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IRAQ GOVERNANCE STRENGTHENING PROJECT (GSP/ TAQADUM)

Delay of Investment Projects in the Provinces:
Legislative and Administrative Barriers

November 2013

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SUBMITTED BY CHEMONICS INTERNATIONAL
November 2013

Contract No. AID-267-C-11-00006

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Governance Strengthening Project (GSP)
Taqadum

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This study was prepared by Iqtisaduna ("Our Economy") Organization for Sustainable Development and Private Sector Support

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Introduction

The core of development in oil-based economies, including the Iraqi economy, is the transformation of surplus oil resources into a productive base that ensures an auto mechanism for growth. Such a mechanism addresses structural distortions represented by disrupted relations between economic variables and leads to increased contributions of the oil sector to the GDP, with declines in the contribution of other productive sectors such as the agricultural and industrial sectors.

It is well-known that the amount of funds spent on implementing governmental contracts, including provincial and regional development investment projects, is the largest percentage use of oil revenues. Consequently, improving the efficiency of implementing these contracts and addressing administrative problems and barriers impacting them is the cornerstone for private sector development. This cornerstone helps the public sector with the trend towards shifting from a centrally-planned economy to a market-based economy. As a matter of fact, governmental contracts are facing a variety of legal obstacles and/or mechanisms that impede their implementation.

One of the topics of this study sheds light on some of the defects in the instructions of the Implementation of Government Contracts No. 1 of 2008 and the organizational obstacles that impede its efficient implementation. This part of the study identifies amendments to these instructions to ensure more flexibility, reduce bureaucracy, corruption and waste of public funds, provide a favorable environment for the private sector, and expand private sector participation into different economic activities.

The second topic tackles investment allocations for the development of provinces and rates of completion, as well as making attempts to identify reasons of low completion rates in their administrative and legislative aspects. A questionnaire form was distributed to provincial contracting sections in order to identify as many legislative and administrative barriers and suggestions so that the most important priorities for change could be identified, analyzed and examined.

The last topic includes recommendations that we deem important to address different weaknesses and to improve the efficiency of implementing government contracts, including those funded by provincial and regional budgets.

Finally, we would like to thank the Prime Minister's advisory board, the Ministry of Planning's Contracting Department, PC members, local administrators, the Contractor's Union and the Businessmen's Union for completing the questionnaire to support this study.

Topic One: Provincial Development Investment Allocations are Doubled, but Implementation Capabilities are Limited

Development investment allocations for provinces and regions (except Kurdistan region) increased from 6.53 Trillion Iraqi Dinars (ID) (\$5,613,854,629) in 2011 to 11.25 Trillion Iraqi Dinar (\$9,671,648,481) in 2012 ⁽¹⁾ or 72.3% increase. The total government investment spending also increased during this period from 38.2 trillion ID (\$32,840,619,732) to 52.5 trillion ID (\$45,134,359,579) or 37.4% increase.

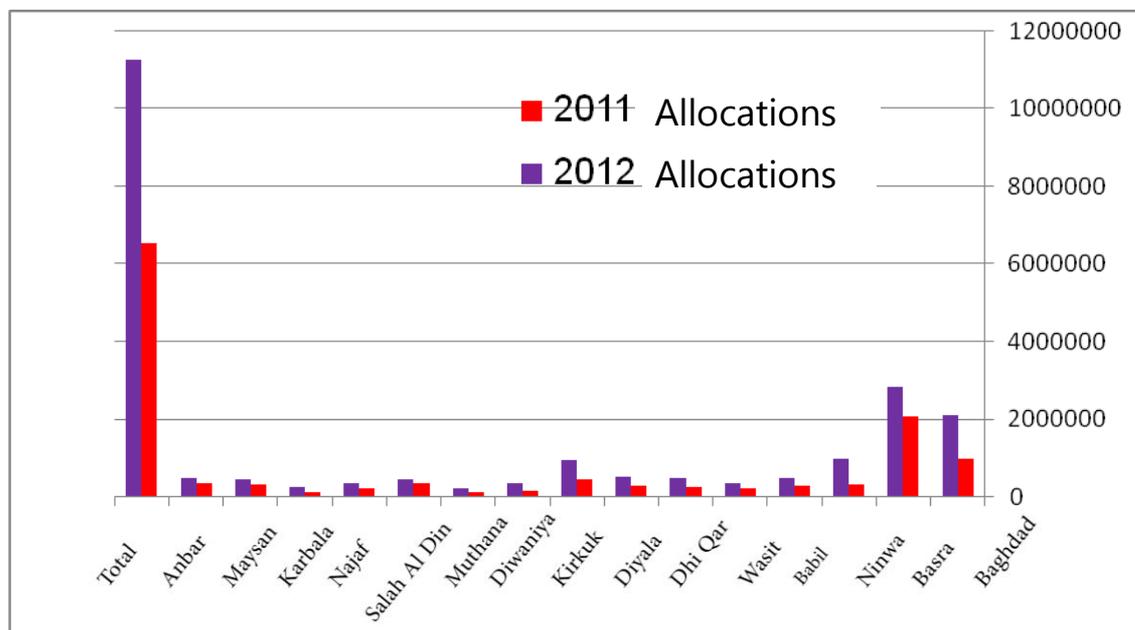
This increase indicates that the governmental investment spending is moving from the central to the provinces—which means that there is a shift to decentralized administration. The transfer of monies to provinces, however, is not enough to establish development in these provinces. It should be accompanied by devolution of authorities and responsibilities to monitor the use of these allocations.

For this reason, there has been a delay in the implementation of projects and/or instances of poor implementation of projects that result in the quick collapse of these projects which then have to be re-listed in the next budget.

Basrah, as the biggest oil-producing province, has received the highest provincial development allocations. This is due to petrodollars being allocated for any health or environmental issues associated with oil production and export. On the other hand, although Baghdad has one-quarter of the Iraq population, it has not ranked first. However, Baghdad has another share—the share for the Baghdad Amanat (which is not included in the figure below).

In general, the allocation depends on the population as a constant criterion, while the other criterion—degree of deprivation—which is set forth in the Constitution, is not used. Figure 1 below shows the increase in allocations:

Figure 1: Allocation for provinces for 2011 and 2012



First: Investment Project Implementation Rates (With/Without Advance Payment)

There is a clear difference between financial implementation and real or actual implementation. The available data is calculated based on the implementation with the advance payment given to the contractor on one time, and without the advance payment. The Figures (2) and (3) below show the increase in the real rate of project implementation without the advance payment (46.4% in 2011, and 51.85% in 2012), and with the advance payment (56.6% in 2011 and 65.5% in 2012). This indicates that there is an increase in expenditures by providing an advance payment to contractors without the additional expenditures being translated into real assets for investment projects.

On the surface, this could be a natural event, especially that the first advance payment (10% of the total contract price for contractors in the private sector, and 20% for contractors in the public sector) is given to the contractor before starting implementation of the projects. This discrimination is not appropriate and is not consistent with the terms of efficiency and competition (this will be discussed later). This advance payment is depleted gradually as the project is implemented; it is not floating.

This mechanism, however, has not been used most of the time. Government employees use the amount of funds for purposes not related to the project. In 2011, the different between spending with and without advance payments was 700 billion ID (about \$601,791,461). This is a huge amount of money that, if deposited in banks,

would generate a benefit of 42 billion ID a year (about \$36,107,487) at a benefit rate of 0.06. What if this amount, which comes from advance payments, is used to purchase real estate instead of for the investment project? With the monies coming from advances, a person could buy a large lot of land to be later divided into smaller lots and then sold for considerable profit. This difference between implementation with and without advance payment has risen to 1.54 trillion ID in 2012. We can imagine the benefits to corrupt government officials by using public funds in this manner.

The provinces of Anbar, Karbala, Muthana, Diwaniyah, and Diyala had the least difference between financial and real implementation in 2011. This means that these provinces give financial payments inconsistent with the level of real implementation, though two of these provinces—Anbar and Diyala—are considered volatile. This indicates that the security situation is not the most important variable in the efficient and timely implementation of projects; rather, the administrative and procedural issues and control of corruption are most important. The provinces of Anbar, Salah ad Din, Najaf, and Diyala had the least difference in 2012, though three of them had security issues.

Figure 2: Percentage of Spending of Provinces for 2011-2012 (without advance payment)

x %

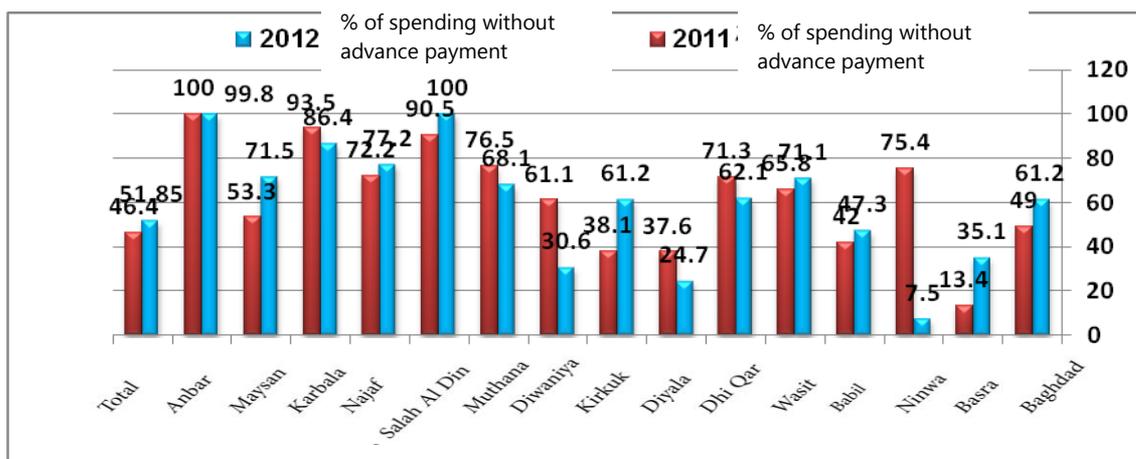
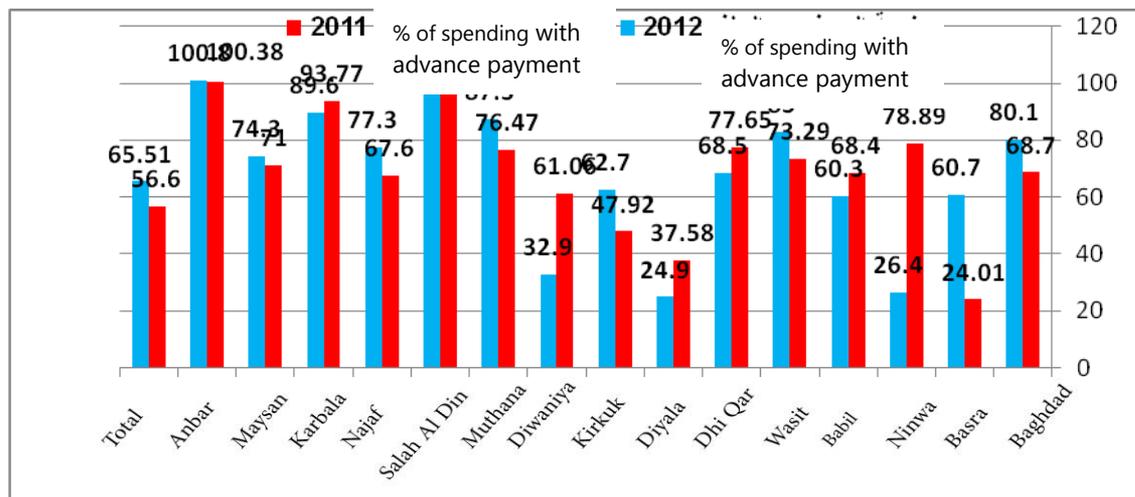


Figure 3: Percentage of Spending of Provinces for 2011-2012 (with advance payment)



Second: Required Governance in the Iraqi Provinces

Governance is based on three main pillars: transparency, accountability, and participation ⁽²⁾.

Transparency—means allowing people to have access to governmental decisions, regulations, and rules; it is considered the basis for other pillars such as accountability and participation. When information is accessible and there are mechanisms to get it, the road becomes clearer and open to seeing into the decision-making processes, and the citizens become more effective in monitoring and preventing manipulation attempts.

Accountability—is the commitment of government officials to be responsible for their actions. These officials include provincial council members and executive officers. They have to commit to obeying the law and not to misusing authority. Their decisions and actions should be oriented towards the welfare of the public rather than personal and sectarian interests and done in a way that ensures efficiency, effectiveness and integrity. In return, the people have their special rights and responsibilities such as the right of access to information, right of assembling, and right of access to good services; also, they have to assume their responsibilities as citizens.

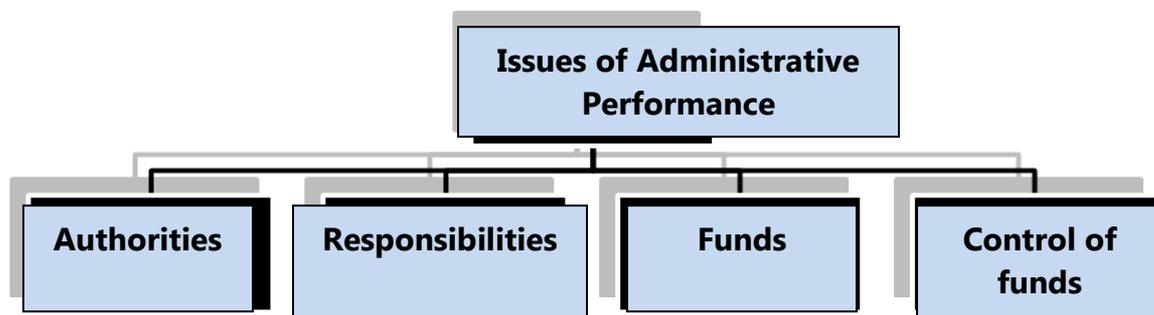
Participation—means the involvement of citizens (beneficiaries) in making decisions, formulating policies and developing budgets, and other governmental activities. Participation should be transparent, effective, informed, and strive towards improving governmental performance. This should create a commitment on the part of provincial authorities to implement projects. The advantages of citizen participation should be documented in a proper way so that it is understood by all

parties (they are all considered winners). This will promote the spirit of cooperation and innovation among citizens and the local government and consequently enhance the spirit of citizenship. Citizens must have a say in projects, starting from its inception to its completion. Involvement of civil society organizations, beneficiaries, and other stakeholders in all stages of a project should contribute to improving the results of development and reduce corruption and manipulation.

Third: the Governance of Transfer of Responsibilities to Provinces ⁽³⁾

If the government had taken important steps in previous years to gradually transfer authorities, it would not have faced the current turmoil. This turmoil could turn to an administrative one if we have not made speedy efforts to institutionalize the transfer of responsibilities and support it.

Scientifically, it is essential to transfer four issues that parallel each other to avoid problems in administrative performance. These issues are:



WHY THE PARALLEL PATHS?

- a. The transfer of authorities without responsibilities will lead to carelessness in performing duties and providing adequate citizen services. For example, the provincial council may appoint a director general for health without holding the province accountable for health performance, deeming it the responsibility of the Ministry of Health. Appointing the health director general based on favoritism and nepotism may meet the goal of the provincial council (using its authority) but not meet the public's goal of improving health services delivered (provincial council's responsibility). In this case, the failure will be the responsibility of the ministry and not the province.
- b. Transfer of responsibility to the province without granting it administrative authorities related to monitoring and oversight or taking disciplinary actions or giving rewards will hold the province responsible for poor health services. In the example above, authority is administratively restricted and is vested

with the ministry, which is a blatant defect. Dissociation of ministry responsibility should go along with the transfer of authorities, that is, responsibilities and authorities should transfer together.

- c. The transfer of funds (as was the case in 2007 when ARDP funds were given to provinces) without the transfer of authorities and responsibilities would mean that funds will remain unused (non-implementation of the budget). If funds are transferred without granting the authority to control these funds, the result will be the spread of corruption. Consequently, the transfer of funds should be accompanied by giving authority to transfer control over these funds.
- d. The transfer of control of funds without allocations to implement projects is not administratively adequate. Consequently, all the four issues should be transferred all together.

Fourth: Legislative Governance, the Basis in the Administrative Governance: ⁽⁴⁾

- Laws, policies, and procedures supporting contract instructions:
 - Laws concerning fraud and corruption for officials and special agencies
 - Codes of conduct/ethics/conflict of interest
 - Laws enabling the civil society and media to have an oversight role
 - Procedures? Authorities? Effectiveness? Personnel?
 - Transparent procedures
 - Challenging, validity.
 - Policy of fighting monopolism/competitiveness law? Monopolism fighting commission
- What are the current conditions for contracts in Iraq?
 - Review the government contracting No.1 of 2008 regulations, as amended, which were issued without a law. Use of these regulations is opposed by the World Bank since they are considered unreliable by contractors, especially foreign contractors who want an adopted law. The dissolved Coalition Provisional Authority (CPA) in Order No. 87 of 2004 did not validate the use of the government contracting law, and the Iraqi government has not passed another law despite the fact that the regulations are still dependent on it. However, this situation is desirable since it gives flexibility to changing these regulations (instructions), depending on the changes in Iraq during the transitional state.

- A draft contracting law proposed by the World Bank in 2011 was opposed by some Iraqi old-fashioned jurists. The Committee decided to enact a general law, leaving details to be included in instructions issued later. Iraq and the World Bank met in Beirut in 2012 to discuss the draft law, but it is still not adopted.
- Develop new government contracting instructions. Draft instructions have been on the Council of Minister's agenda since 9 October 2013. These instructions will be published in the gazette when issued.

Fifth: Governance of Preparing and Implementing the Budgets ⁽⁵⁾

The basis for this governance should be observed in each step of project planning, implementation, and operation. Unless priority projects are selected based on community needs rather than favoritism and sectarianism, or based on how much they allow for chances of manipulation and corruption for employees and contractors, projects will continue to be manipulated and undergo delays. Also, there is the possibility of receiving advance payments without the intention of ever implementing the project. Figure 4 shows that there is a relationship between investigating the needs of society and identifying the means to satisfy these needs within available financial allocations.

This does not mean to just plan projects; it also means to implement them. Will the contracting party be able to translate funds into immovable assets that achieve the goals of the project, or any level of efficiency accomplished during implementation? Therefore, it is imperative that standards be developed for the start and end of the project, i.e. its final accounts. Who is responsible for the delays and deviations in the implementation of the project? When and why does that deviation happen and how to address it? How can these delays and deviations be avoided in the next year's projects? It is important in this study to tackle procedural and legislative obstacles that prevent the implementation of provincial investment projects in a timely and efficient way.

Figure 4: Governance for Preparing and Implementing the Budget

Topic Two: Legislative Aspect—Effect of Government Contracts and Budget Implementation Instructions on the Implementation of Projects

First: General Remarks

- In light of the current social and economic situation, there are no standards by which projects are selected. It is not a good choice to select highly efficient economic projects at the expense of less economically efficient projects that are responding to immediate needs of citizens. This will aggravate the sufferings of citizens due to a lack of basic services.
- There is a tendency to ask for increased allocations to avoid failures in concluding contracts due to lack of funds. It is noted that some bids are announced more than once because their prices are not enough to cover the tenders submitted for implementation. This entails requesting more allocations because of tenders submitted the first time and according to increased prices. This means more waste of time and monies.
- The instructions (regulations) for implementing contracts create a climate for bureaucracy and routine, leading to delays in concluding contracts and delays in implementing projects.
- The long tender evaluation period is accompanied by changes and rises in market prices, leading to the recurrence of the tendering process. If we take into consideration the opening of the account when concluding a contract, the problem will become more complicated because the contractor must implement according to the contract. He will incur the price differences due to the long time for opening an account, leading to partial or complete failure to implement the contract.
- Due to current instructions that make government contracts look like a subjugation contract, most international companies abstain from directly dealing with Iraqi public agencies. In most cases, mediating companies (mostly Iraqi companies or foreign companies owned by Iraqis) mediate between the government and international companies.
- Corruption is a primary hindrance to implementing contracts. It occurs at the expense of delaying projects and disrupting economic activities. It is well-known that administrative corruption and economic crime occur even in most stable countries. This means that there are acceptable boundaries for corruption, which is the responsibility of monitoring agencies to control and reduce. Corruption can only be eliminated in an ideal state "Utopia."

- Based on previous perceptions, the current mainstream culture in state institutions considers the contractor as guilty, and he has to prove his innocence. This is not consistent with dealing with the private sector as a partner in achieving economic development.
- Information leaks to certain companies about other's tenders before the announcement phase. This gives advantage to these companies in terms of time and preparation to submit consistent tenders. Other companies will not make use of such an opportunity and may not be able to submit good tenders due to time constraints.
- The required technical specification in most tenders are generalized and not detailed, plus, the place of origin of items is not mentioned, resulting in unfair competition or exclusion of some tenders for being inconsistent with the tender requirements due to unclear technical specification.
- Some tenders do not include accepted payment requirements. This leads to some offers being excluded that include unaccepted payment requirements. This happens without negotiating with the company that has presented the offer regarding accepted payment requirements. This mostly happens with local tenders (in the Iraqi currency).
- Rate of completion payment requirements included in tenders issued by the provincial council (PC) make it impossible for contractors to implement them with accepted prices in exceptional security circumstances. The PC does not even open a credit for items that are not yet imported which accounts for 90% of the contract prices. Unless these items are installed in the work site and become operative, which frequently takes a long time, these items are not calculated in the rate of completion. This means that the contracting company spends a large amount of the contract price without achieving a real completion rate. This could be the main reason for the delay of most projects announced by the PC; additionally, these projects could be referred at double their original price.
- Delay in the procedures of opening credits which takes place in the Trade Bank of Iraq (TBI). It is the only bank in which opening credits can be conducted.
- Delay in the implementation of the contract because the contracting governmental agencies or parties do not cooperate with contractors and suppliers. One of the reasons for this is that contracting government parties are afraid that facilitating the mission of contractors and suppliers could be construed by others as cooperation in corruption. Further, this could also be considered lack of authorities or complicated administrative procedures.
- Delay in giving advance payment to contractors and its inconsistency with rates of completion.

- Screening and checking of supplied items may take several months, leading to delays in paying invoices to the supplying company. This process takes an even longer time if this screening and checking is conducted by the beneficiary government agency (a contracting directorate for example).
- Contractors may be subject to blackmailing by the committees set up for receiving the contract due to limited specifications fixed in the contract.

Second: Proposed Amendments and Justifying Reasons to Change the Instructions (Regulations) for Government Contracts ⁽⁶⁾

ARTICLE 1: STATE-OWNED COMPANIES SHOULD ALSO COMPLY WITH THESE INSTRUCTIONS

This Article should read:

“These regulations are to clarify the general principles for implementing government contracts that state bodies, the public sector, and **state-owned companies** conclude in the areas of public tenders, supply of goods and services, and consultant contracts with Iraqi and non-Iraqi parties. These regulations shall set the implementation methods of tenders, determine the duly authorized bodies for opening tenders and bids, determine methods of appeal in its decisions before the administrative court and provide that contracting procedures shall be characterized by transparency, predictability and fairness in competition.

Justifying reason: these state-owned companies are given priority in concluding contracts with state departments and the public sector. Not complying with these instructions can result in these companies awarding contracts to the private sector without taken into account their efficiency in implementing projects. This makes room for corruption and manipulation by the administration of these state-owned companies. Its compliance to these instructions is the only way to avoid the possibility of corruption and mismanagement.

ARTICLE 2: EFFECTIVENESS OF THE INSTRUCTIONS

Proposed amendment: this Article should be cancelled.

Justifying reason: the contracts referred to in this Article are to be implemented in Iraq and should be subject to Iraqi laws to guarantee the rights of the public and private sectors and the Iraqi workforce in dealing with these companies.

ARTICLE 4: METHODS OF CONTRACTING

A new paragraph should be added that may determine methods of contracting for consultancy services.

Justifying reason: the nature of consultancy contracts is different from those of supply and construction contracts.

ARTICLE 5 (2): PROPOSED SUGGESTION IS:

The proposed amendment is:

- a. A certificate of registration of the Iraqi company or branch of the foreign company as registered in the Office of Company Registration.
- b. A certificate of registration in the Iraqi Engineers Association of the consultancy service.
- c. Registration should be certified at the Public Tax Commission.

Justifying reason: to provide fair competition between Iraq and foreign companies in terms of their subjugation to taxes and fees. (Exceptions are the strategic contracts and those having a special nature determined by beneficiary government entities; the request for exception should be justified.)

Second (): to amend this item so that it reads:

The tenderer must not write off any of the provisions of the items and contract documents, or make any amendment of any kind. He may write down any proposal for writing off or amending any provision in an independent annexed list.

Justifying reason: to reduce chances of corruption by exclusion of some bids to the favor of others.

The following paragraphs should be added to Article (2):

- a. The beneficiary shall determine the guarantee period clearly provided it should not exceed the guarantee period provided by manufacturing companies. This will include defects due to manufacturing errors but not due to use or depreciation.
- b. The beneficiary shall be responsible for maintenance works. If the beneficiary is not able to meet maintenance requirements, this should be clearly expressed in an independent paragraph in the bid.
- c. If the beneficiary needs to train its employees, or disclose that material is to be acquired outside of Iraq before being shipped, this should be included in the bid, stating the period of training or the disclosure. The beneficiary should incur expenses of all relevant persons, including their lodging and petty cash.

- d. The date of the supply period is calculated from the notification date of the second party by an Iraqi bank to deposit all the price of the contract at the bank using the currency set forth in the contract.

Justifying reason for (a) and (b) above: Paragraphs (a) and (b) are added so that the beneficiary would avoid any confusion between the guarantee and maintenance, and subsequent problems regarding the commitments of the second party.

Justifying reason for (c) above: the paragraph (c) is added to avoid blackmail exercised by some delegates to obtain some facilities regarding the report of training or screening.

Justifying reason for (d): the paragraph (d) is added to:

1. Avoid any amounts exceeding the allocations earmarked in the annual budget, especially the ARDP projects and carrying over the dues of the second party to the next year, leading to project delay.
2. Guarantee that monies allocated to a project would not be used to implement another project by the beneficiary.

ARTICLE 7: PROPOSED SUGGESTION IS:

- Paragraph 3: amend the text relating to the process of tender analysis which is "during a period of time specified by the head of the contracting party" to be "during a period of time that is half the period of tender's expiration date specified in tender requirements"

Justifying reason: to offer sufficient time to meet referral requirements in the remaining period of tendering expiration date, and to avoid delay in the implementation of projects and to make use of financial allocations in the same fiscal year.

ARTICLE 7 (EIGHT): THE PARAGRAPH IS TO BE AMENDED TO READ:

The total price that is noted in writing is considered in case that:

- The paragraphs are not quoted in the bill of quantities
- The sum of the prices for each paragraph does not match the total price specified in writing by the tenderer.

Justifying reason: to prevent any chance of financial corruption. The regulations allow that the calculation of paragraph price by the analysis committee be made after the date of closing for the bid.

ARTICLE 8: PROPOSED AMENDMENT TO PARAGRAPH FIRST RELATED TO THE DEVELOPMENT OF CONTRACT TERMS

Justifying reasons: the difference between bid provisions from tender provisions will be technically and legally construed by the committee on the bid's analysis and referral.

ARTICLE 9: DOCUMENTARY CREDITS (LETTERS OF CREDIT)

Proposed amendment: adding the following items:

Twelfth: the issuance of letters of credit is mandatory for all contracts that include the import of materials, unless the bid stipulates otherwise.

Thirteen: all provisions related to letters of credit and rates of payment should be stated in the contract terms in English according to the instructions of the International Chamber of Commerce (ICC).

Justifying reasons: some beneficiaries announce bids for importing materials and identify the means of payment in the Iraqi Dinar, while the payment according to the letters of credit is in the U.S. Dollar currency. This saves lots of monies to the beneficiary compared with the payment using the Iraqi Dinar.

This is represented by the difference between the formal exchange rate of the U.S. dollar and the exchange rate considered by the bidder (1300 dinar for dollar).

Article (9, fifth): cancellation of the paragraph in its entirety

Article (9, sixth): adding the following paragraph to the article:

D-custom clearance period is not to be calculated with the period of supply, rather, it is to be calculated starting from the arrival of material to customs center according to the bill of lading document.

Article (9, seventh): the provider shall be provided with a confirmation of primary delivery at the same day of the arrival of material to the stores of the beneficiary.

Article (9, eleventh): amending the paragraph to include the phrase (or Iraqi parties) according to a decision issued by the Council of Ministers, which allows the issuance of letters of credit.

ARTICLE 10: THE PROPOSED AMENDMENT TO ITEM 2A:

Establish a competent court called "Government Contract Court" in each province of each region according to instructions issued by the Supreme Judicial Court. This court will be presided over by a judge appointed by the Supreme Judicial Court, and consist of representatives from the Ministry of Planning and the line ministry in

provinces, engineer's association, and the provincial Chamber of Commerce. Two courts shall be established in Baghdad, one in the Karkh side, the other in the Rusafa side. Filing claims shall be according to the geographic site.

Article 10/fourth: this paragraph is to be amended to become "45" days instead of "120" days; otherwise, the challenge or the claim is to be accepted irrevocably.

Article 10-: adding the following paragraph to the Article above:

Article 10, eighth: the court above shall be tasked with reconsidering issues related to the withdrawal of letters of credit submitted for the purpose of entering into bidding or good performance. The letter of credit shall not be confiscated by the beneficiary without a decision by the above court.

ARTICLE 16: DEPOSITIONS, DELAY FINES, AND ADMINISTRATIVE CHARGES

Impose fines on contractor (purchaser) for delay. This fine shall be identified according to the method for calculating delay fines cited in paragraph 2 of this Article.

Delay in paying dues of the seller. Delay period does not exceed 7 days starting from the day of the issuance of minutes of the screening committee.

Delay in releasing the letter related to the credit on good performance.

ARTICLE 20: THE PROPOSAL IS TO INTERPRET THE PHRASE "PUBLIC WORKS" TO INCLUDE:

1. Contracts of the implementation of construction and civil works
2. Contracts of the implementation of mechanical and electrical works

The General Conditions for contracts for civil, electrical, and mechanical contracts shall not be applied for supply, installation, and operation contracts because they differ in their nature of implementation.

Third: Some Important Remarks on the Budget Implementation Instructions

The underlined remarks review the topics of this study.

1. **Who delegates authorities?** The governor or the PC chair is to delegate directly the authority of spending within the operational and investment expenditures. The PC chair represents the legislative branch and is not concerned with

spending. He just approves the provincial budget. The governor is who is authorized to spend.

2. **Rationalization of spending:** the instructions underline the rationalization of expenditures. The goal of the government administration is to manage and focus on the reconstruction of infrastructure and direct expenditures for the purposes assigned to them. This is hard to comply with since it still needs close follow-up.
3. **Material and financial performance:** when expenditures are released, the rate of material and financial performance of the project must be observed. The province should provide concerned departments with copies of feasibility studies. Unfortunately, these feasibility studies are not well prepared.
4. **Exchange of responsibility of implementation between the province and ministry; more flexibility or more confusion:**
 - In the event that less than 25% of a project allocation is not implemented within six months from the date Ministry of Finance approves the budget in cooperation with the Minister of Planning, a report should be submitted to the prime minister to identify reasons behind this failure.
 - The associated ministry should assign the province responsibility to implement the new projects that have not yet started by the federal ministries in July of each fiscal year.
 - The province may assign any federal ministry or as per specialty to implement projects in that province from its allocations (ARDP funds).

This could be an advantage that encourages parties that are most skilled in implementing projects, but this may trigger conflict between authorities of ministries and provinces.

5. **Interrogation:** the COR may interrogate the governor if less than 60% of provincial investment allocations are implemented. It is assumed that the governor should be interrogated by the provincial council.
6. **Project turnover key method:** if it not possible to implement the contract project in other methods, the contractor shall take responsibility to use this method by developing designs, bill of quantities, and specifications, providing the acceptance of the employer.
7. **Ambiguity of contract drafting:** most of the time, drafting of contracts is not up to the standards due to lack of efficiency and knowledge of drafters. This would pave the way for manipulation and blackmail.
8. **Routine:** in the case of using the method of direct implementation, the approval of the Ministry of Planning must be obtained. This will take a lot of time and

routine correspondence between the province and ministry followed by objections and approval for making amendments.

9. **The principle of awards and penalties:** in the instructions, an award of cash money not to exceed 500,000 Iraqi Dinar is given for each month to anyone who is tasked with speeding up the work in the project, completing it, reducing its cost or improving its quality, as well as anyone who conducts studies or researches to the benefit of the project. These awards should not exceed 3 million ID a year for anyone working in the project exclusively. There are, however, no penalties for derelict employees, and if any, It would be a mere cut in salary for few days.
10. **Objections from contractors are not examined well by specialists:** objections on decisions taken by concerned departments by contractor, suppliers, and consultants should be considered, taking into consideration the authorities related to solving disputes cited in these instructions. It is believed that the instructions have put timelines for considering objections (timelines should be reduced), but the standards of judging these objections are defective and need to be reviewed.
11. **The first cash advanced payment:** a private sector contractor takes 10% of the contract price as an advance payment; this should be supported by an unconditioned bank guarantee from an accredited bank in Iraq. The government contractor (public company) receives 20% advance payment without guarantee, according to a decision by the council of ministers. Which projects are more delayed, those implemented by private or public contractors?
12. **The problem of the land (project site):** the project site should be partially or entirely completed to be turned over (here it is supposed to be entirely), and should be cleared of any legal, community, or geographic liability or consequences so that the contractor is able to start work after receiving the first advance payment. Exceptions of turning over the site are any contracts related to mechanical, electrical and other works.
13. **Provincial reconstruction plan:** the governor should present this plan which is approved by the PC to the Ministry of Planning (in coordination with local councils in districts and sub-districts). How much time will this take; it affect the most damaged areas and its population within the province?
14. **Who is responsible for implementation:** the governor implements the plan, while the PC only monitors its implementation.
15. **Governor's purchase authorities:** article 3: are these authorities in need to be expanded to speed up implementation, or does it opens ways for manipulation?

Administrative Problems and Obstacles Hindering the Implementation of Investment Projects in the Provinces.

FIRST: INITIAL IMPRESSIONS ON THE PROBLEMS AND OBSTACLES – REFERENCE REVIEW:

Within the theoretical framework it clearly appears to us that provincial governments are greatly suffering from a significant lack of capacities and competencies to conclude and implement contracts, developing plans and priorities for the projects according to sound and economic criteria in terms of time, location, sector, activity and institutions needed for implementation. Consequently, there is an absence of a developmental vision in a country where the central government (central administration) has confiscated most of the authorities of local governments, which have become dependent and waiting on the support of the central government.

After the economic openness, accompanied by undisciplined social, political, and economic freedoms, political institutions were established, along with electoral processes for the Council of Representatives, provincial council and local council levels. However these institutions were not mature in their performance, nor could they cope with other administrative and legislative requirements. Additionally, there is an absence of clear limits on the new economic system, as well as a lack of knowledge about project implementation laws and instructions on the part of local government officials.

The provincial councils have occupied their positions without having a proper description of their functions, responsibilities and roles, and there was no eligible body to specify these functions.

When provincial councils and newly elected officials are granted functions without guidelines they exercise those functions according to their own opinions or personal actions. Their individual actions may be driven by temporary emotions and reactions. PC members in the provinces tend to interfere rather than doing their jobs because of the close contact with the community and their eagerness to obtain votes for election. This happens when the farmers seek the life of the urbane and aim to abandon the life of the village to live the life of white collar employees. PC members direct their interests to serve their party's interests, elite and notable persons and meet public personal interests to gain votes during elections.

Currently senior positions are not occupied by experienced and skilled experts. These were replaced by illiterate and ignorant persons as a reward from the political parties. Unqualified contractors do not rely on their long technical experience or financial positions, instead relying on parties and tribal and sectarian affiliations to fill vacant spaces. The vacancies were created by a retreated law in a country suffering from poor constitutional and legal institutions after the collapse of the former

regime in 2003 and the survival of atrocities exercised by this brutal regime. Against this image, provincial elected institutions were exposed to financial speculations and illegal enrichment in an atmosphere conducive to growth of administrative and financial corruption.

Among initial impressions derived from previous studies and practical experience, violations in the fields of project implementation and legal framework are:

1. Project's priorities are not developed in accordance with community needs and to create job opportunities. Instead, favoritism and gaining votes during elections are the criteria used. Examples are: starting a model school with many classes in a small village with few people, or giving priorities to projects that offer big opportunities for corruption and bribes.
2. Most PC members who approve the provincial development projects have established contracting companies in the names of their relatives and mostly award contracts to these companies.
3. Some governors do not refer contracts or do not announce bids on due time till they negotiate a commission, which is usually 10% paid before the start of the project. This deprives the contractor of liquidity necessary to start work, so implementation is delayed or completely stopped. Sometimes work is taken from the contractor using the excuse that he is derelict or inefficient.
4. Tender terms and conditions are coordinated between the unqualified contractor and a government official in favor of the unqualified contractor. Normally bids are announced for a short period, which makes it impossible for the rest of the contractors to meet the terms of the bid within the due period. So the contractor implements the project with poor specifications.
5. Good quality materials for some projects are replaced with bad quality materials. Poor specifications take advantage of the price differences at the expense of the quality of implementation.
6. Some contractors own more than one company or have registered a number of companies in their relative's names so they can bid for the same tender in order to control the price of the tender. This especially happens in direct invitations permitted for special cases, or an exception by the economic committee at the prime ministries; or by referring more than one contract to the same company at the same time, leading to confusion and delay in turning over projects in due time.
7. Lack of accurate contracts signed between contracting parties, sometimes contract language and provisions are ambiguous and can be interpreted in different ways in the favor of the contractor.

8. Absence of instructions on awarding bids having the lowest prices which are sometimes less than the total estimated cost. An honest employee may accept a bid with a lowest price to avoid problems. A dishonest employee is not interested in the implementation of the project. Instead, he seeks the contractor's failure in order to take the project from this contractor and refer it to another contractor with whom he has connived under the pretext that "this is urgent", claiming that the first contractor has failed.
9. Contractors pay bribes to some officials to accept projects with materials that are not up to the standards, resulting in poor implementation.
10. Leaking estimated cost and bill of quantities to contractors for money. In the new instructions, estimated costs are announced according to the official letter of the Ministry of Planning No. 22550 dated on 19-09-2013 addressed to all contracting bodies. Analysis committees are tasked to work by the regulations and standards applied to all types of contracts....
11. Some purchasing managers conclude agreements with materials suppliers for more than the actual price. This phenomena is considered the most important reason for a loss of confidence in the contract instructions and has become a common practice for civil servants in the markets.
12. After awarding bids, some beneficiary bodies exercise pressure upon the contractor to add terms and specifications or new additional items that are not included in the contract. They threaten the contractor with blacklisting in order to force him to reject the contract; then refer the contract to another contractor with higher estimated costs and lower specifications.
13. Stealing technical and quote information from specific tenders and providing this information to others. Others includes companies belonging to the office of government public contracts employees and accomplices of companies with employees working at the office of government public contracts. This negatively affects the implementation of projects.
14. Exercising direct or indirect pressure and threats over straight and non-corrupt contract employees in order to meet contractor's needs and conditions, or force them to move to other departments.
15. Contractor's embezzling at the work site by supplying poor quality and inadequate quantities of raw materials, thus reducing costs to increase his profits. Lots of projects become useless immediately after their completion due to poor quality. This forces the State to rebid the same project, awarding to another contractor and the country remains underdeveloped without any sustainable growth.

16. Some corrupt resident engineers accept bribes in return for overlooking implementation defects during turning over of projects. Or he is inefficient and easily misled by the contractor, not noticing implementation defects.

SECOND: SURVEY DEVELOPMENT AND ANALYSIS RESULTS

1. Targeting: this survey was developed based on the preconception of legal and administrative problems as mentioned above. All of these hinder the effective implementation of investment projects in the provinces and are based on: previous studies and workshops held during the past eight years; review of governmental contracts and budget implementation instructions, and; reports of follow-up offices in the Ministry of Planning and general secretary of the prime minister's council.
1. Targeting includes local government staff in the contracts, technical and legal departments, PC members, businessmen, and contractors who implement projects in the provinces. Answers were collected from 100 people, 70 are public employees and 30 are contracts.
2. The targeted groups revealed a poor interest in filling in the survey form. Follow-up at the offices of government public contracts and Ministry of Planning gave great assistance in spreading the survey to their offices in the provinces. Unfortunately, two months after survey distribution, we only received 2 answers (Babil and Al-Muthana provinces), which reflects poorly on the administrative response by other provinces. Although most provinces claim improved administrative performance and a great desire to obtain allocations for investment projects, it appears that those provinces have no interest in diagnosing and addressing these problems. The lack of response forced us to seek personal initiations and direct contact with the targeted groups in a manner that ensures an impartial sample and reaches a wide class of shareholders.
3. Most of the targeted groups did not answer the questions related to governmental contracts and budget implementation instructions. They only answered questions related to procedure indicators. This reflects a poor knowledge of those instructions by employees working at the offices of government public contracts. They should have good knowledge of these instructions to ensure the public's interests. Contractors should also have adequate knowledge of these instructions in order to know how to submit their bids or compete with other contractors. This is a serious indicator for it:
 - a. Indicates the lack of and poor knowledge of the legislative aspect. This requires a great deal of training for contracts offices and contractors.
 - b. Shows that projects are not awarded in accordance with governmental contracts instructions. Instead, preferences and favoritism become the basis for obtaining

and implementing contracts, under a vast obscurity in the content of concluded contracts, affecting the quality of projects and delays in implementation.

4. The results of the survey of the targeted groups (100) persons are presented in the Figure 5 below, which shows 21 problems and obstacles delaying the implementation of investment projects in the provinces. This results in low implementation percentages. The delays are divided into three categories: most important delays, important delays, and less important delays.

The Figure shows that the problem identified by the targeted groups and represents the weakest ring (the lowest in the figure) needs higher efforts and priority to be solved.

MOST IMPORTANT OBSTACLES

- Contracting with unqualified and inefficient contractors
- Delay in acquisition of land allotted for the project
- Delay in site preparation after land acquisition and delay in removing illegal uses of the land, leading to delays in starting work
- Late approval of public budget by the CoR
- Poor oversight and monitoring by beneficiary departments
- Delay in transferring allocations to the provinces by the Ministry of Finance,
- Neglect of resident engineers

Figure 5: Relative Importance of Administrative Obstacles for the Whole Sample

1	Contracting unqualified contractors
2	Delay in receiving the land allocated for the project
3	Delay in preparing worksites and addressing violations
4	Late approval of federal budget by COR
5	Poor monitoring and oversight by beneficiary bodies
6	Delay by MOF in transferring funds to the provinces
7	Inefficient/ineffective resident engineers
8	Conflict regarding authorities of central and local government
9	Delay in making decisions on change orders
10	Late release of advance payments to contractors
11	Administrative problems between PC and GO
12	Delay in receiving in imported material and equipment
13	Contracting with more than one sub-contractor; not holding main contractor responsible during handover
14	Delay in establishing letters of credit
15	Lack of skilled laborers
16	High estimated costs and contractor neglecting commitment
17	Delay in receiving the project [approval] by the beneficiary
18	Large number of checkpoints leading to increased implementation costs
19	Power shortages, difficulties in providing fuel, and high fuel prices
20	Lack of sleeping accommodations for workers at worksite
21	Inaccurate and incomplete bill of quantities

1. Contracts with unqualified contractors

This is the first key obstacle owing to:

- Improper evaluation of contractors resulting in ratings that are not consistent with actual implementing skills. Shortage of qualified contractors in most provinces.
- Lack of technical and financially qualified contractors participating projects, which negatively affects the implementation of projects.
- Awarding more than one contract to the same contractor at the same time. This leads to confusion and delays in turning over of projects. Concerned governing bodies should develop a national database including information or a profile for each contractor and projects implemented by them.
- Contractors pay bribes to the concerned bodies to change their company's classifications. For example, changing a company from a grade five to grade one in order to meet bidding requirements. This allows both solvent and insolvent contractors to implement the same project.
- The insolvent (grade 5) is considered a gambler rather than a true contractor, for he has no true estimate of the quality and size of the projects or the risks he will face. He bids low prices and is awarded the contract finding himself incapable of implementing the project.
- When the contractor bribes the official servants, he buys their conscience to implement the project with poor quality and low cost because of quality. He may fail to implement the project, so a large number of projects remain uncompleted and do not provide the required services. This results from large-scale administrative and financial cases where there is a need for political will, strict administration and reliable monitoring from institutions to address corruption.
- Unqualified contractors provide false documents when bidding, resulting in delays in awarding contracts.
- Contractor's ignorance of the required technical specifications so they do not provide adequate bids. The bids exceed the estimated costs resulting in multiple re-bids and delays of implementation.

2. Delay and slow land acquisition procedures – Land tenure/land transfer

This obstacle ranked second in the survey for the entire sample.

Land management is considered as one of the biggest challenges facing economic development in Iraq. Most of the arable lands are public property, while others are land grants or without land patent, or possession of the land. Currently, the State,

cannot terminate these contracts due to social and political problems and pressures. In addition to these challenges, these lands are owned by different ministries with no coordination mechanism for disputes between ministries and local public departments over ownership of land or the important changes related to the discovery of oil fields and archaeological sites scattered over vast areas.

As a part of the economic reform program in 2010, a work team was formed to handle lands acquisition. This work team presented a number of recommendations to the central government, but the government is facing problems in implementing these recommendations. Lands challenges to investment projects lie in the following:

- Procedures required for allocating lands take a long time by the Ministries of Finance and Municipalities. They allocate lands for investment projects, resulting in delays in starting implementation of the projects.
- Slow land acquisition procedures related to investment projects
- After the recrudescence of land challenges, the Prime Minister's Council issued a resolution and the Ministry of Finance and Ministry of Planning have issued resolutions and instructions stipulating that no project shall be listed in the federal budget unless land is already allocated for this project. However, some provinces do not comply with these resolutions and instructions. Provinces shall abide by the resolutions and instructions in order to deliver lands in due time.

3. Delay in preparing the work site after receiving the land and removing unauthorized occupation of lands allocated for implementing projects

Other issues related to these challenges are: delays and difficulties in removing unauthorized occupiers of land and slum areas allocated for implementing projects; challenges by landowners whose interests are directly affected by these projects; and privately owned plots of land in the project's path. These issues negatively impact the implementation of projects.

- Landowners have brought civil actions for damages against the implementing bodies claiming that projects (rural roads) are inside their lands and claiming compensation for the damages.
- Clan problems in remote areas which reject implementation of projects under the pretense that their interests will be affected or claiming ownership of the lands.
- Lack of pre-coordination between service ministries (electricity, water, sewage and communications) in removing unauthorized occupation of lands.
- There is a dire need to allocate lands to the provincial investment projects before listing them within the budget.

4. Late approval of public budget by the CoR

This is an external change that falls outside the system of concluding and implementing contracts in the provinces. It is delaying implementation of projects for more than two months. There is also late approval of the projects plan listed in the region's development program.

Releasing only 1/12 of actual previous year's expenditures for ongoing project allocations within the first month of the year until the approval of the next year's budget. This procedure has no significant importance, especially to new projects listed in the budget. Contractors dare not bid in the beginning of the year, waiting for the approval and publication of the budget law in the official Gazette to secure their rights. Approval of the development plans for regional project programs is also not approved in a timely manner by the Ministry of Planning. This approval should precede the formulation of the provincial budget referred to the Ministry of Finance for inclusion in the federal budget.

5. Poor monitoring and oversight by beneficiary bodies

Procedures of oversight and monitoring committees are very weak.

Most employees and staff lack the required technical experience in the field of monitoring and follow-up of project implementation, which reflects negatively on the implementation process.

Oversight and monitoring procedures are not up to the standards due to the following:

- Poor internal controls in the province (the beneficiary body) and few performance standards, also do not know how to apply these standards, if available.
- Provincial councils monitoring of projects is poor and selective. It is usually based on passing glance visits to work sites. They pay no attention to bad implementation due to political or private ends.
- Different monitoring agencies – the Supreme Audit Board (SAB), Integrity Commission, and Inspector General – may result in confusion and disruption of work and overlap of auditing procedures.
- Central government follow-up is still poor and ineffective. Such a huge process needs a full, well-experienced staff with full authorities that should not be managed by an office at the Ministry of Planning. It should be managed by a general directorate to fully control the monitoring process for all investment projects .

The below table shows the poor indicators used in the follow-up process for investment projects:

Table (1) Poor and Formal Follow-up Indicators

Completion Rate	Description of the Project	Project objectives	Assessment of Specific Indicators	Additional Indicators
Planned completion rate Planned completion rates amended Actual completion rate Variance rate Rate of completed period Variance rate with the additional periods. Recognized accumulation Deviation from contractual period	A brief summary of its components	Stating the objective and need	1-Existence of full technical specifications of work. 2-Presence of qualitative control teams. 3-Existences of procedures related to testing and turn over.	-Number of temporary labor. -Reducing unemployment rate -Reducing poverty rate. -Current permanent staff.

Table 2: Problems Addressed by Central Follow-up for the Province Projects

Aspects	Beneficiary body	Implemented by
Administrative aspect	Late approvals	Mismanagement – bad implementation
Financial aspect	Late advance payments and financial procedures	Shortage of funds
Security aspect	Large number of checkpoints which hinder traffic of vehicles of all types	Noncompliance with security instructions
Technical aspect	Major changes in the designs/ inaccurate designs	Lack of technical staff
Acquisition aspect	Removing unauthorized occupation of lands	Unauthorized occupation of lands (citizens – institutions)

This means that Iraq is in dire need of restructuring the administrative and control apparatus and adopting standard follow-up procedures, in accordance with automated and computerized governance systems.

6. Late transfer of allocated funds to the provinces by the Ministry of Finance

Late transfer of allocated funds by the Ministry of Finance will inevitably lead to delay of payments to the projects and thus delay in the implementations. It is clearly noted that:

- The following procedures consume a lot of time, affecting the implementation period: length of existing procedures for releasing payments by the budget and accounting departments at the Ministry of Finance; receipt of payments in the form of check batches; an inadequate banking system which demands a lot of supporting and verification documents; these documents are required to be exclusively delivered to and from and the concerned body by those bodies agents.
- Routine procedures for funding provincial projects through the provincial treasury usually takes time.

7. Neglect and inefficient resident engineers

The most influential aspect in terms of quality of implementation is the resident engineer. This person adjusts technical specifications and must provide a quick response for control measures. However, it is ranked at the bottom of list of the most important obstacles. Respondents, who are mostly public employees including engineers, have provided biased answers to deflect the impact of the resident engineer overlooking bad implementations.

When there is a corrupt resident engineer who accepts bribes, or who lacks knowledge and experience and can be easily misled by contractors, poor and bad implementation of projects will take place due the following:

- Construction materials (sand, gravel, stones) produced in quarries are not up to standards; late delivery of laboratory examinations, resulting in delay of work, or resident engineer does not pay proper attention their quality.
- Shortage in modern construction laboratories specializing in testing materials used in projects.
- Testing and examination of construction material takes a long time, resulting in delay of the implementation of projects.

IMPORTANT OBSTACLES

The below Table shows the important obstacles as provided by the respondents for the whole sample:

- | |
|--|
| <ul style="list-style-type: none">• Problems between the Central government and local governments (Conflict on authorities)• Delay in making decisions to decide on orders of change. |
|--|

- Delay in releasing the first advance payments to contractors
- Administrative problems between the Governor's office and the PC
- Late arrival of imported raw materials and equipment needed for the project
- Referring the project to more than one subcontractor; and failure to hold the main contractor accountable during turn over of the project.
- Delay in opening letter of credits at banks

8. Problems between the Central government and local governments (Conflict on authorities)

In the theoretical framework, we explained that the former regime had de-authorized provinces, forcing local employees to use administrative norms for thirty years. After the collapse of the former regime, constitutional provisions and political visions have become supportive for decentralized administration. During the transitional stage some problems exist between the central and the local governments. Ministers insist on keeping most of the authorities without delegating any to their directorates functioning in the provinces. Since directorates require ministry approvals before taking any actions this leads to delays in implementing investment projects.

9. Delay in making decisions to decide on changes to contracts

There is a delay in approving additional works, change orders or time extensions for contractors based on applicable regulations and instructions. If there were proper technical and economic feasibility studies, there will be no need for change orders.

If the local governments have adequate and wide authorities, they can take necessary actions on change orders in short time periods.

10. Delay in releasing the first advance payments to contractors

Delay of advance and due payments to contractors by contracting bodies, in order to force contractors to pay bribes to release their advance payments or to pay a commission to receive their due payments in due time. This negatively affects the implementation of the projects.

11. Administrative problems between the Governor and PC

Provincial councils often intervene in the works of the executive authority (the Governor). This is a common phenomenon even at the central level. Being the highest legislative authority within the province with minimal monitoring over PC members, some of them always intervene in bid awards. They want to have commissions from contractors to compensate for funds they spent during their

election campaign and to financially support their political party. So, instead of practicing his real role which is to fight corruption, he becomes a tool for corruption. Such interventions may create problems that hold approvals up until agreement between both authorities is reached. It is a vexatious delay to speed up agreement and bargaining on the deal, affecting the implementation of projects.

12. Late arrival of imported raw materials and equipment needed for the project

In 2012 the Accumulated Materials Committee stated in its report that even the applications for exempted materials are referred to the directorate general of Customs in Baghdad, then to the Ministry of Finance for exemption approval. Once again the same application goes through complicated and time-consuming administrative procedures related to clearance. Sometimes, it takes from 2 to 3 months, and a verification letter, resulting in delays in implementing projects in due time.

13. Referring the project to more than one subcontractor; and failure to hold the main contractor accountable during turning over of the project

Sale of contracts to subcontractors indicates the following:

- The beneficiary body has awarded the project to a main contractor in accordance with documents he submitted confirming his technical and financial ability and pervious similar implemented works. Then he sells the contract to a subcontractor, who lacks technical and financial competency or does not properly estimate the real cost of the project.
- The project will be implemented with cheap and low quality materials. The first contractor sells the contract for a low price to benefit from the difference in prices. Selling the contract to several subcontractors decreases the actual price set for the implementation of the project and negatively impacts the quality and specifications of the project.
- Main contractor loses control of the implementation and turnover of the project. Nobody holds him liable or records him on the black list for selling the contract to a subcontractor in case of deliberate delays.

14. Delay in opening letters of credit at banks

This very complicated process across all Iraqi provinces negatively influences the implementation of projects due to:

- Long procedures are used to open letters of credit to import material, equipment and machinery that are usually required when implementing projects.
- Opening letters of credit is limited to the Iraqi Bank for Trading which uses complicated mechanisms based on approvals by the Ministry of Planning and Ministry of Finance.

- The economic committee has issued a decision to permit private banks to issue letters of credit for less than four million US dollars, but the Iraqi Bank of Trade continues to control the issuance of letters of credit.

LESS IMPORTANT OBSTACLES

The below table indicated the less important obstacles as provided by the respondents.

<ul style="list-style-type: none"> • Lack of qualified and skilled labors contributing to accelerating and improving quality of work • Contractors free themselves from their commitments due to high estimated costs which does not leave any profit margin to the contractor or may lose his capital • Delay in receiving projects by the beneficiary bodies • Large number of checkpoints which hinder traffic of vehicles increase implementation costs • Shortage of power, difficulties of providing fuel and high prices of fuels • Absences of accommodation requirement limit work to only one shift • Bill of quantities and designs of projects are often in inaccurate.
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15. Lack of qualified and skilled labors contributing to accelerating and improving quality of work

This is a false justification by the contractors to justify poor skills and delays in implementation. However to a certain degree Iraq lacks very skilled labors. They fled Iraq during the sanctions imposed on Iraq due to: poor communication with the world; decline in living standards; prevalence of poor and cheap quality and cheap society superstructure leading to a decline in work honor and good jobs. This needs training on handcrafts - labors, improving technical education and middle cadre.

16. Contractors free themselves from their commitments due to high estimated costs, which does not leave any profit margin to the contractor or may lose his capital

This is not applied to the main contractor, but applied to the final subcontractor, who bought a tender without being fully aware of the real cost of the project and his profit margin. There are problems in the feasibility studies and estimated costs, such as:

- Absence of accurate cost standards for raw material prices and workforce wages adopted by the pricing and analysis committees, resulting in inaccurate estimated

costs for the projects. Most projects lack consistent and comprehensive technical and economical feasibility studies for each project.

- Difficulty in estimating prices of imported materials since their prices are associated with changes of international markets and depend on their origin. This forces the ministries to increase the overall cost of the bill of quantities and obtain necessary approvals that consume a lot of time, which is negatively reflected on the projects implementation speed.

17. Delay in receiving the project by beneficiary bodies

A foreign contractor, who implemented the airport road for the Baghdad Amanat stated that several times the Baghdad Amanat abstained from receiving the project. The contract stipulated that the Baghdad Amanat should receive any completed stage of the project. They abstained, stating that they cannot maintain the seedlings and protect the fountains from tampering by the public and the road will lose its aesthetic value. So, although the contract stipulated that the implementing body shall manage the project for one year, the beneficiary body fears that it can't provide the management and protection needed for the project. This may happen with a large number of projects, where the beneficiary body postpones the delivery in order to reach an agreement satisfying both parties on the expenses and the reconstruction process.

18. Large number of checkpoints which hinder traffic of vehicles of all types or preventing them to continue their way to work sites, leading to raise in implementation costs

Delay in possessing approvals and difficulties of traffic through the cities, which is limited to certain hours and a large number of checkpoints are considered as crucial issues in implementing works in due time. This issue is not included within the contract. It holds less weight because hot security provinces achieved high implementation rates.

19. Shortage of power, difficulties of providing fuel and high prices of fuels

Shortage in supplying power strongly influences implementation of the projects which fully depends on a power supply. This forces contractors to buy fuel for the generators from outside markets resulting in loss of monies to the contractors and raises project expenses.

20. Lack of accommodation requirements at worksites, leading only to one shift

This indicator is of a low importance because working only with one shift per day is very common in Iraq due to shortage of power, lack of proper accommodation and security situations.

21. Bill of quantities and designs of projects are often inaccurate

This indicator ranked at the bottom of the list, which was not included within the survey. Some local departments do not have the skills to develop project designs. This results in creating new or additional items, canceling some of the project's components, adding additional time periods, delay in executing projects in due time and raises project's expenses.

THIRD: COMPARISON BETWEEN THE PUBLIC EMPLOYEES AND CONTRACTORS ANSWERS

Figure 6 shows the answers provided by both public employees and PC members. They provided answers related to the importance of indicators delaying the implementation of projects. That differs from the answers provided by the contractors. They only agree on three indicators:

- Late receiving of lands allocated to projects, which is ranked first by the contractors and ranked seventh by the public employees.
- Contracting with unqualified contractor due to improper selection, which is ranked first by the employees and ranked fourth by the contractors.
- Delay in receiving worksites and removing unauthorized occupiers to start work, which is ranked third by contractors and ranked six by the public employees.

The above three cited delays ranked first for the overall sample.

Public employees also paid much attention to administrative obstacles represented by late approval of the federal budget and transference of allocations by Ministry of Finance. Contractors focused on late payment of advance payments, late arrival of imported equipment and machines and lack of skilled labor.

Figure 6: Relative importance of administrative obstacles for the public employees' sample

Top 21 Challenges to Implementing Investment Projects in the Provinces

	Based on survey of public employees
1	Contracting unqualified contractors
2	Late approval of federal budget by COR
3	Poor monitoring and oversight by beneficiary bodies
4	Delay by MOF in transferring funds to the provinces
5	Inefficient/ineffective resident engineers
6	Delay in preparing worksites and addressing violations
7	Delay in receiving the land allocated for the project
8	Conflict regarding authorities of central and local government
9	Contracting with more than one sub-contractor; not holding main contractor responsible during handover
10	Administrative problems between PC and GO
11	Delay in establishing letters of credit
12	Delay in making decisions on change orders
13	High estimated costs and contractor neglecting commitment
14	Delay in receiving in imported material and equipment
15	Lack of skilled laborers
16	Late release of advance payments to contractors
17	Large number of checkpoints leading to increased implementation costs
18	Delay in receiving the project [approval] by the beneficiary
19	Lack of sleeping accommodations for workers at worksite
20	Power shortages, difficulties in providing fuel, and high fuel prices
21	Inaccurate and incomplete bill of quantities

Figure 7: Relative importance of administrative obstacles for the contractors sample

Top 21 Challenges to Implementing Investment Projects in the Provinces

	Based on survey of contractors
1	Delay in receiving the land allocated for the project
2	Late release of advance payments to contractors
3	Delay in preparing worksites and addressing violations
4	Contracting unqualified contractors
5	Delay in receiving in imported material and equipment
6	Lack of skilled laborers
7	Delay in making decisions on change orders
8	Delay in receiving the project [approval] by the beneficiary
9	Power shortages, difficulties in providing fuel, and high fuel prices
10	Large number of checkpoints leading to increased implementation costs
11	Lack of sleeping accommodations for workers at worksite
12	Delay in establishing letters of credit
13	High estimated costs and contractor neglecting commitment
14	Conflict regarding authorities of central and local government
15	Administrative problems between PC and GO
16	Poor monitoring and oversight by beneficiary bodies
17	Inefficient/ineffective resident engineers
18	Delay by MOF in transferring funds to the provinces
19	Late approval of federal budget by COR
20	Contracting with more than one sub-contractor; not holding main contractor responsible during handover
21	Inaccurate and incomplete bill of quantities

Topic Three: Recommendations

- 1. Some paragraphs in the budget implementation and governmental contracts instructions** include a large number of administrative obstacles, which should be amended. The paragraphs of these instructions conflict with the procurement courses of implementing investment projects.
- 2. Ministry of planning should develop standard contracts with international standards** that fit with the Iraqi situation and adopt automotive modeling.

3. Related to inefficient contractors

- Engage Iraqi contractors in intensive training specialized courses; involve Iraqi contractors with foreign companies implementing projects in Iraq to gain experience.
- Establish a national database run by a specialized center for well-qualified contractors who have proven their ability to implement projects with good quality and in due time. Enable provincial contracting bodies to have access to the data base in order to avoid awarding several bids to the same contractors at the same time.
- Ministry of Planning should carefully observe fulfillment of all requirements and use legal measures related to classification of contractors. Such a process requires political will, strict administration and reliable monitoring institutions.

4. Lands

- Concerned bodies shall comply with Prime Ministers resolutions and instructions of Ministries of Planning and Finance stipulating that tenders shall not be announced unless acquisition of lands process and removing unauthorized occupation are fully completed.
- Make lands for projects available and designated for provincial development projects before listing them within the budget. Simplify and facilitate procedures of possessing lands allocated for projects.

5. Approval of public budget by the Council of Representatives (CoR)

CoR shall approve the public budget before the beginning of the new fiscal year. This issue shall be a fixed parliamentary culture and tradition and binding. The budget shall not include burdens and demands. It represents government programs and priorities desired by the government to succeed in its performance and exercise proper financial policy in line with economical circumstances. CoR's role is just to approve the budget, not discussing the budget in detail, but it may discuss sections or points needing discussion.

6. Activating monitoring and oversight

Develop and improve the standard of the administrative cadre at the follow-up department in the Ministry of Planning. Improve monitoring and follow up indicators and change the follow-up department at the Ministry of Planning into a directorate general.

7. Adopting the principle of reward and punishment with both resident engineers and contracts staff. Follow-up process shall take place at worksites; ability to make decisive decisions including decisions on taking out work from the contractor and discharging resident engineer who took

bribes and did not turn proper attention to project specifications; rewarding honest and faithful ones.

Concerned bodies should conduct regular field inspection visits and cover a large number of projects in their visits. They should evaluate the resident engineer's role and performance in following up on the quality and time of implementation. They should reward good resident engineers and punish inefficient ones. Strictly hold contracts staff and resident engineers liable in case of deliberately overlooking poor implementation of projects.

8. Administrative reform, reduction of routine and shifting to financial decentralization

Develop regulations and coordination mechanisms between the central government and the provinces. Reduce red tape related to financial management, release of payments, and transfer of allocations. Give the provincial financial units adequate authorities, subject to monitoring by concerned bodies, in order to expedite the implementation of projects starting from land allocation, funding and ending with the implementation process.

9. Make the main contractor liable for late and poor implementation when turning over a project

10. Develop an accurate and professional technical feasibility study to avoid: adding additional items or work; canceling some of the project's components; raising project expenses; and maintain public interest and ensure a reasonable profit to the contractor, in order not to sell the tender to a subcontractor.

11. The necessity to adopt governance procedures for the management of customs and sea ports to reduce cost and time; insure receiving imported material, equipment and machinery required for implementing projects in due time.

12. Letter of credits

Activate the resolution of the Economic committee in the Premiership, to directly transfer letters of credit for projects on a cost less than four million USD, to private banks accredited by the Iraqi central bank, without addressing the Iraqi Trade Bank.

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