

METHODOLOGY FOR THE BENCHMARKING AND ASSESSMENT OF PUBLIC PROCUREMENT SYSTEMS

Version 4

Users' Guide



OECD-DAC JOINT VENTURE FOR PROCUREMENT

ACRONYMS

BLI	Base-Line Indicator
CFAA	Country Financial Accountability Assessment
CPI	Compliance and Performance Indicator
DAC	Development Assistance Committee
GCC	General Conditions of Contracts
IFI	International Financial Institution
JV	Joint Venture
NGO	Non-governmental organisation
ODA	Overseas Development Assistance
OECD	Organisation for Economic Cooperation and Development
PEFA	Public Expenditure and Financial Accountability
PFM	Public Financial Management
QC	Quality Control
SME	Small and Medium Enterprise

INTRODUCTION

Increasing the effectiveness, efficiency and transparency of procurement systems is an on-going concern of governments and of the international development community. All have recognized that increasing the effectiveness of the use of public funds, including funds provided through official development assistance (ODA) requires the existence of an adequate national procurement system that meets international standards and that operates as intended.

Under the auspices of the joint World Bank and OECD Development Assistance Committee (DAC) Procurement Round Table initiative, developing countries and bilateral and multilateral donors worked together to develop a set of tools and standards that provide guidance for improvements in procurement systems and the results they produce. The Round Table initiative culminated with the December 2004 adoption of the "Johannesburg Declaration" including a commitment for the adoption of the Baseline Indicators Tool as the agreed international standards for assessment of national procurement systems. Following the conclusion of the Round Table initiative, under the coordination of the Working Party on Aid Effectiveness of the OECD/DAC, the Joint Venture for Procurement was created and has further advanced the development of the methodology for application of the baseline indicators and associated compliance and performance indicators.

The Methodology for Benchmarking and Assessment of Public Procurement Systems presented in this guide is intended to provide a common tool which developing countries and donors can use to assess the quality and effectiveness of public procurement systems. The understanding among the participants in this process is that the assessment will provide a basis upon which a country can formulate a capacity development plan to improve its procurement system. Similarly, donors can use the common assessment results to develop strategies for assisting the capacity develop plan and to mitigate risks in the individual operations that they decide to fund. The long term goal is that countries will improve their public procurement systems to meet internationally recognized standards enabling greater effectiveness in the use of funds to meet country obligations.

It should be noted that the methodology and tools presented in this guide have capacity development as a core objective and progress is dependent upon country ownership and commitment to managing the development program. It was agreed with the OECD-DAC Joint Venture on Monitoring the Paris Declaration that the procurement baseline indicators would be used to help monitor the qualitative procurement target of the Paris Declaration¹ (Target 2b). The methodology presented herein now includes a numeric scoring with defined criteria that will enable the monitoring of indicator 2b, providing a qualitative scoring of the country's procurement system. The Joint Venture (JV) for Procurement agreed that a scoring criterion would also contribute to the primary objective of supporting capacity development in the area of procurement by helping to more specifically and consistently identify the strengths and weaknesses of the systems assessed and increase the ability to track progress of reform initiatives. While scoring has been introduced to this methodology, there has been no definition on aggregation of scores or of weighting of scores since this is considered to be most useful in the context of specific country applications and within donor organizations that may choose to assign weights or priorities to reflect concerns that are unique to the country or the donor organization.

¹ For more information on the Paris Declaration on Aid Effectiveness, please consult : www.oecd.org/dac/effectiveness/parisdeclaration

SECTION I – OVERVIEW

Introduction

1. The objective of this Users' Guide is to facilitate a consistent approach to the application of the indicators developed by the OECD/DAC–World Bank Round Table on Strengthening Procurement Capacities in Developing Countries.

Purpose and Use of the Methodology

2. The indicators are intended to provide harmonized tools for use in the assessment of procurement systems. Although the indicators are designed for use in the assessment of the central government or national procurement system in a country, they can be adapted for use in sub national or agency level assessments. The methodology for application of the indicators has been designed to enable a country to conduct a self-assessment of its procurement system to determine strengths and weaknesses, or to help development agencies carry out joint or external assessment of a country's procurement system. The information resulting from an assessment supports the design of harmonized capacity development and reform initiatives intended to address weaknesses associated with the procurement system. 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, donors are also provided with information that helps them determine risks to the funds they provide to partner countries. The application of the benchmark assessment is not a substitute for a fiduciary assessment by a donor. This Users' Guide covers the two types of indicators covered in Sections II and III: Section II covers the baseline indicators (BLIs) that deal with the formal and functional features of the existing system; while Section III covers the compliance/performance indicators (CPIs), that deal with monitoring performance data to determine level of compliance with the formal system. These two parts are designed to be applied jointly or separately depending on the intended purpose and scope of the assessment.

Annex 2 has also been provided covering information on internationally accepted practices which may be useful to those applying this methodology.

The Indicators

3. There are two types of indicators, the Base-Line Indicators (BLIs) and the Compliance/Performance Indicators (CPIs). The BLIs present a “snapshot” comparison of the actual system against the international standards that the BLIs represent. They address four pillars: a) the existing legal framework that regulates procurement in the country; b) the institutional architecture of the system; c) the operation of the system and competitiveness of the national market; and d) the integrity of the procurement system. Each pillar has a number of indicators and sub-indicators to be assessed.

4. The CPIs deal with how the system actually operates. They are more closely related to the application of the regulations and to the prevailing procurement practices in the country. Thus while the BLIs are more like a snapshot of the system design at a given time, the CPIs look at what is happening on the ground by examining a sample of procurements transactions and other relevant information that is deemed representative of the performance of the system.

5. The indicators often refer to the procurement law and to the legal framework. The reference to the 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. Some countries have laws and others may have acts, decrees, circulars or regulations. 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. The entire set of legal instruments is designated as the legal framework.

Application of the Indicators

6. The application of the BLIs is based on a review of the existing regulatory framework and the institutional and operational arrangements, while the application of the CPIs relies on data obtained from a representative sample of contracts and information obtained through interviews or surveys with stakeholders in the procurement system. Interviews or surveys are required in matters for which hard statistical or factual information cannot be obtained or in cases where perceptions on how the system operates are critical to its competitiveness and transparency.

7. Each baseline 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 the acceptable standard to be met. After the description of the sub-indicator, there is a table containing four scenarios with scores associated to each scenario.

8. For assessing the compliance/performance indicators, the assessor obtains information from a sample of relevant procurement processes (see paragraph 16), from existing government statistics and from the surveys or interviews mentioned above.

9. The indicators alone cannot give a full picture of a procurement system that is by its nature complex. They must be seen as a tool used to identify in broad terms the strengths and weaknesses of the system and as support for a more thorough analysis to be carried out by the assessors. Moreover, several indicators are not amenable to hard measurement in terms of facts and figures and assessing their performance is better accomplished through surveys or interviews with participants in the systems such as professional associations, civil society representatives, independent newspapers or well recognized and respected investigative journalists, and government officials, as indicated in this Guide. It is clearly recognized that data may not be available to the extent asked for in the compliance/performance indicators section of this document. There are also costs associated with collection and analysis of data, including the cost of development and application of surveys and interviews. In order to provide for flexible application of the compliance/performance indicators, it is suggested that the extent of application of the CPIs be a decision made at the country level in discussions between the government and donors partners active in the country, and that this be disclosed in the assessment report.

10. The application of indicators allows for subjective professional judgments by the assessor. Subjectivity cannot (and probably should not) be fully eliminated from the exercise but 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 work well within a particular political, institutional, cultural or political setting but not in other conditions. Thus the focus of the evaluation work is to assess how the model in place works in terms of outcomes and results, the trust and confidence that participants and society have in the system, and how efficiently it meets the social and economic objective of efficient public expenditure.

Scoring System for Baseline Indicators

11. The scoring system ranges from 3 to 0 for each baseline sub-indicator. A score of 3 indicates full achievement of the stated standard. A score of 2 is given when the system exhibits less than full

achievement and needs some improvements in the area being assessed and a score of 1 is for those areas where substantive work is needed for the system to meet the standard. A rating of 0 is the residual indicating a failure to meet the proposed standard. The score for each sub indicator should be a whole number from 0 to 3. No decimals should be used in marking sub-indicators. It should be noted that the BLI scores will be part of a narrative report that should provide information on changes that may be underway, but have not yet impacted the system sufficiently to change the score. This narrative discussion will enable the assessment to provide information that is not easily reflected in a numeric score.

12. In rating the sub-indicator to indicate whether a standard has been accomplished or not, a comparison must be made with the criteria given in the Guide. A substantive or material gap exists when any of the requirements is not present, when there is enough evidence that the provision is not working as intended (i.e. factual evidence or conclusive outcome from interviews), when any of the essential elements of the indicator (e.g. independence, objectivity, timeliness) is missing or when stated quantitative criteria are not achieved.

13. The assessor should then decide, according to their findings, which of the four scenarios best describes the situation on the ground to determine the score that should be assigned to that sub-indicator. Even though an attempt has been made to give some guidance in the text preceding each scoring table; the evaluators have to use their judgment in many instances to determine to which degree the indicator under analysis meets the proposed standard. The evaluator will assign a score from 3 to 0 to a particular item by comparing the features of the system being evaluated with those described under “Scoring Criteria” and choosing the one that best fits the aspect under evaluation.

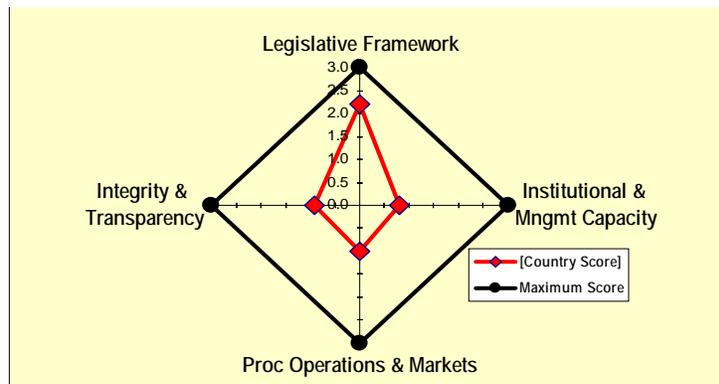
14. When creating the scoring criteria for some of the sub-indicators (primarily found under Pillar I of the BLIs), it was decided to take "sub-sub" dimensions of the indicator as it was originally designed during the Roundtable process and incorporate these into the scoring criteria. This created the use of internal hierarchies in scoring criteria. While some flexibility has been created in the scoring criteria, there remained a need to identify the critical elements of the criteria that separate a score of 3 from that of 2, 1 or 0. Formulation of the internal hierarchies has focused on key principles of good procurement that are needed to provide for transparency, fairness and value for money.

Aggregation of Scores

15. All the baseline indicators have sub-indicators which are scored. The assessor may want to aggregate the scores at the indicator level or pillar level to obtain a profile of strengths and weaknesses of the system at that level. The method of aggregation is a decision left open to the user as this can be done in many ways.

Benchmarking, Compliance and Performance Sheet

16. Annex 1 refers to a Benchmarking Compliance and Performance Sheet where the assessor can summarize the scores for each one of the baseline indicators and enter the results of the performance assessment. The Sheet is available separately as a hard copy or electronically (Excel format). There is a column for the assessor to include a brief description of the situation that justifies the proposed score in each baseline indicator or where to explain the result of each compliance indicator. Depending on the purpose of the assessment (a report on the status of the system or the formulation of an improvement program) there are two columns where the assessor may include the recommended actions to address issues or mitigate risks and assign priority to these actions. This Sheet provides broad overview of the system, the key weaknesses and strengths, and the priorities for action. The Excel based scoring enables the ability to depict the scoring in many ways, including graphically. One graphic example of displaying data is shown in the following box:



In this graphic representation, scoring under each pillar has been aggregated as a simple arithmetical average of sub-indicators under the pillar. The average scores for each pillar are compared to the maximum score of 3. The chart enables the viewer to quickly see that the country assessed is strongest in Pillar I, but has weaknesses in the other three Pillars.

Sampling for Performance Assessment and Data Collection

17. Selecting an adequate sample of actual procurement processes for assessing performance is important for the credibility of the exercise. The reliability of information should be confirmed based on reports or an evaluation of the information systems used to produce reports. In all cases, the assessor should disclose the sampling method used and the level of confidence with regard to the data collected or other techniques used to collect information such as surveys and interviews.

Planning and Preparing the Assessment

18. Advanced planning is needed to 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 donors to enable coordination of the work and agreement to be reached on critical aspects of the assessment such as the extent to which specific data for CPIs will be collected and if surveys and interviews will be employed.

19. The availability, reliability and integrity of records are issues that need careful consideration during the planning phase and that may impede a full assessment of the system. Some CPIs require quantitative reliable data that may not be available in countries. This alone is an issue that needs to be identified as a weakness of the system that might impede the application of adequate controls and monitoring or analysis of the system's performance. Obviously the assessment report should point out the lack of information and give a high priority to addressing the issue.

20. 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 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. If the assessment is done by the government as a self assessment exercise, a verification process that involves the government and active donors interested in the procurement system in the country will be needed to contribute to the transparency and credibility of the process. The verification exercise provides an opportunity to agree on assigned scores, reform priorities and a shared strategy towards capacity development initiatives to address key weaknesses in the system.

Assessment Report

21. One of the main objectives of carrying out the assessment following the methodology in this document is to provide partner countries with a tool that can be used to formulate programs to improve their national procurement systems and align them with internationally accepted good practice. The assessment process also provides a unique learning and capacity development opportunity for government and donor participants alike. A narrative analytical report, following the completion of the assessment is useful to the partner governments and to the donors 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.

22. 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 3. 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: a) the country context and includes a brief review of the country economic situation; b) the nature and scope of public expenditure; c) the role of the national government and other sub-national governments; d) the links with the budgetary and control mechanisms and e) the procurement system and its links with the rest of the public sector.
- A section describing the setting of the procurement system and the key actors and their roles in the operation of the system
- 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 including their adequacy for possible support by the international donor community. 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 the high, medium and low 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 level. Such suggestions may form the basis for a prioritized reform strategy intended to address identified weaknesses.
- A final section should describe other reform programs that the government is implementing or plans to implement in the near future that may have an impact in the way the national procurement system operates.

23. 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.

Updating the Information

24. The evaluation tool should be applied the first time to create a baseline that allows a continuous monitoring of progress of system improvements. The Benchmarking, Compliance and Performance Sheet allows for easy recording and updating of progress as it occurs. However, as a minimum, a full update of the assessment should be performed whenever major changes in legislation or other substantive elements of the system change.

SECTION II – BASELINE INDICATORS

Pillar I – Legislative and Regulatory Framework

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

The indicator covers the legal and regulatory instruments from the highest level (national law, act, regulation, decree, etc.) down to detailed regulation, procedures and bidding documents formally in use. This indicator is broken down into eight sub-indicators (a-h) which are individually scored.

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

The purpose of this sub-indicator is to determine: a) the structure of the regulatory framework governing the public procurement; b) the extent of its coverage; and c) 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 and for this reason the stability of different provisions and of the entire systems depends on where in hierarchy of the legal framework the different provisions are placed.

The assessor should also evaluate the extent to which the legal framework applies to all procurement (goods, works and services, including consulting services) undertaken using public funds and the extent to which national legislation applies to all public bodies and sub-national governments and entities when national budget funds are used. A particular aspect to evaluate is whether the laws or regulations exclude 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) and whether these exclusions are made by law or can be made administratively and not subject to public oversight.

Uniformity and universality of coverage contribute to predictability and savings in the operation of the procurement system, while access to the rules and regulations contribute to transparency thereby resulting in more economic procurement.

Accessibility to the laws can be through availability in public places of easy access to the public. If the information is primarily posted on the Internet, the assessor should verify accessibility of information to the public.

Scoring Criteria	Score
The legislative and regulatory body of norms complies with all the following conditions: (a) Is adequately recorded and organized hierarchically (laws, decrees, regulations, procedures,) and precedence is clearly established. (b) All laws and regulations are published and easily accessible to the public at no cost. (c) It covers goods, works, and services (including consulting services) for all procurement using national budget funds.	3
The legislative and regulatory body of norms complies with (a) plus one of the above conditions.	2
The legislative and regulatory body of norms complies with (a) of the above conditions.	1
The system does not substantially comply with any of the above conditions. .	0

Sub-indicator 1(b) – Procurement Methods

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

The legal framework should make open competitive tendering the default method of procurement. The law and regulations should define the situations in which other less competitive methods can be used and ensure that acceptable justification and approval levels are clearly specified. Fractioning of contracts to avoid open competition should be prohibited.

The hierarchy of the legal instruments where acceptable procurement methods are established should be such that the discretion of individual agencies or procurement officials is reasonably controlled to minimize the use of methods that limit competition.

Scoring criteria	Score
The legal framework meets all the following conditions: (a) Allowable procurement methods are established unambiguously at an appropriate hierarchical level along with the associated conditions under which each method may be used, including a requirement for approval by an official that is held accountable. (b) Competitive procurement is the default method of public procurement. (c) Fractioning of contracts to limit competition is prohibited. (d) Appropriate standards for international competitive tendering are specified and are consistent with international standards	3
The legal framework meets the conditions of (a) and (b) plus one of the remaining conditions.	2
The legal framework meets the conditions of (a) and (b).	1
The legal framework fails to substantially comply with any three of the conditions a) through d).	0

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

This sub indicator assesses whether: a) the legal framework includes requirements to publish contract awards 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 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.

Scoring Criteria	Score
The legal framework meets the following conditions : (a) Requires that procurement opportunities other than sole source or price quotations be publicly advertised. (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. 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. (d) Content of publication includes sufficient information to enable potential bidders to determine their ability and interest in bidding.	3
The legal framework meets the conditions of (a) and (b) plus one of the remaining conditions.	2
The legal framework meets the conditions of (a) plus one of the remaining conditions.	1
The legal framework only meets the conditions of (a) above.	0

Sub-indicator 1(d) – Rules on participation

This sub indicator assesses the participation and selection policies to ensure that they are non discriminatory. As a general principle, firms, including qualified foreign firms, should not be excluded from participating in a tendering process for reasons other than lack of qualifications. Exclusions from tendering that are not based on the qualifications of the firm may arbitrarily limit competition and may result in inefficient procurement and higher prices.

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. Excessive price preferences or other concessions for certain groups of bidders can deter effective competition and reduce gains in efficiency. The assessor should review carefully the justification and adequacy of these provisions to ensure that they do not unduly affect 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 as a condition to participate in a bid may become an entry barrier unless registration is open all the time and can be completed in a simple way any time prior to contract award.

Administrative debarment (e.g. failure to perform in earlier contracts, etc.) is acceptable provided that there is due process to reach the decision and that the process, including any possible appeals, has been exhausted.

Other legitimate exclusions (e.g. prohibition of commercial relations by law or adherence to UN Security Council sanctions) or for judicial finding of corruption (after the due process has been exhausted) are acceptable. There also 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.

Scoring Criteria	Score
<p>The legal framework meets the following conditions:</p> <p>(a) Establishes that participation of any contractor or supplier or group of suppliers or contractors is based on qualification or in accordance with international agreements; requires the use of pass/fail basis for determining qualifications to extent possible; limits domestic price preferential, if allowed, to a reasonable amount (e.g.15% or less); and requires justification for set asides that limit competition.</p> <p>(b) Ensures that registration if required does not constitute a barrier to participation in tenders and does not require mandatory association with other firms.</p> <p>(c) Provides for exclusions for criminal or corrupt activities, administrative debarment under the law subject to due process or prohibition of commercial relations.</p> <p>(d) Establishes rules for the participation of government owned enterprises that promote fair competition.</p>	3
<p>The law and regulations meet the conditions of (a) and (b) plus one of the remaining conditions.</p>	2
<p>The law and regulations meet the conditions of (a) plus one of the remaining conditions.</p>	1
<p>The law and regulations do not meet the conditions of a) through d) above.</p>	0

Sub-indicator 1(e) – Tender documentation and technical specifications

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

Tendering documents should contain sufficient information to enable the submission of responsive tenders/proposals and to establish the basis for a transparent evaluation and award process. Specifications included in the tender documents must be neutral and refer to international standards where possible or other officially recognized standards that are essentially equivalent to the ones specified.

It is important that the content requirements for tender and solicitation 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.

Scoring Criteria	Score
The legal framework meets the following conditions: (a) Establishes the minimum content of the tender documents and requires that content is relevant and sufficient for tenderers to be able to respond to the requirement. (b) Requires the use of neutral specifications citing international standards when possible. (c) Requires recognition of standards which are equivalent when neutral specifications are not available.	3
The legal framework substantially meets the conditions of (a) plus one of the remaining conditions.	2
The legal framework meets the conditions of (a).	1
The content of the bidding documents is totally or largely left at the discretion of the procuring entity.	0

Sub-indicator 1(f) – Tender evaluation and award criteria

This sub indicator assesses: a) the quality and sufficiency of the legal framework provisions in respect to the objectivity and transparency of the evaluation process; and, b) 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 tenders. Objectivity means that there is little room for subjective interpretation of the criteria by the evaluator. For this reason it is desirable that evaluation criteria be quantifiable as far as possible, or stated in pass/fail terms. Exceptions include consulting services or other requirements where scoring of the technical aspects of a proposal is needed.

The decision criteria for award should be based on awarding to the lowest price evaluated tender. Vague criteria (e.g. award to the tender most convenient to the interest of the state) are not acceptable. The regulatory framework should prohibit the use of evaluation criteria different from those set out in the tendering documents.

Confidentiality and regulated communications with the bidders during the evaluation period are necessary to avoid abuse and undue interference in the process. The evaluation period comprises 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.

Scoring criteria	Score
The legal framework mandates that: (a) The evaluation criteria are relevant to the decision, and precisely specified in advance in the tender documents so that the award decision is made solely on the basis of the criteria stated in the tender documents. (b) Criteria not evaluated in monetary terms are evaluated on a pass/fail basis to the extent possible. (c) The evaluation of proposals for consulting services gives adequate importance to the quality and regulates how price and quality are considered. (d) During the evaluation period, information relating to the examination, clarification and evaluation of tenders is not disclosed to the participants or to others not involved officially in the evaluation process;	3
The legal framework covers the conditions of (a) and (b) plus one of the remaining conditions.	2
The legal frame work covers (a) but does not fully cover the other conditions.	1
The legal framework does not adequately address any of the conditions (a) through (d) above	0

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

This sub indicator assesses how the legal framework regulates the process of reception of tenders and tender opening. Public opening of tenders is a means of increasing transparency to an open tendering exercise. Bidders or their representatives must be permitted to attend, as well as others legitimately interested (e.g. representatives of civil society bodies duly recognized as having a stake on the tendering process). 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 prequalification submissions 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 that for open tendering, the names and addresses of the bidders and the tender prices (and any withdrawals or modifications to tenders duly submitted), and those of any alternative offers requested or permitted are read aloud and recorded. Records should be retained and available for review and audit purposes.

For appropriate security, tenders should be submitted in sealed envelopes and maintained in a safe place with access controlled. In the case of electronic tendering, online submissions must be received into an electronic bid box and maintained to high standards of security for long term record-keeping and audit. At no time shall bids/proposals be in unencrypted format. Copies decrypted for bid evaluation purposes shall not affect the integrity of the original record.

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 requirements should all be specified.

Scoring Criteria	Score
The legal framework provides for the following conditions: (a) Public 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 disclosure of specific sensitive information during debriefing is prohibited. (d) The modality of submitting tenders and receipt by the government is well defined to avoid unnecessary rejection of tenders.	3
The legal framework provides for (a) and (b) plus one of the remaining conditions.	2
The legal framework provides for (a) plus one of the remaining conditions.	1
There is no requirement in the legal framework for public opening of tenders.	0

Sub-indicator 1(h) – Complaints

The purpose of this indicator is to assess whether the legal framework establishes; a) the right to review, b) the matters that are subject to review; c) the timeframe for such reviews; and, d) the different steps 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 review procurement decisions 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. That is, has no direct interest in the procurement process and does not report to the procurement agency and ideally is a separate agency.

Scoring Criteria	Score
The legal framework provides for the following: (a) The right to review for participants in a procurement process (b) Provisions to respond to a request for review at the procuring/agency level with administrative review by another body independent from the procuring agency that has the authority to grant remedies and includes the right for judicial review. (c) Establishes the matters that are subject to review (d) Establishes timeframes for issuance of decisions by the procuring agency and the administrative review body.	3
The legal framework provides for (a) and (b) plus one of the remaining conditions.	2
The legal framework provides for (a) plus one of the remaining conditions.	1
The right for review of the proper application of the procurement process is not provided in the legal framework.	0

Indicator 2. Existence of Implementing Regulations and Documentation.

This indicator verifies the existence, availability and quality of implementing regulations, operational procedures, handbooks, model tender 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 six sub-indicators (a-f).

Sub-indicator 2(a) – Implementing regulation that provide defined processes and procedures not included in higher-level legislation

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.

Scoring Criteria	Score
There are regulations that supplement and detail the provisions of the procurement law that meet the following requirements: (a) They are clear, comprehensive and consolidated as a set of regulations available in a single and accessible place (b) They are updated regularly; (c) The responsibility for maintenance is defined.	3
The regulations meet the conditions of (a) plus one of the remaining conditions.	2
The regulations exist but there is no regular updating, the responsibility for updating is not clearly defined or there are many important omissions in the regulations or inconsistencies with the law.	1
There are no regulations or the existing ones do not meet substantially any of the requirements listed above.	0

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

Model documents of good quality promote competition and increases confidence in the system. Potential contractors or 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 in order to enable the participants to value the cost and risk of mandatory clauses when performing a contract for the government. 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 tender documents.

Scoring Criteria	Score
(a) There are model invitation and tender documents provided for use for a wide range of goods, works and services procured by government agencies; (b) There is a standard and mandatory set of clauses or templates that are reflective of the legal framework, for use in documents prepared for competitive tendering. (c) The documents are kept up to date with responsibility for preparation and updating clearly assigned.	3
Model documents and a minimum set of clauses or templates are available, but the use of such documents is not mandatory or regulated. The documents are not updated regularly.	2
Model documents are not available, but a set of mandatory clauses is established for inclusion in tender documents.	1
There are no model documents and the procuring entities develop their own documents for with little or no guidance.	0

Sub-indicator 2(c) – Procedures for pre-qualification

This sub-indicator covers the existence of procedures for pre-qualification of participants in a particular procurement. Pre-qualification is normally limited to requirements of a high level of complexity where it is possible to determine, primarily using pass/fail criteria, if the interested companies possess the capacity to perform the requirement. Assessment of qualifications can be combined with the tender 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 only qualified participants are included and it can save money by limiting the number of participants incurring the expense of putting together a comprehensive bid.

Pre-qualification should be defined by procedures in order to ensure that it is not abused and used as a method for limiting competition by overstating the qualification requirements.

Scoring Criteria	Score
Procedures exist that define pre-qualification which: (a) Provide for limitations on the content of pre-qualification criteria that are based on the needs of the specific procurement (b) Specify the use of pass/fail for application of qualification criteria. (c) Provide guidance on when to apply a pre-qualification procedure.	3
Procedures exist that cover (a) plus one of the remaining conditions.	2
Procedures exist that cover (a).	1
Procedures for the application of pre-qualification procedures do not exist.	0

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

If technical capacity and/quality is a key criteria for selection of consulting services or other requirements, the law should specify clearly how this aspect is to be considered. While technical qualifications can be assessed by a pass/fail review, in most cases a scored evaluation of technical qualification against stated criteria is considered necessary in order to select the highest qualified proposal, price and other factors considered. In the case of consultants and other professional services, selection based on technical qualifications alone should also be authorized.

If a combination of price and technical capacity is permitted by law, it should establish the obligation to include in the solicitation documents the manner in which they are combined and the relative weights to be allocated to technical capacity and price.

Scoring Criteria	Score
The legal framework and its implementing regulations provide for the following: (a) Conditions under which selection based exclusively on technical capacity is appropriate and when price and quality considerations are appropriate. (b) Clear procedures and methodologies for assessment of technical capacity and for combining price and technical capacity under different circumstances.	3
Implementing regulations meet (a) above but leave (b) to the discretion of the procuring entity.	2
Implementing regulations leave the possibility of use of technical capacity in selection but neither the law nor the regulations elaborate on the procedure.	1
Neither the law nor implementing regulations cover this procedure	0

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

This sub-indicator covers the existence of a user’s guide or manual for contracting 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 central management unit 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.

Scoring Criteria	Score
(a) There is a unique procurement manual detailing all procedures for the correct administration of procurement regulations and laws. (b) The manual is updated regularly; (c) The responsibility for maintenance of the manual is clearly established.	3
There is no unique manual but there is an obligation for the procuring agencies to have one that meets conditions (b) and (c).	2
There is no manual and no obligation to have one but many procurement agencies have an internal manual for administration of procurement.	1
There is no manual or requirement to have one.	0

Sub-indicator 2(f) – General Conditions of Contracts (GCC) for public sector contracts covering goods, works and services consistent with national requirements and, when applicable, international requirements

This sub-indicator deals with General Conditions of Contracts that set forth the basic provisions which will be included in a contract with the government. The GCC are based on the laws in the country and generally reflect the commercial codes that deal with contracts between parties. It is important to participants in a procurement that they know the specific conditions under which they will perform a contract before they submit a price for performing the contract since conditions of contract will often have an impact on pricing. The GCC 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 establish GCC that are consistent, applicable to the requirement, and are reflective of laws that impact on contracts and their performance. GCC need to be mandatory in their use and not subject to negotiations on terms and conditions of contract.

Scoring Criteria	Score
Both of the following apply: a) There are GCC for the most common types of contracts and their use is mandatory. b) The content of the GCC is generally consistent with internationally accepted practice.	3
There are GCC for the most common types of contracts, consistent with international practice, but their use is not mandatory.	2
There are GCC for the most common types of contracts but they do not conform to internationally accepted practice and their use is not mandatory.	1
There are no GCC and individual agencies use the form of contract of their choice.	0

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.

Indicator 3. The public procurement system is mainstreamed and well integrated into the public sector governance system.

This indicator looks at the procurement system to: a) determine its suitability to discharge the obligations prescribed in the law without gaps or overlaps; b) whether the necessary links with other sectors of government affecting procurement exist; c) whether procurement operations are constrained by other external institutional factors; and d) whether the managerial and technical capacity of the system are adequate to do procurement without unnecessary cost or delay.

This indicator deals with the degree of integration of the procurement system with other parts of government and particularly with the financial management system given the direct interaction between the two, from budget preparation and planning to treasury operations for payments. There are four sub-indicators (a-d) to be scored under indicator 3.

Sub-indicator 3(a) – Procurement planning and associated expenditures are part of the budget formulation process and contribute to multiyear planning

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 the exercise. These determine the multi year corporate plans, 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.

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. Experience based on the 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.

Scoring Criteria	Score
<p>There is a regular planning exercise instituted by law or regulation that:</p> <ul style="list-style-type: none"> • starts with the preparation of multiyear plans for the government agencies, from which annual operating plans are derived. • followed by annual procurement plans and estimation of the associated expenditures • And culminates in the annual budget formulation. <p>Procurement plans are prepared in support of the budget planning and formulation process.</p>	3
<p>The majority of procurement plans are prepared based on the annual and multiyear operating plans independently from budget allocation but they are revised to meet the forward budget estimates for the sector or agency allocations before expenses are committed.</p>	2
<p>Procurement plans are normally prepared based on the annual and multiyear operating plans. Links with budget planning are weak and plans are not required to match the budgetary allocation available before expenses are committed.</p>	1
<p>There is no integrated procurement and budget planning of the nature described. Procurement plans are drawn without obvious and direct connection with the budget planning exercise and there is no requirement to match procurement plans with availability of funds before expenses are committed.</p>	0

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

This sub-indicator assesses the degree to which budget law and financial management procedures are adequate to meet procurement needs. The processes in place should not constrain the timely processing of procurement or the implementation of contracts. The procurement, budget and financial management systems should interact in a way that once procurement decisions are made they trigger the corresponding actions on the budget and financial side.

- (a) Budget funds are committed or appropriated within a week from the award of the contract to cover the full amount of the contract (or amount to cover the portion of the contract to be performed within the budget period).
- (b) There are published business standards for processing of invoices by the government agencies that meet obligations for timely payment stated in the contract.
- (c) Payments are authorized within four weeks following approval of invoices or monthly certifications for progress payments.

Scoring Criteria	Score
Budget and financial procedures in place meet the requirements of (a) to (c) above	3
Budget and financial procedures in place meet the requirements of (a) but there are no published business standards. Authorization of payments is generally timely.	2
Procedures in place take longer than stated in (a) and conditions (b) and (c) are not generally met.	1
The procedures in place do not meet the requirements in a material way.	0

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

This indicator assesses whether there are safeguards in the system precluding initiation of procurement actions unless funds have been allocated to the procurement in question. For this the following requirements should be in place:

- (a) The law requires certification of availability of funds before solicitation of tenders takes place.
- (b) There is a system in place (e.g. paper or electronic interface between the financial management and the procurement systems) that ensures enforcement of the law.

Scoring Criteria	Score
The system meets requirements (a) and (b) above.	3
The system meets requirement (a) but requirement (b) is not fully enforced due to weaknesses in the system.	2
The system meets requirement (a) only.	1
There system does not meet requirements (a) and (b).	0

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

This sub-indicator is a measurement of the feedback mechanism needed to ensure 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 public financial management system.

Scoring Criteria	Score
The procurement system is sufficiently integrated with the financial management and budgetary systems to provide information on the completion of all major contracts.	3
Information on completion of the majority of large contracts is submitted as described above.	2
Information on the completion of contracts is erratic or is normally submitted with considerable delay after the fiscal budgetary period.	1
The procurement system does not generally provide this information.	0

Indicator 4. The country has a functional normative/regulatory body.

Although this indicator refers to a normative/regulatory body, what matters most is not the existence of a body but the existence of the functions within the public sector and the proper discharge and coordination of them (i.e. one agency may be responsible for policy while another can be doing the staff training and another might be taking care of the statistics). When the assessment criteria below refers to the “regulatory body” this may be read to refer to the “regulatory function” if applicable to the particular assessment. The assessment of the indicator will focus on the existence of the functions, the independence of the regulatory function, the effectiveness of performance and the degree of coordination between responsible organizations. There are four sub-indicators (a-d) to be scored.

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

The body and its responsibilities are created by the legal and regulatory framework to ensure that the body assigned functional responsibilities has an appropriate level of authority to enable it to function effectively. Alternatively the legal and regulatory framework may assign the key functions described in sub indicator b) to different agencies in a clearly defined basis.

Scoring Criteria	Score
There is a normative or regulatory body or the functions are clearly assigned to various units within the government which is specified in the legal and regulatory framework in unambiguous way without gaps or overlaps.	3
There is a regulatory body or functional designation to various units within government, but it is not established as part of the legal and regulatory framework and there are gaps or overlaps of regulatory responsibilities.	2
Only part of the functional responsibilities of a regulatory body are assigned throughout the government leaving significant parts of the work unassigned.	1
Separate functional responsibilities to regulate the procurement system are not recognized as part of the legal and regulatory framework and are not effectively performed.	0

Sub-indicator 4(b) – The body has a defined set of responsibilities that include but are not limited to the following:

- providing advice to contracting entities;
- drafting amendments to the legislative and regulatory framework and implementing regulations;
- monitoring public procurement;
- providing procurement information;
- managing statistical databases;
- reporting on procurement to other parts of government;
- developing and supporting implementation of initiatives for improvements of the public procurement system; and
- providing implementation tools and documents to support training and capacity development of implementing staff.

Scoring Criteria	Score
All the eight functions listed in the sub indicator are clearly assigned to one or several agencies with out creating gaps or overlaps in responsibility.	3
At least five functions are assigned to an appropriate agency or agencies and there is no overlap or conflict in responsibilities.	2
Four or less functions are assigned to appropriate entities and there are overlaps and conflicts in responsibilities.	1
Functions are not clearly assigned and/or assignments are often in conflict with other agency responsibilities.	0

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

The regulatory body 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 regulatory body needs to be of sufficient level within the governance structure to enable the body to exercise its authority and responsibilities.

Scoring Criteria	Score
The regulatory body (or the assignment of responsibilities for the regulatory function if there is not a body) is at an adequate level in Government and financing is secured by the legal/regulatory framework.	3
The body is at an adequate level but financing is subject to administrative decisions and can be changed easily.	2
The level of the body is too low or financing is inadequate for proper discharge of its responsibilities.	1
The level of the body is low, financing is inadequate and the body has no or little independence to perform its obligations.	0

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

The body is not responsible for direct procurement operations and is free from other possible conflicts (e.g. by being member of evaluation committees, etc.). Due to the nature of this sub-indicator, scoring is either a 3 or a 0.

Scoring Criteria	Score
The body meets the requirement stated above.	3
NA	
NA	
The body does not meet the requirement as stated above.	0

Indicator 5. Existence of institutional development capacity.

The objective of this indicator is to assess the extent to which the country or agency has systems to support and monitor the performance of the entire system, and to formulate and implement improvement plans. This requires among other things the availability of information systems, a capacity for analysis, feedback mechanisms and planning capacity for implementation of improvements. It is very important that responsibilities are clearly assigned and are being performed. This indicator has four sub-indicators (a-d) to be scored.

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

The objective of this indicator is to determine a) the existence and capacity of the procurement information system in the country; b) the accessibility of the information system; c) the coverage of the information system; and, d) whether the system provides one stop service (to the extent feasible) where those interested can find information on procurement opportunities and outcomes. The system should include annual or multi annual procurement plans, specific advertisements or notices of procurement opportunities, publication of contract awards, linkages to rules and regulations and other information that is relevant to promote competition and transparency. For purposes of practical application, the collection and dissemination of information should focus on procurement above a set value that reflects established thresholds for use of competitive procedures. Depending on the country, information systems may only focus on procurement financed by the national budget.

Scoring Criteria	Score
There is an integrated information system that provides as a minimum, up-to-date information as described above and is easily accessible to all interested parties at no or minimum cost. Responsibility for its management and operation is clearly defined.	3
There is an integrated system of the characteristics described that provides up-to-date information for the majority of contracts at the central government level but access is limited.	2
There is a system but it only provides information on some of the contracts and the system accessibility is limited	1
There is no procurement information system except for some individual agency systems. Entities keep information on contract awards and some statistics.	0

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

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 and market analysis. For purposes of this sub-indicator, the focus is on data available on procurement undertaken using central budget funds.

- (a) There is a system in operation to collect data.
- (b) The system collects data on procurement by method, duration of different stages of the procurement cycle, awards of contracts, unit prices for most common types of goods and services and other information that allows analysis of trends, levels of participation, efficiency and economy of the purchases and compliance with requirements.
- (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.

Scoring Criteria	Score
The country has a system that meets the four requirements (a) through (d) listed above.	3
The country has a system that meets (a) plus two of the remaining conditions.	2
The system is in place to meet (a) plus one of the remaining conditions.	1
There is no statistical data collection system in place.	0

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

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 public and private sectors. Another objective is to assess the existence and quality of advisory services on procurement matters for government agencies and the 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 provide for evaluation of the training program and monitoring of progress in 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.

Scoring Criteria	Score
There is a training and capacity building strategy that provides for: (a) Substantive permanent training programs of suitable quality and content for the needs of the system. (b) Evaluation and periodic adjustment based on feedback and need. (c) Advisory service or help desk to absolve questions by procuring entities, suppliers, contractors and the public.	3
There is a training and capacity building strategy that provides for a) above.	2
The existing program is of poor quality and insufficient to meet the needs of the system and there is no procurement help desk or advisory service.	1
No formal training or help desk programs exist.	0

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

The purpose of this sub-indicator is to verify existence, relevance and comprehensiveness of the quality assurance and standards for processing procurement actions and to ensure their systematic application to provide for monitoring of performance. Examples of such standards might include response times to reply to inquiries, or length of time to prepare tender documents after receipt of a requirement.

Although these types of standards will vary widely between countries and levels of government, they should as a minimum:

- (a) Provide quality assurance standards and a monitoring system for procurement processes and products

- (b) Provide for a staff performance evaluation process based on outcomes and professional behaviors.
- (c) Ensure that operational audits are carried out regularly to monitor compliance with quality assurance standards.

Scoring Criteria	Score
The procurement system complies with (a) through (c) above.	3
The procurement system complies with (a) and (b) above but there is no regular auditing to monitor compliance.	2
The procurement system has quality standards but does not monitor nor use the standards for staff performance evaluation.	1
The system does not have quality assurance or staff performance evaluation systems	0

Pillar III. Procurement Operations and Market Practices

This Pillar looks at the operational effectiveness and efficiency of the procurement system at the level of the implementing entity responsible for issuing individual procurement actions. 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 is distinguished from Pillars I and II in that it is not looking at the legal/regulatory or institutional systems in a country but more at how they operate.

Indicator 6. The country’s procurement operations and practices are efficient.

This indicator looks at the efficiency of the operations and operational practices as implemented by the procuring agencies. Efficiency is considered to mean that the operational practices result in timely award of contracts at competitive market prices as determined by effective and fair implementation of procurement procedures. There are four sub-indicators (a-d) to be rated under this indicator.

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

The purpose of this indicator is to assess the degree of professionalism and knowledge of those responsible for implementation of procurement activities.

- (a) There are defined skill and knowledge profiles for specialized procurement jobs.
- (b) There is systematic matching of skills against requirements for competitive recruitment.
- (c) Staff required to undertake procurement activities on an ad hoc basis have the knowledge they need to undertake the activity or have access to professional staff that can provide this knowledge.

Scoring Criteria	Score
The system meets the requirements (a) through (d) listed above.	3
The system meets (a) plus one of the remaining conditions.	2
The system only meets (a) above.	1
The system does not meet any of the requirements.	0

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

This sub indicator assesses the sufficiency of the procurement training and information programs in terms of content and supply.

- (a) Training programs’ design is based on a skills gap inventory to match the needs of the system.
- (b) Information and training programs on public procurement for private sector are offered regularly either by the government or by private institutions.
- (c) The waiting time to get into a course (for public or private sector participants) is reasonable, say one or two terms.

Scoring criteria	Score
The training and information programs available meet all the requirements listed in (a)-(c) above.	3
The training programs are sufficient in terms of content and frequency (waiting time) for government participants but there are few information programs for private sector.	2
There are training programs but they are deficient in terms of content and supply.	1
There is no systematic training or information program for public or private sector participants.	0

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

The ability to look at implementation performance is dependant 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 include the following:

- (a) The legal/regulatory framework establishes a list of the procurement records that must be kept at the operational level and what is available for public inspection, including conditions for access.
- (b) The records should include:
 - Public notices of bidding opportunities
 - Bidding documents and addenda
 - Bid opening records
 - Bid evaluation reports
 - Formal appeals by bidders and outcomes
 - Final signed contract documents and addenda and amendments
 - Claims and dispute resolutions
 - Final payments
 - Disbursement data (as required by the country’s financial management system).
- (c) 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.
- (d) There are established security protocols to protect records either physical or electronic.

Scoring Criteria	Score
The procurement system complies with the requirements (a) through(d) listed above	3
The procurement system complies with requirements (a), plus two of the remaining conditions.	2
The procurement system complies with (a) but not with the rest.	1
There is no mandatory list of documents or retention policy leaving it to the discretion of the procuring entity.	0

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

Delegation of authority and responsibility 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. Delegation should be undertaken in accordance with the following:

- (a) Delegation of decision making authority is decentralized to the lowest competent levels consistent with the risks associated and the monetary sums involved.
- (b) Delegation is regulated by law.
- (c) Accountability for decisions is precisely defined.

Scoring criteria	Score
The system meets all requirements listed in a) – c) above.	3
The law establishes delegation and accountabilities but the system concentrates decisions at a high level creating congestions and delays.	2
Delegation is regulated in very general terms creating a need to clarify accountability for decision making.	1
Delegation is not regulated by law and left at the discretion of the procuring entity. There is lack of clarity on accountability.	0

Indicator 7. Functionality of the public procurement market.

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, the private sector development environment and policies, 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 scored.

Sub-indicator 7(a) – There are effective mechanisms for partnerships between the 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 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. The assessor should also consider the ability for reliance upon private capacity through public/private partnership arrangements such as concession contracts or private public joint ventures for the provision of goods or services.

Scoring Criteria	Score
(a) Government encourages open dialogue with the private sector and has several established and formal mechanisms for open dialogue through associations or other means.	3
(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	
(c) The government encourages public/private partnerships and the mechanisms are well established in the legal framework to make possible such arrangements	
The system meets (a) plus one other condition above.	2
The system only provides for (a) above.	1
There are no obvious mechanisms for dialogue or partnership between the public and private sector.	0

Sub-indicator 7(b) – Private sector institutions are well organized and able to facilitate access to the 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 Enterprises (SMEs) and the access they have to information and other services to promote their participation. A well organized and competitive private sector should result in keen competition, better prices and an equitable distribution of business.

Scoring Criteria	Score
The private sector is competitive, well organized and able to participate in the competition for public procurement contracts.	3
There is a reasonably well functioning private sector but competition for large contracts is concentrated in a relatively small number of firms.	2
The private sector is relatively weak and/or competition is limited owing to monopolistic or oligopolistic features in important segments of the market	1
The private sector is not well organized and lacks capacity and access to information for participation in the public procurement market.	0

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

Participation in competition for public contracts depends on many conditions, including some that are controlled or within the control of the government. Access to credit, reasonable contracting provisions that are seen to fairly distribute risks associated with performance of contracts, fair payment provisions that help offset the cost of doing business with the government are examples which can improve access by the private sector to the government marketplace. 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.

Scoring Criteria	Score
There are no major constraints inhibiting private sector access to the public procurement market.	3
There are some constraints inhibiting private sector access to the public procurement market, but competition is sufficient.	2
There are multiple constraints inhibiting private sector access to the public procurement market which often affect competition levels.	1
There are major constraints that discourage competition and the private sector firms are generally reluctant to participate in public procurement.	0

Indicator 8. Existence of contract administration and dispute resolution provisions.

This indicator’s objective is to assess the quality of contract administration practices which begin after contract award and continue to acceptance and final payments. This is an area that many procurement systems fail to consider. It is also a period where many issues arise that can affect the performance of the contract and impact on service delivery. This indicator covers three sub- indicators (a-c) to be scored.

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

All of the following procedures are important aspects of contract administration. These procedures will help ensure quality performance of the contract requirements and will facilitate prompt payment of invoices including final acceptance and final payments.

- (a) Procedures for acceptance of final products and for issuance of contract amendments are part of the legal/regulatory framework or are incorporated as standard clauses in contracts.
- (b) Clauses are generally consistent with internationally accepted practices (see IFI standard contracts for good practice examples).
- (c) Quality control (QC) procedures for goods are well defined in the model contracts/documents or in the regulations. QC is carried out by competent officers, inspection firms or specialized testing facilities.
- (d) Supervision of civil works is carried out by independent engineering firms or qualified government supervisors and inspectors.
- (e) Final payments are processed promptly as stipulated in the contract.

Scoring Criteria	Score
Contract administration procedures provide for (a) to (e) above.	3
Contract administration procedures provide for (a) plus three of the remaining requirements.	2
Contract administration procedures provide for (a) plus two of the remaining requirements.	1
Contract administration procedures do not meet the requirements of (a) to (e) above.	0

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

Disputes during the performance of a contract are a common occurrence. In order to avoid long delays while resolving disputes, a good resolution process should be defined in the contract that provides for fair and timely resolution. The following describes current good practice with regard to dispute resolution.

- (a) There is an Arbitration law in the country.
- (b) The law is consistent with generally accepted practices for neutrality of arbitrators, due process, expediency and enforceability.
- (c) The country accepts as a matter of course international arbitration for international competitive bidding.
- (d) Provisions for Alternative Dispute Resolution (ADR) are standard in contracts.
- (e) ADR provisions conform to the international standard wording (may refer to IFI standard bidding documents for sample of good international practice).

Scoring Criteria	Score
The system meets all the good practice standards (a) to (e) above	3
The system meets (a) plus three of the remaining good practice standards.	2
The system meets (a) plus two of the remaining good practice standards.	1
The system does not use ADR as a normal dispute resolution mechanism in public contracts.	0

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

In order to be effective, the contract not only must provide for fair and efficient dispute resolution procedures, it must also provide for enforcement of the outcome of the dispute resolution process. The following are some basic conditions.

- (a) The country is a member of the New York Convention on enforcement of international arbitration awards.
- (b) The country has procedures to enable the winner in a dispute to seek enforcement of the outcome by going to the courts.
- (c) The country has a process to monitor this area of contract administration and to address performance issues.

Scoring Criteria	Score
The procurement system in the country meets the requirements of a-c above	3
The country meets two of the three conditions above.	2
The country meets condition a).	1
The country does not meet any of the requirements.	0

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

Pillar IV covers four indicators that are considered necessary to provide for a system that operates 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 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 9. 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 preferably based on risk assessment and mitigation. Equally, the effectiveness of controls needs to be reviewed in terms of expediency and thoroughness of the implementation of auditors' recommendations. The assessor should rely, in addition to their own findings, on the most current Country Financial Accountability Assessment (CFAA) or other analysis including PEFA/PFM assessment that may be available. This indicator has five sub indicators (a-e) to be rated.

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

National legislation normally establishes which agencies are responsible for oversight of the procurement function. Control and oversight normally start with the legislative bodies that must review and act on the findings of the national auditing agency and legal watch dog agencies (e.g. the comptroller general reports, attorney general reports, etc.).

There should also be provisions for the establishment of internal controls such as internal audit organizations that periodically produce recommendations to the authorities of the individual agencies based on their findings. Internal audit should be complemented by internal control and management procedures that provide for checks and balances within an agency for processing of procurement actions. Internal audit and internal control procedures can 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.

Even though no single model exists, 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 of universal application.

Scoring Criteria	Score
The system in the country provides for: (a) Adequate independent control and audit mechanisms and institutions to oversee the procurement function. (b) Implementation of internal control mechanisms in individual agencies with clearly defined procedures. (c) Proper balance between timely and efficient decision making and adequate risk mitigation. (d) Specific periodic risk assessment and controls tailored to risk management.	3
The system in the country meets a) plus two of the above.	2
The system meets a) but controls are unduly burdensome and time-consuming hindering efficient decision making.	1
Controls are imprecise or lax and inadequate to the point that there is weak enforcement of the laws and regulations and ample risk for fraud and corruption.	0

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

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 six months, a year, over a year or never implemented.

Scoring Criteria	Score
Internal or external audits are carried at least annually and recommendations are responded to or implemented within six months of the submission of the auditors' report.	3
Audits are carried out annually but response to or implementation of the auditors' recommendations takes up to a year.	2
Audits are performed annually but recommendations are rarely responded to or implemented.	1
Audits are performed erratically and recommendations are not normally implemented.	0

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

The following key provisions should be provided:

- (a) There are written standards for the internal control unit to convey issues to management depending on the urgency of the matter.
- (b) There is established regular periodic reporting to management throughout the year.
- (c) The established periodicity and written standards are complied with.

Scoring Criteria	Score
All requirements (a) through (c) listed above are met.	3
Requirement (a) plus one of the above are met.	2
Only requirement (a) is met.	1
There is no functioning internal control system	0

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

There are written internal control routines and procedures. Ideally there would be an internal audit and control manual. Finally, there is sufficient information retained to enable auditors to verify that the written internal control procedures are adhered to.

Scoring criteria	Score
There are internal control procedures including a manual that state the requirements for this activity which is widely available to all staff.	3
There are internal control procedures but there are omissions or practices that need some improvement.	2
There are procedures but adherence to them is uneven.	1
The internal control system is poorly defined or non-existent.	0

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

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 requires that they demonstrate sufficient knowledge of the subject. 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.

Scoring Criteria	Score
There is an established program to train internal and external auditors to ensure that they are well versed in procurement principles, operations, laws, and regulations and the selection of auditors requires that they have adequate knowledge of the subject as a condition for carrying out procurement audits.	3
If auditors lack procurement knowledge, they are routinely supported by procurement specialists or consultants.	2
There is a requirement that the auditors have general knowledge of procurement principles, operations, laws, and regulations but they are not supported generally by specialists in procurement.	1
There is no requirement for the auditors to have knowledge of procurement and there is no formal training program and no technical support is provided to the auditors.	0

Indicator 10. Efficiency of appeals mechanism.

The appeals mechanism was covered under Pillar I with regard to its creation and coverage by the legal regulatory framework. It is further assessed under this indicator 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 five sub indicators (a-e) to be scored.

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

This sub indicator looks at the process that is defined for dealing with complaints 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 to a specified body that has the authority to issue a final decision that is binding unless referred to an appeals body.
- (b) An appeals body exists which has the authority to review decisions of the specified complaints body and issue final enforceable decisions.
- (c) There are times specified for the submission and review of complaints and issuing of decisions that do not unduly delay the procurement process.

Scoring Criteria	Score
The country has a system that meets the requirements of (a) through (c) above	3
The country has a system that meets (a) and (b) above, but the process is not controlled with regard to (c).	2
The system only provides for (a) above with any appeals having to go through the judicial system requiring a lengthy process.	1
The system does not meet the conditions of (a) –(c) above, leaving only the courts.	0

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

This indicator deals specifically with the question of the efficiency and capacity of a complaints review system and its ability to enforce the remedy imposed. It is closely related to sub indicator 10(a) which also refers to enforcement. This indicator will focus primarily on the capacity and efficiency issues.

Scoring Criteria	Score
The complaint review system has precise and reasonable conditions and timeframes for decision by the complaint review system and clear enforcement authority and mechanisms.	3
There are terms and timeframes established for resolution of complaints but mechanisms and authority for enforcement are unclear or cumbersome.	2
Terms and timeframes for resolution of complaints or enforcement mechanisms and responsibilities are vague.	1
There are no stipulated terms and timeframes for resolution of complaints and responsibility for enforcement is not clear.	0

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

The system needs to be seen as operating in a fair manner. The complaint review system must require that decisions be rendered only on relevant and verifiable information presented and that such decisions 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 a complaints body should deal specifically with process issues and the remedies should focus on corrective actions needed to comply with process.

Scoring Criteria	Score
Procedures governing the decision making process of the review body provide that decisions are: 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 d) result in remedies that are relevant to correcting the implementation of the process or procedures	3
Procedures comply with (a) plus two of the remaining conditions above.	2
Procedures comply with (a) above.	1
The system does not comply with any of the above	0

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

Decisions are public by law and posted in easily accessible places (preferably posted at a dedicated government procurement website in the Internet). Publication of decisions enables interested parties to be better informed as to the consistency and fairness of the process.

Scoring Criteria	Score
All decisions are publicly posted in a government web site or another easily accessible place	3
All decisions are posted in a somewhat restricted access media (e.g. the official gazette of limited circulation).	2
Publication is not mandatory and publication is left to the discretion of the review bodies making access difficult.	1
Decisions are not published and access is restricted.	0

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

This indicator assesses the degree of autonomy that the complaint decision body has from the rest of the system to ensure that its decisions are free from interference or conflict of interest. Due to the nature of this sub indicator it is scored as either a 3 or a 0.

Scoring Criteria	Score
The complaint review body is independent and autonomous with regard to resolving complaints.	3
NA	
NA	
The complaint review body is not independent and autonomous with regard to resolving complaints.	0

Indicator 11. Degree of access to information.

This indicator deals with the quality, relevance, ease of access and comprehensiveness of information on the public procurement system.

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

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.

The system should also include provisions to protect the disclosure of proprietary, commercial, personal or financial information of a confidential or sensitive nature.

Information should be consolidated into a single place and when the technology is available in the country, a dedicated website should be created for this purpose. Commitment, backed by requirements in the legal/regulatory framework should ensure that agencies duly post the information required on a timely basis.

Scoring Criteria	Score
Information on procurement is easily accessible in media of wide circulation and availability. The information provided is centralized at a common place. Information is relevant and complete. Information is helpful to interested parties to understand the procurement processes and requirements and to monitor outcomes, results and performance.	3
Information is posted in media not readily and widely accessible or not user friendly for the public at large OR is difficult to understand to the average user OR essential information is lacking.	2
Information is difficult to get and very limited in content and availability.	1
There is no public information system as such and it is generally up the procuring entity to publish information.	0

Indicator 12. The country has ethics and anticorruption measures in place.

This indicator assesses the nature and scope of the anticorruption provisions in the procurement system. There are seven sub indicators (a-g) contributing to this indicator.

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

This sub indicator assesses the extent to which the law and the regulations compel procuring agencies to include fraud and corruption, conflict of interest and unethical behavior references in the tendering documentation. 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 and enforceability of such provision through the legal/regulatory framework. The provisions should include the definitions of what is considered fraud and corruption and the consequences of committing such acts.

Scoring Criteria	Score
The procurement law or the regulations specify this mandatory requirement and give precise instructions on how to incorporate the matter in tendering documents. Tender documents include adequate provisions on fraud and corruption.	3
The procurement law or the regulations specify this mandatory requirement but leaves no precise instruction on how to incorporate the matter in tendering documents leaving this up to the procuring agencies. Tender documents generally cover this but without consistency.	2
The legal/regulatory framework does not establish a clear requirement to include language in documents but makes fraud and corruption punishable acts under the law. Few tendering documents include appropriate language dealing with fraud and corruption.	1
The legal framework does not directly address fraud, corruption or unethical behavior and its consequences. Tender documents generally do not cover the matter.	0

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

This indicator assesses the existence of legal provisions that define fraudulent and corrupt practices and set out the responsibilities and sanctions for individuals or firms indulging in such practices. These provisions should 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 in procurement matters in ways that benefit them, their relatives, and business or political associates financially or otherwise. 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.

Scoring Criteria	Score
The legal/regulatory framework explicitly deals with the matter. It defines fraud and corruption in procurement and spells out the individual responsibilities and consequences for government employees and private firms or individuals found guilty of fraud or corruption in procurement, without prejudice of other provisions in the criminal law.	3
The legal/regulatory framework includes reference to other laws that specifically deal with the matter (e.g. anti corruption legislation in general). The same treatment is given to the consequences.	2
The legal/regulatory framework has general anti corruption and fraud provisions but does not detail the individual responsibilities and consequences which are left to the general relevant legislation of the country.	1
The legal/regulatory framework does not deal with the matter.	0

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

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. This is not an easy indicator to score, but assessor should be

able to obtain at least some evidence of prosecution and punishment for corrupt practices. The assessor should get 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.

Scoring criteria	Score
There is ample evidence that the laws on corrupt practices are being enforced in the country by application of stated penalties.	3
There is evidence available on a few cases where laws on corrupt practices have been enforced.	2
Laws exist, but evidence of enforcement is weak.	1
There is no evidence of enforcement.	0

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

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

A comprehensive anticorruption program normally includes all the stakeholders in the procurement system, assigns clear responsibilities to all of them, and assigns a high- level body or organization with sufficient standing and authority to be responsible for coordinating and monitoring the program. The procurement authorities are responsible for running and monitoring a transparent and efficient system and for providing public information to promote accountability and transparency. The control organizations (supreme audit authority) and the legislative 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 behavior in respect to corrupt practices and tolerance. Anticorruption strategies usually include as well the use of modern technology to promote e-procurement and e-government services to minimize the risk of facilitation payments.

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

Scoring Criteria	Score
The government has in place a comprehensive anticorruption program 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. Special measures are in place for detection and prevention of corruption associated with procurement,	3
The government has in place an anticorruption program but it requires better coordination or authority at a higher level to be effective. No special measures exist for public procurement.	2
The government has isolated anticorruption activities not properly coordinated to be an effective integrated program.	1
The government does not have an anticorruption program	0

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

This indicator assesses the strength of the public in maintaining a sound procurement environment. This may manifest in the existence of respected and credible civil society groups that provide oversight and can exercise social control. 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 behavior is expected and deviations are not tolerated.

Scoring Criteria	Score
(a) There are strong and credible civil society organizations that exercise social audit and control. (b) Organizations have government guarantees to function and cooperation for their operation and are generally promoted and respected by the public. (c) There is evidence that civil society contributes to shape and improve integrity of public procurement.	3
There are several civil society organizations working on the matter and the dialogue with the government is frequent but it has limited impact on improving the system.	2
There are only a few organizations involved in the matter, the dialogue with the government is difficult and the contributions from the public to promote improvements are taken in an insignificant way.	1
There is no evidence of public involvement in the system OR the government does not want to engage the public organizations in the matter.	0

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

The country provides a system for reporting fraudulent, corrupt or unethical behavior that provides for confidentiality. The system must be seen to react to reports as verified by subsequent actions taken to address the issues reported.

Scoring Criteria	Score
There is a secure, accessible and confidential system for the public reporting of cases of fraud, unethical behavior and corruption.	3
There is a mechanism in place but accessibility and reliability of the system undermine and limit its use by the public.	2
There is a mechanism in place but security or confidentiality cannot be guaranteed	1
There is no secure mechanism for reporting fraud, unethical behavior and corruption cases	0

Sub-criteria 12(g) – Existence of Codes of Conduct/Codes of Ethics for participants that are involved in aspects of the public financial management systems that also provide for disclosure for those in decision making positions.

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 have proven to be very useful in helping to prevent unethical or corrupt practices.

Scoring Criteria	Score
(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	3
The system meets requirements (a) and (b) but is only a recommended good practice code with no consequences for violations unless covered by criminal codes.	2
There is a code of conduct but determination of accountabilities is unclear.	1
There is no code of conduct.	0

SECTION III – COMPLIANCE AND PERFORMANCE INDICATORS

The following table lists a set of suggested Compliance/Performance Indicators (CPIs) associated with the Baseline indicators in Part I. They are intended to provide information based on review of data, surveys or interviews. The CPIs help identify those areas where compliance or performance is weak, and when a more in-depth review of deficiencies and their likely causes may be warranted. The table also shows the suggested source of information for determining the level of compliance, including a column titled “Relevant Considerations” designed to provide additional guidance for the assessor on the critical aspect to be examined. It should also be noted that not every BLI sub indicator has been addressed by a comparable source of compliance/performance information. (Additional CPIs may be identified at the country level to help track performance and compliance.) Assessors should record their analysis and findings, based on review of the CPI data, in a short narrative report which discusses the probable causes for data that does not show the degree of expected compliance.

As there are no agreed standards for performance for each country, (this would likely take more time and research) the short term objective is to find out the degree to which the system is following its own regulations or what the perception of compliance is in those cases where the indicator cannot be measured quantitatively. Although no scoring of compliance is proposed at this time, analysis of the data can help determine the degree of compliance within a given procurement system. If the application of the compliance/performance indicators in a range of countries provides a basis for setting standards, this information will be incorporated into the tool. As noted in the Users Guide, the use of the CPIs will need to be determined on a country basis taking into consideration the specific capacities and issues that exist in the country and the decisions of those participating in the assessment. However, the use of the CPIs is considered to be a critical aspect of monitoring the effectiveness of reforms that may be introduced to address weaknesses in the overall system. CPIs provide information that is useful to the management of the system and can also pin point specific areas of risk or weakness in the implementation process. The key issue related to the success of measuring compliance and performance is the provision of reliable, transparent and timely data and information. Governments and donors should routinely validate financial, project and contractual data. Currently, partner governments face the additional challenge of receiving and providing data to donors with differing requirements.

Compliance or Performance Indicator	Related Baseline Indicator/Sub indicator	Suggested Source of Information	Considerations for Assessment
	1) The public procurement legislative and regulatory framework.		
Percentage of procurement subject to the legislative framework being assessed (in volume and in number of contracts) carried out through open tendering.	1b) - Procurement methods.	Aggregate statistics on procurement.	The degree to which open tendering is used as the default method of procurement is represented by the volume of procurement carried out under this method. Open tendering might not be an efficient method for smaller contracts. One would expect that a large volume of procurement in value is grouped in a relatively low percentage of contracts. A high number of contracts procured under open tender can result in high administrative costs or it might indicate that the contracts are kept intentionally small even though grouping of requirements into larger contracts could result in wider competition (including international) and improve economies of scale. A low percentage of open tenders can

Compliance or Performance Indicator	Related Baseline Indicator/Sub indicator	Suggested Source of Information	Considerations for Assessment
			indicate fractioning of procurement to avoid open tendering. The assessor should look into the prevailing contract packaging practices.
(a) Percentage of invitations for open tenders publicly advertised. (b) Average number of days between tender advertisement and tender opening	1c) - Advertising rules and time limits.	Sample of procurement cases.	The percentage of open tender that are actually advertised should be high. If the percentage of tenders not publicly advertised is above 5%, there is reason for concern. The average time provided between advertisement and submission of tenders should be reasonable to allow for adequate preparation of tenders for the prevalent type of procurement under this method. Averages of four weeks or longer are desirable.
Percentage of open tender documents that include provisions limiting participating for reasons other than qualifications or acceptable exclusions.	1d) - Rules on participation and qualitative selection	Sample of procurement cases. Surveys with trade and professional associations.	In practice it is difficult to know how many potential tenderers were discouraged by the existence of barriers to entry. An indirect way of measuring the extent to which this occurs is through the review of a representative sample of tendering documents to see the percentage that contain exclusions of the kind described.
Percentage of tenders rejected in each process.	1e) - Tender documentation and technical specifications.	Sample of procurement cases	A low percentage of responsive bids may be an indication of restrictive specifications, insufficient information in the tendering documents, an overly legalistic application of the tender requirements or inability by the market to respond to the requirements. In case of high levels of rejection (e.g. over 40%), the assessor should find out the key reasons. Special attention should be paid to patterns for rejections (e.g. restrictive specifications, lack of information in the bidding documents, compliance with formalities required by the documents)
(a) Percentage of tenders including non quantifiable or subjective evaluation. (b) Public perception of confidentiality of tender evaluation process.	1f) - Tender evaluation and award criteria	Sample of procurement cases Survey of or interviews with participants in the procurement processes	High use of subjective or non-quantifiable criteria can be an indication of abuse in the evaluation of tenders. Confidentiality cannot be measured quantitatively but a survey or interviews with tenderers and other civil society actors can give a good indication on this matter.
Percentage of tenders opened publicly and recorded.	1g) – Submission, receipt and opening of tenders	Sample of procurement cases	A lack of records for public opening or failure to open tenders that should have been publicly opened might be an indication of inappropriate controls.
Percentage of cases resolved within the terms established in the legal framework.	1h) – Complaints system structure and sequence	Statistics on complaint resolution.	Sampling of cases will give some indication of timeliness of complaints resolution.

	2) Implementing Regulations and Documentation		
Percentage of tenders that use model tender documents or clauses.	2b) – Model tender documents for goods, works, and services.	Sample of procurement cases	When model or standard documents or a set of mandatory clauses exist, reviewing a sample of tenders will show the extent to which they are used in actuality. The results should be analyzed further to determine reasons for poor usage.
a) Percentage of cases where prequalification was used appropriately as prescribed in the legal framework. b) Percentage of cases that used objective pass/fail prequalification criteria as opposed to subjective qualitative ones.	2c) – Procedures for pre-qualification.	Sample of procurement cases subject to prequalification.	The performance assessment for this indicator should verify: a) whether prequalification is generally used according to the established criteria and b) whether the criteria used are of the objective type and relevant to the procurement under consideration.
Percentage of tenders that use the GCC, standard clauses or templates as applicable.	2f) – Existence and coverage of General Conditions of Contracts (GCC) for public sector contracts.	Sample of procurement cases	A high level of usage should be expected. Further analysis should be done to determine basis for low percentage of use.
	3) Integration and maintriming of the public procurement system into the public sector governance system.		
Percentage of payments made late (e.g. exceeding the contractually specified payment schedule).	3b) – Budget law and financial procedures support timely procurement, contract execution, and payment.	Sample of procurement cases	Reason for high percentage of late payment needs to be determined.
(a) Percentage of major contracts without completion reports. (b) Average time after contract completion for completion reports to be prepared.	3f) – Systematic completion reports are prepared for certification of budget execution and for reconciliation of delivery with budget programming.	Sample of procurement cases. National budget office information.	Determine reasons for long average time (over six months).
	4) Normative and regulatory functions.		
Percentage of those surveyed that perceive procurement as being performed competently and independently.	4c) – Adequacy of organization, funding, staffing, and level of independence and authority (formal power) to exercise the duties under (b).	Survey or interviews with participants in the procurement processes	The regulatory function needs to be adequately staffed and financed and have sufficient formal power to do the job. As it may be difficult to assess the adequacy of the resources allocated to this function and its level of independence and authority, a proxy for assessing this area is through surveys or interviews as to how the level of service and independence is perceived by the stakeholders. A low level of perceived service might be indicative of a shortage of resources (quantity and quality) or independence or both

Percentage of those surveyed that perceive the regulatory function to be free of conflict.	4d) – Separation and clarity of responsibilities to avoid conflict of interest in the execution of procurement transactions.	Survey or interviews with participants in the procurement processes	
	5. Institutional development capacity.		
Age of information	5b) – Systems and procedures for collecting and monitoring national procurement statistics.	Review of posted information to determine whether it is current and accurate.	This is a proxy to assess the importance that the country attaches to the system and the currency of information and of the quality of its operation.
(a) Number of staff involved in procurement in the central government that receives formal training in the year. (b) Average waiting time to get in a formal training event.	5c) Training capacity for procurement.	Review of annual training statistics	The assessor should focus on formal training to meet the requirements of the job for those involved in the procurement process.
Average number of days for procurement cycle from tender advertisement to contract award	6. Efficiency of procurement operations and practices.	Sample of procurement cases	This provides information on the overall agility of the decision making process and the efficiency of the system.
Percentage of contracts found with incomplete records being retained.	6c) – Norms for the safekeeping of records and documents related to transactions and contract management.	Sample of procurement cases	
	7. Functionality of the public procurement market.		
Opinion on effectiveness of mechanisms to engage with relevant organizations or agencies.	7a) – Effective mechanisms for partnerships between the public and private sector	Survey or interviews with participants in the procurement processes	Opinions of the private sector and civil society can help determine if the mechanisms are working well.
Average number of tenders submitted in each process	7b) – Private sector institutions are well organized and able to access the market.	Sample of procurement cases	Low participation rates by the private sector may be an indication of access or other issues that discourage companies from engaging in the public procurement market.

	8. Existence of contract administration and dispute resolution provisions.		
Percentage of contracts containing such provisions. Evidence in contracts surveyed that contract administration is timely	8a) – Procedures are clearly defined for undertaking contract administration responsibilities	Sample of procurement cases	Contracts reviewed should provide information on the responsible party for administration of the contract. Contract files should show evidence that contract administration matters are handled in a timely manner.
Percentage of contracts that include ADR provisions.	8b) – Contracts include adequate dispute resolution procedures.	Sample of procurement cases	Indicates the extent of use of ADR
	9. Effectiveness of control and audit systems		
Number of recommendations pending after one year.	9b) – Enforcement and follow-up on findings and recommendations	Review of Audit Reports and status of recommended actions.	Review of outstanding audit recommendations and timeliness of implementation will provide information as to the degree of importance the government places on enforcement of audit findings.
Number of qualified opinions from external auditors due to critical internal control weaknesses and recommendations referring to internal controls that remain outstanding.	9c) – The internal control system provides timely information on compliance to enable management action	Review of Audit Reports and status of recommended actions.	
Percentage of agencies reviewed with written internal control procedures.	9d) – The internal control systems are sufficiently defined to allow performance audits to be conducted.	Review of audit reports to determine use of performance auditing.	
	10. Efficiency of appeals mechanism.		
(a) Percentage of complaints processed within the time limits in the legal framework. (b) Percentage of decisions taken that are enforced.	10b) Capacity of the system for handling and enforcing complaints decisions.	Statistics of the complaints review system.	
Percentage of favorable opinions	10c) – Fairness of the complaints system.	Survey or interviews with participants in the procurement processes	Fairness is an indicator best measured through the perception and opinions of those that use the system under review.

	12. Anticorruption Measures		
Percentage of cases that result in sanctions or penalties.	12c) Evidence of enforcement of rulings and penalties	Statistics on prosecution of corruption cases.	Allegations of corruption must be taken seriously and investigated. However, care must be taken to avoid confusing an allegation with being a true indication of corruption since it is often a political tool that can be abused. Most corruption agencies seek to leverage their work by focusing on serious cases and on the enforcement of the rulings or penalties.
Percentage of favorable opinions by the public on the effectiveness of the anticorruption measures.	12d) Effectiveness of the anticorruption measures on public procurement.	Survey or interviews with citizens and other stakeholders.	

ANNEX 1

BENCHMARKING COMPLIANCE AND PERFORMANCE SHEET

This table provides a template that may be used to summarize the findings of the assessment and give an overview of the situation and of the strengths and weaknesses of the system under assessment. The “Status and Trend” column after the Baseline Indicators is provides the opportunity to record the reasons for the score proposed and any actions under way by the government related the particular item. The “Status and Trend” column after the Compliance and Performance Indicators (CIs) provides the opportunity to comment on the severity of risks in the particular area if the indicator is a matter of concern, as well as any actions under way to address the situation and the trend of the problem. The Columns for Actions Proposed and Priority would form the basis for the development of a capacity development plan linked to a prioritized risk mitigation strategy to be implemented by the government supported by the donors or investors as appropriate.

ANNEX 2

INTERNATIONAL GOOD PRACTICE INFORMATION

GOOD PRACTICE PROVISIONS FOR NATIONAL COMPETITIVE BIDDING

Provision
<i>Eligibility</i>
Any firm, national or foreign can participate in the tendering process except if the firms are excluded by legal provisions: <ul style="list-style-type: none"> • On corruption charges prosecuted and found guilty in court, including any appeals process. • Prohibition of commercial relations with the country of the participant. • Adherence to the UN Security Council Sanctions
<i>Registration.</i>
<ul style="list-style-type: none"> • Registration requirement acceptable if all those who wish to register (nationals or foreign) can do so at any time before contract award. The registration system should not constitute a barrier to participation and should not discriminate. Registration should not substitute publicity in wide circulation media. Registration must remain open and accessible during the bidding process.
<i>Publicity</i>
<ul style="list-style-type: none"> • Must advertise in a national circulation news paper or in a unique government web site freely accessible.
<i>Prequalification</i>
<ul style="list-style-type: none"> • All those pre qualified should be invited (except in the case of short lists of consultants where pre selection is acceptable or in restricted procurement.) • Criteria should be of the pass/fail type precisely defined
<i>Associations between firms</i>
<ul style="list-style-type: none"> • Firms who wish to bid on their own should not be obliged to associate with any other firms.
<i>Bidding</i>
<ul style="list-style-type: none"> • In general at least 21 days between advertisement and submission. Short time is a barrier to competition. • Bids submitted by mail must be accepted provided that they meet all the other requirements. • Bids must be open publicly. • With the exception of late bids that should be returned unopened, all the others must be examined before disqualifying them in accordance with the requirements. • Preferences should be stated in quantitative predictable terms. Preferences must have an adequate economic justification and should not be so large as to become discriminatory or an effective deterrent to competition. • Evaluation criteria should be quantifiable in monetary terms and must be known before bid submission.
<ul style="list-style-type: none"> • Award criteria must be to the lowest evaluated responsive bid.
<ul style="list-style-type: none"> • Criteria such as to “the most convenient bid to the interest of the government” should not be acceptable. Quantifiable criteria are preferred except when technical proposals are to be evaluated along with price and in the case of consulting services when the use of scored criteria is acceptable.
<ul style="list-style-type: none"> • Bracketing or lottery systems detract from economy and rarely result in award to lowest evaluated bid. They also introduce opacity and stifle the complaints process.
<ul style="list-style-type: none"> • Information can be disclosed to those legitimately interested after the evaluation is completed. Due protection for proprietary or confidential financial or other sensitive information must be granted.
<ul style="list-style-type: none"> • Negotiations should only be acceptable in exceptional circumstances such as modifications of scope or risk allocation to meet available funds.
<ul style="list-style-type: none"> • Provisions for price adjustment should be available for contracts of more than one year of duration.
<ul style="list-style-type: none"> • Use of two envelopes should only be acceptable when price envelopes are submitted after the technical evaluation has been concluded and notified to participants or when priced envelopes are kept secure in a separate place.

SUGGESTED MINIMUM CONTENT OF THE BIDDING DOCUMENTS

Bidding documents should as a minimum provide the following information to meet the standards of sub indicator 1e):

- (a) Instructions for preparing tenders;
- (b) The criteria and procedures, relative to the evaluation of the qualifications of suppliers or contractors and relative to the further demonstration of qualifications;
- (c) The requirements as to documentary evidence or other information that must be submitted by suppliers or contractors to demonstrate their qualifications;
- (d) The nature and required technical and quality characteristics, of the goods, construction or services to be procured, including, but not limited to, technical specifications, plans, drawings and designs as appropriate; the quantity of the goods; any incidental services to be performed; the location where the construction is to be effected or the services are to be provided; and the desired or required time, if any, when the goods are to be delivered, the construction is to be effected or the services are to be provided;
- (e) The criteria to be used by the procuring entity in determining the successful tender, including any margin of preference and any criteria other than price to be used and the relative weight of such criteria;
- (f) The terms and conditions of the procurement contract, to the extent they are already known to the procuring entity, and the contract form, if any, to be signed by the parties;
- (g) If alternatives to the characteristics of the goods, construction, services, contractual terms and conditions or other requirements set forth in the solicitation documents are permitted, a statement to that effect, and a description of the manner in which alternative tenders are to be evaluated and compared;
- (h) If suppliers or contractors are permitted to submit tenders for only a portion of the goods, construction or services to be procured, a description of the portion or portions for which tenders may be submitted;
- (i) The manner in which the tender price is to be formulated and expressed, including a statement as to whether the price is to cover elements other than the cost of the goods, construction or services themselves, such as any applicable transportation and insurance charges, customs duties and taxes;
- (j) The currency or currencies in which the tender price is to be formulated and expressed;
- (k) The language or languages in which tenders are to be prepared;
- (l) Any requirements of the procuring entity with respect to the issuer and the nature, form, amount and other principal terms and conditions of any tender security to be provided by suppliers or contractors submitting tenders, and any such requirements for

security for the performance of the procurement contract to be provided by the supplier or contractor that enters into the procurement contract, including securities such as labor and materials bonds;

(m) If a supplier or contractor may not modify or withdraw its tender prior to the deadline for the submission of tenders without forfeiting its tender security, a statement to that effect;

(n) The manner, place and deadline for the submission of tenders,

(o) The means by which, suppliers or contractors may seek clarifications of the solicitation documents, and a statement as to whether the procuring entity intends, at this stage, to convene a meeting of suppliers or contractors;

(p) The period of time during which tenders shall be in effect;

(q) The place, date and time for the opening of tenders;

(r) The procedures to be followed for opening and examining tenders;

(s) The currency that will be used for the purpose of evaluating and comparing tenders and either the exchange rate that will be used for the conversion of tenders into that currency or a statement that the rate published by a specified financial institution prevailing on a specified date will be used;

(t) References to the procurement law, the procurement regulations and other laws and regulations directly pertinent to the procurement proceedings, provided, however, that the omission of any such reference shall not constitute grounds for review or give rise to liability on the part of the procuring entity;

(u) The name, functional title and address of one or more officers or employees of the procuring entity who are authorized to communicate directly with and to receive communications directly from suppliers or contractors in connection with the procurement proceedings, without the intervention of an intermediary;

(v) Any commitments to be made by the supplier or contractor outside of the procurement contract, such as commitments relating to counter trade or to the transfer of technology;

(w) Notice of the right provided under the procurement law to seek review of an unlawful act or decision of, or procedure followed by, the procuring entity in relation to the procurement proceedings;

(x) If the procuring entity reserves the right to reject all tenders, a statement to that effect;

(y) Any formalities that will be required once a tender has been accepted for a procurement contract to enter into force, including, where applicable, the execution of a written procurement contract, and approval by a higher authority or the Government and the estimated period of time following the dispatch of the notice of acceptance that will be required to obtain the approval;

(z) Any other requirements established by the procuring entity in conformity with the law and the procurement regulations relating to the preparation and submission of tenders and to other aspects of the procurement proceedings.