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Abstract

One of the international community's overarching strategic objectives in Afghanistan is to promote a more capable, accountable, effective and responsive public sector that serves the Afghan people. In line with this objective, Afghanistan's Constitution and the Government's Sub-National Governance Policy (SNGP) aim to establish a system of elected municipal governments and a municipal governance framework that allows municipalities to provide public services to their constituents in effective and accountable manner. This will require a major transformation of municipalities from a weak deconcentrated tier of the public sector in Afghanistan (which responds to instructions from the top) to a devolved local governance level which is responsive to the needs of municipal residents. This paper reviews the current state of municipal governance in Afghanistan, and discusses the fundamental re-orientation that will be required (both in terms of how municipalities operate, as well as in terms of the relationship between IDLG and the municipal level) in order for Afghanistan to achieve a more effective and responsive municipal sector.

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1. Introduction

One of the international community's overarching strategic objectives in Afghanistan is to promote a more capable, accountable, effective and responsive public sector that serves the Afghan people and that can eventually function with limited international support. In order for the public sector to be as responsive as possible to the diverse needs of its citizens, many countries around the world empower their citizens by decentralizing authority, functions, and resources to elected local governments, which are closer to the communities that they serve. In Afghanistan, however, there are major limitations to the potential scope for decentralization to make the public sector more responsive, since the country's Constitution (2004) defines the country as an indivisible unitary state in which the principles of centralism shall be preserved. Provinces and districts are merely deconcentrated administrative units of the central government without any autonomous decision-making power (Boex and Cadwell, 2010).

In contrast to the provincial and district level, the Afghan Constitution does empower the people over the public sector within the country's urban areas through the establishment of elected municipal governments. The Constitution envisions that in each of the country's 153 municipalities, the mayor and members of municipal councils will be elected through free, general, secret and direct elections. In line with the Constitution, Afghanistan's Sub-National Governance Policy (SNGP) aims to create a municipal governance structure that enables municipalities to improve their services to their constituents by holding the municipal governments and other concerned municipal entities accountable to their people.

In reality, however, no elected municipal councils exist, and municipal mayors are currently still appointed by the central government (IDLG) rather than elected. Few mayors operate in a participatory or consultative manner. Instead, they see themselves more as reporting upward to the national administration than as a semi-autonomous local government unit that should be responsive to the needs of the community. Most municipalities are woefully understaffed and deliver limited public services, if any at all. Municipalities do not receive systematic transfers from the central government; instead, they are supposed to survive exclusively on own source revenue collections. The legal and regulatory framework within which municipalities operate is completely inadequate and lacks any degree of transparency: the current municipal law was issued by the Taliban government and precedes (and is contradictory to) the Constitution and the

Sub-National Governance Policy. No systematic written guidance is in place how municipalities should conduct their affairs.

In other words, the Afghan Constitution and Sub-National Governance Policy (SNGP) envision a major transformation of municipalities from a weak deconcentrated tier of the public sector in Afghanistan (which responds to instructions from the top) to a devolved local governance level which is responsive to the needs of municipal residents. This requires both a fundamental re-orientation of the relationship between IDLG and the municipal level as well as a drastic re-orientation how municipal tasks are performed.

The purpose of the current analytical report is to present an assessment of Afghanistan's municipal sector. The assessment takes the current situation with regard to municipalities in Afghanistan as the starting point for the assessment, and considers the ambitions contained in the Constitution and the SNGP as the policy objective pursued by the Government of the Islamic Republic of Afghanistan (GIROA).

Beyond the intrinsic value of this assessment for policy makers and development specialists in Afghanistan, the case of Afghanistan should hold wider interest for the international development community. Although municipal governance reforms are common around the world, it is rare for a country to establish a whole municipal sector -essentially from scratch- in just a few years' time. In this regard, the success or failure of Afghanistan's municipal governance ambitions will surely contain important lessons for other countries, particularly those who seek to rely on decentralization and local governance as part of their own post-conflict transition.

2. A Diagnostic Framework for Assessing Afghanistan's Municipal Governance System

The municipal governance system in Afghanistan has many challenges and obstacles that need to be overcome. While a handful of municipalities in Afghanistan are performing basic municipal functions with some degree of effectiveness, a majority of municipalities is failing to perform even the most basic of municipal functions and fails to deliver basic municipal services.

The diagnostic tool used for the purpose of assessing the municipal governance system in Afghanistan considers both the technical as well as the institutional aspects of local governance.¹ As such, the assessment and discussion of municipal governance in Afghanistan is first broken down into three separate (but inter-related) technical dimensions. First, as a separate local government level within Afghanistan's public sector (according to the Constitution), municipalities are envisioned to have their own political leadership (elected mayor and council). Second, there is an administrative dimension to municipal governance, as municipalities need to

¹ The assessment of municipal governance in Afghanistan follows the assessment framework developed by Boex and Yilmaz (2010). This diagnostic approach is a more detailed version of (and fully consistent with) USAID's assessment approach for democratic decentralized local governance (USAID, 2010).

be administered and municipal services need to be delivered. Third, the operation and expenditures of municipalities need to be financed. As such, the three technical dimensions to be considered are: (1) political leadership/governance; (2) administrative aspects of municipal governance; and (3) the fiscal aspects of the municipal sector.

In turn, each of these three broad dimensions of municipal governance can be broken down further into specific aspects or sub-dimensions of municipal governance (Table 1). In order for a municipal governance system to function in a sound manner, all of these technical elements have to be taken into account.

Table 1 Technical dimensions of municipal governance, and their constituent technical aspects		
Political/governance aspects of municipal governance	Administrative aspects of municipal governance	Fiscal aspects of municipal governance
1. Local political power structure 2. Local electoral systems 3. Political party systems 4. Participation / accountability	1. Regulatory authority, including spatial planning and local economic development (LED) 2. Local public financial management (PFM) & procurement 3. Local HR administration 4. Local service delivery	1. Expenditure assignment 2. Local revenues 3. Intergovernmental fiscal transfers 4. Local borrowing

A second broad aspect of a municipal governance system that should be considered is the institutional dimension. After all, municipalities consist of different actors and stakeholders within the municipality itself: the mayor, the elected council, municipal department heads, municipal district administrators, and so on. Each of these actors has its own institutional role and its own institutional incentives. Furthermore, municipal governance is a system that involves more than just municipalities themselves. In order for a municipal governance system to function well, municipalities should be placed within a sound national policy and legal framework, since municipalities are part of the public sector that is defined by central authorities. As a result, in any country, municipal activities are legislated, regulated and monitored to a greater or lesser extent by the central government. At the same time, in a well-functioning municipal governance system, municipalities interact regularly and extensively with the communities and people that they serve.

As a result, assessing a municipal governance system will involve considering three separate but inter-related institutional “arenas”: central government (in the case of Afghanistan, especially IDLG), the actions and performance of municipal governments themselves; and the role of civil society and the private sector within municipal areas (in relationship to the municipal authority).

In order to achieve a comprehensive understanding of municipal governance in a country and in order to be able to assess the effectiveness of the municipal governance system, one cannot

consider any single technical dimension in isolation (i.e., the political, administrative or fiscal dimension); nor would it be appropriate to only focus on only one level within the public sector (i.e., central, municipal or civil society). Instead, in order to comprehensively assess the strengths and weaknesses of a municipal governance system, one has to assess each of the technical dimensions across the three levels of institutional stakeholders, as represented by the three-by-three matrix presented in Table 2 below.

Table 2: A framework for assessing municipal governance in Afghanistan			
	Central Government Policy, Legislation & Institutions	Municipal Government Institutions, Management and Admin	Local Civil Society & Private Sector
Political Aspects of Municipal Governance			
Administrative Aspects of Municipal Governance			
Fiscal Aspects of Municipal Governance			

Based on the foregoing analytical framework, a rapid assessment of Afghanistan’s municipal governance framework was conducted in February 2011.² The assessment of the three technical dimensions of municipal governance in Afghanistan is described in Sections 4, 5 and 6, respectively. These discussions are preceded by an overview of the institutional framework for municipal governance in Afghanistan in Section 3.

3. An Overview of the Institutional Framework for Municipal Governance

The section provides a brief overview of the key institutional features of the municipal governance system in Afghanistan. This overview is organized by each of the three levels or “arenas” of municipal governance, namely the role and structure of the municipal level itself; the role of the central government in the municipal sector; and the role of civil society institutions.

3.1 Institutions and actors at the municipal level

Although there are some variations in the reported number, according to IDLG’s SNGP, Afghanistan has 153 municipalities. One of these, Kabul Municipality has a special legal and political status, and is not further considered here. Each of Afghanistan’s other 34 provincial

² The rapid assessment arrived at many of the same conclusions that were reached by a more comprehensive World Bank review of the municipal sector in Afghanistan. See: Goga et al (2010).

centers is defined as a “provincial municipality.” This includes a number of larger municipalities that serve as regional economic centers (including Herat, Jalalabad, Kandahar, and Mazar-i-Sharif). The remaining (non-provincial) municipalities are commonly referred to as “district municipalities” or “rural municipalities.”

The main functions for all types and sizes of municipalities are the same and includes “typical” municipal functions, including the creation and maintenance of public green spaces, constructing and maintaining roads and markets, street cleaning, and other urban functions.

In the absence of an elected mayor and council, municipalities are staffed by an appointed mayor, centrally-appointed municipal department heads and other senior administrative staff, as well as (locally recruited) front-line staff (such as street cleaners, and so on).

Municipal budgets are fully self-funded from own revenue sources, as municipalities do not receive any transfers to support their budgets. While municipalities tend to focus on the recurrent operations of “greening and cleaning”, in principle, 55 percent of their budgets are supposed to be set aside for development activities.

Table 3 Municipalities by size of staff and budget (excluding Kabul Municipality), 1386 (2007)			
Number of staff positions (1386)	No of Municipalities	Expenditure 1386 (Afs.)	No of Municipalities
1-10	87	Under Afs. 2 mn	72
11-20	26	Afs. 2-4 mn	28
21-30	8	Afs. 4-10 mn	17
31-40	8	Afs. 10-25 mn	8
41-50	5	Afs. 25-50 mn	8
51-60	3	Afs. 50-100 mn	6
Over 60 (70-618)	15	Over Afs. 100 mn	10
<i>Source: Tabulated by Mr. Robert Searle based on Annexure III, SNGP.</i>			
<i>Note: USD 1 = Approximately Afs. 45-50. Some municipalities with missing data have been excluded.</i>			

Few good statistics are available for any aspect of the municipal sector. While no accurate population data are available for municipalities, it is likely that the majority of urban population is served by the country’s 33 provincial municipalities (excluding Kabul Municipality). The municipal data presented in Table 3 suggest that the overwhelming majority of municipalities have minimal administrative capacity (in terms of human resources) and minimal access financial resources. Out of the 153 officially recognized municipalities, only 31 municipalities have a tashkeel (staff establishment) of over 30, while only 32 municipalities have annual budgets that exceed Afs. 10 million (approximately US\$ 200,000). In fact, these figures may even over-state the capacity of municipalities to deliver public services, to the extent that municipalities may over-report their revenues and may not have been able to fill their existing tashkeels at current wage levels.

3.2 Institutions and actors at the central level

The steward of subnational administration and subnational governance (including municipal governance) at the national level within the Government of the Islamic Republic of Afghanistan (GIROA) is the Independent Directorate of Local Governance (IDLG). IDLG was established by Presidential Decree in August 2007 to manage the subnational public sector in Afghanistan, including provinces, districts, villages, and municipalities. Within IDLG, the General Directorate for Municipal Affairs (GDMA) is responsible for managing municipal affairs. Although municipalities are envisioned to be devolved governance entities in Afghanistan, the same is not true for provinces, district and villages, which are all envisioned to remain deconcentrated administrative units of the national government. As such, GDMA will have to deal with its “clients” in a different (and less hierarchical) manner than the other departments within IDLG that will be dealing with provincial and district officials.

Other central government ministries and entities with a clear interest in various aspects of municipal governance and administration include the Ministry of Urban Development Affairs (MUDA), the Ministry of Finance (MOF), and the Independent Administrative Reform and Civil Service Commission (IARCSC). To a large extent, these other central government agencies are accustomed to dealing with municipalities in a largely hierarchical manner, with limited (if any) discretion being accorded to municipal officials and with limited input being sought by line ministries from the municipal level.

In March 2010, the Cabinet adopted a Sub-National Governance Policy (SNGP). While the policy framework lays out a clear vision for devolved municipal governance, the municipal legal framework is in a state of confusion, as no new Municipal Law has been adopted to replace the previous Taliban Municipal Law (2000). Many other laws (including recently adopted laws, such as the procurement law; public service law; and so on) implicitly or explicitly treat municipalities as central government entities. Although a draft has been prepared of a new Municipal Law, and while passing a new Municipal Law is a top priority for IDLG, it is unclear when parliament might act upon a new draft municipal law.

Beyond confusion with regard to the legislative framework for municipalities, and despite technical support being provided to IDLG in a number of areas of municipal governance, there is currently no systematic effort underway to develop a standardized operational framework for municipalities. In the absence of a clearly defined operational framework for municipalities, different operational practices prevail in different parts of the country (based largely on historical practices and local conditions) more than a uniform understanding of how Afghanistan’s municipal governance system should function.

Institutionally, it has proven difficult for the central government to deal with all 153 municipalities in the country. As a relatively young organization, until recently IDLG has largely focused its attention at the policy level and programmatic interventions. As a result, IDLG and other central-level stakeholders have been continuing some hierarchical administrative practices in dealing with the municipal level, even though these are antithetical to the concept of devolved

municipal governance. For instance, by not having a direct line of communication to all mayors through GDMA, municipalities are required to rely on Provincial Governors in their function as representative of the center in its oversight and management of municipalities. Concerns have been raised about this relationship as the Provincial Governor does not have any discretionary resources (e.g., from own revenue sources), while the mayor does; yet the Provincial Governor is considered more senior and has administrative powers over key aspects of municipal operations (including budget approval, appointments and procurement). This could especially result in potential friction down the road, as mayors will become popularly elected officials in the future, while Provincial Governors will remain appointed officials.³

3.3 Institutions and actors at the community level

As a general practice, there is little or no systematic involvement of the community level (civil society, community-based organizations, or the private sector) in municipal affairs in Afghanistan. This is true across the political, administrative and fiscal aspects of municipal operations. There is some anecdotal evidence that a small number of mayors have sought to reach out to civil society and the private sector within their municipalities, while some other municipalities have been proactively exploring private-public partnerships (PPPs). However, other than the general statement in the SNGP that there is an expectation for greater community involvement in municipal affairs, no concrete steps have yet been taken to achieve greater community involvement.⁴

4. An Assessment of the Political (Governance) Aspects of Municipal Governance in Afghanistan

Political decentralization is the process of transferring political authority to the municipal government level through the establishment of elected local governments. It is important to recognize that providing municipalities with a degree of political autonomy in order for them to govern municipal affairs is not just a feature of federal countries: devolving authority and certain service delivery responsibility to an elected municipal government level is perfectly consistent with the notion of a unitary state and is commonly done in countries around the world.⁵

³ Another previous practice that IDLG has continued is the practice of managing rural municipalities through the provincial municipalities. While having rural municipalities report hierarchically to provincial municipalities is an understandable approach under a deconcentrated system, the reliance on provincial municipalities as an intermediary is much more difficult to reconcile with the notion of municipalities as devolved local government entities.

⁴ Central governments often play an important role in ensuring that local communities are empowered over local officials. For instance, in addition to providing direction with degree and nature of the expected community participation in municipal affairs (e.g., open budget hearings, one-stop hotline or community liaison for municipal services, and so on), central authorities in several countries use a process of annual performance assessments for municipal governments as a way to measure the degree to which municipal officials engage with the community in different aspects of municipal operations.

⁵ Many industrialized countries fall into this category: for instance, Denmark, Japan and the Netherlands are all unitary countries that rely on elected local governments for the delivery of key local public services. Examples of devolution in unitary countries among developing and transition economies include Indonesia, Mozambique, South Africa, and the Philippines.

The political dimension of municipal governance requires defining electoral rules and norms of interaction among elected local councilors, local executives and local bureaucracy, which determines the degree of oversight by the elected council over the municipal executive and over the municipal departments. Political arrangements at the local level should allow citizens to manifest their preferences by selecting candidates closest to their preferences and political decentralization allows the elected candidates to reflect these preferences in the local decision making processes.

4.1 Local political power structure

The Afghan Constitution and the Sub-National Governance Policy (SNGP) lay out a clear vision that municipal mayors and municipal councils should be directly elected, and that municipal residents should be able to hold their municipal officials accountable. In contrast to local political systems where the chief local executive (mayor) is appointed or indirectly elected (either by the center or by the council), a local political power structure whereby the mayor is directly elected often results in a local executive with a strong mandate. While the council sets the policy and direction of the municipality, approves the municipal budget, and has an important oversight role in such systems, the mayor is responsible for the municipal administration and for the execution of the municipal policies, plans and budget. As such, the mayor is politically responsible (both to the council as well as to the people) if the municipality fails to deliver public services to its residents.

The policy vision to have an elected mayor and an elected council is a bedrock of responsive and accountable democratic governance, but will require a major shift in the orientation from the upward responsiveness and accountability to the central government (which has prevailed in Afghanistan for the past three decades), towards a downwardly accountable political orientation, where elected municipal officials become politically responsive to the needs of their constituents are ultimately accountable to their people. It will require that IDLG (and other central government ministries) treat municipalities and mayors in a different manner from other public officials. For instance, while a Provincial Governor is a central government official appointed by the President and is primarily politically accountable to the center (through IDLG), a mayor (upon his or her election) is appointed by his/her constituents and is primarily accountable to the municipal council and his/her constituents. While IDLG still has an important role in managing and overseeing municipal affairs, it should no longer do so by controlling the policy choices of the municipality, but rather by making sure that the council, mayor and other municipal officials function within the regulations and operational guidelines that are established for the municipal level.

As IDLG's role will change as municipalities become devolved (rather than deconcentrated) entities within the public sector, it will be important to more clearly define the relationship between the council and the mayor. This is typically done in the Municipal Law. For instance, what degree of oversight does the council have over municipal finances and municipal operations? How often and with what level of detail should the mayor report about the municipality's finances and operations to the council?

4.2 Local electoral systems

Although mayors are currently still appointed, much of the legal framework with regard to municipal political and electoral systems is already in place, as the procedures for electing municipal mayors and councils is contained in the Election Law (2010). The Election Law states that each mayor shall be elected through free, secret, general and direct election by receiving more than 50 percent majority votes of the voters of respective city. If none of the candidates receive an outright majority in the first round (more than a 50 percent of the votes), a run-off shall be held in which only the two most voted candidates shall participate. In contrast, Municipal Council members will be politically relatively weak, as in order to win an election as representative on a Municipal Council, the candidate only needs to receive a plurality of votes (i.e., the most voted candidates). In other words, depending on the number of candidates, the winning candidate may be elected with only a small percentage of the votes.

Unlike the arrangement for the national parliament, there are no seats at the municipal level set aside for woman candidates.

Since a relatively adequate legal framework is already in place, there is an obvious need for IDLG to work closely with the Independent Election Commission to define an implementation path towards elected local councils and mayors. This path should not only recognize the technical steps that are required to achieve municipal elections (such as defining the boundaries of municipal districts or wards), but should also consider the institutional/political constraints on the timeline for municipal elections. Since elected municipal mayors and councils do not appear to be imminent, efforts should be made to put in place temporary mechanisms for participation and accountability prior to the introduction of elected municipal councils.

4.3 Political party systems

The current Election Law (2010) is silent on the role of political parties, although the Independent Electoral Commission (IEC) cites the Political Party Law of 1369 (1991) (which was adopted pursuant the 1964 Constitution) on its website. Under that law, a political party is required to be registered with the Ministry of Justice, which may refuse political party status to organizations with fewer than 700 members. The IEC has not issued any regulations on the registration of candidates for mayor or for candidates for Municipal Council.

Political party systems are an important feature of municipal governance. For instance, if a single political party ends up dominating politics in municipality (for instance, with the same party supplying the mayor and a majority of the municipal council), it may reduce the degree of political accountability that is provided by the municipal council. It is currently unclear whether political parties will have a major impact on municipal elections, or whether most candidates (for mayor and council) will largely be elected as independent (non-party affiliated) candidates.

4.4 Participation, transparency and accountability

The SNGP (2010: 238) notes that there are no formal or systematic structures and processes for citizens' consultations and contribution in the municipal development process, nor any formal or

systematic structures for citizen feedback. It is noted that citizen participation in some municipal activities, such as for garbage collection and property expropriations, may have generated benefits but many more aspects of municipal governance and administration can benefit from citizen participation. The SNGP further states that the municipal government shall recognize that the community's right of access to information and that the municipal government shall provide for structures and mechanisms for maximum public participation in municipal affairs.

This policy vision is yet to be translated into action. Prior to the introduction of elected municipal councils, an important step towards greater participation and accountability would be to require (or at a minimum, encourage) municipalities to introduce a formal, representative (albeit appointed) Municipal Advisory Council, which could start playing some of the roles that would eventually be the domain of the Municipal Council.⁶ Participation, transparency and accountability could be greatly enhanced by having such a council convene in open session on a regular basis, and encourage the mayor and the Municipal Administrative Council to report progress on issues of concern to the community.

Not all mayors and municipal officials will immediately appreciate the need for greater participation, transparency and accountability in municipal affairs. In fact, many municipal officials may perceive participation as interference rather than seeing this as an important part of their role in municipal administration and service delivery. Therefore, another important step in achieving greater local participation and accountability is for IDLG to clearly specify the expected modalities for municipal consultation, participation, transparency, and accountability in operational guidance to the municipal level. For instance, it is not uncommon for national regulations to define the number of open council meetings required (and how these meetings should be announced in order to ensure participation); require the posting of municipal plans and budgets; define the degree of oversight of the Municipal Council over the municipal executive branch, and so on. Many countries also require an external audit of each municipality's Financial Statements (end-of-year financial accounts). IDLG should then oversee adherence to such guidelines, for instance, through an annual municipal performance evaluation which gives municipalities a score for adhering to these participation, transparency and accountability guidelines.⁷ Eventually, such guidance could be absorbed into a new Municipal Law.

4.5 Other concerns with regard to political dimension of municipal governance

Afghanistan has 153 municipalities that are officially recognized by IDLG. Under the current subnational administrative structure (under which municipalities are essentially considered deconcentrated units), provincial governors are seen as representatives of IDLG in the province, and therefore, have a degree of political and administrative authority over municipalities (for instance, the Provincial Governor may have signatory power over municipal procurements). This relationship muddles the political and operational self-governing autonomy of municipalities. In

⁶ Of course, the elected municipal council will have much greater political authority than its advisory precursor, including the power to adopt the municipal budget.

⁷ In fact, many countries given financial incentives for such good local governance or require a minimum level of performance on specific good local governance measures. See Steffensen (2010).

addition, provincial municipalities often play an intermediary role in IDLG's relations with smaller municipalities (e.g., district municipalities).

While it is difficult for IDLG to maintain direct relationships with over 150 municipalities, under a devolved system, it is not desirable to have one set of municipalities in charge of other municipalities. Naturally, it is easier for IDLG to maintain relations with (and oversee) the 34 provincial municipalities, especially as these municipalities have the benefit of being located in the provincial center, in the proximity of other public sector officials (e.g., the provincial mustoufiats). This political and institutional relationship between IDLG and the smaller (non-provincial) municipalities should be carefully considered, to make sure that smaller municipalities are properly supported and supervised, and to make sure that smaller municipalities can set their own municipal priorities. While IDLG should not ignore the needs of smaller municipalities, it is important to recognize that provincial municipalities have greater institutional capacity and serve the large majority of the urban/ municipal population in the country. Therefore, to the extent that IDLG is not in an institutional position to immediately support all municipalities, it is reasonable to suggest that the provincial municipalities warrant the preponderance of attention from IDLG in the near future.

5. An Assessment of the Administrative Aspects of Municipal Governance in Afghanistan

In order to function as effective organizational entities, municipalities require powers in four broad areas of local public administration. These areas include local powers to make, change and enforce plans and regulations (including regulations regarding the use of local physical space and local economic development); authority to administer and manage local government finances and manage local procurements (typically within the context of a national legal and regulatory framework); to engage in its own local human resource management and make local employment decisions; and to flexibly administer and deliver local government services.⁸

5.1 Municipal regulatory authority (including spatial planning and local economic development)

One of the most significant advantages of local governments (such as municipalities) is that – while central government officials in the capital have only limited information about local conditions and local needs–, municipal officials have direct knowledge about the local conditions and local needs of the community. For instance, Ministry officials in Kabul do not have adequate information about the specific conditions in a municipality to determine where a community amenity is needed most, to issue a building license, or to issue business permits in a manner that ensures that local business activity does not impose a burden on the surrounding residential community. As such, municipal officials should play a leading role in the spatial planning of the municipality and in facilitating local economic development (LED).

⁸ The administration and management of local public finances is an important sub-component of administrative decentralization. Many of the details of the local government finance system are specified as part of the fiscal aspects of municipal reform, further discussed in Section 6.

The concept of devolved municipal planning stands in sharp contrast with Afghanistan's history of centralized spatial planning, in which the Ministry of Urban Development Affairs had a leading role in physical urban planning. Since existing master plans are often outdated, there is a need (in collaboration with MUDA) to establish and/or build the capacity of municipal planning departments to engage in physical planning and a need for municipalities to update their municipal master plans. However, capital improvement efforts cannot be held back until these master plans are fully updated. Within the context of existing (albeit often outdated) master plans, there is a need for municipalities to develop Capital Improvement Plans, so that the annual municipal plans and budgets can fund capital improvement in accordance with the needs of the municipal residents.

5.2 Local Public Financial Management (PFM) and municipal procurement

Participatory planning and budget processes. An important element of public financial management is the annual budget process. Currently, the mayor prepares the municipal budget and this budget is reviewed and approved centrally by IDLG and MOF.⁹ To the degree that budgets are reviewed, they are reviewed for adherence to basic budgeting principles: for instance, municipal budgets have to be balanced and municipalities are instructed to dedicate 55 percent of the local budget on development activities.¹⁰

With the transition to devolved municipal governments, there is a need to establish the principle that municipal budget should be approved locally (especially once municipal councils are in place), and limit unnecessary intervention from IDLG and MOF. Capacitating municipal officials before preparation of the municipal budget is more effective compliance strategy than correcting budgets after the fact. Municipal compliance with good budget practices could thus be effectively promoted by IDLG by establishing clear municipal guidelines and manuals for participatory (results-based) planning and budget processes at the municipal level.

Since preparing the annual budget is one of the most important activities engaged in by the municipality (as the budget funds all other municipal activities), there is a need to encourage involvement of local stakeholders (NGOs, community leaders, religious leaders, youth and women's groups, the local chambers of commerce, and so on) in the municipal budget process. Prior to the introduction of elected municipal council in Afghanistan, the role of community involvement is even greater. For instance, in the interim, community leaders could be involved through the introduction of representative (albeit appointed) municipal advisory council as precursor to elected municipal council.

Local financial management. In the absence of clarity on the requirements for local (municipal) financial management, there is a wide variety of interpretations on what constitutes adequate local financial management. As such, there is a need to establish clear municipal standards and

⁹ It is unclear, however, how many municipal budgets actually flow up to Kabul for approval (and in what format), or whether approval takes place at the provincial level.

¹⁰ This requirement is contained in the 2000 Municipal Law (Article 11), while the balanced-budget requirement is also contained in Article 24 of the Public Finance and Expenditure Management Law.

guidelines for municipal financial management, including clear standards for accounting, internal controls, central oversight, and ex-post audit.

Since both IDLG as well as MOF have institutional oversight over municipal finances, the exact roles and responsibilities of each of these institutions should be defined.¹¹

A first step in strengthening the municipal financial management framework is to establish consensus on the principle of budgetary autonomy of municipalities. Since each municipality is a separate legal entity, each municipality should be able to manage its own finances (within national regulations) and keep its own (bank) accounts.¹² A second step is to clarify that (unlike deconcentrated units of the central government), the budgets of municipalities belong to the municipality and thus that the end-of-year balance should not revert to the national treasury at the end of the financial year (but rather, should be carried forward to the next financial year).

Within these main principles, the specific expectations and guidance with respect to municipal financial management should vary considerably based on the nature or grade of each municipality. For instance, while financial management software may be a useful financial management tool in larger municipalities, many smaller municipalities (including some of the smaller provincial municipalities) are likely better off using manual books of account to manage their finances in the foreseeable future.¹³ Operational standards and guidance provided by IDLG to municipalities on financial management should take such variations in location conditions and capacity into account.

Local procurement (and public-private partnerships). A Public Procurement Law was promulgated in 2008 (and revised in 2009) which is applicable to central government agencies as well as municipalities). While the law provides the legal basis for municipal procurement, there is a need to establish clear municipal operational guidance for municipal procurement. These procurement guidelines should be developed jointly by IDLG and the MOF Public Procurement Unit. Whenever possible, these operational guidelines should provide balanced central oversight while limiting interventions from central and provincial officials in municipal procurements.

¹¹ As far as the role of MOF, Articles 25 and 26 of the Public Finance and Expenditure Management Law include provisions that municipalities shall provide budget execution reports at least every six-months to the Ministry of Finance through the appropriate Mustufiat, and that municipalities shall comply with directives issued by the appropriate Mustufiat for collection of revenues and processing expenditures.

¹² Virtually all local governments around the world operate on this principle. Only a small number of countries require local authorities to manage their finances through the central government treasury.

¹³ Some countries have successfully introduced Excel-based books of accounts at the local level. This approach does not require sophisticated programs be written, but the spreadsheets allows for ease in calculating regular financial information and in preparing financial reports.

These guidelines should also establish the degree of discretion that municipalities have to engage in public-private partnerships (PPPs) and other ways to engage the private sector in public service delivery.¹⁴

5.3 Municipal Human Resource (HR) Management

The transition of municipalities in Afghanistan from deconcentrated entities to fully devolved entities also has important implications on the organizational structures and human resource management at the municipal level. While in a deconcentrated system the central government determines the organizational structure of municipal sub-units in a top-down manner, there is a need to recognize that without some degree of municipal discretion over human resources, devolved municipal administration and municipal service delivery will be greatly hindered. Discretion of municipal human resource management may take the form of municipal discretion over its organization structure, discretion in developing the exact position descriptions and defining the responsibilities for municipal staff, determining the number of its establishment (tashkeel), a role in local hiring and firing, or some degree of municipal discretion over the compensation of municipal staff and the provision of bonuses and incentives.

Human resource management is an important issue in most municipalities as many municipalities are having significant difficulties attracting adequate numbers of competent staff. Since municipalities are typically forced to compete with the emerging private sector for qualified management staff, greater flexibility in human resource management is needed for municipalities to attract more and better qualified staff. As such, there is a need to establish municipal guidelines for human resource management in accordance with public service laws and regulations, and where possible, to provide greater discretion to municipalities in managing their human resources.

In order to create greater decision-making space for municipalities, it will be paramount to convince other involved central government agencies (such as the Independent Administration Reform and Civil Service Commission, IARCSC) that municipalities should no longer be considered deconcentrated units of the central government, and that they require a greater degree of discretion in determining their own organizational structures and human resource decisions.¹⁵

5.4 Municipal service delivery

The ultimate objective of the municipal governance policy in Afghanistan is to create a municipal governance structure that enables municipalities to improve their services to their constituents. The most important municipal services provided by municipalities at this current stage are municipal “greening and cleaning,” in addition to a number of other local public

¹⁴ Public-private partnerships typically involve contracts with private sector entities and thus may be similar to procurements. At the same time, PPPs can have an element of budgetary liability or borrowing, as the municipality may commit itself to guaranteeing, renting or leasing a PPP facility. As such, municipalities may require separate operational guidance on PPPs.

¹⁵ As such, there may be a need to support the roll-out of advisory organizational charts for municipalities which are being jointly developed by IDLG and IARCSC, while preventing the imposition of “unfunded mandates” and avoiding imposing excessive conditionalities on municipalities.

services. While municipalities are well-positioned to engage in responsive public service delivery, achieving responsive municipal service delivery will require improvements in the management of municipal service delivery as well as improved communications with civil society and the private sector to make sure that service delivery is done in a more responsive manner. This will require municipal departments to better understanding the demand for municipal services, allocate labor and non-labor resources accordingly, improve the scheduling of operations, and so on.

In order to improve municipal service delivery, IDLG could provide guidance to municipalities on how to develop effective and responsive service delivery plans. Such operational guidance would provide the framework for municipal capacity building and for municipal service delivery improvements, and would provide a standard whereby residents and IDLG could measure and assess municipal service delivery performance.¹⁶

Within the context of such operational guidance, there is a need to recognize that service delivery may be outsourced to the private sector, or delivered through PPPs. Both IDLG officials as well as mayors and key municipal officials should be exposed to such different models of municipal service delivery. Regardless of who ultimately delivers municipal services, the responsibility for monitoring and ensuring quality should always remain a core municipal function.

6. An Assessment of the Fiscal Aspects of Municipal Governance in Afghanistan

An assessment of the fiscal aspects of municipal governance requires considering the broad set of (formal and informal) rules that define roles and responsibilities among different levels of governments for fiscal functions, including municipal expenditure responsibilities (including the planning, budget preparation and budget execution of municipal expenditures);¹⁷ revenue generation; the intergovernmental allocation of budgetary resources; and public sector borrowing.

6.1 Assignment of functional (expenditure) responsibilities to the municipal level

In practice (rather than by law), the assignment of functional responsibilities to the municipal level in Afghanistan is relatively clear, as municipalities in practice are only assigned a number of “typically municipal” public services, such as creating and maintaining public green spaces, constructing and maintaining ditches and markets, street cleaning and so on. As emphasized

¹⁶ In some countries, the central government determines “minimum service delivery standards” for local governments. For a number of reasons, the introduction of such minimum service delivery standards is not recommended or desirable at this stage in Afghanistan. Most importantly, there is no mechanism in place to ensure that any desirable (or minimum) level of municipal service delivery established by IDLG would either be affordable or attainable. Therefore, a first step in improving municipal service delivery would be to improve service delivery planning and to start measuring municipal service delivery performance.

¹⁷ Note that municipal planning and budgeting and local public financial management are already discussed as part of Section 5.2.

earlier in this assessment, while the assignment of functional responsibilities to the municipal level is relatively clear, the degree of municipal discretion/autonomy over the administration of these functions is much less clear, and is often significantly (and unnecessarily) constrained. Under a devolved system of municipal governance, municipalities should be given the lead role in providing and administering municipal services, rather than being relegated a coordinating role for central ministries (as is the case under a deconcentrated system).¹⁸ As such, IDLG should champion the cause of devolved municipal governance by removing administrative and fiscal obstacles that prevent municipalities from acting upon the functions (obligations and powers) that have been assigned to them.

Although IDLG has some information about municipal expenditure patterns –and the outputs and outcomes that municipal expenditures produce–, a more transparent and accountable system of municipal governance would have IDLG playing a stronger role in overseeing and monitoring municipal expenditures. Such “monitoring” should not be understood to mean supervision through controls or top-down inspections, but rather, through a more “eyes on, hands off” approach to municipal governance. In many countries with devolved local government systems, central authorities monitor the performance of local governments by preparing a basic comparative analysis of municipal expenditures and functions. Although IDLG and MOF in principle have an oversight role over municipal expenditures, non-systematic reporting and monitoring of municipal expenditures appears to be taking place. A basic quarterly municipal financial reporting requirement (using paper-based reporting or an Excel-based template) can serve as a good entry-point for IDLG (and MOF) to oversee municipal finances.

Requiring municipalities to produce financial reports serves a fiduciary oversight function, but can also serve IDLG as a steward for a more transparent and effective municipal sector. For instance, IDLG might wish to monitor (analyze) in a comparative way how much each municipality is spending on main municipal functions, in order to gain insight into whether municipalities are spending their resources in accordance with their stated priorities. Some countries use a more formal annual performance evaluation for municipalities. There is a need to strengthen IDLG’s analytical capacity to evaluate the performance of municipalities in terms of their basic functions and responsibilities.

6.2 Municipal revenue assignment and administration

Municipalities in Afghanistan are exclusively reliant on own revenue sources. As such, (i) clarity with regard to municipal revenue collection powers and (ii) strong municipal revenue administration capacity are extremely important to the success of the municipal sector. Although detailed municipal revenue collection figures appear to be unavailable, municipal revenue collections are quite robust given the limited municipal tax base and the security and other challenges faced by municipalities in Afghanistan. The types of revenues that are assigned to the municipal level in Afghanistan are generally appropriate as funding sources for local

¹⁸ The claim that municipalities do not have the necessary capacity to deliver municipal services is a circular argument: until municipalities are assigned the real responsibility to perform a specific function, they will simply not develop the necessary capacity.

governments, although the reliance by some municipalities on non-recurrent asset revenues (such as proceeds from the sale of land) raise substantial concern about financial sustainability.

Municipal revenue collection practices are relatively well-defined in Afghanistan, and a recent decree provided municipalities with specific authority to collect several specific fees, such as a billboard fee. However, in the presence of the current ambiguous legal framework, the framework within which municipalities collect and use own source revenues is not clearly communicated to municipalities. Improved clarity could be established through the introduction of national operational guidelines for municipal revenue administration. Municipal revenue effort would most likely be enhanced by clarifying such operational details, and by providing assurance that own source revenue collected by municipalities do not revert to the national treasury by the end of the financial year.

In addition to issuing municipal revenue administration guidelines, there is a need to strengthen IDLG's oversight role over municipal revenues to make sure that municipalities administer municipal revenues in an efficient and equitable manner. In this regard, it may benefit IDLG to conduct a baseline analysis of municipal revenue collections and to have regularized oversight over municipal revenue collections (for instance, through quarterly municipal financial reports). This will require building focal strength within IDLG around municipal revenue administration and the analysis of local government revenues.

6.3 Intergovernmental fiscal transfers (municipal grants)

Most countries around the world provide some intergovernmental grants to the municipal level. Although the SNGP foresees a municipal grant system, at this time, Afghanistan's central government does not provide systematic grants to the municipal level. The rationale which is sometimes given that "municipalities should not spend more than they are able to collect themselves" is faulty and not consistent with universally accepted principles of sound intergovernmental finance.

However, it is unclear whether (and if so, the extent to which) municipalities are currently being provided with "deficit grants" by the Ministry of Finance on a discretionary basis.¹⁹ If this practice indeed occurs, concerns would arise whether such allocations are made in an objective, transparent and accountable manner. In addition, grants based on "financial need" often provide a perverse fiscal incentive to sound municipal management by encouraging municipalities to overstate their needs and under-report their own-source revenues.

While the SNGP foresees a municipal grant system and IDLG is a proponent of a municipal grant system, not all stakeholders within and outside GIROA are convinced about the need for a municipal grant system. As such, there is a need to analyze the fiscal sustainability of the

¹⁹ Under exceptional circumstances, the current Municipal Law (2000) allows the central government to provide financial assistance from the central development budget. Article 23 of the Public Finance and Expenditure Management Law states that municipalities may receive assistance [transfers] from the government budget if a justifiable need exists. However, the same article states that the government should establish the financial resources available for this purpose during the budget preparation process.

municipal sector in Afghanistan, and to weigh advantages (including fiscal and governance rationales) and disadvantages for introducing a municipal grant system. In order to ensure the sustainability of RAMP UP-supported interventions, there is a need to further explore the financial sustainability of the municipal sector and to consider the basic features and design of a potential future (performance-based) municipal grant system.

6.4 Municipal borrowing

Although borrowing is a common source for capital infrastructure funding for municipalities in industrialized economies, borrowing is not likely to be a suitable option for most municipalities in Afghanistan. Allowing municipalities to borrow (unless extensive safeguards are in place) will likely result in many municipalities defaulting on their loans and potentially becoming financially insolvent.

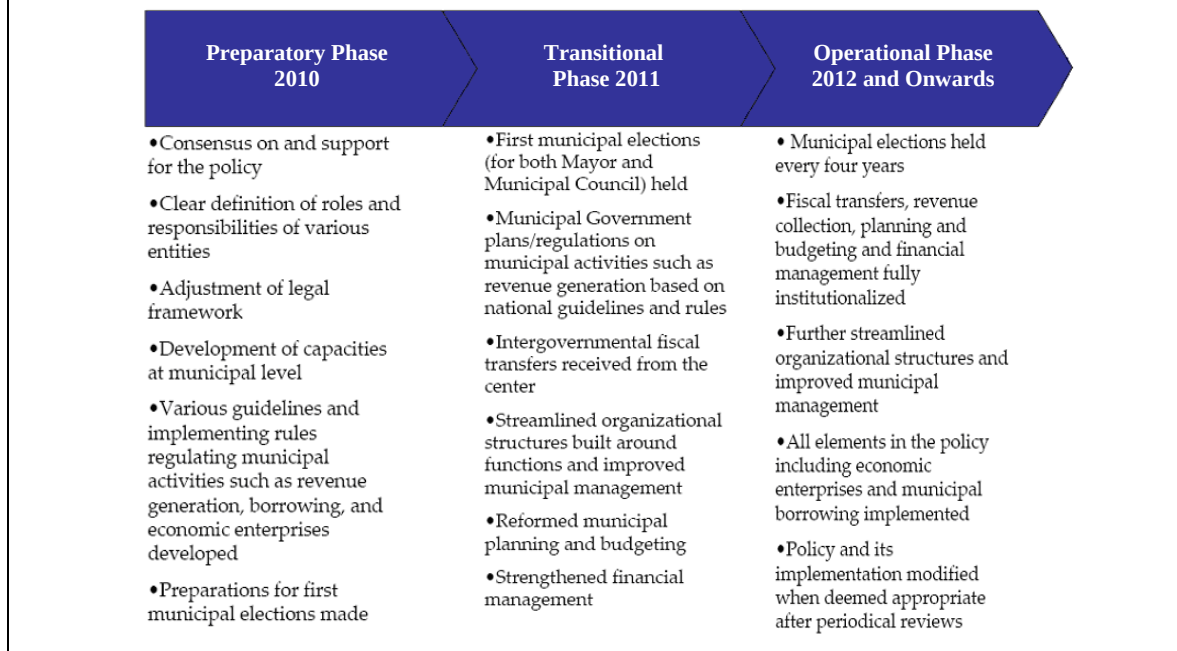
Yet, in the absence of a credible borrowing framework, it should be acknowledged that most municipalities in Afghanistan simply will not have access to funding for capital infrastructure projects, unless a municipal grant system is introduced after USAID's three-year RAMP UP project ends.

Public-Private Partnerships (PPPs) are discussed in Afghanistan as one possible way to introduce an opportunity for municipalities to (often indirectly) attract capital investment, even in the absence of direct municipal borrowing. While the ability of municipalities to enter into PPPs should not unnecessarily be restricted, operational guidance should be provided to prevent municipalities from issuing loan guarantees and taking on other long-term fiduciary liabilities that would cause an excessive risk to the financial health of the municipality.

7. Next Steps: Implementing the Municipal Governance Policy

A draft implementation strategy for the Sub-National Governance Policy was prepared by IDLG in May 2010, which includes an implementation strategy for the Municipal Governance Policy. The implementation strategy is summarized in Figure 1 below. The implementation strategy envisions adjusting the legal framework; introducing a regulatory framework; holding municipal elections; introducing a transfer system; and fully operationalizing the new envisioned municipal governance policy in a matter of three years. It may be useful for IDLG to fine-tune its implementation strategy as it prepares an implementation plan to pursue specific activities and actions which will achieve better municipal governance and stronger municipal service delivery.

Figure 1. Draft Implementation Strategy for the Municipal Governance Policy



The sequence proposed by the (draft) implementation strategy essentially follows a basic “textbook sequence” for municipal reform, which suggests a specific order: (1) adopt the policy framework; (2) adjust the legal framework; (3) prepare implementing regulations; and then (4) implement central-municipal institutional reforms and introduce operational guidance to municipalities.²⁰ While this sequenced approach is technically correct, the reality of policy reform in Afghanistan may not accommodate this sequence.

For instance, although the current Municipal Law contradicts the Constitution on the devolved nature of municipalities and while the legal status of the Municipal Law is questionable at best, precious time would be lost if operational processes would be placed on hold until a new Municipal Law is passed by parliament. Likewise, while it would be technically possible for IDLG to develop and design a municipal grant system, it is unlikely that all other stakeholders (including, for instance, the Ministry of Finance) will immediately accept such a grant system without piloting a municipal grant system on a more limited scale. International experience suggests that municipal governance reform is not just a technical challenge (as it is treated by the implementation strategy), but the sequencing of municipal governance reforms should be recognized to have important institutional and political considerations. When such political-institutional considerations are taken into account, municipal governance reform is often more effectively pursued in a more gradual and iterative fashion, whereby pilot activities and “quick wins” open the door for more difficult (but more sustainable) reform initiatives.

²⁰ See Bahl and Martinez (2006) for a detailed discussion on sequencing decentralization reforms.

International experience further suggests that the current implementation strategy in Afghanistan is quite optimistic about the speed of municipal governance reforms. It often takes many years (if not decades) before a well-functioning, devolved system of elected local governments is effectively introduced. For instance, Mozambique (a post-conflict country in Southern Africa) has been pursuing a municipal governance structure that is quite similar in many ways to the municipal reforms currently being pursued in Afghanistan. The trajectory that Mozambique has pursued over the past fifteen years in pursuing its municipal governance reforms may be instructive with regard to the time and effort that it takes to create a more-or-less effective municipal governance system from scratch. Although GIRoA is under intense pressure to achieve rapid gains in the area of municipal service delivery, expectations in other areas of municipal governance have to be tempered in order to match the enormity of the challenge at hand: fundamentally re-defining how approximately five percent of the public sector in Afghanistan operates.

A final issue that should be taken on board in the implementation of Afghanistan's municipal governance strategy is that municipal reform itself cannot be driven in a top-down manner. Municipalities should become part of the coalition of champions to favor greater devolution to the municipal level. Of course, mayor and municipal officials are unlikely to strongly advocate for devolved governance as long as they themselves are still appointed by the center

In the absence of greater political decentralization, it is unlikely that municipal organizations will start to behave in a more responsive manner. After all, municipal stakeholders or organizations – like any other individual or organization- should not be expected to act in a certain way just because they are instructed to do so. For instance, most mayors should not be expected to be enthusiastic about efforts to share their power with an elected council or to submit to greater consultations and transparency. After all, organizations –just like individuals- respond to incentives (both carrots and sticks) as much as technical instructions. As another example, although IDLG could prepare an operation manual to guide municipalities in their revenue collection efforts, most municipal taxpayers would likely be unhappy about greater municipal revenue collections efforts. Thus, if a mayor listens to his or her constituents –which is what we expect him (or her) to do in a devolved municipal sector, the center cannot impose revenue enhancement in a top-down manner. Instead, municipal stakeholders will have to convince and demonstrate a direct and proportionate increase in municipal services before local constituents would agree to increased local revenue collections.

Thus, beyond providing municipalities with a technically sound operating environment through laws, regulations and guidelines, proponents of sustainable municipal reform in Afghanistan need to understand the incentives that are needed for municipalities themselves (and the stakeholders within municipalities) to support and implement municipal reforms. This is true across the full range of political, administrative and fiscal dimension of municipal governance reform. One incentive scheme that many countries have used to this effect is a performance-based grant system, which rewards municipalities that adopt good governance measures and increase participation, accountability and transparency. Similarly, municipal department heads may become a lot more responsive to the vision of the municipality if the mayor or council had

the right to terminate them, and mayors may become more responsive to the needs of their local communities when they learn that they will need to secure popular support of their electorate in order to retain their positions.

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