ALBANIA

COUNTRY PROCUREMENT AND CONTRACT IMPLEMENTATION (CPCI) REVIEW

Governance Global Practice
Europe and Central Asia Region

May 2017
## Currency Equivalents

Currency unit = LEK

LEK 1.00 = US$ 0.0084 on May 31, 2017

## Government Fiscal Year

January 1st – December 31st

## Abbreviations and Acronyms

<table>
<thead>
<tr>
<th>Abbreviation</th>
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<tr>
<td>AACE</td>
<td>Albanian Association of Consulting Engineers</td>
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<td>ADF</td>
<td>Albania Development Fund</td>
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<td>AFDD</td>
<td>Albanian Development Agency</td>
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<tr>
<td>APMIS</td>
<td>Albanian Financial Management Information System</td>
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<td>AGFIS</td>
<td>Albanian Government Financial Information System</td>
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<td>ALT</td>
<td>Abnormally Low Tenders</td>
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<td>APCE</td>
<td>Albanian Professional Construction Excellence</td>
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<td>AKA</td>
<td>Albanian Road Authority</td>
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<td>ASA</td>
<td>Advisory Services and Analytics</td>
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<td>ASPA</td>
<td>Albanian School of Public Administration</td>
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<td>BEEPS</td>
<td>Business Environment and Enterprise Performance Survey</td>
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<td>BI</td>
<td>Budget Institutions</td>
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<td>BLIs</td>
<td>Baseline Indicators</td>
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<td>BoD</td>
<td>Board of Directors</td>
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<td>BOQ</td>
<td>Bill of Quantities</td>
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<td>CA</td>
<td>Contracting Authority</td>
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<td>CDR</td>
<td>Council for Development and Reconstruction</td>
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<td>CPCE</td>
<td>Country Procurement and Contract Implementation</td>
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<td>CFCU</td>
<td>Central Finance and Contracting Unit</td>
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<td>CHU</td>
<td>Central Harmonization Unit</td>
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<td>CPA</td>
<td>Central Procurement Agency</td>
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<td>CPB</td>
<td>Centralized Purchasing Body</td>
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<td>CPD</td>
<td>Central Purchasing Directorate</td>
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<td>CPPP law</td>
<td>On Concessions and the Public Private Partnership</td>
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<td>CPS</td>
<td>Country Partnership Strategy</td>
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<td>CPV/UNSPSC</td>
<td>Common Procurement Vocabulary (European Community) / United Nations Standard Products and Services</td>
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<td>DAC</td>
<td>Development Assistance Committee</td>
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<td>DB</td>
<td>Development Business</td>
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<td>DDFFA</td>
<td>Department for Development, Financing and Foreign Aid</td>
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<td>DOPA</td>
<td>Department of Public Administration</td>
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<td>DPL</td>
<td>Development Policy Loans</td>
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<td>EAMIS</td>
<td>External Assistance Management Information System</td>
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<td>EBRD</td>
<td>European Bank for Reconstruction and Development</td>
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<td>ECA VP</td>
<td>Europe and Central Asia Vice President</td>
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<td>EIB</td>
<td>European Investment Bank</td>
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<td>EO</td>
<td>Economic Operators</td>
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<td>EQA</td>
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<td>ERP</td>
<td>Economic Reform Program</td>
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<td>European Union</td>
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<td>FA</td>
<td>Framework Agreement</td>
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<td>FM</td>
<td>Financial Management</td>
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<td>FMC</td>
<td>Financial Management and Control</td>
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<td>GDP</td>
<td>Gross Domestic Product</td>
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<td>GDT</td>
<td>General Directorate of Treasury</td>
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<td>GoA</td>
<td>Government of Albania</td>
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<td>GTD</td>
<td>General Tax Directorate</td>
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<td>HIDAAD</td>
<td>High Inspectorate for the Declaration and Audit of Assets</td>
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<td>HR</td>
<td>Human Resources</td>
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<td>IA</td>
<td>Internal Audit</td>
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<td>International Bank for Reconstruction and Development</td>
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<td>ICB</td>
<td>International Competitive Bidding</td>
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<td>IDB</td>
<td>Islamic Development Bank</td>
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<td>INTOSAI</td>
<td>The International Organization of Supreme Audit Institutions</td>
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<td>IPA</td>
<td>Instrument for Pre-Accession Assistance</td>
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<td>IPS</td>
<td>Integrated Planning System</td>
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<td>IPSAS</td>
<td>International Public Sector Accounting Standard</td>
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<td>ISSAIs</td>
<td>International Standards of Supreme Audit Institutions</td>
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<td>LEK</td>
<td>Albanian Currency</td>
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<tr>
<td>MDAs</td>
<td>The Ministries, Departments and Agencies</td>
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<td>MDBs</td>
<td>Multilateral Development Bank</td>
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<tr>
<td>MEAT</td>
<td>Most Economically Advantageous Tender</td>
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<tr>
<td>MoEDTIE</td>
<td>Ministry of Economic Development, Trade and Entrepreneurship</td>
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<td>MOF</td>
<td>Ministry of Finance</td>
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<td>MTBP</td>
<td>Medium Term Budgeting Program</td>
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<td>Ministry of Transport and Infrastructure</td>
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<td>NCB</td>
<td>National Competitive Bidding</td>
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<td>National Licensing Center</td>
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<td>National Registration Center</td>
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<td>National Strategy for Development and Integration</td>
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<td>Organic Budget Law</td>
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<td>OECD</td>
<td>Organization for Economic Cooperation and Development</td>
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<td>OPM</td>
<td>The Office of Prime Minister</td>
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<td>OT</td>
<td>Open Tendering</td>
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<td>PBG</td>
<td>Policy Based Guarantee</td>
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<td>PCI</td>
<td>Preventing Conflict of Interest</td>
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<td>PFM</td>
<td>Public Financial Management</td>
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<td>PIM</td>
<td>Public Investment Management</td>
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<td>PPU</td>
<td>Project Implementation Unit</td>
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<td>PMT</td>
<td>Project Management Team</td>
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<td>PMU</td>
<td>Project Management Unit</td>
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<td>PPA</td>
<td>Public Procurement Agency</td>
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<td>PPC</td>
<td>Public Procurement Commission</td>
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<td>PPL</td>
<td>Public Procurement Law</td>
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<td>PPP</td>
<td>Public Private Partnership</td>
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<td>PPR</td>
<td>Public Procurement Rules</td>
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<td>PPSSD</td>
<td>Project Procurement Strategy for Development</td>
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<td>Acronym</td>
<td>Description</td>
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<td>RPQ</td>
<td>Request for Quotation</td>
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<td>SAA</td>
<td>Stabilization and Association Agreement</td>
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<td>SAFE</td>
<td>Strengthening Accountability and Fiduciary Environment</td>
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<td>SSAI</td>
<td>Supreme State Audit Institution</td>
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<td>SIGMA</td>
<td>Support for Improvement in Governance and Management</td>
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<td>SMEs</td>
<td>Small and Medium-sized Enterprises</td>
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<td>SOEs</td>
<td>State-Owned Enterprises</td>
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<td>TA</td>
<td>Technical Assistance</td>
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<td>TAD</td>
<td>Tax Appeal Department</td>
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<td>TD-MOF</td>
<td>Treasury Department, Ministry of Finance</td>
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<td>TDO</td>
<td>Treasury District Offices</td>
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<td>UNCTRSL</td>
<td>United Nations Commission on International Trade Law</td>
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<td>USDP</td>
<td>Unit for Strategic Development and Planning</td>
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<td>WB</td>
<td>World Bank</td>
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Co Task Team Leader, Sr. Procurement Specialist
ALBANIA
COUNTRY PROCUREMENT AND CONTRACT IMPLEMENTATION (CPCI) REVIEW

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PREFACE

This Country Procurement and Contract Implementation (CPCI) review was prepared by a team from the World Bank and the Islamic Development Bank, in cooperation with the Government of Albania (GoA), the EU Delegation to Albania, the Embassy of Switzerland in Albania, SIGMA-OECD (Sigma) and EBRD.

The work was carried out by a task team led by Mr. Majed M. El-Bayya, Lead Procurement Specialist (GGO03) and composed by Ms. Kashmira H. Daruwalla (Sr. Procurement Specialist, GGO03)-Co-TTL, Mr. Antonio Leonardo Blasco (Sr. Financial Management Specialist-GGO21), Ms. Jonida Myftiu (Financial Management Specialist-GGO21), Mr. Steven Burgess (Sr. Operations Specialist-INTSC), Mr. Artan Guxho (Sr. Infrastructure Engineer, GTI03), Ms. Nazaneen Ali (Sr. Procurement Specialist, GGO05), Ms. Belita Manka (Sr. Counsel, LEGOP), Mr. Hunt La Cascia (Sr. Procurement Specialist, GGO03), Mr. Arben Maho (Procurement Specialist-GGO03), Ms. Benedicta T. Oliveros (Procurement Specialist-GGO03), Ms. Manjola Malo (Procurement Specialist-GGO03), Mr. Nadjib Sefta (Quality assurance--Consultant), and Mr. Brad Herbert (Consultant). Joel A. Turkewitz (Lead Public Sector Specialist, GGOOS), Mr. Stephen Davenport (Global Lead, GGO01), Mr. Mark Brough (Consultant), and Mr. Jonathan Mellon (Consultant) worked on the e-procurement data analysis.

From the IsDB: Mr. Kadir Basboga (Sr. Country Program Manager), Mr. Surya Aslim (Sr. Country Program Manager), Mr. Fazliddin Tulaganov (Sr. Procurement Specialist), and Mr. Gul Ahmed Kamali (Sr. Procurement Specialist). Partial input from EBRD consultants: Ján Azud, Project Management Consultant, and Zuzana Kovacova, Evaluation & Monitoring Consultant.

Objectives and Scope

The GoA requested the World Bank’s support for the review of the public procurement system and contract implementation (CPCI) to optimize the effectiveness of its investment spending through improved public services and accelerated delivery.

This CPCI review will also inform the World Bank and other interested donors participating in the review about the challenges in the implementation of the projects they finance in order to mitigate the risk of delays in implementation, slow disbursements and poor outcomes.

Also, as part of the World Bank program in Albania, and in response to the Government request and proposal to centralize procurement of Donors’ financed projects, the Bank also used the opportunity of this review for analyzing this centralization option.

Against this backdrop, the overall objective of this CPCI review is to gain a better understanding of the environment and the factors affecting the implementation of civil works projects by (i) updating the Bank’s earlier analysis of the Albanian public procurement system, as well as the associated and relevant financial management
functions, contract management and integrity of the procurement processes; and (ii) assessing the efficiency of public procurement operations as well as contract implementation and management.

The scope of the work includes: (a) a review of the existing legal framework, organizational responsibilities, control, oversight mechanisms and capacity, current procedures and practices; (b) an assessment of the actual performance of the country public procurement system using international baseline and specific performance indicators; (c) based on the analysis and review, identification of key areas for improvements in civil works project implementation from procurement and contract management aspects and related financial management and integrity, and provision of impactful recommendations in the form of an action plan that can be monitored.

It also includes an assessment of implementation of World Bank and IsDB portfolio in Albania in terms of procurement, financial management and contract management to better inform the discussion of the Government proposal to centralize procurement of donor’s financed projects.

Methodology of the CPCI Review

The team worked in close collaboration with the Government of Albania (GoA) and its specialized institutions and entities. It based the work on a review of all relevant legislation and other background documentation (including sample procurement files), and on a series of workshops and interviews. Key institutions from the government appointed focal points to actively participate in the review and facilitate access to data.

The assessment methodology is based on the MAPS tool which is composed of four pillars and indicators developed by the OECD Development Assistance Committee (OECD/DAC) with the WB. The task team collected information on each indicator, then analyzed and summarized the key areas with issues to be addressed. In particular, when assessing procedures and practices, a set of performance indicators was used.

Further analysis on actual performance of the system was carried out, using the data generated from the e-procurement system with a view to how to make the procurement process more strategic. Also, the Albanian Road Authority (ARA) offered full support and shared the information about their contracts during the last 3 years. Procurement activities in a few major spending local governments units were also analyzed (Municipalities of Tirana, Vlora and Shkodra).

The e-procurement assessment focused on reviewing the current system and compared it with international best practices. It also looked at how to modernize it (integration with other systems, how to automate current paper based procedures such as the complaint review). Additionally, the assessment looked at where capacity building in e-procurement was needed.

Report Structure

The report has nine sections: I. Introduction, II. Procurement Legal and Regulatory
Framework, III. Institutional Framework and Management Capacity, IV. Procurement Operation and Market Practices, V. Contract Implementation and Management, VI. Public Financial Management relevant to Procurement, VII. Integrity and Transparency relevant to Procurement, VIII. Performance of World Bank and Islamic Development Bank Portfolios, and IX. Recommendations and Suggested Action Plan. A summary of the main findings and recommendations is provided in the Executive Summary at the beginning of the report. The officials met, the detailed assessment of the Performance Indicators, and the procurement performance analysis are provided in Annexes A, B and C at the end of the report. Annex D presents a review of the Centralization vs. Decentralization of World Bank’s Project Implementation. The assessment of the public procurement system is presented in the report in a way to relate the discussion to the four pillars developed by the OECD Development Assistance Committee (OECD/DAC) with the WB.

Acknowledgements

The team would like to express its appreciation to the various government officials and private sector representatives and donor representatives that met with the team and provided valuable input. Special thanks go to the Prime Minister’s Office, H.E. the Minister of Finance for his support of the CPCI preparation, the Government counterpart team including the PPA Director, the Public Procurement Commission Chairman (PPC), Ministry of Economy, Ministry of State for Local Issues in charge of anticorruption, Supreme State Audit Institution (SSAI), Albanian Road Authority, General Directorate of Water, and the Centralized Purchasing Directorate, for their close coordination with the Bank mission. The team would like to thank Ms. Ellen Goldstein, Country Director, Europe and Central Asia Region (WB), Ms. Tahseen Sayed, Country Director (Ex. Country Manager for Albania) and Mr. Anasse Aissami, Director, Operations Policy and Services Department, IsDB for their guidance and continuous support for the work.

The team is thankful for the valuable comments by the peer reviewers. From the World Bank: Mr. Abduljabbar Hasan Al-Qathab; Lead Procurement Specialist, GGO06, Mr. Francois Nankobogo, Lead Operations Specialist, ECADE; Ms. Alison Micheli; Lead Counsel, LEGOP; Mr. Naseer Ahmad Rana, Advisor, GGOOS; Mr. Manuel Vargas; Lead Financial Specialist, GGO23, Ms. Edina Halapi, Programme Manager, Delegation of the European Union to Albania, Ms. Sigita Stafa, National Programme Officer for Economic Development, Embassy of Switzerland in Albania, Mr. Evgeny Smirnov, Sr. Procurement Advisor, EBRD, Mr. Issa Ide, Division Manager, Project Procurement Division,, OPSD, IsDB, Mr. Piotr-Nils GORECKI, Sr. Advisor, SIGMA1 agreed to review the final draft of the CPCI review report.

The team is also thankful to Ms. Hiba Tahboub, ECA SIP Practice Manager for her review of the report and advice throughout the preparation of the review.

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1 SIGMA= Support for Improvement in Governance and Management - joint initiative of the OECD and the EU, principally financed by the EU.
EXECUTIVE SUMMARY

1. This report presents the World Bank and Islamic Development Bank, collectively the “Banks”, teams’ review and assessment of Albania Country Procurement and Contract Implementation (hereinafter referred to as “CPCI”), including for projects and civil works contracts financed by the Banks. This Executive Summary focuses on the most critical findings and it summarizes key recommendations. Detailed analysis and recommendations are provided in the rest of the report.

2. The CPCI aims to provide the GoA with an updated diagnosis of the strengths and weaknesses of public procurement and to make specific recommendations and practical suggestions for achieving increased effectiveness in service delivery, through an improved public procurement system, planning and implementation as well as contract management.

3. The report also presents specific analysis of implementation of projects and procurement of contracts financed by the Banks and it discusses more specifically some questions raised by the GoA regarding options to centralize procurement of donors’ financed projects.

Main Findings

4. There were significant achievements on public procurement reform; however, more is still needed. Albania is a small country, still in transition, with the strategic objective of accessing the EU. This translates into reforms including in the area of public procurement. The GoA has taken important steps to build a modern and sound system to improve the overall effectiveness of public procurement over the last several years. There has been progress especially regarding the legal, regulatory and institutional frameworks as well as development and functioning of an e-procurement system.

5. Management, transparency, performance, and effectiveness of public procurement could be significantly improved. Overall, the public procurement framework looks relatively good on paper, but its implementation should be further reinforced. The level of trust of private sector in procurement system is still very low. Private sector companies and the public at large remain skeptical when it comes to transparency and the fight against fraud and corruption. Continued efforts to enhance transparency of public procurement, would also strengthen position of the public employees working on public procurement to exercise their professional judgment, which would have very significant impact on reducing the delays and hence improving effectiveness of service delivery.

6. Contract management and administration are weak. Severe contract implementation problems, especially payments issues, and management of contract changes and amendments are undermining the effectiveness of contract implementation, in term of quality, cost and time.

7. Going forward, and especially in view of the agenda for accession to the EU, the central challenge is therefore to dramatically improve the effectiveness of procurement operations and contract implementation, with the objective of better contributing to service delivery to the public
and to gain credibility and support from the different stakeholders, including private sector and donor’s community.

**Key Recommendations**

8. The report presents a number of recommendations and suggestions for action, on various fronts such as legal and regulatory amendments, institutional changes, capacity building, performance monitoring, implementation as well as modernization of procurement system. Actual improvement and impact will be the result of their combination and the persistent actions to translate them into reality. This includes in particular the following:

   (i) Enhance the Monitoring and Follow up functions for procurement operations and contract implementation both by the Contracting Authorities and at the central level, e.g. at Ministry of Finance, including through a much better use of the exiting e-procurement system and data;

   (ii) Establish full institutional and resource independence of the Public Procurement Commission (PPC), both in the PPL and in practice;

   (iii) Make a much more systematic use of Framework Agreements for centralized purchasing of common used items, especially for Security Services;

   (iv) Change the behavior and enhance the effectiveness of the purchasing, tender/proposal evaluation and controlling entities by no longer penalizing civil servants as individuals for appropriately exercising their professional judgement in the course of their work and actions; by enhancing the Auditors procurement knowledge and capacity; by clarifying the rules for exclusion and disqualification of bidders and; by clarifying the difference between major and minor deviations and when to seek clarifications from bidders.

   (v) Revise and modernize the existing standard procurement documents and contract forms, by using the existing international practices and standards.

The following sections provide a summary of the main components of the CPCI review.

**Legal and Regulatory Framework**

9. The Government of Albania has developed a public procurement legal framework which is comprehensive and based on the principles of transparency, open competition, fairness, equal treatment and non-discrimination. Reforms over the years have been commendable. The legislation, the implementing regulations, and the rules are generally of sound quality. The Public Procurement Law (PPL) applies to all public procurement financed by the government budget, with the exception of certain categories which are commonly excluded from procurement legislation in most countries. There are standard bidding documents (SBD) for works and goods; however, these SBDs are lacking details and clarity in terms of procedures of some important issues including conflict of interest, post qualification of economic operators, validity of bid security, arithmetic errors, complaints handling, treatment of abnormally low bids, sound contract forms in line with international practices, etc.
10. According to SIGMA’s baseline measurement report, April 2015 “The main gaps in the legislative framework include the non-implementation of the Defense and Security Directive and several provisions of the Remedies Directive.”

11. The overall institutional set-up of public procurement is reasonably well organized, and the PPL defines the roles and responsibilities of the entities involved in procurement both at central and at contracting authority levels in a comprehensive manner. Accountability and enforcement of the regulatory framework are normally to be ensured through a robust complaint review mechanism, audit and other controls mechanisms. These are in place in Albania, but their effectiveness needs to be enhanced.

12. The PPL establishes the Public Procurement Commission (PPC) as the main body for reviewing complaints. The PPC, under the responsibility of the Prime Minister, is the highest administrative body in charge of reviewing public procurement complaints. However, given the PPC subordination under the Prime Minister’s authority, its independence is questionable, which is critical for such bodies as the PPC.

13. Notwithstanding the above, both the PPL and the secondary legislation need to benefit from further strengthening and improvement, with the ultimate goal of achieving better effectiveness. The recommendations regarding the Legal and Regulatory Framework and its utilization would therefore be: (a) recognize procurement planning and contract management as important stages in the procurement cycle, and look at the procurement cycle more holistically, (b) develop comprehensive and procurement-focused rules on (personal and organizational) conflict of interest, (c) regulate the debarment process in a more clear and comprehensive manner, (d) make better and more use of centralized purchasing through the relevant and existing government structure to achieve value for money and economies of scale; (e) address the issue of Abnormally Low Tenders (ALT) in a more comprehensive and rigorous manner; and (f) review the efficiency of the complaint system as a whole, and in particular enhance the independence of the PPC.

**Performance of Procurement Operations and Contract Management**

14. As much as the Legal and Regulatory Framework has substantially been developed and improved over the last ten years, there is still a long way to go for improving actual performance of procurement operations and contract management. The following are some specific issues and recommendations on these fundamental dimensions of public procurement. Most of them are supported by data collected from the Albania e-procurement system and from the Albania Road Authority (ARA) as one of the contracting authorities with highest numbers of tenders in a year.

15. **Follow-up and Monitoring:** As part of its strategic action plan, and in order to properly inform all the decisions makers, one of the first recommendation is for the GoA to put significant emphasis and resources on building a strong Follow-up and Monitoring function at all levels of the concerned institutions, including the Ministry of Finance and the various Contracting Authorities (CAs). New follow-up and monitoring functions and/or units (QAU) need to be established that will proactively monitor public procurement, provide timely support, and help CAs identify solutions. At the Ministry of Finance level, this could be achieved by reinforcing the follow-up and monitoring function of the Department of Monitoring, Evaluation and Coordination of Economic Policy and Public Investments. Also, all the CAs should put in place
electronic systems to follow-up and monitor their procurement operations and contract implementation. These systems should be used to collect data, which can then be analyzed to identify the weak points for them to be addressed in a timely manner.

16. **Professional Norms and Behavior:** The review identified a significant challenge in improving the overall efficiency and effectiveness of public procurement in Albania which stems from professional “norms” that have evolved over decades. These norms lead to accepting long and unnecessary delays in decision-making, to fostering an environment that lacks robust accountability, and create a culture where *time* has little value. This, in turn, limits the Government of Albania’s ability to achieve its objectives of effectiveness in service delivery.

17. Policy makers, managers, and staff at all levels are reluctant to make decisions\(^2\) as they avoid taking risk. This is the result of an environment that heavily penalizes “wrong” decisions, offers little reward for timely decisions, and applies no penalties for avoiding decisions. Most decision-makers recognize that a decision which is technically correct but “politically incorrect” is considered as “wrong”.

18. For the Government to achieve its goals in public procurement and service delivery, these norms need to change and be replaced with ones where timely action and decisions are rewarded and long delays are not accepted. These changes will require more than simply improving processes, revising procedures, or drafting new operational manuals. Instead, it will require both a fundamental rethinking of the type of work environment that is required to encourage creativity, innovation, risk taking, and incentives for timely decisions, as well as strong political leadership and innovative new structures of decision-making. To begin addressing this challenge and creating the desired work environment, the first step will be to modify the legal and regulatory provisions which penalize individuals for *appropriately* exercising their professional judgement in the course of their work and actions, and also to protect them from all *inappropriate* external interferences.

19. **Public Finance Management in relation to Procurement:** Albania has taken some important steps in improving public financial management. However, the failure to adhere to Medium-Term Budget Program (MTBP) spending ceilings and prioritize investments accordingly, and a consequent build-up of arrears, coupled with weak commitment controls and public investment management have all contributed significantly to delays of completion of multi-year projects when the allocated budget is only for one fiscal year. Overall, there is a weak linkage between the allocated budgets and the signing of procurement contracts.

20. The data collected from the e-procurement system also reveals a heavy skew of concluding a large proportion of the small contracts towards the end of the fiscal year, which further, in part, supports the finding of lack of proper procurement planning and budgeting.

21. **Procurement methods:** There are several and significant issues when it comes to the choice of the procurement methods for specific contracts. Instead of being governed by a Fit for Purpose approach, the selection is often guided by other considerations which lead to problems:

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\(^2\) Sometimes it may take months to make a decision. E.g. Supply and Installation of an External Assistance Management Information System (EAMIS) was cleared by the World Bank on February 11, 2016 and until October 25, 2016 the contract was not signed.
Among others, (i) the number of negotiated procedures without prior publication, which in essence are direct and sole source contracts, is alarmingly high, jeopardizing the principles of fair competition and transparency as well as economy; (ii) the use of Framework Agreement procedure should be the norm for common used supplies and services, especially for Security Services, instead of a myriad of very small and repetitive procurement procedures and contracts, which in addition are the source of an enormous number of complaints to be handled by PCC (see Figure 1); (iii) Consultancy services for the design and supervision of construction works are of intellectual nature, and should not be treated like works or goods contracts which lead to poor quality of designs and supervision of construction works; (iv) Special consideration shall be devoted by the PPA to the consulting services where the lowest price is normally not be the best ranking criteria and method to use for the selection of complex or large value contracts.

![Figure 1: Distribution of complaints by subcategory during the period 2013-2015](image)

22. **Participation of the Albanian Private Sector in Public Procurement:** There are no institutional or legal systemic constraints towards participation by the Albanian private sector in public procurement processes and contracts. Its performance, competitiveness and rate of participation appear to be reasonable, though it is mostly focused on small and medium size contracts. The data collected from the e-procurement system shows that enhanced competition results in cost savings. Larger contracts however do not appear to attract large competition from Albanian companies.

23. However, Economic Operators from the private sectors would like to see simplification and clarification regarding the qualification requirements and rules for participation: They are requested to submit an overwhelming number of documents as part of each tender to meet the participation and qualification criteria, lack of which leads to rejection of otherwise good tenders. The use of e-procurement system could dramatically limit this repetitive and unnecessary burden.

24. **E-procurement system:** The use of information technology in all spheres of the government has been promoted at a high political level. The use of the e-procurement system is mandatory for contracting authorities and economic operators in Albania and this is a very good practice. The assessment found, however, many weaknesses and shortcomings in the e-procurement system, including lack of auditing capabilities, contract management and reporting,
and weak integration with other systems in the country. These should be addressed as soon as practical keeping in mind the additional potential benefits that could be drawn from the use of e-procurement system, for purposes of Follow-up and Monitoring of public procurement and contracts, for expanded use of Framework Agreements, for a more streamlined submission of documentation and verification of bidder’s eligibility and qualification, etc.

25. **Tender Evaluation:** This is probably one of the most difficult and problematic aspects of procurement operations. The independence and the professionalism of the evaluation committee members are often questioned. Evaluation Committee (EC) members are continuously under pressure from political interference, on one hand, and intimidation from penalties and other disciplinary measures, on the other. This results in bid evaluation delays and rigid interpretation of the legislation. They apply the evaluation criteria without consideration to value for money due to fear of auditing by SSAI and of being individually penalized by the PPA. They often disregard the concept of “substantial responsiveness”, thus leading to the rejection of good tenders for any type of deviation - minor or major. When it comes to Abnormally Low Tenders (ALT), and apart from identifying these tenders and seeking clarifications from bidders, the CAs never reject such ALT tenders, fearing of being penalized by auditors or other control bodies. Coupled with the requirement to disclose Limit Fund, this practice deprives the Government from open, fair and vigorous competition.

26. The PPL does indeed speak about “minor deviations” but there is no guidance on what makes the difference between minor versus major deviations, and how they should be treated by the CAs during evaluation of bids. As SSAI reports show, misinterpretation of the PPL by EC is commonplace. PPA should develop guidance notes for evaluation and especially clarify the difference between minor versus major deviations (on qualification of the economic operators and on responsiveness of their tenders).

27. These problems and the resulting delays are particularly noticed in the procurement cycle for contracts under the World Bank’s portfolio, which takes about 230 days (see Figure 2) to be completed (the benchmark is 100-145 days), meaning that the procurement cycle for Bank-financed projects from advertisement to issuing the notice to handing over the project site to the contractor takes about 1.5 times more than relevant benchmark with noticeable delays during the evaluation of bids period.
28. **Contract Implementation and Quality of Standard Bidding Documents and Forms of Contract:** Here as well, a number of weaknesses undermine contract implementation and their efficiency and effectiveness, such as inadequate construction supervision, lack of contract management capacity in the CAs, specific issues with the Standard Bidding Documents and Forms of Contract, compounded by unhelpful implementation practices, such as:

- The size and qualifications of technical workforce within government departments is not commensurate with the number, size and complexity of projects financed and implemented. Some substitutes or temporary solution however exist: Supervision consultants are often hired and generally seem to offer a solution for project supervision. Quality assurance departments have been established in some CAs who conduct onsite inspection and ensure the quality at completion.

- The poor quality of design and technical specifications: They are the main source for Variation Orders which in turn lead to cost and time over-run, such as the very significant ones observed for ARA contracts.

- Poor quality of the existing Standard Bidding Documents and Forms of Contract: Some CAs exclude provision for advance payment, payment of interest on delayed payment to contractors, adjudication or arbitration clauses for dispute resolution. In addition, there are conflicting information on the timing for providing performance security and the start of contract, lack of clarity of post qualification requirement, conflict of interest, absence of price adjustment clauses, even in the face of limit fund problems.

- Chronic payment delays due to limit fund problems: Execution of investment budget at some sectors has been slowed down and many contractors have not received their due
payments. The construction of roads in the transport sector has been particularly affected with contractors suffering from delayed payments. In addition, the unavailability of price adjustment during the course of contract implementation place extra undue pressure on the ability of contractors to perform.

- Undue restrictions on the issuance of Variation Orders to the contractor. These restrictions are one of the most serious problems for works contracts. They are completely inconsistent with traditional and internationally accepted forms of works contracts (e.g. FIDIC). Compounded with the 20% threshold on the amount of the variations orders which are treated using Negotiated Procedure without Prior Publication, these restrictions lead to an enormous number of new and uncompetitive contracts, very often to complete the works with the same contractor. The mechanisms for Variations Orders should be part of the original signed contract and be allocated adequate budget. Variation orders should not lead to separate and new contracts.

- Dispute resolution mechanism involving dispute review panels/adjudicators, as seen in the international practice of civil works contracting, is not practiced in Albania under state budget fund. Contractors are left only with the option to complain in court.

29. **Audits**: There are many issues when it comes to auditing public procurement, especially in relation to e-procurement system and transactions. The Supreme State Audit Institution (SSAI) is not well versed in procurement issues, therefore when performing such audits, there are inconsistencies in the results. Neither do the internal auditors in the CAs have the needed expertise to perform procurement audits, including on e-procurement aspects. Also another problem is that the SSAI doesn’t have access to the procurement databases and logs; they only have access to Portable Document Format (PDF) files which are not easy to handle for data analysis. This makes their activity difficult when performing procurement audits on contracting authorities.

**Integrity and Transparency in Public Procurement**

30. Corruption is considered a serious threat to economic development, and Albania is no exception. The Government has recognized the issue of fraud and corruption since at least 1998 and has made efforts for addressing it. The fight against corruption has been stressed as a crucial part of Albania’s candidacy for EU membership. The integrity of the public procurement system has a place in the legislative framework, as reflected in the numerous provisions addressing fraud and corruption and the potential consequences of indulging in such acts.

31. There have been several advances in governance, including improvements in the Criminal Code and the Constitution. In February 2015 an online anticorruption portal was launched. Multiple government units are responsible for curbing fraud and corruption, some of these directly or indirectly ensuring the integrity of the public procurement systems. There can be sometimes confusion between the rules, regulations and laws that deal with different parts of this complex set of issues. Against this backdrop, a 2015-2020 National Cross-cutting Strategy against Corruption and a 2015-2017 Action Plan were approved by the Albanian Council of Ministers in March 2015. These instruments lay out a comprehensive and coherent set of measures that should push the agenda further forward.
32. Despite the advances in this area, which are slow but certain, the private sector still consider corruption a major constraint to doing business in Albania. Some sectors might be more vulnerable than others, but it is generally agreed that these issues, though much reduced, remain quite widespread and significant. Holistic and persistent efforts are needed to effectively reduce the risk of fraud and corruption, with inputs required from public and private sectors together with strengthening of the enforcement systems, prosecutorial services and the judiciary.

**Key Recommendations**

33. Out of the many recommendations developed in the report and listed in Section IX, and using their expected impact as the main filter for prioritization, the following are the fifteen key recommendations presented to the Government as a first priority, which does not imply that the other recommendations are less important. In terms of their timeline, some are of a short term nature, others may need more time to materialize, but because of their expected high impact, they are all brought to the forefront as key recommendations.

**Legislative and Regulatory Framework**

1. Amend PPL and implementing regulations so that the lowest evaluated substantially responsive bids are not rejected automatically if above the Limit Fund;

2. Revise PPL to include provisions on non-material minor deviations; substantially responsive tenders with minor deviations shall not be rejected; PPA to issue a guidance note on what constitute minor and major deviations and how to deal with them especially during the evaluation phase;

3. Amend PPL and PPR to bring clarity between Article 45 (1) and 45(2) on “conditions of disqualification of bidders” and Article 13 on “debarment by PPA” and also to define the offences listed in these Articles;

4. Reconsider the current practice of PPA penalizing individuals for appropriately exercising their procurement professional judgement in the course of their work and actions. If imposing penalty is still needed, it should be on the contracting authority not the individuals;

5. Review and enhance the SBDs and RFPs and the standard contract forms to align them with international good practices. In this regards you may consider adopting the FIDIC form of contracts for civil works contracts;

6. Construction supervision services to be treated as consulting services; the lowest evaluated price is not the appropriate method to use for the selection of complex or large value contracts;

**Institutional Framework and Management Capacity**
7 Provide PPC with more independence through reporting to the Parliament and by selection of its members and chairman through open and competitive process and based on criteria set forth in the PPL;

8 Train SSAI and internal auditors on Procurement Audits, e-procurement and behavior change. This includes training as well CAs and private sector on procurement and contract management;

9 Ensure e-system logs are available for Procurement Audits;

**Procurement Operations and Market Practices**

10 Enhancement of the Monitoring and Follow up functions for procurement operations and contract implementation both by the Contracting Authorities and at the central level - Ministry of Finance, including through an enhanced use of electronic monitoring systems and existing data from e-procurement system;

11 Remove barriers arising from the MOF guidelines on CA account status, so that CA may initiate the procurement process for projects the MOF has approved to be financed from the budget (but contracts should not be signed until budget is allocated in the Treasury Department);

12 Undertake a study on the Centralized Procurement Directorate (CPD) to further enhance the use of FAs in the case of commonly used goods or services, in particular for Security Services contracts;

13 Drastically limit the use of “negotiated procedures without publication” to only justified cases of urgency;

14 Include independent evaluators (as probity assurance) from outside the Contracting Authority and/or observer from the civil society in the evaluation committees;

15 Contractors’ arrears to be fully paid, especially those in Road and Water sectors.
SECTION I. INTRODUCTION

Country Context

1. Albania, with a population of 2.9 million, enjoys a favorable location on the Mediterranean Coast in South-East Europe, and possesses abundant natural resources. These resources include substantial hydropower potential, fertile agricultural land, and over 250 miles of Mediterranean coast with excellent tourism potential as well as significant mining deposits such as chrome, copper, iron-nickel and coal. Albania is located in close proximity to Greece and Italy; both those countries are key trading partners for Albania, and host Albanian immigrants.

2. The Constitution of Albania was adopted by popular referendum on November 28, 1998. The executive branch is represented by the President as the Chief of State, Prime Minister as the Head of Government, and the Council of Ministers. The parliament (legislative branch) consists of 140 members elected by proportional representation from 12 regional lists. The judicial branch is composed of the Constitutional Court, the Supreme Court and multiple Appeal Courts and District Courts. Municipalities are the basic units of local government, representing the first tier of government. The new administrative-territorial division adopted on July 31, 2014 produced 12 regions and 61 municipalities.

3. Albania’s economy has experienced major structural transformation in the past 15 years, and has been able to drive and sustain a growth rate of about 5%. With a GDP per capita of US$ 4,564 (2014), it is now an upper middle-income country and one of the fastest growing economies in Europe.

4. The high rates of economic growth have, however, not been matched by rapid increases in employment, which remained largely stagnant. Despite that, Albania still manages to avoid excessively high open unemployment due to massive emigration of skilled and unskilled workers, particularly to Italy and Greece. Although this has caused considerable loss of skills in the domestic economy, the migration process helped fuel the country’s economy through remittances. The inflow of remittances from emigrants (ranging from 11-14% of GDP annually) has been an important source of income.

5. Albania has also taken great strides in reducing poverty. During 2002-2008, poverty ratio decreased from 25.4% to 12.4%. The Gini coefficient declined slightly, from 28.2 in 2008 to 26.9 in 2012.

6. Over the last few years, and although Albania still recorded positive growth rates throughout the global and Eurozone crises, the pace of growth has slowed down. Economic activity from construction and manufacturing declined significantly. This reflected both domestic problems, namely, government arrears towards businesses, a high level of non-performing loans, as well as difficulties in Albania’s major economic partners, Italy and Greece. Growth is estimated at around 2.6% in 2015, with services, in particular, trade, hotels and restaurants, being the greatest contributors.

7. EU membership has been an anchor for political and economic reform in present-day Albania. The country formally applied for EU candidate status in 2009. In October 2012, the
European Commission recommended that Albania be granted EU candidate status, subject to the completion of key measures in certain areas. In November 2013, the EU and Albania held the first meeting of the High Level Dialogue on Key Priorities, and Albania obtained EU candidate status in June 2014.

**Public Expenditures and Public Procurement**

8. Prudent macroeconomic management underpinned growth in the past decade. The Government took measures to offset the 2008 global financial crisis by a large increase in public investment in road construction and by raising public sector wages and pensions, but delays in adjusting spending plans in 2009 has led to deteriorating macro-economic indicators later. The increase in public spending combined with little exposure to international markets resulted in Albania being one of the few economies in Europe to expand during the global financial crisis.

9. Fiscal consolidation has recently become a top priority for the Government to cut the budget deficits. Particularly in the last two years, Albania’s fiscal discipline has significantly improved, though tax collection and informality in the economy remain to be major challenges. The relatively large size of the informal economy adversely affects the Government’s tax collection performance.

10. The budget deficit widened to 5.9% of GDP in 2014, mainly due to the payment of arrears to private sector contractors and the Government has cleared a significant portion of its arrears by end-2015. The budget deficit has gone down to around 2.2% of GDP in 2016.

11. The capital expenditure budget at central level amounts to US$ 765 million (or 28.7% of total expenditure budget), US$ 577 million (25%), US$ 533 million (24%) for the years 2013, 2014 and 2015. More than 50% was financed from external sources (loans, credits and grants). More than 50% of these public investments is concentrated in the Roads and Water Sanitation sectors.

12. In 2015, the total number of contract notices of procurement procedures published in the Albanian electronic procurement system was 4,630 for a budget of Lek 90.7 billion (US$ 0.7 billion). Out of the 4,630 notices, 1,169 were for civil works. There were also 2,706 direct contracting procedures for a value of Lek 8.7 billion (US$0.07 billion). Out of the 2706 cases, 1,836 (%68) were procured during the first quarter of the year. In addition, there were 19,828 of small value procurement procedures for a value of Lek 10.2 billion (US$0.08 billion).

13. Despite recent improvements in public financial management, Albania is facing the challenge of completing ongoing contracts particularly in the transport sector. For some committed projects financed under the state budget, some debt has built up due to insufficient budget allocations for some ongoing and new investments alike.

14. Domestic projects are experiencing implementation delays mainly due to poor design, unrealistic costing, and procurement planning. For the donor funded projects, the preparation process is more structured, with stricter requirements including the preparation of feasibility studies, cost benefit analysis, and environmental assessment.
15. There are also capacity constraints in the government agencies in terms of staffing and availability of information and monitoring systems. To be able to monitor the state investments at portfolio and project level in a more efficient and structured way, an information management system that integrates all Contracting Authorities with the Ministry of Finance, Ministry of Economy, and other relevant authorities is needed.
SECTION II. PROCUREMENT LEGAL AND REGULATORY FRAMEWORK

Introduction and Overview

17. This section of the report is focused on the review of the public procurement legislative framework in Albania which consists of the Public Procurement Law (PPL) as the main piece of legislation, approved by the Parliament, and the Public Procurement Rules (PP Rules), together with numerous implementing regulations, issued in the form of secondary legislation by the Council of Ministers (instructions, internal orders, etc.). Procurement manuals, operational guidelines and standard bid/tender documents supplement the PPL and PP Rules, and provide guidance and instructions to contracting authorities and private sector on public procurement procedures in Albania.

18. To date, the main reforms in the public procurement in Albania have been aimed at harmonizing and aligning the public procurement legislation with European Union Procurement Directives (EU Directives) as part of the Stabilization and Association Agreement (SAA) signed between Albania and EU. In this respect, the regulatory framework is generally compatible, but not fully compliant with the “acquis communautaire” in the area of public procurement.

19. Further changes to the Albanian public procurement legislation may be required to further align the national legal framework with newly adopted EU Directives 2014/24/EU (classic) and 2014/25/EU (utilities sector).

3 Available at: https://www.app.gov.al/ep/ (as of May 3, 2016)


20. The Legal and Regulatory Framework is generally sound and comprehensive in terms of principles, procedures, procurement methods, definition of institutional framework and roles; this includes handling of complaints, integrity and e-procurement system. There are however areas for enhancement and improvement to address some issues such as (i) the need to widen its scope and coverage to include procurement planning upstream and contract management downstream; (ii) establish independence of the PCC; (iii) improve efficiency and efficacy in application of the PP Rules, especially during the evaluation of the bids; (iv) increase the actual use of Centralized Procurement for common used items and services, in particular Security Services; (iv) clarification of the PPL and PP Rules regarding grounds and process of exclusion, debarment, conflict of interest, complaints and stand still period; (v) modernization including the use of MEAT methods, as well as Social and Environmental considerations in Public Procurement.

**Overall Quality of Legislative Framework**

21. The scope of application and coverage of the legislative and regulatory framework in Albania is comprehensive. The framework is freely accessible and fully disclosed in the Public Procurement Agency’s (PPA) website. The legislation, implementing regulations, and operational guidelines and instructions are generally sound and based on generally accepted principles. The objectives of public procurement stated under the PPL are reflected through specific provisions. Specifically the PPL: (i) provides adequate levels of transparency in terms of publication of procurement notices, contract awards, procurement plans, use of e-procurement system; (ii) promotes integrity by including eligibility criteria related to fraud and corruption, addresses conflict of interest, limits the possibility for negotiation and changes to bids/tenders after submission; (iii) it enables competition among economic operators and ensures their non-discrimination and equal treatment, by providing open tendering as the default method of procurement, does not provide for preferences to any special group of bidders, and it puts no restrictions on foreign bidders. However, even though the PPL professes to promote efficiency
and efficacy, it includes certain requirements that could instead become a barrier in achieving efficiency and efficacy of procurement procedures, and ensuring best use of public funds.

22. The PPL mandates the use of Open Procedure as the default method of procurement while other methods to be applied conditional upon specific conditions set forth in the PPL. It also provides the timelines for publication of contract notices for each procurement method according to thresholds set forth in the PPL and PP Rules. The procurement framework applies to all public procurement financed by government budget, with the exception of certain categories which given their nature, are commonly excluded from procurement legislation in most countries. The regulatory framework does recognize the specific nature of consulting services, specific rules and procedures in the PP Rules - even though they may require further attention. Standard Bidding Documents (SBDs) and forms of contracts for works, goods, services and Request for Proposals (RFPs) for consultants are available, although they need enhancement, and are mandatory for use by CAs.

23. Generally speaking, the overall institutional framework on public procurement is well defined in the PPL. The roles and responsibilities of the central institutions are clearly described. There are however significant issues regarding (i) the lack of adequate resources of both PPA and PPC (ii) lack of independence of PPC; as well as (iii) insufficient cooperation and consultation among the key institutional entities in public procurement.

24. The Public Procurement Agency (PPA) is in charge of the regulatory/normative function including, issuing of secondary legislation and standard bidding/contract documents, monitoring of the implementation of the public procurement regulatory framework, providing training to contracting authorities, maintaining statistics and preparing annual reports for the overall procurement system performance.

25. Equally importantly, accountability and enforcement of the regulatory framework are expected to be ensured through a robust complaints review mechanism, audit and other controls mechanisms that are in place in Albania. The PPL establishes the Public Procurement Commission (PPC) as the main body for reviewing complaints. The process requirements for filing and reviewing complaints are defined in the regulatory framework, and the roles and responsibilities with respect to complaints are articulated in the PP Rules and other legislation.

26. Furthermore, the integrity of public procurement has a special place in the legislative framework, which is reflected in several provisions addressing conflict of interest, fraud and corruption and consequences of indulging in such acts.

27. Most notably, the country has a well-established electronic procurement system (e-procurement system), which currently consists of e-tendering only, and which is mandatory and applied for all government-funded procurement contracts, with some exceptions set out in the secondary legislation. Access to the e-procurement system for both domestic and foreign

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8 Exceptions are set out in the Decision of Council of Ministers, No. 918, dated 29 December 2014, and they are:
- Negotiation without prior publication of contract notice;
- Second stage of consulting services and design contest;
- Small value procurement below ALL 100,000 (approx. USS 800), and emergency procurement;
- Purchase of electric energy.
economic operators is free. It has generally enhanced the transparency of the procurement procedures.

Need for Enhancement of the Legislative and Regulatory Framework

28. Despite the good features of the current regulatory framework, both the PPL and the secondary legislation could also benefit from further enhancement and improvement, with the ultimate objective of further aligning the legal framework with the EU Procurement Directives, and strengthening the institutional and operational capacity to effectively implement and manage such legal framework. These areas for enhancement are:

29. **Full Procurement Cycle**: should be covered in the regulatory framework. A sound procurement system should give due attention and treatment to the three elements of the procurement cycle which are planning, procurement process and contract management in order to achieve the desired outcome. The legal procurement framework in Albania is almost exclusively focused on the selection phase (development of contract award rules and procedures) for identifying and selecting the economic operator who will be providing goods, works, or services. Little to no attention is given in the legislative and regulatory framework to **Procurement Planning** and **Contract Management**.

30. **Procurement Planning**: There is no methodical approach or consistency in the way procurement planning is to be carried out and the procurement needs are defined. For example, the list of capital investments or infrastructure projects to be financed is reportedly enormous. Still there is lack of clarity on how those projects are picked up for financing and procurement, and what steps are taken to properly plan for them (e.g. need for an updated design, availability of multi-year budget, availability of the site, expropriation of land, etc.).

31. Procurement planning should be integrated and aligned with the overall business strategic planning process of the specific government entity. Good procurement planning is essential for all contracting authorities as it ensures informed decision-making, saves time and money, serves as a tool to achieving the procuring entity’s objectives, ensures compliance with regulatory policies. For these reasons, many national and international procurement systems have put increased emphasis on procurement planning. For example, the EU Procurement Directive includes a dedicated section on preparation10, the US Federal Acquisition Regulations (FAR) include specific provisions on Acquisition Planning11, and the World Bank Procurement

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9 The World Bank Procurement Regulations for Borrowers define “procurement process” as “[t]he process that starts with the identification of a need and continues through planning, preparation of specifications/requirements, budget considerations, selection, contract management. It ends on the last day of the warranty period.” (See Procurement Regulations for Borrowers, July 2016 (World Bank)), that can be found here: https://policies.worldbank.org/sites/ppf3/PPFDocuments/Forms/DispPage.aspx?docid=4005

10 EU Directive 2014/24/EU, Section 1, Preparation, Article 40 “Preliminary market consultations”: “Before launching a procurement procedure, contracting authorities may conduct market consultations with a view to preparing the procurement and informing economic operators of their procurement plans and requirements. For this purpose, contracting authorities may for example seek or accept advice from independent experts or authorities or from market participants. That advice may be used in the planning and conduct of the procurement procedure, provided that such advice does not have the effect of distorting competition and does not result in a violation of the principles of non-discrimination and transparency.”

11US FAR: http://farsite.hill.af.mil/reghtml/regs/far2afmcfars/fardfars/far07.htm#P72_13706
Regulations for Borrowers requires preparation of a Project Procurement Strategy for Development (PPSD).\textsuperscript{12}

32. **Issues to be addressed:** Apart from the requirement for the preparation and publication of a procurement plan on the PPA website at the beginning of each fiscal year, the regulatory framework does not deal substantively with procurement planning as a distinct phase of the procurement cycle.

33. **Recommendations:** The government should formally recognize the procurement planning in the regulatory framework, by including mandatory requirements at a minimum at the PP Rules on internal procedures to: (i) identify and define the needs, conduct market analysis prior to conducting major procurement, (ii) identify the potential risks associated with a specific procurement activity, in case of civil works confirm the availability and validity of design, availability of the site, (iii) assess the capacity of the contracting authorities including its previous experience, (iv) assess the potential economic operators and market that would respond to the call or invitation to supply specific goods, works or services, (v) assess the alternatives/options that are relevant for the particular procurement process, contracting strategies, identifying any capacity, budget or other implementation constraints (e.g. expropriation of land), (vi) provide justification of a particular procurement method, (vii) choose a particular contract award criteria, roles and responsibilities for planning within the contracting authority, etc. It is further recommended, that relevant guidance, manuals and resource materials are prepared by the PPA for procurement officials in undertaking and carrying out procurement planning. Most importantly, training curricula for procurement officials should include materials on procurement planning, showcasing best practices from other countries.

34. **Contract Management:** Much alike the procurement planning, contract management is inadequately regulated. The biggest impact is the poor implementation of public procurement contracts (see Section IV- Procurement Operation and Market Practices). Currently, the PPL includes only a few sections on performance of contracts, including provisions requiring contracting authorities to prepare conditions of contracts that are proportionate to the scope of contract, fair, and non-discriminatory, that the parties observe the provisions of contract, and they act in good faith. Similarly, the PP Rules include a few articles requiring contracting authorities to monitor the execution of contracts in accordance with the signed contract. Also, at the completion of a contract, the contracting authorities should prepare a final report on the adequacy and quality of the contract execution. Once the procurement contract is signed, its implementation is subject to the Albanian Civil Code, which does not have specific provisions and/or arrangements for government contracts.

\textsuperscript{12} World Bank New Procurement Framework: 
35. The secondary legislation, including guidance materials, does not set out a specific role by contracting authorities during contract execution. For example, such matters as the preparation of contract execution schedules, the monitoring of cost and time overruns, the mandatory supervision of works, the price adjustment under different grounds, amendments to the contracts, the establishment of contract management team within a contracting authority, the allocation of resources, budget availability in case of cost overruns, amendment of contracts, asset management, and claims and dispute mechanisms are not addressed in the legal procurement framework, and there is no reference to other relevant legislation that may cover these matters.

36. An important aspect of contract management is the manner in which variation or change orders under existing contracts are handled. In this respect, the regulatory framework does not include provisions on contract modifications or variations, but stipulates that any additional works, goods or services under existing contracts are to be awarded through negotiated procedure without prior publication. Specifically, the PPL\(^\text{13}\) envisages that the negotiated procedure without publication shall be used for additional works or services not included in the project initially considered or in the original contract, but which have, through unforeseen circumstances, become necessary for the performance of the works or services, on condition that the value of additional works or services does not exceed 20% of the original contract amount and (i) such additional works or services cannot be technically or economically separated from the original contract without major inconvenience to the contracting authorities; or (ii) such works or services, although separable from the performance of the original contract, are strictly necessary.

37. Presumably, above this percentage the PPL requires launching of a new procurement process. This might partially explain the significantly high number of activities awarded in accordance with the negotiated procedure without publication (see Section IV- Procurement Operation and Market Practices). The PP Rules further stipulate that to fulfill the needs at the beginning of each fiscal year, the contracting authority can use the negotiated procedure without prior publication to award additional works, goods or services under existing contracts until the new procurement procedures for same goods, works or services are completed.

38. **Issues to be addressed:** Contract management remains largely unregulated by the legal and regulatory framework. That has led to inadequate and inconsistent contract implementation practices and poor quality of works, goods and services. Furthermore, setting the maximum percentage of variation or change orders under existing contracts to 20% is unrealistic and impractical. In the case of works, where initial quantities and volumes in the contract are only estimates, there are frequently situations that would lead to the need to increase quantities of specific items (e.g. earthworks, excavation) due to unforeseen site conditions, changes in design, additional works, etc., which may justifiably go well beyond the 20%. Similarly, the requirement to conduct a new procurement procedure for all variation/change orders (that is, the negotiated procedure without prior publication) is inefficient. The same way is the requirement to launch/publish a new award procedure (open tendering or restricted tendering) when the changes/variations or additional quantities go beyond 20%. The objective circumstances make it certain that the incumbent contractor will offer best value for money for the additional work, so

\(^{13}\) Article 33
why launch a new process? Also, it is difficult to believe why other bidders would want to bid for additional works under a contract when there is already a contractor in place. Any competition would at the minimum be artificial, and possibly carrying with it the opportunity for undesirable practices such as collusion among bidders.

39. Also, the use of negotiated procedure without publication to award additional works, goods or services under existing contracts until the procurement procedures for same goods, works or services are completed, is not a commendable practice. It is not in accordance with Article 33 of the PPL which contemplates specific circumstances for the use of negotiated procedure without publication. Moreover, it encourages the contracting authorities to break down the goods, works or services needed in a fiscal year into smaller contracts, and justifies any delays on the side of contracting authorities with respect to the procurement process for those goods, works or services needed during the year. In other words, contracting authorities do not feel the pressure to complete the procurement process in time given this “buffering” practice.

40. **Recommendations:** The regulatory framework, either the PPL or at a minimum the PP Rules, should be revised to include relevant minimum requirements on management of contracts and roles and responsibilities within contracting authorities. Importantly, the PPL and/or PP Rules should be revised to deal with the variations, changes or additional quantities within the context of the signed contract and outside of negotiated procedure without publication. These aspects are related to contract management, hence a section on modifications to existing contracts could be introduced in the legal framework. Additionally, strengthening the contract conditions is important for a better contract management. For example, civil works contract form omits some important features of contract management such as: provisions on advance payment for civil works, price adjustment provisions, and change or variation orders. The Government could adopt for civil works international forms of contract such as FIDIC or other similar standards that offer a balanced allocation of rights and obligations between parties, while ensuring a proper administration of the contract by the employer (i.e. the Government).

41. Similarly, the PP Rules allowing the use of negotiated procedure without publication for procurement at the start of fiscal year should be modified to allow use of such method only when justified as per the conditions set forth in the PPL. It is further recommended that relevant guidance and resource materials on contract management are prepared for the procurement officials and other government staff with a role in implementation of procurement contracts.

**Measures to improve efficiency and efficacy in application of the procurement rules**

42. **First,** the qualification and other documentary requirements for high value and high risk contracts are the same as for medium/low value contracts, raising questions on the proportionality and fit-to-purpose approach of the applicable procurement procedures.

43. **Second,** due to the large number of administrative and documents required to be (repeatedly) submitted by the economic operators as part of each tender (even though simultaneously conducted), omission of any document (irrespective of nature and importance) leads to rejection and disqualification of otherwise good tenders.
44. Third, contracting authorities interpret the PPL and PP rules in a very rigid manner. The team’s assessment reveals that the contracting authorities always adopt the most conservative approach even when there is room in the PPL to adopt a more flexible and efficient approach that would help achieve value for money. For example, the PPL defines the winning tender as: (i) the tender, which, under the requirements and criteria set forth in the tender documents, meets the requirements of the subject matter of procurement with the lowest price, or (ii) the most economically advantageous tender based on various criteria related to subject matter of procurement, such as: quality, price, technical characteristics, functional and environmental features, operating costs, economic efficiency, after-sales maintenance, delivery date, operating costs, etc., provided they are objective and non-discriminatory. With few exceptions, the contracts are awarded on the basis of lowest cost.

45. Similarly, the treatment of Abnormally Low Tenders (ALT) is an area where the PPL permits the contracting authorities to reject a tender when the bidder fails to provide adequate justification for his low price. Notwithstanding the above permission in the legislation, contracting authorities are reluctant to reject ALTs, allegedly for fear of being penalized by state audit. As the risk of nonperformance or poor performance under these contracts is high, the contracting authority (CAs) would need to dedicate more human and financial resources to supervise such contracts. If CAs award contracts to ALTs and do not allocate proper resources to supervise the contract implementation, it may directly affect the quality of works, goods or services being procured.

46. Fourth, at the evaluation stage, the concept of “substantial responsiveness” of a tender is not applied, thus leading to rejection of good bids for any type of deviation (even minor ones) in terms of technical and/or administrative/commercial requirements. Even though the PPL recognizes the potential existence of “minor deviations”, and does not consider them as an acceptable ground for rejection of a tender, in absence of guidance on the difference of treatment between minor and major deviations, the contracting authorities and evaluators prefer leaning “on the safe side” and adopt overzealous evaluation approach and rigid reading of the rules which often lead to rejection of tender with very minor omissions or deviations. For example, instead of asking for a missing item of information or documentation contracting authorities reject bids for missing a page of balance sheet, or information on social contribution payments. Another common ground for rejecting bids is due to deviations in technical requirements/specifications. Instead of evaluating the bids for substantial responsiveness, the contracting authorities just carry out a “verbatim” comparison between the offered technical specifications and those required, without engaging in a substantial responsiveness and value for money assessment. This leads to rejection of bids for insignificant and minor issues. On some of these aspects, the EU Directive

14 Article 55

15 PPA report (2015)

16 “Substantial responsiveness” is a concept that is widely used under World Bank and other Multilateral Development Banks (MDBs) procurement rules and procedures.

17 Article 53(4) of the PPL
2014/24/EU\(^{18}\) specifically contemplates permitting bidders to supplement or provide such missing information and/or documentation so long as the substance of the tender is not modified, and all bidders are offered the same opportunity.

47. **Issues to be addressed:** As detailed above, there are significant weaknesses and inefficiencies in the application of the legal framework stemming, primarily, from a rigid interpretation of the legal framework that undermines the objectives of efficiency and efficacy stated in the PPL.

48. **Recommendations:**

- Requirements for submitting detailed qualification and eligibility information and documentation should be simplified, e.g. through better use of self-declaration by bidders, streamlined information for small value contracts. The use of e-procurement system, as well as its link to other government electronic systems such as those related to tax department, national center of registration, treasury, can facilitate such simplification.

- Bidders should be allowed to complement missing information of historical nature after bid submission (e.g. balance sheets, past experience, payments of taxes, social contributions, etc.).

- It is further recommended that the Government, including through PPA, undertakes to educate and encourage the procurement officials to change behavior in applying professional judgment in their application of the public procurement framework. This requires a coherent and coordinated approach, sensitizing also other stakeholders in the procurement system such as: audit institutions, bidders, other parts of government structures, etc. There has to be a cultural shift in the way the procurement audits are carried out, and the aftermath of those audits. Audits should not be used to only punish contracting authorities and even less individuals. They should primarily be used to build capacity and strengthen the implementation of the procurement legislation.

49. **Centralized Procurement:** As a general rule, public procurement decision-making in Albania is fully decentralized. Procurement of any size, value and/or method is carried out by individual contracting authorities (central, local and in public enterprises subject to PPL). The contracting authorities are in charge of planning, budgeting, conducting procurement activities, signing, and implementing the individual procurement contracts.

50. However, in certain types of procurement it may be simply impractical and/or inefficient, because of the value, volume or nature of procurement, to be carried out in a decentralized manner. To avoid such inefficiencies and to benefit from the economies of scale, the PPL\(^{19}\) and

\(^{18}\) Article 56.3 “Where information or documentation to be submitted by economic operators is or appears to be incomplete or erroneous or where specific documents are missing, contracting authorities may, unless otherwise provided by the national law implementing this Directive, request the economic operators concerned to submit, supplement, clarify or complete the relevant information or documentation within an appropriate time limit, provided that such requests are made in full compliance with the principles of equal treatment and transparency.”

\(^{19}\) Article 11
PP Rules\textsuperscript{20} contemplate centralized procurement and creation of centralized purchasing body(ies) (CPB), a role which can be assigned to particular contracting authority(ies) or a specialized body. CPBs can undertake procurement on behalf of and for other contracting authorities when (i) the centralized purchasing offers financial benefits due to economy of scale, or (ii) when the assigned contracting authority has specialized knowledge on the subject matter of procurement (e.g. pharmaceuticals).

51. CPB is responsible for all stages of centralized procurement starting from the contract notice to the publication of contract award notice. When CPB is involved in Framework Agreements (FAs), the procedure for conclusion of FA is carried out by the CPB, whereas the mini-competition for the call-offs is carried out by the respective contracting authorities. The FAs have seen very little use in Albania despite they were provided for in the PPL\textsuperscript{21} since January 2015. One reason\textsuperscript{22} is the absence of multi-year contracts and the obligation to disclose the limit fund in the procurement notice. In addition, the PPL and the PP Rules are silent on the role of the CPB in the overall monitoring and supervision of the implementation of the FAs.

52. One example of a CPB is the Centralized Purchasing Directorate (CPD) within the Ministry of Interior, which assists contracting authorities at the central government level to procure common use items to date, CPD’s function is reportedly confined to low value procurements and limited to fuel, travel services, stationaries, etc. Also, there is no information on its activity during a fiscal/calendar year.

53. **Issues to be addressed:** The Government is not getting the full benefits of centralized purchasing and FAs in procuring common use items or services. In addition, there is no public information on the activity of CPD to be able to assess and analyze the benefits gained by centralized purchasing.

54. **Recommendation:** The Government should undertake a study on the activity of CPDs to date, the challenges and difficulties of their limited use, assessment of potential savings, and explore ways how to best carry out centralized procurement of common use goods or services, including through electronic means. In carrying out this study, the Government could refer to available reviews from OECD/SIGMA\textsuperscript{23} on the considerations for setting up Centralized Purchasing Bodies in EU member countries, and look at the experience of other European countries (e.g. CONSIP (Italy)).

**Rules on Participation and Exclusion**

\textsuperscript{20} Article 2 of the Decision No. 914, dated December 29, 2014

\textsuperscript{21} Article 35/1

\textsuperscript{22} See Public Administration Reform, Assessment of Albania (2014) can be found at: http://www.sigmaweb.org/publications/Albania-Assessment-2014.pdf

\textsuperscript{23} http://www.oecd-ilibrary.org/governance/centralised-purchasing-systems-in-the-european-union_5kgkgqv703xw-en
55. Article 45 of the PPL sets forth the mandatory grounds on the basis of which an economic operator is excluded from participating or being awarded a contract under a specific tender process. Those grounds involve conviction by final judgment for any of the following offences: (a) participation in criminal organization, (b) corruption, (c) fraud, (d) money laundering, and (e) forgery.

56. The PPL does not include definitions of the above offences, or cross-references to other legislation where those offences are defined. The PPL defines “corruption” under Article 26 even though it is not clear whether such definition is for purposes of Article 45 given the lack of internal cross-reference. Article 45(3) of PPL specifies two types of documents that may be accepted as evidence from bidders proving lack of grounds set forth under Article 45. Those are: (a) production of an extract from the judicial record or an equivalent document issued by a competent judicial or administrative authority that the economic operator is not under any of the situations set forth under Article 45(1) and items “a”, “b”, and “c” of Article 45(2); (b) a certification from competent body certifying that the bidder is not under any of the situations set forth under “d” and “dh” of Article 45(2). Either way, it is not clear how it is expected that the contracting authorities would learn about a conviction. There is no central repository of information from which the contracting authority could obtain information about whether an economic operator has been convicted, and equally where the firm can obtain confirmation of non-conviction.

57. Article 45(2) provides additional mandatory grounds for disqualification of economic operators in a specific tender process. These are, if economic operator: (a) is declared bankrupt, (b) is subject to proceeding of bankruptcy, (c) has been convicted by final judgement for any offence concerning his professional conduct, (d) has not fulfilled obligations relating to payment of social contributions in accordance with Albanian legislation or legislation in the country of origin, (dh) has not fulfilled the tax obligations in accordance with the Albanian legislation or legislation in the country of origin, (e) is guilty of supplying false information on any of the above, or did not supply the information at all, or just partially, (ë) by a decision of PPA the economic operator has been debarred from participation in tendering procedures, in accordance with Article 13(3) of the PPL.

58. Issues to be addressed: PPL neither defines the offences that are grounds for disqualification of bidders under Article 45(1), nor does it cross refer to other legislation where they may be defined. Similarly, the ground (c) under Article 45(2) is not defined and is potentially very broad in scope. Furthermore, ground (e) under Article 45(2) stating in relevant part [to supply... information and documentation at all, or just partially] seems overly harsh as it could

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24 Article 26 of the PPL defines corruption as: “a) tenderer or candidate who offers or promises to offer, directly or indirectly, to a public official or employee anything of value, including employment opportunities, goods, services, to influence the actions of the contracting authority in the course of a procurement process.” However, Article 45 does not include an internal cross-reference to Article 26 thus raising questions as to whether for purposes of Article 45 “corruption” means what is defined under Article 26 or something else.

Article 244 of Criminal Code of Albania, Consolidated version of 1 December 2004 defines “Active corruption of persons exercising public functions” as “[t]he direct or indirect proposal, offer, or giving, to a person, who exercises public functions, of any irregular benefit for himself or a third person in order to act or not act, that is related to his duty, is punished with a prison term of 6 months up to three years and a fine from 300,000 to one million Lek.”
be simple negligence on the part of the bidder with no fraudulent intent. Also with respect to the
grounds stated under 45(2)(d) and (dh), social contributions and taxes, the PPL and PP Rules
appear rigid and disproportionate, in particular where only small amounts of taxes or social
security contributions remain unpaid at the time of bidding. Reportedly, in practice bids get
rejected if social contributions of one employee (out of tens or hundreds of them) for one month
in the last three years is not been paid. If accurate, such practice is considered disproportional.
Additionally, there is no stated limit on the length of time before a past act ceases to be grounds
for exclusion, raising a question for example, whether a conviction for fraud of 10-15 years prior,
could still lead to mandatory exclusion.

59. Another issue is lack of clarity on how Articles 13 and 45 of the PPL are meant to fit
together in that, is Article 45 meant to be a contract-by-contract exclusion decision by the relevant
contracting authority, and Article 13 is government-wide exclusion and decided by the PPA on
other grounds? That seems likely, but the cross reference of the Article 45(1) grounds under
Article 13(3) confuses the issue.

60. **Recommendations:** It is recommended that PPL is further revised to provide clarity on
exclusion grounds listed under Articles 45(1) and 45(2). Also, the PPL and PP Rules should
consider proportionality considerations with respect to exclusion on grounds of non-payment of
taxes and social contributions. The 2014/24/EU Procurement Directive can be used as reference
in this regard.

**Debarment by PPA of economic operators**

61. Article 13(3) of the PPL mandates the PPA with exclusion of economic operators from
participating in future tenders, without prejudice to any ongoing criminal proceedings that may
have started, in the cases of: (i) Serious misrepresentation and submission of false information
for purposes of qualification; (ii) Corruption; (iii) Conviction for any of the crimes listed in Article
45(a) of the PPL; (iv) Failure to comply with contractual obligations; and (v) When there is a
final decision of the Competition Authority Commission on bids collusion.

62. Article 13(3) cross-refers to Article 45(2)(e), but it is not clear if and how they are meant
to work together. One could reasonably assume that Article 13(3) regulates the debarment of an
economic operator with government-wide effect, whereas Article 45(2) sets forth the grounds for
disqualification of a bidder from a specific procurement process. However, there are differences
and overlapping between the two which could blur the link if it exists. For example, Article 13(3)
appears discretionary (the PPA “can exclude”), and limits any such exclusion by PPA for 1-3
years. Article 45, on the other hand, is mandatory (“must be excluded”) and has no temporal
element. Thus, it is quite possible that a conviction (or other determination) for any of the
elements outlined in Article 45 could result in a de facto permanent debarment, whereas Article
13 debarment can only last for up to 3 years. Therefore, it would be good to know more about the
relationship between these two provisions and how they are used in practice.

63. In addition, the regulatory framework is silent on the procedural requirements to be
followed under Article 13(3), nor does it include any cross-reference to another procedure.
However, the PPA reports that the procedures followed for the exclusion of an economic operator
follow those set forth in the Code of Administrative Procedure ("CAP")\textsuperscript{25}, which itself presents several weaknesses: It requires, in the relevant parts, notice to interested parties (article 56), and obligation of interested party to present its opinion (article 50). Article 83 also provides that the investigative body “may require the interested parties to submit information, documents or objects, which are subject to inspection.” This suggests an obligation (rather than a right) to turn over evidence. On the other hand, Article 93 of CAP clearly gives interested parties the “right to give their opinion” after the “end of the investigation procedure” and “before the final decision is issued.” Whereas, Article 96 allows administrative bodies to forgo allowing interested parties to provide their opinion in certain circumstances (e.g., “the taking of the decisions is urgent”). There is a provision in CAP that the interested party bears the burden of proof (Art. 82), and a section dealing with the commencement of proceedings via submission of a petition (Chapter IV, Section I), which are not appropriate in case of debarment proceedings that are initiated as a result of an action by an administrative body, and not by an interested party as CAP is premised on. Even though it is not clearly stated in the CAP or PPL, presumably the decision to debar an economic operator is an administrative act of a discretionary nature pursuant to article 149 of the CAP. Upon request from the interested parties, every administrative act with a discretionary nature may be the object of a judicial or administrative review. So decisions by the PPA to debar economic operators can be appealed to Administrative Courts\textsuperscript{26}.

64. According to PPA reporting\textsuperscript{27}, out of 31 requests to initiate exclusion proceedings against economic operators, only 11 proceeded, with only six economic operators being finally excluded. Of these six cases, four decisions were challenged in court with only two prevailing by reducing the period of debarment from 3 to 1 year.

65. **Issues to be addressed:**

- As explained above, the differences between Articles 45(2) and Article 13(3) of the PPL are not clear, thus raising concerns as to the clarity and certainty of these provisions in practice.

- Minimum requirements with respect to investigations and proceedings to debar a firm on grounds (a - serious misrepresentation of information) and (b - corrupt practices) under Article 13(3) are missing. For example, given the nature of these sanctionable practices, they require an investigation/review to establish that mis-behavior has actually occurred. Also, how are the concerned economic operators informed of the potential debarment, and what rights do they have to rebut the alleged grounds for debarment?

\textsuperscript{25} No. 8485, dated May 12, 1999, available at: file:///C:/Users/wb232133/Downloads/Albania%20Code%20of%20Administrative%20Procedures%201999.pdf (as of May 5, 2016)

A new Code of Administrative Procedures has been passed by Parliament Law no. 44/2015, dated April 30, 2015. It has been published in the Official Gazette No. 87, dated May 28, 2015 and comes into force one year from its publication (article 189)

\textsuperscript{26} Law no. 49/2012 on the Organization and Functioning of Administrative Court, and Resolution of Administrative Disputes

\textsuperscript{27} PPA Annual Report (2015), pp 20-23
There is no guidance as to how the PPA decides on the length of any given debarment. In other words, what factors should the PPA consider in deciding whether to impose a 1-year versus a 3-year debarment? The same is true regarding the PPA’s discretion to debar under Article 13 more generally. What factors go into deciding whether or not debarment is warranted if grounds exist?

It is not clear why Article 13(3)(c) would be necessary in the first place. Is the idea that PPA can debar even without final conviction (as stated at the preamble of Article 13(3))? If so, why only for corruption? For this and ground (a) (serious misrepresentation), what should the standard of proof be? Who would investigate? CAP does not seem to answer these basic and fundamental questions.

With respect to 13(3)(d), it is not clear how the failure to comply with contractual obligations is established. Is it through a final judgement or final decision by the appropriate dispute resolution mechanisms in the respective contract? Can a firm be debarred for a one-time failure to perform contracts? Is there a central database (either at agency or government level) to keep track on performance of contracts?

Regarding the grounds under (c) and (e) (money laundering, fraud, corruption, and collusion), is the debarment automatic, or does the contracting authority have any flexibility to not debar the economic operators? More importantly, is there any limitation in terms of time when the conviction for offences under Article 45(1) or decision of Competition Authority to be complied with, must have been issued?

Additionally, the consequences of debarment require more clarity. For example, can firms get out of debarment earlier than the debarment period? If yes, under what circumstances? Are there rules in place related to affiliation with debarred firms, i.e. to what entities does debarment extend to, what consequences are there for the owners and executive directors of a debarred firm? What happens to debarred firms if they evade debarment (e.g. by creating another firm)? Can a contract amendment be signed with a debarred firm?

The PPA’s website discloses the list of debarred firms, but it does not provide the legal ground for the debarment. It might be good for process transparency purposes to disclose the grounds of debarment.

66. **Recommendations:** Notwithstanding the limited operation of debarment, it is important for the transparency, fairness, legal certainty and effectiveness of the debarment process, to more clearly define the debarment process in the regulatory framework (at a minimum under the PP Rules) to address the above issues.

**Conflict of Interest**

67. **Albanian PPL**\(^{28}\) envisages only one situation of conflict of interest, the one that arises from the relationship of public employees of contracting authority with economic operators. The

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\(^{28}\) Article 26(1)(b) and 26(3))
bid/tender of a bidder who is in conflict of interest situation will be rejected. The other situations that could create a conflict of interest are only dealt with in the Manual for Preventing Conflict of Interest in Public Procurement29 ("Manual"), prepared by the Inspectorate for Declaration of Assets of Public Officials. The Manual serves as guidance even though it is found to be outdated in many aspects. The Manual is aligned with the provisions of the Law on Preventing Conflict of Interest in Public Office ("PKI")30. This law31 aims at standardizing and unifying all rules covering all forms of conflict of interest and all categories of public officials and it covers all public decision-making processes: legislative; administrative (local and central government); and judicial (civil, criminal and administrative). Overall, the Manual deals with conflict of interest outside the procurement area. There is a need to bring the procurement-related conflict of interest provisions under the PPL or PP Rules. Relevant provisions should also be included in the standard tender documents.

68. The PPL only specifies the mitigating measures in case a conflict of interest is identified during the bid opening, stating “[i]f, at the time of bid opening, it is found that one or more of the economic operators are in a conflict of interest situation with one or more of the members of evaluation committee, and this situation could not be identified earlier, the conflicted member should be replaced, before the procurement process continues.” It does not specify, for example, what happens if conflict of interest is identified at the time of evaluation of bids, or contract execution.

69. Equally importantly, the PPL is silent on “organizational conflict of interest”. These types of conflict of interest arise when the work performed by an economic operator under a contract may: (a) result in an unfair competitive advantage for the economic operator; or (b) impair the economic operator’s objectivity in performing a procurement contract. These situations may arise under consulting services, goods, works and services contracts. For example, when a firm or individual provided advice on the scope, technical specifications, prepares designs or has provided other intellectual services upstream, he should not participate downstream as a contractor, supplier or service provider of goods, works and services for which he was involved. This situation is known as impaired objectivity or unequal access to information. The PP Rules32 include provisions on conflict of interest only in cases of consulting services dealing both with personal and organizational conflict of interest (e.g. when a consultant has a relationship with contracting authority’s staff, when the consultant is tendering for consulting services in connection with goods, works or services that the consultant or their affiliate has provided, conflicting consulting assignments, or when the consultant prepared its terms of reference).

29 Available at: 
file:///C:/Users/wb232133/Downloads/Manual_per%20parandalimin_e_konfliktit_te_interesave_ne_prokurime.pdf (as of May 3, 2016)

30 Law nr.9367, dated 7.4.2005 “On Conflict of Interest Prevention in the Exercise of public Functions (PKI)”.

31 The PKI Law includes the so called “absolute prohibition” that prevent public officials and persons related to them31 to conclude contracts with parties such as public institutions because of their public function, responsibilities and competences. Public officials are not allowed to benefit from public funds procured by any central or local public institution throughout the territory of the Republic of Albania. The “absolute prohibition” is extended to all contracts such as: construction works, goods or services, sales, exchange, rent, donation, supply, entrepreneurship, transport etc.

32 Article 37(3)
However, the same provisions are missing in the case of goods and works where similar conflicting situations could arise. For example, if an economic operator provided goods or works, he cannot be at the same time the supervision consultant or inspector of the same goods or works. The SBDs do not include specific provisions on conflict of interest.

70. **Issues to be addressed**: The provisions on conflict of interest in the PPL are minimal and insufficient.

71. **Recommendations**: Provisions on CoI should be expanded to address important aspects concerning conflict of interest during the evaluation including: (i) Clarification of the situations leading to organizational conflict of interest; (ii) Defining roles and responsibilities within contracting authority for identifying, neutralizing and mitigating conflict of interest; (iii) Post-employment restrictions (revolving-door type of policies) for procurement officials and other officials with a role in the procurement process.

**Complaints**

72. The PPL gives the right to complaint to every person who has an interest in a procurement activity. However, the PPL states that the complaints review process shall not be available for complaints arising in connection with contracts for which a public notification is not required such as: negotiated procedure without prior publication, small value procurement, and call-offs under FAs. This leaves almost 30% of the total activities procured through negotiated procedure without prior publication out of the complaints review mechanism.

73. Complaints challenging the tender documents can be filed with the contracting authority (CA) within a limited timeline of seven (7) days from the date of publication of the procurement notice in the PPA website. If such complaint is received, the CA suspends the procedure until the complaint has been addressed, and sends a response to the complainant within three (3) days. The complainant can then appeal the contracting authority’s decision to the Public Procurement Commission (PPC) within 10 days following the day when the decision of the contracting authority has been transmitted.

74. Complaints against the decisions of the CA should be first addressed to CA within seven (7) days following the date the complainant knew or should have known of the decision of the contracting authority being challenged. Upon receipt of the complaint, the contracting authority suspends the procurement process until the complaint has been reviewed, and issues a decision within seven (7) days from the receipt of complaint. In this case, the head of the CA may decide

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33 Article 63

34 Article 63(11)

35 Article 38 of PPL

36 “day” in the PPL is “calendar day” unless otherwise specified.

37 Article 63(2)
to have the complaint reviewed by staff who were not involved in the decision-making that is the subject of the complaint.

75. If the CA (i) does not reply to the complainant within seven (7) days from receipt of complaint, or (ii) if the CA responds and dismisses the complaint as ungrounded, the complainant can file a complaint with the PPC within 10 days for a fee (by paying a fee equal to 0.5% of the value of the allocated budget to the contract). A form for filing a complaint is attached to the tender documents. The PPC will first make sure that the CA suspended the procurement process. Through a preliminary review of the complaint, the PPC decides to issue or not an interim measure, i.e. confirm suspension the procurement process. Within three (3) days the PPC may however decide not to suspend the process when (i) more likely than not the complainant shall not prevail, or (ii) when the suspension directly harms the public interest, contracting authority and the tenderer, in accordance with the provisions of PPL. The PPC has normally to decide on the complaint within 7 days from receipt of the complaint, or if additional information is requested, 10 days from receipt by PPC of such submission.

76. PPC decisions are made public and posted in the PPC website. PPC decisions can be appealed in administrative court; however, such court decisions do not suspend the procurement process or execution of a signed contract. A CA should comply with a PPC decision within 10 days. If the CA does not, then the PPC advises the successful complainant to file a civil or criminal lawsuit in court.

77. Publication of notices: Of particular relevance to the complaints system is the requirement for publication of the following notices: (i) notice of winner, (ii) notice of disqualification, and (iii) notice of contract award. With respect to the notice of winner, the PPL stipulates that such notice should be given promptly to the successful tenderer and that “within 5 days from notifying the winner, the CA shall post such notice in the PP Bulletin.” In practice, the notice of winner serves as a notice to transmit the award decision of the contracting authority, rather than awarding the contract. The notice of winner is dispatched to all bidders that submitted bids immediately after a decision on the ranking of bidders is made. Notice of winner includes information on the winning bidder, contract amount, other bids and their bid prices, disqualified bids, their bid prices and reasons for disqualification. In some places, the notice of winner is also called “classification” notice, which may be misleading.

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38 Article 64(2)
39 Article 64/3 of PPL
40 PP Rules, Article 21
41 PP Rules, Article 19
42 PP Rules, Article 25
43 Article 58(1)
78. Additionally, the PPL requires the CA to inform all unsuccessful bidders within five (5) days from the “taken decision”. The PP Rules specify that such notice communicates the reasons for disqualification of a bidder. As drafted, the rationale and timeliness for this notice are unclear. In fact, it raises a question as to whether a contracting authority “decision” is what is transmitted through the notice of winner or through the notice of disqualification. This aspect is particularly important, since the 7-day timeline for filing complaints with a contracting authority starts on the day the complainant knew or should have known of the decision of the contracting authority being challenged (presumably the notice of disqualification).

79. Regarding contract award notice, the PP Rules stipulate that it is required to be published within 5 (five) days from the day the contract is signed. Regarding the contract signature, PP Rules contemplate that a contracting authority invites the winning bidder to sign the contract immediately after publication of notice of winner, but in any event not later than 60 days from its publication.

80. **Issues to be addressed:**

- Even though implicitly and in practice, a “standstill” period applies, the legal framework does not explicitly provide for it. In many jurisdictions, standstill starts from the notification of intention to award to bidders and normally goes on for at least 10 days if bidders are informed through the most rapid means of communication. In Albania, CAs self-impose a “pause” of seven (7) days (which overlaps with the period for filing a complaint at the contracting authority level) after notice of winner during which they do not sign the contract. While this arrangement prevents creation of an unalterable situation, yet it is not explicitly provided for in the legislative framework, and it is not clear how it interacts with the suspension of procurement process that occurs when a complaint is filed. In case of consultancy services procedures, a 7-day suspension period is enforced after the establishment of a shortlist. This is also not explicitly provided for in the legal framework.

- Regarding complaints to the PPC challenging the tender documents, the legislative framework is ambiguous on whether the contracting authority may continue with the opening of bids or extend the tender submission deadline until a complaint is (potentially) submitted to PPC and PCC makes a decision. In absence of such clarity, it may be possible that as the PPC reviews a complaint, bids are submitted and opened.

- The PPL indicates that upon receipt of a complaint, the PPC confirms with the contracting authority that the procurement process is indeed suspended. The PPL further

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44 Article 21(2)
45 Article 19
46 Article 6
47 Article 21(3)
48 Article 64(1)
specifies that the PPC may also decide to suspend the procurement process. This arrangement is ambiguous as to whether: (i) the suspension by a CA is the same as the suspension issued by the PPC, (ii) what standards of review does contracting authority apply for suspending the procurement process, and if they are the same as those applied by PPC set forth under Article 64(2), and (iii) what happens where a CA fails to suspend the procurement process and goes ahead with the process.

- There is a general lack of clarity and relationship among the requirements for publication of notice of winner, contract signing and timeframe for filing of complaints. For example, the PP Rules specify that the contract can be signed immediately after the publication in the PPA website of the notice of winner (i.e. after five (5) days from when the bidders are informed of the notice of winner), whereas the timeline for filing complaints against a decision to award is seven (7) days from when the bidder knew or should have known of the alleged violation subject of complaint (which, as noted above, is not clear either).

- According to the PPL, once the contract is signed, the PPC authority to review complaints ceases. In such cases, the PPL stipulates that PPC may decide to: (i) issue a declaration with regard to the legal rules or principles which apply to the subject matter of the complaint; or (ii) issue a declaratory statement, based on which the complainant, who suffered loss or damage as a result of a breach of the PPL, may claim damages before a court. It does not seem from the PPL that the PPC has the power to rescind, cancel, or annul a contract that is unlawfully signed. However, the PPL includes a provision that if a contract is signed before the publication of notice of winner or before the administrative review (i.e. complaints review process) is completed, then such contract shall be considered null and void.

- The legislative framework also lacks clarity as to what happens to the procurement process between a CA decision on a complaint and the timeline for escalating the complaint with the PPC, i.e. 10 days. For example, can the contract be signed during this period? Or does the CA have to “stay still” for another 10 days to see if a complaint is filed with the PPC? The PPL specifies that the procurement process may be suspended once a complaint is filed with PPC. So theoretically it is quite possible that a contract may be already signed, by the time the escalated complaint is filed and is being reviewed by PPC, even though on the other hand, the PPL provides that such contract shall be declared null and void if it is signed before the review process is completed. It is not clear from the PPL how these provisions are intended to operate with each other. In practice, reportedly to impose the suspension of procurement process, the PPC informs the PPA to “freeze/suspend” the procurement process in the e-procurement system, which is then “released” until the complaint has been addressed. While this arrangement prevents creation of an unalterable situation, yet it is not provided for in the legislative framework, and in fact it can be time consuming and inefficient.

- The legislative framework refers to “decisions of contracting authority” but it is ambiguous whether “decision” means the award decision transmitted through notice of

\[\text{Article 58(6)}\]
winner, or any decision that contracting authority can take. For example, can a bidder challenge the decision of contracting authority to cancel a procurement process? If yes, is the timeline for filing those complaints same as complaints challenging the decision to award?

- Also the decisions of contracting authorities to use negotiated procedure without prior publication should also be subject to complaint review process. Procurement through this method represents a significant portion of annual procurement contracts, and as such they need to be included in the review process.

- The PP Rules stipulate that a contracting authority invites the winning bidder to sign the contract immediately after publication of notice of winner, but in any event no later than 60 days from its publication, which is considered as long compared to the international practice that is about 30 days.

81. **Recommendations**:

- Explicitly provide for a standstill period in the PPL and adjust the steps of the procurement process accordingly (e.g. notice of contract award will become notice of intention to award), including the list and content / scope of the various notices for more clarity.

- Consider expanding the remedies available to PPC in cases when there has been an unlawful procurement decision by a contracting authority and the contract is already signed (e.g. annulment of contract) so that it is not left only with the option to go to court. This would increase the effectiveness of the review process.

- Clearly describe in the PP Rules or other legal acts the process for “freezing/suspending” the e-procurement system by PPA while PPC reviews the complaint. Alternatively give PPC access to e-procurement system to suspend the procurement process itself.

- Provide for complaint review of decisions to use negotiated procedure without prior publication (excluding cases when this method is used exclusively for variation orders).

- Provide explicitly for review of complaints related to decisions to cancel a procurement process.

**Sustainable procurement (Environmental, Social and Economic considerations)**

82. The legal framework in Albania has little to no provisions on sustainable procurement, nor does it recognize sustainability as one of main principles of public procurement. With the exception of a few aspects as described below, there is limited approach to environmental, social...

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50 Article 21(3)

51 After several years of implementation, the complaint review mechanism may require an in-depth review to identify areas where further alignment with the EU Remedies Directives is needed. It is also important to identify areas that worked well and those that have become a bottleneck for the smooth implementation of the legislative framework. The assessment and recommendations in this report are based solely on data pertaining to PPC’s review and not reviews at contracting authority level.
considerations and participation of small and medium-sized enterprises (SMEs) in public procurement.

83. Regarding social considerations in public procurement, there is almost no mention in the PPL or other procurement legislation. Only Article 56 of the PPL specifies that a tender may be rejected where it is abnormally low in relation to the works, supplies or services because it does not comply with labor and employment obligations. Treatment of the ALT is perhaps an area where compliance with these factors could be possibly enforced, but there are little or no records of enforcement of ALTs in public procurement practices, despite the reportedly high incidents of occurrence. Therefore, it is difficult to assess if and whether these considerations are properly assessed.

84. With respect to environmental considerations, the PPL includes provisions requiring that (i) technical specifications should be prepared with due consideration to environmental aspects (Article 23(4)); (ii) the bidder should familiarize itself with the necessary environmental legal framework (Article 62(1)); and (iii) as part of qualifications, the bidder may be required to submit certificates that certify the past compliance of the economic operator with the environmental requirements (Article 46(2)).

85. Another part of the legal framework that appears to give due consideration to environmental factors is the use of life cycle costing approach in awarding the contract to the most economically advantageous tender. Among other factors, the PPL\(^{52}\) mentions “environmental features” of the subject matter of procurement as evaluation factor. However, since MEAT is hardly used to award procurement contracts in Albania, the same would be for the use of environmental factors.

86. **Issues to be addressed**: The concepts of sustainable procurement (both environmental and social) are largely unknown and are not implemented in Albania. Even though the PPL has some basic features on environmental requirements, they are not properly or systematically executed.

87. **Recommendations**: The Government may approach environmental and social considerations more systematically. For example, technical specifications may be formulated in terms of performance or functional requirements, which may include environmental characteristics. For certain types of investment projects, it would be recommended to require the preparation of environmental impact assessments, or environmental management plans in the tender documents, evaluation or contract award criteria. Life cycle cost evaluation considering environmental features would be advisable for use when buying goods and the total cost needs to be considered. In terms of social considerations, the technical specifications could be developed to take into account accessibility criteria for people with disabilities. Contract conditions could be drafted to include environmental and social aspects that need to be observed during contract execution.

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\(^{52}\) Article 55(1)(b)
SECTION III. INSTITUTIONAL FRAMEWORK AND MANAGEMENT CAPACITY

Overview

88. The organizational structure of the public procurement in Albania is well defined in the legal procurement framework, although there is insufficient consultation and coordination among the concerned institutions.

89. This section provides a brief description of the main institutions involved, their roles as well as their capacity. It analyzes their strengths and weaknesses and it suggests recommendations. This includes in particular:

(i) the issue of adequate resources of the PPA and the PPC;
(ii) the lack of independence of the PPC;
(iii) the insufficient use of Centralized Purchasing for common use goods and services;
(iv) the lack of capacity of almost all these institutions and the importance of a far reaching strategy for building it, both for central government institutions and for contracting authorities;
(v) regarding the many institutions fighting Fraud and Corruption, their high level of fragmentation and lack of coordination;
(vi) the limited capacity of the Albanian private sector companies in public procurement, which face severe difficulties in Doing Business including for access to the banking sector, for meeting the repeated requests for high volume of documentation, as well as their doubts regarding the transparency and fairness of the system.

Organizational Structure of Public Procurement

90. At the central level, it involves two key institutions: Public Procurement Agency (PPA) and the Public Procurement Commission (PPC). Other institutions that have a role in public procurement include: Treasury Department at the Ministry of Finance (TD-MoF), the Central Purchasing Directorate (CPD) at the Ministry of Interior, the Albanian School of Public Administration (ASPA) and the Supreme State Audit Institution (SSAI).

91. Multiple units in government are responsible for curbing fraud and corruption. Some are directly or indirectly ensuring integrity in the public procurement. Their indicative list includes: (i) an Anticorruption Unit in the Prime Minister’s office; (ii) Contact Points (in charge for anticorruption) in the Ministry of State for Local Affairs and in the various Departments of the government; (iii) the High Inspectorate for the Declaration and Audit of Assets (HIDAA); (iv)
the Anticorruption Unit in the Tirana Prosecution Office; (v) the Department of Public Financial Inspection in the Ministry of Finance; and (vi) the Albanian Competition Authority.

92. The public procurement operation function is fully decentralized at both central and local government levels, which, for procurement purposes, are referred to as “contracting authorities (CAs”)’. The CAs are in charge of planning, budgeting, conducting procurement activities, and signing and implementing the procurement contracts. The CPD at the Ministry of Interior is a central purchasing body, as defined in the PPL, and it assists CAs to procure common use goods and services.

**Public Procurement Agency - PPA**

93. The PPA is responsible for the overall development, operation and monitoring of the public procurement system in Albania. It is under the authority of the Prime Minister. Its Director is a civil servant, appointed by the Prime Minister. The PPA is organized in three departments, namely: (i) Legal and Monitoring Department (13 staff), (ii) IT and Publication Department (9 staff), and (iii) Human Resources and European Integration Sector (3 staff).

94. As defined under Article 13 of the PPL, the main responsibilities of the PPA are to:

- Submit procurement legislation proposals to the Council of Ministers;
- Promote and organize (in collaboration with the Albanian School of Public Administration (ASPA) training of procurement officials;
- Issue the Procurement Bulletin;
- Prepare and issue standard tender documents and contracts;
- Provide technical advice to contracting authorities;
- Present public procurement annual reports to the Council of Ministers;
- In case of misconduct, impose fines or propose measures against the individual committing misconduct to the heads of CAs;
- Prepare and adapt internal regulations;
- Verify implementation of public procurement procedures following the signing of contracts, and monitor the overall performance of public procurement through the information routinely received from Contracting Authorities;
- Debar economic operators from public procurement;
- Liaise and cooperate with other organizations in the country or abroad on matters associated with public procurement.

95. **Issues to be addressed:** Even though the PPA tasks are in line with the functions of normative bodies as known in the international good practice, the PPA does not have a strong leadership role. It is inadequately staffed, which impairs its ability to carry out its functions and mandate. One area, in particular, that suffers is provision of training and capacity building.

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53 The PPA budget for 2015 was ALL 48,500,000 (US$ 400,000 equivalent), which included salaries for PPA 28 staff members, goods/services and utilities needed to run the PPA operations. The PPA have adequate premises and equipment but they may need to update the e-procurement servers.
activities to CAs and other stakeholders of public procurement. Reportedly, the PPA had only one qualified member of staff that provided such training and at the time of the review, that member even left the PPA. Also, capacity building has not been at the forefront of PPA agenda, thus creating gaps in terms of strengthening the procurement workforce capacity. Other areas where the PPA contribution could be significant, but which is lagging behind, include data analytics, procurement performance, contract management, modernization of standard bidding documents (SDBs) and request for proposals (RFPs) and contract forms, etc.

96. **Recommendations:** The PPA role needs to be strengthened. Specifically: (i) the PPA needs additional (human and financial) resources to carry out its tasks, focusing especially on capacity building, data analytics, procurement performance and monitoring of contract management; (ii) the PPA needs to prepare a strategy for the coming three-to-five year on how to enhance the public procurement system performance; (iii) the PPA needs to take a more proactive role in providing training to procurement officers. In this respect, a training strategy should be in place; and (iv) the PPA to enhance the SDBs, RFPs and contract forms in line with international practices.

**Public Procurement Commission – PPC**

97. The PPL establishes a complaints review mechanism which formally seems to be aligned with good international practices in many aspects. It is a two-tier system that includes a first stage review at the CA level and a second stage review by the PPC.

98. The PPC is the highest administrative body in charge of public procurement review of complaints. The main responsibility of the PPC is to examine the complaints pertaining to public procurement procedures. Its decisions are final, and can only be challenged in the Administrative Court of Tirana. In addition, the PPC also reviews complaints related to concessions contracts, auctions and mining permits.

99. The PPC is an entity under the authority of the Prime Minister. It has its own legal personality, and operates on the basis of Council of Minister’s Decision No. 184 of March 17, 2010. The PPC consists of 5 (five) members who are appointed by the Council of Ministers after a proposal by the Prime Minister for a term of 5 (five) years renewable for another term. The PPC is financed out of the government budget.

100. Formally, the PPC functioning appears to be in line with the status and activity of similar bodies in other countries; however, given its subordination under the Prime Minister’s office, it does not have independence from the executive branch. Private sector representatives reported that the PPC decisions are not sufficiently transparent and justified. There is a general perception that the appointment by the Council of Ministers, based on Prime Minister’s proposal, of all PPC members carries the risk of selecting officials that would be vulnerable to returning the political favor that led to their appointment, resulting in the selection of political appointees with weak independence and professional track record.

101. The PPC is currently understaffed. The headcount of five (5) commission members and six (6) experts for more than 1125 procurement complaints per year with a timeline of 10 days to
decide on the merits of the case is unreasonable and unsustainable. Compared to similar bodies in Europe, the PPC handles a significantly larger volume of complaints with much less staff.

102. Complaints and all relevant documentation are submitted and kept in hard copy rather than electronically (e.g. in a database or electronic procurement system). This makes data analysis very difficult and resource-consuming. It is difficult to generate statistics by types of complaint, sector, category of procurement, economic operator, etc., at a specific point in time.

103. The PPC decisions are made public and posted in the PPC website. Publication of decisions enables interested parties to be better informed as to the consistency and fairness of the process.

104. **Issues to be addressed:**

- The first and most fundamental issue is PPC’s subordination under Prime Minister which seriously undermines its credibility vis-a-vis the stakeholders as it is a serious lack of independence from the executive branch.

- Given its responsibilities and volume of work, the PPC is considered to be extremely understaffed. The headcount of 6 experts (plus 5 decision makers) for more than 1125 complaints per year (with 10 days to decide on the merits) is simply unsustainable. By way of comparison, Slovakia (as an EU country) has more than 30 experts to deal with roughly 400 complaints per year in the first instance.

- While the PPC reviews a complaint, the related procurement process is “suspended” through the e-procurement system. The PPC has no access to the e-procurement system, and their decision to suspend the procurement process under review is usually a paper-based communication with the PPA, which creates delays and unnecessary paper work.

105. **Recommendations:**

- It is of utmost importance for the successful functioning of the PPC, to remove and address any aspect that may lead to PPC’s lack of independence and credibility, including through amendment of the PPL.

- Also, in this respect, consider submitting the PPC annual report to the Parliament.

- The members and the chairman should be selected and appointed by the Parliament through open competition based on the qualifications criteria set forth in the PPL.

- Allocate adequate resources to the PPC to be able to effectively carry out its tasks.

- Additionally, provide the PPC with direct access to the e-procurement system to control the “suspension” of procurement activity.

- The PPC needs to establish a user friendly public portal to allow free access to previous decisions.
• Install a simple but useful database system, one that might be maintained using part of the budget that the PPC already generate. Such a system could have a confidential part and a public portal to allow at least some of the statistics to be tracked and analyzed.

Central Procurement Directorate (CPD)

106. Even though public procurement operation and decision-making in Albania is fully decentralized, in certain types of procurement it may be simply impractical and/or inefficient, because of the value, volume or nature of procurement, to be carried out in a decentralized manner. To avoid such inefficiencies and to benefit from the economies of scale, the PPL54 and PP Rules55 provide for centralized procurement and creation of centralized purchasing body(ies) (CPB), a role which can be assigned to a particular contracting authority(ies) or to a specialized body. One example of a CPB is the Centralized Procurement Directorate (CPD) within the Ministry of Interior, which assists contracting authorities at the central government level to procure common use items.

107. The PPL envisages that in case of centralized framework agreements (FAs), the CPD shall sign the agreement, whereas each contract for the call-offs shall be signed by the beneficiary CA, as part of the FA. However, the PPL and the PP Rules are silent on the role of the CPD in the overall monitoring and supervision of the implementation of the framework agreements once they are established.

108. According to the PPL56 and PP Rules, a CPD can undertake procurement on behalf of and for other contracting authorities when (i) centralized purchasing offers financial benefits due to economy of scale, or (ii) the assigned CA has specialized knowledge on the subject-matter of procurement (e.g. pharmaceuticals). The CPD is responsible for all stages of centralized procurement starting from the contract notice to the publication of FAs award notice.

109. The CPD in the Ministry of Interior is managed by a Director and 8 other officials comprising procurement experts and administrative staff. The CPD’s role and scope of activities appears to have been weakened lately and there are no strategies on using this effective tool. Their function is reportedly confined to low value procurements and limited to fuel, travel, stationaries, etc.

110. Issues to be addressed:

• There is a need for better understanding the CPD’s role and the best ministry to host it.

54 Article 11

55 Article 2 of the Decision No. 914, dated December 29, 2014

56 Article 3, Definitions, Item 16, “A central purchasing body is a contracting authority that: (a) provides for other contracting authorities goods, works and/or services, (b) award the contract for goods, works and/or services”.
There are no detailed reviews of the CPD and potential savings from consolidating certain procurement of sector ministries in line with the PPL provisions, to achieve value for money and economies of scale.

111. **Recommendations:**

- The Government should undertake a study on the activities of the CPD within the Ministry of Interior to date, and the challenges and difficulties of its limited use, and explore ways how to best carry out centralized procurement of common use goods or services, including through electronic means.

- Additionally, more transparency is required on the activity of CPD, e.g. publication of its annual report.

- The CPD should conduct analyses of prices of common use items and services to establish a baseline for future comparisons and come up with potential savings from using centralized procurement for these items (e.g. it is not clear why the procurement of security services is not centralized, and a framework agreement used).

**Albanian School of Public Administration (ASPA)**

112. ASPA was established in 2013 as an executive agency within the Ministry of Innovation and Public Administration. Its main task is to provide continuing education and certification of the Albanian civil service workforce through provision of basic, standard, and specialized training activities.

113. In fulfilling its mission, ASPA acts as a training institution for the development of public administration in Albania. In particular, in accordance with European standards, it implements a training strategy, reviews and evaluates periodically the needs of civil service workforce at local and central levels, drafts appropriate programs and evaluates the results of training programs organized for this purpose.

114. ASPA has 17 employees who organize training courses within ASPA premises. The institution and its program have benefited from substantial donor support (including the World Bank), and technical assistance and have a number of education programs in public procurement, but ASPA provides only one program related to public procurement - as part of the Financial Management Training Program. It consists of 9 days of training on basic procurement concepts. At the end, the participants take an exam and, if successful, are issued certificates. The training is also open to interested private sector participants subject to a reasonable fee. There was one trainer from the PPA who provided training but now that staff left the PPA.

115. **Issues to be addressed:**

- It is noted that there is insufficient training on public procurement.

- Professionalization of public procurement is not being taken into consideration by GOA.

116. **Recommendations:**
• ASPA should work closely with the PPA on developing a basic and advanced procurement training curriculum and providing feedback on conducted trainings by addressing them in the annual PPA report.

• A training strategy should be prepared for the coming five years and qualified trainers should be identified.

• The GOA should prepare and implement a plan to professionalize the procurement cadre.

**Contracting Authorities (CA) - Organizational Arrangements**

117. The PPL stipulates that the CAs are responsible for the operation of public procurement. In carrying out its procurement functions, the CA establishes internal structures that include procurement unit and evaluation commission, whose responsibilities are set forth in the PP Rules.

118. The PP rules\(^{57}\) indicate that the head of the CA is responsible for the establishment of the working groups and evaluation commissions and for issuing of procurement orders. In establishing these commissions, the head of a CA allocates the responsibilities of procurement units involved in the development and drafting of tender documents and other procurement documents, and of the evaluation commission, who is responsible for evaluation of offers/tenders. The head of a CA is not permitted to chair an evaluation commission or participate in the selection process (as per the Law no. 10296 of July 8, 2010 “On financial management and audit”).

119. The PP Rules\(^{58}\) further provide that every CA establishes a procurement unit which administers the procurement procedures. The procurement unit must be composed of at least three persons of college/university education, and one of them must be a lawyer. When there is a shortage of qualified staff, the CA may establish a common procurement unit with other CAs, or may employ external experts.

120. As far as the evaluation of tenders/offers is concerned, Article 58 of the PP Rules provides that the evaluation commission is established with a special order by the head of a CA. It is normally composed of at least three people, with one being an expert in the area of the procurement subject-matter. The head of the evaluation commission is selected among the high public officials of the CA, and (s)he is responsible for the orderly functioning of the evaluation commission. The evaluation commission is responsible for the evaluation of tenders, and it should execute its responsibilities independently.

121. Similarly, the PP Rules provide for specific requirements for the composition of evaluation commission in the case of a Design Contest\(^{59}\). It states that an “evaluation commission shall comprise an odd number of members (usually seven), from inside or outside the contracting

\(^{57}\) Article 56 of PP Rules

\(^{58}\) Article 57(1) of PP Rules

\(^{59}\) Article 38 of PP Rules
authority, with majority of members licensed or qualified as per the criteria set forth under the tender documents as well as an experience of 10 years in the area pertaining to the design contest.

122. For small value procurement\textsuperscript{60}, the PP Rules indicate that the evaluation commission shall have three members, one being the head. If there is shortage of staff, the procurement unit is authorized to carry out the evaluation.

123. There is a manual\textsuperscript{61} for evaluation commission members, but the guidance provided is in terms of using the e-procurement system rather than the internal governance, composition, or decision-making of those commissions.

124. Municipalities, depending on their size, may have a separate procurement department, and large municipalities such as Tirana municipality are normally staffed with the required procurement qualifications.

125. Throughout the government, including in the various CAs, there is generally a lack of skills in procurement and contract management/administration. This is largely due to the absence of dedicated cadres for professional procurement officers, and the absence of a career path. Almost all institutions handling procurement suffer staff shortages and/or lack of procurement capacity. Procurement officials are considered as generalists and paid poorly.

126. Adequate education in public procurement is lacking in Albania. Procurement officials generally show knowledge of procurement laws, regulations and procedures, and familiarity with internal processes and procedures. However, their approach is based on mechanistic and rigid application of the rules, lack of effective use of some of the PPL features (e.g. rejection of abnormally low tenders, most economically advantageous tender contract award criteria, framework contracts), and fear to make decisions, primarily due to numerous controlling/auditing/inspecting/monitoring bodies that, in some cases, lack proper knowledge of public procurement. Another reason for such risk aversion could be fear from being penalized as individuals by the PPA or other controlling entities for alleged violations of procurement procedures.

127. **Issues to be addressed:**

- The PPA and ASPA are not dedicating enough efforts to building capacities of contracting authorities on public procurement.

- Public Procurement officials are intimidated by individual penalties from PPA audits and other audit entities such as the SSAI.

- The procurement function in Albania is not a recognized profession in the government, with dedicated career path.

\textsuperscript{60} Article 40 of PP Rules

\textsuperscript{61} Manual for use by evaluation commission: file:///C:/Users/wb232133/Downloads/Manual-02-04-2012-KVO%20(2).pdf
128. **Recommendations:**

- The PPA should, in collaboration with ASPA, undertake periodic training needs assessments, identify knowledge gaps and develop an annual training program for specialized audiences in coordination with other concerned agencies (e.g. training on conflict of interest, detecting fraud and corruption, specialized trainings on IT procurement, etc.).

- The PPL should be amended in order to avoid penalizing individuals for alleged violations of procurement procedures.

- In consultation with concerned government entities including civil service administration, the PPA should prepare a strategy on professionalizing the procurement function in the country and the government to take action towards implementation. This may include discussing with interested local universities/colleges the development of a specialized curriculum on public procurement and contract management.

**Private Sector Capacity and Constraints:**

129. *Company Law no. 9901 “On Entrepreneurs and Companies”*) entered into force on 21 May 2008. The Law regulates the status of entrepreneurs, the founding and managing of companies, the rights and obligations of founders, partners, members, and shareholders, companies’ reorganization and liquidation.

130. According to the Company Law, there are several types of business entities including General Partnerships, Limited Partnerships, Limited Liability Companies, Joint-stock Companies and Joint Ventures. New businesses in Albania are required to register in accordance with *Law no. 9723 of 3 May 2007 “On the National Registration Center (NRC)”*. Using a single application procedure (for a fee of Lek 100), the NRC not only registers companies in the Company Register but enrolls them with tax, social and health insurance authorities and the Labor Inspectorate.

131. Albania has been a member of the World Trade Organization since September 2000. By joining the WTO, Albania had to align its trade legislation with international and WTO rules. In general, the Value Added Tax (VAT) is assessed, applied and paid at the moment goods enter the Albanian customs territory. The VAT rate is 20% of the taxable value; however, Albanian exports are exempted from VAT (VAT rate 0%).

132. There are no institutional constraints towards participation by the Albanian private sector in public procurement and Albanian company do indeed participate. Their performance, competitiveness and rate of participation appear to be adequate for local companies. However, private sector growth has not been sufficiently dynamic to enter the field of complex or more specialized contracts and the Albanian business sector complains that the majority of tenders favor international companies, mostly EU originated.

133. One of the systemic difficulties is that Albanian companies have difficulties gaining access to finance and meeting the related high requirements. As an example, obtaining a bank guarantee entails the same amount of collateral and it is often required that the company has an
account in the bank issuing the guarantee. Another frequent problem is the Government’s inability to pay its contract dues, which creates serious difficulties for some contracts (e.g. some transport sector contracts are still ongoing for about eight years due to unavailability of funding).

134. There are no formal mechanisms for continuous dialogue between the Government and the private sector. The Government does not sponsor or deliver capacity-building programs to help private sector bidders perform better in the public procurement marketplace. In addition, and more importantly, the private sector expresses serious doubts in the transparency of the procurement process and emphasizes very much the heavy burden of bureaucratic procedures.

135. Albania has one Chamber of Commerce, with more than 15,000 registered members, 12 regional offices, and more than twenty professional associations. Established in the ‘90s, after the fall of the Communist regime, it is one the most well-known legal representative of the business community interests in Albania. It is a not-for-profit, independent organization, financed by membership fees. It seeks to advocate and represent the interests of its members, advise business start-ups and give professional assistance to the member companies, and, in particular, promote investment in, and development of, the local economy.

136. The Albanian Association of Consulting Engineers is also very active in representing all engineers operating in Albania. The Albanian Association of Consulting Engineers has represented the voice of the sector locally and internationally for 15 years. Its mission is to maintain the level of professionalism and standards in design and construction works in Albania by providing scientific backup and sustainable solutions. The Association is very active in public discussion on reforming the public procurement legal framework.

137. Unfortunately, there are neither accurate statistics about the number of local contractors and their field nor accurate information about suppliers and consultants. Too many shadow associations in the market give a distorted image of the business representation. This makes it difficult to understand the capacity of the private sector.

138. Two major initiatives taken by the Government of Albania which aim to improve the business climate are the establishment of the National Business Registration Center (NRC) and the National Licensing Center (NLC). The legislation regarding business registration and licensing procedures is harmonized with the EU standards with focus on the reduction of administrative barriers for businesses operating in Albania.

139. According to the Doing Business 2016 - the World Bank Group Flagship Report - Albania scored 97 out of 189 economies (a 35-point drop and with a more difficult environment to do business). The main reason for the drop was the difficulty in dealing with construction permits. The difficulty of issuing construction permits was raised by private sector companies as well as the public officials as one of main reasons for delaying the completion of investment projects.

140. **Issues to be addressed:** It is noted that the PPA has a passive behavior when it comes to interacting with the private sector.

141. **Recommendation:** The PPA should engage in proactive discussions with the Chamber of Commerce as well as contractors, suppliers, and consultants to better understand issues that
prevent them from participating and competing more on public contracts and improve the Business Environment accordingly.

Institutions in charge of Integrity and their Capacity

142. Multiple units in government are responsible for curbing fraud and corruption. Some are directly or indirectly ensuring integrity in the public procurement. The following is an indicative rather than an exhaustive list.

Anticorruption Unit in the Prime Minister’s office

143. The unit has six people. They act as a special arm of the Prime Minister’s – PM - office, reviewing cases when instructed by the PM. The unit was established based on a decree from 2006 which gave them an administrative control function covering many aspects of government including, inter alia procurement. The scope includes national and local offices of government though not judiciary as well as those state-owned enterprises that are less than 51% owned by government. Since the unit operates under the mandate of the PM, there is seldom a need for special permits (etc.) in an investigation. Complaints can be sent to them directly. Overall there were some 13,000 in the year 2015 but those related to public procurement constitutes only a very small portion, mainly because there are many other channels that can be used. Therefore this unit might be seen as something of a “last resort” by bidders. Triage at entry is quite fast: complaints normally get a response within one month. This unit can proactively audit, apply controls and track progress on contracts over a threshold value of about USD 90,000.

Ministry of State for Local Affairs – LA - and Contact Points in Departments (in charge for anticorruption)

144. There is a small office under the Chief of Cabinet to the Minister of LA that coordinates the anticorruption effort through the respective anticorruption contact points in every government department. These contact points are generally responsive to requests originating from the coordinating unit. The unit reviews the government strategy to ensure that anticorruption aspects are relevant, coordinated and in line with the national anticorruption plan. They monitor progress on the agenda, primarily through “self assessments” by the various agencies. They also provide some training. There is no routine formal coordination between some of the key entities, such as this unit and the Competition Authority. Connections tend to be more ad hoc, event-driven or tied to specific reporting needs or cases

High Inspectorate for the Declaration and Audit of Assets (HIDAA)

145. There are about 60 people working in the unit. HIDAA reports to the Parliament. Each government institution has some responsibility for policing issues such as Conflict of Interest and Declaration of Assets, but the HIDAA has a role in oversight of these responsibilities. There are two types of abuse that the Inspectorate pursues: individual (one-off) cases and longer term, systemic issues. The inspectorate also oversees how well the related regulations and laws are
actually being implemented.62 About 500 fines are processed each year and roughly 150 cases are sent to the State Prosecutor’s Office for further processing as criminal referrals. The strength of HIDAA stems mainly from two obligations that all public officials share. Firstly, officials have to sign an agreement enabling ready access to personal information by inspectors or investigators. Secondly, they also have to agree to report whenever they believe a potential conflict of interest may occur from their engagement. These two conditions make many typical suspicions of corruption relatively easy to examine. Cases pursued by the Inspector can be of any value, high or low. Almost anyone in the decision-making chain can be investigated. That said, some categories of officials are outside of the scope of the Inspector’s team, for example Members of Parliament, Mayors and the State Attorney.

**Anticorruption Unit, Tirana Prosecution Office**

146. The unit was established through a memo on a task force against economic crime and corruption in 2009. The task force includes tax, intelligence and other aspects. They cover prosecutions and also appeals. There are currently eleven people in this unit for Tirana and there are seven such units in the country. The unit does not have the capacity to carry out electronic surveillance, etc., which means that they frequently enlist assistance from the police when such powers are required. Indeed, the State Police often takes a leading role in investigations. There were only six tender-related cases investigated by the unit in 2016: three were referred from the State Auditor; one from the State Police; two from losing bidders.

**Department of Public Financial Inspection, Ministry of Finance**

147. This department was established in 2011 and reformed in November 2015. It has an inspection role and is expected to help protect the financial interests of the public. As part of that role it might identify illegal acts, fraud, etc. and attempt to uncover, by audit/inspection, the amount of damages incurred. The unit has five inspectors and one director. It only recorded five cases in total in 2014 and the same again in 2015. It has only ever recorded seven cases concerning public procurement. This department can receive anonymous complaints. It can also follow up on irregularities found in audits. High ranking officials can also request the department to undertake an audit. Whereas other auditors might just evaluate systems, this department will also focus on wrongdoing and apportion the blame for specific abuse. It can also make recommendations for improvements of systems. Most procurement-related cases would be referred to the PPA for follow up and include a suggested response, such as removal of a license. Issues might also include basic obligations of the firms, such as failure to pay VAT. The publication of cases can be disclosed via the website. There is some overlap with the role of the Supreme State Audit Office.

**Albanian Competition Authority**

148. This unit was established in 2003 and launched in March 2004. It also has an investigative function and reports to the Parliament. Nobody is allowed to interfere with the work of the five investigators working in this unit, three of whom are on their second mandate of five years. The

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62 The conflict of interest law was said to be particularly broad. For example, the spouse of a Minister is not allowed to win contracts in any sector, irrespective of what sector the Minister is responsible for.
unit has unique investigative powers. They can initiate actions such as raids or forensic audits if they believe that abuse such as bid rigging has occurred. They have the capacity to extract data from confiscated computers, etc. They have an investigative protocol that they follow in most cases. This can be set in motion by complaints coming from bidders. The State Auditor or Tax Office reports can also trigger a review by this unit. They can also make a review based on suspicious bids. The unit can issue recommendations to the PPA and to contracting authorities, or to the Prosecutor’s Office, depending on the case. However, there has been a high percentage of lost cases in courts.

Attaches, Justice and Home Affairs, EU Delegation to Albania

149. Political party finance has been a big issue in terms of corruption in Albania. The EU has worked a lot on issues like asset declaration to try to reduce such risks. To that end they have supported HIDAA, the related structures and new competencies. The attaché’s office runs a specific anticorruption program, including policy dialogue and funding. One aspect deals with repression, law, prosecution and the judiciary. They would like to work more on the preventive side of things. The justice system is seen as being inefficient and there is still need for electoral reform, for example in relation to party audits. While there has been progress, the feeling is that there is still too much impunity. They expect to see more case referrals to the appropriate authorities in the future. They would like to see better risk assessments, tougher counter measures, and more information on the law and more disclosure to citizens.

150. **Issues to be addressed:** Currently there is a high level of fragmentation in the division of duties among the many units responsible for different parts of the anti-corruption agenda. The inefficiencies that might be inherent in such a system can only be avoided through good coordination and reviews of how mandates are actually being fulfilled.

151. **Recommendations:**

- The GOA is advised to identify and examine the roles and responsibilities of all institutions involved in the anti-corruption agenda and ensure that there is no duplication or conflicts in their roles and responsibilities.

- To reduce the level of confusion, the Government could produce a simple compendium for local laws, rules, regulations and responsibilities, covering such aspects as bribery, extortion, conflict of interest and other matters that relate to fraud and corruption. This resource might perhaps be web-based in order for it to be more easily updated as legal reform continues to advance in the country. In the medium term, the compendium can be used as a tool to identify gaps and unnecessary overlaps, enabling a more informed discussion on how these can be overcome. Further, there are still no specific laws prohibiting cronyism, patronage or nepotism by civil servants, though there are specific laws on conflict of interest and on access to information. A well-produced compendium might help identify such gaps.
SECTION IV. PROCUREMENT OPERATION AND MARKET PRACTICES

Overview

153. This section on Procurement Operations and Market Practice provides the list, description, and conditions of utilization of the main procurement methods, starting with the Open Tender Method. It then discusses some of the key procurement operations features and issues and provides recommendations regarding important steps and elements of the procurement process, such as the excessive use of non-competitive methods, the requirements for participation in procurement of works, the tender evaluation criteria and the role of the evaluation committee members. The strengths and weaknesses of the e-procurement system are then analyzed and specific recommendations are provided for its modernization and optimization, including for operations and Audit.

Description of procurement practice for Open Tender Method

154. Each procurement activity includes the issuing of a special order establishing a Bid Evaluation Committee (BEC). Another separate committee, named Drafting Tender Documents Committee, is responsible for preparing the designs and the Contract Notice (Invitation to Tender). When the tender document and contract notice are ready, one of the members of the Procurement Unit (PU) of the CA logs in the system and uploads the required information on the e-portal of the PPA, including the scope of the tender, qualification requirements, the names of the procurement unit and the Bidding Documents, the Contract Notice and the dates for receiving and opening the bids. The Contract Notice is published in the public procurement portal the following day after being uploaded by the PU. The publication is done after review (conformity checks) and approval by the PPA expert (done manually).

155. After the date/time set for opening the bids - not less than 23 days when procurement is conducted electronically, one of the members of the PU logs in the eProcurement system and closes the bid submission phase. Each member of the BEC logs then in the system and makes the opening of the offers. The offers and the documents submitted by the bidders can be viewed by the BEC members only after all BEC members have been logged in the system. BEC members independently from each other download and examine the documents submitted by the Bidder/Economic Operator (EO). The maximum allowed period for making the review and bid evaluation is 15 days from the bid opening date. Having completed the review, BEC members keep written records of ranking the compliant bids. Then each member logs in the system and enters its evaluation of each bid individually. During this evaluation, designated e-portal screens are filled in by each evaluator with the required information that supports his/her determination on whether the bidder meets the requirements for the qualification and record the estimated bid value. For each disqualified bidder, a detailed justification for disqualification is provided by the members of the BEC. It should be mentioned that if there are different evaluation between the BEC members, the e-portal picks the decision with the majority (that is why the BEC should always be of odd numbers).
156. When all BEC members have completed the evaluation process including the preparation of the bid evaluation report and securing the decision of the head of the Procurement Unit (PU) head on the recommendation to award, one of the members of the PU logs in the system and ends the evaluation phase. At this moment, each bidder/EO participating in the tender automatically receives a notification in his e-portal account. This notification comprises the ranking of the bids and the qualified and the disqualified bidders. If the one who receives this notice happens to be a disqualified bidder, the system displays the detailed disqualification reasons. From this moment, bidders that do not agree with the CA decision have seven (7) days to submit a complaint in writing to the CA.

157. If within 7 days, no complaints are filed, the BEC drafts a summary report of their recommendation and submit it to the head of the CA for a decision on the award.

158. After the above-mentioned approval, the PU drafts and uploads in the e-portal the Notice of Winner. This announcement is made visible in the system the next working day. The winning bidder becomes aware through the e-portal. The Notice of Winner is automatically published in the earliest Bulletin under the public notices.

159. If there are complaints, the head of the CA shall issue an order to the PU to suspend the proceedings and appoint a commission (one person or a group of persons) to examine the complaint. The commission reviewing the complaint has 7 days to assess the complaint and to take a decision on the complaint. The decision is communicated to the complaining bidder in writing.

160. After having received the response to its complaint from the CA the unsatisfied EO may appeal this decision to the PPC within 10 days from the moment of receiving such response. A copy of his complaint is also sent by the EO to the CA. The procurement procedure remains suspended until the complaint is reviewed and decided by the PPC. The PPC has to decide on a complaint within 7 days from its receipt, or if additional information is requested, 10 days from receipt by PPC of such information.

161. If the PPC decides to sustain the decision of the CA, the Bid Evaluation Committee drafts a summary report and presents it for decision to the head of the procuring entity.

162. Within five (5) days, which is a very short period, from the publication of the Notice of Winner, the winning bidder must present the performance guarantee and sign the contract. After the contract is signed, the PU drafts the Contract Signing Notice and uploads it to the e-portal. This notification is published the next working day by the PPA. The Contract Signing Notice is automatically published in the earliest Bulletin on Public Notices.

**Procurement methods**

163. The PPL provides for the following list of procurement methods: open procedure; restricted procedure; negotiated procedure, with or without prior publication of a contract notice;
request for proposals; design contests, and consultancy Services procedure; and small value procurement.

164. The PPL provides for the open procedure (either local or international) as the preferred method of procurement. It defines the situations in which other methods can be used, which are conditional either with reference to the financial threshold values, or to the nature of the subject matter of procurement. The use of each procurement method is left to the CA in accordance with the conditions set forth in the PPL.

165. The PPL provides for different procurement methods depending on the value of the contract. The thresholds are fixed every two years by a Council of Ministers’ Decision. The most recent revised thresholds as of December 29, 2014 are the following:

(a) The high value thresholds:
   - 1,200,000,000 (one billion two hundred million) Albanian Lek (approx. US$9.5 million) for civil works;
   - 200,000,000 (two hundred million) Albanian Lek (approx. US$ 1.6 million) for goods and services;

(b) The low value thresholds:
   - 12,000,000 (twelve million) Albanian lek (approx. US$ 96,000) for civil works;
   - 8,000,000 (eight million) Albanian lek (approx. US$ 64,000) for goods and services.

(c) Small Value Procurement: procurement of less than 800,000 Albanian Lek (approx. US$ 8,000) in a calendar year are considered small value procurement. The PP Rules set forth the procedures for small value procurement, which are streamlined and simplified.

166. The total number of contract notices of procurement procedures published in 2015 in the electronic procurement system (not including the negotiation without prior publications) published in the PPA official website was 4,630 (658 less than in 2014) for Lek 90.7 billion. Request for Proposal is the most frequently used method (2,914), followed by negotiated procedures (2,706) without prior publication (direct contracting). Open tendering (local and international) was 1542.

167. The surprisingly high number of negotiated procedures without prior publication is due (i) use of this method by CA by issuing contract amendments on existing contracts for an amount up to 20% of the original contract to meet the needs during the first three months at the beginning of the year, due to delays in allocating the budget by the Treasury Department at the MOF to the CAs. Funding of these contracts are regulated by the MOF; (ii) use of this method under the circumstances when emergency situations arise (especially for essential goods and services, such as food, cleaning services, etc.), when there are allegedly lengthy complaints review process by PPC on the new contracts for these goods and services.

168. **Issues to be addressed:**

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63 For contracts that fall between the low and small value thresholds. Similar to open tender but with simplified procedure, less requirement and shorter timelines for submission of tenders and evaluation.
- The number of negotiated procedures without prior publication, which in essence are direct contracts, is alarmingly high, jeopardizing the principle of fair competition and transparency.

- Delays in allocating the funds to the CAs by the Treasury Department;

- There appears a gap between the thresholds the low value and small value procurement thresholds.

169. **Recommendations:**

- Remove the barrier deriving from the Ministry of Finance guidelines, under which initiating a procurement procedure is not allowed unless the Treasury Department confirms the allocation of the fund to the project. In this regard, it is advised that a CA may initiate the procurement process for projects approved to be financed from the budget but contracts not to be signed until budget is allocated by the Treasury Department;

- Use framework agreements, especially in the case of common use supplies (goods) or services;

- The allocated budget should be released to CAs as soon as the budget is approved by the Parliament;

- Limit the use of negotiated procedure without prior publications to only justified cases of urgency and in any event in not to be more than 10% of the total number of procurement transactions.

- Analyze and address any gap in the procurement thresholds.

**Requirements for Participation (Works Contracts)**

170. As discussed above and based on relevant sections and principles of PPL and PPR for participation and exclusions, and unless an Economic Operator is excluded from participation, the fundamental rationale for participation in public procurement is based on qualification requirements (previous relevant experience, financial and economic requirements, technical and performance requirements). For works contracts, the usual requirements in Albania are as follow:

171. With regards to previous experience, CA in general require: (i) similar works for one single object around 50% of the estimated value of the contract to be procured, carried out in the last three years of EO’s activity; or (ii) similar works up to a total value of the last three years’ work, not lower than double the limit fund of the contract to be procured. Meeting one of the two above-mentioned conditions is the basis for considering an EO as qualified. The CA requires certificates of successful completion issued by any public or private previous client, stating the value, time and type of work performed as evidence of previous experience.

172. With regard to the financial and economic requirements, CA generally require: (i) certified copies of one or more balance sheets, submitted to the relevant authorities; or (ii) copies of the annual construction turnover declarations, and/or (iii) financial management reports, certified by
an external licensed auditing body; and/or (iv) a certificate of the financial situation from one or more banks.

173. Regarding technical and professional performance requirement, the CA generally require: (i) professional licenses in relation to the performance of works, contract object; and/or (ii) declaration of availability for the contract execution by the experts who do not directly belong to the economic operator; and/or (iii) educational and professional qualifications of the responsible staff for the management of works; and/or (iv) declaration on the average labor capacities of the economic operator and the number of managing staff during the last three years; and/or (v) declaration on the means and the technical equipment at the economic operator’s disposal for the execution of the contract.

174. For works contracts, and in case the “most economic advantage” award criterion is applied, the list of qualification requirement and weighting criteria are required to be clearly expressed in the tender documents. For goods contract: certificates issued by official quality control institutes or agencies attesting to the conformity of the products with clearly identified specifications or standards. Tender document forms provide details on how these requirements are met and from which agency they should be released.

175. **Issues to be addressed:**

- Economic operators are requested to submit an overwhelming number of documents and certificates as part of the tender to meet the participation and qualification criteria, lack of which leads to rejection of otherwise good tenders.

176. **Recommendations:**

- Many of the requirements can be streamlined with the help of the e-procurement system, and alternative ways (e.g. self-certification by EOs) can be adopted. For example, it is possible to link the e-procurement system to the National Registration Center, or Tax department, alleviating the bidders from submitting statute, registration or incorporation documents, balance sheets, audited reports and certification that a bidder has paid taxes.

- Bidders should be allowed to submit missing information of historical nature (being minor deviation) after bid submission (e.g. balance sheets, past experience, payments of taxes, social contributions, etc.).

**Selection of Consultants**

177. The PPL states that detailed procedures for the selection of consultants are provided in the PP Rules. The latter define “Consultancy Services” as multi-stage procurement procedure, and describe the procedures for selection of consultants for services above the low and high value thresholds. The PP Rules, however, are silent on the procedures to be followed for consultancy services below the low value threshold, which includes contracts that fall within the threshold for

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64 Article 34/1(2)
use of Request for Proposals i.e. between Lek 800,000 to Lek 8,000,000 and small value procurement (below Lek 800,000).

178. The statistics reveal that for consulting services contracts estimated above Lek 8,000,000 (low value threshold for services) and Lek 200,000,000 (high value thresholds for services) it may take about 76 days from issuing request for expression of interest until publication of notification of award. If in the course of the selection process, complaints are filed with the contracting authority and PPC, the 76 days may become around 100 days.

179. Consulting services contracts in Albania relate almost exclusively to urban planning, design, supervision, and inspection of the construction works contracts. PP Rules stipulate that contract is awarded to the consultant who gets the highest combined technical and financial score on the basis of one technical and one financial proposals submitted. In terms of remuneration of consultants, the Government of Albania regulates the consultancy fees for services related to urban planning, design, supervision, and inspection of the construction works contracts and above services through a decision65 of the Council of Ministers. With exceptions, the consultancy services fees have to be a value between the minimum and maximum as defined in the abovementioned Handbook. The estimated value of the consultancy contracts is calculated based on the expected final construction cost, according to certain given coefficients relative to the type of work and its relevant category shown in the tables covered by the decision of the Council of Ministers. Thus, the consultancy contract amount, at the time of signing, is only an indicative amount that may be reduced if the construction contract amount turns out to be very low. In addition, any financial proposal offering price outside the pre-determined range of fees is rejected.

180. Issues to be addressed:

- The legal framework regulates Consultancy Services for contracts above 8,000,000 Lek (approx. US$ 70,000 - low value threshold), and is silent on services below this threshold, leading to a legal vacuum and possibly duplication of procedures for the same services.

- Design consultants are requested to modify their contract values based on the future results on the award price of the construction works. In some cases consultants are being paid less than their original contract value due to very low bid prices on the winning construction firm. Private sector complains that the fees and the method of calculation regulated by the Government lack clarity, fairness and are unnecessarily complicated.

- There are cases, such as supervision of construction, where the price is the only factor for awarding the consultancy services contracts, even though the PP Rules stipulate that the contract is awarded to the consultant who gets the highest combined technical and financial score.

181. Recommendations:

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65 Decision No. 354 of 11 May 2016 of the Council of Ministers “Concerning approval of Handbook for Fees for Service in Territory Planning, Designing, Supervising, and Inspecting”
- Consultancy services for the design and supervision of construction works are of intellectual nature, and should not be treated like works or goods contracts. Failure to consider these services in accordance with their nature leads to poor quality of designs and supervision of construction works.

- The PPA should undertake a detailed and informed discussion with the consulting industry as well as other relevant entities of the Government, in charge of regulating the design and supervision services, to understand and address the industry concerns in terms of procurement procedures, methods, and consultancy fees, with the ultimate objective of ensuring high quality design and supervision services.

- Consulting contract fees should not be linked with the results of bidding for the relevant construction works. If a design consultant knows that his fees are based on the cost of the project they will design, they may inflate the project costs so as to increase their fees. Conversely, if they know their fees will be reduced as a result of bidding, they may provide low quality design.

- To ensure quality of designs, the Government should reconsider the current system of limiting the consulting fees to limit funds, unless there is a limited budget that may not be increased as a result of bidding. In this case, the estimated contract value shall be accurate and shall take into consideration preparation of high quality design and documentation.

**Tender Evaluation**

182. The tender documents must state whether the contract will be awarded on the basis of: (i) lowest price tender, or (ii) most economically advantageous tender and, if the latter, the maximum number of points assigned to each criterion.

183. The PPL defines the winning tender as: (i) the tender, which, under the requirements and criteria set forth in the tender documents, meets the requirements of the subject matter of procurement with the lowest price, or (ii) the most economically advantageous tender based on various criteria related to the subject-matter of procurement, such as: quality, price, technical characteristics, functional and environmental features, operating costs, economic efficiency, after-sales maintenance, delivery date, operating costs, etc., provided they are objective and non-discriminatory.

184. The contract award criteria are required to be stated in the tender document as per the PPL. The PP Rules specify the conditions when each of these criteria shall be used. This allows the contracting authorities to achieve value for money and to use the most appropriate criteria depending on the nature and complexity of the subject matter of procurement.

185. An important part of the evaluation of tenders is to identify responsive tenders. In this respect, most notably, the concept of “substantial responsiveness” is not applied, thus leading to the rejection of good tenders for any type of deviation - minor or major (e.g. one missing page of a balance sheet can lead to rejection of a bid). The PPL does indeed speak about “minor deviations” but there is no guidance on what makes the difference between minor versus major deviations, and how they should be treated by the CA during evaluation of bids.
186. Tenders are typically evaluated and ranked on the basis of their price, and contracts are almost exclusively awarded on a lowest price basis, without regard to other price and non-price factors such as life-cycle cost, technical quality and/or capacity of bidders. According to the statistics, there is an insignificant percentage of contracts awarded on the basis of Most Economically Advantageous Tender.

187. The PPL provides a good basis and tool to help contracting authorities identify unrealistically low priced tenders (or abnormally low tenders - ALT), which run an unacceptable risk of non-performance. In reality, apart from identifying these tenders and seeking clarifications from bidders, the CAs never reject such ALT tenders, fearing of being penalized by auditors or other control bodies. Coupled with the requirement to disclose Limit Fund, this practice deprives the Government from open, fair and vigorous competition.

188. Issues to be addressed:

- The PPL provides that tenders above the Limit Fund (presumably based on allocated budget) shall be rejected. This practice is harming the open competition, especially when there is no evidence that such Limit Fund is realistic and calculated based on market conditions and/or technical requirements.

- Evaluation committees evaluate bids in a rigid way, as they do not apply the concept of “substantial responsiveness” by treating any deviation as Major, leading to rejection of the tender.

- Equally important, for consulting services, selection procedures are hampered by requirements of awarding to the lowest price, Limit Fund and the fixed formula for calculating the consultant’s remuneration.

- Delays in contract awards due to: (i) too many members of any bid evaluation committee which make it hard to get a timely sign off on the evaluation report, (ii) reluctance to take decisions by high ranking member of evaluation committee, (iii) lack of clarity in the bid evaluation committee on who has the obligation to check authenticity of supporting documentation, and (iv) lack of a date by which an evaluation committee to complete its work specially for donor financed projects.

189. Recommendations:

- Substantially responsive tenders shall not be rejected. PPA should develop guidance notes to evaluation to clarify the difference between minor versus major deviations (both on qualification of the economic operators and on responsiveness of their tenders).

- The PPA may need to consider amendment of the PPL and PPR so that tenders are not rejected automatically if the lowest substantial responsive tender is slightly above the “Limit Fund” estimate.

- The PPA may consider issuing a notice on procurement planning and in particular how to select the proper method of procurement that fit the purpose of a particular contract.
• Special consideration shall be devoted by the PPA to the consulting services where the lowest price is normally not being the best method to use for the selection of complex or large value contracts.

• The PPA to prepare a guidance note on the formulation of evaluation committees and a protocol on smooth and timely completion of bid evaluation and contract award.

Tender Evaluation Committees

190. A tender evaluation committee is composed of at least 3 persons, who should be experts in the field. At any given point the committee members should be of an odd number. The committee is responsible only for the evaluation of offers and provide recommendation for award to the head of the Procurement Unit and head of the CA to make decisions on the award. Persons in charge with the preparation and examination of the tender documents cannot be members of the tender evaluation committee. The chairman of the committee is appointed among high managing officials in the CA and is fully responsible for organizing the procurement proceedings. The names of committee members responsible for the evaluation of bids are determined by a special order, following the contract notice, but no later than 5 days before the submission of offers/requests deadline. The committee is expected to carry out its duties in complete independence and if any clarification regarding the tender documents is required, it can be obtained by the procurement unit.

191. However, the independence and the professionalism of the evaluation committee members are often questioned by the private sector. As SSPI reports show, constant misinterpretation of the PPL by Evaluation Committees (EC) is commonplace. Also, EC members are continuously under pressure from political interference, on one hand, and intimidation from penalties and other disciplinary measures, on the other. This results in bid evaluation delays and rigid interpretation of the law. The PPA reviewed a total of 67 procurement procedures in 2015, to ensure compliance with the PPL, which were conducted by 55 Contracting Authorities. As a result, 22 EC members were fined for violations of the procurement procedures as per the PPL.

192. In many cases confidential information is leaked outside the evaluation committees during the evaluation process and before contract award notice is published. This has generated some complaints during the evaluation process, delayed awarding contracts and impacted negatively the transparency, integrity and fairness of the procurement processes.

193. Under national budget financed contracts, when e-procurement is used, there are deadlines that need to be met and this helps in concluding the evaluation - as long as there are no complaints. But, in other cases, there is also a practice of not including deadlines for the evaluation committee to conclude its evaluation and this may contribute to `delays, especially under donors’ financed operations.

194. Issues to be addressed:

• Economic operators raised their concern about the transparency of the evaluation process.

• Delays in concluding evaluation of tenders especially for donors’ financed projects.
- Leakage of information about the evaluation process and interference from outside the evaluation committee in the evaluation of tenders.

- Evaluation committee members rigidly apply the evaluation criteria without consideration to value for money due to fear of auditing by SSAI and fear of being individually penalized by the PPA.

- Some of evaluation committee members lack the required qualification in the subject matters especially in consulting services.

195. **Recommendations:**

- Evaluation committees could benefit from including independent evaluator/observers (as probity assurance) from outside the CA and from including a member from the local civil societies. This may contribute in timely completion and fair treatment of the evaluation as well as would curb corruption.

- The special order on the establishment of the evaluation committee to include a timeframe for completing the evaluation. This timeframe should be closely monitored by a high level official from the CA.

- Evaluation Committee members should be selected from qualified experts in the subject and in procurement, and get proper training on bid/proposal evaluation.

- Evaluation Committee members should be protected from political interference and the fear of being investigated by the SSAI and individually penalized by the PPA.

- Imposing penalties on individuals needs to be reconsidered for more efficient implementation of the PPL. Penalties, if still needed, could be imposed on the CA instead.

**Electronic Government Procurement (e-GP) and other Contracting Techniques**

196. The existence of the e-GP system in Albania represents one of its most noticeable strengths. It is a well-functioning system with many benefits. It saves time and facilitates the work of CAs and Economic Operators (EOs). It reduces the costs for both the CAs and the EOs since all the tendering documents are prepared, issued and submitted online. It also increases transparency regarding the conduction of the procurement procedures. Finally, it reduces the corruptive practices since the submitted offers can be accessed only by Evaluation Committee members and only at the appointed date and time for opening.

197. There are many features of the e-GP system in Albania. It is web accessible through the website of the PPA which is the only electronic portal in the country providing the e-GP services. The registration in the system and the access of the relevant information regarding procurement procedures as well as the online submission of offers are free of charge. The role of the electronic system administrators has been decentralized, designating each CA as such. The system includes two separate databases: (i) the platform for conducting e-procurement procedures, and (ii) the
electronic archive for closed/finalized/cancelled/suspended procedures for monitoring and auditing purposes.

198. Albania is the first country in the Europe and Central Asia (ECA) region of the World Bank to pilot e-procurement for World-Bank-financed projects, with the first contract procured through the e-GP system in 2012. The system has been certified by the World Bank for the use of International Competitive Bidding (ICB) and National Competitive Bidding (NCB). The pilot has provided positive results and it has also been used by implementing agencies for other donor-funded projects (such as EIB and EBRD).

199. It is clear that the procurement framework has the potential to achieve more value for money and reduce procedural costs with increased and better use of the e-procurement system and of other contracting techniques. Currently the system is only utilized for e-tendering and not for other contracting techniques or arrangements, such as: organizing mini-competition and awarding call-offs under Framework Agreements – FAs -, organizing e-reverse auctions, developing and using e-catalogues, or dynamic purchasing system\textsuperscript{66}.

200. Similarly, the legal and regulatory framework does provide for Framework Agreements (FAs) - which were initially introduced in the PPL with the amendments of 2009 - but they have been very rarely used by the CAs. With the amendments to the PPL in 2014 and the development of a Manual on Framework Agreements (April 2015)\textsuperscript{67}, the number of FAs is expected to increase. For example, in 2015, there were published 34 procurement notices, 24 contract award notices, and 139 call-offs issued as a result of mini-competition under FAs\textsuperscript{68}. A combination of e-procurement system, FAs and centralized purchasing can achieve enormous savings in public procurement in Albania, if carefully studied and strategically administered.

201. Issues with Audits of e-GP: There are many issues when it comes to auditing the e-GP system and transactions. For example, the Supreme State Audit Institution is not versed in procurement issues therefore when performing such audits, there are inconsistencies in the results. Neither do the internal auditors in the CAs have the needed expertise to perform procurement audits, including their e-GP aspects.

202. The SSAI doesn’t have access to the procurement database; they only have access to PDF files, which makes it difficult when performing audits on contracting authorities.

203. The logs are a big problem, as they must be analyzed for audit purposes. Depending on the logs and what needs to be proved, the Data Base logs and system access logs can be analyzed. The PPA does not analyze the e-GP system logs. It states that they have not reviewed them because there has not been an event or reason for doing so. Logs are deleted for IT capacity reasons and then stored in backup system. But due to these IT capacity reason, the PPA has not been able to restore the logs to be analyzed by the SSAI.

\textsuperscript{66} Provided in the PPL under Article 37

\textsuperscript{67} Available at: file:///C:/Users/wb232133/Downloads/Manual_Marreveshja%20Kuader_Final_27.04.2015.pdf

\textsuperscript{68} PPA’s Annual Report (2015):
204. **Recommendations on Audit of e-GP based transactions**

- Provide training of the Supreme State Audit Institution on procurement and e-procurement. Additionally, provide internal auditors of the CAs similar training on procurement and e-procurement.

- Provide the Supreme State Audit Institution with access to the PPA e-procurement system so that it can easily access procurement information related to CAs.

- The PPA needs to ensure that the logs are available for audit and complaint purposes. Additionally, they need to be reviewed and analyzed periodically.

**Capacity for Using e-GP**

205. Many of the CAs do not have the ability to perform e-GP system contract management. In fact, the HR rules which were left by World Bank, stated that there be a dedicated resource (person) for system security. And there is no clear responsibility of task of the security of the system. In HR development there are no clear career path for security.

206. The PPA has not implemented a system change management policy. The system has gone through various changes all the time, although there were no written rules for testing new functionalities. Additionally, there was not a material on the training of staff/CA/EO on the new functionality.

207. Furthermore, associated with the capacity issue, many EOs do not understand how to put together documents to upload. Many times they put together files which are too large to upload.

208. **Issues to be addressed:**

- Contracting authorities lack capacity in e-GP system contract management.

- No funds are available for e-Procurement system security.

- There is no system change management policy in place at the PPA

- Economic operators lack the capacity in putting together bids and uploading them into system.

209. **Recommended actions**

- Provide training on e-GP system contract management to contracting authorities.

- The e-procurement system should be upgraded to capture data on contract implementation and execution after the notice of winner publication (e.g. contract signature date, contract start date, construction permit submission and approval dates, planned completion date, actual completion date, variation orders dates and values, dates of forming handing over committee and date of completion its work, date of final payment, etc.) in order to measure performance during contract execution.
• The PPA should strongly consider making funds available for e-system security.

• The PPA should create an e-GP system change management policy, such as test scripts, and use case scenarios used whenever new functionality is added to the system.

• Provide guidance note (or videos) to train EOs on how to properly put together documents which can be uploaded.

210. **E-procurement system Taxonomy issues:** Currently the e-GP system does not provide the ability to categorize procurements/call by category. This limits the ability of the system to report on what the public procurement spend is by category. Vendors are not notified when tenders/calls are published for their registered category codes. Additionally, contracting agencies are not able to understand their sourcing opportunities, as they cannot search vendors by category.

211. **Recommendations on Taxonomy**

• Add category/classification, such as CPV codes, to the e-procurement system both for tenders and the suppliers.

• Provide the ability for the e-procurement system to report by categories to better understand public expenditures.

• Provide the ability for vendors to register for categories and receive alerts when there are tenders/calls for their registered category.

212. **Other Issues regarding the e-GP system:**

• Integration of the E-Systems: The e-GP system and the Treasury system are not currently integrated, which means that the CAs are not obliged to complete the contract management component in the Treasury system. Also, CAs are not consistently notified when they need to put the contract information into the Treasury system and the e-GP system.

• The CPD does not currently have the ability to report on its procurements. Additionally, the process to qualify economic operators (EOs) is laborious. EOs need to go to public agencies, such as the tax and social security agencies, retrieve documents, scan and upload them into their profile in the e-GP system. Then, these documents need to be checked by the BEC in the e-procurement system manually for verification. The process is slow and tedious.

• Furthermore, the complaints mechanism is a paper-based process between the CAs/PPC/PPA, which is also slow and tedious. Many times the processing and timelines for complaints and the e-procurement systems are not aligned, so there can be issues where a contract has been awarded even though there is a complaint still being reviewed and processed.
• When economic operators upload their offers to the system they currently upload the Bill of Quantities as a document (Word/PDF) which limits the reporting on unit prices and categories.

• Also, Economic Operators want more functionality when it comes to using the system, such as digital signature for documents.

• The e-GP system performance is slow. Also, and despite creation of measures for Business Continuity Center (BCC) and disaster plan, these risks are still not adequately mitigated. They are understaffed and their hardware equipment is lacking. For example, there are no written plans on Business Continuity. The current backup IT system has never been tested and it is not a real-time backup, it is manual. Furthermore, there are security issues in the server room, for example, the electrical main panel is located in the server room. Although the PPA is starting to address these issues, they still require significant investments.

• The CA cannot modify the names of the members of the evaluation committee once it has been set, in the event that there is a conflict of interest or if one of the members becomes unavailable. Approval of the change will need to be done by the PPA in the system which is not practical.

213. **Recommendations**

• The PPL or the PP rules needs to be updated on how the required documentation can be submitted to the e-GP system.

• Then link the e-GP and the Treasury E-Systems.

• By connecting the systems, monitor the call/procedure by date of the procedures to inform and remind the CAs that follow up actions and steps are due.

• Build reporting tools for the CPD data statistics. The CPD holds information in the PPA e-Procurement system, therefore the creation of reports just for CPD procurement would help benefit in terms of providing strategic information.

• Optimize links between the PPA e-procurement system to other systems for the qualification process of the EO, such as tax information system, social security system, passport numbers and other such systems. This would streamline the qualification process for the EO and save time and resources for the PPA and Contracting Authorities. Provide training for the EOs on the new process.

• Integrate complaints with the PPA e-procurement system. Provide the EOs with the option to complain using the e-GP system.

• Provide access to the Public Procurement Commission (PPC) to the PPA e-GP system to access and process complaints. By providing this new complaint functionality and access to the PPC, this would streamline the complaint processing and provide data for reporting purposes. The PPL/PP rules needs to be changed to allow for electronic complaints.
• Provide additional functionality to e-procurement system such as digital signatures for documents.

• Create a method where EOs can input the Bill of Quantities (BOQ) information directly into the system or provide the ability to upload the data in the attached template BOQ spreadsheet.

• Perform a performance review on the e-GP system to understand what the limitations of the system are. Based on the results of this review, update the system to meet the needs (add/update hardware, optimized code/database).

• Putting together a complete Business Continuity solution.

• The e-procurement system may need to be updated to allow for change of BEC members.

Complaints data analysis

214. The analysis below is based on the information and data gathered from hard copies of the complaints case reports provided to the task team by the PPC. The analysis conducted on these data showed that 2,388 complaints received during the period 2013-2015. There is an increasing trend in the number of complaints from 2013 to 2015, see Figure IV.1. Out of 2,388 complaints 1,615 (68%) were complaints on request for proposal, 766 (32%) complaints on open procedures, 5 complaints on consulting services, and 2 complaints on negotiated procedures. Most of the complaints were on the request for proposal category.

![Figure IV.1: Increasing trend in number of complaints](image)

215. Out of 2,388 complaints, 1,498 were complaints on security contracts representing around 63% of all complaints, and 393 were complaints on goods contracts representing around 17% of all complaints. The security and goods contracts were the most complained about and
the consulting services including design and supervision were the least complained about, see Figure IV.2. The huge number of complaints on security contracts have consumed most of the PPC time, leaving little time to address more serious complaints. The treatment of the complaints on security contracts have led to delays in the procurement procedures and at the same time to reduction of efficiency and effectiveness in the development of procurement procedures by the CAs.

![Figure IV.2: Distribution of complaints by subcategory during the period 2013-2015](image)

216. The reasons for complaints were also analyzed. Figure IV.3 depicts the distribution of complaints vs. the reason for complaining. It also depicts the distribution of PPC decisions whether in favor of the Economic Operators or the Contracting Authorities. About 47% of complaints were in favor of the Economic Operators. About 93% of the complaints related to qualifications.
Figure IV.3: Distribution of complaints vs. reasons for complaints

217. Figure IV.4 depicts the top 50 Contracting Authorities with the most number of complaints. Posta Shqiptare is the CA who received the highest number of complaints. In 2015 there were 257 different EOs who submitted complaints, an increase of 98 (61%) EOs from 2013. 54 (21%) of those EOs always had the PPC decision in favor of them while 118 (46%) of those EOs always have the PPC decision not in favor of them, i.e. in favor of the CAs.
218. The average number of days the PPC took until a decision on the complaint was reached varied from one complaint to another. On average, the PPC took about 26 days in 2013, 18 days in 2014 and 20 days in 2015. It is clear that the complaints on the security contracts are taking most of the PPC time.

219. **Issues to be addressed:**

- There is a trend of submitting complaints by most of the security contractors when they are not contract winners. This has resulted in a huge number of complaints submitted that has taken most of the PPC time to address them as a well as wasted the time of CAs.

- The local EOs may not have enough knowledge on the procurement process and evaluations as almost 50% of the complaints were ruled in favor of the CAs.

- The PPC takes long time on some cases to reach a decision on the complaint which may contribute to the PPC, or the CA or the complainer.

220. **Recommendations**

- The Government may need to address the issue of security contracts by using three to four framework agreements to procure them. In addition, all security contracts could be lumped in a couple of framework contract(s) to be procured centrally by the Central Procurement Unit as commonly used services. This will reduce the time spent by the CAs.
drastically as well as it will reduce the number of complaints drastically as the EOs, if they complain, will complain once every three or four years and only to the Central Procurement Unit and not to every CA.

- The PPA and the PPC should intensify the training of the EOs on the PPL and procurement procedures as well as complaints handling.
- The PPC may need extra resources to address the large number of complaints they handle.
- The PPC should have an electronic database system to handle the complaint case reports, analyze the data and produce good annual reports. This will increase the transparency, increase the private sector confidence in the PPC and help improve the efficiency of the PPC.

Analysis of eProcurement data collected from the PPA

221. The PPA provided the task team with the data collected from 2012 to 2015 from the Albanian e-procurement system. The data includes information about 87,875 electronic tenders for a total contracted amount of LEK 137,721,362,142, See Annex (C) for detailed analysis.

222. **Planning:** Figure IV.5 shows a heavy skew of contracts towards April and May in the first half of year and November and December towards the end of the year, emphasizing the issue of poor planning and/or impact of timeliness of releasing the budget.

![Figure IV.5: Number of contracts vs. month in a year](image)

223. **Level of competition:** The data gathered from the e-procurement shows that the average number of tenderers is above 4.7 for services, 5.2 for supplies and 6.1 for works. This shows a satisfactory level of bidders’ participation in public procurement and private sector confidence and interest in the process. Although larger contracts do appear to attract more competition on
average, several of them are still relatively uncompetitive. It is clear that the level of competition has increased since 2013, which is a good sign, Figure IV.6.

Figure IV.6: Average number of bids during the period 2012-2015

224. **Buyers/Suppliers Analysis:** The data shows that the largest supplier to the government is GJOKA KONSTRUKS for an amount of LEK 4,488,197,884 (22 contracts), the largest number of which are with “SH.A Ujesjelles Kanali”. “BAMI” has a total of 40 contracts (valued at LEK 1,140,325,151) with the government, of which Bashkia Tirane is its largest client. The State-Owned Enterprise procured the most among other SOEs is “Operatori i Sistemit te Transmetimit OST” for an amount of LEK 3,827,480,741.

225. **Majority of contracts are of small value:** The data show, Figure IV.7, that most of the contracts procured are of small value of less than LEK 1,000,000. They account for 91.15% by number and only 8.72% by value. In addition, about 50% of these small contracts are even less than Lek 50,000. This suggests that the PPA and the Government should examine the best way to procure these smaller value contracts including local government units and other procuring authorities benefitting from using centralized procurement procedures for commonly used items and services as well as the use of framework contracts.
Abnormally low tenders: Figure IV.8 below shows that regardless of the procurement method used, contract award values are much less than the “limit Fund” or allocated budget. This is a major issue raised by all contracting authorities and economic operators met. Economic operators dump their prices to win the contracts under the assumption the quality of the work will be compromised. However, in 2014, the situation for small contracts was much better as prices were as much as the Limit Fund. One contractor met during the mission said “we know they will award the contract to the lowest prices and thus we dump our prices under the assumption that we will provide poor quality of work so that we can make profit”. Therefore, contractors know that their prices are very low. One municipality staff met stated that in order to ensure the required quality of work we increase the supervision efforts which requires spending more time managing the contractor. It is not easy to reject a low price because they will be audited.
227. **Procurement delays:** Figure IV.9 below shows that the average time taken for bid evaluation is adequate. This is mainly because of using the e-procurement system which requires that the evaluations be completed within 15 days. However, it takes longer than normal from the time of the contract award until the publication of the notice of the winner award. This may suggest that there may be delays due to complaints or there is an unwritten standstill period or there is interference in making the decision on the signing of the contract. The Figure also shows that the period from bid opening to contract award (green area) is very short. This could be because of the 15 days in the e-procurement system, or the evaluation is done mechanically where bids are rejected automatically for very minor deviations. If contracting authorities are very efficient in completing the bid evaluation in less than 15 days, one wonder why they take very long when they evaluation bids under donors financed operation. After the publication of the winner notice, the PPA does not capture any data that can be analyzed on contract management.
Figure IV.9: Number of days taken per procurement stage per procedure
SECTION V. CONTRACT IMPLEMENTATION AND MANAGEMENT

229. As per the PPL, the PPA has the oversight responsibility for monitoring the application of the PPL by all CAs at all levels in the country to ensure consistency, uniformity and certainty of public procurement procedures. However, these PPA’s responsibilities end with the award of the contract. In addition, the existing E-Procurement platform does not capture any information pertaining to contract management and implementation.

230. Key contract management information such as scope variations/changing orders; actual quantities of goods delivered; actual amounts paid; and other relevant information on contract performance and contract completion fall out of the scope of current the PPA mandates, and rests only within the prospect of each CA.

231. Problems not properly resolved at earlier stages of the planning, design and procurement processes usually have negative consequences which appear during contract implementation. Some CAs developed relatively systematic checks on readiness before initiating procurement processes, to ensure smooth project implementation. However, some common problems still emerge and contract implementation is stalled due, in many cases, to poor planning, quality of design documents, issuing construction permit, and land acquisition.

232. Efficiency and effectiveness in contract implementation are hindered by inadequate construction supervision, lack of contract management capacity in the implementing agencies compounded by unhelpful implementation practices, such as:

- Advance payments: some CAs exclude provision of advance payment
- Absence of price adjustment clauses
- Undue restrictions on the award of additional work or on issuing variations orders to the contractor already on site
- Chronic payment delays due to limit fund problems
- Dispute resolution mechanism involving dispute review panels/adjudicators, as seen in the international practice of civil works contracting, is not practiced in Albania under state budget fund. Contractors contesting are only with the option to complain in court.

233. Execution of investment budget at some sectors has been slowed down and many contractors have not received their due payments. The construction of roads in the transport sector has been particularly affected with contractors suffering from delayed payments. The Albanian Road Authority (ARA) entered into contracts with unfunded commitment of 23 billion LEK since 2006, and many contracts were extended with no change in yearly cost since then.
Similarly, the Water and Sanitation Department entered into contracts and over-committed for 8.8 billion LEK while the whole funds available to the mentioned Department during the year 2015 were 1.96 billion LEK and 1.15 billion LEK in 2016, leaving a gap of 5.74 billion LEK. It is likely that most ongoing fixed-price civil works contracts will be further disrupted because of delayed payments coupled with additional cost caused by inflation due to price increase of labor and materials for the works planned to be constructed beyond during the original contract duration. In addition, the unavailability of price adjustment during the course of contract implementation, will place extra undue pressure on the ability of contractors to perform.

234. Civil work contracts are generally signed in a way complying with international good practices but this does not guarantee the start of actual physical commencement of the project, as there are a few other vital steps that needs to be followed and complied with, such as issuance of building construction permit, which normally requires another 90 to 180 days depending upon the nature, scale and number of municipalities involved in the project. It is important to be noted that there are a couple of key dates that determines the project commencement, i.e. “Effective Dates” and “Start Date”. The effective date is when the CA allows a contractor on site (possession of site) and the start date is the date when the contractor actually starts physical construction. These two dates are also heavily dependent on the construction building permits.

235. Another issue that delays the commencement of the project is getting the approval of the design from the Design Institute which is mandated to review engineering designs and approve it; processing time again varies and depends on the scale and complexity of the project as the entities involved either have no capacity or are reluctant in taking accountability of the design, therefore causing significant delays. As per the Albanian contract conditions, “contractor/suppliers are responsible for obtaining all the necessary permits and licenses” such as building construction permits and design approvals. The building construction permits process is only initiated when the procurement process is concluded and the contract is awarded. As the permit application form requires stating the name of the supplier/contractor, the CA waits until the contract is awarded and signed and then asks the contractor to pursue the issuance of the permit from the relevant government authorities and municipalities.

236. Very little consideration is given to land acquisition and expropriation components of projects at the development phase and this also causes significant delays and additional costs during the project implementation phase.

237. Quality assurance/test and inspection: In general, the quality of works carried out is poor. There is no institution in the country responsible for quality assurance and standards of building material and thus, goods and/or materials may not be tested for quality assurance.

238. For project quality assurance (QA), most of the key CAs have their own quality assurance unit, but they are involved only at the request of the concerned project unit within the CA. However due to lack of capacity, the non-existence of approved procedures and training, the quality assurance units are generally not able to carry out their function properly and therefore they need services of external resources and expertise such as individual inspectors. Although the relevant contract clauses seem to be light, they are in line with international practices. However, the Albanian standard bidding documents in general do not refer to any international accepted quality assurance certificates such as ISO certifications.
239. Similarly, for the Test and Inspection, CAs are again heavily depended on the expertise of supervisions consultants’ expertise or on contractor’s laboratories. Most of local contractors do not have their own testing laboratories. Likewise, CA may not have the capacity or have their own dedicated laboratories to carry out certain tests to ensure that the goods supplied or material used is complying with the standards and contract specifications. In addition, the non-existence of proper and updated standards in the country is also contributing towards the use of substandard materials and goods in projects.

240. **Employers taking over and defects and liability period**: The Albanian contract provisions do not allow for sectional taking over of the completed works. More generally, the taking over clauses provided under the contract provisions do not provide for proper process of employers taking over. Likewise, when CA takes over the works, there is no provision provided for defects and liability period under the contract. Reportedly, such important aspects are covered under the Albanian Civil Code, but this document, as noted earlier, does not include any provisions specific to government contracts.

241. According to the Albanian legislation, the Certificate of civil works completion is issued only after a technical verification of the works is performed. This technical verification and validation is conducted by a licensed civil engineer who certifies that the works are completed in accordance with the contract provisions and specifications. This document is called “Akti i Kolaudimit”. Against issuance of “Akti i Kolaudimit”, the client hands over the certified works. In addition to this technical certification, this independent expert certifies last payment execution in favor of the contractor.

242. Technical acceptance (verification and validation) of the design and technical specification is issued by the Construction Institute- Department of Standardization, Critical Review and Technical Rules.

243. **Price adjustment clauses**: Contract price adjustments are not allowed under Albanian contract provisions. This is perhaps due to the fact that all contracts are awarded on the basis of a fixed price, as multiyear contracts are not considered in the face of the limit fund.

244. **Payment and advance payment**: In general, advance payments are not used, and there are no provisions under contract conditions for progress payments. Final payments were found to be substantially delayed. Although contract provisions allow interest rate for delayed payments by the contracting authority, these provisions are not enforced even though the contractors in some cases do not get paid for months and even years. For the sake of any future work opportunities, the contractors avoid raising such issues with CAs, and do not claim interest on such delayed payments.

245. **Variations and change orders**: It is noted that contract amendments are subject to very rigid practices leading to overuse of Negotiated Procedure without Prior Publication for additional works that do not exceed 20% of the initial contract value. Above the 20% threshold (even 1% more) the CAs are required to issue a new tender process which may theoretically lead to a new contractor. This may create a management and coordination issue if more than one contractor works on the same site. In practice and for variation orders more than 20%, EOs other than the current contractor usually refrain from submitting tenders which means that the current
contractor on site would dictate his prices knowing he is the only bidder (i.e. as if it is direct contracting without negotiating prices which could be worse than using Negotiated Procedure without Prior Publication). This also may raise transparency issue. The key reason for not allowing variations orders easily is linked directly with the annual limit fund issue. Despite these limitations a significant number of contracts are faced with scope of work variation and change order issues which is mainly due to inappropriate cost estimates, outdated poor quality designs and specifications and abnormally low prices.

246. **Issues to be addressed:**

- Poor quality design and technical specifications are the main source for variation orders which leads to cost and time over-run.

- 20% limit on the variations orders using Negotiated Procedure without Prior Publication may not be suitable in some cases where it is necessary to complete the work with the same contractor.

- Variations orders using Negotiated Procedure without Prior Publication produce new contracts which may not be easily linked to original contract. This may create an issue with follow up and monitoring. In addition, this may raise issues of transparency.

247. **Recommendations**

- To minimize variations orders, cost over-run and time over-run, project design and specifications need to be checked very carefully by quality control engineers within the CA and the design to be updated if the design was done more than a year before tendering. The designers and the reviewers shall be accountable for their work.

- The PPL should allow in exceptional cases (with proper control and review) the use of Negotiated Procedure without Prior Publication for more than 20% increase on the original contract value.

- Variations orders should be part of the original contract once agreed upon and have the budget allocated. The contract amount should be amended to reflect the variation orders. Variation orders should not be separate contracts for proper monitoring of contract implementation.

- The GoA may consider to adopt FIDIC contract forms.

248. **Claims and dispute settlements:** For contracts financed by international organizations, the country is a signatory of the New York Convention on recognition of international arbitration awards and arbitration awards are enforced by national courts.

249. Under state-funded projects dispute resolution mechanism involving dispute review panels/adjudicators, as seen in the international practice of civil works contracting, are not practiced in Albania. Contract provisions are weak with regard to dispute resolution i.e. only two options are available: (i) amicable resolution and if failed (ii) referring the case to a court.
Contractors are entitled to complain during contract execution in court under the Civil Law Act. This mechanism may contribute to substantial delays as courts take long time to conclude on dispute cases.

250. One problem that was highlighted repeatedly by CAs concerns the rules regarding the obligation for awarding a contract below the Limit Fund/cost estimate. The disclosure of Limit Fund combined with the setting a threshold for the abnormally low priced bids are creating artificial price bracketing for bidders to price their bids. Contracts awarded to abnormally low priced bids are leading to inevitable delays and quality problems in works, goods and services procured during implementation, and require additional resources from the CA to supervise their implementation.

251. The size and qualifications of technical workforce within government departments is not commensurate with the number, size and complexity of projects financed and implemented. Supervision consultants are normally hired and generally seem to offer an adequate alternative for project supervision. In addition, quality assurance departments have been established at some CAs who conduct onsite inspection and ensure the quality at completion.

252. **Issues to be addressed:**

- There is a weak linkage between the allocated budget and the signing of contracts. Some CAs enter into commitments without having full budget allocation leading to over-commitment and delays in implementation and making payments.

- There are potential delays of completion of multi-year projects when the allocated budget is only for one fiscal year.

- Weak contract management. CA staff lack the proper experience in contract management.

253. **Recommendations:**

- The required budget should be allocated to contracts signed and conversely, contracts should not be signed if no budget is allocated. The MoF may consider multiyear budget planning for civil works that need more than one year to complete.

- CAs should assign qualified contract manager and those contract managers should have the proper training well in advance of their assignment.

- CAs should implement an electronic system to monitor contract implementation. This electronic system should be able to collect data, analyze it and produce useful charts and analysis so that weak points are identified and addressed in a timely manner.

**Analysis of contract management data collected from the Albanian Road Authority (ARA)**

254. The task team met with ARA staff as well as the Department of Water Supply and Sanitation several times for the collection of data on contract implementation after the contracts
The team could not get data on contracts financed from the state budget from the Department of Water Supply and Sanitation. Also, it was extremely difficult to collect the data from ARA as the data is scattered among different departments and not consolidated in one file. In addition, the data provided to the team were initially not reliable or complete where it required correction more than once. This by itself is clear evidence of the lack of contract management at ARA and in general at contracting authorities. If information on contract implementation is not consolidated in an accessible file(s), it will not be easy for the head of the contracting authority to monitor project implementation and budget execution. However, after several trials the team managed to collect some data on 76 contracts.

255. **Cost over-run:** The total value of the contracts awarded using "open procedure" was 18,741,585,741 lek and the total value of contracts awarded using "Negotiation without publication" was 5,575,947,042 lek or 29.7% (cost over-run) of the total original value of contracts awarded. The majority of the works contracts for which we had information on had a cost overrun about 20% (maximum limit of Albanian law).

256. **Time over-run:** The team was not able to calculate the time over-run as the team was not able to collect accurate data. There were 39 variation orders approved, the average approval time was 38.4 days, with a minimum of 10 days and a maximum of 121 days.
SECTION VI. PUBLIC FINANCIAL MANAGEMENT RELEVANT TO PROCUREMENT

Overview

257. This part of the report provides the key information, issues and recommendations on Public Finance Management which are directly relevant to Public Procurement. They include the following aspects: (i) Thematic priorities of PFM reforms and their implementation progress; (ii) Institutional and Legal PFM framework and definitions of the roles, including for Auditing; (iii) Budget planning and preparation; (iv) Monitoring, reporting and evaluation; and (v) Controls and Audits.

PFM Reforms relevant to Public Procurement

258. The main thematic priorities of the PFM reform strategy over the medium-term period include several actions and commitments which are relevant to Public Procurement. They are summarized below:

- Elimination of arrears and prevention of their recurrence;
- Tightened commitment control, control of multi-year commitments and pre-commitments, and an enhanced financial control system;
- A prudent, well-functioning multi-year budget process;
- A well-trained and capable internal audit function;
- Efficient public procurement system to improve the quality of public spending.
- A professional public administration with improved skills in the management of public funds;
- Efficient enforcement of rules and procedures, and well-targeted training and capacity building for strengthened administrative capacity in public administration at both central and local level;
- Full and uniform enforcement of sanctions for administrative violations in the area of public financial management;
- Effective fight against outright corruption in public administration.

Progress on reforms to date

259. The GOA has indicated the following progress so far:

- Strengthened legal and institutional framework of public procurement by amending the existing Public Procurement Law and issuing several Council of Ministers decisions and
instructions aiming to encouraging the use of modern procurement technique. Actions to enhance the e-procurement system to make it capable of meeting the new requirements under the new EU directives and to support economic operators in their participation in public tenders were also performed.

- A new Law which regulates the functional, operational and financial independence, mandate and organization of the High State Control was introduced by the end of 2014. The law also introduces some new International Standards for State Audit Institutions-based requirements such as the use of financial and/or performance audit. New audit methodologies have been prepared following the new law and extensive capacity building activities were held during 2015.

**Institutional and Legal PFM Framework**

260. The MOF is responsible for all Public Financial Management in Albania. This includes formulating and monitoring fiscal policy, preparation and implementation of the budget, all public internal financial control, managing the internal and external public debt, integrating fiscal and monetary policies in the national economy in cooperation and coordination with the Albania Central Bank and related institutions. The MOF consists of a number of General Departments – Treasury, Budget, Public Debt, Fiscal Policy, and Central Harmonization Units for Public Financial Management and Control and for Internal Audit. Associated institutions under MOF include the General Directors of Taxation, Customs, Money Laundering and the Institute of Social Insurance.

261. The Law on Albania’s Supreme Audit Institution (SSAI) was amended in 2015. SSAI operations are evolving to embrace risk-based audit planning and international audit standards for the planning, execution, monitoring and reporting of external audit results and recommendations. It also audits the government budget execution report, but does not, at present, provide an audit opinion on them. An annual audit report presents the findings from the annual audit program, with identified areas of financial risk and remedial measures to be taken.

262. Line Ministries have functional responsibilities and are also responsible for the maintenance of internal controls within their ministries. They originate from the ministry budget proposals, execute the approved budget, make expenditure, procure goods and services and report on their performance to the MoF and other interested parties on a regular basis.

263. Local governments constitute the second level of government. They consist of communes, municipalities and regions. They prepare budgets, execute the approved budgets, enter into contracts, and conduct procurements and all other aspects of government administration.

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69 Law Nr. 154/2014 “On the Organization and Functioning of the Supreme State Audit”

70 Law Nr.9936 Dt.26.06.2008 “On the Management of the Budget System in the Republic of Albania” article 66 “Public internal financial control” and Article 68 Internal audit
Budget Planning and Preparation

264. In the individual budget institutions, the actual planning and budgeting practices are not conducive to supporting integration of public investment planning and implementation in line with budget rules envisaged in the legislation in force. The weaknesses identified in the budget execution process, such as lack of multi-year commitment controls, and lack thereof of relevant information feed and monitoring to MTBP and annual budget formulation, are contributing to such practice.

265. Besides, the budget process is largely driven by demands for spending, as opposed to resource availability and prioritization, and de-link from the planning process. The budget appropriations, in practice, do not reflect the project implementation plans and actual work schedules realistically. Line ministries/CAs budget requests have on the face of it complied with the ceilings issued by MoF but ongoing projects are often not explicitly funded under the MTBP and requests are made for funding later in the year. This approach has led to accumulation of new arrears. Total reported arrears under the Ministry of Transport and Infrastructure (MTI) for the period Jan 2015- April 2016 equals $ 13.8 million, consisting mainly of unfunded multiannual construction contracts in roads and water sector; the respective contractors have advanced with works even though they have not issued regular IPC. The liability could be higher considering the uncertain nature of such records which may not capture accurately the actual value of works.

266. The fragmentation of the budget preparation process contributes as well to the delays in yearly budget allocation that for major spending units are finalized in mid-February. This process is typically locked in early January, and is a prerequisite to start the procurement and payment execution. Instead, the contracting authorities procure through negotiations without prior publication method. Contributing factors are, in addition, low capacity, hierarchical budget structure and institutional arrangements; delays in the approval of the annual budget appropriation law; and contracting authorities’ own internal procedures.

267. Issues to be addressed:

- Albania’s actual budget, as implemented, deviates significantly from the original budget both in terms of the fiscal aggregates and composition. The validation of new public investments occurs during the annual budget formulation.

- Lack of multi-year commitment controls, and lack thereof of relevant information feed and monitoring to MTBP and annual budget formulation.

- The budget allocation process is finalized too late in February, and is a prerequisite to start the procurement and payment execution.

268. Recommendations:

- The new AGFIS system configuration will allow the disaggregation of multi-year commitments by individual years of allocation. The final goal is to eliminate every
possibility for the creation and accumulation of new arrears, not covered by the respective budgetary funds.

- Finally, the Organic Budget Law (OBL) amendments also make mandatory the presentation to Parliament of the list of the outstanding commitments alongside other documentations of the annual budget.

Budget execution

269. The General Directorate of Treasury (GDT) has the lead responsibility for budget execution. Among other things, it is responsible for monitoring and reporting, including consolidating and analyzing budget reports, and monitoring the repayment of the historic stock of arrears. The particular focus of the Treasury over recent years has been on strengthening controls, and especially on improving commitment controls. Following the accumulation of a significant stock of payment arrears in the aftermath of the global crisis, improvements were introduced in the process of registering commitments. Additional measures to introduce the registration of multi-year commitments for capital investment expenditures are envisaged under the PFM strategy, and were introduced only recently. A mechanism was also put in place to ensure the gradual repayment of the accumulated arrears, which have been cleared by end of 2015.

270. The General Secretary of the MOF is the Principal Authorizing Officer for the budget and for central government units, special funds, and transfers to the local government units. In the spending units, the General Secretary is the Authorizing Officer, and has a fiduciary responsibility for financial management issues. Specifically, their responsibilities are related to maintaining adequate systems and procedures over budget preparation, execution, internal financial control, monitoring, accounting, reporting and internal audit. They also have an explicit overarching responsibility of ensuring the efficiency, effectiveness, and economic use of public resources. Finally, the Authorizing Officer appoints an Executing Officer who is responsible for implementing the financial management rules, keeping the accounts and preparing the financial statements.

271. Instructions for payments are submitted by Finance Departments to the local Treasury District Office, which checks all supporting documentation, and, when approved, executes the payment, subject to availability of cash. The responsibility for procurement financed by central government funds rests with the line ministries. Around 70 percent of all procurement processes are carried out through the e-Procurement portal operated by the PPA.

272. Most of the budget execution functions are automated through the treasury information system, AGFIS, which has been operational since 2010 and supports budget management, commitment management, cash management, accounting and reporting. Attempts have been made to pilot an expansion of AGFIS to enable direct access to the spending units. As of May 2016, seven pilot spending units (Council of Ministers, Ministry of Finance, Ministry of Transport and Telecommunication, National Agency for Information Security, the Albanian Roads Authority, Ministry of Agriculture and the Rural Development Agency) had direct access to AGFIS. The piloting has revealed major financial and technical constraints for the provision of direct access to the system to around 1,500 spending units.
273. A new system AFMIS is being developed. It is expected to have interfaces with the E-procurement system of the PPA. For monitoring and reporting purposes, a Data Warehouse solution will be included in the system, with Business Intelligence analytical tools as an option. One of AFMIS modules (External Assistance Management Information System, EAMIS) will support monitoring the use of donor funding and will be operated by the Department for Development, Financing and Foreign Aid (DDFFA) at the Prime Minister’s Office.

274. **Issues to be addressed:**

- The line ministries and implementing agencies do not have direct access to AFMIS, not effective budget monitoring, financial reporting and delays in payment execution.

- Fragmentation of external assistance implementation arrangements often established as a separate spending unit under the implementing agency with separate authorizations.

275. **Recommendations:**

- Implement the web portal as part of AFMIS development to ensure that spending units have access to the treasury information system. Once this has been achieved and the spending units are comfortable with the system, consideration could be given to revisiting the role and responsibilities of the General treasury directorate and its regional offices;

- Expedite the completion and implementation of the External Assistance Management Information System, EAMIS at the Department for Development, Financing and Foreign Aid (DDFFA) at the Prime Minister’s Office.

**Monitoring, Reporting and Evaluation**

276. In 2013, a unit responsible for monitoring public investments was installed in the Ministry of Economy. The unit developed a simple Excel-based software for recording and monitoring domestically and externally financed investment projects, disbursements and the physical progress made in the projects. Weekly monitoring reports are produced on foreign financed investment projects, with information submitted though e-mails from budget institutions. In April 2016, the unit moved back to the Ministry of Finance under the General Directorate of Budget.

277. Line ministries are the primary data source for the monitoring conducted by the central institutions discussed above. They provide monthly information on the implementation of the projects, both domestic and foreign financed. In the absence of an integrated financial management information system, monitoring information has to be pieced together from many different sources and inputted into various ad hoc systems. As discussed above, many central institutions collate data, often requesting the same information from the executing budget units.

278. **Issues to be addressed:** There is lack of an efficient follow up and monitoring system in the contracting authorities as well as at the Central level, e.g. MOF, especially on contract management and execution: The responsibility for any detailed execution reports lies with the line ministries.
279. **Recommendations:**

- Contracting Authorities should establish efficient electronic follow-up and monitoring systems that capture the whole project cycle including planning, appraisal, design, procurement, execution and evaluation.

- Enhancing and reinforcing the follow-up and monitoring function at the central level will proactively monitor change, provide timely support, and help line ministries/CAs identify challenges and solutions. As to the entity that could develop such function, we recommend building on the past experience and existing capacity of the Department of Monitoring, Evaluation and Coordination of Economic Policy and Public Investment Management within the Ministry of Finance.

- The above mentioned central follow-up and monitoring electronic system shall be integrated with similar systems at the Contracting Authorities as well as with the e-procurement system at the PPA and the treasury system.

**External audits**

280. While the Supreme State Audit Institution carries out the full range of audits as defined in the current SSAI, financial audits do not yet result in professional audit opinions. The current focus of compliance audits on individual cases of non-compliance is transaction-based and is not in line with the new SSAIs 4100/4200. As for performance audit, it made a new start in 2012. The practical application of the ISSAIs is limited due to insufficient past professional training and a culture of audits focusing on individuals rather than systems.

281. While the SSAI has established procedures to ensure the factual correctness of its reports, auditees sometimes complain about them. The practice of recommending administrative and disciplinary measures against individual civil servants considered responsible for specific irregularities raises doubts about the report fairness.

282. **Issues to be addressed:**

- Auditors’ skills are limited specifically in procurement audits.

- Also and even more importantly, there is a state of fear among contracting authorities’ staff involved in procurement of being referred to the prosecutor by the SSAI. This resulted in the application of PPL rigidly and without taking professional discretion that could save the Government budget.

283. **Recommendations:**

- SSAI staff need a systematic training on audits and specifically on procurement audits. In addition, they need to be well trained on understanding the PPL and PP rules as well as donor procurement procedures and rules.

- There should be a behavior change among SSAI auditors so that their relation with procurement staff within the audited Contracting Authorities is based on cooperation for
the benefit of the country and not based on fear and policing so that procurement staff be able to make wise judgement on procurement.
SECTION VII. INTEGRITY AND TRANSPARENCY RELEVANT TO PROCUREMENT

284. Corruption in Albania is still considered a serious threat to economic development. The government of Albania has publicly confronted the issue of fraud and corruption since at least 1989, and this effort has been stressed as a crucial part of its candidacy for EU membership.

285. There have been several advances in governance in Albania over the recent years. Since 2012, there have been improvements made to the Criminal Code and the Constitution, including tougher possible punishments on private sector offenders and restrictions on the immunity of judges and high-level officials. In February 2015, an online anticorruption portal was launched to allow reporting of allegations. More than 7,000 complaints have been received with over 10% of these concerning corruption.

286. Progress has generally been slow but steady. Albania was ranked 88 out of 168 countries in Transparency International’s 2015 Corruption Perceptions Index, with a score of 36/100\(^{71}\). It had been ranked 110 with a score of 33 in 2014 and had a score of 31 in 2013, indicating improvement in governance that mirrors the findings of other observers: progress has been real though gradual.

287. The 2015-2020 National Cross-cutting Strategy against Corruption and the 2015-2017 Action Plan were approved by the Albanian Council of Ministers in March 2015. The current Strategy prioritizes three policy or intervention areas, namely: awareness-raising, prevention and repression. It includes actions for civil society monitoring and punishment of corrupt officials, institutional strengthening and corruption prevention. It also includes identification of an Anti-Corruption Coordinator at the Deputy Minister level for each ministry, creating an Anti-Corruption National Network led by a National Anti-Corruption Coordinator, the State Minister for Local Affairs. This network is already functioning as an information-sharing mechanism. The strategy is supported with a budget of EUR 12 million.

288. The awareness-raising aspects of the Strategy include, \textit{inter alia}: encouraging cooperation from civil society organizations; educating the public on the consequences of corruption; encouraging the use of the complaint mechanisms to report and prevent corruption. The preventive aspects of the Strategy include, \textit{inter alia}: increasing public access to key financial information; strengthening the electronic infrastructure of public institutions; stronger controls over political party finance; stronger audits; adopting policies to prevent local government corruption. The repressive aspects of the Strategy include, \textit{inter alia}: improved investigations and prosecutions; better information sharing between enforcement agencies; stronger legal framework for prosecution of economic crimes. Properly implemented, all three aspects of the strategy can significantly reduce the risk of corruption in public procurement.

\(^{71}\) http://www.transparency.org/country#ALB.
289. **Issues to be addressed:**

- The private sector considers corruption to be a major constraint to doing business. For instance, one-third of the firms that applied for construction permits said that some form of informal gift or payment was needed in the process. Also, the World Bank Group Country Survey held in 2014 found that anticorruption was ranked high in terms of priorities for respondents. Indeed, with more than one-third of respondents choosing it as a priority, it was the top-ranked development priority.

- Some sectors might be more vulnerable to integrity issues. A European Commission Staff Working Document on Albania issued in 2015 stated that, “Procurement is an area particularly vulnerable to corruption and more efforts are needed to prevent corruption from occurring in the procurement cycle. Some progress was made in the past year, especially through the adoption of amendments to the public procurement law.”\(^{72}\) The report also mentions some particular areas of continued concern including the Health and Education Sectors as well as the Police and Judiciary.

290. **Recommendations:**

- Holistic approaches are needed to effectively reduce the risk of fraud and corruption, with inputs required from public and private sector as well as a strengthening of the enforcement systems, prosecutorial services and judiciary. The 2015-2020 National Cross-cutting Strategy against Corruption and the 2015-2017 Action Plan are good starting points, but all actors need to be strongly encouraged to support the effort.

- Procurement-related integrity issues might differ somewhat across the sectors depending on the amounts and types of packages being procured. It would make sense to periodically analyze the likely fraud and corruption risks across the various sectors and focus anti-corruption resources accordingly.

**Enforcement and Sentencing**

291. More efforts are needed to establish a solid track record of investigations, prosecutions and convictions at all levels, especially where high-level public officials are involved.

292. **Issues to be addressed:** The European Commission Staff Working Document from 2015\(^{73}\) noted weaknesses in the Albania anti-corruption measures, some of which are highlighted below:

- Limited track record of investigations, prosecutions and convictions;

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• Large backlogs of prosecution cases;
• Political influence;
• Lack of systematic way of undertaking financial investigations in corruption cases;
• Lack of adequate legal framework to protect whistleblowers;
• Need to ensure effective judicial follow up of organized crimes and quality of indictments;
• Need for improvements in cooperation between prosecution and police.

293. **Recommendation:** Better recording and analysis of enforcement data (from complaints through to prosecutions) should help focus how resources are used and strengthen how laws are applied. A better system for recording and sharing jurisprudence might also greatly reduce the ad hoc nature of some legal decisions and ensure greater uniformity of application.

**Perspective of Contractors, Engineers and Consultants**

294. From the perspective of the private sector, problems can occur at any part of the procurement and contract management process, including bidding, award, execution, payment and handover. Engineers met felt that local laws and rules of six or seven years ago are no longer appropriate to the current situation. Consultants claim that the qualification requirement for three years of relevant experiences can be impossible for some firms to meet. A one year debarment may result in a firm not getting a contract again. Sometimes small value contracts have this condition. The consultants also complained about another unreasonable requirements which is related to the minimum number of fulltime jobs created by the firm proof of payment for VAT and proof of payment for electricity bill.

295. Contractors and consultants felt that much of the bureaucracy was unnecessary and/or could be simplified and streamlined further. Many firms would prefer turning to a FIDIC or similar international standard contracts rather than use the current forms of contracts. Authorities are generally perceived to be unsympathetic or uncooperative when discussing free and fair competition. Screening of proposals can be very subjective and without clear criteria or methodology. Sometimes very similar tenders can have very different conditions, causing contractors to suspect bid rigging. They requested clearer, fairer, more consistent processes for bid evaluation.

296. The firms complained that there are many examples of poor performance or lack of quality but no action taken by the CAs. Common abuses were said to include: favored individuals are working full time simultaneously on more than one assignment, likewise some firms were allowed to bid on as many contracts as they wanted. Often a contractor is selected and then they choose a “friendly” supervision engineer. Inspections are often “performed over a costly lunch”. Firms complained that often they did not get paid, or got no credit for partially completed works. Contractors complained that a firm could be fined for delays, but there was no fine for delay of payment.

297. On the other hand, non-execution of contracts (even when attributable to owner delays or fault) can lead to debarment. Sometimes this can be used as a threat by unscrupulous officials. Sometimes there are serious delays in handing over the site. The need for a building permit is just one hurdle that can threaten the start up of a construction contract, as an example. On the other
hand, there are allegedly many firms that work with no permits at all, with authorities ignoring the requirement. Certainly the companies see no logical reason why a building permit should contain the name of a construction firm. Allegedly, there are cases where 1-1.5% of the contract value has been requested from firms by the permit authority as an illicit fee.

298. **Issue to be addressed:** There is a need to make the procurement process and conditions more consistent and more transparent, in order to strengthening confidence of private sector in the government. This would lead to an increasing number of *bona fide* firms to bid, and ultimately improving the competition.

299. **Recommendations:** While many anti-corruption agencies continue to focus on pursuit of specific cases and complaints, it is important that more general, systemic efforts are also made in order to reduce bid rigging and other unfair practices. The many agencies concerned with the anti-corruption agenda need to dedicate sufficient resources to these broader issues in order to take a more proactive, preventive stance and thereby help convince prospective bidders that the systems will treat them fairly.
SECTION VIII. PERFORMANCE OF WORLD BANK AND ISLAMIC DEVELOPMENT BANK PORTFOLIOS

Overview

300. This section of the report presents an overview of the performance of the portfolios of World Bank and the Islamic Development Bank financed projects. It includes and is focused on disbursement, timeliness of procurement processes, fiduciary and integrity risks, financial management; and it propose recommendations on the identified issues.

301. It also discusses and presents recommendations regarding an option being presently considered by the Government of Albania to centralize implementation of the procurement aspects of World Bank financed projects into a central “mega” PIU.

Performance of World Bank’s financed projects:

302. Over the Past few years, the World Bank engagement has been significantly ramped up to support Government reforms. The portfolio has more than doubled since 2013. Two development policy loans (DPLs) in FY14, and a Policy Based Guarantee (PBG) in FY15 supported macro-fiscal sustainability and financial stabilization. Reflecting the ambitious Government reform agenda, three investment lending operations were approved in FY15, including the Power Recovery Project, the Health System Modernization Project, the Roads Safety and Maintenance Project, and the Citizen-Centric Service Delivery Project in FY16.

303. With nine active projects, the commitments amount to $544 million. Energy, transport and water sectors comprise over 65 percent of the portfolio. There are eight Advisory Services and Analytics (ASA) projects complementing the current portfolio and the lending program through filling important technical and knowledge gaps. A $100 million Financial Sector Modernization DPL is expected to go to the Board in Q1 FY17. The preparation of two projects is underway: 1) a proposed $60-million project for Integrated Urban and Economic Development; and 2) a proposed $70-million Jobs and Competitiveness DPL.

304. One project supported through a grant (US$ 270,000) from the World Bank multi-donor trust fund and executed by the Ministry of Finance is the "Improving Compliance Monitoring and Enhancing Transparency in Public Procurement in Albania". The objective of this project is to support the Government of Albania to enhance monitoring compliance with the procurement law, improve the complaint review mechanism and increase the capacity of the State Supreme Audit Institution to audit the procurement of public contracts in Albania. The Project became effective on December 11, 2015 and is planned to be completed on November 30, 2017. The project includes three components: (i) Procurement Performance and Compliance Monitoring; (ii) Assistance to the PPA in handling electronic archived procedures and audited/investigated procurement procedures from external institutions; and (iii) Assistance to the State Supreme Audit Institution in developing professional expertise in procurement audit in order to enhance the capacity and the quality of audits. All contracts under the project have been signed and are under implementation.
305. **Disbursement ratio:** Historically, Albania’s disbursement ratio has been at par with Europe and Central Asia (ECA) region average. However, disbursement ratio dropped to 11 percent in FY16 (see Figure VIII.1). This low ratio is a cause for serious concern. Enhanced commitment levels at the start of the fiscal year combined with a young portfolio, delays in project effectiveness, slow start-up of project activities after effectiveness and procurement delays contributed to slow portfolio implementation and the resultant low disbursement ratio. There is high-level attention to the portfolio, with review meetings chaired by the Prime Minister and the Minister of Finance that contributed to unlocking several issues such as effectiveness delays and delays in procurement.

![Figure VIII.1: Disbursement ratio for World Bank-financed portfolio](image)

306. **Timeliness of the procurement process:** On average, under World Bank-financed contracts in Albania it takes about 230 days from the date of transmitting the bidding documents to the World Bank for no objection to the date of handing over the project site to the selected contractor. This period can be broken down into about 9 days as time for Bank’s review of the bidding documents and issuance of the no-objection, about 41 days from advertisement to receiving bids, about 130 days for bids evaluation, 5 days for the Bank’s no-objection before award, 25 days for transmission of acceptance letter to successful bidder, and 22 days from signature of contract to handing over of the site to the selected contractor. A general benchmark for smooth procurement processes is about 100-145 days depending on whether the procurement method is National Competitive Bidding (NCB) or International Competitive Bidding (ICB). This means, in general, that in Albania the procurement cycle from advertisement to issuance of the notice to handing over the project site to the contractor takes about 1.5 times more than the benchmark.
307. It is clear from Figure VIII.2 below that the implementing entities, in general, take very long time to complete the bid evaluation. This is due to several reasons among them: confusion between national procurement rules and World Bank procurement procedures; external interference from outside the bid evaluation committee; leakage of information during the bid evaluation stage; rejection of lower priced substantially technically responsive bids for very minor deviations or unwillingness to seek clarifications; evaluation committees are not bound to complete evaluation within a specific timeframe; bid evaluation members are conducting the bid evaluation during their spare time in addition to their daily work; and implementation units take several iterations until they take actions on addressing World Bank advices.

![Figure VIII.2: Timeliness of Procurement process in Bank-financed projects](image)

308. Fiduciary risk: Procurement risk at preparation was assessed between high and moderate while the financial management risk ranges between substantial to moderate. In average, the fiduciary risk could be assessed as Moderate/substantial.

309. The ISR procurement rating of “Moderately Satisfactory” for some projects is mainly due to the substantial delays in completing key procurement documents such as bidding documents and evaluation reports as it takes several iterations between the Bank and implementing entities until the Bank is ready to issue the “No objection”. In each iteration the implementing entity takes longer than usual to do the revision. By way of illustrating, in one case the drafting of prequalification document took 10 months to be finalized to the satisfaction of the Bank; about 9 months to complete the prequalification evaluation report and address complaints, and about 18 months to prepare the required bidding document until the Bank issued the No objection to tender. This could be an extreme case as the implementing entity did not have previous experience in this type of contracts; however, the time taken is unusually high.

310. In general, projects implementation delays are due, in part, to design, procurement, contract execution and management and follow-up, monitoring.
311. **Integrity issues.** Between 1 July 2009 to 31 June 2015 (i.e. FY2010 and FY2015) the World Bank Group’s Integrity Vice Presidency received almost thirty complaints related to operations in Albania. Of these only five could eventually be fully substantiated through investigation. Of the five substantiated cases: two were in the health sector, one was in the power sector, one was in the social sector and one was in the water sector.

312. All of the cases substantiated in Albania over recent years have been associated with procurement. They clearly illustrate that there are still companies, including some foreign firms that will attempt to submit fake documents, make misrepresentations and even attempt to pay bribes if they believe that it will benefit them during the bidding process. The fact that these attempts have occurred across several sectors and contract types indicates this behavior is not focused on a particular type of target.

313. **Sanctions have been imposed.** As a result of INT investigations in Albania, six companies and affiliated firms were debarred for periods between one and eight years. Currently there is only one firm on the World Bank debarred list.

314. **Issues to be addressed:**

- Delays in the preparation of the bidding documents;
- Low quality or outdated design which lead to variation orders and delays;
- Long delays in completing the required bid evaluation reports. Some evaluation committee members lack the required experience in World Bank procurement procedures.
- Delays of receiving construction permits from local authorities;
- Project site is not ready for the contractor to start work;
- Delays during contract implementation due to lack of utilities to the project site.

315. **Recommendations:**

- BEC establishment decisions should specify a timeframe for the BEC to complete its bid evaluation report with recommendations. This time-frame should not be more than 30 days for NCB and 45 days for ICB;
- BECs should include a third party representative/observer from the civil society or an independent technical specialist (for probity assurance) to ensure high quality and timely completion of bid evaluation as well as higher transparency and fairness in the evaluation and award of contracts;
- BEC members should be qualified specialists in the subject-matter and should be trained on how to conduct the evaluation process including what makes a bid responsive or not (minor vs. major deviations), when to seek clarification and also how to address World Bank comments;
• All BEC members should sign a self-declaration not to leak confidential evaluation information;

• BEC members should be protected against political interference and against fear of being investigated by the SSAI;

• BEC members should sign a declaration of no conflict of interest with bidders;

• Use e-procurement system for World Bank-financed operations;

• As a good practice, before the bidding document is issued, a high official from the implementing entity should ensure that a committee has visited the project site shortly before submission of the bidding document and that the project site is clear from any obstacles that may delay the start of construction;

• Contracting authorities should apply for and receive initial construction permits well in advance of issuing the bidding document, just after the design is approved. Final construction permits should be quickly received once the contractor name is known. Contracting authorities should agree with local government authorities that construction may start based on the initial construction permit and that contracting authorities will later on provide the name of contractor in order to receive the final construction permit;

• Implementing entities should have a computerized contract management system to monitor contract implementation progress and to produce timely reports. This contract management system should be integrated with the central follow-up and monitoring system at the MOF unit in charge of monitoring.

316. **Financial management:** The task team has reviewed the main financial management issues impacting the portfolio. Factors that affect the FM performance include: i) the structure of the implementing units, ii) weak budget and planning capacity; iii) audit timeliness.

317. It is recognized that, when ring-fenced Project Implementation Units – PIUs - are adopted, there are higher associated risks with accountability due to lack of ownership, oversight, segregation of duties, knowledge transfer. Beside, these projects are vulnerable to departures in the staff, as in such case the financial management functions, including payments and contract management, would be disrupted. While the MOF currently allows for consultants to have signatory roles, both the Bank and MoF have agreed to restrict the use of such arrangements to a minimum in the future.

318. The Auditor for World Bank financed projects is contracted by the MoF under the existing ‘global’ audit arrangements, where the MoF annually appoints auditors for the entire portfolio of World Bank funded projects. The World Bank clears the terms of reference and the list of the auditors to be invited in the process. This arrangement has proven to work relatively well in the past; however, the recurring delays in the submission of audit reports during the last three years (2013-2015) point toward the need for some adjustments in the procurement process of the audit contracts and planning for future periods. There have been cases where the exceptionally low budget/cost estimate has not allowed acceptable firms to participate in the tender; and where the
resulting low audit fee has affected the timeliness and the audit quality, since it did not correspond to the level of effort for a high-quality service. The World Bank has recommended to revisit the cost estimate, and the period of appointment of the Auditor.

319. The same factors affect the quality of the budgeting and planning process for both domestic and foreign financed projects: weak capacity; fragmentation of the budgeting process; spending driven budget instead of prioritization; delink of the budget preparation process from the planning process; and no integrated IT infrastructure supporting the process. Despite close monitoring by the World Bank team, there are instances where the budget allocation is much lower than the spending forecast, limiting the ability of the project to settle contracting liabilities on a timely manner.

Consideration on the use of country systems

320. Limitations on capacity and experience in World Bank projects, and high risk of fraud and corruption in Albania severely restrict the scope for increasing the use of country systems in Financial Management as well as Procurement areas. It is possible that this could change in the future as a result of improvements of systems and practice following actions by the GOA to address listed weaknesses. The situation will be monitored and, where possible, new projects will use country systems where the risks are acceptable.

321. Issues to be addressed:

- Ring-fenced PIUs are associated with higher risks with respect to accountability, oversight, segregation of duties, and knowledge transfer.

- There have been recurring delays in submitting audit reports during the last three years 2013-2015

322. Recommendations:

- Limit the use of the ring-fenced PIUs, and mitigate risk to the extent possible in the existing ones.

- Adjustment are needed in the procurement process of the audit contract and planning for future periods, such as cost estimate revision, avoidance abnormally low offers, use multiyear contract/ framework contracts.

Centralizations vs. decentralization of World Bank-financed project implementation

323. Introduction: The Government of Albania has expressed its concerns over the poor utilization/absorption of foreign funds. It has indicated that several ministries are not meeting their mandate of public service delivery, mainly because of inefficient management of project implementation and delayed procurement process.
To avoid delays in implementation, the GoA is considering a possibility to move the procurement management function out of the line ministries and assign it to a central dedicated agency. The GoA proposes to utilize the Central Financing and Contracting Unit (CFCU) at the central level and the Albania Development Fund (ADF) at the regional and sub-national levels for procurement and contract implementation tasks.

**Current procurement arrangement under Bank-financed projects:** Under the existing arrangements for Bank financed projects, Ministries and/or Directorates are directly responsible for project implementation, mostly through Project Management Units (PMUs). Core fiduciary skills of GoA staff and/or consultants are built into the PMU for carrying out procurement, financial management and overall implementation of projects. The technical input comes from the experts from the respective ministries as they are responsible for the delivery of the public services and for ensuring consistency with the development objectives.

**World Bank support for attaining development results:** With the fast changing global economic environment, timely implementation of World Bank-financed projects is becoming even more critical to achieving the overarching development goals of the country. The World Bank’s aim, especially after the approval of its New Procurement Framework (NPF), is to support countries to build sound systems with all internal control mechanisms, so that the Bank can rely on the country systems for use of its own resources. Towards this goal, the role of the sector ministries is pivotal as they have the ultimate responsibility for delivering good quality services to the citizens on behalf of the Government. Shifting the role of line ministries in implementing their respective sectoral projects may be perceived as an attempt to undermine their mandate, ownership, and credibility. On the other hand, the Bank also recognizes the need to introduce new measures to expedite project implementation.

**Advantages and disadvantages of using centralized PIUs**

<table>
<thead>
<tr>
<th>Subject</th>
<th>Advantages</th>
<th>Disadvantages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authority</td>
<td>Usually linked with highest level in the Government and thus staff in government address their request quickly.</td>
<td></td>
</tr>
<tr>
<td>Enforcing implementation</td>
<td>Mega PIUs may have the tools to force the project implementation on Ministries.</td>
<td>Line Ministries do not always abide by orders from a central PIU.</td>
</tr>
<tr>
<td>Ownership</td>
<td></td>
<td>Specialized PIUs that are linked with Ministries usually show a higher rate of ownership.</td>
</tr>
<tr>
<td>Capacity building of PIUs</td>
<td>Capacity building of one mega PIU can be faster.</td>
<td>Capacity building still is needed for specialized PIUs as well.</td>
</tr>
<tr>
<td>Implementation speed</td>
<td>Mega PIU might have enough capacity to work independently from line ministries for faster implementation.</td>
<td>In most cases, a mega PIU would need to work through other specialized PIUs (at Ministries) effectively slowing down the decision making process and implementation.</td>
</tr>
<tr>
<td>----------------------</td>
<td>-------------------------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Sustainability</td>
<td></td>
<td>Line ministries might not gain from the experience gained during implementations, resulting in problems with operation and maintenance.</td>
</tr>
<tr>
<td>Long term engagement</td>
<td>Working directly with PIUs at line ministries helps with building direct relationship that helps with future interactions.</td>
<td></td>
</tr>
<tr>
<td>Current experience</td>
<td>There is already a working relation with several PMUs in line Ministries that speeds up any future implementation with proper follow up and monitoring.</td>
<td></td>
</tr>
</tbody>
</table>

328. **Possible Implications and Issues:** There is a concern about whether shifting the responsibilities of procurement and/or contract implementation from line ministries to a centralized unit will only shift the existing problems from one place to the another one, with added complexities and without much acceleration of the procurement processes and contract implementation. The team emphasizes that experience of consolidated procurement outside line ministries has yield in mixed results. For example, in a neighboring country, Montenegro, such a structure has created huge delays in project implementation. Similarly, in Mongolia, consolidated procurement initially generated a lot of interest, however over time, within two years, because of the inherent issue of ownership, the number of contracts in the consolidated structure decreased from 450 to only 140.

329. **Recommendations:** From the analysis conducted on the World Bank portfolio and State-funded projects, it is clear that there are issues to be addressed before considering the reorganization of the institutional set-up of ongoing project implementation. This includes:

   i) ensure that bid evaluation committees complete their evaluation within 30-45 days based on the complexity and size of the contract;
ii) Instate a rigorous follow-up and monitoring system at the central level and at each implementing entity to ensure the timely completion of the procurement process and to reduce time and cost over-runs during contract execution.

iii) After one year of diligent implementing these recommendations, the government should analyze the results and the PIUs’ performance and if there is still needs to address slow project implementation and disbursement, the government may pilot with selected new projects centralizing fiduciary function within a project implementation unit at the central level and at the local level as per Annex D.

Performance of Islamic Development Bank-financed projects:

330. **Portfolio Size and Composition:** The Republic of Albania became a member of the Islamic Development Bank (IDB) in 1993. Since then, IDB total approvals for Albania have reached US$ 548.01 million for 29 operations. There are currently 6 active IDB projects amounting to US$ 382.98 million. The sectoral distribution of the IDB portfolio is as follows: transportation (91%), water and sanitation (8%), finance (1%), and others. IDB current strategy in the country is focusing on: (a) development of the transport, energy, and urban services infrastructure, (b) rural development, (c) institutional capacity building for enhancing the project implementation capacity.

331.

**Table VIII.1: Active operations**

<table>
<thead>
<tr>
<th>No</th>
<th>Name of Project</th>
<th>Effective Date</th>
<th>Approved Amount (USD Mln)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Construction of Durres Fishing Port Project</td>
<td>29/07/2013</td>
<td>16.35</td>
</tr>
<tr>
<td>2</td>
<td>Water Supply and Sanitation Project in Orikum</td>
<td>12/05/2009</td>
<td>13.35</td>
</tr>
<tr>
<td>3</td>
<td>Tirana Elbasan Road Project</td>
<td>06/07/2011</td>
<td>222.70</td>
</tr>
<tr>
<td>4</td>
<td>Microfinance Project – First Albanian Financial Dev. Company</td>
<td>09/02/2015</td>
<td>5.30</td>
</tr>
<tr>
<td>5</td>
<td>Construction of Qukes-Qafe Ploce Section of Tirana-Korca Road Corridor Project</td>
<td>19/11/2014</td>
<td>125.00</td>
</tr>
<tr>
<td>6</td>
<td>United Bank of Albania (Reimbursable Consultancy)</td>
<td>05/05/2013</td>
<td>0.28</td>
</tr>
<tr>
<td></td>
<td><strong>Total:</strong></td>
<td></td>
<td><strong>382.98</strong></td>
</tr>
</tbody>
</table>
Mainly due to the Government’s budgetary restrictions on external borrowing, the IDB project pipeline is dry for Albania. Under the current circumstances, the Government of Albania is seeking the IDB’s support for the preparation of feasibility studies for priority projects for future possible IDB financing. The IDB has recently proposed a blended TA Facility, composed of a TA Grant on top of a TA Loan, to soften the terms of the total package. This is expected to open an avenue for the IDB future active involvement especially in the transportation, water and sewerage sectors in Albania.

Portfolio Analysis

Project Effectiveness. Most of the projects experienced slight delays in declaring the projects effective, with an average of 6.8 months interval between the signing and the effective date. However, the Construction of Qukës-Qafë Ploçë Section of the Tirana-Korça Road Project experienced significant delays (19 months) between signature and effectiveness of the project financing agreements, due to delays in land acquisition process.

Procurement process. During the CPCI review, it was observed that some projects under IDB financing have experienced significant delays during the procurement process. Substantial delays were observed in the procurement of civil works contracts for Water Supply and Sanitation Project in Orikum region and Construction of Durres Fishing Port Project. The delays in the first project is mainly due to weak capacity of the Executing Agency, lack of familiarity with IDB rules and procedures, and high turnover of PMU staff. It took almost 4 years to award the civil works contract for this project. In the case of Durres Fishing Port Project, the delays occurred due to poor design and cost estimates, which resulted in cost overrun during the bidding process. At average, the project experienced 2.5 years delay in procurement process.

The other aspect considered during the review of procurement process was the economies of scale. Almost all contracts of the active projects have been awarded within the margin of
approved amount, except the civil works contracts of the Tirana – Elbasan Road project. As a result of the bidding process, the civil works contracts were awarded to bidders offering approx. 75% (at average) of the cost estimates. However, during the actual implementation, almost all these contracts have experienced several variation orders, which resulted in significant cost increase.

336. **Disbursements.** Ratio of disbursement to approvals for the active portfolio was 60% as of August 2016. Table VIII.2 below indicates that overall disbursement ratio is not satisfactory compared to project effective dates. The low disbursement ratio of the active portfolio is explained by delays in project implementation as well as lack of coordination and ineffective communication between the Executing Agencies, Consultants, Contractors and the Bank.

Table VIII.2: Disbursement Status

<table>
<thead>
<tr>
<th>No</th>
<th>Name of Project</th>
<th>Effective Date</th>
<th>Approved Amount (USD Mln)</th>
<th>Disbursement (Aug 2016)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Construction of Durres Fishing Port Project</td>
<td>1/5/2007</td>
<td>16.35</td>
<td>14.66</td>
</tr>
<tr>
<td>2</td>
<td>Water Supply and Sanitation Project in Orikum</td>
<td>12/5/2009</td>
<td>13.35</td>
<td>10.85</td>
</tr>
<tr>
<td>3</td>
<td>Tirana Elbasan Road Project</td>
<td>6/7/2011</td>
<td>222.70</td>
<td>193.48</td>
</tr>
<tr>
<td>4</td>
<td>United Bank of Albania (Reimbursable Consultancy)</td>
<td>5/5/2013</td>
<td>0.28</td>
<td>0.00</td>
</tr>
<tr>
<td>5</td>
<td>Construction of Qukes-Qafe Plloce Section of Tiran-Korca Road Corridor Project</td>
<td>19/11/2014</td>
<td>125.00</td>
<td>11.24</td>
</tr>
<tr>
<td>6</td>
<td>Microfinance Project – First Albanian Financial Dev. Company</td>
<td>9/2/2015</td>
<td>5.30</td>
<td>1.33</td>
</tr>
<tr>
<td></td>
<td>Total:</td>
<td></td>
<td>382.98</td>
<td>231.56</td>
</tr>
</tbody>
</table>

337. **Implementation delays.** The CPCI review also revealed that the average implementation period for transport projects in Albania is the highest compared to other sector projects. Most delays have occurred during the construction period, caused by (i) change in project design, (ii) land acquisition and expropriation, (iii) issuing work permits to contractors, (iv) geotechnical problems and land sliding, (v) variation orders, and (vi) bad weather conditions.
338. **Contract management.** IDB Portfolio in Albania has been implemented and managed using the generic MDB type institutional arrangements that is PMU supported with either Project Management Consultant (PMC) or supervision consultant for the implementation of Works contracts.

339. The portfolio in general has faced several substantial contract management issues. The main issue to be highlighted is the cost overrun between the appraisal project cost estimate and the detailed design cost estimate and tender cost. The other is the quality of design, leading substantial changes and increase in the scope during implementation.

340. Similarly, delayed processing time of approvals and capacity of the EAs to handle projects have had a parallel impact on either delayed execution, disbursement and to collect project reporting data on a regular basis.

341. Lack of a proper reporting mechanism i.e. automated operations processing system has resulted in poor reporting. The EAs were not able to produce and monitor the required set of data to provide comprehensive contract management reports, as needed for regular and consistent feedback on the project performance and contract management.

342. **Issues to be addressed:**

- Delays in declaring project effectiveness.
- Weak capacity of the Executing Agencies (EA) / Contracting Authorities (CA).
- High turnover of Project Management Unit staff.
- Quality at entry, poor design documents and cost estimates, which results in delays, cost overrun, variation and/or change orders.
- Poor contract management.

343. **Recommendations:**

- Improve communication between central government and line ministries in order to avoid any possible delays and expedite decision making. A project implementation schedule with milestones should be shared and accepted by all stakeholders as soon as the project is approved by the Bank.
- In order to enhance the capacity at CA, it is recommended to develop and maintain training and career development programs in public procurement.
- Ensure more accurate and realistic cost estimates and detailed scope of work at the onset of projects.
- Enhance contract provisions and adopt international good practices.
SECTION IX. RECOMMENDATIONS AND SUGGESTED ACTION PLAN

344. Based on the review conducted by the Banks’ team, the following recommendations and actions are proposed for the GOA’s consideration. More detailed recommendations are stated in the body of the report.

345. Recommendations\textsuperscript{74} and Action Plan

<table>
<thead>
<tr>
<th>No.</th>
<th>Recommendation</th>
<th>Expected Impact (H-M-L); and</th>
<th>Timetable (S-M-L)\textsuperscript{75}</th>
<th>Responsible Entity</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Recognize the procurement planning in the legislative framework, by including mandatory requirements either in the PPL or, at a minimum, in the PP Rules on internal procedures.</td>
<td>Impact: M</td>
<td>Timeline: M</td>
<td>PPA</td>
</tr>
<tr>
<td>2.</td>
<td>Revise the legislative framework either in the PPL or, at a minimum, in the PP Rules, in order to include comprehensive rules on contract management and roles and responsibilities within contracting authorities.</td>
<td>Impact: M</td>
<td>Timeline: M</td>
<td>PPA</td>
</tr>
<tr>
<td>3.</td>
<td>Reconsider penalizing individuals for alleged violations of procurement procedures. If imposing a penalty is still needed it should be on the contracting authority not the individual.</td>
<td>Impact: H</td>
<td>Timeline: S</td>
<td>PPA</td>
</tr>
<tr>
<td>4.</td>
<td>Amend the PPL and PP Rules so that the lowest evaluated substantially responsive bids are not rejected automatically if above the “Limit Fund”.</td>
<td>Impact: H</td>
<td>Timeline: S</td>
<td>PPA</td>
</tr>
</tbody>
</table>

\textsuperscript{74} The Recommendations should be read in conjunction with the main text of the CPCI report, which explains the background and rationale for the respective recommendation. It shall be noted that while the team was finalizing the review, the Government undertook steps to implement some of these recommendations.

\textsuperscript{75} Impact: H = High expected Impact; M = Moderate expected Impact; L = Low expected Impact; Implementation TimeLine: S= Short (within 6 months); M=Medium (one year) and L=Long (two years).
<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Impact</th>
<th>Timeline</th>
<th>Authors</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.</td>
<td>Expand the PPL to include conflict of interest provisions pertaining exclusively to the procurement process.</td>
<td>M</td>
<td>M</td>
<td>HIIDA + PPA</td>
</tr>
<tr>
<td>6.</td>
<td>Amend the PPL and PP Rules to bring more clarity between Articles 45(1) and 45(2) (conditions for disqualification of bidders) and Article 13 (debarment by PPA)</td>
<td>H</td>
<td>M</td>
<td>PPA</td>
</tr>
<tr>
<td>7.</td>
<td>Amend the PPL and PP Rules to clearly define or provide relevant cross-references to offences listed under Article 45(1) and 45(2) for the latter to be grounds for disqualification.</td>
<td>H</td>
<td>M</td>
<td>PPA</td>
</tr>
<tr>
<td>8.</td>
<td>Revise the PPL and/or PP Rules to include provisions with respect to disqualification of bidders on non-material/minor deviations in terms of commercial and technical requirements.</td>
<td>H</td>
<td>S</td>
<td>PPA</td>
</tr>
<tr>
<td>9.</td>
<td>Define clearly the debarment process (referred to under Article 13(3) of PPL) in the regulatory framework (at a minimum, in the PP Rules) to enhance transparency, fairness, legal certainty and effectiveness of the debarment process.</td>
<td>M</td>
<td>M</td>
<td>PPA</td>
</tr>
<tr>
<td>10.</td>
<td>Disclose the reasons for bidder debarment publicly.</td>
<td>M</td>
<td>S</td>
<td>PPA</td>
</tr>
<tr>
<td>11.</td>
<td>Undertake a review of the implementation and efficiency of the complaint review mechanism, and propose changes to the PPL and PP Rules that would increase the complaint review system efficiency.</td>
<td>M</td>
<td>M</td>
<td>PPA and PPC</td>
</tr>
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</table>

**Institutional Framework and Management Capacity**

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Impact</th>
<th>Timeline</th>
<th>Authors</th>
</tr>
</thead>
<tbody>
<tr>
<td>12.</td>
<td>Provide PPC with more independence through reporting to the Parliament. The members and the Chairman should preferably be selected through open competition based on the qualifications criteria set forth in the PPL.</td>
<td>H</td>
<td>M</td>
<td>Prime Minister Office</td>
</tr>
<tr>
<td>13.</td>
<td>Provide additional resources to the PPC to be able to effectively perform its tasks.</td>
<td>M</td>
<td>S</td>
<td>Prime Minister Office/MOF</td>
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<tr>
<td></td>
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</tbody>
</table>
|14. | Provide the PPC with direct access to the e-procurement system to control the “suspension” of procurement activity. | Impact: M  
Timeline: S | PPA |
|15. | Develop and maintain a procurement complaint database. Statistics and analysis should be conducted and posted on the PPC website. | Impact: M  
Timeline: M | PPC |
|16. | Provide additional resources (human and financial) to the PPA to carry out its tasks, focusing especially on capacity building, data analytics, and procurement performance and monitoring of contract management. | Impact: M  
Timeline: S | MOF |
|17. | Prepare a strategy for the coming three-to-five year on how to enhance the performance of the public procurement system. | Impact: L  
Timeline: M | PPA |
|18. | Undertake a study on the Ministry of Interior CPD activities, and the challenges and difficulties of its limited use, and explore ways how to best carry out centralized procurement of common use goods or services, including through electronic means to achieve increased efficiency and value for money in the use of public resources. | Impact: H  
Timeline: S | CPD in cooperation with MoF/PPA |
|19. | Enhance the transparency of the activity of the CPD, by preparing and publishing an annual report. Alternatively, the CPD report could also be submitted to the PPA to be included in its annual report. | Impact: M  
Timeline: S | CPD/PPA |
|20. | Prepare a training needs strategy for the coming five years. Develop a teaching curriculum for basic and advanced procurement training. | Impact: M  
Timeline: M | PPA in cooperation with ASPA and concerned CA |
|21. | Prepare a strategy on professionalizing the procurement function in the country and the government should take action towards implementation. | Impact: M  
Timeline: L | PPA |
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<tbody>
<tr>
<td>22.</td>
<td>Increase training activities for procurement officers and other stakeholders in the procurement system</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Impact: M</td>
<td>PPA</td>
</tr>
<tr>
<td></td>
<td>Timeline: S</td>
<td></td>
</tr>
<tr>
<td>23.</td>
<td>Raise awareness through training for contracting authorities in greater use of the most economically advantageous tender (MEAT) criterion to award the contract when appropriate, and other contracting techniques such as Framework Agreements, dynamic purchasing system, etc.</td>
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</tr>
<tr>
<td></td>
<td>Impact: M</td>
<td>PPA</td>
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<tr>
<td></td>
<td>Timeline: S</td>
<td></td>
</tr>
<tr>
<td>24.</td>
<td>Provide training for the Supreme State Audit Institution auditors and internal audit units on procurement and e-procurement.</td>
<td></td>
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<tr>
<td></td>
<td>Impact: H</td>
<td>PPA in cooperation with the SSAI</td>
</tr>
<tr>
<td></td>
<td>Timeline: S</td>
<td></td>
</tr>
<tr>
<td>25.</td>
<td>Organize business outreach activities for economic operators on the PPL, procurement procedures/practices as well as the complaints review process.</td>
<td>1/ Impact M 2/ Time S</td>
</tr>
<tr>
<td></td>
<td></td>
<td>PPA and PPC</td>
</tr>
<tr>
<td>26.</td>
<td>Include in the PPA annual report a section on the training conducted and the feedback of trainees and training achievement.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Impact: L</td>
<td>PPA</td>
</tr>
<tr>
<td></td>
<td>Timeline: S</td>
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</tr>
<tr>
<td>27.</td>
<td>A detailed database of trainees and trainings received should be established.</td>
<td></td>
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<tr>
<td></td>
<td>Impact: L</td>
<td>PPA</td>
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<td></td>
<td>Timeline: S</td>
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<tr>
<td>28.</td>
<td>Engage in frequent discussions with the chambers of commerce as well as contractors, suppliers, and consultants to better understand issues and concerns arising in connection to public procurement contracts.</td>
<td></td>
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<tr>
<td></td>
<td>Impact: L</td>
<td>PPA</td>
</tr>
<tr>
<td></td>
<td>Timeline: L</td>
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</table>

**Procurement Operation and Market Practices**

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<tbody>
<tr>
<td>29.</td>
<td>Remove the barriers arising from the Ministry of Finance guidelines, under which conducting of a procurement procedure is not allowed unless the contracting authority account status is confirmed by the Treasury Department (i.e. CA may initiate the procurement process for projects the MOF has approved to be financed from the budget but contracts should not be signed until budget is allocated by the Treasury Department)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Impact: H</td>
<td>MoF and PPA</td>
</tr>
<tr>
<td></td>
<td>Timeline: S</td>
<td></td>
</tr>
</tbody>
</table>
| 30. | Simplify the requirements for submitting detailed information and documentation as part of the tender. Explore alternative ways for bidders to prove their eligibility to participate, capacities and experience, for example through self-declarations or streamlined information. | Impact: M  
Timeline: S | PPA |
| 31. | Enhance the use of framework agreements, especially in the case of commonly used supplies (goods) or services. Special attention is for the security services. | Impact: H  
Timeline: S | PPA in cooperation with the CPD |
| 32. | Release allocated budget to CAs as soon as the budget is approved by the Parliament. | Impact: H  
Timeline: S | MoF |
| 33. | Limit the use of negotiated procedure without prior publication to justified cases of urgency and in any event not more than 10% of the total number of procurement transactions. | Impact: H  
Timeline: M | PPA |
| 34. | Enhance the existing SBDs and RFP as well as standard contract forms. Prepare standard tender documents for specialized types of procurement such as pharmaceuticals, energy, textbooks and PPPs. Until these specialized tender documents are prepared, the PPA may need to issue a guidance note to CAs on the flexibility to modify the existing standard documents to suit the needs for the specialized procurement. | Impact: M  
Timeline: M | PPA |
| 35. | Issue guidance to contracting authorities to adopt a Fit-for-Purpose approach in determining the most appropriate procurement method, evaluation and award criteria. | Impact: M  
Timeline: S | PPA |
| 36. | Special consideration shall be devoted to the consulting services where the lowest price may not be the best method to use for the selection of complex or large value contracts. | Impact: M  
Timeline: S | PPA |
| 37. | Include independent evaluator (as probity assurance) from outside the contracting authority and/or observer from the civil society in the evaluation committees. | Impact: H  
Timeline: S | PPA |
| 38. | Substantially responsive tenders containing minor deviations should not be rejected. PPA may need to issue a guidance note on what constitute minor and major deviations. | Impact: H  
Timeline: S | CAs and PPA |
| 39. | Select the evaluation committee members from qualified experts in the subject (including for the consultancy services) procurement, provide them with proper training on bid/proposal evaluation, and protect them against political interference and fear of being investigated by the SSAI. | Impact: M  
Timeline: S | CAs |
| 40. | Monitor very closely variations orders, cost over-run and time over-run and the reasons for occurrence on a bi weekly basis. | Impact: H  
Timeline: S | CAs |
| 41. | Have project design and specifications checked by a reputable qualified specialist (could be an external third party), and request an updated design if it was done more than a year before tendering. This includes updating the site survey and the clearance of the site from obstacles and use by other beneficiaries. | Impact: M  
Timeline: M | Design Institute and CAs |
| 42. | Include variations orders as part of the original contract once agreed upon and have the budget allocated. Amendments should take the same name of the original contract with an “Amendment number” to facilitate reference to the original contract for the calculation of cost and time over-run. Variation orders should not be separate contracts for proper monitoring of contract implementation. | Impact: H  
Timeline: S | CAs and PPA |
| 43. | Arrears (esp. at ARA) should be addressed without further delays by either (i) allocating the required budget, or (ii) terminating contracts after consultation with a legal advisor, or (iii) a combination of both (i) and (ii). | Impact: H  
Timeline: S | ARA and MOF |
| 44. | Assign qualified contract managers; those contract managers should receive proper training well in advance of the assignment. | Impact: M  
Timeline: S | CAs |
| 45. | Lump all security contracts with all CAs into a couple of framework contract(s) to be procured centrally by the Central Procurement Department as commonly used services. This will reduce the time | Impact: H  
Timeline: S | CPA, CAs in cooperation with PPA and MoF |
spent by the CAs drastically, and the number of EO complaints drastically.

46. Conduct a serious discussion with consulting firms to discuss how to ensure high quality design and supervision services and to address all their concerns, including fee calculations, process and selection methods used for very small contracts.

   Impact: L  
   Timeline: M  
   PPA and Design Institute

47. Amend the decree on consulting service fees so that the fees are not linked to the results of the bidding for the construction of the project they designed.

   Impact: M  
   Timeline: S  
   PPA, CoM

48. Abolish limiting the consulting fees to limit funds unless there is a limited budget that may not be increased as a result of bidding. In this case, the estimated contract value should be accurate and should take into consideration the preparation of high quality design and documentation.

   Impact: M  
   Timeline: S  
   PPA, CoM

49. Construction supervision should always be treated as a consulting service and the consultant should submit a technical proposal which should be part of the evaluation criteria.

   Impact: H  
   Timeline: S  
   CAs

### Electronic Government Procurement (e-GP)

50. Perform a performance review on the e-procurement system to understand what the limitations of the system are. Based on the results of the final report, update the system to meet the needs (add/update hardware, optimized code/database).

   Impact: L  
   Timeline: S  
   PPA

51. Provide the Supreme State Audit Institution with access to the PPA e-procurement system so that it can easily access procurement information related to contracting authorities

   Impact: M  
   Timeline: M  
   PPA

52. Ensure that the logs are available for audit proposes and complaint purposes. Review and analyze the logs periodically

   Impact: H  
   Timeline: M  
   PPA

53. Add category/classification, such as CPV/codes, in the PPL and the e-procurement system for both tenders and suppliers.

   Impact: L  
   Timeline: M  
   PPA
<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Impact</th>
<th>Timeline</th>
<th>Responsible Party</th>
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</thead>
<tbody>
<tr>
<td>54.</td>
<td>The e-procurement system should report by categories to better understand public expenditures.</td>
<td>L</td>
<td>M</td>
<td>PPA</td>
</tr>
<tr>
<td>55.</td>
<td>Provide vendors with the option to register for categories and receive alerts when there are tenders/calls for their registered category.</td>
<td>L</td>
<td>M</td>
<td>PPA</td>
</tr>
<tr>
<td>56.</td>
<td>Provide category codes to vendors. It would help contracting agencies better understand the sourcing opportunities for categories.</td>
<td>L</td>
<td>M</td>
<td>PPA</td>
</tr>
<tr>
<td>57.</td>
<td>Continue the work to link the e-Procurement system and the Treasury system (note, there is currently some work being done by MoF).</td>
<td>L</td>
<td>M</td>
<td>PPA, MoF</td>
</tr>
<tr>
<td>58.</td>
<td>Build reporting tools within the e-Procurement system.</td>
<td>L</td>
<td>M</td>
<td>PPA</td>
</tr>
<tr>
<td>59.</td>
<td>Optimize links between the e-procurement system and other systems for the qualification process of the EOs, such as tax information system, social security system, passport numbers and other such systems. This would streamline the qualification process for EOs and save time and resources for the PPA and Contracting Authorities. Provide training for EOs in the new process.</td>
<td>L</td>
<td>M</td>
<td>PPA</td>
</tr>
<tr>
<td>60.</td>
<td>Integrate complaints with the e-procurement system. Provide economic operators with the option to complain using the e-procurement system. Provide PPC with access to the e-procurement system to access and process complaints. This would streamline the complaint process and provide data for reporting purposes. In that case, the PPL needs to be revised to allow for electronic complaints.</td>
<td>M</td>
<td>M</td>
<td>PPA, in cooperation with the PPC</td>
</tr>
<tr>
<td>61.</td>
<td>Provide additional functionality to the e-procurement system such as digital signatures for documents.</td>
<td>L</td>
<td>M</td>
<td>PPA</td>
</tr>
<tr>
<td>62.</td>
<td>Create a method where economic operators can input the Bill of Quantities (BOQ) information directly into the system on an itemized basis to enable the system to collect and analyze data on unit prices.</td>
<td>L</td>
<td>M</td>
<td>PPA</td>
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<td>Task Description</td>
<td>Impact</td>
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<tr>
<td>63.</td>
<td>Put together a complete Business Continuity solution to ensure that the system provides operational continuity so that other business functions are available for all stakeholders.</td>
<td>L</td>
<td>M</td>
<td>PPA</td>
</tr>
<tr>
<td>64.</td>
<td>Provide a system functionality to allow Contracting Authorities to change the people on the evaluation committee after it has been set. Approval of the change will need to be done by the PPA in the system.</td>
<td>L</td>
<td>M</td>
<td>PPA</td>
</tr>
<tr>
<td></td>
<td><strong>FOLLOW UP AND MONITORING</strong></td>
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<tr>
<td>65.</td>
<td>Enhance Monitoring of public procurement and contract management function within the Department of Monitoring, Evaluation and Coordination of Economic Policy and Public Investments within the Ministry of Finance that will proactively monitor change, progress, delays and challenges. The unit should be equipped with a computerized follow-up and monitoring system.</td>
<td>M</td>
<td>M</td>
<td>Minister of Finance</td>
</tr>
<tr>
<td>66.</td>
<td>Develop and establish an efficient computerized monitoring system to capture the whole project cycle from project planning, procurement, contract execution and follow-up and monitoring to project evaluation and feedback from beneficiaries. This electronic system should be able to collect data and analyze it and produce useful charts and analysis so that weak points be addressed by the CAs.</td>
<td>H</td>
<td>M</td>
<td>CAs</td>
</tr>
<tr>
<td>67.</td>
<td>Pilot the above system at the Albanian Road Authority as a top priority being one of the big spenders</td>
<td>H</td>
<td>L</td>
<td>ARA</td>
</tr>
<tr>
<td>68.</td>
<td>Develop and establish an efficient centralized computerized monitoring system to be integrated with similar systems at the contracting authorities as well as with the e-procurement system at the PPA and the treasury system. This electronic system</td>
<td>M</td>
<td>M</td>
<td>MOF</td>
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</table>
should be able to collect data and analyze it and produce useful charts and analysis of Public Procurement operations in Albania.

### Integrity and Transparency of the Public Procurement System

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<tr>
<th>No.</th>
<th>Description</th>
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<th>Timeline</th>
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<tbody>
<tr>
<td>69.</td>
<td>Periodically analyze the likely fraud and corruption risks across the various sectors and focus anti-corruption resources accordingly on procurement related integrity issues.</td>
<td>M</td>
<td>M</td>
<td>MoSLA + PPA</td>
</tr>
<tr>
<td>70.</td>
<td>Define what actually constitutes a bribe, and all formal actions taken against officials engaged in extortion and firms engaged in bribery should be broadly publicized as a deterrent.</td>
<td>L</td>
<td>L</td>
<td>MoJ</td>
</tr>
<tr>
<td>71.</td>
<td>Record and analyze enforcement data (from complaints through to prosecutions). This should help focus how resources are used and will strengthen how laws are applied.</td>
<td>M</td>
<td>L</td>
<td>MoJ In cooperation with PPA</td>
</tr>
<tr>
<td>72.</td>
<td>Produce a simple compendium for local laws, rules, regulations and responsibilities, covering such aspects as bribery, extortion, conflict of interest and other matters that relate to fraud and corruption.</td>
<td>M</td>
<td>M</td>
<td>HIIDA+ MoJ</td>
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### PUBLIC FINANCIAL MANAGEMENT AND PROCUREMENT

<table>
<thead>
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<th>No.</th>
<th>Description</th>
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<th>Timeline</th>
<th>Responsible Party</th>
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<tbody>
<tr>
<td>73.</td>
<td>Provide tailored trainings for the staff on the principles of financial management control and different types of auditing, including performance auditing and procurement audit</td>
<td>M</td>
<td>M</td>
<td>MOF</td>
</tr>
<tr>
<td>74.</td>
<td>Enhance SSAI capacity. Align audit approaches with international standards (ISSAIs); adapt organizational structure and internal regulations to new audit approaches; adapt secondary processes such as Training and Information Technology to new audit approaches; and improve communication relations with key clients such as the Parliament, the Government, the media and citizens in order to improve audit work impact. Provide tailored auditor training on the principles of financial management control, and procurement, and different types of auditing.</td>
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<td>MOF</td>
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<tr>
<td>75.</td>
<td>Change the behavior among SSAI auditors so that their relation with the procurement staff within the audited contracting authorities is based on cooperation for the benefit of the country and not based on fear and policing so that procurement staff be able to make wise judgement on procurement decisions in line with the PPL.</td>
<td>Impact: H</td>
<td>Timeline: S</td>
<td>SSAI</td>
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### WORLD BANK AND ISLAMIC DEVELOPMENT BANK PORTFOLIOS

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<td>76.</td>
<td>Include a timeframe in the decree on establishing bid evaluation committee to complete its bid evaluation report with recommendation. This timeframe should not be more than 30 days for NCB and 45 days for ICB.</td>
<td>Impact: M</td>
<td>Timeline: S</td>
<td>Implementing Units</td>
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<tr>
<td>77.</td>
<td>Include as part of the bid evaluation committees a non-voting third party representative/observer from the civil society or an independent technical specialist to ensure high quality and timely completion of bid evaluation as well as higher transparency and fairness in the evaluation and award of contracts.</td>
<td>Impact: H</td>
<td>Timeline: S</td>
<td>Implementing Units</td>
</tr>
<tr>
<td>78.</td>
<td>Bid evaluation committee members should be qualified specialists in the subject-matter and should be trained on how to conduct the evaluation process.</td>
<td>Impact: M</td>
<td>Timeline: S</td>
<td>Implementing Units</td>
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<tr>
<td>79.</td>
<td>Evaluation Committee members should be protected against political interference and fear of being investigated by the SSAI. The Government should find a better way to implement and monitor violation.</td>
<td>Impact: H</td>
<td>Timeline: S</td>
<td>Government Council</td>
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<tr>
<td>80.</td>
<td>In addition to the statement of no conflict of interest, evaluation committee members should also commit not to disclose any information that is marked as “confidential” by the bidder (as required by Article 25 of the PPL) as well as any information related to</td>
<td>Impact: M</td>
<td>Timeline: S</td>
<td>Implementing Units</td>
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</tbody>
</table>
the bid evaluation until the publication of contract award notice.

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<thead>
<tr>
<th>81.</th>
<th>Before issuing official invitations for bids, the implementing entity should officially confirm to the Bank that the project site is clear from any obstacles that may delay the start of construction. They should also confirm that there is proper access to the site that can be used by the contractor.</th>
<th>Impact: M</th>
<th>Timeline: S</th>
<th>Implementing Units</th>
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<tr>
<th>82.</th>
<th>Apply for and receive an initial construction permits well in advance of issuing the bidding document just after the design is approved. Final construction permits should be quickly received once the contractor name is known.</th>
<th>Impact: M</th>
<th>Timeline: S</th>
<th>Implementing Units</th>
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<tr>
<th>83.</th>
<th>Contracting authorities should agree with local government authorities that construction can start based on the initial construction permit and that contracting authorities should provide the contractor name in order to receive the final construction permit.</th>
<th>Impact: M</th>
<th>Timeline: S</th>
<th>Implementing Units and Local Authorities</th>
</tr>
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<tr>
<th>84.</th>
<th>Implementing entities should have a computerized contract management system to monitor contract implementation progress and to produce timely reports. This contract management system should be integrated with the central follow up and monitoring system at the Quality Assurance Unit.</th>
<th>Impact: H</th>
<th>Timeline: S</th>
<th>Implementing Units</th>
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<tr>
<th>85.</th>
<th>Improve communication between central government and line ministries in order to avoid any possible delays and to expedite decision-making. A project implementation schedule with milestones should be shared and accepted by all stakeholders at start of project</th>
<th>Impact: M</th>
<th>Timeline: S</th>
<th>CAs/PIUs</th>
</tr>
</thead>
</table>
ANNEX A: PEOPLE MET

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Mr. Jeton Puka, Financial Advisor to the Mayor

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Ms. **Brikena Mjeda**, Lawyer, Judicial and Procurement Directorate
Mr. **Ermal Dizdari**, Specialist, Public Procurement Unit
Mr. **Aldi Saraci**, Engineer - Infrastructure Specialist, Investment Directorate
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**Department of Public Administration**
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**Chamber of Commerce**
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Mrs. **Fabiola Duro**, Advisor to the Chairmen, duro@cci.al

**WORKSHOP WITH PIUS & PMTS**

<table>
<thead>
<tr>
<th></th>
<th>Name</th>
<th>Organization</th>
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<tbody>
<tr>
<td>1</td>
<td>Donika Qesja</td>
<td>Ministry of Environment Services</td>
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<td></td>
<td></td>
<td>Project</td>
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<tr>
<td>2</td>
<td>Erion Istrefi</td>
<td>Ministry of Environment Services</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Project</td>
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<tr>
<td>3</td>
<td>Eralda Lameborshi</td>
<td>Ministry of Agriculture, WRIP Project</td>
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<tr>
<td>4</td>
<td>Etleva Alushi</td>
<td>Ministry of Agriculture, WRIP Project</td>
</tr>
<tr>
<td></td>
<td>Name</td>
<td>Position</td>
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<tr>
<td>5</td>
<td>Genti Loli</td>
<td>IDB Coordinator&lt;br&gt;Albanian Development Fund (ADF)</td>
</tr>
<tr>
<td>6</td>
<td>Manjola Dhamo</td>
<td>Procurement Specialist, ADF</td>
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<tr>
<td>7</td>
<td>Valentina Kazanxhi</td>
<td>Head of Procurement, ADF</td>
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<tr>
<td>8</td>
<td>Arian Hoxha</td>
<td>PIU Coordinator OSHEE, Energy Efficiency Project</td>
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<tr>
<td>9</td>
<td>Arben Mithi</td>
<td>Procurement Specialist&lt;br&gt;PIU/ OSHEE</td>
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<td>10</td>
<td>Lindita Tafaj</td>
<td>Financial Specialist&lt;br&gt;PIU/ OSHEE</td>
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<td>11</td>
<td>Erinda Cici</td>
<td>Financial Specialist&lt;br&gt;PMU/ Min of Energy &amp; Industry</td>
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<td>12</td>
<td>Sokol Kikino</td>
<td>PMU/ Ministry of Energy and Industry</td>
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<td>13</td>
<td>Erjeta Koskiija</td>
<td>PMU/ Ministry of Energy and Industry</td>
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<td>14</td>
<td>Arben Gazheli</td>
<td>PMU/ KESH</td>
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<td>15</td>
<td>Elida Bufi</td>
<td>PMU/ KESH</td>
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<td>16</td>
<td>Flutra Caushaj</td>
<td>PIU/ OST</td>
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<td>17</td>
<td>Edlir Dushi</td>
<td>PMU/ KESH</td>
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<td>18</td>
<td>Ervin Caka</td>
<td>PMU Tirana – Elbasan IDB Road Project</td>
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<td>19</td>
<td>Erind Ndoj</td>
<td>PMU Tirana – Elbasan IDB Road Project</td>
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<td>20</td>
<td>Elton Kallabaku</td>
<td>PMU Tirana – Elbasan IDB Road Project</td>
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<tr>
<td>21</td>
<td>Blerina Budushi</td>
<td>PCU/ Health System Improv. Project (HSIP)</td>
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<td>22</td>
<td>Elma Dogani</td>
<td>PCU/ Health System Improv. Project (HSIP)</td>
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<td>23</td>
<td>Orjana Ibrahim</td>
<td>CFCU/ Ministry of Finance</td>
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<td>Jona Spahiu</td>
<td>CFCU/ Ministry of Finance</td>
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<td>25</td>
<td>Denis Carcani</td>
<td>CFCU/ Ministry of Finance</td>
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<td>26</td>
<td>Fiorentin Jorgji</td>
<td>Procurement Specialist, Citizen Centric Project, Ministry of Innovation</td>
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<td>Organization/Project</td>
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<td>27</td>
<td>Roland Larashi</td>
<td>Procurement Specialist, Citizen Centric Project</td>
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<tr>
<td>28</td>
<td>Bendis Bocari</td>
<td>Ministry of Innovation Procurement Specialist, PIU, Environment Service Project</td>
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**WORKSHOP WITH PRIVATE SECTOR, CONSTRUCTORS AND CONSULTANTS**

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<tr>
<td>1</td>
<td>Klaudjo Mucaj</td>
<td>‘SPARTAKU’ sh.p.k</td>
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<tr>
<td>2</td>
<td>Nikolin Shpani</td>
<td>Uleza Ndertim</td>
</tr>
<tr>
<td>3</td>
<td>Maksim Arapi</td>
<td>‘SDC’ ltd</td>
</tr>
<tr>
<td>4</td>
<td>Faruk Kaba</td>
<td>AACE</td>
</tr>
<tr>
<td>5</td>
<td>Sokol Xhixho</td>
<td>AACE</td>
</tr>
<tr>
<td>6</td>
<td>Ardian Metaj</td>
<td>EU Delegation</td>
</tr>
<tr>
<td>7</td>
<td>Agron Saliu</td>
<td>DELIA Group</td>
</tr>
<tr>
<td>8</td>
<td>Loris Hanxhari</td>
<td>IRD (ADF)</td>
</tr>
<tr>
<td>9</td>
<td>Aranila Brehaj</td>
<td>AIS NGO / Open Procurement</td>
</tr>
<tr>
<td>10</td>
<td>Manjola Xhabli</td>
<td>‘ALB – STAR’ ltd</td>
</tr>
<tr>
<td>11</td>
<td>Elisa Spirollari</td>
<td>‘Pe - vla – ku’ shpk</td>
</tr>
<tr>
<td>12</td>
<td>Ada Pasmaciu</td>
<td>APCE</td>
</tr>
<tr>
<td>13</td>
<td>Gentian Bala</td>
<td>ALBAVIA sh.p.k</td>
</tr>
</tbody>
</table>
ANNEX B: PERFORMANCE INDICATORS

The below key performance indicators were selected to be measured in order to give an indication about the actual performance of procurement in Albania. Of importance are those performance indicators, which are not satisfactory. These indicators, with unsatisfactory rating, are due to extensive use of negotiation without prior publication, poor quality design and specifications and weak contract management.

<table>
<thead>
<tr>
<th>No</th>
<th>Indicator Name</th>
<th>Indicator</th>
<th>Measured by</th>
<th>Actual</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Advertisement of bids and publication of awards</td>
<td>Transparency and openness of system</td>
<td>Number of tenders (%) for which bid invitation and contract awarded results are publicly advertised (Satisfactory: 95% or more)</td>
<td>71% (4,183 award notices published and 2,971 open procedures)</td>
</tr>
<tr>
<td>2</td>
<td>Time preparation for bids</td>
<td>Real opportunity for bidders to submit bids</td>
<td>Number of days between invitation to bid and bid opening (Satisfactory: 21 days or more, but urgent OT 15 days or more if indicative notice has been published. For RFQ 10 days or more)</td>
<td>Satisfactory – as the legal framework clearly defines the days based on the procurement method from 30 days to 1 day for small purchases (below US$8,000).</td>
</tr>
<tr>
<td>3</td>
<td>Time for Bid evaluation</td>
<td>Efficiency of bidding process</td>
<td>Number of days between bid opening and publication of award (Satisfactory: 90 days or less)</td>
<td>Satisfactory – as it is always less than 90 days.</td>
</tr>
<tr>
<td>4</td>
<td>Bidder participation</td>
<td>Level of confidence by private sector in the process</td>
<td>Number of bidders submitting bids in each tendering process (Satisfactory: 5 bids or more for OT and 3 quotes or more for RFQ)</td>
<td>7.48%</td>
</tr>
<tr>
<td>No</td>
<td>Indicator Name</td>
<td>Indicator</td>
<td>Measured by</td>
<td>Actual</td>
</tr>
<tr>
<td>----</td>
<td>------------------------</td>
<td>------------------------------------------</td>
<td>----------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>5</td>
<td>Procurement Method used</td>
<td>Level of competition</td>
<td>Number of bidding processes using a method less competitive than the process recommended for the estimated contract amount <em>(Satisfactory 1% or less)</em></td>
<td>Not Satisfactory, as out of 5,677 contracts, 2,607 were negotiations without prior publication. <em>(29% not advertised).</em></td>
</tr>
<tr>
<td>6</td>
<td>Direct contracting</td>
<td>Transparency and level of competition</td>
<td>Percent of contracts (by number and value) awarded on a sole source basis <em>(Satisfactory: 10% or less of number of contracts and 5% or less of total value of contracts)</em></td>
<td>Not Satisfactory 29% on a sole source basis.</td>
</tr>
<tr>
<td>7</td>
<td>Process Cancelled</td>
<td>Quality of bidding process</td>
<td>Number (%) of bid process declared null before contract signature <em>(Satisfactory: 5% or less)</em></td>
<td>Not Satisfactory 12% <em>(657 are cancelled out of 5,677)</em></td>
</tr>
<tr>
<td>8</td>
<td>Number of protests</td>
<td>Quality and fairness of process</td>
<td>Number of protests posted and the number of bids submitted <em>(Satisfactory: not less than 10% and not more than 50%)</em></td>
<td>Not Satisfactory 42% <em>(1,950 protests posted out of 4,630).</em></td>
</tr>
<tr>
<td>9</td>
<td>Time to answer protests</td>
<td>Efficiency and fairness of protest system</td>
<td>Number of days between submission and final response to protests <em>(Satisfactory: 21 days or less)</em></td>
<td>Not Satisfactory as it takes more than 17 days as per PPL <em>(7 days for CAs and 10 days for PPC)</em></td>
</tr>
<tr>
<td>10</td>
<td>Protest results</td>
<td>Effectiveness of protest system</td>
<td>Number (%) of contracts with award recommendation modified because of a protest</td>
<td>Not Satisfactory – 29% <em>(Out of 4,630 1,380 are modified)</em></td>
</tr>
<tr>
<td>No</td>
<td>Indicator Name</td>
<td>Indicator</td>
<td>Measured by</td>
<td>Actual</td>
</tr>
<tr>
<td>----</td>
<td>----------------</td>
<td>-----------</td>
<td>-------------</td>
<td>--------</td>
</tr>
<tr>
<td>11</td>
<td>Price increase</td>
<td>Quality of bidding and contract management</td>
<td>Percentage increase of final contract amount due to change and amendments <em>(Satisfactory: 15% or less)</em></td>
<td>Not Satisfactory – 20% as the PPL allows for 20% of contract amendments.</td>
</tr>
<tr>
<td>12</td>
<td>Restricted competition for consultants</td>
<td>Quality of advice</td>
<td>Number (%) of process for selection of consultants using open competition instead of a shortlist methodology <em>(Satisfactory: 5% or less)</em></td>
<td>0% Satisfactory</td>
</tr>
<tr>
<td>13</td>
<td>Selection method for consultants</td>
<td>Weight of quality to price ratio used in selection</td>
<td>Number (%) of process for selection of consultants having price weighted more than 20% of the total scoring points</td>
<td>Satisfactory, as price weight does not exceed 20% as per the PPL.</td>
</tr>
</tbody>
</table>

**Legend:**

**OT:** Open Tendering.

**NEG2:** Negotiated Procedures without prior publication.

**RFQ:** Request for Quotation
ANNEX C: PROCUREMENT PERFORMANCE ANALYSIS

The e-procurement data provided by the PPA to the task team were analyzed. This data includes 87,875 contracts for the period 2012-2015. The dataset received included a very small number of contracts that were initiated in 2012. E-tenders have a mean value of 1,585,446 LEK (median 99,900). The total amount contracted is 137,721,362,142 LEK. The distribution in terms of value of procurement items shows that works-related spending is the largest category. The charts and tables in this annex depict the analysis done by the task team on the data. It should be noted that the Albania e-procurement system uses the terminology “winner score” to represent “contract award value”.

Overview of the dataset

Figure C.1: Number of contracts per year

Figure C.2: Cumulative value of procurement per year
Small contract values

The dataset is heavily skewed towards small contracts (Less than LEK 1,000,000), which represent 91.15% of contracts by number but only 8.72% by value.
Large contract values

Large contract values (over LEK 1,000,000) represent 8.85% by number but 91.28% by value.

Figure C.5: Number of contracts vs. contract value

The graph shows a heavy skew of contracts towards the end of the year, and suggests there may be issues around planning or budgeting.

Figure C.6: Number of contracts per month (by opening date-all data)
Figure C.7: Value of contracts procured during each month of the year (all data)

Viewing the same data by value of procurement supports the notion that delays in budget approval leads to a slow start to procurement (with a peak in March). However, there is a smoother spend-profile towards the end of the year.

Analysis of competitiveness in bidding
The graph suggests that the amount of competition throughout the year is consistent.

**Table C.1: Top 20 procuring contracting authorities**

<table>
<thead>
<tr>
<th>Contracting Authority</th>
<th>Contract Value Mean (LEK)</th>
<th>Contract</th>
<th>Sum of Contract values (LEK)</th>
<th>Number of bids</th>
</tr>
</thead>
<tbody>
<tr>
<td>Autoriteti Rrugor Shqiptar (Albanian Road Authority)</td>
<td>139,011,694.24</td>
<td>136</td>
<td>18,905,590,416.05</td>
<td>6.26</td>
</tr>
<tr>
<td>Ministria e Shendetesise (Ministry of Health)</td>
<td>10,161,556.43</td>
<td>714</td>
<td>7,255,351,291.60</td>
<td>2.70</td>
</tr>
<tr>
<td>Contracting Authority</td>
<td>Contract Value Mean (LEK)</td>
<td>Contract</td>
<td>Sum of Contract values (LEK)</td>
<td>Number of bids</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------------------</td>
<td>---------------------------</td>
<td>----------</td>
<td>-------------------------------</td>
<td>----------------</td>
</tr>
<tr>
<td>Ministria e Puneve te Brendshme (Ministry of Internal Affairs)</td>
<td>20,366,536.53</td>
<td>274</td>
<td>5,580,431,009.10</td>
<td>4.48</td>
</tr>
<tr>
<td>Operatori i Shperndarjes se Energjise Elektrike - OSHEE (Albanian Power Energy Distributor)</td>
<td>38,454,745.61</td>
<td>130</td>
<td>4,999,116,929.00</td>
<td>6.38</td>
</tr>
<tr>
<td>Bashkia Tirane (Tirana Municipality)</td>
<td>12,801,944.70</td>
<td>337</td>
<td>4,314,255,364.50</td>
<td>4.36</td>
</tr>
<tr>
<td>Fondi Shqiptar i Zhvillimit (Banka Botoreore) (Albanian Development Fund – World Bank)</td>
<td>29,356,047.76</td>
<td>134</td>
<td>3,933,710,400.00</td>
<td>7.53</td>
</tr>
<tr>
<td>Operatori i Sistemit te Transmetimit OST (Operator of Transmission System)</td>
<td>15,009,728.40</td>
<td>255</td>
<td>3,827,480,741.00</td>
<td>4.97</td>
</tr>
<tr>
<td>SH.A Ujesjelles Kanalizime Tirane (Water and Sanitation Ltd, Tirana)</td>
<td>9,171,247.28</td>
<td>366</td>
<td>3,356,676,506.00</td>
<td>5.42</td>
</tr>
<tr>
<td>ALBCONTROL SH.A. (ish A.N.T.A) (ALBCONTROL Ltd – former ANTA)</td>
<td>8,387,851.49</td>
<td>311</td>
<td>2,608,621,814.00</td>
<td>4.73</td>
</tr>
<tr>
<td>Agjencia Kombetare e Shoqerise se Informacionit (National Agency of Information Society)</td>
<td>21,799,167.31</td>
<td>105</td>
<td>2,288,912,567.16</td>
<td>5.02</td>
</tr>
<tr>
<td>Drejtoria e Rajonit Verior Shkoder (Directorate of North Region, Shkoder)</td>
<td>26,156,142.02</td>
<td>83</td>
<td>2,170,959,787.74</td>
<td>4.87</td>
</tr>
<tr>
<td>Drejtoria e Pergjithshme e Ujesjelles Kanalizimeve Tirane (General Directorate of Water and Sanitation, Tirana)</td>
<td>50,148,127.87</td>
<td>39</td>
<td>1,955,776,987.00</td>
<td>7.73</td>
</tr>
<tr>
<td>Bashkia Durres (Durres Municipality)</td>
<td>8,151,890.31</td>
<td>236</td>
<td>1,923,846,112.00</td>
<td>7.34</td>
</tr>
<tr>
<td>Qendra Spitalore Universitare Nene Tereza Tirane (“Mother Theresa” University Hospital Center, Tirana)</td>
<td>5,615,431.78</td>
<td>304</td>
<td>1,707,091,261.70</td>
<td>3.58</td>
</tr>
<tr>
<td>Komanda Mbeshtetese, Reparti Ushtarak Nr. 4001 (Supporting Command, Military Unit Nr 4001)</td>
<td>14,471,086.13</td>
<td>111</td>
<td>1,606,290,560.00</td>
<td>6.54</td>
</tr>
<tr>
<td>Ministria e Arsimit dhe Shkences (Ministry of Science and Education)</td>
<td>12,642,374.35</td>
<td>120</td>
<td>1,517,084,922.00</td>
<td>5.17</td>
</tr>
</tbody>
</table>
The table shows that some large contracting authorities are obtaining significant competition in their contracting processes, but there is some variation, and some large contracting authorities are not performing so well.

Table C.2: Top 20 contracting authorities by number of bids

<table>
<thead>
<tr>
<th>Contracting Authority</th>
<th>Contract Value Mean (LEK)</th>
<th>Contract Number</th>
<th>Sum of Contract values (LEK)</th>
<th>Number of bids mean</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drejtoria e Antiterrorit (Anti-Terror Directorate)</td>
<td>201,600.00</td>
<td>1</td>
<td>201,600.00</td>
<td>19.00</td>
</tr>
<tr>
<td>Qendra Kombetare Tranzitore Emergjencave Tirane (National Transition Center of Emergencies, Tirana)</td>
<td>368,000.00</td>
<td>1</td>
<td>368,000.00</td>
<td>17.00</td>
</tr>
<tr>
<td>Inspektoriati Shteteror Shendetesor Tirane (State Health Inspectorate, Tirana)</td>
<td>197,296.00</td>
<td>1</td>
<td>197,296.00</td>
<td>17.00</td>
</tr>
<tr>
<td>Drejtoria Rajonale e OSHEE Elbasan (Regional Department of Albanian Power Energy Distributor, Elbasan)</td>
<td>1,897,881.82</td>
<td>11</td>
<td>20,876,700.00</td>
<td>16.55</td>
</tr>
<tr>
<td>Urdhri i Stomatologut (The Order of Dentists)</td>
<td>222,698.92</td>
<td>13</td>
<td>2,895,086.00</td>
<td>15.85</td>
</tr>
<tr>
<td>Qendra e Zhvillimit Pellumbat</td>
<td>209,071.87</td>
<td>23</td>
<td>4,808,653.00</td>
<td>15.65</td>
</tr>
<tr>
<td>Contracting Authority</td>
<td>Contract Value Mean (LEK)</td>
<td>Contract Number</td>
<td>Sum of Contract values (LEK)</td>
<td>Number of bids mean</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------------------</td>
<td>--------------------------</td>
<td>-----------------</td>
<td>-----------------------------</td>
<td>---------------------</td>
</tr>
<tr>
<td>Tirane (“Pigeons” Development Center, Tirana)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Agjencia per Zbatimin e Reformes Territoriale (Agency for Implementation of Territorial Reform)</td>
<td>303,437.33</td>
<td>27</td>
<td>8,192,808.00</td>
<td>15.19</td>
</tr>
<tr>
<td>Zyra Vendore e Regjistrimit te Pasurive te Paluajtshme Gramsh (Regional Office of Immovable Property Registration, Gramsh)</td>
<td>263,080.00</td>
<td>5</td>
<td>1,315,400.00</td>
<td>14.80</td>
</tr>
<tr>
<td>Agjencia e Zhvillimit te Territorit (Agency for Territorial Development)</td>
<td>290,519.50</td>
<td>6</td>
<td>1,743,117.00</td>
<td>14.50</td>
</tr>
<tr>
<td>Shtepia e Femijeve 6-14 vjec Tirane (6-14 years Children’s House)</td>
<td>389,377.78</td>
<td>9</td>
<td>3,504,400.00</td>
<td>14.11</td>
</tr>
<tr>
<td>Shkolla e Mesme e Gjuheve te Huaja Asim Vokshi Tirane (Foreign Language High School “Asim Vokshi”)</td>
<td>174,922.22</td>
<td>9</td>
<td>1,574,300.00</td>
<td>13.78</td>
</tr>
<tr>
<td>Institucioni i Ekzekutimit Te Vendimeve Penale Rrogozhine (Institution for legal Decision Enforcement, Rrogozhine)</td>
<td>145,150.95</td>
<td>22</td>
<td>3,193,321.00</td>
<td>13.55</td>
</tr>
<tr>
<td>Shtepia e te Moshuarve Tirane (Old’s People Hostel, Tirana)</td>
<td>174,178.62</td>
<td>34</td>
<td>5,922,073.00</td>
<td>13.47</td>
</tr>
<tr>
<td>Ndermarria e Ujesellesit Vau-Dejes (Water Enterprise, Vau-Dejes)</td>
<td>291,394.67</td>
<td>3</td>
<td>874,184.00</td>
<td>13.33</td>
</tr>
<tr>
<td>Institucioni i Ekzekutimit Te Vendimeve Penale Fushe Kruje</td>
<td>161,248.75</td>
<td>44</td>
<td>7,094,945.00</td>
<td>13.09</td>
</tr>
<tr>
<td>Contracting Authority</td>
<td>Contract Value Mean (LEK)</td>
<td>Contract Number</td>
<td>Sum of Contract values (LEK)</td>
<td>Number of bids mean</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------------------</td>
<td>---------------------------</td>
<td>-----------------</td>
<td>-----------------------------</td>
<td>---------------------</td>
</tr>
<tr>
<td>(Institution for legal Decision Enforcement, Fushe Kruje)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shkolla Tekniike Ekonomike Tirane (Technic-Economic School, Tirana)</td>
<td>151,993.21</td>
<td>19</td>
<td>2,887,871.00</td>
<td>12.47</td>
</tr>
<tr>
<td>Bashkia Rrogozhine (Municipality of Rrogozhina)</td>
<td>322,834.05</td>
<td>64</td>
<td>20,661,379.00</td>
<td>12.44</td>
</tr>
<tr>
<td>Inspektoriati Shteteri i Punes dhe Sherbimeve Shoqerore Tirane (State Inspectorate of Labor and Social Services, Tirana)</td>
<td>285,183.95</td>
<td>43</td>
<td>12,262,910.00</td>
<td>12.42</td>
</tr>
<tr>
<td>Reparti Ushtarak Nr.6630 Tirane (Military Unit Nr 6630, Tirana)</td>
<td>239,689.74</td>
<td>43</td>
<td>10,306,659.00</td>
<td>12.37</td>
</tr>
<tr>
<td>Drejtoria ALUIZNI Tirane – 1 (Directorate of Agency for Legalization, Urbanization and Integration of Informal Areas / Constructions, Tirana)</td>
<td>547,084.04</td>
<td>23</td>
<td>12,582,933.00</td>
<td>12.35</td>
</tr>
</tbody>
</table>

Table C.3: Values and number of contracts and mean number of bids by procedure

<table>
<thead>
<tr>
<th>Procedure</th>
<th>Contract Value Mean (LEK)</th>
<th>Contract Number</th>
<th>Sum of Contract values (LEK)</th>
<th>Number of bids mean</th>
</tr>
</thead>
<tbody>
<tr>
<td>Small Value</td>
<td>140,427.15</td>
<td>75259</td>
<td>10,568,406,795.86</td>
<td>5.45</td>
</tr>
<tr>
<td>Open Local</td>
<td>25,575,465.90</td>
<td>4130</td>
<td>105,626,674,153.85</td>
<td>4.06</td>
</tr>
<tr>
<td>Open INT</td>
<td>245,346,258.03</td>
<td>31</td>
<td>7,605,733,999.00</td>
<td>3.52</td>
</tr>
</tbody>
</table>
There is some significant variation in the level of competition by type of procedure.

Table C.4: Values and number of contracts and mean number of bids by contract type

<table>
<thead>
<tr>
<th>Contract type</th>
<th>Contract Value Mean (LEK)</th>
<th>Contract Number</th>
<th>Sum of Contract values (LEK)</th>
<th>Number of bids mean</th>
</tr>
</thead>
<tbody>
<tr>
<td>Works</td>
<td>9,464,391.99</td>
<td>6990</td>
<td>66,156,100,023.33</td>
<td>6.11</td>
</tr>
<tr>
<td>Supplies</td>
<td>753,366.80</td>
<td>59098</td>
<td>44,522,471,260.40</td>
<td>5.24</td>
</tr>
<tr>
<td>Services</td>
<td>1,301,632.99</td>
<td>20776</td>
<td>27,042,727,096.71</td>
<td>4.74</td>
</tr>
</tbody>
</table>

There is some significant variation in the level of competition by type of contract, though this may be a function of the size of contracts.

Analysis of difference between the Limit Fund and the contract award amount (winner score):

Table C.5: Difference between the Limit Fund and the contract award amount by contract value range

<table>
<thead>
<tr>
<th>Contract value</th>
<th>Difference %</th>
</tr>
</thead>
<tbody>
<tr>
<td>(0, 50000]</td>
<td>32.09</td>
</tr>
<tr>
<td>(50000, 100000]</td>
<td>30.63</td>
</tr>
</tbody>
</table>
Smaller contracts tend to see a much bigger difference between the contract award and the Limit Fund.

Table C.6: Difference between the Limit Fund and the contract award amount by different procedures each year

<table>
<thead>
<tr>
<th>Procedure/(Difference %)</th>
<th>Year</th>
<th>Open INT</th>
<th>Open Local</th>
<th>Request for Proposals</th>
<th>Small Value</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2012</td>
<td>-</td>
<td>3.78</td>
<td>18.59</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>2013</td>
<td>76.98</td>
<td>15.50</td>
<td>18.69</td>
<td>23.73</td>
</tr>
<tr>
<td></td>
<td>2014</td>
<td>29.27</td>
<td>15.10</td>
<td>19.01</td>
<td>32.75</td>
</tr>
<tr>
<td></td>
<td>2015</td>
<td>58.09</td>
<td>15.92</td>
<td>16.19</td>
<td>39.27</td>
</tr>
</tbody>
</table>
Figure C.10: Difference between the Limit Fund and the contract award amount by different procedures each year

Table C.7: Difference between the Limit Fund and the contract award amount by contracting authority

<table>
<thead>
<tr>
<th>Contracting Authority</th>
<th>Mean Value (LEK)</th>
<th>No. Contracts</th>
<th>Sum (LEK)</th>
<th>Number of bids mean</th>
<th>Difference %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Autoriteti Rrugor Shqiptar (Albanian Road Authority)</td>
<td>139,011,694.24</td>
<td>136</td>
<td>18,905,590,416.05</td>
<td>6.26</td>
<td>22.17</td>
</tr>
<tr>
<td>Ministria e Shendetise (Ministry of Health)</td>
<td>10,175,006.72</td>
<td>713</td>
<td>7,254,779,791.60</td>
<td>2.69</td>
<td>15.31</td>
</tr>
<tr>
<td>Ministria e Puneve te Brendshme (Ministry of Internal Affairs)</td>
<td>20,366,536.53</td>
<td>274</td>
<td>5,580,431,009.10</td>
<td>4.49</td>
<td>24.83</td>
</tr>
<tr>
<td>Name</td>
<td>Revenue 2009</td>
<td>Employees</td>
<td>Liabilities 2009</td>
<td>ROA</td>
<td>ROI</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>--------------</td>
<td>-----------</td>
<td>------------------</td>
<td>-------</td>
<td>--------</td>
</tr>
<tr>
<td>Operatori i Shperndarjes se Energjise Elektrike - OSHEE (Albanian Power Energy Distributor)</td>
<td>39,053,751.09</td>
<td>128</td>
<td>4,998,880,139.00</td>
<td>6.46</td>
<td>27.10</td>
</tr>
<tr>
<td>Bashkia Tirane (Tirana Municipality)</td>
<td>12,801,944.70</td>
<td>337</td>
<td>4,314,255,364.50</td>
<td>4.36</td>
<td>24.97</td>
</tr>
<tr>
<td>Fondi Shqiptar i Zhvillimit (Banka Boterore) (Albanian Development Fund – World Bank)</td>
<td>15,009,728.40</td>
<td>255</td>
<td>3,827,480,741.00</td>
<td>5.00</td>
<td>22.50</td>
</tr>
<tr>
<td>Operatori i Sistemit te Transmetimit OST (Operator of Transmission System)</td>
<td>29,426,815.00</td>
<td>129</td>
<td>3,796,059,139.00</td>
<td>7.43</td>
<td>28.18</td>
</tr>
<tr>
<td>SH.A Ujesjelles Kanalizime Tirane (Water and Sanitation Ltd, Tirana)</td>
<td>9,195,656.72</td>
<td>365</td>
<td>3,356,414,702.00</td>
<td>5.45</td>
<td>26.03</td>
</tr>
<tr>
<td>ALBCONTROL SH.A. (ish A.N.T.A) (ALBCONTROL Ltd – former ANTA)</td>
<td>8,387,851.49</td>
<td>311</td>
<td>2,608,621,814.00</td>
<td>4.74</td>
<td>23.33</td>
</tr>
<tr>
<td>Agjencia Kombetare e Shqerise se Informacionit (National Agency of Information Society)</td>
<td>21,799,167.31</td>
<td>105</td>
<td>2,288,912,567.16</td>
<td>5.09</td>
<td>32.31</td>
</tr>
<tr>
<td>Agency Name</td>
<td>Limit Fund</td>
<td>Contract Award</td>
<td>Difference (% between Limit Fund and Contract Award)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>----------------------------------------------------------------------------</td>
<td>------------</td>
<td>----------------</td>
<td>------------------------------------------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drejtoria e Rajonit Verior Shkodër (Directorate of North Region, Shkodër)</td>
<td>26,156,142.0</td>
<td>2,170,959,787.7</td>
<td>4.87, 7.72</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drejtoria e Pergjithshme e Ujesjelles Kanalizimeve Tirane</td>
<td>50,148,127.87</td>
<td>1,955,776,987.0</td>
<td>7.90, 29.50</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bashkia Durres (Durres Municipality)</td>
<td>8,151,890.31</td>
<td>1,923,846,112.0</td>
<td>7.36, 36.55</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Qendra Spitalore Universitare Nene Tereza Tirane (“Mother Theresa”</td>
<td>5,685,026.63</td>
<td>1,705,507,988.7</td>
<td>3.63, 13.56</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Komanda Mbeshtetese, Reparti Ushtarak Nr. 4001 (Supporting Command,</td>
<td>14,471,086.13</td>
<td>1,606,290,560.0</td>
<td>6.59, 27.78</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ministria e Arsimit dhe Shkences (Ministry of Science and Education)</td>
<td>12,642,374.35</td>
<td>1,517,084,922.0</td>
<td>5.21, 22.15</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bashkia Korce (Korca Municipality)</td>
<td>4,438,296.31</td>
<td>1,415,816,521.3</td>
<td>3.43, 27.02</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bashkia Vlore (Vlora Municipality)</td>
<td>3,446,340.34</td>
<td>1,368,197,116.0</td>
<td>4.39, 32.86</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sh.A Albpetrol (Albpetrol Ltd)</td>
<td>1,706,603.58</td>
<td>1,339,683,808.2</td>
<td>4.18, 33.72</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Table C.8: Difference between the Limit Fund and the contract award amount by procedure
<table>
<thead>
<tr>
<th>Procedure</th>
<th>Mean Value (LEK)</th>
<th>Number of contracts</th>
<th>Sum Value (LEK)</th>
<th>Median Value (LEK)</th>
<th>Number of bids</th>
<th>Number of bids median</th>
<th>Difference % mean</th>
<th>Difference % median</th>
</tr>
</thead>
<tbody>
<tr>
<td>Open Local</td>
<td>25,566,869.08</td>
<td>4126</td>
<td>105,488,901,807.85</td>
<td>8,027,507.50</td>
<td>4.05</td>
<td>3</td>
<td>15.31</td>
<td>5.41</td>
</tr>
<tr>
<td>Request for</td>
<td>1,827,669.53</td>
<td>7440</td>
<td>13,597,861,333.73</td>
<td>1,211,823.00</td>
<td>3.15</td>
<td>2</td>
<td>18.10</td>
<td>7.40</td>
</tr>
<tr>
<td>Proposals</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Small Value</td>
<td>134,649.71</td>
<td>75083</td>
<td>10,109,904,162.86</td>
<td>81,265.00</td>
<td>5.50</td>
<td>4</td>
<td>32.35</td>
<td>24.24</td>
</tr>
<tr>
<td>Open INT</td>
<td>245,346,258.03</td>
<td>31</td>
<td>7,605,733,999.00</td>
<td>46,091,629.00</td>
<td>3.52</td>
<td>3</td>
<td>43.80</td>
<td>15.28</td>
</tr>
</tbody>
</table>

Small value contracts see significantly a greater difference between the cost estimate (Limit Fund) and the contract award price (winner score).

| Table C.91: Difference between the Limit Fund and the contract award amount by contract type |
|----------------------------------------|------------------|------------------|------------------|------------------|
|                                       | Winner Score     | Number of bids   | Difference %     |                   |
| Contract type                         | Mean (LEK)       | Sum (LEK)        | Median (LEK)     | mean  | median | mean | median |
| Works                                 | 9,457,854.49     | 66,015,824,324.33 | 365,111.00      | 6.14  | 5      | 29.45 | 22.83 |
| Supplies                              | 747,757.67       | 44,096,765,266.40 | 87,000.00       | 5.28  | 4      | 30.81 | 21.51 |
| Services                              | 1,287,621.17     | 26,689,811,712.71 | 99,999.00       | 4.78  | 3      | 29.22 | 19.29 |
Analysis of time taken between stages of procurement

By procedure

Figure C.11: Number of days taken per procurement stage per procedure-all data
Figure C.12: Number of days taken per milestone per procedure used for works-ARA contracts only

It is clear from the above two figures that ARA takes longer than average with regards time from contract notice to the publication of contract award. This may indicate that ARA receives many complaints on their initial contract awards, or do not publish the award on time or delay signing contracts or/and other reasons.

Organization types

Table C.10: Expenditure and contracts by type of procuring organization (works only)

<table>
<thead>
<tr>
<th>Type</th>
<th>Expenditure (LEK)</th>
<th>% expenditure</th>
<th># contracts</th>
<th>% contracts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cultural facilities</td>
<td>80,859,490</td>
<td>0.1</td>
<td>102</td>
<td>1.4</td>
</tr>
<tr>
<td>Educational facilities</td>
<td>1,357,788,645</td>
<td>2.1</td>
<td>131</td>
<td>1.9</td>
</tr>
<tr>
<td>Federations, clubs, associations</td>
<td>39,917,329</td>
<td>0.1</td>
<td>58</td>
<td>0.8</td>
</tr>
<tr>
<td>Health facilities</td>
<td>380,591,760</td>
<td>0.6</td>
<td>354</td>
<td>5.0</td>
</tr>
<tr>
<td>Judicial facilities</td>
<td>286,886,545</td>
<td>0.4</td>
<td>106</td>
<td>1.5</td>
</tr>
<tr>
<td>Ministry</td>
<td>21,291,691,187</td>
<td>32.2</td>
<td>232</td>
<td>3.3</td>
</tr>
<tr>
<td>Other</td>
<td>6,226,622,296</td>
<td>9.4</td>
<td>253</td>
<td>3.6</td>
</tr>
<tr>
<td>Region, County, Municipality</td>
<td>29,178,359,208</td>
<td>44.1</td>
<td>5146</td>
<td>73.1</td>
</tr>
</tbody>
</table>
State Owned Enterprises (SOEs) Analysis

There are a total of 201 State Owned Enterprises (SOEs) in the e-procurement dataset.

Table C.12: Top 10 SOEs procuring value

<table>
<thead>
<tr>
<th>SOE</th>
<th>Value (LEK)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operatori i Sistemit te Transmetimit OST (Operator of Transmission System)</td>
<td>3,827,480,741</td>
</tr>
<tr>
<td>Company Name</td>
<td>Value (Albanian LEK)</td>
</tr>
<tr>
<td>------------------------------------------------------------------------------</td>
<td>----------------------</td>
</tr>
<tr>
<td>Corporation Ltd, Tirana)</td>
<td></td>
</tr>
<tr>
<td>SH.A Ujesjelles Kanalizime Tirane (Water and Sanitation Ltd, Tirana)</td>
<td>3,356,676,506</td>
</tr>
<tr>
<td>ALBCONTROL SH.A. (ish A.N.T.A) (ALBCONTROL Ltd – former ANTA)</td>
<td>2,608,621,814</td>
</tr>
<tr>
<td>Komanda Mbeshtetese, Reparti Ushtarak Nr. 4001 (Supporting Command, Military</td>
<td>1,606,290,560</td>
</tr>
<tr>
<td>Unit Nr 4001)</td>
<td></td>
</tr>
<tr>
<td>Sh.A Albpetro (Albpetro Ltd)</td>
<td>1,340,116,008</td>
</tr>
<tr>
<td>Sh.A Ujesjelles Kanalizime Durres (Water and Sanitation Ltd, Durres)</td>
<td>1,046,953,787</td>
</tr>
<tr>
<td>Sh.A Posta Shqiptare (Albanian Posts Ltd)</td>
<td>810,804,164</td>
</tr>
<tr>
<td>Njesia e Prodhiste HEC Fierze (Production Unit, Hydro-Electro Central, Fierze)</td>
<td>633,241,740</td>
</tr>
<tr>
<td>Hekurudha Shqiptare sh.a (Albanian Railways Ltd)</td>
<td>274,301,445</td>
</tr>
</tbody>
</table>

**Analysis of potentially competitive contracts**

This analysis is based on contracts information from the Albanian procurement system that were open to competition (i.e. there was a request for tender). It includes contracts where there was only a single bidder but excludes direct procurement.

**Analysis of Public Works Contracts**

Looking just at works contracts, the distribution of works contracts has a very wide range, see Figure below.
Figure C.13: Number of contracts vs. contract value

Competitiveness of Public Works Contracts
The key characteristics of all works contracts with 1 bidder, 2 bidders, 3 or more is presented below. This table allows us to look at competitiveness at the LEK level rather than just the contract level. Looked at this way, just over half of funds spent in works contracts are decided competitively (2 or more bidders). This reflects the fact that the larger contracts make up a large share of works spending and also tend to be more competitive.

Table C.23: Competitiveness of all works contracts by number and value (LEK)
Table C.14: Percentage of works contracts procurement with more than 3 bidders by contracting authority

<table>
<thead>
<tr>
<th>Contracting Authority</th>
<th>Value (%)</th>
<th>&gt;3 bidders</th>
</tr>
</thead>
<tbody>
<tr>
<td>Autoriteti Rrugor Shqiptar</td>
<td></td>
<td>29.5</td>
</tr>
<tr>
<td>Fondi Shqiptar i Zhvillimit</td>
<td></td>
<td>91.0</td>
</tr>
<tr>
<td>Bashkia Tirane</td>
<td></td>
<td>41.7</td>
</tr>
<tr>
<td>SH.A Ujesjelles Kanalizime Tirane</td>
<td></td>
<td>15.9</td>
</tr>
<tr>
<td>Operatori i Shperndarjes se Energji</td>
<td></td>
<td>58.8</td>
</tr>
<tr>
<td>Drejtoria e Pergjithshme e Ujesjell</td>
<td></td>
<td>91.9</td>
</tr>
<tr>
<td>Operatori i Sistemit te Transmetimi</td>
<td></td>
<td>16.1</td>
</tr>
<tr>
<td>Bashkia Durres</td>
<td></td>
<td>95.9</td>
</tr>
<tr>
<td>Bashkia Korce</td>
<td></td>
<td>20.4</td>
</tr>
<tr>
<td>Sh.A Korporata Elektroenergjitike S</td>
<td></td>
<td>73.4</td>
</tr>
</tbody>
</table>

In terms of competitiveness across different categories of e-tenders we find that public works contracts are substantially more competitive (mean number of works bids in the e-tender data is 6.1, see table below).

Table C.15: Number of bidders for different categories of procurement (e-tenders only)

<table>
<thead>
<tr>
<th></th>
<th>Services</th>
<th>Supplies</th>
<th>Works</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. of Bidders</td>
<td>4.7</td>
<td>5.2</td>
<td>6.1</td>
</tr>
</tbody>
</table>

The mean number of works bids in the e-tender data is 6.1. Out of the 7,043 works-related contracts in the e-tender dataset 993 have only one bidder (14.1%), 991 have two bidders, and 840 have three bidders. The figure below shows the distribution of the number of bidders in works tenders.
Although larger contracts do appear to attract more competition on average, several of them are still relatively uncompetitive. Looking at the 30 largest works contracts, 2 were uncontested. This suggests that there is still substantial room for further competition in large works contracts, although the majority are subject to competition.

Table C.16: Average difference between Limit Fund and contract award amount per contract and per category (in %, e-tenders only)

<table>
<thead>
<tr>
<th></th>
<th>Services</th>
<th>Supplies</th>
<th>Works</th>
</tr>
</thead>
<tbody>
<tr>
<td>Difference</td>
<td>29.9</td>
<td>31.1</td>
<td>29.6</td>
</tr>
</tbody>
</table>

Table C.17: Top works procuring organizations (number of e-procurement contracts)

<table>
<thead>
<tr>
<th>Procuring organization</th>
<th>Num. contracts</th>
<th>% of all e-procurement contracts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bashkia Sarande (Saranda Municipality)</td>
<td>139</td>
<td>2.0</td>
</tr>
<tr>
<td>Bashkia Shkoder (Shkoder Municipality)</td>
<td>101</td>
<td>1.4</td>
</tr>
<tr>
<td>Bashkia Tirane (Tirana Municipality)</td>
<td>89</td>
<td>1.3</td>
</tr>
<tr>
<td>Bashkia Teplene (Teplene Municipality)</td>
<td>71</td>
<td>1.0</td>
</tr>
<tr>
<td>High Council of Justice LEPL-D (High Council of Justice LEPL-D)</td>
<td>71</td>
<td>1.0</td>
</tr>
<tr>
<td>Organization</td>
<td>Score</td>
<td>Impact</td>
</tr>
<tr>
<td>---------------------------------------------------------------</td>
<td>-------</td>
<td>--------</td>
</tr>
<tr>
<td>Komuna Qender Erseke (Erseke Center Municipality)</td>
<td>63</td>
<td>0.9</td>
</tr>
<tr>
<td>Bashkia Durres (Durres Municipality)</td>
<td>57</td>
<td>0.8</td>
</tr>
<tr>
<td>Fondi Shqiptar i Zhvillimit (Banka (Albanian Development Fund – World Bank)</td>
<td>57</td>
<td>0.8</td>
</tr>
<tr>
<td>Bashkia Gjirokaster (Gjirokaster Municipality)</td>
<td>54</td>
<td>0.8</td>
</tr>
</tbody>
</table>
ANNEX D: CENTRALIZATION VS. DECENTRALIZATION OF WORLD BANK’S PROJECT IMPLEMENTATION

I. Government Proposal:

GoA concerns: The Prime Minister’s office and Ministry of Finance expressed their concerns over the poor utilization/absorption of foreign funds. They indicated that several ministries are not meeting their public service delivery mandate, mainly because of inefficient management of the project implementation and delayed procurement process. This delay may be due to one or a combination of the following: lack of required skills, insufficient capacity to manage procurement, and inadequate supervision and monitoring.

GoA proposal - Consolidate Procurement (CFCU and ADF): To address the delay in implementation, the Prime Minister’s Office is considering a plan to move the procurement management function out of line ministries and assign it to a dedicated agency. The GoA proposes to utilize CFCU at the central level and ADF at the regional and sub-national levels for procurement and contract implementation tasks.

II. Bank Team’s Review:

Bank’s support for attaining development results: With the fast changing global economic environment, timely implementation of Bank-financed projects is becoming more critical to achieve the overarching development goals of the country. The Bank’s aim is to build country systems with all internal control mechanisms, so that the Bank can rely on the country systems for use of its own resources. To that end, the role of the sector ministries is pivotal as they have the ultimate responsibility for delivering good quality services to the citizens on behalf of the Government. The shift in the role of the line ministries in implementing their respective sectoral projects may be perceived as an attempt to undermine their mandate, ownership, and credibility. The Bank also recognizes the need to introduce new measures to expedite project implementation.

Slow progress of implementation: The Bank shares GoA’s concern over poor utilization of the funds. A brief review of the portfolio shows that slow implementation of Bank projects may be attributed to several factors that could be grouped into three main categories: (1) Technical, including procurement as well as issues that are purely sector-related like land acquisition, technical specifications, safeguards; (2) Unclear lines of responsibilities within the ministries and this, in return, affects the accountability and decision making throughout the procurement process and (3) External/Internal aspects in the procurement process.
Current procurement arrangement under Bank financed projects: Under the existing project implementation arrangements for Bank-financed projects, Ministries and/or Directorates are directly responsible for project implementation, mostly through Project Management Unit (PMU). Core fiduciary skills of GoA staff and/or consultants are built into the PMU for carrying out procurement, financial management and overall implementation of the project. The technical input comes from the experts from the respective ministries as they are responsible for the delivery of the public services and ensuring their consistency with the development objectives.

CFCU structure: The proposed CFCU structure will be headed by a General Director, assisted by two Directors and other officials. CFCU is proposed to expand its current number of positions (a total of 17 with only 12 positions being currently filled) to a total of 34 staff. The first Director will be responsible for EU funds and will comprise 24 officials while the second Director will be responsible for the World Bank and other donor-funded projects and will comprise 9 officials. Currently, the CFCU is implementing mostly EU-funded activities with a total value of ~$17 million annually, which consists largely of consultancy services, small works and office equipment. The CFCU also administers some of the World Bank Trust Funds (TF), mostly dealing with consultancy services. With respect to the implementation of such activities, we think that the CFCU currently has neither the experience in handling large infrastructure projects and specialized procurement of goods, nor expertise with the Public Procurement Law/Rules (PPL/PPR) that are mostly used in procurement under procedures for shopping and national competitive bidding.

CFCU role in Bank Funded Projects: Out of the 9 positions in the proposed CFCU structure, 4 positions will be of Procurement Specialists. As mentioned above, the CFCU has neither the capacity nor the specialty to deal with large infrastructure contracts and/or large value goods contracts, for conducting procurement under the Bank’s current portfolio of ~$540 million. Also, presently, the following key elements concerning the CFCU are unclear: (i) CFCU role, meaning whether it will carry out procurement process only up to the contract award or it will also include contract implementation; (ii) how long will it take to have the proposed CFCU fully operational with its new proposed structure and staffing; (iii) what will the relationship between CFCU and the line ministries be; (iv) who will be responsible for the technical input and how will this input be coordinated if the line ministries are to be involved; (v) how the ownership of the line ministries will be retained; (vi) who will actually be responsible for quality assurance; (vii) what will the accountability mechanism of the CFCU and line ministries be; and (viii) how will the complaints handling mechanism and dispute resolution in contract implementation function.

Possible Implications: There is a concern about whether shifting procurement and/or contract implementation responsibilities from the ministry to the CFCU will only shift the problem simply from one place to the other with added complexities and without much acceleration of the procurement process and contract implementation. The team emphasizes that experience of consolidated procurement outside line ministries has yielded mixed results. For example, in a neighboring country, Montenegro, such a structure has created huge delays in project implementation. Similarly, in Mongolia, consolidated procurement initially generated a lot of interest, however over time, within two years,
because of the inherent issue of ownership, the number of contracts in the consolidated structure decreased from 450 to only 140.

**Review of ADF:** As part of the mission, the Bank team also reviewed the structure of ADF that was established in the mid-1990s with the assistance of World Bank funds. It appears to have substantial experience in dealing with infrastructure contracts, especially at regional and local levels. It has over 70 staff and a set structure with skilled technical and procurement staff. The ADF has successfully managed and implemented the Bank-financed project “Secondary roads,” which closed in 2014. From a purely technical perspective, in our view, the ADF seems to have the capacity to manage large contracts relating to infrastructure. However, there will be a need to establish the coordination mechanism between the concerned line ministries and the ADF, if such delegated model through ADF is considered.

**Central Purchasing Body (CPB):** As per the PPL, when more than one contracting authority (CAs) need the same kind of works, goods and services, they may: (a) use CPB to carry procurement on their behalf; and (b) assign one of the CAs the task of procuring on behalf of the others with the authorization from the Council of Minister. In our view, there is a need for broader understanding of CPB role. The GoA may consider carrying out a detailed structural review of CPB function in a way that any initiative to consolidate procurement of line ministries is within the provision of the PPL as it is the governing procurement legislation of the country.

**Public Procurement of Albania and Electronic Government Procurement (e-GP):** Albania has a world-class Public Procurement Law (PPL) with Rules and secondary legislations. The PPA is an independent body regulating the public procurement function in the country. Since 2009, Albania has had an established e-GP system that is used by public sector agencies. The Bank team confirms that the country’s e-GP system is acceptable for use under Bank-financed projects for NCB and shopping procedures. It emphasizes that the e-GP system in itself may enhance substantially the transparency and efficiency of the procurement process with much less human intervention, including minimizing inappropriate bidding practices.

**III. Options for improved procurement management:**

The team reiterates that the ultimate procurement objectives under Bank-financed projects are identical to those of public procurement using Government own resources, for which procurement is considered as a development function. Both procurement systems focus on the overarching function of supporting development effectiveness, value for money, integrity and sustainability. The team reviewed the following options, taking into account the legal framework, the institutional capacity and staff skills.

**A. OPTION 1: High Level Monitoring of Procurement**

- The line ministries will continue to manage the procurement function with current arrangements through PMU for World Bank-financed projects, but with a strong monitoring and supervision mechanism directly from the Prime Minister’s Office.
A High Level Monitoring Task Force (HLMTF) chaired by the Deputy Prime Minister will monitor the procurement process and contract implementation for large value contracts (e.g., five large contracts) in each project. This should be a dynamic list that is updated regularly. The HLMTF will have procurement and contract management monitoring experts with good understanding of the World Bank procurement procedures.

The Office of General Vice-Secretary and Director of the Department of Development, Strategy and Foreign Assistance Program will provide the Secretariat support to HLMTF.

The HLMTF will meet regularly, at least once a month. The time-bound procurement plan and contract implementation plan for those identified key contracts will form the basis of monitoring.

HLMTF will monitor the progress of those key contracts in terms of procurement process, contract implementation, and financial progress, identify impediments, if any, and provide guidance to the line ministries for implementation of suggested actions.

Each meeting of HLMTF will submit a report to the Prime Minister’s Office and the Strategic Planning Committee (SPC), with a copy of the report submitted to the Bank.

This option will keep the focus on the sector specificity and preserve the ownership and credibility of the line ministries, as well as emphasizing the accountability of these ministries for the delivery of the sector-related services to the citizens.

B. OPTION 2: CFCU – ADF Model

This is in accordance with the GoA’s proposal for the procurement arrangement of the Bank-financed projects with a slight modification. The key elements could be as follows:

**CFCU model: for goods and consultancy services:**

- The CFCU may be assigned with the task of managing the entire procurement process (from invitation up to the contract award following the procurement plan), only under the condition of having the revised CFCU structure fully operational with skilled staff in the relevant fields.
- The CFCU will need to have procurement staff with experience in the procurement of goods and consultancy services.
- Draft technical specifications/terms of references will be provided by the line ministries while the CFCU will be responsible for preparing the bidding documents with qualification requirements, after having carried out proper market analysis for the respective goods and/ or consultancies.
- The CFCU will have evaluation committees comprised of no more than five members with experts from within the CFCU, line ministries, and external experts.

ADF model: for infrastructure/civil works:

- The ADF will be assigned with the task of managing the entire: (i) procurement process with the preparation of technical specifications, bills of quantities, estimates, bidding documents with qualification requirements after conducting necessary market study of the construction industry, evaluations, and award; and (ii) contract management and implementation, including payments.
- The ADF will ensure that for each contract, the right staff is allocated with necessary skills at all stages of procurement including contract management and administration.
- The ADF will have evaluation committees comprised of no more than five members with experts from within the ADF, line ministries, and external experts having very good understanding of the World Bank Guidelines and Public Procurement Laws of Albania, as appropriate.
- The ADF will submit quarterly progress reports to the line ministries with a copy submitted to the Bank.

The Bank has serious concerns about the effectiveness of this option as it weakens the ministry ownership over their investments, and consequently blurs the accountability for the quality and the timeliness of service delivery. The key technical input will still be needed from the technical experts of the ministries, necessitating a close coordination and clear distribution of roles and responsibilities between the CFCU-ADF and the line ministries which in practice may prove to be very challenging.

C. OPTION 3: Hybrid Model (line ministries and ADF)

Applicable for the existing Bank-financed projects. Key features are listed below:

- Line ministries will use the ADF services as their technical arm, specifically for the purpose of monitoring the procurement process as well as contract management/implementation.
- Line ministries will prepare draft terms of reference (ToR) to use ADF services with necessary clearance from the Bank.
- The ADF and line ministries will enter into a Memorandum of Understanding (MOU) and/or a protocol in consultation with the Bank for carrying out its task.
- The ADF will ensure that a full set of expertise is in place for conducting the procurement process and contract implementation monitoring with the information shared up-front with the Bank.
- The ADF will develop a set of monitoring indicators by activity, taking into account the result monitoring framework of the project, and will carry out the monitoring tasks based on those indicators.
• The ADF will submit bi-monthly reports to the line ministries and the Deputy Prime Minister, with a copy submitted to the Bank.

This option will maintain the line ministry ownership, and simultaneously benefit from the ADF experience as it has a proven track record in implementing large works contracts.

D. OPTION 4: Pilot New Approach for Pipeline Projects (CFCU-ADF model) while improving the performance of the ongoing ones.

This option encompasses the provisions of Option 1 and the following provisions for two projects in the pipeline.

• There will be a GoA-Bank joint team for the preparation of the project with representatives from the concerned line ministry, CFCU, ADF and the Bank, as appropriate, in order to ensure a single streamlined approach.
• The GoA may initiate advance procurement either through CFCU or ADF, as appropriate, for the key contracts identified during project appraisal.
• This option may be implemented and closely monitored during the upcoming two years. The concerns mentioned under option 2 remain valid. However, the risks may be mitigated by the fact that the design and the implementation arrangement of the pilot projects will clearly identify the governance structure of project implementation and the ministry role vis-a-vis the (CFCU - ADF) agency.

Global Experience on Procurement Management
To clarify the context of various implementation modalities, what follows is a collection of global experience across Bank regions, including opportunities and challenges of the possible consolidated procurement arrangement. There are several models of procurement arrangements: (i) centralized procurement for certain types of commonly procured goods and pharmaceuticals through framework contracts (such as India, Jordan); (ii) processing procurement through a centralized body using fully electronic government procurement (e-GP) system (Korea, Turkey, Portugal); (iii) partial ring-fencing of the procurement process for large value contracts up to contract award using services of an independent panel of experts; however, contract administration and management are done by line ministries (Philippines, Bangladesh,); and (iv) full ring-fencing of Bank-financed investment projects for the procurement of goods, works and consultancy services by a Government body outside line ministries (mainly in conflict-affected countries).

This brief covers global experiences in managing procurement issues both for specific project implementation and building country systems with their own internal control mechanisms.
• A. Risk-based project approach that is mostly ad-hoc specific to certain sectors and conditions, essentially short-medium-term to address immediate problems; and
• B. System-building approach for creating a sustainable public procurement environment in the country with its own internal control mechanism to address generic systemic issues.

A. Risk-based Project Approach

PHILIPPINES:

Risks and impediments: High risk/ large value/ complex contracts: significant procurement delays; contract variations and overpricing; potential diversion/ misuse of funds; random use of inappropriate procurement procedures/ methods; integrity issues; inadequate capacity.

Implementing Agencies (IA): Department of Public Works and Highways; National Road Improvement and Management Program.

Agreed Procurement Arrangements: As part of business modernization and corporate re-engineering combined with sector reforms, special procurement arrangements were used:

• Independent Procurement Evaluations (IPE): An independent evaluation of bids is carried out in parallel to the IA’s formal evaluation of bids by its Bids and Award Committees (BAC). IA will have the full responsibility and accountability for conducting procurement and managing the implementation of contract. However, IA shall clarify and respond to any differences raised by the independent evaluation before making a recommendation for award. Such a clarification shall form part of the minutes of the BAC-meeting and shall be included in the evaluation report. As a measure for transparency and external monitoring, the IPE shall also made available copy of the independent evaluation available to the World Bank.

• Integrity Oversight: Performance and effectiveness of the process integrity and anti-corruption measures is monitored using a result indicators framework with oversight by the senior management of IA, anti-graft commission and transparency board, and the financier and/or development partner.

INDIA:

Risks and impediments: Health Sector Goods - Conflict of interest of same agency doing procurement/ implementation/ supervision; poor technical specifications; low response due to cartel formation; false certificates; not awarding contract to lowest evaluated bidder; inappropriate packaging; failure to identify fraud and corruption indicators; poor complaint handling mechanism.
Implementing Agency/ Project: Ministry of Health and Family Welfare; Health Sector Project

Agreed Procurement Arrangement:

- **Centralized Procurement using Procurement Agent:** An internationally hired Procurement Agent carries out the entire procurement process up to the contract award for contracts over $100,000, with clearly defined quality assurance scheme at all phases. In combination, the Procurement Unit is strengthened with skilled staffing and training. Key actions include: use of generic and broad specifications, create a database of specifications; establish a procurement monitoring database; make WHO GMP Certificate mandatory for international procurement and checking its authenticity; pre- and post-delivery inspections; disclose deregistered pharmaceutical companies names in website; periodic verifications of drugs for quality and quantity.

- **Procurement Audit:** Procurement Audit carried out regularly based on post-procurement reviews and findings of review are closely monitored with follow-up actions.

**Bangladesh:**

Risks and impediments: High risk/ large value/ complex contracts: significant Procurement delays; possible high ticket corruption; use of discretion; integrity issues.

Implementing Agencies (IAs)/ Projects: Water Management Project; Coastal Embankment Improvement Project; Modern Food Shelters Project; Ghorashal Power Project; Water Development Board (BWDB); Power Development Board; Directorate General of Food.

Agreed Procurement Arrangement:

- **IPP- Model I: Independent Procurement Panel (IPP):** A panel consists of 3-5 individual experts comprising mostly international expertise (technical and procurement) with one local expert. IPP does not have public officials in it, and reports directly to the Head of implementing agency. The panel is empowered by the government to act on its behalf to carry out the entire procurement process starting invitation of bids up to the contract award. Implementing Agency (IA) provides the draft technical specification and bidding documents that are reviewed and finalized by the IPP. Also, depending on the need, it provides procurement oversight during contract implementation.

- **IPP- Model II:** Similar to IPP- Model I, but includes one public official in it to align with government’s own internal process requirements.
• Integrated fiduciary reviews (IFR): IFR is conducted annually for post review contracts below certain thresholds (mainly NCBs) covering procurement, financial management, and technical including forensic elements in it. Review findings are closely followed up including providing remedies as well as improvement actions.

B. System-Building Approach

ITALY:

• Legislative Framework and Scope: The Procurement Function in Italy is regulated by Legislative Decree No. 163 of 12 April 2006 implementing the EU directives, with amendments in 2013 allowing: (a) the participation of small and medium enterprises (SMEs) in public tenders, and (b) the construction of public infrastructures on a project financing basis. As per EU directives, public procurement can be of works, supplies or services. The Public Procurement Code applies to the State, any regional or local authorities (or associations formed by local authorities), as well as any other bodies governed by public law. In addition six categories of private entities are subject to the Public Procurement Code’s requirements.

• Centralized Procurement and E-Procurement: CONSIP, a centralized purchasing body using e-procurement portal, with public company structure under the Ministry of Finance. The CONSIP (www.acquistinretepa.it) mainly focuses on the implementation of the “Program for the rationalization of public spending on Goods & Services,” and the main goal is the efficient use of public resources and the stimulation of competition. The MEPA (Electronic Marketplace for Public Administrations) was developed, acting as an e-Catalog, where Public Buyers can select goods offered by several suppliers, for purchases below the EU threshold and suppliers (and goods) are qualified according to the selection criteria stated in the Call for Qualification Notice

• Monitoring function: The monitoring function was ensured by the Authority for the Supervision of contracts for public works, services and supplies. The Authority had the main task for the supervision of contracts for public works, services and supplies in all areas in order to ensure compliance with the principles of transparency and fairness of the procurement tenders and compliance with competition rules in the procedures. A yearly report is prepared based on the monitoring activities, for the Government and the Parliament. Such reports were also published. Since 2014, the ASCP merged with the National Anti-Corruption Authority.

PORTUGAL:
• **Legislative Framework and Scope:** The Procurement Function in Portugal is regulated by the “Public Contracts Code” approved by Decree Law No. 18/2008 transposing the EU Directives. Regarding defense contracts, a specific legal framework is provided by Decree-Law No. 104/111. By 2012, the main goal was to improve the electronic side of procurement, including green IT Procurement, e-Services and Cloud Computing. As per EU directives, public procurement can be of works, supplies or services. The Public Contracts Code applies to the Portuguese State, Autonomous Regions, Local Authorities, Public Institutes, foundations and associations etc.

• **Centralized Procurement and E-Procurement:** The National System of Public Procurement (NSPP) was established in 2007, as part of a broader reform aiming at a new organization, professionalization and modernization of public procurement in Portugal. The NSPP management system is hybrid, comprising both a central purchasing entity – NAPP – and ministerial purchasing units (MPU) and purchasing entities, operating in a network. The NAPP launches international public tenders in categories of goods or services aiming to award framework agreements and leads centralized call off procedures for defined categories (vehicles and insurance) while MPUs call offs under the framework agreements for the categories, on behalf of the mandatory entities. In 2009, the use of e-tendering and e-awarding became mandatory and 2010 was the first full year of mandatory use of e-Public procurement. E-Procurement also comprises a fully operational e-Catalog (catalogo.espap.pt).

• **Monitoring function:** MPUs collect, validate and compile data on public purchasing from all entities operating under their respective Ministry. Additionally, Regulation No. 701-B/2008 creates the Advisory Committee in charge of monitoring application of the Public Contracts Code.

**KOREA:**

• **Centralized Procurement- e-GP (KONEPS):** It is the most integrated e-GP solution with centralized procurement, having end-to-end framework (one procuring entity) with a single portal that is integrated with all other 10 electronic government operations, including financial management systems, open standards, company registrations and tax systems. Of the total annual procurement volume of ~ $100 billion, over 75% of it goes through the portal, used by about 44,000 public entities and over 200,000 suppliers. Benefits include: (i) substantial cost savings per year: private sector (suppliers)- US$6.6 billion due to reduced visit, reduced staff cost, reduced paper work; public sector- US$ 1.5 billion due to reduced lead time, streamlined process, improved market access; (ii) increased efficiency- shortening the time from 30 hours to 2 hours for selecting the winning bidder, validating related docs and selecting the winning bidder; (iii) increased transparency- real
time information on-line of bidding results and contracts, objective bid evaluation with validated data, and informed decision making (traceable prices, specification & qualification criteria, reduced risks from information asymmetry).

**BANGLADESH:**

- **Procurement Legislations and Scope:** The country has primary and secondary legislations (Public Procurement Act/Rules - PPA 2006, PPR 2008) that are uniformly applicable for all public fund across the country. With reforms over a decade, it has a nodal procurement agency for regulating public procurement - Central Procurement Technical Unit- CPTU (www.cptu.gov.bd); an integrated e-GP system; extensive capacity development program, and social accountability actions for behavioral change.

- **Electronic Government Procurement (e-GP):** The country launched an integrated e-GP system through a single web portal (www.eprocure.gov.bd) in June 2011 and started piloting it in 2012. The system covers the entire spectrum of procurement of goods, works, and services starting with procurement planning to bid invitations, bid evaluations, contract award, contract implementation including payments, and performance measurement with indicators of efficiency, transparency and competitiveness. As of now, for nationally advertised NCB contracts, large agencies are using it, covering over $3 billion in procurement procedures through it and increasing exponentially, clearly showing visible improvement in terms of cost savings, curtail cut-down, efficiency of process, and competitiveness with transparency.

- **Capacity Development Program:** A comprehensive capacity development program is introduced covering national trainers/core procurement professionals and practitioners with 17 types of audiences (junior level officers to policy level including Members of Parliament) with an incentive program (Masters, international procurement accreditation-MCIPSUK). Over 15,000 persons have been trained.