**City Resilience Program**

**Private Capital Mobilization in City-Level Engagements, Phase 1**

***Indicative Assessment of City Readiness for Deploying Various Tools of Private Sector Participation in***

***Financing Capital Investment Programs***

Across a range of emerging economies, cities serve as pillars of prosperity, and hold the promise of better and greener living environments for millions of businesses and households. However, the institutional implementation challenges and financing needs to realize this vision are significant. Successful cities must find ways to better manage their existing infrastructure, financial and non-financial, and human resource assets, while prioritizing and financing a pipeline of new programs and projects to secure successful and resilient futures. Yet, city development strategies have often fallen short owing to both revenue and implementation gaps. This includes investments in city resilience, which requires an approach that goes beyond the scope of single sector engagements. As cities grow, so does their exposure to shocks and stresses, and resilience investments aim to protect and cultivate long-term development gains.

The World Bank Group’s (WBG) City Resilience Program (CRP) aims to catalyze larger scale, more ambitious investment in urban resilience in emerging markets. CRP aims to achieve this through the deployment of an integrated platform for delivering resilience-enhancing measures in cities, including infrastructure upgrades, strengthening governance and policies, and broadening of financing options for capital investment. CRP is currently being implemented globally, across more than 20 cities, and presents an immediate and unique opportunity for private investors to leverage WBG technical assistance and resources to unlock opportunities in urban infrastructure investment.

CRP’s focus on private capital mobilization stems from the WBG’s institutional prioritization of increasing capital flows towards addressing the significant and increasing urban infrastructure-financing gap. Projections show that investments of U$4.1 to U$4.3 trillion per year in urban infrastructure will be needed merely to keep pace with expected growth in a business-as-usual scenario, and an incremental 9 to 27 percent (U$0.4 trillion to U$1.1 trillion) will be needed to make this urban infrastructure climate resilient. The existing infrastructure-financing gap highlights the inability to connect the necessary private capital to governments. To unlock the full potential of investment possibilities and realize the necessary investments in public infrastructure, creative financing tools need to be considered and if necessary support is provided to help cities overcome certain key regulatory and capital constraints.

To better address the sizable investment needs in the urban resilience agenda, CRP puts emphasis on attracting outside capital for infrastructure projects. A key feature of the CRP is leveraging the WBG’s balance sheet to deliver greater resources to cities and boost bankability of cities’ capital investment programs in cities. This includes securing co-financing from other multilateral development banks and bilateral agencies and maximizing opportunities for crowding in private capital around each investment program.

For the purpose of this assignment, private sector participation in urban infrastructure investments is grouped into three primary modalities as follows:

(i) *Direct lending* to a government entity responsible for administering, provision and maintenance of public infrastructure (e.g., general obligation lending, such as through purchase of general obligations bond, as well as structured obligation lending and sub-sovereign commercial debt financing);

(ii) Public-private partnerships (PPP)/concession that encompass various mechanisms of joint delivery of

infrastructure projects with use of public and private funds. The exact delivery methods are rather

diverse but they still can be grouped into the following sub-categories of PPP arrangements:

a. *Service delivery* arrangements in which private entity is granted the right to provide services by

operating (at times, building/refurbishing) corresponding infrastructure within the government's

jurisdiction (e.g. a solid waste removal enterprise working within and regulated by a city);

b. Contractual *investment and financing* arrangements between a public entity and private sector

partner for providing a public asset or service (e.g., energy efficient street lighting, municipal parking),

in which public entity offloads to the private partner a significant share of construction, financing and

management risks and responsibilities;

(iii) *Land value capture*, which is a broad set of transaction mechanisms that help public entities to capture land value increases associated with infrastructure upgrades. Such transactions can be grouped into the following main sub-categories:

a. *Cost recovery*, in which a private developer pays fees (development charges) to help reimburse the

public sector for costs of infrastructure and/or additional services required to provide municipal services to a new development, such as roads, transit, water and sewer infrastructure, and fire and police services. Such cost recovery becomes possible (i.e. feasible to private partners) due to the enabling nature of public upgrades, which foster private development.

b. *Monetization of land value increases:* in which a public entity, through policy and regulatory mechanisms, participates in the appreciation of real estate values resulting mostly from public investment in infrastructure and changes in land use regulations.

**Objective**

The first step toward understanding opportunities and roadblocks for private capital investment in urban infrastructure requires analysis of baseline conditions for infrastructure financing. This indicative

assessment represents an initial step for task teams in analyzing local conditions for unlocking private

capital for urban infrastructure investment.

This assessment provides a high-level overview of the city on the basis of how respective national and

subnational regulatory frameworks empower the city to access domestic and international capital markets, as well as understanding how national and local market fundamentals support leveraging private capital. Opportunities for attracting private capital financing are grouped into three main sources: direct lending from commercial sources, PPP/concessions structuring, and mobilizing equity through land-value capture.

**Outputs**

Completion of Rapid Private Capital Assessment (hereinafter – the Assessment) for each city participating in CRP, following the guideline outlined in Annex 1 to this document.

This document presents stop-lights charts for each city participating in the Assessment as well as cross-city summary, indicating prevalent color-coding and related scoring in each of the private sector mobilization modalities: bonds, bank loans, PPP/Concessions, and land-value capture.

Contents

[Overall 4](#_Toc520996970)

[RCAs by city 6](#_Toc520996971)

[Bamako, Mali 6](#_Toc520996972)

[Bucharest, Romania 15](#_Toc520996973)

[Cali, Colombia 24](#_Toc520996974)

[Can Tho, Vietnam 34](#_Toc520996975)

[Casablanca, Morocco 44](#_Toc520996976)

[Colombo, Sri Lanka 54](#_Toc520996977)

[Da Nang, Vietnam 65](#_Toc520996978)

[Douala, Cameroon 75](#_Toc520996979)

[Eldoret, Kenya 86](#_Toc520996980)

[Guatemala City, Guatemala 96](#_Toc520996981)

[Irbid, Jordan 106](#_Toc520996982)

[Kiev, Ukraine 116](#_Toc520996983)

[Kigali, Rwanda 127](#_Toc520996984)

[Kisumu, Kenya 139](#_Toc520996985)

[La Paz - El Alto, Bolivia 151](#_Toc520996986)

[Mombasa, Kenya 160](#_Toc520996987)

[Nairobi, Kenya 170](#_Toc520996988)

[Nakuru, Kenya 180](#_Toc520996989)

[Santa Cruz, Bolivia 190](#_Toc520996990)

[Sidon (Saida), Lebanon 201](#_Toc520996991)

[Ulaanbaatar, Mongolia 211](#_Toc520996992)

# Overall

1. Structuring PPP on city level



1. Enablers for Land Value Capture



# 

# RCAs by city

|  |
| --- |
| **Bamako, Mali** |

**Track Record and Regulations in Structuring PPPs**

|  |  |  |  |
| --- | --- | --- | --- |
| **Track Record** | **Regulatory Frameworks** | **Procurement Capacity** | **Government**  **Co-Financing** |
|  |  |  |  |

**PPP TRACK RECORD (RECENT 10 YEARS):**

**Data points**

|  |  |
| --- | --- |
| PPPs of record in the country (in any status) | <10 |
| PPP of record in the jurisdictional borders of the assessed city | <5 |
| Nationwide count of PPPs in areas of CRP focus (sanitation, water supply, flood mitigation, urban upgrades, housing, urban transport) | 1 |

**Scoring guidelines:**

**Green** - solid track record

**Yellow** - some track record / or good national track record, limited local capacity

**Red** - no or limited track record with limited local capacity respectively

**Assessment notes:**

Very limited track record of PPP. Desk research yielded only two PPP projects reaching financial closure in the last 10 years, with a total investment of US$ 192 million. These are the Kayes Thermal Power Plant, implemented nationwide, and the Dakar-Bamako Railway. Both projects are active.

**PPP REGULATORY FRAMEWORK**

**Data points**

|  |  |
| --- | --- |
| Does national regulatory framework allow procuring PPPs? | YES |
| Does regulatory framework contain specialized legislation regulating PPPs? | YES |
| No restrictions on structuring PPPs in CRP priority sectors? | YES |
| Foreign companies are NOT prohibited from participating in PPP? | YES |
| Foreign companies are permitted to repatriate income from PPP operations? | YES |
| Flexibility to change ownership structure / assign rights under PPP contract? | NO |
| International arbitration allowable for dispute resolution of PPP contracts? | YES |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 5 or more positive responses, including specialized legislation for PPP

**Yellow** – 2 to 4 positive responses (or, if more than 5 but no specialized PPP laws)

**Red** – 1 or 0 positive responses

**Assessment notes:**

Mali has dedicated PPP legislation, including the PPP Law and PPP Decree that provide a robust regulatory and legislative framework for PPPs. Of note, the Malian PPP law specifically forbids any change of ownership of PPP contract without the procuring authority's approval.

**PPP PROCUREMENT CAPACITY**

**Data points**

|  |  |
| --- | --- |
| Cities/municipalities by law have procuring authority for PPPs? | YES |
| PPP contract can be awarded even if only one proposal is submitted | n/a |
| Unsolicited proposals either explicitly allowed or not regulated and possible in practice | YES |
| Competitive PPP procurement must be initiated when proceeding with an unsolicited proposal\* | YES |
| Specialized municipal entity that facilitates the PPP program (PPP Unit) | n/a |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 4-5 positive responses

**Yellow** – 2 to 4 positive responses;

**Red** – 1 or 0 positive responses; if 1 but earned on “Specialized municipal entity that facilitates PPP” – that is YELLOW

**Assessment notes:**

According to the Malian PPP law, the procuring entities are the State, sub-national jurisdictions (e.g. including city of Bamako itself) and their institutions; public enterprises. The PPP law establishes a PPP Unit whose functions are to provide assistance to procuring entities with validation of projects, preparation of bidding documents; drafting and execution of tendering paperwork with private partner.

**GOVERNMENT CO-FINANCING**

**Data points**

Availability and performance of government-led infrastructure co-financing vehicles (Sovereign Wealth Funds, Local Development Investment vehicles, state-run Guaranteed Loan and Grant programs, Infrastructure Guarantee Funds, etc.). As such, the contemplated government co-financing vehicle may serve as the source of additional leverage, equity and/or a provider of credit enhancement mechanisms in project finance and can open additional opportunities for attracting private capital for infrastructure financing.

**Scoring guidelines:**

Educated opinion on availability of government financing facilities that provide financial assistance to infrastructure projects:

**Green** – Dedicated infrastructure co-financing facility/facilities are established by national or sub-national government; clear criteria for application for such co-financing; proven track record of long or short-term co-financing provided by such facilities for country’s infrastructure projects (not necessarily in the surveyed city).

**Yellow** – Some forms of government co-financing have been identified as a supportive tool for infrastructure investments; access to such government-led co-financing is limited due to either limited size of such co-financing and/or lack of transparency in funds allocation (e.g. unclear criteria for application and approval of such funds) or such a vehicle is planned/drafted but yet to be activated in practice ;

**Red** – No evidence of government financing facilities that are set to co-finance infrastructure alongside the private sector (infrastructure can still be extensively funded exclusively from state funds, user fees and/or concessional loans).

**Assessment notes:**

In May 2011, the government created a fund (FGSP) to guarantee the private sector activities and backed two- to seven-year loans that banks are to lend to small and medium-sized enterprises. No record found if such fund supports bulk infrastructure investments.

**Survey of Enabling Conditions for Land Value Capture (LVC)**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Real Estate Market Capacity** | **Land Use Regulations** | **Land Cadaster / Land Data Management** | **Security of property rights** | **Local Fiscal Powers** | **LVC track record** |
|  |  |  |  |  |  |

**REAL ESTATE MARKET CAPACITY**

This indicator consists of sub-indicator data points (covering different subsets of Market Environment), each earning formal scores that contribute to a cumulative overall score for the Market Environment based on which the ultimate color-code for the Market Environment is assigned

**Data points:**

***Market Dynamics****:* Expert snapshot view on the market maturity, formality and its readiness for generating land value premiums and value capture. Scores for this sub-indicator are derived according to the following formalized metrics:

2.0 – **Active and structured** (largely formal) market with rapidly emerging or established presence of high-value commercial properties (at least 200,000 square meters of modern grade A offices, at least 2-3 modern malls, at least 2 internationally branded hotels). No signs of crisis or sustained stagnation.

1.0 – **Structured (largely formal) but slow** market with limited presence of high-grade properties, evident signs of oversupply or sustained crisis is a clear determination for this score even if formal market prevails.

0.5 – **Nascent (largely informal) active** market with yet very limited presence of high-grade properties but with good outlooks as surfaced either in professional market surveys or discovered from anecdotal evidence

0 – **Nascent (largely informal) limited** market - very scarce modern real estate development; on top of that the market shows limited prospects for attracting future investments in high-grade high-value modern properties

***Market Coverage:*** Availability of recent/regular market surveys, ideally prepared by global real estate services companies, e.g. CBRE, Colliers, JLL, Cushman, Knight Frank, DTZ (or other credible sources, including investor surveys)

1 – market covered by professional market surveys

0 – no regular coverage by professional market surveys

***Market Infrastructure:*** Evidence of land/property market infrastructure (property databases, brokers, notaries, surveyors, etc.), assessed based on the following metrics:

1 – **Well functioning infrastructure** (networks of professional agency services providers/brokers, some with international franchises, notaries, locally present land surveyors. etc.)

0 – **Weak infrastructure**, with evident deficiencies (best proxies for such deficiencies are: absence of private notary services, real estate agency services are not subject to licensing; real estate agencies have limited role and are only local/domestic entities while international franchises/rep offices are absent)

***Price Discovery:*** Conclusion on transparency of price discovery process for land and buildings on the local market; the transparency of price discovery is assessed using the following formalized metrics:

1 – **Confidently transparent** - all three of the following conditions are met: role of informal land transaction is minimal or much less compared to formal market, range of fair market values for land is discoverable for any given location, value heatmaps are available, past transaction records are maintained and publicly available, either free of charge of for a fee;

0.5 – **Somewhat transparent** - some of the conditions mentioned in Confidently Transparent are clearly not met; most importantly, if it is clear that valid comparable sales are too limited/sporadic for tracing variations of market prices across the city

0 – **Non-transparent** - informal market dominates, fair market values of any given land or building are hard to discover, land/property values are in most cases discretionary / not backed by comparable sales evidence, income approach to valuation is also not applicable

**Scoring guidelines:**

The sum of scores collected on individual sub-indicators produces the following color designations:

**Green** – equal or larger than 4.0

**Yellow** – 2.0 to 3.5

**Red** – less than 2.0

**Assessment Notes**

***Market Dynamics: score – 0*** *(nascent and slow market)*

Nascent, largely informal market with limited supply of good quality commercial and residential real estate. Investor interest severely inhibited by political instability. Scarcity of professional office accommodation in Bamako forces international companies and aid organizations to be housed in converted residential villas. Retail activity continues to be generally informal and based around street trading. There is minimal penetration of international brands and very limited presence of modern retail formats (enclosed urban malls, big-box retailing, street retail galleries, showrooms etc.), concentrated mostly in the new CBD, which has been emerging to the west of historic downtown (ACI2000 neighborhood). Residential segment is characterized by absence of large privately-funded construction projects and is mostly driven either by government housing programs or individual home pad sales for self-build/ assisted self-build. Should political stability be maintained, international investor flows will primarily target cotton and mining industries rather than Bamako's real estate. Activation on the real estate market will likely follow in the longer run after original industrial investments gain momentum.

Establishment of government-controlled land development agency (ACI) in 1990s helped, to certain extent, formalize the land market in Mali, especially in Bamako, and generate opportunities for land access to private developers. However, the main driver of market demand for land in Bamako remains to be land speculations in anticipation of improvements of land tenure security, tenure status and incorporation of lands into the urban boundaries.

***Market Coverage: score – 0***

Some pan-African surveys have occasionally covered Bamako providing a baseline reference of the local market conditions. However there are no regular overviews of the local market by any of the international real estate services companies..

***Market Infrastructure: score – 0***

By evidence from the IMF research, the real estate sector in Mali is not formally regulated or supervised. Even though agencies and notaries are in existence, there is strong evidence of poor compliance by such actors to anti-fraud and anti-money laundering frameworks stipulated by the law. There is no respresentation of international real estate services companies either through direct rep office or a franchise.

***Price discovery: score – 0***

Informal market heavily dominates, while formal market is very limited and is almost entirely concentrated in the high-end price segment. Customary transactions involving purchase and sale of land lots on the secondary market are often conducted in cash, and such transactions are not registered, leading to very scarce formal evidence of the fair market prices and overall non-transparency of the market.

Transfer of larger blocks of public land to private owners frequently involves initial allocation of lands (often with informal tenure rights) to the narrower circles of private groups at preferential prices on corrupted schemes and/or on the basis of political affiliation. This process is further exacerbated by a speculative process whereby initial acquirer of public lands leverages political connections to convert the initial "raw" informal tenure into a formal and legally recognized ownership title, that way increasing the ultimate price of entitled land exponentially.

**LAND USE REGULATIONS**

**Data points**

Evidence of a comprehensive plan for city’s territories (Master Plan, Land Ordinances or equivalent), which regulates density, height, and functional uses in various parts of the city.

**Scoring guidelines:**

**Green** - Such plan exists, covers entire city and is able to inform investors of land use and building regulations at - or very close to - parcel by parcel detail

**Yellow** - Such plan exists, but has evident deficiencies, e.g. does not cover entire city, omits important land use guidelines, outdated, has evident enforcement issues, etc.

Red - Such plan does not exist, or even if it technically exists it has not been updated for long (e.g. since the change of political regime)

**Assessment Notes**

The City Development Plan for Bamako officially in effect was adopted in 1981 and since then hasn’t been updated. The has been several revisions (including the most recent one that dates from 2004) but those revisions of the Plan have not been officially enacted. Under such circumstances recommended color-score on this indicator for Bamako is RED.

**LAND CADASTER / LAND DATA MANAGEMENT**

**Data points**

Availability of centralized database for land parcel information with legal and value records

**Scoring guidelines:**

**Green** - Land Cadaster is well maintained, cadaster information matches legal ownership records and land values in the cadaster correspond to actual market values

**Yellow** - Land Cadaster is in place, but has evident omissions, e.g. does not cover entire city, and/or has mismatches with legal records, land value records in the cadaster are in mismatch with market values

**Red** - Land Cadaster not introduced, or covers less than 30% of city area, or has very poor data / has not been updated for long time

**Assessment Notes**

A Land Cadaster for Bamako has been technically established, but it largely represents a registry of land parcels without any land value or ownership information attached. To that end, RED color code is recommended for this indicator.

**SECURITY OF PROPERTY RIGHTS**

**Data points**

Expert opinion on the level of establishment and recordation of property titles, title search infrastructure, robustness of dispute resolution processes.

**Scoring guidelines:**

**Green** – robust land and property title registers and property records, covering entire area of the city; registers are regularly updated; property titles do not overlap and formal development rights as a rule reflect de fact ownership; domestic legal framework able to resolve most of property disputes; distribution of land/property rights between government agencies is well established and recorded.

**Yellow** – nominal presence of land/property registers. However, the system has numerous evidence of inaccurate, unrecorded, outdated or overlapping land/property rights; numerous cases of non-delineated lands (e.g. clusters of urban “nobody’s land” with potential conflicting interests); evidence of poorly established public ownership (conflicting claims of different public agencies and layers of government).

**Red** – nonexistent or very incomplete title registers; title search and property dispute resolution have significant informal aspects.

**Assessment Notes**

Property ownership in Mali is dominated by customary practices (informal market regulations). The national legislature has been attempting to adopt a real estate law that would replace customary laws, would legally recognize the historically established customary forms of tenure and property rights and institute better visibility and management of real estate titles. But these attempts have not yet yielded any kind of robust title recordation system in Mali, including in Bamako.

As a result, the process of accessing rights in land and property in Bamako is heavily non-transparent and ultimate tenure rights (even if accessed) are highly insecure.

Recommended score for this indicator for Bamako is RED.

**LOCAL FISCAL POWERS**

**Data points**

Ability of the city to maintain revenue from own sources and manage level of operating and capital expenditure at discretion of the city administration.

**Scoring guidelines:**

**Green** - revenues from own sources comprise more than 30% of city's revenue base; city has significant discretion in operating and capital financial planning; operating revenues from service mandates mostly able to at least recover the running costs for those services

**Yellow** - revenue from own rouses comprise less than 30% of city's revenue base; city can enact, set and administer local taxes (property taxes in particular), however, city's revenue and spending mandates are still largely reliant on intergovernmental transfers and spending obligations are higher than revenue collected by the city from respective services

**Red** - very limited fiscal powers and complete dependence on intergovernmental transfers; municipal services are top-down mandates from higher levels of government with limited capacity for own revenue collection and cost recovery

**Assessment Notes**

Mali is characterized by limited fiscal decentralization, and strong dependence of subnational jurisdictions from intergovernmental transfers (comprising over 50% of local revenue).

However, being by far the largest city in Mali, comprising 20% of national population in its metropolitan region, Bamako is the best endowed Malian municipality in terms of locally owned resources. Business license tax proceeds are the main component of Bamako's own tax revenue base (50% of nationwide proceeds of this tax). The municipality of Bamako is entitled to administer local taxes and assess additional fees to businesses.

There is limited discretion and flexibility in capital investment planning on the city level, outside of the planning frameworks established by the central government.

Given the relative significance of Bamako economy in national accounts and relatively higher share of locally sourced and retained revenue a YELLOW color code is recommended for this indicator in Bamako.

**TRACK RECORD IN LAND VALUE CAPTURE**

**Data points**

Track record of the city authorities in negotiating public-private partnerships in land and property development, in particular involving obligations for private partners to build (contribute) public infrastructure (e.g. joint development agreements, and/or development SPVs, selling development rights with infrastructure encumbrances/conditions, etc.).

**Scoring guidelines:**

**Green** - evident track record hereof; the city is legally permitted to negotiate land development deals with private partners and has transacted land /property rights with infrastructure obligations.

**Yellow** - evidence that the city is legally permitted to negotiate land development deals with private partners; however, the track record of such is either very limited (e.g. 1-2 deals in the foreseeable past) or inconclusive of the city's real ability to efficiently structure land value capture transactions with fair compensation to the city (i.e. forcing private partners to act in good faith)

**Red** - no track record hereof; OR, clear evidence (with sources) that city is not permitted to negotiate land development deals with private partners

**Assessment Notes:**

No evident track record on this front. In spite of recent decentralization efforts supported by aid and development agencies and international finance institutions, the capacity of Bamako city government to establish robust procedure for disposition of land and development rights to private developers and even to establish formal private land market has been undermined by non-transparent informal land practices, insufficient human and financial resources, and limited institutional capacities at the city level.

|  |
| --- |
| Bucharest, Romania |

**Track Record and Regulations in Structuring PPPs**

|  |  |  |  |
| --- | --- | --- | --- |
| **Track Record** | **Regulatory Frameworks** | **Procurement Capacity** | **Government**  **Co-Financing** |
|  |  |  |  |

**PPP TRACK RECORD (RECENT 10 YEARS):**

**Data points**

|  |  |
| --- | --- |
| PPPs of record in the country (in any status) | > 40 |
| PPP of record in the jurisdictional borders of the assessed city | 8 |
| Nationwide count of PPPs in areas of CRP focus (sanitation, water supply, flood mitigation, urban upgrades, housing, urban transport) | 1 |

**Scoring guidelines:**

**Green** - solid track record

**Yellow** - some track record / or good national track record, limited local capacity

**Red** - no or limited track record with limited local capacity respectively

**Assessment notes:**

PPP projects in Romania have been mostly concentrated in the electricity generation, with one water utility PPP and one railway PPP near Bucharest. The old law regulating public-private partnerships (Law. no. 178/2010) has not generated the effects expected by public authorities, as well as by the business environment. In May 2018 the Romanian Government adopted a list of strategic partnerships to be carried out in public-private partnership. The list includes three highways and a large medical complex near Bucharest.

|  |  |
| --- | --- |
| **QUESTIONS:**  Point of discussion with TTL and City Officials should be the list of strategic partnerships announced and current status of this. |  |

**PPP REGULATORY FRAMEWORK**

**Data points**

|  |  |
| --- | --- |
| Does national regulatory framework allow procuring PPPs? | YES |
| Does regulatory framework contain specialized legislation regulating PPPs? | YES |
| No restrictions on structuring PPPs in CRP priority sectors? | NO |
| Foreign companies are NOT prohibited from participating in PPP? | YES |
| Foreign companies are permitted to repatriate income from PPP operations? | YES |
| Flexibility to change ownership structure / assign rights under PPP contract? | YES |
| International arbitration allowable for dispute resolution of PPP contracts? | YES |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 5 positive responses

**Yellow** – 2 to 4 positive responses

**Red** – 1 or 0 positive responses

**Assessment notes:**

On 25 November 2016, a new Law no. 233/2016 regarding public-private partnerships (“PPP Law”) was published, and entered into force on 25 December 2016. The Law on Public-Private Partnership, known also as The New PPP Law”, came into force at the end of 2016, and established premises for implementation of PPP projects in Romania. It replaced the previous Law on PPP which was under severe critiques due to significant legislative inconsistencies. For six years, that Law failed to accommodate any public public-private partnership.

|  |  |
| --- | --- |
| **QUESTIONS:**  To be discussed how the new law’s improves PPP framework and if there is evident increase in number of PPP procured / initiated since adoption of new law |  |

**PPP PROCUREMENT CAPACITY**

**Data points**

|  |  |
| --- | --- |
| Cities/municipalities by law have procuring authority for PPPs? | YES |
| PPP contract can be awarded even if only one proposal is submitted | YES |
| Unsolicited proposals either explicitly allowed or not regulated and possible in practice | YES |
| Competitive PPP procurement must be initiated when proceeding with an unsolicited proposal\* | NO |
| Specialized municipal entity that facilitates the PPP program (PPP Unit) | NO |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 4-5 positive responses

**Yellow** – 2 to 4 positive responses;

**Red** – 1 or 0 positive responses; if 1 but earned on “Specialized municipal entity that facilitates PPP” – that is YELLOW

**Assessment notes:**

The City of Bucharest and the City of Iasi are specifically mentioned as public bodies carrying out PPP procurement, which sets a good base in terms of capacity for working with Bucharest. No regulatory basis for sole proposals, but the procuring authority considers sole proposals valid as long as they meet the conditions outlined in the tender documents. Unsolicited proposals are not specifically regulated. A Romanican Central Unit for Coordinating Public-Private Partnership (UCCPPP) coordinating PPPs exists. No records indicate that a specialized municipal entity that facilitates the PPP program exists yet.

**GOVERNMENT CO-FINANCING**

**Data points**

Availability and performance of government-led infrastructure co-financing vehicles (Sovereign Wealth Funds, Local Development Investment vehicles, state-run Guaranteed Loan and Grant programs, Infrastructure Guarantee Funds, etc.). As such, the contemplated government co-financing vehicle may serve as the source of additional leverage, equity and/or a provider of credit enhancement mechanisms in project finance and can open additional opportunities for attracting private capital for infrastructure financing.

**Scoring guidelines:**

Educated opinion on availability of government financing facilities that provide financial assistance to infrastructure projects:

**Green** – Dedicated infrastructure co-financing facility/facilities are established by national or sub-national government; clear criteria for application for such co-financing; proven track record of long or short-term co-financing provided by such facilities for country’s infrastructure projects (not necessarily in the surveyed city).

**Yellow** – Some forms of government co-financing have been identified as a supportive tool for infrastructure investments; access to such government-led co-financing is limited due to either limited size of such co-financing and/or lack of transparency in funds allocation (e.g. unclear criteria for application and approval of such funds) or such a vehicle is planned/drafted but yet to be activated in practice;

**Red** – No evidence of government financing facilities that are set to co-finance infrastructure alongside the private sector (infrastructure can still be extensively funded exclusively from state funds, user fees and/or concessional loans).

**Assessment notes:**

Romania plans the ‘Romanian Sovereign Fund for Development and Investments’. The Sovereign Fund will be a state-owned fund, set up to make profit by developing and financing (through own resources or by attracting institutional investors such as banks, investment funds, pension funds) bankable and sustainable projects in various sectors of the economy, including infrastructure, energy, agriculture and healthcare.

|  |
| --- |
| **QUESTIONS:**  Given the detailed planning phase of the Sovereign Fund, the recommended scoring was yellow, however the status of setting up such a Sovereign Fund should be clarified with TTL and government officials and the rating should be adapted accordingly. |

**Survey of Enabling Conditions for Land Value Capture (LVC)**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Real Estate Market Capacity** | **Land Use Regulations** | **Land Cadaster / Land Data Management** | **Security of property rights** | **Local Fiscal Powers** | **LVC track record** |
|  |  |  |  |  |  |

**REAL ESTATE MARKET CAPACITY**

This indicator consists of sub-indicator data points (covering different subsets of Market Environment), each earning formal scores that contribute to a cumulative overall score for the Market Environment based on which the ultimate color-code for the Market Environment is assigned.

**Data points:**

***Market Dynamics****:* Expert snapshot view on the market maturity, formality and its readiness for generating land value premiums and value capture. Scores for this sub-indicator are derived according to the following formalized metrics:

2.0 – **Active and structured** (largely formal) market with rapidly emerging or established presence of high-value commercial properties (at least 200,000 square meters of modern grade A offices, at least 2-3 modern malls, at least 2 internationally branded hotels). No signs of crisis or sustained stagnation.

1.0 – **Structured (largely formal) but slow** market with limited presence of high-grade properties, evident signs of oversupply or sustained crisis is a clear determination for this score even if formal market prevails

0.5 – **Nascent (largely informal) active** market with yet very limited presence of high-grade properties but with good outlooks as surfaced either in professional market surveys or discovered from anecdotal evidence

0 – **Nascent (largely informal) limited** market - very scarce modern real estate development; on top of that the market shows limited prospects for attracting future investments in high-grade high-value modern properties

***Market Coverage:*** Availability of recent/regular market surveys, ideally prepared by global real estate services companies, e.g. CBRE, Colliers, JLL, Cushman, Knight Frank, DTZ (or other credible sources, including investor surveys)

1 – market covered by professional market surveys

0 – no regular coverage by professional market surveys

***Market Infrastructure:*** Evidence of land/property market infrastructure (property databases, brokers, notaries, surveyors, etc.), assessed based on the following metrics:

1 – **Well functioning infrastructure** (networks of professional agency services providers/brokers, some with international franchises, notaries, locally present land surveyors. etc.)

0 – **Weak infrastructure**, with evident deficiencies (best proxies for such deficiencies are: absence of private notary services, real estate agency services are not subject to licensing; real estate agencies have limited role and are only local/domestic entities while international franchises/rep offices are absent)

***Price Discovery:*** Conclusion on transparency of price discovery process for land and buildings on the local market; the transparency of price discovery is assessed using the following formalized metrics:

1 – **Confidently transparent** - all three of the following conditions are met: role of informal land transaction is minimal or much less compared to formal market, range of fair market values for land is discoverable for any given location, value heatmaps are available, past transaction records are maintained and publicly available, either free of charge of for a fee;

0.5 – **Somewhat transparent** - some of the conditions mentioned in Confidently Transparent are clearly not met; most importantly, if it is clear that valid comparable sales are too limited/sporadic for tracing variations of market prices across the city

0 – **Non-transparent** - informal market dominates, fair market values of any given land or building are hard to discover, land/property values are in most cases discretionary / not backed by comparable sales evidence, income approach to valuation is also not applicable

**Scoring guidelines:**

The sum of scores collected on individual sub-indicators produces the following color designations:

**Green** – equal or larger than 4.0

**Yellow** – 2.0 to 3.5

**Red** – less than 2.0

**Assessment Notes**

***Market Dynamics: score – 2*** *(active and structure market)*

The Bucharest market has approached a level of sophistication and modernity compatible with most European Union countries. The market is well defined and transparent, and covered by a number of international real estate brokerages. Romania grew the most of any EU country in 2017 (nearly 7%), reflecting the country's continuing progress and reflecting investor sentiment. However, in Bucharest, the commercial market is still limited in absolute terms compared to the more established European market (i.e. €143 million in investment transactions in 2017 which is significantly less than in the neighboring CEE urban market like Warsaw and Prague).

***Market Coverage: score – 1*** *(*market covered by professional surveys)

Numerous agencies provide regular market reports on Bucharest. Market research and transaction details are published and updated. JLL, Cushman & Wakefield, Knight Frank, and CBRE all have active offices in Romania.

***Market Infrastructure: score – 1*** *(well-functioning infrastructure)*

Most international agencies have offices in Romania (JLL, CBRE, C&W, and Knight Frank). These are in addition to a robust network of local real estate agencies. Price discovery and transaction transparency are relatively easy to research. Notaries, surveyors, and other real estate support are readily found in the Bucharest market.

Foreigners can acquire property in Romania, but foreign corporations cannot purchase land except through a local partner. This has a small dampening effect on the land market, but is otherwise unremarkable.

***Price discovery: score – 1*** *(confidently transparent)*

The market is very robust in terms of price discovery and transaction detail. Market transactions are regularly researched and deal databases updated.

Bucharest earns a **cumulative score of 5** on above sub-indicators which corresponds to **GREEN color code** as an assessor’s conclusion for the city’s real estate market capacity, indicating that many factors are promising for Land Value Capture.

**LAND USE REGULATIONS**

**Data points**

The City has developed a comprehensive plan for its territories (Master Plan, Land Ordinances or equivalent), which regulates density, height, and functional uses in various parts of the city

**Scoring guidelines:**

**Green** - Such plan exists, covers entire city and is able to inform investors of land use and building regulations at - or very close to - parcel by parcel detail

**Yellow** - Such plan exists, but has evident deficiencies, e.g. does not cover entire city, omits important land use guidelines, outdated, has evident enforcement issues, etc.

Red - Such plan does not exist, or even if it technically exists it has not been updated for long (e.g. since the change of political regime)

**Assessment Notes**

The City of Bucharest does not have an updated General Urban Plan, as the last one dates back from 2000. The majority of the residential areas which were built post-1989 do not form part of a comprehensive planning strategy for the city and were not accompanied by public transport infrastructures. Consequently, newly built areas were developed with limited transport infrastructure in place and with no provision or access to public transport or other modes of transport.

Assessor’s color rating for Bucharest’s land use regulations is YELLOW.

**LAND CADASTER / LAND DATA MANAGEMENT**

**Data points**

Availability of centralized database for land parcel information with legal and value records

**Scoring guidelines:**

**Green** - Land Cadaster is well maintained, cadaster information matches legal ownership records and land values in the cadaster correspond to actual market values

**Yellow** - Land Cadaster is in place, but has evident omissions, e.g. does not cover entire city, and/or has mismatches with legal records, land value records in the cadaster are in mismatch with market values

**Red** - Land Cadaster not introduced, or covers less than 30% of city area, or has very poor data / has not been updated for long time

**Assessment Notes**

A law on the cadaster and public registration of property was adopted in 1996 (Law no. 7/1996) which unified real estate public registration procedures. However, this law is not yet fully implemented due to the fact that all existing registers have to be replaced by an electronic register and there are various other actions which need to be implemented in order for the law to be fully implemented.

That said, cadaster registries are well maintained and easy to determine, even if all are not fully digitized throughout the country.

Recommended score for this indicator is GREEN.

**SECURITY OF PROPERTY RIGHTS**

**Data points**

Expert opinion on the level of establishment and recordation of property titles, title search infrastructure, robustness of dispute resolution processes.

**Scoring guidelines:**

**Green** – robust land and property title registers and property records, covering entire area of the city; registers are regularly updated; property titles do not overlap and formal development rights as a rule reflect de fact ownership; domestic legal framework able to resolve most of property disputes; distribution of land/property rights between government agencies is well established and recorded.

**Yellow** – nominal presence of land/property registers. However, the system has numerous evidence of inaccurate, unrecorded, outdated or overlapping land/property rights; numerous cases of non-delineated lands (e.g. clusters of urban “nobody’s land” with potential conflicting interests); evidence of poorly established public ownership (conflicting claims of different public agencies and layers of government).

**Red** – nonexistent or very incomplete title registers; title search and property dispute resolution have significant informal aspects.

**Assessment Notes**

The ownership of land or a building may be proved by:

an agreement transferring ownership (a sale and purchase agreement, exchange agreement, donation or other type of agreement);

a court decision acknowledging ownership;

an inheritance certificate;

a decision of public adjudication;

a Government Decision for the restitution of property which had been nationalised;

an ownership title for agricultural lands restored on the basis of Land Law no. 18/1991 (republished);

a certificate attesting the ownership of former state-owned companies, issued by the relevant Ministry.

If someone intends either to make a property investment or to take security over property, it is very important to carry out a detailed due diligence of the title of the property concerned. However, potential investors should be aware that a property title in Romania does not by itself constitute an absolute proof of ownership, but only a simple assumption. Absolute certainty (meaning absolutely no risk) can be ascertained only by proving the validity of each previous property transfer.

The solution for the investor/buyer (especially in Valachia and Moldova) is to check the validity of each previous transfer of the property and to impose a requirement on the owner to carry out the requisite formalities to register the property at the new Land Registry. Based on the principle of good faith, the desired transaction would in such circumstances be protected against adverse claims. However, the system of title search and title verification, especially in Bucharest, appears robust.

Recommended score for this indicator is GREEN.

**LOCAL FISCAL POWERS**

**Data points**

Ability of the city to maintain revenue from own sources and manage level of operating and capital expenditure at discretion of the city administration.

**Scoring guidelines:**

**Green** - revenues from own sources comprise more than 30% of city's revenue base; city has significant discretion in operating and capital financial planning; operating revenues from service mandates mostly able to at least recover the running costs for those services

**Yellow** - revenue from own rouses comprise less than 30% of city's revenue base; city can enact, set and administer local taxes (property taxes in particular), however, city's revenue and spending mandates are still largely reliant on intergovernmental transfers and spending obligations are higher than revenue collected by the city from respective services

**Red** - very limited fiscal powers and complete dependence on intergovernmental transfers; municipal services are top-down mandates from higher levels of government with limited capacity for own revenue collection and cost recovery

**Assessment Notes**

Romania is fiscally very decentralized. Local taxes in Romania include property taxes on building and land from both legal entities and individuals (68% of tax revenue and around 0.7% of GDP), tax on transportation vehicles (8%) and various taxes on stamps, transactions and issue of certificates and licenses. Taxes are levied and collected by both counties and municipalities. Bucharest has a special status of being both. The base and reference rates for property tax are fixed by law but each local or county council can adopt a rate up to 50% higher or lower than the reference rates. Other revenues for local governments include local charges and fees, for instance building fees and public transportation fees, etc.

The municipal bond market is active in Romania on the stock exchange. Bucharest can issue its own bonds.

Recommended color-coded score for this indicator is GREEN.

**TRACK RECORD IN LAND VALUE CAPTURE**

**Data points**

Track record of the city authorities in negotiating public-private partnerships in land and property development, in particular involving obligations for private partners to build (contribute) public infrastructure (e.g. joint development agreements, and/or development SPVs, selling development rights with infrastructure encumbrances/conditions, etc.).

**Scoring guidelines:**

**Green** - evident track record hereof; the city is legally permitted to negotiate land development deals with private partners and has transacted land /property rights with infrastructure obligations.

**Yellow** - evidence that the city is legally permitted to negotiate land development deals with private partners; however, the track record of such is either very limited (e.g. 1-2 deals in the foreseeable past) or inconclusive of the city's real ability to efficiently structure land value capture transactions with fair compensation to the city (i.e. forcing private partners to act in good faith)

**Red** - no track record hereof; OR, clear evidence (with sources) that city is not permitted to negotiate land development deals with private partners

**Assessment Notes**

Bucharest has a history of negotiating land and development rights with private developers. The city is fully entitled to conduct such negotiations subject to statutory regulations pertaining to specific piece of land and improvements

Recommended color code designation is GREEN.

|  |
| --- |
| Cali, Colombia |

**Track Record and Regulations in Structuring PPPs**

|  |  |  |  |
| --- | --- | --- | --- |
| **Track Record** | **Regulatory Frameworks** | **Procurement Capacity** | **Government**  **Co-Financing** |
| **To be verified** |  |  | **to be verified** |

**PPP TRACK RECORD (RECENT 10 YEARS):**

**Data points**

|  |  |
| --- | --- |
| PPPs of record in the country (in any status) | > 60 |
| PPP of record in the jurisdictional borders of the assessed city | <10 |
| Nationwide count of PPPs in areas of CRP focus (sanitation, water supply, flood mitigation, urban upgrades, housing, urban transport) | 2 |

**Scoring guidelines:**

**Green** - solid track record

**Yellow** - some track record / or good national track record, limited local capacity

**Red** - no or limited track record with limited local capacity respectively

**Assessment notes:**

Colombia has a relatively solid track record in structuring PPP and most part of that experience was developed pre-2012, i.e. under the legislation, which formally did not have a specific legal and regulatory treatment of PPPs.

In very recent times, there is an evident surge in the number of PPP projects awarded in Colombia and most of them are part of the 4th Generation Toll Road concessions program, a 7-year investment plan to develop 8,000 km of roads through the PPP model.

At the city level, there is an estimate of eight PPP projects (data from WBG Knowledge Lab) being currently developed in the city of Cali through the PPP structure (this estimate may vary depending on how projects qualify as PPP; e.g., a public land disposition transaction with a developer exaction is, technically speaking, a form of PPP, however, it rarely counts in PPP ratings).

Cali has been cited as one of Colombia's leader cities in landing PPP projects. However, **the extent to which PPP structuring has been handled by city authorities requires clarification**. YELLOW code is recommended due to unknown local capacity in structuring PPPs.

**PPP REGULATORY FRAMEWORK**

**Data points**

|  |  |
| --- | --- |
| Does national regulatory framework allow procuring PPPs? | YES |
| Does regulatory framework contain specialized legislation regulating PPPs? | YES |
| No restrictions on structuring PPPs in CRP priority sectors? | See comment |
| Foreign companies are NOT prohibited from participating in PPP? | YES |
| Foreign companies are permitted to repatriate income from PPP operations? | YES |
| Flexibility to change ownership structure / assign rights under PPP contract? | YES |
| International arbitration allowable for dispute resolution of PPP contracts? | YES |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 5 positive responses

**Yellow** – 2 to 4 positive responses

**Red** – 1 or 0 positive responses

**Assessment notes:**

The Colombian PPP law of 2012 explicitly assigns the role of contracting authorities both to national and sub-national (including city-level) government entities.

In comparison to the former regulatory framework, the new PPP law seeks to improve bidding mechanisms for PPP contracts, level the playing field for participating companies and increase transparency and objectivity in public-private contract award. However, by some evidence the regulations and legal provisions set out in the new PPP Law are perceived as slow and restrictive.

Of note, regulated sectors (telecommunications, energy, public utilities, ports and terminals, mining, oil and gas) which have their own private investment regime are not subject to the 2012 PPP Law (i.e. private investment in those sectors are allowed but are not covered by PPP Law; so, the legacy pre-2012 regulatory regime applies to structuring PPPs in regulated sectors).

**PPP PROCUREMENT CAPACITY**

**Data points**

|  |  |
| --- | --- |
| Cities/municipalities by law have procuring authority for PPPs? | YES |
| PPP contract can be awarded even if only one proposal is submitted | YES |
| Unsolicited proposals either explicitly allowed or not regulated and possible in practice | YES |
| Competitive PPP procurement must be initiated when proceeding with an unsolicited proposal\* | YES |
| Specialized municipal entity that facilitates the PPP program (PPP Unit) | *no data* |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 4-5 positive responses

**Yellow** – 2 to 4 positive responses;

**Red** – 1 or 0 positive responses; if 1 but earned on “Specialized municipal entity that facilitates PPP” – that is YELLOW

**Assessment notes:**

In Colombia, any national or local entity may initiate the procedure to procure a project under a PPP structure.

The 2012 PPP law also allows taking PPP projects on board for structuring and implementation following unsolicited proposals by interested private parties. However, the contract or partnership has to be awarded following a competitive selection procedure.

In the case of sole proposals, if the sole proponent meets all the requirements provided in the tender documents for the PPP project, the procuring entity may select such proponent notwithstanding the fact that only one proposal is submitted.

**GOVERNMENT CO-FINANCING**

**Data points**

Availability and performance of government-led infrastructure co-financing vehicles (Sovereign Wealth Funds, Local Development Investment vehicles, state-run Guaranteed Loan and Grant programs, Infrastructure Guarantee Funds, etc.). As such, the contemplated government co-financing vehicle may serve as the source of additional leverage, equity and/or a provider of credit enhancement mechanisms in project finance and can open additional opportunities for attracting private capital for infrastructure financing.

**Scoring guidelines:**

Educated opinion on availability of government financing facilities that provide financial assistance to infrastructure projects:

**Green** – Dedicated infrastructure co-financing facility/facilities are established by national or sub-national government; clear criteria for application for such co-financing; proven track record of long or short-term co-financing provided by such facilities for country’s infrastructure projects (not necessarily in the surveyed city).

**Yellow** – Some forms of government co-financing have been identified as a supportive tool for infrastructure investments; access to such government-led co-financing is limited due to either limited size of such co-financing and/or lack of transparency in funds allocation (e.g. unclear criteria for application and approval of such funds) or such a vehicle is planned/drafted but yet to be activated in practice ;

**Red** – No evidence of government financing facilities that are set to co-finance infrastructure alongside the private sector (infrastructure can still be extensively funded exclusively from state funds, user fees and/or concessional loans).

**Assessment notes:**

The national law has provisions on co-financing of project preparation and due diligence works for candidate PPP projects on early stages of project development. However, there is no information whether Colombia has any dedicated government co-investment vehicles serving as an additional source of equity, debt or guarantees during projects’ implementation as such.

RED color rating is recommended until availability or absence of such government co-financing vehicles in Colombia is verified with TTL and city delegates.

**Survey of Enabling Conditions for Land Value Capture (LVC)**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Real Estate Market Capacity** | **Land Use Regulations** | **Land Cadaster / Land Data Management** | **Security of property rights** | **Local Fiscal Powers** | **LVC track record** |
|  |  |  |  |  |  |

**REAL ESTATE MARKET CAPACITY**

This indicator consists of sub-indicator data points (covering different subsets of Market Environment), each earning formal scores that contribute to a cumulative overall score for the Market Environment based on which the ultimate color-code for the Market Environment is assigned

**Data points:**

***Market Dynamics****:* Expert snapshot view on the market maturity, formality and its readiness for generating land value premiums and value capture. Scores for this sub-indicator are derived according to the following formalized metrics:

2.0 – **Active and structured** (largely formal) market with rapidly emerging or established presence of high-value commercial properties (at least 200,000 square meters of modern grade A offices, at least 2-3 modern malls, at least 2 internationally branded hotels). No signs of crisis or sustained stagnation.

1.0 – **Structured (largely formal) but slow** market with limited presence of high-grade properties, evident signs of oversupply or sustained crisis is a clear determination for this score even if formal market prevails.

0.5 – **Nascent (largely informal) active** market with yet very limited presence of high-grade properties but with good outlooks as surfaced either in professional market surveys or discovered from anecdotal evidence

0 – **Nascent (largely informal) limited** market - very scarce modern real estate development; on top of that the market shows limited prospects for attracting future investments in high-grade high-value modern properties

***Market Coverage:*** Availability of recent/regular market surveys, ideally prepared by global real estate services companies, e.g. CBRE, Colliers, JLL, Cushman, Knight Frank, DTZ (or other credible sources, including investor surveys)

1 – market covered by professional market surveys

0 – no regular coverage by professional market surveys

***Market Infrastructure:*** Evidence of land/property market infrastructure (property databases, brokers, notaries, surveyors, etc.), assessed based on the following metrics:

1 – **Well functioning infrastructure** (networks of professional agency services providers/brokers, some with international franchises, notaries, locally present land surveyors. etc.)

0 – **Weak infrastructure**, with evident deficiencies (best proxies for such deficiencies are: absence of private notary services, real estate agency services are not subject to licensing; real estate agencies have limited role and are only local/domestic entities while international franchises/rep offices are absent)

***Price Discovery:*** Conclusion on transparency of price discovery process for land and buildings on the local market; the transparency of price discovery is assessed using the following formalized metrics:

1 – **Confidently transparent** - all three of the following conditions are met: role of informal land transaction is minimal or much less compared to formal market, range of fair market values for land is discoverable for any given location, value heatmaps are available, past transaction records are maintained and publicly available, either free of charge of for a fee;

0.5 – **Somewhat transparent** - some of the conditions mentioned in Confidently Transparent are clearly not met; most importantly, if it is clear that valid comparable sales are too limited/sporadic for tracing variations of market prices across the city

0 – **Non-transparent** - informal market dominates, fair market values of any given land or building are hard to discover, land/property values are in most cases discretionary / not backed by comparable sales evidence, income approach to valuation is also not applicable

**Scoring guidelines:**

The sum of scores collected on individual sub-indicators produces the following color designations:

**Green** – equal or larger than 4.0

**Yellow** – 2.0 to 3.5

**Red** – less than 2.0

**Assessment Notes**

***Market Dynamics: score – 1*** *(structured but relatively slow market)*

The sluggish regional economy over the past few years explains why, despite having the third largest population in the country, Cali’s real estate market has been relatively quiet compared to other large regional cities in Colombia. For instance, office completions in the past six years has averaged a meager 7,000 m2 per year. This has reduced Cali to the fourth largest real estate market in the country behind Bogotá, Medellin and Barranquilla. Yet there are many factors playing into Cali’s favor. Improved urban planning and city management have created a more dynamic urban center that is attracting more businesses, retail, and residents. Increased trade with Pacific Rim countries such as China, Chile, Peru, and Japan is reinforcing the growth of the Buenaventura port, located only a few hours away. A bustling medical cluster has also put Cali on the map as a destination for medical treatment within the region. In general, Valle de Cauca department (a sub-national geographic division where Cali serves as the capital city) in recent times has gained more economic diversification and is less dependent on oil and mining.

***Market Coverage: score – 1*** *(m*arket covered by professional surveys)

Good breath of information regarding real estate market evolution and forecasts, published by the research team of BBVA, Deloitte’s regional team and by JLL’s (global real estate services provider) Colombian office

***Market Infrastructure: score – 1*** *(well-functioning infrastructure)*

There is a robust network of professional real estate services providers and sales/leasing brokers, including with international franchises, and a strong regulatory framework.

***Price discovery: score – 1*** *(confidently transparent market)*

As per desk research, all three conditions of market transparency are met in Cali (role of informal land transaction is much less compared to formal market, range of fair market values for land is discoverable for any given location, past transaction records are maintained and publicly available), making Cali a confidently transparent land and property market.

Cali earns a **cumulative score of 4** on above sub-indicators which corresponds to **GREEN (most positive) color code** for the city’s real estate market capacity, showing favorable conditions for Land Value Capture despite relatively sluggish market environment. Supplementary factors such as market transparency and robustness of institutions play a role in opening good opportunities for various form of land value capture in the city.

**LAND USE REGULATIONS**

**Data points**

Evidence of a comprehensive plan for city’s territories (Master Plan, Land Ordinances or equivalent), which regulates density, height, and functional uses in various parts of the city.

**Scoring guidelines:**

**Green** - Such plan exists, covers entire city and is able to inform investors of land use and building regulations at - or very close to - parcel by parcel detail

**Yellow** - Such plan exists, but has evident deficiencies, e.g. does not cover entire city, omits important land use guidelines, outdated, has evident enforcement issues, etc.

Red - Such plan does not exist, or even if it technically exists it has not been updated for long (e.g. since the change of political regime)

**Assessment Notes**

In 2014 Cali approved its new Land Use Plan (LUP) which directs the city’s urban development policies until 2027. The plan covers the entire city and it’s a detailed roadmap for each of the city’s areas. Currently, Cali’s Municipality has the administrative and governance tools to guarantee a successful enforcement of the new LUP, however, interview with city officials are recommended to assess the first years of its implementation.

Recommended assessor’s rating for Cali on this indicator is GREEN.

**LAND CADASTER / LAND DATA MANAGEMENT**

**Data points**

Availability of centralized database for land parcel information with legal and value records

**Scoring guidelines:**

**Green** - Land Cadaster is well maintained, cadaster information matches legal ownership records and land values in the cadaster correspond to actual market values

**Yellow** - Land Cadaster is in place, but has evident omissions, e.g. does not cover entire city, and/or has mismatches with legal records, land value records in the cadaster are in mismatch with market values

**Red** - Land Cadaster not introduced, or covers less than 30% of city area, or has very poor data / has not been updated for long time

**Assessment Notes**

City land and property cadaster is in place and it is managed in an autonomous way by the Municipality. The cadastral register, which now includes more than 667,000 properties, is being updated in 2018. Results will be reflected in 2019 although no significant changes are expected since the Municipality has been performing regular updates since 2013.

Recommended score for this indicator is GREEN.

**SECURITY OF PROPERTY RIGHTS**

**Data points**

Expert opinion on the level of establishment and recordation of property titles, title search infrastructure, robustness of dispute resolution processes.

**Scoring guidelines:**

**Green** – robust land and property title registers and property records, covering entire area of the city; registers are regularly updated; property titles do not overlap and formal development rights as a rule reflect de fact ownership; domestic legal framework able to resolve most of property disputes; distribution of land/property rights between government agencies is well established and recorded.

**Yellow** – nominal presence of land/property registers. However, the system has numerous evidence of inaccurate, unrecorded, outdated or overlapping land/property rights; numerous cases of non-delineated lands (e.g. clusters of urban “nobody’s land” with potential conflicting interests); evidence of poorly established public ownership (conflicting claims of different public agencies and layers of government).

**Red** – nonexistent or very incomplete title registers; title search and property dispute resolution have significant informal aspects.

**Assessment Notes**

In line with the cadastral update, Cali maintains updated property registers for most part of the city and there is high degree of title security in the formalized market. That said, slums have increased in the last decade, especially along the city’s slopes in Comuna 18 (this is a phenomenon common to all Colombian municipalities, where more than 50% of urban growth is to be attributed to informal settlements).

Recommended score for this indicator is GREEN with caveat that large parts of the city’a area covered by informal settlements do not have property title recordation and title security systems in place.

**LOCAL FISCAL POWERS**

**Data points**

Ability of the city to maintain revenue from own sources and manage level of operating and capital expenditure at discretion of the city administration.

**Scoring guidelines:**

**Green** - revenues from own sources comprise more than 30% of city's revenue base; city has significant discretion in operating and capital financial planning; operating revenues from service mandates mostly able to at least recover the running costs for those services

**Yellow** - revenue from own rouses comprise less than 30% of city's revenue base; city can enact, set and administer local taxes (property taxes in particular), however, city's revenue and spending mandates are still largely reliant on intergovernmental transfers and spending obligations are higher than revenue collected by the city from respective services

**Red** - very limited fiscal powers and complete dependence on intergovernmental transfers; municipal services are top-down mandates from higher levels of government with limited capacity for own revenue collection and cost recovery

**Assessment Notes**

The 1991 Constitution gave municipalities the responsibility to adopt, develop and impose, through administrative acts, taxes (e.g. on property, urban surplus) which have been previously created by the National Congress. This does not exclude the creation of important mechanisms that strengthen the fiscal autonomy of territorial entities. However, this autonomy is subject to the mandates of the Constitution and the law, in accordance with the principle of legality and article 150 of the Constitution, which states that it is a function of the law "to establish tax contributions and, exceptionally, parafiscal contributions." Additionally, both the departmental assemblies and the municipal councils may enact or vote local contributions or taxes in accordance with the law (and in line with the Constitution itself, articles 300-numeral 4-, 313-numeral 4- and 338)..

Recommended color-coded score for this indicator is YELLOW.

**TRACK RECORD IN LAND VALUE CAPTURE**

**Data points**

Track record of the city authorities in negotiating public-private partnerships in land and property development, in particular involving obligations for private partners to build (contribute) public infrastructure (e.g. joint development agreements, and/or development SPVs, selling development rights with infrastructure encumbrances/conditions, etc.).

**Scoring guidelines:**

**Green** - evident track record hereof; the city is legally permitted to negotiate land development deals with private partners and has transacted land /property rights with infrastructure obligations.

**Yellow** - evidence that the city is legally permitted to negotiate land development deals with private partners; however, the track record of such is either very limited (e.g. 1-2 deals in the foreseeable past) or inconclusive of the city's real ability to efficiently structure land value capture transactions with fair compensation to the city (i.e. forcing private partners to act in good faith)

**Red** - no track record hereof; OR, clear evidence (with sources) that city is not permitted to negotiate land development deals with private partners

**Assessment Notes**

Cali has a modest track-record in using LVC for urban development. Used tools include betterment charges (also known as special assessment districts) and charges for changes in development rights (plusvalías). The new Land Use Plan prioritizes ambitious infrastructure projects for over COP 30 billion for which more complex/diverse LVC and PPP tools are envisaged.

|  |
| --- |
| Can Tho, Vietnam |

**Track Record and Regulations in Structuring PPPs**

|  |  |  |  |
| --- | --- | --- | --- |
| **Track Record** | **Regulatory Frameworks** | **Procurement Capacity** | **Government**  **Co-Financing** |
|  |  |  | Subject for confirmation with TTLs / city |

**PPP TRACK RECORD (RECENT 10 YEARS):**

**Data points**

|  |  |
| --- | --- |
| PPPs of record in the country (in any status) | > 70 |
| PPP of record in the jurisdictional borders of the assessed city | 2 |
| Nationwide count of PPPs in areas of CRP focus (sanitation, water supply, flood mitigation, urban upgrades, housing, urban transport) | 3 |

**Scoring guidelines:**

**Green** - solid track record

**Yellow** - some track record / or good national track record, limited local capacity

**Red** - no or limited track record with limited local capacity respectively

**Assessment notes:**

Vietnam has seen a substantial track record of PPP projects, mainly in the energy and electricity sector, and more projects coming up in the planning stage in transportation, in water supply and wastewater treatment.

It is expected the recent legislative amendments in PPP legislation will further reinforce efforts in structuring PPPs in the country.

The track record of PPPs specifically in the city of Can Tho is yet considered rather limited, especially compared to Hanoi and Ho Chi Minh City. PPP examples of record in Can Tho include Thuan-Can Tho expressway project and Waste-to-energy plant currently under construction.

**PPP REGULATORY FRAMEWORK**

**Data points**

|  |  |
| --- | --- |
| Does national regulatory framework allow procuring PPPs? | YES |
| Does regulatory framework contain specialized legislation regulating PPPs? | YES |
| No restrictions on structuring PPPs in CRP priority sectors? | YES |
| Foreign companies are NOT prohibited from participating in PPP? | YES |
| Foreign companies are permitted to repatriate income from PPP operations? | YES |
| Flexibility to change ownership structure / assign rights under PPP contract? | YES |
| International arbitration allowable for dispute resolution of PPP contracts? | YES |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 5 positive responses

**Yellow** – 2 to 4 positive responses

**Red** – 1 or 0 positive responses

**Assessment notes:**

Vietnam has a solid regulatory framework for PPPs. The basic principles and general regulations on PPPs are set out under Decree No. 15/2015/ND-CP of the Government dated 14 February 2015 on investment in the PPP form (The "PPP Decree"). The Government also issued several guidelines regarding PPPs.

Of note, this solid regulatory framework on PPP structuring and management in Vietnam was developed with oversight and technical assistance of international development organizations.

**PPP PROCUREMENT CAPACITY**

**Data points**

|  |  |
| --- | --- |
| Cities/municipalities by law have procuring authority for PPPs? | YES |
| PPP contract can be awarded even if only one proposal is submitted | YES |
| Unsolicited proposals either explicitly allowed or not regulated and possible in practice | YES |
| Competitive PPP procurement must be initiated when proceeding with an unsolicited proposal\* | NO |
| Specialized municipal entity that facilitates the PPP program (PPP Unit) | NO |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 4-5 positive responses

**Yellow** – 2 to 4 positive responses;

**Red** – 1 or 0 positive responses; if 1 but earned on “Specialized municipal entity that facilitates PPP” – that is YELLOW

**Assessment notes:**

The procuring entities in Vietnam are ministries, ministry-level agencies and provincial people's committees. Pursuant to article 20.1 of PPP Decree, an investor may propose implementation of a project outside the project design approved and announced by ministries, branches and provincial people's committees pursuant to section 1 of the chapter. So, as in the case of the rights transfer, the legislation allows some degree of flexibility for investor to make adjustment to a project as required. The exact procedure for making such adjustment would require a further review.

Of note, there is no explicit requirement to run a competitive PPP procurement when proceeding with an unsolicited proposal. This appears an adverse part of PPP procurement regulations and might be a cause of conflicts of interest.

Recommended color-coded score for PPP procurements in Vietnam / Can Tho is yellow.

4. **GOVERNMENT CO-FINANCING**

**Data points**

Availability and performance of government-led infrastructure co-financing vehicles (Sovereign Wealth Funds, Local Development Investment vehicles, state-run Guaranteed Loan and Grant programs, Infrastructure Guarantee Funds, etc.). As such, the contemplated government co-financing vehicle may serve as the source of additional leverage, equity and/or a provider of credit enhancement mechanisms in project finance and can open additional opportunities for attracting private capital for infrastructure financing.

**Scoring guidelines:**

Educated opinion on availability of government financing facilities that provide financial assistance to infrastructure projects:

**Green** – Dedicated infrastructure co-financing facility/facilities are established by national or sub-national government; clear criteria for application for such co-financing; proven track record of long or short-term co-financing provided by such facilities for country’s infrastructure projects (not necessarily in the surveyed city).

**Yellow** – Some forms of government co-financing have been identified as a supportive tool for infrastructure investments; access to such government-led co-financing is limited due to either limited size of such co-financing and/or lack of transparency in funds allocation (e.g. unclear criteria for application and approval of such funds) or such a vehicle is planned/drafted but yet to be activated in practice;

**Red** – No evidence of government financing facilities that are set to co-finance infrastructure alongside the private sector (infrastructure can still be extensively funded exclusively from state funds, user fees and/or concessional loans).

**Assessment notes:**

PPPIAF is supporting the Government of Vietnam in setting up a pilot City Infrastructure Financing Facility (CIFF) to finance municipal infrastructure in Vietnam to act as a second-tier lender encouraging first-tier lenders (commercial banks) to lend to sub-national governments on a market-driven basis.

Local Development Infrastructure Funds (LDIF), an initiative originally funded and structured with technical assistance of The World Bank as the special sub-national finance institutions created at the provincial level with the purpose of mobilizing capital and investing in municipal infrastructure projects of each province. LDIFs are restricted by law to financing only revenue-generating municipal infrastructure, which makes LDIF non applicable for infrastructure investments that do not have explicit revenue stream.

**Actual track record of CCIF and LDIF needs to be discussed and confirmed with TTLs and city delegates**.

**Survey of Enabling Conditions for Land Value Capture (LVC)**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Real Estate Market Capacity** | **Land Use Regulations** | **Land Cadaster / Land Data Management** | **Security of property rights** | **Local Fiscal Powers** | **LVC track record** |
|  |  |  |  |  |  |

**REAL ESTATE MARKET CAPACITY**

This indicator consists of sub-indicator data points (covering different subsets of Market Environment), each earning formal scores that contribute to a cumulative overall score for the Market Environment based on which the ultimate color-code for the Market Environment is assigned.

**Data points:**

***Market Dynamics****:* Expert snapshot view on the market maturity, formality and its readiness for generating land value premiums and value capture. Scores for this sub-indicator are derived according to the following formalized metrics:

2.0 – **Active and structured** (largely formal) market with rapidly emerging or established presence of high-value commercial properties (at least 200,000 square meters of modern grade A offices, at least 2-3 modern malls, at least 2 internationally branded hotels). No signs of crisis or sustained stagnation.

1.0 – **Structured (largely formal) but slow** market with limited presence of high-grade properties, evident signs of oversupply or sustained crisis is a clear determination for this score even if formal market prevails

0.5 – **Nascent (largely informal) active** market with yet very limited presence of high-grade properties but with good outlooks as surfaced either in professional market surveys or discovered from anecdotal evidence

0 – **Nascent (largely informal) limited** market - very scarce modern real estate development; on top of that the market shows limited prospects for attracting future investments in high-grade high-value modern properties

***Market Coverage:*** Availability of recent/regular market surveys, ideally prepared by global real estate services companies, e.g. CBRE, Colliers, JLL, Cushman, Knight Frank, DTZ (or other credible sources, including investor surveys)

1 – market covered by professional market surveys

0 – no regular coverage by professional market surveys

***Market Infrastructure:*** Evidence of land/property market infrastructure (property databases, brokers, notaries, surveyors, etc.), assessed based on the following metrics:

1 – **Well functioning infrastructure** (networks of professional agency services providers/brokers, some with international franchises, notaries, locally present land surveyors. etc.)

0 – **Weak infrastructure**, with evident deficiencies (best proxies for such deficiencies are: absence of private notary services, real estate agency services are not subject to licensing; real estate agencies have limited role and are only local/domestic entities while international franchises/rep offices are absent)

***Price Discovery:*** Conclusion on transparency of price discovery process for land and buildings on the local market; the transparency of price discovery is assessed using the following formalized metrics:

1 – **Confidently transparent** - all three of the following conditions are met: role of informal land transaction is minimal or much less compared to formal market, range of fair market values for land is discoverable for any given location, value heatmaps are available, past transaction records are maintained and publicly available, either free of charge of for a fee;

0.5 – **Somewhat transparent** - some of the conditions mentioned in Confidently Transparent are clearly not met; most importantly, if it is clear that valid comparable sales are too limited/sporadic for tracing variations of market prices across the city

0 – **Non-transparent** - informal market dominates, fair market values of any given land or building are hard to discover, land/property values are in most cases discretionary / not backed by comparable sales evidence, income approach to valuation is also not applicable

**Scoring guidelines:**

The sum of scores collected on individual sub-indicators produces the following color designations:

**Green** – equal or larger than 4.0

**Yellow** – 2.0 to 3.5

**Red** – less than 2.0

**Assessment Notes**

***Market Dynamics: score – 0.5 (nascent market with good outlooks)***

Can Tho is the 5th largest city in Vietnam (population just under 2 million), developing as an economic gateway and commercial hub of the Mekong River delta.

Transaction potential on the Can Tho real estate market has increased in recent years and the market sees growing presence of large real estate investors and occupiers, such as Vingroup, Big C, Metro CC, Co.opmart and Lotte. This has resulted in noticeable increase in land value across the city, which by some accounts grew 30% year to year in 2017.

In terms, of current state of the market, the city still awaits the influx of modern high quality real estate. There are several priority urban upgrade projects, where the Can Tho City authorities are engaging in cooperative relationship with private foreign and domestic investors, including development of branded hotel operations, shopping centers, and modern industrial space.

***Market Coverage: score – 0***

The city of Can Tho is not covered in dedicated regular market overviews by global real estate service provider due, in part, to very limited presence of modern and institutional quality real estate product on the market. The market still gets some coverage in nationwide overviews, yet those give very limited information on the actual supply and demand factors on land and property markets in Can Tho. Sound real estate market coverage for Can Tho would require ad hoc customized research.

***Market Infrastructure: score – 1***

Desk research surface presence of some locally operating real estate agencies servicing in particular the high-end segments of the market. There is no evident informality of the market in the sense that all land ultimately belongs to Central Government. However, the presence of locally-based transaction support on land and property markets is still much more limited, compared to Hanoi, HCMC and Danang.

***Price discovery: score – 0.5***

Price discovery process is considered somewhat transparent. Even though data for most transactions is not available, the property listings and other secondary sources help identify market-based land values. Legally the government requires registration and recordation of property transactions. However, in practice this is often ignored or not completed.

Can Tho earns a **cumulative score of 2** on above sub-indicators which corresponds to **color code** YELLOW as an assessor’s conclusion for Can Tho’s real estate market capacity, representing some opportunities for land value capture with evident challenges related with the level of market development, market demand and local market transparency.

**LAND USE REGULATIONS**

**Data points**

Presence of a comprehensive plan for city’s territories (Master Plan, Land Ordinances or equivalent), which regulates density, height, and functional uses in various parts of the city.

**Scoring guidelines:**

**Green** - Such plan exists, covers entire city and is able to inform investors of land use and building regulations at - or very close to - parcel by parcel detail

**Yellow** - Such plan exists, but has evident deficiencies, e.g. does not cover entire city, omits important land use guidelines, outdated, has evident enforcement issues, etc.

Red - Such plan does not exist, or even if it technically exists it has not been updated for long (e.g. since the change of political regime)

**Assessment Notes**

The city has a detailed Master Plan that is currently guiding development in different parts of Can Tho and lays out the comprehensive vision of city’s development until 2030. There is yet some opaqueness as to detailed parcel by parcel regulations as well challenges with enforcement of the Master Plan. **Further consultations with relevant local experts and city authorities are needed to verify the robustness of procedure for identification of permitted uses on parcel by parcel basis.**

YELLOW color code is recommended on this metrics.

**LAND CADASTER / LAND DATA MANAGEMENT**

**Data points**

Availability of centralized database for land parcel information with legal and value records

**Scoring guidelines:**

**Green** - Land Cadaster is well maintained, cadaster information matches legal ownership records and land values in the cadaster correspond to actual market values

**Yellow** - Land Cadaster is in place, but has evident omissions, e.g. does not cover entire city, and/or has mismatches with legal records, land value records in the cadaster are in mismatch with market values

**Red** - Land Cadaster not introduced, or covers less than 30% of city area, or has very poor data / has not been updated for long time

**Assessment Notes**

Currently, most of the cadastral records in Vietnam are in paper form and derive from old maps with old coordinates. Each agency at each administrative level has different and incomplete ways of storing cadastral files.

Recommended score for this indicator is YELLOW.

**SECURITY OF PROPERTY RIGHTS**

**Data points**

Expert opinion on the level of establishment and recordation of property titles, title search infrastructure, robustness of dispute resolution processes.

**Scoring guidelines:**

**Green** – robust land and property title registers and property records, covering entire area of the city; registers are regularly updated; property titles do not overlap and formal development rights as a rule reflect de fact ownership; domestic legal framework able to resolve most of property disputes; distribution of land/property rights between government agencies is well established and recorded.

**Yellow** – nominal presence of land/property registers. However, the system has numerous evidence of inaccurate, unrecorded, outdated or overlapping land/property rights; numerous cases of non-delineated lands (e.g. clusters of urban “nobody’s land” with potential conflicting interests); evidence of poorly established public ownership (conflicting claims of different public agencies and layers of government).

**Red** – nonexistent or very incomplete title registers; title search and property dispute resolution have significant informal aspects.

**Assessment Notes**

Legally, there is a requirement in Vietnam to have a formal registration for any transaction. There are online forms for completing this and a bureaucracy that is meant to handle this. However, there is no detailed public record or database of transactions, and there is significant avoidance of recordation by market participants. As a result, there is a significant gap in the formal and informal registration of land. The stare registry offices do not adequately capture land and building data on a practical basis, despite the law has a formal requirement for it. Ultimately, this may create uncertainty in title security and challenges in conducting title search procedures.

Recommended score for this indicator is YELLOW.

**LOCAL FISCAL POWERS**

**Data points**

Ability of the city to maintain revenue from own sources and manage level of operating and capital expenditure at discretion of the city administration.

**Scoring guidelines:**

**Green** - revenues from own sources comprise more than 30% of city's revenue base; city has significant discretion in operating and capital financial planning; operating revenues from service mandates mostly able to at least recover the running costs for those services

**Yellow** - revenue from own rouses comprise less than 30% of city's revenue base; city can enact, set and administer local taxes (property taxes in particular), however, city's revenue and spending mandates are still largely reliant on intergovernmental transfers and spending obligations are higher than revenue collected by the city from respective services

**Red** - very limited fiscal powers and complete dependence on intergovernmental transfers; municipal services are top-down mandates from higher levels of government with limited capacity for own revenue collection and cost recovery

**Assessment Notes**

Since 1975, Vietnam has gradually decentralized more fiscal responsibilities to local authorities. In 1996, the first State Budget Law was promulgated, and fiscal decentralization was formally mandated. This law was then revised in 2002 and put into operation in 2004, giving more autonomy to local governments, especially at the provincial level to promote sustainable development underpinned by local preferences and economic stability, equity across provinces, efficient services delivery, and enhanced transparency and accountability in public finances.

Local spending accounts for just over one-half of general government spending, while local revenue accounts for over one-third of general government revenue, and just over one-half when extra-budgetary sources are included.

There have been signs of declining role of decentralized revenue in total local government revenues.

Recommended color-coded score for this indicator is YELLOW in view of the fact that the current fiscal regime gives the city of Can Tho some capacity to source and manage its revenue streams, yet this capacity is limited and there is large dependence on intergovernmental transfers in fulfilling the municipal service obligations.

**TRACK RECORD IN LAND VALUE CAPTURE**

**Data points**

Track record of the city authorities in negotiating public-private partnerships in land and property development, in particular involving obligations for private partners to build (contribute) public infrastructure (e.g. joint development agreements, and/or development SPVs, selling development rights with infrastructure encumbrances/conditions, etc.).

**Scoring guidelines:**

**Green** - evident track record hereof; the city is legally permitted to negotiate land development deals with private partners and has transacted land /property rights with infrastructure obligations.

**Yellow** - evidence that the city is legally permitted to negotiate land development deals with private partners; however, the track record of such is either very limited (e.g. 1-2 deals in the foreseeable past) or inconclusive of the city's real ability to efficiently structure land value capture transactions with fair compensation to the city (i.e. forcing private partners to act in good faith)

**Red** - no track record hereof; OR, clear evidence (with sources) that city is not permitted to negotiate land development deals with private partners

**Assessment Notes**

All land in Vietnam is Government owned and it has been a common practice for mayor’s offices (City People’s Committees) to assign land in exchange for public infrastructure development. In Can Tho specific offers have included land in return for bridge construction and land in return for embankment construction, while there are other more complex offers related to bespoke public transport solutions to bring workers to potential factories. In-kind considerations for land, such as building a bridge and transit links over Can Tho River has been suggested several times in the last two years by Korean and Vietnamese conglomerates who are willing to acquire the right to develop the waterfront areas near Can Tho’s urban core. To that end, there is an imperative need to organize and efficiently structure a process of disposition of development rights in Can Tho.

|  |
| --- |
| Casablanca, Morocco |

**Track Record and Regulations in Structuring PPPs**

|  |  |  |  |
| --- | --- | --- | --- |
| **Track Record** | **Regulatory Frameworks** | **Procurement Capacity** | **Government**  **Co-Financing** |
|  |  |  |  |

**PPP TRACK RECORD (RECENT 10 YEARS):**

**Data points**

|  |  |
| --- | --- |
| PPPs of record in the country (in any status) | < 10 |
| PPP of record in the jurisdictional borders of the assessed city | <5 |
| Nationwide count of PPPs in areas of CRP focus (sanitation, water supply, flood mitigation, urban upgrades, housing, urban transport) | 4 |

**Scoring guidelines:**

**Green** - solid track record

**Yellow** - some track record / or good national track record, limited local capacity

**Red** - no or limited track record with limited local capacity respectively

**Assessment notes:**

Morocco has accumulated extensive nationwide experience with implementing concessions for private management of public services and building new infrastructure assets via PPP in various sectors, including in urban transport, water supply, electricity, sanitation and waste collection. In total there are about 50 PPP projects that have been awarded, reached financial clause and successfully put into operation in Morocco since the early 1990s. This includes such landmark transactions as a power plant at Jorf Lasfar, one of the first African power plants delivered via build-operate-transfer (achieved financial closing in 1997). Also, in later 1990s, management of drinking water and electricity distribution, as well as sewage treatment for the Greater Casablanca area was delegated to private companies. This was followed by similar concessions in Rabat, Tangiers, and Tetouan along with various others.

However, the most recent track record shows some slowdown in PPP structuring in Morocco with only two large project reaching financial clause in recent 5 years (Agadir desalination plant and Tanger port extension) and few others in planning and tendering process (desalination/irrigation megaproject with windmill plant in Dakhla, Marrakesh airport).

The recent track record of the Municipality of Casablanca in structuring PPPs is considered limited. The Municipality has been involved in some PPP contracts which faced implementation challenges. Notable examples include a concession for city buses which has been plagued by insufficient control of informal competition to the concessionaire’s buses (a new concession contract for city buses is currently in preparation), and several contracts for solid waste management which have been recently withheld by the Municipality.

YELLOW color code is recommended on account of limited track record in successful implementation of locally sourced PPP deals in Casablanca. However, based on the WBG experience in recent collaboration and technical assistance to contracting agencies in Casablanca (such as Casa Transport and Casa Prestation) the overall capacity of such contracting agencies is considered adequate.

**PPP REGULATORY FRAMEWORK**

**Data points**

|  |  |
| --- | --- |
| Does national regulatory framework allow procuring PPPs? | YES |
| Does regulatory framework contain specialized legislation regulating PPPs? | YES |
| No restrictions on structuring PPPs in CRP priority sectors? | YES |
| Foreign companies are NOT prohibited from participating in PPP? | YES |
| Foreign companies are permitted to repatriate income from PPP operations? | YES |
| Flexibility to change ownership structure / assign rights under PPP contract? | NO |
| International arbitration allowable for dispute resolution of PPP contracts? | YES |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 5 positive responses

**Yellow** – 2 to 4 positive responses

**Red** – 1 or 0 positive responses

**Assessment notes:**

The general regulatory framework on PPPs in Morocco consists of Law no. 86-12 of 24 December 2014 (the "PPP Law") and its implementing Decree no. 2-15-45 of 13 May 2015 (the "PPP Decree"). Additionally, there are specific sectoral laws on concessions in different areas such as ports, railway infrastructure, among others. Foreign companies are allowed to participate in PPPs and are also allowed to repatriate income resulting from PPP operations.

Of note, the PPP Law substantially limits the rights of private partners engaged in Moroccan PPP arrangements to substitute, or anyhow alter the private partners’ shareholding structure.

**PPP PROCUREMENT CAPACITY**

**Data points**

|  |  |
| --- | --- |
| Cities/municipalities by law have procuring authority for PPPs? | YES |
| PPP contract can be awarded even if only one proposal is submitted | NO |
| Unsolicited proposals either explicitly allowed or not regulated and possible in practice | YES |
| Competitive PPP procurement must be initiated when proceeding with an unsolicited proposal\* | YES |
| Specialized municipal entity that facilitates the PPP program (PPP Unit) | *NO*  *(see comment)* |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 4-5 positive responses

**Yellow** – 2 to 4 positive responses;

**Red** – 1 or 0 positive responses; if 1 but earned on “Specialized municipal entity that facilitates PPP” – that is YELLOW

**Assessment notes:**

Procurement powers of local authorities in Morocco do not fall under regulations of the national PPP Law of 2014. However, municipalities are still explicitly allowed to delegate the management of public services to the private sector under Law #54-05 from 2006 (The “Delegated Management Law”). This law regulates public procurements to the private partners (including for municipal agencies) in sectors involving user fees (such solids waste and urban transport).

Of note, even though there is no dedicated PPP unit in the administrative structure of the Municipality of Casablanca *per se*, the municipally-owned companies like Casa Transport and Casa Prestation may act as contracting agencies and are believed to have adequate technical and procurement capacity to develop PPPs.

**GOVERNMENT CO-FINANCING**

**Data points**

Availability and performance of government-led infrastructure co-financing vehicles (Sovereign Wealth Funds, Local Development Investment vehicles, state-run Guaranteed Loan and Grant programs, Infrastructure Guarantee Funds, etc.). As such, the contemplated government co-financing vehicle may serve as the source of additional leverage, equity and/or a provider of credit enhancement mechanisms in project finance and can open additional opportunities for attracting private capital for infrastructure financing.

**Scoring guidelines:**

Educated opinion on availability of government financing facilities that provide financial assistance to infrastructure projects:

**Green** – Dedicated infrastructure co-financing facility/facilities are established by national or sub-national government; clear criteria for application for such co-financing; proven track record of long or short-term co-financing provided by such facilities for country’s infrastructure projects (not necessarily in the surveyed city).

**Yellow** – Some forms of government co-financing have been identified as a supportive tool for infrastructure investments; access to such government-led co-financing is limited due to either limited size of such co-financing and/or lack of transparency in funds allocation (e.g. unclear criteria for application and approval of such funds) or such a vehicle is planned/drafted but yet to be activated in practice ;

**Red** – No evidence of government financing facilities that are set to co-finance infrastructure alongside the private sector (infrastructure can still be extensively funded exclusively from state funds, user fees and/or concessional loans).

**Assessment notes:**

The Caisse de dépot et de gestion (CDG) is a state-owned financial institution which manages long-term savings in Morocco. Given its substantial assets it also acts as a large investor in the country. It possesses many subsidiaries operating in various sectors of the Economy. CDG is modelled after the French fund Caisse des dépôts et consignations. CDG has become a key actor in the pensions management sector, a major player in the consolidation of the financial and banking sectors as well as a leading operator in territorial and sustainable development of the country. Through its subsidiary, CDG development, it is involved in a large number of real estate and tourism projects. Through its private equity holding, FIPAR-holding, it has stakes in some of the concessions, as an example, FIPAR holding holds 12% share of Lydec.

Ithmar Capital is a strategic investment fund initiated by the Moroccan government in 2011 as a financial vehicle supporting the national sectorial strategies. It is based on a Sovereign Wealth Fund model that provides support to domestic and international partners wishing to invest in Morocco. The fund is currently part of the long-term state development plan initiated by the government in different economic sectors. Its value of assets amounts to USD 1.8 billion. (<http://www.ithmar.gov.ma/en/>).

On the account of availability of the above-mentioned government-led financing vehicles, the recommended score for this indicator in Morocco is GREEN.

**Survey of Enabling Conditions for Land Value Capture (LVC)**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Real Estate Market Capacity** | **Land Use Regulations** | **Land Cadaster / Land Data Management** | **Security of property rights** | **Local Fiscal Powers** | **LVC track record** |
|  |  | to be verified with delegation (see comments) |  |  |  |

**REAL ESTATE MARKET CAPACITY**

This indicator consists of sub-indicator data points (covering different subsets of Market Environment), each earning formal scores that contribute to a cumulative overall score for the Market Environment based on which the ultimate color-code for the Market Environment is assigned

**Data points:**

***Market Dynamics****:* Expert snapshot view on the market maturity, formality and its readiness for generating land value premiums and value capture. Scores for this sub-indicator are derived according to the following formalized metrics:

2.0 – **Active and structured** (largely formal) market with rapidly emerging or established presence of high-value commercial properties (at least 200,000 square meters of modern grade A offices, at least 2-3 modern malls, at least 2 internationally branded hotels). No signs of crisis or sustained stagnation.

1.0 – **Structured (largely formal) but slow** market with limited presence of high-grade properties, evident signs of oversupply or sustained crisis is a clear determination for this score even if formal market prevails.

0.5 – **Nascent (largely informal) active** market with yet very limited presence of high-grade properties but with good outlooks as surfaced either in professional market surveys or discovered from anecdotal evidence

0 – **Nascent (largely informal) limited** market - very scarce modern real estate development; on top of that the market shows limited prospects for attracting future investments in high-grade high-value modern properties

***Market Coverage:*** Availability of recent/regular market surveys, ideally prepared by global real estate services companies, e.g. CBRE, Colliers, JLL, Cushman, Knight Frank, DTZ (or other credible sources, including investor surveys)

1 – market covered by professional market surveys

0 – no regular coverage by professional market surveys

***Market Infrastructure:*** Evidence of land/property market infrastructure (property databases, brokers, notaries, surveyors, etc.), assessed based on the following metrics:

1 – **Well functioning infrastructure** (networks of professional agency services providers/brokers, some with international franchises, notaries, locally present land surveyors. etc.)

0 – **Weak infrastructure**, with evident deficiencies (best proxies for such deficiencies are: absence of private notary services, real estate agency services are not subject to licensing; real estate agencies have limited role and are only local/domestic entities while international franchises/rep offices are absent)

***Price Discovery:*** Conclusion on transparency of price discovery process for land and buildings on the local market; the transparency of price discovery is assessed using the following formalized metrics:

1 – **Confidently transparent** - all three of the following conditions are met: role of informal land transaction is minimal or much less compared to formal market, range of fair market values for land is discoverable for any given location, value heatmaps are available, past transaction records are maintained and publicly available, either free of charge of for a fee;

0.5 – **Somewhat transparent** - some of the conditions mentioned in Confidently Transparent are clearly not met; most importantly, if it is clear that valid comparable sales are too limited/sporadic for tracing variations of market prices across the city

0 – **Non-transparent** - informal market dominates, fair market values of any given land or building are hard to discover, land/property values are in most cases discretionary / not backed by comparable sales evidence, income approach to valuation is also not applicable

**Scoring guidelines:**

The sum of scores collected on individual sub-indicators produces the following color designations:

**Green** – equal or larger than 4.0

**Yellow** – 2.0 to 3.5

**Red** – less than 2.0

**Assessment Notes**

***Market Dynamics: score – 2*** (well structured, active market)

Casablanca’s real estate market is relatively well-structured. It has recently shown positive trends in land and property values and a rise in development activity and growing completions of modern commercial and residential space.

Overall, Casablanca is Morocco’s main business location and the country’s largest commercial property market. It concentrates over 1.5 mln sqm of international quality offices and there is more quality real estate in the pipeline especially with the view of promoting the Casablanca Finance City development agenda.

There are over 10 internationally branded hotel operations, and several modern retail developments in CBD and at La Corniche. Casablanca market also boasts active development of modern logistic and light industrial properties.

Figures from the Moroccan Central Bank and Moroccan Land Registry show a significant increase in the number of residential transactions since 2016. This was driven by a rise in activity at the low-to mid-range market, supported by the increased availability of mortgage finance. The government has attempted to stimulate the construction of social housing by providing tax breaks and cheap land to developers.

***Market Coverage: score – 1*** *(m*arket covered by professional surveys)

There are numerous regular market reports on the state of Casablanca real estate market.

***Market Infrastructure: score – 1*** *(well-functioning infrastructure)*

There is a robust network of professional real estate services providers and sales/leasing brokers, including with international franchises (e.g. JLL has a full-fledged office in Casablanca), and a strong regulatory framework.

***Price discovery: score – 1*** *(confidently transparent market)*

Land and building pricing seems fairly transparent, and actual sale evidence can be collected from publicly available transaction datasets. In fact, the Central Bank of Morocco and the Land Registry Office began in 2010 a process of constructing a quarterly real estate price index (REPI), which contains detailed information on all property transactions registered at the national level, providing the first of a kind experience in Arica in promoting real estate market transparency. It also aims to refine the analysis of inflationary risks and to monitor real estate risks in the banking system.

Casablanca earns a **cumulative score of 5** on above sub-indicators which corresponds to **GREEN color code** for the city’s real estate market capacity, showing favorable conditions for Land Value Capture in terms of enabling market environment.

**LAND USE REGULATIONS**

**Data points**

Evidence of comprehensive plan for city’s territories (Master Plan, Land Ordinances or equivalent), which regulates density, height, and functional uses in various parts of the city.

**Scoring guidelines:**

**Green** - Such plan exists, covers entire city and is able to inform investors of land use and building regulations at - or very close to - parcel by parcel detail

**Yellow** - Such plan exists, but has evident deficiencies, e.g. does not cover entire city, omits important land use guidelines, outdated, has evident enforcement issues, etc.

Red - Such plan does not exist, or even if it technically exists it has not been updated for long (e.g. since the change of political regime)

**Assessment Notes**

Master Plan of Urban Development of Greater Casablanca is in place (schéma directeur d’urbanisme de Casablanca). It was revised in 2014, strengthening land use policies. Desk research shows that Casablanca has been well planned and its growth over the past 50 years has largely followed a deliberate pattern. But the urban sprawl in greater Casablanca results in that large parts of the urban area develops informally, where land use controls are either inexistent or not observed.

An additional complexity to the land use regulatory context in Casablanca (and in Morocco in general) is an extensive practice of land use “derogations” (semi-transparent exceptions from formally prescribed land use), especially when it comes to permitting housing, or more specifically subsidized social housing projects.

At the national level, it is estimated that over 27 thousand hectares have been developed through “derogation between 2003 and 2013. And in the Municipality of Casablanca alone, it is estimated that more than 90% of the 140,000 subsidized social housing units approved between 2010 and 2015 were developed under “derogation”.

In view of the land use enforcement complexities, extensive “derogation” practices and evident lack of regulatory enforcement in the city’s fringes, the suggested score for the Land Use Regulations metrics in Casablanca is YELLOW

**LAND CADASTER / LAND DATA MANAGEMENT**

**Data points**

Availability of centralized database for land parcel information with legal and value records

**Scoring guidelines:**

**Green** - Land Cadaster is well maintained, cadaster information matches legal ownership records and land values in the cadaster correspond to actual market values

**Yellow** - Land Cadaster is in place, but has evident omissions, e.g. does not cover entire city, and/or has mismatches with legal records, land value records in the cadaster are in mismatch with market values

**Red** - Land Cadaster not introduced, or covers less than 30% of city area, or has very poor data / has not been updated for long time

**Assessment Notes**

Desk research encounters relatively robust cadastral database maintained by state-owned National Agency for Land Conservation, Cadaster and Cartography.

Of note, in the 2018 WBG survey of business regulations, Morocco (as measured with the data collected for the city of Casablanca) ranks high on the Land Administration Index (scoring 15.4 while average for North Africa and the Middle East is 13.0).

Recommended score for this indicator is GREEN, subject to further confirmation with city delegation. As noted by the WBG task team working in Casablanca, the land and property values in the Cadaster are often outdated and do not match market values.

**SECURITY OF PROPERTY RIGHTS**

**Data points**

Expert opinion on the level of establishment and recordation of property titles, title search infrastructure, robustness of dispute resolution processes.

**Scoring guidelines:**

**Green** – robust land and property title registers and property records, covering entire area of the city; registers are regularly updated; property titles do not overlap and formal development rights as a rule reflect de fact ownership; domestic legal framework able to resolve most of property disputes; distribution of land/property rights between government agencies is well established and recorded.

**Yellow** – nominal presence of land/property registers. However, the system has numerous evidence of inaccurate, unrecorded, outdated or overlapping land/property rights; numerous cases of non-delineated lands (e.g. clusters of urban “nobody’s land” with potential conflicting interests); evidence of poorly established public ownership (conflicting claims of different public agencies and layers of government).

**Red** – nonexistent or very incomplete title registers; title search and property dispute resolution have significant informal aspects.

**Assessment Notes**

Property registries are maintained. However, there is a co-existence of registered and unregistered property rights in Morocco. Non-registered tenures represent quite a significant proportion of claimed properties rights in the urban areas such as Casablanca. To that end, significant share of the market still suffers from tenure insecurity and poorly established (not officialized) property rights.

Recommended score for this indicator is YELLOW.

**LOCAL FISCAL POWERS**

**Data points**

Ability of the city to maintain revenue from own sources and manage level of operating and capital expenditure at discretion of the city administration.

**Scoring guidelines:**

**Green** - revenues from own sources comprise more than 30% of city's revenue base; city has significant discretion in operating and capital financial planning; operating revenues from service mandates mostly able to at least recover the running costs for those services

**Yellow** - revenue from own rouses comprise less than 30% of city's revenue base; city can enact, set and administer local taxes (property taxes in particular), however, city's revenue and spending mandates are still largely reliant on intergovernmental transfers and spending obligations are higher than revenue collected by the city from respective services

**Red** - very limited fiscal powers and complete dependence on intergovernmental transfers; municipal services are top-down mandates from higher levels of government with limited capacity for own revenue collection and cost recovery

**Assessment Notes**

The fiscal powers of the Municipality of Casablanca (Commune de Casablanca) are considered very limited and dependent on intragovernmental fiscal relationships. Further inputs to be provided upon completion of City Creditworthiness survey.

Recommended score on this metrics in the current state of fiscal affairs is YELLOW. The objective of the ongoing WB PfroR program is to turn the local fiscal power context in Morocco’s largest municipalities from “yellow” to “green”

**TRACK RECORD IN LAND VALUE CAPTURE**

**Data points**

Track record of the city authorities in negotiating public-private partnerships in land and property development, in particular involving obligations for private partners to build (contribute) public infrastructure (e.g. joint development agreements, and/or development SPVs, selling development rights with infrastructure encumbrances/conditions, etc.).

**Scoring guidelines:**

**Green** - evident track record hereof; the city is legally permitted to negotiate land development deals with private partners and has transacted land /property rights with infrastructure obligations.

**Yellow** - evidence that the city is legally permitted to negotiate land development deals with private partners; however, the track record of such is either very limited (e.g. 1-2 deals in the foreseeable past) or inconclusive of the city's real ability to efficiently structure land value capture transactions with fair compensation to the city (i.e. forcing private partners to act in good faith)

**Red** - no track record hereof; OR, clear evidence (with sources) that city is not permitted to negotiate land development deals with private partners

**Assessment Notes**

No specific transactions identified.

Of note, the Ministry of Habitat and Urban Planning has given real estate developers incentives to invest in social housing projects, and developers have committed to build 900,000 units by 2020.

Overall, the Moroccan real estate practice has seen an increase in the use of building rights (droits de superficie), defined as rights of ownership over buildings or structures on land belonging to third parties. The holder of a building right may assign it, mortgage it (if the underlying property is registered) or grant easements over the property in question. For example, building rights are used as part of project financing to enable lenders to register a mortgage as security for the loans granted to the project company.

In the case of Casablanca, there are several development transactions that might have signs of developer exactions (off-site infrastructure encumbrances) subject to additional research. One notable example is the ongoing re-development of the former Anfa airport, carried out by the Agence D'Urbanisation Et De Développement D'Anfa (AUDA) – a subsidiary of CDG, with Lydec (private partner). Per account of WBG’s task team, there have been negotiations between Lydec and AUDA regarding the financing of a storm water collector.

|  |
| --- |
| Colombo, Sri Lanka |

**Track Record and Regulations in Structuring PPPs**

|  |  |  |  |
| --- | --- | --- | --- |
| **Track Record** | **Regulatory Frameworks** | **Procurement Capacity** | **Government**  **Co-Financing** |
|  |  |  |  |

**PPP TRACK RECORD (RECENT 10 YEARS):**

**Data points**

|  |  |
| --- | --- |
| PPPs of record in the country (in any status) | > 50 |
| PPP of record in the jurisdictional borders of the assessed city | 3 |
| Nationwide count of PPPs in areas of CRP focus (sanitation, water supply, flood mitigation, urban upgrades, housing, urban transport) | 0 |

**Scoring guidelines:**

**Green** - solid track record

**Yellow** - some track record / or good national track record, limited local capacity

**Red** - no or limited track record with limited local capacity respectively

**Assessment notes:**

Despite several PPP projects in recent years, the track record in CRP areas is limited. Almost all 51 projects have been in the energy/electricity sector. There has been one port terminal PPP in Colombo. According to other reports, it seems however that there are few projects in planning or in tender, of which all are in the water and waste and transport sector, that could be relevant to CRP. It is not clear yet what the status of these projects is but they could have a promising outlook. Further, as a PPP unit has been recently re-established and hosted within the Ministry of Finance in 2017, which could lead to increased implementation of PPPs.

|  |  |
| --- | --- |
| **QUESTIONS:**  Point of discussion with TTL and City Officials should be PPPs in CRP focus area and more detailed information about upcoming planned PPPs. |  |

**PPP REGULATORY FRAMEWORK**

**Data points**

|  |  |
| --- | --- |
| Does national regulatory framework allow procuring PPPs? | YES |
| Does regulatory framework contain specialized legislation regulating PPPs? | YES |
| No restrictions on structuring PPPs in CRP priority sectors? | YES |
| Foreign companies are NOT prohibited from participating in PPP? | YES |
| Foreign companies are permitted to repatriate income from PPP operations? | YES |
| Flexibility to change ownership structure / assign rights under PPP contract? | NO |
| International arbitration allowable for dispute resolution of PPP contracts? | YES |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 5 positive responses

**Yellow** – 2 to 4 positive responses

**Red** – 1 or 0 positive responses

**Assessment notes:**

There is no specific law expressly providing for procuring PPPs in Sri Lanka. However, the Guidelines on Government Tender Procedure Part II for Private Sector Infrastructure Projects (BOO/BOT/BOOT Projects) Revised Edition of January 1998 and the Procurement Guidelines and Manual of 2006 issued by the Ministry of Finance (successor to the National Procurement Agency) facilitate PPPs, and were used for this scoring.

|  |  |
| --- | --- |
| **QUESTIONS:**  It should be discussed with TTL and City Officials if there are plans regarding a new specific law. |  |

**PPP PROCUREMENT CAPACITY**

**Data points**

|  |  |
| --- | --- |
| Cities/municipalities by law have procuring authority for PPPs? | YES |
| PPP contract can be awarded even if only one proposal is submitted | YES |
| Unsolicited proposals either explicitly allowed or not regulated and possible in practice | YES |
| Competitive PPP procurement must be initiated when proceeding with an unsolicited proposal\* | YES |
| Specialized municipal entity that facilitates the PPP program (PPP Unit) | NO |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 4-5 positive responses

**Yellow** – 2 to 4 positive responses;

**Red** – 1 or 0 positive responses; if 1 but earned on “Specialized municipal entity that facilitates PPP” – that is YELLOW

**Assessment notes:**

Section 3.1 of the Supplement 30 of the Procurement Manual outlines the procedure to be followed before awarding a PPP contract where only one proposal is submitted. According to Section 7.12.2 (a) of Procurement Guidelines, even when only one bid is received, after wide publicity has been given, the bidding process may still be considered valid, if the prices quoted are reasonable in comparison to market values. Supplement 30 to the Guidelines on Government Tender Procedure - Part II (Private Sector Infrastructure Projects) published on 26.12.2016 (Swiss Challenge Procedure ) provides rules applicable to unsolicited proposals. A PPP unit has been set up within the Ministry of Finance in 2017, but there is not a specialized municipal entity yet.

4. **GOVERNMENT CO-FINANCING**

**Data points**

Availability and performance of government-led infrastructure co-financing vehicles (Sovereign Wealth Funds, Local Development Investment vehicles, state-run Guaranteed Loan and Grant programs, Infrastructure Guarantee Funds, etc.). As such, the contemplated government co-financing vehicle may serve as the source of additional leverage, equity and/or a provider of credit enhancement mechanisms in project finance and can open additional opportunities for attracting private capital for infrastructure financing.

**Scoring guidelines:**

Educated opinion on availability of government financing facilities that provide financial assistance to infrastructure projects:

**Green** – Dedicated infrastructure co-financing facility/facilities are established by national or sub-national government; clear criteria for application for such co-financing; proven track record of long or short-term co-financing provided by such facilities for country’s infrastructure projects (not necessarily in the surveyed city).

**Yellow** – Some forms of government co-financing have been identified as a supportive tool for infrastructure investments; access to such government-led co-financing is limited due to either limited size of such co-financing and/or lack of transparency in funds allocation (e.g. unclear criteria for application and approval of such funds) or such a vehicle is planned/drafted but yet to be activated in practice;

**Red** – No evidence of government financing facilities that are set to co-finance infrastructure alongside the private sector (infrastructure can still be extensively funded exclusively from state funds, user fees and/or concessional loans).

**Assessment notes:**

Several reports indicate that there have been discussions advocating for Sri Lanka to set up an infrastructure development government co-financing institution that could support mobilizing long-term financing for infrastructure PPPs, but there is no evidence yet that such facilities have been set up or are in actual planning phase.

|  |
| --- |
| **QUESTIONS:**  Discuss with TTL and City Officials if any efforts to set up government-led co-financing vehicles are underway. |

**Survey of Enabling Conditions for Land Value Capture (LVC)**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Real Estate Market Capacity** | **Land Use Regulations** | **Land Cadaster / Land Data Management** | **Security of property rights** | **Local Fiscal Powers** | **LVC track record** |
|  |  |  |  |  |  |

**REAL ESTATE MARKET CAPACITY**

This indicator consists of sub-indicator data points (covering different subsets of Market Environment), each earning formal scores that contribute to a cumulative overall score for the Market Environment based on which the ultimate color-code for the Market Environment is assigned.

**Data points:**

***Market Dynamics****:* Expert snapshot view on the market maturity, formality and its readiness for generating land value premiums and value capture. Scores for this sub-indicator are derived according to the following formalized metrics:

2.0 – **Active and structured** (largely formal) market with rapidly emerging or established presence of high-value commercial properties (at least 200,000 square meters of modern grade A offices, at least 2-3 modern malls, at least 2 internationally branded hotels). No signs of crisis or sustained stagnation.

1.0 – **Structured (largely formal) but slow** market with limited presence of high-grade properties, evident signs of oversupply or sustained crisis is a clear determination for this score even if formal market prevails

0.5 – **Nascent (largely informal) active** market with yet very limited presence of high-grade properties but with good outlooks as surfaced either in professional market surveys or discovered from anecdotal evidence

0 – **Nascent (largely informal) limited** market - very scarce modern real estate development; on top of that the market shows limited prospects for attracting future investments in high-grade high-value modern properties

***Market Coverage:*** Availability of recent/regular market surveys, ideally prepared by global real estate services companies, e.g. CBRE, Colliers, JLL, Cushman, Knight Frank, DTZ (or other credible sources, including investor surveys)

1 – market covered by professional market surveys

0 – no regular coverage by professional market surveys

***Market Infrastructure:*** Evidence of land/property market infrastructure (property databases, brokers, notaries, surveyors, etc.), assessed based on the following metrics:

1 – **Well functioning infrastructure** (networks of professional agency services providers/brokers, some with international franchises, notaries, locally present land surveyors. etc.)

0 – **Weak infrastructure**, with evident deficiencies (best proxies for such deficiencies are: absence of private notary services, real estate agency services are not subject to licensing; real estate agencies have limited role and are only local/domestic entities while international franchises/rep offices are absent)

***Price Discovery:*** Conclusion on transparency of price discovery process for land and buildings on the local market; the transparency of price discovery is assessed using the following formalized metrics:

1 – **Confidently transparent** - all three of the following conditions are met: role of informal land transaction is minimal or much less compared to formal market, range of fair market values for land is discoverable for any given location, value heatmaps are available, past transaction records are maintained and publicly available, either free of charge of for a fee;

0.5 – **Somewhat transparent** - some of the conditions mentioned in Confidently Transparent are clearly not met; most importantly, if it is clear that valid comparable sales are too limited/sporadic for tracing variations of market prices across the city

0 – **Non-transparent** - informal market dominates, fair market values of any given land or building are hard to discover, land/property values are in most cases discretionary / not backed by comparable sales evidence, income approach to valuation is also not applicable

**Scoring guidelines:**

The sum of scores collected on individual sub-indicators produces the following color designations:

**Green** – equal or larger than 4.0

**Yellow** – 2.0 to 3.5

**Red** – less than 2.0

**Assessment Notes**

***Market Dynamics: score – 2*** *(active and structure market)*

The assessment indicates an active and relatively structured market with evident prospects for further rapid expansion, related with the emerging role of Sri Lanka, and Colombo in particular, as a tourism destination and a business location for global outsouricing. Additional factor fueling the local real estate market expansion is a good macroeconomic performance of the country after the end of the civil-war in 2009 and the growth of middle class and wealthier population, with the latter supporting demand for residential properties. There is already a noticeable presence of high density and high-value commercial and residential properties in the Colombo skyline (high grade modern offices in CBD and surrounding areas comprise over 300 thousand square meters, by JLL estimates) and many more are in the pipeline, rapidly changing the image of Colombo. There are several class A offices, internationally branded hotels and modern multi-tenanred malls currently under construction.

Due to shortage of developable land in central and near-central locaions in Colombo, the land prices have been soaring in the wake of recent rapid development of the Colombo's real estate market (reaching USD 20-30 mln per hectare for prime parcels on the formal market, according to JLL and Lamudi, which is on par with prime land values in global metropolises). This amount of value contained in land generates a favorable environment for land value capture, especially if the primary transfer of land from public to private hands becomes more structured.

***Market Coverage: score – 1*** *(*market covered by professional surveys)

Colombo market is covered by recent market overviews prepared by JLL, a global real estate services provider which recently launched comprehensive operations in Sri Lanka through a fully-fledged office in Colombo

***Market Infrastructure: score – 1*** *(well-functioning infrastructure)*

The local real estate market boasts an extensive infrastructure of transaction intermediaries, allowing title search by specialized lawyers, the use of brokers, notaries, surveyors and real estate assessors as demanded. Of note, under Sri-Lankan law any conveyance of real estate (e.g deeds of transfer, indentures of leases) must be processed via notary attestation of documents. There are requirements for stamping and registration for conveyances relating to real estate. Sri Lanka does not have a formal system of statutory licensing or certification for real estate practitioners (brokers , agents, etc.), however, this topic is one that is currently under discussion in government circles as the absence of such licensing is recognized as a systemic risk.

***Price discovery: score – 0.5*** *(Somewhat transparent)*

The price discovery for land and real properties is somewhat obscure due to a large share of informal market deals and insufficient sales evidence from formal arm's length transactions in many parts of the city. Moreover, even if it comes to the formal market, the transfer recording system (which is in place and is maintained by the state) does not contain a statutory requirement for disclosure of prices and beneficiaries. Property listings are believed to be the best proxy tool for land price discovery across the city. Of note, in 2016 Sri Lanka entered the JLL Real Estate Transparency Index (composite index measuring transparency of transaction processes, regulatory & legal frameworks, and data availability in real estate sector including land transactions) and so far the market is ranked as "Opaque".

Colombo earns a **cumulative score of 4.5** on above sub-indicators which corresponds to **GREEN color code** as an assessor’s conclusion for the city’s real estate market capacity, indicating that many factors are promising for Land Value Capture but that some challenges remain.

**LAND USE REGULATIONS**

**Data points**

Evidence of a comprehensive plan for city’s territories (Master Plan, Land Ordinances or equivalent), which regulates density, height, and functional uses in various parts of the city

**Scoring guidelines:**

**Green** - Such plan exists, covers entire city and is able to inform investors of land use and building regulations at - or very close to - parcel by parcel detail

**Yellow** - Such plan exists, but has evident deficiencies, e.g. does not cover entire city, omits important land use guidelines, outdated, has evident enforcement issues, etc.

Red - Such plan does not exist, or even if it technically exists it has not been updated for long (e.g. since the change of political regime)

**Assessment Notes**

The City of Colombo Development Plan, with zoning regulations included, was enacted in 1999 (a revision of original City Master plan adopted in 1978) and there is no evidence that the Plan has been substantially updated since that time.

Assessor’s color rating for Colombo’s land use regulations is YELLOW.

**LAND CADASTER / LAND DATA MANAGEMENT**

**Data points**

Availability of centralized database for land parcel information with legal and value records

**Scoring guidelines:**

**Green** - Land Cadaster is well maintained, cadaster information matches legal ownership records and land values in the cadaster correspond to actual market values

**Yellow** - Land Cadaster is in place, but has evident omissions, e.g. does not cover entire city, and/or has mismatches with legal records, land value records in the cadaster are in mismatch with market values

**Red** - Land Cadaster not introduced, or covers less than 30% of city area, or has very poor data / has not been updated for long time

**Assessment Notes**

The country has long lagged behind in terms of progress in introducing centralized land information systems. There are ongoing projects supported by IFIs aiming to facilitate improvements on this front (e.g. WBG-supported Land Title Project). The Survey Department of Sri Lanka recently introduced a digitized Land Information System following a country-wide land surveying effort undertaken since 2007. There is an evident lack of robustness in this cadastrial system as tested through the publicly available title search. Further review and comment from local experts and government stakeholders is needed to assure functionality of the Land Cadaster system. Based on the assessors' experience in testing the online parcel search in the Sri Lanka's Land Information database and based on the information from secondary sources, the Land Cadaster in Sri Lanka is tentatively given a RED score (high risk/not fully introduced).   
Of note, in the 2018 WBG survey of business regulations, Sri Lanka (as measured with the data collected for the city of Colombo) ranks particularly low on the Land Administration Index (scoring 2.0 while average for South Asian cities was 8.0).

**SECURITY OF PROPERTY RIGHTS**

**Data points**

Expert opinion on the level of establishment and recordation of property titles, title search infrastructure, robustness of dispute resolution processes.

**Scoring guidelines:**

**Green** – robust land and property title registers and property records, covering entire area of the city; registers are regularly updated; property titles do not overlap and formal development rights as a rule reflect de fact ownership; domestic legal framework able to resolve most of property disputes; distribution of land/property rights between government agencies is well established and recorded.

**Yellow** – nominal presence of land/property registers. However, the system has numerous evidence of inaccurate, unrecorded, outdated or overlapping land/property rights; numerous cases of non-delineated lands (e.g. clusters of urban “nobody’s land” with potential conflicting interests); evidence of poorly established public ownership (conflicting claims of different public agencies and layers of government).

**Red** – nonexistent or very incomplete title registers; title search and property dispute resolution have significant informal aspects.

**Assessment Notes**

The system of property title recording and registration nominally exists in Sri Lanka, however, its state is defined as "chaotic" and uncertain, representing one of the main obstacles for prospective buyers of land. There are complexities in providing official and registered status to land titles and there is persistently high level of insecurity of titles and tenures. As a matter of fact, the sole registration of a title in the State Registry does not provide a proof of ownership (or any other associated tenure) as such and if any sale defects or ownership overlaps are encountered post state registration of the title, the ownership may still fail. Informative in this regard is that land disputes make up a large proportion of the workload of courts and land cases may take up to 10 years on average to reach a decision.

Recommended score for this indicator is YELLOW.

**LOCAL FISCAL POWERS**

**Data points**

Ability of the city to maintain revenue from own sources and manage level of operating and capital expenditure at discretion of the city administration.

**Scoring guidelines:**

**Green** - revenues from own sources comprise more than 30% of city's revenue base; city has significant discretion in operating and capital financial planning; operating revenues from service mandates mostly able to at least recover the running costs for those services

**Yellow** - revenue from own rouses comprise less than 30% of city's revenue base; city can enact, set and administer local taxes (property taxes in particular), however, city's revenue and spending mandates are still largely reliant on intergovernmental transfers and spending obligations are higher than revenue collected by the city from respective services

**Red** - very limited fiscal powers and complete dependence on intergovernmental transfers; municipal services are top-down mandates from higher levels of government with limited capacity for own revenue collection and cost recovery

**Assessment Notes**

The public finance system in Sri Lanka is heavily centralized with combined share of sub-national governments' revenues in total government revenues being less than 5% (one of the lowest levels among the lower middle income countries) and the inter-government transfers are not guaranteed. Even in Colombo, the country's main economic powerhouse accounting for 50% of Sri Lanka's GDP, the main decision-making powers on operational and capital planning matters are heavily concentrated on the level of national ministries.

Noteworthy, the World Bank's Metro Colombo Urban Development Project launched in 2012 aims to extend the city-level capacity and financial resources for devising and and implementing capital investments targeting urban resilience and flood risk mitigation in particular.

Recommended color-coded score for this indicator is RED.

**TRACK RECORD IN LAND VALUE CAPTURE**

**Data points**

Track record of the city authorities in negotiating public-private partnerships in land and property development, in particular involving obligations for private partners to build (contribute) public infrastructure (e.g. joint development agreements, and/or development SPVs, selling development rights with infrastructure encumbrances/conditions, etc.).

**Scoring guidelines:**

**Green** - evident track record hereof; the city is legally permitted to negotiate land development deals with private partners and has transacted land /property rights with infrastructure obligations.

**Yellow** - evidence that the city is legally permitted to negotiate land development deals with private partners; however, the track record of such is either very limited (e.g. 1-2 deals in the foreseeable past) or inconclusive of the city's real ability to efficiently structure land value capture transactions with fair compensation to the city (i.e. forcing private partners to act in good faith)

**Red** - no track record hereof; OR, clear evidence (with sources) that city is not permitted to negotiate land development deals with private partners

**Assessment Notes**

No record found in regard to city's experience in negotiating land development deal with infrastructure exactions

Recommended color code designation is RED.

|  |
| --- |
| Da Nang, Vietnam |

**Track Record and Regulations in Structuring PPPs**

|  |  |  |  |
| --- | --- | --- | --- |
| **Track Record** | **Regulatory Frameworks** | **Procurement Capacity** | **Government**  **Co-Financing** |
|  |  |  | Subject for confirmation with TTLs / city |

**PPP TRACK RECORD (RECENT 10 YEARS):**

**Data points**

|  |  |
| --- | --- |
| PPPs of record in the country (in any status) | > 70 |
| PPP of record in the jurisdictional borders of the assessed city | 2 |
| Nationwide count of PPPs in areas of CRP focus (sanitation, water supply, flood mitigation, urban upgrades, housing, urban transport) | 3 |

**Scoring guidelines:**

**Green** - solid track record

**Yellow** - some track record / or good national track record, limited local capacity

**Red** - no or limited track record with limited local capacity respectively

**Assessment notes:**

Vietnam has seen a substantial track record of PPP projects, mainly in the energy and electricity sector, and more projects coming up in the planning stage in transportation, in water supply and wastewater treatment.

There is limited track record of PPPs specifically in the city of Danang. Given the new PPP law of 2015 and respective robust guidelines on PPP structuring and management (which were developed with oversight and technical assistance of international development organization) it can be expected that the government will continue to ramp up PPP efforts and branch out to more sectors, to create a solid track record in the CRP focus areas.

The city of Danang in particular has recently called for investments in 68 projects, which would significantly grow the PPP track record.

**QUESTIONS:**

According to several news articles from end of 2017, the city of Da Nang has called for investment in 68 PPP projects in 2017-2020. Clarify with TTL and City Officials what these PPP projects are about, their status etc.

**PPP REGULATORY FRAMEWORK**

**Data points**

|  |  |
| --- | --- |
| Does national regulatory framework allow procuring PPPs? | YES |
| Does regulatory framework contain specialized legislation regulating PPPs? | YES |
| No restrictions on structuring PPPs in CRP priority sectors? | YES |
| Foreign companies are NOT prohibited from participating in PPP? | YES |
| Foreign companies are permitted to repatriate income from PPP operations? | YES |
| Flexibility to change ownership structure / assign rights under PPP contract? | YES |
| International arbitration allowable for dispute resolution of PPP contracts? | YES |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 5 positive responses

**Yellow** – 2 to 4 positive responses

**Red** – 1 or 0 positive responses

**Assessment notes:**

Vietnam has a solid regulatory framework for PPPs. The basic principles and general regulations on PPPs are set out under Decree No. 15/2015/ND-CP of the Government dated 14 February 2015 on investment in the PPP form (The "PPP Decree"). The Government also issued several guidelines regarding PPPs. Noteworthy clause in national regulations, pursuant to Article 34 of the PPP Decree, investors may transfer a part or all of the rights and obligations under the project agreement to a lender or another investor.

**PPP PROCUREMENT CAPACITY**

**Data points**

|  |  |
| --- | --- |
| Cities/municipalities by law have procuring authority for PPPs? | YES |
| PPP contract can be awarded even if only one proposal is submitted | YES |
| Unsolicited proposals either explicitly allowed or not regulated and possible in practice | YES |
| Competitive PPP procurement must be initiated when proceeding with an unsolicited proposal\* | NO |
| Specialized municipal entity that facilitates the PPP program (PPP Unit) | NO |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 4-5 positive responses

**Yellow** – 2 to 4 positive responses;

**Red** – 1 or 0 positive responses; if 1 but earned on “Specialized municipal entity that facilitates PPP” – that is YELLOW

**Assessment notes:**

The procuring entities in Vietnam are ministries, ministry-level agencies and provincial people's committees. Pursuant to article 20.1 of PPP Decree, an investor may propose implementation of a project outside the project design approved and announced by ministries, branches and provincial people's committees pursuant to section 1 of the chapter. So, as in the case of the rights transfer, the legislation allows some degree of flexibility for investor to make adjustment to a project as required. The exact procedure for making such adjustment would require a further review.

Of note, there is no explicit requirement to run a competitive PPP procurement when proceeding with an unsolicited proposal. This appears like an adverse part of PPP procurement regulations and might be a cause for the conflict of interest.

Recommended color-coded score for PPP procurements in Vietnam / Danang is yellow.

**QUESTIONS:**

Clarify with TTL and city if there is a municipal-level PPP unit in Danang.

4. **GOVERNMENT CO-FINANCING**

**Data points**

Availability and performance of government-led infrastructure co-financing vehicles (Sovereign Wealth Funds, Local Development Investment vehicles, state-run Guaranteed Loan and Grant programs, Infrastructure Guarantee Funds, etc.). As such, the contemplated government co-financing vehicle may serve as the source of additional leverage, equity and/or a provider of credit enhancement mechanisms in project finance and can open additional opportunities for attracting private capital for infrastructure financing.

**Scoring guidelines:**

Educated opinion on availability of government financing facilities that provide financial assistance to infrastructure projects:

**Green** – Dedicated infrastructure co-financing facility/facilities are established by national or sub-national government; clear criteria for application for such co-financing; proven track record of long or short-term co-financing provided by such facilities for country’s infrastructure projects (not necessarily in the surveyed city).

**Yellow** – Some forms of government co-financing have been identified as a supportive tool for infrastructure investments; access to such government-led co-financing is limited due to either limited size of such co-financing and/or lack of transparency in funds allocation (e.g. unclear criteria for application and approval of such funds) or such a vehicle is planned/drafted but yet to be activated in practice;

**Red** – No evidence of government financing facilities that are set to co-finance infrastructure alongside the private sector (infrastructure can still be extensively funded exclusively from state funds, user fees and/or concessional loans).

**Assessment notes:**

PPPIAF is supporting the Government of Vietnam in setting up a pilot City Infrastructure Financing Facility (CIFF) to finance municipal infrastructure in Vietnam to act as a second tier lender encouraging first-tier lenders (commercial banks) to lend to sub-national governments on a market-driven basis.

Local Development Infrastructure Funds (LDIF) initiated by WB are sub-national finance institutions that were created at the provincial level with the purpose of mobilizing capital and investing in municipal infrastructure projects. LDIFs are statutorily restricted to financing revenue- generating municipal infrastructure, which leaves a major gap for infrastructure investments that do not have explicit revenue stream.

**Actual track record of CCIF and LDIF to be discussed and verified with TTLs and city**.

**Survey of Enabling Conditions for Land Value Capture (LVC)**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Real Estate Market Capacity** | **Land Use Regulations** | **Land Cadaster / Land Data Management** | **Security of property rights** | **Local Fiscal Powers** | **LVC track record** |
|  | to be confirmed additionally |  |  |  |  |

**REAL ESTATE MARKET CAPACITY**

This indicator consists of sub-indicator data points (covering different subsets of Market Environment), each earning formal scores that contribute to a cumulative overall score for the Market Environment based on which the ultimate color-code for the Market Environment is assigned.

**Data points:**

***Market Dynamics****:* Expert snapshot view on the market maturity, formality and its readiness for generating land value premiums and value capture. Scores for this sub-indicator are derived according to the following formalized metrics:

2.0 – **Active and structured** (largely formal) market with rapidly emerging or established presence of high-value commercial properties (at least 200,000 square meters of modern grade A offices, at least 2-3 modern malls, at least 2 internationally branded hotels). No signs of crisis or sustained stagnation.

1.0 – **Structured (largely formal) but slow** market with limited presence of high-grade properties, evident signs of oversupply or sustained crisis is a clear determination for this score even if formal market prevails

0.5 – **Nascent (largely informal) active** market with yet very limited presence of high-grade properties but with good outlooks as surfaced either in professional market surveys or discovered from anecdotal evidence

0 – **Nascent (largely informal) limited** market - very scarce modern real estate development; on top of that the market shows limited prospects for attracting future investments in high-grade high-value modern properties

***Market Coverage:*** Availability of recent/regular market surveys, ideally prepared by global real estate services companies, e.g. CBRE, Colliers, JLL, Cushman, Knight Frank, DTZ (or other credible sources, including investor surveys)

1 – market covered by professional market surveys

0 – no regular coverage by professional market surveys

***Market Infrastructure:*** Evidence of land/property market infrastructure (property databases, brokers, notaries, surveyors, etc.), assessed based on the following metrics:

1 – **Well functioning infrastructure** (networks of professional agency services providers/brokers, some with international franchises, notaries, locally present land surveyors. etc.)

0 – **Weak infrastructure**, with evident deficiencies (best proxies for such deficiencies are: absence of private notary services, real estate agency services are not subject to licensing; real estate agencies have limited role and are only local/domestic entities while international franchises/rep offices are absent)

***Price Discovery:*** Conclusion on transparency of price discovery process for land and buildings on the local market; the transparency of price discovery is assessed using the following formalized metrics:

1 – **Confidently transparent** - all three of the following conditions are met: role of informal land transaction is minimal or much less compared to formal market, range of fair market values for land is discoverable for any given location, value heatmaps are available, past transaction records are maintained and publicly available, either free of charge of for a fee;

0.5 – **Somewhat transparent** - some of the conditions mentioned in Confidently Transparent are clearly not met; most importantly, if it is clear that valid comparable sales are too limited/sporadic for tracing variations of market prices across the city

0 – **Non-transparent** - informal market dominates, fair market values of any given land or building are hard to discover, land/property values are in most cases discretionary / not backed by comparable sales evidence, income approach to valuation is also not applicable

**Scoring guidelines:**

The sum of scores collected on individual sub-indicators produces the following color designations:

**Green** – equal or larger than 4.0

**Yellow** – 2.0 to 3.5

**Red** – less than 2.0

**Assessment Notes**

***Market Dynamics: score – 0.5*** *(nascent, largely informal market)*

Land, according to the Vietnamese constitution and law, is owned by the public and managed on its behalf by the state. Land-use rights for specified periods are issued to individuals, who are allowed under the law to transfer these rights to other individuals. The state may take back the land and annul the rights in the national interest, based on compensation according to law.

The overall legal framework for individual rights to land use is subject to the interpretation of numerous overlapping laws, and its implementation is equally riddled with a plethora of implementing regulations and overlapping mandates. This is just at the national level—provincial and municipal administrations issue their own instructions on land use and transfers.

The markets for trading land-use rights are, in effect, missing. Functioning primary markets for land use rights are virtually absent. The role of the markets is played by state agencies, often using ill-defined administrative procedures. And the “price” for issuing land-use rights bears little resemblance to a true market-determined price.  
  
Secondary land markets, more prevalent in reality, operate under multiple constraints. Market mechanisms are rarely deployed in cases involving reclassification of land use from agricultural to nonagricultural land. In such cases, land-use planning decisions by local administrations (and not demand-supply conditions or local preferences) determine the reclassified purpose of land use. Moreover, the “seller” or the individual giving up land-use rights, often a farmer, is unlikely to receive fair compensation: The benefit from the transaction is mostly captured by the local government and by the “buyer,” who often receives the land at prices below what a functioning secondary land market would have produced.

The missing land markets are problematic from several angles. For one, their absence, alongside weak property rights, fosters a patronage-based business model. Their lack undermines efficiency in other ways, too. A land-use right holder who would like to change land use to a more rewarding economic activity will find the administrative costs high, often prohibitively so, and the processes time consuming. The lack of land markets also creates distortions in urbanization patterns causing more dotted and fragmented development be driven by availability of land on the secondary market rather than establishing functional clusters in relevant locations.

There is some supply of modern high-grade offices and retail space in Danang and many retail international brands are present in the market.

The greater market challenge is not the quality (supply) of the assets and the demand for the assets themselves, but rather the rapidity and transparency with which land rights might be utilized and/or transferred.

***Market Coverage: score – 1*** *(*market covered by professional surveys)

Numerous agencies provide regular market reports on Danang / Vietnam. Market research and transaction details are published and updated. JLL, Cushman & Wakefield, Knight Frank, and CBRE all have active offices in Vietnam. In fact, most major international commercial brokerages maintain offices in Vietnam, and there is a transparent tracking of major real estate market transactions.

***Market Infrastructure: score – 1*** *(well-functioning infrastructure)*

There is a network of databases, brokers, notaries, surveyors, etc. However as noted above, freehold land rights rest with the State. The State thus grants leasehold rights to businesses or other entities, often in an opaque method. Therefore the ability for uncovering easement or secondary land rights is often complicated. Nevertheless there is a functioning business of transaction support.

***Price discovery: score – 0.5*** *(somewhat transparent)*

Price discovery is clear at the large-scale corporate asset stage. As noted above, most large international brokerages maintain offices in Vietnam and track transaction data. However, data for most transactions is not available. Legally the government requires registration and recordation of property transactions. However, in practice this is often ignored or not completed. The law has attempted to address this problem but in practice there is a lack of transparency in this.

Danang earns a **cumulative score of 3** on above sub-indicators which corresponds to **YELLOW color code** as an assessor’s conclusion for the city’s real estate market capacity, indicating that while some factors are promising for Land Value Capture, challenges remain, particularly relating to land market transparency.

**LAND USE REGULATIONS**

**Data points**

Evidence of a comprehensive plan that city developed for its territories (Master Plan, Land Ordinances or equivalent), which regulates density, height, and functional uses in various parts of the city

**Scoring guidelines:**

**Green** - Such plan exists, covers entire city and is able to inform investors of land use and building regulations at - or very close to - parcel by parcel detail

**Yellow** - Such plan exists, but has evident deficiencies, e.g. does not cover entire city, omits important land use guidelines, outdated, has evident enforcement issues, etc.

Red - Such plan does not exist, or even if it technically exists it has not been updated for long (e.g. since the change of political regime)

**Assessment Notes**

There is a comprehensive plan for Danang, which includes not only land planning but also transport, environmental, and utility planning.

Assessor’s color rating for Da Nang’s land use regulations is GREEN**, subject for confirmation as to functional zoning and procedure for identification of permitted uses in parcel by parcel basis.**

**LAND CADASTER / LAND DATA MANAGEMENT**

**Data points**

Availability of centralized database for land parcel information with legal and value records

**Scoring guidelines:**

**Green** - Land Cadaster is well maintained, cadaster information matches legal ownership records and land values in the cadaster correspond to actual market values

**Yellow** - Land Cadaster is in place, but has evident omissions, e.g. does not cover entire city, and/or has mismatches with legal records, land value records in the cadaster are in mismatch with market values

**Red** - Land Cadaster not introduced, or covers less than 30% of city area, or has very poor data / has not been updated for long time

**Assessment Notes**

Currently, most of the cadastral files are in paper form and derive from old maps with old coordinates. Each agency at each administrative level has different and incomplete ways of storing cadastral files. As a result, when using this information for land assessment, the Natural Resources and Environment Agency needs to compare it with the new maps made by modern digital technology and the information in reality to ensure accuracy in the land price determination.

Recommended score for this indicator is YELLOW.

**SECURITY OF PROPERTY RIGHTS**

**Data points**

Expert opinion on the level of establishment and recordation of property titles, title search infrastructure, robustness of dispute resolution processes.

**Scoring guidelines:**

**Green** – robust land and property title registers and property records, covering entire area of the city; registers are regularly updated; property titles do not overlap and formal development rights as a rule reflect de fact ownership; domestic legal framework able to resolve most of property disputes; distribution of land/property rights between government agencies is well established and recorded.

**Yellow** – nominal presence of land/property registers. However, the system has numerous evidence of inaccurate, unrecorded, outdated or overlapping land/property rights; numerous cases of non-delineated lands (e.g. clusters of urban “nobody’s land” with potential conflicting interests); evidence of poorly established public ownership (conflicting claims of different public agencies and layers of government).

**Red** – nonexistent or very incomplete title registers; title search and property dispute resolution have significant informal aspects.

**Assessment Notes**

Legally, there is a requirement to have a formal land registry for any transaction. There are online forms for completing this and a bureaucracy that is meant to handle this. However, there is no detailed public record or database of transactions, and there is significant avoidance of recordation by market participants. As a result, there is a significant gap in the formal and informal registration of land. The immovable property office does not adequately capture land and building data on a practical basis, even if the law has a formal requirement for it.

Recommended score for this indicator is YELLOW.

**LOCAL FISCAL POWERS**

**Data points**

Ability of the city to maintain revenue from own sources and manage level of operating and capital expenditure at discretion of the city administration.

**Scoring guidelines:**

**Green** - revenues from own sources comprise more than 30% of city's revenue base; city has significant discretion in operating and capital financial planning; operating revenues from service mandates mostly able to at least recover the running costs for those services

**Yellow** - revenue from own rouses comprise less than 30% of city's revenue base; city can enact, set and administer local taxes (property taxes in particular), however, city's revenue and spending mandates are still largely reliant on intergovernmental transfers and spending obligations are higher than revenue collected by the city from respective services

**Red** - very limited fiscal powers and complete dependence on intergovernmental transfers; municipal services are top-down mandates from higher levels of government with limited capacity for own revenue collection and cost recovery

**Assessment Notes**

Since 1975, Vietnam has gradually decentralized more fiscal responsibilities to local authorities. In 1996, the first State Budget Law was promulgated, and fiscal decentralization was formally mandated. This law was then revised in 2002 and put into operation in 2004, giving more autonomy to local governments, especially at the provincial level to promote sustainable development underpinned by local preferences and economic stability, equity across provinces, efficient services delivery, and enhanced transparency and accountability in public finances.

Local spending accounts for just over one-half of general government spending, while local revenue accounts for over one-third of general government revenue, and just over one-half when extra-budgetary sources are included.

There have been signs of declining role of decentralized revenue in total local government revenues.

Recommended color-coded score for this indicator is YELLOW.

**TRACK RECORD IN LAND VALUE CAPTURE**

**Data points**

Track record of the city authorities in negotiating public-private partnerships in land and property development, in particular involving obligations for private partners to build (contribute) public infrastructure (e.g. joint development agreements, and/or development SPVs, selling development rights with infrastructure encumbrances/conditions, etc.).

**Scoring guidelines:**

**Green** - evident track record hereof; the city is legally permitted to negotiate land development deals with private partners and has transacted land /property rights with infrastructure obligations.

**Yellow** - evidence that the city is legally permitted to negotiate land development deals with private partners; however, the track record of such is either very limited (e.g. 1-2 deals in the foreseeable past) or inconclusive of the city's real ability to efficiently structure land value capture transactions with fair compensation to the city (i.e. forcing private partners to act in good faith)

**Red** - no track record hereof; OR, clear evidence (with sources) that city is not permitted to negotiate land development deals with private partners

**Assessment Notes**

State control of land in Vietnam means that the ability of the city to capture additional value in land is limited to basic exactions or direct developer contributions to off-site infrastructure.

However, desk reviews did not yield any track record of transactions in Da Nang through that would represent land transfer to provide developers with negotiated obligations for off-site infrastructure provision.

Recommended color code designation is RED.

|  |
| --- |
| Douala, Cameroon |

**Track Record and Regulations in Structuring PPPs**

|  |  |  |  |
| --- | --- | --- | --- |
| **Track Record** | **Regulatory Frameworks** | **Procurement Capacity** | **Government**  **Co-Financing** |
|  |  |  |  |

**PPP TRACK RECORD (RECENT 10 YEARS):**

**Data points**

|  |  |
| --- | --- |
| PPPs of record in the country (in any status) | <10 |
| PPP of record in the jurisdictional borders of the assessed city | <5 |
| Nationwide count of PPPs in areas of CRP focus (sanitation, water supply, flood mitigation, urban upgrades, housing, urban transport) | 1 |

**Scoring guidelines:**

**Green** - solid track record

**Yellow** - some track record / or good national track record, limited local capacity

**Red** - no or limited track record with limited local capacity respectively

**Assessment notes:**

As per World Bank’s PPP Knowledge Lab data, only 3 PPPs have reached financial close in Cameroon in the last ten years (one in water and sewage - Camerounaise des Eaux; and two others are in energy sector). Concession agreement for improvement and management of Doula International Marine Terminal also qualifies as a PPP. There are 3 more PPPs planned on the municipal level in Douala, all in consumer retailing sector (the Bounmoussadi Market; the Marche Congo; and organization of a wholesaling platform for regional onion trade; the first one is stalled due to land disputes, the status of latter two – subject to further confirmation). In general, public infrastructure delivery via PPP appears just as an emerging project delivery method in Cameroon, with very limited track record hereof. According to market sounding interviews conducted by the CRP team, in practice all PPPs in Cameroon are decided by the central government and there very limited local capacity and discretion in procuring PPPs.

**PPP REGULATORY FRAMEWORK**

**Data points**

|  |  |
| --- | --- |
| Does national regulatory framework allow procuring PPPs? | YES |
| Does regulatory framework contain specialized legislation regulating PPPs? | NO |
| No restrictions on structuring PPPs in CRP priority sectors? | YES |
| Foreign companies are NOT prohibited from participating in PPP? | YES |
| Foreign companies are permitted to repatriate income from PPP operations? | NO |
| Flexibility to change ownership structure / assign rights under PPP contract? | NO |
| International arbitration allowable for dispute resolution of PPP contracts? | YES |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 5 or more positive responses, including specialized legislation for PPP

**Yellow** – 2 to 4 positive responses (or, if more than 5 but no specialized PPP laws)

**Red** – 1 or 0 positive responses

**Assessment notes:**

Cameroon does not have a specialized legislation for procuring PPP. In January 2017 the country adopted a strategic plan for developing PPPs. This document advises on regulatory changes required to streamline PPP procurements.

**PPP PROCUREMENT CAPACITY**

**Data points**

|  |  |
| --- | --- |
| Cities/municipalities by law have procuring authority for PPPs? | YES |
| PPP contract can be awarded even if only one proposal is submitted | YES |
| Unsolicited proposals either explicitly allowed or not regulated and possible in practice | YES |
| Competitive PPP procurement must be initiated when proceeding with an unsolicited proposal\* | YES |
| Specialized municipal entity that facilitates the PPP program (PPP Unit) | NO |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 4-5 positive responses

**Yellow** – 2 to 4 positive responses;

**Red** – 1 or 0 positive responses; if 1 but earned on “Specialized municipal entity that facilitates PPP” – that is YELLOW

**Assessment notes:**

Although decentralized territorial units have the right to initiate and implement PPP transactions, in practice large-scale infrastructure PPPs have been procured at the central government level. Unsolicited offers are explicitly allowed in Cameroon's legal framework. There are investor-friendly provisions in the PPP procurement framework, including acceptance of unsolicited project initiation by a private investor (still subject for competitive processing).

The case of Doula shows lack of discretion at city level in procuring PPP, while regulatory framework as such appears generally favorable.

**GOVERNMENT CO-FINANCING**

**Data points**

Availability and performance of government-led infrastructure co-financing vehicles (Sovereign Wealth Funds, Local Development Investment vehicles, state-run Guaranteed Loan and Grant programs, Infrastructure Guarantee Funds, etc.). As such, the contemplated government co-financing vehicle may serve as the source of additional leverage, equity and/or a provider of credit enhancement mechanisms in project finance and can open additional opportunities for attracting private capital for infrastructure financing.

**Scoring guidelines:**

Educated opinion on availability of government financing facilities that provide financial assistance to infrastructure projects:

**Green** – Dedicated infrastructure co-financing facility/facilities are established by national or sub-national government; clear criteria for application for such co-financing; proven track record of long or short-term co-financing provided by such facilities for country’s infrastructure projects (not necessarily in the surveyed city).

**Yellow** – Some forms of government co-financing have been identified as a supportive tool for infrastructure investments; access to such government-led co-financing is limited due to either limited size of such co-financing and/or lack of transparency in funds allocation (e.g. unclear criteria for application and approval of such funds) or such a vehicle is planned/drafted but yet to be activated in practice ;

**Red** – No evidence of government financing facilities that are set to co-finance infrastructure alongside the private sector (infrastructure can still be extensively funded exclusively from state funds, user fees and/or concessional loans).

**Assessment notes:**

No national level government co-financing facility has been identified.

In 2015 the so called Société métropolitaine d’investissment (SMID), a metropolitan investment company, was set up by the city of Douala and endorsed by the National Commission for Financial Markets with the purpose of raising capital to develop urban projects. Current pipeline includes the Douala International Conference Center" (CFAF 12.4 billion), the "Bonabéri Multimodal Bus Station" (CFAF 1.9 billion), the "Urban Forest" Bessékè Valley (CFAF 2.29 billion), the "Douala Exhibition Center" (CFAF 8.5 billion), among others.

The progress in implementation of SMID pipeline to be verified with TTL and Douala delegates

**Survey of Enabling Conditions for Land Value Capture (LVC)**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Real Estate Market Capacity** | **Land Use Regulations** | **Land Cadaster / Land Data Management** | **Security of property rights** | **Local Fiscal Powers** | **LVC track record** |
|  |  |  |  |  |  |

**REAL ESTATE MARKET CAPACITY**

This indicator consists of sub-indicator data points (covering different subsets of Market Environment), each earning formal scores that contribute to a cumulative overall score for the Market Environment based on which the ultimate color-code for the Market Environment is assigned

**Data points:**

***Market Dynamics****:* Expert snapshot view on the market maturity, formality and its readiness for generating land value premiums and value capture. Scores for this sub-indicator are derived according to the following formalized metrics:

2.0 – **Active and structured** (largely formal) market with rapidly emerging or established presence of high-value commercial properties (at least 200,000 square meters of modern grade A offices, at least 2-3 modern malls, at least 2 internationally branded hotels). No signs of crisis or sustained stagnation.

1.0 – **Structured (largely formal) but slow** market with limited presence of high-grade properties, evident signs of oversupply or sustained crisis is a clear determination for this score even if formal market prevails.

0.5 – **Nascent (largely informal) active** market with yet very limited presence of high-grade properties but with good outlooks as surfaced either in professional market surveys or discovered from anecdotal evidence

0 – **Nascent (largely informal) limited** market - very scarce modern real estate development; on top of that the market shows limited prospects for attracting future investments in high-grade high-value modern properties

***Market Coverage:*** Availability of recent/regular market surveys, ideally prepared by global real estate services companies, e.g. CBRE, Colliers, JLL, Cushman, Knight Frank, DTZ (or other credible sources, including investor surveys)

1 – market covered by professional market surveys

0 – no regular coverage by professional market surveys

***Market Infrastructure:*** Evidence of land/property market infrastructure (property databases, brokers, notaries, surveyors, etc.), assessed based on the following metrics:

1 – **Well functioning infrastructure** (networks of professional agency services providers/brokers, some with international franchises, notaries, locally present land surveyors. etc.)

0 – **Weak infrastructure**, with evident deficiencies (best proxies for such deficiencies are: absence of private notary services, real estate agency services are not subject to licensing; real estate agencies have limited role and are only local/domestic entities while international franchises/rep offices are absent)

***Price Discovery:*** Conclusion on transparency of price discovery process for land and buildings on the local market; the transparency of price discovery is assessed using the following formalized metrics:

1 – **Confidently transparent** - all three of the following conditions are met: role of informal land transaction is minimal or much less compared to formal market, range of fair market values for land is discoverable for any given location, value heatmaps are available, past transaction records are maintained and publicly available, either free of charge of for a fee;

0.5 – **Somewhat transparent** - some of the conditions mentioned in Confidently Transparent are clearly not met; most importantly, if it is clear that valid comparable sales are too limited/sporadic for tracing variations of market prices across the city

0 – **Non-transparent** - informal market dominates, fair market values of any given land or building are hard to discover, land/property values are in most cases discretionary / not backed by comparable sales evidence, income approach to valuation is also not applicable

**Scoring guidelines:**

The sum of scores collected on individual sub-indicators produces the following color designations:

**Green** – equal or larger than 4.0

**Yellow** – 2.0 to 3.5

**Red** – less than 2.0

**Assessment Notes**

***Market Dynamics: score – 1*** *(structured by stagnating market)*

Relatively structured but slow market with some supply of modern yet sub-standard real estate. Douala market has already gone through a cycle of active modern office and commercial construction in the two principal commercial areas of Bonanjo and Akwa in 2000s. However, this real estate stock has aged and often times does not meet the needs of international occupiers forcing many of them to choose office accommodation in converted villas near the international airport. Of note, there is also a stockpile of unfinished mixed-use and office buildings near the port, which were to be built speculatively but never met enough occupier demand and thus didn't secure enough funding to reach completion.

Douala is yet to see the scale of modern retail development that some other West African countries have already witnessed, and international retailers have a limited presence on the Cameroon market. Among the notable commercial developments in Douala is L’Atrium shopping mall on Rue Surcouf, anchored by an international grocery operator.

There is some buoyance on the residential market fueled by the healthy macroeconomic performance (Cameroon is the anchor economy for a larger Central African region, posting steady GDP growth averaging 5% per annum since 2010; and Doula is the country's main economic hub), growing number of wealthy local individuals, some out-of-the country diaspora demand (becoming more evident in recent years), and a stream of international companies seeking to occupy modern villas both as residences for ex-pat workers and as offices.

Looking forward, Douala shows prospects to become another gateway destination for real estate investment in Sub-Saharan Africa, similar to Lagos, Nairobi and Luanda, thanks to the country's good economic performance and Douala's pivotal role in servicing the Central African hinterland. This may establish and reinforce opportunities for land value capture in the city, which may not seem quite as evident yet.

***Market Coverage: score – 0***

Despite gaining some momentum in real estate development, Douala rarely comes on the watch list of international real estate investors, even those that prioritize Sub-Saharan Africa, falling short of the urban hubs in the commodity-rich regions, e.g. Lagos, Abudja, Luanda, Dar-es-Salam, and also trailing behind the capital cities of Africa's top economic performers such as Nairobi, Addis Ababa, Kigali, and Kampala.

***Market Infrastructure: score – 1***

Douala's has relatively robust networks of real estate brokers and other business services providers for real estate (notary service providers, surveyors, etc.). There is a widely recognized lack of professional and technical capacity in land surveying. National government aided by international development agencies has been taking efforts to improve the land surveying infrastructure as part of the land reform being undertaken in Cameroon since mid-2000s.

Even though Douala's commercial and residential properties sometimes find a place in global listings, there is no permanent offices of global real estate service providers in Cameroon (neither in Douala, nor in Cameroon) and global property requests for Cameroon are serviced by international brokerage offices in either Lagos or Nairobi.

***Price discovery: score – 0.5*** *(somewhat transparent market)*

Douala's real estate market has shown signs of formalization and improved transparency over the past decade. The informal segment in land transactions still plays a very significant role, however, the number of transactions concluded on the formal market is growing. There is an understanding that both the national government and the city administration have been coordinating efforts on developing a nationwide and city-level property records and transaction recordation systems, creating opportunities for collecting coherent and reliable sales evidence database.

Douala earns a **cumulative score of 2.5** on above sub-indicators which corresponds to **YELLOW color code** for the city’s real estate market capacity, showing challenging conditions for land value capture with some opportunities that still can arise warranting activation on the local real estate market and increased demand of developable land.

**LAND USE REGULATIONS**

**Data points**

Evidence of a comprehensive plan for city’s territories (Master Plan, Land Ordinances or equivalent), which regulates density, height, and functional uses in various parts of the city.

**Scoring guidelines:**

**Green** - Such plan exists, covers entire city and is able to inform investors of land use and building regulations at - or very close to - parcel by parcel detail

**Yellow** - Such plan exists, but has evident deficiencies, e.g. does not cover entire city, omits important land use guidelines, outdated, has evident enforcement issues, etc.

Red - Such plan does not exist, or even if it technically exists it has not been updated for long (e.g. since the change of political regime)

**Assessment Notes**

Until recently, the urban planning framework in Douala had been laid out in the outdated Master Plan from 1959, followed by a series of Master Plan revisions (e.g. in 1983, 2004) that were never officially ratified. In 2012 a new comprehensive Master Plan was developed (setting the city development vision through 2025), along with the six neighborhood-level land use plans (Plan d’Occupation des Sols) with explicated land use regulations. The new Master Plan was approved by CUD in 2015 (however, it's approval status on the national level and if it's ultimately enacted is subject for confirmation).

By account of WBG, the quality and spatial coverage of the urban planning documents in Cameroon is usually poor, and their implementation is questionable.

**LAND CADASTER / LAND DATA MANAGEMENT**

**Data points**

Availability of centralized database for land parcel information with legal and value records

**Scoring guidelines:**

**Green** - Land Cadaster is well maintained, cadaster information matches legal ownership records and land values in the cadaster correspond to actual market values

**Yellow** - Land Cadaster is in place, but has evident omissions, e.g. does not cover entire city, and/or has mismatches with legal records, land value records in the cadaster are in mismatch with market values

**Red** - Land Cadaster not introduced, or covers less than 30% of city area, or has very poor data / has not been updated for long time

**Assessment Notes**

Cameroon has a formal cadastral system in place that is used to store and operationalize property information for title recognition, and by some evidence even for land valuation for taxation purposes. However, the credibility and completeness of land cadaster is very poor. Of note, possession of an official land title as such often fails to provide secure tenure because of notoriously poor record keeping, including poor maintenance of the land cadaster.

There have been country-wide efforts undertaken by central government to re-establish and improve the land cadaster system.

In the 2018 WBG survey of business regulations, Cameroon (as measured with the data collected for the city of Douala) scored average ratings on the Land Administration Index (scoring 7.0, which is higher than many countries of similar income profile).

**SECURITY OF PROPERTY RIGHTS**

**Data points**

Expert opinion on the level of establishment and recordation of property titles, title search infrastructure, robustness of dispute resolution processes.

**Scoring guidelines:**

**Green** – robust land and property title registers and property records, covering entire area of the city; registers are regularly updated; property titles do not overlap and formal development rights as a rule reflect de fact ownership; domestic legal framework able to resolve most of property disputes; distribution of land/property rights between government agencies is well established and recorded.

**Yellow** – nominal presence of land/property registers. However, the system has numerous evidence of inaccurate, unrecorded, outdated or overlapping land/property rights; numerous cases of non-delineated lands (e.g. clusters of urban “nobody’s land” with potential conflicting interests); evidence of poorly established public ownership (conflicting claims of different public agencies and layers of government).

**Red** – nonexistent or very incomplete title registers; title search and property dispute resolution have significant informal aspects.

**Assessment Notes**

The market is plagued with high level of tenure insecurity as well as poor record keeping of titles and transactions. Possession of an official title in land is not an assurance that the property belongs to title-holder (more so, there could be several official titles for the same piece of land). To that end, financial institutions are wary of land as a good collateral. There are also numerous instances of overlap and conflict between the traditional (informal) and modern (formal) rights. In recent years since the start of the land reform in mid 2000s, Cameroon and the city of Douala in particular have achieved some progress in increasing the robustness of the land titling process (however, the process of acquiring a title is still expensive for average population, but for corporate users there are evident improvements). Of note, national legislation recognizes ownership titles and leases as the only legal means of holding property rights to land and there is no legal recognition of customary informal kinds of tenure. Yet, more than 80% of land holders in Cameroon don’t have good tittle in their land. Similarly, many urban lands in Douala are managed informally through customary tenure arrangements. As an example, according to the Law, land without formal property titles belongs to the State, however traditional occupants claim this land for themselves because of their traditional rights. This condition complicates primary allocation of de jure state-owned land to private developers and generates land ownership conflicts.

Recommended score for this indicator for Douala is RED.

**LOCAL FISCAL POWERS**

**Data points**

Ability of the city to maintain revenue from own sources and manage level of operating and capital expenditure at discretion of the city administration.

**Scoring guidelines:**

**Green** - revenues from own sources comprise more than 30% of city's revenue base; city has significant discretion in operating and capital financial planning; operating revenues from service mandates mostly able to at least recover the running costs for those services

**Yellow** - revenue from own rouses comprise less than 30% of city's revenue base; city can enact, set and administer local taxes (property taxes in particular), however, city's revenue and spending mandates are still largely reliant on intergovernmental transfers and spending obligations are higher than revenue collected by the city from respective services

**Red** - very limited fiscal powers and complete dependence on intergovernmental transfers; municipal services are top-down mandates from higher levels of government with limited capacity for own revenue collection and cost recovery

**Assessment Notes**

Very limited fiscal powers at the city (CUD) level.

Fiscal powers are heavily concentrated in the arms of the national government. City-level jurisdiction does not really have the authority to raise money independently through tax and fee collections and direct borrowing.

Operating revenue and expenses vary significantly year to year indicating limited predictability of local budgeting process.

**TRACK RECORD IN LAND VALUE CAPTURE**

**Data points**

Track record of the city authorities in negotiating public-private partnerships in land and property development, in particular involving obligations for private partners to build (contribute) public infrastructure (e.g. joint development agreements, and/or development SPVs, selling development rights with infrastructure encumbrances/conditions, etc.).

**Scoring guidelines:**

**Green** - evident track record hereof; the city is legally permitted to negotiate land development deals with private partners and has transacted land /property rights with infrastructure obligations.

**Yellow** - evidence that the city is legally permitted to negotiate land development deals with private partners; however, the track record of such is either very limited (e.g. 1-2 deals in the foreseeable past) or inconclusive of the city's real ability to efficiently structure land value capture transactions with fair compensation to the city (i.e. forcing private partners to act in good faith)

**Red** - no track record hereof; OR, clear evidence (with sources) that city is not permitted to negotiate land development deals with private partners

**Assessment Notes:**

Track record of CUD in structuring land development agreements with private partners is limited to housing projects where developers were granted with free rights in land, moreover sometimes with obligation taken by government to service land with bulk infrastructure. So, practically speaking these arrangements were somewhat reverse to what land value capture is; those were more of land and infrastructure subsidies to private developers. There is no evidence of land transactions where private developers would be obligated to fund off-site infrastructure improvements in exchange for land rights.

|  |
| --- |
| Eldoret, Kenya |

**Track Record and Regulations in Structuring PPPs**

|  |  |  |  |
| --- | --- | --- | --- |
| **Track Record** | **Regulatory Frameworks** | **Procurement Capacity** | **Government**  **Co-Financing** |
|  |  |  |  |

**PPP TRACK RECORD (RECENT 10 YEARS):**

**Data points**

|  |  |
| --- | --- |
| PPPs of record in the country (in any status, incl. completed and planned) | > 80 |
| PPP of record in the jurisdictional borders of the assessed city | 10 |
| Nationwide count of PPPs in areas of CRP focus (sanitation, water supply, flood mitigation, urban upgrades, housing, urban transport) | 12 |

**Scoring guidelines:**

**Green** - solid track record

**Yellow** - some track record / or good national track record, limited local capacity

**Red** - no or limited track record with limited local capacity respectively

**Assessment notes:**

Kenya has shown solid experience in structuring PPPs over the past 10 years compared to other Sub-Saharan countries. The national track record includes 22 PPP infrastructure projects that have already achieved financial close (with investments worth about USD 2.8 billion) and more than 60 projects in future pipeline. Majority of PPPs launched in recent 10 years are concentrated in energy, sanitation, water supply, and transportation.

Per data from Kenya PPP Unit, Eldoret hosts only one PPP project, which calls for provision of student housing in Eldoret University (project is currently soliciting investor interest, private partner not selected yet).

The Government of Kenya has made infrastructure development through PPPs a priority mechanism for delivering infrastructure projects and introduced economic incentives to support PPPs (e.g. tax exemption for interest paid on loans from foreign sources in PPP transactions associated with investments in energy, water and infrastructure).

Build-Operate-Transfer (BOT) is the most common business model for infrastructure PPPs in Kenya. Apart from BOT, some of the other commonly adopted models of PPPs include Build-Own-Operate-Transfer (BOOT) and Performance based management / O&M contracts

Currently, more than 90% of PPP projects in Kenya are developed by procuring agencies of the central government, and less than 10% are developed by county governments.

**PPP REGULATORY FRAMEWORK**

**Data points**

|  |  |
| --- | --- |
| Does national regulatory framework allow procuring PPPs? | YES |
| Does regulatory framework contain specialized legislation regulating PPPs? | YES |
| No restrictions on structuring PPPs in CRP priority sectors? | YES |
| Foreign companies are NOT prohibited from participating in PPP? | YES |
| Foreign companies are permitted to repatriate income from PPP operations? | YES |
| Flexibility to change ownership structure / assign rights under PPP contract? | YES |
| International arbitration allowable for dispute resolution of PPP contracts? | YES |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 5 positive responses

**Yellow** – 2 to 4 positive responses

**Red** – 1 or 0 positive responses

**Assessment notes:**

PPPs in Kenya are governed by Law 15 of 2013 on Public-Private Partnerships (the "PPP Act") and the Public Private Partnership Regulations published in December 2014. Kenya's PPP laws boast investor-friendly covenants such as flexibility to change ownership structure in PPP vehicles (subject to approval by the contracting authority) and international arbitration in dispute resolution. Foreign companies are explicitly allowed to participate in PPPs and also allowed to repatriate income resulting from their PPP operations in Kenya.

**PPP PROCUREMENT CAPACITY**

**Data points**

|  |  |
| --- | --- |
| Cities/municipalities by law have procuring authority for PPPs? | YES |
| PPP contract can be awarded even if only one proposal is submitted | YES |
| Unsolicited proposals either explicitly allowed or not regulated and possible in practice | YES |
| Competitive PPP procurement must be initiated when proceeding with an unsolicited proposal\* | NO |
| Specialized municipal entity that facilitates the PPP program (PPP Unit) | NO |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 4-5 positive responses

**Yellow** – 2 to 4 positive responses;

**Red** – 1 or 0 positive responses; if 1 but earned on “Specialized municipal entity that facilitates PPP” – that is YELLOW

**Assessment notes:**

County governments are included as procurement authorities (eligible to procure PPP) under Kenya's PPP Act. They are required to submit lists of PPP projects they intend to undertake in line with their development programs. These lists are assessed and approved, hierarchically, by the National PPP Unit, the PPP Committee, and the National Cabinet. The PPP Committee acts as the main regulator of PPPs in Kenya and approves PPP project proposals submitted by the contracting authorities of different levels (either national or municipal). The PPP Unit is established within the National Treasury and serves as the technical arm of the PPP Committee. The PPP Unit is responsible for promoting PPPs, offering technical support to PPP-procuring agencies and making recommendation on the project submission to the PPP Committee.

**GOVERNMENT CO-FINANCING**

**Data points**

Availability and performance of government-led infrastructure co-financing vehicles (Sovereign Wealth Funds, Local Development Investment vehicles, state-run Guaranteed Loan and Grant programs, Infrastructure Guarantee Funds, etc.). As such, the contemplated government co-financing vehicle may serve as the source of additional leverage, equity and/or a provider of credit enhancement mechanisms in project finance and can open additional opportunities for attracting private capital for infrastructure financing.

**Scoring guidelines:**

Educated opinion on availability of government financing facilities that provide financial assistance to infrastructure projects:

**Green** – Dedicated infrastructure co-financing facility/facilities are established by national or sub-national government; clear criteria for application for such co-financing; proven track record of long or short-term co-financing provided by such facilities for country’s infrastructure projects (not necessarily in the surveyed city).

**Yellow** – Some forms of government co-financing have been identified as a supportive tool for infrastructure investments; access to such government-led co-financing is limited due to either limited size of such co-financing and/or lack of transparency in funds allocation (e.g. unclear criteria for application and approval of such funds) or such a vehicle is planned/drafted but yet to be activated in practice ;

**Red** – No evidence of government financing facilities that are set to co-finance infrastructure alongside the private sector (infrastructure can still be extensively funded exclusively from state funds, user fees and/or concessional loans).

**Assessment notes:**

The government through Treasury drafted the Kenya National Sovereign Wealth Fund (SWF) Bill whose main aim to redistribute proceeds from oil, gas and mining industries into infrastructure development. This would lay the legal framework for managing oil and gas wealth from the discovered resources. A seed capital of KES 10 billion (equivalent to USD 100 mln) was injected into the fund. The bill proposes the establishment of three main funds within it: stabilization fund, infrastructure and development fund, and a future generation fund.

Climate Change Act 2016 established the Climate Change Fund as a financing mechanism for priority climate change actions and interventions.

|  |
| --- |
| **QUESTIONS:**  The status of the Sovereign Wealth Fund and its usefulness for county governments should be clarified with TTL and government officials. |

**Survey of Enabling Conditions for Land Value Capture (LVC)**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Real Estate Market Capacity** | **Land Use Regulations** | **Land Cadaster / Land Data Management** | **Security of property rights** | **Local Fiscal Powers** | **LVC track record** |
|  |  |  |  |  |  |

**REAL ESTATE MARKET CAPACITY**

This indicator consists of sub-indicator data points (covering different subsets of Market Environment), each earning formal scores that contribute to a cumulative overall score for the Market Environment based on which the ultimate color-code for the Market Environment is assigned

**Data points:**

***Market Dynamics****:* Expert snapshot view on the market maturity, formality and its readiness for generating land value premiums and value capture. Scores for this sub-indicator are derived according to the following formalized metrics:

2.0 – **Active and structured** (largely formal) market with rapidly emerging or established presence of high-value commercial properties (at least 200,000 square meters of modern grade A offices, at least 2-3 modern malls, at least 2 internationally branded hotels). No signs of crisis or sustained stagnation.

1.0 – **Structured (largely formal) but slow** market with limited presence of high-grade properties, evident signs of oversupply or sustained crisis is a clear determination for this score even if formal market prevails.

0.5 – **Nascent (largely informal) active** market with yet very limited presence of high-grade properties but with good outlooks as surfaced either in professional market surveys or discovered from anecdotal evidence

0 – **Nascent (largely informal) limited** market - very scarce modern real estate development; on top of that the market shows limited prospects for attracting future investments in high-grade high-value modern properties

***Market Coverage:*** Availability of recent/regular market surveys, ideally prepared by global real estate services companies, e.g. CBRE, Colliers, JLL, Cushman, Knight Frank, DTZ (or other credible sources, including investor surveys)

1 – market covered by professional market surveys

0 – no regular coverage by professional market surveys

***Market Infrastructure:*** Evidence of land/property market infrastructure (property databases, brokers, notaries, surveyors, etc.), assessed based on the following metrics:

1 – **Well functioning infrastructure** (networks of professional agency services providers/brokers, some with international franchises, notaries, locally present land surveyors. etc.)

0 – **Weak infrastructure**, with evident deficiencies (best proxies for such deficiencies are: absence of private notary services, real estate agency services are not subject to licensing; real estate agencies have limited role and are only local/domestic entities while international franchises/rep offices are absent)

***Price Discovery:*** Conclusion on transparency of price discovery process for land and buildings on the local market; the transparency of price discovery is assessed using the following formalized metrics:

1 – **Confidently transparent** - all three of the following conditions are met: role of informal land transaction is minimal or much less compared to formal market, range of fair market values for land is discoverable for any given location, value heatmaps are available, past transaction records are maintained and publicly available, either free of charge of for a fee;

0.5 – **Somewhat transparent** - some of the conditions mentioned in Confidently Transparent are clearly not met; most importantly, if it is clear that valid comparable sales are too limited/sporadic for tracing variations of market prices across the city

0 – **Non-transparent** - informal market dominates, fair market values of any given land or building are hard to discover, land/property values are in most cases discretionary / not backed by comparable sales evidence, income approach to valuation is also not applicable

**Scoring guidelines:**

The sum of scores collected on individual sub-indicators produces the following color designations:

**Green** – equal or larger than 4.0

**Yellow** – 2.0 to 3.5

**Red** – less than 2.0

**Assessment Notes**

***Market Dynamics: score – 0.5*** *(nascent market with some structure)*

Eldoret (pop. 300 thsd) is the 5th largest city in Kenya, yet falling far behind large centers like Nairobi, Mombasa and Kisumu in terms of population numbers. No available data on recent performance of real estate market. The only data found show that in terms of retailing, Eldoret was the worst performing market (out of Kenya’s four main cities in 2016) with an average rental yield of 6.6%, which can be attributed to competition from small scale retailers in the region. Recent news argues that the influx of investors from outside Uasin Gishu county and the arrival of brokers in the land and housing sector has led to a spike in property prices in Eldoret town. This has in turn led to the locking out of potential local developers as they cannot afford the prices being offered for prime land in the town.

***Market Coverage: score – 0*** *(*market not covered by professional surveys)

No available market surveys, either by local or international RE services companies.

***Market Infrastructure: score – 0*** *(deficient infrastructure)*

Despite regulatory framework is in place at the national level, desk research shows growing conflicts in Eldoret due to non-regulated brokers entering the market to sell idle land to international buyers. This questions the local real estate market structure and for this reason a “0” designation is advised.

***Price discovery: score – 0.5*** *(somewhat transparent market)*

Discovery of land and building prices is considered somewhat transparent by market practitioners. Final sale prices are rarely disclosed publicly, and pre-sale listing prices serve as a good market reference, subject for adjustment (to confidently conclude on achievable final sale prices in arm's length sales).

Eldoret earns a **cumulative score of 1** on above sub-indicators which corresponds to **RED color code** for the city’s real estate market capacity, showing challenging for Land Value Capture in terms of enabling market environment.

**LAND USE REGULATIONS**

**Data points**

Evidence of comprehensive plan for city’s territories (Master Plan, Land Ordinances or equivalent), which regulates density, height, and functional uses in various parts of the city

**Scoring guidelines:**

**Green** - Such plan exists, covers entire city and is able to inform investors of land use and building regulations at - or very close to - parcel by parcel detail

**Yellow** - Such plan exists, but has evident deficiencies, e.g. does not cover entire city, omits important land use guidelines, outdated, has evident enforcement issues, etc.

Red - Such plan does not exist, or even if it technically exists it has not been updated for long (e.g. since the change of political regime)

**Assessment Notes**

In 2015, a new Land Use Plan (LUP) was announced for Eldoret. The plan aims to properly demarcate the highly urbanizing town into residential and commercial set-ups. It will also control the use of land, with a key focus on proper planning for constructions, public facilities and agricultural activities. Land use in the town has been uncoordinated due to high urbanization, threatening planned development and development of agricultural activities. In fact, in 2014 the county government was forced to suspend critical land transactions such as land subdivision and change of user services, with the view of first addressing the unplanned development. The progress in elaboration of the new LUP in the two years after its announcement should be clarified through interviews with county officials.

The recommended Assessor’s color rating is YELLOW.

**LAND CADASTER / LAND DATA MANAGEMENT**

**Data points**

Availability of centralized database for land parcel information with legal and value records

**Scoring guidelines:**

**Green** - Land Cadaster is well maintained, cadaster information matches legal ownership records and land values in the cadaster correspond to actual market values

**Yellow** - Land Cadaster is in place, but has evident omissions, e.g. does not cover entire city, and/or has mismatches with legal records, land value records in the cadaster are in mismatch with market values

**Red** - Land Cadaster not introduced, or covers less than 30% of city area, or has very poor data / has not been updated for long time

**Assessment Notes**

Land Cadastral system in Kenya is maintained and regularly updated but data inputs are prone to manipulation and are lacking complete territorial coverage. In fact, desk research showed that conventional cadastral and land registration systems cannot supply security of tenure to the vast majority of land holders (especially low-income population groups). As registration of land requires proper survey of boundaries, many people find the costs of survey to be unaffordable and hence unable to register land and opt to transact in the informal land markets. This makes accurate land data management and recordation for cadastral purposes very challenging

In Eldoret, the State has rolled out the program of digitalization of the Lands registry to curb cases of forgery of title deeds in a process that is about to be completed. Recommended score for this indicator is YELLOW.

**SECURITY OF PROPERTY RIGHTS**

**Data points**

Expert opinion on the level of establishment and recordation of property titles, title search infrastructure, robustness of dispute resolution processes.

**Scoring guidelines:**

**Green** – robust land and property title registers and property records, covering entire area of the city; registers are regularly updated; property titles do not overlap and formal development rights as a rule reflect de fact ownership; domestic legal framework able to resolve most of property disputes; distribution of land/property rights between government agencies is well established and recorded.

**Yellow** – nominal presence of land/property registers. However, the system has numerous evidence of inaccurate, unrecorded, outdated or overlapping land/property rights; numerous cases of non-delineated lands (e.g. clusters of urban “nobody’s land” with potential conflicting interests); evidence of poorly established public ownership (conflicting claims of different public agencies and layers of government).

**Red** – nonexistent or very incomplete title registers; title search and property dispute resolution have significant informal aspects.

**Assessment Notes**

Kenya lacks a formal property register for documentation of property development. The register at the Ministry of Lands Housing and Urban Development is limited to capturing and recording information in regard to land only and hence no building information such as property description and value can be obtained.

In the case of Eldoret, desk research found that construction of housing projects by the real estate developers has slowed due to conflicts related to land disputes and insecurity of formal property rights and several cases over disputed ownership are pending in the courts. The most popular fraudulent deals involve idle land.

Recommended score for this indicator is YELLOW.

**LOCAL FISCAL POWERS**

**Data points**

Ability of the city to maintain revenue from own sources and manage level of operating and capital expenditure at discretion of the city administration.

**Scoring guidelines:**

**Green** - revenues from own sources comprise more than 30% of city's revenue base; city has significant discretion in operating and capital financial planning; operating revenues from service mandates mostly able to at least recover the running costs for those services

**Yellow** - revenue from own rouses comprise less than 30% of city's revenue base; city can enact, set and administer local taxes (property taxes in particular), however, city's revenue and spending mandates are still largely reliant on intergovernmental transfers and spending obligations are higher than revenue collected by the city from respective services

**Red** - very limited fiscal powers and complete dependence on intergovernmental transfers; municipal services are top-down mandates from higher levels of government with limited capacity for own revenue collection and cost recovery

**Assessment Notes**

Despite recent decentralization efforts, counties still receive most of their income through central government transfers. In theory, counties can initiate public-private arrangements (e.g. PPP, LVC transactions) but it will ultimately require the revision and further approval of a central government entity, in most cases the Treasury.

Recommended color-coded score for this indicator is YELLOW.

**TRACK RECORD IN LAND VALUE CAPTURE**

**Data points**

Track record of the city authorities in negotiating public-private partnerships in land and property development, in particular involving obligations for private partners to build (contribute) public infrastructure (e.g. joint development agreements, and/or development SPVs, selling development rights with infrastructure encumbrances/conditions, etc.).

**Scoring guidelines:**

**Green** - evident track record hereof; the city is legally permitted to negotiate land development deals with private partners and has transacted land /property rights with infrastructure obligations.

**Yellow** - evidence that the city is legally permitted to negotiate land development deals with private partners; however, the track record of such is either very limited (e.g. 1-2 deals in the foreseeable past) or inconclusive of the city's real ability to efficiently structure land value capture transactions with fair compensation to the city (i.e. forcing private partners to act in good faith)

**Red** - no track record hereof; OR, clear evidence (with sources) that city is not permitted to negotiate land development deals with private partners

**Assessment Notes**

No evident track record of land transactions with off-site public investment requirements to private investors has been found in Eldoret.

|  |
| --- |
| Guatemala City, Guatemala |

**Track Record and Regulations in Structuring PPPs**

|  |  |  |  |
| --- | --- | --- | --- |
| **Track Record** | **Regulatory Frameworks** | **Procurement Capacity** | **Government**  **Co-Financing** |
|  |  |  |  |

**PPP TRACK RECORD (RECENT 10 YEARS):**

**Data points**

|  |  |
| --- | --- |
| PPPs of record in the country (in any status) | > 20 |
| PPP of record in the jurisdictional borders of the assessed city | 4 |
| Nationwide count of PPPs in areas of CRP focus (sanitation, water supply, flood mitigation, urban upgrades, housing, urban transport) | 6 |

**Scoring guidelines:**

**Green** - solid track record

**Yellow** - some track record / or good national track record, limited local capacity

**Red** - no or limited track record with limited local capacity respectively

**Assessment notes:**

Most of Guatemala's PPPs in the last decade were in the electricity generation sector, with one PPP in the water utility sector in the Municipalities of Santo Tomas de Castilla and Puerto Barrios, and a Port Terminal at Puerto Quetzal. Guatemala's PPP promotion agency ANADIE, created in 2012, lists currently 4 projects in planning phase/bidding for Guatemala City according to their project portfolio. These include: Guatemala City State Administrative Center, Guatemala City North-East Bypass, Modernization of the International Airport La Aurora, and Guatemala City's Commuter Rail and Road Interconnection Vial.

|  |  |
| --- | --- |
| **QUESTIONS:**  Track record count includes ANADIE’s project portfolio pipeline. Status of these to be discussed with TTL and City Officials.  It appears that since the approval of the PPP law in 2010 , while projects have been in planning, no PPP has been awarded yet since - this needs to be verified with TTL and City Officials. |  |

**PPP REGULATORY FRAMEWORK**

**Data points**

|  |  |
| --- | --- |
| Does national regulatory framework allow procuring PPPs? | YES |
| Does regulatory framework contain specialized legislation regulating PPPs? | YES |
| No restrictions on structuring PPPs in CRP priority sectors? | NO |
| Foreign companies are NOT prohibited from participating in PPP? | YES |
| Foreign companies are permitted to repatriate income from PPP operations? | YES |
| Flexibility to change ownership structure / assign rights under PPP contract? | YES |
| International arbitration allowable for dispute resolution of PPP contracts? | YES |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 5 positive responses

**Yellow** – 2 to 4 positive responses

**Red** – 1 or 0 positive responses

**Assessment notes:**

PPPs in Guatemala are regulated by the Decree No 16-2010 that approves the Law of Partnerships for Economic Infrastructucture. Article 2 of the PPP law defines the scope of PPP sectors, which does not include water and irrigation, as werll as infrastructure in education and health. Article 145 of the PPP Regulations provides for the inclusion in the contract of provisions regarding change in ownership on the SPV.

**PPP PROCUREMENT CAPACITY**

**Data points**

|  |  |
| --- | --- |
| Cities/municipalities by law have procuring authority for PPPs? | YES |
| PPP contract can be awarded even if only one proposal is submitted | YES |
| Unsolicited proposals either explicitly allowed or not regulated and possible in practice | NO |
| Competitive PPP procurement must be initiated when proceeding with an unsolicited proposal\* | NO |
| Specialized municipal entity that facilitates the PPP program (PPP Unit) | NO |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 4-5 positive responses

**Yellow** – 2 to 4 positive responses;

**Red** – 1 or 0 positive responses; if 1 but earned on “Specialized municipal entity that facilitates PPP” – that is YELLOW

**Assessment notes:**

It appears that cities/municipalities have procuring authorities given that according to article 6 of the PPP Law the procuring authority is the body, entity or state institution, centralized, decentralized or autnomous, that contracts with a private partner the construction, delivery or provision of a service under its authority. Article 128 of the PPP Law regulations: the project will be awarded even if there is only one bidder, as long as it meets all requirements of the tender documents. Unsolicited proposals are not regulated by the legal framework and do not happen in practice. While no specialized entity facilitating PPPs at the municipal level appears to exist, PPP projects are structured under the assessment of ANADIE (Agencia Nacional de Alianzas para el Desarollo de Infraestructura Economica), the Guatamalan agency responsible for the application of the PPP Law and the national level.

|  |
| --- |
| **QUESTIONS:**  Discuss with TTL if plans exist to establish a PPP unit at the municipal level. |

4. **GOVERNMENT CO-FINANCING**

**Data points**

Availability and performance of government-led infrastructure co-financing vehicles (Sovereign Wealth Funds, Local Development Investment vehicles, state-run Guaranteed Loan and Grant programs, Infrastructure Guarantee Funds, etc.). As such, the contemplated government co-financing vehicle may serve as the source of additional leverage, equity and/or a provider of credit enhancement mechanisms in project finance and can open additional opportunities for attracting private capital for infrastructure financing.

**Scoring guidelines:**

Educated opinion on availability of government financing facilities that provide financial assistance to infrastructure projects:

**Green** – Dedicated infrastructure co-financing facility/facilities are established by national or sub-national government; clear criteria for application for such co-financing; proven track record of long or short-term co-financing provided by such facilities for country’s infrastructure projects (not necessarily in the surveyed city).

**Yellow** – Some forms of government co-financing have been identified as a supportive tool for infrastructure investments; access to such government-led co-financing is limited due to either limited size of such co-financing and/or lack of transparency in funds allocation (e.g. unclear criteria for application and approval of such funds) or such a vehicle is planned/drafted but yet to be activated in practice;

**Red** – No evidence of government financing facilities that are set to co-finance infrastructure alongside the private sector (infrastructure can still be extensively funded exclusively from state funds, user fees and/or concessional loans).

**Assessment notes:**

Guatemala does not have an sovereign wealth fund or similar government co-financing facilities.

|  |
| --- |
| **QUESTIONS:**  Discuss with TTL and City Officials if any efforts to set up government-led co-financing vehicles are underway. |

**Survey of Enabling Conditions for Land Value Capture (LVC)**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Real Estate Market Capacity** | **Land Use Regulations** | **Land Cadaster / Land Data Management** | **Security of property rights** | **Local Fiscal Powers** | **LVC track record** |
| Subject to revision |  |  | To discuss with city officials | To discuss with city officials |  |

**REAL ESTATE MARKET CAPACITY**

This indicator consists of sub-indicator data points (covering different subsets of Market Environment), each earning formal scores that contribute to a cumulative overall score for the Market Environment based on which the ultimate color-code for the Market Environment is assigned.

**Data points:**

***Market Dynamics****:* Expert snapshot view on the market maturity, formality and its readiness for generating land value premiums and value capture. Scores for this sub-indicator are derived according to the following formalized metrics:

2.0 – **Active and structured** (largely formal) market with rapidly emerging or established presence of high-value commercial properties (at least 200,000 square meters of modern grade A offices, at least 2-3 modern malls, at least 2 internationally branded hotels). No signs of crisis or sustained stagnation.

1.0 – **Structured (largely formal) but slow** market with limited presence of high-grade properties, evident signs of oversupply or sustained crisis is a clear determination for this score even if formal market prevails

0.5 – **Nascent (largely informal) active** market with yet very limited presence of high-grade properties but with good outlooks as surfaced either in professional market surveys or discovered from anecdotal evidence

0 – **Nascent (largely informal) limited** market - very scarce modern real estate development; on top of that the market shows limited prospects for attracting future investments in high-grade high-value modern properties

***Market Coverage:*** Availability of recent/regular market surveys, ideally prepared by global real estate services companies, e.g. CBRE, Colliers, JLL, Cushman, Knight Frank, DTZ (or other credible sources, including investor surveys)

1 – market covered by professional market surveys

0 – no regular coverage by professional market surveys

***Market Infrastructure:*** Evidence of land/property market infrastructure (property databases, brokers, notaries, surveyors, etc.), assessed based on the following metrics:

1 – **Well functioning infrastructure** (networks of professional agency services providers/brokers, some with international franchises, notaries, locally present land surveyors. etc.)

0 – **Weak infrastructure**, with evident deficiencies (best proxies for such deficiencies are: absence of private notary services, real estate agency services are not subject to licensing; real estate agencies have limited role and are only local/domestic entities while international franchises/rep offices are absent)

***Price Discovery:*** Conclusion on transparency of price discovery process for land and buildings on the local market; the transparency of price discovery is assessed using the following formalized metrics:

1 – **Confidently transparent** - all three of the following conditions are met: role of informal land transaction is minimal or much less compared to formal market, range of fair market values for land is discoverable for any given location, value heatmaps are available, past transaction records are maintained and publicly available, either free of charge of for a fee;

0.5 – **Somewhat transparent** - some of the conditions mentioned in Confidently Transparent are clearly not met; most importantly, if it is clear that valid comparable sales are too limited/sporadic for tracing variations of market prices across the city

0 – **Non-transparent** - informal market dominates, fair market values of any given land or building are hard to discover, land/property values are in most cases discretionary / not backed by comparable sales evidence, income approach to valuation is also not applicable

**Scoring guidelines:**

The sum of scores collected on individual sub-indicators produces the following color designations:

**Green** – equal or larger than 4.0

**Yellow** – 2.0 to 3.5

**Red** – less than 2.0

**Assessment Notes**

***Market Dynamics: score – 1.0***

In 2017 Guatemala City saw its highest year of office production since 2012, with 55.240 m2 delivered to the market. The largest projects were Work Technology Center (Phase III) and Built-to-Suit developments for Telus and Tigo. Rents climbed steadily, around 3.7% from 2016 levels. However, rents in Guatemala City remain the lowest in the region by far. Class A buildings are leasing for between USD $10-12/m2 /month. These prices have attracted many call centers who are looking to optimize their operational costs. The most dynamic suburbs are Proceres and the newly consolidated Vista Hermosa; over 70% of the production pipeline is concentrated in these two submarkets.

***Market Coverage: score – 0***

Desk research was unsuccessful in finding recent market surveys, either in Spanish or English.

***Market Infrastructure: score – X***

Although desk research found some local professional agency services providers/brokers and notaries, the existence of a wider network with international presence that evidences a well-functioning market infrastructure needs to be further clarified with city officials.

|  |
| --- |
| **QUESTIONS:**  Discuss with city officials the land/property market infrastructure. |

***Price discovery: score – 0.5***

Information found through desk research suggests that an important part of the market is informal, with transactions taking place in cash and tied to huge (40-50%) discounts from the original asking price. Selling prices usually registered below the actual price for tax purposes.

Guatemala City earns a **preliminary cumulative score of 1.5** on above sub-indicators which corresponds to **RED color code** as an assessor’s conclusion for the city’s real estate market capacity.

**LAND USE REGULATIONS**

**Data points**

The City has developed a comprehensive plan for its territories (Master Plan, Land Ordinances or equivalent), which regulates density, height, and functional uses in various parts of the city

**Scoring guidelines:**

**Green** - Such plan exists, covers entire city and is able to inform investors of land use and building regulations at - or very close to - parcel by parcel detail

**Yellow** - Such plan exists, but has evident deficiencies, e.g. does not cover entire city, omits important land use guidelines, outdated, has evident enforcement issues, etc.

Red - Such plan does not exist, or even if it technically exists it has not been updated for long (e.g. since the change of political regime)

**Assessment Notes**

Land Use Plan in place for Guatemala City. The latest version found dates 2008 and the existence of further updates should be clarified with city officials. The emergence of informal settlements in high-risk areas suggests that such plan lacks efficient enforcement. The city is also developing the Guatemala Plan 2020 which sets out general urban development guidelines addressing a number of priorities such as environmental responsibility and awareness, economic competitiveness, urban security, protection of water resources, the productive use of land in an orderly fashion, social solidarity and traffic control.

Assessor’s color rating for Guatemala City’s land use regulations is YELLOW.

|  |
| --- |
| **QUESTIONS:**  Discuss with city officials land use plan updates and corroborate enforcement challenges. |

**LAND CADASTER / LAND DATA MANAGEMENT**

**Data points**

Availability of centralized database for land parcel information with legal and value records

**Scoring guidelines:**

**Green** - Land Cadaster is well maintained, cadaster information matches legal ownership records and land values in the cadaster correspond to actual market values

**Yellow** - Land Cadaster is in place, but has evident omissions, e.g. does not cover entire city, and/or has mismatches with legal records, land value records in the cadaster are in mismatch with market values

**Red** - Land Cadaster not introduced, or covers less than 30% of city area, or has very poor data / has not been updated for long time

**Assessment Notes**

Land cadaster is in place for Guatemala City. Moreover, according to Congressional Decree 12-2002 the city should be responsible for continuous updating. Discussions with city officials are recommended to clarify coverage and update level.

Recommended score for this indicator is YELLOW.

**SECURITY OF PROPERTY RIGHTS**

**Data points**

Expert opinion on the level of establishment and recordation of property titles, title search infrastructure, robustness of dispute resolution processes.

**Scoring guidelines:**

**Green** – robust land and property title registers and property records, covering entire area of the city; registers are regularly updated; property titles do not overlap and formal development rights as a rule reflect de fact ownership; domestic legal framework able to resolve most of property disputes; distribution of land/property rights between government agencies is well established and recorded.

**Yellow** – nominal presence of land/property registers. However, the system has numerous evidence of inaccurate, unrecorded, outdated or overlapping land/property rights; numerous cases of non-delineated lands (e.g. clusters of urban “nobody’s land” with potential conflicting interests); evidence of poorly established public ownership (conflicting claims of different public agencies and layers of government).

**Red** – nonexistent or very incomplete title registers; title search and property dispute resolution have significant informal aspects.

**Assessment Notes**

Property titles are registered before the General Property Register. This public institution carries out periodic updates and the registration process is fairly simple. Nonetheless, city officials’ inputs are needed to establish level of coverage of registered property titles and the existence of a robust dispute resolution process.

Recommended score for this indicator is x.

|  |
| --- |
| **QUESTIONS:**  Clarify further with city officials.  Is the cadaster linked to property taxation? |

**LOCAL FISCAL POWERS**

**Data points**

Ability of the city to maintain revenue from own sources and manage level of operating and capital expenditure at discretion of the city administration.

**Scoring guidelines:**

**Green** - revenues from own sources comprise more than 30% of city's revenue base; city has significant discretion in operating and capital financial planning; operating revenues from service mandates mostly able to at least recover the running costs for those services

**Yellow** - revenue from own rouses comprise less than 30% of city's revenue base; city can enact, set and administer local taxes (property taxes in particular), however, city's revenue and spending mandates are still largely reliant on intergovernmental transfers and spending obligations are higher than revenue collected by the city from respective services

**Red** - very limited fiscal powers and complete dependence on intergovernmental transfers; municipal services are top-down mandates from higher levels of government with limited capacity for own revenue collection and cost recovery

**Assessment Notes**

Recommended color-coded score for this indicator is x.

**TRACK RECORD IN LAND VALUE CAPTURE**

**Data points**

Track record of the city authorities in negotiating public-private partnerships in land and property development, in particular involving obligations for private partners to build (contribute) public infrastructure (e.g. joint development agreements, and/or development SPVs, selling development rights with infrastructure encumbrances/conditions, etc.).

**Scoring guidelines:**

**Green** - evident track record hereof; the city is legally permitted to negotiate land development deals with private partners and has transacted land /property rights with infrastructure obligations.

**Yellow** - evidence that the city is legally permitted to negotiate land development deals with private partners; however, the track record of such is either very limited (e.g. 1-2 deals in the foreseeable past) or inconclusive of the city's real ability to efficiently structure land value capture transactions with fair compensation to the city (i.e. forcing private partners to act in good faith)

**Red** - no track record hereof; OR, clear evidence (with sources) that city is not permitted to negotiate land development deals with private partners

**Assessment Notes**

No track record found for Guatemala City.

Recommended color code designation is RED.

|  |
| --- |
| Irbid, Jordan |

**Track Record and Regulations in Structuring PPPs**

|  |  |  |  |
| --- | --- | --- | --- |
| **Track Record** | **Regulatory Frameworks** | **Procurement Capacity** | **Government**  **Co-Financing** |
|  |  |  |  |

**PPP TRACK RECORD (RECENT 10 YEARS):**

**Data points**

|  |  |
| --- | --- |
| PPPs of record in the country (in any status) | > 30 |
| PPP of record in the jurisdictional borders of the assessed city | 2 |
| Nationwide count of PPPs in areas of CRP focus (sanitation, water supply, flood mitigation, urban upgrades, housing, urban transport) | 3 |

**Scoring guidelines:**

**Green** - solid track record

**Yellow** - some track record / or good national track record, limited local capacity

**Red** - no or limited track record with limited local capacity respectively

**Assessment notes:**

Most PPPs in Jordan within the last decade have been within the energy sector for electricity generation, plus three projects in waste and sewage treatment, according to the World Bank’s Knowledge Lab. Jordan’s PPP Unit lists 10 projects on their webpage however without status indication, and have as such not yet been included in this rating, awaiting confirmation.

Jordan’s PPP law allows for local governments to procure contracts independently. There have been PPP projects in wastewater, aviation, transport, and telecom

|  |
| --- |
| **QUESTIONS:**  Clarify with TTL and City Officials the status of PPPs that are listed on the PPP unit’s webpage, as well as updates on PPPs with other multilaterals such as the EIB (seems to be a Waste-to-Energy DBFOM project in Irbid currently in tender, as well as The Wadi Al Arab Water Supply PPP that has last status update as of end 2016 indicating the works started) |

**PPP REGULATORY FRAMEWORK**

**Data points**

|  |  |
| --- | --- |
| Does national regulatory framework allow procuring PPPs? | YES |
| Does regulatory framework contain specialized legislation regulating PPPs? | YES |
| No restrictions on structuring PPPs in CRP priority sectors? | YES |
| Foreign companies are NOT prohibited from participating in PPP? | YES |
| Foreign companies are permitted to repatriate income from PPP operations? | YES |
| Flexibility to change ownership structure / assign rights under PPP contract? | NO |
| International arbitration allowable for dispute resolution of PPP contracts? | YES |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 5 positive responses

**Yellow** – 2 to 4 positive responses

**Red** – 1 or 0 positive responses

**Assessment notes:**

The Public Private Partnership Law no. 31 of 2014 ("PPP Law") is the main law currently governing PPPs in Jordan. Pursuant to Articles 5(c) & 22 of the PPP Law, the Regulation on Public Private Partnership Projects no. 98 of 2015 ("PPP Regulation") and Instructions for the Regulation of the Work of the Partnership Council ("PPP Instructions") were issued. The regulatory framework seems sound in relevant areas and importantly does not prohibit PPPs in CRP focus areas.

**PPP PROCUREMENT CAPACITY**

**Data points**

|  |  |
| --- | --- |
| Cities/municipalities by law have procuring authority for PPPs? | YES |
| PPP contract can be awarded even if only one proposal is submitted | NO |
| Unsolicited proposals either explicitly allowed or not regulated and possible in practice | YES |
| Competitive PPP procurement must be initiated when proceeding with an unsolicited proposal | YES |
| Specialized municipal entity that facilitates the PPP program (PPP Unit) | NO |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 4-5 positive responses

**Yellow** – 2 to 4 positive responses;

**Red** – 1 or 0 positive responses; if 1 but earned on “Specialized municipal entity that facilitates PPP” – that is YELLOW

**Assessment notes:**

The Contracting Entity as defined in the Jordan law can be a Government Entity of the following types: ministry, department, public commission, public council, municipality or corporation that is either wholly owned by the Government of Jordan ("GOJ") or which the government of Jordan owns no less than 50% of its shares.

A PPP contract cannot be awarded if a sole proposal has been submitted.

Further, there is no record indicating a specialized municipal entity in Irbid that facilitates the PPP program in the city.

|  |
| --- |
| **QUESTIONS:**  Clarify with TTL and City Officials if any efforts are underway to set up a specialized PPP unit at municipal level in Irbid |

4. **GOVERNMENT CO-FINANCING**

**Data points**

Availability and performance of government-led infrastructure co-financing vehicles (Sovereign Wealth Funds, Local Development Investment vehicles, state-run Guaranteed Loan and Grant programs, Infrastructure Guarantee Funds, etc.). As such, the contemplated government co-financing vehicle may serve as the source of additional leverage, equity and/or a provider of credit enhancement mechanisms in project finance and can open additional opportunities for attracting private capital for infrastructure financing.

**Scoring guidelines:**

Educated opinion on availability of government financing facilities that provide financial assistance to infrastructure projects:

**Green** – Dedicated infrastructure co-financing facility/facilities are established by national or sub-national government; clear criteria for application for such co-financing; proven track record of long or short-term co-financing provided by such facilities for country’s infrastructure projects (not necessarily in the surveyed city).

**Yellow** – Some forms of government co-financing have been identified as a supportive tool for infrastructure investments; access to such government-led co-financing is limited due to either limited size of such co-financing and/or lack of transparency in funds allocation (e.g. unclear criteria for application and approval of such funds) or such a vehicle is planned/drafted but yet to be activated in practice;

**Red** – No evidence of government financing facilities that are set to co-finance infrastructure alongside the private sector (infrastructure can still be extensively funded exclusively from state funds, user fees and/or concessional loans).

**Assessment notes:**

Records do not indicate that such government-led infrastructure co-financing vehicles are in place. There are a state-run loan guarantee programs, however those one seem to focus exclusively on SME support (e.g. Jordan Loan Guaranty Facility (JLGF).

|  |
| --- |
| **QUESTIONS:**  Discuss with TTL and City Officials if any concrete efforts to set up such government-led co-financing vehicles are underway. |

**Survey of Enabling Conditions for Land Value Capture (LVC)**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Real Estate Market Capacity** | **Land Use Regulations** | **Land Cadaster / Land Data Management** | **Security of property rights** | **Local Fiscal Powers** | **LVC track record** |
|  |  |  |  |  |  |

**REAL ESTATE MARKET CAPACITY**

This indicator consists of sub-indicator data points (covering different subsets of Market Environment), each earning formal scores that contribute to a cumulative overall score for the Market Environment based on which the ultimate color-code for the Market Environment is assigned.

**Data points:**

***Market Dynamics****:* Expert snapshot view on the market maturity, formality and its readiness for generating land value premiums and value capture. Scores for this sub-indicator are derived according to the following formalized metrics:

2.0 – **Active and structured** (largely formal) market with rapidly emerging or established presence of high-value commercial properties (at least 200,000 square meters of modern grade A offices, at least 2-3 modern malls, at least 2 internationally branded hotels). No signs of crisis or sustained stagnation.

1.0 – **Structured (largely formal) but slow** market with limited presence of high-grade properties, evident signs of oversupply or sustained crisis is a clear determination for this score even if formal market prevails

0.5 – **Nascent (largely informal) active** market with yet very limited presence of high-grade properties but with good outlooks as surfaced either in professional market surveys or discovered from anecdotal evidence

0 – **Nascent (largely informal) limited** market - very scarce modern real estate development; on top of that the market shows limited prospects for attracting future investments in high-grade high-value modern properties

***Market Coverage:*** Availability of recent/regular market surveys, ideally prepared by global real estate services companies, e.g. CBRE, Colliers, JLL, Cushman, Knight Frank, DTZ (or other credible sources, including investor surveys)

1 – market covered by professional market surveys

0 – no regular coverage by professional market surveys

***Market Infrastructure:*** Evidence of land/property market infrastructure (property databases, brokers, notaries, surveyors, etc.), assessed based on the following metrics:

1 – **Well functioning infrastructure** (networks of professional agency services providers/brokers, some with international franchises, notaries, locally present land surveyors. etc.)

0 – **Weak infrastructure**, with evident deficiencies (best proxies for such deficiencies are: absence of private notary services, real estate agency services are not subject to licensing; real estate agencies have limited role and are only local/domestic entities while international franchises/rep offices are absent)

***Price Discovery:*** Conclusion on transparency of price discovery process for land and buildings on the local market; the transparency of price discovery is assessed using the following formalized metrics:

1 – **Confidently transparent** - all three of the following conditions are met: role of informal land transaction is minimal or much less compared to formal market, range of fair market values for land is discoverable for any given location, value heatmaps are available, past transaction records are maintained and publicly available, either free of charge of for a fee;

0.5 – **Somewhat transparent** - some of the conditions mentioned in Confidently Transparent are clearly not met; most importantly, if it is clear that valid comparable sales are too limited/sporadic for tracing variations of market prices across the city

0 – **Non-transparent** - informal market dominates, fair market values of any given land or building are hard to discover, land/property values are in most cases discretionary / not backed by comparable sales evidence, income approach to valuation is also not applicable

**Scoring guidelines:**

The sum of scores collected on individual sub-indicators produces the following color designations:

**Green** – equal or larger than 4.0

**Yellow** – 2.0 to 3.5

**Red** – less than 2.0

**Assessment Notes**

***Market Dynamics: score – 1 (structured, slow market)***

There is very limited number of recently developed high grade commercial and residential properties in Irbid and no internationally branded real estate operations (e.g. hotels), despite the fact that the city is large and has a formal structured market. The commercial market is small relative to the city's 1M population, and there is no evidence to confidently assume that investor and occupier demand for modern offices, structured mall space, hospitality or modern logistic properties is going to pick up in near term.

***Market Coverage: score – 0 (limited coverage by global investor surveys)***

Most international real estate firms cover the Jordan market from more centralized regional locations such as Abu Dhabi or Dubai and rarely conduct city specific market research in Jordan outside of its capital city of Amman. To that end, while basic property market information for Jordan is available, it is usually aggregated as part of a broader Middle East portfolio of research, information on Irbid itself is very fragmented.

***Market Infrastructure: score – 1 (well-functioning infrastructure)***

There is a rigorous network of agency brokers, surveyors, and notaries. Numerous international brokers operate in the market, market regulations are formalized and relatively transparent

***Price discovery: score – 1 (confidently transparent)***

There are challenges with the updates to the cadaster and land registries. However in general there is a strong standard for property registration and recordation of transactions. While not published in a public setting, brokers and agents have the ability to determine current prices and recent transactions.

Irbid earns a **cumulative score of 3** in above sub-indicators, which corresponds to **color code YELLOW** as an assessor’s conclusion for the city’s real estate market capacity.

**LAND USE REGULATIONS**

**Data points**

Evidence of a comprehensive plan for city’s territories (Master Plan, Land Ordinances or equivalent), which regulates density, height, and functional uses in various parts of the city

**Scoring guidelines:**

**Green** - Such plan exists, covers entire city and is able to inform investors of land use and building regulations at - or very close to - parcel by parcel detail

**Yellow** - Such plan exists, but has evident deficiencies, e.g. does not cover entire city, omits important land use guidelines, outdated, has evident enforcement issues, etc.

Red - Such plan does not exist, or even if it technically exists it has not been updated for long (e.g. since the change of political regime)

**Assessment Notes**

There appears to be an Irbid Master Plan that was completed in 2009. However there appears to be a level of detail that is lacking in terms of specific land use guidelines.

Assessor’s color rating for Irbid’s land use regulations is YELLOW.

**LAND CADASTER / LAND DATA MANAGEMENT**

**Data points**

Availability of centralized database for land parcel information with legal and value records

**Scoring guidelines:**

**Green** - Land Cadaster is well maintained, cadaster information matches legal ownership records and land values in the cadaster correspond to actual market values

**Yellow** - Land Cadaster is in place, but has evident omissions, e.g. does not cover entire city, and/or has mismatches with legal records, land value records in the cadaster are in mismatch with market values

**Red** - Land Cadaster not introduced, or covers less than 30% of city area, or has very poor data / has not been updated for long time

**Assessment Notes**

Land cadasters are maintained in terms of legal ownership. In terms of land values, there is a lack of conformity with regards to market values, despite the fact that there are regular updates to the valuations. There is a re-evaluation that occurs, at a minimum, every 5 years. There is a general lack of resources in the department that carries out valuations, leading to shortcomings in updating all property rolls to true market value.

Recommended score for this indicator is YELLOW.

**SECURITY OF PROPERTY RIGHTS**

**Data points**

Expert opinion on the level of establishment and recordation of property titles, title search infrastructure, robustness of dispute resolution processes.

**Scoring guidelines:**

**Green** – robust land and property title registers and property records, covering entire area of the city; registers are regularly updated; property titles do not overlap and formal development rights as a rule reflect de fact ownership; domestic legal framework able to resolve most of property disputes; distribution of land/property rights between government agencies is well established and recorded.

**Yellow** – nominal presence of land/property registers. However, the system has numerous evidence of inaccurate, unrecorded, outdated or overlapping land/property rights; numerous cases of non-delineated lands (e.g. clusters of urban “nobody’s land” with potential conflicting interests); evidence of poorly established public ownership (conflicting claims of different public agencies and layers of government).

**Red** – nonexistent or very incomplete title registers; title search and property dispute resolution have significant informal aspects.

**Assessment Notes**

Interest in real property is recognized and enforced once it is recorded in legal registries. The legal system facilitates and protects the acquisition and disposition of property rights, including eminent domain provisions.

Accordingly, various legislations have been introduced in Jordan relating to the topic of property and which constitute part of the Original Real Rights as put forward by the Jordan Civil Code. Rights include ownership, disposition, usufruct, residence, abstract rights, dedicated lands, utilization of trust land for specific consideration (Al-Hikr), Dual Lease of Trust land (Al-Ijaratayn), and vacancy of usufruct (Khuluw al-Intifa')."

Recommended score for this indicator is GREEN.

**LOCAL FISCAL POWERS**

**Data points**

Ability of the city to maintain revenue from own sources and manage level of operating and capital expenditure at discretion of the city administration.

**Scoring guidelines:**

**Green** - revenues from own sources comprise more than 30% of city's revenue base; city has significant discretion in operating and capital financial planning; operating revenues from service mandates mostly able to at least recover the running costs for those services

**Yellow** - revenue from own rouses comprise less than 30% of city's revenue base; city can enact, set and administer local taxes (property taxes in particular), however, city's revenue and spending mandates are still largely reliant on intergovernmental transfers and spending obligations are higher than revenue collected by the city from respective services

**Red** - very limited fiscal powers and complete dependence on intergovernmental transfers; municipal services are top-down mandates from higher levels of government with limited capacity for own revenue collection and cost recovery

**Assessment Notes**

Cities in Jordan have a number of ways of generating own revenue figures, with public service fees (business license fees, construction permit fees, advertising fees, parking fees and fines, as well as waste collection fee, and various fines).

Most public service fees in Jordan are set by the national government in fixed amounts, which have not been regularly adjusted for inflation (e.g., business license fees have not been revised since 1999). Furthermore, without local rate setting, revenue collection from fees does not capture differences in local costs of municipal services provision.

Because of the lack of rate-setting discretion, currently municipal governments in Jordan have very limited revenue autonomy. The only revenue sources that can be affected at the margin by local authorities are leases of municipal assets. Yet, these locally adjustable non-fiscal sources of revenue (e.g. rent, project revenue, interest on deposits) cover less than five percent of municipal budgets.

Recommended color-coded score for this indicator is RED.

**TRACK RECORD IN LAND VALUE CAPTURE**

**Data points**

Track record of the city authorities in negotiating public-private partnerships in land and property development, in particular involving obligations for private partners to build (contribute) public infrastructure (e.g. joint development agreements, and/or development SPVs, selling development rights with infrastructure encumbrances/conditions, etc.).

**Scoring guidelines:**

**Green** - evident track record hereof; the city is legally permitted to negotiate land development deals with private partners and has transacted land /property rights with infrastructure obligations.

**Yellow** - evidence that the city is legally permitted to negotiate land development deals with private partners; however, the track record of such is either very limited (e.g. 1-2 deals in the foreseeable past) or inconclusive of the city's real ability to efficiently structure land value capture transactions with fair compensation to the city (i.e. forcing private partners to act in good faith)

**Red** - no track record hereof; OR, clear evidence (with sources) that city is not permitted to negotiate land development deals with private partners

**Assessment Notes**

No evidence is found with regards to projects involving provisions or encumbrances for private property developers to invest in off-site public infrastructure.

Recommended color code designation is RED.

|  |
| --- |
| Kiev, Ukraine |

**Track Record and Regulations in Structuring PPPs**

|  |  |  |  |
| --- | --- | --- | --- |
| **Track Record** | **Regulatory Frameworks** | **Procurement Capacity** | **Government**  **Co-Financing** |
|  |  |  |  |

**PPP TRACK RECORD (RECENT 10 YEARS):**

**Data points**

|  |  |
| --- | --- |
| PPPs of record in the country (in any status) | > 40 |
| PPP of record in the jurisdictional borders of the assessed city | > 10 |
| Nationwide count of PPPs in areas of CRP focus (sanitation, water supply, flood mitigation, urban upgrades, housing, urban transport) | 3 |

**Scoring guidelines:**

**Green** - solid track record

**Yellow** - some track record / or good national track record, limited local capacity

**Red** - no or limited track record with limited local capacity respectively

**Assessment notes:**

While Ukraine boosts a solid track record of PPP projects in the last decades, according to the World Bank's Knowledge Lab, most of the projects have been in the energy, and transportation sectors. There has been very limited number of projects in CRP focus areas, however, there is a program of waste recycling plants in Ukraine’s four largest cities rolling out currently and the first PPP was structured in 2018 (in the city of Dnepro).

**PPP REGULATORY FRAMEWORK**

**Data points**

|  |  |
| --- | --- |
| Does national regulatory framework allow procuring PPPs? | YES |
| Does regulatory framework contain specialized legislation regulating PPPs? | YES |
| No restrictions on structuring PPPs in CRP priority sectors? | YES |
| Foreign companies are NOT prohibited from participating in PPP? | YES |
| Foreign companies are permitted to repatriate income from PPP operations? | NO |
| Flexibility to change ownership structure / assign rights under PPP contract? | YES |
| International arbitration allowable for dispute resolution of PPP contracts? | YES |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 5 positive responses

**Yellow** – 2 to 4 positive responses

**Red** – 1 or 0 positive responses

**Assessment notes:**

Ukraine has several laws that regulate PPPs. The two that are of most importance are a) Law of Ukraine on "Public Private Partnership" No. 2404-VI and b) Resolution of Cabinet of Ministers of Ukraine "Certain Issues of Organization of Implementation of Public-Private Partnership" and c) Law of Ukraine "On Concessions" No. 997-XIV. The Ukraine PPP Law establishes organizational and legal framework of the interaction of public partners with private partners and the basic principles of the public-private partnership on a contractual basis, while Resolution No. 384 regulates each step of the tender procedure. The Concession Law regulates the implementation of concession projects. In the event of a significant change in circumstances, a contract may be amended, altered or terminated by the mutual consent of the parties or by a court order, unless otherwise specified in the contract or due to the essence of commitment. Foreign companies are prohibited from repatriating their income, as purchase of foreign currency for the purposes of repatriating of the dividends is forbidden.

**PPP PROCUREMENT CAPACITY**

**Data points**

|  |  |
| --- | --- |
| Cities/municipalities by law have procuring authority for PPPs? | YES |
| PPP contract can be awarded even if only one proposal is submitted | YES |
| Unsolicited proposals either explicitly allowed or not regulated and possible in practice | YES |
| Competitive PPP procurement must be initiated when proceeding with an unsolicited proposal\* | YES |
| Specialized municipal entity that facilitates the PPP program (PPP Unit) | NO |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 4-5 positive responses

**Yellow** – 2 to 4 positive responses;

**Red** – 1 or 0 positive responses; if 1 but earned on “Specialized municipal entity that facilitates PPP” – that is YELLOW

**Assessment notes:**

PPP projects procuring authorities differ depending on the form of the ownership of the PPP project. If the PPP is regarding communal (local communities') property, then local council are the established procuring authority. Generally, the CMU is the principal and highest authority for PPP purposes. Pursuant to Article 14 of the PPP Law, if upon having announced the bidding on the private partner designation for the implementation of public-private partnership, only one bidder has applied to participate in the bidding, the relevant contract can be concluded by the authorized body with this bidder by agreeing with its essential terms of the contract, unless otherwise provided by laws regulating relations arising from conclusion and execution of the contracts specified in paragraph one of Article 5 of the PPP Law.

4. **GOVERNMENT CO-FINANCING**

**Data points**

Availability and performance of government-led infrastructure co-financing vehicles (Sovereign Wealth Funds, Local Development Investment vehicles, state-run Guaranteed Loan and Grant programs, Infrastructure Guarantee Funds, etc.). As such, the contemplated government co-financing vehicle may serve as the source of additional leverage, equity and/or a provider of credit enhancement mechanisms in project finance and can open additional opportunities for attracting private capital for infrastructure financing.

**Scoring guidelines:**

Educated opinion on availability of government financing facilities that provide financial assistance to infrastructure projects:

**Green** – Dedicated infrastructure co-financing facility/facilities are established by national or sub-national government; clear criteria for application for such co-financing; proven track record of long or short-term co-financing provided by such facilities for country’s infrastructure projects (not necessarily in the surveyed city).

**Yellow** – Some forms of government co-financing have been identified as a supportive tool for infrastructure investments; access to such government-led co-financing is limited due to either limited size of such co-financing and/or lack of transparency in funds allocation (e.g. unclear criteria for application and approval of such funds) or such a vehicle is planned/drafted but yet to be activated in practice;

**Red** – No evidence of government financing facilities that are set to co-finance infrastructure alongside the private sector (infrastructure can still be extensively funded exclusively from state funds, user fees and/or concessional loans).

**Assessment notes:**

There is no record indicating such facilities in Ukraine/Kiev.

|  |
| --- |
| **QUESTIONS:**  Clarify with TTL and City Officials if any efforts are underway to set up such facilities. |

**Survey of Enabling Conditions for Land Value Capture (LVC)**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Real Estate Market Capacity** | **Land Use Regulations** | **Land Cadaster / Land Data Management** | **Security of property rights** | **Local Fiscal Powers** | **LVC track record** |
|  |  |  |  |  |  |

**REAL ESTATE MARKET CAPACITY**

This indicator consists of sub-indicator data points (covering different subsets of Market Environment), each earning formal scores that contribute to a cumulative overall score for the Market Environment based on which the ultimate color-code for the Market Environment is assigned.

**Data points:**

***Market Dynamics****:* Expert snapshot view on the market maturity, formality and its readiness for generating land value premiums and value capture. Scores for this sub-indicator are derived according to the following formalized metrics:

2.0 – **Active and structured** (largely formal) market with rapidly emerging or established presence of high-value commercial properties (at least 200,000 square meters of modern grade A offices, at least 2-3 modern malls, at least 2 internationally branded hotels). No signs of crisis or sustained stagnation.

1.0 – **Structured (largely formal) but slow** market with limited presence of high-grade properties, evident signs of oversupply or sustained crisis is a clear determination for this score even if formal market prevails

0.5 – **Nascent (largely informal) active** market with yet very limited presence of high-grade properties but with good outlooks as surfaced either in professional market surveys or discovered from anecdotal evidence

0 – **Nascent (largely informal) limited** market - very scarce modern real estate development; on top of that the market shows limited prospects for attracting future investments in high-grade high-value modern properties

***Market Coverage:*** Availability of recent/regular market surveys, ideally prepared by global real estate services companies, e.g. CBRE, Colliers, JLL, Cushman, Knight Frank, DTZ (or other credible sources, including investor surveys)

1 – market covered by professional market surveys

0 – no regular coverage by professional market surveys

***Market Infrastructure:*** Evidence of land/property market infrastructure (property databases, brokers, notaries, surveyors, etc.), assessed based on the following metrics:

1 – **Well functioning infrastructure** (networks of professional agency services providers/brokers, some with international franchises, notaries, locally present land surveyors. etc.)

0 – **Weak infrastructure**, with evident deficiencies (best proxies for such deficiencies are: absence of private notary services, real estate agency services are not subject to licensing; real estate agencies have limited role and are only local/domestic entities while international franchises/rep offices are absent)

***Price Discovery:*** Conclusion on transparency of price discovery process for land and buildings on the local market; the transparency of price discovery is assessed using the following formalized metrics:

1 – **Confidently transparent** - all three of the following conditions are met: role of informal land transaction is minimal or much less compared to formal market, range of fair market values for land is discoverable for any given location, value heatmaps are available, past transaction records are maintained and publicly available, either free of charge of for a fee;

0.5 – **Somewhat transparent** - some of the conditions mentioned in Confidently Transparent are clearly not met; most importantly, if it is clear that valid comparable sales are too limited/sporadic for tracing variations of market prices across the city

0 – **Non-transparent** - informal market dominates, fair market values of any given land or building are hard to discover, land/property values are in most cases discretionary / not backed by comparable sales evidence, income approach to valuation is also not applicable

**Scoring guidelines:**

The sum of scores collected on individual sub-indicators produces the following color designations:

**Green** – equal or larger than 4.0

**Yellow** – 2.0 to 3.5

**Red** – less than 2.0

**Assessment Notes**

***Market Dynamics: score – 1*** *(structured, largely formal but slow market)*

Kiev is the 7th largest city in Europe boasting relatively large, well-structured and maturing real estate market. After the period of steady growth in 2000s the market was hit hard by the consequences of the global financial crisis of 2007-2008, followed by the civil unrest in 2014. In 2017 the total supply of high grade office and retail space in Kiev exceeded 4 mln m² (i.e. the size of Stockholm CBD). There are signs of market recovery with vacancy rates dropping to the healthy levels. There is a growing demand for office space combined with the lack of new supply of Grade A and B business centers (in 2017 office supply grew only by ~ 40,000 m²). Retailing shows even faster recovery and in 2018-2020 the market anticipates a record increase in the supply of modern shopping mall floor-space, exceeding 700,000 m², a 50%+ increase of current retail space supply. Residential market still weathers the downward trends, but the signs of bottoming out have been seen in line with stabilizing domestic currency.

In general, given the political and macroeconomic challenges faced by Ukraine, the market conditions are assessed as structured market with development challenges, subject to review if recovery proves steady.

***Market Coverage: score – 1*** *(*market covered by professional surveys)

There is a good breath of information regarding Kiev’s real estate market readily available. Global providers of real estate services have established representative offices or local partnership networks in Kiev since mid-2000s. Real estate market surveys for Kiev are published on a regular basis and include both comprehensive annual reviews and quarterly updates, just like any other major real estate market in Europe.

***Market Infrastructure: score – 1*** *(well-functioning infrastructure)*

Various professional agency services providers and brokers found through desk research and indicate a well-serviced market.

***Price discovery: score – 0.5*** *(somewhat transparent)*

Unlike in more developed markets, significant share of real estate transactions are contain informal elements, with high degree of non-transparency in determination of ultimate prices. The evidence of market-driven arm’s length sales is very limited. To that end, identification of market value is heavily reliant on listing prices and expert opinion of market practitioners rather than on critical mass of valid comparable transactions.

Kiev earns a **cumulative score of 3.5** on above sub-indicators which corresponds to **YELLOW color code** as an assessor’s conclusion for the city’s real estate market capacity, indicating that while some factors are promising for Land Value Capture, challenges remain.

**LAND USE REGULATIONS**

**Data points**

Evidence of a comprehensive plan for City’s territories (Master Plan, Land Ordinances or equivalent), which regulates density, height, and functional uses in various parts of the city.

**Scoring guidelines:**

**Green** - Such plan exists, covers entire city and is able to inform investors of land use and building regulations at - or very close to - parcel by parcel detail

**Yellow** - Such plan exists, but has evident deficiencies, e.g. does not cover entire city, omits important land use guidelines, outdated, has evident enforcement issues, etc.

Red - Such plan does not exist, or even if it technically exists it has not been updated for long (e.g. since the change of political regime)

**Assessment Notes**

Kiev has the “General Plan for Urban Development of Kyiv and its Suburban Areas by 2025” using the land use situation in Kiev as of 2011 as a baseline. Despite the availability of the General Plan, which is very elaborate on the general directions of city development and presents complex city-planning agenda, there evident lack of explicit regulation and transparency of land use on parcel by parcel level. Recommended assessor’s color rating for Kiev’s land use regulations is YELLOW.

|  |
| --- |
| **QUESTIONS:**  The enforcement of Kiev’s General Plan and the extent to which Land Use regulations/Land Ordinance are developed should be clarified through interviews with city officials and market sounding calls, warranting the current yellow rating. |

**LAND CADASTER / LAND DATA MANAGEMENT**

**Data points**

Availability of centralized database for land parcel information with legal and value records

**Scoring guidelines:**

**Green** - Land Cadaster is well maintained, cadaster information matches legal ownership records and land values in the cadaster correspond to actual market values

**Yellow** - Land Cadaster is in place, but has evident omissions, e.g. does not cover entire city, and/or has mismatches with legal records, land value records in the cadaster are in mismatch with market values

**Red** - Land Cadaster not introduced, or covers less than 30% of city area, or has very poor data / has not been updated for long time

**Assessment Notes**

Incompleteness of the Land Cadaster and errors in Cadastral records establish an extra cost for transactions and is a source of insecurity of rights. Additionally, a relatively low level of registration of state land in the Cadaster cause non-transparent practices in land use and clientalist practices in land allocation.

Of note, in the 2018 WBG survey of business regulations, Kiev (representing a data pool for Ukraine) earned relatively low scores on the quality of land administration (scoring 14.0 while average for the neighboring countries of Central and Eastern Europe was just slightly shy of 20).

Recommended score for this indicator is YELLOW.

**SECURITY OF PROPERTY RIGHTS**

**Data points**

Expert opinion on the level of establishment and recordation of property titles, title search infrastructure, robustness of dispute resolution processes.

**Scoring guidelines:**

**Green** – robust land and property title registers and property records, covering entire area of the city; registers are regularly updated; property titles do not overlap and formal development rights as a rule reflect de fact ownership; domestic legal framework able to resolve most of property disputes; distribution of land/property rights between government agencies is well established and recorded.

**Yellow** – nominal presence of land/property registers. However, the system has numerous evidence of inaccurate, unrecorded, outdated or overlapping land/property rights; numerous cases of non-delineated lands (e.g. clusters of urban “nobody’s land” with potential conflicting interests); evidence of poorly established public ownership (conflicting claims of different public agencies and layers of government).

**Red** – nonexistent or very incomplete title registers; title search and property dispute resolution have significant informal aspects.

**Assessment Notes**

Kiev boasts relatively robust system of land and property title registration with high degree of security of official (state-registered, i.e. state-honored) titles. The legal framework for land and property right disputes resolution has matured since the times the private ownership titles were fully introduced in early 1990s. Numerous cases of unfair dispute resolution and title insecurity are more related with the higher level systemic risks such as corruption and clientelism, while the formal legal frameworks facilitating security of property rights are in place.

Recommended score for this indicator is GREEN.

**LOCAL FISCAL POWERS**

**Data points**

Ability of the city to maintain revenue from own sources and manage level of operating and capital expenditure at discretion of the city administration.

**Scoring guidelines:**

**Green** - revenues from own sources comprise more than 30% of city's revenue base; city has significant discretion in operating and capital financial planning; operating revenues from service mandates mostly able to at least recover the running costs for those services

**Yellow** - revenue from own rouses comprise less than 30% of city's revenue base; city can enact, set and administer local taxes (property taxes in particular), however, city's revenue and spending mandates are still largely reliant on intergovernmental transfers and spending obligations are higher than revenue collected by the city from respective services

**Red** - very limited fiscal powers and complete dependence on intergovernmental transfers; municipal services are top-down mandates from higher levels of government with limited capacity for own revenue collection and cost recovery

**Assessment Notes**

Transfers from the government's budget account for about 30% of the city's budget revenues. Fiscal decentralization has set new rules for the allocation of taxes to local budgets. A total of 60 percent of personal income tax, 100 percent of state duty, and 100 percent of the fees for administrative services are now paid into the local budget. In case of severe revenue shortcomings, local administrations have gained the right to assess additional local tax premiums for property taxes, excise taxes on alcohol, tobacco, and fuel.

Recommended color-coded score for this indicator is GREEN.

|  |
| --- |
| **QUESTIONS:**  Information to be reviewed and updated upon completion of the City Creditworthiness Self-Assessment |

**TRACK RECORD IN LAND VALUE CAPTURE**

**Data points**

Track record of the city authorities in negotiating public-private partnerships in land and property development, in particular involving obligations for private partners to build (contribute) public infrastructure (e.g. joint development agreements, and/or development SPVs, selling development rights with infrastructure encumbrances/conditions, etc.).

**Scoring guidelines:**

**Green** - evident track record hereof; the city is legally permitted to negotiate land development deals with private partners and has transacted land /property rights with infrastructure obligations.

**Yellow** - evidence that the city is legally permitted to negotiate land development deals with private partners; however, the track record of such is either very limited (e.g. 1-2 deals in the foreseeable past) or inconclusive of the city's real ability to efficiently structure land value capture transactions with fair compensation to the city (i.e. forcing private partners to act in good faith)

**Red** - no track record hereof; OR, clear evidence (with sources) that city is not permitted to negotiate land development deals with private partners

**Assessment Notes**

The Kyiv Investment Agency provides a comprehensive pipeline of partnership opportunities offering private sector land and development rights in exchange for cash or kind-contribution for public investment. There is extensive practice to procure commercial projects in prime high value location that involve provisions for off-site infrastructure, road improvements, social housing and the improvement of public space.

Recommended color code designation is GREEN.

|  |
| --- |
| Kigali, Rwanda |

**Track Record and Regulations in Structuring PPPs**

|  |  |  |  |
| --- | --- | --- | --- |
| **Track Record** | **Regulatory Frameworks** | **Procurement Capacity** | **Government**  **Co-Financing** |
|  |  |  | *Pending confirmation of practical implementation* |

**PPP TRACK RECORD (RECENT 10 YEARS):**

**Data points**

|  |  |
| --- | --- |
| PPPs of record in the country (in any status) | 8 |
| PPP of record in the jurisdictional borders of the assessed city | 2 |
| Nationwide count of PPPs in areas of CRP focus (sanitation, water supply, flood mitigation, urban upgrades, housing, urban transport) | 1 |

**Scoring guidelines:**

**Green** - solid track record

**Yellow** - some track record / or good national track record, limited local capacity

**Red** - no or limited track record with limited local capacity respectively

**Assessment notes:**

Up until late 2000s the practice of structuring public–private partnerships in Rwanda was limited to concessions for operation of existing facilities. Deployment of public–private partnerships as a procurement option for new infrastructure delivery in Rwanda was formalized in the 2008 National Public Investment Policy (NPIP).

In 2017, the Government of Rwanda and Metito (a global provider of water, wastewater treatment and desalination solutions) have reached financial close on the 27-year Kigali Bulk Water Plant contract, which became the first competitively tendered Build Operate Transfer (BOT) contract in Sub-Saharan Africa.

**PPP REGULATORY FRAMEWORK**

**Data points**

|  |  |
| --- | --- |
| Does national regulatory framework allow procuring PPPs? | YES |
| Does regulatory framework contain specialized legislation regulating PPPs? | YES |
| No restrictions on structuring PPPs in CRP priority sectors? | YES  (i.e. no restrictions) |
| Foreign companies are NOT prohibited from participating in PPP? | YES  (i.e. not prohibited) |
| Foreign companies are permitted to repatriate income from PPP operations? | YES |
| Flexibility to change ownership structure / assign rights under PPP contract? | n/a |
| International arbitration allowable for dispute resolution of PPP contracts? | YES |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 5 positive responses

**Yellow** – 2 to 4 positive responses

**Red** – 1 or 0 positive responses

**Assessment notes:**

The Rwandan PPP Law defines seven potential sectors where deployment of PPPs is an eligible delivery solution for public infrastructure and services, namely: 1) transportation; 2) energy; 3) social sector, including education, culture, health, sports and leisure; 4) tourism; 5) mining of natural resources and environmental safety, including those related to forestry and hydrocarbon extraction and processing, minerals mining, water sanitation and waste disposal; 6) telecommunication and information technologies; and 7) any other sectors as may be determined by an Order of Prime Minister.

The overall framework of PPP regulations appears rather friendly to investors, including endorsement for international investors to repatriate profits generated in their Rwandan PPP ventures.

**QUESTIONS:**

To what extent WB procurement guidelines are adopted in the national procurement laws

Procedure for changing the ownership structure under a PPP contract need to be clarified.

**PPP PROCUREMENT CAPACITY**

**Data points**

|  |  |
| --- | --- |
| Cities/municipalities by law have procuring authority for PPPs? | YES |
| PPP contract can be awarded even if only one proposal is submitted | YES |
| Unsolicited proposals either explicitly allowed or not regulated and possible in practice | YES |
| Competitive PPP procurement must be initiated when proceeding with an unsolicited proposal\* | NO |
| Specialized municipal entity that facilitates the PPP program (PPP Unit) | NO |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 4-5 positive responses

**Yellow** – 2 to 4 positive responses;

**Red** – 1 or 0 positive responses; if 1 but earned on “Specialized municipal entity that facilitates PPP” – that is YELLOW

**Assessment notes:**

Rwandan PPP regulations allow decentralized procurement (at the city level) of PPPs. The national PPP Law defines a Contracting Authority as "a public institution in charge of PPP agreement" which in practice, may be either a municipal entity or a national level public institution (i.e. national government ministries). However, the capacity of municipal level procuring agencies is not confirmed.

Rwanda Development Board (national level structure) is the lead negotiator for all PPPs.

Of note, single-bid procurements are possible however, this practice has been criticized. In principle, in case of a sole proposal within a competitive procurement procedure, the Contracting Authority may, in case the bidder fulfils the evaluation criteria set forth in the bidding documents, make a report recommending the bidder to execute the PPP project and submit it to the Steering Committee for approval.

**GOVERNMENT CO-FINANCING**

**Data points**

Availability and performance of government-led infrastructure co-financing vehicles (Sovereign Wealth Funds, Local Development Investment vehicles, state-run Guaranteed Loan and Grant programs, Infrastructure Guarantee Funds, etc.). As such, the contemplated government co-financing vehicle may serve as the source of additional leverage, equity and/or a provider of credit enhancement mechanisms in project finance and can open additional opportunities for attracting private capital for infrastructure financing.

**Scoring guidelines:**

Educated opinion on availability of government financing facilities that provide financial assistance to infrastructure projects:

**Green** – Dedicated infrastructure co-financing facility/facilities are established by national or sub-national government; clear criteria for application for such co-financing; proven track record of long or short-term co-financing provided by such facilities for country’s infrastructure projects (not necessarily in the surveyed city).

**Yellow** – Some forms of government co-financing have been identified as a supportive tool for infrastructure investments; access to such government-led co-financing is limited due to either limited size of such co-financing and/or lack of transparency in funds allocation (e.g. unclear criteria for application and approval of such funds) or such a vehicle is planned/drafted but yet to be activated in practice;

**Red** – No evidence of government financing facilities that are set to co-finance infrastructure alongside the private sector (infrastructure can still be extensively funded exclusively from state funds, user fees and/or concessional loans).

**Assessment notes:**

Agaciro Development Fund – is a Rwanda’s Sovereign Wealth Fund, which was launched in August 2012 to accumulate public savings to achieve self-reliance and accelerate socio-economic development. As of Decembe, 2016 the fund was capitalized at Rwf 37.5 billion (USD 40 million) out of the targeted Rwf 200 billion by 2020. The fund keeps growing day after day.

Additionally, the government decided to consolidate all the guarantee and refinancing facilities in one institution—the Banque Rwandaise de Developpement Development Fund Company (BDF). In 2016, the Development Bank of Rwanda (BRD) has signed a Rwf1.5 billion guarantee facility with the African Solidarity Fund to support development projects in different sectors of the economy. Facilitate will be used to support small-and-medium enterprises (SMEs) with medium to long-term projects in the real estate, energy, and education sectors, leveraging the African Solidarity Fund to support the development of Rwanda’s private sector through provision of financial security.

**QUESTIONS:**

Confirm the extent to which these facilities have been deployed in practice to facilitate infrastructure investments in Kigali and Rwanda as a whole

**Survey of Enabling Conditions for Land Value Capture (LVC)**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Real Estate Market Capacity** | **Land Use Regulations** | **Land Cadaster / Land Data Management** | **Security of property rights** | **Local Fiscal Powers** | **LVC track record** |
|  |  |  |  |  |  |

**REAL ESTATE MARKET CAPACITY**

This indicator consists of sub-indicator data points (covering different subsets of Market Environment), each earning formal scores that contribute to a cumulative overall score for the Market Environment based on which the ultimate color-code for the Market Environment is assigned

**Data points:**

***Market Dynamics****:* Expert snapshot view on the market maturity, formality and its readiness for generating land value premiums and value capture. Scores for this sub-indicator are derived according to the following formalized metrics:

2.0 – **Active and structured** (largely formal) market with rapidly emerging or established presence of high-value commercial properties (at least 200,000 square meters of modern grade A offices, at least 2-3 modern malls, at least 2 internationally branded hotels). No signs of crisis or sustained stagnation.

1.0 – **Structured (largely formal) but slow** market with limited presence of high-grade properties, evident signs of oversupply or sustained crisis is a clear determination for this score even if formal market prevails.

0.5 – **Nascent (largely informal) active** market with yet very limited presence of high-grade properties but with good outlooks as surfaced either in professional market surveys or discovered from anecdotal evidence

0 – **Nascent (largely informal) limited** market - very scarce modern real estate development; on top of that the market shows limited prospects for attracting future investments in high-grade high-value modern properties

***Market Coverage:*** Availability of recent/regular market surveys, ideally prepared by global real estate services companies, e.g. CBRE, Colliers, JLL, Cushman, Knight Frank, DTZ (or other credible sources, including investor surveys)

1 – market covered by professional market surveys

0 – no regular coverage by professional market surveys

***Market Infrastructure:*** Evidence of land/property market infrastructure (property databases, brokers, notaries, surveyors, etc.), assessed based on the following metrics:

1 – **Well functioning infrastructure** (networks of professional agency services providers/brokers, some with international franchises, notaries, locally present land surveyors. etc.)

0 – **Weak infrastructure**, with evident deficiencies (best proxies for such deficiencies are: absence of private notary services, real estate agency services are not subject to licensing; real estate agencies have limited role and are only local/domestic entities while international franchises/rep offices are absent)

***Price Discovery:*** Conclusion on transparency of price discovery process for land and buildings on the local market; the transparency of price discovery is assessed using the following formalized metrics:

1 – **Confidently transparent** - all three of the following conditions are met: role of informal land transaction is minimal or much less compared to formal market, range of fair market values for land is discoverable for any given location, value heatmaps are available, past transaction records are maintained and publicly available, either free of charge of for a fee;

0.5 – **Somewhat transparent** - some of the conditions mentioned in Confidently Transparent are clearly not met; most importantly, if it is clear that valid comparable sales are too limited/sporadic for tracing variations of market prices across the city

0 – **Non-transparent** - informal market dominates, fair market values of any given land or building are hard to discover, land/property values are in most cases discretionary / not backed by comparable sales evidence, income approach to valuation is also not applicable

**Scoring guidelines:**

The sum of scores collected on individual sub-indicators produces the following color designations:

**Green** – equal or larger than 4.0

**Yellow** – 2.0 to 3.5

**Red** – less than 2.0

**Assessment Notes**

***Market Dynamics: score – 1*** *(structured but stagnating market)*

The supply of commercial (especially office) space in Kigali has evidently outstripped demand in recent years. Over 50,000 sq. m of new office space came to the market in the past year, with an additional 70,000 sq m in the pipeline for the next two years. The take-up of space is relatively slow, and the excess supply is putting downward pressure on prime rents.

Kigali City Council is currently leading urban regeneration efforts in the CBD whereby old and low-density structures are slated for demolition to make way for modern, high density commercial developments. Of note, according to the Kigali Master Plan provisions, high-density structures are given preference in the building permitting process (e.g. in many instances, developers are not given permits for less than 7-storey buildings, because such higher densities are prescribed in the 2040 Masterplan). In fact, such high-density requirement exacerbates demand supply gap in the CBD.

The retailing sector in Rwanda (and Kigali is not an exclusion) is dominated by local retailers and smaller tenants, with very small representation of regional chains from Kenya and South Africa, most notably Kenyan grocery chain Nakumatt and South-African Mr. Price. However, Kigali’s retail property market is evolving and there are examples of modern shopping mall space being delivered as part of mixed-used urban development schemes, such as Union Trade Centre, Kigali City Tower, MTN Centre, CHIC Complex and M-Peace Plaza.

There has been strong activity on the emerging apartments rental market (both in the form of standalone villas and high-rise complexes), and the demand for such accommodation is believed to be relatively stable (yet limited).

Land Value Capture opportunities may be dimmed due to real estate market stagnation which limits demand for new development sites and ultimately exerts negative pressure on land values and reduces potential value premiums.

***Market Coverage: score – 1*** *(m*arket covered by professional surveys)

Kigali has been covered by regular market surveys carried out by global real estate companies and there is a wealth of updated information on the state of the local land and property market.

***Market Infrastructure: score – 1***

There is a network of professional real estate services providers and sales/leasing brokers. However, even though such providers are locally available, when it comes to more specialized advised and more professional capacity those often need to be searched outside of Kigali, in regional economic hubs, such as Nairobi.

***Price discovery: score – 0.5*** *(somewhat transparent market)*

As per desktop review, land and building price discovery is somewhat transparent in Kigali however, seriously inhibited by the lack of arm’s length market transactions (most of transactions are rather informal or not of arm’s length nature). Actual sales evidence has not been obtained through desk reviews. Land price information is yet available from secondary sources (e.g. broker and investor reports). Property listings appear to provide reasonable benchmarks for pricing discovery especially in medium-price and higher-end properties. and may be also utilized subject to negotiation adjustments (to be verified).

Kigali earns a **cumulative score of 3.5** on above sub-indicators which corresponds to **YELLOW color code** for the city’s real estate market capacity, showing potentially favorable conditions with challenges for land value capture from the standpoint of market environment.

**LAND USE REGULATIONS**

**Data points**

Evidence of comprehensive plan for city’s territories (Master Plan, Land Ordinances or equivalent), which regulates density, height, and functional uses in various parts of the city.

**Scoring guidelines:**

**Green** - Such plan exists, covers entire city and is able to inform investors of land use and building regulations at - or very close to - parcel by parcel detail

**Yellow** - Such plan exists, but has evident deficiencies, e.g. does not cover entire city, omits important land use guidelines, outdated, has evident enforcement issues, etc.

Red - Such plan does not exist, or even if it technically exists it has not been updated for long (e.g. since the change of political regime)

**Assessment Notes**

The National Land Policy of 2004 and the Organic Land Law of 2005 mandated that a National Land Use and Development Master Plan be established to guide land use in country. Land use in Rwanda is therefore governed by a system of Master Plans at the National and District levels. City specific zoning and building regulations are guided by the Kigali Masterplan, approved in 2013.

There are frequent discrepancies between the land use stated in official land titles and in the National Land Use and Development Masterplan (land titling was done before the Master Plan were enacted), and also vis-à-vis the *de facto* land use. Admittedly, the Land Authority is well aware of these discrepancies. The misalignment between the permitted land use assigned in the official planning and zoning documents and the actual use of land creates substantial uncertainty on the part of the businesses and households, hindering investment decisions in their current land and property holdings.

Of note, Kigali Master Plan, is heavily focused on regulating build up in CBD and central Kigali and less so in the periphery where the city is expanding rather rapidly.

YELLOW color code is recommended in view of the challenges associated with how master plans and land use regulations in general are being enforced and implemented in Rwanda.

**LAND CADASTER / LAND DATA MANAGEMENT**

**Data points**

Availability of centralized database for land parcel information with legal and value records

**Scoring guidelines:**

**Green** - Land Cadaster is well maintained, cadaster information matches legal ownership records and land values in the cadaster correspond to actual market values

**Yellow** - Land Cadaster is in place, but has evident omissions, e.g. does not cover entire city, and/or has mismatches with legal records, land value records in the cadaster are in mismatch with market values

**Red** - Land Cadaster not introduced, or covers less than 30% of city area, or has very poor data / has not been updated for long time

**Assessment Notes**

Cadastral information in Rwanda is consolidated and is made available through a digitized land registry system covering all 30 districts of Rwanda. This national land registry system is also connected to Kigali’s Construction Permitting database allowing interactive access to information on owners, land use and size of individual land parcels. However, there are concerns that the cadastral information has experienced challenges related with incomplete updates (to be discussed with the delegation).

According to official sources, all land parcels in Rwanda (10.3 million parcels) are demarcated and less than 1% (11,840) are registered as disputed parcels (mainly intra-family conflicts).

Of note, in the 2018 WBG survey of business regulations, Rwanda (as measured with the data collected for the city of Kigali) ranks the highest among SSA countries on the Land Administration Index (scoring 28.0 out 29 maximum score, while average for SSA is 8.0).

Despite that Rwanda stands out in SSA from the standpoint of land administration in general, the land data (especially on the value/pricing side rather than on ownership recordation side) still contain a lot of gaps and pending substantial improvements. More specifically, land cadaster data often does not adequately reflect the fair market values of land and real properties.

In view of the challenges associated with land property valuation and value recordation the recommended score on the Land Cadaster metrics is YELLOW.

**SECURITY OF PROPERTY RIGHTS**

**Data points**

Expert opinion on the level of establishment and recordation of property titles, title search infrastructure, robustness of dispute resolution processes.

**Scoring guidelines:**

**Green** – robust land and property title registers and property records, covering entire area of the city; registers are regularly updated; property titles do not overlap and formal development rights as a rule reflect de fact ownership; domestic legal framework able to resolve most of property disputes; distribution of land/property rights between government agencies is well established and recorded.

**Yellow** – nominal presence of land/property registers. However, the system has numerous evidence of inaccurate, unrecorded, outdated or overlapping land/property rights; numerous cases of non-delineated lands (e.g. clusters of urban “nobody’s land” with potential conflicting interests); evidence of poorly established public ownership (conflicting claims of different public agencies and layers of government).

**Red** – nonexistent or very incomplete title registers; title search and property dispute resolution have significant informal aspects.

**Assessment Notes**

Rwanda is distinguished with a high degree of title security in land following recent improvements in land management, and there is a robust system of title registration. A ministerial order N° 002/2008 of 01/4/2008 and the Organic Land Law define procedures through which land registration is carried out.

Recommended score for this indicator is GREEN.

**LOCAL FISCAL POWERS**

**Data points**

Ability of the city to maintain revenue from own sources and manage level of operating and capital expenditure at discretion of the city administration.

**Scoring guidelines:**

**Green** - revenues from own sources comprise more than 30% of city's revenue base; city has significant discretion in operating and capital financial planning; operating revenues from service mandates mostly able to at least recover the running costs for those services

**Yellow** - revenue from own rouses comprise less than 30% of city's revenue base; city can enact, set and administer local taxes (property taxes in particular), however, city's revenue and spending mandates are still largely reliant on intergovernmental transfers and spending obligations are higher than revenue collected by the city from respective services

**Red** - very limited fiscal powers and complete dependence on intergovernmental transfers; municipal services are top-down mandates from higher levels of government with limited capacity for own revenue collection and cost recovery

**Assessment Notes**

Rwanda’s fiscal system is heavily centralized. Being the main economic hub of Rwanda, Kigali has some control of its budgeting processes. However, there is a strong coordination with the state on any major operating and capital investment incentives. According to the recently completed World Bank’s City Creditworthiness survey, Kigali experiences growth of own source revenues (both in absolute numbers and as a share in total city’s revenue). The city has some authority to adjust tax rates and public service fees. The proceeds from intragovernmental transfers are formula-bases and reasonably predictable.

Recommended color-coded score for this indicator is YELLOW.

**TRACK RECORD IN LAND VALUE CAPTURE**

**Data points**

Track record of the city authorities in negotiating public-private partnerships in land and property development, in particular involving obligations for private partners to build (contribute) public infrastructure (e.g. joint development agreements, and/or development SPVs, selling development rights with infrastructure encumbrances/conditions, etc.).

**Scoring guidelines:**

**Green** - evident track record hereof; the city is legally permitted to negotiate land development deals with private partners and has transacted land /property rights with infrastructure obligations.

**Yellow** - evidence that the city is legally permitted to negotiate land development deals with private partners; however, the track record of such is either very limited (e.g. 1-2 deals in the foreseeable past) or inconclusive of the city's real ability to efficiently structure land value capture transactions with fair compensation to the city (i.e. forcing private partners to act in good faith)

**Red** - no track record hereof; OR, clear evidence (with sources) that city is not permitted to negotiate land development deals with private partners

**Assessment Notes.**

No evidence is found with regards to projects involving provisions or encumbrances for private property developers investing in off-site public infrastructure.

|  |
| --- |
| Kisumu, Kenya |

**Track Record and Regulations in Structuring PPPs**

|  |  |  |  |
| --- | --- | --- | --- |
| **Track Record** | **Regulatory Frameworks** | **Procurement Capacity** | **Government**  **Co-Financing** |
|  |  |  |  |

**PPP TRACK RECORD (RECENT 10 YEARS):**

**Data points**

|  |  |
| --- | --- |
| PPPs of record in the country (in any status, incl. completed and planned) | > 80 |
| PPP of record in the jurisdictional borders of the assessed city | 10 |
| Nationwide count of PPPs in areas of CRP focus (sanitation, water supply, flood mitigation, urban upgrades, housing, urban transport) | 12 |

**Scoring guidelines:**

**Green** - solid track record

**Yellow** - some track record / or good national track record, limited local capacity

**Red** - no or limited track record with limited local capacity respectively

**Assessment notes:**

Kenya has shown solid experience in structuring PPPs over the past 10 years compared to other Sub-Saharan countries. The national track record includes 22 PPP infrastructure projects that have already achieved financial close (with investments worth about USD 2.8 billion) and more than 60 projects in future pipeline. Majority of PPPs launched in recent 10 years are concentrated in energy, sanitation, water supply, and transportation.

Kisumu hosts directly only 2 PPP (ports and power), including a completed Sondu Miriu power station project and Lake Port project which is currently in planning.

The Government of Kenya has made infrastructure development through PPPs a priority mechanism for delivering infrastructure projects and introduced economic incentives to support PPPs (e.g. tax exemption for interest paid on loans from foreign sources in PPP transactions associated with investments in energy, water and infrastructure).

Build-Operate-Transfer (BOT) is the most common business model for infrastructure PPPs in Kenya. Apart from BOT, some of the other commonly adopted models of PPPs include Build-Own-Operate-Transfer (BOOT) and Performance based management / O&M contracts

Currently, more than 90% of PPP projects in Kenya are developed by procuring agencies of the central government, and less than 10% are developed by county governments.

**PPP REGULATORY FRAMEWORK**

**Data points**

|  |  |
| --- | --- |
| Does national regulatory framework allow procuring PPPs? | YES |
| Does regulatory framework contain specialized legislation regulating PPPs? | YES |
| No restrictions on structuring PPPs in CRP priority sectors? | YES |
| Foreign companies are NOT prohibited from participating in PPP? | YES |
| Foreign companies are permitted to repatriate income from PPP operations? | YES |
| Flexibility to change ownership structure / assign rights under PPP contract? | YES |
| International arbitration allowable for dispute resolution of PPP contracts? | YES |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 5 positive responses

**Yellow** – 2 to 4 positive responses

**Red** – 1 or 0 positive responses

**Assessment notes:**

PPPs in Kenya are governed by Law 15 of 2013 on Public-Private Partnerships (the "PPP Act") and the Public Private Partnership Regulations published in December 2014. Kenya's PPP laws boast investor-friendly covenants such as flexibility to change ownership structure in PPP vehicles (subject to approval by the contracting authority) and international arbitration in dispute resolution. Foreign companies are explicitly allowed to participate in PPPs and also allowed to repatriate income resulting from their PPP operations in Kenya.

**PPP PROCUREMENT CAPACITY**

**Data points**

|  |  |
| --- | --- |
| Cities/municipalities by law have procuring authority for PPPs? | YES |
| PPP contract can be awarded even if only one proposal is submitted | YES |
| Unsolicited proposals either explicitly allowed or not regulated and possible in practice | YES |
| Competitive PPP procurement must be initiated when proceeding with an unsolicited proposal\* | NO |
| Specialized municipal entity that facilitates the PPP program (PPP Unit) | NO |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 4-5 positive responses

**Yellow** – 2 to 4 positive responses;

**Red** – 1 or 0 positive responses; if 1 but earned on “Specialized municipal entity that facilitates PPP” – that is YELLOW

**Assessment notes:**

County governments are included as procurement authorities (eligible to procure PPP) under Kenya's PPP Act. They are required to submit lists of PPP projects they intend to undertake in line with their development programs. These lists are assessed and approved, hierarchically, by the National PPP Unit, the PPP Committee, and the National Cabinet. The PPP Committee acts as the main regulator of PPPs in Kenya and approves PPP project proposals submitted by the contracting authorities of different levels (either national or municipal). The PPP Unit is established within the National Treasury and serves as the technical arm of the PPP Committee. The PPP Unit is responsible for promoting PPPs, offering technical support to PPP-procuring agencies and making recommendation on the project submission to the PPP Committee.

**GOVERNMENT CO-FINANCING**

**Data points**

Availability and performance of government-led infrastructure co-financing vehicles (Sovereign Wealth Funds, Local Development Investment vehicles, state-run Guaranteed Loan and Grant programs, Infrastructure Guarantee Funds, etc.). As such, the contemplated government co-financing vehicle may serve as the source of additional leverage, equity and/or a provider of credit enhancement mechanisms in project finance and can open additional opportunities for attracting private capital for infrastructure financing.

**Scoring guidelines:**

Educated opinion on availability of government financing facilities that provide financial assistance to infrastructure projects:

**Green** – Dedicated infrastructure co-financing facility/facilities are established by national or sub-national government; clear criteria for application for such co-financing; proven track record of long or short-term co-financing provided by such facilities for country’s infrastructure projects (not necessarily in the surveyed city).

**Yellow** – Some forms of government co-financing have been identified as a supportive tool for infrastructure investments; access to such government-led co-financing is limited due to either limited size of such co-financing and/or lack of transparency in funds allocation (e.g. unclear criteria for application and approval of such funds) or such a vehicle is planned/drafted but yet to be activated in practice ;

**Red** – No evidence of government financing facilities that are set to co-finance infrastructure alongside the private sector (infrastructure can still be extensively funded exclusively from state funds, user fees and/or concessional loans).

**Assessment notes:**

The government through Treasury drafted the Kenya National Sovereign Wealth Fund (SWF) Bill whose main aim to redistribute proceeds from oil, gas and mining industries into infrastructure development. This would lay the legal framework for managing oil and gas wealth from the discovered resources. A seed capital of KES 10 billion (equivalent to USD 100 mln) was injected into the fund. The bill proposes the establishment of three main funds within it: stabilization fund, infrastructure and development fund, and a future generation fund.

Climate Change Act 2016 established the Climate Change Fund as a financing mechanism for priority climate change actions and interventions.

|  |
| --- |
| **QUESTIONS:**  The status of the Sovereign Wealth Fund and its usefulness for county governments should be clarified with TTL and government officials. |

**Survey of Enabling Conditions for Land Value Capture (LVC)**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Real Estate Market Capacity** | **Land Use Regulations** | **Land Cadaster / Land Data Management** | **Security of property rights** | **Local Fiscal Powers** | **LVC track record** |
|  |  |  |  |  |  |

**REAL ESTATE MARKET CAPACITY**

This indicator consists of sub-indicator data points (covering different subsets of Market Environment), each earning formal scores that contribute to a cumulative overall score for the Market Environment based on which the ultimate color-code for the Market Environment is assigned

**Data points:**

***Market Dynamics****:* Expert snapshot view on the market maturity, formality and its readiness for generating land value premiums and value capture. Scores for this sub-indicator are derived according to the following formalized metrics:

2.0 – **Active and structured** (largely formal) market with rapidly emerging or established presence of high-value commercial properties (at least 200,000 square meters of modern grade A offices, at least 2-3 modern malls, at least 2 internationally branded hotels). No signs of crisis or sustained stagnation.

1.0 – **Structured (largely formal) but slow** market with limited presence of high-grade properties, evident signs of oversupply or sustained crisis is a clear determination for this score even if formal market prevails.

0.5 – **Nascent (largely informal) active** market with yet very limited presence of high-grade properties but with good outlooks as surfaced either in professional market surveys or discovered from anecdotal evidence

0 – **Nascent (largely informal) limited** market - very scarce modern real estate development; on top of that the market shows limited prospects for attracting future investments in high-grade high-value modern properties

***Market Coverage:*** Availability of recent/regular market surveys, ideally prepared by global real estate services companies, e.g. CBRE, Colliers, JLL, Cushman, Knight Frank, DTZ (or other credible sources, including investor surveys)

1 – market covered by professional market surveys

0 – no regular coverage by professional market surveys

***Market Infrastructure:*** Evidence of land/property market infrastructure (property databases, brokers, notaries, surveyors, etc.), assessed based on the following metrics:

1 – **Well functioning infrastructure** (networks of professional agency services providers/brokers, some with international franchises, notaries, locally present land surveyors. etc.)

0 – **Weak infrastructure**, with evident deficiencies (best proxies for such deficiencies are: absence of private notary services, real estate agency services are not subject to licensing; real estate agencies have limited role and are only local/domestic entities while international franchises/rep offices are absent)

***Price Discovery:*** Conclusion on transparency of price discovery process for land and buildings on the local market; the transparency of price discovery is assessed using the following formalized metrics:

1 – **Confidently transparent** - all three of the following conditions are met: role of informal land transaction is minimal or much less compared to formal market, range of fair market values for land is discoverable for any given location, value heatmaps are available, past transaction records are maintained and publicly available, either free of charge of for a fee;

0.5 – **Somewhat transparent** - some of the conditions mentioned in Confidently Transparent are clearly not met; most importantly, if it is clear that valid comparable sales are too limited/sporadic for tracing variations of market prices across the city

0 – **Non-transparent** - informal market dominates, fair market values of any given land or building are hard to discover, land/property values are in most cases discretionary / not backed by comparable sales evidence, income approach to valuation is also not applicable

**Scoring guidelines:**

The sum of scores collected on individual sub-indicators produces the following color designations:

**Green** – equal or larger than 4.0

**Yellow** – 2.0 to 3.5

**Red** – less than 2.0

**Assessment Notes**

***Market Dynamics: score – 2*** *(active structured market)*

Kisumu is the third largest city in Kenya (by population) and the principal city in Western Kenya, located on the shores of Lake Victoria. In recent years Kisumu has emerged as one of East Africa’s most vibrant and popular leisure, tourism and business hubs.

The real estate sector, in particular residential construction in Kisumu is currently characterized as booming, with most of large-scale modern developments started not later than 5 years ago, including some high-end residential quarters in Kisumu’s suburbs. On the other hand, Kisumu lacks modern quality office space, especially compared to Nairobi. Yet, there is a growing number of commercial high rises that are changing the skyline of Kisumu’s central business district (e.g. Mega Plaza twin towers). As evidenced by local market practitioners, land scarcity coupled with increased concentration of businesses services in Kisumu in recent years spurred the demand for office space and urged vertical commercial development in Kisumu’s CBD. There are expectations for continued demand for modern commercial and residential space and more office, multi-storied apartment and mixed-use towers are believed to come up in Kisumu. Retail market in Kisumu is arguably well developed, compared to other large cities in SSA. There are 7 enclosed modern malls, with an approximate total size of 65,000 square meters. However, there are signs of slowdown in the retailing sector (vacancy rates in modern properties exceed 20%). Kisumu is experiencing a boom in hospitality industry with many Kenya-based hotel chains entering the market, especially along the Lake Victoria shorelines which is the main attraction point for the entire region. However, the market is yet to see the arrival of internationally branded hotel operations. Such market vibrancy favors potential implementation of land value capture mechanism, subject to regulatory constraints (e.g. city’s ability to negotiate land transactions) and market adjustments.

***Market Coverage: score – 1*** *(m*arket covered by professional surveys)

Kisumu has been covered in recent regional market surveys carried out by global real estate companies (such as Knight Frank), and the city has frequented watch list of prime investment opportunity in the East Africa region.

***Market Infrastructure: score – 1*** *(well-functioning infrastructure)*

There is a robust network of professional agency services providers, sales/leasing brokers with international franchises, and a strong regulatory framework. The real estate industry in Kenya is governed by the Estate Agents Act Cap. 533 of the Laws of Kenya. The Act provides for the registration of persons who, by way of business, negotiate for or otherwise act in relation to the selling, purchasing or letting of land and buildings erected thereon; for the regulation and control of the professional conduct of such persons and their remunerations. Besides regulating real estate operations, it also protects members of the public from exploitation/fraud. All estate agents operating in Kenya must be properly qualified and officially registered with the Estate Agents Registration Board which issues an annually renewable practicing certificate. As such, there is a reasonably well-developed infrastructure to support investors on the Kisumu real estate market with professional real estate advice, planning and entitlements facilitation, title search, dispute resolution, etc.

***Price discovery: score – 0.5*** *(somewhat transparent market)*

Discovery of land and building prices is considered somewhat transparent by market practitioners. Final sale prices are rarely disclosed publicly, and pre-sale listing prices serve as a good market reference, subject for relatively minor adjustment (up to 5-10%) to confidently conclude on achievable final sale prices in arm's length sales.

Kisumu earns a **cumulative score of 4.5** on above sub-indicators which corresponds to **GREEN color code** for the city’s real estate market capacity, showing favorable conditions for Land Value Capture in terms of enabling market environment.

**LAND USE REGULATIONS**

**Data points**

Evidence of comprehensive plan for city’s territories (Master Plan, Land Ordinances or equivalent), which regulates density, height, and functional uses in various parts of the city

**Scoring guidelines:**

**Green** - Such plan exists, covers entire city and is able to inform investors of land use and building regulations at - or very close to - parcel by parcel detail

**Yellow** - Such plan exists, but has evident deficiencies, e.g. does not cover entire city, omits important land use guidelines, outdated, has evident enforcement issues, etc.

Red - Such plan does not exist, or even if it technically exists it has not been updated for long (e.g. since the change of political regime)

**Assessment Notes**

While there are comprehensive regulations to guide the preparation of land use plans at the national and county levels, their enforcement is not effectively enforced. In Kisumu, the Integrated Strategic Urban Development Plan (ISUD-Plan) has been developed at the order of the Kenyan Ministry of local governments (MoLG) and the Kisumu County Government, with the support of the Agence Française de Développement (AFD). The purpose of ISUD-Plan is to provide a framework for Kisumu’s growth and development and to endow those in charge with both knowledge and tools to address the challenges of urban growth and local development.

However, the robustness of land use regulations and the level of detail and transparency of development conditions is still considered relatively limited and the recommended Assessor’s color rating is YELLOW.

**LAND CADASTER / LAND DATA MANAGEMENT**

**Data points**

Availability of centralized database for land parcel information with legal and value records

**Scoring guidelines:**

**Green** - Land Cadaster is well maintained, cadaster information matches legal ownership records and land values in the cadaster correspond to actual market values

**Yellow** - Land Cadaster is in place, but has evident omissions, e.g. does not cover entire city, and/or has mismatches with legal records, land value records in the cadaster are in mismatch with market values

**Red** - Land Cadaster not introduced, or covers less than 30% of city area, or has very poor data / has not been updated for long time

**Assessment Notes**

Land Cadastral system in Kenya is maintained and regularly updated but data inputs are prone to manipulation and are lacking complete territorial coverage. In fact, desk research showed that conventional cadastral and land registration systems cannot supply security of tenure to the vast majority of land holders (especially low-income population groups). As registration of land requires proper survey of boundaries, many people find the costs of survey to be unaffordable and hence unable to register land and opt to transact in the informal land markets. This makes accurate land data management and recordation for cadastral purposes very challenging.

Recommended score for this indicator is YELLOW.

**SECURITY OF PROPERTY RIGHTS**

**Data points**

Expert opinion on the level of establishment and recordation of property titles, title search infrastructure, robustness of dispute resolution processes.

**Scoring guidelines:**

**Green** – robust land and property title registers and property records, covering entire area of the city; registers are regularly updated; property titles do not overlap and formal development rights as a rule reflect de fact ownership; domestic legal framework able to resolve most of property disputes; distribution of land/property rights between government agencies is well established and recorded.

**Yellow** – nominal presence of land/property registers. However, the system has numerous evidence of inaccurate, unrecorded, outdated or overlapping land/property rights; numerous cases of non-delineated lands (e.g. clusters of urban “nobody’s land” with potential conflicting interests); evidence of poorly established public ownership (conflicting claims of different public agencies and layers of government).

**Red** – nonexistent or very incomplete title registers; title search and property dispute resolution have significant informal aspects.

**Assessment Notes**

Kenya lacks a formal property register for documentation of property titles and property features. The register at the Ministry of Lands Housing and Urban Development captures more detailed information on land parcels (not complete also) while there is very limited information on associated land improvements such as buildings description, building titles and value of such improvements. That said, the absence of proper register of titles in land improvements for ensuring property development is done within the confines of the law is believed to be one the challenges that Kenyan cities face in pursuing the urban development strategies.

Recommended score for this indicator is YELLOW.

**LOCAL FISCAL POWERS**

**Data points**

Ability of the city to maintain revenue from own sources and manage level of operating and capital expenditure at discretion of the city administration.

**Scoring guidelines:**

**Green** - revenues from own sources comprise more than 30% of city's revenue base; city has significant discretion in operating and capital financial planning; operating revenues from service mandates mostly able to at least recover the running costs for those services

**Yellow** - revenue from own rouses comprise less than 30% of city's revenue base; city can enact, set and administer local taxes (property taxes in particular), however, city's revenue and spending mandates are still largely reliant on intergovernmental transfers and spending obligations are higher than revenue collected by the city from respective services

**Red** - very limited fiscal powers and complete dependence on intergovernmental transfers; municipal services are top-down mandates from higher levels of government with limited capacity for own revenue collection and cost recovery

**Assessment Notes**

Despite recent decentralization efforts, counties still receive most of their income through central government transfers. In theory, counties can initiate public-private arrangements (e.g. PPP, LVC transactions) but it will ultimately require the revision and further approval of a central government entity, in most cases the Treasury.

Recommended color-coded score for this indicator is YELLOW.

**TRACK RECORD IN LAND VALUE CAPTURE**

**Data points**

Track record of the city authorities in negotiating public-private partnerships in land and property development, in particular involving obligations for private partners to build (contribute) public infrastructure (e.g. joint development agreements, and/or development SPVs, selling development rights with infrastructure encumbrances/conditions, etc.).

**Scoring guidelines:**

**Green** - evident track record hereof; the city is legally permitted to negotiate land development deals with private partners and has transacted land /property rights with infrastructure obligations.

**Yellow** - evidence that the city is legally permitted to negotiate land development deals with private partners; however, the track record of such is either very limited (e.g. 1-2 deals in the foreseeable past) or inconclusive of the city's real ability to efficiently structure land value capture transactions with fair compensation to the city (i.e. forcing private partners to act in good faith)

**Red** - no track record hereof; OR, clear evidence (with sources) that city is not permitted to negotiate land development deals with private partners

**Assessment Notes**

No evident track record on this front. Due to the surge in informal and illegal allocation of land in the 1980s and 1990s, there is virtually no vacant government owned land in Kenyan cities, and the formal (and informal) urban land market is now almost entirely in the hands of the private sector, limiting the ability of the public sector to regulate land development and to make land available for public development purposes. Nonetheless, there are signs that the government has been exploring PPP arrangements for affordable housing provision in principal Kenyan cities.

|  |
| --- |
| La Paz - El Alto, Bolivia |

**Track Record and Regulations in Structuring PPPs**

|  |  |  |  |
| --- | --- | --- | --- |
| **Track Record** | **Regulatory Frameworks** | **Procurement Capacity** | **Government**  **Co-Financing** |
|  |  |  |  |

**PPP TRACK RECORD (RECENT 10 YEARS):**

**Data points**

|  |  |
| --- | --- |
| PPPs of record in the country (in any status) | 0 |
| PPP of record in the jurisdictional borders of the assessed city | 0 |
| Nationwide count of PPPs in areas of CRP focus (sanitation, water supply, flood mitigation, urban upgrades, housing, urban transport) | 0 |

**Scoring guidelines:**

**Green** - solid track record

**Yellow** - some track record / or good national track record, limited local capacity

**Red** - no or limited track record with limited local capacity respectively

**Assessment notes:**

Before 2005, several PPPs were originated in the energy, telecom, transport and water sectors, with six of them currently in operation. The water concession in La Paz-El Alto is a notable project that was eventually terminated.

There is no track record of PPP origination nationwide since Pres. Morales was elected in 2006. The PPP-facilitating legislation has not been formally adopted under Pres. Morales and private participation in infrastructure projects in Bolivia is heavily challenged with legislative and regulatory restrictions.

More so, speaking of tentative private sector participation in infrastructure projects, Bolivian government hasn’t yet endorsed a list of priority project for potential P3 structuring.

**PPP REGULATORY FRAMEWORK**

**Data points**

|  |  |
| --- | --- |
| Does national regulatory framework allow procuring PPPs? | NO |
| Does regulatory framework contain specialized legislation regulating PPPs? | n/a |
| No restrictions on structuring PPPs in CRP priority sectors? | n/a |
| Foreign companies are NOT prohibited from participating in PPP? | n/a |
| Foreign companies are permitted to repatriate income from PPP operations? | n/a |
| Flexibility to change ownership structure / assign rights under PPP contract? | n/a |
| International arbitration allowable for dispute resolution of PPP contracts? | n/a |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 5 positive responses

**Yellow** – 2 to 4 positive responses

**Red** – 1 or 0 positive responses

**Assessment notes:**

Bolivia has no PPP specific legislation and under the new Constitution of 2009, the regulations regarding concessions have been suspended because they do not comply with the Constitution. As a consequence, in December 2010, the government issued Supreme Decree No. 726, which treats running concessions under temporary authorizations.

**PPP PROCUREMENT CAPACITY**

**Data points**

|  |  |
| --- | --- |
| Cities/municipalities by law have procuring authority for PPPs? | NO |
| PPP contract can be awarded even if only one proposal is submitted | n/a |
| Unsolicited proposals either explicitly allowed or not regulated and possible in practice | n/a |
| Competitive PPP procurement must be initiated when proceeding with an unsolicited proposal\* | n/a |
| Specialized municipal entity that facilitates the PPP program (PPP Unit) | n/a |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 4-5 positive responses

**Yellow** – 2 to 4 positive responses;

**Red** – 1 or 0 positive responses; if 1 but earned on “Specialized municipal entity that facilitates PPP” – that is YELLOW

**Assessment notes:**

National control over operating PPP projects and no new PPP originations after 2005 indicate that there is no capacity at the municipal level.

**GOVERNMENT CO-FINANCING**

**Data points**

Availability and performance of government-led infrastructure co-financing vehicles (Sovereign Wealth Funds, Local Development Investment vehicles, state-run Guaranteed Loan and Grant programs, Infrastructure Guarantee Funds, etc.). As such, the contemplated government co-financing vehicle may serve as the source of additional leverage, equity and/or a provider of credit enhancement mechanisms in project finance and can open additional opportunities for attracting private capital for infrastructure financing.

**Scoring guidelines:**

Educated opinion on availability of government financing facilities that provide financial assistance to infrastructure projects:

**Green** – Dedicated infrastructure co-financing facility/facilities are established by national or sub-national government; clear criteria for application for such co-financing; proven track record of long or short-term co-financing provided by such facilities for country’s infrastructure projects (not necessarily in the surveyed city).

**Yellow** – Some forms of government co-financing have been identified as a supportive tool for infrastructure investments; access to such government-led co-financing is limited due to either limited size of such co-financing and/or lack of transparency in funds allocation (e.g. unclear criteria for application and approval of such funds) or such a vehicle is planned/drafted but yet to be activated in practice ;

**Red** – No evidence of government financing facilities that are set to co-finance infrastructure alongside the private sector (infrastructure can still be extensively funded exclusively from state funds, user fees and/or concessional loans).

**Assessment notes:**

Bolivia boasts large state-led infrastructure development agenda (which is heavily funded from bi-lateral financing arrangements with China, worth USD 10 billion in total pledges).

The only record of dedicated fund structure aimed at providing government co-financing for private investment is Fund for Productive Industrial Revolution (FINPRO), established in 2012. It sets off USD 1.2 billion in Bolivia’s foreign currency reserves and focuses primarily on supporting projects in manufacturing sector (i.e. boosting country’s industrial base).

Of note, Law 742 of 2015 authorized the Ministry of Development Planning to establish a trust, for an initial amount, equivalent to approx. USD 450 million, with the purpose of providing sub-national units with additional resources for discretionary co-financing of public investment projects, concurrently with the central State.

There is no record of similar facility dedicated to support private investments in bulk infrastructure

**Survey of Enabling Conditions for Land Value Capture (LVC)**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Real Estate Market Capacity** | **Land Use Regulations** | **Land Cadaster / Land Data Management** | **Security of property rights** | **Local Fiscal Powers** | **LVC track record** |
|  |  |  |  |  |  |

**REAL ESTATE MARKET CAPACITY**

This indicator consists of sub-indicator data points (covering different subsets of Market Environment), each earning formal scores that contribute to a cumulative overall score for the Market Environment based on which the ultimate color-code for the Market Environment is assigned

**Data points:**

***Market Dynamics****:* Expert snapshot view on the market maturity, formality and its readiness for generating land value premiums and value capture. Scores for this sub-indicator are derived according to the following formalized metrics:

2.0 – **Active and structured** (largely formal) market with rapidly emerging or established presence of high-value commercial properties (at least 200,000 square meters of modern grade A offices, at least 2-3 modern malls, at least 2 internationally branded hotels). No signs of crisis or sustained stagnation.

1.0 – **Structured (largely formal) but slow** market with limited presence of high-grade properties, evident signs of oversupply or sustained crisis is a clear determination for this score even if formal market prevails.

0.5 – **Nascent (largely informal) active** market with yet very limited presence of high-grade properties but with good outlooks as surfaced either in professional market surveys or discovered from anecdotal evidence

0 – **Nascent (largely informal) limited** market - very scarce modern real estate development; on top of that the market shows limited prospects for attracting future investments in high-grade high-value modern properties

***Market Coverage:*** Availability of recent/regular market surveys, ideally prepared by global real estate services companies, e.g. CBRE, Colliers, JLL, Cushman, Knight Frank, DTZ (or other credible sources, including investor surveys)

1 – market covered by professional market surveys

0 – no regular coverage by professional market surveys

***Market Infrastructure:*** Evidence of land/property market infrastructure (property databases, brokers, notaries, surveyors, etc.), assessed based on the following metrics:

1 – **Well functioning infrastructure** (networks of professional agency services providers/brokers, some with international franchises, notaries, locally present land surveyors. etc.)

0 – **Weak infrastructure**, with evident deficiencies (best proxies for such deficiencies are: absence of private notary services, real estate agency services are not subject to licensing; real estate agencies have limited role and are only local/domestic entities while international franchises/rep offices are absent)

***Price Discovery:*** Conclusion on transparency of price discovery process for land and buildings on the local market; the transparency of price discovery is assessed using the following formalized metrics:

1 – **Confidently transparent** - all three of the following conditions are met: role of informal land transaction is minimal or much less compared to formal market, range of fair market values for land is discoverable for any given location, value heatmaps are available, past transaction records are maintained and publicly available, either free of charge of for a fee;

0.5 – **Somewhat transparent** - some of the conditions mentioned in Confidently Transparent are clearly not met; most importantly, if it is clear that valid comparable sales are too limited/sporadic for tracing variations of market prices across the city

0 – **Non-transparent** - informal market dominates, fair market values of any given land or building are hard to discover, land/property values are in most cases discretionary / not backed by comparable sales evidence, income approach to valuation is also not applicable

**Scoring guidelines:**

The sum of scores collected on individual sub-indicators produces the following color designations:

**Green** – equal or larger than 4.0

**Yellow** – 2.0 to 3.5

**Red** – less than 2.0

**Assessment Notes**

***Market Dynamics: score – 1*** *(active largely informal, nascent market)*

Construction has been an important activity for the Bolivian economy in recent years, growing on average at 7-8% annually in terms of GDP contribution. In the La Paz-El Alto metropolitan area, the number of construction permits issued annually has been growing over 10% since 2015.

Despite positive construction industry statistics, property markets in La Paz – El Alto are yet rather immature with very limited supply of modern commercial and residential real estate. However, there are some examples of structured enclosed malls (such as Centro Commercial Megacenter) and more modern mixed-use and commercial properties have been recently announced in the future pipeline.

Given the limitations of regulatory environment for private sector participation and that the market is still at the very early stages of high grade real estate development, the current potential for land value capture in La Paz – El Alto seems challenging so far. Yet, provided that the country’s robust economic performance continues, the demand for modern property will grow. That may generate opportunities for capturing land value for infrastructure upgrades, in particular in real estate developments around transportation nodes. More broadly new housing development and commercial centers may anchor major upgrades in provision of utilities and transport infrastructure for wider areas.

***Market Coverage: score – 0***

No regular market coverage by global real estate services providers

***Market Infrastructure: score – 0***

Due to lack of formal market transactions, the network of professional real estate services providers and sales/leasing brokers is not considered robust. There is some presence of local brokers and surveyors.

***Price discovery: score – 0***

Very limited recordation of market-based sales evidence from the secondary land market as the market is largely informal. As to disposition of public land and building assets, while some general statutory guidelines are in place and require public bidding, there is almost no track record of conducting such dispositions.

La Paz – El Alto earns a **cumulative score of 1.0** on above sub-indicators which corresponds to **RED color code** for the city’s real estate market capacity, showing rather limited present potential for Land Value Capture in terms of enabling market environment.

**LAND USE REGULATIONS**

**Data points**

Evidence of comprehensive plan for city’s territories (Master Plan, Land Ordinances or equivalent), which regulates density, height, and functional uses in various parts of the city.

**Scoring guidelines:**

**Green** - Such plan exists, covers entire city and is able to inform investors of land use and building regulations at - or very close to - parcel by parcel detail

**Yellow** - Such plan exists, but has evident deficiencies, e.g. does not cover entire city, omits important land use guidelines, outdated, has evident enforcement issues, etc.

Red - Such plan does not exist, or even if it technically exists it has not been updated for long (e.g. since the change of political regime)

**Assessment Notes**

The Autonomous Municipal Laws 017-024 -050 (2013) of Urban Land Uses established the norms that govern the use, classes and destination of the land, settlement patterns as well as construction parameters for the construction in the municipality of La Paz in the urban area administered by the GAMLP through the “Vicealcaldías Urbanas”. According to officials, there is a significant lack of control at the municipal level and private developers and owners often “self govern” their projects and develop property in a manner that doesn’t conform to larger municipal plans.

**LAND CADASTER / LAND DATA MANAGEMENT**

**Data points**

Availability of centralized database for land parcel information with legal and value records

**Scoring guidelines:**

**Green** - Land Cadaster is well maintained, cadaster information matches legal ownership records and land values in the cadaster correspond to actual market values

**Yellow** - Land Cadaster is in place, but has evident omissions, e.g. does not cover entire city, and/or has mismatches with legal records, land value records in the cadaster are in mismatch with market values

**Red** - Land Cadaster not introduced, or covers less than 30% of city area, or has very poor data / has not been updated for long time

**Assessment Notes**

According to data from the Municipal Directorate of Territorial and Cadastral Administration, the municipality of La Paz has 255 thousand properties, of which about 200 thousand have a cadastral certificate, that is, 80% of the city’s real estate.

Of note, in the 2018 WBG survey of business regulations, Bolivia (as measured with the data collected for the city of La Paz) ranks lower than majority of Latin American countries on the Land Administration Index (scoring 7.0 while average for Latin America is 12.0).

Recommended score for this indicator is YELLOW.

**SECURITY OF PROPERTY RIGHTS**

**Data points**

Expert opinion on the level of establishment and recordation of property titles, title search infrastructure, robustness of dispute resolution processes.

**Scoring guidelines:**

**Green** – robust land and property title registers and property records, covering entire area of the city; registers are regularly updated; property titles do not overlap and formal development rights as a rule reflect de fact ownership; domestic legal framework able to resolve most of property disputes; distribution of land/property rights between government agencies is well established and recorded.

**Yellow** – nominal presence of land/property registers. However, the system has numerous evidence of inaccurate, unrecorded, outdated or overlapping land/property rights; numerous cases of non-delineated lands (e.g. clusters of urban “nobody’s land” with potential conflicting interests); evidence of poorly established public ownership (conflicting claims of different public agencies and layers of government).

**Red** – nonexistent or very incomplete title registers; title search and property dispute resolution have significant informal aspects.

**Assessment Notes**

National officials confirmed that there are significant deficits in land registry and title records and the level of title security is rather low.

Recommended score for this indicator is RED.

**LOCAL FISCAL POWERS**

**Data points**

Ability of the city to maintain revenue from own sources and manage level of operating and capital expenditure at discretion of the city administration.

**Scoring guidelines:**

**Green** - revenues from own sources comprise more than 30% of city's revenue base; city has significant discretion in operating and capital financial planning; operating revenues from service mandates mostly able to at least recover the running costs for those services

**Yellow** - revenue from own rouses comprise less than 30% of city's revenue base; city can enact, set and administer local taxes (property taxes in particular), however, city's revenue and spending mandates are still largely reliant on intergovernmental transfers and spending obligations are higher than revenue collected by the city from respective services

**Red** - very limited fiscal powers and complete dependence on intergovernmental transfers; municipal services are top-down mandates from higher levels of government with limited capacity for own revenue collection and cost recovery

**Assessment Notes**

Bolivian municipalities are highly dependent on intergovernmental transfers for execution of delegated public expenditures (share of intergovernmental transfers in municipalities’ total resources normally exceed 75%). Statistical data (OECD Stat / Revenue statistics for Latin American countries) indicates that own revenue sources of Bolivia’s municipalities comprise relatively small share in total government revenue (3-4% versus 7% in Brazil or 10% in Colombia). Per PWC data, Bolivian municipal governments are empowered to set rates for property taxes (Law 154, 2011). The property tax as well as an automobile tax are the two most important tax revenues for Bolivian municipalities. Law No. 843 establishes that the tax base of the property tax will be constituted by the tax assessment established in each municipal jurisdiction in application of the cadastral and technical-tax rules issued by the Executive Branch (article 54 et seq.). Municipal governments are highly dependent on the national government for large scale infrastructure spending.

Recommended color-coded score for this indicator is RED.

**TRACK RECORD IN LAND VALUE CAPTURE**

**Data points**

Track record of the city authorities in negotiating public-private partnerships in land and property development, in particular involving obligations for private partners to build (contribute) public infrastructure (e.g. joint development agreements, and/or development SPVs, selling development rights with infrastructure encumbrances/conditions, etc.).

**Scoring guidelines:**

**Green** - evident track record hereof; the city is legally permitted to negotiate land development deals with private partners and has transacted land /property rights with infrastructure obligations.

**Yellow** - evidence that the city is legally permitted to negotiate land development deals with private partners; however, the track record of such is either very limited (e.g. 1-2 deals in the foreseeable past) or inconclusive of the city's real ability to efficiently structure land value capture transactions with fair compensation to the city (i.e. forcing private partners to act in good faith)

**Red** - no track record hereof; OR, clear evidence (with sources) that city is not permitted to negotiate land development deals with private partners

**Assessment Notes**

No such track record found.

The municipal government does not maintain records of real estate portfolios (land and buildings), and does not actively maintain its assets strategically. Also, due to limited price and market transparency there is a general inability to understand how the portfolio can be better utilized or managed.

|  |
| --- |
| Mombasa, Kenya |

**Track Record and Regulations in Structuring PPPs**

|  |  |  |  |
| --- | --- | --- | --- |
| **Track Record** | **Regulatory Frameworks** | **Procurement Capacity** | **Government**  **Co-Financing** |
|  |  |  |  |

1. **PPP TRACK RECORD (RECENT 10 YEARS):**

**Data points**

|  |  |
| --- | --- |
| * PPPs of record in the country (in any status) | > 80 |
| * PPP of record in the jurisdictional borders of the assessed city | 12 |
| * Nationwide count of PPPs in areas of CRP focus (sanitation, water supply, flood mitigation, urban upgrades, housing, urban transport) | 12 |

**Scoring guidelines:**

* **Green** - solid track record
* **Yellow** - some track record / or good national track record, limited local capacity
* **Red** - no or limited track record with limited local capacity respectively

**Assessment notes:**

Kenya has shown solid experience in structuring PPPs over the past 10 years compared to other Sub-Saharan countries. The national track record includes 22 PPP infrastructure projects that have already achieved financial close (with investments worth about USD 2.8 billion) and more than 60 projects in future pipeline. Majority of PPPs launched in recent 10 years are concentrated in energy, sanitation, water supply, and transportation.

Mombasa (within the jurisdictional borders of Mombasa county) hosts 12 PPPs. Among the most notable are: Nyali Bridge (build-operate-transfer, construction cost of USD 200 million), 2nd phase of Container Terminal, LNG Plant, a 5,000-seat convention center on a 4-acre site leased from a private builder.

The Government of Kenya has made infrastructure development through PPPs a priority mechanism for delivering infrastructure projects and introduced economic incentives to support PPPs (e.g. tax exemption for interest paid on loans from foreign sources in PPP transactions associated with investments in energy, water and infrastructure).

Build-Operate-Transfer (BOT) is the most common business model for infrastructure PPPs in Kenya. Apart from BOT, some of the other commonly adopted models of PPPs include Build-Own-Operate-Transfer (BOOT) and Performance based management / O&M contracts

Currently, more than 90% of PPP projects in Kenya are developed by procuring agencies of the central government, and less than 10% are developed by county governments.

1. **PPP REGULATORY FRAMEWORK**

**Data points**

|  |  |
| --- | --- |
| * Does national regulatory framework allow procuring PPPs? | YES |
| * Does regulatory framework contain specialized legislation regulating PPPs? | YES |
| * No restrictions on structuring PPPs in CRP priority sectors? | YES |
| * Foreign companies are NOT prohibited from participating in PPP? | YES |
| * Foreign companies are permitted to repatriate income from PPP operations? | YES |
| * Flexibility to change ownership structure / assign rights under PPP contract? | YES |
| * International arbitration allowable for dispute resolution of PPP contracts? | YES |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

* **Green** – 5 positive responses
* **Yellow** – 2 to 4 positive responses
* **Red** – 1 or 0 positive responses

**Assessment notes:**

PPPs in Kenya are governed by Law 15 of 2013 on Public-Private Partnerships (the "PPP Act") and the Public Private Partnership Regulations published in December 2014. Kenya's PPP laws boast investor-friendly covenants such as flexibility to change ownership structure in PPP vehicles (subject to approval by the contracting authority) and international arbitration in dispute resolution. Foreign companies are explicitly allowed to participate in PPPs and also allowed to repatriate income resulting from their PPP operations in Kenya.

1. **PPP PROCUREMENT CAPACITY**

**Data points**

|  |  |
| --- | --- |
| * Cities/municipalities by law have procuring authority for PPPs? | YES |
| * PPP contract can be awarded even if only one proposal is submitted | YES |
| * Unsolicited proposals either explicitly allowed or not regulated and possible in practice | YES |
| * Competitive PPP procurement must be initiated when proceeding with an unsolicited proposal\* | NO |
| * Specialized municipal entity that facilitates the PPP program (PPP Unit) | NO |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

* **Green** – 4-5 positive responses
* **Yellow** – 2 to 4 positive responses;
* **Red** – 1 or 0 positive responses; if 1 but earned on “Specialized municipal entity that facilitates PPP” – that is YELLOW

**Assessment notes:**

County governments are included as procurement authorities (eligible to procure PPP) under Kenya's PPP Act. They are required to submit lists of PPP projects they intend to undertake in line with their development programs. These lists are assessed and approved, hierarchically, by the National PPP Unit, the PPP Committee, and the National Cabinet. The PPP Committee acts as the main regulator of PPPs in Kenya and approves PPP project proposals submitted by the contracting authorities of different levels (either national or municipal). The PPP Unit is established within the National Treasury and serves as the technical arm of the PPP Committee. The PPP Unit is responsible for promoting PPPs, offering technical support to PPP-procuring agencies and making recommendation on the project submission to the PPP Committee.

1. **GOVERNMENT CO-FINANCING**

**Data points**

Availability and performance of government-led infrastructure co-financing vehicles (Sovereign Wealth Funds, Local Development Investment vehicles, state-run Guaranteed Loan and Grant programs, Infrastructure Guarantee Funds, etc.). As such, the contemplated government co-financing vehicle may serve as the source of additional leverage, equity and/or a provider of credit enhancement mechanisms in project finance and can open additional opportunities for attracting private capital for infrastructure financing.

**Scoring guidelines:**

Educated opinion on availability of government financing facilities that provide financial assistance to infrastructure projects:

* **Green** – Dedicated infrastructure co-financing facility/facilities are established by national or sub-national government; clear criteria for application for such co-financing; proven track record of long or short-term co-financing provided by such facilities for country’s infrastructure projects (not necessarily in the surveyed city).
* **Yellow** – Some forms of government co-financing have been identified as a supportive tool for infrastructure investments; access to such government-led co-financing is limited due to either limited size of such co-financing and/or lack of transparency in funds allocation (e.g. unclear criteria for application and approval of such funds) or such a vehicle is planned/drafted but yet to be activated in practice ;
* **Red** – No evidence of government financing facilities that are set to co-finance infrastructure alongside the private sector (infrastructure can still be extensively funded exclusively from state funds, user fees and/or concessional loans).

**Assessment notes:**

The government through Treasury drafted the Kenya National Sovereign Wealth Fund (SWF) Bill whose main aim to redistribute proceeds from oil, gas and mining industries into infrastructure development. This would lay the legal framework for managing oil and gas wealth from the discovered resources. A seed capital of KES 10 billion (equivalent to USD 100 mln) was injected into the fund. The bill proposes the establishment of three main funds within it; stabilization fund, infrastructure and development fund, and a future generation fund.

Climate Change Act 2016 established the Climate Change Fund as a financing mechanism for priority climate change actions and interventions.

|  |
| --- |
| **QUESTIONS:**   * The status of the Sovereign Wealth Fund and its usefulness for county governments should be clarified with TTL and government officials. |

**Survey of Enabling Conditions for Land Value Capture (LVC)**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Real Estate Market Capacity** | **Land Use Regulations** | **Land Cadaster / Land Data Management** | **Security of property rights** | **Local Fiscal Powers** | **LVC track record** |
|  |  |  |  |  |  |

1. **REAL ESTATE MARKET CAPACITY**

This indicator consists of sub-indicator data points (covering different subsets of Market Environment), each earning formal scores that contribute to a cumulative overall score for the Market Environment based on which the ultimate color-code for the Market Environment is assigned.

**Data points:**

1. ***Market Dynamics****:* Expert snapshot view on the market maturity, formality and its readiness for generating land value premiums and value capture. Scores for this sub-indicator are derived according to the following formalized metrics:

2.0 – **Active and structured** (largely formal) market with rapidly emerging or established presence of high-value commercial properties (at least 200,000 square meters of modern grade A offices, at least 2-3 modern malls, at least 2 internationally branded hotels). No signs of crisis or sustained stagnation.

1.0 – **Structured (largely formal) but slow** market with limited presence of high-grade properties, evident signs of oversupply or sustained crisis is a clear determination for this score even if formal market prevails

0.5 – **Nascent (largely informal) active** market with yet very limited presence of high-grade properties but with good outlooks as surfaced either in professional market surveys or discovered from anecdotal evidence

0 – **Nascent (largely informal) limited** market - very scarce modern real estate development; on top of that the market shows limited prospects for attracting future investments in high-grade high-value modern properties

1. ***Market Coverage:*** Availability of recent/regular market surveys, ideally prepared by global real estate services companies, e.g. CBRE, Colliers, JLL, Cushman, Knight Frank, DTZ (or other credible sources, including investor surveys)

1 – market covered by professional market surveys

0 – no regular coverage by professional market surveys

1. ***Market Infrastructure:*** Evidence of land/property market infrastructure (property databases, brokers, notaries, surveyors, etc.), assessed based on the following metrics:

1 – **Well functioning infrastructure** (networks of professional agency services providers/brokers, some with international franchises, notaries, locally present land surveyors. etc.)

0 – **Weak infrastructure**, with evident deficiencies (best proxies for such deficiencies are: absence of private notary services, real estate agency services are not subject to licensing; real estate agencies have limited role and are only local/domestic entities while international franchises/rep offices are absent)

1. ***Price Discovery:*** Conclusion on transparency of price discovery process for land and buildings on the local market; the transparency of price discovery is assessed using the following formalized metrics:

1 – **Confidently transparent** - all three of the following conditions are met: role of informal land transaction is minimal or much less compared to formal market, range of fair market values for land is discoverable for any given location, value heatmaps are available, past transaction records are maintained and publicly available, either free of charge of for a fee;

0.5 – **Somewhat transparent** - some of the conditions mentioned in Confidently Transparent are clearly not met; most importantly, if it is clear that valid comparable sales are too limited/sporadic for tracing variations of market prices across the city

0 – **Non-transparent** - informal market dominates, fair market values of any given land or building are hard to discover, land/property values are in most cases discretionary / not backed by comparable sales evidence, income approach to valuation is also not applicable

**Scoring guidelines:**

The sum of scores collected on individual sub-indicators produces the following color designations:

* **Green** – equal or larger than 4.0
* **Yellow** – 2.0 to 3.5
* **Red** – less than 2.0

**Assessment Notes**

1. ***Market Dynamics: score – 1*** *(structured market, slower performance)*

The city of Mombasa City is the second largest city in Kenya and is a major logistic hub of regional importance. It is home to East Africa’s busiest marine port (by container throughput), which also ranks 5th in the entire Africa. Mombasa’s Kongowea market serves as a major wholesaling trading platform for agricultural merchants and traders from all over East Africa. In terms of development of modern office, retail and hospitality properties, Mombasa shows much slower performance and less construction activity compared to Nairobi and even Kisumu, the third largest city in Kenya. Noteworthy, capitalization rates for prime properties in Mombasa (ratio of rental cash flow to value) are remarkably softer than those in Nairobi and Kisumu. The city and the whole Mombasa county has salient planning and development challenges. The most pressing issues inhibiting investor demand on the local real estate market are: active proliferation of slums, lack of a well-planned sewerage system, and lack of effective solid waste management.

1. ***Market Coverage: score – 1*** *(*market covered by professional surveys)

Mombasa’s real estate market rarely comes on the watch list of global real investors unless there are opportunities in the logistics and warehousing sector. However, being the second largest market in Kenya, it has been covered periodically in comprehensive market surveys, including with conclusions on capitalization rates.

1. ***Market Infrastructure: score – 1*** *(well-functioning infrastructure)*

There is a robust network of professional real estate services providers and sales/leasing brokers, and a strong nationwide regulatory framework. The real estate industry in Kenya is governed by the Estate Agents Act Cap. 533 of the Laws of Kenya. The Act provides for the state registration of persons who, by way of business, negotiate for or otherwise act in relation to the selling, purchasing or letting of land and buildings erected thereon; for the regulation and control of the professional conduct of such persons and their remunerations. Registration of brokers is carried out by the Estate Agents Registration Board which issues an annually renewable practicing certificate. As such, it is safe to assume there is a reasonably well-developed infrastructure to support investors on the Mombasa real estate market, however, more advanced service will more likely need to be contracted in Nairobi. Of note, there are is no representation of international real estate service providers in Mombasa.

1. ***Price discovery: score – 0.5*** *(somewhat transparent market)*

Discovery of land and building prices is considered somewhat transparent by market practitioners. While final sale prices are rarely disclosed publicly, pre-sale listing prices serve as a good market reference, subject for relatively minor adjustment (up to 5-10%) to confidently conclude on achievable final sale prices in arm's length sales.

Mombasa earns a **cumulative score of 3.5** on above sub-indicators which corresponds to **YELLOW color code** as an assessor’s conclusion for the city’s real estate market capacity, indicating that there are factors congenial to Land Value Capture but there are also some challenges related to limited market demand and market transparency.

1. **LAND USE REGULATIONS**

**Data points**

Evidence of comprehensive plan for city’s territories (Master Plan, Land Ordinances or equivalent), which regulates density, height, and functional uses in various parts of the city.

**Scoring guidelines:**

* **Green** - Such plan exists, covers entire city and is able to inform investors of land use and building regulations at - or very close to - parcel by parcel detail
* **Yellow** - Such plan exists, but has evident deficiencies, e.g. does not cover entire city, omits important land use guidelines, outdated, has evident enforcement issues, etc.
* Red - Such plan does not exist, or even if it technically exists it has not been updated for long (e.g. since the change of political regime)

**Assessment Notes**

While there are comprehensive regulations to guide the preparation of land use plans at the national and county levels, their enforcement is not effectively enforced. This also provides a reason as to why urbanization in Kenya’s urban areas is hardly in conformity with existing zoning sub-division and building regulations.

Mombasa county has developed The Integrated Strategic Urban Development Plan (Mombasa Vision 2035), a regional physical development plan assimilating digital topographical mapping, Strategic Sector Plans, Structure Plan, Development Control and Capital Investment Plans for the County.

Assessor’s color rating for Mombasa’s land use regulations is YELLOW.

1. **LAND CADASTER / LAND DATA MANAGEMENT**

**Data points**

Availability of centralized database for land parcel information with legal and value records

**Scoring guidelines:**

* **Green** - Land Cadaster is well maintained, cadaster information matches legal ownership records and land values in the cadaster correspond to actual market values
* **Yellow** - Land Cadaster is in place, but has evident omissions, e.g. does not cover entire city, and/or has mismatches with legal records, land value records in the cadaster are in mismatch with market values
* **Red** - Land Cadaster not introduced, or covers less than 30% of city area, or has very poor data / has not been updated for long time

**Assessment Notes**

Land Cadastral system in Kenya is maintained and regularly updated but data inputs are prone to manipulation and are lacking complete territorial coverage. In fact, desk research showed that conventional cadastral and land registration systems cannot supply security of tenure to the vast majority of land holders (especially low-income population groups). As registration of land requires proper survey of boundaries, many people find the costs of survey to be unaffordable and hence unable to register land and opt to transact in the informal land markets. This makes accurate land data management and recordation for cadastral purposes very challenging.

Recommended score for this indicator is YELLOW.

1. **SECURITY OF PROPERTY RIGHTS**

**Data points**

Expert opinion on the level of establishment and recordation of property titles, title search infrastructure, robustness of dispute resolution processes.

**Scoring guidelines:**

* **Green** – robust land and property title registers and property records, covering entire area of the city; registers are regularly updated; property titles do not overlap and formal development rights as a rule reflect de fact ownership; domestic legal framework able to resolve most of property disputes; distribution of land/property rights between government agencies is well established and recorded.
* **Yellow** – nominal presence of land/property registers. However, the system has numerous evidence of inaccurate, unrecorded, outdated or overlapping land/property rights; numerous cases of non-delineated lands (e.g. clusters of urban “nobody’s land” with potential conflicting interests); evidence of poorly established public ownership (conflicting claims of different public agencies and layers of government).
* **Red** – nonexistent or very incomplete title registers; title search and property dispute resolution have significant informal aspects.

**Assessment Notes**

Kenya lacks a formal property register for documentation of property titles and property features. The register at the Ministry of Lands Housing and Urban Development captures more detailed information on land parcels (not complete also) while there is very limited information on associated land improvements such as buildings description, building titles and value of such improvements.

In Mombasa, a large portion of land is owned by absentee landlords who, through agents, enter into temporary lease arrangements with local residents and institutions. This arrangement however results to tenants lacking long term security for the properties developed. The current land tenure has also made it difficult for physical planning of the county to be undertaken.

Recommended score for this indicator is RED indicating that land security challenges in Mombasa are believed to be even stronger than in Nairobi.

1. **LOCAL FISCAL POWERS**

**Data points**

Ability of the city to maintain revenue from own sources and manage level of operating and capital expenditure at discretion of the city administration.

**Scoring guidelines:**

* **Green** - revenues from own sources comprise more than 30% of city's revenue base; city has significant discretion in operating and capital financial planning; operating revenues from service mandates mostly able to at least recover the running costs for those services
* **Yellow** - revenue from own rouses comprise less than 30% of city's revenue base; city can enact, set and administer local taxes (property taxes in particular), however, city's revenue and spending mandates are still largely reliant on intergovernmental transfers and spending obligations are higher than revenue collected by the city from respective services
* **Red** - very limited fiscal powers and complete dependence on intergovernmental transfers; municipal services are top-down mandates from higher levels of government with limited capacity for own revenue collection and cost recovery

**Assessment Notes**

Despite recent decentralization efforts, counties still receive most of their income through central government transfers. In theory, counties can initiate public-private arrangements (e.g. PPP, LVC transactions) but it will ultimately require the revision and further approval of a central government entity, in most cases the Treasury.

Recommended color-coded score for this indicator is YELLOW.

1. **TRACK RECORD IN LAND VALUE CAPTURE**

**Data points**

Track record of the city authorities in negotiating public-private partnerships in land and property development, in particular involving obligations for private partners to build (contribute) public infrastructure (e.g. joint development agreements, and/or development SPVs, selling development rights with infrastructure encumbrances/conditions, etc.).

**Scoring guidelines:**

* **Green** - evident track record hereof; the city is legally permitted to negotiate land development deals with private partners and has transacted land /property rights with infrastructure obligations.
* **Yellow** - evidence that the city is legally permitted to negotiate land development deals with private partners; however, the track record of such is either very limited (e.g. 1-2 deals in the foreseeable past) or inconclusive of the city's real ability to efficiently structure land value capture transactions with fair compensation to the city (i.e. forcing private partners to act in good faith)
* **Red** - no track record hereof; OR, clear evidence (with sources) that city is not permitted to negotiate land development deals with private partners

**Assessment Notes**

Due to the surge in informal and illegal allocation of land in 1980s and 1990s, there is virtually no vacant government owned land in Kenyan cities, and the formal (and informal) urban land market is now almost entirely in the hands of the private sector, limiting the ability of the public sector to leverage land assets for achieving infrastructure development goals (indicative in this regard is how International Convention Center project is being planned on a site that is going to be leased from a private cement company that is a title owner for that piece of land).

There is no track record found in issuing exactions or development conditions to private developers on the Mombasa market. Recommended color code designation is RED.

|  |
| --- |
| Nairobi, Kenya |

**Track Record and Regulations in Structuring PPPs**

|  |  |  |  |
| --- | --- | --- | --- |
| **Track Record** | **Regulatory Frameworks** | **Procurement Capacity** | **Government**  **Co-Financing** |
|  |  |  |  |

**PPP TRACK RECORD (RECENT 10 YEARS):**

**Data points**

|  |  |
| --- | --- |
| PPPs of record in the country (in any status) | > 80 |
| PPP of record in the jurisdictional borders of the assessed city | 10 |
| Nationwide count of PPPs in areas of CRP focus (sanitation, water supply, flood mitigation, urban upgrades, housing, urban transport) | 12 |

**Scoring guidelines:**

**Green** - solid track record

**Yellow** - some track record / or good national track record, limited local capacity

**Red** - no or limited track record with limited local capacity respectively

**Assessment notes:**

The country has shown solid experience in structuring PPPs over the past 10 years compared to other Sub-Saharan countries. The national track record includes 22 PPP infrastructure projects that have already achieved financial close (with investments worth about USD 2.8 billion) and more than 60 projects in future pipeline. Majority of PPPs launched in recent 10 years are concentrated in energy, sanitation, water supply, and transportation.

The city of Nairobi hosts directly 10 PPPs. Among the most notable projects in the pipeline are: Nairobi International Airport extension, intra-urban commuter rail system, student housing for Kenyatta University, Karen hospital, Nairobi Southern Bypass.

The Government of Kenya has made infrastructure development through PPPs a priority mechanism for delivering infrastructure projects and introduced economic incentives to support PPPs (e.g. tax exemption for interest paid on loans from foreign sources in PPP transactions associated with investments in energy, water and infrastructure).

Build-Operate-Transfer (BOT) is the most common business model for infrastructure PPPs in Kenya. Apart from BOT, some of the other commonly adopted models of PPPs include Build-Own-Operate-Transfer (BOOT) and Performance based management / O&M contracts

Currently, more than 90% of PPP projects in Kenya are developed by procuring agencies of the central government, and less than 10% are developed by county governments.

**PPP REGULATORY FRAMEWORK**

**Data points**

|  |  |
| --- | --- |
| Does national regulatory framework allow procuring PPPs? | YES |
| Does regulatory framework contain specialized legislation regulating PPPs? | YES |
| No restrictions on structuring PPPs in CRP priority sectors? | YES |
| Foreign companies are NOT prohibited from participating in PPP? | YES |
| Foreign companies are permitted to repatriate income from PPP operations? | YES |
| Flexibility to change ownership structure / assign rights under PPP contract? | YES |
| International arbitration allowable for dispute resolution of PPP contracts? | YES |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 5 positive responses

**Yellow** – 2 to 4 positive responses

**Red** – 1 or 0 positive responses

**Assessment notes:**

PPPs in Kenya are governed by Law 15 of 2013 on Public-Private Partnerships (the "PPP Act") and the Public Private Partnership Regulations published in December 2014. Kenya's PPP laws boast investor-friendly covenants such as flexibility to change ownership structure in PPP vehicles (subject to approval by the contracting authority) and international arbitration in dispute resolution. Foreign companies are explicitly allowed to participate in PPPs and also allowed to repatriate income resulting from their PPP operations in Kenya.

**PPP PROCUREMENT CAPACITY**

**Data points**

|  |  |
| --- | --- |
| Cities/municipalities by law have procuring authority for PPPs? | YES |
| PPP contract can be awarded even if only one proposal is submitted | YES |
| Unsolicited proposals either explicitly allowed or not regulated and possible in practice | YES |
| Competitive PPP procurement must be initiated when proceeding with an unsolicited proposal\* | NO |
| Specialized municipal entity that facilitates the PPP program (PPP Unit) | NO |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 4-5 positive responses

**Yellow** – 2 to 4 positive responses;

**Red** – 1 or 0 positive responses; if 1 but earned on “Specialized municipal entity that facilitates PPP” – that is YELLOW

**Assessment notes:**

County governments are included as procurement authorities (eligible to procure PPP) under Kenya's PPP Act. They are required to submit lists of PPP projects they intend to undertake in line with their development programs. These lists are assessed and approved, hierarchically, by the National PPP Unit, the PPP Committee, and the National Cabinet. The PPP Committee acts as the main regulator of PPPs in Kenya and approves PPP project proposals submitted by the contracting authorities of different levels (either national or municipal). The PPP Unit is established within the National Treasury and serves as the technical arm of the PPP Committee. The PPP Unit is responsible for promoting PPPs, offering technical support to PPP-procuring agencies and making recommendation on the project submission to the PPP Committee.

**GOVERNMENT CO-FINANCING**

**Data points**

Availability and performance of government-led infrastructure co-financing vehicles (Sovereign Wealth Funds, Local Development Investment vehicles, state-run Guaranteed Loan and Grant programs, Infrastructure Guarantee Funds, etc.). As such, the contemplated government co-financing vehicle may serve as the source of additional leverage, equity and/or a provider of credit enhancement mechanisms in project finance and can open additional opportunities for attracting private capital for infrastructure financing.

**Scoring guidelines:**

Educated opinion on availability of government financing facilities that provide financial assistance to infrastructure projects:

**Green** – Dedicated infrastructure co-financing facility/facilities are established by national or sub-national government; clear criteria for application for such co-financing; proven track record of long or short-term co-financing provided by such facilities for country’s infrastructure projects (not necessarily in the surveyed city).

**Yellow** – Some forms of government co-financing have been identified as a supportive tool for infrastructure investments; access to such government-led co-financing is limited due to either limited size of such co-financing and/or lack of transparency in funds allocation (e.g. unclear criteria for application and approval of such funds) or such a vehicle is planned/drafted but yet to be activated in practice ;

**Red** – No evidence of government financing facilities that are set to co-finance infrastructure alongside the private sector (infrastructure can still be extensively funded exclusively from state funds, user fees and/or concessional loans).

**Assessment notes:**

The government through Treasury drafted the Kenya National Sovereign Wealth Fund (SWF) Bill whose main aim to redistribute proceeds from oil, gas and mining industries into infrastructure development. This would lay the legal framework for managing oil and gas wealth from the discovered resources. A seed capital of KES 10 billion (equivalent to USD 100 mln) was injected into the fund. The bill proposes the establishment of three main funds within it: stabilization fund, infrastructure and development fund, and a future generation fund.

Climate Change Act 2016 established the Climate Change Fund as a financing mechanism for priority climate change actions and interventions.

|  |
| --- |
| **QUESTIONS:**  The status of the Sovereign Wealth Fund and its usefulness for county governments should be clarified with TTL and government officials. |

**Survey of Enabling Conditions for Land Value Capture (LVC)**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Real Estate Market Capacity** | **Land Use Regulations** | **Land Cadaster / Land Data Management** | **Security of property rights** | **Local Fiscal Powers** | **LVC track record** |
|  |  |  |  |  |  |

**REAL ESTATE MARKET CAPACITY**

This indicator consists of sub-indicator data points (covering different subsets of Market Environment), each earning formal scores that contribute to a cumulative overall score for the Market Environment based on which the ultimate color-code for the Market Environment is assigned

**Data points:**

***Market Dynamics****:* Expert snapshot view on the market maturity, formality and its readiness for generating land value premiums and value capture. Scores for this sub-indicator are derived according to the following formalized metrics:

2.0 – **Active and structured** (largely formal) market with rapidly emerging or established presence of high-value commercial properties (at least 200,000 square meters of modern grade A offices, at least 2-3 modern malls, at least 2 internationally branded hotels). No signs of crisis or sustained stagnation.

1.0 – **Structured (largely formal) but slow** market with limited presence of high-grade properties, evident signs of oversupply or sustained crisis is a clear determination for this score even if formal market prevails.

0.5 – **Nascent (largely informal) active** market with yet very limited presence of high-grade properties but with good outlooks as surfaced either in professional market surveys or discovered from anecdotal evidence

0 – **Nascent (largely informal) limited** market - very scarce modern real estate development; on top of that the market shows limited prospects for attracting future investments in high-grade high-value modern properties

***Market Coverage:*** Availability of recent/regular market surveys, ideally prepared by global real estate services companies, e.g. CBRE, Colliers, JLL, Cushman, Knight Frank, DTZ (or other credible sources, including investor surveys)

1 – market covered by professional market surveys

0 – no regular coverage by professional market surveys

***Market Infrastructure:*** Evidence of land/property market infrastructure (property databases, brokers, notaries, surveyors, etc.), assessed based on the following metrics:

1 – **Well functioning infrastructure** (networks of professional agency services providers/brokers, some with international franchises, notaries, locally present land surveyors. etc.)

0 – **Weak infrastructure**, with evident deficiencies (best proxies for such deficiencies are: absence of private notary services, real estate agency services are not subject to licensing; real estate agencies have limited role and are only local/domestic entities while international franchises/rep offices are absent)

***Price Discovery:*** Conclusion on transparency of price discovery process for land and buildings on the local market; the transparency of price discovery is assessed using the following formalized metrics:

1 – **Confidently transparent** - all three of the following conditions are met: role of informal land transaction is minimal or much less compared to formal market, range of fair market values for land is discoverable for any given location, value heatmaps are available, past transaction records are maintained and publicly available, either free of charge of for a fee;

0.5 – **Somewhat transparent** - some of the conditions mentioned in Confidently Transparent are clearly not met; most importantly, if it is clear that valid comparable sales are too limited/sporadic for tracing variations of market prices across the city

0 – **Non-transparent** - informal market dominates, fair market values of any given land or building are hard to discover, land/property values are in most cases discretionary / not backed by comparable sales evidence, income approach to valuation is also not applicable

**Scoring guidelines:**

The sum of scores collected on individual sub-indicators produces the following color designations:

**Green** – equal or larger than 4.0

**Yellow** – 2.0 to 3.5

**Red** – less than 2.0

**Assessment Notes**

***Market Dynamics: score – 2*** *(active structured market)*

Nairobi continues to be the preferred location for global corporates looking to establish regional presence serving East Africa’s 150 million plus population. More than 500,000 sq.m of modern commercial office space and 200,000+ sq.m of formal retail space were delivered to the Nairobi market in recent years. Many international retailers consider Kenya, and the city of Nairobi specifically, as a gateway market for Sub-Saharan Africa and are taking a growing interest in entering and expanding on this market. One of the recent high-profile retailing market entry is the launch of operations of the French supermarket chain Carrefour, which now anchor two of Nairobi shopping malls, The Hub and Two Rivers Mall. As a result of rapid increase in supply of high grade commercial space in Nairobi, especially in 2016-2017, there has been a noticeable extension of average absorption times for new completions, leading to stabilization and mild negative correction of prime rents. However, the overall expectations of the modern commercial as well as residential property markets in Nairobi are confidently positive.

The amount of commercial and residential construction on the Nairobi market, including in the high-grade, institutional quality segment, contributes to increased demand for developable land and to land value appreciation, creating favorable conditions for land value capture. This also includes opportunities for redistributing the land value premiums generated in high-grade real estate to support development of intrinsically less profitable and socially-oriented sectors such as affordable housing, bulk municipal infrastructure provision and housing upgrading.

***Market Coverage: score – 1*** *(m*arket covered by professional surveys)

For more than a decade, Nairobi has been covered by regular market surveys carried out by global real estate companies and there is a wealth of updated information on the state of the local land and property market.

***Market Infrastructure: score – 1*** *(well-functioning infrastructure)*

There is a robust network of professional real estate services providers and sales/leasing brokers, including with international franchises, and a strong regulatory framework. The real estate industry in Kenya is governed by the Estate Agents Act Cap. 533 of the Laws of Kenya. The Act provides for the registration of persons who, by way of business, negotiate for or otherwise act in relation to the selling, purchasing or letting of land and buildings erected thereon; for the regulation and control of the professional conduct of such persons and their remunerations. Besides regulating real estate operations, it also protects members of the public from exploitation/fraud. All estate agents operating in Kenya must be properly qualified and officially registered with the Estate Agents Registration Board which issues an annually renewable practicing certificate. As such, there is a reasonably well-developed infrastructure to support investors on the Nairobi real estate market with professional real estate advice, planning and entitlements facilitation, title search, dispute resolution, etc.

***Price discovery: score – 0.5*** *(somewhat transparent market)*

Discovery of land and building prices is considered somewhat transparent by market practitioners (including global providers of business services such as Deloitte). While final sale prices are rarely disclosed publicly, pre-sale listing prices serve as a good market reference, subject for relatively minor adjustment (up to 5-10%) to confidently conclude on achievable final sale prices in arm's length sales.

Nairobi earns a **cumulative score of 4.5** on above sub-indicators which corresponds to **GREEN color code** for the city’s real estate market capacity, showing favorable conditions for Land Value Capture in terms of enabling market environment.

**LAND USE REGULATIONS**

**Data points**

Evidence of comprehensive plan for city’s territories (Master Plan, Land Ordinances or equivalent), which regulates density, height, and functional uses in various parts of the city.

**Scoring guidelines:**

**Green** - Such plan exists, covers entire city and is able to inform investors of land use and building regulations at - or very close to - parcel by parcel detail

**Yellow** - Such plan exists, but has evident deficiencies, e.g. does not cover entire city, omits important land use guidelines, outdated, has evident enforcement issues, etc.

Red - Such plan does not exist, or even if it technically exists it has not been updated for long (e.g. since the change of political regime)

**Assessment Notes**

While there are comprehensive regulations to guide the preparation of land use plans at the national and county levels, their enforcement is not effectively enforced. This also provides a reason as to why urbanization in Kenya’s urban areas is hardly in conformity with existing zoning sub-division and building regulations. Assessor’s color rating is YELLOW.

**LAND CADASTER / LAND DATA MANAGEMENT**

**Data points**

Availability of centralized database for land parcel information with legal and value records

**Scoring guidelines:**

**Green** - Land Cadaster is well maintained, cadaster information matches legal ownership records and land values in the cadaster correspond to actual market values

**Yellow** - Land Cadaster is in place, but has evident omissions, e.g. does not cover entire city, and/or has mismatches with legal records, land value records in the cadaster are in mismatch with market values

**Red** - Land Cadaster not introduced, or covers less than 30% of city area, or has very poor data / has not been updated for long time

**Assessment Notes**

Land Cadastral system in Kenya is maintained and regularly updated but data inputs are prone to manipulation and are lacking complete territorial coverage. In fact, desk research showed that conventional cadastral and land registration systems cannot supply security of tenure to the vast majority of land holders (especially low-income population groups). As registration of land requires proper survey of boundaries, many people find the costs of survey to be unaffordable and hence unable to register land and opt to transact in the informal land markets. This makes accurate land data management and recordation for cadastral purposes very challenging.

Of note, in the 2018 WBG survey of business regulations, Kenya (as measured with the data collected for the city of Nairobi) ranks higher than majority of SSA countries on the Land Administration Index (scoring 16.0 while average for SSA is 8.0).

Recommended score for this indicator is YELLOW.

**SECURITY OF PROPERTY RIGHTS**

**Data points**

Expert opinion on the level of establishment and recordation of property titles, title search infrastructure, robustness of dispute resolution processes.

**Scoring guidelines:**

**Green** – robust land and property title registers and property records, covering entire area of the city; registers are regularly updated; property titles do not overlap and formal development rights as a rule reflect de fact ownership; domestic legal framework able to resolve most of property disputes; distribution of land/property rights between government agencies is well established and recorded.

**Yellow** – nominal presence of land/property registers. However, the system has numerous evidence of inaccurate, unrecorded, outdated or overlapping land/property rights; numerous cases of non-delineated lands (e.g. clusters of urban “nobody’s land” with potential conflicting interests); evidence of poorly established public ownership (conflicting claims of different public agencies and layers of government).

**Red** – nonexistent or very incomplete title registers; title search and property dispute resolution have significant informal aspects.

**Assessment Notes**

Kenya lacks a formal property register for documentation of property titles and property features. The register at the Ministry of Lands Housing and Urban Development captures more detailed information on land parcels (not complete also) while there is very limited information on associated land improvements such as buildings description, building titles and value of such improvements. That said, the absence of proper register of land improvements for ensuring property development is done within the confines of the law is believed to be one the challenges that the City faces in the urban development.

Recommended score for this indicator is YELLOW.

**LOCAL FISCAL POWERS**

**Data points**

Ability of the city to maintain revenue from own sources and manage level of operating and capital expenditure at discretion of the city administration.

**Scoring guidelines:**

**Green** - revenues from own sources comprise more than 30% of city's revenue base; city has significant discretion in operating and capital financial planning; operating revenues from service mandates mostly able to at least recover the running costs for those services

**Yellow** - revenue from own rouses comprise less than 30% of city's revenue base; city can enact, set and administer local taxes (property taxes in particular), however, city's revenue and spending mandates are still largely reliant on intergovernmental transfers and spending obligations are higher than revenue collected by the city from respective services

**Red** - very limited fiscal powers and complete dependence on intergovernmental transfers; municipal services are top-down mandates from higher levels of government with limited capacity for own revenue collection and cost recovery

**Assessment Notes**

Despite recent decentralization efforts, counties still receive most of their income through central government transfers. In theory, counties can initiate public-private arrangements (e.g. PPP, LVC transactions) but it will ultimately require the revision and further approval of a central government entity, in most cases the Treasury.

Recommended color-coded score for this indicator is YELLOW.

**TRACK RECORD IN LAND VALUE CAPTURE**

**Data points**

Track record of the city authorities in negotiating public-private partnerships in land and property development, in particular involving obligations for private partners to build (contribute) public infrastructure (e.g. joint development agreements, and/or development SPVs, selling development rights with infrastructure encumbrances/conditions, etc.).

**Scoring guidelines:**

**Green** - evident track record hereof; the city is legally permitted to negotiate land development deals with private partners and has transacted land /property rights with infrastructure obligations.

**Yellow** - evidence that the city is legally permitted to negotiate land development deals with private partners; however, the track record of such is either very limited (e.g. 1-2 deals in the foreseeable past) or inconclusive of the city's real ability to efficiently structure land value capture transactions with fair compensation to the city (i.e. forcing private partners to act in good faith)

**Red** - no track record hereof; OR, clear evidence (with sources) that city is not permitted to negotiate land development deals with private partners

**Assessment Notes**

It is evident that developer in-kind contributions, referred to as ‘Planning Gains’ are taking place at a moderate scale in Nairobi. Formal developer contributions are charged to cover the full cost of electricity connection to new developments. In addition, when developers submit building plans, they are required to pay .05 per cent of development cost in the form of an infrastructure levy.

There are some specific examples of land transfers with developer exactions on the Kenyan market.

1) One example is Tatu City, a 2,000-hectare mixed-use development on the north-eastern approaches to Nairobi (although this land transaction may technical fall out of the jurisdictional boundaries of Nairobi county). Developer builds on and off-site water and wastewater infrastructure (bulk and connectors) on the former agricultural lands in exchange for title in land, development rights and the Special Economic Zone status.

2) Another example includes Two River Mall development. There is evidence that the underlying 40-hectare land transaction with the private developer implied certain off-site infrastructure development conditions, **subject to confirmation by the county authorities**.

|  |
| --- |
| Nakuru, Kenya |

**Track Record and Regulations in Structuring PPPs**

|  |  |  |  |
| --- | --- | --- | --- |
| **Track Record** | **Regulatory Frameworks** | **Procurement Capacity** | **Government**  **Co-Financing** |
|  |  |  |  |

**PPP TRACK RECORD (RECENT 10 YEARS):**

**Data points**

|  |  |
| --- | --- |
| PPPs of record in the country (in any status) | > 80 |
| PPP of record in the jurisdictional borders of the assessed city | >2 |
| Nationwide count of PPPs in areas of CRP focus (sanitation, water supply, flood mitigation, urban upgrades, housing, urban transport) | 12 |

**Scoring guidelines:**

**Green** - solid track record

**Yellow** - some track record / or good national track record, limited local capacity

**Red** - no or limited track record with limited local capacity respectively

**Assessment notes:**

The country has shown solid experience in structuring PPPs over the past 10 years compared to other Sub-Saharan countries. The national track record includes 22 PPP infrastructure projects that have already achieved financial close (with investments worth about USD 2.8 billion) and more than 60 projects in future pipeline. Majority of PPPs launched in recent 10 years are concentrated in energy, sanitation, water supply, and transportation.

The city of Nakuru itself has notably two PPPs pipeline: the Nairobi – Nakuru- Mau Summit Highway project (in tender) and the Nakuru Integrated Solid Waste Management Project.

Kenya has made infrastructure development through PPPs a priority mechanism for delivering infrastructure projects and introduced economic incentives to support PPPs (e.g. tax exemption for interest paid on loans from foreign sources in PPP transactions associated with investments in energy, water and infrastructure).

Build-Operate-Transfer (BOT) is the most common business model for infrastructure PPPs in Kenya. Apart from BOT, some of the other commonly adopted models of PPPs include Build-Own-Operate-Transfer (BOOT) and Performance based management / O&M contracts

Currently, more than 90% of PPP projects in Kenya are developed by procuring agencies of the central government, and less than 10% are developed by county governments.

|  |  |
| --- | --- |
| **QUESTIONS:**  Discuss and clarify with TTL and City Official potential additional PPPs project directly completed or in planning for Nakuru. |  |

**PPP REGULATORY FRAMEWORK**

**Data points**

|  |  |
| --- | --- |
| Does national regulatory framework allow procuring PPPs? | YES |
| Does regulatory framework contain specialized legislation regulating PPPs? | YES |
| No restrictions on structuring PPPs in CRP priority sectors? | YES |
| Foreign companies are NOT prohibited from participating in PPP? | YES |
| Foreign companies are permitted to repatriate income from PPP operations? | YES |
| Flexibility to change ownership structure / assign rights under PPP contract? | YES |
| International arbitration allowable for dispute resolution of PPP contracts? | YES |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 5 positive responses

**Yellow** – 2 to 4 positive responses

**Red** – 1 or 0 positive responses

**Assessment notes:**

PPPs in Kenya are governed by Law 15 of 2013 on Public-Private Partnerships (the "PPP Act") and the Public Private Partnership Regulations published in December 2014. Kenya's PPP laws boast investor-friendly covenants such as flexibility to change ownership structure in PPP vehicles (subject to approval by the contracting authority) and international arbitration in dispute resolution. Foreign companies are explicitly allowed to participate in PPPs and also allowed to repatriate income resulting from their PPP operations in Kenya.

**PPP PROCUREMENT CAPACITY**

**Data points**

|  |  |
| --- | --- |
| Cities/municipalities by law have procuring authority for PPPs? | YES |
| PPP contract can be awarded even if only one proposal is submitted | YES |
| Unsolicited proposals either explicitly allowed or not regulated and possible in practice | YES |
| Competitive PPP procurement must be initiated when proceeding with an unsolicited proposal\* | NO |
| Specialized municipal entity that facilitates the PPP program (PPP Unit) | NO |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 4-5 positive responses

**Yellow** – 2 to 4 positive responses;

**Red** – 1 or 0 positive responses; if 1 but earned on “Specialized municipal entity that facilitates PPP” – that is YELLOW

**Assessment notes:**

County governments are included as procurement authorities (eligible to procure PPP) under Kenya's PPP Act. They are required to submit lists of PPP projects they intend to undertake in line with their development programs. These lists are assessed and approved, hierarchically, by the National PPP Unit, the PPP Committee, and the National Cabinet. The PPP Committee acts as the main regulator of PPPs in Kenya and approves PPP project proposals submitted by the contracting authorities of different levels (either national or municipal). The PPP Unit is established within the National Treasury and serves as the technical arm of the PPP Committee. The PPP Unit is responsible for promoting PPPs, offering technical support to PPP-procuring agencies and making recommendation on the project submission to the PPP Committee.

**GOVERNMENT CO-FINANCING**

**Data points**

Availability and performance of government-led infrastructure co-financing vehicles (Sovereign Wealth Funds, Local Development Investment vehicles, state-run Guaranteed Loan and Grant programs, Infrastructure Guarantee Funds, etc.). As such, the contemplated government co-financing vehicle may serve as the source of additional leverage, equity and/or a provider of credit enhancement mechanisms in project finance and can open additional opportunities for attracting private capital for infrastructure financing.

**Scoring guidelines:**

Educated opinion on availability of government financing facilities that provide financial assistance to infrastructure projects:

**Green** – Dedicated infrastructure co-financing facility/facilities are established by national or sub-national government; clear criteria for application for such co-financing; proven track record of long or short-term co-financing provided by such facilities for country’s infrastructure projects (not necessarily in the surveyed city).

**Yellow** – Some forms of government co-financing have been identified as a supportive tool for infrastructure investments; access to such government-led co-financing is limited due to either limited size of such co-financing and/or lack of transparency in funds allocation (e.g. unclear criteria for application and approval of such funds) or such a vehicle is planned/drafted but yet to be activated in practice ;

**Red** – No evidence of government financing facilities that are set to co-finance infrastructure alongside the private sector (infrastructure can still be extensively funded exclusively from state funds, user fees and/or concessional loans).

**Assessment notes:**

The government through Treasury drafted the Kenya National Sovereign Wealth Fund (SWF) Bill whose main aim to redistribute proceeds from oil, gas and mining industries into infrastructure development. This would lay the legal framework for managing oil and gas wealth from the discovered resources. A seed capital of KES 10 billion (equivalent to USD 100 mln) was injected into the fund. The bill proposes the establishment of three main funds within it: stabilization fund, infrastructure and development fund, and a future generation fund.

Climate Change Act 2016 established the Climate Change Fund as a financing mechanism for priority climate change actions and interventions.

|  |
| --- |
| **QUESTIONS:**  The status of the Sovereign Wealth Fund and its usefulness for county governments should be clarified with TTL and government officials. |

**Survey of Enabling Conditions for Land Value Capture (LVC)**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Real Estate Market Capacity** | **Land Use Regulations** | **Land Cadaster / Land Data Management** | **Security of property rights** | **Local Fiscal Powers** | **LVC track record** |
|  | Subject to revision |  |  |  |  |

**REAL ESTATE MARKET CAPACITY**

This indicator consists of sub-indicator data points (covering different subsets of Market Environment), each earning formal scores that contribute to a cumulative overall score for the Market Environment based on which the ultimate color-code for the Market Environment is assigned

**Data points:**

***Market Dynamics****:* Expert snapshot view on the market maturity, formality and its readiness for generating land value premiums and value capture. Scores for this sub-indicator are derived according to the following formalized metrics:

2.0 – **Active and structured** (largely formal) market with rapidly emerging or established presence of high-value commercial properties (at least 200,000 square meters of modern grade A offices, at least 2-3 modern malls, at least 2 internationally branded hotels). No signs of crisis or sustained stagnation.

1.0 – **Structured (largely formal) but slow** market with limited presence of high-grade properties, evident signs of oversupply or sustained crisis is a clear determination for this score even if formal market prevails.

0.5 – **Nascent (largely informal) active** market with yet very limited presence of high-grade properties but with good outlooks as surfaced either in professional market surveys or discovered from anecdotal evidence

0 – **Nascent (largely informal) limited** market - very scarce modern real estate development; on top of that the market shows limited prospects for attracting future investments in high-grade high-value modern properties

***Market Coverage:*** Availability of recent/regular market surveys, ideally prepared by global real estate services companies, e.g. CBRE, Colliers, JLL, Cushman, Knight Frank, DTZ (or other credible sources, including investor surveys)

1 – market covered by professional market surveys

0 – no regular coverage by professional market surveys

***Market Infrastructure:*** Evidence of land/property market infrastructure (property databases, brokers, notaries, surveyors, etc.), assessed based on the following metrics:

1 – **Well functioning infrastructure** (networks of professional agency services providers/brokers, some with international franchises, notaries, locally present land surveyors. etc.)

0 – **Weak infrastructure**, with evident deficiencies (best proxies for such deficiencies are: absence of private notary services, real estate agency services are not subject to licensing; real estate agencies have limited role and are only local/domestic entities while international franchises/rep offices are absent)

***Price Discovery:*** Conclusion on transparency of price discovery process for land and buildings on the local market; the transparency of price discovery is assessed using the following formalized metrics:

1 – **Confidently transparent** - all three of the following conditions are met: role of informal land transaction is minimal or much less compared to formal market, range of fair market values for land is discoverable for any given location, value heatmaps are available, past transaction records are maintained and publicly available, either free of charge of for a fee;

0.5 – **Somewhat transparent** - some of the conditions mentioned in Confidently Transparent are clearly not met; most importantly, if it is clear that valid comparable sales are too limited/sporadic for tracing variations of market prices across the city

0 – **Non-transparent** - informal market dominates, fair market values of any given land or building are hard to discover, land/property values are in most cases discretionary / not backed by comparable sales evidence, income approach to valuation is also not applicable

**Scoring guidelines:**

The sum of scores collected on individual sub-indicators produces the following color designations:

**Green** – equal or larger than 4.0

**Yellow** – 2.0 to 3.5

**Red** – less than 2.0

**Assessment Notes**

***Market Dynamics: score – 0.5***

Nakuru is the 4th largest city in Kenya and in 2011 was voted the fastest growing town in SSA. Nonetheless, the latest data found (2015-2016) shows that the city is falling far behind the three largest centers (i.e. Nairobi, Mombasa and Kisumu) in terms of population numbers and real estate market coverage. There is no available data on recent performance of real estate market. Information found shows that the city is home of Kenya's largest retail supermarket chains such as Nakumatt, Naivas, Tuskys, and Gilanis. It also hosts various retail businesses that provide goods and services to the manufacturing and agricultural sector, with a large public market laying to the west of the town on the main thoroughfare to Nairobi. However, some news reports show that some of the new high-rise commercial buildings that have come up in the CBD in the last three years are struggling to get half their targeted occupancy, with many of the empty floors now serving as meeting points for lunch-time church services.

|  |
| --- |
| **QUESTIONS:**  Market sounding for Nakuru is advised to get a better vision of real estate market readiness to generate land value. |

***Market Coverage: score – 0*** *(*market not covered by professional surveys)

As per the above indicator, there are no available market surveys, either by local or international RE services companies.

***Market Infrastructure: score – 0*** *(deficient infrastructure)*

Despite regulatory framework is in place at the national level, desk research didn’t find a well-functioning infrastructure in place for Nakuru. In fact, latest reports point at the fact that agents are not being bypassed in real estate transactions. This questions the local real estate market structure and for this reason a “0” designation is advised, subject to clarification with city officials and financial advisors.

***Price discovery: score – 0.5*** *(somewhat transparent market)*

Discovery of land and building prices is considered somewhat transparent by market practitioners. Final sale prices are rarely disclosed publicly, and pre-sale listing prices serve as a good market reference, subject for relatively minor adjustment (up to 5-10%) to confidently conclude on achievable final sale prices in arm's length sales.

Nakuru earns a **cumulative score of 1** on above sub-indicators which corresponds to **RED color code** for the city’s real estate market capacity, showing favorable conditions for Land Value Capture in terms of enabling market environment.

**LAND USE REGULATIONS**

**Data points**

Evidence of comprehensive plan for city’s territories (Master Plan, Land Ordinances or equivalent), which regulates density, height, and functional uses in various parts of the city.

**Scoring guidelines:**

**Green** - Such plan exists, covers entire city and is able to inform investors of land use and building regulations at - or very close to - parcel by parcel detail

**Yellow** - Such plan exists, but has evident deficiencies, e.g. does not cover entire city, omits important land use guidelines, outdated, has evident enforcement issues, etc.

Red - Such plan does not exist, or even if it technically exists it has not been updated for long (e.g. since the change of political regime)

**Assessment Notes**

Desk research found the Nakuru County Spatial Plan 2014-2024 developed by the Lands Department. According to the County Government, any development plans being made within the county must be aligned to it. Thus, it is important to clarify the enforcement of such plan with county and city officials. Moreover, Through the Integrated Urban Structure Development Plan (IUSDP), Nakuru and Naivasha Town are getting a more detailed plan to guide developments in the areas. The (IUSDP) looks at the current space uses and proposes more efficient, effective and sustainable long term uses.

Assessor’s color rating is YELLOW, subject to revision with city officials.

**LAND CADASTER / LAND DATA MANAGEMENT**

**Data points**

Availability of centralized database for land parcel information with legal and value records

**Scoring guidelines:**

**Green** - Land Cadaster is well maintained, cadaster information matches legal ownership records and land values in the cadaster correspond to actual market values

**Yellow** - Land Cadaster is in place, but has evident omissions, e.g. does not cover entire city, and/or has mismatches with legal records, land value records in the cadaster are in mismatch with market values

**Red** - Land Cadaster not introduced, or covers less than 30% of city area, or has very poor data / has not been updated for long time

**Assessment Notes**

Land Cadastral system in Kenya is maintained and regularly updated but data inputs are prone to manipulation and are lacking complete territorial coverage. In fact, desk research showed that conventional cadastral and land registration systems cannot supply security of tenure to the vast majority of land holders (especially low-income population groups). As registration of land requires proper survey of boundaries, many people find the costs of survey to be unaffordable and hence unable to register land and opt to transact in the informal land markets. This makes accurate land data management and recordation for cadastral purposes very challenging.

Recommended score for this indicator is YELLOW.

**SECURITY OF PROPERTY RIGHTS**

**Data points**

Expert opinion on the level of establishment and recordation of property titles, title search infrastructure, robustness of dispute resolution processes.

**Scoring guidelines:**

**Green** – robust land and property title registers and property records, covering entire area of the city; registers are regularly updated; property titles do not overlap and formal development rights as a rule reflect de fact ownership; domestic legal framework able to resolve most of property disputes; distribution of land/property rights between government agencies is well established and recorded.

**Yellow** – nominal presence of land/property registers. However, the system has numerous evidence of inaccurate, unrecorded, outdated or overlapping land/property rights; numerous cases of non-delineated lands (e.g. clusters of urban “nobody’s land” with potential conflicting interests); evidence of poorly established public ownership (conflicting claims of different public agencies and layers of government).

**Red** – nonexistent or very incomplete title registers; title search and property dispute resolution have significant informal aspects.

**Assessment Notes**

Kenya lacks a formal property register for documentation of property titles and property features. The register at the Ministry of Lands Housing and Urban Development captures more detailed information on land parcels (not complete also) while there is very limited information on associated land improvements such as buildings description, building titles and value of such improvements. That said, the absence of proper register of titles in land improvements for ensuring property development is done within the confines of the law is believed to be one the challenges that Kenyan cities face in pursuing the urban development strategies.

Recommended score for this indicator is YELLOW.

**LOCAL FISCAL POWERS**

**Data points**

Ability of the city to maintain revenue from own sources and manage level of operating and capital expenditure at discretion of the city administration.

**Scoring guidelines:**

**Green** - revenues from own sources comprise more than 30% of city's revenue base; city has significant discretion in operating and capital financial planning; operating revenues from service mandates mostly able to at least recover the running costs for those services

**Yellow** - revenue from own rouses comprise less than 30% of city's revenue base; city can enact, set and administer local taxes (property taxes in particular), however, city's revenue and spending mandates are still largely reliant on intergovernmental transfers and spending obligations are higher than revenue collected by the city from respective services

**Red** - very limited fiscal powers and complete dependence on intergovernmental transfers; municipal services are top-down mandates from higher levels of government with limited capacity for own revenue collection and cost recovery

**Assessment Notes**

Despite recent decentralization efforts, counties still receive most of their income through central government transfers. In theory, counties can initiate public-private arrangements (e.g. PPP, LVC transactions) but it will ultimately require the revision and further approval of a central government entity, in most cases the Treasury.

Recommended color-coded score for this indicator is YELLOW.

**TRACK RECORD IN LAND VALUE CAPTURE**

**Data points**

Track record of the city authorities in negotiating public-private partnerships in land and property development, in particular involving obligations for private partners to build (contribute) public infrastructure (e.g. joint development agreements, and/or development SPVs, selling development rights with infrastructure encumbrances/conditions, etc.).

**Scoring guidelines:**

**Green** - evident track record hereof; the city is legally permitted to negotiate land development deals with private partners and has transacted land /property rights with infrastructure obligations.

**Yellow** - evidence that the city is legally permitted to negotiate land development deals with private partners; however, the track record of such is either very limited (e.g. 1-2 deals in the foreseeable past) or inconclusive of the city's real ability to efficiently structure land value capture transactions with fair compensation to the city (i.e. forcing private partners to act in good faith)

**Red** - no track record hereof; OR, clear evidence (with sources) that city is not permitted to negotiate land development deals with private partners

**Assessment Notes**

No evident track record on this front. Due to the surge in informal and illegal allocation of land in the 1980s and 1990s, there is virtually no vacant government owned land in Kenyan cities, and the formal (and informal) urban land market is now almost entirely in the hands of the private sector, limiting the ability of the public sector to regulate land development and to make land available for public development purposes. Nonetheless, there are signs that the government has been exploring PPP arrangements for affordable housing provision in principal Kenyan cities.

|  |
| --- |
| Santa Cruz, Bolivia |

**Track Record and Regulations in Structuring PPPs**

|  |  |  |  |
| --- | --- | --- | --- |
| **Track Record** | **Regulatory Frameworks** | **Procurement Capacity** | **Government**  **Co-Financing** |
|  |  |  |  |

**PPP TRACK RECORD (RECENT 10 YEARS):**

**Data points**

|  |  |
| --- | --- |
| PPPs of record in the country (in any status) | 0 |
| PPP of record in the jurisdictional borders of the assessed city | 0 |
| Nationwide count of PPPs in areas of CRP focus (sanitation, water supply, flood mitigation, urban upgrades, housing, urban transport) | 0 |

**Scoring guidelines:**

**Green** - solid track record

**Yellow** - some track record / or good national track record, limited local capacity

**Red** - no or limited track record with limited local capacity respectively

**Assessment notes:**

Before 2005, several PPPs were originated in the energy, telecom, transport and water sectors, with six of them currently in operation.

There is no track record of PPP origination nationwide since Pres. Morales was elected in 2006. The PPP-facilitating legislation has not been formally adopted under Pres. Morales and private participation in infrastructure projects in Bolivia is heavily challenged with legislative and regulatory restrictions.

More so, speaking of tentative private sector participation in infrastructure projects, Bolivian government hasn’t yet endorsed a list of priority project for potential P3 structuring.

**PPP REGULATORY FRAMEWORK**

**Data points**

|  |  |
| --- | --- |
| Does national regulatory framework allow procuring PPPs? | NO |
| Does regulatory framework contain specialized legislation regulating PPPs? | n/a |
| No restrictions on structuring PPPs in CRP priority sectors? | n/a |
| Foreign companies are NOT prohibited from participating in PPP? | n/a |
| Foreign companies are permitted to repatriate income from PPP operations? | n/a |
| Flexibility to change ownership structure / assign rights under PPP contract? | n/a |
| International arbitration allowable for dispute resolution of PPP contracts? | n/a |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 5 positive responses

**Yellow** – 2 to 4 positive responses

**Red** – 1 or 0 positive responses

**Assessment notes:**

Bolivia has no PPP specific legislation and under the new Constitution of 2009, the regulations regarding concessions have been suspended because they do not comply with the Constitution. As a consequence, in December 2010, the national government issued Supreme Decree No. 726, which treats running concessions under temporary authorizations. However, according to call with city of Santa Cruz officials, the central government has been keen in exploring private participation in the development of certain local projects, but no specific legislation has yet been issued in this regard.

**PPP PROCUREMENT CAPACITY**

**Data points**

|  |  |
| --- | --- |
| Cities/municipalities by law have procuring authority for PPPs? | NO |
| PPP contract can be awarded even if only one proposal is submitted | n/a |
| Unsolicited proposals either explicitly allowed or not regulated and possible in practice | n/a |
| Competitive PPP procurement must be initiated when proceeding with an unsolicited proposal\* | n/a |
| Specialized municipal entity that facilitates the PPP program (PPP Unit) | n/a |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 4-5 positive responses

**Yellow** – 2 to 4 positive responses;

**Red** – 1 or 0 positive responses; if 1 but earned on “Specialized municipal entity that facilitates PPP” – that is YELLOW

**Assessment notes:**

National control over operating PPP projects and no new PPP originations after 2005 indicate that there is no capacity at the municipal level.

**GOVERNMENT CO-FINANCING**

**Data points**

Availability and performance of government-led infrastructure co-financing vehicles (Sovereign Wealth Funds, Local Development Investment vehicles, state-run Guaranteed Loan and Grant programs, Infrastructure Guarantee Funds, etc.). As such, the contemplated government co-financing vehicle may serve as the source of additional leverage, equity and/or a provider of credit enhancement mechanisms in project finance and can open additional opportunities for attracting private capital for infrastructure financing.

**Scoring guidelines:**

Educated opinion on availability of government financing facilities that provide financial assistance to infrastructure projects:

**Green** – Dedicated infrastructure co-financing facility/facilities are established by national or sub-national government; clear criteria for application for such co-financing; proven track record of long or short-term co-financing provided by such facilities for country’s infrastructure projects (not necessarily in the surveyed city).

**Yellow** – Some forms of government co-financing have been identified as a supportive tool for infrastructure investments; access to such government-led co-financing is limited due to either limited size of such co-financing and/or lack of transparency in funds allocation (e.g. unclear criteria for application and approval of such funds) or such a vehicle is planned/drafted but yet to be activated in practice ;

**Red** – No evidence of government financing facilities that are set to co-finance infrastructure alongside the private sector (infrastructure can still be extensively funded exclusively from state funds, user fees and/or concessional loans).

**Assessment notes:**

Bolivia boasts large state-led infrastructure development agenda (which is heavily funded from bi-lateral financing arrangements with China, worth USD 10 billion in total pledges).

The only record of dedicated fund structure aimed at providing government co-financing for private investment is Fund for Productive Industrial Revolution (FINPRO), established in 2012. It sets off USD 1.2 billion in Bolivia’s foreign currency reserves and focuses primarily on supporting projects in manufacturing sector (i.e. boosting country’s industrial base).

Of note, Law 742 of 2015 authorized the Ministry of Development Planning to establish a trust, for an initial amount, equivalent to approx. USD 450 million, with the purpose of providing sub-national units with additional resources for discretionary co-financing of public investment projects, concurrently with the central State.

There is no record of similar facility dedicated to support private investments in bulk infrastructure.

**Survey of Enabling Conditions for Land Value Capture (LVC)**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Real Estate Market Capacity** | **Land Use Regulations** | **Land Cadaster / Land Data Management** | **Security of property rights** | **Local Fiscal Powers** | **LVC track record** |
|  |  | to be confirmed (see comments) |  |  |  |

**REAL ESTATE MARKET CAPACITY**

This indicator consists of sub-indicator data points (covering different subsets of Market Environment), each earning formal scores that contribute to a cumulative overall score for the Market Environment based on which the ultimate color-code for the Market Environment is assigned

**Data points:**

***Market Dynamics****:* Expert snapshot view on the market maturity, formality and its readiness for generating land value premiums and value capture. Scores for this sub-indicator are derived according to the following formalized metrics:

2.0 – **Active and structured** (largely formal) market with rapidly emerging or established presence of high-value commercial properties (at least 200,000 square meters of modern grade A offices, at least 2-3 modern malls, at least 2 internationally branded hotels). No signs of crisis or sustained stagnation.

1.0 – **Structured (largely formal) but slow** market with limited presence of high-grade properties, evident signs of oversupply or sustained crisis is a clear determination for this score even if formal market prevails.

0.5 – **Nascent (largely informal) active** market with yet very limited presence of high-grade properties but with good outlooks as surfaced either in professional market surveys or discovered from anecdotal evidence

0 – **Nascent (largely informal) limited** market - very scarce modern real estate development; on top of that the market shows limited prospects for attracting future investments in high-grade high-value modern properties

***Market Coverage:*** Availability of recent/regular market surveys, ideally prepared by global real estate services companies, e.g. CBRE, Colliers, JLL, Cushman, Knight Frank, DTZ (or other credible sources, including investor surveys)

1 – market covered by professional market surveys

0 – no regular coverage by professional market surveys

***Market Infrastructure:*** Evidence of land/property market infrastructure (property databases, brokers, notaries, surveyors, etc.), assessed based on the following metrics:

1 – **Well functioning infrastructure** (networks of professional agency services providers/brokers, some with international franchises, notaries, locally present land surveyors. etc.)

0 – **Weak infrastructure**, with evident deficiencies (best proxies for such deficiencies are: absence of private notary services, real estate agency services are not subject to licensing; real estate agencies have limited role and are only local/domestic entities while international franchises/rep offices are absent)

***Price Discovery:*** Conclusion on transparency of price discovery process for land and buildings on the local market; the transparency of price discovery is assessed using the following formalized metrics:

1 – **Confidently transparent** - all three of the following conditions are met: role of informal land transaction is minimal or much less compared to formal market, range of fair market values for land is discoverable for any given location, value heatmaps are available, past transaction records are maintained and publicly available, either free of charge of for a fee;

0.5 – **Somewhat transparent** - some of the conditions mentioned in Confidently Transparent are clearly not met; most importantly, if it is clear that valid comparable sales are too limited/sporadic for tracing variations of market prices across the city

0 – **Non-transparent** - informal market dominates, fair market values of any given land or building are hard to discover, land/property values are in most cases discretionary / not backed by comparable sales evidence, income approach to valuation is also not applicable

**Scoring guidelines:**

The sum of scores collected on individual sub-indicators produces the following color designations:

**Green** – equal or larger than 4.0

**Yellow** – 2.0 to 3.5

**Red** – less than 2.0

**Assessment Notes**

***Market Dynamics: score – 2***

Being the country’s most populous and economically prosperous city, Santa Cruz is also the most actively developing property market. Modern developments include residential condominiums (representing majority of modern-looking properties in the city’s skyline), mixed-use building as well as several office towers and hotels, including internationally branded operations. Notable examples are Marriott hotel, which is currently being build alongside the 400-foot Riviera Towers skyscraper.

In fact, in recent 3-4 years the construction sector has been growing rapidly in Bolivia in general, and in Santa Cruz in particular, reaching some signs of overheating on the Santa Cruz market in 2017-2018. Many of the multinational firms operating in Bolivia set up headquarters in Santa Cruz, in preference to the de facto nation’s capital of La Paz.

In general, the Santa Cruz market is considered relatively more mature and structured than that of other Bolivian municipalities. To that end, and in view of the country’s and region’s strong economic performance the score of 2.0 for market dynamics is assessed for Santa Cruz.

***Market Coverage: score – 0***

No regular market coverage by global real estate services providers

***Market Infrastructure: score – 0***

The network of professional real estate services providers and sales/leasing brokers is not considered robust. Desk research found only local real estate services agencies/brokers registered before the "Cámaras de Inmobiliarias de Santa Cruz" (CICRUZ).

***Price discovery: score – 0***

Very limited recordation of market-based sales evidence from the secondary land market. As to disposition of public land and building assets, while some general statutory guidelines are in place and require public bidding, there is almost no track record of conducting such dispositions.

Santa Cruz earns a **cumulative score of 2.0** on above sub-indicators which corresponds to **ORANGE color code** for the city’s real estate market capacity, showing some potential for Land Value Capture with evident challenges, largely due to market transparency, robustness and regulations.

**LAND USE REGULATIONS**

**Data points**

Evidence of comprehensive plan for city’s territories (Master Plan, Land Ordinances or equivalent), which regulates density, height, and functional uses in various parts of the city.

**Scoring guidelines:**

**Green** - Such plan exists, covers entire city and is able to inform investors of land use and building regulations at - or very close to - parcel by parcel detail

**Yellow** - Such plan exists, but has evident deficiencies, e.g. does not cover entire city, omits important land use guidelines, outdated, has evident enforcement issues, etc.

Red - Such plan does not exist, or even if it technically exists it has not been updated for long (e.g. since the change of political regime)

**Assessment Notes**

Both at the provincial and at the city level Santa Cruz has approved Master Plans defining land uses and urban development. For instance, the Land Use plan of 2005 set the guidelines for urban development within the city’s jurisdiction. According to city authorities, enforcement of such plan is effective although restricted to urbanized areas, which has led to the formation of irregular neighborhoods in the city’s periphery. To tackle this situation, the government has developed the “Plan Territorial de Desarrollo Integral 2016-2020” which includes provisions for slums regularization. Currently, the central government is also working on a new public policy for cities, which will presumably generate a new framework of town-planning documentation for cities.

**LAND CADASTER / LAND DATA MANAGEMENT**

**Data points**

Availability of centralized database for land parcel information with legal and value records

**Scoring guidelines:**

**Green** - Land Cadaster is well maintained, cadaster information matches legal ownership records and land values in the cadaster correspond to actual market values

**Yellow** - Land Cadaster is in place, but has evident omissions, e.g. does not cover entire city, and/or has mismatches with legal records, land value records in the cadaster are in mismatch with market values

**Red** - Land Cadaster not introduced, or covers less than 30% of city area, or has very poor data / has not been updated for long time

**Assessment Notes**

The cadaster system in Santa Cruz is fully managed by the city and has been recently updated with support from the Interamerican Development Bank (IADB). The cadastral update focused on including real estate built in recent years (and thus not included in former cadastral records) and updates to existing property. For these updates, different technologies were used, such as photogrammetry, satellite images, lateral photo and others, as well as on-site inspections and topographic surveys. Availability of land/property value records in Santa Cruz cadaster system and cadaster’s linkages with property taxation is pending further confirmation.

Recommended score for this indicator is GREEN (subject to confirmation on value records)

**SECURITY OF PROPERTY RIGHTS**

**Data points**

Expert opinion on the level of establishment and recordation of property titles, title search infrastructure, robustness of dispute resolution processes.

**Scoring guidelines:**

**Green** – robust land and property title registers and property records, covering entire area of the city; registers are regularly updated; property titles do not overlap and formal development rights as a rule reflect de fact ownership; domestic legal framework able to resolve most of property disputes; distribution of land/property rights between government agencies is well established and recorded.

**Yellow** – nominal presence of land/property registers. However, the system has numerous evidence of inaccurate, unrecorded, outdated or overlapping land/property rights; numerous cases of non-delineated lands (e.g. clusters of urban “nobody’s land” with potential conflicting interests); evidence of poorly established public ownership (conflicting claims of different public agencies and layers of government).

**Red** – nonexistent or very incomplete title registers; title search and property dispute resolution have significant informal aspects.

**Assessment Notes**

Although there are significant deficits in land registry and title records and the level of title security in Bolivia is rather low, through the new cadastral system Santa Cruz has updated property registers in about 60% of the city’s area. This has also allowed the city to increase revenue from property taxation, making the recommended score for this indicator YELLOW.

**LOCAL FISCAL POWERS**

**Data points**

Ability of the city to maintain revenue from own sources and manage level of operating and capital expenditure at discretion of the city administration.

**Scoring guidelines:**

**Green** - revenues from own sources comprise more than 30% of city's revenue base; city has significant discretion in operating and capital financial planning; operating revenues from service mandates mostly able to at least recover the running costs for those services

**Yellow** - revenue from own rouses comprise less than 30% of city's revenue base; city can enact, set and administer local taxes (property taxes in particular), however, city's revenue and spending mandates are still largely reliant on intergovernmental transfers and spending obligations are higher than revenue collected by the city from respective services

**Red** - very limited fiscal powers and complete dependence on intergovernmental transfers; municipal services are top-down mandates from higher levels of government with limited capacity for own revenue collection and cost recovery

**Assessment Notes**

Bolivian municipalities are highly dependent on intergovernmental transfers for execution of delegated public expenditures (share of intergovernmental transfers in municipalities’ total resources normally exceed 75%). Statistical data (OECD Stat / Revenue statistics for Latin American countries) indicates that own revenue sources of Bolivia’s municipalities comprise relatively small share in total government revenue (3-4% versus 7% in Brazil or 10% in Colombia). Per PWC data, Bolivian municipal governments are empowered to set rates for property taxes (Law 154, 2011). The property tax as well as an automobile tax are the two most important tax revenues for Bolivian municipalities. Law No. 843 establishes that the tax base of the property tax will be constituted by the tax assessment established in each municipal jurisdiction in application of the cadastral and technical-tax rules issued by the Executive Branch (article 54 et seq.). Municipal governments are highly dependent on the national government for large scale infrastructure spending.

Recommended color-coded score for this indicator is RED.

**TRACK RECORD IN LAND VALUE CAPTURE**

**Data points**

Track record of the city authorities in negotiating public-private partnerships in land and property development, in particular involving obligations for private partners to build (contribute) public infrastructure (e.g. joint development agreements, and/or development SPVs, selling development rights with infrastructure encumbrances/conditions, etc.).

**Scoring guidelines:**

**Green** - evident track record hereof; the city is legally permitted to negotiate land development deals with private partners and has transacted land /property rights with infrastructure obligations.

**Yellow** - evidence that the city is legally permitted to negotiate land development deals with private partners; however, the track record of such is either very limited (e.g. 1-2 deals in the foreseeable past) or inconclusive of the city's real ability to efficiently structure land value capture transactions with fair compensation to the city (i.e. forcing private partners to act in good faith)

**Red** - no track record hereof; OR, clear evidence (with sources) that city is not permitted to negotiate land development deals with private partners

**Assessment Notes**

No such track record found.

Very limited decision-making authority of local governments in Bolivia with respect to revenue generation and capital planning indicate that the track record in Land Value Capture (including disposition of land and development rights with off-site infrastructure obligations) is most likely non-existent. Yet, this is subject for confirmation.

|  |
| --- |
| Sidon (Saida), Lebanon |

**Track Record and Regulations in Structuring PPPs**

|  |  |  |  |
| --- | --- | --- | --- |
| **Track Record** | **Regulatory Frameworks** | **Procurement Capacity** | **Government**  **Co-Financing** |
| Subject for discussion |  |  | Subject for discussion |

**PPP TRACK RECORD (RECENT 10 YEARS):**

**Data points**

|  |  |
| --- | --- |
| PPPs of record in the country (in any status) | < 5 |
| PPP of record in the jurisdictional borders of the assessed city | < 5 |
| Nationwide count of PPPs in areas of CRP focus (sanitation, water supply, flood mitigation, urban upgrades, housing, urban transport) | 0 |

**Scoring guidelines:**

**Green** - solid track record

**Yellow** - some track record / or good national track record, limited local capacity

**Red** - no or limited track record with limited local capacity respectively

**Assessment notes:**

Lebanon has not yet established a solid track record of PPP projects. Further, the PPP projects of the recent years have been outside of CRP focus areas. However, as a new PPP law has thus recently been enacted, this could be seen as an incentive for new PPP project

|  |  |
| --- | --- |
| **QUESTIONS:**  An interesting point of discussion could be an apparent Solid Waste Project in Sidon (Saida) in the early 2000s. Despite outside of this scoring’s timeframe, given Lebanon’s limited track record, it would be useful to discuss experience and track record of this (or any other older) PPPs.  Point of discussion with TTL and City Officials should be any other PPPs potentially planned following the new PPP law |  |

**PPP REGULATORY FRAMEWORK**

**Data points**

|  |  |
| --- | --- |
| Does national regulatory framework allow procuring PPPs? | YES |
| Does regulatory framework contain specialized legislation regulating PPPs? | YES |
| No restrictions on structuring PPPs in CRP priority sectors? | YES |
| Foreign companies are NOT prohibited from participating in PPP? | YES |
| Foreign companies are permitted to repatriate income from PPP operations? | YES |
| Flexibility to change ownership structure / assign rights under PPP contract? | NO |
| International arbitration allowable for dispute resolution of PPP contracts? | YES |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 5 positive responses

**Yellow** – 2 to 4 positive responses

**Red** – 1 or 0 positive responses

**Assessment notes:**

Law No. 48 on September 7, 2017 on PPPs has been enacted and is considered to create new prospects for the implementation of PPPs in Lebanon for both existing and future projects.The law introduced a new legal regime for PPP projects in Lebanon, replacing the traditional procurement processes, which suffered from weak transparency, competitiveness, and accountability standards.

**QUESTIONS:**

It should be discussed with TTL and City Officials what the track record of the new PPP law in terms of capacity has been so far.

**PPP PROCUREMENT CAPACITY**

**Data points**

|  |  |
| --- | --- |
| Cities/municipalities by law have procuring authority for PPPs? | YES |
| PPP contract can be awarded even if only one proposal is submitted | YES |
| Unsolicited proposals either explicitly allowed or not regulated and possible in practice | NO |
| Competitive PPP procurement must be initiated when proceeding with an unsolicited proposal\* | NO |
| Specialized municipal entity that facilitates the PPP program (PPP Unit) | NO |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 4-5 positive responses

**Yellow** – 2 to 4 positive responses;

**Red** – 1 or 0 positive responses; if 1 but earned on “Specialized municipal entity that facilitates PPP” – that is YELLOW

**Assessment notes:**

Any government entity authorized in accordance with the laws of Lebanon including, ministries, public institutions, municipalities, and federation of municipalities may procure PPP projects. Sole proposals are allowed, however according to Article 38 of the Tenders Regulation, where only one proposal is submitted to the Central Tender Committee, the proposal shall not be accepted unless the proposed price is below the estimated price (السعر التقديري) by 10%. Further, a ministerial committee the “High Council for Privatization and PPP” (previously:High Council for Privatization ) exists and grants the council the power to assess and evaluate potential PPP projects. However no municipal entity facilitating PPPs seems to exist yet.

4. **GOVERNMENT CO-FINANCING**

**Data points**

Availability and performance of government-led infrastructure co-financing vehicles (Sovereign Wealth Funds, Local Development Investment vehicles, state-run Guaranteed Loan and Grant programs, Infrastructure Guarantee Funds, etc.). As such, the contemplated government co-financing vehicle may serve as the source of additional leverage, equity and/or a provider of credit enhancement mechanisms in project finance and can open additional opportunities for attracting private capital for infrastructure financing.

**Scoring guidelines:**

Educated opinion on availability of government financing facilities that provide financial assistance to infrastructure projects:

**Green** – Dedicated infrastructure co-financing facility/facilities are established by national or sub-national government; clear criteria for application for such co-financing; proven track record of long or short-term co-financing provided by such facilities for country’s infrastructure projects (not necessarily in the surveyed city).

**Yellow** – Some forms of government co-financing have been identified as a supportive tool for infrastructure investments; access to such government-led co-financing is limited due to either limited size of such co-financing and/or lack of transparency in funds allocation (e.g. unclear criteria for application and approval of such funds) or such a vehicle is planned/drafted but yet to be activated in practice;

**Red** – No evidence of government financing facilities that are set to co-finance infrastructure alongside the private sector (infrastructure can still be extensively funded exclusively from state funds, user fees and/or concessional loans).

**Assessment notes:**

Recent news indicate that there is appetite and discussions underway in Lebanon to set up a SWF to fund development projects, but it appears that nothing has been set in motion so far.

**QUESTIONS:**

Discuss with TTL and City Officials if any efforts to set up government-led co-financing vehicles are underway

**Survey of Enabling Conditions for Land Value Capture (LVC)**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Real Estate Market Capacity** | **Land Use Regulations** | **Land Cadaster / Land Data Management** | **Security of property rights** | **Local Fiscal Powers** | **LVC track record** |
|  |  | Subject for discussion | Subject for discussion |  |  |

**REAL ESTATE MARKET CAPACITY**

This indicator consists of sub-indicator data points (covering different subsets of Market Environment), each earning formal scores that contribute to a cumulative overall score for the Market Environment based on which the ultimate color-code for the Market Environment is assigned.

**Data points:**

***Market Dynamics****:* Expert snapshot view on the market maturity, formality and its readiness for generating land value premiums and value capture. Scores for this sub-indicator are derived according to the following formalized metrics:

2.0 – **Active and structured** (largely formal) market with rapidly emerging or established presence of high-value commercial properties (at least 200,000 square meters of modern grade A offices, at least 2-3 modern malls, at least 2 internationally branded hotels). No signs of crisis or sustained stagnation.

1.0 – **Structured (largely formal) but slow** market with limited presence of high-grade properties, evident signs of oversupply or sustained crisis is a clear determination for this score even if formal market prevails

0.5 – **Nascent (largely informal) active** market with yet very limited presence of high-grade properties but with good outlooks as surfaced either in professional market surveys or discovered from anecdotal evidence

0 – **Nascent (largely informal) limited** market - very scarce modern real estate development; on top of that the market shows limited prospects for attracting future investments in high-grade high-value modern properties

***Market Coverage:*** Availability of recent/regular market surveys, ideally prepared by global real estate services companies, e.g. CBRE, Colliers, JLL, Cushman, Knight Frank, DTZ (or other credible sources, including investor surveys)

1 – market covered by professional market surveys

0 – no regular coverage by professional market surveys

***Market Infrastructure:*** Evidence of land/property market infrastructure (property databases, brokers, notaries, surveyors, etc.), assessed based on the following metrics:

1 – **Well functioning infrastructure** (networks of professional agency services providers/brokers, some with international franchises, notaries, locally present land surveyors. etc.)

0 – **Weak infrastructure**, with evident deficiencies (best proxies for such deficiencies are: absence of private notary services, real estate agency services are not subject to licensing; real estate agencies have limited role and are only local/domestic entities while international franchises/rep offices are absent)

***Price Discovery:*** Conclusion on transparency of price discovery process for land and buildings on the local market; the transparency of price discovery is assessed using the following formalized metrics:

1 – **Confidently transparent** - all three of the following conditions are met: role of informal land transaction is minimal or much less compared to formal market, range of fair market values for land is discoverable for any given location, value heatmaps are available, past transaction records are maintained and publicly available, either free of charge of for a fee;

0.5 – **Somewhat transparent** - some of the conditions mentioned in Confidently Transparent are clearly not met; most importantly, if it is clear that valid comparable sales are too limited/sporadic for tracing variations of market prices across the city

0 – **Non-transparent** - informal market dominates, fair market values of any given land or building are hard to discover, land/property values are in most cases discretionary / not backed by comparable sales evidence, income approach to valuation is also not applicable

**Scoring guidelines:**

The sum of scores collected on individual sub-indicators produces the following color designations:

**Green** – equal or larger than 4.0

**Yellow** – 2.0 to 3.5

**Red** – less than 2.0

**Assessment Notes**

***Market Dynamics: score – 1*** *(Structured, largely formal, but slow market)*

Desk research was unsuccessful in finding Sidon-specific information on real estate market evolution and forecasts. Based on country-wide data points it appears that the Lebanese property market has been lively, but that prices are static or falling.  According to the *Real Property Guide*, there are too many new builds on the market, which is depressing values. Overall yields are low, economic growth is anemic, and the construction sector is weak in Lebanon. The stimulus of the influx of Gulf money in 2008-2010 still haunts the market.  House prices in several areas of Lebanon doubled from 2008 to 2012, after the oil price surge, but today those high prices appear to be at risk. Nevertheless in 2017 the number of sales was up by 14.5%, and the total value of sales was up by 18.5%. Property prices fell by 3.52% y-o-y to Q3 2017 when adjusted for inflation, though the average nominal value of property transactions increased by 1.91%, according to the Directorate of Real Estate and Cadaster.

The only informaton found on Sidon shows that land prices in the city have become inhibitive for any feasible investment in job creating and value‐adding enterprises. Sidon has mainly zoned itself out of small industries to attract more lucrative real estate investments. The results have created unrealistic expectations for land values in the city.

|  |
| --- |
| **QUESTIONS:**  A more detailed and specific view on the market maturity, formality and its readiness for generating land value premiums and value capture in Sidon itself should be discussed with TTL and City Officials. |

***Market Coverage: score – 1*** *(*market covered by professional surveys)

No recent city-specific reports found, but there is available information at the country level, such as Bankmed’s Analysis of Lebanon’s Real Estate Sector (May 2017). Medcities.org further provides good background information on Sidon's urban sustainable development strategy.

***Market Infrastructure: score – x***

Desk research was unsuccessful in finding Sidon-specific information on real estate market structure.

***Price discovery: score – 0.5*** *(Somewhat transparent)*

Price discovery seems rather vague as an important part of the real estate market is market by speculation. This is because some investors are willing to put large amounts of capital in anticipation that the real‐estate market in the city will justify their investments over the long run. This also signs the dominance of a few investors on the market, kept on hold as a reserve for future investments. Zoning ordinances are also often used to support the driving out of unwanted low level economic activities and land prices are kept at a high despite expected returns do not match such high expectations. Eventually, smaller investors are pushed aside to the fringe zones and the bigger investors can develop the land they have carefully demarcated for their speculation.

According to information from local experts, there are no heatmaps publicly available. Past transactions are noted on the property records found at the land registry of each Caza (for a fee of 10,000 LBP per record). These records show the history of ownership and describe the lots, but do not state for how much the property was sold/bought. However, the official amount of land transactions is subject to taxation, and therefore registered at the ministry of Finance.

Sidon earns a preliminary **cumulative score of 2.5** on above sub-indicators which corresponds to **YELLOW color code** as an assessor’s conclusion for the city’s real estate market capacity, indicating that challenges for Land Value Capture remain.

**QUESTIONS:**

Sidon-specific information on real estate market structure should be clarified with TLL and city officials. Scoring for market infrastructure and final scoring will be updated accordingly.

**LAND USE REGULATIONS**

**Data points**

The City has developed a comprehensive plan for its territories (Master Plan, Land Ordinances or equivalent), which regulates density, height, and functional uses in various parts of the city

**Scoring guidelines:**

**Green** - Such plan exists, covers entire city and is able to inform investors of land use and building regulations at - or very close to - parcel by parcel detail

**Yellow** - Such plan exists, but has evident deficiencies, e.g. does not cover entire city, omits important land use guidelines, outdated, has evident enforcement issues, etc.

Red - Such plan does not exist, or even if it technically exists it has not been updated for long (e.g. since the change of political regime)

**Assessment Notes**

The current master plan for Saida was issued in 1967/decree 9016, updated twice in 1973 and 1993. It regulates land use, density and land exploitation ratios. Typically, building permits that do not comply with the master plan are not/should not be granted. Although the rate of corruption is important (building permits issuance seldom goes without a substantial extra fee to the issuing administration), the urban regulation is generally enforced regarding the majority of the citizens.

Assessor’s color rating for Sidon’s land use regulations is YELLOW.

**LAND CADASTER / LAND DATA MANAGEMENT**

**Data points**

Availability of centralized database for land parcel information with legal and value records

**Scoring guidelines:**

**Green** - Land Cadaster is well maintained, cadaster information matches legal ownership records and land values in the cadaster correspond to actual market values

**Yellow** - Land Cadaster is in place, but has evident omissions, e.g. does not cover entire city, and/or has mismatches with legal records, land value records in the cadaster are in mismatch with market values

**Red** - Land Cadaster not introduced, or covers less than 30% of city area, or has very poor data / has not been updated for long time

**Assessment Notes**

The information on cadastre is centralized at the Caza level. As mentioned in the price discovery section (see above) it has information on lots but not their value in the market. Ownership and information are on the same record. The degree to which land cadaster is updated and covers the entire city should we discussed with city officials.

Recommended score for this indicator is YELLOW.

**QUESTIONS:**

Discuss with TTL and city officials the quality of centralized database for land parcel information with legal and value records and management of such database. Scoring will be updated accordingly.

**SECURITY OF PROPERTY RIGHTS**

**Data points**

Expert opinion on the level of establishment and recordation of property titles, title search infrastructure, robustness of dispute resolution processes.

**Scoring guidelines:**

**Green** – robust land and property title registers and property records, covering entire area of the city; registers are regularly updated; property titles do not overlap and formal development rights as a rule reflect de fact ownership; domestic legal framework able to resolve most of property disputes; distribution of land/property rights between government agencies is well established and recorded.

**Yellow** – nominal presence of land/property registers. However, the system has numerous evidence of inaccurate, unrecorded, outdated or overlapping land/property rights; numerous cases of non-delineated lands (e.g. clusters of urban “nobody’s land” with potential conflicting interests); evidence of poorly established public ownership (conflicting claims of different public agencies and layers of government).

**Red** – nonexistent or very incomplete title registers; title search and property dispute resolution have significant informal aspects.

**Assessment Notes**

Information from local experts suggests that with no accessible online system to view the titles, property records procured at the land registry is the way to find about titles. Recently, however, the option of ordering these records online was added to the land registry website: [https://www.lrc.gov.lb](https://www.lrc.gov.lb/) Citizens can find more about processes of transaction there. Further technical details are better obtained from a real estate judge.

Recommended score for this indicator is YELLOW.

**QUESTIONS:**

Strong necessity to further clarify with TTL and city officials the level of establishment and recordation of property titles, title search infrastructure, robustness of dispute resolution processes. Scoring will be updated accordingly.

**LOCAL FISCAL POWERS**

**Data points**

Ability of the city to maintain revenue from own sources and manage level of operating and capital expenditure at discretion of the city administration.

**Scoring guidelines:**

**Green** - revenues from own sources comprise more than 30% of city's revenue base; city has significant discretion in operating and capital financial planning; operating revenues from service mandates mostly able to at least recover the running costs for those services

**Yellow** - revenue from own rouses comprise less than 30% of city's revenue base; city can enact, set and administer local taxes (property taxes in particular), however, city's revenue and spending mandates are still largely reliant on intergovernmental transfers and spending obligations are higher than revenue collected by the city from respective services

**Red** - very limited fiscal powers and complete dependence on intergovernmental transfers; municipal services are top-down mandates from higher levels of government with limited capacity for own revenue collection and cost recovery

**Assessment Notes**

The municipality has administrative and financial independence but remains under the control and supervision of the central government, specifically the Ministry of Interior. Value-added taxes and income taxes are collected nationally, while municipalities can only collect revenues from real estate sales, rents and building permits. This makes the central government the major financier of infrastructure projects. Most importantly, the Saida municipal budget comprises no more than 2% of the local GDP within the greater Saida conurbation. It is too limited to create any leverage for investments. The municipal budget can barely afford to care for the basic maintenance of municipal services.

Recommended color-coded score for this indicator is RED.

**QUESTIONS:**

This information will be complemented with inputs from the city creditworthiness self-assessment.

**TRACK RECORD IN LAND VALUE CAPTURE**

**Data points**

Track record of the city authorities in negotiating public-private partnerships in land and property development, in particular involving obligations for private partners to build (contribute) public infrastructure (e.g. joint development agreements, and/or development SPVs, selling development rights with infrastructure encumbrances/conditions, etc.).

**Scoring guidelines:**

**Green** - evident track record hereof; the city is legally permitted to negotiate land development deals with private partners and has transacted land /property rights with infrastructure obligations.

**Yellow** - evidence that the city is legally permitted to negotiate land development deals with private partners; however, the track record of such is either very limited (e.g. 1-2 deals in the foreseeable past) or inconclusive of the city's real ability to efficiently structure land value capture transactions with fair compensation to the city (i.e. forcing private partners to act in good faith)

**Red** - no track record hereof; OR, clear evidence (with sources) that city is not permitted to negotiate land development deals with private partners

**Assessment Notes**

No track record identified for Sidon. Some reports point to the fact that inclusionary housing could be strengthened if the present regulatory framework is modified to control profit and introduce the principles of value capture taxes where a share of the profit reaped by any development is mandatorily redistributed to the neighborhood. Such controls could be introduced through revision of the zoning, the adoption of “a ceiling on densities” (plafond de densité) and/or regular revisions of property taxes to control speculative landholdings. Within such context, measures such as waiving taxes or extending density bonuses would become feasible.

Recommended color code designation is RED.

|  |
| --- |
| Ulaanbaatar, Mongolia |

**Track Record and Regulations in Structuring PPPs**

|  |  |  |  |
| --- | --- | --- | --- |
| **Track Record** | **Regulatory Frameworks** | **Procurement Capacity** | **Government**  **Co-Financing** |
|  |  |  |  |

**PPP TRACK RECORD (RECENT 10 YEARS):**

**Data points**

|  |  |
| --- | --- |
| PPPs of record in the country (in any status) | 3 |
| PPP of record in the jurisdictional borders of the assessed city | 1 |
| Nationwide count of PPPs in areas of CRP focus (sanitation, water supply, flood mitigation, urban upgrades, housing, urban transport) | 0 |

**Scoring guidelines:**

**Green** - solid track record

**Yellow** - some track record / or good national track record, limited local capacity

**Red** - no or limited track record with limited local capacity respectively

**Assessment notes:**

Based on the desktop research, Mongolia’s only three PPP projects of the recent ten years have been in the energy sector (e.g. wind farms). So far, no projects have been started in the CRP focus areas. Given Mongolia's otherwise solid record in procurement and regulatory frameworks, it should be looked at what is preventing more PPP projects in the country.

**QUESTIONS:**

A Public-Private Partnership in Urban Public Transport Sector of Ulaanbaatar is mentioned in few reports that has been supported by the Public-Private Infrastructure Advisory Facility (PPIAF). Status of that project to be clarified with the TTL and city officials and if there are more PPP projects that our desk review missed.

**PPP REGULATORY FRAMEWORK**

**Data points**

|  |  |
| --- | --- |
| Does national regulatory framework allow procuring PPPs? | YES |
| Does regulatory framework contain specialized legislation regulating PPPs? | YES |
| No restrictions on structuring PPPs in CRP priority sectors? | YES |
| Foreign companies are NOT prohibited from participating in PPP? | YES |
| Foreign companies are permitted to repatriate income from PPP operations? | YES |
| Flexibility to change ownership structure / assign rights under PPP contract? | YES |
| International arbitration allowable for dispute resolution of PPP contracts? | YES |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 5 positive responses

**Yellow** – 2 to 4 positive responses

**Red** – 1 or 0 positive responses

**Assessment notes:**

The regulatory framework governing PPPs in Mongolia mainly consists of the State Policy on Public Private Partnership as adopted by the Parliament Resolution # 64 dated October 15, 2009, the 2010 Law on Concessions. The framework regulations for PPP appear are well established are investor-friendly, checking all the boxes for provisions of congenial regulatory environment of PPPs.

**QUESTIONS:**

There are reports that authorities are considering a new PPP law. It should be discussed if there have been any fruitful talks on this recently.

Pitfall of existing regulation also need to be clarified (what factors – other than demand – inhibited development of PPPs in Mongolia in recent years)

**PPP PROCUREMENT CAPACITY**

**Data points**

|  |  |
| --- | --- |
| Cities/municipalities by law have procuring authority for PPPs? | YES |
| PPP contract can be awarded even if only one proposal is submitted | YES |
| Unsolicited proposals either explicitly allowed or not regulated and possible in practice | YES |
| Competitive PPP procurement must be initiated when proceeding with an unsolicited proposal\* | YES |
| Specialized municipal entity that facilitates the PPP program (PPP Unit) | NO |

**Scoring guidelines:**

Calculate the sum of positive responses to Data Points and assign the following color codes based on the achieved sum:

**Green** – 4-5 positive responses

**Yellow** – 2 to 4 positive responses;

**Red** – 1 or 0 positive responses; if 1 but earned on “Specialized municipal entity that facilitates PPP” – that is YELLOW

**Assessment notes:**

Overall, procurement capacity is from a framework standpoint well designed and sound, but actual capacity levels in terms of implementation should be considered limited, given the rather limited track record of PPPs in the country in recent years.

Noteworthy, the regulations show openness to demand driven PPP sourcing, as the Article 18.1 of the Concessions Law explicitly provides that Mongolian and foreign legal entities and their consortia may submit to the authorized government entity an unsolicited proposal to conclude a concession agreement together with the cost-benefit analysis.

There is dedicated PPP unit at the national level (PPP and Concession Division at the National Development Agency). Yet, there is no indication of such an entity facilitating the PPP program on the municipal level.

Given the limited implementation track record, the recommended score for procurement capacity is YELLOW despite the well-established procurement framework.

**GOVERNMENT CO-FINANCING**

**Data points**

Availability and performance of government-led infrastructure co-financing vehicles (Sovereign Wealth Funds, Local Development Investment vehicles, state-run Guaranteed Loan and Grant programs, Infrastructure Guarantee Funds, etc.). As such, the contemplated government co-financing vehicle may serve as the source of additional leverage, equity and/or a provider of credit enhancement mechanisms in project finance and can open additional opportunities for attracting private capital for infrastructure financing.

**Scoring guidelines:**

Educated opinion on availability of government financing facilities that provide financial assistance to infrastructure projects:

**Green** – Dedicated infrastructure co-financing facility/facilities are established by national or sub-national government; clear criteria for application for such co-financing; proven track record of long or short-term co-financing provided by such facilities for country’s infrastructure projects (not necessarily in the surveyed city).

**Yellow** – Some forms of government co-financing have been identified as a supportive tool for infrastructure investments; access to such government-led co-financing is limited due to either limited size of such co-financing and/or lack of transparency in funds allocation (e.g. unclear criteria for application and approval of such funds) or such a vehicle is planned/drafted but yet to be activated in practice;

**Red** – No evidence of government financing facilities that are set to co-finance infrastructure alongside the private sector (infrastructure can still be extensively funded exclusively from state funds, user fees and/or concessional loans).

**Assessment notes:**

There are no such co-financing vehicles currently in place. It seems that there has been a debate around 2013 that Mongolia wanted to set up a Sovereign Wealth Fund (SWF) but nothing has materialized since then it appears.

**QUESTIONS:**

The status of talks setting up such a Sovereign Wealth Fund should be discussed with TTL and city officials

**Survey of Enabling Conditions for Land Value Capture (LVC)**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Real Estate Market Capacity** | **Land Use Regulations** | **Land Cadaster / Land Data Management** | **Security of property rights** | **Local Fiscal Powers** | **LVC track record** |
|  |  |  |  |  |  |

**REAL ESTATE MARKET CAPACITY**

This indicator consists of sub-indicator data points (covering different subsets of Market Environment), each earning formal scores that contribute to a cumulative overall score for the Market Environment based on which the ultimate color-code for the Market Environment is assigned.

**Data points:**

***Market Dynamics****:* Expert snapshot view on the market maturity, formality and its readiness for generating land value premiums and value capture. Scores for this sub-indicator are derived according to the following formalized metrics:

2.0 – **Active and structured** (largely formal) market with rapidly emerging or established presence of high-value commercial properties (at least 200,000 square meters of modern grade A offices, at least 2-3 modern malls, at least 2 internationally branded hotels). No signs of crisis or sustained stagnation.

1.0 – **Structured (largely formal) but slow** market with limited presence of high-grade properties, evident signs of oversupply or sustained crisis is a clear determination for this score even if formal market prevails

0.5 – **Nascent (largely informal) active** market with yet very limited presence of high-grade properties but with good outlooks as surfaced either in professional market surveys or discovered from anecdotal evidence

0 – **Nascent (largely informal) limited** market - very scarce modern real estate development; on top of that the market shows limited prospects for attracting future investments in high-grade high-value modern properties

***Market Coverage:*** Availability of recent/regular market surveys, ideally prepared by global real estate services companies, e.g. CBRE, Colliers, JLL, Cushman, Knight Frank, DTZ (or other credible sources, including investor surveys)

1 – market covered by professional market surveys

0 – no regular coverage by professional market surveys

***Market Infrastructure:*** Evidence of land/property market infrastructure (property databases, brokers, notaries, surveyors, etc.), assessed based on the following metrics:

1 – **Well functioning infrastructure** (networks of professional agency services providers/brokers, some with international franchises, notaries, locally present land surveyors. etc.)

0 – **Weak infrastructure**, with evident deficiencies (best proxies for such deficiencies are: absence of private notary services, real estate agency services are not subject to licensing; real estate agencies have limited role and are only local/domestic entities while international franchises/rep offices are absent)

***Price Discovery:*** Conclusion on transparency of price discovery process for land and buildings on the local market; the transparency of price discovery is assessed using the following formalized metrics:

1 – **Confidently transparent** - all three of the following conditions are met: role of informal land transaction is minimal or much less compared to formal market, range of fair market values for land is discoverable for any given location, value heatmaps are available, past transaction records are maintained and publicly available, either free of charge of for a fee;

0.5 – **Somewhat transparent** - some of the conditions mentioned in Confidently Transparent are clearly not met; most importantly, if it is clear that valid comparable sales are too limited/sporadic for tracing variations of market prices across the city

0 – **Non-transparent** - informal market dominates, fair market values of any given land or building are hard to discover, land/property values are in most cases discretionary / not backed by comparable sales evidence, income approach to valuation is also not applicable

**Scoring guidelines:**

The sum of scores collected on individual sub-indicators produces the following color designations:

**Green** – equal or larger than 4.0

**Yellow** – 2.0 to 3.5

**Red** – less than 2.0

**Assessment Notes**

***Market Dynamics: score – 2*** *(active and structured market)*

A relatively well-structured market with most of transaction relationship fairly formalize. As the political and economic capital of Mongolia (concentrating a 1/3rd of country’s population), Ulaanbaatar is expanding fast. Unlike in many peer cities in Asia, construction prices are competitive, and development yields are still very high. Strong economic growth and rising wages continue to increase demand for modern mass-market residential units. With a growing number of expatriates residing in the city on a temporary basis, the leasing market for quality high-end residential properties is also growing. Forecasts show that sales and rental prices will continue to appreciate in coming years as rising demand from the growing middle class, coupled with increased mortgage penetration, continues to guide the market.

On the other hand, the commercial real estate market in Ulaanbaatar is still limited and sees some demand challenges (yet there are examples of recently developed modern mixed-use high-rises changing the skyline of Ulaanbaatar, like Center Tower, Night Plaza). Demand for high-grade office space has decreased below the levels of 2011, and occupancy rates have crept down from nearly 100% to around 76%. Despite this drop in demand, a glut of supply is set to come in 2017-2020. Finally, recent surveys consistently confirm a high level of business confidence in the retailing sector (in 2009 Louis Vuitton opened its outlet in Ulaanbaatar). Yet, the market still eyes the expansion of modern retail space.

***Market Coverage: score – 1*** *(*market covered by professional surveys)

Ulaanbaatar’s real estate has recently been included in comprehensive market surveys and property investor prepared by global real estate advisers such as JLL. There are reports as recent as 2017 available.

***Market Infrastructure: score – 1*** *(well-functioning infrastructure)*

No international real estate agency services providers/brokers where found to have representation in Mongolia, based on desk research. However, the local agencies found provided detailed information regarding status and forecasts of the real estate market in Ulaanbaatar which suggests a maturing infrastructure.

***Price discovery: score – 1*** *(confidently transparent)*

Price discovery appears fairly transparent in Ulaanbaatar. This is reflected in the necessity to register all property transactions through the appropriate legal channels in order to obtain the inviolable protection offered by the Mongolian constitution and ensure property related rights. If these transactions are not carried out properly, Mongolia’s legal institutions will not acknowledge ownership rights.

Ulaanbaatar earns a **cumulative score of 5** on above sub-indicators which corresponds to **GREEN color code** as an assessor’s conclusion for the city’s real estate market capacity, indicating that many factors favorable Land Value Capture and forecasts for the real estate market suggest an overall growing infrastructure.

**LAND USE REGULATIONS**

**Data points**

Evidence of a comprehensive plan developed by the City for its territories (Master Plan, Land Ordinances or equivalent), which regulates density, height, and functional uses in various parts of the city

**Scoring guidelines:**

**Green** - Such plan exists, covers entire city and is able to inform investors of land use and building regulations at - or very close to - parcel by parcel detail

**Yellow** - Such plan exists, but has evident deficiencies, e.g. does not cover entire city, omits important land use guidelines, outdated, has evident enforcement issues, etc.

Red - Such plan does not exist, or even if it technically exists it has not been updated for long (e.g. since the change of political regime)

**Assessment Notes**

The most recently Master Plan for Ulaanbaatar was adopted in 2012 and it defined strategic direction of city development and infrastructure provision.

However, there is not robust functional zoning of land uses and identification of allowable building and land use parameters on parcel by parcel basis remains vague.

Assessor’s color rating for Ulaanbaatar’s land use regulations is YELLOW.

**LAND CADASTER / LAND DATA MANAGEMENT**

**Data points**

Availability of centralized database for land parcel information with legal and value records

**Scoring guidelines:**

**Green** - Land Cadaster is well maintained, cadaster information matches legal ownership records and land values in the cadaster correspond to actual market values

**Yellow** - Land Cadaster is in place, but has evident omissions, e.g. does not cover entire city, and/or has mismatches with legal records, land value records in the cadaster are in mismatch with market values

**Red** - Land Cadaster not introduced, or covers less than 30% of city area, or has very poor data / has not been updated for long time

**Assessment Notes**

A Cadaster is in place, however, recent information (2017) from the *Mongolian Agency for Land Administration and Management, Geodesy and Cartography* notes issues such as duplication of data, lack of data sharing, no standardization among organizations, outdated information and no quality assurance, downgrating in consequence the land cadaster/land data management score.

Recommended score for this indicator is YELLOW.

**SECURITY OF PROPERTY RIGHTS**

**Data points**

Expert opinion on the level of establishment and recordation of property titles, title search infrastructure, robustness of dispute resolution processes.

**Scoring guidelines:**

**Green** – robust land and property title registers and property records, covering entire area of the city; registers are regularly updated; property titles do not overlap and formal development rights as a rule reflect de fact ownership; domestic legal framework able to resolve most of property disputes; distribution of land/property rights between government agencies is well established and recorded.

**Yellow** – nominal presence of land/property registers. However, the system has numerous evidence of inaccurate, unrecorded, outdated or overlapping land/property rights; numerous cases of non-delineated lands (e.g. clusters of urban “nobody’s land” with potential conflicting interests); evidence of poorly established public ownership (conflicting claims of different public agencies and layers of government).

**Red** – nonexistent or very incomplete title registers; title search and property dispute resolution have significant informal aspects.

**Assessment Notes**

Mongolian property laws are comprehensive and well-drafted with excellent protection of title and ownership rights. Employing a ‘floating freehold’ system, the constitution and other major laws provide both foreign and Mongolian citizens with inalienable freehold rights to immovable property. There is no distinction between local and domestic purchasers in the legal system in terms of property rights. Additionally, in an effort to attract and sustain the inflow of foreign capital into the country, the Mongolian government has implemented one of the most generous foreign investor tax regimes in the world. This benign and simple system creates an organic environment for business to grow. The rates of taxation in Mongolia are some of the lowest in Asia.

Recommended score for this indicator is GREEN.

**QUESTIONS:**

Robustness of property rights protection and security is subject to confirmation and requires clarification with TTL and city officials.

**LOCAL FISCAL POWERS**

**Data points**

Ability of the city to maintain revenue from own sources and manage level of operating and capital expenditure at discretion of the city administration.

**Scoring guidelines:**

**Green** - revenues from own sources comprise more than 30% of city's revenue base; city has significant discretion in operating and capital financial planning; operating revenues from service mandates mostly able to at least recover the running costs for those services

**Yellow** - revenue from own rouses comprise less than 30% of city's revenue base; city can enact, set and administer local taxes (property taxes in particular), however, city's revenue and spending mandates are still largely reliant on intergovernmental transfers and spending obligations are higher than revenue collected by the city from respective services

**Red** - very limited fiscal powers and complete dependence on intergovernmental transfers; municipal services are top-down mandates from higher levels of government with limited capacity for own revenue collection and cost recovery

**Assessment Notes**

Mongolian local governments budget revenues comprise transfers from central level, own-source tax revenue, non-tax revenue, including shared taxes between the regions and municipalities, and capital revenue. Tax revenues have been decreasing widely since 2003, and local governments have a very limited fiscal capacity. Non-budget revenues also consist of funding from international organizations and donations from citizens and enterprises. According to the Local Government Act, local councils are able to borrow in order to finance their expenditures. All local long term loans are acquired through the Ministry of Finance and National Planning. However, they are not allowed to borrow internationally. In the case of Ulaanbaatar, the capital city is allowed to borrow since 2011, but remains obstructed to do so because of debt capacity limitations. To counter these limitations, the city has created a SPV, the Ulaanbaatar Development Corporation (UBDC), to be able to contract with private sector to jointly raise funds to finance investments.

Recommended color-coded score for this indicator is YELLOW.

**TRACK RECORD IN LAND VALUE CAPTURE**

**Data points**

Track record of the city authorities in negotiating public-private partnerships in land and property development, in particular involving obligations for private partners to build (contribute) public infrastructure (e.g. joint development agreements, and/or development SPVs, selling development rights with infrastructure encumbrances/conditions, etc.).

**Scoring guidelines:**

**Green** - evident track record hereof; the city is legally permitted to negotiate land development deals with private partners and has transacted land /property rights with infrastructure obligations.

**Yellow** - evidence that the city is legally permitted to negotiate land development deals with private partners; however, the track record of such is either very limited (e.g. 1-2 deals in the foreseeable past) or inconclusive of the city's real ability to efficiently structure land value capture transactions with fair compensation to the city (i.e. forcing private partners to act in good faith)

**Red** - no track record hereof; OR, clear evidence (with sources) that city is not permitted to negotiate land development deals with private partners

**Assessment Notes**

According to the World Bank Report on Land Administration and Management in Ulaanbaatar the city has yet to fully explore revenue from any number of land value capture tools such as development fees, land auctions and property taxation, based on market valuation, to finance infrastructure improvements. There is an established opinion in the expert community that the city is not capturing its fair share of the market value of the conversion of land from public to private use, nor do current land auction practices adequately capture market values of public lands being allocated. There are suggestions to initiative the wider use of land value capture by standardizing the practice of public land auctions for non-residential use and reconsidering the valuation scheme for existing fees and taxes on land and property.

Yet, desk research hasn’t fruited in any noticeable track record in concluding market bases transactions with land value capture elements on the Ulaanbaatar market

Recommended color code designation is RED **(subject to review upon more in depth consideration of the outcomes of public land auctions)**