

# GUIDE FOR ASSESSMENT OF PROCUREMENT SYSTEMS BASED ON OECD/DAC – WORLD BANK INDICATORS A PROPOSED RATING METHODOLOGY

## Introduction

1. The objective of this guidance note is to provide a more complete methodology, including scoring criteria, for the assessment of procurement systems using a set of indicators initially developed by the OECD/DAC – World Bank Working Group on Strengthening Procurement Capacities in Developing Countries<sup>1</sup>. The methodology is focused on the central government or national system in a country, but modification can make this tool useful for sub national or agency level assessments.
2. The indicators developed by OECD leave room for subjective judgments by the evaluator. 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 evaluators keep reasonable consistency and comparability for analytical purposes. This is one of the main objectives of this note. The evaluator 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 and the trust and confidence that participants and society at large have in the system and how efficiently it meets the needs of the society and efficient public expenditure.

## The Working Group Indicators

3. The assessment is based on a set of **Baseline Indicators (BLI)** proposed by the Working Group. The discussion of the indicators is beyond the scope of this work; therefore they have been left untouched. However, in developing the rating system it became clear that more work was needed to:
  - a) Address overlaps in indicators that occur when moving from the legal framework and institutional framework to the level of implementation.
  - b) There are some gaps (for example content of bid invitation and areas of public procurement excluded from the procurement law that can be problematic).
  - c) Some indicators include several topics (dimensions);
  - d) Several indicators can be read in more than one way leaving room for interpretation;

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<sup>1</sup> DAC Guidelines and Reference Series – Harmonizing Donor Practices for Effective Aid Delivery, Volume 3 “Strengthening Procurement Capacities in Developing Countries,” OECD/DAC Roundtable on Procurement paper presented at the Paris High-Level Forum on Aid Effectiveness, February 2005.

4. Some criteria are not amenable to hard measurement in terms of facts and figures and may benefit from interviews with participants in the systems such professional associations, civil society representatives, and government staff.
5. This note refers often to the procurement law or 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. Some 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 law which is the overarching legal instrument, there are regulations that provide further detailed legal interpretation, and there are procedures for implementation that have more of an administrative nature. The entire set of legal instruments is designated as the legal framework.

### **Scoring System**

6. The scoring system ranges from 3 to 0 for each item, with 3 assigned to full compliance with the stated standard. A score 2 is for cases in which the system exhibits less than full compliance and needs some improvements in the area being assessed and 1 is for those areas where substantive work is needed to bring them into compliance. A rating of 0 is the residual indicating a failure to comply with the proposed standard. The scale of four marks was chosen to keep it in line with the scoring scale used by PEFA<sup>2</sup> and permit the eventual integration of the two systems. The score for each sub indicator is supposed to be a whole number from 0 to 3. No decimals should be used in marking sub indicators.
7. In rating whether the indicator 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 of 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 failed.
8. The evaluator would assign the 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 better fits the aspect under evaluation.
9. Some indicators have sub indicators. Some of these sub indicators are closely interrelated and some others are relatively self standing or independent. In those cases where failure to meet one of the subs means that entire indicator also fails, the rating to be given to the parent is the lowest of the subs under it (scoring method S1). In case where the subs are not interdependent, then the scores of the subs are

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<sup>2</sup> Public Financial Management Performance Measurement Framework, June 2005 – PEFA Secretariat, World Bank, Washington DC. PEFA uses letters from A to D.

averaged and rounded to the nearest whole number<sup>3</sup> (scoring method S2). The appropriate method of scoring for each indicator will be a subject for discussion during the Joint Venture for Procurement meeting.

### **How to use the Guidance and Criteria**

10. Even though an attempt has been made to give some guidance in the text preceding each scoring table; the evaluator has to use his/her judgment in many instances to determine to which degree the indicator under analysis meets the proposed standard. The evaluation of a system requires the exercise of professional judgment and a deep knowledge of government procurement operations and their relation with the rest of the government apparatus as well as of internationally accepted procurement principles. Because of this, the evaluation should be carried out by seasoned and well experienced evaluators. The evaluation also goes beyond the mere bureaucratic and meticulous administration of the instrument just to get the answers. These are only the raw material to produce an informed judgment on the quality of the item being analyzed.

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<sup>3</sup> If average ends in .5 round to the nearest lower whole number.

## Pillar I – Legislative and Regulatory Framework

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

The assessment covers all 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 ensure the full coverage by the laws and regulations of all procurement (goods, works and services, including consulting services) undertaken using public funds and to establish the clarity, precedence and accessibility by the public of the laws and regulations governing the public procurement system. 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. 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.

Accessibility to the laws can be through availability in public places frequently visited or of easy access to the public. If posted on the Internet, accessibility and connectivity conditions need to be verified to assess real availability.

Evaluate 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, subsidized state owned enterprises) and whether these exclusions are made by law or can be made administratively and not subject to public oversight.

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,). (b) The precedence of different legal instruments is established clearly in the law. (c) All laws and regulations are published and easily accessible by the public at no cost. (d) It covers universally all goods, works, and services (including consulting services) for all procurement using national budget funds	3

Scoring Criteria	Score
The legislative and regulatory body of norms complies with conditions (a), (b) and (c) above but the coverage does not extend to all procurement using national budget funds due to exclusions for certain entities and expenditures.	2
The legislative and regulatory body of norms complies with conditions (a) and (b) above but does not fully comply with (c) and (d).	1
Compliance with (a) through (d) above is weak or non-existent.	0

### Sub-indicator 1(b) - Procurement Methods

This sub indicator assesses the level of definition of the permissible procurement methods, the circumstances and amounts under which each method is more appropriate and the degree to which full and open competition is preferred to other methods.

The legal framework should make public competitive tendering the default method of procurement. The law and regulations should define the cases in which international competition should be used, which forms of restricted competition and direct contracting can be used and ensure that approval levels are clearly specified. Fractioning of contracts to avoid open competition should be prohibited.

The precedence 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.

Key provisions to check are:

- Selection of consultants should be based predominantly on the basis of quality as opposed to lowest price
- Provisions specified when international competition is sought create a fair playing field and include:
  - Currency and exchange provisions to offset risk
  - Tax equalization provisions
  - Reasonable limitations on extent of domestic preference allowed
  - Fair and reliable dispute resolution provisions that are internationally acceptable

Scoring criteria	Score
The legal framework meets all the following conditions: (a) Open public tendering is the default method of public procurement. (b) Allowable procurement methods are established unambiguously along with the associated conditions under which each method may be used, including a requirement for approval by an official that is held accountable. (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), (b) and (c) but fails to meet (d) above.	2
The legal framework meets the condition of (a) and (b) above but fails to meet (c) and (d).	1

Scoring criteria	Score
The legal framework fails to fully comply with any of the conditions a) through d) above.	0

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

This sub indicator assesses whether there is wide and easily accessible publicity and adequate time to prepare proposals. The sub indicator also includes requirements as to the publication of contract awards as a matter of public interest and to promote transparency.

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 to set this time or set the minimum time to be allowed specifically.

As a rule of thumb, 14 days should be allowed for off-the –shelf goods, 28 days for other local open tender for goods or works and 56 days or longer for international tenders depending on the complexity. Time for consulting services proposals should be between 28 and 56 days depending on the complexity and size of the assignment.

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 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 and free of cost for all except for requirements of very small value based on established thresholds. (c) 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. (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), (b) and (c) above but does not meet (d).	2
The legal framework meets the conditions of only (a) and (b) above.	1
The legal framework only meets the conditions of (a) above.	0

### Sub-indicator 1(d) - Rules on participation and qualitative selection

This sub indicator assesses the system participation and selection policies to ensure that they are non discriminatory. Firms, including qualified foreign firms, should not be excluded from participating in a tendering process for reasons other than lack of qualification. 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.

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.

There may be cases in which the legal framework establishes the obligation to purchase national goods or to have a certain percentage of locally produced goods or local labor or may mandate association with local firms. Excessive price preferences for certain groups of bidders can deter effective competition and reduce gains in efficiency. In other instances the law sets aside certain contracts for privileged firms like small business or minority-owned business, etc. These must be evaluated critically to find out if the exclusions promote the maintenance of oligopolistic or monopolistic conditions as opposed to promoting local industry development. There also may be international agreements that limit participation to members of the agreements.

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.

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.

Participation of state owned enterprises should be governed by rules that create a level playing field for all competitors.

Scoring Criteria	Score
<p>The legal framework meets the following conditions:</p> <ul style="list-style-type: none"> <li>(a) Establishes that participation of any contractor or supplier or group of suppliers or contractors is based solely on qualification or in accordance with international agreements and requires the use of pass/fail basis for determining qualifications to extent possible. Domestic price preferential, if allowed, is limited to an amount not exceeding 15%.</li> <li>(b) Provides for exclusions for criminal or corrupt activities, administrative debarment under the law or prohibition of commercial relations only specified in the legal framework and subject to due process.</li> <li>(c) Ensures that registration if required does not constitute a barrier to participation in tenders.</li> <li>(d) Establishes rules for the participation of government owned enterprises that promote fair competition and reduce or eliminate advantages over private competitors.</li> </ul>	<b>3</b>
<p>The law and regulations meet the conditions of (a), (b) and (c) above but do not meet (d):</p>	<b>2</b>
<p>The law and regulations meet the conditions of (a) and (c) above but do not fully meet (b) or (d).</p>	<b>1</b>
<p>The law and regulations do not meet the conditions of a) through d) above.</p>	<b>0</b>

### **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 so as to enable suppliers to understand clearly what is requested from them and how the tendering process is carried out.

Tendering documents should contain sufficient information to enable the submission of responsive 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 to ensure that the content requirements for tender and solicitation documents are relevant and required in order to make a fair 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.

<b>Scoring Criteria</b>	<b>Score</b>
The legal framework meets the following conditions: (a) Establishes the minimum content of the tender documents (see Annex 2 for guidance) and requires that content is relevant and sufficient to respond to the requirement. (b) Requires the use of neutral specifications citing international standards when possible and requires recognition of standards which are equivalent when neutral specifications are not available.	<b>3</b>
The legal framework substantially meets the conditions of (a) and (b) above.	<b>2</b>
The contents of the bidding documents are specified in the law or the regulations but they do not meet in a material way the minimum standard.	<b>1</b>
The content of the bidding documents is totally or largely left at the discretion of the procuring entity.	<b>0</b>

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

This sub indicator assesses the quality and sufficiency of the legal framework in respect to the objectivity and transparency of the evaluation process and 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. This means that the price offered is adjusted, for evaluation purposes, to take into account stated criteria following the methodology in the tendering documents. Vague criteria (e.g. award to the tender most convenient to the interest of the state) are not acceptable.

Confidentiality and regulated communications with the bidders during the evaluation period are necessary to avoid undue interference in the process and abuse. 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 protect information provided by bidders that is of proprietary nature, or commercially or financially sensitive.

Scoring criteria	Score
<p>The legal framework mandates that:</p> <ul style="list-style-type: none"> <li>(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 stated criteria</li> <li>(b) 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;</li> <li>(c) Criteria not evaluated in monetary terms are evaluated on a pass/fail basis to the extent possible.</li> <li>(d) The evaluation of proposals for consulting services gives adequate importance to the quality and regulates how price and quality are considered.</li> </ul>	<b>3</b>
The legal framework covers conditions (a), and (b) above but does not fully cover (c) and (d)	<b>2</b>
The legal frame work covers (a) but does not fully other conditions.	<b>1</b>
The legal framework does not adequately address any of the conditions (a) through (d) above	<b>0</b>

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

This sub indicator assesses how the legal framework regulates the process of reception of documents and tender opening. Public opening of tenders is a means of lending 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 in which cases a simple notification to all participants of the list of submissions may suffice.

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 are retained and available to the public and for review and audit.

For appropriate security, tenders are 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 and 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
<p>The legal framework provides for the following conditions:</p> <ul style="list-style-type: none"> <li>(a) Public opening of bids/tenders in a defined and regulated proceeding immediately following the closing date for bid submission.</li> <li>(b) Records of proceedings for bid openings are retained and available for review.</li> <li>(c) Security and confidentiality of bids is maintained prior to bid opening and disclosure of specific sensitive information during debriefing is prohibited.</li> <li>(d) The modality of submitting tenders and receipt by the government is well defined to avoid unnecessary rejection of tenders.</li> </ul>	<b>3</b>
The legal framework provides for (a), (b) and (c) above but does not address (d).	<b>2</b>
The legal framework provides for (a) and (b) above but does not address sufficiently (c) and (d)	<b>1</b>
There is no requirement in the legal framework for public opening of tenders.	<b>0</b>

### **Sub-indicator 1(h) - Complaints**

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 separate from the procuring agency. This is, has no direct interest in the procurement process and does not report to the procurement agency and ideally is a separate agency with no operational or executive responsibilities.

Scoring Criteria	Score
<p>The legal framework provides for the following:</p> <ul style="list-style-type: none"> <li>(a) The right to review by participants in a procurement process</li> <li>(b) Provisions to respond to a request for review at the procuring/agency level with administrative review by another body separate from the procuring agency that has the authority to grant remedies and includes the right for judicial review.</li> <li>(c) Establishes the matters that are subject to review</li> <li>(d) Establishes timeframes for issuance of decisions by the procuring agency and the administrative review body.</li> </ul>	<b>3</b>
The legal framework provides for (a), (b) and (c) above but does not provide for (d)	<b>2</b>
The legal framework provides for (a) and (b) above but does not address (c) and (d)	<b>1</b>
The right for review of the proper application of the procurement process is not provided in the legal framework	<b>0</b>

## **Indicator 2. Existence of Implementing Regulations and Documentation.**

This indicator verifies the existence and availability of implementing procurement regulations, operational procedures, handbooks, model tender documentation, and standard conditions of contract. It will look at the quality implementing regulations and documentation and the extent of application. 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. These are regulations, procedures and tender documents. This indicator consists of six sub-indicators (a-f).

### **Sub-indicator 2a) - Implementing regulation that provides 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 take the legal framework and provide the detail that explains and enables the application of the legal framework in a variety of applications.

<b>Scoring Criteria</b>	<b>Score</b>
There are regulations that supplement and detail the provisions of the procurement law that meet the following requirements: (a) They are 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; (d) They are clear and comprehensive.	<b>3</b>
The regulations meet criteria (a) (b) and (c) but there are a few but important omissions that need to be addressed.	<b>2</b>
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.	<b>1</b>
There are no regulations or the existing ones do not meet substantially any of the requirements listed	<b>0</b>

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

The existence and extent of use of model documents of good quality promotes 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 or 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 that will help in the formulation of the tender documents.

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

### **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. Pre-qualification 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 include: (a) Guidance on when to apply a pre-qualification procedure (b) Provide for limitations on the content of pre-qualification criteria that are based on the needs of the specific requirement (c) Specify to use of pass/fail for application of pre-qualification criteria	<b>3</b>
Procedures exist that cover (a) and (b) above	<b>2</b>
Procedures exist that cover (a) above	<b>1</b>
Procedures for the application of pre-qualification procedures do not exist	<b>0</b>

**Sub-indicator 2d) - 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 often be assessed by a pass/fail review, in some cases an 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
Either the legal framework or its implementing regulation provide for the following: (a) Conditions under which selection based exclusively on technical capacity is appropriate and when price and quality consideration are appropriate. (b) Clear procedures and methodologies for assessment of technical capacity and for combining price and technical capacity under different circumstances.	<b>3</b>
Implementing regulations meet a) above but leave b) to the discretion of the procuring entity.	<b>2</b>
Implementing regulations leave the possibility of use of technical capacity in selection but neither the law nor the regulations elaborate on the procedure.	<b>1</b>
Neither the law nor implementing regulations do not cover this procedure	<b>0</b>

**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 that has little experience with information that incorporates the law, policy and procedures into a document that will help turn policy into practice. Such tools are more important as a system becomes more and more de-centralized. 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.	<b>3</b>
There is no unique manual but there is an obligation for the procuring agencies to have one that meets conditions (b) and (c.)	<b>2</b>

Scoring Criteria	Score
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: <ol style="list-style-type: none"> <li>1. There are GCC for the most common types of contracts and their use is mandatory.</li> <li>2. The GCC in use are consistent with those commonly accepted for use in tendering documents (may refer to GCC in standard IFI contracts or other widely used standard forms of contract.)</li> </ol>	3
There are GCC for the most common types of contracts but their use is not mandatory. The content of the GCC is generally consistent with internationally accepted practice.	2
There are GCC for the most common types of contracts but very few agencies use them.	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: i) determine its suitability to discharge the obligations prescribed in the law without gaps or overlaps; ii) whether the necessary links with other sectors of government affecting procurement exist; iii) whether procurement operations are constrained by other external institutional factors; and iv) 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 six sub-indicators (a-f) to be scored under indicator 3.

#### **Sub-indicator 3(a) - Procurement planning and data on costing 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 to the exercise. These determine the multi year corporate plans, the associated operating plans for each fiscal period and the procurement of goods and services necessary to implement the plans. Proper preparation of budgets needs reliable cost data and timetables for procurement of the goods and services required by the operating plans.

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 on 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 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.

<b>SCORING CRITERIA</b>	<b>SCORE</b>
There is a regular planning exercise instituted by law or regulation that: <ul style="list-style-type: none"><li>• starts with the preparation of multiyear plans for the government agencies, from which annual operating plans are derived</li><li>• followed by annual procurement plans and estimation of the associated costs</li></ul>	<b>3</b>

SCORING CRITERIA	SCORE
<ul style="list-style-type: none"> <li>• And culminates in the annual budget formulation.</li> </ul> Procurement plans are prepared in support of the budget planning and formulation process.	
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.	<b>2</b>
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.	<b>1</b>
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.	<b>0</b>

**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 immediately or 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 should be authorized within four weeks following approval of invoices or monthly certifications for progress payments.

Scoring Criteria	Score
Budget and financial procedures in place comply with requirements a) to c) above	<b>3</b>
Budget and financial procedures in place meet requirements a) and b) but not c) above.	<b>2</b>
Procedures in place require longer than required in a) and conditions b) or c) are not generally met.	<b>1</b>
The procedures in place do not meet the requirements in a material way.	<b>0</b>

**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) - Contract execution is subject to budgetary controls to ensure sufficient funding for contract.**

This sub indicator is scored under 3b) above.

**Sub-indicator 3(e) - Budgeting system provides for timely release of funds to make payments against contractual obligations.**

This sub-indicator is scored under 3b) above.

**Sub-indicator 3(f) - Systematic completion report 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 and to clear any remaining and unused commitments making the funds available for other requirements.

Scoring Criteria	Score
The procurement system is sufficiently integrated with the financial management and budgetary systems to provide timely information on the completion of major contracts.	3
The procurement system provides periodic information on completion of major contracts but the information is not always timely.	2
The procurement system is not set up to provide information on completion of contracts except on an annual basis.	1

Scoring Criteria	Score
The procurement system does not provide this information on a regular or reliable basis.	0

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

Although this indicator speaks to a "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). 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.

<b>SCORING CRITERIA</b>	<b>SCORE</b>
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.	<b>3</b>
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.	<b>2</b>
Only part of the functional responsibilities of a regulatory body are assigned throughout the government leaving significant parts of the work unassigned.	<b>1</b>
Separate functional responsibilities to regulate the procurement system are not recognized as part of the legal and regulatory framework and are not effectively performed.	<b>0</b>

##### **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 implementing 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
Fewer than four 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) 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. (Due to the nature of this sub-indicator, scoring is either a 3 or a 0).**

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.)

<b>Scoring Criteria</b>	<b>Score</b>
The body meets the requirement	<b>3</b>
NA	
NA	
The body does not meet the requirement	<b>0</b>

## **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 the existence and capacity of the procurement information system available in the country. An established procurement information system should exist that is publicly accessible and 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, contract awards, linkages to rules and regulations and other information that is relevant to promote competition and transparency.

<b>Scoring Criteria</b>	<b>Score</b>
There is an integrated information system that provides as minimum up-to-date information as described in the Considerations for Assessment and is accessible to all interested parties at no or minimum cost. Responsibility for its management and operation is clearly defined.	<b>3</b>
There is an integrated system of the characteristics described that provides up-to-date information for the majority (at least 80%) of the procurement contracts.	<b>2</b>
There is a system but it only provides information on at least 60% of the contracts, or there multiple systems or the system information is outdated by more that 28 days.	<b>1</b>
There is no integrated procurement information system. Entities keep some statistics.	<b>0</b>

### **Sub-indicator 5(b) - 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 procurement 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.	<b>3</b>
There is a training and capacity building strategy that provides for a) and b) above.	<b>2</b>
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.	<b>1</b>
No formal training or help desk programs exist.	<b>0</b>

**Sub-indicator 5(c) - 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.

- (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 s high (verified by audits)
- (d) Analysis of information is carried out, published and fed back into the system as a matter of course.

Scoring Criteria	Score
The country has a system that meets the four requirements a-d listed above.	3
The country has a system that meets (a)-(c) above but analysis is weak	2
The system is in place to meet (a) and (b) above but captures less than 50% of the transactions or the volume of procurement. Reliability of captured data is acceptable but analysis is weak.	1
There is no statistical data collection system in place.	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 provide as a minimum:

- (a) Quality assurance standards and a monitoring system for procurement processes and products
- (b) Staff performance evaluation process based on outcomes and professional behaviors.
- (c) Operational audits to be carried out regularly to monitor compliance with quality assurance standards.

Scoring Criteria	Score
The procurement system complies with (a)-(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 implementation 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. Pillar III consists of three indicators.

### **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 six sub-indicators (a-f) 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 recruitment.
- (c) Positions are filled through competitive methods based on qualifications.
- (d) 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.

<b>Scoring Criteria</b>	<b>Score</b>
The procurement system meets all the requirements (a) – (d) listed above.	<b>3</b>
The system complies with requirements (a) – (c) above.	<b>2</b>
The system only complies with (a) above.	<b>1</b>
The system does not comply with any of the requirements.	<b>0</b>

**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 appropriate administrative systems for public procurement operations, and information databases to support performance monitoring and reporting and to respond to the information needs of other related government systems.** (This indicator has been substantially covered by indicator 5 above and will not be scored again.)

**Sub-indicator 6(d) - The entity has internal control mechanisms governing procurement operations at the contracting level, including a code of conduct, separation of responsibilities as a check/balance mechanism, and oversight/control of signature/approval authority.** (This indicator will be scored under indicator 9)

**Sub-indicator 6(e) - 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:
  - (i) Public notices of bidding opportunities
  - (ii) Bidding documents and addenda
  - (iii) Bid opening records
  - (iv) Bid evaluation reports
  - (v) formal appeals by bidders and outcomes
  - (vi) final signed contract documents and addenda and amendments
  - (vii) claims and dispute resolutions
  - (vii) final payments
  - (ix) 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) –(d) listed above	<b>3</b>
The procurement system complies with requirements (a), (b) and (c) but does not comply with (d)	<b>2</b>
The procurement system complies with (a) but not with the rest	<b>1</b>
There is no mandatory list of documents or retention policy leaving it to the discretion of the procuring entity.	<b>0</b>

**Sub-indicator 6(f) - 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.

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

## **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 attractiveness of the public system as a good reliable client, the kind of goods or services being demanded, etc. This indicator also looks at the mechanisms which exist in the country to facilitate the development and to remove constraints to the development of the domestic private sector.

### **Sub-indicator 7a) - 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, dialog 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 concessions.

<b>Scoring Criteria</b>	<b>Score</b>
(a) Government and private sector have several mechanisms for open dialog through associations or other means. (b) The possibility exists for public /private partnership agreements (c) 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	<b>3</b>
The system meets (a) and (b) above	<b>2</b>
The system only provides for (a) above	<b>1</b>
There are no mechanisms for partnership between the public and private sector other than contracts awarded by the government.	<b>0</b>

### **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. This sub indicator it will be scored as a 3 or a 0.

<b>Scoring Criteria</b>	<b>Score</b>
The private sector is well organized and able to facilitate access to the market as demonstrated through active competition for public procurement contracts.	<b>3</b>
NA	

NA	
The private sector is not well organized and does not provide for access to the public procurement market, resulting in poor competition for public procurement contracts	<b>0</b>

**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. This will be scored as a 3 or a 0.

Scoring Criteria	Score
There are no major constraints inhibiting private sector access to the public procurement market.	<b>3</b>
NA	
NA	
There are constraints that inhibit access to the public procurement market.	<b>0</b>

**Sub-indicator 7 (d) - There are no major systemic constraints that inhibit competition (e.g. technical, labor and other standards).**

This sub criteria is a refinement of 7c) and will not be separately scored. Constraints that inhibit competition should be looked at as part of the assessment of 7c).

**Sub-indicator 7 (e) - There are clear and transparent rules for determining whether to engage international or national markets, based on a sound development and business logic.**

Competition should be full and open based on the considerations provided in the legal/regulatory framework of the country. Rules should not preclude the participation of firms outside of the domestic market. Exceptions should be carefully controlled and be linked to legal obligations of the country which maybe set forth in treaty or trade agreements. It is of particular interest that countries have a system in place that sets clear guidelines as to when to seek international competition and that the system has provisions that help encourage the participation of foreign firms when such international competition is sought. Annex 1 provides some guidance on areas that should be reviewed in the national system to determine if the system creates barriers to foreign companies interested in participation in procurement opportunities in the country.

Scoring criteria	Score
(a) The country has clear rules for determining whether to seek international or national markets. (b) The country's rules, when foreign participation is sought, are consistent with good practice and do not create barriers (see Annex 1 for guidance.) (c) The country's rules provide for participation of any interested firm even when international competition is not sought, consistent with the legal obligations of the country.	<b>3</b>
The country legal/regulatory framework provides for a) and b) above	<b>2</b>
The country legal/regulatory framework provides only for a) above.	<b>1</b>
The country does not clearly provide for any of the conditions a)-c) above.	<b>0</b>

## **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 which are to be scored.

### **Sub-indicator 8a) - 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.

<b>Scoring Criteria</b>	<b>Score</b>
The system meets requirements (a) to (e)	<b>3</b>
The systems meets requirements (a), (c) and (e)	<b>2</b>
The system meets requirements (a) and (e)	<b>1</b>
The does not substantially meet any of the requirements.	<b>0</b>

### **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 good international practice).

Scoring Criteria	Score
The system meets all the good practice standards (a) to (e) above	3
The system meets only (a) (b) and (c) above	2
The system meets only (a) and (b) above	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 does not meet requirement a) but meets requirement b) and c) above	2
The country meets condition a) but has a poor record in respect to b)	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 that have 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) that may be available. This indicator has five sub indicators (a-e) to be rated.

#### **Sub-indicator 9a) - 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 starts 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 produce periodically 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 controls exist in the legal and regulatory framework of the country and that they are of universal application.

Scoring Criteria	Score
The legal/regulatory framework of 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. Universal application to government agencies.	3
The legal/regulatory framework of the country meets requirements a) and b) and c) above	2
The legal/regulatory framework provides for requirement 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 9b) - 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. 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) –(c) listed above are complied with.	3
Requirements (b) and (c) are met.	2
Only requirement (b) 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 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.**

There is a need to verify the extent to which auditors are knowledgeable of procurement requirements, principles operations, laws and regulations and processes. Normally they should receive formal training or have extensive experience in public procurement. This may require conducting interviews with the audit organizations to determine the extent of procurement knowledge and capacity within the organizations.

Scoring Criteria	Score
The internal and external auditors are fully versed in procurement principles, operations, laws, and regulations, or there are specialized procurement auditing units or auditors are supported as a matter of course by procurement specialists or consultants.	3
Auditors have fair knowledge of procurement laws, regulations and principles and operations but need occasional support on more specialized matters.	2
Auditors' knowledge of procurement is generally weak.	1
Auditors are versed in processes and financial auditing but have no or little knowledge of procurement.	0

## **Indicator 10. Efficiency of appeals mechanism.**

This indicator which was covered under Pillar I with regard to its creating and coverage by the legal regulatory framework is further assessed under this indicator for a range of specific issues that contribute to its efficiency in contributing to the compliance environment in the country and the integrity of the public procurement system. It consists of six sub indicators (a-f) to be scored.

**Sub-indicator 10a) - An independent complaint review system gives participants in the public procurement process a right to file a complaint within the framework of an administrative and judicial review procedure.** (The substance of this sub indicator is scored under sub indicator 1h) and will not be scored here.)

**Sub-indicator 10b) - 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 who 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.

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

**Sub-indicator 10(c) - 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(b) which talks to enforcement. This indicator will focus primarily on the capacity and efficiency issues.

Scoring Criteria	Score
The law and the regulations establish precise and reasonable conditions and timeframes for decision by the complaint review system. More than 80% of the cases in the last three years have been decided within the established terms.	3
There are terms and timeframes set in the law or regulations but less than 80% the cases in the last three years have been decided within the established terms.	2
There are terms and timeframes in the law but most of the cases are not decided within the specified terms.	1
There are no stipulated terms and timeframes for resolution leading to a large backlog of cases pending.	0

**Sub-indicator 10(d) - 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. In order to determine this, it is necessary to review a sampling of decisions (or the full range of decisions) rendered to see if the balance of decisions is realistic. Actual decisions will need to be reviewed to see if they are generally supported on the basis of the information presented. Finally, the assessment can look at the number of decisions that are appealed to a higher body and are subsequently overturned on the basis of appeal.

It is also important to determine the remedy imposed in the decision to determine if it is appropriate. 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
A review of decisions shows that : <ol style="list-style-type: none"> <li>1. they are based on information relevant to the case</li> <li>2. they are balanced and unbiased in consideration of the relevant information</li> <li>3. they are generally upheld when subject to higher level review</li> <li>4. they result in remedies that are relevant to correcting the implementation of the process or procedures</li> </ol>	3
Review of decisions shows compliance with 1-3 above.	2
Review of decisions shows compliance with only 1 and 2 above	1
The system does not comply with any of the above	0

**Sub-indicator 10(e) - 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).

Scoring Criteria	Score
All decisions are publicly posted in the government's procurement Internet 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 administrative review body or authority is independent from the regulatory body, executing agency, and audit/control agency**

The complaint review body does not report to any of the agencies listed and has no direct interest in the specific procurement. Due to the nature of this sub indicator it is scored as either a 3 or a 0.

Scoring Criteria	Score
The requirement stated above is met.	3
NA	
NA	
The requirement is not met.	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. There are three sub indicators (a-c) to be scored. The content of this indicator has been substantially covered under other indicators. However, due to the overall importance of this area it was decided to include a dedicated indicator in addition to other coverage. Care has been taken to avoid duplication in rating.

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

Public access to 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.

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.

<b>Scoring Criteria</b>	<b>Score</b>
In 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.	<b>3</b>
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.	<b>2</b>
Information is difficult to get and very limited in content and availability.	<b>1</b>
There is no public information system as such and it is generally up the procuring entity to publish information.	<b>0</b>

### **Sub-indicator 11(b) - Systems are in place to collect key data related to performance of the procurement system and to report regularly.**

This indicator has already been substantially cover under indicators 1, 4 and 5 and will not be scored here.

### **Sub-indicator 11(c) - Records are maintained to validate data.**

Requirements for keeping of records and for maintaining data on the procurement system are covered under other indicators and will not be scored here.

**Sub-indicator 11(d) - There is clear legal basis providing access to information for the public.**

This is covered under indicator 1 and 2 dealing with the legal and regulatory framework.

**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 aims at assessing the extent to which the law and the regulations compel procuring agencies to include these 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.

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.	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 this fraud, corruption or unethical behavior and its consequences.	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.**

Verify existence of provisions in the law. There may be cases where there is a separate anticorruption law 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.

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 or other special measures which can help prevent and/or detect fraud and corruption specifically associated with public procurement. Such measures can include an anti-corruption program that gives responsibility to an organization within government to address corruption. Special measures for the public procurement system might include the ability to conduct specific procurement audits.

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(d) - 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 there is 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(e) - 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 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(f) - Existence of Codes of Conduct/Codes of Ethics for participant 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 financial management. 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.	3
(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	
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

**ANNEX 1**  
**GOOD PRACTICE PROVISIONS FOR NATIONAL COMPETITIVE BIDDING**

<b>Provision</b>
<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"> <li>• On corruption charges prosecuted and found guilty in court, including any appeals process.</li> <li>• Prohibition of commercial relations with the country of the participant.</li> <li>• Adherence to the UN Security Council Sanctions</li> </ul>
<i>Registration.</i>
<ul style="list-style-type: none"> <li>• 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.</li> </ul>
<i>Publicity</i>
<ul style="list-style-type: none"> <li>• Must advertise in a national circulation news paper or in a unique government web site freely accessible.</li> </ul>
<i>Prequalification</i>
<ul style="list-style-type: none"> <li>• 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.)</li> <li>• Criteria should be of the pass/fail type precisely defined</li> </ul>
<i>Associations between firms</i>
<ul style="list-style-type: none"> <li>• Firms who wish to bid on their own should not be obliged to associate with any other firms.</li> </ul>
<i>Bidding</i>
<ul style="list-style-type: none"> <li>• In general at least 21 days between advertisement and submission. Short time is a barrier to competition.</li> <li>• Bids submitted by mail must be accepted provided that they meet all the other requirements.</li> <li>• Bids must be open publicly.</li> <li>• 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.</li> <li>• 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.</li> </ul>

Evaluation criteria should be quantifiable in monetary terms and must be known before bid submission.

Award criteria must be to the lowest evaluated responsive bid.

- 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.
- 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.
- 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.
- Negotiations should only be acceptable in exceptional circumstances such as modifications of scope or risk allocation to meet available funds.
- Provisions for price adjustment should be available for contracts of more than one year of duration.
- 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.

**ANNEX 2**  
**SUGGESTED MINIMUM CONTENT OF THE BIDDING DOCUMENTS**

Bidding documents should as a minimum provide the following information to meet the standards of sub indicator e1):

- (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.