

METHODOLOGY FOR ASSESSING PROCUREMENT SYSTEMS (MAPS)

Version of 2016

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FOREWORD

Public procurement is a crucial component of public services delivery, good governance, and sustainable economies with inclusive growth. Governments around the world spend approximately US\$9.5 trillion in public contracts every year. This fact means that on average, public procurement constitutes around 12%-20% of a country's GDP¹. Therefore, the strengthening of public procurement systems is central to achieve concrete and sustainable results and to build effective institutions.

The Methodology for Assessing Procurement Systems (MAPS) was initially developed in 2003/2004 as a contribution to the collective efforts of many stakeholders to assess and improve public procurement systems by providing a common tool to analyse information on key aspects of any system. **MAPS has been widely used to assess the quality and effectiveness of public procurement systems** and, based on the identified strengths and weaknesses, to develop strategies and implement reforms. These efforts typically focused on creating the foundation for a well-functioning public procurement system by establishing a legal, regulatory, and institutional framework.

This revision to the original MAPS reflects a modern understanding of public procurement, taking account of global developments and improvements suggested by the wide array of users and stakeholders. **The new MAPS is a universal tool that aims to catalyse and accelerate the implementation of modern, efficient, sustainable and more inclusive public procurement systems in all countries.** MAPS assessments highlight where reforms are most needed and indicate how reforms can be best implemented.

The MAPS revision was guided by several considerations:

Value for money: Reflecting the basic goal that every procurement system should be providing the required goods, works, and services in an economic, efficient, effective and sustainable way.

Transparency: Reflecting the basic and commonly agreed-upon principle of disclosure to make policies, legal and institutional frameworks and information related to decisions available to the public in a comprehensible, accessible and timely manner.

Fairness: Reflecting the ambition that the public procurement process should be free from bias, ensure equal treatment and take decisions accordingly, thus ensuring integrity.

Good governance: Encompassing a number of aspects related to the wider context in which public procurement is conducted to achieve goals of good governance. This aspect includes reflection of secondary procurement goals, policy considerations, and integrity principles.

Contextual elements have been integrated to ensure that the application of MAPS contributes to achieving effectiveness. Among those considerations are national policy objectives including targets on sustainability, support for the private sector, civil service reform, etc. as well as other factors that create an enabling environment for a well-functioning procurement system such as good public financial management, accountability, legal certainty, and workforce capacity.

The new version of MAPS comes timely in the wake of the launch of the Sustainable

¹ 12% in OECD countries and 18-20% in the European Union; this share can be higher in some developing countries..

Development Goals (SDGs). **Like the SDGs, MAPS will be relevant for all countries, irrespective of income level or development status.** MAPS is related to goal 12, which calls for the promotion of sustainable procurement practices in line with national priorities and policies, and goal 16 which calls for effective and accountable institutions. In addition, MAPS is anchored in the 2015 OECD Recommendation of the Council on Public Procurement and reflective of leading international procurement frameworks such as the UNCITRAL Model Law on Public Procurement (2011), the EU Directives on Public Procurement (2014), and the procurement frameworks used by multilateral development banks, countries and implementing institutions. It provides a holistic assessment framework by establishing the criteria of an effective and efficient procurement system that all countries should strive to achieve.

The MAPS revision process is a cooperative effort that includes countries and partners alike. The draft revised MAPS methodology will be open to public consultations. It will be further vetted in a testing and piloting phase involving a diverse set of countries spanning across various income categories and development situations to ensure broad participation and contributions from the public and private sector as well as civil society.

Table of Contents

- SECTION I - USER’S GUIDE 5**
 - Introduction 5**
 - Analytical Framework (Overview) 6**
 - Assessment Process..... 10**
 - Assessment Report 12**
 - Strategic Planning and Monitoring to Prepare Reforms..... 13**
 - Further Information and Support 14**
- SECTION II – ANALYSIS OF COUNTRY CONTEXT..... 15**
 - Objectives and Scope..... 15**
 - Structure..... 15**
 - Information Sources..... 16**
- SECTION III – ASSESSMENT OF PUBLIC PROCUREMENT SYSTEMS 17**
 - Pillar I. Legal, Regulatory, and Policy Framework 17**
 - Pillar II. Institutional Framework and Management Capacity 33**
 - * Recommended quantitative indicator to substantiate assessment of sub-indicator 5(d)**
 - Assessment criterion (a): 36**
 - Pillar III. Public Procurement Operations and Market Practices 44**
 - * Recommended quantitative indicators to substantiate assessment of sub-indicator 9(b)**
 - Assessment criterion (h): 45**
 - Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System 49**
 - (b) Definition of the individual responsibilities, accountabilities and penalties for government employees and private firms or individuals found guilty of fraud, corruption, or other prohibited practices in procurement, without prejudice of other provisions in the criminal law 56**
- ANNEXES 61**
 - Annex 1 – MAPS Indicator System 61**
 - Annex 2 – MAPS Assessment Criteria expressed in Quantitative Terms 63**
- GLOSSARY..... 67**

METHODOLOGY FOR ASSESSING PROCUREMENT SYSTEMS (MAPS)

SECTION I - USER'S GUIDE

Introduction

Objective of the User's Guide

1. The objective of this User's Guide is to facilitate a consistent approach to the application of the OECD Methodology for Assessing Procurement Systems (MAPS), with a view of how the findings can be most effectively translated into reforms.

Purpose and Use of the Methodology

2. MAPS is intended to provide a harmonized tool for use in the assessment of public procurement systems. The methodology has been designed to enable a country, with or without support of external partners, to conduct an assessment of its procurement system to determine its strengths and weaknesses: the resulting information can serve as the basis for the design of harmonized system development and reform initiatives² to improve capacity and to address weaknesses. The assessment provides the country with information it can use to monitor the performance of its system and the success of the reform initiatives in improving performance. In identifying weaknesses in the current system in a country, external partners are also provided with information that helps them determine risks to the funds they provide to partner countries.

3. MAPS is a universal tool. It aims at laying the foundation for creating a well-governed public procurement system that contributes to meeting policy objectives, increasing public trust, and enhancing well-being and more prosperous and inclusive societies. It is guided by value for money, transparency, fairness, and good governance considerations. The 2016 version of MAPS entails high aspirational standards providing a direction for reform, instead of minimum standards that countries are universally required to attain. Depending on the conditions in a country, e.g., fragile and conflict affected states, these aspirational standards may only be achievable over a longer period of time.

4. The application of the MAPS assessment is neither an audit of a procurement system, nor intended as a complete substitute for a fiduciary assessment by the country, a donor or other external partners, if required, although it aims to be a common assessment tool to be used by countries and the international community irrespective of its geographical application.

² The terms "reform initiatives" and "system development" are used interchangeably in this methodology.

Analytical Framework (Overview)

Building Blocks

5. The MAPS analytical framework consists of a core assessment methodology and a number of supplementary modules.

6. The MAPS core methodology, which is described in this document, provides a comprehensive approach for assessing procurement systems. It defines the structure to conduct a country context analysis, presents a refined indicator system for assessing the quality and performance of the system in terms of outcomes and results and describes the key elements of the assessment process.

7. Supplementary modules are progressively being developed to complement the core assessment methodology. The supplementary modules focus on specific policy areas of public procurement and can be used by countries depending on their particular needs.

Analysis of Country Context

8. The section ANALYSIS OF COUNTRY CONTEXT (SECTION II) presents a structured approach to analyse the local environment to ensure that the assessment is anchored in the specific needs of a country and that the different elements of the MAPS analytical framework are applied accordingly.

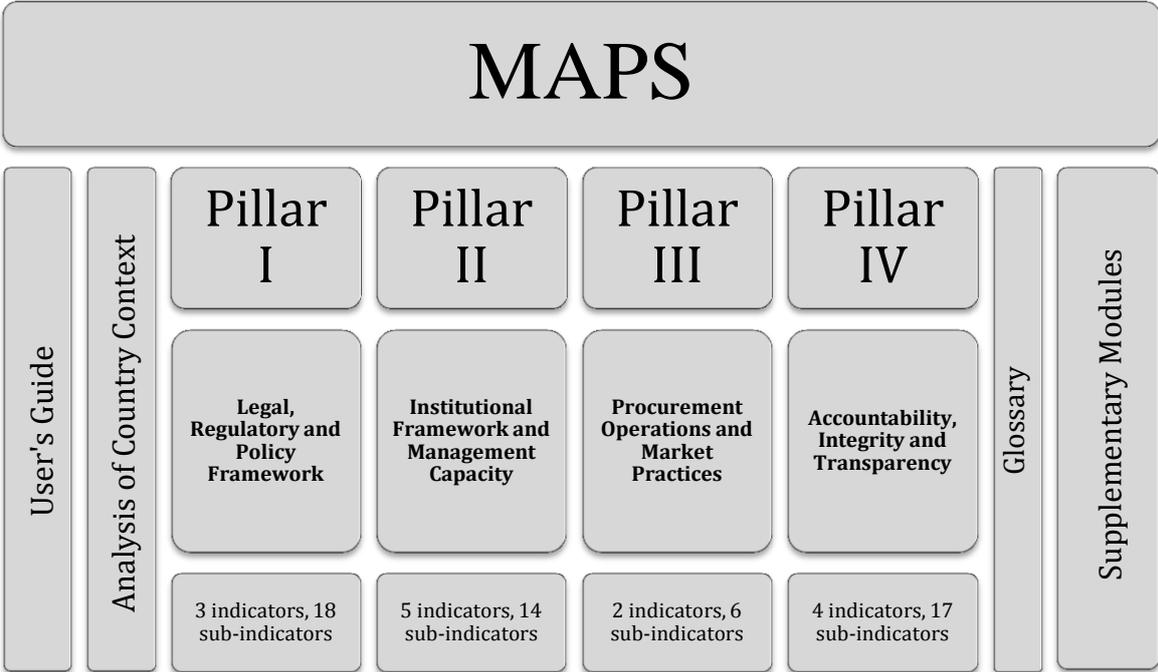
9. The context analysis draws on easily accessible information and existing data and focuses on a number of factors that are essential for procurement reform. These factors refer to the country's economic situation, links between the public procurement system, the public finance management and the public governance systems, national policy objectives, and the public procurement reform environment. The context analysis also comprises the identification of key stakeholders that are formally and informally linked to public procurement structures.

Indicator System

10. The MAPS indicator system is described in detail in SECTION III ASSESSMENT OF PUBLIC PROCUREMENT SYSTEMS. It rests on four pillars: a) the existing legal and policy framework that regulates procurement in the country; b) the institutional framework and management capacities; c) the operation of the system and competitiveness of the national market; and d) the accountability, integrity, and transparency of the procurement system.

11. Each pillar has a number of indicators and sub-indicators to be assessed. In total, the indicator system comprises fourteen (14) indicators and fifty-five (55) sub-indicators which together present the criteria for a “snapshot” comparison of the actual system against the stated principles. The indicators are expressed in qualitative and/or quantitative terms, as appropriate. Figure 1 (below) illustrates the overall structure of MAPS.

Figure 1: Overview of MAPS.



12. The indicators often refer to the procurement law and to the legal framework. The reference to the procurement law is to the supreme legal instrument governing public procurement in the country. The particular form or nature of the supreme law varies across countries depending on the legal system (common law, civil law, etc.) and tradition.³ In general, the precedence used in this document is that there is a supreme legal instrument which is the overarching one, that there are regulations that provide further detailed legal interpretation, and that there are detailed procedures for implementation of an administrative nature. In some instances, legal obligations related to public procurement may also derive from memberships in international and/or regional associations or treaties. Other national laws, including on budget, construction, or competition, may impose obligations impacting public procurement as well. The entire set of legal instruments relating to public procurement is designated as the “legal framework”.

Application of Indicators

13. Each indicator and sub-indicator is preceded by a short text explaining those aspects that the sub-indicator attempts to assess and some considerations about the nature and importance of the item in question. This short text aims to guide the assessor to the relevant aspects to be reviewed and to specified principles or standards. The criteria to be considered as part of the sub-indicator are then summarized in a table titled “Assessment criteria” for each sub-indicator. The assessment criteria establish the basis against which the system will be assessed (qualitative indicators). A set of quantitative indicators offers the opportunity to substantiate

³ Some countries have laws and others may have acts, decrees, circulars or regulations.

the assessment of several sub-indicators by taking performance related data into account.

14. Each sub-indicator should be assessed using the following three-step approach:
- 1) Review of the system applying assessment criteria expressed in qualitative terms
 - 2) Review of the system applying a defined set of quantitative indicators⁴
 - 3) Determination of substantive or material gaps (gap analysis)

Step 1: Review of the system applying assessment criteria expressed in qualitative terms

15. Step 1 of the assessment is based on a qualitative review of the existing regulatory and policy framework, as well as institutional and operational arrangements to determine whether the described standard has been accomplished or not. Several indicators are not amenable to assessment via hard evidence (i.e., facts and figures) and thus may require surveys or interviews with affected procurement stakeholders/participants, such as professional associations, civil society representatives, independent media or well recognized and respected investigative journalists, and government officials, as indicated in this guide.

16. A narrative report should provide detailed information related to this comparison (actual situation vs. assessment criteria) and on changes that may be underway. This narrative will enable the assessors to analyse the strengths and weaknesses of the system.

Step 2: Review of the system applying a defined set of quantitative indicators

17. Step 2 of the assessment focuses on the application of a (minimum) set of 15 quantitative indicators. These indicators are closely related to the prevailing procurement practices in the country and are therefore often referred to as performance indicators. Quantitative indicators are useful to demonstrate results, for example by examining a sample of procurement transactions and other relevant information deemed representative of the performance of the system.

18. The narrative report should provide the detailed findings of this analysis. In countries where necessary data is unavailable or unreliable, the circumstances should be elaborated in the narrative report.

19. Quantitative indicators are not benchmarked against set standards but can be used by the country to define baselines, set national targets and measure progress over time. Additional quantitative indicators are recommended for optional use, as appropriate (“recommended quantitative indicators”).

Step 3: Analysis and determination of substantive or material gaps (gap analysis)

20. The assessment findings are further analysed and interpreted (Step 3) to identify the

⁴ The workflows for steps 1 and 2 can be organised in parallel.

areas that exhibit material or substantial gaps and require actions to improve the quality and performance of the system.

21. A substantive or material gap exists when any of the following situations is encountered:

- The system exhibits less than substantial achievement of the stated criteria; or
- Any of the essential elements of the indicator (e.g., independence, objectivity, timeliness) are missing; or
- There is enough evidence that a provision in the legal/regulatory framework is not working as intended (i.e. factual evidence or conclusive outcome from interviews or from analysis of procurement practices).

22. To substantiate the gaps identified in Steps 1 and 2 of the assessment, a deeper analysis may be conducted. This can be done through a more comprehensive qualitative review of existing arrangements and/or through an expanded analysis of actual public procurement practices (e.g., by increasing the sample size of procurement cases analysed).

23. If substantiated, the sub-indicator should be clearly marked as exhibiting a “substantive gap” to illustrate the need for developing adequate actions to improve the quality and performance of the system. Any deeper analysis carried out should be made transparent in the detailed assessment report to ensure consistency and comparability of assessments. Additional evidence and conclusions should be reflected.

24. Should the assessor identify reasons that are likely to prevent adequate actions to improve the public procurement system, “red flags” should be assigned. Red flags are to highlight any element that significantly impedes the achievement of the main considerations of public procurement and that cannot be mitigated directly or indirectly. Such reasons could lie outside of the sphere of public procurement, e.g.:

- Assessors/government do not agree on assessment results (e.g., substantive gaps); or
- Other national laws or regional/international agreements impose contrary obligations; or
- Other reasons preventing appropriate improvement of the public procurement system (e.g., political economy; jurisdiction; interdependence of problems/complexity, etc.).

Limits of Indicator Application

25. The indicators alone cannot give a full picture of a procurement system that is by its nature complex. They must be seen as a vehicle used to identify the strengths and weaknesses of the system in broad terms. The indicators also serve as support for a more thorough analysis to be carried out by the assessor as indicated above.

26. The application of indicators allows for subjective professional judgments by the assessor. Subjectivity cannot (and probably should not) be fully eliminated from the exercise. However, subjectivity needs to be minimized to ensure that assessments carried out by different assessors maintain reasonable consistency and comparability for analytical purposes. This is one of the main objectives of the methodology and of this guide. The assessor must also keep in mind that there is no single model for a procurement system and that different models have developed throughout the world that may work well within one particular political, institutional, or cultural setting, but not in another.

27. The decision on the scope of performance measurement and data collection should be made specific to the country and based upon the availability of data and the country's objectives. The decision should consider cost effectiveness as well as the sustainability of data collection and analysis to ensure the long-term monitoring of procurement performance. In case of sampling, sampling strategies (e.g., focusing on top spending agencies or cutting across national and sub-national procuring entities) and sampling sizes need to be carefully considered and its level of representativeness and certainty must be statistically defined. Details of the approach should be disclosed in the assessment report.

28. All quantitative indicators have been aligned with procurement data required in PEFA assessments (PEFA Performance Indicator PI-24)⁵ to facilitate consistency in assessments and policy formulation.

Assessment Process

Planning and Preparing the Assessment

29. Advanced planning is needed to appropriately scope and time the assessment, define management arrangements, set up the assessment team, arrange for the collection of the information required and to identify stakeholders to be interviewed or surveyed. Advance planning is especially important if the assessment will be jointly sponsored by the government and interested external partners to enable coordination of the work and agreement to be reached on critical aspects of the assessment. Peer reviews, where representatives from other governments, agencies or relevant international organisations take part in the assessment exercise, can complement a MAPS exercise. Whether or not an assessment should be conducted as a peer review or whether it should involve other forms of third party quality assurance (e.g., by a permanent MAPS secretariat) should be decided in advance as well.

30. To ensure a demand driven assessment process, the country should consider preparing a concept note covering the following questions:

- What is the primary objective(s) of conducting a MAPS assessment?
- Are there specific issues to focus on?
- Which parts of the government need to be covered?
- Which parts of the MAPS methodology (core tool/supplementary modules) need to be applied to deliver the desired outcomes?
- Who is leading the assessment and what are the different roles of the members of the assessment team?
- Was there a MAPS assessment in the past, and what were its results?
- Which information sources are available to gather required information?
- Which quantitative indicators will be used for performance measurement?
- Who are the key stakeholders that should be involved in the assessment?
- To what extent should the assessment include the review of actual procurement cases

⁵ Public Expenditure and Financial Accountability (PEFA) Performance Measurement Framework (2016): PI-24 (www.pefa.org)

(see Indicator 9)?

- How will the sample be designed and which agencies will be included?
- How will the findings be validated and recommendations be discussed? Should the assessment involve peers/external experts to review the assessment (refer to paragraph 38)?
- How will the assessment results be communicated/published and used?
- How much time, external support, and budget will be needed?

31. The government can demonstrate high-level political commitment by establishing strong leadership arrangements for the assessment. To foster cross-departmental cooperation and openness, the government should consider establishing a time-bound MAPS Assessment Steering Committee.

32. Identifying a qualified team of assessors is critical to the credibility and reliability of the exercise. Assessors should preferably be seasoned public procurement practitioners with ample knowledge of the legal, institutional, and operational aspects of the subject and of internationally accepted procurement practice. They must be informed on the recommended use of the tool to enhance shared understanding and to foster consistency in its application. Assessors, if external to the government, should work with a counterpart team of the government to facilitate access to information and logistical support. Assessors should be free of conflicts of interest that could arise from current or previous roles.

33. Successful reforms depend on actively and appropriately engaging stakeholders throughout the entire process. At the very early stages of the assessment, stakeholders should be engaged through appropriate communication (objectives, scope, process, timelines, lead agency, etc.) and targeted interviews. The ANALYSIS OF COUNTRY CONTEXT will help identify the key stakeholders that are formally and informally linked to the public procurement structures in the country.

34. The following categories of stakeholders are typically recommended to be engaged: authority in charge of the assessment (typically the regulatory authority, ministry, or centre of government), procurement normative/regulatory body, administrative review body, selected number of procuring entities, representatives of private sector (including the banking sector involved in financing public sector investment projects) and civil society, authorities responsible for budgeting/payment/internal controls, audit authorities, anti-corruption agencies, international partners engaged in the country, training institutions, procurement professional body, academia, research institutions and media.

Conducting the Assessment

35. The assessment should clarify its objectives, identify the current situation, and engage key stakeholders.

36. The assessment should follow a clear timetable and be structured in the following steps: data collection; analysis of findings (determination of strengths and weaknesses); and, as applicable, developing recommendations for a prioritized reform strategy intended to address identified weaknesses.

Validation of findings

37. To ensure that the assessment process is valid and credible, it is recommended that a validation exercise involving key stakeholders be included in the process. The validation exercise provides an opportunity to agree on the findings of the assessment, reform priorities, and a shared strategy to address key weaknesses in the system.

38. A more robust quality control approach involves the validation of the assessment results by peer reviewers or by a permanent MAPS secretariat. [TBD]

Assessment Report

39. One of the main objectives of carrying out the assessment following the methodology in this document is to provide countries with a tool that can be used to formulate reforms to improve their national procurement systems and align them with internationally accepted good practice. The assessment process also provides a unique opportunity to learn and increase capacity for governments and partners alike. A narrative analytical report is useful to the involved governments and their external partners interested in supporting and strengthening programs. A report of this nature provides context to the assessment and provides the assessor's evaluation of the entire system and of the status of progress of individual items assessed.

40. The suggested outline of the report is as follows:

- An executive summary of the report providing an overview of the assessment results against the four pillars mentioned in paragraph 10. The executive summary should highlight the strengths and weaknesses of the system, their relative importance, the major risks identified and their likely consequences for the efficiency of the system.
- An introductory section that presents the background of the assessment, its scope and nature, the limitations encountered for the assessment, and any other matters that are essential to understand the context and circumstances under which the assessment was carried out.
- A section that describes the country context (see SECTION II: ANALYSIS OF COUNTRY CONTEXT for further details):
 1. Brief review of the most relevant aspects of the country's political, economic, and geostrategic situation;
 2. The public procurement system and its links with the public finance management and the public governance systems;
 3. National policy objectives with a focus on issues that influence public procurement; and
 4. Public procurement reform including government ownership, reform priorities, key stakeholders, incentives and challenges that may impact the success of reforms.
- A section that discusses the findings of the assessment in relation to each one of the pillars and the indicators. This section also describes any programs or initiatives that the

government is implementing or that are in advanced status of consideration. Where appropriate, this includes their adequacy for possible support by international partners. Finally, the section describes any progress made, or the lack of it or the deterioration of the system since the last assessment was carried out.

- A section on the assessment of outstanding weaknesses in the procurement system classifying them into categories with regard to the risk such weaknesses may pose to the system and suggestions as to how to keep these risks at an acceptably low level⁶. Such suggestions may form the basis for a prioritized reform strategy intended to address identified weaknesses.
- When the report goes beyond the mere assessment of the system into proposing an action plan or a reform strategy, the relevant sections and chapters need to be added to the report (see section on Strategic Planning and Monitoring to Prepare Reforms below.)
- One section of the report should provide an account of steps taken to validate the assessment's findings, and describe any other elements that have an impact on the quality of the assessment, such as references on assessors, timeframe available for the assessment, information sources, etc.
- The detailed assessment results and any evidence documenting the findings should be annexed. Areas (i.e. sub-indicators) exhibiting less than full or less than substantial achievement of the described standard and requiring adequate actions to improve the quality and performance of the system should be clearly marked.⁷

Strategic Planning and Monitoring to Prepare Reforms

41. The findings of the assessment inform the strategic planning process for future public procurement reform. The strategic planning process should clarify the vision, goals and timeframe of the strategy for improving the public procurement system, formulate solution options, and transform the measures into a strategic plan.

42. The strategy should be realistic, well linked to other reform initiatives, ensure a balance of perspectives, and include a good mix of “quick wins”, as well as medium and long-term initiatives. A strategic plan should be developed to support effective implementation. This includes assigning roles and responsibilities, the definition of change processes, allocation of resources, timelines, the development of a results framework, monitoring and evaluation agreements, and the preparation and communication of the strategic planning document.

43. The set of indicators applied in the MAPS assessment could form a useful basis for

⁶ Different dimensions of risks should be taken into account, e.g., fiduciary risks, development risks, and reputational risks. Risks can be classified using the following categories: High, medium, or low, or alternatively: High, substantial, moderate, or low, depending on the risk classification system applied in the country. The classification should be based on the standard dimensions of occurrence (probability) and severity of consequences (impact).

⁷ An electronic assessment tool is under preparation to facilitate data collection, analysis, and documentation of detailed assessment results including supporting documents.

constructing the results framework for public procurement reforms. A few high-level indicators relating to the strategic goals of the public procurement reform should be identified. In addition, indicators for any of the initiatives included as part of the strategic plan for reform should be identified on two or even three levels (outputs, outcomes, impact).

44. Each indicator needs a baseline and a target. The baseline data is used as the starting point for measuring progress. The targets may be either short-term, medium-term or long-term with interim milestones. Progress monitoring should allow for refinement of the initiatives and potentially the design of new initiatives to address evolving needs.

45. A full update of a MAPS assessment should be performed whenever major changes in legislation occur or other substantive elements of the system change and/or affect the performance of the system (positively or negatively).

Further Information and Support

MAPS Secretariat

46. The MAPS Secretariat offers the following services: [To be further developed after the meeting/ including status/governance structure/link to website, etc.]

47. Further information on applying the MAPS methodology and transforming public procurement systems is available in the following publications:

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- OECD (2011): Strengthening Country Procurement Systems: Results and Opportunities, in:
http://siteresources.worldbank.org/INTALBANIA/Resources/Strengthening_Procurement_Systems.pdf
- OECD (2011): A Practical Guide to Transforming Procurement Systems, in:
http://www.unpdc.org/media/352108/a_practical_guide_to_transforming_procurement_systems_final_formatted_30oct_2011.pdf
- OECD (2008): Compendium of Country Examples and Lessons Learned from Applying the Methodology for Assessment of National Procurement Systems Volume 1 – Sharing Experiences (2008), in: <https://www.oecd.org/dac/effectiveness/40488586.pdf>
- OECD Recommendation of the Council on Public Procurement (2015), in:
<http://www.oecd.org/gov/ethics/Recommendation-on-Public-Procurement.pdf>

SECTION II – ANALYSIS OF COUNTRY CONTEXT

Objectives and Scope

The *Analysis of Country Context* aims to ensure that the MAPS assessment is based on a better understanding of the context in which public procurement institutions and other stakeholders operate in a particular country. During the assessment and in developing responses to the findings, the political and institutional environment can be considered to ensure that reforms are truly anchored in countries’ needs.

To ensure efficiency, this macro level analysis should be brief. It should draw on easily accessible information and existing data and focus on a limited number of potentially important factors for procurement reform. These factors are: 1) the country’s political, economic, and geostrategic situation; 2) links between the public procurement system and the public finance management and the public governance systems, 3) national policy objectives affecting public procurement, and 4) the public procurement reform environment.

The context analysis should comprise a thorough mapping of key stakeholders that are formally and informally linked to public procurement structures. This will help to engage stakeholders as part of the assessment and as part of future reform processes. Stakeholder engagement in general helps to understand how interests, incentives, values and ideas are shaped by formal and informal rules and eventually support the development and prioritization of actions that are feasible and realistic to implement.

The contextual information gathered at this stage can also be used to ensure a targeted application of the MAPS tool. For example, the identification of national policy objectives and key challenges helps scope the MAPS assessment in particular with regard to the potential application of supplementary modules.

Structure

The analysis of country context should be structured as follows⁸:

<p>Analysis of Country Context</p> <ol style="list-style-type: none">1. Political, economic and geostrategic situation of the country<ol style="list-style-type: none">1.1 Economic structures (e.g., population, national income level, resources at the government’s disposal vs. debt, geographic location, geopolitical situation, main challenges for growth and development)1.2 Political structures, nature of the political governance system (e.g., type of government, history/legacies in the form of government, federalism vs. centralisation / roles of the national government and sub-national
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⁸ Further information on how to conduct context / political economy analyses can be found in: UNDP (2012), Institutional and Context Analysis - Guidance Note, http://www.undp.org/content/undp/en/home/librarypage/democratic-governance/oslo_governance_centre/Institutional_and_Context_Analysis_Guidance_Note/; Overseas Development Institute (ODI) (2005), Analytical Framework for Conducting Political Economy Analysis in Sectors, <http://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/3898.pdf>.

governments, distinctive features in the allocation of political power, marginalised groups, levels of crime and informality, aspects of fragility or conflict, level of perception of corruption, etc.)⁹

- 1.3 International obligations (e.g., international/regional treaties and memberships including information on potential/pending memberships)
2. Public procurement system and its links with the public finance management and public governance systems
 - 2.1 Nature and scope of public procurement (e.g., procurement as a proportion of GDP/government expenditures)
 - 2.2 Key institutions (formal and informal) and their roles in operating the procurement system including controls
 - 2.3 Mapping of key external stakeholders formally and informally linked to public procurement structures, their interests and avenues for engagement
3. National policy objectives and sustainable development goals
 - 3.1 General reform initiatives with a focus on issues that influence public procurement
 - 3.2 Secondary policy objectives
4. Public procurement reform
 - 4.1 Public procurement reform in the past (brief history/legacies; lessons learned)
 - 4.2 Public procurement priorities, policies, strategies, and goals/targets and their links with public sector/governance/other related reforms
 - 4.3 Incentives that can drive reforms; challenges that can impact the success of reforms

Information Sources

The list of sources to be consulted is as follows:

- National statistics (e.g., Ministry of Finance, etc.)
- National Development Plans
- Indices, e.g., Doing Business project (World Bank), Government at a Glance (OECD), Country Classifications (World Bank and others), GDP growth rates, Corruption Perception Index, Global Competitiveness Report (World Economic Forum), Human Development Index (UN), etc.
- Databases on international memberships and treaties (e.g., GATT/GPA; OECD; Regional organizations and trade agreements; Signatories to the United Nations Convention against Corruption, etc.)
- Previous studies/assessments
- Interviews with relevant experts or sources; Critics in media

⁹ Fragility can go beyond the categorization of “fragile states”. The OECD has defined the following five dimensions: 1) Violence (peaceful societies); 2) Access to justice for all (including control of corruption); 3) Effective, accountable and inclusive institutions; 4) Economic foundations; and 5) Capacity to adapt to social, economic and environmental shocks and disasters. (OECD (2015), States of Fragility 2015: Meeting Post-2015 Ambitions, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264227699-en>)

SECTION III – ASSESSMENT OF PUBLIC PROCUREMENT SYSTEMS

Pillar I. Legal, Regulatory, and Policy Framework

Pillar I assesses the existing legal, regulatory, and policy framework for public procurement. It identifies the formal rules and procedures governing public procurement and evaluates how they compare to international standards. The practical implementation and operation of this framework is the subject of Pillars II and III. The indicators within Pillar I embrace recent developments and innovations that have been increasingly employed to make public procurement more efficient. Pillar I also considers international obligations and national policy objectives to ensure that public procurement lives up to its important strategic role and contributes to sustainability.

Pillar I refers to four elements of the legal, regulatory, and policy framework:

1. The supreme legal instrument governing public procurement (laws, acts, decrees)
2. Regulations and other instruments that are of a more administrative nature
3. Procurement-related provisions in other national laws (e.g., laws governing public private partnerships and concessions, trade and competition, access to information, anti-corruption, alternative dispute resolution, state-owned enterprises, etc.)
4. Obligations deriving from international agreements to ensure consistency and policy coherence.

Indicator 1. The public procurement legal framework achieves the agreed principles and complies with applicable obligations.

The indicator covers the different legal and regulatory instruments established at varying levels, from the highest level (national law, act, regulation, decree, etc.) to detailed regulation, procedures and bidding documents formally in use. This indicator is divided into twelve sub-indicators (a-1) which are individually assessed.

Sub-indicator 1(a) – Scope of application and coverage of the legal and regulatory framework

The purpose of this sub-indicator is to determine: 1) the structure of the regulatory framework governing public procurement; 2) the extent of its coverage; and 3) the public access to the laws and regulations.

The assessor should evaluate adequacy of the structure of the legal framework, its clarity and the precedence of the different instruments. It is important that the legal framework be differentiated between laws, regulations and procedures and that precedence is firmly established to minimize inconsistencies in application. Higher-level instruments normally should be less detailed and more stable. Their modification requires higher levels of authority.

For this reason, the higher a provision is placed in the hierarchy of the legal framework, the more stable it is. This means that lower-level instruments should be chosen to regulate more detailed procedures for implementation that require some flexibility (e.g., thresholds).

The assessor should evaluate the extent to which the legal framework applies to all procurement undertaken using public funds (goods, works, and services, including consulting services). In addition, the assessor should assess the extent to which national legislation applies to all public bodies and sub-national governments and entities when national budget funds are used either directly or indirectly.

A particular aspect to evaluate is whether the laws or regulations exclude particular agencies or parts of the public expenditure from the provisions of the law (i.e. the army, defence or similar expenditures, autonomous or specialized state-owned enterprises, as well as utility companies with special or exclusive rights). This also includes assessing whether these exclusions are made by law or can be made administratively without public oversight. The assessor should also evaluate whether the public procurement law or other national laws support and regulate the contracting of other forms of public service delivery that are closely related to public procurement such as Public Private Partnerships (PPP) including concessions. (Specific characteristics are assessed under sub-indicator 1(l)).

Uniformity and universality of coverage contribute to predictability and savings in the operation of the procurement system. Access to the rules and regulations contribute to transparency, which results in more economic procurement.

Laws and policies can be made accessible by keeping them in places of easy access to the public. Preferably, the information should be published on the Internet through a single, freely accessible online portal (refer to sub-indicator 7(a)). If the information is primarily posted on the Internet, the assessor should verify whether the information is accessible to the public and regularly updated.

<p>Sub-indicator 1(a): Assessment criteria</p> <p>The legal and regulatory body of norms complies with the following conditions:</p> <ul style="list-style-type: none"> (a) Is adequately recorded and organized hierarchically (laws, decrees, regulations, procedures) and precedence is clearly established. (b) It covers goods, works, and services (including consulting services) for all procurement using public funds. (c) Public Private Partnerships (PPP) including concessions are regulated. (d) Current laws, regulations, and policies are published and easily accessible to the public at no cost.
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Sub-indicator 1(b) – Procurement methods

This sub-indicator assesses whether the legal framework includes: 1) a clear definition of the permissible procurement methods; and 2) the circumstances under which each method is appropriate.

The legal framework should provide an appropriate range of procurement methods

comprising competitive and less competitive procedures, when appropriate.¹⁰

The law and regulations should define the situations in which open tendering or alternatives procurement methods can be used and ensure that acceptable justification and approval levels are clearly specified. The application of procurement methods and processes should be proportional to the value and risks of the underlying project activities. This means that in procurement projects with low value or lower risks, lighter methods – such as restricted tendering, request for quotations, etc. – can be applied, when the benefits of some “process-heavier” methods are not evident or necessary. Although open (competitive) tendering should be the standard procurement method, the choice of the method should also depend on the time it takes to follow through the procedure and strive to avoid delays.

The use of direct awards (single source procurement) should be analysed and its justifications understood. It is also important to understand how the justifications to avoid more competitive procedures are being used in general. For example, urgency is often an excuse to not using open tendering but justifying single source procurement with urgency should only be permitted in exceptional circumstances where, owing to a catastrophic event there is an extremely important need and engaging in any other method of procurement would be impractical because of the time involved in using those methods. It should not be used because of poor planning.

Fractioning of contracts to avoid open competition should be prohibited, when it aims at circumventing competitive rules.

The legal framework should restrict individual agencies’ or procurement officials’ discretion. This should result in minimal use of those procurement methods that limit competition.

Sub-indicator 1(b): Assessment criteria
The legal framework meets the following conditions: (a) Procurement methods are established unambiguously at an appropriate hierarchical level along with the associated conditions under which each method may be used. (b) The procurement methods prescribed comprise competitive and less competitive procurement procedures and provide an appropriate range of options to ensure value for money, fairness, transparency, proportionality, and integrity. (c) Fractioning of contracts to limit competition is prohibited. (d) Appropriate standards for competitive procedures are specified.

Sub-indicator 1(c) – Advertising rules and time limits

This sub-indicator assesses whether: a) the legal framework includes requirements to publish procurement opportunities as a matter of public interest and to promote transparency; b) there is wide and easily accessible publication of business opportunities; and c) there is adequate time provided between publication of opportunities and submission date, consistent with the method and complexity of the procurement, to prepare and submit proposals.

Time between publication of the invitation for prequalification applications, or for an open

¹⁰ The UNCITRAL Model Law on Public Procurement (2011), for example, provides terms, model definitions and procedures for different options (Refer to chapters II – VII). When specific procurement methods are mentioned in this documents, the terms established by UNCITRAL are used.

tender, and the submission of proposals relates to the complexity of the procurement and the level of competition expected. If foreign bidders are expected to compete, this is a factor to consider. The law and regulations should establish the criteria for setting the minimum time between advertisement and submission of proposals. The timelines can be shortened in case of electronic transmission of procurement notices and bidding documents.

<p>Sub-indicator 1(c): Assessment criteria</p> <p>The legal framework meets the following conditions:</p> <ul style="list-style-type: none"> (a) Requires that procurement opportunities be publicly advertised unless the restriction of procurement opportunities is explicitly justified (refer to indicator 1(b)). (b) Publication of opportunities provides sufficient time, consistent with the method, nature and complexity of procurement, for potential bidders to obtain documents and respond to the advertisement. The minimum timeframes for submission of bids/proposals are defined for each procurement method and such timeframes are extended when international competition is sought. (c) Publication of open tenders is mandated in at least a newspaper of wide national circulation or in a unique Internet official site, where all public procurement opportunities are posted, that is easily accessible at no cost without any other barriers, such as technological barriers. (d) Content of publication includes sufficient information to enable potential bidders to determine their ability and interest in bidding.
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Sub-indicator 1(d) – Rules on participation

This sub-indicator assesses the policies that regulate participation and selection to ensure that they are non-discriminatory. As a general principle, firms, including qualified foreign firms, should not be excluded from participating in a procurement process for reasons other than lack of qualifications and in accordance with clearly specified rules on eligibility and exclusions.

There may be cases in which the legal framework will allow restrictions that require purchasing from or associating with domestic firms, or mandate inclusion of a minimum locally manufactured content. Many countries also allow price preferences for domestic firms. Such local content requirements or preferences must be in line with the country’s international obligations (e.g. WTO-GPA, Association Agreements, or Free Trade Agreements ratified by the country). Excessive price preferences or other concessions for certain groups of bidders can deter effective competition and reduce efficiency. The assessor should assess whether the provisions are adequate and justified, so as not to undermine the economy and efficiency of the system. The regulatory framework should not include the obligation for foreign firms to associate with local firms or to establish subsidiaries in the country as a condition of bidding. These conditions may promote the maintenance of oligopolistic or monopolistic conditions as opposed to promoting local industry development and can be a de-facto barrier to competition.

Registration should not be a barrier to participate in a procurement process.

The law should provide for exclusions for criminal or corrupt activities, debarment subject to due process and for the prohibition of commercial relations in cases of criminal activity. Notably, firms or individuals who have been the subject of a conviction by final judgment for one of the following reasons should be excluded from participation: participation in a criminal organization; corruption as defined in the national law of the contracting authority or the firm/individual; fraud; terrorist offences or offences linked to terrorist activities or inciting or aiding or abetting or attempting to commit such an offence; money laundering or terrorist financing; child labour; and all forms of trafficking in human beings.

The process to reach decisions on administrative debarment (e.g., failure to perform in earlier contracts, etc.) should be clearly defined, including any possible appeals. Other legitimate exclusions (e.g., prohibition of commercial relations by law or adherence to UN Security Council sanctions) should be prescribed. Additionally, there may be international agreements that limit participation to members of the agreements.

Participation of state-owned enterprises should be governed by rules that create a level playing field for all competitors and should not be subject to preferential treatment on account of subsidies or tax exemptions, etc.

The legal framework should detail the procedures that can be used to assess a bidder’s eligibility and ability to perform a specific contract. This assessment can be combined with the procurement documents as part of the specific procurement or it can be initiated as a separate exercise that is conducted before full offers are requested.

In highly complex procurement, use of pre-qualification as a separate process can make the procurement more efficient by ensuring that only eligible and qualified participants are included. It can also save money by limiting the number of participants incurring the expense of putting together a comprehensive bid. Pre-qualification should be defined by procedures to ensure that it is not abused or used as a method for limiting competition by overstating the qualification requirements.

<p>Sub-indicator 1(d): Assessment criteria</p> <p>The legal framework meets the following conditions:</p> <ul style="list-style-type: none"> (a) Establishes that participation of interested parties is fair and based on qualification and in accordance with rules on eligibility and exclusions.¹ In this context, the term “supplier” encompasses all service providers including contractors, consulting firms, etc. (b) Ensures that there are no barriers to participation in the public procurement market. (c) Details the eligibility requirements and provides for exclusions for criminal or corrupt activities, administrative debarment under the law subject to due process or prohibition of commercial relations. (d) Establishes rules for the participation of state-owned enterprises that promote fair competition. (e) Details the procedures that can be used to determine a bidder’s eligibility and ability to perform a specific contract.
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Sub-indicator 1(e) – Procurement documentation and technical specifications

The sub-indicator assesses the degree to which the legal framework specifies the content of procurement documents to enable suppliers to understand clearly what is requested from them and how the procurement process is to be carried out.

Procurement documents should contain sufficient information to enable the submission of responsive tenders/bids/proposals and to establish the basis for a transparent evaluation and award process. Details of the requirements included in the procurement documents must be neutral and refer to international standard specifications where possible or other officially recognized norms that are essentially equivalent to the ones specified. The legal framework should permit and encourage the use of output based (functional) specifications to promote innovation, when appropriate.

It is important that the content requirements for procurement documents are relevant to making an award decision. Information not needed for the process should not be required as

part of the submission. Excessive information and documentation requirements are considered to cost money and can reduce competition or lead to disqualification of potential bidders on the basis of unnecessary requirements.

Sub-indicator 1(e): Assessment criteria

- The legal framework meets the following conditions:
- (a) Establishes the minimum content of the procurement documents and requires that content is relevant and sufficient for suppliers to be able to respond to the requirement.
 - (b) Requires the use of neutral specifications citing international norms when possible and provides for the use of functional specifications, where appropriate.
 - (c) Requires recognition of standards which are equivalent when neutral specifications are not available.

Sub-indicator 1(f) – Evaluation and award criteria

This sub-indicator assesses: 1) the quality and sufficiency of the legal framework provisions in respect to the objectivity and transparency of the evaluation process; and, 2) the degree of confidentiality kept during the process to minimize the risk of undue influences or abuse.

Pre-disclosed and objective criteria are essential for efficiency, fairness and transparency in the evaluation of bids and proposals. Objectivity means that there is little room for subjective interpretation of the criteria by the evaluator. Vague criteria (e.g., award to the bid/proposal most convenient to the interest of the state) are not acceptable.

Evaluating and considering the price alone does not in all cases ensure value for money. The principle of value for money requires the evaluation of relevant costs and benefits, along with an assessment of risks, and non-price attributes and/or life-cycle costs, as appropriate. The legal framework should therefore permit the use of price and non-price attributes and/or the consideration of life-cycle costs and environmental/social characteristics, as appropriate in the relevant procurement to ensure value for money decisions.

The procuring entity needs to identify the bidders that meet the qualification criteria stated in the procurement document in accordance with applicable rules on eligibility and exclusions. The submitted bid/proposal needs to be substantially responsive. The contract should be awarded to the bidder whose bid/proposal has been determined to offer the lowest evaluated price/cost (if price/cost is the sole criterion) or whose bid/proposal has been determined to be the best evaluated bid/proposal based on the award criteria defined in the procurement document¹¹.

Technical capacity and quality is usually a key criterion for selection of a large number of procurement processes, including complex procurement, infrastructures, framework agreements, or consulting services. While technical qualifications can be assessed by a pass/fail review, in some cases a scored evaluation of technical qualification against stated criteria is considered necessary to select the most advantageous proposal. The law should specify how this aspect is to be considered. The law should also lay out the conditions under which selection of consulting services may be based exclusively on technical capacity and when price and quality considerations are appropriate.

For cases in which a combination of price/cost and technical capacity or other requirements is

¹¹ Some legal frameworks use the term “most economical advantageous tender” (MEAT).

permitted by law, the law or regulations should require that the procurement documents state: a) the relative weights to be allocated to the criteria; and b) the manner in which these criteria are combined. When life-cycle costing is used, the method by which the contracting entity will determine the life-cycle costs (e.g. the consideration of net present value) and the data the bidders must provide to make this determination must be specified. The regulatory framework should prohibit the use of evaluation and award criteria different from those set out in the procurement documents.

Confidentiality and regulated communications with the bidders during the pre-tendering, tendering, and the evaluation period are necessary to avoid abuse and undue interference in the process. The pre-tendering and tendering include the corresponding clarifications and the evaluation period comprises the period from the conclusion of the bid opening to the point at which the award of the contract is decided and announced.

Information related to the evaluation process and results can be disclosed to interested parties after the evaluation is complete. There should be rules of disclosure that protects information provided by bidders that is of proprietary nature, commercially or financially sensitive.

<p>Sub-indicator 1(f): Assessment criteria</p> <p>The legal framework mandates that:</p> <ul style="list-style-type: none"> (a) The evaluation criteria are objective, relevant to the subject matter of the contract, and precisely specified in advance in the procurement documents so that the award decision is made solely on the basis of the criteria stated in the documents, (b) The use of price and non-price attributes and/or the consideration of life-cycle cost is permitted as appropriate to ensure objective and value for money decisions. (c) The evaluation of proposals for consulting services gives adequate importance to the quality and clear procedures and methodologies for assessment of technical capacity are defined. (d) The manner in which evaluation criteria are combined and the relative weights allocated has to be clearly defined in the procurement documents. (e) During the evaluation period, information relating to the examination, clarification and evaluation of bids/proposals is not disclosed to the participants or to others not involved officially in the evaluation process.
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Sub-indicator 1(g) – Submission, receipt, and opening of tenders

This sub indicator assesses how the legal framework regulates the process of reception of tenders¹² and tender opening. Public opening of tenders is a means of increasing transparency to an open tendering exercise. In cases in which the law prescribes public opening of tenders, bidders or their representatives must be permitted to attend, as well as others legitimately interested (e.g., representatives of civil society bodies). Opening immediately after the deadline for submission of tenders diminishes the possibility of loss or alteration of proposals or submissions.

The exception to this rule may be opening of pre-qualification submissions including expressions of interest or opening of technical proposals for consulting services (that are not priced) in which cases they may be opened privately followed by a simple notification to all participants of the list of submissions.

The law or regulations should establish the information that should be read and recorded for open tendering:

¹² In this context, the term “tender” is used interchangeably with “bids” or “proposals”.

- Names and addresses of the bidders
- Date and condition the tender was received (to determine compliance with formal requirements)
- Tender prices
- Any withdrawals or modifications to tenders duly submitted
- Any alternative offers requested or permitted (name of bidder, tender prices).

Records should be retained and be available for review and audit purposes.

Clarity on how bids are submitted is critical in minimizing rejection of otherwise compliant proposals. The law and the regulations must give clear provisions in this respect. For example, the number of copies, the sealing and marking of envelopes and in the case of electronic bidding, the security and confidentiality requirements should all be specified.

The bids must be kept secure and confidential prior to bid opening and until after contract award. Publication requirements notwithstanding (refer to sub-indicator 7(a)), the system should at all times take into account the legitimate needs for protection of trade secrets and proprietary information and other privacy concerns, as well as the need to avoid disclosing information that can be used by interested parties to distort competition in the procurement process. The legal framework should include definitions and provisions to unambiguously identify and protect specific sensitive information.

Sub-indicator 1(g): Assessment criteria
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The legal framework provides for the following provisions:
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| <ul style="list-style-type: none"> (a) Opening of tenders in a defined and regulated proceeding immediately following the closing date for bid submission. (b) Records of proceedings for bid openings are retained and available for review. (c) Security and confidentiality of bids is maintained prior to bid opening and until after contract award. (d) The disclosure of specific sensitive information is prohibited. (e) The modality of submitting tenders and receipt by the government is well defined to avoid unnecessary rejection of tenders. |
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Sub-indicator 1(h) – Right to challenge and appeal

The purpose of this indicator is to assess whether the legal framework establishes: 1) the right to challenge¹³ decisions or actions and to appeal; 2) the matters that are subject to review; 3) the timeframe for such reviews; and 4) the different stages in the review process.

Confidence in a procurement system is a powerful incentive to competition. A fundamental part of this is the establishment of the right to challenge decisions or actions by initiating a review of procurement decisions and to appeal by an efficient and functionally independent process. Even though the first review is normally carried out by the procurement entity, there should be an administrative/judicial review body that is independent from the procuring agency. This means that this body has no direct interest in the procurement process and does not report to the procurement agency and ideally is a separate agency or entity.

¹³ The terms used in this document (“challenge/reviews” and “appeal mechanism”) are interchangeable with terms used in other international procurement instruments such as complaints or protests and review mechanisms or remedies, respectively.

The legal framework should provide for the right of a participant in a procurement proceeding to challenge decisions or actions by a procuring entity. This can be done by asking for a review if the participant believes he/she is entitled to claim he/she suffered or may suffer loss or injury because of alleged non-compliance of a decision or action with the provisions of the law.

Applications for a review (challenge) should be submitted to the institution in charge¹⁴ within defined time periods. If the challenges relate to the terms of the solicitation, pre-qualification or pre-selection, they should be submitted prior to the deadline for presenting bids. Challenges relating to other decisions or actions should be submitted prior to the entry into force of the procurement contract or within the standstill period following the notification of award, if applicable.

The institution in charge of the review should be required to take appropriate actions within a defined timeframe (e.g., decide if the application shall be entertained or dismissed and if procurement proceedings shall be suspended; notify the applicant and other participants in the procurement proceedings; take and issue its decision).

The legal framework should provide for the right to appeal a decision following a first review to an independent body (appeals body) within specified timelines. This right should extend to cases in which the institution in charge of the review has failed to issue a decision. The appeals body should have the authority to order the suspension of procurement proceedings, dismiss an application where it decides that it is without merit or was not presented within the deadlines set out, and take and issue decisions appropriate in the circumstances. This should include the authority to confirm, overturn, or revise a decision taken by the procuring entity or to prohibit the procuring entity from following a procedure that is not in compliance with the provisions of the law observing defined timeframes. The legal framework should specify the range of available remedies in compliance with good international practice.¹⁵

Decisions should be public by law and posted in easily accessible places preferably on a central online platform within specified timelines. The publication of decisions enables interested parties to be better informed as to the consistency and fairness of the process. Publications should be in line with legislation protecting sensitive information.

This sub-indicator is closely linked to Indicator 13 (Efficiency of appeals mechanism).

<p>Sub-indicator 1(h): Assessment criteria</p> <p>The legal framework provides for the following:</p> <ul style="list-style-type: none"> (a) Participants in procurement proceedings have the right to challenge decisions or actions taken by the procuring entity. (b) Provisions to respond to a challenge with administrative review by another body independent from the procuring agency that has the authority to suspend the award decision, grant remedies and includes the right for judicial review. (c) Rules that establish the matters that are subject to review. (d) Rules that establish timeframes for the submission of challenges and appeals and for issuance of decisions by the institution in charge of the review and the independent appeals body. (e) Publication of applications for appeal and decisions in easily accessible places and within specified time frames
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¹⁴ In many countries, the procuring entity is in charge of responding to an application for a first review (challenge). In some countries, complaints may be sent directly to the independent appeals body.

¹⁵ For example, the UNCITRAL Model Law on Public Procurement (2011), Chapter VIII. Challenge proceedings, Article 9, describes a range of actions that should be at the disposal of an appeals body.

Sub-indicator 1(i) – Contract management

The purpose of this sub-indicator is to assess whether the legal framework establishes the following: 1) functions and responsibilities for managing contracts; 2) methods to review, issue, and publish contract amendments in a timely manner; 3) requirements for timely payment; and 4) dispute resolution procedures that provide for an efficient and fair process to resolve disputes during the performance of the contract.

To ensure complete and timely implementation of the contract, the following functions and responsibilities for managing contracts should be defined in the legal and regulatory framework:

- Monitoring the timely delivery of goods, works, and services, including consulting services (“products”);
- Inspection, quality control, supervision of civil works, and final acceptance of products;
- Monitoring of contract performance clauses designed to ensure social or environmental standards, e.g., compliance with ILO core conventions, application of specific environmental management measures for construction works, etc.;
- Review, issuance, and publication of contract amendments;
- Examination of invoices and timely processing of payments including administration of guarantees; and
- Handling of disputes/termination of contracts.

The legal framework should determine the conditions for contract amendments and extensions to ensure economy and avoid the arbitrary limitation of competition. The legal framework should also define suppliers’ rights in case of late payment.

Disputes during the performance of a contract are a common occurrence. Naturally, disputes can be resolved through judicial proceedings. In some countries, litigation may however take very long, sometimes years, and the costs may be deterrent. To avoid long delays in resolving disputes, it should be the policy of the country to accept alternative dispute resolution (ADR). Methods of ADR refer to any means of settling disputes outside of the courtroom. Arbitration and mediation are two major forms of ADR.

A framework should be in place that provides for fair and timely resolution including procedures to enforce the final outcome of a dispute resolution process. For example, there should be an Arbitration Law in the country and the law should be consistent with generally accepted practices for neutrality of arbitrators, due process, expediency and enforceability. The country could accept as a matter of course international arbitration as appropriate. The following are some proposed examples providing for enforcement of the final outcome of an arbitration process: a) the country is a member of the New York Convention on enforcement of international arbitration awards; and b) the country has procedures to enable the winner in a dispute to seek enforcement of the outcome by going to the courts.

Sub-indicator 1(i): Assessment criteria

The legal framework provides for the following:

- (a) Functions for undertaking contract management are defined and responsibilities are clearly assigned,
- (b) Conditions for contract amendments are defined, ensure economy and do not arbitrarily limit competition.
- (c) There are efficient and fair processes to resolve disputes promptly during the performance of the contract.

(d) The final outcome of a dispute resolution process is enforceable.

Sub-indicator 1(j) – Electronic Procurement (e-Procurement)

This sub-indicator assesses the extent to which the legal framework addresses, permits, and/or mandates the use of electronic methods and instruments for public procurement. The more sophisticated the use of electronic technologies, the more specific standards are needed to ensure consistent application of the technology, provide for unrestricted and full access to the system, and ensure privacy and security of data and authentication. The use of electronic methods requires standardized formats, technical equipment and connection arrangements, and procedures to grant unrestricted and full access to the e-Procurement system.

An important part of using electronic methods in procurement is the requirement for governments to inform potential bidders which parts of the processes will be managed electronically (e.g., availability of procurement documents, communication, bid submission, contract awards, billing and payments, etc.). The legal framework also needs to clarify if conventional paper-based procurement is still allowed, be it in parallel or as an alternative to the electronic procurement proceedings.

Sub-indicator 1(j): Assessment criteria
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The legal framework meets the following conditions:

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| <ul style="list-style-type: none">(a) The legal framework allows or mandates e-Procurement solutions covering entirely or partially the public procurement cycle.(b) The legal framework ensures the use of tools and standards that provide unrestricted and full access to the system, taking into consideration privacy, security of data, and authentication.(c) The legal framework requires informing interested parties which parts of the processes will be managed electronically. |
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Sub-indicator 1(k) – Norms for safekeeping of records, documents and electronic data

The ability to look at implementation performance is dependent upon the availability of information and records that track each procurement action. This information is also important to the functioning of control systems both internal and external as it provides the basis for review.

A system for safekeeping of records and documents should cover the entire procurement process including contract management and include as a minimum either physical and/or electronic:

- Public notices of procurement opportunities
- Procurement method including justification
- Complete set of bidding/selection documents including clarifications and any amendments
- Bid/proposal opening records
- Evaluation reports including clarifications sought and provided during evaluation process
- Award decisions, including all elements on which the decision was based
- Award notices (if applicable)
- Formal challenges (requests for review and appeals) by bidders and outcomes

- Final signed contract documents and amendments
- Contract variations/modifications/changes
- Certificates and reports of inspection, quality control, and acceptance
- Claims and dispute resolutions
- Payments
- Disbursement data (as required by the country’s financial management system)
- Any correspondence, meeting notes and minutes including contract negotiations (if applicable).

There should be a document retention policy that is compatible with the statute of limitations in the country for investigating and prosecuting cases of fraud and corruption and with the audit cycles. There should also be established security protocols to protect records either physical or electronic.

Sub-indicator 1(k): Assessment criteria
The legal framework provides for the following:
(a) Establishes a comprehensive list of the procurement records and documents related to transactions, including contract management that must be kept at the operational level and what is available for public inspection, including conditions for access.
(b) There is a document retention policy that is compatible with the statute of limitations in the country for investigating and prosecuting cases of fraud and corruption and with the audit cycles.
(c) There are established security protocols to protect records (physical and/or electronic).

Sub-indicator 1(l) – Public procurement principles in specialized legislation

Many countries have adopted specialized legislation governing the procurement by entities operating in the utilities sector, like water, energy, transport, postal services, or other sectors and/or regulating selection and award of concession contracts and other forms of Public Private Partnerships (PPP). This sub-indicator assesses whether public procurement principles (e.g., competitive procedures, transparency, fairness, value for money decisions) and related laws apply across the entire spectrum of public service delivery as appropriate.

It is important to understand the competition policies that apply to different sectors and what the specific conditions for conducting public procurement processes in these sectors are. Due to the possible existence of special or exclusive rights concerning supply or operation of these entities, the market in which these entities operate may be restricted. The range of available procurement methods, the situation in which they can be used, thresholds, advertising rules and time limits, transparency requirements, risk allocation, challenge and appeals mechanisms, etc. may be regulated in a sector-specific way.

Similar questions apply to the selection and contracting of concessions and/or other forms of Public Private Partnerships. The assessor should describe the government’s policy related to PPP and evaluate to which extent public procurement principles and laws apply in the process of establishing partnerships with private firms. Alternative or supplementary legislation/regulation should be described. Responsibilities for developing policies and supporting the implementation of PPP should be clearly assigned.

Sub-indicator 1(l): Assessment criteria
The legal and regulatory body of norms complies with the following conditions:

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| <ul style="list-style-type: none"> (a) Public procurement principles and/or legal framework apply across specialized legislation governing the procurement by entities operating in specific sectors, as appropriate, (b) Public procurement principles and/or laws apply to the selection and contracting of Public Private Partnerships including concessions, as appropriate. (c) Responsibilities for developing policies and supporting the implementation of PPPs including concessions are clearly assigned. |
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Link: MAPS Module on PPP

Indicator 2. Implementing regulations and tools support the legal framework.

This indicator verifies the existence, availability, and quality of implementing regulations, operational procedures, handbooks, model procurement documentation, and standard conditions of contract. Ideally the higher-level legislation provides the framework of principles and policies that govern public procurement. Lower-level regulations and more detailed instruments supplement the law, make it operational, and indicate how to apply the law to specific circumstances. This indicator consists of four sub-indicators (a-d).

Sub-indicator 2(a) – Implementing regulations to define processes and procedures

This sub-indicator aims at verifying the existence, clarity, accessibility, and comprehensiveness of regulations to the law that further detail and clarify its application. Regulations are an important aspect of a procurement system as they provide the detail that explains and enables the application of the legal framework in a variety of applications. Regulations should be available to the public in a single accessible place.

Sub-indicator 2(a): Assessment criteria
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| <ul style="list-style-type: none"> (a) There are regulations that supplement and detail the provisions of the procurement law, and do not contradict the law. (b) The regulations are clear, comprehensive, and consolidated as a set of regulations readily available in a single accessible place. (c) Responsibility for maintenance of the regulations is clearly established and the regulations are updated regularly. |
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Sub-indicator 2(b) – Model procurement documents for goods, works, and services

Model documents of good quality create level playing fields, improve overall procurement standardization, promote competition and increase confidence in the system. Potential suppliers are more willing to participate when they are familiar with the documents and their interpretation. Model documents should contain the basic required clauses that will be incorporated into contracts. This enables participants to evaluate the cost and risk of mandatory clauses when performing a contract for the government. Model documents should also refer to the standstill period, if applicable, and address the right to challenge decisions or actions and to appeal. If model documents are not available, there should be, as a minimum, a set of standard and mandatory clauses and templates that will help in the formulation of the procurement documents.

Sub-indicator 2(b): Assessment criteria
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| <ul style="list-style-type: none"> (a) There are model procurement documents provided for use for a wide range of goods, works and services including consulting services procured by government agencies. (b) As a minimum, there is a standard and mandatory set of clauses or templates that are reflective of the legal framework. These clauses can be used in documents prepared for competitive tendering/bidding. (c) The documents are kept up to date with responsibility for preparation and updating clearly assigned. |
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Sub-indicator 2(c) – Standard contract conditions

This sub-indicator focuses on standard contract conditions for public sector contracts covering goods, works and services including consulting services that set forth the basic provisions which will be included in a contract with the government. Standard contract conditions, also often referred to as general contract conditions (GCC), are based on the laws in the country and generally reflect the commercial codes that deal with contracts between parties. Contract conditions often impact pricing. Therefore, it is important that participants in procurement proceedings know the conditions under which they will perform a contract before they submit a price. The standard contract conditions provide information that enables participants to understand the allocation of risk between parties to a contract as well as other obligations that the signatories to the contract will incur.

It is important that the government establishes standard contract conditions that are fair and balanced and reflective of laws that impact contracts and their performance. Standard contract conditions should also cover some practical aspects of contract implementation, e.g. general conditions on inspection, quality control, and final acceptance of products, and general procedures relating to invoicing and payment. Standard contract conditions should also comprise provisions on dispute resolution. Alternative Dispute Resolution (ADR), specifically through arbitration, should conform to international standard wording and be used as appropriate. Contract templates can provide an additional source of predictability for participants.

Standard contract conditions need to be mandatory in their use and not subject to negotiations on terms and conditions of contract.

Sub-indicator 2(c): Assessment criteria
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| <ul style="list-style-type: none"> (a) There are standard contract conditions for the most common types of contracts and their use is mandatory. (b) The content of the standard contract conditions is generally consistent with internationally accepted practice. |
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Sub-indicator 2(d) – User’s guide or manual for procuring entities

This sub-indicator covers the existence of a user’s guide or manual for procuring entities. This is an important implementation tool that can help provide staff with information that incorporates the law, policy and procedures and helps turn policy into practice. Such tools are more important as a system becomes more decentralized. Creating a manual or user’s guide is often a function of a normative/regulatory body and can help create a consistency of application within the government procurement system. Although not a substitute for training, a manual can contribute to building and maintaining capacity and provides an easy reference for users. Guidance should be specific and comprehensive.

Sub-indicator 2(d): Assessment criteria
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| <ul style="list-style-type: none"> (a) There is (a) comprehensive procurement manual(s) detailing all procedures for the correct implementation of |
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procurement regulations and laws.

(b) Responsibility for maintenance of the manual is clearly established and the manual is updated regularly.

Indicator 3. The legal framework reflects the country's secondary policy objectives and international obligations.

This indicator assesses whether secondary policy objectives – such as goals aiming at increased sustainability, support for certain groups of society, etc. – and obligations deriving from international agreements are consistently and coherently reflected in the legal framework, i.e., whether the legal framework is coherent with the higher policy objectives that the country pursues. The indicator is broken down into two sub-indicators (a-b), which are individually assessed.

Sub-indicator 3(a) – Sustainable Public Procurement (SPP)

The 2030 Agenda for Sustainable Development promotes public procurement practices that are sustainable, in accordance with national policies and priorities.¹⁶ Following up on more general information gathered in the analysis of country context (Section II), this sub-indicator assesses whether:

- a) the country has adopted a policy and an implementation plan to implement Sustainable Public Procurement (SPP)¹⁷ in support of national policy objectives,
- b) the legal and regulatory framework includes provisions on the inclusion of sustainability criteria in public procurement; and
- c) those provisions are balanced against primary objectives of public procurement and ensure value for money.

To be effective, SPP should be embedded in programs that are part of the country's sustainable development strategy and the objectives should be consistent with primary objectives of public procurement such as economy, efficiency, and transparency, as articulated in Pillar I. An in-depth assessment determining the status quo as well as opportunities for SPP should be conducted to inform the strategic planning process for SPP. The strategic plan should include objectives, indicators and targets in support of national policy objectives. Implementation of SPP should take into account the capacities and training/development needs of the procurement workforce, the development and application of new tools and techniques, prioritization of measures, impact assessment methodologies to measure the effectiveness of SPP, and the provision of guidance material. It also needs to be decided which institution is best suited to manage and oversee the nationwide deployment of SPP and/or whether new institutions need to be established (e.g., certification institutions or product testing facilities).

¹⁶ United Nations General Assembly: Transforming our world: the 2030 Agenda for Sustainable Development. Resolution 70/1 adopted by the General Assembly on 25 September 2015. A/RES/70/1. Goal 12.7.

<https://sustainabledevelopment.un.org/post2015/transformingourworld>

¹⁷ Sustainable Public Procurement (SPP) promotes the integration of the three pillars of sustainable development, i.e. economic development, social development and environmental protection. Goals of SPP typically focus on reducing demand for resources, minimizing negative impacts of goods, works or services across their life cycle, ensuring fair terms of contract including ethical, human rights and employment standards, and promoting diversity and equality throughout the supply chain, for example by providing opportunities for small and medium-sized enterprises or by supporting training and skill development. SPP can also include methods that support innovation.

Sub-indicator 3(a): Assessment criteria
<ul style="list-style-type: none"> (a) The country has a policy/strategy in place to implement SPP in support of broader national policy objectives. (b) The SPP implementation plan is based on an in-depth assessment; systems and tools are in place to operationalize, facilitate and monitor the application of SPP. (c) The legal and regulatory framework permits the consideration of sustainability criteria (i.e. economic, environmental, and social criteria) in public procurement. (d) The legal provisions are consistent with primary objectives of public procurement and ensure value for money.

Link: MAPS Module n SPP

Sub-indicator 3(b) – Obligations deriving from international agreements

Membership in international and/or regional associations or binding international/regional agreements may result in legal obligations relating to public procurement and may impact the set-up of the procurement system in the country. Based on the general information gathered in SECTION II on the country context, this indicator assesses 1) the existence of procurement-related provisions in binding international agreements and 2) the consistent reflection of those obligations in national procurement laws and regulations.

Recognizing the international context is a prerequisite to understanding the presence of certain provisions in the national law and, in some cases, might even explain incompliance with certain parameters laid out in this methodology. As mentioned in SECTION I – USER’S GUIDE, there is no single model for a procurement system. The focus in assessing this indicator is therefore to provide clarity on international obligations that impact public procurement in a country and to determine whether relevant provisions have been consistently adopted in the national legal and policy framework for procurement.

Sub-indicator 3(b): Assessment criteria
Public procurement-related obligations deriving from binding international agreements are: <ul style="list-style-type: none"> (a) Clearly established. (b) Consistently adopted in laws and regulations and reflected in procurement policies.

Pillar II. Institutional Framework and Management Capacity

Pillar II looks at how the procurement system as defined by the legal and regulatory framework in a country is operating in practice through the institutions and management systems that are part of the overall public sector governance in the country.

Pillar II determines the procurement system’s suitability to discharge the obligations prescribed in the law without gaps or overlaps. It assesses: 1) whether adequate links with the country’s public finance management system exist; 2) whether institutions are in place in charge of necessary functions; and 3) whether the managerial and technical capacities are adequate to undertake efficient and transparent public procurement processes.

Indicator 4. The public procurement system is mainstreamed and well integrated into the public financial management system.

This indicator focuses on the degree of integration of the procurement system with the public financial management system. There are two sub-indicators (a-b) to be assessed under indicator 4, given the direct interaction between procurement and financial management, from budget preparation to planning treasury operations for payments.

Sub-indicator 4(a) – Procurement planning and the budget cycle

Formulation of annual or multi annual budgets are based on the outcomes or outputs that the government as a whole and its agencies expect to achieve in a particular period. Overall government or sector strategies are the basis for this exercise. These determine the multi-year planning, the associated operating plans for each fiscal period and the procurement of goods, works and services necessary to implement the plans. Proper preparation of budgets needs reliable cost data and timetables for planned procurement. Multi-year budgeting and financing should be encouraged, since this practice provides opportunities for optimising the procurement cycle.

Procurement plans need to be periodically updated as the budget may be updated and revised to reflect changes that take place in timing of contracts. Empiric data such as actual cost of goods, works, and services provide excellent information to predict the cost of similar goods, works or services in future budget years. Understanding the timing of major contracts can also help to predict cash flow needs within government to make timely payments and reduce the extra costs associated with delaying contract completion and not having adequate funds to finance full performance.

A feedback mechanism should be in place that ensures that information on contracts covering major budget expenditures is provided to the budgetary and financial management systems in a timely manner to support the overall financial management system.

Sub-indicator 4(a): Assessment criteria
The legal and regulatory framework, financial procedures, and systems provide for the following: <ul style="list-style-type: none">(a) Annual or multi-annual procurement plans are prepared in support of the budget planning and formulation process and they contribute to multiyear planning.(b) Budget funds are committed or appropriated timely and cover the full amount of the contract (or amount to cover the portion of the contract to be performed within the budget period).(c) There is a feedback mechanism for certification of budget execution including information on the completion

of major contracts.

Sub-indicator 4(b) – Financial procedures and the procurement cycle

This sub-indicator assesses whether budget laws and financial procedures adequately support the procurement process, i.e., the preparation and timely solicitation and award of contracts, contract execution and timely payments. The systems for procurement, budget, and financial management should interact closely: once procurement decisions are made, corresponding actions on the budget and financial side are triggered. On the other hand, there should be safeguards in the system precluding initiation of procurement actions unless funds have been allocated to the procurement in question.

Sub-indicator 4(b): Assessment criteria

The legal and regulatory framework, financial procedures, and systems provide for the following:

- (a) No solicitation of tenders/proposals takes place without certification of the availability of funds.
- (b) The national regulations/procedures for processing of invoices and authorizing of payments meet obligations for timely payment stated in the contract and are publicly available and clear to potential bidders. *

* **Quantitative indicator to substantiate assessment of sub-indicator 4(b) Assessment criterion (b):**
- Invoices paid on time (in %). Source: PFM systems.

Indicator 5. The country has an institution in charge of the normative/regulatory function.

This indicator refers to the normative/regulatory function within the public sector and the proper discharge and coordination of them. The assessment of the indicator focuses on the existence, independence, and effectiveness of the functions and the degree of coordination between responsible organizations. Depending on the institutional set up chosen by a country, one institution may be in charge of all normative and regulatory functions. In other contexts, key functions may have been assigned to several agencies, e.g., one institution may be responsible for policy, while another might be in charge of training or statistics. As a general consideration, the normative/regulatory function should be clearly assigned without gaps and overlaps. Too much fragmentation should be avoided, and the function should be performed as a well-coordinated joint effort. There are four sub-indicators (a-d) to be assessed.

Sub-indicator 5(a) – Status and legal basis of the normative/regulatory function

The normative/regulatory function and its responsibilities are created by the legal and regulatory framework. This is to ensure that the institution entrusted with the functional responsibilities has an appropriate level of authority which enables it to function effectively. Alternatively, the legal and regulatory framework may assign the key functions described in sub-indicator 5(b) to different agencies in a clearly defined basis.

Sub-indicator 5(a): Assessment criteria

- (a) The legal and regulatory framework specifies the normative/regulatory function and assigns appropriate authorities (formal powers) to enable the institution to function effectively or the normative/regulatory functions are clearly assigned to various units within the government.

Sub-indicator 5(b) – Responsibilities of the normative/regulatory function

The normative/regulatory institution or the institutions entrusted with the normative/regulatory tasks should have a defined set of responsibilities that include but are not limited to the following:

<p>Sub-indicator 5(b): Assessment criteria</p> <p>The following functions are clearly assigned to one or several agencies without creating gaps or overlaps in responsibility:</p> <ul style="list-style-type: none"> (a) Providing advice to procuring entities. (b) Drafting procurement policies. (c) Proposing changes/drafting amendments to the legal and regulatory framework. (d) Monitoring public procurement. (e) Providing procurement information. (f) Managing statistical databases. (g) Reporting on procurement to other parts of government. (h) Developing and supporting implementation of initiatives for improvements of the public procurement system. (i) Providing implementation tools and documents to support training and capacity development of implementing staff including integrity training programs. (j) Supporting the professionalization of the procurement function. (k) Designing and managing centralized online platforms and other e-Procurement systems, as appropriate.

Sub-indicator 5(c) – Organisation, funding, staffing, and level of independence and authority

The normative/regulatory function needs to have a high level and authoritative standing in Government to be effective, including a degree of independence to enable it to carry out its responsibilities without interference. Adequate funding is necessary to ensure proper staffing and resources to keep the services at the level of quality required.

The head of the normative/regulatory function needs to be of sufficient level within the governance structure to enable the function to exercise its authority and responsibilities.

<p>Sub-indicator 5(c): Assessment criteria</p> <ul style="list-style-type: none"> (a) The normative/regulatory function (or the institutions entrusted with responsibilities for the regulatory function if there is not a single institution) and the head of the institution have a high level and authoritative standing in Government. (b) Financing is secured by the legal/regulatory framework to ensure the function’s independence and proper staffing. (c) The institution’s internal organization, authority and staffing are sufficient and consistent with the responsibilities.

Sub-indicator 5(d) –Avoiding conflict of interest

The normative/regulatory function should be free from possible conflicts of interest. Even the appearance of a conflict of interest may undermine confidence in the system and needs to be resolved. The function’s responsibilities should therefore provide for separation of duties and clarity, i.e. be structured in a way that conflict of interest is avoided. Some functions are not compatible. In particular, individuals or a group of individuals should not be in a position both to perpetrate and to conceal errors or fraud in the normal course of their duties. For example, individuals should not be directly involved in procurement operations (e.g., by being member of evaluation committees) and at the same time be in charge of monitoring/auditing procurement practices or acting on behalf of an appeals body (refer to indicator 12(b)).

<p>Sub-indicator 5(d): Assessment criteria</p>

(a) The normative/regulatory institution is free from conflicts of interest.*

* Recommended quantitative indicator to substantiate assessment of sub-indicator 5(d) Assessment criterion (a):
- Perception that the normative/regulatory institution is free from conflicts of interest (in % of responses). Source: Survey.

Indicator 6. Procuring entities and their mandates are clearly defined.

This indicator assesses: 1) whether the legal and regulatory framework clearly defines the institutions that have procurement responsibilities and authorities; 2) whether there are provisions for delegating authorities to procurement staff and other government officials to exercise responsibilities in the procurement process, and 3) whether a centralized procuring entity exists. There are two sub-indicators (a-b) to be assessed.

Sub-indicator 6 (a) – Definition, responsibilities and formal powers of procuring entities

The legal and regulatory framework should clarify which institutions (or set of institutions) are legally defined as procuring entities. In a centralized system, this may be a centralized procurement body and/or national level ministries, public bodies and state-owned enterprises or utilities with special or exclusive rights granted by the state. In a decentralized system, procuring entities may cut across all levels of government (e.g., provincial level ministries and public bodies, local communities, etc.). Some countries have established hybrid systems.

The legal and regulatory framework should clearly define the responsibilities of procuring entities. Responsibilities typically range from procurement planning to managing all stages of the procurement process in accordance with the law. Responsibilities should also include the requirement to establish a designated, specialized procurement function with the necessary management structure, capacity and capability to undertake its duties and responsibilities efficiently and effectively and to assess the results of procurement processes.

There should be provisions in the legal and regulatory framework for delegating decision making authority (e.g., awarding and executing contracts; acceptance of contractual obligations and initiating payments). Delegation of authority to procuring entities and accordingly to procurement staff and other government officials is key to having a well-functioning system especially when procurement is decentralized. When delegation is not provided, the system tends to function inefficiently and it can lead to excessive concentration of decision making under a few individuals who have neither the training nor knowledge to make procurement decisions. Decision making authority should be delegated to the lowest competent levels consistent with the risks associated and the monetary sums involved. Procurement officers should be immune from political interference and act as the lead in procurement issues.

Sub-indicator 6(a): Assessment criteria

The legal framework provides for the following:

- (a) Procuring entities are clearly defined.
- (b) Responsibilities and competencies of procuring entities are clearly defined.
- (c) Procuring entities are required to establish a designated, specialized procurement function with the necessary management structure, capacity, and capability. *
- (d) Decision making authority is delegated to the lowest competent levels consistent with the risks associated and the monetary sums involved.

(e) Accountability for decisions is precisely defined.

*** Quantitative indicator to substantiate assessment of sub-indicator 6(a) Assessment criterion (c):
- Procuring entities with a designated, specialized procurement function (in % of total number of procuring entities). Source: Normative/regulatory function.**

Sub-indicator 6 (b) – Centralized procurement body

Establishing a centralized procurement body (central procuring entity) may enhance the efficiency and effectiveness of a decentralized procurement system. A centralized procurement body could be in charge of consolidating procurement needs of several government agencies; soliciting and concluding framework agreements from which all government agencies could call off according to their needs (e.g., based on electronic catalogues); managing very complex procurement or procurement requiring specialized legal or technical expertise), etc.

In case a country establishes a centralized procurement body, the legal and regulatory framework should clearly define the body's responsibilities, formal powers, and accountabilities. Processes should be clearly described to ensure efficient workflows and appropriate communication with the "client" institution (agency) that is responsible for service delivery.

In small countries or in countries emerging from conflict situations, procurement capacities are stretched. Here, it may be best to have a centralized procurement body that is responsible for all government procurement, capable of assuring consistency, standardisation, and professionalism of the procurement function.

Sub-indicator 6(b): Assessment criteria

- (a) The country has considered the benefits of establishing a centralized procurement function in charge of consolidated procurement, framework agreements, or specialized procurement.
- (b) In case a centralized procurement body exists, the legal and regulatory framework provides for the following:
 - Clear definition of legal status, funding, responsibilities, and decision-making powers.
 - Accountability for decisions is precisely defined.
 - The body and the head of the body have a high level and authoritative standing in Government.
- (c) The centralized procurement body's internal organization and staffing are sufficient and consistent with responsibilities.

Indicator 7 – Public procurement is embedded in an effective information system.

The objective of this indicator is to assess the extent to which the country or agency has systems to publish procurement information, to efficiently support the different stages of the public procurement process through application of digital technologies, and to manage data that allows for analysis of trends and performance of the entire public procurement system.

The indicator captures the availability, accessibility, integration and reliability of public procurement information systems. Digital technologies, such as online portals and more comprehensive e-Procurement systems, have the potential to significantly increase the efficiency, effectiveness and transparency of public procurement. They support the creation of a state-of-the-art public procurement system, strengthen the accountability framework, and

establish the technical foundation for performance measurement. The indicator also assesses the extent to which the system works in practice by determining the share of public procurement information published and by measuring the uptake of e-Procurement and the availability of statistical information.

There are three sub-indicators (a-c) to be assessed.

Sub-indicator 7(a) – Publication of public procurement information supported by information technology

The objective of this sub-indicator is to determine:

- 1) the existence and capacity of the procurement information system in the country;
- 2) the accessibility of the information system;
- 3) the coverage of the information system; and
- 4) whether the system provides one-stop-service (to the extent feasible) where those interested can find information on procurement opportunities and outcomes.

Public access to procurement information is essential to transparency and creates a basis for social audit by interested stakeholders. Public information should be easy to find, comprehensive and user friendly, providing information of relevance. The assessor should be able to verify easy access and the content of information made available to the public.

In particular, the system should provide for the publication of annual or multi-annual procurement plans, specific advertisements or notices of procurement opportunities, contract awards, appeals decisions, linkages to rules and regulations and other information that is relevant to promote competition and transparency (e.g., law on access to information). For practical purposes, the collection and dissemination of information should focus on procurement above a set value that reflects established thresholds for use of competitive procedures.

The concept of open contracting requires that the government provide an adequate and timely degree of transparency in each phase of the procurement process to stakeholders. This encompasses specific procurements and the performance of the entire public procurement system, including visibility of the flow of public funds. To support this vision of open contracting in the procurement system, the information system should be extended to include the full set of bidding documents, evaluation reports (or summaries thereof), full contract documents including technical specifications as well as implementation details, in accordance with the legal and regulatory framework including legislation protecting specific sensitive information (refer to sub-indicator 1(g)).

Information should be consolidated into a single place. A centralized online portal should be created for this purpose where if the technology is available in the country. Commitment, backed by requirements in the legal/regulatory framework should ensure that procuring entities duly post the information required on a timely basis. To facilitate searches, information should be published in an open and structured machine-readable format using unique identifiers and classifications (open data format).

Sub-indicator 7(a): Assessment criteria
The country has a system that meets the following requirements: (a) Information on procurement is easily accessible in media of wide circulation and availability. Information is

<p>relevant, timely and complete and helpful to interested parties to understand the procurement processes and requirements and to monitor outcomes, results and performance.</p> <p>(b) There is an integrated information system (centralized online portal) that provides up-to-date information and is easily accessible to all interested parties at no cost.</p> <p>(c) The information system provides for the publication of: *</p> <ul style="list-style-type: none"> • Procurement plans • Information related to specific procurements, as a minimum: Advertisements or notices of procurement opportunities, contract awards and amendments, information on contract implementation including payments, appeals decisions. • Linkages to rules and regulations and other information that is relevant to promote competition and transparency. <p>(d) In support of the concept of open contracting more comprehensive information is published on the online portal in each phase of the procurement process including the full set of bidding documents, evaluation reports, full contract documents including technical specification and implementation details (in accordance with legal and regulatory framework).</p> <p>(e) Information is published in an open and structured machine-readable format, using identifiers and classifications (open data format).*</p> <p>(f) Responsibility for the management and operation of the system is clearly defined.</p>
<p>* Quantitative indicators to substantiate assessment of sub-indicator 7(a) Assessment criterion (c):</p> <ul style="list-style-type: none"> - Procurement plans published (in % of total number of required procurement plans)¹⁸ - Key procurement information published along the procurement cycle (in % of total number of contracts)¹⁹: <ul style="list-style-type: none"> • Invitation to bid (in % of total number of contracts) • Contract awards (purpose, supplier, value, variations/amendments) • Details related to contract implementation (milestones, completion, and payment) - Annual procurement statistics - Appeals decisions posted within the timeframes specified in the law (in %). <p>Source: Centralized online portal.</p>
<p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 7(a) Assessment criterion (e):</p> <ul style="list-style-type: none"> - Share of procurement information and data published in open data formats (in %). Source: Centralized online portal.

Sub-indicator 7(b) – Use of e-Procurement

This sub-indicator assesses:

- 1) the extent to which e-Procurement is currently used in the country’s public sector;
- 2) the capacity of government officials to manage and use e-Procurement systems; and/o
- 3) the existence of a country strategy to implement e-Procurement.

As a starting point, the assessor should evaluate to which extent and in which form e-Procurement has been implemented in the country. E-Procurement is usually implemented gradually and can take on different forms. Countries typically start by establishing centralized online portals, which are used to publish general public procurement related information (laws, regulations, manuals, templates, etc.). These portals often develop into more refined applications, which provide for the publication of procurement plans, bidding opportunities, contract awards, decisions on procurement challenges and appeals, training courses, etc., and can enable sharing reusable open data on public procurement.

More advanced applications include supplier registries and transaction-based e-procurement systems, which electronically support the entire procurement and contract implementation process (e.g., e-Tendering, e-Catalogues, e-Reverse Auctions, e-Contract Management).

¹⁸ PEFA PI-24-3 (2)

¹⁹ PEFA PI-24-3 (3, 4, 5, 6)

These systems deliver a wealth of data necessary for performance measurement and procurement statistics.

Additionally, applications can provide the full procure-to-pay cycle enabling the integration of the e-Procurement system with financial systems. Other systems can also be integrated with e-Procurement systems such as, for example, tax, information management or business intelligence systems.

The sub-indicator also assesses whether government officials are adequately skilled to plan, develop and manage e-Procurement systems and to reliably and efficiently use them in practice. Suppliers need to be enabled and have incentives to participate in e-Procurement solutions. In low technology environments, additional efforts on the part of the government may be necessary to ensure that all companies (including micro, small and medium-sized enterprises) have equal access to a public procurement market that is increasingly dominated by electronic means. As an example, the creation of decentralized entrepreneurial centres could be considered. These centres could provide free Internet access, training, and support in using the e-Procurement system for companies to significantly improve their chances of doing business with public entities.

In case e-Procurement has not yet been implemented, it should be assessed whether the government has adopted an e-Procurement roadmap based on an e-Procurement readiness assessment.

<p>Sub-indicator 7(b): Assessment criteria²⁰</p> <ul style="list-style-type: none"> (a) E-procurement is widely used or progressively implemented in the country at all levels of government.* (b) Government officials have the capacity to plan, develop and manage e-Procurement systems. (c) Procurement staff is adequately skilled to reliably and efficiently use e-Procurement systems. (d) Suppliers (including micro, small and medium-sized enterprises) participate in a public procurement market increasingly dominated by electronic means.* (e) In case e-Procurement has not yet been implemented, the government has adopted an e-Procurement roadmap based on an e-Procurement readiness assessment. <p>* Quantitative indicators to substantiate assessment of sub-indicator 7(b) Assessment criterion (a): Uptake of e-Procurement - Number of e-Procurement procedures in % of total number of procedures - Value of e-Procurement procedures in % of total value of procedures Source: e-Procurement system.</p> <p>* Recommended quantitative indicators to substantiate assessment of sub-indicator 7(b) Assessment criterion (d): - Bids submitted online (in %) - Bids submitted online by micro, small and medium-sized enterprises (in %) Source: e-Procurement system.</p>

Link to MAPS Module on e-Procurement

Sub-indicator 7(c) – Strategies to manage procurement data

Statistical information on procurement is essential to evaluate the policies and the operation of the system. Statistics also provide a means for monitoring performance and determining if the statistic demonstrates compliance with other aspects of the system that are defined in the legal and regulatory framework. Statistical information can also be a tool for procurement planning

²⁰ The application of a centralized online portal is assessed under indicators 1(a) and (b), 7(a), and 12(a) and (c)).

and market analysis. To ensure comprehensiveness and efficiency, the system should be based on data available in e-Procurement or other information technology systems.

Sub-indicator 7(c): Assessment criteria	
(a)	There is a system in operation to collect data on the procurement of goods, works and services with support from e-Procurement or other information technology.
(b)	The system manages data for the entire procurement process and allows analysis of trends, levels of participation, efficiency and economy of procurement and compliance with requirements.
(c)	Reliability of the information is high (verified by audits).
(d)	Analysis of information is routinely carried out, published and fed back into the system. *
* Quantitative indicators to substantiate assessment of sub-indicator 7(c)Assessment criterion (d):	
	- Total number and value of contracts²¹
	- Public procurement as share of government expenditure and as share of GDP
	- Total value of contracts awarded through competitive methods in most recent fiscal year²²
Source: Normative/regulatory function/E-Procurement system.	

Indicator 8. The public procurement system has a strong capacity to develop and improve.

This indicator focuses on the strategies and ability of the public procurement systems to develop and improve. There are three aspects to be considered:

- 1) whether strategies and programs are in place to develop the capacities of procurement staff and other key actors involved in public procurement;
- 2) whether procurement is recognized as a profession in the country’s public service; and
- 3) whether systems have been established and are used to evaluate the outcomes of procurement operations and develop strategic plans to continuously improve the public procurement system.

There are three sub-indicators (a-c) to be assessed.

Sub-indicator 8(a) – Training, advice and assistance

The purpose of this sub-indicator is to verify existence of permanent and relevant training programs for new and existing staff in government procurement. These programs are essential to maintain the supply of qualified procurement staff to the public procurement institutions. Another objective is to assess the existence and quality of advisory services on procurement matters for government agencies, potential suppliers and the general public at large.

The evaluator should look at the curricula of the existing programs and judge their relevance, nature, scope and sustainability. A well-functioning system should be:

- a) based on a “skills gap inventory” to match the needs of the system;
- b) be sufficient in terms of content and frequency; and
- c) provide for evaluation of the training program and monitoring of progress in

²¹ PEFA PI-24-1

²² PEFA I-24-2

addressing capacity issues.

The assessment should include verification of advisory services or help desks for public or private sector parties where they can get advice on application and interpretation of policy and rules.

The training strategy should be closely linked to and integrated with other measures aimed at developing the capacity of other key actors involved in public procurement, aside from professionalization of the procurement function described below (information seminars and training programs for the private sector and civil society, including integrity training programs (Indicators 9(a), 10(c), and 13(d)).

Sub-indicator 8(a): Assessment criteria
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There are systems in place that provide for:
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| <ul style="list-style-type: none">(a) Substantive permanent training programs of suitable quality and content for the needs of the system.(b) Routine evaluation and periodic adjustment based on feedback and need.(c) Advisory service or help desk function to resolve questions by procuring entities, suppliers, and the public.(d) A strategy that is well integrated with other measures aimed at developing the capacities of key actors involved in public procurement. |
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Sub-indicator 8(b) – Recognition of procurement as a profession

Public procurement is often performed by civil servants with different educational and professional backgrounds. Ideally, procurement officers are considered specialised professionals, instead of a purely administrative function. The purpose of this sub-indicator is to determine whether procurement is recognized as a profession in the country's public service, including the designation of specific functions with procurement positions defined at the various professional and management levels. Job descriptions should be in place for these positions and the qualifications and competencies specified. The remuneration and career progression should reflect the particular professional status and appointments and promotions should be competitive and based on qualifications and professional certification. To support ongoing professional development, policies and programs for staff development and adequate training should be in place. Staff performance should be evaluated on a regular and consistent basis.

Sub-indicator 8(b): Assessment criteria
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The country's public service recognizes procurement as a profession:
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| <ul style="list-style-type: none">(a) Procurement is recognized as a specific function with procurement positions defined at different professional levels with job descriptions and the required qualifications and competencies specified.(b) Appointments and promotion are competitive and based on qualifications and professional certification.(c) Staff performance is evaluated on a regular and consistent basis and staff development and adequate training is provided. |
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Link: MAPS Module on Professionalization

Sub-indicator 8(c) – Monitoring performance to improve the system

The evaluation of the effectiveness of the public procurement system from individual procurements to the system as a whole can be a major driver of performance improvements. The results of procurement processes should periodically and consistently be assessed to measure performance, effectiveness and savings of the procurement system. While procuring entities themselves should be at the forefront of performance measurement and continuous improvement programs at the agency level, the procurement normative/regulatory institution should support these efforts as well. This institution can harmonize, monitor and evaluate the performance of the procurement system as a whole.

Performance management frameworks should be developed that a) measure intermediate outcomes of procurement processes versus set targets, and b) include the assessment of development outcomes. The quantitative indicators included in MAPS provide a good starting point for a performance measurement system that addresses both levels and which can evolve over time. Additional and more specific impact assessment methodologies may need to be developed depending on the country’s development objectives.

The analysis of data and the planning of improvements require specific competencies. A strategic plan (or action plan) should be developed to structure reform initiatives. A results framework should supplement it to monitor the implementation of the planned reforms. A results framework typically includes goals, actions, indicators with baselines and targets, and timelines for reform. Performance targets should be presented in a format which is clear about what is being measured and how it is being measured (method of calculation and data sources). Responsibilities and necessary resources need to be defined.

Sub-indicator 8(c): Assessment criteria	
(a)	The country has established and consistently applies a performance measurement system that focuses on outcomes of procurement processes versus set targets.
(b)	The system includes the assessment of development outcomes.
(c)	The information is used to support strategic policy making on procurement.
(d)	Strategic plans including results frameworks are in place and used to improve the system.
(e)	Responsibilities are clearly defined.

Pillar III. Public Procurement Operations and Market Practices

This Pillar looks at the operational efficiency, transparency, and effectiveness of the procurement system at the level of the implementing agency responsible for managing individual procurements (procuring entity). In addition, it looks at the market as one means of judging the quality and effectiveness of the system when putting procurement procedures into practice. This Pillar focuses on how the procurement system in a country operates and performs in practice.

Indicator 9. Public procurement practices achieve stated objectives.

The objective of this indicator is to collect empirical evidence on how procurement principles, rules, and procedures formulated in the legal and policy framework are being implemented in practice. This indicator focuses on procurement-related results which in turn impact development outcomes such as value for money, improved service delivery, trust in government and achievement of secondary policy objectives.

The assessment of Indicator 9 requires the selection and review of a sample of actual procurement transactions (files). Sampling methods and size determine the representativeness of the assessment results (refer to SECTION I – USER’S GUIDE). In case the sample is small but strategically targeted, the assessment can still provide a useful “snapshot” or exemplary picture of how procurement operates and performs on the ground. In any case, the assessment findings need to be analysed and interpreted with caution to ensure credibility and fairness of the process and to effectively achieve a better understanding of the country’s procurement system as a whole.

For a more comprehensive assessment of procurement practices targeted specifically at a procuring entity level, refer to the MAPS Module for Agency Assessments. (*Link*)

Sub-indicator 9(a) – Planning

During the planning stage of procurement, the basic conditions governing the entire procurement process are established and it is right at the onset of the procurement process where the influence on achieving defined objectives is highest. This step of the procurement process is usually performed in close collaboration with the internal client.

The sub-indicator assesses whether a thorough needs analysis has been conducted followed by market research to identify optimal procurement strategies (in particular for major procurement). It evaluates whether the desired impacts have been defined and if this entailed economic and/or environmental or social impacts in line with national policy objectives. It should be assessed whether requirements and/or desired outcomes of the individual procurement have been clearly described either in tight product/service specifications or through an output/outcome-based definition of requirements (functional specifications).

Sub-indicator 9(a): Assessment criteria	
(a)	Needs analysis and market research guide a proactive identification of optimal procurement strategies.
(b)	The requirements and desired outcomes of contracts are clearly defined.
(c)	Sustainability criteria, if any, are used in a balanced manner and in accordance with national priorities.

Sub-indicator 9(b) – Selection and contracting

This sub-indicator focuses on the objective of achieving value for money through appropriate determination of procurement methods and approaches, competition, transparency and fairness in selecting suppliers, including the quality of procurement documents and process efficiency.

The sub-indicator assesses the extent to which procurement has followed a competitive procedure (or not). It provides specific information on the use of procurement methods authorized in the law. The sub-indicator also assesses whether procedures for bid submission, receipt and opening have resulted in an appropriate level of competition.

Moreover, the sub-indicator assesses whether appropriate and fair techniques have been applied in the bid evaluation and award stage to determine best value for money and whether the entire selection process has been carried out effectively, efficiently and in a transparent way.

Sub-indicator 9(b): Assessment criteria	
<ul style="list-style-type: none"> (a) Pre-qualification procedures are used in complex procurements to ensure only qualified and eligible participants are included in the competitive process. (b) Clear and integrated procurement documents, standardized where possible and proportionate to the need, are used to encourage broad participation from potential competitors. (c) Procurement methods are chosen, documented, and justified in accordance with the purpose and in compliance with the legal framework. (d) Procedures for bid submission, receipt and opening are clearly described in the procurement documents and complied with allowing bidders or their representative to attend bid openings, and civil society to monitor, as prescribed. (e) Throughout the bid evaluation and award process, confidentiality is ensured and appropriate techniques are applied to determine best value for money based on the criteria stated in the procurement documents and to award the contract. (f) Contract awards are announced as prescribed. (g) Contract performance clauses include sustainability considerations, where appropriate, and provide incentives for exceeding defined performance levels and disincentives for poor performance. (h) The selection and award process is carried out effectively, efficiently and in a transparent way. * 	
<p>* Recommended quantitative indicators to substantiate assessment of sub-indicator 9(b) Assessment criterion (h):</p> <ul style="list-style-type: none"> - Average time to procure goods, works, and services: Number of days between advertisement/solicitation and contract signature (for each procurement method used) - Average number (and %) of bids that are responsive (for each procurement method used) - Share of processes that have been conducted in full compliance with publication requirements (in %) - Number (and %) of successful processes (successfully awarded; failed; cancelled; awarded within defined timeframes) <p>Source for all: Sample of procurement cases.</p>	

Sub-indicator 9(c) – Contract management

This sub-indicator assesses the extent to which goods, services, or works procured are delivered according to the contract agreement in terms of time, quality, cost, and other conditions stated in the contract to support the efficient and effective delivery of public services. The sub-indicator assesses cost and time overruns including for payments to be made to suppliers. The sub-indicator also reviews whether opportunities for the improvement of procurement practices are analysed based on both metrics and stakeholder feedback.

<p>Sub-indicator 9(c): Assessment criteria</p> <p>(a) Contracts are implemented in a timely manner. *</p> <p>(b) Inspection, quality control, supervision of works and final acceptance of products is carried out. *</p> <p>(c) Invoices are examined and payments are processed as stipulated in the contract.</p> <p>(d) Contract amendments are reviewed, issued and published in a timely manner. *</p> <p>(e) Procurement statistics are available and a system is in place to measure and improve procurement practices.</p> <p>(f) Opportunities for direct involvement of relevant external stakeholders in public procurement are utilized. *</p> <p>(g) The records are complete and accurate and easily accessible in a single file. *</p>
<p>* Quantitative indicators to substantiate assessment of sub-indicator 9(c) Assessment criterion (g): - Share of contracts with complete and accurate records and databases (in %)²³ Source: Sample of procurement cases</p> <p>* Recommended quantitative indicators to substantiate assessment of sub-indicator 9(c) linked to the assessment criteria above:</p> <ul style="list-style-type: none"> - (a): Time overruns (in %; and average delay in days) - (b): Quality control measures and final acceptance carried out as stipulated in the contract (in %) - (d): Contract amendments (in % of total number of contracts; average increase of contract value in %) - (f): Percentage of contracts with direct involvement of civil society: Planning phase; Bid/Proposal opening; Evaluation and contract award, as permitted; Contract implementation)²⁴ <p>Source for all: Sample of procurement cases.</p>

Link to MAPS Module on Agency Assessments

Indicator 10. The public procurement market is fully functional.

The objective of this indicator is primarily to assess the market response to public procurement solicitations. This response may be influenced by many factors such as the general economic climate, policies to support the private sector and a good businesses environment, the existence of strong financial institutions, the attractiveness of the public system as a good reliable client, the kind of goods or services being demanded, etc. There are three sub-indicators (a-c) to be assessed.

Sub-indicator 10(a) – Dialogue and partnerships between public and private sector

Public procurement depends on the partnership that must exist between the government and the private sector. This partnership creates the public procurement marketplace wherein the government is the buyer and the private sector is the supplier of the needed goods, works or services. Accordingly, dialogue between the government and the private sector needs to exist and the voice of the private sector needs to be heard with regard to national procurement objectives, changes to the legal and institutional framework and practices by the government that may undermine the competitive effectiveness of the private sector. This sub-indicator must look to see if there are forums for dialog between the government and the private sector.

Information and training programs on public procurement should be regularly offered for the private sector either by the government or in cooperation with private institutions. These programs should include approaches tailored to the needs of small businesses to support supplier diversity.

²³ PEFA Indicator PI-24.1

²⁴ Preferably split into the different process phases to cover the concept of open contracting more specifically.

Sub-indicator 10(a) is closely linked to Indicator 11 (Disclosure of information and civil society engagement).

Sub-indicator 10(a): Assessment criteria
(a) The government encourages open dialogue with the private sector and has several established and formal mechanisms for open dialogue through associations or other means including a transparent and consultative process when formulating changes to the public procurement system. *
(b) The government has programs to help build capacity among private companies, including for small businesses and training to help new entries into the public procurement marketplace.
* Recommended quantitative indicator to substantiate assessment of sub-indicator 10(a) Assessment criterion (a): - Perception of openness and effectiveness in engaging with the private sector (in % of responses). Source: Survey.

Sub-indicator 10(b) – Private sector’s organisation and access to the public procurement market

This sub-indicator looks at the capacity within the private sector to respond to public procurement in the country. An important aspect to assess is the organizational capacity of the small and medium-sized enterprises (SMEs) and the access they have to information and other services (including information technology) to promote their participation. A well-organized and competitive private sector should result in keen competition, better prices and an equitable distribution of business. Competition for large contracts should not be concentrated in a relatively small number of firms.

There should be no major systemic constraints (e.g., inadequate access to credit, contracting practices, etc.) inhibiting the private sector’s capacity to access the procurement market.

Participation in competition for public contracts depends on many conditions, including some that are controlled or within the control of the government. Examples for measures that can improve access by the private sector to the government marketplace are:

- a) Access to credit,
- b) Procurement methods and procedures that are proportionate to the risk and value in question,
- c) Reasonable contracting provisions that are seen to fairly distribute risks associated with performance of contracts, and
- d) Fair payment provisions that help offset the cost of doing business with the government, and
- e) Effective appeals mechanism and dispute resolution.

Alternatively, when the conditions are difficult for the private sector, the degree of competition will suffer. A survey of private sector participants should be carried out to help assess this item. The narrative of the assessment should describe the main constraints.

Sub-indicator 10(b): Assessment criteria
(a) The private sector is competitive, well organized, willing and able to participate in the competition for public procurement contracts. *
(b) There are no major systemic constraints inhibiting private sector access to the public procurement market.
* Recommended quantitative indicator to substantiate assessment of sub-indicator 10(b) Assessment criterion (a): - Number of registered suppliers as share of total number of suppliers in the country (in %) - Share of registered suppliers that are participants and awarded contracts (in % of total number of registered suppliers) - Total number and value of contracts awarded to domestic/foreign firms (and in % of total) Source: E-Procurement system/Supplier Database.

* Recommended quantitative indicator to substantiate assessment of sub-indicator 10(b) Assessment criterion (b):
- Perception of firms on the appropriateness of conditions in the public procurement market (in % of responses).²⁵
Source: Survey.

Sub-indicator 10(c) – Key sectors and sector strategies

The public procurement market is usually very broad covering numerous sectors with different needs and interests. Performing a sector market analysis helps to determine sector related risks (in terms of expenditure, competition, environmental impact, socio-economic risks, etc.) and the government’s scope to influence specific market segments.

Based on the government’s priority spend areas, key sectors associated with the procurement of goods, works, and services should be identified. This information can be utilized to conduct targeted assessments of relevant sector markets and to secure collaboration with sector market participants in a specific and meaningful way, e.g., to foster integrity, sustainability and/or innovation in public procurement.

Sub-indicator 10(c): Assessment criteria

- (a) Key sectors associated with the public procurement market are identified.
- (b) Risks associated with certain sectors and opportunities to influence sector markets are assessed and sector market participants are engaged in support of procurement policy objectives.

Link: MAPS Module on Sector Market Analysis

²⁵ Survey on appropriateness of conditions should cover: access to credit, procurement methods and procedures, contracting provisions fair payment provisions, and effective appeals mechanisms and dispute resolution as described above.

Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

Pillar IV includes four indicators that are considered necessary for a system to operate with integrity, has appropriate controls that support the implementation of the system in accordance with the legal and regulatory framework, and has appropriate measures in place to address the potential for corruption in the system. It also covers important aspects of the procurement system that include stakeholders, including civil society, as part of the control system. This Pillar takes aspects of the procurement system and governance environment and seeks to ensure that they are defined and structured to contribute to integrity and transparency.

Indicator 11. Transparency and civil society engagement foster integrity in public procurement.

Civil society, in acting as a safeguard against inefficient and ineffective use of public resources, can contribute to making public procurement more competitive and fair, improving contract performance and securing results. Governments are increasingly empowering the public to understand and monitor public contracting. This indicator assesses two mechanisms through which civil society can participate in the public procurement process: a) disclosure of information and b) direct engagement of civil society through participation, monitoring and oversight. There are three sub-indicators to be assessed.

Sub-indicator 11(a) – Enabling environment for public consultation and monitoring

This indicator assesses the following: 1) whether a transparent and consultative process is followed when changes are formulated to the public procurement system, 2) whether programs are in place to build capacities of civil society organizations to support participatory public procurement, and 3) whether effective feedback redress mechanisms are in place for matters related to public procurement.

Sub-indicator 11(a): Assessment criteria	
(a)	A transparent and consultative process is followed when formulating changes to the public procurement system.
(b)	Programs are in place to build the capacities of relevant stakeholders to understand, monitor, and improve public procurement.
(c)	There is ample evidence that the government takes into account the input, comments, and feedback received from civil society.

Sub-indicator 11(b) – Adequate and timely access to information by the public

The right of the public to access information has been fully integrated in the MAPS indicator system. In particular, the following aspects have been highlighted in the sub-indicators referenced below:

- The laws, regulations, and policies governing public procurement are published and easily accessible to the public at no cost (sub-indicators 1(a));

- All stakeholders have access to adequate and timely degree of transparency in each phase of the public procurement process related to specific procurements (in accordance with legal provisions protecting specific sensitive information) and access to other information that is relevant to promote competition and transparency (sub-indicator 7(a));
- Free access to this information is preferably provided through a centralized online portal and open data standards (sub-indicator 7(a)).

The assessors should revisit the indicators referenced above to conclude whether the separately assessed, multifaceted requirements in combination with identified actual procurement practices in the country result in a conclusive and coherent picture in terms of adequate disclosure. The disclosed information should enable a meaningful understanding of the matter as a precondition for effective participation. This sub-indicator assesses whether overall, the amount and nature of transparency and available information supports the integrity of public procurement including the visibility of the flow of public funds.

Sub-indicator 11(b): Assessment criteria	
(a)	Information requirements in combination with actual practices ensure that all stakeholders have adequate and timely degree of information and transparency as a precondition for effective participation.

Sub-indicator 11(c) – Direct engagement of civil society

This sub-indicator assesses the extent to which a) the laws, regulations, and policies enable the participation of citizens in terms of consultation, observation, and monitoring and b) whether the government promotes and creates opportunities for public consultation and monitoring of public contracting.

The legal and regulatory framework might establish the obligation or an opportunity for the government to consult the public during the planning process, e.g., prior to large-scale or environmentally or socially sensitive procurements. In some countries citizens are, under clearly specified conditions and subject to signing a statement of confidentiality, permitted or encouraged to act as observers in procurement proceedings. Citizens could also be permitted to be officially involved in the monitoring of performance and contract completion, e.g., through the application of innovative techniques such as geo-tagging or in the context of social audits. The assessor should in detail describe the rights and conditions stipulated in the law.

Assessors should take the evidence into account provided through the review of procurement practices (Indicator 9) when evaluating assessment criteria (b) below.

Sub-indicator 11(c): Assessment criteria	
(a)	The legal/regulatory and policy framework enables citizen to participate during the following phases of a procurement process, as appropriate: <ul style="list-style-type: none"> • Planning phase (consultation) • Bid/proposal opening (observation) • Evaluation and contract award (observation), when appropriate according to local law • Contract management and completion (monitoring)
(b)	There is ample evidence for direct participation of citizens in procurement processes through consultation, observation, and monitoring.

Indicator 12. The country has effective control and audit systems.

The objective of this indicator is to determine the quality, reliability and timeliness of the internal and external controls. Equally, the effectiveness of controls needs to be reviewed. For the purpose of this indicator, “effectiveness” means the expediency and thoroughness of the implementation of auditors’ recommendations. The assessors should rely, in addition to their own findings, on the most recent public expenditure and financial accountability assessments (PEFA) and other analyses that may be available. This indicator has four sub-indicators (a-d) to be assessed.

Sub-indicator 12(a) – Legal framework, organisation and procedures of the control system

This sub-indicator assesses 1) whether the country’s laws and regulations provide for a comprehensive control framework, 2) whether the institutions, policies and procedures as defined in the law are in place and operational, and 3) whether the existing control framework adequately covers public procurement operations.

National legislation establishes which agencies are responsible for oversight of the procurement function. Even though there is no universal model, it is important that the basic principles of oversight and control exist in the legal and regulatory framework of the country and that they are applied globally. This sub-indicator looks at the institutional set up of the control framework to assess the existence of a functioning control framework for public procurement. The following are key elements of a functioning control framework:

- 1) There should be provisions for the establishment of internal control and management procedures which focus on checks and balances for processing procurement transactions, expenditure commitment controls ensuring that the procuring entity’s payment obligations arising from contracts remain within the limits of budget allocations, and payment controls.²⁶
- 2) Regular and adequate feedback to management on the adequacy and effectiveness of the internal control systems is provided through an internal audit function (or internal audit institution). Amongst others, this function looks at the reliability and integrity of financial and operational information, the effectiveness and efficiency of operations and programs, and compliance with laws, regulations, and contracts.²⁷
- 3) A high quality external audit is a required for ensuring accountability and creating transparency in the use of public funds. The Supreme Audit Institution (SAI) should be independent from the executive branch and its mandate should enable the SAI to carry out a full range of audit activities, specifically financial, compliance and performance audits. Adherence to international auditing standards should ensure a focus on significant and systemic PFM issues in reports as well as, amongst others, providing an opinion on the functioning of internal control and procurement systems²⁸.

²⁶ PEFA covers internal controls for non-salary expenditure in PI-24.

²⁷ Refer to PEFA PI-25.

²⁸ Refer to PEFA PI-8 and PI-24.

4) Internal audit and internal control systems assist external auditors and enable performance audit techniques to be used that look at the effectiveness and application of internal control procedures instead of looking at individual procurement actions.

5) Legal bodies must review and act on the findings of the SAI.

The assessor should verify that the institutions, policies and procedures as defined in the law are in place and operational. The assessment should determine whether the existing controls framework pays sufficient attention to public procurement, e.g., by addressing specialized procurement audits.

Sub-indicator 12(a): Assessment criteria

The system in the country provides for:

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| <ul style="list-style-type: none">(a) Laws and regulations that establish a comprehensive control framework including internal controls, internal audits, external audits and oversight by legal bodies.(b) Internal control/audit mechanisms and functions that ensure appropriate oversight of procurement including reporting to management on compliance, effectiveness and efficiency of procurement operations.(c) Internal control mechanisms that ensure a proper balance between timely and efficient decision-making and adequate risk mitigation.(d) Independent external audits that ensure appropriate oversight of the procurement function based on periodic risk assessments and controls tailored to risk management. |
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Sub-indicator 12(b) – Coordination of controls and audits of public procurement

This sub-indicator assesses whether internal controls, internal audits and external audits are well defined, coordinated, sufficiently resourced and integrated to ensure the consistent application of procurement laws, regulations and policies and the monitoring of performance of the public procurement system, and conducted with sufficient frequency.

Internal control routines, procedures, and standards should be clearly defined (ideally in an internal control manual) and complied with. There should also be written standards for the internal audit unit (or function) to perform both compliance and performance audits related to procurement and to convey issues to management depending on the urgency of the matter. A regular periodic reporting to management should take place throughout the year to provide timely information and enable management action.

Sufficient information needs to be retained to enable auditors to verify that the written internal control procedures are adhered to. Internal and external audit plans should be coordinated, at least annually, to ensure adequate oversight and a reduction of duplication. There are written procedures and standards (e.g., a manual) for conducting procurement audits (both on compliance and on performance) to ensure that internal and external audits are harmonized and mutually reinforcing. Audits should be carried out at least annually.

This sub-indicator also assesses the existence of clear and reliable reporting lines to relevant oversight bodies. This includes the reporting of credible suspicions of breaches of laws and regulations to the competent authorities, without fear of reprisals. Imprecise or lax controls and inadequate reporting impact the enforcement of the laws and regulations and create ample risk for fraud and corruption.

Sub-indicator 12(b): Assessment criteria

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| <ul style="list-style-type: none">(a) There are written procedures that state requirements for internal controls, ideally in an internal control manual. |
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(b) There are written standards and procedures (e.g. a manual) for conducting procurement audits (both on compliance and performance) to facilitate coordinated and mutually reinforcing auditing.
(c) There is evidence that internal or external audits are carried out at least annually and that other established written standards are complied with.*
(d) Clear and reliable reporting lines to relevant oversight bodies exist.
* Recommended quantitative indicator to substantiate assessment of sub-indicator 11(b) Assessment criterion (c): - Number of specialized procurement audits carried out compared to total number of audits (in %). - Share of procurement performance audits carried out (in % of total number of procurement audits). Source: Ministry of Finance/Supreme Audit Institution.

Sub-indicator 12(c) – Enforcement and follow-up on findings and recommendations

The purpose of this indicator is to review the extent to which internal and external audit recommendations are implemented within a reasonable time. This may be expressed as percentage of recommendations implemented within the timeframes established in the law or within six months, a year, over a year or never implemented.

Sub-indicator 12(c): Assessment criteria
(a) Recommendations are responded to or implemented within the timeframes established in the law. *
(b) There are systems in place to follow up on the implementation/enforcement of the audit recommendations.
* Recommended quantitative indicator to substantiate assessment of sub-indicator 11(c) Assessment criterion (b): - Share of internal and external audit recommendations implemented within the timeframes established in the law (in %). Source: Ministry of Finance/Supreme Audit Institution.

Sub-indicator 12 (d) – Qualification and training to conduct procurement audits

The objective of this indicator is to confirm that there is a system in place to ensure that auditors working on procurement audits receive adequate training or are selected following criteria that explicitly require that they demonstrate sufficient knowledge of the subject to conduct high-quality procurement audits including performance audits. Auditors should normally receive formal training on procurement requirements, principles, operations, laws and regulations and processes. Alternatively, they should have extensive experience in public procurement or be supported by procurement specialists or consultants. Auditors, including external resources, should be selected in a fair and transparent way and be fully independent.

Sub-indicator 12(d): Assessment criteria
(a) There is an established program to train internal and external auditors to ensure that they are qualified to conduct high quality procurement audits including performance audits. *
(b) The selection of auditors requires that they have adequate knowledge of the subject as a condition for carrying out procurement audits; if auditors lack procurement knowledge they are routinely supported by procurement specialists or consultants.
(c) Auditors are selected in a fair and transparent way and are fully independent.
* Recommended quantitative indicator to substantiate assessment of sub-indicator 11(c) Assessment criteria (a): - Number of auditors with specialized knowledge in performance audits related to public procurement (in %). Source: Ministry of Finance/Supreme Audit Institution.

Indicator 13. Procurement appeals mechanisms are effective and efficient.

Pillar I covers aspects of the appeals mechanism as it pertains to the legal regulatory framework, including creation and coverage. This indicator further assesses the appeals mechanisms for a range of specific issues regarding efficiency in contributing to the

compliance environment in the country and the integrity of the public procurement system. There are three sub-indicators (a-c) to be assessed.

Sub-indicator 13(a) – Process for challenges and appeals

This sub-indicator looks at the process that is defined for dealing with challenges or appeals and sets out some specific conditions that provide for fairness and due process.

- a) Decisions are rendered on the basis of available evidence submitted by the parties.
- b) The first review is carried out by the entity specified by law.
- c) The appeals body (or authority) has enough authority to enforce its decisions.
- d) The timeframes specified for the submission and review of challenges/appeals and issuing of decisions do not unduly delay the procurement process.

Sub-indicator 13(a): Assessment criteria	
(a)	Decisions are rendered on the basis of available evidence submitted by the parties.
(b)	The first review of the evidence is actually carried out by the procurement entity .
(c)	The body or authority (appeals body) in charge of reviewing decisions of the specified first review body issues final enforceable decisions. *
(d)	The timeframes specified for the submission and review of challenges and for appeals and issuing of decisions do not unduly delay the procurement process.
* Quantitative indicator to substantiate assessment of sub-indicator 13(a) Assessment criterion (c): Number of appeals . Source: Appeals body.	

Sub-indicator 13(b) – Independence and capacity of the appeals body

This indicator²⁹ assesses the degree of autonomy that the appeals body has from the rest of the system to ensure that its decisions are free from interference or conflict of interest. It is crucial that the body is not involved in any capacity in procurement transactions or in the process leading to contract award decisions. The body should not charge fees that inhibit access by concerned parties.

The indicator assesses the efficiency and capacity of the appeals body and its ability to enforce the remedy imposed. The assessors should review whether the conditions and timeframes for review and decisions are precise and reasonable, and whether processes for submission and resolution of challenges are clearly defined and followed by the appeals body. They should also be publicly available.

Assessors should evaluate whether the appeals body a) exercises its authority to suspend procurement proceedings, b) applies the full range of remedies specified by law, c) issues decisions within the timeframe specified in the law/regulations, and d) issues decisions that are binding on all parties (without precluding subsequent access to judicial process). The appeals body needs to be adequately resourced and staffed to fulfil its functions.

Sub-indicator 13(b): Assessment criteria	
The appeals body:	
(a)	Is not involved in any capacity in procurement transactions or in the process leading to contract award decisions.

²⁹ This indicator is fully aligned with PEFA PI-24.4.

<ul style="list-style-type: none"> (b) Does not charge fees that inhibit access by concerned parties. (c) Follows procedures for submission and resolution of complaints that are clearly defined and publicly available. (d) Exercises its legal authority to suspend procurement proceedings and impose remedies. (e) Issues decisions within the timeframe specified in the law/regulations.* (f) Issues decisions that are binding on all parties. (g) Is adequately resourced and staffed to fulfil its functions.
<p>* Quantitative indicator to substantiate assessment of sub-indicator 13(b) Assessment criterion (c): - Appeals resolved within the timeframe specified in the law/exceeding this timeframe/unresolved (Total number and in %). Source: Appeals body.</p>

Sub-indicator 13(c) – Decisions of the appeals body

The appeals system needs to be seen as operating in a fair manner. The system must require that decisions be rendered only on relevant and verifiable information presented. In addition, such decisions need to be unbiased, reflecting the consideration of the evidence presented and the applicable requirements in the legal/regulatory framework.

It is also important that the remedy imposed in the decision be consistent with the findings of the case and with the available remedies provided for in the legal/regulatory framework. Decisions of the appeals body should deal specifically with process issues and the remedies should focus on corrective actions needed to comply with process.

Decisions should be published in a timely manner and as stipulated in the law. Preferably, decisions should be published on the centralized online portal mentioned in sub-indicator 7(b).

<p>Sub-indicator 13(c): Assessment criteria</p> <p>Procedures governing the decision making process of the appeals body provide that decisions are:</p> <ul style="list-style-type: none"> (a) Based on information relevant to the case. (b) Balanced and unbiased in consideration of the relevant information. * (c) Can be subject to higher level review (judicial review). (d) Result in remedies, if required, that are necessary to correcting the implementation of the process or procedures. * (e) Decisions are published on the centralized government online portal within specified timelines and as stipulated in the law. *
<p>* Quantitative indicator to substantiate assessment of sub-indicator 13(c) Assessment criterion (e): - Share of appeals decisions posted on a central online platform within timelines specified in the law (in %). Source: Centralized online portal.</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 13(c) Assessment criterion (b): - Share of suppliers that perceive the challenge and appeals system as trustworthy (in % of responses). Source: Survey. - Share of suppliers that perceive appeals decisions as consistent (in % of responses). Source: Survey.</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 13(c) Assessment criterion (d): - Outcome of appeals (Dismissed; Decision in favour of procuring entity; Decision in favour of applicant) (in %). Source: Appeals body.</p>

Indicator 14. The country has ethics and anticorruption measures in place.

This indicator assesses 1) the nature and scope of anticorruption provisions in the procurement system and 2) how they are implemented and managed in practice. This indicator also assesses whether the system fosters openness and balances the interests of stakeholders and whether the private sector and civil society support the creation of a public

procurement market known for its integrity. There are seven sub indicators (a-g) contributing to this indicator.

Sub-indicator 14(a) – Legal definition of prohibited practices, conflict of interest, and associated responsibilities, accountabilities and penalties

This indicator assesses the existence of legal provisions that define fraudulent, corrupt and other prohibited practices (“prohibited practices”) and set out the responsibilities and sanctions for government employees, individuals or firms indulging in such practices.

The legal provisions should also address issues concerning conflict of interest and incompatibility situations. The law should prohibit the intervention of active public officials and former public officials for a reasonable period of time after leaving office (cool off period) in procurement matters in ways that benefit them, their relatives, and business or political associates financially or otherwise.

Sanctions should include the exclusion of firms or individuals that have been the subject of a conviction by final judgment for fraud, corruption or other prohibited practices as defined in the national law of the contracting authority or the firm/individual (refer to sub-indicator 1(d)).

There may be cases where there is a separate anticorruption law (e.g., anticorruption legislation) that contains the provisions. This arrangement is appropriate as far as the effects of the anticorruption law are the same as if they were in the procurement law.

The legal, regulatory and policy framework should be consistent with obligations deriving from legally binding international anti-corruption agreements, e.g., United Nations Convention Against Corruption (UNCAC).

Sub-indicator 14(a): Assessment criteria
The legal/regulatory framework provides for the following: (a) Definition of fraud, corruption and other prohibited practices in procurement consistent with obligations deriving from legally binding international anti-corruption agreements. (b) Definition of the individual responsibilities, accountabilities and penalties for government employees and private firms or individuals found guilty of fraud, corruption, or other prohibited practices in procurement, without prejudice of other provisions in the criminal law. (c) Definitions and provisions concerning conflict of interest, including cool off period for former public officials.

Sub-indicator 14(b) – Provisions on prohibited practices in procurement documents

This sub indicator assesses the extent to which the law and the regulations compel procuring agencies to include references on fraud, corruption and other prohibited practices, conflict of interest and unethical behaviour as defined in the law in the procurement and contract documents. This sub indicator is related to sub-indicator 2(b) on content for model documents but is not directly addressed in that sub indicator.

The assessment should verify the existence of the provisions in the procurement and contract documents and enforceability of such provision through the legal/regulatory framework. The procurement and contract documents should include the definitions of what is considered fraud and corruption and other prohibited practices and the consequences of committing such

acts.

Sub-indicator 14(b): Assessment criteria
(a) The legal/regulatory framework specifies this mandatory requirement and gives precise instructions on how to incorporate the matter in procurement and contract documents.
(b) Procurement and contract documents include provisions on fraud, corruption and other prohibited practices as specified in the legal/regulatory framework.

Sub-indicator 14(c) – Effective sanctions and enforcement systems

This indicator is about the enforcement of the law and the ability to demonstrate this by actions taken. Evidence of enforcement is necessary to demonstrate to the citizens and other stakeholders that the country is serious about fighting corruption.

The assessor should verify that systems and procedures are in place to suspend/debar firms and individuals from participating in procurement proceedings. The assessor should evaluate whether the procedures ensure due process and whether they are consistently applied.

The assessor should also be able to obtain at least some evidence of prosecution and punishment for corrupt practices. The assessor should retrieve figures on the number of cases of corruption reported through the system, and number of cases prosecuted. If the ratio of cases prosecuted to cases reported is low, the narrative should explain the possible reasons.

Sub-indicator 14(c): Assessment criteria
(a) There is a system for suspension/debarment that ensures due process and is consistently applied.
(b) There is evidence that the laws on corrupt practices are being enforced in the country by application of stated penalties. *
* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(c)Assessment criterion (b): - Firms/individuals found guilty of fraud and corruption in procurement: Number of firms/individuals prosecuted/ convicted; prohibited from participation in future procurements (suspended/debarred). Source: Normative/regulatory function/anti-corruption body. - Government officials found guilty of fraud and corruption in public procurement: Number of officials prosecuted/convicted. Source: Normative/regulatory function/Anti-Corruption Body. - Gifts to secure public contracts: Number of firms admitting to unethical practices including making gifts in (in %). Source: Survey.

Sub-indicator 14(d) – Anti-corruption framework and integrity training

This sub indicator looks to verify the existence of an anticorruption framework and its extent and nature or other special measures such as integrity training programs which can help prevent and/or detect fraud and corruption specifically associated with public procurement.

A comprehensive anticorruption framework normally includes all the stakeholders in the procurement system, assigns clear responsibilities to all of them, and assigns a high-level body or organization (e.g., Anti-Corruption Commission) with sufficient standing and authority to be responsible for coordinating and monitoring the program. The functions assigned to the anti-corruption body will differ from country to country. For example, anti-corruption bodies could be in charge of providing secure channels for reporting suspected corruption, have investigative powers, and collect and disclose information on beneficial ownership following good international practice.

The procuring entities are responsible for running and monitoring a transparent and efficient system and for providing public information to promote accountability and transparency. To foster awareness and to clarify responsibilities and reporting requirements and channels in case of attempted or suspected fraud or corruption in procurement, integrity training programs should be developed and offered as a coordinated effort (involving procuring entities, anti-corruption body and normative/regulatory institutions). The procurement workforce should be obliged to participate in this training on a regular basis.

The control organizations (supreme audit authority) and the legal oversight bodies (e.g., the parliament or congress) are responsible for detecting and denouncing irregularities or corruption. The civil society organizations are responsible for social audits and for monitoring of procurement to protect the public interest. These may include NGOs, the academia, the unions, the chambers of commerce and professional associations and the press. The judiciary also participates, often in the form of special anticorruption courts and dedicated investigative bodies that are responsible for investigating and prosecuting cases of corruption. There are normally government public education and awareness campaigns as part of efforts to change social behaviour in respect to corrupt practices and tolerance. Anticorruption strategies usually include the use of modern technology to promote e-Procurement and e-government services to minimize the risk of facilitation payments, specification of red-flags indicating potential corruption and annual reporting to foster awareness and open dialogue.

The assessor should assess the extent to which all or some of these actions are organized as a coordinated effort. This also includes sufficient resources, commitment by the government and the public, the extent to which they are mostly isolated and left to the initiative of individual agencies or organizations.

Sub-indicator 14(d): Assessment criteria	
(a)	The country has in place a comprehensive anticorruption framework to prevent, detect and penalize corruption in government that involves the appropriate agencies of government with a level of responsibility and capacity to enable its responsibilities to be carried out. *
(b)	As part of the anticorruption framework, statistics on corruption-related legal proceedings and convictions are compiled and reports are published annually.
(c)	Special measures are in place for detection and prevention of corruption associated with procurement.
(d)	Special integrity training programs are offered and the procurement workforce regularly participates in this training.
* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(d) Assessment criterion (a): - Percentage of favourable opinions by the public on the effectiveness of anticorruption measures (in % of responses). Source: Survey.	

Sub-indicator 14(e) – Stakeholder support to strengthen integrity in procurement

This indicator assesses the strength of the public and the private sector in maintaining a sound procurement environment. This may manifest in the existence of respected and credible civil society groups that have a procurement focus within their agendas and/or actively provide oversight and exercise social control. Civil society organizations can only play a meaningful role as third party monitor when they have government guarantees to function and when their work is generally promoted and accepted by the public.

Assessors should also evaluate whether business associations promote anti-corruption frameworks to be implemented by suppliers. The supply side can become an active partner in supporting integrity by establishing internal compliance measures. Programs could for

example focus on codes of ethics, integrity training for staff and/or improved internal control measures.

The welcoming and respectful attitude of the government and the quality of the debate and the contributions of all interested stakeholders are an important part of creating an environment where integrity and ethical behaviour is expected and deviations are not tolerated.

Sub-indicator 14(e): Assessment criteria
<ul style="list-style-type: none"> (a) There are strong and credible civil society organizations that exercise social audit and control. (b) There is an enabling environment for civil society organizations to have a meaningful role as third party monitor. (c) There is evidence that civil society contributes to shape and improve integrity of public procurement. * (d) Suppliers actively support integrity and ethical behaviour in public procurement, e.g., through internal compliance measures. *
<p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(e) Assessment criterion (a): - Number of domestic CSOs actively providing oversight and social control in public procurement. Source: Survey.</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(e) Assessment criterion (d): - Number of suppliers that have internal compliance measures in place (in %). Source: Supplier Database.</p>

Sub-indicator 14(f) – Secure mechanism for reporting prohibited practices or unethical behaviour

This sub-indicator assesses the following: 1) whether the country provides a system for reporting fraudulent, corrupt or other prohibited practices or unethical behaviour; and 2) whether this system provides for confidentiality and the protection of whistle-blowers. The system must be seen to react to reports as verified by subsequent actions taken to address the issues reported. In case a reporting intake system is established and data is generated indicating the number of investigations conducted and actions taken, this information should be taken into account.

Sub-indicator 14(f): Assessment criteria
<ul style="list-style-type: none"> (a) There is a secure, accessible, and confidential system for the public reporting of cases of fraud, corruption or other prohibited practices or unethical behaviour. (b) There are legal provisions to protect whistle-blowers. (c) Whistle-blowers can rely on effective protection.

Sub-indicator 14(g) –Codes of conduct/codes of ethics and financial disclosure rules

The country should have in place a code of conduct/ethics that applies to all public officials. In addition, special provisions should be in place for those involved in public procurement. In particular, financial disclosure requirements for public officials have proven to be very useful in helping to prevent unethical or corrupt practices. Regular training programs should be conducted for all public officials to raise and sustain awareness of the requirements and ensure the effective implementation of these measures.

Sub-indicator 14(g): Assessment criteria
<ul style="list-style-type: none"> (a) There is a code of conduct or ethics for government officials with particular provisions for those involved in public financial management, including procurement. * (b) The code defines accountabilities for decision-making and subjects decision makers to specific financial disclosure requirements. * (c) The code is of obligatory compliance and consequences are administrative or criminal. (d) Regular training programs are offered to ensure sustained awareness and implementation of measures.

* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(g) Assessment criterion (a):
- Share of procurement entities that have a mandatory code of conduct or ethics with particular provisions for those involved in PFM including procurement (in % of total number of procuring entities).
Source: Normative/regulatory function.

* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(g) Assessment criterion (b):
- Officials involved in public procurement that have filed financial disclosure forms (in % of total required by law).
Source: Normative/regulatory function.

ANNEXES

Annex 1 – MAPS Indicator System

Pillar I – Legal, Regulatory, and Policy Framework	
1	The public procurement legal framework achieves the agreed principles and complies with applicable obligations.
	1(a) – Scope of application and coverage of the legal and regulatory framework 1(b) – Procurement methods 1(c) – Advertising rules and time limits 1(d) – Rules on participation 1(e) – Procurement documentation and technical specifications 1(f) – Evaluation and award criteria 1(g) – Submission, receipt, and opening of tenders 1(h) – Right to challenge and appeal 1(i) – Contract management 1(j) – Electronic Procurement (e-Procurement) 1(k) – Norms for safekeeping of records, documents and electronic data. 1(l) – Public procurement principles in specialized legislation
2	Implementing regulations and tools support the legal framework.
	2(a) – Implementing regulations to define processes and procedures 2(b) – Model procurement documents for goods, works, and services 2(c) – Standard contract conditions 2(d) – User’s guide or manual for procuring entities
3	The legal framework reflects the country’s secondary policy objectives and international obligations
	3(a) – Sustainable Public Procurement (SPP) 3(b) – Obligations deriving from international agreements
Pillar II – Institutional Framework and Management Capacity	
4	The public procurement system is mainstreamed and well integrated into the public financial management system.
	4(a) – Procurement planning and the budget cycle
	4(b) – Financial procedures and the procurement cycle
5	The country has an institution in charge of the normative/regulatory function.
	5(a) – Status and legal basis of the normative/regulatory institution function 5(b) – Responsibilities of the normative/regulatory function 5(c) – Organisation, funding, staffing, and level of independence and authority 5(d) – Avoiding conflict of interest
6	Procuring entities and their mandates are clearly defined.
	6(a) – Definition, responsibilities and formal powers of procuring entities 6(c) – Centralized procurement body
7	Public procurement is embedded in an effective information system.
	7(a) – Publication of public procurement information supported by information technology 7(b) – Use of e-Procurement 7(c) – Strategies to manage procurement data
8	The public procurement system has a strong capacity to develop and improve.
	8(a) – Training, advice and assistance 8(b) – Recognition of procurement as a profession 8(c) – Monitoring performance to improve the system

Pillar III – Procurement Operations and Market Practices	
9	Public procurement practices achieve stated objectives.
	9(a) – Planning 9(b) – Selection and contracting 9(c) – Contract management
10	The public procurement market is fully functional.
	10(a) – Dialogue and partnerships between public and private sector 10(b) – Private sector’s organisation and access to the public procurement market 10(c) – Key sectors and sector strategies
Pillar IV – Accountability, Integrity and Transparency of the Public Procurement System	
11	Transparency and civil society engagement foster integrity in public procurement.
	11(a) – Enabling environment for public consultation and monitoring 11(b) – Adequate and timely access to information by the public 11(c) – Direct engagement of civil society
12	The country has effective control and audit systems.
	12(a) – Legal framework, organisation and procedures of the control system 12(b) – Coordination of controls and audits of public procurement 12(c) – Enforcement and follow-up on findings and recommendations 12(d) – Qualification and training to conduct procurement audits
13	Procurement appeals mechanisms are effective and efficient.
	13(a) – Process for challenges and appeals 13(b) – Independence and capacity of the appeals body 13(c) – Decisions of the appeals body
14	The country has ethics and anticorruption measures in place.
	14(a) – Legal definition of prohibited practices, conflict of interest, and associated responsibilities, accountabilities, and penalties 14(b) – Provisions on prohibited practices in procurement documents 14(c) – Effective sanctions and enforcement systems 14(d) – Anti-corruption framework and integrity training 14(e) – Stakeholder support to strengthen integrity in procurement 14(f) – Secure mechanism for reporting prohibited practices or unethical behaviour 14(g) – Codes of conduct/codes of ethics and financial disclosure rules

Annex 2 – MAPS Assessment Criteria expressed in Quantitative Terms

Indicator		Quantitative Indicators (Minimum)	Additional recommended quantitative indicators
4(b)	Financial procedures and the procurement cycle	4(b) Assessment criterion (b): Invoices paid on time (in %). Source: PFM systems.	
5(d)	Avoiding conflict of interest		5(d) Assessment criterion (a): Perception that the normative/regulatory institution is free from conflicts (in % of responses). Source: Survey.
6(a)	Definition, responsibilities and formal powers of procuring entities	6(a) Assessment criterion (c): Procuring entities with designated, specialized procurement function (in % of total number of procuring entities). Source: Normative/regulatory function.	
7(a)	Publication of public procurement information supported by information technology	7(a) Assessment criterion (c): Procurement Plans published (in % of total number of procurement plans required).³⁰ Source: Centralized online portal.	7(a) Assessment criterion (e): Share of procurement information and data published in open data formats (in %). Source: Centralized online portal.
		7(a) Assessment criterion (c): Key procurement information published along the procurement cycle³¹ (in % of total number of contracts): Invitation to bid; Contract awards (purpose, supplier, value; amendments/ variations); Details related to contract implementation (milestones, completion and payment); Annual procurement statistics. Source: Centralized online portal.	
		7(a) Assessment criterion (c): Appeals decisions posted within the timeframes specified in the law (in %). Source: Centralized online portal.	
7(b)	Use of e-Procurement	7(b) Assessment criterion(a): Uptake of e-Procurement - Number of e-Procurement procedures in % of total number of procedures Source: E-Procurement system.	7(b) Assessment criterion (d): Bids submitted online (in %) Source: E-procurement system.
		7(b) Assessment criterion(a): Uptake of e-Procurement - Value of e-Procurement procedures in % of total value of procedures Source: E-Procurement system.	7(b) Assessment criterion (d): Bids submitted online by micro, small and medium-sized enterprises (in %). Source: E-procurement system.
7(c)	Strategies to manage procurement data	7(c) Assessment criterion (d): Total number of contracts	
		7(c) Assessment criterion (d): Total value of contracts;	
		7(c) Assessment criterion (d): Public procurement as share of government expenditure and as share of GDP.	
		7(c) Assessment criterion (d): Total value of contracts awarded through competitive methods in most recent fiscal year.³²	

³⁰ PEFA PI-24.3 (2)

³¹ PEFA PI-24.3 (3, 4, 5, 6)

		Source: Normative/regulatory function/E-Procurement system.	
9(b)	Selection and contracting Source for all: Sample of procurement cases.		9(b) Assessment criterion (h): Average time to procure goods, works, and services: Number of days between advertisement/solicitation and contract signature (for each procurement method used)
			9(b) Assessment criterion (h): Average number (and %) of bids that are responsive (for each procurement method used)
			9(b) Assessment criterion (h): Share of processes that have been conducted in full compliance with publication requirements (in %)
			9(b) Assessment criterion (h): Number (and %) of successful processes: - Successfully awarded; - Failed; or - Cancelled - Awarded within timeframes
9(c)	Contract management Source for all: Sample of procurement cases.	9(c) Assessment criterion (g): Share of contracts with complete and accurate records and databases³³	9(c) Assessment criterion (a): Time overruns (in %; and average delay in days)
			9(c) Assessment criterion (b): Quality control measures and final acceptance is carried out as stipulated in the contract (in %)
			9(c) Assessment criterion (d): Contract amendments (in % of total number of contracts; average increase of contract value in %)
			9(c) Assessment criterion (f): Percentage of contracts with direct involvement of civil society: - Planning phase - Bid/Proposal opening - Evaluation and contract award, as permitted - Contract implementation
10(a)	Dialogue and partnerships between public and private sector		10(a) Assessment criterion (a): Perception of openness and effectiveness in engaging with the public and private sector (in % of responses). Source: Survey.
10(b)	Private sector's organisation and access to the public procurement market		10(b) Assessment criterion (a): Number of registered suppliers as share of total number of suppliers in the country (in %)
			10(b) Assessment criterion (a): Share of registered suppliers that are awarded public contracts (in % of total number of registered suppliers) Source: E-Procurement system/Supplier Data Base.

³² PEFA Indicator PI-24.1

³³ PEFA Indicator PI-24.2

			10(b) Assessment criterion (a): Total number and value of contracts awarded to domestic/foreign firms (and in % of total) Source: E-Procurement system/Supplier Data Base.
			10(b) Assessment criterion (b): Perception of firms on the appropriateness of conditions in the public procurement market (in % of responses). Source: Survey.
12(b)	Coordination of controls and audits of public procurement		12(b) Assessment criterion (c): Number of specialized procurement audits carried out compared to total number of audits (in %). Source: Ministry of Finance/Supreme Audit Institution.
			12(b) Assessment criterion (c): Share of procurement performance audits carried out (in % of total number of procurement audits). Source: Ministry of Finance/Supreme Audit Institution.
12(c)	Enforcement and follow-up on findings and recommendations		12(c) Assessment criterion (b): Share of internal and external audit recommendations implemented within the timeframes established in the law (in %). Source: Ministry of Finance/Supreme Audit Institution.
12(d)	Qualification and training to conduct procurement audits		12(d) Assessment criterion (a): Number of auditors with specialized knowledge in performance audits related to public procurement (in %). Source: Ministry of Finance/Supreme Audit Institution.
13(a)	Process for challenges and appeals	13(a) Assessment criterion (c): Number of appeals (in % of contracts awarded). Source: Appeals body.	
13(b)	Independence and capacity of the appeals body	13(b) Assessment criterion (e): Appeals resolved within the timeframe specified in the law/exceeding this timeframe/unresolved (Total numbers and in %). Source: Appeals body.	
13(c)	Decisions of the appeals body		13(c) Assessment criterion (b): Share of suppliers that perceive the challenge and appeals system as trustworthy (in % of responses). Source: Survey.
			13(c) Assessment criterion (b): Share of suppliers that perceive appeals decisions as consistent (in % of responses). Source: Survey.
		13(c) Assessment criterion (e): Share of appeals decisions posted on a central online platform within timelines specified in the law (in %). Source: Centralized online portal.	13(c) Assessment criterion (d): Outcome of appeals (Dismissed; in favour of procuring entity; in favour of applicant) (in %). Source: Appeals body.
14(c)	Effective sanctions and enforcement systems		14(c) Assessment criterion (b): Firms and individuals found guilty of fraud and corruption in

			procurement: Number of firms/individuals prosecuted/ convicted; prohibited from participation in future procurements (suspended/ debarred). Source: Normative/regulatory function.
			14(c) Assessment criterion (b): Government officials found guilty of fraud and corruption in public procurement: Number of officials prosecuted/ convicted. Source: Normative/regulatory function.
			14(c) Assessment criterion (b): Gifts to secure public contracts: Number of firms admitting to unethical practices including making gifts in (in %). Source: Survey.
14(d)	Anti-corruption framework and integrity training		14(d) Assessment criterion (a): Percentage of favourable opinions by the public on the effectiveness of anticorruption measures. Source: Survey.
14(e)	Stakeholder support to strengthen integrity in procurement		14(e) Assessment criterion (a): Number of domestic CSOs actively providing oversight and social control in public procurement. Source: Survey.
			14(e) Assessment criterion (d): Number of suppliers that have internal compliance measures in place (in %). Source: Supplier Data Base.
14(g)	Codes of conduct/codes of ethics and financial disclosure rules		14(g) Assessment criterion (a): Share of procurement entities that have a mandatory code of conduct or ethics with particular provisions for those involved in PFM including procurement (in % of total number of procuring entities). Source: Normative/regulatory function.
			14(g) Assessment criterion (b): Officials involved in public procurement that have filed financial disclosure forms (in % of total). Source: Normative/regulatory function.

GLOSSARY

Accountability (in public management)	Managers are held responsible for carrying out a defined set of duties or tasks, and for conforming with rules and standards applicable to their posts.
Budget	A comprehensive statement of Government financial plans which include expenditures, revenues, deficit or surplus and debt. The budget is the Government's main economic policy document, demonstrating how the Government plans to use public resources to meet policy goals and to some extent indicating where its policy priorities.
Capability	The skills-based ability for an individual, group or organisation to meet obligations and objectives; also referred to as "know-how".
Capacity	The ability to meet obligations and objectives based on existing administrative, financial, human, and infrastructure resources.
Civil servant	An employee of the state who would remain a state employee if the government changes. In addition, civil servants are employees covered under a specific public legal framework or other specific provisions.
Civil Society Organisation (CSO)	The multitude of associations around which society voluntarily organizes itself and which represent a wide range of interests and ties. These can include community-based organisations, indigenous peoples' organisations and non-government organisations.
Competition	<p>A situation in a market in which firms or sellers independently strive for the patronage of buyers in order to achieve a particular business objective, e.g., profits, sales and/or market share.</p> <p>Competition in this context is often equated with rivalry. Competitive rivalry between firms can occur when there are two firms or many firms. This rivalry may take place in terms of price, quality, service or combinations of these and other factors which customers may value.</p> <p>Competition is viewed as an important process by which firms are forced to become efficient and offer greater choice of products and services at lower prices. It gives rise to increased consumer welfare and allocative efficiency. It includes the concept of "dynamic efficiency" by which firms engage in innovation and foster technological change and progress.</p>
Corruption	Abuse of public or private office for personal gain.
Effectiveness	The extent to which the activities stated objectives have been met
Efficiency	Achieving maximum output from a given level of resources used to carry out an activity.
E-Procurement	The integration of digital technologies in the replacement or redesign of paper-based procedures throughout the procurement process
Good governance	Governance characterised by participation, transparency, accountability, rule of law, effectiveness, equity, etc. Good governance refers to the management of government in a manner that is essentially free of abuse and corruption, and with due regard for the rule of law.
Governance	The exercise of political, economic and administrative authority

Gross domestic product (GDP)	The standard measure of the value of the goods and services produced by a country during a period. Specifically, it is equal to the sum of the gross values added of all resident institutional units engaged in production (plus any taxes, and minus any subsidies, on products not included in the value of their outputs). The sum of the final uses of goods and services (all uses except intermediate consumption) measured in purchasers' prices, less the value of imports of goods and services, or the sum of primary incomes distributed by resident producer units.
Indicator	A quantitative or qualitative measure derived from a series of observed facts that can reveal relative positions in a given area.
Innovation	The implementation of a new or significantly improved product, good, service, or process or a new organisational method.
Integrity	The use of funds, resources, assets and authority according to the intended official purposes and in a manner that is well informed, aligned with the public interest, and aligned with broader principles of good governance;
Performance	The ability of an entity to acquire resources economically and use those resources efficiently and effectively in achieving performance targets
Performance Information	Performance information can be generated by both government and nongovernmental organizations, and can be both qualitative and quantitative. Performance information refers to metrics/indicators/general information on the inputs, processes, outputs and outcomes of government policies/programmes/organizations, and can be ultimately used to assess the effectiveness, cost effectiveness and efficiency of the same. Performance information can be found in statistics; the financial and/or operational accounts of government organisations; performance reports generated by government organizations; evaluations of policies, programmes or organizations; or Spending Reviews, for instance.
Policy	A consistent course of action designed to meet a goal or objective, respond to an issue or problem identified by the state as requiring action or reform. It is implemented by a public body (ministry, agency, etc.), although elements may be delegated to other bodies. Examples include a public policy to tackle climate change, educational reform, or support for entrepreneurship. A public policy is, or should be, linked to the government programme and its strategic planning. It is often given a formal framework through legislation and/or secondary regulations, especially in countries with a system of civil law. It is given practical effect through a defined course of action, programmes and activities. It is, as necessary, funded from the state budget. A priority policy is a policy which matters more than others for the achievement of the government's strategic objectives. The responsibility for taking forward a public policy may rest with the relevant line ministry, or, in the case of policies that cut across ministerial boundaries, may be shared by relevant ministries
Primary procurement objectives	Delivering goods and services necessary to accomplish government mission in a timely, economical and efficient manner.

Procurement document	A document issued by the procuring entity that sets out the terms and conditions of the given procurement. Invitation to participate in procurement proceedings (e.g., invitation to tender, participate in request for proposal proceedings or an electronic reverse auction). Alternative terms: Solicitation document or tender document.
Public procurement	The process of identifying what is needed; determining who the best person or organisation is to supply this need; and ensuring what is needed is delivered to the right place, at the right time, for the best price and that all this is done in a fair and open manner;
Public procurement cycle	The sequence of related activities, from needs assessment, through competition and award, to payment and contract management, as well as any subsequent monitoring or auditing;
Public servant	A term used to identify those who are employed servant/service by government-funded organisations. Some countries use both, “public servant” and “civil servant” when describing government-funded employees, with public servant having a broader application (e.g., encompassing doctors, teachers, local government officials, etc.) than civil servant (i.e., employees working in the central government).
Public services	Services that are performed for the benefit of the public or its institutions. Public services are provided by government to its citizens, either directly (through the public sector) or by financing private provision of services. The term is associated with a social consensus that certain services should be available to all, regardless of income. Even where public services are neither publicly provided nor publicly financed, for social and political reasons they are usually subject to regulation going beyond that applying to most economic sectors.
Public (open) tender	Refers to the process whereby a procuring entity invites bids that must be submitted within a finite deadline. It is often used for a bidding process that is open to all qualified bidders (open tender) and where sealed bids are opened in public for scrutiny and are chosen on the basis of stated award criteria. In the context of sub-indicator 1(g), the term “tender” is used interchangeably with “bids” or “proposals”.
Public-private partnership	A contract (institutional relationship) between public and private actors for the co-operative provision of a public good or service. The essential element is some degree of private participation in the delivery of traditionally public-domain goods or services. Private actors may include both for-profit and not-for-profit organisations.
Regulation	The term regulation covers the diverse set of instruments by which governments impose requirements on enterprises and citizens. Regulations include all primary laws, formal and informal orders, subordinate regulations, administrative formalities and rules issued by non-governmental or self-regulatory bodies to whom governments have delegated regulatory powers.
Secondary policy objectives	Any of a variety of objectives such as sustainable green growth, the development of small and medium-sized enterprises, innovation, standards for responsible business conduct or broader industrial policy objectives, which governments increasingly pursue through use of procurement as a policy lever, in addition to the primary procurement objective.

Specific sensitive information	Refers to legitimate needs for protection of trade secrets and proprietary information and other privacy concerns, as well as the need to avoid disclosing information that can be used by interested parties to distort competition in the procurement process. The country's legal framework should include definitions and provisions to unambiguously identify and prohibit the disclosure of specific sensitive information.
State-owned enterprise	Countries have different definitions of state-owned enterprises. The OECD offers the following definition for comparative purposes: "any corporate entity recognised by national law as an enterprise, and in which the state exercises ownership" (OECD. (2015), OECD Guidelines on Corporate Governance of State-Owned Enterprises, 2015 Edition, OECD Publishing, Paris. http://dx.doi.org/10.1787/9789264244160-en)
Supplier	A party that supplies goods, works, or services, i.e. in this context "supplier" comprises contractors and service providers including consulting firms or others.
Sustainability	(a) Use of the biosphere by present generations while maintaining its potential yield (benefit) for future generations; and/or (b) Non-declining trends of economic growth and development that might be impaired by natural resource depletion and environmental degradation.
Sustainable Development	Development "that meets the needs of the present without compromising the ability of future generations to meet their own needs", World Commission on Environment and Development (1987), <i>Our Common Future</i> , http://www.un-documents.net/our-common-future.pdf .
Sustainable Public Procurement (SPP)	A "process whereby organizations meet their needs for goods, services, works and utilities in a way that achieves value for money on a whole life basis in terms of generating benefits not only to the organization, but also to society and the economy whilst minimizing damage to the environment", Department for Environment, Food and Rural Affairs (2006): <i>Procuring the Future: Sustainable Action Plan: Recommendations from the Sustainable Procurement Task Force</i> . London, in: http://collections.europarchive.org/tna/20080530153425/http://www.sustainable-development.gov.uk/publications/procurement-action-plan/documents/full-document.pdf
Transparency	An environment in which the objectives of policy, its legal, institutional, and economic framework, policy decisions and their rationale, data and information related to policies, and the terms of agencies' accountability, are provided to the public in a comprehensible, accessible, and timely manner.
Trust	Trust is broadly understood as holding a positive perception about the actions of an individual or an organization. Trust gives us confidence that others will act as we might expect in a particular circumstances. While trust may be based on actual experience, in most cases trust is a subjective phenomenon, reflected in the eyes of the beholder.
Value for Money	Value for Money is a term used in different ways to convey the

	effective, efficient, and economic use of resources. In the context of public procurement it can be defined as the most advantageous combination of cost, quality and sustainability to meet defined requirements. Cost means consideration of the whole life cost and risks; quality means meeting a specification which is fit for purpose and sufficient to meet the requirements; and sustainability comprises economic, social and environmental benefits.
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