Rwanda

Assessment of the
Public Procurement System

Volume II - Detailed Report - Indicator Matrix

Methodology for Assessing Procurement Systems (MAPS)

May 2020
Pillar I. Legal, Regulatory, and Policy Framework

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

1(a) Scope of application and coverage of the legal and regulatory framework

The legal and regulatory body of norms complies with the following conditions:
<table>
<thead>
<tr>
<th>Assessment criteria</th>
<th>Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)</th>
<th>Step 2: Quantitative analysis</th>
<th>Step 3: Gap analysis / conclusions (describing any substantial gaps)</th>
<th>Potential red-flag?</th>
<th>Initial input for recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Is adequately recorded and organised hierarchically (laws, decrees, regulations, procedures), and precedence is clearly established.</td>
<td>Summary: The legal framework is clearly structured, distinguishing laws, regulations and procedures and with precedence firmly established. The higher-level instrument, the Public Procurement Law, is the primary legislation. Lower level, more detailed instruments such as Ministerial Orders, including Public Procurement Regulation, and Circulars issued by the Rwanda Public Procurement Authority, are used to regulate more detailed procedures for implementation.</td>
<td>Not applicable</td>
<td>Criterion is met.</td>
<td></td>
<td></td>
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</tbody>
</table>

**Hierarchy**

Article 95 of the Constitution of the Republic of Rwanda of 2003 revised in 2015 confirm a clear hierarchy of laws, being: the Constitution, organic law, international treaties and agreements ratified by the Republic of Rwanda, ordinary law and orders. Article 95 states that a law cannot contradict another law that is higher in the hierarchy.

The law governing public procurement is Law No.62/2018 of 25/08/2018 Governing Public Procurement ("PPL"). The PPL repealed the previous PPL 2007 (as amended). The PPL came into force on the date of publication in Official Gazette of the Republic of Rwanda (Official Gazette): 7 September 2018. Transitional provisions required procuring entities to comply with the PPL within 6 months of its publication in the Official Gazette.

The PPL is an ordinary law and a high level, more stable instrument. PPL A.2 provides that in the event of conflict with the PPL, the provisions of international treaties and agreements take precedence.

PPL A.5 confirms that organization of public procurement is based on the PPL, regulations governing procurement, codes of conduct and model tender documents determined by an Order of the Minister. PPL A.5 confirms that the Rwanda Public Procurement Agency (RPRA) issues standard procurement documents and guidelines, which are published on the RPPA website, aimed at the achievement of the objectives or any duty under the PPL.

**Level of detail and flexibility**

The PPL is a comprehensive law setting out the legal framework applying to public procurement. The PPL refers at various points to public procurement regulations and/or ministerial orders, which regulate more detailed procedures and issues; for example, the financial thresholds below which the PPL do not apply (PPL A.32), fees to be paid by prospective bidders for tender documents (PPL A.34), bid security (PPL A.37), content of evaluation report (PPL A.42), details concerning the right to review and review process (PPL A.50-54).

**Public Procurement Regulations:** Public procurement regulations have been issued pursuant to the previous PPL 2007 (as amended) - Public Ministerial Order No.001/14/10/TC of 19/02/2014 Establishing Regulations on Public Procurement, Standard Bidding Documents and Standard Contracts ("PP Regulations"). However, no public procurement regulations have been issued to align with the new PPL. The preparation of a Ministerial Order establishing new regulations on public procurement is identified in the RPPA Medium Term Strategic Plan 2018/19-2020/2021, as an action for completion by June 2019.

Note: For purposes of this assessment, Assessment team has assumed that the PP Regulations are still in force, as there is no indication in the public domain that they have been repealed. The PP Regulations reference the 2007 PPL and are therefore not aligned with the new PPL although many provisions remain the same. Reference to the PP Regulations in this assessment need to be read in that context.

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3 RPFA Medium Term Strategic Plan 2018/19-2020/2021, Programme 1, Sub-programme 1.1, Output 1.2 (page 36), RPFA October 2018.

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.*
Other Ministerial Orders/instructions: Other Ministerial Orders/instructions are issued relating to public procurement. These include, for example, the establishment of a professional code of ethics governing public agents involved in public procurement. 8
Circulars, guidelines and model tender documents: The RPPA publishes Circulars on its website addressing more detailed practical issues on a range of topics. Recent examples include confirmation of suitability of building materials under the “Made in Rwanda” policy and instructions on submission by procuring entities to the RPPA on contracts awarded offline. 9
There is a Public Procurement User Guide available to download from the RPPA website. 10 The User Guide was published in 2010, providing guidance on the 2007 PPL and so is not aligned with the new PPL or developments in e-procurement in particular (see indicator 2(d) for further information, comment and gap analysis). The definition is narrowly focused. The User Guide provides for suppliers to request tenders from the RPPA. 11
Model tender documents (Standard Bidding Documents “SBD”) which include standard conditions of contract, also available, with new versions published in 2019. 12

(b) It covers goods, works and services, including consulting services for all procurement using public funds.

Summary: The legal framework applies to all procurement undertaking using public funds (goods, works and services, including consulting services) with “classified items relating to national defense and security” excluded from the coverage of the PPL. Procuring entities are widely defined to cover public bodies, including sub-national governments. Commercial public institutions are required to comply with the PPL where they use the State budget. State owned companies do not fall within the definition of procuring entities, although they are required to comply with the PPL where they use the State Budget.

PPL A.2 provides that the PPL applies to all procurement by procuring entities of works, goods or supplies and services, including consultancy services. A.3 PPL defines “tender for works”, “goods or supplies”, “consultancy services” and “non-consultancy services”. The definitions are broadly drafted. PPL A.9 defines procuring entities as “central government organs, local administration organs, public institutions, national commissions, government projects or any other organs so empowered by the Chief Budget Manager”. In addition, “commercial public institutions” where they use the State budget fall within the definition of procuring entities. There is not an extensive list of exclusion, in terms of subject matter, from the application of the PPL. PPL A.2 excludes from coverage of the PPL “public procurement of classified items relating to national defense and security”. It is not clear how and by whom items are designated as “classified items relating to national defense and security” and whether exclusions are made with or without public oversight. The exclusion does not exclude all procurement by the Ministry of Defence. The Ministry of Defence has a procurement unit set up pursuant to requirements under the PPL 2007 13 and it publishes tender opportunities on its website. 14

The PPL does not use the term “utilities” and it does not contain specific provisions concerning the status of utilities companies with special or exclusive rights. It is therefore not immediately apparent from the primary legislation what the nature and extent of coverage of the PPL is in respect of utilities. However, as noted above, “commercial public institutions” where they use the State budget fall within the definition of procuring entities.

Example in practice: In August 2014 the staff and most assets of the Energy, Water and Sanitation Authority (EWSA) were transferred to government owned companies: (1) WASAC (Water and Sanitation Corporation) and (2) REG (Rwanda Energy Group) with two subsidiaries, The Energy Utility Corporation Ltd (EUC) and Energy Development Corporation Limited (EDCL). Both WASAC and EDCL are listed as procuring entities on the e-procurement system for Rwanda (UMUCYO) 15 and contract

Not applicable

Criterion is partially met

PPL Article 2 on the Scope of Law does not exclude commercial public institution, which is in contradiction with PPL Article 5 where such institutions whose budget is not approved by the parliament is governed not by PPL but by special regulations of each institution approved by an Order of the Minister in charge of public investment PPL A.5 Special regulations of commercial public institutions spending public funds: It is not clear from the PPL whether the special regulations of each institution are required to be harmonized and as consistent as possible. Whilst it is important to recognize that particular business needs may result in some divergence between commercial public institutions in terms of procurement regulations, it is advisable to have baseline harmonization and consistency between organizations. If each institution has its own individual rules, not sufficiently harmonized or consistent with other commercial public institutions/state owned companies then there is likely to be a problem with fragmentation in procurement, with lack of coherency presenting a potential barrier or hindrance for the market. This is because suppliers would need to adapt their approach according to the procurement procedures of the particular institution. There is no consolidated list of Procuring Entities which are categorized as Commercial Public Institutions and follow specialized regulation. These regulations are not published and available in public domain same as the volume of procurement activities carried out by such institution.

Yes

A list of all commercial institutions including their special procurement regulations should be published in a government portal with free and open access for transparency purposes. Furthermore, there should be a level of harmonization between the various legislation of commercial entities to ensure as much consistency as possible so as to minimize fragmentation and ensure that such special regulation is generally in line with PPL on fundamental principles governing public procurement which is adapted for efficient and effective functioning of commercial institutions. The government should also consider publishing data and information on the volume of procurement expenditures by such commercial public institutions including share of competitive and non-competitive procedure adopted.

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8 Ministerial Instruction No. 001/11/10/TC of 24/01/2011 establishing the professional code of ethics governing public agents involved in public procurement.

9 Circular 010/2018-2019-3343/RPPA.

10 Circular 010/2018-2019-2654/RPPA.


14 https://mod.gov.rw/about-the-mod/agencies-units/procurement-unit/#-XKQ0x-tKhm8

15 https://mod.gov.rw/news-centre/tenders-job-opportunities/#-XKS1CHXhm8

16 Utilities, including the water and energy sectors, are subject to regulation by RURA, the Rwanda Utilities Regulatory Authority https://rura.rw/index.php?id=44


*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.
opportunities are published on the UMUCYO e-procurement system16. Both WASAC and REG (both subsidiaries - EDCL and EUCL) also publish tender opportunities on their websites15 16.

PPL A.3: Special regulations of commercial public institutions: PPL A.3 provides that, subject to other provisions of the PPL, commercial public institutions whose budget is not approved by Parliament are governed by special regulations of each institution approved by an Order of the Minister in charge of public investment. It is not clear from the PPL whether the special regulations of each institutions are required to be harmonized and consistent.

The Assessment Team reviewed the Procurement manual for one such commercial public institution, Water and Sanitation Corporation (WASAC) Ltd (originally issued on August 25, 2014 as later revised on September 21, 2015). The Manual recognizes the principles of transparency, fairness, competition, value for money, effectiveness and accountability. The Manual proclaims to be based on the National Procurement Guidelines (this specific document does not appear to exist in the Rwandan procurement legal framework) and best practices in international commercial industry. It is detailed and covers most aspects of procurement procedures. It covers goods, works and services, including consulting services, and encompasses all stages from planning till contract award. Procurement methods and its conditions of use are defined (including for Single Source / Force Account). It provides that contracts above 50 million Rwf are to be procured through competitive procedures, guidelines of Development Partners to apply if in conflict with provisions of the Manual. It specifies the minimum content of the bidding document/contract, composition of Internal Tender Committee, and the process for contract approval. The clause on contracts management is very brief and does not provide much guidance. Appeals are handled by an ad hoc committee appointed by the senior management which is led by the CEO who approves and signs contracts documents. Appeal Procedures provide only for review by an internal Review Panel which takes final decisions, which are not clear if are subsequently subject to judicial review (since there is no explicit provision on this possibility). The Manual states that all procurement matters not provided for in the Manual, reference shall always be made to existing national laws and regulation.

However, it is seen that the scope of the Manual is defined as a “management tool” for WASAC Ltd but how these principles are applied in practice is not known and participants are not aware of the rules governing the procurement.

(c) PPPs, including concessions, are regulated.

Summary: The award of Public Private Partnership contracts for a wide scope of infrastructure facilities and assets are regulated by a specific law, the PPP Law, which requires, in general, the conduct of a competitive procedure to award a PPP contract.

Note: For the purposes of this assessment the assessors have reviewed and commented only on the PPP Law regarding infrastructure and other assets.

PPP contracts: The award of public/private partnerships (PPPs) is regulated by Law No. 14/2016 of 02/05/2016 Governing Public Private Partnerships (PPP Law). The Rwanda Development Board has published Guidelines on PPP17.

The PPP Law applies to management contracts, build-operate (BOT), build-operate-transfer (BOT) and lease-operate-develop (LOD) arrangements for infrastructure facility or other assets (A.3 PPL). Other PPP arrangements may be prescribed by Order of the Prime Minister. The PPP Law does not apply to contracts subject to the PPP Law or to the privatization or divestiture of enterprises, assets and any infrastructure facility owned by the Government (A.4 PPL). The potential sectors for PPPs are broadly defined in A.5 PPL covering transportation, energy, social affairs, tourism, natural resources and environment, telecommunications and information technology and any other sectors determined by Order of the Prime Minister.

The PPP Law generally requires a competitive procedure for the award of a PPP with international and national advertisement. The competitive procurement procedure is governed by the principles of competition, transparency, fairness and non-discrimination, efficiency and effectiveness, protection of public property and public interest and accountability (A.15 PPP Law). The procurement procedure is conducted by the procuring entity and the procuring entity is the signatory to the contract. Negotiations are led by the Rwanda Development Board (PPP Law A.10).

The PPP Law permits, in specified cases, the award without competition of a PPP contract to a partner who has made an unsolicited proposal (PPP Law A.25-29). See comment and gap analysis at sub-indicator I(f)(h).

15 UMUCYO accessed and searched 04 April 2019.

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.
Summary: Public procurement laws, Ministerial Orders and Ministerial Instructions relating to Public Procurement and Circulars are published on the website of the Rwanda Public Procurement Authority (RPPA). The RPPA website is a freely accessible on-line portal. There is a dedicated tab on the homepage of the RPPA providing a link to "Legal Instruments" which, in addition to the documents already listed, provide further links to Standard Bidding Documents, Guidelines and Manuals.

The PPL and other primary legislation are available for download in searchable PDF format. Ministerial Orders and Instructions are also published and available for download although it appears that they are not comprehensive, and they are not always in a searchable PDF format. Circulars, which are issued by the RPPA, are available in English and/or Kinyarwanda18 and are not always in a searchable PDF format.

It is not possible to establish with certainty from the English language version of the website whether the information provided on the RPPA website is exhaustive or up to date. For example, the 2007 PPL is still available to download but it is not accompanied by clear warnings that it is no longer in force.

However, it is clear that the website is active and additional information added, such as new Standard Bidding Documents made available on the website during the MAPS assessment period. The Public Procurement User Manual 2010 is also available from the RPPA website.

In general, the current laws, regulations and policies are published and easily accessible to the public at no cost. It is expected that the new Ministerial Order, which is under draft stage would address the lack of harmonization – order expected to be issued between March 2020 to June 2020.

Not applicable

Criterion is met.

However, based on the analysis conducted further improvements are recommended.

Ministerial Orders – easy availability: the English language version of the RPPA website site does not appear to contain a comprehensive set of the Ministerial Orders which apply to public procurement. Ministerial Orders are not easy to find on the Official Gazette website without knowing the date or number of the Order as the search facility is limited. It was not, therefore possible to fully assess the legal framework applying to public procurement and in some cases, there is an unhelpful level of uncertainty.

Ministerial Orders – creation and scrutiny: It is not clear to what degree consultation or public scrutiny is required prior to the issue of Ministerial Orders which have an impact on public procurement.

PP Regulations not aligned with the new PPL 2018: The current PP Regulations date from 2010 and are unsatisfactory and likely to cause uncertainty and confusion, particularly when combined with introduction of the e-procurement system. This is identified as a substantial gap in the commentary on sub-indicator 2(a).

Procurement User Manual out of date: Procurement User Manual dates from 2010 and is based on the 2007 PPL. The lack of a detailed up to date manual to support the new PPL 2018 is unsatisfactory and likely to cause uncertainty and confusion, particularly when combined with introduction of the e-procurement system. This is identified as a substantial gap in the commentary on sub-indicator 2(d).

RPPA website: there is some inconsistency between the documents available in all official languages. There is a general lack of “fit” between the RPPA website and the UMUCYO website and guidance available.

18 Assessors were unable to access the RPPA website Kinyarwanda language version. Assessment based on English language version of the website: http://rppa.gov.rw/index.php?id=188

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conditions under which each method may be used.

PPL A.20 provides that public procurement contracts shall be awarded through open competition, unless otherwise provided for in the PPL. Open tendering is thus the presumed form of procurement method at the top of the hierarchy of procurement methods20. An “open tender” is defined as a “bidding process made open to all qualified bidders through an announcement”21. Procuring entities are required to use the e-procurement portal for announcing open tenders.

PPL A.20 lists a range of other competitive and less competitive methods, which are permitted only where conditions set out in the PPL are satisfied. Competitive methods are: prequalification, restricted tendering, requests for quotation, simplified methods and two-stage tendering. Non-competitive methods are single source/direct award, force account (where public procurement is carried out by recourse to civil servants and using public equipment) and community participation processes (where the beneficiary community participates in the delivery of non-consultancy services).

It is unusual to see force account and community participation processes embedded into procurement law as procurement methods set out in the PPL. They are developed to be used only in very exceptional circumstances, for World Bank financed operations where specific circumstances meant that it was not possible to deliver projects through other methods.

PPL A.68 to 78 set out specific provisions concerning the procurement of consultancy services which requires publication of a notice online and on the e-procurement portal. The PPL clearly defines situations in which alternative competitive and non-competitive procurement methods can be used22.

PPL A.29 obliges procuring entities to seek and obtain advance authorization from the RPPA where they wish to award a tender using a method other than open tendering. It is not entirely clear from the PPL whether prior approval is required from the RPPA in all cases where a method other than an open tender is used or whether prior approval is only required where the conditions set out in the PPL for use of the particular method are not met23. PPL A.29 provides that the RPPA gives the authorization after receipt of a reasonable justification from the procuring entity accompanied by a confirmation from the supervising minister (or other designated persons where there is no supervising minister) that the procurement is in the public interest.

PP Regulations A.38 “impossibility to meet conditions for use of a given method” sets out the information which a procuring entity must submit to the RPPA when seeking authorization to use a less competitive method. In summary, procuring entities are required to: prove how conditions for use of appropriate methods cannot be met; explain in detail the circumstances giving rise to the request for authorization; show any justification that the urgent award of the tender is in the public interest and any relevant consequences in case the tender is not awarded; obtain and submit the confirmation from the supervising minister that the justification given by the procuring entity is reasonable and serves the public interest. The procuring entity must also consider whether to delimit more clearly the conditions for use of noncompetitive methods if conditions for the use of each method, set out in the PPL, are met. There is a danger that a non-transparent system of ex-ante (prior approval) for use of methods other than open procedure could be used as a way for procuring entities to avoid using competitive procedures. This may be used, for example, to favor a particular contractor or as a way to deal with poor or lazy procurement practices such as leaving it too late to run an open procurement or insufficient market analysis to identify more than one potential provider. This is particularly the case if justifications can be in undefined broad terms such as being in "public interest".

Moreover, RPPA’s authority to allow derogations from the PPL without strong and clear conditions, dilutes the accountability of procuring entities.

Use of less competitive methods – publication: Assessment teams were unable to find up to date information on applications for consent and authorizations by RPPA to use less competitive methods. If up to date information is not available to suppliers then, particularly where authorization is given for non-competitive procurement, this has a potential negative impact on competition and transparency.

clearly defined in the legal framework, to increase transparency and reduce the possibility of abuse of discretion.

If up to date information is not available to suppliers then, particularly where authorization is given for non-competitive procurement, this has a potentially negative impact on competition and transparency.

Use of less competitive methods – publication: To increase transparency, there should be requirement in the legal framework for prompt publication on the RPPA website/UMUCYO of authorizations granted by the RPPA to use less competitive methods. Information published must include sufficient information, including reasons for the decision and allow sufficient time to permit suppliers to challenge the decision.

RPPA Annual Activity Report 2017-18). In 2017/18 344 tenders were awarded using single source procurement, out of a total of 4378 awarded tenders Table 2.6 , RPPA Annual Activity Report 2017-18). It is recommended that the process set out in Article 29 is reconsidered, preferably to be abolished. But if the government considers it important to keep this arrangement in place till the capacity of procurement workforce is upgraded, then revisions to PPL and/or PP Regulations should be considered to limit the ex-ante function of RPPA to review and approve use of non-competitive methods set out in the PPL, when conditions exist and such use is justified.

19 The Public Procurement User Guide states at the start of Chapter 6: Procurement Methods (page 56), that “procuring entities shall apply open competitive bidding for procurement of supplies, works, goods and other services except when this is not ideal.”

20 PPL A.4 procuring entities are required to use the e-procurement system (UMUCYO) to announce and conduct competitive tenders. Procuring entities must obtain prior approval from the RPPA if they wish to to conduct public procurement without using the e-procurement system.


22 In 2017/18 the RPPA received 261 requests for authorization to use methods other than the open procedure and it authorized 207 of those requests. Of those requests, 241 (92.3%) were for authorization to use single source procurement and 197 of those requests were granted. (Table 3.3 RPPA Annual Activity Report 2017-18). In 2017/18 344 tenders were awarded using single source procurement, out of a total of 4378 awarded tenders Table 2.6 , RPPA Annual Activity Report 2017-18).


24 http://umucyo.gov.rw/index.do Admin announcement, Request for Non- objection from RPPA.
highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

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<tr>
<th>Not applicable</th>
<th>Criterion is partially met.</th>
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<td><strong>Rationale:</strong></td>
<td>This is indicated as &quot;partially met&quot; given the significant issues with the consistency of thresholds, justifications for Single source, use of force account and community approach all tilting the balance towards more non-competitive.</td>
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**Thresholds:** Prepare and publish a summary document which lists the procurement methods and financial thresholds applying to the different procurement methods, together with reference to conditions (where relevant) which need to be met in order to use a particular procurement procedure.

**Justification for Single source Procurement:** Redraft PPL A.24(4) to strengthen the provision so it may only be used in exceptional circumstances.

**Justification for use of Force account:** If force account is to continue to be used as a procurement method, redraft PPL A.26 to emphasize exceptional nature of this method and to tighten the conditions for use.

**Justification for use of Community participation:** If force account is to continue to be used as a procurement method, redraft PPL A.27 to emphasize exceptional nature of this method and to more clearly and narrowly define the circumstances where it may be used.

**Framework agreements:** Redraft PPL A.2/A.5.8 to provide greater clarity, in particular on methods of award of contracts. If the concept or use of frameworks is new then this should be supported by clear, practical guidelines for contracting entities on how to establish and operate frameworks. All provisions and guidelines should be aligned with the e-GP system.

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**Summary:** The PPL sets out conditions for use of procedures other than the open tender procedure which are generally linked to the nature, complexity or risk involved in the contract which is the subject of the procurement. The PP Regulations set out thresholds applying to the use of the competitive procedures available under the 2007 PPL\(^{26}\) with the lightest methods of procurement permitted for low value tenders. The procurement methods and processes are proportional to the value and risks of the underlying project activities. The range of options does provide, in theory, for a procurement system in which value for money, fairness, transparency, proportionality and integrity are achieved. Direct award (single-source procurement) is permitted only where specified grounds for justification are satisfied.

"Lighter" methods of procurement are available where the benefits of "process-heavier" methods are not evident or necessary. For example, a Request for Quotations, without publication of a notice, is permitted for contracts below RwF 2 000 000 (2 million Rwandan Francs)\(^{27}\) for the procurement of readily available goods or works on the market with have standard specifications. The Simplified method is available for contracts between RwF 2 000 000 (2 million Rwandan Francs) and RwF 10 000 000 (ten million Rwandan Francs)\(^{28}\) and where the preparation of bids is easy and technical specifications are not complex (PPL A.25). In this case a shorter tender document and short period between tender submission and bid is used. More process-heavy methods are permitted in specified cases, in particular for more complex contracts. For example, restricted tendering is only permitted where the nature of the requirement is highly complex or specialized in nature (PPL A.22) and two-stage tendering is permitted only in listed cases; where formulation of detailed and clear specifications is not feasible, a tender is complex or a previous procedure has failed (PPL A.28).

Direct awards (single-source procurement) is permitted for very low value contracts or where the ground for justification specified in the PPL are satisfied. These grounds include urgent situations, which are not expressed to be limited to exceptional cases or linked to a catastrophic event, where use of other procedures is impractical and disaster, force majeure where any other method of procurement would be impractical given the time constraints.

PPL A.24 sets out seven circumstances where it is permitted to award of a public procurement contract using single-source procurement or direct contracting, which means procuring by way of soliciting a price quotation from a single qualified bidder.

The seven circumstances are, in summary: where there is only one supplier, contractor/service provider and no reasonable alternative or substitute exists; a supplier/contractor/service provide holds exclusive rights; where the value of the contract is below a specified threshold\(^{29}\), where there are additional activities that cannot be technically separated from the initial tender (subject to a 20% cap); in cases of urgency which renders the conduct of any other usual method impractical and where the urgency is not attributable to the procuring entity of the result of its carelessness; where due to disaster, force majeure the time required renders the conduct of any other usual method impractical; and, for consultancy services and other services for research, experiment or study where the provider is working or teaching in a higher learning or research institution in Rwanda.

**Justification for Single source procurement:** The justification for single-source procurement in urgent situations (PPL A.24(4)) is not expressed to be exceptional and is permitted where engaging in the open tender method or other usual tender methods is impractical. "Carelessness", which could be interpreted as including poor planning, by the procuring entity is specifically excluded as a ground for justification of use of single-source procurement. The justification for single-source procurement in the event of disaster, force majeure is expressed to apply where any other method of procurement would be impractical given the time constraints.

Data on the use of single source procurement is not available for 2018/19. Data on the use of single source procurement is available for 2016/17 and 2017/18 during which periods the 2007 PPL (as amended) applied. The grounds for justification of use

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\(^{25}\)Note: the PP Regulations date from 2014, prior to the new PPL and it is not clear whether these thresholds still apply to the procedures set out in the new PPL.

\(^{26}\)This is the threshold listed in the PP Regulations and so may be out of date.

\(^{27}\)This is the threshold listed in the PP Regulations and so may be out of date.

\(^{28}\)PP Regulations A.23 set the threshold at RwF 300 000 (three hundred thousand Rwandan Francs). This may be out of date.

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*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.*
of single source procurement under the 2007 PPL (as amended) are not identical to those in the new PPL, although the wording of the justifications for use in urgent and disaster, force majeure cases are almost the same. In 2016/17, single source procurement comprised 7.16% of the total number of tenders representing 16.52% of the total value of tenders. In 2017/18, single source procurement comprised 7.86% of the total number of tenders representing 17.56% of the total value of tenders.

Direct award using Force account or Community Participation The PPL provides for two additional non-competitive procurement methods: Force account (PPL A.26) and Community Participation (A.27).

**Force account (PPL A.26):** Force account is the carrying out of requirements by the use of civil services and public equipment. Use of Force account is permitted where conditions listed in PPL A.27 are met. In summary, the conditions are where: the quantity of works cannot be defined in advance; construction works which are small and scattered, in remote locations or where access is difficult so that reasonably priced bids are unlikely, where construction works would disrupt other ongoing obligations, emergency situations and completion of works not completed by contractor.

**Community participation (A.27):** Community Participation is where the beneficiary community may participate in the delivery or non-consultancy services. The condition for use of this method is that “it will contribute to the economy, create employment and involve the beneficiary community”. Whilst the aims are commendable, these conditions clearly have the potential to be generously interpreted, with the consequent possibility of inappropriate use or overuse of this method, reduction in competition and potential corruption.

The combined value of single sourcing, community approach and force account (non-competitive methods) appears high. According to RPPA’s annual report, in 2017/18, these three methods comprised 20.53% of the total number of tenders awarded, representing 48.41% of the total value of contracts awarded. As per explanation given in the Annual Report the level of use of open competition method was much higher in earlier years and reason behind the situation in 2017/18 were emergencies, use of single source to unlock stalled projects and certain strategic decision to start projects.

**Framework agreements:** Framework agreements, which are a procurement tool rather than a procurement method, are defined in PPL A.2 with more detailed provisions in PPL A.58. A.58 allows for single supplier and multi-supplier frameworks, generally subject to a maximum of 3 years, and sets out the circumstances where a framework agreement may be established and used. It does not include details on how contracts are awarded under the framework agreement.

<table>
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<th>(c) Fractioning of contracts to limit competition is prohibited.</th>
<th>Summary: Fractioning of contracts to avoid open competition is prohibited when it aims at circumventing competitive rules.</th>
<th>Not applicable</th>
<th>Criterion is met.</th>
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<tr>
<td><strong>PPL A.85</strong> provides that procuring entities are not permitted to divide tenders in a manner contrary to the provisions of the PPL or the PP Regulations. PPL A.23 allows for single supplier and multi-supplier frameworks, generally subject to a maximum of 3 years, and sets out the circumstances where a framework agreement may be established and used. It does not include details on how contracts are awarded under the framework agreement.</td>
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<tr>
<th>(d) Appropriate standards for competitive procedures are specified.</th>
<th>The PPL requires use of the Open procedure as the default procedure but permits procuring entities to use other competitive procedures subject to meeting conditions set out in the PPL (as described in (a)(b)(c)) above, which generally reflect the nature and complexity of the contract concerned. Where the procuring entity wishes to use a less competitive procedure but is unable to meet the conditions specified in the PPL the procuring entity is required to seek the prior authorization of the RPPA.</th>
<th>Not applicable</th>
<th>Criterion is met.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PPL</strong> provides for two additional non-competitive procurement methods: Force account (PPL A.26) and Community Participation (A.27).</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**1(c) Advertising rules and time limits**

The legal framework meets the following conditions:

<table>
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<th>Assessment criteria</th>
<th>Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)</th>
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</tbody>
</table>

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29 Table 13 a, RPPA Annual Activity Report 2016-17.
30 Table 2.6, RPPA Annual Activity Report 2017-18.
31 RPPA Annual Activity Report 2017/18

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.*
(a) The legal framework requires that procurement opportunities are publicly advertised, unless the restriction of procurement opportunities is explicitly justified (refer to indicator 1(b)).

PPL A.32 requires procuring entities to publish all tenders on the e-procurement portal, UMUCYO, except where the estimated value of the contract is below relevant thresholds published in the PP Regulations. Other circumstances where award without prior publication of a tender is permitted are specified in the PPL (see indicator 1(b)).

Not applicable  Criterion is met.

(b) Publication of opportunities provides sufficient time, consistent with the method, nature and complexity of procurement, for potential bidders to obtain documents and respond to the advertisement. The minimum time frames for submission of bids/proposals are defined for each procurement method, and these time frames are extended when international competition is solicited.

Summary: All competitively tendered opportunities above the national threshold are required to be advertised on the e-procurement portal and conducted using the e-procurement system, except where authorization has been obtained from the RPPA to conduct public procurement through the e-procurement system. Most advertised competitive opportunities use the open procedure, for which the minimum time frame for submission of tenders is 30 calendar days which provides sufficient time for potential bidders to obtain documents and respond. The minimum time frame is much shorter for submission of tenders using the Simplified method, reflecting the low value non-complex nature of these procurements. Where foreign bidders are expected to compete the timeframes are longer. The minimum time between the call for proposals and submission are specified in the PPL.

Prequalification applications: The minimum time frame between publication of a prequalification notice and submission of expressions of interest for contracts for works, goods and non-consultancy services is [7(... days)]

For consultancy services the minimum time limits for submission of expressions of interest are national tenders - 14 days from date of publication; international tenders 21 days from date of publication (PP Regulation A.34).

Submission of tenders

Open Tender PPL A.36 The minimum time frame for submission of tenders is:
- National tenders - 30 calendar days from the time the tender notice is published
- International tenders - 45 to 90 calendar days from the time the tender notice is published on the e-procurement portal

The minimum time frame between publication of the tender notice and submission of tenders for open tender using the Simplified Method (for contracts between the threshold for Request for Quotation and the national competitive bidding threshold) is 8 working days, reflecting the low value and non-complex nature of the procurement (PPL A.25)

Restricted tendering PPL A.22 & PPL A.36 The minimum time frame for submission of tenders is:
- National tenders - 14 calendar days from the time the tender notice is published
- International tenders - 21 calendar days from the time the tender notice is published on the e-procurement portal

The minimum time for preparation of tenders for restricted tender using the Simplified Method (for contracts between the threshold for Request for Quotation and the national competitive bidding threshold) is 5 working days, reflecting the low value and non-complex nature of the procurement (PPL A.25)

Pre-qualification proceedings PPL A.21 The minimum time frame for preparation of tenders is:
- From issue of the tender document inviting prequalified bidders to submit their bid to submission of the bid is 14 days for national tenders and 21 days for international tenders.

PPL A.28 Two-stage tendering
- The provisions generally applicable to tendering apply to two stage tendering except to the extent that PPL A.28 is contrary to those provisions.

Request for Quotations PPL A.23 & PPL 36
- The minimum time limit for submission of tenders is 3 working days from date of receipt of the invitation to tender by bidder. This short time limit reflects the low value of contracts awarded using the Request for Quotations method.

Publication of contract award: PPR A.42 requires the procuring entity to publish the results of the contract award as soon as the contract is signed by both parties. Information to be published must include the winner, amount of tender

Not applicable  Criterion is met.

However, certain improvements for greater transparency are suggested:

Late publication, non-publication of contract award information creates practical difficulties with accessing such information, creates potential problems particularly in terms of transparency and right to review. In this respect, publication of contract award – timing: PPR.A42 requires that contract award notices are published “as soon as the contract is signed. It is preferable to specify a maximum defined period for publication, to ensure consistency and transparency. In practice, it is difficult access information on tender awards on UMUCYO without being a registered user of the UMUCYO. For procurements processes conducted without using UMUCYO, it appears that there is a failure to publish contract award information.

Publication of contract award - coverage: The title of PPR A.42 is “Publication of competition results”. It is therefore not clear from the PPR whether publication is required where the award of a contract is made without a competition (single source/force accounts/community participation). In practice, information on the award of contracts by non-competitive methods is not published and publicly available.

It is also not clear whether publication is required for low value contracts not subject to the PPL.

If it is not required to publish information about contracts awarded without competition and/or very low contracts this creates potential problems particularly in terms of transparency. The administrative burden for publication of low value contract awards can be reduced by, for example, requiring quarterly publication of contract award information.

Amend legal framework to ensure that contract award information is published promptly for contracts awarded using competitive and non-competitive methods, within a defined period, on a freely accessible portal.

The administrative burden for publication of low value contract awards can be reduced by, for example, requiring quarterly publication of contract award information.

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*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.
awarded and duration of the contract. Publication is required on the procuring entity’s website and notice board and the RPPA official website.

The title of PPR A.42 is “Publication of competition results” It is therefore not clear from the PPR whether publication is required where the award of a contract is made without a competition.

e-procurement system for advertising and conduct of procurement: There are no shortened time lines in the case of electronic transmission of procurement notices and bidding documents because all competitively tendered opportunities above the national threshold are required to be advertised on the e-procurement portal (PPL A.4). PPL A.4 also requires that all procuring entities must conduct public procurement through the e-procurement system, except where prior authorization has been obtained from the RPPA to conduct public procurement without using the e-procurement system.

In practice, use of the e-procurement system has been phased, since its introduction in 2016. Use of the e-procurement system started with 9 pilot procuring entities and was subsequently rolled out in 2017/18 to a further 141 entities. Roll out to district hospitals is planned for July 2019, with ongoing work on an engagement strategy for schools, health facilities and district pharmacies. This means that some procuring entities are not yet using the e-procurement system although the number of procuring entities is diminishing as the planned roll out progresses. Any tender awarded contrary to the requirement to use the e-procurement system, where no authorization to do so has been obtained from the RPPA, “shall not be paid for by the Government”.

(c) Publication of open tenders is mandated in at least a newspaper of wide national circulation or on a unique Internet official site where all public procurement opportunities are posted. This should be easily accessible at no cost and should not involve other barriers (e.g. technological barriers).

PPL A.33 requires that the tender notice must include at least; the name and address of the procuring entity, the reference number and an explanation of how to obtain the tender document and its cost. This is rather limited information and does not allow potential bidders to determine whether they are able to submit a bid and are interested in submitting one.

PPL A.69 requires the notice of expression of interest for consultancy services to include a description of the services to be provided, qualification necessary and time line for submission.

(d) The content published includes enough information to allow potential bidders to determine whether they are able to submit a bid and are interested in submitting one.

PPL A.33 requires that the tender notice must include at least; the name and address of the procuring entity, the reference number and an explanation of how to obtain the tender document and its cost. This is rather limited information and does not allow potential bidders to determine whether they are able to submit a bid and are interested in submitting one. However, in practice, tender notices published on the UMUCYO have more detail than this – including a short description of the requirement, time lines and reference to bidding documents being available to download from the portal.

PPL A.69 requires the notice of expression of interest for consultancy services to include a description of the services to be provided, qualification necessary and time line for submission.

37 PP Regulations require contracts over RwF 2 000 000 (two million Rwandan Francs) to be advertised in at least one newspaper of wide circulation and on the official website of the procuring entity in addition to the RPPA official website. It is not clear whether this provision still applies under the new PPL.

38 PPL A.44 paragraph 5 states that a ministerial order determines the thresholds of the tender value exemption requirement of past experience of potential bidders.

39 Public Procurement User Guide 2010 includes details on assessment of financial resources based on minimum level of annual turnover and proof of access to funds, and references RPPA circular No. 101/09-018 RPPA of 09/01/2009

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Summary:
The PPL sets out rules on eligibility to participate in procurement processes and grounds for exclusion. See 1.c) below.

Price Preference provisions: The PPL includes provision on price preference.

PPL A.78: Exclusive preference for goods or supplies produced or supplied in Rwanda and bidders registered in Rwanda: Provides that, through competition, exclusive preference is given to:
Goods or supplies: preference given to suppliers of goods or supplies produced or manufactured in Rwanda.
Non-consultancy services: preference given to service providers registered in Rwanda.

The Ministry of Finance and Economic Planning has issued guidelines on “Use of public procurement to support “Buy Made in Rwanda program” 4404/10/16/TC. This cross references to PP Regulations A.82 which applies a 10% price preference.

PPL A.80 Preference for goods produced or manufactured in Rwanda and local consultancy services: In international or national competitive bidding local preference of 15% (local goods preference) is given as follows: procurement of goods – preference given to goods or supplies produced or manufactured in Rwanda; procurement of consultancy services – preference given to companies registered in Rwanda.

PPL A.81 Local preference for works and non-consultancy services
In international or national competitive bidding local preference of 10% (local company preference) is given as follows: Procurement of works and non-consultancy services- preference given to bidders registered in Rwanda.

Additional criteria may be used, depending on the nature of the tender.

• The procuring entity may require a bidder to provide evidence to establish that the criteria are met. PPL A.30 includes a requirement for the tender document instructions to include information on documents required to evidence the bidder’s qualifications. The procuring entity must check the accuracy of evidence/information provided to demonstrate that qualification criteria are met. A procuring entity may disqualify a bidder for submitting false, materially confusing or incomplete information.

PPL A.21 sets out provisions on the use of prequalification proceedings and includes a non-exhaustive list of qualification criteria concerning staff, equipment, financial capacity and experience.

PPL A.69 on consultancy services requires that the notice of expression of interest published on line includes information on the qualification necessary to be invited to submit a bid.

PPL A.89 Conflict of interest: defines cases of conflict of interest where persons or institutions are not allowed to bid for public tenders. PPL A.188 provides that direct or indirect participation where there is a conflict of interest under the provisions of the PPL constitutes an offence liable to imprisonment and a fine.

PPL A.89 sets out further prohibitions on bidding including: a bidder submitting more than one bid in the same tender, a member of the public tender committee or any other person involved in the award process or contract management where kinship or other specified circumstances apply. Any act contrary to the provisions of PPL A.89 causes the cancellation of the contract.

(b) It ensures that there are no barriers to participation in the public procurement market.

Not applicable

Criterion is partially met due to set of requirements on exclusive preferences for goods produced in Rwanda and categorization that promotes preference for local goods and services. Though foreign companies can bid and be awarded a tender once, without categorization, they are required to apply for categorization later on. The categorization does not identify firms which are MSME, though in practice most of the local firms fall under the category of MSME.

In conclusion rules of eligibility, exclusive preferences for local bidders and system of categorization may be construed as a barrier to competition.

The government may consider giving preference for locally produced goods, encourage MSMEs and consider a policy of preference that does not discourage foreign participation. Based on hard data government to find out if such conditions create oligopolistic or monopolistic conditions rather than promote development of local industry and a de facto barrier to competition. Government to categorize MSMEs including in e-GP system and consider other means to improve local participation: (1) including margin of price preference in favor of SMEs applied in evaluation and comparison of bids; (2) setting aside certain monetary levels or types of procurement for award to SMEs; (3) raising quotas for award of contracts to SMEs on a percentage of the value of total procurement of a PE; (4) specifying levels of subcontracting to SMEs to be met by prime contractors; and (5) enabling procurers to include smaller contracts to encourage SMEs and local companies.

Interpreted and so could cause problems or be misused.

Option to disqualify bidder on grounds of provision of "incomplete information": This has the potential to be formally interpreted by procuring entities who exercise discretion on this question. Over-formalistic interpretation of this provision could cause problems or be misused.

The government may consider giving preference for locally produced goods, encourage MSMEs and consider a policy of preference that does not discourage foreign participation. Based on hard data government to find out if such conditions create oligopolistic or monopolistic conditions rather than promote development of local industry and a de facto barrier to competition. Government to categorize MSMEs including in e-GP system and consider other means to improve local participation: (1) including margin of price preference in favor of SMEs applied in evaluation and comparison of bids; (2) setting aside certain monetary levels or types of procurement for award to SMEs; (3) raising quotas for award of contracts to SMEs on a percentage of the value of total procurement of a PE; (4) specifying levels of subcontracting to SMEs to be met by prime contractors; and (5) enabling procurers to include smaller contracts to encourage SMEs and local companies.

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60 PPL A.3 (8) “local goods or supplies” are defined as “goods or supplies produced in Rwanda for which labour, raw materials or component originating from Rwanda account for at least thirty percent (35%) of the ex-works price.”

61 RPPA response to WB request for clarifications, document dated 06 May 2019.
PPL A.88 provides that eligible bidders for public procurement are physical persons or companies who deal with commercial activities that are registered as businesses or those holding professional licenses or exercising any liberal profession. There is no specific requirement in the PPL that the registration or licensing must be in Rwanda. PP Regulations A.16 provide further detail but do not refer to registration/licensing in Rwanda.

PP Regulations A.17 require that any individual or legal entity participating in public procurement shall be registered with the RPPA.

**Categorization**

Since 2015, companies participating in specified construction rehabilitation works have been required to apply to the RPPA for “categorization”. Companies may apply for categorization at any time. This is a process which assesses a company’s suitability to deliver contracts for a specified category of works. Companies must hold a categorization certificate in order to bid for work falling within a specified category. All companies registered in Rwanda are required to apply for categorization. Foreign companies can bid and be awarded a tender once, without categorization, but will then be required to apply for categorization.

Local and foreign companies may form joint ventures but only for one international tender. The Manual for Categorization of Companies (December 2014) requires companies to submit documents with their application to the RPPA including certificates of registration to the Rwanda Revenue Authority and Rwanda Social Security Board, financial statements declared to the Rwanda Revenue Authority and location plan of the head office.

In 2017 firms providing engineering consulting services are also required to apply for categorization. The Manual for Categorization of Consulting Firms Operation in the Field of Building and Civil Engineering Works for Design and Supervision Assignments (May 2017) sets out different rules for foreign firms which, in practice acknowledge that foreign firms will not be in a position to submit the same evidence as domestic firms. Foreign firms are permitted to bid and be awarded a tender once, without categorization, but will then be required to apply for categorization and provide proof of application to the Institute of Engineers or Institute of Architects to work in Rwanda. A local consulting firm and a foreign firm may only form a joint venture for an international tender.

**Publication of Categorization lists:**

The Manuals referred to above, together with form to be completed by companies and firms applying for categorization can be downloaded from the RPPA website. Categorization lists are published on the RPPA website.

1. **It details the eligibility requirements and provides for exclusions for criminal or corrupt activities, and for administrative debarment under the law, subject to due process or prohibition of commercial relations.**

   **Summary:** The legal framework details eligibility requirements and provides for rejections of offers where it is established that a bidder is engaged in corrupt or fraudulent practices. There are no provisions in the PPS referring specifically to exclusion from participation in a public procurement process on the grounds that a firm or individuals have been the subject of a conviction by final judgment for participation in a criminal organization; terrorist offences or offences linked to terrorist activities, or inciting or aiding or abetting or attempting to commit such an offence; money laundering or terrorist financing; child labour; and all forms of trafficking in human beings, or the equivalent of those offences as commonly found in other jurisdictions. There are provisions for administrative debarment subject to due process.

   PPL A.44 sets out requirements for bidder’s qualification. See indicator 1 a) above. Grounds for exclusion from qualification include debarment.

   PPL A.47 Anti-corruption measures: provides that a bidder’s offer must be rejected where it is established that the bidder is engaged in any corrupt or fraudulent practice while bidding for a public procurement.

   PPL A.48 Cancellation of procurement proceedings: A procuring entity may take a decision to cancel procurement proceedings where it is established that there is fraud or lack of fairness in the tendering process.

   PPL A.93 Cancellation of the contract due to forged or fraudulent practices: a procurement contract is cancelled if it is proved that any information or document submitted by the successful bidder was falsified or fraudulent.

   **Debarment**

   Not applicable

   **Citation of criterion partially met.**

   Exclusion for conviction by final judgment for designated offences: There are no provisions in the PPS referring specifically to exclusion from participation in a public procurement process on the grounds that a firm or individuals have been the subject of a conviction by final judgment for participation in a criminal organization; terrorist offences or offences linked to terrorist activities, or inciting or aiding or abetting or attempting to commit such an offence; money laundering or terrorist financing; child labour; and all forms of trafficking in human beings, or equivalent of those offences as commonly found in other jurisdictions. Nonetheless, there are debarment provisions with due process.

   Periods for debarment are rather long – in other systems 1 to 3 years is common.

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62 The categories are: construction/rehabilitation of buildings, road and bridges, development of marshlands and irrigation, construction of embankments/dams and drinking water supply


PPL A.176 Temporary debarment: temporary debarment applies for five or seven years, according to the nature of the action leading to debarment. Grounds for debarment include collusion with other bidders the intention to interfere with fair competition, collusion with public officials, fraud over estimated prices, poor performance, failure to pay workers and provision of false information. A bidder may also be debarred for 7 years for failure to inform the contracting authority of change of address.

PPL A.177 Permanent debarment: Grounds for permanent debarment apply where a bidder is debarred for a second time or enters a contract while he/she is debarred and to any company debarred which used fraudulent means to evade sanctions imposed on it, in order to continue in public procurement in the debarment period. In this context, fraudulent means to evade sanctions are defined.

PPL A.179 Procedures for debarment from public procurement: The RPPA has power to debar a bidder from participation in public procurement. The debarment process requires the RPPA to inform that bidder in writing of charges made and for the bidder to respond to those charges within a specified period of 15 days for national bidders and 30 days for foreign bidders. Bidders are entitled to a hearing and have the right to be represented or assisted by a lawyer. The hearing is recorded, and all evidence is filed, with a debarment decision made within 45 days. Debarment is taken effect from date of issue of the decision until expiry or annulment by a competent court. A list of debared bidders must be published on the RPPA website, the UMYCON e-procurement portal and in the newspapers. PPL A.180 provides for a right of appeal against an RPPA debarment decision to a competent court.

The “Blacklist” of debarred bidder is published on the RPPA website, listing the name of the company/organization, individual name, ground for debarment and period of debarment.

(d) It establishes rules for the participation of state-owned enterprises that promote fair competition.

Summary:

PPL A.188 provides that public companies and public institutions are eligible to participate as bidders in public procurement if they can prove that they are legally and financially autonomous and that they operate under commercial laws. Standard Bidding Documents (SBD) published by the RPPA (January 2019) for the procurement of works and supplies include provisions that government-owned enterprises shall be eligible to participate only if they can establish that they are (1) legally and financially autonomous, (ii) operate under commercial law. In the case of supply of goods/supplies they must also establish that they are not a dependent agency of the purchaser.

(e) It details the procedures that can be used to determine a bidder's eligibility and ability to perform a specific contract.

Summary: The legal framework details procedures used to determine eligibility and ability to perform a specific contract. The assessment as to eligibility and ability may be combined with the procurement documents as part of the specific procurement or, in specified cases, be initiated as a separate exercise that is conducted before full offers are requested. Multi stage procedures are permitted for specified types of contracts and circumstances for use are defined.

In general, bidders are required to submit qualification information with their bids. The Standard Bidding Documents (SBD) published by the RPPA dated January 2019 include “Qualification Information” or "Post-qualification: section/s with a form/forms for completion by bidders are requests for the provision of specified information which is used for the purposes of post qualification or prequalification (where used). The SBDs include instructions to bidders explaining how and when the process of assessment is undertaken. The SBD for large works is accompanied by a User’s Guide which includes explanations of how to complete the forms and what the procuring entity will evaluate, particularly in the context of financial resources, personnel and equipment

For more complex procurements, Prequalification proceedings may be used, with an initial evaluation stage focused on evaluation of a bidder’s suitability to ability to perform a specific contract (PPL A.21). In this case, only prequalified bidders are invited to submit a tender. PPL A.21 provides that prequalification proceedings may be used for procurement of large or complex works and acquisition of high value or complex goods.

PPL A.22 provides that restricted tendering is to be used where the requirements are of a complex or specialized nature or are only available from a limited number of bidders. PPL A.28 provides that two stage tendering may only be used where,

The provision for debarment for failure to inform of change of address appears disproportionate.

In this respect, the sub-indicator 1(d)(c) requires among others that the legislation details the eligibility requirements and provides for exclusions for criminal or corrupt activities, and for administrative debarment under the law, subject to due process or prohibition of commercial relations. In this respect, there are no provisions in the PPL referring specifically to exclusion from participation in a public procurement process on the grounds that a firm or individuals have been the subject of a conviction by final judgment for: participation in a criminal organization; terrorist offences or offences linked to terrorist activities, or inciting or aiding or abetting or attempting to commit such an offence; money laundering or terrorist financing; child labour; and all forms of trafficking in human beings, or equivalent of those offences as commonly found in other jurisdictions. Hence, sub-indicator is assessed as "partially met”. Existence of debarment as a ground for exclusion is also considered. Our comment on reconsidering the debarment period in some cases is for further improvement only.


67 SBD for the supply of goods, Section 1 Instructions to bidders, paragraph 4.6; SBD for small works, Section 1 Instructions to bidders, paragraph 4.4; SBD for large works, ITB 4.5;

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.
in summary, it is not feasible to formulated detailed and clear specifications, the tender is complex, and the procuring entity lacks sufficient knowledge in the area, or it relates to high technological development or in the event of a previous failed tender procedure.

### 1(e) Procurement documentation and specifications

The legal framework meets the following conditions:

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<th>Assessment criteria</th>
<th>Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)</th>
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<th>Potential red-flag?</th>
<th>Initial input for recommendations</th>
</tr>
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<tbody>
<tr>
<td>(a) It establishes the minimum content of the procurement documents and requires that content is relevant and sufficient for suppliers to respond to the requirement.</td>
<td>Summary: The PPL requires that procurement documents contain sufficient information to enable the submission of responsive tenders/bids/proposals and documents prepared in compliance with the provisions of the PPL should establish the basis for a transparent evaluation and award process. Standard Bidding Documents are published by the RPPA for use by procuring entities and the relevant level of detail varies according to the nature and complexity of the procurement covered by the particular SBD. PPL A.30 requires that the tender document is prepared in accordance with the PPL, procurement regulations and standard tender document. PPL A.30 lists the information which must be included in the tender document. The information required should be sufficient to enable submission of responsive tenders/bids/proposals. The tender document must include specific requirements including quantities, time limits for delivery and completion, applicable standards and terms and conditions. The tender documents must also include instructions for preparation and submission of bids. The tender documents document establish the basis for a transparent evaluation and award process by including information on the procedures and criteria for bid evaluation and comparison. The RPPA publishes Standard Bid Documents (SBD) covering procurements of different types and values. PP Regulations A.7 requires all public institutions, as a general rule, to use the SBD and standard contracts. The SBD published by the RPPA dated January 2019 are comprehensive and detailed and satisfy the requirements of PPL A.30. The level of detail in the SBDs and requirements for provision of documentation varies according to the nature and complexity of the procurement covered by the SBD. PPL A.25 provides that for the Simplified method of procurement, which applies to lower value contracts where the preparation of bids is easy and technical specification are not complex, a shorter tender document is used. This should help to ensure that the information required for simpler procurements is not excessive. PPL A.44 provides that a ministerial order determines the thresholds for the tender value.</td>
<td>Not applicable</td>
<td>Criterion is met.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) It requires the use of neutral specifications, citing international norms when possible, and provides for the use of functional specifications where appropriate.</td>
<td>Summary: Requirements set out in the specifications contained in the procurement documents must be objective and neutral. References are required to national standards, or international standards. The PPL, PP Regulations and Guidance do not contain provisions specifically encouraging the use of output-based (functional) specifications to promote innovation, where appropriate. PPL A.31 applies to specifications for goods or supplies, works of non-consultancy services. It requires that specifications &quot;clearly define the expected results with objectivity and neutrality&quot;. PPL A.31 requires that the tender documents must include information on applicable Rwandan standards, or international standards, where available. Standard Bidding Documents issued by the RPPA include instructions to procuring entities, stating that &quot;Recognized international standards</td>
<td>Not applicable</td>
<td>Criterion is met.</td>
<td>However, consider strengthening the following aspects: Output based specifications. The legal framework could include provisions and guidance on the use of output-based specifications and based on functional requirements.</td>
<td></td>
</tr>
</tbody>
</table>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.*
The legal framework mandates that:

1(f) Evaluation and award criteria

The PPL requires recognition of standards that are equivalent, when neutral specifications are not available. PPL A.31 applies to specifications for goods or supplies, works of non-consultancy services. It requires that specifications "clearly define the expected results with objectivity and neutrality".

It also provides that specification shall not make reference to a particular brand, trade name, design type, origin or producer unless there is no other sufficiently precise ways of describing the characteristics required. In that case the words "or substantially equivalent" must be added.

Standard Bidding Documents issued by the RPPA include instructions to procuring entities, stating that reference to specific brand names, catalogue numbers of other details that limit any materials or items to a specific manufacturer should be avoided as far as possible. The SBD state that where unavoidable the descriptions "should always be followed by the words "or substantially equivalent"."

The PPL, PP Regulations and Guidance do not contain provisions specifically encouraging the use of output-based (functional) specifications to promote innovation, where appropriate.

Summary: The PPL requires recognition of standards that are equivalent, when neutral specifications are not available. PPL A.31 applies to specifications for goods or supplies, works of non-consultancy services. It requires that specifications "clearly define the expected results with objectivity and neutrality". It also provides that specification shall not make reference to a particular brand, trade name, design type, origin or producer unless there is no other sufficiently precise ways of describing the characteristics required. In that case the words "or equivalent" must be added.

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(c) It requires recognition of standards that are equivalent, when neutral specifications are not available.

Summary: Potential bidders are allowed to request a clarification of the procurement document, and the procuring entity is required to respond in a timely fashion and communicate the clarification to all potential bidders (in writing).

Potential bidders are allowed to request clarification of procurement documents, the procuring entity must respond in a timely fashion and written clarification is provided to all potential bidders.

PPL A.35 permits any prospective bidder to ask the procuring entity to provide explanations as to the content of the tender documents. The procuring entity is required to respond with clarifications within a specified time period, calculated by reference to the deadline for submission of tenders. The procuring entity must communicate the response provided to all prospective bidders, without disclosing the source of the request. In practice this can be dealt with using the e-procurement portal which has a "clarifications" function, with questions and responses made public.

Summary: Potential bidders are allowed to request clarification of procurement documents, the procuring entity must respond in a timely fashion and written clarification is provided to all potential bidders.

Potential bidders are allowed to request clarification of procurement documents, the procuring entity must respond in a timely fashion and written clarification is provided to all potential bidders.

(d) Potential bidders are allowed to request a clarification of the procurement document, and the procuring entity is required to respond in a timely fashion and communicate the clarification to all potential bidders (in writing).

Summary: The PPL requires recognition of standards that are equivalent, when neutral specifications are not available. PPL A.31 applies to specifications for goods or supplies, works of non-consultancy services. It requires that specifications "clearly define the expected results with objectivity and neutrality".

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The PPL, PP Regulations and Guidance do not contain provisions specifically encouraging the use of output-based (functional) specifications to promote innovation, where appropriate.

Section 3 Technical specifications, Standard Bidding Document for Supply of Goods, RPPA January 2019


Section 3 Technical specifications, Standard Bidding Document for Supply of Goods, RPPA January 2019

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.
The procuring entity is required to disclose in the tender document the procedures and criteria for bid evaluation and comparison. PPL A.42 requires the public tender committee to evaluate responsive bids on the basis of the pre-disclosed criteria and provided that nothing can be added or deleted in that respect. PPL A.18B provides that any person who uses a criterion not provided in the tender document to award a tender commits and offence.

PPL A.43 describes a "[substantially] responsive bid". A bid is responsive if it substantially conforms to the requirements specified in the tender document. Standard Bidding Documents include a section on examination of bids and determination of responsiveness51. PPL A.42 provides that the successful bidder is the bidder who fulfils the requirements and who is the lowest responsive bidder. PPL A.45 permits a procuring entity to request clarification in writing during the evaluation and comparison of bids, provided such clarification does not change the substance of bids. PPL A.46 requires disqualification of any bid containing an arithmetic error, subject to a requirement to correct arithmetic errors in bids not submitted electronically.

PPL A.43 requires that where a Request for Quotation method is used the contract must be awarded on the basis of the lowest priced quotation for the described quality that also meets the required delivery period. PPL A.28 sets out rules on the conduct and evaluation in two-stage tendering processes. A.24 refers to the soliciting of a price quotation in single source procurement.

**b) The use of price and non-price attributes and/or the consideration of life cycle cost is permitted as appropriate to ensure objective and value-for-money decisions.**

Summary: The evaluation of price and non-price attributes is permitted, particularly in the case of supply of goods, to ensure value for money decisions. Consideration of life-cycle costing is permitted.

For works and non-consultancy services, the SBD imply that contracts are generally awarded to the bidder whose offer is determined to be the lowest evaluated bid and is substantially responsive. In order to be substantially responsive a bid must conform with all terms and conditions and specifications in the bidding documents.

In the case of supply of goods, it is specifically provided in the Standard Bidding Document that other factors may be taken into consideration. The Standard Bidding Document for supply of goods provides that a Procuring Entity’s evaluation of a bid may require the consideration of other factors, in addition to Bid Price. The additional factors may be related to characteristics, performance and terms and conditions of purchase. The impact of the factors, which must be disclosed in the SBD shall be expressed in monetary terms to facilitate comparison of bids, unless otherwise specified in the SBD. The contract is awarded to the bidder whose offer is determined to be the lowest evaluated bid and is substantially responsive52. The SBD includes a dedicated section on Qualification and Evaluation Criteria which sets out criteria and the evaluation methodologies to be used.

**c) Quality is a major consideration in evaluating proposals for consulting services, and clear procedures and methodologies for assessment of technical capacity are defined.**

Summary: Technical qualifications for consulting services can be assessed by using a scored evaluation against stated criteria. The default method for evaluation of proposals for consulting services is quality cost-based selection. Clear procedures and scoring methodologies for assessment are defined. The PPL lays out conditions under which different methods for evaluation may be conducted.

PPL A.70 concerning the procurement of consultancy services requires disclosure of the procedures and criteria to be used to evaluate which proposals are responsive and the evaluating the financial proposals. Other evaluation methods are permitted, including interviews or presentations, in which case the procedures and criteria must be included in the tender document.

PPL A.73 requires technical proposals to be evaluated on the basis of criteria disclosed in the request for proposals and includes a non-exhaustive list of criteria. PP Regulations A.35 sets out the scoring methodology for evaluation of technical proposals. This allow for a range of scores against specified criteria.

PPL A.72 sets out the selection method and criteria for consultancy service tenders. These are a quality and cost-based selection, quality-based selection, selection under a fixed budget method and least cost selection.

PPL A.72 specifies the quality and cost-based method as the default method and sets out the circumstances where the other methods may be used. Quality based selection is permitted where quality is the paramount factor. Selection under a

**51 See for example, Instructions to Bidders, paragraph 26, Standard Bidding Document for Small Works, RPPA January 2019**

**52 This is also the basis of the award specified in the SBD for small works (para.32) and SBD for large works**


*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.*
The legal framework should include provisions and guidance on the use of relative weighting and life cycle costing, including methodologies, where relevant.

Consultancy services: PPL A.72 provides that detailed procedures for the use of the evaluation methods specified for consultancy services shall be contained in regulations. PP Regulations A.36 sets out the methodology which must be used for using the quality cost-based selection method for consultancy services. The methodology provides that the overall score shall be obtained by adding technical and financial scores. Technical and financial scores are determined according to the nature and complexity of the assignment. The coefficient for quality and cost score is presented as a formula with a range of weighting for technical score (70% to 90%) and financial (10% to 30%) where there are combined scores. The formula must be specified in the request for proposals. There is also a formula which must be used to determine the financial score of each bid.

There are no specific provisions concerning life-cycle costing or the method by which life-cycle costs are determined which is a gap under Indicator 3.

Summary:
- General provisions: PPL A.30 requires that the procedure and criteria for bid evaluation and comparison is set out in the tender document.
- For works contracts and supply of goods there is no specific reference in the PPL; PP Regulations or Standard Bidding Documents to the use of relative weighting. For works contracts, the Standard Bidding Documents refer to contract award based on the lowest priced, substantially responsive, tender. The Standard Bidding Document for the supply of goods also refers to contract award based on the lowest priced, substantially responsive, tender but also includes provisions for the use of additional criteria which are to be evaluated and monetized in accordance with a methodology set out in the tender document, in order to facilitate evaluation.

Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)

Step 2: Quantitative analysis

Step 3: Gap analysis / conclusions (describing any substantial gaps)

Potential red-flag?

Initial input for recommendations

1(g) Submission, receipt, and opening of tenders

The legal framework provides for the following provisions:

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.*
(a) Opening of tenders in a defined and regulated proceeding, immediately following the closing date for bid submission.

<table>
<thead>
<tr>
<th>Assessment criteria</th>
<th>Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)</th>
<th>Step 2: Quantitative analysis</th>
<th>Step 3: Gap analysis / conclusions (describing any substantial gaps)</th>
<th>Potential red-flag?</th>
<th>Initial input for recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>PPL A.4 Use of electronic system for public procurement: PPL A.4 requires that all public procuring entities must use the e-procurement system, UMUCYO, for conduct of procurement. This includes the electronic submission and opening of bids. Exceptions to this rule are only permitted with prior authorization from the RPPA.</td>
<td>Not applicable</td>
<td>Criterion is not met.</td>
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<td>PPL A.41 provides that the modalities for opening bids using the e-procurement system are determined by an Order of the Minister. This Order has not yet been published, although in practice bids submitted using the e-procurement systems are opened by the system at the end of the relevant tender period. There are quite detailed instructions in the 2010 Public Procurement User Guide, on bid receipt and opening, which respect the basic principles, but this is not up to date because of the introduction of the new PPL 2018 and the move to e-procurement in particular. There are various explanatory documents downloadable from the UMUCYO website but detailed legal provision on this compliance issue are not apparent.</td>
<td>Not applicable</td>
<td>Criterion is not met.</td>
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<tr>
<td>PPL A.10 provides that, in the event that bids are not submitted through e-procurement, the public tender committee established by the procuring entity is in charge of opening of bids. PPL A.74 provides that, in respect of bids for consultancy services, financial proposals are opened in public electronically.</td>
<td>Not applicable</td>
<td>Criterion is not met as present regulation have no retention policy.</td>
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<td>PP Regulations A.31 refer to record of proceedings but not to a retention policy.</td>
<td>Not applicable</td>
<td>Criterion is met.</td>
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<tr>
<td>PPL A.18 provides that during or after procurement proceedings the content of bids must not be disclosed, subject to disclosure required by law or for the purposes of appeal or audit. The 2010 Public Procurement User Guide includes the requirement for security and confidentiality but the User Guide is not up to date because of the introduction of the new PPL 2018 and the move to e-procurement in particular. PPL A.18 Confidentiality in public procurement requires that during or after procurement proceedings, information relating to the evaluation, comparison of bids or clarification on tenders and content of bids must not be disclosed. PPL A.18 also forbids disclosure or information relating to a procurement whose disclosure is likely to impede respect for law or jeopardize public interest; would prejudice a bidder’s legitimate commercial interest or inhibit fair competition.</td>
<td>Not applicable</td>
<td>Criterion is met.</td>
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<tr>
<td>Commercial interest should be clearly defined in the PPL. Additionally, instructions to bidders should be prepared on how to identify/mark commercially confidential information to balance the need for transparency with protecting legitimate commercial interests such as intellectual property rights or trade secrets.</td>
<td>Not applicable</td>
<td>Criterion is met.</td>
<td>Suggestions for improvement: PPL A.18: Commercial interest is not defined in the PPL and if this is interpreted broadly post evaluation transparency may be limited.</td>
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<tr>
<td>The UMUCYO website includes guides/manuals for submission of online bids but these are practical in nature rather than legal. There are practical guidelines on submission and receipt of online bids but the modality is not clearly defined in the legal framework.</td>
<td>Not applicable</td>
<td>Criterion is partially met</td>
<td>There are practical guidelines on submission and receipt of online bids but the modality is not clearly defined in the legal framework.</td>
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</table>

(b) Records of proceedings for bid openings are retained and available for review.

PPL A.4 requires that all public procuring entities must use the e-procurement system, UMUCYO, for conduct of procurement. This includes the electronic submission and opening of bids. Exceptions to this rule are only permitted with prior authorization from the RPPA.

E-procurement system: Legal framework to be updated to reflect move to e-procurement system and modalities for bid opening.

Order on modalities for opening bids should cover situations where the e-procurement system is used and where the e-procurement system is not used.

(Expected to be resolved through Ministerial Order – Time frame March – June 2020)

(c) Security and confidentiality of bids is maintained prior to bid opening and until after the award of contracts.

PPL A.18 provides that during or after procurement proceedings the content of bids must not be disclosed, subject to disclosure required by law or for the purposes of appeal or audit. The 2010 Public Procurement User Guide includes the requirement for security and confidentiality but the User Guide is not up to date because of the introduction of the new PPL 2018 and the move to e-procurement in particular.

E-procurement: Legal framework to be updated to reflect move to e-procurement and process for recording and retaining records of bid opening.

This will need to cover situations where the e-procurement system is used and also where it is not used.

Retention policy should cover situations where the e-procurement system is used and where it is not used (Gap expected to be resolved when New Ministerial Order establishing Procurement Regulations is adopted and published - Time frame March - June 2020)

(d) The disclosure of specific sensitive information is prohibited, as regulated in the legal framework.

PPL A.18 Confidentiality in public procurement requires that during or after procurement proceedings, information relating to the evaluation, comparison of bids or clarification on tenders and content of bids must not be disclosed. PPL A.18 also forbids disclosure or information relating to a procurement whose disclosure is likely to impede respect for law or jeopardize public interest; would prejudice a bidder’s legitimate commercial interest or inhibit fair competition.

Commercial interest should be clearly defined in the PPL. Additionally, instructions to bidders should be prepared on how to identify/mark commercially confidential information to balance the need for transparency with protecting legitimate commercial interests such as intellectual property rights or trade secrets.

(e) The modality of submitting tenders and receipt by the government is well defined, to avoid unnecessary rejection of tenders.

The UMUCYO website includes guides/manuals for submission of online bids but these are practical in nature rather than legal.

E-procurement: Legal framework to be updated to reflect move to e-procurement and process for submission and receipt of bids. (Gap expected to be resolved when New Ministerial Order establishing Procurement Regulations is adopted and published - Time frame March - June 2020)

(h) Right to challenge and appeal

The legal framework provides for the following:

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</thead>
<tbody>
<tr>
<td>Not applicable</td>
<td>Criterion is met.</td>
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*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.*
(a) Participants in procurement proceedings have the right to challenge decisions or actions taken by the procuring entity.

Summary: Participants and prospective participants in procurement proceedings have the right to challenge decisions or actions taken by the procuring entity.

PPA A.50 Right to ask for review of the decision of the procuring entity: PPA A.50 provides the right of a prospective or actual bidder to apply at any stage of the procurement proceedings for review of any conduct in the procurement proceedings in violation of the PPL or any other public procurement regulations. There is no requirement in the PPL to demonstrate actual or possible loss or injury because of the alleged non-compliance.

Review of contract award decision: PPA A.49 requires that the procuring entity must notify the successful and unsuccessful bidders of the provisional outcome of the bid evaluation. The notification must inform the bidders that the “major elements of the procurement process” will be made available to bidders on request and that they have 7 days to lodge a complaint. This creates a short “standstill period” (though not explicitly defined as such in the legal framework) allowing bidders to challenge a proposed contract award decision.

In practice, complaints can be filed online using the e-procurement system.

PPA A.12 Independent Review Panel provides that the independent review panel has the power to receive appeals on public procurement decisions or actions taken by the procuring entity “from publication of the tender to the signature of the contract.”

(b) Provisions make it possible to respond to a challenge with administrative review by another body, independent of the procuring entity that has the authority to suspend the award decision and grant remedies, and also establish the right for judicial review.

Summary: the initial application for review is made in writing to the procuring entity, with a right of appeal to the independent review panel. When an appeal is lodged with the NIRP the procurement process is suspended pending the NIRP’s decision. The NIRP has authority to order a range of actions including cancellation of procurement proceedings. The legal framework specifies the range of available remedies.

The initial application for review is made in writing to the procuring entity (PPA A.51). If the procuring entity fails to make a decision within 7 days of the date of receipt of the complaint or if the bidder is not satisfied with the decision of the procuring entity, the bidder may lodge a complaint with the independent review panel. In practice, complaints may now be filed using the e-procurement system, UMUCYO.

PPA A.50 provides that the application for review is subject to an administrative pre-screening process.

PPA A.50 provides that application for review is not acceptable unless it identifies a specific act of omission or commission contravening the PPL or any other public procurement regulations. PPA Regulations A.54 covers admissibility of the request for review and pre-screening in more detail.

PPA A.52 provides that when an appeal is lodged with the NIRP the procurement process is suspended pending the NIRP’s decision.

PPA A.53 provides that the independent review panel may recommend one or more of the following remedies (in summary):

- denounce the actions or decisions of the procuring entity which are contrary to the PPL or public procurement regulations
- require the procuring entity that has acted or proceeded in a manner contrary to the law so act consistently with the laws
- cancel in whole or in part a decision of the procuring entity which is contrary to the laws or a decision which resulted in a procurement contract
- revise a decision or substitute its own recommendation (other than signing of a contract)
- order re-evaluation of bids and indicate the grounds for such order
- recommend payment of reasonable bidding costs when a legally binding contract has been awarded which in the opinion of the review panel should have been awarded to the complainant
- Order the cancellation of the procurement proceedings

Not applicable

Criterion is partially met.

Review of contract award decision: PPA A.49 Information to be provided in 7-day period before contract award: PPA A.49 does not appear to place a procuring entity under an obligation to provide the information to the bidder without delay and within a short-specified time period following receipt of the request. This may potentially create problems for a bidder seeking to substantiate grounds for a complaint within the 7-day period. Nor is it clear what kind of information and whether the information provided at this stage, must include an explanation as to why their bid is proposed not to be selected.

PPA A.49 Final award decision also provides that after signature the procuring entity must notify the other bidders that their bids were unsuccessful and bidder have a right to request and explanation as to why their bids were not selected. This does not, however, appear to provide a right to challenge the final award decision. This is too late in the process for other bidders to seek explanations on their bids. The procuring entities should proactively disclose this information at an earlier stage, where bidders can seek a more meaningful recourse.

Not applicable

Criterion is partially met.

The failure to update the PP Regulations to align with the new PPL and the e-procurement system means that the legal framework is currently lacking clarity in terms of the process for making a challenge. For example, the PP Regulations still make reference to District Independent Review panels and do not refer to the use of UMUCYO to file challenges.

 更新/替换PPR的，与新PPL和使用UMUCYO文件挑战的PP


http://www.umucyo.gov.rw/index.do

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*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.
PPL A.12 PPL A.50 provides the right of a prospective or actual bidder to apply at any stage of the procurement proceedings for review of any conduct in the procurement proceedings in violation of the PPL or any other public procurement regulations.

The RPPA website has a section dedicated to the Independent Review Panel and decisions of the National Independent Review Body. Decisions on appeal made by the National Independent Review Body must be published on the RPPA website.

PPL A.54 provides that the decision of the independent review panel must be published and communicated to both parties, post proceedings and issue a written decision (PPL A.51). Once a complaint is lodged with the independent review panel the procurement procedures are suspended until a decision on the complaint is made by the independent review panel (PPL A.52). However, the procuring entity may apply to NIRP for lifting the suspension of the procurement process for public interest.

PPL A.52 sets out the timeframes for decisions to be made by the independent review panel; an initial period of 30 days, with one extension of 30 days. In the event of a failure to reach a decision within the specific period the complainant may lodge his/her claim with the competent court which is the Commercial Court unless appealed in a competent court, the decisions of the IRP are final and binding (PPL A.53).

There are rules which establish time frames for submission of challenges and appeals and for issuance of decisions by the institution in charge of review and the independent appeals body. A request for review to the procuring entity must be made within 7 days after the bidder becomes aware of the circumstances giving rise to the request (PPL A.52), though there is lack of clarity as to when bidders become aware.

Unless a matter is resolved to the satisfaction of the requesting bidder the procuring entity must suspend the procurement proceedings and issue a written decision (PPL A.51). Once a complaint is lodged with the independent review panel the timeframes for decisions to be made by the independent review panel; an initial period of 30 days, with one extension of 30 days. In the event of a failure to reach a decision within the specific period the complainant may lodge his/her claim with the competent court which is the Commercial Court unless appealed in a competent court, the decisions of the IRP are final and binding (PPL A.53).

(c) Rules establish the matters that are subject to review.
(d) Rules establish time frames for the submission of challenges and appeals and for issuance of decisions by the institution in charge of the review and the independent appeals body.
(e) Applications for appeal and decisions are published in easily accessible places and within specified time frames, in line with legislation protecting sensitive information.

Summary: There are rules which establish time frames for submission of challenges and appeals and for issuance of decisions by the institution in charge of review and the independent appeals body.

A request for review to the procuring entity must be made within 7 days after the bidder becomes aware of the circumstances giving rise to the request (PPL A.52), though there is lack of clarity as to when bidders become aware.

Unless a matter is resolved to the satisfaction of the requesting bidder the procuring entity must suspend the procurement proceedings and issue a written decision (PPL A.51). Once a complaint is lodged with the independent review panel the timeframes for decisions to be made by the independent review panel; an initial period of 30 days, with one extension of 30 days. In the event of a failure to reach a decision within the specific period the complainant may lodge his/her claim with the competent court which is the Commercial Court unless appealed in a competent court, the decisions of the IRP are final and binding (PPL A.53).

Not applicable
Not applicable
Not applicable
Criterion is met.
Criterion is met.
Criterion is partially met.

There is a need for improved clarity on the publication of decisions by the NIRP
A list of appeals filed cannot be found in the NIRP page on the RPPA website.
There are no specified time frames for publication of decisions.
Not all decisions are published. In 2017-18 the NIRP analyzed 68 appeals (with 11 held to be inadmissible) but only 35 decisions for that period are published on the RPPA website NIRP page.

PPL and/or PP Regulations should bring greater clarity on the various aspects of the complaints review process which if not addressed undermine the transparency of the mechanism, a cornerstone of a sound public procurement system.

PPL or PP Regulations to be amended (or PP Regulations replaced) to include, as a minimum, provisions on publication of (1) up to date information on appeals; and (2) NIRP decisions, including specifying short time frame for publication.

All information on appeals and decisions of the NIRP should be published in accordance with specified timescales on a dedicated webpage or website and in an easily searchable format.

Information on appeals should include at a minimum, a list of accepted appeals with sufficient detail to identify the parties and subject matter of the appeals, should be published, on receipt and acceptance, on the NIRP website

(NIRP annual activity report 2017-18, Table 3.
RPPA Website accessed 18 July 2019.

56 NIRP annual activity report 2017-18, Table 3.
57 RPPA Website accessed 18 July 2019.

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.
5) Decisions by the independent appeals body can be subject to higher-level review (judicial review).

PPL A.53 provides that the decisions of the national level independent review panel are final and binding unless the decision has been reviewed by the court adjudicating the case on merit.

Not applicable
Criterion is met.

1(i) Contract management

The legal framework provides for the following:

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</tr>
</thead>
<tbody>
<tr>
<td>(a) Functions for undertaking contract management are defined and responsibilities are clearly assigned.</td>
<td>The PPL A.55 to 62, provides more detail on contract provisions than commonly found in primary procurement legislation in other jurisdictions, and includes some contract management related provisions. The standard contract terms included in the new Standard Bidding Documents published January 2019 are very comprehensive.</td>
<td>Not applicable</td>
<td>Criterion is met.</td>
<td>Not applicable</td>
<td>Criterion is met.</td>
</tr>
<tr>
<td>(b) Conditions for contract amendments are defined, ensure economy and do not arbitrarily limit competition.</td>
<td></td>
<td></td>
<td>Not applicable</td>
<td>Criterion is met.</td>
<td>Not applicable</td>
</tr>
<tr>
<td>(c) There are efficient and fair processes to resolve disputes promptly during the performance of the contract.</td>
<td>Summary: There are efficient and fair processes for prompt resolution of disputes during performance of the contracts, with amicable settlement as the first step. The Standard Bidding Documents provide for dispute resolution including alternative dispute resolution including by way of mediation, arbitration and adjudication.</td>
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<td>PPL A.56 requires that the procurement contract must include “modalities for dispute settlement, review organs and applicable regulations.” The Standard Bidding Documents issued by the RPPA include terms and conditions. These include dispute resolution provisions as follows, by way of example: SBD for supply of goods: Clause 35 General Conditions of Contract provide for amicable settlement as the first step. Where a dispute cannot be settled amicably within 30 days, the Special Conditions of Contract apply. These provide for mediation in accordance with the Kigali International Arbitration Centre rules, with shared costs of mediation. In the event the parties cannot resolve the dispute amicably there is an option to litigate in the national courts. The SBD for small works: Clause 33 General Conditions of Contract provide for amicable settlement as the first step. Where a dispute cannot be settled amicably within 14 days the matter is referred to an adjudicator. Where a dispute cannot be resolved amicably through adjudication within specified time scales the decision may be submitted for settlement by way of arbitration or litigation.</td>
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<tr>
<td>(d) The final outcome of a dispute resolution process is enforceable.</td>
<td>Summary: A framework is in place for fair and timely resolution including procedures to ensure the final outcome of a dispute resolution process is enforceable. The SBD standard contract provisions for supply of goods provide (GDD 14/GDCC 9.2) for the award by an arbitrator to be final and binding and enforceable by any Court of competent jurisdiction.</td>
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</tbody>
</table>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.
Arbitration is to be undertaking in accordance with the Kigali International Arbitration Centre (KIAC) rules. KIAC administers cases under KIAC arbitration rules and UNCITRAL Rules. Rwanda ratified the New York Arbitral Convention on Recognition and Enforcement of Foreign Arbitral Awards 1958 on 31 October 2008 and the Convention came into force in Rwanda on 29 January 2009.

1(j) Electronic Procurement (e-Procurement)
The legal framework provides for the following:

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>(a) The legal framework allows or mandates e-Procurement solutions covering the public procurement cycle, whether entirely or partially.</td>
<td>PPL A.4 Use of electronic system for public procurement: PPL A.4 requires that all public procuring entities must use the e-procurement system, UMUCYO, for conduct of procurement except for defense. The obligation on procuring authorities to use the e-procurement system has been rolled out on a phased basis since the launch of the e-procurement system in 2016. This process is ongoing. The system includes registration of government suppliers, preparation and publication of procurement plans, submission and opening of bids, selection and notification of winners, negotiation and signing of contracts, submission of goods delivery notes and transmission of goods inspection and acceptance reports. The system may also be used to file complaints. Exceptions to use of the e-procurement system for the conduct of public procurement are only permitted with prior authorization from the RPPA. The e-procurement portal UMUCYO contains guidance and standard documents relating to use of the e-portal for both procuring entities and bidders.</td>
<td>Not applicable</td>
<td>Criterion is partially met. Suggestions for improvements: There is currently a lack of clear alignment between the PPL, PP Regulations and the use of the e-procurement portal.</td>
<td>Amend PPL (if necessary) and adopt and publish as quickly as possible the new PP Regulations for the implementation of the PPL 2018 and aligned with e-procurement. (Gap expected to be resolved when New Ministerial Order establishing Procurement Regulations is adopted and published - Time frame March-June 2020)</td>
<td></td>
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<tr>
<td>(b) The legal framework ensures the use of tools and standards that provide unrestricted and full access to the system, taking into consideration privacy, security of data and authentication.</td>
<td>Lack of alignment between the legal framework and the e-procurement system. The legal framework needs to be updated to address this issue in detail and to tie in with the operation of the e-procurement system.</td>
<td>Not applicable</td>
<td>Criterion is not met: It is a substantial gap. The legal framework needs to be updated to address this issue in detail and to tie in with the operation of the e-procurement system.</td>
<td>The legal framework needs to be updated to address this issue in detail and to tie in with the operation of the e-procurement system. (Gap expected to be resolved when New Ministerial Order establishing Procurement Regulations is adopted and published - Time frame March-June 2020)</td>
<td></td>
</tr>
<tr>
<td>(c) The legal framework requires that interested parties be informed which parts of the processes will be managed electronically.</td>
<td>Legal framework does not set out the specific requirement that the interested parties be informed which parts of the processes will be managed electronically</td>
<td>Not applicable</td>
<td>Criterion not met. The legal framework needs to be updated to address this issue in detail and to tie in with the operation of the e-procurement system.</td>
<td>The legal framework needs to be updated to address this specific issue and to tie in with the operation of the e-procurement system. (Gap expected to be resolved when New Ministerial Order establishing Procurement Regulations is adopted and published - Time frame March-June 2020)</td>
<td></td>
</tr>
</tbody>
</table>

1(k) Norms for safekeeping of records, documents and electronic data
The legal framework provides for the following:

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</tr>
</thead>
</table>

59 [http://www.newyorkconvention.org/countries](http://www.newyorkconvention.org/countries)

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.
(a) A comprehensive list is established of the procurement records and documents related to transactions including contract management. This should be kept at the operational level. It should outline what is available for public inspection including conditions for access.

The PPL and PP Regulations do not set out a comprehensive list of the records to be maintained either for paper-based or electronic procurement. In practice the e-procurement system retains records of the procurement process and transactions, but these requirements need to be codified.

The 2010 User Guide refers at 9.3 Record Management System, to each Procuring Entity ensuring that complete documentation is maintained in respect of all procurement activities and also to official maintenance of record files. The 2010 User Guide refers at 9.4 to Procurement Unit Records Management and lists structure/content of the procurement dossier which is fairly comprehensive covering most of the information listed in the indicator It is not clear whether this is open to public inspection.

Not applicable
Criterion is not met.
Codification of legal requirements into the PP Regulations should include provisions on record keeping and transactions, aligned with e-procurement processes and supported by practical guidance.

Legal requirements into the PP Regulations should include provisions on record keeping and transactions. Expected to be resolved through Ministerial Order- Time frame March-June 2020

(b) There is a document retention policy that is both compatible with the statute of limitations in the country for investigating and prosecuting cases of fraud and corruption and compatible with the audit cycles.

Previous regulations provided for a ten-year document retention period. A new Ministerial Order will extend the period to 20 years but the order is not yet published. Unable to find a document retention policy document

Not applicable
Criterion is not met.
Publication of new Ministerial Order as soon as possible, which should be compatible with statute of limitations for investigating and prosecuting cases of fraud and corruption and compatible with the audit cycles.

Retention policy document aligned with new Ministerial Order to be prepared and published. Expected to be resolved through Ministerial Order- Time frame March-June 2020

(c) There are established security protocols to protect records (physical and/or electronic).

There is an internal security policy for the e-procurement system, but no comprehensive security protocols exist.

Not applicable
Criterion is not met.
Codification of legal requirements into the PP Regulations should include provisions on security protocols, aligned with e-procurement processes and supported by practical guidance.

Comprehensive protocols should be prepared and published.

1(ii) Public procurement principles in specialized legislation

The legal and regulatory body of norms complies with the following conditions:

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<tbody>
<tr>
<td>(a) Public procurement principles and/or the legal framework apply in any specialised legislation that governs procurement by entities operating in specific sectors, as appropriate.</td>
<td>PPL Article 5 specifies that procurement by institutions whose budget is not approved by the parliament, is governed by special regulations of each institution approved by an Order of the Minister in charge of public investment. One such entity is Water and Sanitation Corporation (WASAC) or Rwanda Energy Group (REG). The list of such commercial public institutions and their special regulations are not available in public domain. Based on the review of the procurement manual obtained for one such institution (WASAC), it is not clear how public procurement principles especially transparency principle, are applied, when these regulations are not known to the participants of the tenders. WASAC is listed as procuring entity on the e-procurement system for Rwanda (UMUCYO) and contract opportunities are published on the UMUCYO e-procurement system. WASAC also publishes tender opportunities on its website. Though required by the PPL Article 5, the procurement regulations of WASAC have not been approved by a Ministerial Order. Below is a summary of such review: Not applicable</td>
<td></td>
<td>Criteria is not met. Procurement by public commercial entities is not essentially aligned with the overall procurement framework. There is no evidence the special procurement regulations are approved by Ministerial Order as required by PPL. They are not publicly available, and there is no clarity on whether the special procurement regulations issues by any such commercial public institution are harmonized with one another. The complaints review mechanism, an</td>
<td>RPPA in cooperation with the Minister in charge of public investment to identify list of Procuring Entities which are subject to special regulations. The procurement rules of such institution to be published including scale of procurement expenditure and procurement data like share of competitive vs non-competitive procedure for better transparency.</td>
<td></td>
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</tbody>
</table>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

44 UMUCYO accessed and searched 04 April 2019.
The Assessment Team reviewed the procurement manual for one such commercial public institution, Water and Sanitation Corporation (WASAC) Ltd (originally issued on August 25, 2014 as later revised on September 21, 2015). The Manual recognizes the principles of transparency, fairness, competition, value for money, effectiveness and accountability. The Manual proclaims to be based on the National Procurement Guidelines (National Procurement Guidelines does not appear to exist in the Rwandan procurement legal framework) and best practices in international commercial industry. It is detailed and covers most aspects of procurement proceedings. It covers goods, works and services, including consulting services, and encompasses all stages from planning till contract award. Procurement methods and its conditions of use are defined (including for Single Source / Force Account), it provides that contracts above 50 million Rwf are to be procured through competitive procedures, guidelines of Development Partners to apply if in conflict with provisions of the Manual. It specifies the minimum content of the bidding document/contract, composition of Internal Tender Committee, and the process for contract approval. The clause on contracts management is very brief and does not provide much guidance. Appeals are handled by an ad hoc committee appointed by the senior management which is led by the CEO who approves and signs contracts documents. Appeal Procedures provide only for review by an internal Review Panel which takes final decisions, which are not clear if subsequently subject to judicial review (since there is no explicit provision on this possibility). The Manual states that all procurement matters not provided for in the Manual, reference shall always be made to existing national laws and regulations.

essential element of accountability and fairness in public procurement, are limited to review by internal structures of the commercial institution.

(b) Public procurement principles and/or laws apply to the selection and contracting of public-private partnerships (PPP), including concessions as appropriate.

Summary: Public procurement principles are incorporated into the PPP Law. The PPP law specifies use of competitive procurement procedures for PPP. There are provisions permitting the award of a PPP following an unsolicited proposal.

Law no.14/2016 of 02/05/2016 Governing Public Private Partnerships (PPP Law): The PPP Law is a specific law which applies to the process of establishing partnerships with private firms. The PPP Law defines the arrangement and sectors covered (PPP Law A.3 & A.5) and confirms that the PPP Law does not apply to contracts covered by the PPL or the privatization or divestiture of enterprises, assets and any infrastructure facility owned by the Government (PPP Law A.4). The PPP Law sets out rules for the conduct of a competitive procurement procedures for a PPP project, preceded by a feasibility study.

Principles applying to the procurement of PPPs: The competitive procurement procedure for PPP is governed by the principles of competition, transparency, fairness and non-discrimination, efficiency and effectiveness, protection of public property and public interest and accountability (PPP Law A.15).

The procedure requires publication of an expression of interest at national and international level (PPP Law A.16) and a bidder shortlisting process (PPP Law A.18). There is the option to use a two-stage competitive procurement procedure (PPP Law A.20). Negotiation is permitted with the preferred bidder (PPP Law A.23), with negotiations being led by the Rwanda Development Board.

Unsolicited proposals for PPP: There are provisions permitting the award of a PPP without competition, in specified circumstances, following an unsolicited proposal (PPP Law A.25-28). The specified circumstances are, in summary: Where there is an urgent need to ensure continuity of provision and engaging in a competitive procurement process may cause delay or is not in the nation’s best interest; national security; the required service is a monopoly; there is little interest from the private sector (PPP Law A.25).

The PPP Guidelines emphasize that in these circumstances the government’s role is to ensure that the project is structured to meet economic and societal needs, ensuring fair terms, conditions and pricing. Additional checks and balances are required Sub-section 4 sets out Guidelines on the appraisal of unsolicited project proposals and defines the roles and responsibilities of the agencies involved including MINECOFIN, including screening of the pre-feasibility report, preparation and review of detailed feasibility study, negotiation and project approval process.

The Assessment Team did not have data indicating the extent (number, type and value of PPP contracts) to which the unsolicited proposals route is used, in practice, to award PPPs.


c) Responsibilities for developing policies and supporting the implementation of PPPs, including concessions, are clearly assigned.

Summary: The Ministry of Finance and Economic Planning (MINECOFIN) takes the policy lead on PPPs.

The Rwanda Development Board supports the implementation of PPPs.

The National Investment Policy, April 201765, prepared by the Ministry of Finance and Economic Planning (MINECOFIN) includes PPPs as one of a number of methods to deliver public investment. It (National Investment Policy) states that

Not applicable
Criterion is met.

Unsolicited proposals for PPP: The provisions permitting the award without competition of a PPP contract following receipt of an unsolicited proposal have the potential to reduce the overall competitiveness of the market and negatively impact long term value for money outcomes. No data is available on the extent of unsolicited proposal.

Article 15 of PPP Law only lays the principles, but the same is negated in some respect by provisions under PPP Law article 25-28 on unsolicited proposal that does not follow international practice of putting such proposal to competition.

Rwanda Development Board to review use of unsolicited proposal with a system of evaluating it against other competing proposals as per international practices.

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64 Public Private Partnership Guidelines Official Gazette No. 29bis of 16/07/2018

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.
MINEDFIN "governs the functions of finance, planning, and development cooperation for the GOR. its mission is to encourage sustainable growth, provide economic opportunities, and raise living standards of all citizens of Rwanda". The Rwanda Development Board is a government agency responsible for fast-tracking economic development in Rwanda by enabling private sector growth. Its roles include mainstreaming PPPs in Rwanda. The Rwanda Development Board has issued PPP Guidelines, in accordance with requirements of the PPP Law: Public Private Partnership Guidelines Official Gazette No. 2986 of 16/07/2018.66

PPP Law A.6 provides that the public institutions playing a role in PPP are the PPP Steering Committee, Contracting Authority and the Rwanda Development Board. PPP Law A.10 specified the role of the Rwanda Development Board which is to: issue general guidelines applicable to competitive procurement procedures for PPP Projects, be the lead negotiator during negotiations relating to a PPP agreement; and to advise Government on matters relating to PPP. Based on Public Private Partnership Guidelines of 2018, currently the PPP unit is handled by Special Investment Department of RDB67 and it is envisaged that RDB may set up a separate department/section in future based on number of projects being developed on PPP basis. There is no separate unit to undertake PPP in Rwanda as the assessment carried out as per the publication of the World Bank.68

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

#### 2(a) Implementing regulations to define processes and procedures

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<tbody>
<tr>
<td>(a) There are regulations that supplement and detail the provisions of the procurement law, and do not contradict the law.</td>
<td>Summary: There are regulations that supplement and detail provisions of procurement law but they are out of date and refer to the 2007 PPL, replaced in 2018 with a new PPL. The PPL refers at various points to public procurement regulations, which regulate more detailed procedures and issues; for example, the financial thresholds below which the PPL do not apply (PPL A.32), fees to be paid by prospective bidders for tender documents (PPL A.34), bid security (PPL A.37), content of evaluation report (A.42 PPL), details concerning the right to review and review process (PPS A.50-54). Public Procurement Regulations: Public procurement regulations have been issued (as an Order of the Minister) pursuant to the previous PPL 2007 (as amended): Public Ministerial Order No.001/14/10/TC of 19/02/2014 Establishing Regulations on Public Procurement, Standard Bidding Documents and Standard Contracts. However, no public procurement regulations have been issued to align with the new PPL and so there is no up to date comprehensive set of regulations detailing procedures or issue to supplement the current PPL. Other Ministerial Orders/Instructions: Other Ministerial Orders/Instructions are issued relating to public procurement. These include, for example, the establishment of a professional code of ethics governing public agents involved in public procurement.69</td>
<td>Not applicable</td>
<td>Criterion is partially met. Regulations are available, but need update New Public Procurement Regulations aligned with the new PPL 2018 and the e-procurement system are required. These are identified in the RPPA Strategic plan for production by June 2019</td>
<td>Adopt as quickly as possible the new PP Regulations for the implementation of the PPL 2018 and aligned with e-procurement. (Gap expected to be resolved when New Ministerial Order establishing Procurement Regulations is adopted and published Time frame March-June 2020)</td>
<td></td>
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</tbody>
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67 As per World Bank publication "The creation of PPP units is a common trend to support the development of PPPs. As many as 81 percent of the assessed economies have a dedicated PPP unit, which, in most economies, concentrates on promoting and facilitating PPPs. In 4 percent of the economies, however, the PPP unit takes a prominent role in the development of PPPs and acts as the main (or exclusive) procuring authority"  


69 Ministerial Instruction No. 001/11/10/TC of 24/01/2011 establishing the professional code of ethics governing public agents involved in public procurement.

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.*
(b) The regulations are clear, comprehensive and consolidated as a set of regulations readily available in a single accessible place.

The 2014 PP Regulations are available from the RPPA website but they are out of date as they are not aligned with the current PPL. Not applicable

Criterion is partially met.

New Public Procurement Regulations aligned with the new PPL 2018 and the e-procurement system are required. These are identified in the RPPA Strategic plan for production by June 2019.

(Gap expected to be resolved when new Ministerial Order establishing Procurement Regulations is adopted and published. Time frame March–June 2020)

(c) Responsibility for maintenance of the regulations is clearly established, and the regulations are updated regularly.

Public Procurement Regulations are issued as Ministerial Orders, thus lying within the competence of the relevant Ministry (MINECOFIN), although this is not always clearly stated in the PPL. Not applicable

Criterion is partially met as responsibilities are clearly defined but an update is needed

is expected to be removed in the time frame of March to June 2020

2(b) Model procurement documents for goods, works, and services

<table>
<thead>
<tr>
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</thead>
</table>
| (a) There are model procurement documents provided for use for a wide range of goods, works and services, including consulting services procured by public entities. | Model procurement documents are comprehensive and well-structured. The RPPA has published on its website, in the "Downloadable Forms" section, a new suite of Standard Bidding Documents (SBD) in English and French, dated January 2019. These are as follows:  
- SBD for Small Works  
- SBD for Supply of Goods  
- SBD for Consultancy Services  
- SBD for Small Consultancy Services  
An SBD for Large Works dated January 2019 is currently only available in English. There is currently no SBD for non-consultancy services. | | | | | SBDs need update | Expected by June 2020 |
| (b) At a minimum, there is a standard and mandatory set of clauses or templates that reflect the legal framework. These clauses can be used in documents prepared for competitive tendering/bidding. | Comprehensive standard contract terms included with the mandatory SBD (standard bidding documents). PP Regulations A.7 require procuring institutions to use the standard bidding documents and standard contracts for tenders governed by the PPL. Public institutions are permitted to use other international models for international tenders if more appropriate. The standard contracts have to be approved by the ministry in charge of providing legal advisory services to the Government. The SBD include comprehensive standard contract terms. The SBD do not include information on the right to challenge decisions or actions and the right of appeal. | | | | | Suggested improvement:  
The SBD to include information on the right to challenge decisions or actions and the right of appeal. |
| (c) The documents are kept up to date, with responsibility for preparation and updating clearly assigned. | The SBD are up to date. Responsibility for preparation lies with the RPPA. Article 3 (7) of Law no. 25/2011 of 30/06/2011 Establishing Rwanda Public Procurement Authority (RPPA) and determining its mission, organization and functioning, lists as one of the RPPA’s missions the requirement to “put into place standard bidding documents, bid evaluation reports and other standard documents for use by public procuring entities.” | | | | | SBDs need update |

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70 Circular 010/2018/2019-3343/RPPA.
71 Circular 010/2018/2019-2555/RPPA.
72 RPPA Website access 09 April 2019.
73 RPPA Website access 09 April 2019.
74 The SBD for large works refers to a right to complain but the information provided is limited and does not refer to the National Independent Review Panel.
75 The SBD for large works refers to a right to complain but the information provided is limited and does not refer to the National Independent Review Panel.

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.
2 (c) Standard contract conditions

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</thead>
<tbody>
<tr>
<td>(a) There are standard contract conditions for the most common types of contracts, and their use is mandatory.</td>
<td>Standard contract conditions are included as an integral part of the Standard Bidding Documents (SBD) for: - SBD for Small Works - SBD for Supply of Goods - SBD for Consultancy Services - SBD for Small Consultancy Service - Large Works PP Regulations A.7 require procuring institutions to use the standard bidding documents and standard contracts for tenders governed by the PPL.</td>
<td>Not applicable</td>
<td>Criterion is met. Improvements needed There is currently no SBD for non-consultancy services.²⁶</td>
<td>Not applicable</td>
<td>Standard bidding documents (SBD) for non-consultancy services to be prepared.</td>
</tr>
<tr>
<td>(b) The content of the standard contract conditions is generally consistent with internationally accepted practice.</td>
<td>The standard contract conditions are comprehensive and are generally consistent with international accepted practice, covering standard contract conditions, general conditions on contract implementation (as appropriate), invoicing and payment as well as provisions on dispute resolution, including the use of alternative dispute resolution including arbitration.</td>
<td>Not applicable</td>
<td>Criterion is met.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c) Standard contract conditions are an integral part of the procurement documents and made available to participants in procurement proceedings.</td>
<td>Standard contract conditions are included as an integral part of the Standard Bidding Documents. The Standard Bidding Documents are made available to all participants in procurement proceedings through the e-procurement system.</td>
<td></td>
<td>Criterion is met</td>
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2(d)

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<tbody>
<tr>
<td>(a) There is (a) comprehensive procurement manual(s) detailing all procedures for the correct implementation of procurement regulations and laws.</td>
<td>Summary: the current User Guide dates from 2010 and is not aligned with the new PPL. The Public Procurement User Guide was published in 2010 by the RPPA. The User Guide provides a comprehensive guide to the 2007 PPL but it has not been updated regularly and is not aligned with the new PPL. A number of practical guides are identified for future development in the RPPA Strategic Plan.</td>
<td>Not applicable</td>
<td>Criterion is partially met. There is no user guide aligned with the 2018 PPL and e-procurement system.</td>
<td></td>
<td>There is the need for a new user guide to align with the 2018 PPL and e-procurement system. Prepare and publish as quickly as possible new user guide/s to align with the 2018 PPL and e-procurement system.</td>
</tr>
<tr>
<td>(b) Responsibility for maintenance of the manual is clearly established, and the manual is updated regularly.</td>
<td>Summary: the RPPA is responsible for issuing guidelines. The User Guide has not been updated to align with the new PPL. PPL A.5 provides that the RPPA issues standard procurement documents and guidelines aimed at achievement of the objectives or any duty under the PPL. Preparation and maintenance of the User Guide lies within the responsibility of the RPPA which, under the Article 3 of Law no. 25/2011 of 30/06/2011 Establishing Rwanda Public Procurement Authority (RPPA) and determining its mission, organization and functioning, lists as the RPPA’s mission as including the requirement to “provide technical assistance as needed...” for procurement officers, and “put into place standard bidding documents, bid evaluation reports and other standard documents for use by public procuring entities.”</td>
<td>Not applicable</td>
<td>Criterion is partially met as responsibility is defined, but document needs update</td>
<td>User’s Guide to be updated</td>
<td></td>
</tr>
</tbody>
</table>

²⁶ RPPA Website access 09 April 2019.

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### 3(a) Sustainable Public Procurement (SPP)

<table>
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<tr>
<td>(a) The country has a policy/strategy in place to implement SPP in support of broader national policy objectives.</td>
<td>Consistent with &quot;Transforming our World: The 2030 Agenda for Sustainable Development&quot; of UN and Sustainable Development Goal 16, which calls for promotion of sustainable procurement practices in line with national priorities and policies and, Goal 16, which calls for accountable institutions, GoR has published a Voluntary National Review Report on implementation of SDGs. Based on this report Rwanda is committed to delivery and realization of SDGs and in fact is selected as pilot for Goal 16 on building effective and capable institution, and further, as per NST1 priority on Pillar: Economic Transformation (SDS12) Rwanda shall promote sustainable management of the environment and natural resources to transition Rwanda towards a Green Economy. Further under Transformational Governance Pillar (SDG16), Rwanda shall strengthen capacity, service delivery and accountability of institutions.</td>
<td>Not applicable</td>
<td>Criterion is met.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) The SPP implementation plan is based on an in-depth assessment; systems and tools are in place to operationalise, facilitate and monitor the application of SPP.</td>
<td>Based on the report of VNR (June 2019), there is a mechanism to monitor application of SPP in a general way without any reference to Sustainable Public Procurement which promotes the integration of three pillars of sustainable development: economic development, social development and environmental protection but related to sustainable procurement there is no implementation plan.</td>
<td>Not applicable</td>
<td>The criterion is not met, as no tools are available to operationalise, facilitate and monitor application of sustainable public procurement.</td>
<td></td>
<td>Need to develop a policy to promote the integration of three pillars of sustainable development, economic development, social development and environmental protection by focusing on reduced demand for resources and minimizing negative impact of goods, works and services across their life cycle and tools to be developed to operationalise, facilitate and monitor application of sustainable public procurement.</td>
</tr>
<tr>
<td>(c) The legal and regulatory frameworks allow for sustainability (i.e. economic, environmental and social criteria) to be incorporated at all stages of the procurement cycle.</td>
<td>No evidence of comprehensive measures to address sustainability across the legal framework and at all stages of the procurement cycle. There are targeted examples, such as the &quot;Buy Made In Rwanda&quot; programme, which is aimed at contributing to the growth of Rwandan manufacturing capacity, reduce the export/import gap and promote growth of Rwandan enterprises. This flows through into local and exclusive preference provisions in Standard Bidding Documents highlighted in Guidelines issue by MINECOFIN78. See also the RPPA Circular which designates a specific product and company for exclusive preference and refers to applications to RPPA for consent for single source procurement. <a href="http://rppa.gov.rw/fileadmin/files/CIRCULAR/using_Straw_panels_made_by_Strawtec_Building_Solutions_Ltd_for_interior_walls_and_partitioning.pdf">http://rppa.gov.rw/fileadmin/files/CIRCULAR/using_Straw_panels_made_by_Strawtec_Building_Solutions_Ltd_for_interior_walls_and_partitioning.pdf</a></td>
<td>Not applicable</td>
<td>Criterion is not met.</td>
<td>No evidence of comprehensive measures to address sustainability across the public procurement legal framework and at all stages of the procurement cycle.</td>
<td>Include sustainability provisions in higher level legislation would emphasize its importance and ensure consistency and uniformity among procuring entities. Hence, the need to revise PPL and/or replace PP Regulations to include explicit provisions on sustainability, supported by practical guidance, revision to SBDs to include specific provisions on sustainability.</td>
</tr>
<tr>
<td>(d) The legal provisions require a well-balanced application of sustainability criteria to ensure value for money.</td>
<td>No legal provisions setting out this specific requirement: Guidelines for enhancing Value for Money in Public Procurement were issued in June 2018 by the RPPA: 010/2017/2018 - 1996/RPPA79. The guidelines to refer to the achievement of whole life cost and clearly defined benefits as well as the need to deliver to meet user need and source locally, but the focus is not on application of sustainability criteria.</td>
<td>Not applicable</td>
<td>Criterion is not met.</td>
<td>Guidelines for enhancing Value for Money in Public Procurement were issued in June 2018 by the RPPA: 010/2017/2018 - 1996/RPPA80. The guidelines to</td>
<td>The practical guidance on sustainability criteria, green procurement, Value-for-money considerations in bidding document and technical specifications needs to be issued which is aimed at energy efficient</td>
</tr>
</tbody>
</table>

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*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.*
No guidance document available. No evidence of incorporation of sustainability criteria in PPL, Regulation and Standard Bidding Document. Refer to the achievement of whole life cost and clearly defined benefits as well as the need to deliver to meet user need and source locally, but the focus is not on application of sustainability criteria. To date, no legal provisions setting out this specific requirement. Further any such guidelines need to be elaborated as specific guidance on how to apply it to specific bidding documents including in technical specification and as part of evaluation and selection criteria. Product, incorporation of life-cycle-costing and incorporation environmental, social, health and safety (ESHS) consideration as part of bidding documents.

3(b) Obligations deriving from international agreements

Public procurement-related obligations deriving from binding international agreements are:

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<tr>
<td>(a) clearly established</td>
<td>In accordance with PPL A2, in case PPL conflicts with the provisions of a bilateral or multilateral treaty or other forms of agreement related to public procurement to which Government of Rwanda is a party, the provisions of those agreements prevail</td>
<td>Not applicable</td>
<td>Criterion is met</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) consistently adopted in laws and regulations and reflected in procurement policies.</td>
<td>Rwanda considers regional economic integration as one of the crucial elements of achieving the vision 2050. Currently, Rwanda is a member of four key regional integration blocs: the East African Community (EAC), the Common Market for Eastern and Southern Africa (COMESA), the Economic Community of the Great Lakes Countries (CEPGL) and Economic Community of Central African States (ECCAS). Rwanda is also engaged in a tripartite Agreement between EAC, COMESA-SADC and the African Union (AU) and has international trade agreements such as the Economic Partnership Agreements (EPA) and the Africa Growth and Opportunity Act (AGOA), with the EU and USA, respectively. It is not clear how these regional agreements are reflected in procurement policy.</td>
<td>Not applicable</td>
<td>Criterion partially met. In the past there were dialogues with key regional integration blocs like COMESA, but these regional agreements are not specifically reflected in procurement policy.</td>
<td></td>
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</tr>
</tbody>
</table>
Pillar II. Institutional Framework and Management Capacity

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

4(a) Procurement planning and the budget cycle

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

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</thead>
<tbody>
<tr>
<td>(a) Annual or multi-annual procurement plans are prepared, to facilitate the budget planning and formulation process and to contribute to multi-year planning.</td>
<td>PPL A.15 requires procuring entities to prepare an annual procurement plan. Procurement planning must tie in with the budget process. There are provisions covering the situation where execution covers a period longer than a fiscal year, where the procuring entity allocates in the budget of the year money corresponding to the planned activities and the tender execution budget for the remaining years is provided for each fiscal year. PP Regulations A.3 require publication of the annual procurement plan on the procuring entity website, the RPPA official website and in newspaper of wide circulation. PP Regulations A.2 set out further details on timing for preparation and content of the annual procurement plan that includes identification of needs, identification of priorities, indication if it is necessary to carry out a prior study for tenders of works, identification of the procurement method to be used for any planned tender, estimation of the value of the planned tender, specification of the source of funds for that tender, determination of necessity to grant local preference to international tenders, specification of the need for request for approval prior to the award of contract, planning for the schedules in which different processes of tendering shall be carried out and planning for the execution schedules of the contract. A template procurement plan is available for download from the UMUCYO portal (follow links to “List of SBD”). In practice Procurement Plans are prepared on the UMUCYO website on a dedicated section. PPL A.30 requires procurement officer to ensure, prior to preparing tender documents, that the tender is included in the public procurement plan and relevant budget for its execution is available. PP Regulations A.5 require procuring entities to submit monthly reports to the RPPA showing how the procurement plan is being implemented (for implementation of these provisions refer to Indicator 9 (a) under Pillar III). The GoR prepares 3 years Medium Term Expenditures Framework (MTEF) based on strategic objectives embedded in the 7 years National Strategy for Transformation and other Sectors Strategies. The annual budget approved by the Parliament is on cash basis. After the annual budget approval by the Parliament, an annual procurement plan is prepared by Ministries, Districts and Budget Agencies, and approved by the Chief Budget Manager, in line with the annual budget appropriations. Budget commitments cover only contracts performed within the budget period.</td>
<td>Not applicable</td>
<td>Criterion is met</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) A feedback mechanism reporting on budget execution is in place, in particular regarding the completion of major contracts.</td>
<td>PPL A.16 requires that: (i) every procuring entity must produce an annual procurement plan indicating the objectives to be achieved in accordance with public procurement regulations; (ii) the preparation and approval of public procurement plan are based on budget definitively adopted by the relevant organ; and (iii) during the procurement planning process, the procuring entity must ensure that there is sufficient budget allocation and must comply with regulations governing budget execution.</td>
<td>Not applicable</td>
<td>Criterion is met</td>
<td></td>
<td></td>
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<tr>
<td>(c) Budget funds are committed or appropriated in a timely manner and cover the full amount of the contract or at least the amount necessary to cover the portion of the contract performed within the budget period.</td>
<td>The Law on State Finance and Property provides that all public entities shall prepare and submit their quarterly budget execution reports to the Minister (article 65 of organic law n° 12/2013/OL of 12/09/2013 on State Finances and Property). To ensure an effective budget performance monitoring, a monthly budget performance reporting is required by the PFM regulations, as part of a more comprehensive financial accountability mechanism. The implementation of the reporting requirement is supported by an adequate IFMIS and eProcurement system able to produce tailored feedback information on contracts completion. However, contract implementation part of eProcurement system is not functional. Despite the above, the analytical information on contracts or major contracts completion within the monthly financial report is very limited. A progress report on ongoing large works contracts (and few consulting services contract) is provided in RPPA Annual Activity Report (reference Annex 3 for Fiscal 2017 - 2018 dated November 2018), but it is not clear if the list is comprehensive and no analysis is available as to time or cost overruns and major issues affecting</td>
<td>Not applicable</td>
<td>Criterion is partially met</td>
<td></td>
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</table>

Analytical information on contracts or major contracts completion within the monthly financial report is very limited. There are cases of delayed and abandoned contracts. There is a need to monitor and report cases of contract failure and take mitigating measures. |

Yes |

There is need to take a comprehensive look on implementation of major contracts, analyzing issues affecting implementation like change in design and/or site location, land acquisition/ expropriation of properties located in the area of implementation of infrastructure, delays in payment/budget constraint, capacity/capability of selected contractors and reasons for contract delays and failure and take timely corrective action. There is a need for effective contract monitoring and  |
implementation of contract for each case. The last Audit Report for the period ending June 30, 201881 was presented to the parliament by the Auditor General on April 29, 2019 which refers to cases of delayed and abandoned contracts, stalled projects, continuing cases of idle assets, failure to recover advance payments and performance securities as well as non-compliance with taxation laws. The Annual Activity Report of RPPA provides a general list of issues affecting contract implementation and indicates a need for all procuring entities to report to RPPA all cases of contract failure. Refer to Indicator 9 (c) also on Contracts Management under Pillar III

4(b) Financial procedures and the procurement cycle

The legal and regulatory framework, financial procedures and systems should ensure that:

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<tbody>
<tr>
<td>(a) No solicitation of tenders/proposals takes place without certification of the availability of funds.</td>
<td>As per PPL A.16 No tender solicitation can be made in case money for its execution is not provided for in the adopted budget. As per the GoR PFM regulations, solicitation of tenders or proposals are preceded by existing budget allocation duly approved by the Parliament. No budget commitment on contract could not be done without prior check and availability of the related budget appropriations. This internal control regulation is reinforced by the existing IFMIS and e-Procurement which provide automatic control mechanism.</td>
<td>Not applicable</td>
<td>Criterion is met</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>(b) The national regulations/procedures for processing of invoices and authorization of payments are followed, publicly available and clear to potential bidders.</td>
<td>The PFM law, regulations and procedures provide a clear segregation of duties for invoice processing and payment under the overall oversight of the Chief Budget Manager. The national regulations/procedures for processing of invoices and authorization of payments are significantly followed, publicly available and understandable to potential bidders. Invoices for procurement of goods, works and services paid on time (62.9% of total number of invoices based on sample). Based on Survey results (Refer to Indicator 10 (b) (b) 40-60% of participants indicated delayed payment as a constraint in accessing public procurement market (Refer to Indicator 9 (c) under Pillar III)</td>
<td>Not applicable</td>
<td>Criterion partially met.</td>
<td>N/A</td>
<td></td>
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</tbody>
</table>

// Minimum Indicator 4(b) Quantitative indicator to substantiate assessment of sub-indicator 4(b) Assessment criterion (b):
- Invoices for procurement of goods, works and services paid on time (in % of total number of invoices).
Source: PFM systems.

Of total contracts executed in the sample, the assessment found 51 contracts (representing 62.9%) whose invoices were paid within 45 days as required by PPL, while 14 contracts (representing 17.5%) were delayed, for 12 (14.8%) contracts assessed, procuring entities did not have information. | Please see information the left column | Criterion is partially met as there are delays in payment of invoices | N/A |

| | | | | | |

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

5(a) Status and legal basis of the normative/regulatory institution function

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

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*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.
The following functions are clearly assigned to one or several agencies without creating gaps or overlaps in responsibility:

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<tr>
<td>(a) The legal and regulatory framework specifies the normative/regulatory function and assigns appropriate authorities formal powers to enable the institution to function effectively, or the normative/regulatory functions are clearly assigned to various units within the government.</td>
<td>The Rwanda Public Procurement Authority (RPPA) has been established by law and which has legal personality, administrative and financial autonomy (Article 1 of law no. 25/2011 of 30/06/2011 establishing the Rwanda Public Procurement Authority and determining its mission, organization and functioning (RPPA Law). The RPPA is an independent body under the supervision of Ministry of Finance and Economic planning (MINECOFIN). The main mission of RPPA as determined in A.3 RPPA Law is: 1° to ensure organization, analysis and supervision in public procurement matters; 2° to advise the Government and all public procurement organs on the policies and strategies in matters related to the organization of public procurement; 3° to centralize activities of awarding public contracts and their execution; 4° to develop professionalism of the staff involved in public procurement; 5° to provide technical assistance as needed and develop teaching material, organize trainings and lay down the requirements which must be met by public procurement officers; 6° to collect and disseminate on a regular basis information on public procurement; 7° to put in place standard bidding documents, bid evaluation reports and other standard documents for use by public procuring entities; 8° to sensitize the public on matters related to public procurement; 9° to draw up and publish the list of bidders suspended or debarred from participating in public procurement; 10°to establish cooperation and collaboration with other regional and international agencies whose mission is similar to that of RPPA; 11°to perform such other duties as may be assigned by law and which are not contrary to its main mission.</td>
<td>Not applicable</td>
<td>Criterion is met</td>
<td>Not applicable</td>
<td></td>
</tr>
<tr>
<td>Article 4: Powers To fulfill its mission, RPPA shall have the following powers: 1° to suspend, upon request or on its own initiative and in accordance with the provisions of the Law governing public procurement, a public tender evaluation or award process to conduct an investigation; 2° to summon anyone and require him/her to provide any information relevant to the fulfillment of its mission; 3° to carry out investigations in any entity governed by the Law of public procurement and get copies of documents related to public procurement where need be; 4° to seek assistance from experts in order for it to fulfill its mission; 5° to suspend or approve the suspension or debarment of bidders from participating in public procurement.</td>
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</table>

5(b) Responsibilities of the normative/regulatory function
The following functions are clearly assigned to one or several agencies without creating gaps or overlaps in responsibility:

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</thead>
<tbody>
<tr>
<td>(a) providing advice to procuring entities RPPA A.3(12) Law no. 25/2011 of 30/06/2011 Establishing Rwanda Public Procurement Authority (RPPA) and determining its mission, organization and functioning (RPPA Law): to advise the Government and all public procurement organs.</td>
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<tr>
<td>(b) drafting procurement policies Not clearly assigned, but understand that MINECOFIN is policy making body RPPA advises Government on policies and strategies in matters related to organization of public procurement RPPA Law A.11(2)</td>
<td>Not applicable</td>
<td>Criterion met</td>
<td></td>
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<tr>
<td>(c) proposing changes/drafting amendments to the legal and regulatory framework Not clearly assigned, although in practice undertaken by RPPA (see RPPA Annual Activity Report 2017-18)</td>
<td>Not applicable</td>
<td>Criterion met</td>
<td></td>
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<tr>
<td>(d) monitoring public procurement RPPA PFP A.8 RPPA to undertake regular inspection in order to check implementation of laws and regulations governing public procurement RPPA Law A.3(1)1 – supervision in public procurement matters</td>
<td>Not applicable</td>
<td>Criterion met</td>
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</tr>
<tr>
<td>(e) providing procurement information RPPA RPPA Law A.3(1)6 – collect and disseminate on a regular basis information on public procurement</td>
<td>Not applicable</td>
<td>Criterion met</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>(f) managing statistical databases RPPA RPPA Law A.3(1) does not include specific reference to statistical database, but in practice maintained by RPPA</td>
<td>Not applicable</td>
<td>Criterion met</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>(g) preparing reports on procurement to other parts of government RPPA RPPA Law A.3(1)1 – ensure analysis in public procurement matters Report?</td>
<td>Not applicable</td>
<td>Criterion met</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(h) developing and supporting implementation of initiatives for improvements of the public procurement system RPPA Not expressed in these specific terms. Number of functions could fall within this wide-ranging role, including: RPPA Law A.3(1)1 – organisation in public procurement matters, RPPA Law A.3(1)4 – develop professionalism, RPPA Law A.3(1)5 – provide technical assistance, RPPA Law A.3(1)(10) public engagement, RPPA Law A.3(1)(10) establish cooperation and collaboration with other regional and international agencies whose mission is similar to that of the RPPA. See also PPL A.5 – RPPA issues standard procurement documents and guidelines aimed at achievement of the objectives of any duty under the PPL</td>
<td>Not applicable</td>
<td>Criterion met</td>
<td></td>
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</tr>
<tr>
<td>(i) providing tools and documents, including integrity training RPPA</td>
<td>Not applicable</td>
<td>Criterion partially met.</td>
<td>RPPA to review its resource requirement and budget to fulfill its mandate related to</td>
<td></td>
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</table>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.
programmes, to support training and capacity development of the staff responsible for implementing procurement

RPPA Law A.3(15) - provide technical assistance as needed and develop teaching material, organize training and lay down requirements which must be met by procurement officers

RPPA Law A.3(17) - put into place standard bidding documents, bid evaluation reports and other standard documents for use by procuring entities

No specific mention of Integrity training programs and there are resource constraints

- **Mandate of RPPA as required by law**
- **Meaningful level and scale of procurement**
- **Proper staffing and resources to keep the services at the level of quality required. For details refer to item (c) below**

Not specifically referred to in PPL or PP Regulations. Contact details on UMMUCYO portal are for RPPA.

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<tr>
<td>(a) The normative/regulatory function (or the institutions entrusted with responsibilities for the regulatory function if there is not a single institution) and the head of the institution have a high-level and authoritative standing in government.</td>
<td>RPPA Law A.1 establishes RPPA with legal personality, administrative and financial autonomy and provides that the RPPA shall be governed in accordance with general provisions governing public institutions As per RPPA Law A.6, RPPA shall be composed of two management organs: (i) the Board of Directors; and (ii) the Director General. As per RPPA Law A7, Board of Directors is a decision-making organ whose competence, responsibilities, functioning, terms of office of its members shall be determined by a Prime Minister’s Order There shall be a performance contract concluded between the supervising authority of RPPA and its decision-making organ indicating competence, rights and obligations of each party in order for RPPA to fulfill its mission. Members of the Board of Directors (BoD) including its Chairperson and Deputy Chairperson shall be appointed by Presidential Order. Members of BoD shall be selected on the basis of their competence and expertise and 30% of members shall be females. Therefore, the head of the institution namely the Director General with the supervision of Board of Directors has a high-level and authoritative standing in the government with a diverse and inclusive background.</td>
<td>Not applicable</td>
<td>Criterion met</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) Financing is secured by the legal/regulatory framework, to ensure the function’s independence and proper staffing.</td>
<td>RPPA Law A.1 establishes RPPA with legal personality, administrative and financial autonomy. RPPA Law A.14, A.15, A.16 and A.17 under Chapter V on property and finances determines that property shall come from the following sources: (i) property currently owned by RPPA; (ii) state budget allocation; (iii) state or donor’s subsidy; (iv) donation and bequest. Budget of RPPA shall be adopted and managed by relevant legal provision. Further as per these provisions, there shall need for audit of property, adoption of budget by annual financial reporting to supervising authority of RPPA with approval of Board of Directors in accordance with laws governing management of State Finances and Properties. Even though RPPA Law A.1, states that RPPA has financial autonomy, with the stipulation in the given Articles as above, RPPA is dependent for its resources on the State Finances and it is not clear if the available finances ensure the function’s independence and proper staffing to keep the services at the level of quality required. For details refer to item (c) below.</td>
<td>Not applicable</td>
<td>Criterion partially met. It is seen that due to RPPA budget constraints during the year, the training was carried out only for those procuring entities who were able to organize and sponsor those trainings. The given budget is not sufficient compared to the overall scale of procurement and to demonstrate meaningful impact on the overall performance of public procurement system in the country. Yes</td>
<td>Need to create additional sources of finances that provides some degree of financial independence to RPPA to ensure proper staffing and resources to keep the services at the level of quality desired and to fulfill mandate of RPPA as required by PPL.</td>
<td></td>
</tr>
<tr>
<td>(c) The institution’s internal organisation, authority and staffing are sufficient and consistent with its responsibilities.</td>
<td>As per Organization Chart on RPPA website (2014), RPPA (excluding Independent Review Panel) has a total staff of about 50, divided into four units, Office of DG (10 staff including DG), Monitoring &amp; Audit Unit (10 staff including a Director), Capacity Development Unit (9 staff including a Director) and Administration and Finance Unit (9 staff including a Director). Based on RPPA Annual Activity Report 2017 - 2018 (November 2018), for the given year the revised budget was Rwf 929, 959,824 with execution of Rwf 836,837, 492 (about 90% of budget), out of which 61.10 % related to compensation of employees and 30% on use of goods and services. However, there is no breakdown of expenditure of type of activities like regulation and legislation, monitoring, providing clearances like authorization on use of less competitive method, auditing, work by Independent Review Panel, building capacity etc. to determine the extent of focus of resources by RPPA. The execution of Rwf 836,837 million of RPPA budget constitutes an insignificant percent of reported total expenditure of procurement of Rwf 336.707 billion and a calculated public procurement expenditure of Rwf1086.5 billion in 2017 - 2018 based on budget figures. Based on Paragraph 3.1 Training, it is seen that due to RPPA budget constraints during the year, the training was carried out only for those procuring entities who were able to organize and sponsor those trainings. From the Annual Activity Report for 2017 - 2018, it is seen that there are certain good initiatives on the part of RPPA like focus on categorization to ensure that firms are selected in accordance with their technical and financial capacities, field visits to follow-up on implementation of construction contracts, monitoring of ongoing large contracts above Rwf five hundred million, advocacy of delayed payment, meeting with bidders, updating reference price of common goods, preparation of standard technical specification for office items, ranking of procuring entities. However, based on the given budget these activities though useful are not sufficient compared to the overall scale of procurement and to demonstrate meaningful impact on improving the overall public procurement system.</td>
<td>Not applicable</td>
<td>Criterion partially met (explained above)</td>
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</table>

RPPA to assess, through an independent agency, the focus of its activities compared to its mandate, adequacy of RPPA staffing, budget to find out if there is a meaningful impact on improving the overall public procurement system.
impact on the overall performance of public procurement system in the country. (refer to Indicator 9 under Pillar III on public procurement practices achieve stated objective that includes statistics on delays in selection and implementation of contract and OAG’s Annual Report for period ending June 30, 2018 presented to parliament on April 29, 2019, that includes cases of delayed and abandoned contracts)

5(d) Avoiding conflict of interest

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</thead>
<tbody>
<tr>
<td>(a) The normative/regulatory institution has a system in place to avoid conflicts of interest.*</td>
<td></td>
<td></td>
<td>Criterion partially met RPPA’s involvement in transaction like authorization for less competitive method of bidding (other than open tender)</td>
<td>Yes</td>
<td>To avoid actual or perceived conflicts of interest, the RPPA’s role in the approval process for use of methods other than open tender should be reconsidered in terms of criteria for approval, and its involvement with the complaints review function should be gradually eliminated. This would give NIRP some independence (though not fully) and will also improve accountability of Procuring Entities.</td>
</tr>
</tbody>
</table>

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

Source: Survey.

Despite devolution of the transaction function to procuring entities, RPPA is still involved in procurement transaction, in particular on providing authorization to procuring entities on use of less competitive bidding (PPL Article 29) which shifts the accountability to RPPA for such decisions. Regarding situations of Conflict of Interest in procurement, the same is guided by Article 9 of Ministerial Instructions of 2011RZ. However, Independent Review Panel which is the appeals body at national level, is housed in RPPA which is its Secretariat and budget is provided by RPPA.

Based on results of survey, in response to question if there is a problem with Conflict of Interest in the normative and regulatory functions or procuring entity out of 30 responses, 60% responded -no, 20% indicated minor COI, 10% indicated obvious COI and 10% abundant COI.

In response to specific question if you or your company ever experienced COI, it was found that only 7 responses were provided. Reasons being obvious regulatory and oversight body where independence in assessing the functioning of the procurement system is required. RPPA cannot discharge such function with full independence and objectivity.

6. Procuring entities and their mandates are clearly defined

6(a) Definition, responsibilities and formal powers of procuring entities

The legal framework provides for the following:

<table>
<thead>
<tr>
<th>Assessment criteria</th>
<th>Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)</th>
<th>Step 2: Quantitative analysis</th>
<th>Step 3: Gap analysis / conclusions (describing any substantial gaps)</th>
<th>Potential red-flag?</th>
<th>Initial input for recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Procuring entities are clearly defined.</td>
<td>Summary: PPL A.9 defines procuring entities as “central government organs, local administration organs, public institutions, national commissions, government projects or any other organs so empowered by the Chief Budget Manager”. In addition, “commercial public institutions” where they use the State budget fall within the definition of procurement entities</td>
<td></td>
<td>Partially met. The status and definition of commercial public institution is not clear. For more details, refer to indicators 1(a) and 1(l).</td>
<td>Yes</td>
<td>Improve clarity of definitions, in particular concerning the status of utilities companies with special or exclusive rights and whether they are included in the definition of “procuring entity” (see Ministry Instruction No. 001/11/TC of 24/01/2011 establishing Code of Ethics Governing Public Agents involved in Public procurement).</td>
</tr>
</tbody>
</table>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.
The PPL does not use the term “utilities” and it does not contain specific provisions concerning the status of utilities companies with special or exclusive rights. It is therefore not immediately apparent from the primary legislation what, if any, the nature and extent of coverage of the PPL is in respect of utilities. However, as noted above, “commercial public institutions” where they use the State budget fall within the definition of procurement entities.

PPL A.5 provides that, subject to other provisions of the PPL, commercial public institutions whose budget is not approved by Parliament are governed by special regulations of each institution approved by an Order of the Minister in charge of public investment.

However as per User’s Guide establishing the procurement regulations and standard bidding documents, Law on Public Procurement no. 12/2007 of 29/03/2007 replaced the Presidential Order no. 28/01 of 19/07/2004 establishing public procurement procedures. The Law on Public Procurement applies to procurement conducted by Central Government authorities, Local Government authorities, public institutions, Commissions, Government projects, parastatals, agencies or specialized institutions. However, it shall not apply in the following exceptions:

Procurement of classified items meant for national defense and security. If the laws conflict with procurement rules of a multilateral or bilateral treaty or other form of agreement to which the Government of Rwanda is a party, the requirement of these agreements shall prevail.

(b) Responsibilities and competencies of procuring entities are clearly defined.

There is no single list of the responsibilities and competencies of procuring entities but their responsibilities and competencies are defined in the PPL and PP Regulation: for example PPL A.10: establishment of public tender committee PPL A.11: appointment of procurement officers with responsibilities as defined in the PPL

PPL A.16 Preparation of procurement plan

<table>
<thead>
<tr>
<th>Period</th>
<th>Total number of procuring entities</th>
<th>Procuring entities with a designated, specialized procurement function</th>
<th>% of total number of procuring entities</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1, 2017 to 30 June 2018</td>
<td>135</td>
<td>1 (RISA – ICT procurement)</td>
<td>100%</td>
</tr>
<tr>
<td>July 1, 2018 to March 31, 2019</td>
<td>150</td>
<td>1 (RISA – ICT procurement)</td>
<td>100%</td>
</tr>
</tbody>
</table>

(c) Procuring entities are required to establish a designated, specialised procurement function with the necessary management structure, capacity and capability.

<table>
<thead>
<tr>
<th>// Minimum indicator //</th>
<th>Quantitative indicator to substantiate assessment of sub-indicator 6(a) Assessment criterion (c): procuring entities with a designated, specialised procurement function (in % of total number of procuring entities). Source: Normative/regulatory function.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Please see table on the left</td>
<td></td>
</tr>
</tbody>
</table>

(d) Decision-making authority is delegated to the lowest competent levels consistent with the risks associated and the monetary sums involved.

Summary: Decision making authority on matters such as the conduct of procurement, contract award decision, award and executing of contracts, contract monitoring, invoicing and payments lies with the procuring entities and so is delegated to the lowest competent levels.

See, for example, list of responsibilities of procurement officers in PPL A.11 and activities and responsibilities of procuring entity tender committees set out in PPL.

(e) Accountability for decisions is precisely defined.

Involvement of RPPA in authorization on use of less competitive bidding (other than open tender method) as per Article 29 of PPL, dilutes the accountability of procuring entities. Based on statistical data refer Indicator 7) and as per RPPA Annual Activity Report for 2017-2018 the use of non-competitive method is in the range of 40-45% of total expenditure (with open tender as 50% by value) which is much above any norm for a competitive and transparent procurement system.

| Please see table on the left |

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83 Utilities, including the water and energy sectors, are subject to regulation by RURA, the Rwanda Utilities Regulatory Authority https://rura.rw/index.php?id=44

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.
6(b) Centralized procurement body

<table>
<thead>
<tr>
<th>Assessment criteria</th>
<th>Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)</th>
<th>Step 2: Quantitative analysis</th>
<th>Step 3: Gap analysis / conclusions (describing any substantial gaps)</th>
<th>Potential red-flag?</th>
<th>Initial input for recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) The country has considered the benefits of establishing a centralized procurement function in charge of consolidated procurement, framework agreements or specialised procurement.</td>
<td>As per Article 3.9 of PPL, there is definition of “Central purchasing body: public entity which conducts the procurement process and concludes a framework agreement with the successful bidder for works, supplies and consultancy and non-consultancy services on behalf of other procuring entities”. However, it is not known how this operates in practice.</td>
<td>Not applicable</td>
<td>Partially met. Despite a provision in law the actual functioning of such a centralized body is not there in practice. In practice the lead for specialized procurement is taken by Ministries/Procuring Entity with specific expertise who procure bulk item including requirements for other Ministries/Procuring Entity (for example Ministry of Infrastructure for transport equipment, Rwanda Information Society Authority for Information technology).</td>
<td>RPPA to consider benefits of centralized procurement body to implement the provisions of PPL through specific guidance.</td>
<td></td>
</tr>
<tr>
<td>(b) In case a centralized procurement body exists, the legal and regulatory framework provides for the following:</td>
<td>As in (a) above</td>
<td>Not applicable</td>
<td>As in (a) above</td>
<td>Partially met.</td>
<td>As in (a) above</td>
</tr>
<tr>
<td>• Legal status, funding, responsibilities and decision-making powers are clearly defined.</td>
<td>As in (a) above</td>
<td>As in (a) above</td>
<td>As in (a) above</td>
<td>Partially met.</td>
<td>As in (a) above</td>
</tr>
<tr>
<td>• Accountability for decisions is precisely defined.</td>
<td>As in (a) above</td>
<td>As in (a) above</td>
<td>As in (a) above</td>
<td>Partially met.</td>
<td>As in (a) above</td>
</tr>
<tr>
<td>• The body and the head of the body have a high-level and authoritative standing in government.</td>
<td>As in (a) above</td>
<td>As in (a) above</td>
<td>As in (a) above</td>
<td>Partially met.</td>
<td>As in (a) above</td>
</tr>
<tr>
<td>(c) The centralised procurement body’s internal organisation and staffing are sufficient and consistent with its responsibilities.</td>
<td>As in (a) above</td>
<td>As in (a) above</td>
<td>As in (a) above</td>
<td>Partially met.</td>
<td>As in (a) above</td>
</tr>
</tbody>
</table>

7. Public procurement is embedded in an effective information system

7(a) Publication of public procurement information supported by information technology

The country has a system that meets the following requirements:

<table>
<thead>
<tr>
<th>Assessment criteria</th>
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<th>Step 3: Gap analysis / conclusions (describing any substantial gaps)</th>
<th>Potential red-flag?</th>
<th>Initial input for recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Information on procurement is easily accessible in media of wide circulation and availability. Information is relevant, timely and complete and helpful to interested parties to understand the procurement processes and requirements and to monitor outcomes, results and performance.</td>
<td>It is mandatory for all procurement entities to publish the procurement plan through the e-procurement system. The access to the website is free and the e-procurement staff provides free services also to suppliers for them to be registered. This registration has the advantage that it done once for whole. The tenders are categorized in non-consulting, goods, works and consultancies. The tender notice gives all required information regarding the procurement process. The information might also be published in newspapers and other publications, but not mandatory.</td>
<td>Not applicable</td>
<td>The criterion is met.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) There is an integrated information system (centralised online portal) that provides up-to-date information and is easily accessible to all interested parties at no cost.</td>
<td>The criterion is met. The UMUCYO e-procurement governmental website is easily accessible and free of charge. However, for the tender document might be chargeable, i.e. 5,000 RWF. The bidding documents are accessible without any registration and fees.</td>
<td>Not Applicable</td>
<td>The criterion is met.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c) The information system provides for the publication of: * procurement plans * information related to specific procurements, at a minimum.</td>
<td>The information system and RPPA website provides for publication of 1. Procurement Plans: a procuring entity cannot publish a tender without previously published the procurement plan. The annual publication of procurement plans is required by the law. Please see table on the left</td>
<td>The criterion is met.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
advertisements or notices of procurement opportunities, procurement method, contract awards and contract implementation, including amendments, payments and appeals decisions • linkages to rules and regulations and other information relevant for promoting competition and transparency.

2. Tender notice provide all information related to procurement opportunity as the title, the place to deliver, the bid security, etc.
3. Linkage to rules and regulation can be found also in the website. The supplier can be informed on the debarment process, the ethics of the public procurement officer.
4. General Information
5. Tender Information
7. Tender Document
8. Required Bidding Documents
10. Strategic Plan (2018-2021)

<table>
<thead>
<tr>
<th>Period</th>
<th>Total number of contracts (online)</th>
<th>Procurement Plans Published (% of total) (online)</th>
<th>Key Procurement Information Published (% of total number of contracts)</th>
<th>Invitatio n to bid (in % of total number of contract s)</th>
<th>Total number of appeals received</th>
<th>Source: e- GP Portal</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1, 2017 to 30 June 2018</td>
<td>5,269</td>
<td>4485 (100%)</td>
<td>100%</td>
<td>100%</td>
<td>50</td>
<td></td>
</tr>
<tr>
<td>July 1, 2018 to March 31, 2019</td>
<td>9214</td>
<td>5427 (100%)</td>
<td>100%</td>
<td>100%</td>
<td>55</td>
<td></td>
</tr>
</tbody>
</table>

Appeal Decisions are published in RPPA website. In e-GP, suppliers are notified through their inbox message (email and e-GP System). National Independent Review Panel (NIRP) has the access to e-GP appeal module, get appeal, send message to entities, but does not publish. They send scanned copies to RPPA, and it is accessible from the RPPA website (https://rppa.gov.rw/index.php?id=567).

// Minimum indicator // Quantitative indicators to substantiate assessment of sub-indicator 7(a) Assessment criterion (c): procurement plans published (in % of total number of required procurement plans) key procurement information published along the procurement cycle (in % of total number of contracts): invitation to bid (in % of total number of contracts) contract awards (purpose, supplier, value, variations/amendments) details related to contract implementation (milestones, completion and payment) annual procurement statistics appeals decisions posted within the time frames specified in the law (in %).

Source: Centralised online portal.

The full set of bidding document is available and the bidder can consult them before he decides to bid. The system provides also form in excel to be fill in easy way. At the opening stage an automatic report provides the list of bidders with their prices. The same at the evaluation stage the bidder can consult the evaluation report and claim. The full contract is available to the winner and it’s reviewed and approved by the Ministry of Justice. The e-GP System does not support OCDS.

Yes, the criterion is partially met. Open Contracting Data Standard (OCDS): Currently, the e-GP system does not support the Open Contracting Data Standard (OCDS) and does not publish data on machine-readable formats. There are some report formats available, but not adequate to get a complete picture of procurement sector. Current e-GP system does not support OCDS and also does not have Comprehensive Business Intelligence system. Recommended to develop and integrate a comprehensive business intelligence tool with visual representation of data and infographics. It is recommended to incorporate OCDS for structured data dissemination to facilitate transparency, citizen engagement.

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.
Information is published in an open and structured machine-readable format, using identifiers and classifications (open data format) *

* Recommended quantitative indicator to substantiate assessment of sub-indicator 7(a) 
Assessment criterion (e): 
- Share of procurement information and data published in open data formats (in %). 
Source: Centralised online portal.

<table>
<thead>
<tr>
<th>Period</th>
<th>Total number of contracts</th>
<th>% of contracts for which procurement information and data published</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1, 2017 to 30 June 2018</td>
<td>4,378 (386,707,190,486 FRW)</td>
<td>100%</td>
</tr>
<tr>
<td>July 1, 2018 to March 31, 2019</td>
<td>3,848 (377,196,844,158 FRW)</td>
<td>100%</td>
</tr>
</tbody>
</table>

Yes, the criterion is partially met. The system does not support OCDS.

(f) Responsibility for the management and operation of the system is clearly defined.

There's an e-procurement team in charge of managing the system and another team in charge of helping suppliers to be registered. Management is currently done by project team.

The criterion is met.

7(b) Use of e-Procurement

<table>
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<tr>
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*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.
### 7(c) Strategies to manage procurement data

<table>
<thead>
<tr>
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<th>Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)</th>
<th>Step 2: Quantitative analysis</th>
<th>Step 3: Gap analysis / conclusions (describing any substantial gaps)</th>
<th>Potential flag?</th>
<th>Initial input for recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) E-procurement is widely used or progressively implemented in the country at all levels of government.*</td>
<td>The e-procurement is used by all procuring entities now and made mandatory. The pilot stage has been successful and from July 2018 it’s mandatory for all procuring entities to use the e-procurement system.</td>
<td>e-GP System is still to be implemented in sectors, schools, health centers, district pharmacy are still to be implemented. RPPA is going to the district hospitals soon. Currently, RPPA is working out on the engagement strategy for sectors, schools and health facilities. The total value of expenditure was Rwf 336.707 billion and total number was 4378 for 2017-2018 with breakdown of off-line and online procedure as under:</td>
<td>Yes, the criterion is met as it is widely used.</td>
<td>Yes, the criterion is met</td>
<td>Specific information on number of training to be compiled and steps taken to integrate personnel managing E-procurement in the RPPA organizational structure</td>
</tr>
<tr>
<td>// Minimum indicator // * Quantitative indicators to substantiate assessment of sub-indicator 7(b) Assessment criterion (a):</td>
<td>Number of e-procurement procedures in % of total number of procedures</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Off line by value /%</td>
<td>Rwf 221,270 billion</td>
<td>65.72% of total</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Online by value /%</td>
<td>Rwf 115,436 billion</td>
<td>34.28% of total</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Off line by No/%</td>
<td>1571</td>
<td>35.88% of total</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Online by No/%</td>
<td>2807</td>
<td>64.12% of total</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Source: e-Portal and Annual Activity Report of RPPA for 2017-2018</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) Government officials have the capacity to plan, develop and manage e-procurement systems.</td>
<td>RPPA has trained Government Officials in the e-procurement system. The information on the number of training done by the e-procurement team is not available on website. This has to be clarified with the Ministry of Finances which is the Ministry in charge of the e-procurement project.</td>
<td>Yes, the criterion is partially met. The information on the number of training done by the e-procurement team is not available on website. This has to be clarified with the Ministry of Finances which is the Ministry in charge of the e-procurement project. Also, because, most of the personnel managing E-procurement are not yet integrated in the RPPA organizational structure</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c) Procurement staff is adequately skilled to reliably and efficiently use e-procurement systems.</td>
<td>All the Government procurement staff working in public procurement are trained from the time since roll-out after pilot (July 2017): total number so far is 2014. Retrained officers every year and auditors are also retrained (December, 2018). Around 90 users from district hospitals will be trained for rolling out in district hospitals.</td>
<td>Yes, the criterion is met</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(d) Suppliers (including micro, small and medium-sized enterprises) participate in a public procurement market increasingly dominated by digital technology.*</td>
<td>The e-procurement does not provide this information. The categorization in micro, small and medium size enterprises is provided by the Rwanda Development Board, where all enterprises have to be registered. System does not capture SMES, it is not possible to categorize the MSMEs in the system. No references in Procurement law as well about the MSMEs. Though in practice most of local firms fall under the category of MSME</td>
<td>No data available</td>
<td>Yes, the criterion is partially met. There is a need to identify micro, small and medium-sized enterprises (MSME)</td>
<td></td>
<td>System needs to be enhanced to identify MSME and their share in the bids submitted online</td>
</tr>
<tr>
<td>* Recommended quantitative indicators to substantiate assessment of sub-indicator 7(b) Assessment criterion (d):</td>
<td>- bids submitted online (in %) - bids submitted online by micro, small and medium-sized enterprises (in %)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(e) If e-Procurement has not yet been introduced, the government has adopted an e-Procurement roadmap based on an e-Procurement readiness assessment.</td>
<td>e-Procurement system already in place and this criteria is not applicable</td>
<td>Criterion met</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.
(a) A system is in operation for collecting data on the procurement of goods, works and services, including consulting services, supported by e-procurement or other technology. The Monitoring and Audit Unit is in charge of collecting data on e-procurement. Their services are published online on e-procurement website.

<table>
<thead>
<tr>
<th>Period</th>
<th>Total number of contracts in billion RWF</th>
<th>Total number of contracts awarded through competitive methods</th>
<th>Total value of contracts awarded through competitive methods (%)</th>
<th>Volume of government expenditure as share of government expenditure</th>
<th>Public procurement expenditure as share of government expenditure</th>
<th>GDP in billion RWF</th>
<th>Public procurement as share of GDP</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 1, 2017 to 30 June 2018</td>
<td>4,378</td>
<td>166.658 (49.50%)</td>
<td>340</td>
<td>48.74 %</td>
<td>7898</td>
<td>13.50 %</td>
<td></td>
</tr>
</tbody>
</table>

The figure of RWF 336.707 billion is based on statistics of RPPA Annual Activity Report (2017-2018) at page 14. The figure of total public procurement expenditure of RWF 1066.5 billion is derived from MINECOFIN Rwanda updated macro-framework – Public Data set as of May 2019. The competitive methods for this table is defined as open competitive tenders, both international and national and request for quotation. The remaining categories of restricted tender, single sourcing, community approach and force account are considered non-competitive.

Based on the data as per Annual Activity Report of previous two years (2016-2017 and 2015-2016), it is seen that share of IOT+ NOT was much higher compared to 2017-2018 as tabulated below:

<table>
<thead>
<tr>
<th>Years</th>
<th>Total Procurement Expenditure in RWF billion</th>
<th>% Share of IOT+ NOT in terms of amount</th>
<th>% Share of Single Source in terms of amount</th>
<th>% Share of Force Account in terms of amount</th>
<th>% Share of RFQ in terms of amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017-2018</td>
<td>336.707</td>
<td>49.11 %</td>
<td>17.56 %</td>
<td>26.92 %</td>
<td>0.33%</td>
</tr>
<tr>
<td>2016-2017</td>
<td>520.095</td>
<td>73.12 %</td>
<td>16.52 %</td>
<td>5.67 %</td>
<td>0.69%</td>
</tr>
<tr>
<td>2015-2016</td>
<td>546.933</td>
<td>85.03 %</td>
<td>12.51 %</td>
<td>0.74%</td>
<td>0.38%</td>
</tr>
</tbody>
</table>

The incidence of high value of Single-source and Force Account in 2017-2018 was due to emergency situations, need to start some strategic projects urgently and to unlock stalled projects due to poor performance of contractors.

Please see table on the left side of this column

The criterion is met, analysis of information is available publicly through Annual Activity Report. Enhancement Needed as recommended

Yes, the criterion is met

Yes, the criterion is met partially. The e-GP system does not have extensive analytical standard reports, but the RPPA has maintained an excel file generated from the e-GP System with data sets and analytics.

Yes, the criterion is met

There is need for audit by specialized firm to check reliability of information

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.*
8. The public procurement system has a strong capacity to develop and improve

8(a) Training, advice and assistance

There are systems in place that provide for:

<table>
<thead>
<tr>
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<th>Potential red flag?</th>
<th>Initial input for recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) substantive permanent training programmes of suitable quality and content for the needs of the system.</td>
<td>Based on RPPA Strategic Plan (2018-2021), one of the key issues is: improved skills and knowledge of trained public procurement officials. In terms of sub-programs 1.2 Improved skills and knowledge of trained public procurement officials, there is a list of indicators, baseline, targets in % and accountability (see details under 8 (c)), but there is no list on existing and proposed training programmes in procurement.</td>
<td>Not applicable</td>
<td>Yes, the criterion is partially met. There is no permanent and relevant training programme for new and existing staff in government procurement, to judge the relevance, nature, scope and sustainability. Training is based on availability of budget from Procuring Entities rather than needs analysis.</td>
<td>Need to institute a permanent and relevant training plan based on which as per a well-functioning system should be based on (i) &quot;skills gap inventory to match the needs of the system; (ii) be sufficient in terms of content and frequency; and (iii) provide for evaluation of the training programme and monitoring progress in addressing capacity issues. Budget constraint of RPPA to be addressed so that training is provided as per needs assessment rather than availability of budget from PEs.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>RPPA has a permanent department in charge of capacity development in the Rwanda public procurement system. The department conduct regularly needs assessment in training in public procurement. The RPPA develops training module for the use to provide basics in public procurement. The training modules are published on RPPA website. In the annual report 2017-2018 the E-procurement has trained 583 Internal Tender Committee members. Academic Institutions (University of Rwanda, University of Kigali) has academic programs providing procurement knowledge. The UR has undergraduate program coupled with Masters program in procurement. In recent past they also organized training of trainers in public procurement. The Rwanda Institute of Management in collaboration with Maastricht University (Netherlands) organizes sometimes Postgraduate Diploma Course in public procurement, but not in permanent way. In coming years with the increase of APP capacity, in the aim of accomplishing one of its mission regarding facilitation of providing procurement knowledge to procurement professionals and to other stakeholders, the professionals' body will be providing continuous education to members to the extent to which it will be mandatory for members to attend a minimum number of hours of training per year. In this way the system will be provided with permanent training framework.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>The training modules are published on RPPA website, which are Introductory Module in Public Procurement (March 2012) and a draft Intermediate Level Training Module in Public Procurement (April 2012). As per RPPA Annual Activity Report 2017-2018 from July 2017 to June 2018, Capacity Building, Coaching and Mentoring Officers in Capacity Development Unit trained 583 officials from different public procuring entities that requested RPPA trainers. However, there was budget constraints on the part of RPPA and training was carried out for those procuring entities who were able to organize and sponsor those training. Thereafter such training was guided more by the budget availability from PE rather than based on needs assessment.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>There was also a monitoring and evaluation of training performance to find out if the trained staff of previous years (2016-2017) applied their skills and knowledge as part of internal tender committee and stayed for a sufficient duration in that role, if the training was applied on the job and useful (97% said &quot;yes&quot;) and if there was evidence on use of standard bidding documents.</td>
<td></td>
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<tr>
<td></td>
<td>However, on RPPA website there is no evidence of permanent and relevant training programme for new and existing staff in government procurement, to judge the relevance, nature, scope and sustainability.</td>
<td></td>
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</tr>
</tbody>
</table>

(b) routine evaluation and periodic adjustment of training programmes based on feedback and need.

The RPPA through the Department in charge of Capacity Development has been conducting needs assessment on regular basis, to assess PEs capacity and individual's capacities, changes in terms of personnel and tender committees. Then after they plan appropriate actions. The capacity assessment conducted during 2016-2017 has pointed out procuring entities with weakness in applying procurement procedures. The Office of the Auditor General has also identified weak procuring entities. These procuring entities (30) have benefited from procurement training (annual report 2017-2018).

Criterion is partially met. This assessment is not periodic and comprehensive. RPPA conducts needs assessment in training at the same time it carries out audits and monitoring and implement training programs and propose policies.

RPPA continue to assess, monitor, audit and propose policies; but put in place analysis mechanisms to find out what are factors of weakness or bad performance found and plan for action, not only training, but also workshop aimed at changing behaviors.

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.
(c) advisory service or help desk function to resolve questions by procuring entities, suppliers and the public.

This is one of the missions of the RPPA provided in Article 1 of law n° 25/2011 of 30/06/ or 2011 establishing the RPPA. A hotline is also available. Advices are also provided in written way when it is needed. When RPPA finds it useful for more than one entity, it issues a notice for all entities in form of letter or instruction.

(d) a strategy well-integrated with other measures for developing the capacity of key actors involved in public procurement.

Meetings with suppliers all over the country have been done regarding the role of the public procurement in the national economy. Other meetings with procurement officers have also been prepared regarding the collaboration between the procurement officer and other departments and the role of user department (RPPA annual report 2017-2018).

Training in e-procurement for cyber-café and suppliers have been done.

Based on RPPA Annual Activity Report of 2017-2018, for private sector other than a one day event on “The role of public procurement in development of national economy” which was attended by about 600 participants, there was no training to build capacity for private sector (Refer Indicator 10 (a) also) or Civil Society Organization (Refer Indicator 11 (a) or Integrity Training Programme for Procurement workforce (Refer indicator 14 (d) or as a part of professionalization (Refer indicator 8 (b)

8(b) Recognition of procurement as a profession
The country’s public service recognises procurement as a profession:

<table>
<thead>
<tr>
<th>Assessment criteria</th>
<th>Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)</th>
<th>Step 2: Quantitative analysis</th>
<th>Step 3: Gap analysis / conclusions (describing any substantial gaps)</th>
<th>Potenti al red-flags?</th>
<th>Initial input for recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Procurement is recognised as a specific function, with procurement positions defined at different professional levels, and job descriptions and the requisite qualifications and competencies specified.</td>
<td>Rwanda Association of procurement professionals is established by “Law N°011/2016 of 02/05/2016 - Law establishing the Association of procurement professionals and determining its organization and functioning”. The professional body is formed in view of the government, as one of the procurement reform pillars. An Association of Procurement Professionals has been established by the law n°011/2016 of 02/05/2016. The procurement professional body law has provision requiring procurement professionals to be member of the professional association to be hired by the public institutions. As a result, 99% of the current members are from the public institutions. Currently there are about 400 members. The list is available on RPPA website. Article 2 of this law defines procurement professionals as those who are qualified persons, registered and authorized to practice procurement profession as per this law. Article of this law defines procurement profession: permanent exercise of all procurement activities relating to purchasing, leasing of goods, works or services performed by the procuring entity or any activities enabling institutions wishing to acquire goods to obtain equipment, works or services including the preparation and distribution of bidding documents, the invitation and selection of suppliers, constructors, consultants as well as the stage of negotiation leading to signing of contracts. Procurement professionals are categorized as follows: 1° assistant procurement professional; 2° procurement professional; 3° senior procurement professional (article 38 of law n°011/2016 of 02/05/2016). One of the requirements to be registered as a Procurement Professional is to hold at least degree in procurement, a post graduate diploma in procurement or a professional qualification in procurement recognised in Rwanda (article 35 of law n°011/2016 of 02/05/2016). Also it is not clear from PPL or Regulation, the qualification and experience requirements of public tender committee members However, there is no definition of procurement positions at different professional level, job descriptions and requisite qualification and competencies specified The professional body’s independence is compromised due to budget allocation from MINEDOFIN through RPPA’s operating and facilitation budget. Though the professional body is aspiring to become independent there is serious staff and financial constraints. Contribution from the members could only covered purchase of computers.</td>
<td>Not applicable</td>
<td>Not applicable</td>
<td>Yes, the criterion is partially met. However, there is no definition of procurement positions at different professional level, job descriptions and requisite qualification and competencies specified. It is not clear from PPL or Regulation, the qualification and experience requirements of public tender committee members. There are financial and budget constraints in Association of Procurement Professional to be independent and effective. There is need to train set of officials who do not have procurement skills or background but do work with or supervised qualified professionals. To define procurement positions at different professional level, job descriptions and requisite qualification and competencies specified. PPL or Regulation to specify the qualification and experience requirements of public tender committee members. Senior officials who supervise procurement professionals need to be trained. Association of Procurement Professional needs to be financially independent by (i) increasing membership fees, (ii) organizing trainings, (iii) certification. There is a plan to commence issuing membership certificates, (iv) engaging in study services and (v) supports from development partners.</td>
<td>To define procurement positions at different professional level, job descriptions and requisite qualification and competencies specified. PPL or Regulation to specify the qualification and experience requirements of public tender committee members. Senior officials who supervise procurement professionals need to be trained. Association of Procurement Professional needs to be financially independent by (i) increasing membership fees, (ii) organizing trainings, (iii) certification. There is a plan to commence issuing membership certificates, (iv) engaging in study services and (v) supports from development partners.</td>
</tr>
</tbody>
</table>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.*

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General meeting of the association is planned in near future and strategic plan on how to become independent of the government is top of the agenda.

(b) Appointments and promotion are competitive and based on qualifications and professional certification.  

The appointment is done through the Rwanda Public Service e-recruitment portal. There is no written system in place for appointments and promotions based on qualification and professional certification for procurement staff. The recruitment of procurement staff follows the process of recruitment of public servants which is competitive and based on qualifications required for the job. There is no common requirement for procurement job; it is rare to find requirement of professional certificate in procurement, but what has started to happen is requirement of academic qualification in procurement, but also it is not exclusive as sometimes requirement may be a range of various possible academic areas such as management, Business Administration, economics, law etc., including procurement. The law establishing the Association of Procurement Professionals allows academic qualification or professional certification holders to apply for membership meaning that it is not necessary to possess procurement professional certificate to practice procurement profession.

Example of procurement job requirements in Hospitals: All in Procurement, Management, Accounting, Law, Public Finance, or Economics.

Key Technical Skills & Knowledge required: - High Analytical Skills; - Knowledge of basic business and purchasing practices; - Excellent Communication Skills; - Knowledge of state contracting laws, regulations and procedures; - Knowledge of grades, qualifications, supply and price trends of commodities; - Time Management Skills; - Decision making Skills; - Computer Skills; - Fluency in Kinyarwanda, English and/or French; knowledge of all is an advantage (Official Gazette n° 47 of 21/11/2016).

(c) Staff performance is evaluated on a regular and consistent basis, and staff development and adequate training is provided.

Based on RPPA Annual Activity Report 2017- 2018, all RPPA staff prepared their performance contracts "Imihigo" in the system of RBM and committed themselves to implement them in due time. The evaluation performance contracts were carried out and marks were given to every employee accordingly. All RPPA staff performed well and were given bonus. Not clear if such a system is followed by all Procuring Entities.

About performance evaluation, procurement staff is evaluated on 6 months period as it is a general rule for public servants (Although it extends over a period of twelve months [12], the program of performance appraisal includes an evaluation by the direct supervisor after six months [6]). This assessment provides the supervisor the opportunity to recognize performances of the agent and make the necessary required adjustments (See Article 19 of the Prime Minister’s Order N°121/03 of 08/09/2010 establishing the procedure of performance appraisal and promotion of public servant, Official Gazette n°41 of 11/09/2010).

About staff development and adequate training, RPPA conducts regular training of members of tender committees and also is working closely with other training institutions such as University of Kigali to provide Master degree to RPPA staff. Through the PFM basket fund, procurement staff pursue the professional courses delivered by the CIPS-UK. The University of Rwanda the College of Business and Economics has a undergraduate program in procurement.

8(c) Monitoring performance to improve the system

<table>
<thead>
<tr>
<th>Assessment criteria</th>
<th>Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)</th>
<th>Step 2: Quantitative analysis</th>
<th>Step 3: Gap analysis / Conclusions (describing any substantial gaps)</th>
<th>Potential red flag?</th>
<th>Initial input for recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) The country has established and consistently applies a performance measurement system that focuses on both quantitative and qualitative aspects.</td>
<td>RPPA has also publish a 3 years’ strategic plan (2018-2021) which indicate the framework with goals, actions, indicators with baseline, targets and accountability both in qualitative and quantitative terms. These include under the Outcome 1: &quot;Improved skills and knowledge of trained public procurement officials&quot; host of activities that inter alia include: (i) establish inventory of higher learning and training institutions that offer procurement courses in Rwanda and organize and conduct meetings with such institutions; (ii) establish and update database of information relevant to procurement training, trainers and trainees; (iii) adopt and disseminate Internal Regulations &amp; Code of Ethics for Association of Procurement Professionals; (iv) establish conditions and procedures for selecting candidates to undertake CIPS under government sponsorship; (v) conduct training of officials of procuring entities which will be able to organize such training; (vi) Update, approve and publish induction and refresher course training modules to reflect the applicable public procurement legal regulatory framework and best practices; (vii) Update the list and identify newly recruited procurement officials, specialist, tender committee members and plan for their training and design training schedule of every category; (viii) develop and publish a detailed capacity building plan/strategy/programme informed by capacity needs assessment; (ix) establish activities on capacity building methodology which builds partnership between RPPA and Procuring Entities in addressing persistent issues faced by Procuring Entities; and (x) approve the annual performance measurement tool to be used.</td>
<td>Not applicable</td>
<td>Criterion partially met. This performance system is not translated into specific procurement outcomes in terms of quantitative and qualitative aspects including those related to contract implementation.</td>
<td>The e-procurement should provide information to measure post contract award activities about contract management which is the actual time of effecting procurement (amendment, payments, delivery)</td>
<td></td>
</tr>
</tbody>
</table>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.*
Pillar III. Public Procurement Operations and Market Practices

9. Public procurement practices achieve stated objectives

9(a) Planning

<table>
<thead>
<tr>
<th>Assessment criteria</th>
<th>Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)</th>
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<th>Potential red-flag</th>
<th>Initial input for recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Needs analysis and market research guide a proactive identification of optimal procurement strategies.</td>
<td>The assessed cases showed that needs analysis was undertaken in all the 15 procuring entities, all entities had cost estimates in their respective plans with approved budgets in place. However, when Assessment Team look at number of responsive bids, it was found that market research did not guide identification of procurement strategies. There were instances in almost all cases where the NCB was chosen as selection method by the PEs in return, they got a very limited number of bids between 1 and 4 for around 30% of sampled contracts (regardless whether they were responsive or not). If the market research was conducted, but it did not lead the choice of procurement methods and strategies in many cases. All despite the fact that the law on public procurement implicitly provides market research (article 42 of the current law where it allows the tender committee to reject a bid with abnormal higher or lesser price comparing to the market price). In the same direction the previous regulations, especially in RPPA circulars, it was provided a mandatory market survey before tendering process. The RPPA uses to avail prices on the market, but this is not enough to set a procurement strategy and choose appropriate method.</td>
<td>On a total number of 15 PEs sampled, 100% cases were provided with procurement plan with costs estimates and budget approved, but only 39 out of 83 cases declared to have updated their procurement plans (only one PE showed sample)</td>
<td>The criterion is partially met.</td>
<td>The criterion is not met; basing on policies in place regarding environment, social justice in labor policies, value for money there is no enough evidence of the use of sustainability criteria to ensure value for money when they are used. Instead, as mentioned under other indicator, the practice struggles to comply with legal and regulation constraints, but the compliance is not balanced with sustainability and effectiveness. One of the instances of implementing national policy is local preference criteria. The use of preference is not well defined in the law and may create a risk of misuse. There is need of guidance in regulations defining what is local (most of suppliers are Rwandan, but the content of supplies is foreign; contractors may be Rwandans, but in the same time using key staff from outside or contractors may be from foreign countries, but employing Rwandan Labor.</td>
<td></td>
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<tr>
<td>(b) The requirements and desired outcomes of contracts are clearly defined.</td>
<td>Except 3 case and were PEs used Force Account and Community Participation, all assessed cases had bidding documents or Request for Proposals that were containing clear requirements, description of specifications goods to be supplied or descriptions of works and Bill of Quantities (for works) or Terms of Reference (for Consultancy services).</td>
<td>73 cases that used competitive methods (open and restricted bidding) were successful and contracts executed, except 1 which was not executed</td>
<td>The criterion is met</td>
<td>The procurement system should integrate clear measures ensuring the implementation of laws and regulations aimed at promoting sustainability, but it should guide practitioners how to use in balanced manner and achieve both; sustainability and value for money e.g. take into account the disposal of assets policy, lifecycle costing measures, consideration of environmental issues.</td>
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<tr>
<td>(c) Sustainability criteria, if any, are used in a balanced manner and in accordance with national priorities, to ensure value for money.</td>
<td>Rwanda has a legal framework on safety and environment protection, but neither the law on public procurement and related regulations nor the practice integrate clearly and systematically measures to ensure sustainable procurement taking into account environment. The assessment acknowledges provision in public procurement law obliging the successful bidder to respect all laws and regulations in force and ensure that they are respected by his/her staff. The assessment recognizes the integration of social criteria in selection of bidders and in contract management where it is provided that in case of non-payment of social security contribution a bidder cannot be eligible, or where in some contracts clauses where it is provided that in case of non-payment of the labor by the contractor, the procuring entity will be allowed to deduct and pay amounts due to workers. Another criterion which is being used in implementing policy and country priority which is reflected in criteria is local preference that the assessment found in some sampled contracts, where PES used 10% of local preference. Although there are ways to use sustainability criteria, there no verifiable technique ensuring to use them in balanced manner to ensure value for money.</td>
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*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.
### 9(b) Selection and contracting

<table>
<thead>
<tr>
<th>Assessment criteria</th>
<th>Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)</th>
<th>Step 2: Quantitative analysis</th>
<th>Step 3: Gap analysis / conclusions (describing any substantial gaps)</th>
<th>Potentially red-flag?</th>
<th>Initial input for recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Multi-stage procedures are used in complex procurements to ensure that only qualified and eligible participants are included in the competitive process.</td>
<td>Multi-stage procedures are used in complex procurements to ensure that only qualified and eligible participants are included in the competitive process.</td>
<td>Among the assessed cases one case used two-stage tendering procedure; where, after a call for expression of interest, four bidders participated in and all were qualified for the second stage and were distributed RFP and required to submit their technical proposals and financial proposals.</td>
<td>Yes, the criterion is met</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) Clear and integrated procurement documents, standardized where possible and proportionate to the need, are used to encourage broad participation from potential competitors.</td>
<td>In all sampled cases where competitive methods were used there were clear integrated standardized procurement documents, but the assessment is not satisfied with the participation which counted between 1 and 4 bids in more than 50% percent of cases all types of procurement combined.</td>
<td>Yes, the criterion is partially met. But the assessment is not satisfied with the participation which counted between 1 and 4 bids in more than 50% percent of cases for all types of procurement combined</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c) Procurement methods are chosen, documented and justified in accordance with the purpose and in compliance with the legal framework.</td>
<td>In the assessed cases procurement methods were chosen, but only non-competitive methods were assumed to be documented and justified in accordance with the purpose and in compliance with the legal framework. Practically and mandatorily before the launch of procurement process, the tender committee members met to approve the procurement method that was proposed by the procurement officer within the procuring entity. But there was no justification of choice based on the market research.</td>
<td>The criterion is partially met. There is no mandatory justification requirement for the choice of open competitive methods. In all cases choices are based on assumption that market is competitive (even when the market is monopolistic or when retailers of one manufacturer of a product are the ones who will be competing)</td>
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<tr>
<td>(d) Procedures for bid submission, receipt and opening are clearly described in the procurement documents and complied with. This means, for instance, allowing bidders or their representatives to attend bid openings and allowing civil society to monitor bid submission, receipt and opening, as prescribed.</td>
<td>Procedures for bid submission, receipt and opening are clearly described in the procurement documents and complied with. Indeed, the assessment found that all assessed cases, where competitive bidding was used, PEs followed and complied with the standard documents availed by the RPPA. Considering data collected of sampled cases it was found that procedures for bid submission, receipt and opening of bids were found clearly described in the procurement documents and complied with. Bidders or their representatives were allowed to attend bid openings, the procedures for bid submission, receipt and opening was made open to the public so that all stakeholders, including civil society representative, and interested parties could attend the opening. But there is no system of monitoring of bid submission, receipt and opening by a civil society</td>
<td>The criterion is partially met. There is no system of monitoring of bid submission, receipt and opening by a civil society</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>(e) Throughout the bid evaluation and award process, confidentiality is ensured.</td>
<td>Throughout the bid evaluation and award process, confidentiality was ensured. Actually, Tender committees’ members are trained through induction courses by RPPA where they receive courses on public procurement principles, their respective objectives and how they are implemented in practice; the course content covers also presentation on law and regulations on public procurement, where confidentiality and its coverage is emphasized. After the induction course tender committee members are aware of confidentiality as being paramount. Only tender committee members dealing with a determined bid evaluation are allowed to have access to the documents throughout the process and no oral communication is allowed between bidders and the PE. Having mentioned the above practice, the assessment found in all cases where PEs used competitive bidding, confidentiality was observed throughout the bid evaluation and award process.</td>
<td>The criterion is met</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(f) Appropriate techniques are applied, to determine best value for money based on the criteria stated in the procurement documents and to award the contract.</td>
<td>There was no other indication in assessed cases of use of other techniques other than compliance with principles of competition (without appropriate financial analysis of the market and the outcome of the procurement). Just routine activities complying with transparency, equal treatment of bidders etc. compliance with the law and regulations on public procurement on the use of open competitive method, publication of procurement plan, publication of bid invitation (or solicitation of proposal) and bidding documents based on current standards with clear requirement guaranteeing competition (clear specifications and other terms and conditions)</td>
<td>The criterion is partially met. There is need of using other techniques like taking into account life cycle costing to achieve value for money.</td>
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</tbody>
</table>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.*
conditions securing agreed quality and quantity, delivery period, bid (or proposal) opening with the access of the public, publication of contract awards (for cases conducted through e-procurement system and other few cases on some PE websites), assurance of bidders rights to claim against malpractice, that prevented cases from financial risks and promoted value for money. In brief the assessed cases complied with legal, regulations and standards, but the assessment did not record any other technique for the purpose of increasing value for money what is required by national procurement law, no other techniques assessed to have been applied to determine best value for money based on the criteria stated in the procurement documents and to award the contract.

**Contract awards are announced as prescribed.**
Criterion is not met. Except contracts processed through e-procurement system, contract awards for sampled cases were not announced as prescribed, only bidders who participated in the processes may have received notification. Verification on respective websites of sampled entities (showed that contract awards were not published), meaning that contracts which were processed offline are unknown from the public.

**Contract clauses include sustainability considerations, where appropriate.**
As mentioned above in this assessment procurement practice in Rwanda focuses more on compliance than on efficiency and sustainability considerations. Control mechanisms in place have led and maintained practitioners in this way (e.g. OAG reports and follow up made by Parliament Through PAC and consequent prosecutions). There were no specific contract clauses including sustainability, this is due to lack of such clauses as a separate section in standards contracts.

**Contract clauses provide incentives for exceeding defined performance levels and disincentives for poor performance.**
Contract clauses did not provide for incentives for exceeding defined performance levels. Contrary there are usually penalty clauses and threat of the seizure of performance guarantee which has financial consequences on the contractor (or supplier) that discourage bad performance or failure to perform or induce contractor and supplier (particularly SME) in making forged documents or abandoning contract execution in course. Measures that keep the contractor in underperformance behavior. Therefore, there is failure of disuasive measures as mitigating factors of risk of non-performance. But there are

**The selection and award process is carried out effectively, efficiently and in a transparent way.**
- Recommended quantitative indicators to substantiate assessment of sub-indicator 5(b) Assessment criterion (j):
  - average time to procure goods, works and services
  - number of days between advertisement/solicitation and contract signature (for each procurement method used)
  - average number (and %) of bids that are responsive (for each procurement method used)
  - share of processes that have been conducted in full compliance with publication requirements (% in %)
  - number (and %) of successful processes (successfully awarded; failed; cancelled; awarded within defined time frames)
  - Source for all: Sample of procurement cases.

<table>
<thead>
<tr>
<th>Type of procurement</th>
<th>Number of cases assessed</th>
<th>Average time (days)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consultancy services</td>
<td>21 cases assessed</td>
<td>327,8</td>
</tr>
<tr>
<td>Goods</td>
<td>33 cases assessed</td>
<td>288,1</td>
</tr>
<tr>
<td>Works</td>
<td>23 cases assessed</td>
<td>376,9</td>
</tr>
<tr>
<td>Other services</td>
<td>4 cases assessed</td>
<td>493,7</td>
</tr>
</tbody>
</table>

The selection and award process is partially met as average time to procure goods, works and services were very high compared to a norm of award within initial validity

<table>
<thead>
<tr>
<th>Methods</th>
<th>Days/average</th>
</tr>
</thead>
<tbody>
<tr>
<td>NCB</td>
<td>172,4</td>
</tr>
<tr>
<td>ICB</td>
<td>362,7</td>
</tr>
<tr>
<td>NRT</td>
<td>68,0</td>
</tr>
<tr>
<td>SS</td>
<td>105,3</td>
</tr>
</tbody>
</table>

**RPPA to monitor timely award of contract and seek feedback from Procuring Entities on constraints face by them**
• average number of bids that are responsive (for each procurement method used)

<table>
<thead>
<tr>
<th>Methods</th>
<th>Numb of cases found</th>
<th>Average time (days)</th>
<th>average number of bids that are responsive</th>
</tr>
</thead>
<tbody>
<tr>
<td>NCB</td>
<td>69</td>
<td>172.4</td>
<td>4.6</td>
</tr>
<tr>
<td>ICB</td>
<td>3</td>
<td>362.6</td>
<td>6</td>
</tr>
<tr>
<td>RT (Short List)</td>
<td>1</td>
<td>68</td>
<td>1</td>
</tr>
<tr>
<td>SS</td>
<td>4</td>
<td>105.2</td>
<td>N/A</td>
</tr>
<tr>
<td>Force Account</td>
<td>3</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Community Participation</td>
<td>1</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

• share of processes that have been conducted in full compliance with publication requirements (in %)

24.6% of tenders were not in full compliance with publication requirements; 69.1% have been conducted in full compliance with publication requirements; and 6.1% contracts were awarded through non-competitive (SS, Force Account and community participation).

<table>
<thead>
<tr>
<th>Type</th>
<th>numb of compliant/method</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>C</td>
<td>13</td>
<td>16.05</td>
</tr>
<tr>
<td>W</td>
<td>15</td>
<td>18.52</td>
</tr>
<tr>
<td>G</td>
<td>25</td>
<td>30.86</td>
</tr>
<tr>
<td>OS</td>
<td>56</td>
<td>69.14</td>
</tr>
</tbody>
</table>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.
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*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.

<table>
<thead>
<tr>
<th>Competitive method</th>
<th>Number of processes (awarded)</th>
<th>% of successful processes (awarded)</th>
<th>No. of processes failed to conduct under the initially planned procurement method</th>
<th>% of processes failed</th>
<th>No. of processes cancelled</th>
<th>% of processes cancelled</th>
<th>Number (%) of processes awarded within timeframe</th>
</tr>
</thead>
<tbody>
<tr>
<td>Open tender</td>
<td>8</td>
<td>100</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>1.3</td>
<td>30 (40.5%)</td>
</tr>
<tr>
<td>ICB</td>
<td>74</td>
<td>100</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>1.3</td>
<td>30 (40.5%)</td>
</tr>
<tr>
<td>NCB</td>
<td>74</td>
<td>100</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>1.3</td>
<td>30 (40.5%)</td>
</tr>
</tbody>
</table>

9(c) Contract management

**Assessment criteria**

**Step 1: Qualitative analysis** (comparison of actual situation vs. assessment criteria)

- **(a) Contracts are implemented in a timely manner.***
  - **Recommended quantitative indicator to substantiate assessment criterion:**
    - (a): time overruns (in %; and average delay in days)
  - **The criterion is met partially:** some contracts assessed were implemented in timely manner, while other were not. The assessment was conducted on a sample of 81 cases; 25 (30.8%) contracts had time overrun, 37 (45.6%) had not, 14 (17.2%) contracts did not have clear or complete data, 3 (3.7%) contracts were executed through force account and 1 (1.2%) contract was not executed. Contract management constitutes a suffering area in public procurement and most of the time the cause is lack of capacity to manage contract properly.

**Step 2: Quantitative analysis**

**Step 3: Gap analysis / conclusions (describing any substantial gaps)**

**Potential red-flag?**

**Initial input for recommendations**

- **Improve capacity of procuring entities on contracts management by suitable staffing and training.**

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.*
(b) Inspection, quality control, supervision of work and final acceptance of products is carried out.*

Recommended quantitative indicator to substantiate assessment criterion
(b): quality-control measures and final acceptance are carried out as stipulated in the contract (in %)

The assessment found that 68 contracts (83.9%) had measures for inspection, quality control, supervision of work and final acceptance of products where goods, services or works were received in good quality and appropriate quantity, 6 contracts (7.4%) had not report showing how receptions were done, 3 (3.7%) contracts were executed under force account method, 3 contracts was not executed while the assessment did not find information on 3 contracts (3.7%). The assessment found that in most of cases which are among the 83.9% the procuring entity was represented by more than 3 persons at the reception of goods, works or consultancy deliverables.

Criteria partially met.

Inspection, quality control, supervision of work and final acceptance possesses the final key to ensure that the procuring entity is satisfied and the public who is the end beneficiary of the procurement will be satisfied. Briefly, they are the last musts that should ensure the effectiveness of procurement. This stage may cause loss to the procuring entity and render all previous stages unfruitful. In every contract, inspection or control of quality and quantity for final acceptance should be ensured and evidenced...

(c) Invoices are examined, time limits for payments comply with good international practices, and payments are processed as stipulated in the contract.

Recommended quantitative indicator to substantiate assessment criterion
(c): invoices for procurement of goods, works and services are paid on time (in % of total number of invoices).

On total contracts executed, the assessment found 51 contracts (representing 62.9%) whose invoices were paid within 45 days as required by PPL, while 14 contracts (representing 17.5%) were delayed, for 12 (14.8%) contracts assessed. PEs did not have information as payment files are elsewhere, so the Assessment did not find that information. Normally the PPL provides for 45 days maximum to pay invoices, the official policy of the Government is to implement this provision. Penalty to employee of procuring entity for delayed payment was provided in the new public procurement law (art.185,2°). RPPA is taking action on some cases of delayed payment as advocacy measure as per Annual Activity Report.

The criterion is met partially. There was evidence of timely payment for 62.9% of the contract.

RPPA to monitor timely payment of invoices and in case of delays interest of delayed payment be made, not just penalty to the officer who delays or refuses to pay without reasonable ground.

(d) Contract amendments are reviewed, issued and published in a timely manner.*

Recommended quantitative indicator to substantiate assessment criterion
(d): contract amendments (as % of total number of contracts; average increase of contract value in %)

Some contract managers (from both sides PEs and contractors or suppliers) do not perform well the contract management duty. We remember some explanations, especially for works contracts where they claim that the study was not well done (or specifications were not clear), may it be true, some of these issues are brought when seemingly they should have been foreseen. Number of sampled cases were amended, but most of them remained unamended. Amendments which were done were not published.

75.3% of contracts assessed were not amended and 16% were amended and for 4.9% contracts amendment was not possible due the nature of contracts (force account 3 contracts and one Community Participation contract) and 3.7% of contracts remained without clear data for assessment. The average increase of contract was 11%.

The criterion is partially met. Under this indicator procuring entities do not keep track of timely implementation as part of contract clause; they do not evaluate time cost (time is money). When the duration of contract lapse and both parties continue to execute contractual obligations, no one consider that as a de facto amendment. Therefore, the statistics presented here do not account that kind of modification (amendment) of contract. Instead the procuring entity is only applies penalties when invoices come. Penalties are not the goal (final end) of procurement; they should be avoided as much as possible with diligence ensuring that the execution plan (provided by PPL) is adequately done and respected. Most of procuring entities are acting at very beginning of the execution, they wait and act when it comes to apply penalties.

Contract amendments to be ensured in a timely manner to be monitored through e-procurement system.

(e) Procurement statistics are available and a system is in place to measure and improve procurement practices.

The Annual Activity Report published by RPPA is a good source of information on procurement statistics.

Criteria met.

(f) Opportunities for direct involvement of relevant external stakeholders in public procurement are utilised.*

Recommended quantitative indicator to substantiate assessment criterion
(f): percentage of contracts with direct involvement of local society: planning phase; bid/proposal opening; evaluation and contract award, as permitted; contract implementation Source for all: Sample of procurement cases.

If we consider in general terms stakeholders; certainly, relevant external stakeholders have opportunities for direct involvement in public procurement. Regional and international organizations (COMESA, AFDB, DFID, Transparency International Through Transparency Rwanda, have participated in assessment of public procurement legal framework (2007) and to some extent the recommendations of some institutions were the core justification of 2013 amendments. On the field of practice some stakeholders (NGOs) which participates in some development activities in rural area, especially at the local in Government level, take part in planning activities (including procurement aspects). Some procurement managers in PEs consider representatives or co-managers of projects (where the practice exist) as a direct involvement in procurement. On the other hand, there is no tangible involvement of local society, in data collected District declared that Civil society has been participating at the procurement planning stage; some entities functioning at the central government level affirmed that the Civil society has fully participated in the process of the sampled cases.

The data collected show that Civil society members were involved in 29.6% of contracts in planning, selection and contract management processes, while they participated in procurement plan only in 37 %.

The criterion is partially met. There are limited opportunities for direct involvement of civil society in bid/proposal opening, evaluation and contract award and contract implementation. There were limited instances of T, Rwanda being involved at district level

RPPA in consultation with Rwanda Development Board and Procuring Entities should enhance engagement of CSO for their meaningful participation at all stages of procurement cycle including in contract implementation.
### 10. The public procurement market is fully functional

#### 10(a) Dialogue and partnerships between public and private sector

<table>
<thead>
<tr>
<th>Assessment criteria</th>
<th>Step 1: Qualitative analysis (Comparison of actual situation vs. assessment criteria)</th>
<th>Step 2: Quantitative analysis</th>
<th>Step 3: Gap analysis / conclusions (describing any substantial gaps)</th>
<th>Potenti al red-flag?</th>
<th>Initial input for recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) The government encourages open dialogue with the private sector.</td>
<td>Based on the results of private sector survey, in response to a question: “Does the government get in touch with private association to communicate changes to procurement framework?”, only 11.11% of respondents indicated “always”; 25.93% indicated “usually”; 33.33% indicated “sometimes”; 14.81% indicated “rarely” and 14.81% “never”. Therefore, it is seen that the evidence of an open dialogue with the private associations including a transparent and consultative process when formulating changes to public procurement framework is limited.</td>
<td>Please see figures in the left column on results of perception survey</td>
<td>Criterion is partially met. Based on the results of the perception survey evidence of open dialogue with the private associations including a transparent and consultative process when formulating changes to public procurement framework is weak. It appears the above evidence is based on limited data as based on PSF perception to an association there is some evidence of dialogue and partnership with private sector. However, there is lack of a formal mechanism on partnership and absence of ethics and integrity related training programs.</td>
<td></td>
<td>Government to establish a formal mechanism and enhance its dialogue and partnership with private sector both on changes to legislative process and for information and training programmes tailored to the needs of small businesses as well to support supplier diversity and it should include a module on ethics and integrity in public procurement.</td>
</tr>
</tbody>
</table>

*Recommended quantitative indicator to substantiate assessment of sub-indicator 9(c) Assessment criterion (a): - perceived openness and effectiveness in engaging with the private sector (in % of responses). Source: Survey.

#### 10(b) The government has programmes to help build capacity among private companies, including for small businesses and training to help new entries into the public procurement marketplace.

Based on the Strategic Plan of RPMA for 2018/19 to 2020/21, there is no indication of RPMA or the government getting into the role of building capacity among private companies including small businesses.

As per, RPMA Annual Activity Report of 2017-2018, one day public procurement awareness meeting on the topic: “The Role of public procurement in development of national economy” was held in Kigali and four provinces with more than 600 participants of private sector. These events were opened by respective Governors and Mayor of the City of Kigali, District Executive Secretary by Province and City of Kigali, and attended by representatives of PSF, Transparency International (TI) and other government official like e-Procurement Project and Rwanda Revenue Authority. Presentation was given by representatives of RPMA (Total cost of event was Rwf 15.142 million). No formal programme or training is available for small businesses to help new entrants into the public procurement marketplace.

However, based on feedback from PSF RPMA organized training specific to the PSF on public procurement system including on E-Procurement

| Contracts (but no sample was provided) | The criterion is met partially. Records are not in a single file. A system to be put in place where all records are available in a Single file. A formal system of contract closing procedure (which requires availability of all documents for the entire procurement cycle) to be instituted to make it possible. | Covered in recommendation 10(a) |

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.
### 10(b) Private sector’s organisation and access to the public procurement market

<table>
<thead>
<tr>
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</tr>
</thead>
</table>
| **(a)** The private sector is competitive, well-organised, willing and able to participate in the competition for public procurement contracts. *  
* Recommended quantitative indicator to substantiate assessment of sub-indicator 10(b) **Assessment criterion (a):**  
- number of registered suppliers as a share of total number of suppliers in the country (in %)  
- share of registered suppliers that are participants and awarded contracts (in % of total number of registered suppliers)  
- total number and value of contracts awarded to domestic/foreign firms (and in % of total)  
Source: E-Procurement system/Supplier Database.  
| • The PSF perception towards RPPA is positive, in terms of its capacity and in reaching out and involving the private sector on every public procurement-related issue;  
• RPPA organized training specific to the PSF on public procurement system including on E-Procurement;  
• Despite, the private sector expressed their dissatisfaction on missing provision in the law that would require foreign firms to interfere joint venture with local firms for large tenders. Some of the challenges pointed out by the PSF are:  
- PSF has a perception that E-Procurement could be a challenge for small enterprise. Some small enterprises have already been complaining about their bids not reaching RPPA (the E-Procurement portal), though seemingly has been addressed now;  
- Technological challenges: when the system gets down, the bidders lose all the data and redo;  
- Payment delays are an issue. There are frequent complaints from the private sectors that interim payments are commonly delayed to the extent they default with Bank loans.  
No data available on share of registered supplier that are awarded contracts. No data available on number and value of contracts awarded to domestic/foreign firms  
Source: Survey.  
| Please see data on the left column.  
| Criteria is partially met, as there are constraints for participation through e-procurement system due to technological challenges  
| As at (a) above |
| **(b)** There are no major systemic constraints inhibiting private sector access to the public procurement market.  
* Recommended quantitative indicator to substantiate assessment of sub-indicator 10(b) **Assessment criterion (b):**  
- perception of firms on the appropriateness of conditions in the public procurement market (in % of responses).  
Source: Survey.  
| Based on the results of survey in response to question “Do you think that the following conditions in public procurement market are met for participation for public contracts?”, based on 26 responses, about 40-60% of participants indicated on major constraints for participation, access to financing (38.46%), procurement methods and procedures that are proportionate to the risk and value in question (44%), procurement rules are simple and flexible (50%), contracting provisions that do not fairly distribute risks (58.31%) and lack of effective appeals mechanism and dispute resolution (56%). About 62% of respondents identified absence of fair payment provisions as constraint as it does not help offset cost of doing business with the government.  
| Criteria partially met. There is need to take measures that can improve access by the private sector to the government market place  
| As at (a) above |

### 10(c) Key sectors and sector strategies

<table>
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</tr>
</thead>
</table>
| **(a)** Key sectors associated with the public procurement market are identified by the government.  
| There is no evidence of sector market analysis to determine sector specific risks and government’s scope to influence specific market segment  
| Not applicable  
| Criteria not met as there is no evidence of sector market analysis  
| Based on government’s priority spending areas, key sectors to be identified for sector market analysis to strengthen competition, integrity, sustainability and innovation in public procurement |
| **(b)** Risks associated with certain sectors and opportunities to influence sector markets are assessed by the  
| No such assessment is carried out by the government  
| Not applicable  
| Criteria not met as indicated above  
| As in (a) above |

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.*
| government, and sector market participants are engaged in support of procurement policy objectives. |  |  |  |

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.*
### 11. Transparency and civil society engagement foster integrity in public procurement

#### 11(a) Enabling environment for public consultation and monitoring

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>(a) A transparent and consultative process is followed when formulating changes to the public procurement system.</td>
<td>Civil society organizations (CSO) in Rwanda remain weak due to a variety of constraints.</td>
<td>Not applicable</td>
<td>Criteria partially met. Civil society organizations (CSO) in Rwanda remain weak due to a variety of constraints</td>
<td>Yes</td>
<td>Government to take measures to enhance consultation</td>
</tr>
<tr>
<td>(b) Programmes are in place to build the capacity of relevant stakeholders to understand, monitor and improve public procurement.</td>
<td>The Capacity and Development Unit has included in their targets in the strategic plan 2018-2021 to organize and conduct consultative meetings with various stakeholders in order to identify inadequacies in the current public procurement law and regulations.</td>
<td>Not applicable</td>
<td>Criteria partially met. No evidence of build capacity of relevant stakeholders including CSO</td>
<td>Government to take measures to enhance capacity of CSO</td>
<td></td>
</tr>
<tr>
<td>(c) There is ample evidence that the government takes into account the input, comments and feedback received from civil society.</td>
<td>The CSO is not so well organized and need training in procurement field before playing adequately his role. Transparency International is the entity which is involve deeply in combatting the corruption. This imply that they members had knowledge in public procurement. This Institution has been consulted during the drafting of the public procurement law. But it is not clear if input, comments and feedback received from civil society is considered by the Government</td>
<td>Not applicable</td>
<td>The criterion is partially met. To clarify with CSO if there views are taken into account</td>
<td>Feedback of CSO to be taken into account</td>
<td></td>
</tr>
</tbody>
</table>

#### 11(b) Adequate and timely access to information by the public

<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>(a) Requirements in combination with actual practices ensure that all stakeholders have adequate and timely access to information as a precondition for effective participation.</td>
<td>The e-procurement system is accessible to all stakeholders to access the information before taking the decision to participate to a tender. The deadline is clearly indicated and the documentation easily accessible. The e-procurement team also provide a short training and information regarding the website whenever the bidder request it. However, there is absence of Open Contracting Data Standards (cross refer to sub-indicator 7(a))</td>
<td>Not applicable</td>
<td>Criteria partially met. The e-GP system does not publish data on machine-readable formats. There are some report formats available, but not adequate to get a complete picture of procurement sector. Current e-GP system does not support OCDS and also does not have Comprehensive Business Intelligence system.</td>
<td>Recommended to develop and integrate a comprehensive business intelligence tool with visual representation of data and infographics. It is recommended to incorporate OCDS for structured data dissemination to facilitate transparency, citizen engagement</td>
<td></td>
</tr>
</tbody>
</table>

#### 11(c) Direct engagement of civil society

<table>
<thead>
<tr>
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<th>Potentially red-flag?</th>
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</thead>
<tbody>
<tr>
<td>(a) The legal/regulatory and policy framework allows citizens to participate in the following phases of a procurement process, as appropriate: • the planning phase (consultation) • bid/proposal opening (observation) • evaluation and contract award (observation), when appropriate, according to local law • contract management and completion (monitoring).</td>
<td>The Criteria not met. • The legal framework does not provide for the citizens to participate in the planning process of the procurement phase • With the e-procurement system all process in done online. The opening and the evaluation are done electronically • There was no provision in the law for the citizens to participate in the planning process of the procurement. (With the e-procurement system the transparency of the awarding of tenders have been improved)</td>
<td>Not applicable</td>
<td>The Criteria not met. The legal framework does not provide for citizens engagement in planning, selection and implementation phases of procurement</td>
<td>Yes</td>
<td>Procuring entities should allow citizens to participate to the planning of their activities. The execution of the contract citizens/CSO should be invited to monitor the execution of the works including through application of innovative techniques like geotagging and social audits.</td>
</tr>
</tbody>
</table>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.*
12. The country has effective control audit systems

12(a) Legal framework, organisation and procedures of the control system

The system in the country provides for:

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>(a) laws and regulations that establish a comprehensive control framework, including internal controls, internal audits, external audits and oversight by legal bodies</td>
<td>The Organic Law on State Finances and Property and the Ministerial Order No. 003/17/10/TC of 27/10/2017 set the regulation for Internal Audit and Audit Committees. As per these regulations, Public entities, central or decentralized, shall have an Internal audit function (i) to enhance and protect the value of public entities by providing objective assurance in risk monitoring; and (ii) to advise public entities on their statutory and fiduciary responsibilities by providing an independent, objective and systematic evaluation of whether the entity’s risk management, control, and governance processes are properly designed, comply with laws and regulations, are effective and efficient in achieving the entity’s objectives. The Internal audit performs assignments stemming from financial audit, compliance audit and performance audit. Every Public entity had an Internal Auditor in charge of ensuring that financial transactions are done as recommended by the law. Internal Procurement audit is done by RPPA through the Monitoring and Audit Unit. The Public Procurement Law provides also that all procuring entities should have at least one Procurement Officer ensuring that the procurement function is properly organized, well operated and monitored.</td>
<td>Not applicable</td>
<td>Yes, the criterion is met.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) internal control/audit mechanisms and functions that ensure appropriate oversight of procurement, including reporting to management on compliance, effectiveness and efficiency of procurement operations</td>
<td>A clear mechanism for the of monitoring the internal audit and external audit recommendations exist. The mechanism involves the Audit Committee and the Parliament. The overall implementation rate is above the average but require continuous and monitoring enhanced. Efforts. Regarding the procurement audit, The Monitoring and Audit Unit of RPPA ensures the follow up of contract execution and receives different reports related to all procurement procedures. It carries out audit operations in different procuring entities. These reports are published on RPPA website and the e-procurement website.</td>
<td>Not applicable</td>
<td>Yes, the criterion is met.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c) internal control mechanisms that ensure a proper balance between timely and efficient decision-making and adequate risk mitigation</td>
<td>Different institutions are in charge of regular controls to timely mitigate any identified risks as said in 12 (a) (d): RPPA, the procurement entity Internal Auditor and the Office transactions and include as well of the Auditor General.</td>
<td>Not applicable</td>
<td>Yes, the criterion is met.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(d) independent external audits provided by the country’s Supreme Audit Institution (SAI) that ensure appropriate oversight of the procurement function based on periodic risk assessments and controls tailored to risk management</td>
<td>The OAG is the Supreme Audit Institution. The OAG was established by Law no. 79/2013 of 11/08/2013 determining the mission, organization and functioning of the office of the Auditor General of State finances. The Constitution of the Republic of Rwanda (Article 165) mandates the Auditor General of, (i)auditing revenues and expenditures of the State as well as local administrative entities, public enterprises, parastatal organizations and government projects domestically or externally financed; and (ii)auditing the finances of the institutions referred to above, particularly verifying whether the expenditures were in conformity with laws and regulations. The OAG applies audit standards compliant with international audit standards. The OAG conducts audit engagements in accordance with the International Standards of Supreme Audit Institutions and the Code of ethics consistent with the Code of Ethics of INTOSAI.</td>
<td>Not applicable</td>
<td>The criterion is met.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(e) review of audit reports provided by the SAI and determination of appropriate actions by the legislature (or other body responsible for public finance governance)</td>
<td>The Auditor General has to submit to each Chamber of Parliament, prior to the commencement of the session devoted to the examination of the budget of the following year, a complete report on the consolidated state accounts for the previous year indicating the manner in which the budget was utilized. The OAG applies audit standards compliant with international audit standards. The OAG conducts audit engagements in accordance with the International Standards of Supreme Audit Institutions and the Code of ethics consistent with the Code of Ethics of INTOSAI.</td>
<td>Not applicable</td>
<td>Yes, the criterion is met.</td>
<td></td>
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</tbody>
</table>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.
The OAG produces the States consolidated and MDAs audit reports which are discussed by the Parliament. The Public Account Committee play a critical role and Head of Public Entities are usually invited for hearings on the management of the public resources. The hearings are public (except for security organs) and channelled through the Parliament radio and other public or private radios and in some cases on TV.

There is a clear mechanism for the of monitoring the internal audit and external audit recommendations exist. The mechanism involves the Audit Committee and the Parliament. The overall implementation rate is above the average but require continuous and monitoring enhanced efforts.

Regarding the procurement audit RPPA ensure a close monitoring of procuring entities identified as weak by them and also by the OAG in procurement field. RPPA provide trainings performance and ensure that internal committee are receiving full package of knowledge and skills in procurement field.

Some the critical indicators from PEFA 2016 is given below for reference:

<table>
<thead>
<tr>
<th>PI-8</th>
<th>Dimension</th>
<th>Score</th>
<th>Justification</th>
</tr>
</thead>
<tbody>
<tr>
<td>8.1</td>
<td>Performance plans for service delivery</td>
<td>D+</td>
<td>Scoring Method M2</td>
</tr>
<tr>
<td>8.2</td>
<td>Performance achieved for service delivery</td>
<td>C</td>
<td>The Annual Budget Execution report captures performance results for the majority of service delivery functions.</td>
</tr>
<tr>
<td>8.3</td>
<td>Resources received by service delivery units</td>
<td>D</td>
<td>No system currently exists to monitor resources received by service delivery units as planned.</td>
</tr>
<tr>
<td>8.4</td>
<td>Performance evaluation for service delivery</td>
<td>D</td>
<td>Surveys by TI-Rwanda are independent performance evaluations of service delivery, but while recommendations for enhancing delivery are included, they do not cover 25% of expenditure.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>PI-25</th>
<th>Dimension</th>
<th>Score</th>
<th>Justification</th>
</tr>
</thead>
<tbody>
<tr>
<td>25.1</td>
<td>Segregation of duties</td>
<td>A</td>
<td>Scoring Method M2</td>
</tr>
<tr>
<td>25.2</td>
<td>Effectiveness of expenditure commitment controls</td>
<td>A</td>
<td>Expenditure commitment controls remain in place that effectively limit commitments to actual cash availability and approved budget allocations.</td>
</tr>
<tr>
<td>25.3</td>
<td>Compliance with payment rules and procedures</td>
<td>B</td>
<td>The degree of compliance is good and is improving but some variations do occur and are reported.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>PI-29</th>
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<th>Score</th>
<th>Justification</th>
</tr>
</thead>
<tbody>
<tr>
<td>26.1</td>
<td>Coverage of internal audit</td>
<td>A</td>
<td>Internal Audit is operational at all government entities.</td>
</tr>
<tr>
<td>26.2</td>
<td>Nature of audits and standards applied</td>
<td>B</td>
<td>Internal audit in MDAs follow audit plans (approved by Audit Committees and copied to the GCIA) and are focused on evaluations of the adequacy and effectiveness of internal controls.</td>
</tr>
<tr>
<td>26.3</td>
<td>Implementation of internal audits and reporting</td>
<td>C</td>
<td>While IA is decentralized to MDAs and Districts, the GCIA monitors the implementation of individual plans of IA units.</td>
</tr>
<tr>
<td>26.4</td>
<td>Response to internal audits</td>
<td>C</td>
<td>Implementation of audit recommendations at budget agencies averaged 70% in the 31st March 2015 GCIA quarterly report, but there is a growing number of MDAs implementing 100%.</td>
</tr>
</tbody>
</table>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.
### 12(b) Coordination of controls and audits of public procurement

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>(a) There are written procedures that state requirements for internal controls, ideally in an internal control manual.</td>
<td>The RPPA has issued an internal procurement control and audit manual in 2010 which states the requirement for internal control procedures.</td>
<td>Not applicable</td>
<td>Yes, the criterion is met.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) There are written standards and procedures (e.g., a manual) for conducting procurement audits (both on compliance and performance) to facilitate coordinated and mutually reinforcing auditing.</td>
<td>The RPPA internal procurement control and audit manual provides a checklist of self-audit and monitoring to guide procurement officers to assess their systems. Such procurement audits are conducted and reported in RPPA Annual Activity Report. OAG also conducts a rigorous performance and compliance audit as evidenced in their Report of the Auditor General of State Finances for the year ended June 30, 2018. But it is not clear if there is a protocol or MOU between RPPA and OAG on exchange of information on audit. Based on discussion with RPPA, it is understood that OAG has a mandate to oversee the acts of executive branch which is RPPA (MINECOFIN) and therefore, their activities on audit have different focus and area of responsibility.</td>
<td>Not applicable</td>
<td>Yes, the criterion is met.</td>
<td>Suggestion for improvement Collaboration and exchange of information needed between RPPA and OAG</td>
<td></td>
</tr>
<tr>
<td>(c) There is evidence that internal or external audits are carried out at least annually and that other established written standards are complied with,</td>
<td>Article 166 of the Constitution stipulates that the Auditor General shall each year submit to each Chamber of Parliament, prior to the commencement of the session devoted to the examination of the budget of the following year, a complete report on the consolidated state accounts for the previous year indicating the manner the budget was utilized. The specialized procurement audit is done by RPPA. Based on the report of OAG it is seen that OAG reports covers issues beyond compliance and there are substantive finds and recommendation to cover procurement performance and contracts management in OAG report. So the percentage could be considered as 100%</td>
<td>Based on RPPA Annual Activity Report of 2017-18, the procurement audit was planned for 70 Procuring Entities but actually audited for 68 for 1276 tenders for a value of Frw 390.793 trillion. There is no data to differentiate OAG report as performance or specialized procurement audit, but based on the nature of findings</td>
<td>Yes, the criterion is met.</td>
<td></td>
<td></td>
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</tbody>
</table>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.*
<table>
<thead>
<tr>
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<th>Potentially red-flag?</th>
<th>Initial input for recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Recommendations are responded to and implemented within the time frames established in the law. *</td>
<td>The criterion is partially met. The submission deadline (9 months after the year closure) for State consolidated audited financial statement to the Parliament appears not effective. Since financial information relevance for decision making depends on their timeliness, nine months after the closure of the fiscal year, information may have evolved, and a new fiscal year is nearby. Furthermore, the Auditees have limited time (3 months) to address the audit findings before the end of the following year. Based on the Report of the Auditor General of State Finances for period ending 30 June 2018 “The trend on the status of implementation over the past 5 years shows that the rate of implementation of Auditor General’s recommendations is still low. The average rate of implementation stood at 49% in 2018, representing 5% improvement from the prior year 2017. However, it is noted that government entities are still shy of the all-time high implementation rate of 58% of 2014.” The following table is extracted from Auditor General’s Report ending 30 June 2018:</td>
<td>Please see data on the left</td>
<td>The criterion is partially met. There were gaps on implementation of recommendations as per the report of OAG for 2018 and low score on follow-up of internal and external audit recommendations as per PEFA report of 2016</td>
<td>Auditor General’s recommendation and also PEFA recommendations to be followed</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage of implemented recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>58%</td>
</tr>
<tr>
<td>2015</td>
<td>52%</td>
</tr>
<tr>
<td>2016</td>
<td>50%</td>
</tr>
<tr>
<td>2017</td>
<td>44%</td>
</tr>
<tr>
<td>2018</td>
<td>49%</td>
</tr>
</tbody>
</table>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.
(b) There are systems in place to follow up on the implementation/enforcement of the audit recommendations.

The report by Auditor General is very detailed with regard to implementation and enforcement of audit recommendation.

Criteria met

12(d) Qualification and training to conduct procurement audits

<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>(a) There is an established programme to train internal and external auditors to ensure that they are qualified to conduct high-quality procurement audits, including performance audits.*</td>
<td>As indicated above a part of procurement audit is carried out by qualified staff of RPPA. Based on the Report of the Auditor General for year ending June 30, 2018, it is seen that one of the key focus area of strategic plan is continued capacity building and training of OAG staff covering Graduate Recruitment Plan (GRP): 19 staff recruited from the university, professional training and development - OAG has 47 staff with professional qualification, OAG staff pursuing profession courses, 73 staff were in preparation for June 2019 sitting and there are in-house training. Then under Continuous Professional Development, 132 staff participated in various workshop with focus inter alia on report writing, strategic planning and enhancing performance audit. It appears there is no specific training on public procurement audit</td>
<td>Share of auditor's trained in public procurement - No data available</td>
<td>Auditors to be trained in the area of public procurement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>* Recommended quantitative indicator to substantiate assessment of sub-indicator 12(d) Assessment criterion (a): -number of training courses conducted to train internal and external auditors in public procurement audits. Source: Ministry of Finance/Supreme Audit Institution.</td>
<td></td>
<td></td>
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<tr>
<td>* Recommended quantitative indicator to substantiate assessment of sub-indicator 12(d) Assessment criterion (a): -share of auditors trained in public procurement (as % of total number of auditors). Source: Ministry of Finance/Supreme Audit Institution.</td>
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<tr>
<td>(b) The selection of auditors requires that they have adequate knowledge of the subject as a condition for carrying out procurement audits; if auditors lack procurement knowledge, they are routinely supported by procurement specialists or consultants.</td>
<td>Auditors are selected by the Ministry in charge of Labour like other public servants. The selection is made through writing exams and interviews. However, it is not clear if auditors are trained on procurement or there is collaboration and exchange of staff between OAG and RPPA and if procurement specialist or consultants support OAG office</td>
<td>Not applicable</td>
<td>Auditors to be trained in the area of public procurement</td>
<td></td>
<td></td>
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<tr>
<td>(c) Auditors are selected in a fair and transparent way and are fully independent.</td>
<td>Based on Report of Auditor General and as indicated at (a) above, the recruitment is carried out under Graduate Recruitment Plan (GRP) and such staff go through an induction program to equip them with knowledge and skills before deployment for audit</td>
<td>Not applicable</td>
<td>Collaboration and exchange of information between OAG and RPPA to be enhanced</td>
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</tbody>
</table>

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13. Procurement appeals mechanisms are effective and efficient

13(a) Process for challenges and appeals

<table>
<thead>
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</tr>
</thead>
<tbody>
<tr>
<td><strong>(a) Decisions are rendered on the basis of available evidence submitted by the parties.</strong></td>
<td>Summary: Decisions are rendered on the basis of available evidence submitted by the parties, which may include an oral hearing. PP Regulations A.53 lists the contents of the request for review which includes information on the decision or conduct against which a review is requested and any other relevant document the panel may request from the complainant. PP Regulations A.55 requires the National Independent Review Panel to send a request in writing to the procuring entity to provide the necessary documents in order to examine the substance of the complaint. Documents to be provided by the procuring entity within 5 working days (3 in the case of entities within Kigali City. Documents are submitted together with its arguments in response to the complaint (PP Regulations A.57). Consideration may be paper based but there is the option for the National Independent Review Panel to invite both sides to a hearing before the members of the panel (PP Regulations 57). Bidders are entitled to be represented by a lawyer (PPL A.54). There is no equivalent right for procuring entity. Also, it is not clear if in case of complaints challenging the award decision, the proposed winner can be a party to the complaint proceedings.</td>
<td>Not applicable</td>
<td>Criterion is met.</td>
<td></td>
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<tr>
<td><strong>(b) The first review of the evidence is carried out by the entity specified in the law.</strong></td>
<td>PPL A.51 provides that at any time from the publication of the tender to the signing of the contract a bidder may request a review in writing to the procuring entity. The procuring entity is required to provide a written decision on the request within 7 days, where grounded, indicating the corrective measures to be taken.</td>
<td><strong>100% of the decisions of the Review Panel are executed</strong> in 2017-2018. Appeals received 68, [dossiers considered 71 (some from previous year)] (2016-17 35 appeals, 2015-16 57 appeals, 2014-15 58 appeals) Of 68 appeals received in 2017-2018: 51 admissible (75%) • 16 admissible and founded (24%) o 14 ordered re-evaluation, 1 suspended, 1 dismissed • 35 admissible (considered) and unfounded (53%) • 6 terminated appeals (9%) 11 inadmissible -irregular (16%). Source: NIRP Annual Activity Report 2017-2018</td>
<td><strong>100% of the decisions of the Review Panel are executed</strong></td>
<td>Criterion is met.</td>
<td></td>
</tr>
<tr>
<td><strong>(c) The body or authority (appeals body) in charge of reviewing decisions of the specified first review body issues final, enforceable decisions.</strong></td>
<td>PPL A.53 provides that the decisions of the National Independent Review Panel are final and binding unless the decision has been reviewed by the court adjudicating the case on merit. In practice the decisions of the Review Panel are executed (100%), unless they are appealed before Courts; and since 2007 there have been very few court cases (less than 5 five cases), but in the last three years there is no any appeal against decision of the RP. In one case, the PE refused to comply with the IRP decision in the FY 2017-2018. In another case, the PE tried to ignore the decision taken by the Review Panel and acted otherwise, the case was dealt with strong action of RPPA informed by the NIRP. RPPA used its power to force the concerned PE to execute the decision.</td>
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<tr>
<td><strong>(d) The time frames specified for the submission and review of challenges and for appeals and issuing of decisions do not unduly delay the procurement process or make an appeal unrealistic.</strong></td>
<td>Summary: The time frames specified for submission and review of challenges should not unduly delay the procurement process or make an appeal unrealistic. (7 + 30 days, with one extension if necessary of 30 days) Initial complaint is filed with the procuring entity which must make a decision in 7 days. PPL A.52 sets out the timeframes for decisions to be made by the National Independent Review Panel; an initial period of 30 days, with one extension of 30 days. In the event of a failure to reach a decision within the specific period the complainant may lodge his/her claim with the competent court. Indeed, as per the statement of the criteria the time frames specified for the submission and review of challenges and for appeals and issuing of decisions do not unduly delay the procurement process or make an appeal unrealistic. The average time of the Review Panel is acceptable. In 2015-2016 it was more or less 22 days; more or less 6 days in 2016-2017; more or less 28 days in 2017-2018 and more or less 28 days the last FY 2018-2019 (3 quarters). The longest duration in 2015-2016 was 54 days. Out of a sample of 46 cases 10 cases spent between 30 and 39 days; 4 cases between 40 and 49 days and two cases between 50 and 59 days. In 2016-2017 the longest time took 28 days; in 2017-2018, 15 appeal cases spent between 30 and 39 days, 6 appeal cases between 40 and 49 days and 2 cases between 50 and 59 days; in FY 2018-2019 there is no any appeal against decision of the IRP.</td>
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Actually, the Public Procurement system has in place measures to mitigate that risk. When an appeal is submitted the E-Public Procurement System provided a way of pre-screening where the secretary checks the fulfillment of the admissibility requirements (as per article 54 of PP Regulations) such as: evidence of illegal acts or omissions; evidence of the decision of the first review made by the PE; whether the appeal was lodged within the time limit. The admissibility requirements intend to mitigate the risk of frivolous appeals and other events that can just delay procurement process (e.g. no provision of evidences of what we argue or grounds).

PPL says 7 days in the PE and 30 days which may be extended for additional 30 days does not mean that all appeals reach the extended number of days. In general, the average for review by NIRP is 29 days. We do not have data on the duration of review in the PE. But we assume the PE handle the complaint as quick as possible as they are most concerned with the timely completion of the procurement process.

In addition to above, the NIRP meets every week and they can meet even twice if there is need to do so. If parties provide necessary and sufficient evidences concerning the case and if there is no need for hearings, the case can take as long as one (1) day.

The view of the NIRP is that the E-public procurement system shortened the duration in improving the clarity of the information which in return improved the clarity of complaints. The facility made easy the pre-screening phase (check of admissibility).

### 13(b) Independence and capacity of the appeals body

The appeals body:

<table>
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<tr>
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</thead>
<tbody>
<tr>
<td>(a) is not involved in any capacity in procurement transactions or in the process leading to contract award decisions</td>
<td>Independence of appeals body: PPL A.12 The secretariat of the National Independent Review Panel is in the RPPA. PPL A.14: the National Independent Review Panel is provided with a budget by the RPPA. A.13: Minister appoints National Independent Review Panel members. A.15: Minister dismisses National Independent Review Panel members for incapability, misconduct or poor performance. Individual panel members: PPL Regulations A.49 provide that National Independent Review Panel members may not be members of a tender committee, staff and members of the RPPA Board of Directors, Members of the District Council. PP Regulations A.53: is a provision dealing with Conflict of Interest, requiring a panel member (1) not to take part in &quot;deliberations on the request until the decision thereof has been taken&quot; where the member has applied for review; and (2) not partake in review proceedings where a member has &quot;any relationship or misunderstanding with the complainant&quot; – and to inform the IRP in writing. Based on discussions with NIRP, it is understood the they are not involved in procurement transactions. They acknowledge the fact that some members are members of private sector (i.e. doing business sometimes with the Government), but if there is conflicting interest the member concerned has to declare it and cannot partake to any activity regarding the very claim. Actually the art. 54 of Regulations stipulates that when a member of the NIRPI has applied for review, he/she will not take part in the deliberations on the request until the decision thereof has been taken. If a member of the NIRP has any relationship or misunderstanding with the complainant, the former shall inform, in writing, the Panel of the issue and request for not taking part in the review proceedings.</td>
<td>Not applicable</td>
<td>Criterion partially met</td>
<td>Yes</td>
<td>In order to enhance the perceived independence of the IRP and its members, it may be appropriate to consider some changes such as direct budget allocation (if possible, within the budgetary system), appointment of members by open public competition and tightening of the grounds for dismissal to limit discretion.</td>
</tr>
</tbody>
</table>

2018-2019 (3 quarters) the longest duration was 45 days. 12 appeal cases spent between 30 and 39 days and 4 appeal cases took between 40 and 45 days. (Analysis from NIRP Report, 2015-2016; 2016-2017, 2017-2018 and three quarters of 2018-2019).

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.*
Furthermore, the qualifications of IPR members are not clearly defined in the PPL, nor are the dismissal criteria subjecting the IRP to potential political influence. The assessment team has nonetheless found that in practice, the IRP and RPPA do not interfere in each other’s functioning. For that reason, we have assessed the criterion as “partially met”.

| (b) does not charge fees that inhibit access by concerned parties | PP Regulations A.52 sets fees for the National Independent Review Panel as follows: Tenders up to Rwf 20 000 000 (Twenty million Rwandan Francs) Rwf 50 000 (fifty thousand Rwandan Francs) Tenders over Rwf 20 000 000 (Twenty million Rwandan Francs) Rwf 100 000 (one hundred thousand Rwandan Francs) The above amounts appear reasonable. Fees which are set in the PP Regulations A.52 are paid to the Government treasury. NIRP does not receive any fees as per services it renders. | Not applicable | Criterion met |
| (c) follows procedures for submission and resolution of complaints that are clearly defined and publicly available | The procedures for review are clearly defined in the PPL and PP Regulations which are publicly available but are not presented in a user-friendly format. | Quantitative data is given at 13 (d) (d) above Time frame is not excessive | Criterion met. Suggested improvements. The manner in which information about process of complaints is disclosed is not user friendly and easy to use. | Develop a simple user guide to submission of complaints, aligned with the e-procurement system, available on the NIRP section of the RPPA website |
| (d) exercises its legal authority to suspend procurement proceedings and impose remedies | PPL A.52 provides for automatic suspension of procurement proceedings pending decision of the National Independent Review Panel. o Remedies imposed: in 16 cases where claim was held to be founded, remedies ordered were 14 re-evaluation, 1 suspended, 1 dismissed | 100% of the decisions of the Review Panel are executed | Criterion met |
| (e) issues decisions within the time frame specified in the law/regulations* | Explained at 13 (a) (d) | Quantitative data is given at 13 (a) (d) above Time frame is not excessive | Criterion met |
| (f) issues decisions that are binding on all parties | PPL A.53 provides that the decisions of the National Independent Review Panel are final and binding unless the decision has been reviewed by the court adjudicating the case on merit. | 100% of the decisions of the Review Panel are executed | Criterion met |
| (g) is adequately resourced and staffed to fulfill its functions. | NIRP is fully staffed with 11 members and composition in accordance with PPL Article 13 | | Criterion met |

### 13(c) Decisions of the appeals body

Procedures governing the decision making process of the appeals body provide that decisions are:

<table>
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<tr>
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</thead>
<tbody>
<tr>
<td>(a) based on information relevant to the case.</td>
<td>Summary: Procedures governing decision making process provide for decision to be based on information relevant to the case. PP Regulations require the complainant to set out the nature of their complaint and for the procuring entity to provide documents requested by the National Independent Review Panel (see 13(a) above on available evidence. PP Regulation S8 requires that decisions of the National Independent Review Panel must take into account “all aspects of the tender documents and the law and regulations governing public procurement in an impartial manner”. There is also provision for inter partes hearings. Review of sample cases (2017-18) demonstrate that National Independent Review Panel does take into account arguments submitted and tender documents plus other relevant information – such as operation of the e-procurement system, in coming to their decisions.</td>
<td></td>
<td></td>
<td></td>
<td>Criterion is met.</td>
</tr>
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</table>

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

14(a) Legal definition of prohibited practices, conflict of interest, and associated responsibilities, accountabilities, and penalties:

The legal/regulatory framework provides for the following:

<table>
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<tr>
<td>(a) definitions of fraud, corruption and other prohibited practices in procurement, consistent with PPL A.3 definitions: corrupt practices: promising to offer, giving, receiving or soliciting, directly or indirectly, anything of value to influence improperly a civil servant or government entity;</td>
<td>Not applicable</td>
<td>The criterion is met</td>
<td></td>
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</table>

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obstructive practices: destroying, falsifying, altering or concealing material evidence to the investigation or making false statements to investigators deliberately in order to materially impede investigation into allegations of a corrupt, coercive or fraudulent practice, and threatening, slandering or intimidating any party to prevent it from disclosing its information about matters relevant to the investigation or from pursuing the investigation;

collusive practices: an arrangement between two or more parties designed to achieve an illegal purpose, including influencing improperly the acts of another party or a civil servant;

fraudulent practices: any legal violation, including acts of deliberate misrepresentation, intentional recklessness, misleading or attempting to mislead a civil servant to obtain financial or other benefit;

PPL A.89 Conflict of Interest – sets out circumstances (defines) where conflict of interest arises - contains provisions prohibiting certain persons and institutions from bidding in public tenders.

(b) definitions of the individual responsibilities, accountability and penalties for government employees and private firms or individuals found guilty of fraud, corruption or other prohibited practices in procurement, without prejudice of other provisions in the criminal law.

Summary: The PPL provides for cancellation of procurement procedures in the event of fraud or lack of fairness, rejection of offers in the event of corruption or fraud and cancellation of contracts due to forged or fraudulent practices. The Code of Ethics sets out both principles and ethical standards and the consequences of non-compliance, without prejudice to other provisions in the criminal law.

PPL A.48 provides that procurement proceeding may be cancelled if it is established there was fraud and lack of fairness in the tendering process

PPL A.87 Anti-corruption measures prohibit acceptance or solicitation of bribes and for rejection of bidder’s offer where it is established that the bidder was engaged in any corrupt or fraudulent practice while bidding for a public procurement.

PPL A.93 Cancellation of the contract due to forged or fraudulent practices at any time before or during execution of contract

PPL A.188 Offence - Participation directly or indirectly in award of tender where there is a conflict of interest is an offence liable to imprisonment and fine.

Ministerial Instruction No. 001/11/10TC of 24/01/2011 Establishing the Professional Code of Ethics Governing Public Agents Involved in Public Procurement: Chapter IV: Sanctions – on public agents disciplinary and deduction from salary (without prejudice to criminal and other provisions) and on bidders, categories of sanctions, right of defense, disciplinary process, administrative right of appeal. Reference to offences under Penal Code, Law Relating to prevention, repression and punishment of corruption and related offences

(c) definitions and provisions concerning conflict of interest, including a cooling-off period for former public officials.

Summary: The PPL sets out circumstances where conflict of interest arises. The Ministerial Instruction No. 001/11/10TC of 24/01/2011 Establishing the Professional Code of Ethics Governing Public Agents Involved in Public Procurement also covers Conflicts of Interest and requires (in Chapter III) a declaration of interest in the event that a conflict is identified. There is a cooling off period for former public officials of 5 years (PPL A.88).

PPL A.89 Conflict of Interest – sets out circumstances where conflict of interest arises - contains provisions prohibiting certain persons and institutions from bidding in public tenders. These include members of the Cabinet, heads of procuring entities, civil servants, member of District councils for tenders advertised by their districts, institution or company where a civil servant (parent, spouse or child) holds 50%+ shares, or is a representative, director or employee, former employee of procuring entity – 5 year period (carve out for consultancy services)

PPL A.89 Other prohibitions – sets out other prohibitions including prohibition on participation in certain tender processes of a member of a tender committee or other person involved in the award process or management of the contract. Prohibition is linked to level of kinship, employment, financial interest, employment contract or other benefit as well as a consultant hired by the procuring entity to provide consulting services for preparation or implementation of the tender or company connected with such consultant.

14(b) Provisions on prohibited practices in procurement documents

<table>
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<tbody>
<tr>
<td>(a) The legal/regulatory framework specifies this mandatory requirement and gives precise instructions on how to incorporate the matter in procurement and contract documents.</td>
<td>Standard Bidding Documents (January 2019) contain instructions, provisions and self-declaration for bidders to include a clause on conflict of interest and debarment, but not a declaration confirming that the bidder has not been prosecuted or convicted of fraud, corruption or other prohibited practices (see (b) below for contract provisions.</td>
<td>Not applicable</td>
<td>The criteria is met</td>
<td></td>
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The Instructions to Bidders contain a section on Fraud and Corruption which includes definitions of Corruption practice”, “fraudulent practice”, “collusive practice”, “coercive practice”, “obstructive practice” and confirms that proposals will be rejected in the event that the bidder has engaged directly or indirectly in these practices and impose sanctions.

For example, SBD For the Supply of Goods:
- Part A 4.4 provision on conflict of interest, definition of conflict of interest and disqualification
- Bid Submission form – includes self declaration on conflict of interest and debarment

(b) Procurement and contract documents include provisions on fraud, corruption and other prohibited practices, as specified in the legal/regulatory framework. Summary: The Standard Bidding Documents (January 2019) contain contractual provisions concerning fraud, corruption and other prohibited practices as specified in the legal framework. For example, SBD For the Supply of Goods:
- General Conditions of Contract (part of SBD); Clause 5 Fraud and corruption – Cancellation in the event of fraud or corruption in competing for or execution of contract. Detailed/comprehensive clause including definitions of “Corrupt practice” “fraudulent practice”, “collusive practice”, “coercive practice”, “obstructive practice”. Clause 39 Termination for default also refers.

14(c) Effective sanctions and enforcement systems

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<tr>
<td>(a) Procuring entities are required to report allegations of fraud, corruption and other prohibited practices to law enforcement authorities, and there is a clear procedure in place for doing this.</td>
<td>There is no such requirement for procuring entities to report and there are no clear procedure in place. It is not known if Procuring Entities in practice report allegations of Fraud and Corruption to law enforcement authorities. There is a MOU between RPPA and the Office of Ombudsman (March 2019) that requires sharing of information regarding blacklisted companies and persons convicted of corruption, requires undertaking joint awareness campaigns to make general public and the parties more alert on corruption situations in public procurement.</td>
<td>Not applicable</td>
<td>Criteria partially met, as no clear procedure in place to handle procurement related corruption cases</td>
<td>Specific guidance to be issued to Procuring Entities by RPPA and the Office of Ombudsman on reporting cases of Fraud and corruption</td>
<td></td>
</tr>
<tr>
<td>(b) There is evidence that this system is systematically applied and reports are consistently followed up by law enforcement authorities.</td>
<td>Based on available information, even though the Office of Ombudsman follows a due process as per Organic Law of the Penal Code 8, it is not known how procurement related corruption cases are handled. From the Office of Ombudsman, no reports are available either in English or Kinyarwandan for the last two fiscal. The last report was in 2015-16 in Kinyarwandan and in English the last report was published for 2013-14. Based on this last report of 2013-14, there were total 19 cases of procurement related corruption cases out of a total of 102 and out of these 19 cases, 3 cases were forwarded for prosecution or Police</td>
<td>Not applicable</td>
<td>Criteria partially met as no evidence is available on how procurement related corruption cases are handled</td>
<td>The Office of Ombudsman to publish in English its Annual report including evidence of enforcement on procurement related corruption cases.</td>
<td></td>
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<tr>
<td>(c) There is a system for suspension/debarment that ensures due process and is consistently applied. Summary: There is a system for temporary and permanent debarment that ensures due process Debarment provisions PPL A.176 Temporary debarment from bidding in public procurements - for 7 years - grounds include violation of laws, for 5 years – collusion, fraudulent over estimate of prices PPL A.177 Permanent debarment – grounds include use of fraudulent means to evade sanctions of debarment PPL A.179 Procedures for debarment from public procurement: The RPPA has power to debar a bidder from participation in public procurement. The debarment process requires the RPPA to inform that bidder in writing of charges made and to respond to those charges within a specified period of 15 days for national bidders and 30 days for foreign bidders. Bidders are entitled to a hearing and have the right to be represented or assisted by a lawyer. The hearing is recorded and all evidence is filed with a debarment decision made within 45 days. Debarment is taken effect from date of issue of the decision until expiry or annulment by a competent court. A list of debarred bidders must be published on the RPPA website, the UMYCON e-procurement portal and in the newspapers. PPL A.180 provides for a right of appeal against an RPPA debarment decision to a competent court. Based on discussions with the Office of Ombudsman, a failure by bidder to obtain good completion certificate does not lead to automatic debarment.</td>
<td>Not applicable</td>
<td>Criterion met: Suggestion for improvement: According to the list of debarred entities/individuals, poor performance is one of the two main grounds (other being false information) for debarring firms and individuals. PPL A.48 sets out the requirements for procuring entities issuing certificates of good completion at the end of each contract, however, it is not clear when such certificate is denied and on what grounds. Lack of specific guidance on these may lead to abuse of discretion by procuring entities and lead to misconduct.</td>
<td>All these aspects need to be addressed in the PP Regulations and/or User’s Guide for transparency and certainty. This guidance may be issued as per existing MOU between RPPA and the Office of the Ombudsman</td>
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<tr>
<td>(d) There is evidence that the laws on fraud, corruption and other prohibited practices are being enforced in the country by application of stated penalties.*</td>
<td>The website of RPPA contains information on blacklisted or debarred firms and individuals with names, grounds for debarment (generally poor performance or false information), duration of debarment. Link to RPPA website given below: <a href="http://rppa.gov.rw/index.php?id=605">http://rppa.gov.rw/index.php?id=605</a></td>
<td>Please see data in the left column</td>
<td>Criteria partially met as no data is published by the Office of Ombudsman on Government officials found guilty of fraud and corruption in public procurement or number of officials prosecuted/convicted.</td>
<td>Office of Ombudsman to regularly publish data on government officials found guilty of fraud and corruption related to procurement.</td>
<td></td>
</tr>
</tbody>
</table>

*Recommended quantitative indicator to substantiate assessment of sub-indicator 14(c) Assessment criterion

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.
(d):- Firms/individuals found guilty of fraud and corruption in procurement:
number of firms/individuals prosecuted/convicted; prohibited from participation in future procurements (suspended/debarred).
Source: Normative/regulatory function/anti-corruption body.
- Government officials found guilty of fraud and corruption in public procurement: number of officials prosecuted/convicted.
Source: Normative/regulatory function/anti-corruption body.
- Gifts to secure public contracts: number of firms admitting to unethical practices, including making gifts in (in %).
Source: Survey.

There is no such list published by the Office of Ombudsman on Government officials found guilty of fraud and corruption in public procurement: number of officials prosecuted/convicted.

In response to question "do you believe that company are expected to give a gift to secure a contract in the public sector?" out of 22 responses 31.82% stated "Yes" and 68.12 % stated "No"

### 14(d) Anti-corruption framework and integrity training

<table>
<thead>
<tr>
<th>Assessment criteria</th>
<th>Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)</th>
<th>Step 2: Quantitative analysis</th>
<th>Step 3: Gap analysis / conclusions (describing any substantial gaps)</th>
<th>Potential red flags?</th>
<th>Initial input for recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) The country has in place a comprehensive anti-corruption framework to prevent, detect and penalise 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.*</td>
<td>Rwanda has put in place institutional and legal frameworks to deal with fraud and corruption cases. The NPPA prosecutes cases on F&amp;C after investigations. The legal provisions are strong for investigation, prosecution and prevention of fraud corruption; corruption is comprehensively defined in the Organic Law of the Penal Code 8 and complemented by several other laws to help fight, prevent, investigate and punish fraud and corruption. Organic Law no 61/2008 of 10/09/2008 on the Leadership Code of Conduct is also in place to promote integrity in the public sector. Implementation and enforcement of these laws are quite robust in the public sector in general. The Rwanda Anti-corruption Policy represents the country’s commitment under Vision 2020 to achieve good governance through preventing and fighting corruption. It focuses on people, systems and organization and on building a culture when integrity is valued and corruption rejected. Furthermore, there is an ad hoc committee composed of leaders of government organs in charge of fight against corruption and headed by the Chief Ombudsman. Based on benchmarking of Rwanda along the various dimensions of governance Rwanda’s international ranking is high on control of corruption. Rwanda ranks 48 out of 180 countries in 2017 for Control of Corruption a vast improvements over 2006 ranking of 2006.</td>
<td>Yes, the criterion is met</td>
<td>Not applicable</td>
<td>Anti-corruption strategy needs to include the use of modern technology to detect case of fraud of corruption through electronic e-GP portal by suitable enhancement to the system and by analysis of cases of fraud and corruption to identify &quot;red flags&quot; and publishing cases as part of the Annual Report of the Ombudsman on certain good practices being followed by other similar agencies.</td>
<td></td>
</tr>
<tr>
<td>*Recommended quantitative indicator to substantiate assessment of sub-indicator 14(d) Assessment criterion (a):</td>
<td>- percentage of favourable opinions by the public on the effectiveness of anti-corruption measures (in % of responses).</td>
<td></td>
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<tr>
<td>(b) As part of the anti-corruption framework, a mechanism is in place and is used for systematically identifying corruption risks and for mitigating these risks in the public procurement cycle.</td>
<td>The Office of the Ombudsman has put in place a mechanism of annual declaration of assets which is mandatory for all persons involved in the management of public finance and property and all responsible in public tenders in central administration. The declaration shall indicate the source of the declared property, the date of acquisition, its value at that time, assets of his/her spouse if married under community of property, property of his/her children below eighteen (18) years of age, donations made from his/her own patrimony and others. After receiving the declared assets, the Declaration of Assets Unit examines what has been declared in order to find out if they were regularly obtained. Declarers whom it is found out that they have provided wrong information about their assets are handed over to the National Public Prosecution Authority. This mechanism is helpful in mitigating risk of corruption. However, the identification of the corruption during the procurement cycle cannot be detected at that stage. It may be useful to learn lessons from cases of procurement related Fraud and Corruption as preventive measures by publication of cases as part of the Annual Report of the Office of Ombudsman. The report of 2013-14 of the Office of Ombudsman has a section on cases on procurement and irregularities in contract execution. There are certain good practices being followed by the Anti-Corruption Office of European Commission (OLAF). Link <a href="https://ec.europa.eu/anti-fraud/sites/antifraud/files/olaf_report_2018_en.pdf">https://ec.europa.eu/anti-fraud/sites/antifraud/files/olaf_report_2018_en.pdf</a></td>
<td>The criterion is partially met. However, the mechanism for identification and detection of corruption risk and mitigating these in procurement cycle is not available.</td>
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</tbody>
</table>

*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.
(c) As part of the anti-corruption framework, statistics on corruption-related legal proceedings and convictions are compiled and reports are published annually.

The Office of the Ombudsmen publish every year an annual report on their activities and the list of people sanctioned for corruption. However, the report covers the corrupted cases in general. It’s not easy to find which cases is related to procurement and therefore, at which stage of the procurement cycle the corruption has been identified.

Not applicable

The criterion is not met. as after 2013-14 no Annual Reports were published in English and after 2015-16, no Annual Reports were published either in English or in Kinyarwanda

The Office of Ombudsmen to regularly publish its Annual Report

(d) Special measures are in place for the detection and prevention of corruption associated with procurement.

In the Ombudsmans strategic plan they’ve planned to audit government projects and programs but they did not provide specific measures for detection and prevention of corruption in public procurement.

Not applicable

The criterion partially met. No specific measures for detection and prevention of corruption in public procurement.

Anti-corruption strategy need to include the use of modern technology as indicated above under (b)

(e) Special integrity training programmes are offered and the procurement workforce regularly participates in this training.

Yes, the criterion is met. The Office of the Ombudsmans planned to sensitize different categories of civil servants on the content of Leadership Code of Conduct and on the law relating to the access to information. 2,000 civil servants have train in 2018 in the prevention and fighting corruption. However, there is no evidence of procurement related integrity training

Not applicable

Criteron partially met. There is no evidence of procurement related integrity training

14(e) Stakeholder support to strengthen integrity in procurement

<table>
<thead>
<tr>
<th>Assessment criteria</th>
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<th>Potenti al red-flag?</th>
<th>Initial input for recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) There are strong and credible civil society organisations that exercise social audit and control.</td>
<td>- Civil society organizations (CSO) in Rwanda remain in an embryonic state due to a variety of constraints. Transparency International Rwanda (TI-Rwanda) appears to be the main player among the civil society and is involved in social audit, control, control activities and advocacy. To that effect, TI-Rwanda has been conducting a number of annual initiatives such as the Rwanda Bribery Index since 2010, analysis of the Auditor General’s reports since 2013, and data collection on other specific issues. However there are no home grown independent and credible CSO</td>
<td>Not applicable</td>
<td>The criterion is partially met. There are limited instances of involvement by CSO</td>
<td></td>
<td>Government with lead taken by organization like Rwanda Development Board to consider encouraging home-grown credible and independent CSOs to play a role in social audit and control with suitable financial incentives provided to such CSOs</td>
</tr>
<tr>
<td>(b) There is an enabling environment for civil society organisations to have a meaningful role as third-party monitors, including clear channels for engagement and feedback that are promoted by the government.</td>
<td>The legislation (Organic Law no. 55/2008 of 10/09/2008) governing Non-Governmental Organizations (NGOs) and decentralization has opened up space for increased civil society involvement in policy-making. But there is no clear provision on this subject in procurement legislation</td>
<td>Not applicable</td>
<td>The criteria is partially met. There are limited instances of third-party monitoring</td>
<td></td>
<td>As above</td>
</tr>
<tr>
<td>(c) There is evidence that civil society contributes to shape and improve integrity of public procurement.*</td>
<td>Transparency International is one of the CSO engaged to help governments, businesses and civil society to fight corruption in the field of public contracting and procurement. TI is implementing as first country in Africa the Integrity Pact in Rwanda. But there is limited involvement by CSOs in public procurement in Rwanda and CSO who are actively engaged in public procurement is limited.</td>
<td>Please see data on the left</td>
<td>The criterion is partially met</td>
<td></td>
<td>As above</td>
</tr>
<tr>
<td>* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(e) Assessment criterion (c): - number of domestic civil society organisations (CSOs), including national offices of international CSOs actively providing oversight and social control in public procurement. Source: Survey/Interviews.</td>
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<tr>
<td>(d) Suppliers and business associations actively support integrity and ethical behaviour in public procurement, e.g. through internal compliance measures.*</td>
<td>Internal compliance measures not in place. It appears this concept is not prevalent or understood in Rwanda. Number of suppliers with internal compliance measure in Rwanda: NIL.</td>
<td>Please see data on the left</td>
<td>Criteria not met</td>
<td></td>
<td>RPPA/ Office of Ombudsman to discuss with Private Sector Federation, the mechanism for internal compliance measures for private firms in Rwanda</td>
</tr>
</tbody>
</table>
| *Recommended quantitative indicators; a black frame indicates minimum quantitative indicators.

Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.
 indicator 14(e) Assessment criterion (d): number of suppliers that have internal compliance measures in place (in %)
Source: Supplier database.

14(f) Secure mechanism for reporting prohibited practices or unethical behaviour

<table>
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<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>(a) There are secure, accessible and confidential channels for reporting cases of fraud, corruption or other prohibited practices or unethical behaviour.</td>
<td>Not applicable</td>
<td>Yes, the criterion is met.</td>
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<tr>
<td>(b) There are legal provisions to protect whistle-blowers, and these are considered effective.</td>
<td>Not applicable</td>
<td>Yes, the criterion is met.</td>
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<tr>
<td>(c) There is a functioning system that serves to follow up on disclosures.</td>
<td>Not applicable</td>
<td>Yes, the criterion is met.</td>
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</table>

14(g) Codes of conduct/codes of ethics and financial disclosure rules

<table>
<thead>
<tr>
<th>Assessment criteria</th>
<th>Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)</th>
<th>Step 2: Quantitative analysis</th>
<th>Step 3: Gap analysis / conclusions (describing any substantial gaps)</th>
<th>Potenti al red-flag?</th>
<th>Initial input for recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) There is a code of conduct or ethics for government officials, with particular provisions for those involved in public financial management, including procurement.*</td>
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<tr>
<td></td>
<td>* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(g) Assessment criterion (a): share of procurement entities that have a mandatory code of conduct or ethics, with particular provisions for those involved in public financial management, including procurement (in % of total number of procuring entities). Source: Normative/regulatory function.</td>
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<tr>
<td>(b) The code defines accountability for decision making, and subjects decision makers to specific financial disclosure requirements.*</td>
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<tr>
<td></td>
<td>* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(g) Assessment criterion (b): officials involved in public procurement that have filed financial disclosure forms (in % of total required by law). Source: Normative/regulatory function.</td>
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*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.
### Summary

The Code of Ethics governs public agents and all other participants involved in public procurement process in accordance with PPL and includes disciplinary sanctions, without prejudice to criminal and other provisions. Ministerial Instruction No. 901/11/10TC of 24/01/2011 Establishing the Professional Code of Ethics Governing Public Agents Involved in Public Procurement.<br>

Governs public agents and all other participants involved in public procurement process in accordance with PPL, Chapter IV: Sanctions – on public agents disciplinary and deduction from salary (without prejudice to criminal and other provisions) and on bidders, categories of sanctions, right of defence, disciplinary process, administrative right of appeal. Reference to these sanctions being in addition to offences under Penal Code, Law Relating to prevention, repression and punishment of corruption and related offences PPL A.188 Offence - Participation directly or indirectly in award of tender where there is a conflict of interest is an offence liable to imprisonment and fine.

### (c) The code is of mandatory, and the consequences of any failure to comply are administrative or criminal.

<table>
<thead>
<tr>
<th>Reference to these sanctions being in addition to offences under Penal Code, Law Relating to prevention, repression and punishment of corruption and related offences PPL A.188 Offence - Participation directly or indirectly in award of tender where there is a conflict of interest is an offence liable to imprisonment and fine.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not applicable</td>
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</tbody>
</table>

### (d) Regular training programmes are offered to ensure sustained awareness and implementation of measures.

<table>
<thead>
<tr>
<th>The strategic plan of the Ombudsman provides different sessions to train civil servants and leaders. The training concern different category of civil servant, from the leaders to simple civil servant.</th>
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<tbody>
<tr>
<td>Not applicable</td>
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</table>

### (e) Conflict of interest statements, financial disclosure forms and information on beneficial ownership are systematically filed, accessible and utilised by decision makers to prevent corruption risks throughout the public procurement cycle.

<table>
<thead>
<tr>
<th>The Declaration of Assets Unit of the Office of the Ombudsman is in charge of receiving the declaration of assets of all government officials. The list of government official is published on the website. Based on discussions with the Office of Ombudsman, there is full compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not applicable</td>
</tr>
</tbody>
</table>

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*Highlighted fields: quantitative indicators; a black frame indicates minimum quantitative indicators.*