i>72.3</i>	<i>2,400</i>	<i>2,081.5</i>	<i>86.7</i>
<b>Non-tax revenue</b>	<b>1,016</b>	<b>1,090.1</b>	<b>107.3</b>	<b>1,250</b>	<b>1,678</b>	<b>134.2</b>	<b>1,560</b>	<b>1,363.5</b>	<b>87.4</b>
<b>Oil revenue</b>	<b>7,060</b>	<b>6,086.0</b>	<b>86.2</b>	<b>9,084</b>	<b>7,708</b>	<b>84.9</b>	<b>9,291.2</b>	<b>10,047.6</b>	<b>108.1</b>

Source: World Bank Review of GNU Budget Trends in Joint Assessment Mission Phase 1. Figures based on MoFNE and World Bank staff estimates.

Note: Excludes grants

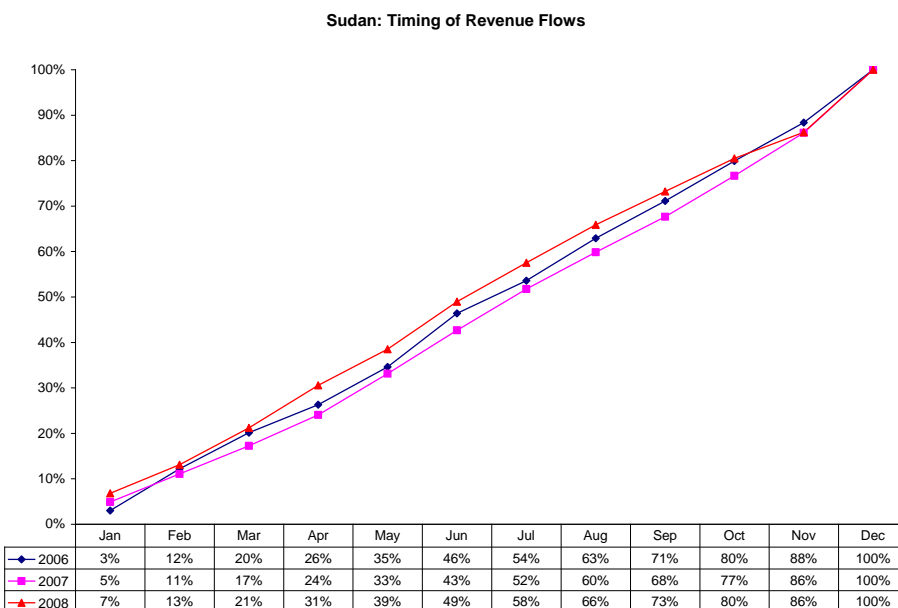
41. The figures in Table 11 show that revenue projections were a little optimistic during 2005-2007. Actual revenue collection was around 11 percent below expectations in 2006, largely due to oil price volatility and lower than expected prices for the Sudan-produced Dar blend of crude. The 2007 oil prices exceeded the budget by around 8 percent, and during 2008 actual collections were 11 percent higher than budget estimates.

42. Lower than expected collection of non-oil revenues has been a matter of concern, particularly during 2007 when the shortfall was around 12 percent. Non-oil, non-tax revenue collection fared better, but this was due in part to one-off factors such as telecommunications licensing.

43. There have also been shortfalls in budgeted taxation revenue. Tax collection has only been 85.9 percent of the 2006 target, and 88.3 percent of the 2007 budget, which is somewhat disappointing (representing shortfalls in direct tax, VAT, and trade tax collections) and indicates a need to look closely at the overall taxation system in Sudan (see indicators PI-13 to PI-16).

44. A positive feature of the revenue system in Sudan is the timing of inflows, with the flow being even throughout the year with no major peaks or troughs (Figure 4). By July, 50-60 percent of revenues on average have been collected. This lack of volatility is helpful for purposes of cash planning and cash management.

**Figure 4. Sudan: Timing of Revenue Flows**



<i>INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>																
<b>PI-3 Aggregate revenue outturn compared to original approved budget.</b>		<b>B</b>																
(i) The difference between actual revenue collection compared to original revenue estimates in the budget.	<table border="1"> <thead> <tr> <th></th> <th><i>2005</i></th> <th><i>2006</i></th> <th><i>2007</i></th> </tr> </thead> <tbody> <tr> <td>Budget</td> <td>12,750</td> <td>17,094</td> <td>18,246</td> </tr> <tr> <td>Actual</td> <td>12,185</td> <td>15,195</td> <td>17,941</td> </tr> <tr> <td><i>Actual as % of budget</i></td> <td><i>95.6%</i></td> <td><i>88.9%</i></td> <td><i>98.3%</i></td> </tr> </tbody> </table> <p>This table shows that over the three years, actual domestic revenue was below 95% of budgeted revenue in one of the three years, resulting in this indicator being rated at B.</p>		<i>2005</i>	<i>2006</i>	<i>2007</i>	Budget	12,750	17,094	18,246	Actual	12,185	15,195	17,941	<i>Actual as % of budget</i>	<i>95.6%</i>	<i>88.9%</i>	<i>98.3%</i>	B
	<i>2005</i>	<i>2006</i>	<i>2007</i>															
Budget	12,750	17,094	18,246															
Actual	12,185	15,195	17,941															
<i>Actual as % of budget</i>	<i>95.6%</i>	<i>88.9%</i>	<i>98.3%</i>															

#### ***PI-4. Stock and monitoring of expenditure payment arrears***

45. Reliable data regarding the extent of expenditure arrears does not exist. The build-up of arrears, partly due to an increase in liabilities and limited cash availability, began in 1985, the year the Comprehensive Peace Agreement was signed. The current stock is roughly estimated at SDG 1.9 billion (nearly 2 percent of 2008 GDP), comprising overdue cash payments to suppliers of goods and services (47 percent); wage, social security, and pension-related liabilities (24 percent); and dues owed to development project contractors and sub-national governments. These arrears have strained corporate liquidity and led to a sharp increase in banks' nonperforming loans and a slowdown in private sector credit. They have also contributed to a build-up in the government's domestic debt, constraining future fiscal space. The Minister of Finance confirmed during his budget speech in 2007 that MoFNE was preparing for...

...repayment of loans owed to government and private sector companies, which have delivered services to the government but have not been paid in the past years.

46. In the past data on debt stock has been collected as part of ad hoc exercise, most notably during the major debt reconciliation exercise completed in April 2007 and discussed by a MoFNE-organized committee.

<i>INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>PI-4 Stock and monitoring of expenditure payment arrears.</b>		<b>D+</b>
(i) The stock of expenditure arrears as percentage of total expenditure for the corresponding fiscal year.	The total stock of arrears is roughly estimated at around 2 percent of GDP. However, the exact amount is not known since there is no system in place for gathering this information from spending units. Information from an <i>ad hoc</i> exercise has been used here. Reflecting prudence, this has been scored at D, estimating that arrears exceed 10% of expenditure, because it is not clear how reliable data is.	D

(ii) Availability of data for monitoring the stock of expenditure payment arrears	Data on debt stock is available only through <i>ad hoc</i> exercises, including a major debt reconciliation exercise completed in April 2007.	C
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### 3.2 Comprehensiveness and Transparency

47. This section deals with the comprehensiveness of the budget and with the assessment of the aggregate fiscal risk such as the public access to key fiscal information.

#### ***PI-5. Classification of the budget***

48. The budget is classified by sectors and economic classification. There is currently no programmatic classification, no adequate functional classification, and no geographic classification. These classifications are needed if adequate analysis is to be undertaken of aggregate fiscal discipline, allocative efficiency, and operational efficiency.

49. Over the last three years much effort has been devoted to improving the overall economic classification (with IMF staff-monitored program support), but there has not been a comprehensive effort to revise the entire chart of accounts. The Public Expenditure Review (October 2007) indicates that progress in adopting a GFS Classification for GNU and the Northern states has remained slow.

50. Nevertheless, legislative changes in 2007 specify that the budget will henceforth be compatible with GFS 2001. The reason for this is that the previous budget classification system was neither in accordance with GFS 1986 nor with GFS 2001. Budget items were not mutually exclusive, and there were overlaps on the expenditure side. Although the classification included a detailed set of sub-items, it also included an aggregate item within it that included the sub-items without any breakdown. This aggregate item was what was used for most salary and operating expenditures. On the revenue side, transactions in financial assets were recorded on a net basis. As a result, revenue totals were distorted and the budget could not be used to control reimbursement of debt and securities.

51. An action plan was drawn up in 2007 to revise the economic classification. The 2008 budget incorporates the revised classification system (although, given the ‘snapshot’ nature of the assessment over 2005-7, this cannot be reflected in current scorings). Since GFS 2001 classification was first implemented in 2008, financial reports are being produced on the basis of bridge tables and transformation of the budgetary classification into a GFS-compatible output. In future years it is expected that the accounting system will be capable of producing GFS output without the need for a bridge table.

52. However, there have been significant implementation challenges in balancing expenditures and producing monthly outturn reports. Reports are taking 3 to 4 months to be produced. There has also been a lag between implementation of the new coding structure and the training required for its successful implementation. Development of functional classification has proven to be a challenge given the many multifunctional units and the manner in which a large

proportion of expenditure is managed centrally. In MoFNE, for example, about 13 percent of total outlays could not be classified.

53. Efforts are underway to roll out the new classification system to all Federal-level units, providing them with intensive training, and also to roll out this system to the states. Manuals and training materials are under preparation. However the authorities need to assess whether just improving the economic classification is adequate for meeting the needs of government and spending units. An equally large effort may be required when a more comprehensive reform is undertaken of the chart of accounts.

54. The MoFNE was advised in 2007 to consider introducing an 18-digit chart of accounts (Table 12). The recommendation from the IMF mission stated “the modification of the chart of accounts has to be undertaken in tandem with the revision of budget classification.”<sup>3</sup> However the focus continues to remain on making the classification system compliant with GFS 2001.

**Table 12. Breakdown of the 18 Digits Used in the New GNU Chart of Accounts**

<i>Segment of the chart of accounts to capture information on</i>	<i>Sub-segments</i>	<i>Number of digits</i>
Administrative or organizational classification	Ministry (first-level budget institution)	2
	Second-level budget institution	2
	Third-level budget institution (if any)	1
Economic classification	Chapter	1
	Item	2
	Sub-item	2
Functional classification	Major function or division	2
	Intermediate function or group	1
	Detailed function or class	1
Source of financing (e.g. state support fund, national reconstruction and development fund, future generation fund, etc.)	Normally not necessary to have sub-segments	1
Geographic or regional information	Normally not necessary to have sub-segments	1
Nature of financial transaction (cash, bank, etc.)	No sub-segment necessary	1
Inflow/outflow code	No sub-segment necessary	1

<sup>3</sup> Adjusting Public Financial Management to a New Fiscal Environment (IMF, FAD, February 2007) page 38.

<i>INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>PI-5 Classification of the budget</b>		<b>C</b>
(i) The classification system used for formulation, execution and reporting of the central government's budget.	The budget has both an administrative and economic classification. Functional classification does exist, but is incomplete. Starting from the budget of 2008 the Federal Government has shifted over to a GFS 2001 system, although there are significant implementation challenges.	C

### ***PI-6. Comprehensiveness of the budget information***

55. Sudan's annual budget documentation comprises (a) the Appropriations Act; (b) the Budget Statement, containing the MoFNE Minister's speech; (c) separate volumes containing annual estimates for each ministry, department, and agency. The budget accounts and periodical fiscal sections are presented annually on the basis of the current administrative classification and by aggregate economic items such as personal emoluments, non-salary administration, services, and investment. From 2008, budgets are broadly aligned to GFS classification.

56. Relevant information included as part of the budget documentation has been increasingly available during the past few years. Budget statements now include an analysis of current international economic and expected external shock factors, which directly or indirectly affect the Sudanese economy, and their impact. They also include a discussion of domestic economic factors that took place during the prior year and the outlook for the coming year. Issues covered include the work of international economic organizations, foreign indebtedness, regional trade (COMESA), balance of payments, bilateral agreements, and debt relief. Statements also contain information about previous year expenditures (on a provisional basis) and estimates of coming year expenditure by source.

57. There are 9 information benchmarks that comprehensive information is measured against. Table 13 lists these benchmarks with a note of whether or not these have been met.

**Table 13. Information Benchmarks**

<i>Benchmarks</i>	<i>Met or not by GNU</i>
Macro-economic assumptions, including at least estimates of aggregate growth, inflation and exchange rate.	<b>Met</b>
Fiscal deficit, defined according to GFS or other internationally recognized standard.	<b>Not met</b>
Deficit financing, describing anticipated composition.	<b>Met</b>
Debt stock, including details at least for the beginning of the current year.	<b>Not met</b>
Financial Assets, including details at least for the beginning of the current year.	<b>Not met</b>
Prior year's budget outturn, presented in the same format as the budget proposal.	<b>Not met</b>
Current year's budget (either the revised budget or the estimated outturn), presented in the same format as the budget proposal.	<b>Met</b>

<i>Benchmarks</i>	<i>Met or not by GNU</i>
Summarized budget data for both revenue and expenditure according to the main heads of the classifications used (ref. PI-5), including data for the current and previous year.	<b>Met</b>
Explanation of budget implications of new policy initiatives, with estimates of the budgetary impact of all major revenue policy changes and/or some major changes to expenditure programs.	<b>Not met</b>

INDICATOR	BRIEF COMMENT	SCORE
<b>PI-6 Comprehensiveness of information included in budget documentation</b>		<b>C</b>
(i) Share of listed information in the budget documentation most recently issued by the central government (in order to count in the assessment, the full specification of the information benchmark must be met).	The recent budget documentation fulfils 4 of the 9 information benchmarks as summarized in the table above	C

### ***PI-7. Extent of unreported government operations***

58. Unreported government operations are extensive in Sudan. Fiscal data on internally generated funds are not reported in the budget statements. The budget itself contains limited information on donor-funded projects. There are several large extra-budgetary funds that are outside of the budget. Operations of extra-budgetary funds are subject to MoFNE-issued information circulars. The MoFNE is also taking steps to improve accounting controls for these entities. However, information on extra-budgetary funds was actually hard to find. There are no consolidated lists detailing extra-budgetary funds or their expenditure. Also, details of extra-budgetary funds are not attached to the Final Accounts of Government as a memorandum item. Furthermore, the Auditor General's Report for FY2006 identifies revenue retention as a major irregularity within some spending units:<sup>4</sup>

As a result of our audits...we observed a lot of inefficiencies and negligence out of which we cite the most important ones:

- Some units seclude (leave aside) part of the revenues without having a prior consent or permission from the Ministry of Finance. Not only this, but some units even go beyond that malpractice by deliberately delaying handing over or depositing these set aside revenues.
- Bank accounts are opened without maintaining the consent of the Ministry of Finance.
- Some units have imposed certain fees not approved.
- Some institutions add the self-aid revenues to the trusts account and spend from it in spite of our repeated requests to them to open account books...and prepare monthly statements to be submitted periodically to the Ministry of Finance.

59. Donor project information in government reports is not extensive. While multi-donor trust fund (MDTF) activity is reported and recorded by MoFNE, many more interventions (e.g., United Nations-funded projects) are not. In the case of MDTF, since the funds are partly

<sup>4</sup> Although out of the scope of the assessment period for the performance report, it is noteworthy that a 2009 decree issued by the Minister of Finance relates to revenue reporting (leading to the strengthening of controls around the National Revenue Fund).

contributed by government, they can be said to be partially “on budget” and “on plan” at least to the degree that the government contributions fall into these categories; “on report” in as much as they are reported on by Government; and “on audit” in as much as the Audit Chamber does the external audit of these interventions. However, MDTF activities are not “on account” (reported in the main accounting systems) or “on treasury” since the World Bank manages the funds separately.

60. However, the situation is not the same with other modalities, and MoFNE even reported on instances where bilateral and multilateral agencies had entered into funding agreements with Ministries, Departments and Agencies (MDAs) and sub-national agencies without their knowledge.

INDICATOR	BRIEF COMMENT	SCORE
<b>PI-7 Extent of unreported government operations</b>		<b>Cannot score</b>
(i) Level of unreported extra-budgetary expenditure	Fiscal data on internally generated funds are not reported in the Budget Statements. MoFNE is taking steps to capture this information by circulars and improving accounting controls. However, it is not possible to estimate unreported expenditure, and as a result this dimension cannot be scored.	Cannot score
(ii) Income/expenditure information on donor-funded projects	Information on donor-funded projects is incomplete in the budget.	D

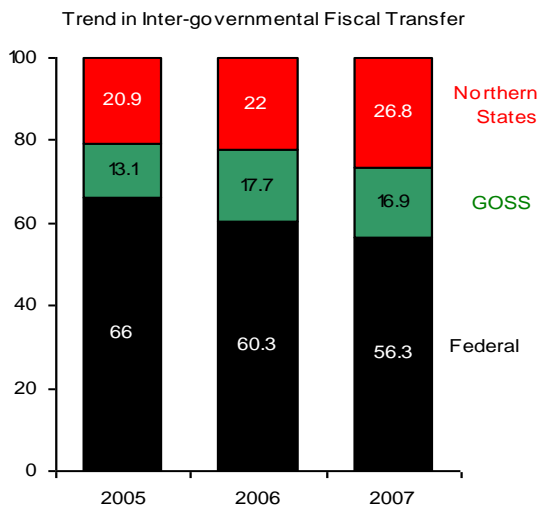
### ***PI-8. Inter-governmental fiscal relations***

61. Sudan is a federal nation with 25 states (15 in the north and 10 in Southern Sudan) further augmented with a high degree of fiscal decentralization. Each state comprises several localities. The Comprehensive Peace Agreement and Interim National Constitution set out a vision for Sudan that is characterized by extensive fiscal decentralization, seen as vital not only for more responsive government and pro-poor service delivery but also as a means of ensuring wealth and power-sharing agreements in the period between the signing of the CPA and the referendum on the future of Southern Sudan in 2011.

62. After the Comprehensive Peace Agreement, the Government of Southern Sudan was established in the South and receives around 17 percent of the federal budget as its share of transfers, primarily on account of its share of oil exports. Fund flows to the Northern states have dramatically increased since the Comprehensive Peace Agreement, as have the states’ dependence on central transfers. Around 27 percent of the budget is transfers to Northern States (Figure 5). This is in line with the intentions of the Comprehensive Peace Agreement and Interim National Constitution.



**Figure 5. Trend in Intergovernmental Fiscal Transfers**



63. The Comprehensive Peace Agreement invoked the establishment of the Fiscal and Financial Allocation and Monitoring Commission (FFAMC). This FFAMC was provided with broad terms of reference with responsibility for both “vertical” transfers, allocating Sudan’s total resource envelope between the GNU, its Northern states, and GoSS, and for “horizontal” transfers between the Northern states themselves. These functions are specified under Article 195 of the Interim National Constitution.

64. The FFAMC replaces the National State Support Fund (NSSF) that was previously responsible for allocation of resources to states. The institutional framework that it oversees is complex. The functions of the FFAMC have been further amplified in Republican Decrees issued from time to time, the most recent being the Republican Decree Number 31, 2007 [4(1) (a)-(f)], which sets out the following FFAMC responsibilities:

- Ensuring transparency and equity on what is relate to the allocation of funds collected at the national level, GoSS, and states level;
- Monitoring the support offered by the National Revenues Fund and verifying the realization of equity therein as well as prompting its transfer to the concerned governance levels;
- Making sure of transferring the allocated resources to the war-affected areas according to the approved formulae and guarantee of their prompt transfer;
- Ensuring transparency and equity in allocating the revenues to GoSS and the states according to the rates or percentages provide for in the Wealth Sharing Agreement;
- Proposing the formulae and criteria of wealth sharing; and
- Reviewing and updating the bases, percentages, and criteria at least once every three years.

65. This role has been augmented to include transfers to states within the Darfur region under the more recently signed Darfur Peace Agreement.

66. Revenue in the Northern states can come from (a) its own source revenue, obviously not directly in the purview of FFAMC; (b) shared revenue, which includes sharing of VAT revenues and petroleum revenues; (c) grants and transfers, including transfers for wage costs, development transfers, social transfers, emergency transfers, special transfers to the Northern states, and others; and (d) borrowing, in accordance with the Interim National Constitution. In terms of grants and transfers, these are often derived by formulae, which are often not clear and transparent, and some transfers appear ad hoc in nature.

67. In terms of vertical allocation, the Comprehensive Peace Agreement stipulates the GoSS allocations, leaving the FFAMC to advise on allocation of the remaining portions to Federal and state governments. Budget proposals from FFAMC are put before the President and then the Council of Ministers before being endorsed and transmitted to MoFNE. The FFAMC has been inclined to recommend a 60/40 split between the Federal Government and the states, but this is apparently contested each year by the President and Council of Ministers. In practice the states get around 31 percent of the distributable pool, reduced from the FFAMC recommendations because of 'special measures' that the state needs to undertake, e.g. due to events in Darfur, necessitating particular state intervention. This is not an entirely transparent process.

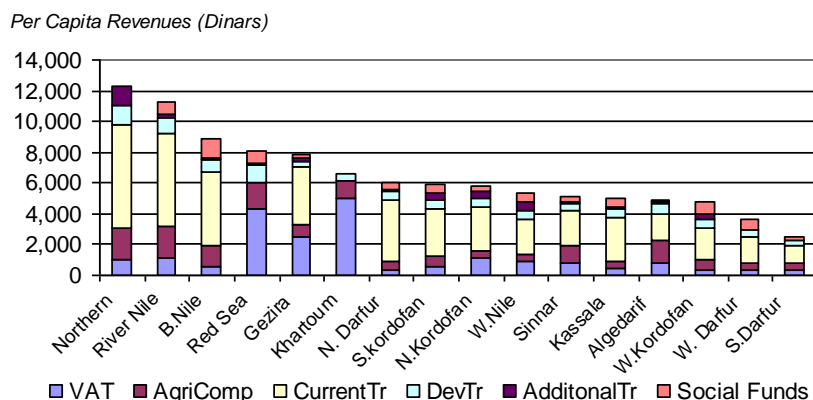
68. The FFAMC also plays a monitoring and evaluation role, tracking vertical allocations to sub-national government. This role requires visits to sub-national jurisdictions and preparation of two reports for the National Assembly in the first and third quarter of each year. However, the FFAMC is severely hampered in the execution of this role as data is often difficult to retrieve. Accounting systems at national and SN level are not consolidated, a fact which currently presents significant challenges.

69. Horizontal allocation takes place through the application of formulae applied in conjunction with particular weighted criteria and indicators with respect to each of the Northern states. Once states are ranked, an equation is used to allocate the available resources. The following criteria (and weight) are in use:

- Financial performance, including budget performance and revenue potential (10)
- Population size (15)
- Natural resources and the state's exploitation of them (10)
- Human resources (15)
- Infrastructure (5)
- Education, including standards of pupil-to-teacher ratios (10)
- Health, including access and costs (10)
- Security (10)
- Average per capita income (5)
- Distance from the center and ports, including road quality (10)

70. Analysis in the Public Expenditure Review (October 2007) did not establish how transfer levels had been arrived at or confirm the use of the formulae. The PER was also not clear how the vertical pool for distribution had been determined. Allocations can be subject to occasional adjustment due to extraneous circumstances, applied on an ad hoc basis, called 'normalization'. It is not clear how transparent this process is in practice. The 2006 analysis of transfers in Figure 6 shows significant per capita deviations by state.

**Figure 6. Per Capita Revenue across States, 2006**



Source: National State Support Fund.

71. Also pointed out in the 2007 PER, disparities in per capita income may not indicate poor equalization per se. But as things stand, the system is not equitable on first appearance. Allocations of VAT are also not entirely transparent, the PER noting an apparent deviation between policy documentation and actual transfers.

72. There are also issues relating to the credibility of transfers in relation to the actual budgets. The Northern states have experienced a considerable variation in terms of transfer realization among states, especially for development expenditures (Table 14). For example, Kassala State in 2004 and 2005 received less than 10 percent of its budgetary allocation. Kassala depends on receiving 80 percent of its budget from central transfers.

**Table 14. Transfers to Northern States - Actuals as a percentage of Budget**

	Northern states			
	2003	2004	2005	2007
Recurrent expenditure transfers	82%	85%	90%	91%
Development support	81%	20%	41%	57%

73. Another issue is timing of fund flows. States confirm that other than for Chapter I fund flows, resource flows are highly unpredictable. This causes severe cash management challenges for states resulting in arrears. Sub-national governments do not receive adequate information about their allocations. Apparently, little notice is given to states in advance of the budget formulation process.

74. The MoFNE receives periodic reports from all entities receiving budget allocations. But, there is poor monitoring and even weaker follow-up to these reports. This issue is drawing attention due to the widespread diversion and mismanagement of funds under the President's

Green Program. Efforts are underway to significantly strengthen expenditure tracking and monitoring, especially of investment projects.

75. More critically there are issues relating to budget and expenditure consolidation. At the national level there is no consolidated budget covering the various levels of government. Moreover, GNU data captures disbursement to sub-national government only, but not actual expenditure. In a rapidly decentralizing environment, with the focus of pro-poor service delivery on sub-national governments, this severely hampers both accountability and effective public expenditure planning and management.

<i>INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>PI-8 Transparency of Inter-Governmental Fiscal Relations</b>		<b>D</b>
(i) Transparency and objectivity in the horizontal allocation amongst sub-national governments – unconditional and conditional transfers	A formula is used for making Grants and Transfers for sub-national governments. However, the practice of ‘normalization’ means that it is not always clear that transfers are made in accordance with formulae alone. There are also some issues around the transparency of allocations between Federal Government and the Northern States (Vertical allocation) and it is not clear how effectively equity issues are addressed. Budget allocations against realizations show significant variances.	<b>D</b>
(ii) Timeliness and reliable information to sub-national governments on their allocations	Appropriate notice of proposed budget ceilings to sub-national governments is not given. There is inadequate information provided to sub-national governments on their allocations. Information is so unreliable that it undermines the budget processes in sub-national jurisdictions.	<b>D</b>
(iii) Extent of consolidation of fiscal data for general government	There is no consolidation of central and sub-national fiscal data for the general government sector.	<b>D</b>

### ***PI-9. Oversight of aggregate fiscal risk from other public sector entities***

76. There are around 34 public enterprises at the federal level. These are expected to be self-financing entities providing services on a commercial basis. However, almost all are operating at a loss while some are in the process of privatization. Several are transitioning from presenting accounts in the government format to commercial accounting.

77. The oversight and financing relationship between these enterprises and MoFNE is not as well developed as it could be. These enterprises do not prepare and submit regular performance reports to MoFNE although budgets are discussed with MoFNE and approved by the National Assembly on the advice of the Minister of Finance. The Auditor General audits the public enterprises, although there are some audit backlogs. The support provided to these enterprises is contained in an annex to the budget documents, and the budget document also provides details of the outturns for the previous year by some of the larger enterprises.

78. The extent of fiscal risk that the government is exposed to is not easy to ascertain, and it is certainly the case that no holistic view of this risk seems to be taken. But there do seem to be three areas of concern.

79. First, revenue performance of public enterprises seems problematic. Table 15 shows budgeted versus actual 2007 revenue performance for the more significant public enterprises. It is not clear whether this under-collection is due to unrealistic budgeting, poor revenue collection, retention and non-recording of revenue, or a combination of all these factors. But the fact remains that between them, these 15 public enterprises raised only around 66 percent of their budgeted revenue.

**Table 15. Revenues Performance of Selected Federal Public Enterprises (2007)**

Sector <i>Entity</i>	<i>SD million</i>		<i>% collected</i>
	<i>Budgeted revenue</i>	<i>Actual revenue</i>	
<b>Agriculture</b>	<b>9.22</b>	<b>0.0</b>	<b>0.0</b>
General Corporation for Irrigation and Digging Works	9.22	0.0	0.0
<b>Transport and Communication</b>	<b>267.37</b>	<b>328</b>	<b>122</b>
Sea Port Corporation	193.4	221.8	114.7
National Corporation for Communication	18.0	18.0	100
Civil Aviation	45.0	85.6	190.2
Roads & Bridges	8.0	2.65	33.1
River Navigation	3.0	0.0	0.0
<b>Industrial Sector</b>	<b>32</b>	<b>27.8</b>	<b>86.9</b>
Sudanese Sugar Company	25.0	20.8	83.2
Sudanese Standard Quality Assurance Corporation	7.0	7.0	100
<b>Power &amp; Minerals</b>	<b>254</b>	<b>54.95</b>	<b>21.6</b>
Geological Research Corporation	4.0	1.95	48.8
Sudanese Petroleum Corporation	250.0	53.0	21.6
<b>Diversified Sector</b>	<b>145.39</b>	<b>55.8</b>	<b>38.4</b>
Central Bank of Sudan	130.0	51.57	39.7
Khartoum Stock Exchange Market	10.1	3	29.8
Friendship Hall	1.8	0.4	22
Bureau of Sudanese Working Abroad	2	0.70	34.5
Education corporation for Printing and Publishing	1.5	0.13	8.4
<b>Total Surplus and Profits</b>	<b>708</b>	<b>466.55</b>	<b>65.9</b>

Source: MoFNE Directorate of Public Enterprises and Corporations.

80. Second, budgetary control of expenditure by public enterprises appears lax. These enterprises can reallocate within their overall resource envelope. In 2007 expenditure on salaries was 28 percent greater than the budget and by 32 percent on other administrative expenses (Table 16).

**Table 16. Overspending by Public Enterprises from the General Budget (2007)**

<i>Item</i>	<i>Budgeted (SD million)</i>	<i>Actual (SD million)</i>	<i>Percentage of overspending</i>
Chapter I	77.23	99.31	28
Administration expenses	105.00	139.11	32

Source: MoFNE Directorate of Public Enterprises and Corporations.

81. Third, the public enterprises do seem particularly prone to probity problems. The Auditor General's report to the National Assembly in 2007, on FY2006 accounts, states that 44 percent of the overall misappropriations detected during the course of the year were on accounts of national companies and corporations (excluding the banking sector). The misappropriation by these companies amounted to SD248 million.

82. With regard to sub-national governments, there is no constitutional requirement for the states to report to MoFNE. While sub-nationals are not authorized to raise commercial debt, monitoring of fiscal risks or any other fiscal matters by Federal Government is weak. There is no regular reporting or monitoring. Audited final accounts of all states are sent to MoFNE, but only on a ‘for information’ basis. This is clearly a weak point in the overall fiscal federated system in Sudan, and has the potential to present any number of fiduciary risks.

<i>INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>PI-9 Oversight of aggregate fiscal risk from other public sector entities</b>		<b>D+</b>
(i) Extent of central government monitoring of autonomous government agencies and public enterprises	MoFNE does receive annual reports from state-owned enterprises. However there is weak monitoring and oversight over these enterprises within the year. The Auditor General scrutinizes the annual accounts of the major enterprises and reports the findings to the National Assembly.	C
(ii) Extent of central government monitoring of sub-national governments’ fiscal position	There is no formal reporting by States to MoFNE, and no formal system for the monitoring of fiscal risk presented by the States at Federal government level.	D

***PI-10. Public access to key fiscal information***

83. Public access to key fiscal information is limited (Table 17). There is some information available on the MoFNE website, including the Annual Appropriation Act, budget statement, and end-year financial statements. In-year budget execution statements are not widely circulated or available. The Auditor General’s reports are published after approval by the National Assembly but are not readily available. There is limited information available on procurement contracts. Information on fund flows is very limited for service delivery units.

**Table 17. Public Access to Elements of Information**

<i>Elements</i>	<i>Availability</i>
<b><i>Annual budget documentation.</i></b> The public can obtain a complete set of documents through appropriate means after documents are submitted to the legislature.	Met
<b><i>In-year budget execution reports.</i></b> The reports are routinely made available to the public through appropriate means within one month of their completion (financial statements) through annual publication.	Not met
<b><i>Year-end financial statements.</i></b> The statements are made available to the public through appropriate means within six months of completed audit.	Met
<b><i>External audit reports.</i></b> All reports on Central Government consolidated operations are made available to the public through appropriate means within six months of completed audit.	Not met
<b><i>Contract awards.</i></b> Award of all contracts with value above approximately	Not met

US\$100,000 equivalent are published at least quarterly through appropriate means.	
<b>Resources available to primary service units.</b> Information is publicized through appropriate means at least annually, or available upon request, for primary service units with national coverage in at least two sectors (such as elementary schools or primary health clinics).	Not met

<i>INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>PI-10 Public Access to key fiscal information</b>		<b>C</b>
(i) Share of the above listed information in the budget documentation most recently issued by the central government (in order to count in the assessment, the full specification of the information benchmark must be met).	Only two of the six types of information (year-end financial statements) are freely available through public access.	C

### 3.3 Policy-Based Budgeting

84. This section deals with the formulation of the budget process based on two principles:

- All executing entities and respective authorities in the formulation process participate in an orderly and effective way to the extent it impacts macro-economic, fiscal, and sector policies.
- Due to its multi-year implications, decisions made in expenditure policy should align with the medium-term availability of resources and with sectoral strategies.

#### ***PI-11. Orderliness and participation in the annual budget process***

85. The procedures and responsibilities for preparation of the annual budget are specified in the Financial and Accounting Act (1995) as amended in 2007. The process is well regulated, and a well-defined calendar is prescribed and followed in practice (Table 18).

**Table 18. GNU Main Steps and Timetable for Budget Preparation**

<i>Activity</i>	<i>Timetable</i>	<i>Comments</i>
Formulation of macroeconomic committees	2 <sup>nd</sup> to 4 <sup>th</sup> weeks of July	A Higher Committee is formed under MoFNE, with subcommittees looking at finance, macro framework, and cash policies
Preparation of macroeconomic framework	3 <sup>rd</sup> and 4 <sup>th</sup> weeks of July	Consideration of growth rates, exchange rates, inflation. Development of indicators.
Budget circular initiated	1 <sup>st</sup> week of August	Consideration given to planned priorities and to past performance/budget absorption. Resource enveloped defined and subdivided into labor, recurrent, and capital expenditure.
Budget circular distributed	2 <sup>nd</sup> to 4 <sup>th</sup> weeks of August	Circular includes MDA ceilings.
MoFNE Undersecretary meets with line	4 <sup>th</sup> week of August	'Global' aspects of budget considered. Budget

<i>Activity</i>	<i>Timetable</i>	<i>Comments</i>
ministries and director general of public corporations on budget circular		preparation guidelines agreed.
MoFNE Minister meets with sub-national representatives (Northern states and GoSS)	1 <sup>st</sup> week of September	
Budget proposals received from line ministries and government units	1 <sup>st</sup> to 3 <sup>rd</sup> weeks of September	
Budget discussion committee reviews proposals	3 <sup>rd</sup> to 4 <sup>th</sup> weeks of September	Discussions held on how national and sectoral objectives can be met within the ceilings available, and against given constraints.
First draft budget completed	3 <sup>rd</sup> to 4 <sup>th</sup> weeks of September	
Meeting with different social actors (trade unions, civil society)	4 <sup>th</sup> week of September to 1 <sup>st</sup> week of October	
Discussions of first draft budget and second draft completed	1 <sup>st</sup> to 3 <sup>rd</sup> weeks of October	
Draft budget approved by Higher Committee and signed by MoFNE Minister	4 <sup>th</sup> week of October	
Inform sub-national representatives (Northern states and GoSS)	4 <sup>th</sup> week of October	
Discussions of budget proposal with civil society	1 <sup>st</sup> week of November	
Submission of the budget to Council of Ministers	3 <sup>rd</sup> week of November	
Submission of the budget to the National Assembly	End November to early December	
Approval of budget by the National Assembly	Mid December	

*Source: PER annotated.*

86. During past years of review, budget circulars set out budget priorities clearly and on a timely basis. During the last few years, the national budget has been approved a couple of weeks before the start of the FY:

- FY2008 budget adopted December 15, 2007,
- FY2007 budget adopted December 20, 2006,
- FY2006 budget adopted December 15, 2005,
- FY2005 budget adopted December 20, 2004,
- FY2004 budget adopted December 20, 2003.

87. While the budget process is systematic and orderly, deficiencies in the upstream budget preparation process need continued improvement. Major improvements are required in the macroeconomic framework and modeling, sectoral analysis, links to policy priorities, and the preparation of the recurrent and capital budget. The appraisal of capital investment proposals is particularly weak. These projects regularly exceed original estimates, resort to funding through government borrowing without analysis of sustainability, and have poor implementation records and weak monitoring.



<i>INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>PI-11 Orderliness and participation in the annual budget process</b>		<b>B</b>
(i) Existence of, and adherence to, a fixed budget calendar	A budget calendar is prepared each year as part of the budget circular. It can give MDAs up to 6 weeks to prepare their estimates.	B
(ii) Guidance on the preparation of budget submissions	The macro-framework and sectoral policies are annually prepared in July and August. These form the basis of the Budget Circular, which is distributed by the first week of September. Discussion of entities estimates ends by the first week of November. States received budget guidance in late September, but little is given in term of advance information on resource envelopes.	C
(iii) Timely budget approval by the legislature	The fiscal year of the government of Sudan is 1 <sup>st</sup> January – 31 December. The budget is approved by the legislature by the second week of December every year.	A

***PI-12. Multi-year perspective in fiscal planning, expenditure policy, and budgeting***

88. The budget allocation is set within the macro-economic objectives of the Medium-Term Economic Program 2007-11, the Comprehensive Peace Agreement, the Interim National Constitution, and by the Five-Year Strategic Plan. On this basis, resources are allocated to different public entities. Such macro-economic indicators include poverty reduction, job creation, productivity and high rates of economic growth, and foreign indebtedness. Each public entity is allocated funds for one year. It is upon that baseline and previous-year performance that the new annual allocations are based. Priority activities are explicitly indicated in the budget circular. There is no multi-year fiscal forecasting or planning.

89. The link is weak between the socio-economic strategic development plan and budget implementation that assures the plan objectives are achieved. Monitoring is needed. And a link among the resources with result-based activities would ensure good budget implementation. Despite the recent efforts to improve budget preparation through preparation of sector strategic plans, these sectors are often not viewed together to give a holistic view of expenditure and policy. The link between resource envelopes, ceilings, and implementation is weak.

90. The 2007 Public Expenditure Review highlights systemic deficiencies in the upstream and downstream budget processes. Among the needed steps to improve the process are:

- Perform sector planning looking at both capital and current expenditure;
- Ensure that allocations are made according to key policy anchors, such as the Five-Year Plan;
- Perform concrete estimates of policy actions; and
- Ensure predictability of execution to incentivize the investment and planning process.

91. Sector planning is weak. Although sector strategies are prepared, these are not realistically costed and are not linked to the overall budget framework. Links to the Five-Year Plan are also sometimes tenuous. Although the 5-Year Strategic Plan began in 2006, the linkages between policies and budget allocations have in past plans been weak.

92. Other important work is underway. The National Poverty Eradication Paper, which will guide the overall policy framework, is under preparation. Debt sustainability analysis reports are prepared by the IMF on an annual basis in collaboration with the Central Bank of Sudan

93. It is also clear that links between investment planning and budgeting and forward estimation are not strong, and the fact that capital and recurrent budgeting processes are separate weakens the institutional framework in this regard.

<i>INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>PI-12 Multi-year perspective in fiscal planning, expenditure policy and budgeting</b>		<b>D+</b>
(i) Multi-year fiscal forecasts and functional allocations	The budget is prepared on the bases of existing programs such as medium term economic program and five-year plan, although institutionally the linkages between these processes are weak. Some projects are within these programs are allocated funds and others sources of finance are not defined, particularly those that might be externally financed. The link between the budget and Five Year Plans is weak.	D
(ii) Scope and frequency of debt sustainability analysis	Information on internal and external debt is provided in reports of MoFNE and Central Bank of Sudan, based on work of the IMF. Reports carry data on internal debt in aggregate and a breakdown of external debt.	A
(iii) Existence of costed sector strategies	All sectors prepare sectoral strategies. However these are not realistically costed and their linkages with policy priorities are weak.	C
(iv) Linkages between investment budgets and forward expenditure estimates	Recurrent and capital budgeting are separate processes. There do not appear to be linkages between investment budgets and forward expenditure estimates.	D

### 3.4 Predictability and Control in Budget Execution

94. This section analyzes different performance aspects of budget execution across three aspects:

- Revenue administration,
- Management of treasury and debt management, and
- Internal control of expenditures.

### ***PI-13. Transparency of taxpayer obligations and liabilities***

95. The PER noted that both tax policy and tax administration for Sudan are relatively weak, with relatively low effort for its level of development, albeit rising in recent years. Direct taxation amounts to less than 2 percent of GDP and is collected through a business profit tax, a personal income tax, a tax on Sudanese residents abroad, and stamp duties. Indirect taxation, including Customs and VAT comprises about 80 percent of total tax revenue. The PER observes that the tax system is "...fragmented, unevenly applied, and suffers from widespread exemptions and tax holidays that limit the effectiveness of the existing regime." This adversely impacts on the transparency of the system in terms of taxpayer obligations and liabilities. However, recently (outside of the period of review) the policies of tax holidays have been reviewed and the practice severely curtailed.

96. A series of reforms have been undertaken since 1999 — introduction of VAT (2000), removal of income tax exemptions (2002-03), imposition of excise on petroleum products, and improvements of the tariff structure (2004-05). And although (noted outside of the review period) large and medium-size taxpayers moved toward self-assessment in 2008, observers see the need for fundamental simplification and modernization of legislation, institutional arrangements, and work processes (which still remain rooted in systems inherited from the 1970s). A comprehensive strategy for tax administration modernization would help resolve this. Putting such a strategy in place is made all the more urgent by the fact that some elements of the current system are "distortionary, discretionary, and inequitable".<sup>5</sup>

97. Despite ongoing reforms, including the establishment of large, medium and small taxpayer offices, there are multiple challenges regarding the transparency of taxpayer obligations and liabilities. Greater effort is required for simplification of tax legislation and procedures. For example, national stamp duty applies to more than 500 transactions. Specific rates of duty, and tax procedures are not consistent across the various tax types (e.g., VAT, corporation tax, business income tax, and personal income tax). Information on tax liabilities is not always available to taxpayers in a manner that is easy to understand or comply with. Recent attempts have been made to increase public outreach — use of the Taxation Chamber website (despite its limited audience particularly for Sudan), training events, public consultations and meetings, and informative publications.

98. The tax system is complex and there is little support by way of taxpayer services or communication. On the outside, the feeling of stakeholders of the Taxation Chamber is that there is an institutional culture where tax officials view all businesses as dishonest. As a result businesses dispute a high proportion of assessments made by officials, which are then resolved subsequently through negotiations via the appeals process.

99. There is a three-stage appeals process within the Taxation Chamber before cases are referred to the courts or a neutral body:

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<sup>5</sup> Public Expenditure Review (World Bank, 2007), para 2.16.

- The case is referred to a joint committee of tax inspectors. This is, in effect, a peer review of the assessment in question.
- The case is referred to a ‘higher degree’ committee, comprising more senior Taxation Chamber officials;
- If the case is not satisfactorily resolved, it is referred to the Secretary General of the Taxation Chamber.

100. If these three steps fail, the case is then referred to a neutral appeals body situated in MoFNE. This body comprises sector experts (often retirees), academics, and members of the Federation of Taxpayers. If matters are still not resolved appellants can seek judicial redress.

101. The Taxation Chamber reports that there are thousands of appeals lodged every year, but only 100-150 cases have been passed to the appeals body by MoFNE since its establishment in 1997. GoNU sees this as a measure of the efficiency and effectiveness of the appeals system. Whilst it is certainly true that administrative measures are in place to hear appeals, there are issues of transparency: the results of appeals need to be available in the public domain.

<i>INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>PI-13 Transparency of taxpayer obligations and liabilities</b>		<b>C</b>
(i) Clarity and comprehensiveness of tax liabilities	The tax code is complex and is urgently in need of simplification.	<b>D</b>
(ii) Taxpayer access to information on tax liabilities and administrative procedures	Communication to taxpayers of liabilities, responsibilities and administrative procedures is made difficult by the complex nature of the taxation institutional framework in Sudan, where both national and state offices are in operation. This makes access to information for the taxpayer a challenge. There is currently no communication plan in place, although attempts have been made to enhance the Chamber’s outreach.	<b>C</b>
(iii) Existence and functioning of a tax appeals mechanism	There is a tax appeals system in place but it is not fully transparent	<b>B</b>

***PI-14. Effectiveness of measures for taxpayer registration and tax assessment***

102. Taxpayer Identification Numbers have been introduced to 135,620 taxpayers (since 2006), including approximately 120,000 business income taxpayers. This ongoing process is slow and the methodology for issuing Taxpayer Identification Numbers has still to be rolled out fully. While the implementation of an integrated tax administration system has been discussed for some time, there has been no real progress. Furthermore, a comprehensive database of taxpayers does not exist outside of an integrated system, meaning that linkages among the different tax collection systems do not exist. There are also no links via Taxpayer Identification Numbers to Customs transactions.

103. Table 19 shows the number of taxpayers across different tax regimes and registered by different jurisdictions or offices.

**Table 19. Taxpayers across tax bases and offices**

Tax type	Corporations					Individuals			Total
	LTO	MTO	STO	Other offices	Total	Khartoum	Other states	Total	
Business income tax	295	1,284	2,000	5,000	8,583	48,813	60,881	109,694	118,277
VAT	265	1,138	1,772	7,864	11,039	1,365	n.a.	1,365	12,404
Wages withholding tax	295	1,284	2,000	499	4,078	1,195	n.a.	1,195	5,273

Source: Taxation Chamber and mission estimates (for STO data).

Note: LTO, MTO, and STO stand for large, medium, and small taxpayer offices.

104. The tax assessment process is cumbersome, and there is wide variability in compliance. For example, in the medium taxpayer office 95 percent of companies filed VAT declarations while only 60 percent filed business income tax returns.

105. The taxation authorities invariably adjust income tax declarations, and many feel that there is heavy reliance on arbitrary assessment of income tax when documentation is not considered adequate. This perpetuates a situation where each taxpayer expects their declaration to be adjusted upwards, tax officials assume that declarations under-report income, and taxpayers object to the assessment; this all leads to additional work and further choking of the system

106. A maximum penalty rate of 20 percent applies to VAT. This is often reduced. Adjustments in income tax assessments usually attract no penalty. Evasion cases rarely attract more than 5 percent penalty. Failure to register is not penalized. For income tax obligations, penalties are generally not imposed for late filing, late payment, failure to keep records, and making incorrect declarations. Given this penalty-free regime, there is no deterrence to noncompliance, to which the Officials from the Taxation Chamber concur.

107. Income tax assessments are invariably contested by clients, as are some 20 percent of cases where VAT audits have resulted in adjustments.

108. Tax audits are not planned in a systematic manner and are not based upon risk. Even within the large and medium taxpayer offices, audits of VAT and income tax are conducted independently of each other, undermining the methodology of an integrated taxpayer office system. Sudan should institute a unified approach to audit planning, risk assessment, case management, audit techniques, and reporting.

INDICATOR	BRIEF COMMENT	SCORE
<b>PI-14 Effectiveness of measures for taxpayer registration and tax assessment</b>		<b>D+</b>
(i) Controls in taxpayer registration system	Taxpayers are registered in a database for individual taxes, but it is not linked to other government registration systems. There is not	D

	sufficient evidence to suggest that periodic surveys of taxpayers take place.	
(ii) Effectiveness of penalties for non-compliance with registration and declaration obligations	Penalties do exist for non-compliance but they are not universally enforced and they need fundamental reform.	C
(iii) Planning and monitoring of tax audit and fraud investigation programs	Tax audits are not based upon risk	D

### ***PI-15. Effectiveness in collection of tax payments***

109. The Taxation Chamber is responsible for tax collection across Sudan – both at the federal level and in the states. With weak institutional capacity, no properly integrated tax regime, and little client focus, the administration of the tax system presents considerable challenges.

110. The assignment of tax revenues across different levels of government has made the task even more challenging. Both national and sub-national governments have taxation powers regarding business income tax, personal income tax, excise tax, stamp duty, and other taxes. The allocation between levels of government can also be complex. For example, corporate profit tax is assigned to the national level while unincorporated business profit tax is assigned to the states, which will nevertheless need to pay VAT and wages taxes to the national level. Overall, there are 6,090 employees and 242 field offices in tax offices of the Taxation Chamber which collects both federal and state taxes. Table 20 shows the distribution of taxes among office types.

**Table 20. Distribution of Tax Administration among Office Types**

<i>Office type</i>	<i>Number of offices</i>	<i>CIT</i>	<i>BIT</i>	<i>VAT</i>	<i>PIT</i>	<i>National stamp</i>	<i>State stamp</i>	<i>Rental and capital gain</i>
LTO	1	√		√	√	√		
MTO	1	√		√	√	√		
STO	3	√		√	√	√		
VAT	57			√				
Stamp	4					√		
National	120	√			√	√		
State	56		√		√		√	√
Total	242							

*Source:* Taxation Chamber.

111. Data regarding collection ratio for gross tax arrears is not readily available, perhaps reflecting the logistical challenges that current arrangements present. Arrears exist for Business Profit Tax (for individuals and corporations). While 2005 and 2006 data has to be manually collected, it is available for 2007 (although this will not allow scoring of the dimension). The available data is set out in Table 21.

**Table 21. Arrears and Debt Collection Ratios, Business Profit Tax 2007**

	<i>SDG (thousands)</i>		
	<i>Individual</i>	<i>Business</i>	<i>Total</i>
Arrears outstanding as of January 1, 2007	33,231,159	207,167,850	240,399,009
New arrears during 2007	53,138,916	689,835	53,828,751
Arrears collected during 2007	38,146,567	90,250,586	128,397,153
Arrears outstanding as of December 31, 2007	33,817,896	146,107,000	179,924,896
<b>Debt collection ratio</b>	115%	44%	53%

*Source:* Taxation Chamber, from information compiled for IMF technical assistance mission in revenue administration, October 2008

112. If this data is typical (and comments from the Taxation Chamber suggest that it might be), this dimension would be scored at D (i.e., the debt collection in recent years is below 60 percent and the total amount of arrears is significant).

113. All revenue departments maintain bank accounts in the Central Bank of Sudan. Revenue is deposited to these accounts, usually on a daily basis (although occasionally delays occur with insignificant amounts of income to some departments). Revenue collections are initially deposited into their Group 12 account and from there onto the main MoFNE account. Reconciliation of revenue receipts to account balances takes place on a monthly basis.

<i>INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>PI-15 Effectiveness in collection of tax payment</b>		<b>Cannot Score</b>
(i) Collection ratio for gross tax arrears, being percentage of tax arrears at the beginning of a fiscal year, which was collected during that fiscal year	This data is currently not available for the whole of the review period. This dimension cannot be scored, although Debt Collection ratios for 2007, if typical, indicate this may be scored at D.	Cannot Score
(ii) Effectiveness of transfer of tax collections to the Treasury by the revenue administration	Transfers of revenues from the revenue departments are made daily, although in the case of small amounts some delays have been noted.	B
(iii) Frequency of complete accounts reconciliation between tax assessments, collections, arrears records and receipts by the Treasury	This reconciliation does not take place at the Chamber of Accounts. A reconciliation of physical receipts to recorded collections is made only.	D

***PI-16. Predictability in the availability of funds for commitment of expenditures***

114. Efficient treasury management requires that the right amount of money, in the right currency, be available at the right time to meet the government's obligations in the most cost-effective way. This requires government not only to have information regarding where its money is held, but also be able to access it so that it is utilized in the most efficient manner. Effective cash management requires reliable cash forecasts.

115. The MoFNE Cash Management Unit was established about four years ago. This Unit has the primary responsibility for managing the cash flows in GNU, under the following procedures:

- At the beginning of the year, the Cash Management Unit prepares a monthly cash plan for the whole GNU. This includes detailed projections of revenue inflows, as per the major revenue items, expenditure projection for each chapter, GoSS, Northern states, surplus/deficit, financing, and carry over.
- After the budget is approved, expenditure is divided into 12 estimated monthly transfers for spending units. In case of adequate inflows, these funds are transferred on a regular basis to spending units. In case there is a cash shortfall, cash transfers are divided on a pro rata basis. Priority is given to ensuring that Chapter I is fully covered (i.e., that Government covers its salary costs) and that vital services such as health are not disrupted.
- Spending units generally do not prepare cash plans or cash forecasts.
- The bulk of the funds transferred to spending units are for meeting salary expenditures (about 60 percent). In the case of procurement of discretionary goods and services, MoFNE needs to give approval. Once approval is obtained, then the cash position is ascertained before a check is manually prepared and issued. In the event of unavailability of adequate cash, spending units try to arrange short-term credit and defer payments. This inevitably leads to the build-up of arrears. Meanwhile, resource envelope availability can be unpredictable. In 2006 an across-the-board cut of 65 percent was applied for goods and services, resulting in the build-up of arrears.
- Spending units manually maintain a cashbook to track spending and commitments. The 1995 Financial and Accounting Procedures Regulations as amended by the 2007 Act specify commitment control procedures. This requires that each spending unit maintains a ledger in which commitments pertaining to each section of the budget are recorded. This is to ensure that commitments are tracked, and that payments are made only within approved budgetary ceilings.
- This leads to inefficient cash management and the build up of arrears since commitments are tracked against the budget and not against actual cash available. There is also no system to regularly analyze the build up of arrears or commitments in the system.

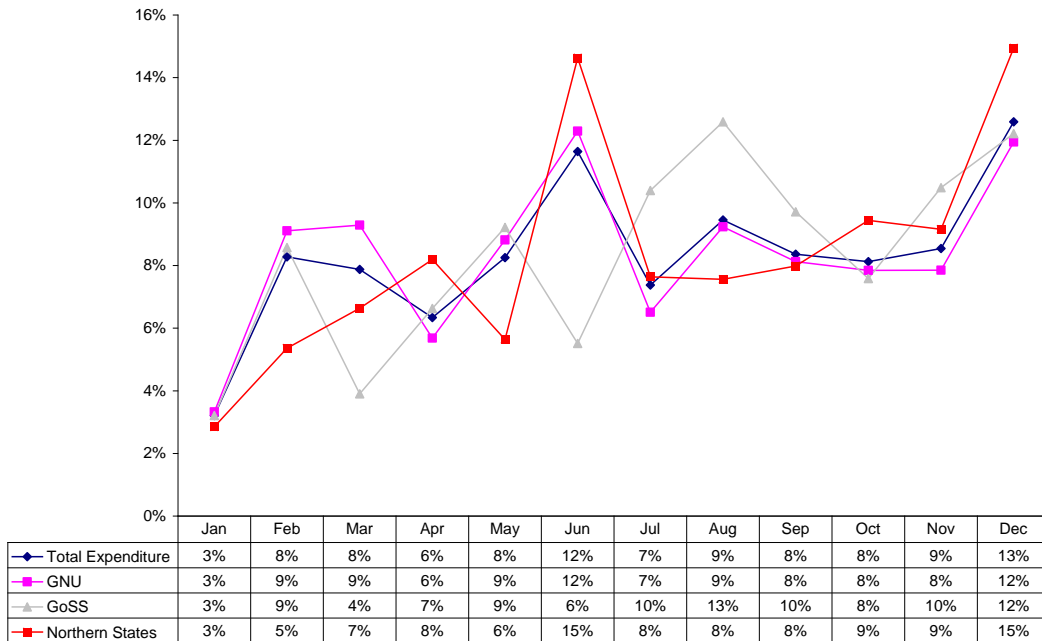
116. In MoFNE the cash management process is managed by the Cash Management and Release Committee, which is chaired by the Undersecretary. Formed in June 2006, this committee meets on a weekly basis to review the cash position and approve releases. A Memorandum of Understanding has been signed with the Central Bank of Sudan stating that cash releases will be made three times a month to different entities. The system is functioning relatively well. However spending units do express concern about significant delays in shortfalls and in receiving funds. Part of the reason for this is the unrealistic manner in which cash requirements are divided into 12 budgetary allocations. Modern practice profiles cash needs with actual proposed spending patterns according to spending unit need, etc.



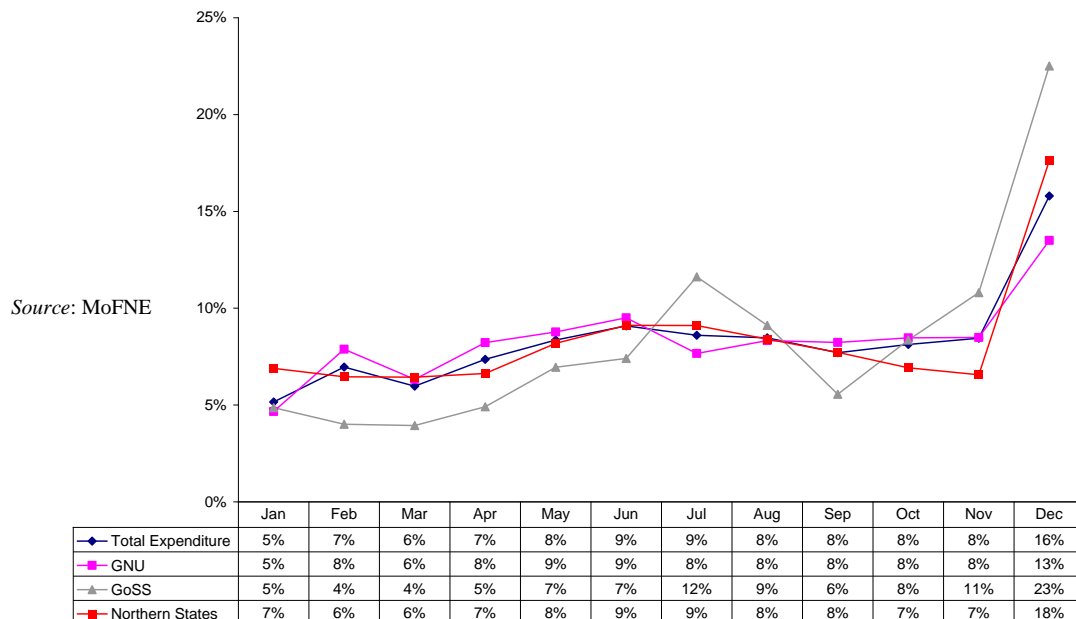
117. Monthly expenditure data shows that there has been an improvement in reducing variability in monthly spending patterns between 2006 and 2007. In 2006 the cash constrained position of GNU resulted in troughs and spikes while in 2007 budget execution was far smoother partly due to increased oil revenues and overall improved liquidity. What is however a matter of concern is the large spike in spending during the last month of the financial year when the average spending was 16 percent of the total budget envelope (Figure 7).

**Figure 7. Expenditure Profiles, 2006 and 2007**

**Sudan: Expenditure Trend (Actuals) 2006**



**Sudan: Expenditure Trend (Actuals) 2007**



<i>INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>PI-16 Predictability in the availability of funds for commitment of expenditures.</b>		<b>D+</b>
(i) Extent to which cash flows are forecast and monitored.	Sudan has a very top-down system for cash management. MoFNE prepares the annual cash flow plans for the Government and these are updated monthly on the basis of inflows and expenditures. However, these do not reflect MDA's changing needs or properly profiled budgets.	A
(ii) Reliability and horizon of periodic in-year information to spending agencies on ceilings for expenditure	MDAs are provided with information on commitment ceilings for procurement and other such expenditure on an <i>ad hoc</i> basis. These are based on cash available which may be significantly different to that originally planned. Arrears can result	D
(iii) Frequency and transparency of adjustments to budget allocations which are decided above the level of management of spending agencies	There have been significant in-year reallocations (partly due to realignment of priorities following Comprehensive Peace Agreement). Reallocations are not carried out in a very transparent manner.	D

### ***PI-17. Recording and management of cash balances, debt and guarantees***

118. The MoFNE is authorized to make decisions concerning government borrowing. This includes internal and external borrowing. Internal debt is managed by the Internal Debt Department, and the Central Bank of Sudan manages foreign debt. The Central Bank is also responsible for issuing limits on internal borrowing for meeting the budget deficit.

119. There is adequate information on external debt. The stock of public and publicly guaranteed debt at the end of 2006 was estimated at US\$27 billion in nominal terms, up by about US\$9 billion since 2000. The bulk of the increase reflects the build-up of arrears (approximately US\$6 billion) to Paris Club and non-Paris Club creditors. It also includes new drawings of some US\$520 million from Arab multilateral and bilateral creditors, as well as from China and India. In terms of net present value, the end-2006 stock of external debt was equivalent to roughly 55 percent of GDP and 340 percent of exports.

120. The internal debt situation is more complex. There are many domestic debt instruments, such as standing orders and subsidiary notes, and guarantees that are issued:

- ***Standing orders.*** These MoFNE-issued orders are primarily guarantees for development projects. Management of these is coordinated by the MoFNE Internal Debt Department but involves three departments – Expenditure, State Development Affairs, and General Directorate for Development. The overall amount is agreed at the beginning of the financial year with the Central Bank of Sudan. Once that is done, the standing orders are issued one month prior to when they are required within the agreed ceiling. Standing orders are issued by the Sudan Financial Services Company on the instructions of and on behalf of MoFNE.

- **Subsidiary Notes.** Between 1986 and 2007, the MoFNE Accounting Chamber issued these securities. Dated securities have been issued with varying terms – with the last one falling due in 2015. These instruments have been issued to private companies to clear arrears arising from services rendered to development projects. Since accurate records have not been maintained, there is some uncertainty regarding the exact quantum of these subsidiary notes. It is estimated that subsidiary notes valued at around SD3 billion have been issued. Between June and December 2007 there were defaults on subsidiary notes by MoFNE causing liquidity problems for the bond holders and affecting the confidence of the market in government instruments. This matter has since been resolved. This activity has now been merged into the Internal Debt Department and repayment on outstanding liabilities has resumed. Subsidiary notes only account for SD0.159 billion of the FY08 budget.
- **Guarantees.** A variety of guarantees are issued:
  - Guarantees issued for GNU. These are issued by Central Bank of Sudan, which charges a 2 percent fee. In FY08 the plan was to raise SD1.423 billion by way of guarantees.
  - Guarantees provided to states in lieu of cash transfers by FFAMC. In recent years, instead of advancing cash, MoFNE had been providing guarantees for up to 50 percent of the amounts due to be transferred to states. The states request these guarantees, or *Sukuks*, according to their ceilings. The payment is the responsibility of National Government. The total stock of outstanding *Sukuks* until 2007 was about SDG 128.2 million.
  - Guarantees issued at the specific request of the State in addition to its regular entitlements. The MoFNE has been issuing guarantees on the specific request of Khartoum State. In such cases, GNU charges a commission to state governments for this task. In case of default, these guarantees are repaid from the amounts awaiting transfer to the state. These are “guarantees on others”.
  - A variant of this is “separate” guarantees that are issued to commercial entities for specific purposes such as the Cotton Corporation to undertake financing during the agriculture season. Similarly guarantees have been issued to the Agriculture Bank for financing the needs of farmers.
  - By mid-July 2008 around 250 guarantees had been issued and were outstanding. These had a variety of names including *Shahma*, *Sukuk*, etc. Monitoring these is a challenge for MoFNE, which only employs a simple Excel spreadsheet in the Internal Debt Department for this purpose.

121. The Auditor General’s report for FY2006 calls for improved coordination between the various Departments of the MoFNE, the Central Bank of Sudan, and Sudan Financial Services Company that is responsible for marketing the government bonds and certificates. The Auditor General issued the following view:

Such coordination is strongly needed in order that the final accounts reflect the true and exact figures of the value of bonds and certificates issued during the concerned fiscal year, the liquidated ones, the profits paid to the holders, and the commissions charged.

The Audit has observed vast differences between the balances as reflected by the final accounts for 2006 and the financial statements of the Central Bank of Sudan and Sudan Financial Services Company which is responsible for everything that concerns the government bonds and certificates.

122. In his 2008 budget speech, the Minister of Finance confirmed that part of the challenge had been addressed but that there was still some way to go before the matter is fully resolved. Between January 2007 and April 2008, an amount of around US\$350 million had been paid for outstanding bills, bonds, standing payment orders, and guarantees. Things are improving, but systemic improvements are urgently required.

123. The Treasury Single Account System is not operational in Sudan. There is therefore no consolidation of government bank balances. The GNU maintains around 400 bank accounts in the Central Bank of Sudan, and MoFNE monitors these bank balances daily. Recently there has been some consolidation of these accounts reducing their numbers. Most commercial bank accounts have been closed and transferred to the Central Bank. The main accounts that are maintained in the Central Bank of Sudan are the following:

- Government main account (account 20) includes group 13 (public corporation), and group 12 (line ministries) also called Account 9, and group 19.
- Foreign account (account 23);
- Government securities Sanadat, Sukuk, and all standing orders (account 17);
- Frozen accounts (account 4)
- Special accounts – endowments account (account 10).

124. The IMF is providing support for reforming government banking arrangements, but progress is slow given the manual accounting systems in government and the overall weak PFM systems and weak capacity.

<i>INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>PI-17 Recording and management of cash balances, debt and guarantees</b>		<b>D+</b>
(i) Quality of debt data recording and reporting	Internal debt data records are fragmented within MoFNE, and between MoFNE, CENTRAL BANK OF SUDAN and the Sudan Financial Services Company, and are not properly consolidated. These amounts are not reconciled between these three entities. For external debt, the situation is better, as shown in a recent debt sustainability analysis that was conducted.	D
ii) Extent of consolidation of the government's cash balances	GNU currently has around 400 Bank accounts categorized in six major groups. The exact number is not accurately known as noted in the Auditor General's report for FY 06. The Auditor General had noted that several spending units open Bank accounts without the permission of MoFNE and in contravention of financial regulations.	C
(iii) Systems for contracting loans and issuance of guarantees	The amount of deferred finance to finance the budget usually approved early with the budget appropriation. Both the domestic and foreign loans notarize and reviewed by the Ministry of Justice (for foreign component) and Legal Office	D

	(for domestic) within the MoFNE. All foreign loans must be approved by the National Assembly and to be in line with agreement with international financial institutions. But one unified system providing a unified overview appears to be lacking.	
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**PI-18. Effectiveness of payroll control**

125. Civil servants are employed across many government institutions and multiple tiers. The Federal Government consists of 30 ministries (including the Presidency). State governments each have 6 ministries, and there are many local-level administrative units. Besides this, there are about 34 public enterprises at the federal level and 25 public universities.

126. A breakdown of numbers of civil servants at each level of government is shown in Table 22. Of the total number of civil servants, around 86 percent are in the Federal Government and the Northern states and the rest in universities and public enterprises. The state and federal governments use the same pay and grading structures.

127. There is a large discrepancy between the wage bill as presented in budget documents and the officially reported size of the work force and compensation levels. This suggests that either the staff numbers are underreported or there are significant payments beyond the formal pay and allowance structure (or both). The variation could be attributed to the many pay-augmentation practices that are used, including hardship allowances, special contracts for key staff, allowances for sitting on boards of public enterprises, and performance incentives.

**Table 22. Size and Distribution of Civil Service**

<i>Institution</i>	<i>Number of employees</i>	<i>Percent of total</i>
Federal	28,305	7.4
State	302,668	79.0
<b>Total Civil Service</b>	<b>330,973</b>	<b>86.4</b>
Public universities	4,207	1.1
Public enterprises	47,727	12.5
<b>Total Institutions</b>	<b>382, 907</b>	<b>100</b>
<i>Source:</i> Based on data provided by Ministry of Labor Public Service and Human Resources Development, June 2004.		

128. Around 69 percent of the budget is allocated for meeting costs of recurrent salaries. These are funded under Chapter I of the budget. There is a separate department in MoFNE that is responsible for approving Chapter I payments. Requests come to this department from MDAs based upon an aggregation of ceilings, and as per rough estimates agreed at the time of budget preparation. There is no centralized human resources or payroll system in GNU. Personnel databases are disaggregated in MDAs and their quality is unknown. Given the many spending units and the myriad of databases, there are delays in updating the payroll to accurately reflect promotions, retirements, transfers, and other changes. And it is difficult to determine whether or not the employees being paid have been properly recruited as per legal procedures of the Chamber of Civil Servants. Internal controls are weak but occasionally operational, as when the

internal auditor undertakes a random check of identification of the officials collecting salary payments.

129. The MoFNE is legally committed to fund wages and salaries in line with the estimates of Chapter I as specified in the Appropriation Act. For meeting the salaries dateline, the MoFNE signed a memorandum of understanding with the Central Bank of Sudan. The Central Bank will provide a short-term overdraft to MoFNE for meeting salary requirements irrespective of any deficit. This overdraft will be settled in the following month through adjusting the revenue account. These payments are to be made in a staggered manner, and all employees are to receive their salaries before the end of the month.

130. Fiscal decentralization has created increased challenges for effective payroll controls. As per the transfer system, irrespective of the cash position of government, Chapter I payments are protected. The internal auditor of GNU has observed that this legal safeguard provides a loophole to states for inflating Chapter I requirements. The scale of the problem is such that neither MoFNE nor the FFAMC have the capacity to undertake an assessment of the use of these funds. Increased devolution of institutions below the state level has created similar problems for states. There is significant fiduciary risk given the weak institutional arrangements, antiquated systems, and poor monitoring.

<i>INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>PI-18 Effectiveness of payroll controls</b>		<b>D+</b>
(i) Degree of integration and reconciliation between personnel records and payroll data	Each public entity has its own payroll and personnel database and makes adjustment monthly. An integrated payroll and personnel database is not in place.	D
(ii) Timeliness of changes to personnel records and the payroll	Changes to personnel records are done by each public entity. It takes more than a month depending on the efficiency of relevant departments. All changes should be submitted to internal audit within thirty days of the decision to make the change.	C
(iii) Internal controls of changes to personnel records and the payroll.	Internal controls exist in each public entity. External Audit reports do not show any transfers of resources intended for personnel emoluments to other purposes. Frequent checks by entities are done to eliminate errors.	C
(iv) Existence of payroll audits to identify control weaknesses and/or ghost workers.	There is some special inspection of payrolls, but payroll audits do not take place on a regular basis.	C

#### ***PI-19. Competition, value for money and controls in procurement***

131. Public procurement in Sudan is regulated under Chapter VIII of the Financial and Accountancy Procedure Act of 1988 and the Financial and Accountancy Procedures Regulations

of 1995. The Public Procurement Department of the MoFNE participates in procurement processing but also has the mandate for capacity building, policy formulation, and monitoring compliance with the public procurement regulations. The Public Procurement Department is understaffed and has limited capacity. Lack of participation from the private sector and civil society in the procurement policy formulation and in the outcome of procurement processes and lack of access to procurement information further constrains the limited capacity for the public procurement control system.

132. Open competitive tendering is not applied consistently in most cases of contracts valued above the monetary threshold for less competitive procurement methods. The private sector participants in public procurement judge the system as lacking fairness and efficiency. Government-owned enterprises, which enjoy subsidies, are allowed to compete against the private sector companies. The use of promissory notes for payment under public sector contracts leads to delayed and/or deferred payments for periods longer than one year for local firms. However, foreign firms are paid through letters of credit without similar delays in payment. The lack of a functional oversight body conducting regular procurement reviews poses a high risk to procurement irregularities and corruption.

133. The procurement regulations in force describe the circumstances under which the use of open competitive procurement methods can be justified. The application of this requirement however is currently applied in a discretionary manner.

134. Chapter VIII of the Financial and Accountancy Procedure Act of 1988 and the Financial and Accountancy Procedures Regulations of 1995 do not provide for the settlement of complaints in a bidding process. The Public Grievance Chamber (Ombudsman) mandate is not tailored to the handling of procurement complaints, and there is no provision for access to procurement information. There is no evidence of the existence and operation of a procurement complaints mechanism. Procurement issues are discussed in greater detail in Section 4 of this report.

<i>INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>PI-19 Competition, value for money and controls in procurement</b>		<b>D</b>
(i) Use of open competition for award of contracts that exceed the nationally established monetary threshold for small purchases	Solid data is not available but it appears that the use of open competitive tendering is not applied consistently, and seems limited.	D
(ii) Justification for use of less competitive procurement methods	The regulatory framework exists but it applied in a discretionary manner only.	C
(iii) Existence and operation of a procurement complaints mechanism	Current legislation does not allow for a complaints mechanism. There is no evidence of the existence and operation of such.	D

***PI-20. Effectiveness of internal controls for non-salary expenditure***

135. The internal control framework is prescribed by a sway of legislation: the Financial and Accounting Procedures Law 2007 and the 1995 Regulations, the Public Service Law and Regulations, the General Budget Law, Republican decrees, ministerial resolutions and directives, and other regulations that cover fiscal transactions. The 1995 Regulations prescribe the main set of controls that govern financial transactions.

136. The Auditor General of Sudan undertakes an annual assessment of the effectiveness of the internal control environment as part of the annual audit process. The results are reported in Part Three of the Annual Audit Report. The Audit Report for FY 06 states:

As a result of our audits and assessments of the internal control systems of many federal institutions and units including ministries and public utilities, we observed a lot of inefficiencies and negligence:

- Some units are completely lacking in internal control. And even when such control is found in some other units, we observed its role is merely restricted to checking and examining the revenues and expenditures without being authorized to perform any other control activity as per its by-law that specifies and determines its responsibilities and powers.
- There are many units that pay unjustified and even illegal incentives and gratuities.
- Many units do not abide by the procedures of purchasing, contracting and warehousing.
- Bank accounts are opened without the consent of Ministry of Finance.
- Some units pay...unjustified money to some employees who are not entitled to receive such money because they are absent from work for different reasons.

137. The Auditor General’s reports provide other examples of weak internal controls. This assessment of the functioning of the internal control environment is reinforced through discussions with the Internal Audit Department of MoFNE that confirms the institutional weaknesses that inhibit an effective internal control environment. Particular mention has been made of recurring difficulties with payments and with procurement.

<i>INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>PI-20 Effectiveness of internal controls for non-salary expenditure</b>		<b>D+</b>
(i) Effectiveness of expenditure commitment controls.	Cash plans are prepared by the MoFNE Cash Management Committee, which also authorizes cash releases depending upon revenue inflows. However spending units enter into commitments on the basis of their budgetary allocations and not cash releases, meaning that the commitment control system is routinely violated. This results in the build up of arrears, and inefficient budget execution.	C
(ii) Comprehensiveness, relevance and understanding of other internal control rules/ procedures.	A comprehensive legislative and regulatory framework specifying the internal control framework is being put in place. The PFM Act of 2007 that updated the 1995 regulations was passed and the Chamber of Accounts is currently drafting the regulations under that Act. A new Internal Audit Act is under discussion of the Council of Minister prior to its submission to the National Assembly. However, it appears that there is not a	C



	comprehensive understanding of the internal control framework.	
(iii) Degree of compliance with rules for processing and recording transactions.	The Auditor General has documented significant weaknesses in the understanding and application of the internal control framework. This has been echoed by the Internal Audit function.	D

### ***PI-21. Effectiveness of internal audit***

138. According to a definition endorsed by the Institute of Internal Auditors, internal audit is an independent, objective assurance and consulting activity designed to add value and improve an organization's operations. It helps an organization accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes. Standards such as those set out by the Institute of Internal Auditors should govern professional internal audit work.

139. There are internal auditors throughout MDAs in Sudan, but unfortunately their roles are not entirely consistent with the modern definition set out above. In the Sudanese context, internal audit is seen as a pre-check function that is primarily responsible for transaction testing. There is currently no risk-based or similar methodology in place.

140. Most internal auditors are involved in checking Chapter I payments made to civil servants, and others are involved in assessing Chapter II payments. The large-scale increase in transfers to states has increased the importance of internal audit oversight, but institutional arrangements have not kept pace. The relationship between the Federal-level and state-level internal audit units is still unclear.

141. There are also significant challenges in getting a few spending units to accept the fiduciary role of both internal and external audit. For the period of the review (2005-2007) it is understood that Federal-level internal audit was only conducted in around 52 percent of government entities and 5 percent of public enterprises (although in 2009 this is now at around 70% of government entities). Some units of government which by law are not accountable to the Directorate General of Internal Audit, including the Judiciary, Customs, National Security, the Ministry of the Interior and the Ministry of Defense. Where no IA department exists within an eligible unit of government, internal audit coverage will be provided by a peripatetic audit team assigned by the Internal Audit Directorate.

142. There are currently around 700 internal auditors in GNU, and there are equally large numbers in states and localities. However, this is out of an establishment of around 1,700, meaning that some 1,000 posts remain unfilled. Furthermore, many of the staff currently employed are inexperienced. The function faces acute capacity constraints.

143. The MoFNE Directorate of Internal Audit has undertaken, with plans to continue, performance audits along with some expenditure tracking surveys. The audits were piloted at the Ministry of Health and Ministry of Agriculture. Findings corroborated the view that there are acute fiduciary concerns across MDAs.

144. The Auditor General keeps himself aware of internal audit reports and findings. Internal audit reports are routinely copied to the Audit Chamber. Each MDA's internal audit functionary reports monthly and consolidated reports are sent to the Minister of Finance on a monthly basis.

145. Although outside of the scope of the review period, it is nevertheless worth noting that new legislation has been drafted which would significantly enhance the framework empowering the internal audit process.

146. At the state level, internal audits find significant diversion of resources, especially from large national programs such as the President's Green Program. Raising issues such as this at the state government level has proven to be challenging for internal audit staff.

INDICATOR	BRIEF COMMENT	SCORE
<b>PI-21 Effectiveness of internal audit</b>		D+
(i) Coverage and quality of the internal audit function	There is limited coverage of internal audit in Sudan at present, although the quality is improving. Currently most internal auditors are involved in transaction testing with there being limited systems, risk-based or performance audits undertaken.	D
(ii) Frequency and distribution of reports.	MDA internal auditors report to internal audit management in the MoFNE monthly, and reports are also consolidated for the Minister of MoFNE. An annual report is prepared and presented to the Accounting Office in each MDA, and the main findings are summarized and presented to the Minister of Finance in MoFNE. Reports are also copied to the Audit Chamber.	B
(iii) Extent of management response to internal audit findings.	Management response is variable. Action does take place but with some delay. However some major internal audit findings see acted upon immediately by GNU in 2007.	C

### 3.5 Accounting, Recording, and Reporting

147. Adequacy of accounting, recording, and reporting is assessed against indicators and dimensions measuring the timeliness and regularity of reconciliations, information availability for service delivery units, and the quality and timeliness of both in-year and final account reporting.

#### ***PI-22. Timeliness and regularity of accounts reconciliation***

148. Accounting in GNU is the responsibility of the Chamber of Accounts. The Chamber of Accounts has 8,000 staff members who are posted in all MDAs, except for staff in the Ministry of Defense, Ministry of Interior, and Customs. Sudan follows a cash-based system of accounting.

149. The accounting system is primarily manual with the Financial Regulations of 1995 prescribing the various ledgers that need to be maintained. There is however limited automation. The MoFNE Chamber of Accounts has developed a basic in-house system for accounting for transactions and for transfer of funds after approvals are obtained. The Ministry of Health also has a basic computerized accounting system in operation.

150. Despite this rudimentary system, basic recordkeeping, accounting, reconciliation, and reporting takes place in a timely manner. Each spending unit (of which there are 189) has its own bank account. It reconciles its accounts with the bank statement received from the Central Bank of Sudan on a monthly basis. It then compiles its monthly account for submission to the Chamber of Accounts by the 15<sup>th</sup> of the following month. There are, however, many suspense accounts. (Although out of the assessment period, a task force has been established by MoFNE under the Chamber of Accounts to clear the backlog.)

151. The Chamber of Accounts prepares in-year budget execution reports, not based upon actual expenditure returns but on the basis of cash transferred to spending units that it books as expenditures. These reports include information on revenues received in the main bank account of MoFNE, and some non-cash transactions that are adjusted on a net basis. As discussed earlier, the commitment control system is weak and there is a regular build up of arrears. With the introduction of a GFS 2001-compliant chart of accounts in GNU, there are variations between the charts of account at the federal and state levels. There is no consolidation of financial statements between GNU and GoSS, even though now both have GFS 2001-compliant charts of account.

<i>INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>PI-22 Timeliness and regularity of accounts reconciliation</b>		<b>C+</b>
(i) Regularity of bank reconciliations	Bank reconciliation takes place on a regular basis. The Chamber of Accounts confirmed that around 112 out of 184 spending units manage to regularly submit reconciled monthly statements within the regulatory time limit during 2007.	B
(ii) Regularity of reconciliation and clearance of suspense accounts and advances	The final accounts statements for GNU and the States show large amounts of non-cleared suspense amounts, and limited progress has been made despite adverse comments from the Auditor General.	C

***PI-23: Availability of information on resources received by service delivery units***

152. Data presented in the 2007 PER illustrates that there have been significant budgetary increases in pro-poor allocations. However, there is no reliable information showing that spending units receive the resources allocated to them, or indeed (as the PER noted) that the units used these funds on the intended purposes, particularly at state or local levels. This situation is not helped by the fact that there has not been a Public Expenditure Tracking Survey

or anything similar as a means of demonstrating that funds are reaching the intended point of service delivery.

153. From the GNU data it seems that the only predictable resource flows through the PFM system in Sudan are for salaries, and to a lesser extent operating expenditures. Flow of funds for other purposes, and in particular for meeting development needs, are highly unpredictable. It appears that they are treated as residual, after other requirements have been met, and are thus accorded lower priority.

154. There are multiple challenges that affect fund flows, both within GNU and between GNU and the states, for onward transmission to service delivery units. Data provided by the federal Ministry of Health shows the large variation that takes place in the release of funds to service-oriented MDAs such as Health. In 2002 and 2003 the Ministry of Health only received 3 percent of the funding allocated under its development budget.

155. The experience of some other federal-level agencies appears to be similar. The Central Bureau of Statistics provides information regarding fund flows for operating costs and development expenditures. The experience of service providers is that the budgetary provisions relating to development funding are rarely adhered to.

<i>INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>PI-23 Availability of information on resources received by service delivery units</b>		
(i) Collection and processing of information to demonstrate the resources that were actually received (in cash and kind) by the most common front-line service delivery units (focus on primary schools and primary health clinics) in relation to the overall resources made available to the sector(s), irrespective of which level of government is responsible for the operation and funding of those units.	Data on resources transferred to service delivery units is not collected on a regular basis. There has been no comprehensive data collection exercise undertaken in any major service delivery sector during the last three years.	D

***PI-24. Quality and timelines of in-year budget reports***

156. There are several in-year budget execution reports. The Budget Department produces reports that show original allocations and budget releases against those allocations, as well as fiscal outturns. These reports are submitted on a regular basis to the Council of Ministers and to multilateral agencies such as the IMF and the World Bank. These reports are key inputs for monitoring adherence to the Staff Monitoring Program of the IMF. The reports are also circulated to the Council of Ministers and a summary placed on the website of the Ministry of Finance.

157. A key input for preparing this budget report is the monthly summary prepared by the Chamber of Accounts. The Chamber of Accounts bases the monthly summary on several sources: revenues accruing in the main GNU account; expenditures incurred on centralized items

for which it is authorized to make payments; budget releases to the 300-plus bank accounts that are maintained by spending units; some expenditures incurred by departments, such as Customs; and taxes that are netted against overall revenue collections. The monthly reports submitted by spending units are not utilized since they are incomplete: around 40 percent of units do not submit regular reports. The Chamber of Accounts in preparing its budget report there fore does not use actual expenditure figures. There could therefore be significant differences between actual expenditures and the cash flow available in over 300 bank accounts, all of which are authorized to hold cash.

158. The information that is summarized in these budget reports only relates to GNU and does not include states. There is therefore no reporting at the national level of sub-national expenditures, of the 15 Northern states, or of GoSS expenditures. Due to this there is therefore no presentation of consolidated budget outturn data or of consolidated fiscal data to monitor macro fiscal aggregates.

<i>INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>PI-24 Quality and timeliness of in-year budget reports</b>		D+
(i) Scope of reports in terms of coverage and compatibility with budget estimates	In-year budget reports provide information on GNU receipts and transfers to spending units, not actual expenditures. There is no information provided on commitments, nor is there any information provided of budget outturns for sub-national entities such as states. In these cases all that is recorded is disbursement from national government.	D
(ii) Timeliness of the issue of reports	In-year budget execution reports are prepared on a monthly basis.	C
(iii) Quality of information	There are issues of data quality since almost the entire PFM system is manually operated with very limited automation. Information collected and released by the Chamber of Accounts is on the basis of budgetary release and not actuals.	D

***PI-25. Quality and timeliness of annual financial statements***

159. Accounting and auditing in Sudan suffers from weak institutional capacity. Sudan has less than 200 professionally qualified accountants, and there are no clearly specified accounting or auditing standards either for the public sector or the private sector. The Sudan Council of Certified Accountants, around two decades ago, adopted a resolution requiring its members to observe International Accounting Standards. However the adoption of these standards does not have any legal backing in the country, and there is wide latitude available to the accountant or auditor as to their application for discharge of professional responsibilities. The absence of any professional body to monitor and enforce compliance is also a contributory factor since the Sudan Council of Certified Accountants has been suspended from membership of the International Federation of Accountants.

160. The Financial and Accounting Procedures Law 2007 provides for the promulgation for accounting standards for the public sector. This has not happened as yet since the regulations under this Act are still being drafted. Until that happens, the Chamber of Accounts is required to prepare accounts in accordance with the provisions of the 1995 Financial Regulations as amended in 2007. Annual accounts are required to be prepared within six months of the end of the financial year and submitted to audit. Accounts are actually being produced on time at national and state level, and recent years have seen a steep improvement in the timeliness of account closure. (There is a suggestion, however, that as state level this has been achieved at the cost of some accuracy in the comprehensiveness of both revenue and expenditure recording, something that the Auditor General has commented upon).

<i>INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>PI-25 Quality and timeliness of annual financial statements</b>		D+
(i) Completeness of the financial statements	A consolidated Annual Financial Statement is prepared for GNU. However, it does not show consolidated expenditure across sub-national jurisdictions.	C
(ii) Timeliness of submission of the financial statements	The Financial and Accounting Regulation Act (1995) stipulates that Annual Financial Statements must be submitted to the Auditor-General within six months since the end of the year. GNU has observed this in recent years. (However in terms of quality the situation at the State level may have deteriorated in recent years, as although accounts are 'closed' soon after the end of the financial year they are often incomplete).	A
(iii) Accounting standards used	There are currently no public sector accounting standards specified in Sudan.	D

### **3.6 External Scrutiny and Audit**

161. This section assesses scrutiny and audit against indicators focused on external audit scope and the impact of external audit work, both by executive and legislative follow-up, and by legislative scrutiny of both external audit processes and the budget law process.

#### ***PI-26. Scope, nature and follow-up of external audit***

162. The Interim National Constitution of 2005 specifies the role and functions of the Auditor General. Article 114 states that the Auditor General is responsible for audit of the Final Accounts of the Republic of Sudan. Article 205 states that there shall be an independent National Audit Chamber. This Chamber shall set auditing standards for the whole country and supervise the financial performance of the national government, including revenue collection and expenditure, and that it shall assume auditing responsibility for the accounts of the National Executive, National Legislature, and National Judiciary and the accounts of the Northern states, public

institutions, corporations, companies, and any other institutions that may be determined by law. The Interim National Constitution also states that the Audit Chamber can specify the terms and conditions of its employees.

163. Further to the constitutional provisions, the Legislature passed the National Audit Chambers Act 2007 that further strengthened the institutional, financial, and operational independence of the Audit Chamber. It is under the provisions of this extended mandate that the Auditor General has issued his audit reports for the last two years.

164. The National Audit Chamber employs about 700 qualified auditors and 300 supporting staff. The Chamber is composed of 3 main departments: National Government, Corporations, and States. Despite improvements in the legislative framework, the Chamber is still resource constrained, with large requirements for capacity building and upgrading of infrastructure. The state-level situation is worse, and a lack of resources severely constrains the effectiveness of the external audit function.

165. Financial audit is the main focus of the Chamber. Performance and environmental audit work has also been undertaken, but is somewhat constrained by capacity. Despite constraints, the Chamber has managed to discharge its duties relatively well, producing its annual audit report on time (and turning over the final accounts within 3 months of closure) and highlighting major fiduciary issues that need to be addressed across the various tiers of government and in public enterprises. In FY06, the Auditor General detected misappropriations of SD561.2 million, around half of which related to activity in central institutions and the other half in national companies and corporations. There is evidence of follow-up of recommendations by the executive, although this is in part helped by the legislative scrutiny afforded by the House of Representatives (further discussed in PI-28).

166. The uncovering of the misappropriations has resulted in the filing of 79 cases of which 10 charges were decided on by a court of law, 13 charges are pending before courts of law, 24 charges are being investigated by the police, 11 charges are in the hands of the heads of the concerned institutions, and 21 charges were dropped. About 4 percent of the misappropriated funds had been recovered by the end of 2007.

167. The National Audit Chamber is functioning in a challenging fiduciary environment and needs to be strengthened to provide increased accountability for the large flow of funds to GNU institutions as well as states.

<i>INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>PI-26 Scope, nature and follow-up of external audit</b>		B+
(i) Scope/nature of audit performed	Under the National Chambers Act the Auditor General is authorized to audit all public institutions at all three tiers of government along with any corporation or public enterprise where the Government's share is greater than 20%. It is fulfilling its mandate.	B
(ii) Timeliness of submission of audit	The Auditor General's reports are submitted to the National Assembly by November of the current year, five months after	B

reports to legislature	receipt from MoFNE. These reports have been submitted in a timely manner in the past.	
(iii) Evidence of follow-up on audit recommendations	There is clear follow up of the findings of the Auditor General's reports by the executive, although this is aided in part by support from the legislature. This is evidenced by the work of Ministerial committees under Presidential decree.	A

***PI-27. Legislative scrutiny of the annual budget law***

168. The Interim National Constitution provides for legislative scrutiny of the Annual Budget Law. The relevant provisions are Article 91 (3)(c), 110, 111, and 113. These provide for presentation of the National Budget Bill and the details thereof, as well as the processes to be followed once the Appropriation Act has been approved. Article 113 deals with provisional and supplementary financial measures among which is that in case the Appropriation Bill is delayed, then expenditure shall continue in accordance with the estimates approved for the previous year.

169. The procedures for scrutiny of the budget are contained in the National Assembly Business Regulations that were issued in 2005. These specify that the Economic Affairs Committee is responsible for evaluation and scrutiny of the budget and for presenting its report to the legislature. During the scrutiny process, the Economic Affairs Committee invites heads of public entities, private sector representatives, and academicians to discuss the draft proposals. The budget becomes an Act of Parliament once the full House votes and approves the detailed budget estimates. Upon signature by the President of the State, the Appropriation Bill becomes a binding law.

170. The Legislature is provided only two weeks within which to scrutinize and approve the budgetary estimates. Capacity constraints limit the ability of the Economic Affairs Committee to undertake effective scrutiny. A capacity-building program is in operation but is likely to take time. Due to the present situation, legislative proposals are discussed but not significantly amended during their passage through the Legislature.

171. The state-level situation is quite different. The process is highly political with the Legislature actively involved in revising both revenue and expenditure figures. For example, in North Kordofan State, the budget goes through three readings. Revenue figures get significantly revised at each stage leading to corresponding increases on the expenditure side – resulting in both unrealistic budgeting and poor budget execution (Table 23).

172. Both situations are in need of reform with the ultimate goal of more constructive scrutiny of budgetary proposals by the Legislature.



**Table 23. North Kordofan: Budget Revisions in Different Stages, 2006 Budget (millions SD)**

	Budget (SD million)		
	Stage 1 (proposed)	Stage 2 (revised)	Stage 3 (approved final)
Total, own revenue	3,099	6,527.9	10,066.9
Ministries	-	2,539.3	3,026.0
Education	140.1	140.1	165.3
Health	366.4	371.9	438.8
Urban Planning	730.2	730.2	861.6
Localities	-	2,806.6	5,000.0

Source: PER case study (2007).

INDICATOR	BRIEF COMMENT	SCORE
<b>PI-27 Legislative scrutiny of the annual budget law</b>		D+
(i) Scope of the Legislature's scrutiny.	The Interim National Constitution provides the legislative framework for scrutiny of the budget by the Legislature, but only once draft budgets have been finalized (i.e. at an advanced point in proceedings) . The scope of review is nevertheless broad.	C
(ii) Extent to which the Legislature's procedures are well established and respected.	The Interim National Constitution was adopted in 2005. The procedures are well respected and complied with.	B
(iii) Adequacy of time for the Legislature to provide a response to budget proposals both the detailed estimates and, where applicable, for proposals on macro-fiscal aggregates earlier in the budget preparation cycle (time allowed in practice for all stages combined).	The budget is presented to the National Assembly at the beginning of December and is expected to pass within two weeks. This is inadequate for meaningful debate or scrutiny of the proposals.	D
(iv) Rules for in-year amendments to the budget without ex-ante approval by the Legislature.	No amendments to the budget are allowed without the approval of the National Assembly. However reallocation of funds within the entities approved allocation is permissible with the approval of the MoFNE. Article 113 (3) of the Interim National Constitution specifies that any expansion of the overall level of expenditures needs the approval of the National Assembly in the form of a supplementary budget.	B

### ***PI-28. Legislative scrutiny of external audit reports***

173. Scrutiny and follow up by the Legislature of external audit reports is essential for closing the accountability loop. In Sudan, the reports of the Auditor General are submitted to the National Assembly and are reviewed by one or more of the Economic Affairs Committee, Legal Affairs Committee, Frauds Examinations Committee, and the Environmental Committee as appropriate. The Economic Affairs Committee takes the lead and consolidates the findings of the various Committees before presenting recommendations to the legislature as a whole.

174. The review process by the Economic Affairs Committee happens within six months of the submission of the reports of the Auditor General. The 2007 Auditor General's report regarding audit of the 2006 accounts summarizes the actions taken by the Legislature and the Executive to follow up on the annual reports:

- The National Assembly passed Resolution No. 31 on June 25, 2007 approving the Auditor General's report for FY2005 and making 26 recommendations for implementing the findings.
- On receipt of this Resolution, the Auditor General immediately met with the managers of the concerned institutions to deliberate on the recommendations. Six meetings were held starting on July 22, 2007. Clear-cut instructions were issued to each of these institutions to implement the recommendations.
- A review meeting was held on October 25, 2007 revealed that many recommendations had been complied with and that others were in process.
- The President of the Republic of Sudan meanwhile issued Republican Decree No (219) on August 4, 2007, forming a Ministerial Committee to review and follow up on the Auditor General's reports. This Committee is headed by the Minister of the Presidency of the Republic and comprises the Minister of Justice, Minister of MoFNE, Minister of Labor and Public Service and Human Resources Development, and the State Minister of the Ministry of the Council of Ministers.
- This high-level Ministerial Committee in turn issued a resolution constituting a Technical Committee. The Technical Committee in turn reviewed all the reports of the Auditor General and provided a comprehensive report on how to operationalize the various recommendations.
- Follow-up action was taken on the findings of the Technical Committee.

175. The Auditor General in his address to the National Assembly in October 2007 gratefully acknowledged the support provided for implementing the recommendations:

I, together with all my workmates at the Chamber, firmly believe that all our reports submitted to your dignified Assembly really receive due appreciation, concern and follow up. And this does not only help us realize our mission but equally encourages and motivates us to make every endeavor to carry out control duties in the most accurate and efficient manner...<sup>6</sup>

Clearly there is effective follow up at the Federal level on the findings of the reports of the Auditor General.

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<sup>6</sup> The Republic of the Sudan, The National Audit Chamber, The Auditor General's address to: The National Assembly on: The Final Accounts of the National Unity Government for the Fiscal Year 2006, page 68.

INDICATOR	BRIEF COMMENT	SCORE
<b>PI-28 Legislative scrutiny of external audit reports</b>		B
(i) Timeliness of examination of audit reports by the Legislature (for reports received within the last three years).	Scrutiny of audit reports is the responsibility of three committees of Parliament. This scrutiny takes place in a timely manner, within six months of submission of these reports.	B
(ii) Extent of hearings on key findings undertaken by the Legislature.	There is clear evidence of follow up by the Economic Affairs Committee of the Auditor General's reports. Key findings have been further considered by Ministerial Committee (following Republican Decree) and consideration given by a designated Technical Committee (comprising auditee ministries) as to how recommendations can be implemented.	B
(iii) Issuance of recommended actions by the Legislature and implementation by the Executive.	At the Federal level, recommendations are issued and pursued through the specially convened Ministerial Committee and a Technical Committee.	B

### 3.7 Donor Practices

176. The framework for assistance to Sudan by donors and multilateral institutions is based on the reports prepared by the UN Joint Assessment Mission in early 2005 and the commitments made by donors and the Government at the Oslo Conference in April 2005. Oslo commitments are linked with the implementation of Comprehensive Peace Agreement.

#### *D-1. Predictability of direct budget support*

177. There is no direct budget support from donors. All aid is delivered through self-standing projects and programs outside of the national budget process. The MDTF-based aid modality for Sudan uses stand-alone procedures for programming, accounting, disbursement, and reporting. Although some donors undertook to look at the disbursement of budget support in principle some while ago, this now looks increasingly unlikely in the current economic climate.

INDICATOR	BRIEF COMMENT	SCORE
<b>D-1 Predictability of direct budget support</b>		N/A
(i) Annual deviation of actual budget support from the forecast provided by the donor agencies at least six weeks prior to the government submitting its budget proposals to the Legislature.	There is currently no direct budget support being provided to Sudan.	N/A
(ii) In-year timeliness of donor disbursements.		N/A

### ***D-2. Financial information provided by donors for budget, reporting on project, program aid***

178. Aside from the MDTF, reporting of project operations to the Government is reportedly poor, with little co-ordination with MoFNE on disbursement profiles or aid flows.

<b><i>INDICATOR</i></b>	<b><i>BRIEF COMMENT</i></b>	<b><i>SCORE</i></b>
<b>D-2 Financial info provided by donors for budget, reporting on project, program aid</b>		<b>D</b>
(i) Completeness and timeliness of budget estimates by donors for project support	Not all donors (including some major donors) provide budget estimates for disbursement of project aid in a timely manner – at least three months from the start of the fiscal year.	D
(ii) Frequency and coverage of reporting by donors on actual donor flows for project support	Donor reporting on disbursements to MoFNE is reportedly poor. Some programs, including those funded by MDTF, present timely reports to Government, but many do not, presenting challenges in the reconciliation of donor project accounts.	D

### ***D-3. Proportion of aid that is managed by use of national procedures***

179. All project aid is managed through ring-fenced procedures and institutional arrangements, outside of national systems.

<b><i>INDICATOR</i></b>	<b><i>BRIEF COMMENT</i></b>	<b><i>SCORE</i></b>
<b>D-3 Proportion of aid that is managed by use of national procedures</b>		<b>NA</b>
(i) Overall proportion of aid funds to Central Government that are managed through national procedures.	Modalities involving the management of aid funds through national procedures are not utilized in Sudan.	NA

## Section 4. Assessment of Sudan's National Procurement Systems

180. This CPAR uses the methodology for assessment of national procurement systems based on the OECD DAC and the World Bank Round Table Indicators. Under each pillar, the main findings have been analyzed using the OECD DAC Base Line Indicator (BLI) system by scoring each sub-indicator; the CPAR recommendations of actions required to meet the indicators follow each pillar analysis. A time-bound action plan is included at the end of the report. All things that work well in the Sudan procurement system have been captured to the extent possible. The existing procurement regulations that guide procurement have been described, and areas that require improvements to remove opportunities for discretionary application are identified.

### 4.1 Pillar I. Legislative and Regulatory Framework

181. The Interim National Constitution 2005 provides for sources of legislation, including *Islamic Sharia*. The nationally enacted laws affect only the Northern states of the Republic of the Sudan. Sudan's existing legal system is similar to the English Common Law System. Most of the procedural and the substantive laws are based upon the English models. Sudan's Constitution does not, as for most countries, address the issue of public procurement. Unlike its neighboring countries, Sudan has yet to enact a law exclusively providing for the procurement of goods, works, and services by governmental entities. Under its federal structure, the states are empowered to make their own laws in line with the national standards. The nature and extent of the authority of the Federal Government vis-à-vis the states is subject to detailed provisions in the Constitution.

182. Chapter VIII of the Financial and Accounting Regulations 1995 framed under the Financial and Accounting Procedure Act 1995 represents the current legal framework for Sudan's national procurement systems. The 1995 Act was amended in 2007 and the revised Regulations exclude the provisions on procurement in anticipation of a separate public procurement act. The Government-issued Regulations essentially provides details of procedures to be followed in securing and disbursing public funds, including the procedure governing the procurement of public contracts. The Government-issued Regulations can also be changed by government, without requiring approval by the Legislature. This is not always in the best public interest.

183. The Ministerial Decree No. 34 of 1995 and the Procedures Guidelines of 2003 mandate the Public Procurement Department to carry out oversight for formulating procurement policy and systems, setting standards, preparing manuals and standard tender documents, capacity building, monitoring compliance with procurement regulations, and other responsibilities. Other existing procurement-related laws include basic Contract Law and Civil Engineering Contract Law under Part II and Part XII, respectively, of the Civil Transaction Act 1983. The Civil Engineering Contract provisions of the Act adequately deal with contract administration aspects, an important activity of the procurement. It has labor-related provisions covering wages, and obligations of the worker (labor) and the employer. The Labor Act 1997, apparently applicable to

the industrial labor (construction industry), provides that no child below age 15 shall be employed in any hazardous jobs listed by law. However, children below 15 years may otherwise be employed in other jobs when living with their guardians in the work place.

184. An analysis of the existing procurement-related Regulations reveals that they merely set forth major principles, in a somewhat inadequate way, leaving broad discretion to the evaluation committees and contracting agencies. An example of the use of such discretion is described in Box 1. The systems are open to risks, potentially leading to a lack of efficiency, fairness, economy, and transparency. The is scope for refinement of the Regulations to address important elements like procurement planning; advertisement; bid documentation, including pre-disclosed criteria; bid submission, and opening evaluation; awarding of the contract to the lowest evaluated responsive bidder; and finally the management of contracts.

**Box 1. Discretionary Procedures in Public Procurement**

During the visit to Khartoum State, the assessment mission was informed that the Housing Development Fund under the Ministry of Physical Planning and Public Utilities constructs about 3,000 low-cost houses annually in lots. Tenders are invited from the pre-qualified contractors, who are selected based on their capabilities annually. Tenders are invited on fixed-price basis. The bids offering bid price more than estimated price are rejected outright. Those quoting lower or at par with the estimated price are awarded the contracts by distributing the numbers of houses to be built among them. The distribution reportedly is based on the capacity of the individual contractors. Such procedures, both for the call of bids and the awarding of a contract, result from vague and inadequate regulations requiring discretion.

185. Sudan has made some progress in improving the national procurement system through a new procurement bill. The National Organs Purchases and Sales (Organization) 2006 was presented to the National Assembly in 2006. The bill did not set out its objectives. It was not sufficiently detailed to address the problem of discretionary procurement and would not facilitate effective public procurement that ensures economy, efficiency, transparency, and fairness, as well as fostering the development of the private sector. Several of the provisions were not compatible with international norms and practices and would also not promote integrity, accountability, and public confidence in Sudan's public procurement system. Following the stakeholder workshop on the findings of the procurement assessment, the National Assembly returned the bill to MoFNE for revision.

186. The MoFNE subsequently produced (without external assistance) a new draft and submitted it to the National Assembly. The proposed National Public Procurement Act of 2007 represents real progress and a strong demonstration of political will to improve the procurement systems. There was a general consensus and willingness on the part of the officials involved in the drafting of the new Bill to incorporate provisions generally in line with the UNCITRAL model law on procurement of goods, works and services, under separate headings. An Arabic version of the bill was shared with the World Bank and team members provided preliminary comments in June 2008.

187. In order to obtain formal comments from the Legal Department of the World Bank Africa Region (LEGAF), the assessment team had the proposed National Public Procurement Act translated. In October 2008, the LEGAF provided detailed comments, which were also

translated into Arabic and submitted to MoFNE in January 2009. This report analyzes the existing procurement regulations recognizing that until the National Public Procurement Act is enacted, public procurement is still regulated under the existing procurement regulations. The Bank's comments have however been submitted to the GNU for consideration with a view to bringing the necessary improvements before the National Assembly approves the bill into law.

188. The proposed National Public Procurement Act consists of 15 chapters and 2 appendices. Chapter 14, Technical Unit of Controlling Government Assets, is not included in this review. The principles of transparency, accountability, economy, efficiency, and open competition are embodied in the proposed act. The act provides for broad preferences for the awarding of contracts to Sudanese corporations and should clearly state whether there is other social welfare protection legislation that legally provides for such preferences. While it is recognized that there is a need for the Sudanese Government to support its domestic procurement stakeholders, the preference for awarding Sudanese corporations is inconsistent with internationally accepted procurement principles to limit the participation of foreign contractors.

189. The proposed act provides for a framework for the institutional aspects of an accountable and transparent procurement system, but the hierarchy of the various proposed bodies is not always clear. Some functions may overlap, and staff capacity and resources may not match the requirements of the Act. This may simply be a matter of translation, but it is advisable to review this aspect closely. It is recommended that during the legislative discussion, the proposed act be carefully reviewed and harmonized with the broader administrative and judicial legal framework in Sudan, particularly with respect to anti-corruption measures.

190. Raising some concern among reviewers, Chapter 13 of the proposed National Public Procurement Act, describes the administrative and financial penalties that may be imposed upon a contracting party by the General Directorate. It is unusual for a procurement regulatory body, such as the proposed General Directorate to be granted this power over contract disputes between contracting parties. It is somewhat alarming to read that the General Directorate "shall use pressure means and coercion, the objective of which is to enforce the negligent contracting party to live up to his/her obligations." When this authority is combined with the powers granted to the General Directorate under Section 4 of the proposed act, an interpretation could clearly be made that the General Directorate shall have quasi-law enforcement powers. This unusual, though not unprecedented, mandate for a procurement regulatory authority should be reviewed. It would be best to clarify what intended by those who drafted the bill; Chapter 13 may simply be intended to define the standards for penalties that should be embodied in contracts, although this is not clear from the present translation.

191. The adequacy of the existing legal framework is assessed through the following 12 baseline indicators and respective sub-indicators.

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

192. This indicator looks at the coverage, structure, and provisions of the legal and regulatory instruments from the highest national level to the detailed regulation, procedures, and standard bidding documents formally in use.

***Sub-Indicator 1(a). Scope of application and coverage of the regulatory framework***

193. Chapter VIII of the Financial and Accounting Regulations 1995 contains only 10 clauses to regulate public procurement. This makes it inadequate in several respects, including clarity. The regulations do not address transparency, economy, efficiency, and accountability in the large public spending taking place through the public procurement system. It does not mandate the adoption of open competition in the awarding of contracts to provide the best basis for achieving value for money in delivery of programs and services by the public sector. Furthermore, the regulations do not provide for the use of alternatives to open competition that may be appropriate only when justified in specific, defined situations. It is not clear how the regulations provide for all procurement of goods, works, and services, including consulting services, and if it is widely available to all procurement practitioners.

194. The 1995 Regulations are applicable to all Sudanese federal government entities, including parastatals, in carrying out procurement out of public funds. State governments may, by the provisions of the Constitution, put in place their own laws and regulations, but in reality they too largely follow GNU regulations.

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>1(a) Scope of application and coverage of the regulatory framework</b>		<b>0</b>
(i) Is adequately recorded and organized hierarchically (laws, decrees, regulations, procedures) and precedence is clearly established	There is no law exclusively providing for public procurement, and only chapter VIII of the Financial and Accounting Regulations and a Chapter on Purchasing and Contracting Guidelines of the MoFNE manual are recorded	
(ii) All laws and regulations are published and easily accessible to the public at no cost.	There is no law and therefore no publication, but the Regulations and MoFNE manual are accessible to practitioners	
(iii) It covers goods, works, and services (including consulting services) for all procurement using national budget funds	The regulations have a reasonable coverage	

***Sub-Indicator 1(b). Procurement methods***

195. The 1995 Regulations, under clause 56, provide for 4 methods of public procurement: (a) open tendering, (b) closed tendering, (c) direct contracting, and (d) quotations. There is no provision for community contracting and force account (department employing labor force directly). The Regulations also have no separate provision for procurement of consulting services. The conditions for use of the 4 methods are not very clear and also not followed uniformly.

196. ***Open tendering.*** The Regulations specify open tendering (bidding) as the preferred method but not by default. It does not appear to be widely practiced. The Regulations do not identify any differences between international competitive bidding and national competitive bidding. It is understood that in practice a foreign bidder desirous to participate can do so only



through an agent. The Civil Transactions Act provides for the contract of agency under Part XIV, which defines an agent and his authority.

197. **Procedures for closed (restricted/limited) tendering.** A procuring entity desirous of following closed tendering is required to maintain (and update annually) a list of companies and individuals, selected from those applying, based on their financial and technical capabilities and experience. Closed tendering is a commonly used method of procurement, and corresponds to limited bidding or tendering. All the procedures applicable to open tendering apply to restricted or closed tendering, as provisioned under Sub-clause 61(2) of the 1995 Regulations, with the exception of advertisement. Bids are solicited directly from the list of suppliers or contractors maintained in the procuring entity. Conditions such as “urgent cases” and “injurious delay of public policy” that result in closed tendering seem open to abuse. When utilized by the procuring entity, the list for identifying and inviting the annually pre-qualified bidders (tenderers) must be established in accordance with Article 58(2) of the Regulations. The Regulations are not clear if opportunity to participate is to open to all prequalified bidders or by rotation, equitably among the listed bidders. In practice, bids are solicited from a shortlist of about 6 from the long list of prequalified bidders. The process appears to be highly discretionary.

198. **Direct contracting and quotations.** The Regulations allow direct contracting under the following three circumstances: (i) Competition is not possible due to monopoly or otherwise, (ii) commercial loan agreement between states; and (iii) for additional scope of contract where the value does not exceed 25 percent of the original contract value . It is however not clear if the extension of the original contract would be a variation order or a separate single-sourced direct contract. The provision in Part XII of the Civil Transactions Act dealing with Civil Engineering Contracts (Clause 390) identifies this as a continued performance and obviously an extension of the contract through a variation order, which is in line with good practice.

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>1 (b) Procurement methods</b>		<b>1</b>
(i) Allowable procurement methods are established unambiguously at an appropriate hierarchical level along with the associated conditions under which each method may be used, including a requirement for approval by an official that is held accountable	There are four allowable procurement methods: open tendering; closed tendering; direct contracting; and quotations. Thresholds for the mandatory use of open tendering are set by the Minister of Finance	
(ii) Competitive procurement is the default method of public procurement	Open tendering is the “preferred” rather than the “default” procurement method	
(iii) Fractioning of contracts to limit competition is prohibited	Not specified	
(iv) Appropriate standards for international competitive tendering are specified and are consistent with international standards	Not specified	

***Sub-Indicator 1(c). Advertising rules and time limits***

199. The 1995 Regulations mandate that an invitation to tender be advertised through mass media, domestic or international or both, for all contracts without differentiating between national-level and international-level contract bidding. Mass media is not defined. Regulations do not mandate posting of such notices on the website of the concerned entities or of the Public Procurement Department. Notices inviting tenders are not published in The (government) Gazette, which is available to the general public. This is a serious deficiency, particularly since the “available media” is not specified, which means that interested bidders cannot be sure where they should look for tender invitation notices. It is understood that usually notices are published in 6 of the 12 newspapers in Khartoum. There are as many as 40 newspapers in circulation nationally.

200. ***Sufficient time for bid preparation.*** The Regulations under clause 61(b) prescribe a minimum period of 15 days for open bidding. Given the size of the country, the period is inadequate. The length of time is too short to provide equal opportunity to all potential bidders across the country to participate in open bidding.

<b><i>SUB-INDICATOR</i></b>	<b><i>BRIEF COMMENT</i></b>	<b><i>SCORE</i></b>
<b>1 (c) Advertising rules and time limits</b>		<b>2</b>
(i) Requires that procurement opportunities other than sole source or price quotations be publically advertised	Requirement to advertise in either inside or outside media or both	
(ii) Publication of opportunities provides sufficient time, consistent with the method, nature and complexity of procurement, for potential bidders to obtain documents and respond to the advertisement. Such timeframes are extended when international competition is sought.	Minimum time allowed for bidders to respond is 15 days	
(iii) Publication of open tenders is mandated in at least a newspaper of wide national circulation or in a unique official internet site, where all public procurement opportunities are posted that is easily accessible	No unique official internet site, and about 40 newspapers in circulation making it difficult to choose which to advertise in.	
(iv) Content of publication includes sufficient information to enable potential bidders to determine their capability and interest in bidding	Not specified	

***Sub-Indicator 1(d). Rules on participation***

201. ***Preference to local bidders competing with foreign bidders.*** The Regulations do not make specific provision on domestic preference.

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>1(d) Rules on participation</b>		<b>2</b>
(i) Establishes that participation of any contractor or supplier or group of suppliers or contractors is based on qualification or in accordance with international agreements; requires the use of pass/fail basis for determining qualifications to extent possible; limits domestic price preferential, if allowed, to a reasonable amount (e.g., 15% or less); and requires justification for set asides that limit competition	No provisions limiting foreign participation or specifying domestic preference	
(ii) Ensures that registration if required does not constitute a barrier to participation in tenders and does not require mandatory association with other firms	Not specified	
(iii) Provides for exclusions for criminal or corrupt activities, administrative debarment under the law subject to due process or prohibition of commercial relations	Not specified.	
(iv) Establishes rules for the participation of government owned enterprises that promote competition	Not specified	

***Sub-Indicator 1(e). Tender documentation and technical specifications***

202. The 1995 Regulations do not specifically specify the content of the tender documentation. However, the provision under clause 65(1) briefly provides for what the contract should contain, but the provision seems to imply that these are to be included when the bidding process is completed and at the time of entering into contract. Clause 60 c of the Regulations provides for technical specifications to be drafted by a committee constituted by the head of the unit. Requirement of their neutrality with reference to international standards is not stated. Sudan does not have any standard bidding documents so the Regulations are silent on the use of such instruments. The Regulations are also silent on the importance of bidding documents that serve as the basis for the preparation and submission of bids by participating bidders and whose quality has a direct bearing on the competition and on the responsiveness of the bids that are submitted.

203. ***Clarification and modification of bidding (tendering) documents.*** Issuing written clarification to all bidders in response to any request for clarification from any bidder is crucial to the successful implementation of competitive procurement proceedings. However the Regulations do not provide for this action.

SUB-INDICATOR	BRIEF COMMENT	SCORE
<b>1 (e). Tender documentation and technical specifications</b>		<b>0</b>
(i) Establishes the minimum content of the tender documents and requires that content is relevant and sufficient for tenderers to respond to the requirements	This is not established	
(ii) Requires the use of neutral specifications citing international standards when possible	No requirement specified	
(iii) Requires recognition of standards which are equivalent when neutral specifications are not available	No requirement specified	

***Sub-Indicator 1(f). Tender evaluation and award criteria***

204. The 1995 Regulations do not prescribe the bid evaluation process. It is left to the discretion of the committee to draw up evaluation criteria and evaluate the bids [Sub-clause 61.1(e)]. The manual of the Ministry of Finance has a chapter on Purchasing and Contracting Guidelines, which deals in brief with the bid evaluation. Two method are prescribed:

- The envelopes containing technical proposals are opened and evaluated. Only the financial proposals of those qualifying are opened at a later date, and not in the presence of the bidders. The lowest bid offering shall be determined the successful bidder.
- The bidder scoring highest in the combined technical and the financial proposals is determined the winning bidder.

This process of developing evaluation criteria and points and weights by the evaluation committee for the purpose of evaluating the bids, without disclosing to the bidders upfront, is against the principles of fair competition, equal opportunity, efficiency, and transparency.

205. The Regulations do not include provision for procurement of consulting services. Consulting services contracts are procured following the procedures for goods and works as no separate documentation or system is in place for such procurement. The system does not provide for the unique nature of consulting services under which the emphasis is more on quality than price as the quality of the studies have huge downstream effects.

206. ***Two-envelope system for the procurement of goods and works.*** The Regulations mandate use of the two-envelope system. Generally there is apprehension in the business community with regard to the safety and confidentiality of their bid when it is in the custody of the public sector.

207. ***Bid rejection on the basis merely of price estimates of the engineer.*** Rejection of bids solely on the basis of comparison of cost with the engineer's estimate does not appear to be a problematic area. It is reported that contracts have been awarded despite the lowest bid price

being substantially higher than pre-bid estimate. This however raises another issue of possible collusion or cartel by the bidders for which there seems to be no controlling mechanism.

208. Good practice set out in guidelines specifies that any evaluation report shall be signed by the chairman and the members of the evaluating committee and forwarded to the Purchasing and Contracting Department. However, and contrary to this, Sudan’s Regulations prescribe that the report shall be forwarded to the head of the entity for approval. These procedures are followed in practice. Furthermore, the Regulations do not clearly specify that a contract shall be awarded to the lowest evaluated bidder who submitted the lowest price and who meets all qualification criteria.

209. **Post-bidding negotiation with the lowest or any other bidder.** The Regulations are silent on post-bidding negotiation with any bidder. It is understood that such a practice is commonly adopted. The negotiations/evaluation process in the post-bid and pre-award period is invariably a secret process (for not entirely transparent reasons).

210. **Requirement for publication of contract awards.** The Laws and Regulations do not mandate the publication of notice of the award, which is an essential element of transparency.

SUB-INDICATOR	BRIEF COMMENT	SCORE
<b>1 (f) Tender evaluation and award criteria</b>		<b>0</b>
(i) The evaluation criteria are relevant to the decision and precisely specified in advance in the tender documents so that the award decision is made solely on the basis of criteria stated in the tender documents	Not specified	
(ii) Criteria not evaluated in monetary terms are evaluated on a pass/fail basis to the extent possible	Not specified	
(iii) The evaluation of proposals for consulting services gives adequate importance to the quality and regulates how price and quality are considered	Two envelopes system specified for all types of procurement (works, goods, services including consulting services)	
(iv) During the evaluation period, information relating to the examination, clarification and evaluation of tenders is not disclosed to participants or others not involved officially in the evaluation process	Not specified	

***Sub-indicator 1(g). Submission, receipt, and opening of tenders***

211. The suggested score for this sub-indicator is 1 as the legal framework provides for public tender opening and maintenance of the record of proceedings.

212. The Regulations provide for part-bid submission through electronic media with the condition that details are sent later. The electronic submission is of no use since the complete bid

with all details is to be submitted before the deadline for bid opening. Also unless the information submitted electronically is encrypted, as in an e-procurement system, such a procedure is not secure and confidential.

213. The Regulations under clause 61.1(e) provide for bid opening and the evaluation through a committee formed by the head of the procuring entity. The rules do not provide for opening of the bids in public, including in the presence of the bidders who chose to be present, and the representatives of the civil society. This action is essential for transparency and for the confidence in the system by the business community and the public at large.

214. ***Bidders allowed, prior to the deadline for bid submission, to amend or withdraw their bid.*** The Financial and Accounting Regulations 1995 or any other legal document has no provision to allow withdrawal of or amendment to a submitted bid prior to the submission deadline. However, respondents to this review suggest that withdrawal or amendment can be done through a written request contained in a sealed envelope and dropped in the tender box, before the deadline for bid submission.

<b><i>SUB-INDICATOR</i></b>	<b><i>BRIEF COMMENT</i></b>	<b><i>SCORE</i></b>
<b>1(g) Submission, receipt, and opening of tenders</b>		<b>1</b>
(i) Public opening of tenders in a defined and regulated proceeding immediately following the closing time for bid submission	Procedures for opening of tenders is provided for in the regulations	
(ii) Records of proceedings for bid openings are retained and available for review	This is implied in the regulations but is not explicit	
(iii) Security and confidentiality of bids is maintained prior to bid opening and disclosure of specific sensitive information during debriefing is prohibited	The private sector does not trust the security of its bids with public officials	
(iv) The modality of submitting tenders and receipt by the government is well defined to avoid unnecessary rejection of tenders	Tender submission modality defined includes electronic submission though the security for electronic submission may not be in place	

***Sub-indicator 1(h). Complaints***

215. Neither the Financial and Accounting Regulations 1995 nor any other instruments in the framework set out a speedy settlement mechanism allowing aggrieved bidders to complain about rule violations by the public procurement officials, something that is essential in order for bidders to have confidence in the fairness of the procurement process.

216. ***Oversight and complaint review mechanism.*** There is no provision in the Regulations for policy formulation and monitoring of public procurement. Similarly, there is no body to address grievances or allay feelings of mistrust that might result from many factors in public procurement. There is no complaint review mechanism to address the grievances of the

unsuccessful bidders. Current Sudanese laws do not have adequate provisions for combating procurement-related corruption. The Unlawful Suspicious Enrichment (Combating) Act 1989 and Penal Code (Chapter X – Article 88) provisions are really intended to apply to the persons in the public service, and have limited application to those who fall outside of it.

217. Credible mechanisms to handle complaints are an important part of the procurement systems. In terms of good practice, three levels of appeal are widely used. The contracting entity as the first level of appeal. The normative/regulatory body is the second level of appeal, receiving complaints directly from aggrieved bidders or complaints against the decision of the contracting entity. An appeals body is the third level with adequate autonomy to enforce its decisions is required to receive complaints directly from aggrieved bidders or complaints against the decision of the normative/regulatory body. Beyond the appeals body, the complainant would have to seek redress from the courts of law. In countries such as Tanzania that have established an appeals body, members of the body include a High Court Judge as Chairman and other members appointed by the Minister of Finance. Other members shall have knowledge and experience in public procurement, finance, commerce, business administration or law, and the private sector. Members should be from institutions having no direct vested interest in public procurement. The whole concept is to establish a credible appeals mechanism, which delivers judgment promptly and fairly and with enforcement powers.

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>1(h). Complaints</b>		<b>0</b>
(i) The right to review for participants in a procurement process	Not specified	
(ii) Provisions to respond to a request for review at the procuring/agency level with administrative review by another body independent from the procuring agency that has the authority to grant remedies and includes the right for judicial review	Not specified	
(iii) Establishes the matters that are subject to review	Not specified	
(iv) Establishes timeframes for issuing decisions by the procuring agency and the administrative review body	Not specified	

## ***BLI 2. Existence of implementing regulations and documentation***

218. This baseline indicator looks at the availability of implementing regulations and supporting documents. Sub-indicators probe different dimensions of the availability of regulations and instructions.

### ***Sub-indicator 2(a). Implementing regulations that provide defined processes and procedures not included in higher-level legislation***

219. There is no procurement law as such, and Chapter VIII of the 1995 Financial and Accounting Regulations does not represent regulations to a public procurement law as such. As

procurement regulations, they are at best sketchy and not comprehensive. In particular, the Regulations do not do the following:

- Provide for procurement planning;
- Adequately define the processes and procedures;
- Provide for the creation of model tender documents for goods, works, and services;
- Prescribe the pre or post qualification mechanism for contractors;
- Prescribe procedure and requirements for procurement of consulting services in which technical capacity is a key criterion;
- Provide for any system to provide a proper forum for resolution of any grievances regarding any procurement transaction; and
- Have an oversight unit dealing with policy aspect of the public procurement.

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>2(a) Implementing regulations that provide defined processes and procedures not included in higher level legislation</b>		<b>0</b>
(i) They are clear, comprehensive and consolidated as a set of regulations available in a single and accessible place	There is no clear and comprehensive regulation exclusively for procurement	
(ii) They are updated regularly	No evidence of updating	
(iii) The responsibility for maintenance is defined	The responsibility for maintenance is not defined	

***Sub-indicator 2(b). Model tender documents for goods, works, and services***

220. There are no standard bidding documents in place. However, Clause 65(1) of the 1995 Regulations identifies a few items to be included in the contract before signing. These items mainly relate to contractor’s obligations, security, specifications, completion deadlines, advance payment management, punitive clauses to impose penalties, recovering compensation for any loss, and “providing for the power to avoid the contract”. Sub-clause (65.2) makes it mandatory to get approval of the Ministry of Justice or its representative in the concerned procuring entity for drafting or revising the provisions in a legally approved form. This clearly shows that these provisions are not stipulated in the bidding documents but are introduced at the time of contract signing. It is also noted that there is no mention about the employer’s obligations and risk-sharing mechanism. Also, the employer must meet its obligations, otherwise the contractor will be entitled to the remedies stated in the contract. Obligation of the employer is provided for under Chapter 3 of the Civil Transaction Act dealing with civil engineering contracts.



<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>2(b). Model tender documents for goods, works, and services</b>		<b>1</b>
(i) There are model invitation and tender documents provided for use for a wide range of goods, works and services procured by government agencies	No standard bidding documents are available	
(ii) There is a standard and mandatory set of clauses or templates that are reflective of the legal framework, for use in documents prepared for competitive tendering	There are Clauses that have been specified for mandatory inclusion in contracts.	
(iii) The documents are kept up to date with responsibility for preparation and updating clearly assigned	Not specified	

***Sub-indicator 2(c). Procedures for pre-qualification***

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>2(c) Procedures for pre-qualification</b>		<b>0</b>
(i) Provide for limitations on the content of prequalification criteria that are based on the needs of the specific procurement	No provisions	
(ii) Specify the use of pass/fail for application criteria	Not specified	
(iii) Provide guidance on when to apply a prequalification procedure	Not provisions	

***Sub-indicator 2(d). Procedures suitable for contracting for services or other requirements in which technical capacity is a key criterion***

221. ***Procurement of consulting services.*** The 1995 Regulations do not include provision for procurement of consulting services. Procuring entities procure consultancy contracts following the procedures for goods and works. No separate documentation or system is in place for such procurement. It is not recognized that the selection process for procurement of consultancy services is quite unique, requiring greater thrust to quality aspects that have huge downstream effect on projects.

222. Sub-Clause 61.1(e) of the Regulations requires the drawing up of criteria for proposal evaluation. The MoFNE Purchasing and Contracting Guidelines briefly describes proposal evaluation procedures but without details on how to consider technical capacity and quality. The guidelines provide for either conducting technical evaluations first or proceeding directly to combined technical and financial evaluation for all proposals.

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>2(d). Procedures suitable for contracting for services or other requirements in which technical capacity is a key criterion</b>		<b>1</b>
(i) Conditions under which selection based exclusively on technical capacity is appropriate and when price and quality considerations are appropriate	Not specified	
(ii) Clear procedures and methodologies for assessment of technical capacity and for combining price and technical capacity under different circumstances	There is possibility for use of technical capacity in selection but neither the law nor the regulations elaborate on the procedure	

***Sub-indicator 2(e). User’s guide or manual for contracting entities***

The MoFNE “Purchasing and Contracting Guidelines” state that MoFNE should be maintaining and updating its manual regularly.

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>2(e) User’s guide or manual for contracting entities</b>		<b>1</b>
(i) There is a unique procurement manual detailing all procedures for the correct administration of procurement regulations and laws.	There is no unique procurement manual but the MoFNE manual has the chapter that sets out procedures for the administration of the procurement regulations	
(ii) The manual is updated regularly	No evidence of any update	
(iii) The responsibility for maintenance of the manual is clearly established.	This is implied to be MoFNE as the owner of the manual	

***Sub-indicator 2(f). General conditions of contracts for public sector contracts covering goods, works and services consistent with national requirements and, when applicable, international requirements***

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>2(f). General conditions of contracts for public sector contracts covering goods, works and services consistent with national requirements and, when applicable, international requirements</b>		<b>1</b>
(i) There are general conditions for contracts for the most common types of contracts and their use is mandatory	There are standard clauses the use of which is mandatory for the most common types of contracts	

(ii) The content of the general conditions for contracts is generally consistent with internationally accepted practice	The content is not consistent with internationally accepted practice	
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## ***Summary of Findings and Recommendations for Legal Framework Reforms***

**Table 24. Summary of Sub-Indicator Scores under Pillar I**

<b>Baseline Indicator and sub-Indicator</b>		<b>SCORE</b>
<b>No.</b>		<b>Minimum = 0</b> <b>Maximum = 3</b>
<b>PILLAR I – LEGISLATIVE AND REGULATORY FRAMEWORK</b>		
<b>1</b>	<b><i>The public procurement legislative and regulatory framework.</i></b>	
1 (a)	Scope of application and coverage of the regulatory framework and public access to legislation	0
1 (b)	Procurement methods	1
1 (c)	Advertising rules and time limits	2
1 (d)	Rules on participation and qualitative selection	2
1 (e)	Tender documentation and technical specifications.	0
1 (f)	Tender evaluation and award criteria	0
1 (g)	Submission, receipt and opening of tenders	1
1 (h)	Complaints system structure and sequence	0
<b>2</b>	<b><i>Implementing Regulations and Documentation</i></b>	
2(a)	Implementing regulation that provides defined processes and procedures	0
2(b)	Model tender documents for goods, works, and services	1
2(c)	Procedures for pre-qualification	0
2(d)	Procedures for contracting for services or other requirements in which technical capacity is a key criterion	1
2(e)	User's guide or manual for contracting entities	1
2(f)	Existence and coverage of general conditions of contracts for public sector contracts	1

### ***Recommendations on the Proposed Legal and Regulatory Framework Reform***

223. There are three major recommendations for the reform of the legal and regulatory framework for public procurement in Sudan:

- (1) ***Enact a modern and comprehensive public procurement law based on the UNICITRAL model law for procurement to apply to all procurement using public funds.*** The law should (a) apply to all procurement of goods, works, and services including consulting services using public funds and make all public procurement subject to public oversight; (b) provide for procurement methods and rules for the choice of methods while making open competitive tendering the default method; and (c) establish a complaints review mechanism. The proposed National Public Procurement Act now before the National Assembly should be revised to address the substantive comments (submitted in October 2008) following the World Bank's review of the draft act. It is urgent to enact the new

law because the Financial and Accounting Regulations is currently being revised to remove the chapter dealing with procurement. A legal lacuna exists at the moment.

- (2) ***Draft new Regulations to operationalize the new public procurement law.*** The proposed National Public Procurement Act will be the overarching supreme legal instrument on public procurement, but the National Public Procurement Regulations that provide further detailed interpretation of the law will be required to operationalize the Act. Drafting of the new Regulations should start, based on the finally enacted National Public Procurement Act, be ready for finalization after the National Assembly has approved the Act. The World Bank is prepared to assist in drafting of the Regulations with MDTF-funded support from the Public Sector Capacity Building Project.
- (3) ***Develop and disseminate a comprehensive Public Procurement Manual of procedures, and standard bidding documents.*** A Public Procurement Manual should be prepared as an implementation tool that provides information on the law, policy, and procedures and helps turn public procurement policy into practice. The Manual should be developed to create a consistency of application within the GNU procurement system so it can be used for building and maintaining capacity as it provides easy reference to users. Good quality standard bidding documents or model tender documents should be prepared to promote competition and increase confidence of potential contractors and suppliers in the system. Standard bidding documents should contain the basic required clauses that will be incorporated into contracts so that participating bidders can value the cost and risk of performing a contract for the GNU but also facilitate the formulation of tender documents by procurement practitioners. The World Bank has included support for the development and dissemination of the proposed Public Procurement Manual and standard bidding documents in both Arabic and English language under the Public Sector Capacity Building Program.

## **4.2 Pillar II. Institutional Framework and Management Capacity**

224. The Ministerial Decree No. 34 of 1995 and the Procedures Guidelines of 2003 mandate the MoFNE Public Procurement Department to carry out oversight responsibilities for formulating procurement policy and systems, setting standards, preparing manuals and standard tender documents, capacity building, as well as monitoring compliance with procurement regulations. However, the Public Procurement Department also participates in procurement processing by clearing tender documents and approving tender evaluation reports and award recommendations. The Public Procurement Department is therefore in a conflict of interest situation and cannot effectively perform the oversight functions of monitoring and resolving disputes in the processes in which it has participated.

225. *Partial decentralization of the procurement function* is evident under the current legal framework in line ministries, public corporations, and government companies (procuring entities) whose procurement decisions are made or reviewed by the Public Procurement Department above a certain threshold value. Full decentralization of the procurement function and separation of oversight and operations have worked well in Tanzania and Uganda. These countries have fully decentralized their procurement function to ministries, departments, agencies, as well as parastatal organizations and transformed their respective Central Tender Boards into oversight authorities. Tanzania and Uganda have experienced greater accountability and transparency in public expenditure through procurement as well as more efficient procurement processing by the procuring entities that make independent procurement decisions.

226. Under this pillar, the procurement systems as defined in the legal framework are assessed for how they are operating in practice through the institutions and management systems that are part of the overall public sector governance in the country. The adequacy of the institutional and management capacity is assessed through the following indicators.

### ***BLI 3. The public procurement system is mainstreamed and well integrated into the public sector governance system***

227. This baseline indicator looks at the suitability of the system to discharge its obligations; the links with other sectors of government affecting the procurement function; other external institutional factors that might constrain procurement operations; and the adequacy of the managerial and technical capacity of the system to conduct procurement efficiently.

#### ***Sub-indicator 3(a). Procurement planning and associated expenditures are part of the budget formulation process and contribute to multi-year planning***

228. There is no evidence that procurement planning is integrated into the budget process although the MoFNE expects that it should be. The entities visited for this assessment were unable to confirm this understanding. The stakeholders' workshop conducted on May 10, 2007, recommended streamlining the budgeting process by improving procurement planning (strategy and packaging). Where procurement planning is integrated into the budget process, it enables procuring entities to avoid overloading the budget by including items that would not be procured

and paid for within the financial year. Procurement planning is a useful tool for preparing realistic budgets and cash flow projections. The plan indicates when contracts start and end. There is no evidence of the use in Sudan of annual procurement planning to carry out procurement functions in a timely and efficient manner. In the absence of procurement planning, it is difficult for management to monitor the execution of procurement. Poor procurement affects budget execution, and consequently service delivery suffers.

229. The assessment team observed that line ministries, public corporations, government companies, and states normally do not prepare procurement plans as part of the budgeting process or as a tool to manage and administer the procurement process. The team was informed that the Ministry of Health does not prepare a procurement plan as part of the budgeting process, but does so after the budget has been approved. The team was also informed that the Ministry of Agriculture and Forestry and the National Highway Authority do not prepare procurement plans at all. Although the concept of procurement planning is not clear to the State of Khartoum, the team was informed that the State of Khartoum usually prepares procurement plans after the budget has been approved. Preparation of a procurement plan by some procuring entities after budget approval (post-budget procurement plan) seem to be a good start although often cases turn out to be ambitious because its strategy and packaging were not taken into account upfront, during budgeting (pre-budget procurement plan).

230. Procurement planning is essential for public procurement to achieve one of its major goals of providing value for money. Without proper planning, tenders can fail to meet the real requirements of the public, timeframes can be missed, costs can increase, and opportunities for economy of scale can be missed. Procurement planning integrated with the budgeting process, could improve the cash flow management of both the MoFNE and procuring entities as well as the states' ministries. Understanding the timing of major contracts can help to predict cash flow needs within government to make timely payments and reduce the extra costs associated with delaying contract completion and not having adequate funds to finance full performance.

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>3(a) Procurement planning and associated expenditures are part of the budget formulation process and contribute to multi-year planning</b>		<b>0</b>
(i) starts with the preparation of multiyear plans for the government agencies, from which annual operating plans are derived		
(ii) followed by annual procurement plans and estimation of the associated expenditures	No evidence of procurement planning	
(iii) culminates in the annual budget formulation	Annual budgets are available but are not the culmination of procurement plans (where relevant).	

***Sub-indicator 3(b). Budget law and financial procedures support timely procurement, contract execution, and payment***

231. There have been some improvements in cash management over the last two years since formation of the Cash Management Unit and the Cash Management and Release Committee that

is chaired by the MoFNE Undersecretary. Priority is given to ensure that Chapter I liabilities (salaries) are fully met and that priority expenditures (e.g., health) are also protected. Among issues that remain to be addressed are reduction in the many bank accounts holding cash, improving linkage between cash and debt management, operationalizing the treasury single account, and improving cash flow forecasting and planning. The reality is that at present the budget is being implemented through cash rationing with a large amount of unpredictability surrounding the flow of funds to spending units.

232. Lack of linkage of procurement planning and budgeting process, has constantly affected release of funds to procuring entities. For example, the team was informed that in the last financial year, the Ministry of Health received only 10 percent of its annual approved budget; the Ministry of Agriculture and Forestry, on average, annually receives about 10 percent (15 percent of the approved budgets for Chapters III (maintenance budget) and IV (development budget); and the Financial and Economic Academy receives only 30 percent of its approved budget on average.

233. The private sector is concerned about delayed payments to Sudanese companies. Covered by promissory notes issued as Government bonds, delayed payments can stretch to over one year. Often deferring of payments is not pre-disclosed in the bidding documents to enable bidders to make any allowance in their tenders for relevant financial implications. Holders of the promissory notes could use them to secure advances from commercial banks, materials on credit, or enter into subcontracts with specialists. However, promissory notes are no longer a reliable instrument because they are often not honored when due.

234. The Sudanese Financial Company is responsible for management of promissory note bonds. The Company draws staff from the MoFNE and Central Bank of Sudan. Further, the Development Budget and State Department and the Sudanese Financial Company must all be represented in committees evaluating contracts financed through the bonds arrangements. The Sudanese Financial Company eventually signs the contract with the winning bidder or consultant, although it is the procuring entity that receives and accepts tenders. This practice may pose a paradox on legality with regard to which entity should sign a contract with the winning tenderer.

235. It also appears that foreign companies that are paid through letters of credit do not experience similar delays to those of Sudanese firms. Delayed payments result in inflated tenders to cover the cost of finance over the delay period. Commercial banks are reluctant to provide financial assistance to contractors, suppliers, and consultants whose payments are not certain. In essence, delayed payment is Government borrowing money from contractors, suppliers, and consultants. Government should be borrowing from banks so that it can meet its contractual payment obligations. Delayed payments adversely affect the operations and development of Sudanese firms. On the other hand, it affects only Sudanese firms thereby giving foreign firms (that may have better lines of credit) an unfair advantage in access to public contracts. If not addressed, delayed payments could drive Sudanese firms out of business.

236. Payment delays to contractors, suppliers, or consultants risks a number of negative effects including:

- Government receiving inflated tenders,
- Commercial banks ceasing to provide financial assistance to bidders and consultants,
- Bidders and consultants beginning to question government’s credibility,
- Payment delays would continue to reduce the spirit of competition in procurement, and
- Payments delays are undermining and suppress the local contracting industry.

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>3(b) Budget law and financial procedures support timely procurement, contract execution, and payment</b>		<b>1</b>
(i) Budget funds are committed or appropriated within a week from the award of the contract to cover the full amount of the contract (or amount to cover the portion of the contract to be performed within the budget period)	MoFNE clears procurement processes according to availability of budget funds but the commitment or appropriation of the funds does not seem to be systematic	
(ii) There are published business standards for processing of invoices by the government agencies that meet obligations for timely payment stated in the contract	No evidence of published business standards	
(iii) Payments are authorized within four weeks following approval of invoices or monthly certification for progress payments	There are massive delays in paying for contracts.	

***Sub-indicator 3(c). No initiation of procurement actions without existing budget appropriations***

237. Commitment control is weak. However, the recent order for spending units to limit spending to quarterly cash plans should help address this chronic problem and reduce the build-up of arrears. In spending units, commitment control is deficient. Spending units make commitments against budgetary allocations (which are often not realized) rather than the cash available, leading to a build-up of domestic arrears. There has been some progress with arrears, with MoFNE repaying a substantial portion of the arrears accumulated in 2007 and with establishment of a centralized debt unit that is becoming operational.

238. The general practice shows that a procuring entity must seek permission from the MoFNE and the Public Procurement Department before it initiates the procurement process to ensure availability of funds for that particular contract. This requirement is also stipulated in the Procedures Guidelines that states as follows: “Before entering into procurement procedures the purchasing unit should get sure of the availability of the financial funds whether from the re-current budget, development budget, or external finance.” To some extent this requirement shows that procurement plan is neither linked to budgeting process nor is prepared after the budget has been approved.



<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>3(c) No initiation of procurement actions without existing budget appropriations</b>		<b>1</b>
(i) The law requires certification of availability of funds before solicitation of tenders take place	The procedures guidelines provides for the certification prior to commencing procurement procedures	
(ii) There is a system in place (e.g. paper or electronic interface between the financial management and the procurement systems) that ensures enforcement of the law	No evidence of a system to enforce the requirement	

***Sub-indicator 3(d). Systematic completion reports are prepared for certification of budget execution and for reconciliation of delivery with budget programming***

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>3(d) Systematic completion reports are prepared for certification of budget execution and for reconciliation of delivery with budget programming</b>	The procurement system does not generally provide this information	<b>0</b>

***BLI 4. The country has a functional normative/regulatory body***

239. This indicator seeks to establish the existence of the regulatory functions, its independence, the effectiveness of performance, and the degree of coordination between responsible organizations.

***Sub-indicator 4(a). The status and basis for the normative/regulatory body is covered in the legislative and regulatory framework***

240. The Financial and Accounting Regulations do not specify the role of the Public Procurement Department. However, the Ministerial Decree (No. 34, August 1, 1995) and the Procedures Guidelines, issued in the 2003 MoFNE manual, specify the responsibilities, authorities, and mandates of the Public Procurement Department to perform both operational and oversight functions. However, the Public Procurement Department is more involved in performing the operational functions than in regulating the procurement function as per the legal framework. The Public Procurement Department participates in all tender evaluation committees of procurements managed by public sector entities.

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>4(a) The status and basis for the normative/regulatory body is covered in the legislative and regulatory framework</b>	Only part of the functional responsibilities for procurement regulation have been assigned to Public Procurement Department	<b>1</b>

***Sub-indicator 4(b). The body has defined set of responsibilities***

241. The Ministerial Decree and the MoFNE manual specify the following responsibilities of Public Procurement Department:

- Drawing a national strategy to provide government organs with their internal and external needs of goods and services;
- Issuing the regulations, legislations, and explanatory brochures in order to regulate the system of purchasing and contracting;
- Training and certifying the technical and administrative personnel in the area of purchasing and contracting;
- Giving the technical advice to government units;
- Advising the Minister of Finance in matters regarding purchasing and contracting;
- Preparing periodic reports relating to purchasing and contracting; and
- Carrying out any other related responsibilities asked for.

The Public Procurement Department has the authority to:

- Inspect government units to verify that purchasing procedures are followed as stipulated in the Financial and Accounting Procedures Regulation 1995;
- Collect information and data regarding government purchases; and
- Take legal steps against government ministries that fail to comply with purchasing procedures.

242. In addition to the above responsibilities and mandates, the Public Procurement Department is given authority to approve the recommendations for awarding of contracts and to issue reports on prevailing prices of some commodities and services periodically.

243. In reforming the Public Procurement Department, a Regulatory Authority should be established as a policy and regulatory body to perform the function of an oversight body. It should be vested with strong monitoring powers, allowing it to monitor all stages of procurement process, from procurement planning to contract management (i.e., the entire procurement cycle). The Regulatory Authority should have the following tasks:

- ***Monitoring*** the public administration and procurement environment to implement proactive and corrective measures when necessary. Monitoring shall ensure that rules and procedures are adhered to and should specifically focus on the enforcement aspects. Thus, for the Regulatory Authority to remain a credible oversight body, particular focus must be put on applying remedial measures when noncompliance with legal framework is identified.

- **Forging policies** for the future of procurement. The Regulatory Authority would be the foremost advisor to the government on matters of public procurement.
- **Instrument for Administrative review.** Depending on the model of complaints mechanism adopted, the Regulatory Authority may be one of the levels of appeal for aggrieved bidders to submit their complaints.
- **Regulatory responsibilities** would include issuing and updating of regulations for the application of procurement rules, application of domestic preference, and other matters emanating from the procurement law.
- **Capacity building.** The Regulatory Authority would oversee and coordinate activities aimed at enhancing procurement capacity at all levels of government. This includes coordination and cooperation with independent training institutions tasked with the implementation of tailored training activities.
- **Information dissemination.** The Regulatory Authority would be responsible for coordinating all information efforts aimed at enhancing the knowledge of the procurement system in general and of procurement decisions in particular including publication of bidding opportunities and contract award decisions.

<b>SUB-INDICATOR</b>	<b>BRIEF COMMENT</b>	<b>SCORE</b>
<p><b>4(b) The body has a defined set of responsibilities that include but are not limited to: providing advice to contracting entities; drafting amendments to the legislative and regulatory framework and implementing regulations; monitoring public procurement; providing procurement information; managing statistical databases; reporting on procurement to other parts of government; developing and supporting implementation of initiatives for improvements of the public procurement system; and providing implementation tools and documents to support training and capacity development of implementing staff.</b></p>	<p>The Public Procurement Department has been assigned most of these functions, save for that of drafting amendments to the legislative and regulatory framework and implementing regulations; and developing and supporting implementation initiatives for improvements of the public procurement system. However, the functions of monitoring public procurement and of reporting on procurement to other parts of the government conflict with the operations functions of the Public Procurement Department under which it participates in evaluation committees and clears contracts award decisions</p>	<p><b>1</b></p>

***Sub-indicator 4(c). The body’s organization, funding, staffing, and level of independence and authority (formal power) to exercise its duties should be sufficient and consistent with the responsibilities***

244. The Public Procurement Department is a department of the MoFNE and headed by a Director General who reports to the Under Secretary, administrative head of MoFNE. It has 25 staff, some are University graduates and all require training to cope with the demands of the mandated functions of the Department. As part of MoFNE, the Department cannot supervise

MoFNE procurement and cannot take independent decisions. The recruitment of staff and other decisions of the Public Procurement Department have to be cleared with the Under Secretary of MoFNE.

245. Different models of the regulatory set-up have been implemented by different countries, but the underlying principle is that the regulatory/normative body should have the autonomy to exercise oversight powers. Therefore, the regulatory/normative body should be able to have its own budget and should not be supervised by a line ministry that could also qualify as a procuring entity. Experience in other countries has shown that when the regulator is a department of a line ministry of government, it invariably lacks the independence needed to oversee a country's public procurement system. The regulatory/normative body would be subject to pressures from politicians and from other ministries. In Poland, which is often cited as an example of good procurement reform, the Office for Public Procurement conducts the oversight and regulatory function. The Office reports directly to the Government and the Chairman of the Office for Public Procurement. The Chairman, whose rank is equivalent to that of a Deputy Minister of the Government, is directly responsible to the Prime Minister. In line with this, the Chairman is appointed and may be dismissed by the Prime Minister.

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
4(c) The body's organization, funding, staffing, and level of independence and authority (formal power) to exercise its duties should be sufficient and consistent with the responsibilities	The Public Procurement Department is a department of the MoFNE, its financing is inadequate and the Public Procurement Department has little or no independence to perform its obligations	0

***Sub-indicator 4(d). The responsibilities should also provide for separation and clarity so as to avoid conflict of interest and direct involvement in execution of procurement transactions***

246. As already noted, the Public Procurement Department is directly involved in procurement operations and is a member of all evaluation committees; because of these dual roles, there is a conflict of interest. The public procurement function is partially decentralized to line ministries, public corporations, and government companies (procuring entities). Public procurement is not yet fully decentralized because the Public Procurement Department is directly involved in procurement operations above a set threshold contract value. Full decentralization is recommended that would lead to the following advantages:

- ***Greater accountability at procuring entities.*** Accounting officers (Under Secretaries, Head of public corporations, and government companies) would not only be responsible for budget, but also for all procurement under approved budget; and
- ***More efficient procurement,*** without requirement for external approval by Public Procurement Department. Although there is no evidence suggesting that procurement delays have been attributed to approval levels, external approvals is a usual cause of delays in the procurement process. Such approvals undermine the principle of keeping accountability for procurement decisions with the budget holder, where it belongs.

247. The potential risks, which have to be proactively addressed when the procurement function is fully decentralized are (a) potential decentralization of corruption and (b) challenges with oversight and coordination. However, these risks may be mitigated by combining decentralization with establishment of a well-resourced regulatory body to monitor compliance and with powers to sanction violators of the laid-down procedures. A prerequisite for this is to secure the information flow from the tender/contract committees and thereby ensure that proactive rather than reactive monitoring can be conducted. Also, decentralization of the entire procurement portfolio to procuring entities must be followed with substantial capacity building of procurement staff as well as staffs on tender/contract committees.

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
4(d) The responsibilities should also provide for separation and clarity so as to avoid conflict of interest and direct involvement in execution of procurement transactions	Public Procurement Department has a conflict of interest in as much as there is no evident separation of duties between operational and oversight roles.	0

***BLI 5. Existence of institutional development capacity***

248. This indicator looks at the extent to which the country or agency has systems to support and monitor the performance of the entire system, and to formulate and implement improvement plans.

***Sub-indicator 5(a). The country has a system for collecting and disseminating procurement information, including tender invitations, requests for proposals, and contract award information***

249. Sudan does not maintain a procurement management information system, and there is no systematic collection of statistics or data for analysis and/or publication. To ensure comprehensive monitoring of the procurement process by the Public Procurement Department, there is a need for the government to establish sound and efficient information mechanism and procedures between the Public Procurement Department and all procuring entities. This focus on the information flow should ensure that the Public Procurement Department can carry out its monitoring role pro-actively and not only react to already implemented procurement decisions.

250. It is recommended that an information-sharing model be developed to ensure early and continued flows of information from procuring entities to the Public Procurement Department. Ideally, such a model should entail an early warning mechanism allowing the Public Procurement Department to carry out reviews of planned and ongoing procurement and not merely finalized procurement processes. The information sharing and early warning should be united in a Procurement Management Information System tailored specifically for Sudan setting. To facilitate monitoring by the Public Procurement Department, the Procurement Management Information System should include the following features:

- ***Intelligence gathering.*** Systematized reporting to the Public Procurement Department by procuring entities providing information at various stages of procurement process.

- **Information matching.** Allowing the Public Procurement Department to match information and identify high-risk procurement packages.
- **Targeting.** The Public Procurement Department, based on the risk assessment, conducts targeted early review of certain high-risk procurement packages.
- **Information sharing.** Ensuring that information is shared among all relevant parties and thereby enhancing transparency and accountability.

251. The risk assessment part of the Procurement Management Information System should focus on obtaining and matching information regarding certain procurement packages, such as the following types of procurement:

- Large value contracts,
- Within specifically corruption-prone sectors, such as construction, and
- Involving a procuring entity with weak capacity.

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>5(a) The country has a system for collecting and disseminating procurement information, including tender invitations, requests for proposals, and contract award information</b>	There is no procurement information system except for some individual agency systems. Entities keep information on contract awards and some statistics	<b>0</b>

***Sub-indicator 5(b). The country has systems and procedures for collecting and monitoring national procurement statistics***

252. The Public Procurement Department is mandated to collect procurement statistics, monitor procurement, and maintain a register of prices of common user items. However, the assessment did not find evidence that this function is being performed. Statistical information on procurement is essential to evaluate the policies and the operation of the system. It also provides means for monitoring performance and determining if the statistics demonstrate compliance with other aspects of the system that are defined in the legal and regulatory framework. This sub-indicator focuses on the data available on procurement undertaken using central budget funds.

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>5(b) The country has systems and procedures for collecting and monitoring national procurement statistics</b>		<b>0</b>
(i) There is a system in operation to collect data	There is no system collecting national procurement data.	
(ii) The system collects data on procurement by method, duration of different stages of the procurement cycle,		

awards of contracts, unit prices for most common types of goods, and services and other information that allows analysis of trends, levels of participation, efficiency and economy of the purchases and compliance with requirements		
(iii) Reliability of the information is high (verified by audits)		
(iv) Analysis of information is routinely carried out, published and fed back into the system		

***Sub-indicator 5(c). A sustainable strategy and training capacity exists to provide training, advice, and assistance to develop the capacity of government and private sector participants to understand the rules and regulations and how they should be implemented***

253. There is no special procurement training center or institute in Sudan. Most of the internal training has been conducted on a non-systemic basis with an emphasis on supplies and storage. The faculty of business administration at the Neilen University in Khartoum is probably the only place where procurement is taught as a subject, and that is only for about three months embedded in a four-year degree. The curriculum, which is basically theoretical, consists of importance and objectives of procurement, stores management, procurement methods, and evaluation of procurement sources. The faculty of business administration could be a good entry point for introducing procurement as a subject in other universities. Courses offered here could be a nucleus for establishing a center or institute for procurement training.

254. The public servants in need of training could be divided into three main categories:

- ***Procurement specialist.*** Constituting the new procurement cadre, these public servants will be in charge of procurement matters on a day-to-day basis. These will include staff of departments of procurement, federal government, public corporations and companies, and states. They will eventually be certified as procurement specialists.
- ***Specialists in need of targeted procurement training.*** Comprised of individuals from the specialized bodies, this group does not deal exclusively with procurement but with procurement-related matters. They are in positions for which it is important to maintain a high degree of knowledge and experience of procurement, for example, officials from external and internal audits, the staff from the Ministry of Justice dealing with cases related with unlawful and suspicious enrichment, among others.
- ***Public servants or others periodically involved in the procurement process.*** This group comprises public servants who do not have procurement as their main activity, but who nevertheless need to become familiar with basic principles and rules of the public procurement law, including ethical standards. The category includes the members of the tender/committee boards at both federal and state levels, and the various external and internal experts charged with developing technical specifications, etc.

255. Table 25 shows the numbers of public personnel that have received training in procurement, internally and externally. With the exception of the MDTF-financed Technical Assistance Fund Project, there are no specific or specially tailored training programs for Government procurement staff. Training in procurement is part of the general training program of the ministries. As such, opportunities for training in procurement do not necessarily go to those who are involved with the procurement function. Some public corporations and government companies have carried out training in procurement but not as part of a well-defined program aimed at enhancing the procurement proficiency of the staff.

**Table 25. Public Personnel Trained in Purchasing and Supplies Management and Procurement**

<i>Training Unit</i>	<i>Number staff trained</i>			
	<i>Up to 2005</i>	<i>2006</i>	<i>2007</i>	<i>Total</i>
Management Development Center	142	42	10	194
Sudan Academy of Administrative Science	22	64	-	86
Academy of Economic and Financial Studies (MoFNE)	223	-	17	240
Technical Assistance Fund Coordinating Unit (MoFNE)	-	95	-	615
External training				35

*Note:* Figures for 'Up to 2005' include all staff trained up to and including this year. Not all those trained are now working in procurement departments or sections. Of those trained in 2006 about 50 percent were trained under the Technical Assistance Fund Project. External training total is approximate.

256. This is also need for supply-side training and sensitization (i.e., the private sector). This training should be coordinated and conducted by the private sector and involve organizations like contractors associations, consultant associations, and others. As part of capacity building of the supply side, it is important to further explore options of designing certain contracts so that they are more accessible to local companies only.

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>5(c) A sustainable strategy and training capacity exists to provide training, advice and assistance to develop the capacity of government and private sector participants to understand the rules and regulations and how they should be implemented</b>		<b>0</b>
(i) Substantive permanent training programs of suitable quality and content for the needs of the system	No program	
(ii) Evaluation and periodic adjustment based on feedback and need		
(iii) Advisory service or help desk to absolve questions by procuring entities, suppliers, contractors and the public		

***Sub-indicator 5(d). Quality control standards are disseminated and used to evaluate staff performance and address capacity development issues***



257. The organization for procurement management in GNU differs from entity to entity, and there is a shortage of trained and qualified procurement staff working in the procuring entities. Salaries of procurement staff in the public sector are low compared to their counterparts in the private sector. Qualified staff may not be coming into the public service while the good ones are likely to be lost to the private sector. Without ample trained and qualified staff, procurement cannot be conducted efficiently and in a professional manner thereby risking the realization of value for money. There are no procurement units, and no procurement professional cadre has been established in the public service of Sudan. Public procurement is often carried out by general staff as a clerical rather than a strategic function. The accounts and administrative staff who are often performing the procurement function are not trained in procurement. However, there is no incentive for staff to undertake procurement training since there is no career path in procurement within the public service.

258. There is no evidence of an existing relevant and comprehensive quality assurance and standard to process procurement actions and to ensure their systematic application to provide for monitoring of performance.

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>5(d) Quality control standards are disseminated and used to evaluate staff performance and address capacity development issues</b>		<b>0</b>
(i) Provide quality assurance standards and a monitoring system for procurement processes and products	No quality assurance standards and monitoring system	
(ii) Provide for a staff performance evaluation process based on outcomes and professional behaviors		
(iii) Ensure that operational audits are carried out regularly to monitor compliance with quality assurance standards		

### *Summary of Findings and Recommendations for Institutional Reforms*

**Table 26. Summary of Sub-indicator Scores under Pillar II**

<i>Baseline Indicator and sub-Indicator</i>		<b>SCORE</b> <i>Minimum = 0</i> <i>Maximum = 3</i>
<b>No.</b>		
<b>PILLAR II – INSTITUTIONAL FRAMEWORK AND MANAGEMENT CAPACITY</b>		
<b>3</b>	<b><i>The public procurement system is mainstreamed and well integrated into the public sector governance system</i></b>	
3(a)	Procurement planning and associated expenditures are part of the budget formulation process and contribute to multi-year planning	0
3(b)	Budget law and financial procedures support timely procurement, contract execution, and payment	1
3(c)	No initiation of procurement actions without existing budget appropriations	1

<b>Baseline Indicator and sub-Indicator</b>		<b>SCORE</b> <b>Minimum = 0</b> <b>Maximum = 3</b>
<b>No.</b>		
3(d)	Systematic completion reports are prepared for certification of budget execution and for reconciliation of delivery with budget programming	0
<b>4</b>	<b>The country has a functional normative/regulatory body</b>	
4(a)	The status and basis for the normative/regulatory body is covered in the legislative and regulatory framework	1
4(b)	The body has defined set of responsibilities	1
4(c)	The body's organization, funding, staffing, and level of independence and authority (formal power) to exercise its duties should be sufficient and consistent with the responsibilities	0
4(d)	The responsibilities should also provide for separation and clarity so as to avoid conflict of interest and direct involvement in execution of procurement transactions	0
<b>5</b>	<b>Existence of institutional development capacity</b>	
5(a)	The country has a system for collecting and disseminating procurement information, including tender invitations, requests for proposals, and contract award information	0
5(b)	The country has systems and procedures for collecting and monitoring national procurement statistics	0
5(c)	A sustainable strategy and training capacity exists to provide training, advice and assistance to develop the capacity of government and private sector participants to understand the rules and regulations and how they should be implemented	0
5(d)	Quality control standards are disseminated and used to evaluate staff performance and address capacity development issues	0

***Recommendations on the Proposed Legal and Regulatory Framework Reform:***

259. Three key recommendations under Pillar II are suggested to reform the institutional arrangements for effective, transparent, and value-for-money procurement that ensures accountability:

- (1) ***GNU should develop budget procedures*** that integrate procurement planning to ensure that budget process supports timely procurement, contract execution and payment, including a commitment control and contracts tracking system that is linked to budget management. The system manual should be disseminated to all GNU users and implemented with transparent business standards as well as reporting on budget execution and contract delivery.
- (2) ***MoFNE should as soon as possible establish the transitional National Procurement Policy Unit***, a precursor to the National Public Procurement Authority that will be established under the new National Public Procurement Act. The new law should comprehensively provide for the establishment of the National Procurement Policy Unit

as the public procurement oversight body. In the interim before the new law is enacted, the Unit should report directly to the Minister of MoFNE and should be staffed strategically with highly qualified and experienced staff. This staff would form the core of the National Public Procurement Authority when the law is enacted. A Procurement Reform Adviser will be recruited under Public Sector Capacity Building Project to support the Unit and later the Authority for an overall period of two years. The National Public Procurement Authority will be established with comprehensive provisions, full autonomy to regulate public procurement, and focus on procurement policy development that are completely separated from procurement operations. The National Procurement Policy Unit will have only policy functions and operate as a management unit for the processing of the procurement legal framework and creation of a functional National Public Procurement Authority in terms of organization, funding, staffing, level of independence and authority sufficient and consistent with its responsibilities.

(3) ***A procurement capacity assessment should be undertaken for GNU*** (by external consultants) with a view to creating procurement management units in all contracting entities and developing a three-year procurement capacity development strategy for GNU. The capacity development strategy would (a) implement the structures for public procurement under the new law; (b) establish a system for collecting and disseminating procurement information, including procurement plans, tender invitations, and contract awards; and (c) include the first annual training plan under the strategy with implementation plan and costs.

### **4.3 Pillar III. Procurement Operations and Market Practices**

260. Under this pillar, the national procurement system is assessed on how it operates. The market is used as a means to judge the quality and effectiveness of the system when implementing the procurement procedures in practice. Thus the indicators look at the operational effectiveness and efficiency of the procurement system at the level of the implementing entities responsible for carrying out individual procurement actions.

#### ***BLI 6. The country's procurement operation and practices are efficient***

261. This indicator looks at the efficiency of the operations in ensuring timely award of contracts at competitive market prices through the practice of implementing procurement procedures effectively and fairly.

#### ***Sub-indicator 6(a). The level of procurement competence among government officials within the entity is consistent with their procurement responsibilities***

262. Lack of capacity is the single most important issue in the sector and was cited as a great impediment to conducting sound procurement. With full decentralization and creation of properly staffed procurement management units in each procuring entity, the demand for skilled procurement staff will undoubtedly rise.

263. There are not enough trained and qualified procurement staff working in procuring entities in Sudan. In this absence, procurement cannot be conducted efficiently and professionally. As a result the government does not realize value for money. In addition, salaries of procurement staff in the public sector are very low compared to their counterparts in the private sector. Therefore, qualified staff may not be choosing public service but seeking better opportunities in the private sector. There is some urgency to formulate and implement a comprehensive plan for training staff at various levels in this vital area.

264. ***Supplier credits and delayed payments to contractors and suppliers.*** The Federal Government of Sudan and the State of Khartoum extensively use supplier credits to contract for goods and services. It is not clear if the procurement of supplier credits realizes value for money for the Government because foreign suppliers, credit firms, or contractors offer the credits to fill the 'needs gap' of Government. Contracts depend on their negotiation and management with all the associated risks to Government. A value-for-money audit of contracts under supplier credit arrangements could be quite revealing. Delayed and deferred payments to contractors, suppliers and consultants have in many cases stretched to over one year although covered by promissory notes that are issued as Government bonds. It is difficult for holders of the promissory notes to use them to secure advances from commercial banks, or obtain materials on credit, or enter into subcontracts with specialists. Promissory notes are often not honored when they fall due.

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>6(a) The level of procurement competence among government officials within the entity is consistent with their procurement responsibilities</b>		<b>0</b>
(i) There are defined skill and knowledge profiles for specialized procurement jobs	Procurement has not been professionalized.	
(ii) There is systematic matching of skills against requirements for competitive recruitment		
(iii) Staff required to undertake procurement on an ad hoc basis have the knowledge they need to undertake the activity or have access to professional staff that can provide this knowledge		

***Sub-indicator 6(b). The procurement training and information programs for government officials and for private sector participants are consistent with demand***

265. Public servants have access to procurement training opportunities as part of the general training program of the ministries. Under these circumstances, training opportunities in procurement do not necessarily go to those functionaries involved in procurement. Some public corporations and government companies have carried out some procurement training but not part of a well-defined program aimed at enhancing staff efficiency. The emphasis seems to be on-the-job training. However, due to the absence of procurement units and lack of established procurement professional cadre in the public service, procurement is often carried out by general staff (accounts and administrative officers) who are often not trained in procurement.

266. There is no special procurement training center or institute in Sudan. Most of the internal training has been conducted on non-systemic basis and the emphasis has mainly been on supplies and storage. The faculty of business administration at the Neilen University in Khartoum is probably the only place where procurement is taught as a subject, and that is only for about three months in a four-year degree course. The curriculum, which is basically theoretical, consists of importance and objectives of procurement, stores management, procurement methods, and evaluation of procurement sources. With the exception of the MDTF-financed Technical Assistance Fund Project, there are no specific or specially tailored training programs for procurement staff.

267. The faculty of business administration could be a good point of entry for introducing procurement as a subject in other universities. This course could be a nucleus for establishing a center or institute for procurement training. Pursuing this matter with some urgency, it would be necessary to formulate and implement a comprehensive plan for training staff at various levels in this vital area. There are institutions that can scale up procurement training and increase numbers of trained and competent procurement staff.

<b><i>SUB-INDICATOR</i></b>	<b><i>BRIEF COMMENT</i></b>	<b><i>SCORE</i></b>
<b>6(b) The procurement training and information programs for government officials and for private sector participants are consistent with demand</b>		<b>0</b>
(i) Training programs' design is based on a skills gap inventory to match the needs of the system	This is not the case	
(ii) Information and training programs on public procurement for private sector are offered regularly either by the government or by private institutions	There is no evidence of training for private sector on public procurement	
(iii) The waiting time to get into a course (for public or private sector participants) is reasonable, say one or two terms		

***Sub-indicator 6(c). There are established norms for the safekeeping of records and documents related to transactions and contract management***

268. With laws in Sudan governing records preservation, records seem to be kept in accordance with the laws. Contracting entities are obliged to archive documentation generated in the course of their public procurement proceedings.

<b><i>SUB-INDICATOR</i></b>	<b><i>BRIEF COMMENT</i></b>	<b><i>SCORE</i></b>
<b>6(c) There are established norms for the safekeeping of records and documents related to transactions and contract management</b>		<b>0</b>
(i) The legal/regulatory framework establishes a list of the procurement records that must be kept at the operational level and what is available for public inspection, including conditions for access	The current legal and regulatory framework does not establish the list of procurement records that must be kept.	
(ii) The records should include: Public notices of bidding opportunities; Bidding documents and addenda; Bid opening records; Bid evaluation reports; Formal appeals by bidders and outcomes; Final signed contract documents and addenda and amendments; Claims and dispute resolutions; Final payments; Disbursement data (as required by the country's financial management system)		
(iii) There is a document retention policy that is compatible with the statute of limitations in the country for investigating and prosecuting cases of fraud and corruption and with the audit cycles		
(i) There are established security protocols to protect records either physical or electronic		

***Sub-indicator 6(d). There are provisions for delegating authority to others who have the capacity to exercise responsibilities***

269. In the current system, the public sector procurement function is partially decentralized to line ministries, public corporations, and government companies. Sudan does not have effective organization, policy, or procedures for internal and external control of public procurement operations. Procedures Guidelines of 2003 give the Public Procurement Department the authority to verify that Government units follow procedures as stipulated in the 1995 Financial and Accounting Regulations. The Guidelines are only part of the MoFNE internal manual and are not reflected in the legal and regulatory framework of the country. The Guidelines do not mention an explicit responsibility for the Public Procurement Department to verify that procedures are followed. There is no evidence that the oversight function is carried out in a systematic manner. There is no evidence of internal controls within procurement departments of Government units.

270. There are no procurement management units and therefore no specific units responsible for procurement in line ministries. The management structure of public procurement differs from one ministry to another. Ministerial departments conduct procurement of items specific to the respective department through ad hoc committees, thus accountability for procurement is diffused since the procurement function does not have a specific home. However, some government corporations and government companies do have departments responsible for the procurement function.

271. Where departments of line ministries carry out their own procurement, the key procurement tasks of preparing bidding documents and technical evaluation reports are diffused into ad hoc committees. The head of the procuring entity handles the award of contracts although a bid/contract committee should do this collectively in order to avoid the inherent risk of compromise. Also because individual departments within a ministry carry out the procurement function, common user items cannot be packaged together in order to realize economies of scale in the ministry's procurement.

272. The arrangement differs in the ministries in the State of Khartoum, which have established procurement units for processing procurement. The procurement function of public corporations such as Sudan Railways Corporation also differs from that of line ministries. Sudan Railways Corporation has a procurement department – led by the director of purchasing and stores – that is responsible for overall procurement function of the Corporation. The procurement department is responsible for preparing bidding documents, but preparation of technical specifications is the responsibility of the technical departments. The director of purchasing and stores reports to the deputy general manager in charge of technical affairs.

273. In state corporations, there are five departments, each headed by a deputy general manager. The practice is that the corporation usually forms several ad hoc committees during processing of procurement. These committees cover (a) opening tenders; (b) evaluation of tenders; and (c) review evaluation reports (by a higher tender committee). The higher tender committee normally consists of members from the MoFNE; ministry of roads, transport, and bridges; corporation (user); and legal adviser of the corporation. Depending on the value of the contract, the higher committee is either chaired by the deputy general manager (for high value

contracts – the dollar value was not revealed) or head of department (for small value contracts – the dollar value was not revealed). Despite the fact that the higher tender committee is responsible for reviewing evaluation reports, it has no powers to approve award contracts. The approval of award is done by the general manager. Otherwise, evaluation reports should be forwarded to the Public Procurement Department for approval if the ceiling is above the authority of the general manager

274. The Procurement function in the National Highway Authority is managed by three departments: (a) procurement and storage (responsible for procurement of goods); (b) directorate of planning, research, and feasibility studies (responsible for procurement of civil works and consulting services related to rehabilitation contracts); and (c) directorate of design and technical supervision (responsible for procurement of civil works and consulting services related to new construction). The National Highway Authority has never referred evaluation reports to the Public Procurement Department. It does not see the rationale for seeking approval of the award of contract from the MoFNE director of procurement because the same department is always represented in the evaluation of tenders. The Director General provides the final approval except for contracts valued at more than US\$100 million equivalent for which MoFNE authority must be sought before signing a contract.

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>6(d) There are provisions for delegating authority to others who have the capacity to exercise responsibilities</b>		<b>2</b>
(i) Delegation of decision making authority is decentralized to the lowest competent levels consistent with the risks associated and the monetary sums involved	The delegation does not seem to be systematic throughout the procurement system with variations in structures from entity to entity	
(ii) Delegation is regulated by law	The existing legislation does not comprehensively provide for the structures and delegation	
(iii) Accountability for decisions is precisely defined	This is not clear	

***BLI 7. Functionality of the public procurement market***

275. This indicator looks at how the market responds to public procurement opportunities. Three sub-indicators are scored to assess (a) mechanisms for partnerships between the public and private sectors; (b) the organization of the public institutions for the facilitation of market access; and (c) systemic constraints to private sector capacity to access the procurement market.

***Sub-indicator 7(a). There are effective mechanisms for partnerships between the public and private sector***

276. The private sector in Sudan is well organized to respond to the needs of public procurement as evidenced by the active associations for contractors, manufacturers/supplies and consultants. These associations have developed rules and standards for its members to follow,



but it is not clear that the Government has provided any systematic support to the private sector. There are meetings and forums that bring together the Government and the private sector, but the quality of the dialogue does not seem to allow the voice of the private sector to influence practices by Government.

277. There are concerns over the public enterprises (either Government-owned or enterprises in which Government has an interest) competing with private sector firms for public contracts. The public companies have an edge over private firms and often offer lower tender prices since they are subsidized by the State and may even have priority in getting payment without being subjected to delayed payments. The playing field is not level, and too much government participation in its procurement undermines the development of the private sector. As an example, private companies in the business of medicines feel unfair treatment in procurement of medicines because of competition with the Central Medical Supplies Corporation. Yet the operational expenses of the Central Medical Supplies Corporation are highly subsidized by the Government; and, while private companies must pay many taxes to the Government, the Central Medical Supplies Corporation does not pay taxes.

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>7(a) There are effective mechanisms for partnerships between the public and private sector</b>		<b>1</b>
(i) Government encourages open dialogue with the private sector and has several established and formal mechanisms for open dialogue through associations or other means.	Associations of private sector firms are strong and there is dialogue with Government	
(ii) The Government has programs to help build capacity among private companies, including for small businesses and training to help new entries into the public procurement market place	No significant program exists.	
(iii) The government encourages public/private partnerships and the mechanisms are well established in the legal framework to make possible such arrangements	No evidence to this effect	

***Sub-indicator 7(b). Private sector institutions are well organized and able to facilitate access to the market***

278. Many private firms are registered and operate in Sudan (Table 27) promoted by liberalization of the economy and access to public procurement business. There is a tendency for firms to expand capabilities for consulting, supply, and construction, which may hinder specialization and access to contracts due to conflict of interest issues. Once a public procurement oversight body is established, its capacity-building efforts should partly focus on outreach and training for the private sector on how to access bidding opportunities through the public procurement system.

279. It is difficult to obtain data on the quantity of business that goes to local and to foreign firms, but overall, the local firms seem to take a substantial share of the procurement business. The rules are not clear and transparent on when to engage international or national firms. There are perceptions and concerns that contracts under development partner-financed projects are only accessible to foreign firms, but there is no data to support this view. There are no legal provisions or trade and tariff regimes that inhibit the company's access to public procurement.

**Table 27. Indicative Numbers of Registered Firms Based In Khartoum, 2006**

<b>Civil works contractors:</b> As registered in Sudanese Contractors Associations	
Local:	832
Foreign:	3
<b>Consulting firms:</b> As registered in the organizing council for consulting firms	
Engineering firms:	30
Architects and urban planning firms:	25
Surveyors firms:	-
Procurement agents:	-
<b>Other fields</b>	
Economic and administrative firms:	18
Financial and accountancy firms:	8
Environmental firms:	3
Agricultural and irrigation firms:	8
Medical firms:	1
Insurance companies:	15
Commercial banks:	30
Manufacturers:	1,500
(According to 2002 industrial survey)	

280. The private sector is well organized to respond to the needs of public procurement. This is evidenced by the active associations for contractors, manufacturers/supplies and consultants. There are several commercial banks providing required lines of credit, even though it may be expensive and not easily accessible. There are adequate numbers of insurance companies that provide both general and specific insurance coverage for contracts. However, it was observed that the State Insurance Company takes the bulk of public business. Overall, the private sector derives 85 to 95 percent of its business from the public sector.

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>7(b) Private sector institutions are well organized and able to facilitate access to the market</b>	There is a reasonably well-functioning private sector but competition for large contracts is concentrated among relatively small number of firms	<b>2</b>

***Sub-indicator 7(c). There are no major systemic constraints (e.g., inadequate access to credit, contracting practices, etc.) inhibiting the private sector's capacity to access the procurement market***

281. The discretionary and non-transparent procurement processes (combination of open and selective tendering and direct contracting) affect the participation of private firms in the public procurement process. In particular, procuring entities have a tendency to follow either direct or restricted tendering for large value contracts although the contracts should be procured on the

basis of open competitive tendering. Furthermore, there is concern over cases where contracts are awarded to unqualified tenderers even where the qualification criteria had been explicit in the tendering documents. Tenderers are often not given reasons for their disqualification if they enquire. Awarding contracts to unqualified bidders erodes the confidence of private sector in the public procurement system. For consulting services, the major constraint is lack of detailed guidelines for selection of consultants (often treated as goods contracts). Firms are not classified according to their competence, technical capabilities, and accumulated experience; thus contracts are in many cases awarded to unqualified firms.

282. The capacity of local contractors and suppliers to take large contracts is constrained by the lack of fiscal discipline, lack of adequate and easily accessible credit, as well as a shortage of management skills and equipment. The commercial banks charge high service fees and require collateral for credit. Local firms supplying foreign goods need credit to open Letters of Credit (LCs) for foreign manufacturers/suppliers. The burden of the high service charges is transferred to the public sector via higher bid prices for procurement of goods, works, and services. Local engineering firms do not have adequate capacity to undertake large contracts but benefit from taking subcontracts by forming associations and joint ventures with large foreign firms.

283. Large companies follow the system of invitation to bid, including international and national competitive bidding, requesting for bid securities and performance bonds, and pre-qualification of suppliers. The recommended bidder may be asked to negotiate for price reduction in case it does not match the prevailing prices according company information and records. There are no special or new techniques or procedures and/or practices in the procurement systems of the private sector that can be advantageously adopted by the public sector.

284. There are several systemic constraints that inhibit the private sector's efficiency and capacity to access the procurement market. In some cases, Government entities request excessive bank guarantees. For suppliers, a specific concern is the delay in paying Custom duties when it is the responsibility of the government according to the contract. However, the severity of the problem has been slightly reduced as a result of continuous improvement in the Government's liquidity situation.

285. Delayed and deferred payments to contractors, suppliers, and consultants are of deep concern to Sudanese private firms. Payments under public sector contracts are covered by promissory notes issued as Government bonds and can take more than one year to effect. Deferring of payments is not always predisclosed in the tendering documents to enable tenderers to allow for its financial implications in their bids. It should be possible to use promissory notes to secure advances from commercial banks, and inputs for the performance of contracts on credit, or to secure subcontracts with specialists. However, this is now difficult in Sudan because the promissory notes are often not honored when they become due.

286. Furthermore, the Sudanese Financial Company is responsible for management of these Government bonds, with staff drawn from the MoFNE and the Central Bank. The mission team was informed that the Development Budget Department, the State Department, and the Sudanese Financial Company must be represented in evaluation committees for contracts financed through bonds arrangements. The Sudanese Financial Company executes the contracts financed through

Government bonds with the winning bidder or consultant. This presents some challenges to managerial and financial accountability associated with decentralization of the procurement function to budget holders, as the budget holder responsible for the contract is not, in practice, a signatory to it.

287. There are no delays of payments for priority development projects financed by the government securities scheme. It also appears that foreign companies paid through letters of credit do not experience delays. Delayed payments to contractors, suppliers, and consultants result in inflated tenders to cover for the cost of finance over the expected delay. Commercial banks become reluctant to provide financial assistance to contractors, suppliers, and consultants due to uncertainty of the cash flow under public sector contracts. Delayed payment is in effect Government borrowing from contractors, suppliers, and consultants instead of borrowing from commercial banks to make procurement payments. Delayed payments affect adversely the operations and development of Sudanese firms and give foreign firms (who may have better lines of credit) an unfair advantage in access to public contracts. If not addressed, delayed payments could drive potential Sudanese firms out of business.

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
7(c) There are no major systemic constraints (e.g., inadequate access to credit, contracting practices, etc.) inhibiting the private sector's capacity to access the procurement market	There are multiple constraints inhibiting private sector access to the public procurement market which often affect competition levels	1

***BLI 8. Existence of contract administration and dispute resolution provisions***

288. This indicator looks at the quality of contract administration practices from the time a contract is awarded to the time of acceptance of deliverables and final payment under the contract. Although this is downstream of the procurement process, issues at this a stage can affect the performance of the contract and impact on service delivery. Assessment under this indicator involves scoring three sub-indicators covering procedures for (a) contract administration, (b) dispute resolution, and (c) enforcement of the outcome of dispute resolution.

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

289. It is common for the employer (i.e. GNU) to fail to discharge its contractual obligations, in particular by failing to effect payments and/or to give instructions promptly when due without any remedy to the contractor. There are only a few known cases where the employer has granted extensions of time and compensated for the extra cost to the contractor owing to the employer's failure to comply with contractual provisions. The contracts of national and state governments reviewed show that price and cost overruns reflect the norm. Contract clauses are invariably unfair, with unclear specifications regarding the rights and duties of the contracting parties, provision for contractual amendments, variation orders, payment terms, and remedies for

breaches of contract by the parties. Thus, efficient contract execution is bound to be difficult but within bounds by improving contract administration.

290. **Customs and port clearance procedures.** The vast majority of private firms that are actively involved with public sector contracts had no major complaints regarding the procedures for Customs and port clearance procedures. However, it was noted that excessive service charges are normally included in the contract price or borne by the government. For imports financed from foreign resources, the government normally pays the Custom duties; for other imported goods, the suppliers or contractor pays the duties from the advance payment or letter of credit. Some problems sometimes arise when the government is responsible for paying the duties and fails to do so in time. The main concern of the private sector is the length of time it takes to complete the clearance processes, which are very bureaucratic. Another concern is the 42 truck-checking points along the Khartoum Port Sudan road, which can delay the 1,200-kilometers journey. The contractor often passes on expensive charges for Customs and port clearances to the Government via higher contract prices.

291. **Labor standards for construction industry.** The Labor Act of 1997 does not contain any provision requiring contractors to observe specific standards on labor regarding fair wages, working hours, and health and safety measures. The Act is applicable to the industrial labor and provides that no child below age 15 shall be employed in any job except in some specific jobs or if they have a guardian who resides with them in the place of work. The law prohibits employment of children in a wide range of situations such as carrying heavy weights, working under water, and underground. The Civil Transactions Act has a detailed chapter on “Civil Engineering Contract” with provisions for labor standards regarding wages, working hours, morality, certificates, and health and safety measures. It does not however have provisions related to child labor. These provisions are not in the procurement regulations, and there is no evidence of their being observed by contractors. The failure to incorporate and observe these standards in the construction industry means that the welfare and benefits of workers are at risk.

<b><i>SUB-INDICATOR</i></b>	<b><i>BRIEF COMMENT</i></b>	<b><i>SCORE</i></b>
8(a) Procedures are clearly defined for undertaking contract administration responsibilities that include inspection and acceptance procedures, quality control procedures, methods to review and issue contract amendments in a timely manner		0
(i) Procedures for acceptance of final products and for issuance of contract amendments are part of the legal/regulatory framework or are incorporated as standard clauses in contracts	Not specified	
(ii) Clauses are generally consistent with internationally accepted practices incorporated in standard bidding documents issued by multilateral development banks	Standard clauses provided do not cover these aspects of contract management	
(iii) Quality control procedures for goods are well defined in the model contracts and	No model contracts available	

documents or in the regulations. Quality control is carried out by competent officers, inspection firms or specialized testing facilities		
(iv) Supervision of civil works is carried out by independent engineering firms or qualified government supervisors and inspectors	Yes	
(v) Final payments are processed promptly as stipulated in the contract	There are inordinate delays and generally payments not as stipulated in contracts	

***Sub-indicator 8(b). Contracts include dispute resolution procedures that provide for an efficient and fair process to resolve disputes arising during the performance of the contract***

292. Sudan Arbitration Act 1999 is generally in line with internationally accepted arbitration principles in the UNCITRAL Model Law for Arbitration, with a few exceptions. The Minister of the Justice Department, an organ of the government, is given the charge of constituting an arbitration tribunal. Good practice requires that parties to the contract are given the freedom to select their own arbitration panels and procedure; if either party should they fail to constitute the panel in accordance with the stipulated provision, they may request court intervention.

<b><i>SUB-INDICATOR</i></b>	<b><i>BRIEF COMMENT</i></b>	<b><i>SCORE</i></b>
<b>8(b) Contracts include dispute resolution procedures that provide for an efficient and fair process to resolve disputes arising during the performance of the contract</b>		<b>0</b>
(i) There is an arbitration law in the country	The Sudan Arbitration Act 1999 is available	
(ii) The law is consistent with generally accepted practices for neutrality of arbitrators, due process, expediency and enforceability	The Sudan Arbitration Act does not provide for the neutrality of arbitrators	
(iii) The country accepts as a matter of course international arbitration for international competitive bidding	The country does not differentiate between national and international competitive bidding procedures	
(iv) Provisions for alternative dispute resolution are standard in contracts	There is no provision for alternative dispute resolution	
(v) Provisions for alternative dispute resolution conform to the international standard wording in standard bidding documents issued by multi-lateral development banks	There is no provision for alternative dispute resolution	

***Sub-indicator 8(c). Procedures exist to enforce the outcome of the dispute resolution process***

293. In order to be effective, the contract must not only provide for fair and efficient dispute resolution procedures but for enforcement of the outcome of the dispute resolution process. The

Ministry of Justice is the policyholder of the dispute resolution procedures in Sudan. The enforcement of results also fall to this ministry.

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>8(c) Procedures exist to enforce the outcome of the dispute resolution process</b>		
(i) The country is a member of the New York Convention on enforcement of international arbitration awards		
(ii) The country has procedures to enable the winner in a dispute to seek enforcement of the outcome by going to the courts		
(iii) The country has a process to monitor this area of contract administration and to address performance issues		

### *Summary of Findings and Recommendations for Procurement Practices Reforms*

**Table 28. Summary of Sub-indicator Scores under Pillar III**

<i>Baseline Indicator and sub-Indicator</i>		<i>SCORE</i> <i>Minimum = 0</i> <i>Maximum = 3</i>
<i>No.</i>		
<b>PILLAR III – PROCUREMENT OPERATIONS AND MARKET PRACTICES</b>		
<b>6</b>	<b><i>The country's procurement operation and practices are efficient</i></b>	
6(a)	The level of procurement competence among government officials within the entity is consistent with their procurement responsibilities	0
6(b)	The procurement training and information programs for government officials and for private sector participants are consistent with demand	0
6(c)	There are established norms for the safekeeping of records and documents related to transactions and contract management	0
6(d)	There are provisions for delegating authority to others who have the capacity to exercise responsibilities	2
<b>7</b>	<b><i>Functionality of the public procurement market</i></b>	
7(a)	There are effective mechanisms for partnerships between the public and private sector.	1
7(b)	Private sector institutions are well organized and able to facilitate access to the market	2
7(c)	There are no major systemic constraints (e.g., inadequate access to credit, contracting practices, etc.) inhibiting the private sector's capacity to access the procurement market	1
<b>8</b>	<b><i>Existence of contract administration and dispute resolution provisions</i></b>	

<b>Baseline Indicator and sub-Indicator</b>		<b>SCORE</b> <b>Minimum = 0</b> <b>Maximum = 3</b>
<b>No.</b>		
8(a)	Procedures are clearly defined for undertaking contract administration responsibilities that include inspection and acceptance procedures, quality control procedures, methods to review and issue contract amendments in a timely manner	0
8(b)	Contracts include dispute resolution procedures that provide for an efficient and fair process to resolve disputes arising during the performance of the contract	0
8(c)	Procedures exist to enforce the outcome of the dispute resolution process	0

### ***Recommendations on the Proposed Procurement Practices Reform***

294. Three key recommendations under Pillar III are suggested to reform the procurement operations and market practices for effectiveness and efficiency of the system:

- (1) ***Government should establish and implement a procurement data management and monitoring system.*** All records relating to public sector contracting and contracts management should be safely kept for a minimum period like seven years for audit purposes. The procurement oversight body should implement a system of collecting public procurement data for purposes of establishing a price data bank and for annual evaluation and reporting on the compliance and performance of the public procurement system.
- (2) ***A competition framework, including a Competition Act and Competition Authority, should be established; and the Registration of Companies should be strengthened to ensure fair competition and transparency.*** The legislation on competition should be revised; and, in parallel, the procurement oversight body should include in its capacity-building strategy and training plans an outreach program to support the development of the private sector.
- (3) ***The Sudan Arbitration Act 1999 should be revised*** to provide for efficient, fair, and effective dispute resolution processes and enforcement that gives confidence to consultants, suppliers, and contractors to contract with the Government of Sudan. The procedures for contracts management, dispute resolution, and enforcement of dispute resolution process should be strengthened.



#### **4.4 Pillar IV. Integrity and Transparency of the National Procurement System**

295. Under Pillar IV, aspects of the national procurement system and the governance environment are assessed for the extent to which they are defined and structured to ensure integrity and transparency. Four indicators are used to assess if the procurement system operates with integrity; if it has the appropriate controls for enforcing the relevant laws and regulations; and if appropriate measures exist to address the potential for corruption in the system.

##### ***BLI 9. The country has effective control and audit system***

296. This indicator looks at the quality, reliability, and timeliness of the internal and external controls, preferably based on risk assessment and mitigation, and also reviews the effectiveness of controls in terms of how the auditors' recommendations are implemented. Here the procurement assessment has relied on the PFM assessment undertaken at the same time as the procurement assessment.

297. Internal controls remain weak while internal audit is gradually improving. The annual reports of the Auditor General of Sudan point to the many weaknesses in internal controls. Internal audit is primarily involved in transaction testing and does not use modern risk-based techniques. Only around half of the spending units at the Federal level have some sort of internal audit, and only 5 percent of public enterprises are covered. Internal audit reports are regularly submitted to top management and copied to the Auditor General. Recently there have been several examples of corrective action being taken in a timely manner by GNU on receipt of internal audit reports.

298. There are internal auditors throughout MDAs in Sudan, but unfortunately their roles are not entirely consistent with the modern definition of independent, objective assurance, and consulting activity designed to add value and improve an organization's operations. In the Sudanese context, internal audit is seen as a pre-check function that is primarily responsible for transaction testing. There is no risk-based or similar methodology in place.

299. The external audit function is well developed and respected in Sudan. The National Audit Chamber is responsible for auditing all budgetary units at the federal and state levels and of public enterprises. Despite capacity constraints and resource limitations, the Chamber is fulfilling its constitutional mandate. The current focus is largely on traditional transaction audits. Modernization of work practices is required as is the need to move to risk-based auditing as well as performance and value-for-money audits. Timely reports are submitted to the National Assembly then followed up by the Economic Affairs Committee. Legislative scrutiny of the reports is performed in a timely fashion, and relations between the Auditor General and the National Assembly are strong.

##### ***Sub-indicator 9(a). A legal framework, organization, policy, and procedures for internal and external control and audit of public procurement operations are in place to provide functioning control framework.***

300. Sudan does not have effective organization, policy, and procedures for internal and external control of public procurement operations. Procedures Guidelines of 2003 give the Public

Procurement Department the authority to verify that procurement procedures, as stipulated in the Financial and Accounting Regulations 1995, are followed by Government units. The Guidelines are only part of the MoFNE internal manual and do not explicitly mention the Public Procurement Department’s responsibility for verifying the compliance with public procurement procedures. There is no evidence that the oversight function has been carried out systematically or that effective internal controls exist for procurement within contracting entities.

301. Occasionally the Auditor General and MoFNE Internal Auditor carry out internal and external audit of public procurement operations. There is a declared intention to incorporate performance auditing in both internal and external audit portfolios auditing, but there is lack of established procedures for reporting irregularities. In addition, there are not enough qualified auditors capable of undertaking procurement audits. The introduction of performance audit should be formalized and accelerated by the Government. Procedures for reporting irregularities should also be properly established and staff trained.

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>9(a) A legal framework, organization, policy, and procedures for internal and external control and audit of public procurement operations are in place to provide functioning control framework.</b>		<b>0</b>
(i) Adequate independent control and audit mechanisms and institutions to oversee the procurement function	There is no legal framework for procurement audit and the procurement oversight is not functional	
(ii) Implementation of internal control mechanisms in individual agencies with clearly defined procedures	Internal control mechanisms vary between individual agencies and the definition of procedures is not clear across the board. The Auditor General has documented significant weaknesses in the understanding and application of the internal control framework which has been echoed by the Internal Audit function	
(iii) Proper balance between timely and efficient decision making and adequate risk mitigation	There is no evidence of timely decision making and existence of risk mitigation measures	
(iv) Specific periodic risk assessment and controls tailored to risk management	The Auditor General of Sudan undertakes an annual assessment of the effectiveness of the internal control environment as part of the annual audit process and results reported in Part Three of the Annual Audit Report	

***Sub-indicator 9(b). Enforcement and follow-up on findings and recommendations of the control framework provide an environment that fosters compliance***

302. There is no systematic oversight of public procurement by the Public Procurement Department, and as such there is no enforcement and follow-up activity to assess. Procurement is sometimes subject to review from the Audit Chamber, although only as part of a mainstream financial audit (although some performance audits are now being introduced). There is evidence of follow-up of the Auditor General’s recommendations by the Executive, helped by the legislative scrutiny afforded by the House of Representatives. Internal audit (where it exists) will

occasionally also look at procurement transactions but not in a systematized or risk-based fashion. Management response to internal audit reports is variable. Action does take place but with some delay. However, some major internal audit findings were acted upon immediately by GNU in 2007.

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>9(b) Enforcement and follow-up on findings and recommendations of the control framework provide an environment that fosters compliance</b>	No oversight comes from the designated oversight body (Public Procurement Department) although some coverage is provided by internal and external audit functions. Follow-up of audit recommendations is variable.	<b>1</b>

***Sub-indicator 9(c). The internal control system provides timely information on compliance to enable management action***

303. The Auditor General of Sudan has commented on the poor internal control framework that exists across the board in PFM systems in Sudan, and procurement is no exception. It is unclear what controls exist outside of the assurances provided by Internal Audit, which, as has been noted, has limited coverage although the quality is improving. Manuals do exist for Internal Audit, and there is a reporting regime, which is largely respected. Most internal auditors are involved in transaction testing with limited systems, risk-based or performance audits undertaken.

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>9(c) The internal control system provides timely information on compliance to enable management action.</b>		<b>1</b>
(i) There are written standards for the internal control unit to convey issues to management depending on the urgency of the matter	The only internal control unit is coverage from Internal Audit. This is limited and not risk based, but is governed by audit manuals.	
(ii) There is established regular periodic reporting to management throughout the year	The only reporting exists through the Internal Audit function. MDA internal auditors report to Internal Audit management in the MoFNE monthly, and reports are also consolidated for the Minister of Finance and National Economy. An annual report is prepared and presented to the Accounting Office in each MDA, and the main findings are also summarized and presented to the Minister of Finance in MoFNE. Reports are also copied to the Audit Chamber	
(iii) The established periodicity and written standards are complied with	Unclear what standards exist.	

***Sub-indicator 9(d). The internal control systems are sufficiently defined to allow performance audits to be conducted***

304. The MoFNE Internal Audit Department plans to undertake a few performance audits along with some expenditure tracking surveys. Pilots in the Ministry Health and Ministry of Agriculture have shown that acute fiduciary concerns do exist at several MDAs.

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
9(d) The internal control systems are sufficiently defined to allow performance audits to be conducted	Internal controls are not sufficiently defined. Changes to the legislative and regulatory framework should remedy this.	1

***Sub-indicator 9(e.) Auditors are sufficiently informed about procurement requirements and control systems to conduct quality audits that contribute to compliance.***

305. Internal and external audit of public procurement operations are occasionally carried out by the Auditor General and MoFNE internal auditors. There is a declared intention to change the auditing system from financial to performance auditing, but there is lack of established procedures for reporting irregularities. In addition, there are not enough qualified auditors trained in procurement auditing. The change to performance audit should be formalized and accelerated by the Government. The absence of established procedures for reporting irregularities does not allow effective enforcement and follow-up on findings and recommendations. In the absence of enough trained and qualified staff, procurement audit cannot be carried out systematically and does not contribute to compliance.

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
9(e) Auditors are sufficiently informed about procurement requirements and control systems to conduct quality audits that contribute to compliance	There is a requirement that auditors have general knowledge of procurement principles, operations, laws, and regulations but they are not supported generally by specialists in procurement	1

***BLI 10. Efficiency of appeals mechanism***

306. This indicator uses five sub-indicators to assess aspects of the appeals mechanism specifically on issues regarding efficiency in contributing to the compliance environment in the country and the integrity of the public procurement system.

***Sub-indicator 10(a). Decisions are deliberated on the basis of available information and the final decision can be reviewed and ruled upon by a body (or authority) with enforcement capacity under the law.***

307. There are no clear procedures and mechanism for complaints, appeals, and grievances applicable to the public procurement system, except recourse to the courts. The Public Grievance Chamber (Ombudsman), created in 1998, has broad powers to remedy grievances and injustice suffered by citizens (rather than companies, firms, or other commercial entities) in relation to state institutions. In the current legal and regulatory framework of the public procurement system, no such mechanism exists except recourse to the courts. The Public Grievance Chamber does not deal with procurement. It considers a complaint only after the complainant exhausts all

means and stages of litigation. This is not an appropriate way of operating if delays to the procurement process are to be avoided.

<b><i>SUB-INDICATOR</i></b>	<b><i>BRIEF COMMENT</i></b>	<b><i>SCORE</i></b>
<b>10(a) Decisions are deliberated on the basis of available information and the final decision can be reviewed and ruled upon by a body (or authority) with enforcement capacity under the law</b>		<b>0</b>
(i) Decisions are rendered on the basis of available evidence submitted by the parties to a specified body that has the authority to issue a final decision that is binding unless referred to an appeals body	There is no public procurement appeals mechanism or body in Sudan except the courts of law	
(ii) An appeals body exists which has the authority to review decisions of the specified complaints body and issue final enforceable decisions	There is no appeals body	
(iii) There are times specified for the submission and review of complaints and issuing of decisions that do not unduly delay the procurement process	No appeals mechanism is defined in the existing procurement legal and regulatory framework	

***Sub-indicator 10(b). The complaint review system has the capacity to handle complaints efficiently and a means to enforce the remedy imposed***

308. A complaints review system should have the capacity and efficiency as well as the ability to enforce the remedy it imposes. This should be provided for in the legal and regulatory framework, but this indicator focuses on the capacity and efficiency issues.

<b><i>SUB-INDICATOR</i></b>	<b><i>BRIEF COMMENT</i></b>	<b><i>SCORE</i></b>
<b>10(b) The complaint review system has the capacity to handle complaints efficiently and a means to enforce the remedy imposed</b>	There is no complaints review system so questions relating to its capacity have no substance.	<b>0</b>

***Sub-indicator 10(c). The system operates in a fair manner, with outcomes of decisions balanced and justified on the basis of available information***

309. To ensure fairness, the complaints review system must require that decisions are rendered only on relevant and verifiable information presented and that the decisions are unbiased, giving consideration to evidence presented and to the spirit of legal and regulatory provisions. Additionally, the remedy imposed should be consistent with findings of the case as well as the provisions in the legal and regulatory framework. Decisions of the complaints body should be based on process issues while the remedies focus on corrective actions needed to comply with the process.

<b><i>SUB-INDICATOR</i></b>	<b><i>BRIEF COMMENT</i></b>	<b><i>SCORE</i></b>
<b>10(c) The system operates in a fair manner, with outcomes of decisions balanced and justified on the basis of available information. Decisions:</b>		<b>0</b>
(i) Are based on information relevant to the case	The existing procurement system has no complaints review mechanism and does not comply with this indicator	
(ii) Are balanced and unbiased in consideration of the relevant information		
(iii) Can be subjected to higher-level review		
(iv) Result in remedies that are relevant to correcting the implementation of the process or procedures		

***Sub-indicator 10(d). Decisions are published and made available to all interested parties and to the public***

310. Decisions of the appeals body should be made public by law and posted in the Government procurement website so that interested parties can check the consistency and fairness of the process.

<b><i>SUB-INDICATOR</i></b>	<b><i>BRIEF COMMENT</i></b>	<b><i>SCORE</i></b>
<b>10(d) Decisions are published and made available to all interested parties and to the public</b>	There are no decisions on public procurement complaints and no Government procurement website	<b>0</b>

***Sub-indicator 10(e). The system ensures that the complaint review body has full authority and independence for resolution of complaints***

311. It is important that the complaint decision body has sufficient degree of autonomy from the rest of the system to ensure that its decisions are free from interference or conflict of interest. However, at present, no such body exists in Sudan.

<b><i>SUB-INDICATOR</i></b>	<b><i>BRIEF COMMENT</i></b>	<b><i>SCORE</i></b>
<b>10(e) The system ensures that the complaint review body has full authority and independence for resolution of complaints</b>	There is currently no public procurement complaints review body	<b>0</b>

***BLI 11. Degree of access to information***

312. This indicator looks at the quality, relevance, ease of access, and comprehensiveness of information on the public procurement system.

313. There is no evidence of any provision or practice granting public access to procurement information. Specific arrangements in the legal/regulatory framework to ensure that relevant and complete procurement information is easily accessible in media of wide circulation and availability are missing.

***Sub-indicator 11(a). Information is published and distributed through available media with support from information technology when feasible***

314. Public access to procurement information is essential to transparency and creates a basis for social audit by interested stakeholders. Therefore, the public should have easy access to comprehensive, relevant, and user-friendly information. The public procurement system should include provisions to protect the disclosure of proprietary, commercial, personal, or financial information of a confidential or sensitive nature. A dedicated Government procurement website should be created for this purpose, and the legal and regulatory framework should ensure that agencies duly post the required information on a timely basis.

315. E-procurement system uses information technology systems and networks for conducting business relationships by Government with suppliers and contractors for the procurement of works, goods, services and consulting services required by the public sector.<sup>7</sup> An e-procurement system is governed by the same basic principles as a normal paper-based system. The main purpose of the system is to promote value for money in public spending through application of sound and transparent practice.<sup>8</sup> However, an e-procurement system can offer advantages over a normal paper-based system. The main advantages are easy and cost-effective access to information (e.g. bidders' access to advertisements and notices, authorities' access to legal documents and guidelines, and access of oversight authorities to individual electronic procurement protocols and any documents on file). All stages of the procurement can benefit from electronic processes, including pre-qualification, advertising, preparation and issuance of bidding documents, receipt of bids, bid opening, evaluation of bids, clarification and modification, notification, and publication of results. Very often the lack of infrastructure and connectivity create the biggest challenge particularly in low-income countries and in rural areas.

316. It is not necessary for e-procurement systems to include all procurement functions. For some steps in the government-used procurement process, online technology is extremely efficient (such as for advertising of bid opportunities). It is not within the scope of this report to suggest technical solutions or promote any of the proprietary systems that are available on the market. However, for communication purposes, it is a common view that the Internet provides a low-cost and technically undemanding solution. As a consequence any computer in a public office that is connected to the Internet is ready to reap the benefits of e-procurement in its most simple forms.

317. There are some basic considerations for a country wanting to implement an e-procurement system:

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<sup>7</sup> E-Tendering Requirements for Multilateral Development Banks (MDBs) Financed Procurement, October 2005

<sup>8</sup> Supporting the development of e-procurement is one of the goals of the Global Procurement Agreement under the World Trade Organization (WTO). The WTO Working Group on Transparency in Public Procurement has recognized the special benefits in form of cost savings and increased transparency that e-procurement can offer developing countries, but it also recognizes the barriers in form of access to the necessary technology and capacity that these countries face.

- **Government leadership.** Vision, resources, implementation;
- **Governance.** Adapted legal framework, oversight organization in place;
- **Human resources.** Education, skills development, expertise, and career development (capacity to utilize system in place);
- **Institutions.** Work flows adapted to system, uniform information (data) scheme applied, functioning market able to perform under new system;
- **Technology.** Infrastructure in place, access to infrastructure established through office technology, necessary e-procurement software in place.

318. While access to information is the main stem of any procurement system, e-procurement can be approached from different angles. The e-procurement approach includes setting up an electronic marketplace to improve the efficiency of the market and promote value for money. Looking at the issues in the procurement environment of Sudan, it is evident that the more pressing problems of information dissemination and transparency should be prioritized. Three different types of e-procurement system, each with increasing level of sophistication and requirements are summarized in Table 30.

**Table 29. Features and Complexity of e-Procurement Systems**

<b>System</b>	<b>Features</b>	<b>Complexity</b>
Electronic system	Support dissemination of information monitoring and statistics gathering but does not offer any interactivity between participants	Low: Minimal technical requirements
Electronic purchasing system	Contains e-commerce features such as electronic formation of contracts on pre-determined terms. Suitable for administration of large framework agreements.	Medium: Technical, legal and organizational requirements.
Electronic tendering system	Support the entire procurement cycle and eliminates the use of paper entirely. Contains functionality for formation of complex contracts, auctioning and complaints handling.	High: Require mature markets and thorough legal and organizational reforms that cannot be seen outside the context of larger e-government reform.

Currently, however, there is no public information system in place in Sudan, and priority must now be given to the development of such.

<b>SUB-INDICATOR</b>	<b>BRIEF COMMENT</b>	<b>SCORE</b>
<b>11(a) Information is published and distributed through available media with support from information technology when feasible</b>	There is no public information system as such and it is generally up to the procuring entity to publish information	<b>0</b>



***BLI 12. The country has ethics and anticorruption measures in place***

319. The nature and scope of the anticorruption provisions in the procurement system are assessed under this indicator and scored through seven sub-indicators.

***Sub-indicator 12(a). The legal and regulatory framework for procurement, including tender and contract documents, includes provisions addressing corruption, fraud, conflict of interest, and unethical behavior and sets out (either directly or by reference to other laws) the actions that can be taken with regard to such behavior***

320. The legal and regulatory framework for procurement does not include provisions compelling contracting entities to include references on fraud and corruption, conflict of interest, and unethical behavior in tendering documentation. There are, however, two laws that provide for control of corruption: The Unlawful Suspicious Enrichment (Combating) Act 1989 and Penal Code (Chapter X, Article 88). The provisions of the Unlawful Suspicious Enrichment (Combating) Act apply to the persons in the public service. Article 88 of the Penal Code does not cover corruption in public procurement but stipulates that giving bribes to a public official is a punishable offense. These laws therefore do not address bribery by corporations, particularly foreign corporations, which should attract heavy fines and/or temporary or permanent blacklisting. A serious gap in the legislation is that there is no mechanisms set out enabling bidders to report alleged acts of bribery by other bidders and/or solicitations of bribes by public officials. Progress in combating fraud and corruption, conflicts of interest, and unethical behavior cannot be expected unless both the active and the passive forms of corruption are addressed in the relevant legislation and then vigorously enforced.

<b><i>SUB-INDICATOR</i></b>	<b><i>BRIEF COMMENT</i></b>	<b><i>SCORE</i></b>
<b><i>12(a) The legal and regulatory framework for procurement, including tender and contract documents, includes provisions addressing corruption, fraud, conflict of interest, and unethical behavior and sets out (either directly or by reference to other laws) the actions that can be taken with regard to such behavior</i></b>	The legal framework does not directly address fraud, corruption or unethical behavior and its consequences. Tender documents generally do not cover these issues.	<b><i>0</i></b>

***Sub-indicator 12(b). The legal system defines responsibilities, accountabilities, and penalties for individuals and firms found to have engaged in fraudulent or corrupt practices***

321. It is globally recognized that it is not sufficient to impose rules merely on public sector participants in the procurement process and to sanction misconduct only on the part of public officials. It is equally important to establish high standards of conduct for bidders and suppliers since they can be participants in, if not originators of, misconduct in the procurement process. Provisions should include the prohibition of corrupt and fraudulent practices, including bribery and collusion; the sanction of obligatory rejection of bids tainted by corruption; liability of violators of the conduct rules to prosecution under applicable penal law.

322. The legal provisions should define fraudulent and corrupt practices and set out the responsibilities and sanctions for individuals or firms indulging in such practices. Issues concerning conflict of interest and incompatibility situations are equally important. The law should prohibit active public officials and former public officials, who for a reasonable period of time after leaving office, from intervening in procurement matters in ways that benefit them, their relatives, and business or political associates financially or otherwise. An arrangement whereby anticorruption legislation has the same effect as if the anticorruption provisions were in the procurement law is equally appropriate. However, the current situation in Sudan is that these issues are not sufficiently dealt with.

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>12(b) The legal system defines responsibilities, accountabilities, and penalties for individuals and firms found to have engaged in fraudulent or corrupt practices</b>	The legal framework does not adequately deal with the matter	<b>0</b>

***Sub-indicator 12(c). Evidence of enforcement of rulings and penalties exists***

323. The Unlawful and Suspicious Enrichment (Combating) Act 1989 has inadequate provisions for combating procurement-related fraud and corruption. The Act is administered by the Ministry of Justice, which has stated that it has only five cases under investigation from the beginning of 2009. The main tool of investigation is the examination of assets (tax) returns. Without access to procurement information, direct stakeholders, including private citizens, have no way of reporting cases of fraud and corruption of which they may have corroborating information. Evidence of enforcement is necessary to demonstrate to the citizens and other stakeholders that the country is serious about fighting corruption.

<i>SUB-INDICATOR</i>	<i>BRIEF COMMENT</i>	<i>SCORE</i>
<b>12(c) Evidence of enforcement of rulings and penalties exists</b>	There is evidence on a few cases where laws on corrupt practices have been enforced	<b>2</b>

***Sub-indicator 12(d). Special measures exist to prevent and detect fraud and corruption in public procurement***

324. This indicator aims to verify the existence of an anticorruption program as well as its extent and nature or other special measures that can help prevent and/or detect fraud and corruption specifically associated with public procurement. A comprehensive anticorruption program normally includes all stakeholders in the procurement system, assigns responsibilities to all of them, and assigns a high-level body or organization with sufficient standing and authority to be responsible for coordinating and monitoring the program (Table 30).

**Table 30. Roles and Responsibilities in a Comprehensive Anticorruption Program**

<b>Body/Organization/Function</b>	<b>Responsibility/Purpose</b>
<i>Procurement authorities</i>	run and monitor a transparent and efficient system and provide public information to promote accountability and transparency.
<i>Supreme audit authority and parliament</i>	detect and denounce irregularities or corruption.
<i>Civil society organizations</i>	conduct social audits and monitor procurement to protect the public interest.
<i>The judiciary</i>	in the form of special anticorruption courts and dedicated investigative bodies investigate and prosecute cases of corruption.
<i>The media</i>	broadcast and publish Government public awareness campaigns to change behavior in respect of corrupt practices and tolerance.
<i>Use of modern technology</i>	to promote e-Procurement and e-Government services to minimize the risk of facilitation payments.

<b>SUB-INDICATOR</b>	<b>BRIEF COMMENT</b>	<b>SCORE</b>
<b>12(d) Special measures exist to prevent and detect fraud and corruption in public procurement</b>	The Government has in place an anticorruption program but it requires better coordination and leadership to be effective. No specific measures exist for public procurement	<b>2</b>

***Sub-indicator 12(e). Stakeholders (private sector, civil society, and ultimate beneficiaries of procurement/end-users) support the creation of a procurement market known for its integrity and ethical behaviors***

<b>SUB-INDICATOR</b>	<b>BRIEF COMMENT</b>	<b>SCORE</b>
<b>12(e) Stakeholders (private sector, civil society, and ultimate beneficiaries of procurement/end-users) support the creation of a procurement market known for its integrity and ethical behaviors</b>		<b>1</b>
(i) There are strong and credible civil society organizations that exercise social audit and control	There are only a few organizations involved in the matter, the dialogue with the government is difficult and the contributions from the public to promote improvements are taken in an insignificant way.	
(ii) Organizations have government guarantees to function and cooperation for their operation and are generally promoted and respected by the public		
(iii) There is evidence that civil society contributes to shape and improve integrity of public procurement		

***Sub-indicator 12(f). The country should have in place a secure mechanism for reporting fraudulent, corrupt, or unethical behavior.***

<b><i>SUB-INDICATOR</i></b>	<b><i>BRIEF COMMENT</i></b>	<b><i>SCORE</i></b>
<b>12(f) The country should have in place a secure mechanism for reporting fraudulent, corrupt, or unethical behavior</b>	There is no secure mechanism for reporting fraud, unethical behavior and corruption cases	<b>0</b>

***Sub-indicator 12(g). Existence of codes of conduct and codes of ethics for participants that are involved in aspects of the public financial management systems that also provide for disclosure for those in decision making positions.***

325. The legal framework for public procurement in Sudan does not set forth rules of conduct specifically tailored to the procurement context and code of conduct for public officials and private sector participants in the procurement process. Legal provisions addressing the ethics and business conduct of public procurement officials should focus the obligation to act in the public interest; prohibitions against conflicts of interest, corrupt conduct, and participation as bidders; duty of confidentiality; duty of cooperation with oversight authorities; and administrative, civil, and penal sanctions for violations.

<b><i>SUB-INDICATOR</i></b>	<b><i>BRIEF COMMENT</i></b>	<b><i>SCORE</i></b>
<b>12(g) Existence of codes of conduct and codes of ethics for participants that are involved in aspects of the public financial management systems that also provide for disclosure for those in decision making positions</b>		<b>1</b>
(i) There is a code of conduct or ethics for government officials with particular provisions for those involved in public financial management, including procurement	There is no code of conduct.	
(ii) The code defines accountabilities for decision making and subjects decisions makers to specific financial disclosure requirements		
(iii) The code is of obligatory compliance and consequences are administrative or criminal		

**Summary of Findings and Recommendations on Reforms to Ensure Integrity and Transparency of the Procurement System**

**Table 31. Summary of Sub-indicator Scores under Pillar IV**

<b>Baseline Indicator and sub-Indicator</b>		<b>SCORE</b> Minimum = 0 Maximum = 3
<b>No.</b>		
<b>PILLAR IV – INTEGRITY AND TRANSPARENCY OF THE PROCUREMENT SYSTEM</b>		
<b>9</b>	<b>The country has effective control and audit system</b>	
9(a)	A legal framework, organization, policy, and procedures for internal and external control and audit of public procurement operations are in place to provide functioning control framework	0
9(b)	Enforcement and follow-up on findings and recommendations of the control framework provide an environment that fosters compliance	1
9(c)	The internal control system provides timely information on compliance to enable management action.	1
9(d)	The internal control systems are sufficiently defined to allow performance audits to be conducted	1
9(e)	Auditors are sufficiently informed about procurement requirements and control systems to conduct quality audits that contribute to compliance	1
<b>10</b>	<b>Efficiency of appeals mechanism</b>	
10(a)	Decisions are deliberated on the basis of available information and the final decision can be reviewed and ruled upon by a body (or authority) with enforcement capacity under the law	0
10(b)	The complaint review system has the capacity to handle complaints efficiently and a means to enforce the remedy imposed	0
10(c)	The system operates in a fair manner, with outcomes of decisions balanced and justified on the basis of available information.	0
10(d)	Decisions are published and made available to all interested parties and to the public	0
10(e)	The system ensures that the complaint review body has full authority and independence for resolution of complaints	0
<b>11</b>	<b>Degree of access to information</b>	
11(a)	Information is published and distributed through available media with support from information technology when feasible	0
<b>12</b>	<b>The country has ethics and anticorruption measures in place</b>	
12(a)	The legal and regulatory framework for procurement, including tender and contract documents, includes provisions addressing corruption, fraud, conflict of interest, and unethical behavior and sets out (either directly or by reference to other laws) the actions that can be taken with regard to such behavior	0
12(b)	The legal system defines responsibilities, accountabilities, and penalties for individuals and firms found to have engaged in fraudulent or corrupt practices	0
12(c)	Evidence of enforcement of rulings and penalties exists	2
12(d)	Special measures exist to prevent and detect fraud and corruption in public procurement	2
12(e)	Stakeholders (private sector, civil society, and ultimate beneficiaries of procurement/end-users) support the creation of a procurement	1

<b>Baseline Indicator and sub-Indicator</b>		<b>SCORE</b>
<b>No.</b>		<b>Minimum = 0</b> <b>Maximum = 3</b>
	market known for its integrity and ethical behaviors	
12(f)	The country should have in place a secure mechanism for reporting fraudulent, corrupt, or unethical behavior	0
12(g)	Existence of Codes of Conduct/Codes of Ethics for participants that are involved in aspects of the public financial management systems that also provide for disclosure for those in decision making positions	1

### ***Recommendations on the Proposed Procurement Practices Reform***

326. Three key recommendations under Pillar IV are suggested to reform the procurement system to ensure integrity and transparency of the system:

- (1) ***Establish a procurement oversight body***, charged with implementation of an annual procurement audit program with annual audit reports. These should be published and made available in the public domain and submitted to the National Assembly through the Audit Chamber. This should be augmented by Internal Audit with capacities to undertake some value-for-money or performance audit work. This will entail the training of procurement auditors in both the private and public sectors and across internal and external audit. Procurement activity should be assessed against internal controls clearly spelled out in the regulatory framework. It would also be prudent to prequalify and maintain a roster of procurement auditors, develop a procurement audit manual, and ensure the review of at least 20 percent of value or number of contracts procured by each procuring entity at least once every two years. Robust follow-up of audits also needs to be promulgated.
- (2) ***Establish an appeals body and appoint members*** including a chairperson at the rank of a High Court Judge. The appeals body should have adequate autonomy and authority to enforce its decisions and sanctions. The body should operate with fairness and transparency and follow up its decisions so as to command confidence of aggrieved bidders.
- (3) ***Develop and implement a comprehensive anticorruption in procurement program*** with consultations and the participation of all stakeholders. The anticorruption in procurement program should be well coordinated, with each of the following having a clearly set role: the procurement oversight body, Audit Chamber, Public Grievance Chamber, National Assembly, civil society organizations and citizens groups, the Judiciary, the media, and the Government procurement website.

## **Section 5. Government Reform Process**

327. The fiscal environment that emerged following the signing of the Comprehensive Peace Agreement in 2005 presented the Government of National Unity with a number of challenges, but some notable progress has been made with regard to addressing key reform issues.

### **A. Recent and On-going Reforms**

328. In 2007 new legislation was enacted (the Law on Financial and Accounting Procedures) that seeks to modernize the functioning of government finances, particularly with regard to expenditure controls, which have historically been weak but which are now more critical than ever given the fiscal position that Sudan finds itself in.

329. To complement this extensive revision of PFM regulations, a new law governing public procurement has been developed and its enactment is awaited. New internal audit legislation is at a similar stage.

330. The introduction of GFS classification has been particularly important. It has now been rolled out across the Federal Government although there have been some implementation problems. It has not yet been fully promulgated at sub-national level. The classification gives MoFNE the ability to consolidate budget planning and monitoring. But, importantly, it will also provide a platform for the implementation of an integrated financial management information system, the acquisition and implementation of which Government is now seriously considering.

331. Commitment controls have also been strengthened in an attempt to combat the rise in arrears. This has necessitated reviewing the cash planning system so that commitments are made against available cash and not nominal, but often unavailable, budget resource ceilings. Such allows the payment of commitments at the appropriate time and combats the rise of arrears.

332. With assistance from the IMF, MoFNE is embarking on organizational reforms. These reforms set to realign the various directorates of the ministry under three pillars: (a) economic policies and performance, (b) budget revenues and expenditure, and (c) finance and treasury functions. Particular aims are to strengthen the macro and fiscal policy planning functions, strengthen revenue policy functions, consolidate debt management, improve some Treasury functions, and modernize human resource management. With regard to macro and fiscal planning functions, the assessment has found them to be on the weak side, particularly with regard to (a) the linkages between macro and pro-poor planning on one hand and budgeting on the other; (b) putting in place a poverty reduction strategy at the center of the planning and budgeting architecture; and (c) medium-term budgeting, which does not currently take place.

333. MoFNE is also committed to oversee the rollout of PFM reform to the Northern states to ensure that gains made at the federal level are not compromised by poor sub-national

performance. This is particularly important given the critical role that sub-national governments have as point of delivery for most pro-poor services. Some capacity to absorb GFS 2001 at sub-national level will need to be built and in-year reporting improved.

334. Reform of oversight institutions such as the National Audit Office is also a priority and is ongoing.

335. With regard to procurement, the Public Procurement (Act) Bill now before the National Assembly embodies the principles of transparency, accountability, economy, efficiency, and open competition; and provides for a framework for the institutional aspects of an accountable and transparent procurement system. However, there are still some weaknesses, notably around potential barriers to limitations of the participation of foreign bidders, a lack of clarity with regard to the institutional framework, and some matters relating to scope and form of contract. A clear separation of duties between oversight and operations is still required, and other issues relating to transparency and the availability of information should be addressed once the bill is passed into law.

## **B. Institutional Factors Supporting Reform Planning and Implementation**

336. There seems to be strong government leadership and commitment for PFM reform. Much of the progress made to date has been due to activity that has been initiated and, to some extent, resourced by MoFNE and GNU. There appears to be an understanding of the current challenges in government PFM systems as well as the will to resolve them.

337. However, for reform to be properly prioritized and rolled out to all organizations in the institutional framework (which naturally includes bodies outside of the direct orbit of MoFNE), there needs to be a strong center of coordination. This is acknowledged, and the reforms in the organizational structure of MoFNE are in some way recognition of this. But there is still a need for a main focal point for reform, rolling out a sequenced and prioritized strategy that encompasses all elements of the PFM framework.

338. For PFM reforms to address all the issues relating to the institutional framework, a number of stakeholders must be brought on board and activities must be coordinated and sequenced. Stakeholders include the Ministry of Labor, the Civil Service Commission, the Audit Chamber, the Taxation Chamber, the FFAMC, and Parliament. But by far, the biggest challenge will be to also ensure coordination of reform at sub-national level. The full benefits of reform at federal level will only be felt once they are replicated at sub-national level. For example, in the case of changes to the budget classification, the full benefits will only be felt when the states can budget using the same framework and, importantly, report their expenditures, allowing fully consolidated accounting data to be produced. A fully integrated PFM reform program, with outreach at federal and sub-national level, with its own management capacities and coordination structures might well be the best way of addressing these thorny challenges.

339. With regard to sustainability, there are no obvious negative factors. Sudan's reforms have been driven from the inside government, addressing a nationally owned and managed agenda. Reliance on outside technical assistance is low, and the way that Sudan envisages ongoing



reform is through the building of national capacities rather than the contracting of outside assistance.

## Annex A. Calculations for Performance Indicators 1 and 2 (2005-2007)

About methodology:

- The calculated ratio for PI-1 is the ratio (in absolute terms and in percentage) of the differential between the aggregate expenditure forecast and the aggregate expenditure outturn. Debt expenses and projects financed by external support are not counted.
- The calculated ratio for the PI-2 is equal to the sum of the differentials between forecasts and outturns for each institution, compared to the aggregate expenditure forecasts and adjusted for the relative differential between the aggregate forecast and the aggregate outturn.

2005

<i>ITEM</i>			<i>Absolute differential</i>	<i>Relative differential</i>
	<i>Forecast (1)</i>	<i>Outturn (2)</i>	(3) = ABS (1)-(2)	(4) = (3)/(1)
Executive and legislative organs	2,003.4	2,012.1	8.7	0.43%
Defense and national security	1,892.0	799.9	1,092.1	57.72%
Public order and safety	469.8	242.4	227.4	48.41%
Agriculture and livestock	889.8	996.5	106.7	12.00%
Transport, roads, and bridges	313.9	348.9	35.0	11.16%
Energy and mining	222.6	328.9	106.3	47.75%
Industry and construction	79.8	75.6	4.2	5.23%
Communication	71.6	55.5	16.1	22.50%
Other economic services	204.2	212.0	7.8	3.80%
Health	357.9	194.3	163.7	45.72%
Education	376.9	216.1	160.8	42.67%
Environmental protection	1.4	0.6	0.8	56.83%
Housing and Community Amenities	172.4	230.8	58.4	33.89%
Recreation, culture and religion	50.6	23.2	27.4	54.09%
Social protection	468.7	1,193.9	725.2	154.72%
External and local dept (adjusted for debt service)	900.0	1,367.8	467.8	51.98%
Reserves / contingencies	900.0	1,668.0	768.0	85.33%
Development reserves/contingencies	10.0	27.6	17.6	175.96%
Others not classified by Item	135.0	289.0	154.0	114.06%
Northern states transfers	2,248.0	2,147.9	100.1	4.45%
GoSS transfers	2,742.0	1,902.5	839.5	30.62%
<b>Total</b>	<b>14,510.0</b>	<b>14,333.5</b>	<b>176.5</b>	<b>1.22%</b>
Sum of the differentials from forecasts (absolute value and percentage)			5,087.6	<b>35.06%</b>

<i>ITEM</i>			<i>Absolute differential</i>	<i>Relative differential</i>
	<i>Forecast (1)</i>	<i>Outturn (2)</i>	(3) = ABS (1)-(2)	(4) = (3)/(1)
Executive and legislative organs	2,315.6	1,951.5	364.1	15.73%
Defense and national security	2,443.2	2,355.0	88.2	3.61%
Public order and safety	913.5	901.3	12.2	1.33%
Agriculture and livestock	1,206.6	1,221.7	15.1	1.25%
Transport, roads, and bridges	435.4	338.3	97.1	22.30%
Energy and mining	381.2	416.9	35.7	9.38%
Industry and construction	83.2	329.3	246.2	295.95%
Communication	92.7	72.6	20.1	21.70%
Other economic services	442.7	191.1	251.6	56.83%
Health	421.6	272.9	148.7	35.27%
Education	375.4	297.4	78.0	20.79%
Environmental protection	1.7	0.7	0.9	55.66%
Housing and community amenities	201.0	243.5	42.5	21.12%
Recreation, culture, and religion	42.4	37.3	5.1	12.01%
Social Protection	704.1	388.7	315.4	44.80%
External and local dept (adjusted for debt service)	734.0	717.1	16.9	2.30%
Reserves/contingencies	1,094.0	1,184.2	90.2	8.24%
Development reserves/contingencies	28.2	1.2	27.0	95.61%
Others not classified by Item	107.5	144.9	37.5	34.85%
Northern states transfers	4,778.0	3,594.1	1,183.9	24.78%
GoSS transfers	3,194.0	2,957.3	236.7	7.41%
Total	19,996.2	17,617.2	2,379.0	<b>11.90%</b>
Sum of the differentials from forecasts (absolute value and percentage)			3,313.1	<b>16.57%</b>

2007

ITEM			Absolute differential	Relative differential
	Forecast (1)	Outturn (2)	(3) = ABS (1)-(2)	(4) = (3)/(1)
Executive and legislative organs	1,886.0	1,283.5	602.4	31.94%
Defense and national security	3,119.0	3,013.7	105.3	3.38%
Public order and safety	1,165.0	1,156.5	8.5	0.73%
Agriculture and livestock	1,884.2	1,913.9	29.7	1.58%
Transport, roads, and bridges	548.4	293.4	255.0	46.49%
Energy and mining	950.0	840.4	109.6	11.54%
Industry and construction	139.3	118.2	21.1	15.13%
Communication	98.6	68.6	30.0	30.44%
Other economic services	454.4	144.9	309.5	68.11%
Health	509.6	382.7	127.0	24.92%
Education	421.8	408.6	13.2	3.13%
Environmental protection	2.0	0.8	1.2	59.51%
Housing and community amenities	261.0	435.9	174.8	66.97%
Recreation, culture, and religion	81.0	51.1	29.9	36.95%
Social protection	460.6	276.4	184.1	39.98%
External and local dept (adjusted for debt service)	525.0	724.9	199.9	38.08%
Reserves/contingencies	1,190.6	842.8	347.8	29.21%
Development reserves/contingencies	20.0	30.5	10.5	52.58%
Others not classified by Item	67.2	69.7	2.5	3.77%
Northern states transfers	6,023.0	4,386.4	1,636.6	27.17%
GoSS transfers	2,962.0	3,351.5	389.5	13.15%
Total	22,768.7	19,794.4	2,974.2	<b>13.06%</b>
Sum of the differentials from forecasts (absolute value and percentage)			4,588.2	<b>20.15%</b>

**Outcomes**

Year	For PI-1	For PI-2	
	Total expenditure differential (1)	Total differentials	Deviation from overall variation
<b>2005</b>	<b>1.22%</b>	35.06%	<b>33.85%</b>
<b>2006</b>	<b>11.90%</b>	16.57%	<b>4.67%</b>
<b>2007</b>	<b>13.06%</b>	20.15%	<b>7.09%</b>

## Annex B. Sources of Information

<i>Section</i>	<i>Specific information sources used</i>
<b><i>Section 2: Country Background</i></b>	<p>Sudan—First Review of Performance Under the 2007–2008 - Staff-Monitored Program (IMF, 2008)</p> <p>Adjusting Public Financial Management to a New Fiscal Environment (Fiscal Affairs Department, IMF, February 2007)</p> <p>Sudan: 2007 Article IV Consultation and Staff-Monitored Program — Staff Report; Staff Statement; Public Information Notice on the Executive Board Discussion; and Statement by the Executive Director for Sudan (IMF, 2007)</p> <p>Sudan: 2006 Article IV Consultation and Staff-Monitored Program—Staff Report; Staff Statement; Public Information Notice on the Executive Board Discussion; and Statement by the Executive Director for Sudan. (IMF 2006)</p> <p>Third Sudan Consortium. 2008. Joint staff assessment report prepared by the staff of the IMF, World Bank, and United Nations</p> <p>2005 Appropriation Act 2006 Appropriation Act 2007 Appropriation Act 2008 Appropriation Act</p> <p>Government Budget Outturn Figures, 2000-2008</p>
<b><i>Section 3.1: Credibility of the Budget</i></b>	
PI - 1. Aggregate expenditure outturn compared to original approved budget	<p>2005 Appropriation Act 2006 Appropriation Act 2007 Appropriation Act</p> <p>Public Expenditure Review (World Bank), October 2007</p>

<i>Section</i>	<i>Specific information sources used</i>
PI - 2. Composition of expenditure outturn compared to original approved budget	Budget Explanatory Notes (2003 – 2007). 2005 Appropriation Act 2006 Appropriation Act 2007 Appropriation Act  Public Expenditure Review (World Bank), October 2007
PI - 3. Aggregate revenue outturn compared to original approved budget	2005 Appropriation Act 2006 Appropriation Act 2007 Appropriation Act 2008 Appropriation Act  Government Budget Outturn Figures, 2000-2008  Third Sudan Consortium. 2008. Joint staff assessment report prepared by the staff of the IMF, World Bank, and United Nations
PI - 4. Stock and monitoring of expenditure payment arrears	Minister of Finance – Budget Speech 2007 Chamber of Accounts, Annual Final Accounts, Auditor General’s Reports (2003-2007)
<b><i>Section 3.2: Comprehensiveness and Transparency</i></b>	
PI - 5. Classification of the budget	2005 Appropriation Act 2006 Appropriation Act 2007 Appropriation Act 2008 Appropriation Act  Public Expenditure Review (World Bank), October 2007  Information supplied by Chamber of Accounts  Adjusting Public Financial Management to a New Fiscal Environment (Fiscal Affairs Department, IMF, February 2007)
PI - 6. Comprehensiveness of information included in budget documentation	Annual Budget Statements by Minister of Finance  Annual Budget Performance Reports  Budget Explanatory Notes
7. Extent of unreported government operations	Reports of the Auditor General 2005-2008

<i>Section</i>	<i>Specific information sources used</i>
PI - 8. Transparency of Inter-Governmental Fiscal Relations	<p>Public Expenditure Review (World Bank), October 2007</p> <p>Gangi, Y., and Gamal, I. 2007. An Institutional Perspective on Decentralization in Sudan. Paper presented at Generating Growth and Making Fiscal Federalism Work in Post-Conflict Sudan, organized by Sudanese MoFNE, July, 10-12 2007, Friendship Hall, Khartoum, Sudan.</p> <p>Tier, Akolda M. 2007. Some Problems of Fiscal Federalism In Sudan. Paper presented at the Generating Growth and Making Fiscal Federalism Work in Post-Conflict Sudan, organized by Sudanese MoFNE, July 10-12, 2007, Friendship Hall, Khartoum, Sudan.</p> <p>Fiscal &amp; Financial Allocation and Monitoring Commission - Republican Decree no 31, 2007 Criteria, Indicators and Weights of GoS Support to the States (FFAMC)</p> <p>Data Required from the States for Current transfer Criteria (FFAMC)</p>
PI - 9. Oversight of aggregate fiscal risk from other public sector entities.	<p>Information supplied by MoFNE Directorate of Public Enterprises and Corporations.</p> <p>Annual reports of internal audit department</p> <p>Report of the Auditor General (2007)</p>
PI - 10. Public access to key fiscal information	Information supplied by Ministry of Finance & National Economy
<b><i>Section 3.3 Policy-Based Budgeting</i></b>	
PI - 11. Orderliness and participation in the annual budget process	<p>Financial and Accounting Act (1995) as amended, 2007</p> <p>Public Expenditure Review (World Bank), October 2007</p> <p>Budget circulars: Guidelines for the Preparation of the Budgets 2005-2007</p>
PI - 12. Multi-year perspective in fiscal planning, expenditure policy and budgeting	<p>Information supplied by MoFNE</p> <p>Public Expenditure Review (World Bank), October 2007</p>

<i>Section</i>	<i>Specific information sources used</i>
<b><i>Section 3.4: Predictability and Control in Budget Execution</i></b>	
PI - 13. Transparency of taxpayer obligations and liabilities	Information supplied by Taxation Chamber  Strengthening Tax and Customs Administration, IMF, February 2009  Public Expenditure Review (World Bank), October 2007
PI - 14. Effectiveness of measures for taxpayer registration and tax assessment	Information Supplied by Taxation Chamber
PI – 15. Effectiveness in collection of tax payments	Information supplied by Taxation Chamber  Statements on tax arrears from Auditor General and tax authority,  Taxation Chamber briefing for IMF FAD mission, 2008
PI - 16. Predictability in the availability of funds for commitment of expenditures	Information supplied by Ministry of Finance and National Economy
PI - 17. Recording and management of cash balances, debt and guarantees	Information supplied by the Chamber of Accounts – Cash Flow and Management, and Guarantees Department  Information supplied by the Central Bank of Sudan  Auditor General’s report 2007  Sudan—First Review of Performance Under the 2007–2008 - Staff-Monitored Program (IMF, 2008)
PI - 18. Effectiveness of payroll controls	Information supplied by Ministry of Labor Public Service and Human Resources Development  Internal Audit Department reports  Report of Auditor General
PI - 19. Competition, value for money and controls in procurement	Chapter VIII, Financial and Accountancy Procedure Act of 1988  Financial and Accountancy Procedures Regulations of 1995  Information supplied by Ministry of Finance and National Economy
PI - 20. Effectiveness of internal controls for non-salary expenditure	Financial and Accounting Procedures Law 2007  Auditor-General’s reports (2005-2007)
PI - 21. Effectiveness of internal audit	Information supplied by the Internal Audit Department Internal audit reports



<i>Section</i>	<i>Specific information sources used</i>
<b><i>Section 3.5: Accounting, Recording and Reporting</i></b>	
PI - 22. Timeliness and regularity of accounts reconciliation	Information supplied by the Ministry of Finance and National Economy  Cash Flow and Management – Finance unit
PI - 23. Availability of information on resources received by service delivery units	Public Expenditure Review (World Bank), October 2007  Government outturn data 2005-2007
PI - 24. Quality and timeliness of in-year budget reports	Information supplied by the Ministry of Finance and National Economy
PI - 25. Quality and timeliness of annual financial statements	Information supplied by the Ministry of Finance and National Economy (Chamber of Accounts)  Information provided by Auditor General
<b><i>Section 3.6: External Scrutiny and Audit</i></b>	
PI - 26. Scope, nature and follow-up of external audit	Information provided by Auditor General  Reports of the Auditor General 2005-2007  Information provided by National Assembly
PI - 27. Legislative scrutiny of the annual budget law	Information provided by the Ministry of Finance and National Economy  Information provided by Auditor General
PI - 28. Legislative scrutiny of external audit reports	Information supplied by National Assembly  Information provided by Auditor General