Rwanda

Assessment of the Public Procurement System

Volume I - Main Report

Methodology for Assessing Procurement Systems (MAPS)

May 2020
Table of Contents

Volume I – Main Report

Table of Contents........................................................................................................ iii
Acknowledgements....................................................................................................... v
Acronyms ....................................................................................................................... 1

Chapter 1: Introduction................................................................................................. 3
   Strategic Context and Rationale of the Assessment.................................................. 3
   Development Objectives of the Assessment............................................................... 6
   Methodology of the Assessment................................................................................. 7

Chapter 2: Analysis of Country Context.................................................................... 10
   Political, Economic, and Geostrategic Situation of Rwanda.................................... 10
   The Public Procurement System and its Links with Public Financial Management and Public Governance System ................................................................. 13
   National Policy Objectives and Sustainable Development Goals.......................... 21
   Public Procurement Reform in Rwanda.................................................................... 21

Chapter 3: Assessment............................................................................................... 24
   Pillar I. Legal, Regulatory, and Policy Framework.................................................... 24
      Indicator 1: The public procurement legal framework achieves the agreed principles and complies with applicable obligations................................................................. 30
      Indicator 2: Implementing regulations and tools support the legal framework........ 41
      Indicator 3: The legal and policy frameworks support the sustainable development of the country and the implementation of international obligations......................... 42
   Pillar II. Institutional Framework and Management Capacity.................................. 44
      Indicator 4: The public procurement system is mainstreamed and well-integrated with the public financial management system........................................................ 46
      Indicator 5: The country has an institution in charge of the normative/ regulatory function.......................................................... 48
      Indicator 6: Procuring entities and their mandates are clearly defined.................... 50
      Indicator 7: Public procurement is embedded in an effective information system........ 51
      Indicator 8: The public procurement system has a strong capacity to develop and improve .................................................. 55
   Pillar III. Public Procurement Operations and Market Practices.............................. 58
      Indicator 9: Public procurement practices achieve stated objectives...................... 60
Indicator 10: The public procurement market is fully functional.........................................................61
Pillar IV. Accountability, Integrity, and Transparency of the Public Procurement System.....................63
Indicator 11: Transparency and civil society engagement strengthen integrity in public procurement ...64
Indicator 12: The country has effective control and audit systems.....................................................66
Indicator 13: Procurement appeals mechanisms are effective and efficient.......................................67
Indicator 14: The country has ethics and anti-corruption measures in place......................................69

Chapter 4: Consolidated Recommendations and Action Plan ..............................................................71

Pillar-wise Key Recommendations ........................................................................................................71
Pillar I - Legislative and Regulatory Framework ......................................................................................71
Pillar II - Institutional Framework and Management Capacity..............................................................72
Pillar III - Procurement Operations and Market Practices........................................................................72
Pillar IV - Accountability, Integrity, and Transparency of Public Procurement System..........................73

Summary of Recommendations ..............................................................................................................73
Action Plan on Key Recommendations ..................................................................................................74
Process of Validation .................................................................................................................................76

Volume II

Detailed Report - Indicator Matrix for Pillar I, II, III, IV: Covers Assessment Criteria, Qualitative Analysis,
Quantitative Analysis, Gap Analysis, Potential Red Flags, Initial Input for Recommendations as per
standard MAPS template

Volume III: Annexes:

I. Concept Note: This also includes composition of Steering Committee, list of key documents
reviewed and key websites, list of stakeholders consulted in mission, list of agencies for sample
cases, list of participants of validation workshop, minutes of steering committee meeting (Annex
1)

II. Additional material in support of assessment (Annex 2)

III. e- GP System in Rwanda: This contains challenges and recommendations (Annex 3)

IV. Voices from private sector- Results of Private Sector Survey (Annex 4)

V. Rwanda- Sample cases- Approach for sampling (Annex 5)

VI. Letter dated January 04, 2019 from MINECOFIN in support of MAPS assessment (Annex 6)

Executive Summary of the Report and Volume II and III will be separate volumes
Acknowledgements

The World Bank gratefully acknowledges the extensive cooperation and guidance from the Government of Rwanda, in particular the Ministry of Finance and Economic Planning (MINECOFIN), the MAPS Assessment Steering Committee (MASC) led Mr. Seminega Augustus, Director General of Rwanda Public Procurement Authority (RPPA), and other development partners, namely the African Development Bank and UK Department for International Development (DFID). The Assessment Team is grateful for inputs received from other officials of the Government of Rwanda, in particular from the entire team of the RPPA, Office of the Auditor General (OAG), Office of the Ombudsman, and 15 Procuring Entities (PEs) for sample cases (as listed in Volume III of the Report).

This MAPS Assessment was led Nagaraju Duthaluri, Lead Procurement Specialist as Task Team Leader, with Mulugeta Dinka, Senior Procurement Specialist, who based in Kigali acted as Co-Task Team Leader, and Dimitrie Mukanyiligira, Program Assistant, who provided support on the ground. The World Bank team was assisted by an Assessment Team hired by the World Bank consisting of Devesh C. Mishra, as an international expert for MAPS, with two other procurement experts, Denise Kayigamba, a local procurement expert (for the initial period of the assessment), and Bernard Rukumbi, a local procurement expert who provided substantive support. Belita Manka, Senior Counsel on Procurement (LEGOP), supported the Assessment Team with the review and assessment of the legal and regulatory framework. Namita Rajesh, Consultant, World Bank, provided valuable contribution on enhancing the report with suitable charts and graphs. The RPPA, with the supervision of Mr. Sibomana Celestin, Director of Capacity Development, provided extensive input on sample cases from Raymond Nahayo, Procurement Auditor Expert, and Ms. Umuhoza Yvette, and both these experts from the RPPA worked as part of the Assessment Team. Rajesh Shakya, e- GP expert, provided input on the e-procurement assessment.

Also, the Assessment Team is grateful for the cooperation and guidance provided by the MAPS global team based in Washington, DC.

The Assessment Team gratefully acknowledges inputs received from, Peace Aimee Niyibizi, Economist, and Enagnon Ernest Eric Adda, Senior Public Sector Management Specialist.

The World Bank team received valuable guidance from Yasser El- Gammal, Country Manager for Rwanda, and Hiba Tahboub, Practice Manager.

The Assessment Team is grateful for valuable comments from peer reviewers, namely, Luis Prada, Lead Procurement Specialist, Chenjerani Simon B. Chirwa, Lead Procurement Specialist, and Nurbek Kurmanaliev, Senior Procurement Specialist.

And finally, the Assessment Team is grateful for valuable comments from Global Affairs, Canada; Asian Development Bank; Inter-American Development Bank (international experts of Technical Advisory Group); and European Investment Bank.
<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>AfDB</td>
<td>African Development Bank</td>
</tr>
<tr>
<td>AGOA</td>
<td>Africa Growth and Opportunity Act</td>
</tr>
<tr>
<td>ALAC</td>
<td>Advocacy and Legal Advice Centers</td>
</tr>
<tr>
<td>AU</td>
<td>African Union</td>
</tr>
<tr>
<td>BI</td>
<td>Business Intelligence</td>
</tr>
<tr>
<td>BoD</td>
<td>Board of Directors</td>
</tr>
<tr>
<td>BPAR</td>
<td>Bank Procurement Assessment Report</td>
</tr>
<tr>
<td>BPS</td>
<td>Borrower Procurement System</td>
</tr>
<tr>
<td>CAS</td>
<td>Country Assistance Strategy</td>
</tr>
<tr>
<td>CEPGL</td>
<td>Communauté Économique des Pays des Grand Lacs (Economic Community of the Great Lakes Countries)</td>
</tr>
<tr>
<td>COMESA</td>
<td>Common Market for Eastern and Southern Africa</td>
</tr>
<tr>
<td>CPIA</td>
<td>Country Policy and Institutional Assessment</td>
</tr>
<tr>
<td>CPIP</td>
<td>Country Procurement Issues Paper</td>
</tr>
<tr>
<td>CSO</td>
<td>Civil Society Organization</td>
</tr>
<tr>
<td>DAC</td>
<td>Development Assistance Committee</td>
</tr>
<tr>
<td>DFID</td>
<td>UK Department for International Development</td>
</tr>
<tr>
<td>ECCAS</td>
<td>Economic Community of Central African States</td>
</tr>
<tr>
<td>e-GP</td>
<td>Electronic Government Procurement</td>
</tr>
<tr>
<td>EAC</td>
<td>East African Community</td>
</tr>
<tr>
<td>EPA</td>
<td>Economic Partnership Agreement</td>
</tr>
<tr>
<td>GDP</td>
<td>Gross Domestic Product</td>
</tr>
<tr>
<td>GoR</td>
<td>Government of Rwanda</td>
</tr>
<tr>
<td>ICT</td>
<td>Information and Communication Technology</td>
</tr>
<tr>
<td>IFMIS</td>
<td>Integrated Financial Management Information System</td>
</tr>
<tr>
<td>IRP</td>
<td>Independent Review Panel</td>
</tr>
<tr>
<td>IRT</td>
<td>International Restricted Tender</td>
</tr>
<tr>
<td>KFW</td>
<td>Kreditanstalt für Wiederaufbau</td>
</tr>
<tr>
<td>MAPS</td>
<td>Methodology for Assessing Procurement Systems</td>
</tr>
<tr>
<td>MASC</td>
<td>MAPS Assessment Steering Committee</td>
</tr>
<tr>
<td>MDB</td>
<td>Multilateral Development Bank</td>
</tr>
<tr>
<td>MINECOFIN</td>
<td>Ministry of Finance and Economic Planning</td>
</tr>
<tr>
<td>MSMEs</td>
<td>Micro, Small, and Medium Enterprises</td>
</tr>
<tr>
<td>Abbreviation</td>
<td>Description</td>
</tr>
<tr>
<td>--------------</td>
<td>-------------</td>
</tr>
<tr>
<td>MTEF</td>
<td>Medium-Term Expenditure Framework</td>
</tr>
<tr>
<td>NIRP</td>
<td>National Independent Review Panel</td>
</tr>
<tr>
<td>NOT</td>
<td>National Open Competitive Tender</td>
</tr>
<tr>
<td>NST</td>
<td>National Strategy for Transformation</td>
</tr>
<tr>
<td>OAG</td>
<td>Office of the Auditor General</td>
</tr>
<tr>
<td>OCDS</td>
<td>Open Contracting Data Standards</td>
</tr>
<tr>
<td>ODA</td>
<td>Official Development Assistance</td>
</tr>
<tr>
<td>OECD</td>
<td>Organisation for Economic Co-operation and Development</td>
</tr>
<tr>
<td>PAC</td>
<td>Public Accountability Committee</td>
</tr>
<tr>
<td>PE</td>
<td>Procuring Entity</td>
</tr>
<tr>
<td>PEFA</td>
<td>Public Expenditure and Financial Accountability</td>
</tr>
<tr>
<td>PFM</td>
<td>Public Financial Management</td>
</tr>
<tr>
<td>PIC</td>
<td>Public Investment Committee</td>
</tr>
<tr>
<td>PPL</td>
<td>Public Procurement Law</td>
</tr>
<tr>
<td>PP Regulation</td>
<td>Public Procurement Regulation</td>
</tr>
<tr>
<td>PPP</td>
<td>Public Private Partnership</td>
</tr>
<tr>
<td>PSF</td>
<td>Private Sector Federation</td>
</tr>
<tr>
<td>RFQ</td>
<td>Request for Quotation</td>
</tr>
<tr>
<td>RGB</td>
<td>Rwanda Governance Board</td>
</tr>
<tr>
<td>RPPA</td>
<td>Rwanda Public Procurement Authority</td>
</tr>
<tr>
<td>SADC</td>
<td>South African Development Committee</td>
</tr>
<tr>
<td>SAI</td>
<td>Supreme Audit Institution</td>
</tr>
<tr>
<td>SBD</td>
<td>Standard Bidding Documents</td>
</tr>
<tr>
<td>SCD</td>
<td>Systematic Country Diagnostic</td>
</tr>
<tr>
<td>SDG</td>
<td>Sustainable Development Goal</td>
</tr>
<tr>
<td>SME</td>
<td>Small, Medium Enterprises</td>
</tr>
<tr>
<td>SOE</td>
<td>State-Owned Enterprise</td>
</tr>
<tr>
<td>SPP</td>
<td>Sustainable Public Procurement</td>
</tr>
<tr>
<td>TI</td>
<td>Transparency International</td>
</tr>
<tr>
<td>UCS</td>
<td>Use of Country System</td>
</tr>
<tr>
<td>UNCITRAL</td>
<td>United Nations Commission on International Trade Law</td>
</tr>
<tr>
<td>VNR</td>
<td>Voluntary National Review</td>
</tr>
<tr>
<td>WDR</td>
<td>World Development Report</td>
</tr>
</tbody>
</table>

Currency Unit = Rwanda Franc (RWF); 1 USD = RWF 905.4 (Exchange rate as of June 18, 2018); Fiscal Year: July 1 – June 30
Chapter 1: Introduction

Strategic Context and Rationale of the Assessment

1. Public procurement of a country is a crucial component of good governance and sustainable economies with inclusive growth and one of the key elements to the effective and efficient functioning of the public sector and service delivery. It underpins the performance of all sectors in public service delivery at different levels of government and thus to the development of the country. Government expenditure on public procurement accounts for a sizeable part of economic activity. Governments around the world spend approximately USD 9.5 trillion in public contracts every year, which could constitute 12–20 percent of a country’s GDP.¹ In Rwanda, the share of government spending as a percentage of gross domestic product (GDP), in 2017, accounts to 15.22 percent² (Source: The World Bank, TheGlobalEconomy.com). With GDP of USD 9.1 billion³ in 2017, and a significant part of government expenditure requiring procurement of goods, works, and services, the estimated value of public procurement in Rwanda could be in the range of USD 1 billion in 2017/18 covering all sectors of the economy.

2. The 1994 genocide was unprecedented and left dysfunctional institutions, an economy in decline, and a divided society in Rwanda. However, in December 1994, the government endorsed an economic agenda for a ‘New Rwanda’ that embodied commitment to a market economy with strong private sector presence. In 2000, the government embarked on a multiphase decentralization initiative to foster reconciliation of the Rwandan people, engage citizens in participatory planning and decision-making, promote accountability, and enhance service delivery.

3. Based on a joint publication of the Government of Rwanda (GoR) and the World Bank,⁴ as summarized in the following paragraphs, Rwanda’s future aspirations are extremely ambitious. These aspirations are reflected in the country’s Vision 2020 and Vision 2050, currently under preparation, as also in their development and poverty reduction strategies document, 7 Years Government Programme: National Strategy for Transformation (NST 1) 2017 – 2024, Vision 2020 (with its targets adjusted in 2011) sets the country on an ambitious course, and achieving middle-income status and reducing the poverty rate to 20 percent by 2020 were among its key objectives.

4. Vision 2020 identified six pillars to achieve its goals: (a) good governance and a capable state; (b) human resource development and a knowledge-based economy; (c) a private sector-led economy; (d) infrastructure development; (e) productive and market-oriented agriculture; and (f) regional and international economic integration. Gender equality, environmental sustainability, and long-term commitment to science and technology were the cross-cutting themes to support the six pillars. All these areas are vitally linked to the public procurement system of the country.

5. Vision 2050 aspires to take Rwanda to upper-middle-income-country status by 2035 and high-income status by 2050, with the intention of providing productive economic opportunities and high-quality living standards to all Rwandan citizens (GoR 2017). These aspirations translate into double-digit

¹ MAPS 2018.
² https://www.theglobaleconomy.com/rankings/Government_size/Africa/
³ World Bank Data 2017.
average annual growth rates (more than 10 percent in per capita terms), requiring Rwanda to grow faster than China or the Republic of Korea at similar stages of their development.

6. Rwanda’s Systematic Country Diagnostic (SCD)\(^5\) in its prioritization and policy recommendations has collated five groups or ‘pathways’ which are based on 28 constraints, for Rwanda’s progress toward the twin goals of reducing extreme poverty and increasing shared prosperity. The pathways are (a) Investing in People; (b) Letting Markets Play a Bigger Role; (c) Investing Sustainably for Development; (d) Building Resilience; and (e) Strengthening State Efficiency and Accountability.

7. Large scale public investments over the years have contributed to improved access to water and sanitation, road transport, electricity, and information and communication technology (ICT), and housing conditions. However, unpaved rural and feeder roads remain in poor condition, impeding farmer’s connection to input and output markets, while high cost and low reliability of energy is a persistent hurdle to enterprise development.

8. From historical perspectives, in 2010, the government performance in advancing the private sector agenda was recognized by the World Bank in its 2010 Doing Business Report that identified Rwanda as the top reformer worldwide jumping 76 places in ease of doing business, from 143 to 67, by fostering improved governance, access to credit, and streamlined regulation for the private sector.

9. Rwanda Public Procurement Law (Law No. 12 of 2007) was passed in March 2007. The GoR’s legal framework is based on the United Nations Commission on International Trade Law (UNCITRAL) Public Procurement model law and covers all aspects of public procurement at all levels of the government public procurement system of the GoR. The law generally complies with the objectives of transparency, competition, and fairness. The institutional structure of the public procurement system in Rwanda has independent regulatory bodies, namely, the Rwanda Public Procurement Authority (RPPA) and Complaint Review Body (Independent Review Panel, IRP).

10. Based on a report on use of country system (UCS) by the World Bank (updated June 2010), which was based on the Organisation for Economic Co-operation and Development/Development Assistance Committee (OECD/DAC) benchmarking tool, it was considered that the law was generally consistent with international standards, but one of the key gaps identified in the UCS assessment was the RPPA combining both transaction and regulatory functions, which required devolution of the transaction function to procuring entities (PEs) including through capacity-building strategies and professionalization of the procurement function. This recommendation was implemented.

11. The Rwanda Public Procurement Law was revised in 2013 (Law No. 5 of 2013). The law was revised again in August 2018 (No 62/2018) to incorporate the e-procurement system and to consolidate the law into one Public Procurement Law (PPL) by including all amendments made so far.

12. The latest ‘2019 Doing Business Report’ ranks Rwanda 29 out of 190 countries (ranking is 38 out of 190 as per the 2020 report) for the ease of establishing and running a business (World Bank Group 2019). This ranking is despite the private sector still maintaining a relatively limited presence, overwhelmingly dominated with small firms that lack the scale of economies critical for competitiveness.

---

\(^5\) Rwanda: Systematic Country Diagnostic, The World Bank (June 25, 2019)
and having limited export presence (World Bank Group; Government of Rwanda 2019). The high costs of energy, finance, and trade logistics and low returns have been important contributing factors.6

13. The GoR is moving toward modernizing its procurement function to improve compliance, efficiency, transparency, fair competition, value for money, and controls in public procurement. Accordingly, Rwanda has in place a policy for modernization and professionalization of the procurement function to help achieve above objectives. The GoR has developed and rolled out an e-procurement system across the entire country, from the national level to districts, which is the first of its kind in the Africa region. The electronic government procurement (e-GP) system is rolled out across all agencies, at all levels, covering all procurement categories and covering the end-to-end procurement process from July 1, 2017. Further, Rwanda has enacted a law to establish a ‘Procurement Professionals Association’ to maintain professional standards and certification of procurement professionals.

14. Despite having a robust legal framework and institutions, there are challenges. and public procurement could do much better in terms of economy and efficiency to achieve value for money. Weak implementation capacity at the subnational level, results in lack of compliance, efficiency, and value for money, and remains a challenge, due to the capacity constraint.

15. As per findings of the RPPA, reflected in their Annual Activity Reports, there are several non-compliances in the procurement process and contract implementation identified in the past which, among others, includes lack of clear technical specifications, lengthy bidding process, non-permissible price negotiations, use of discriminatory criteria for open tenders, poor record keeping, excessive delays in contract execution, and resolution of issues with contractors. As per the Auditor General’s Report ending June 30, 2018,7 there were persistent cases of delayed and abandoned contracts. Similarly, there are areas within the e-GP system and the Procurement Professional Association that need improvements.

16. Following the development and rollout of the e-GP system across all government PEs at national and subnational levels, there is a need for continuous system stabilization and enhancement with technological advancements. Accordingly, enhancing the system with change/advancement of technology, introducing important e-GP features, such as Open Contracting Data Standards (OCDS), infographics, data analytics, and geo-tagging, is necessary. To this end, the Methodology for Assessing Procurement Systems (MAPS) can contribute to identify areas that need enhancement and problem areas that need to be addressed. In addition, MAPS can identify provisions of the legal framework that need to be amended for consistency and effective implementation of the e-GP and data analytics.

17. Improved demand-side governance by better disclosure of procurement data is another area where improvement could bring accountability, transparency, and improved service delivery.

18. The legal framework mandates maintenance of procurement professional standards and certification of procurement professionals. The Rwanda Association of procurement professionals is established by Law N°011/2016 of 02/05/2016 – ‘Law establishing the Association of procurement professionals and determining its organization and functioning’. The professional body is formed, in the thought of the government, as one of the procurement reforms pillars. The professional body is in its infancy and has many problems to resolve before it can stand as an independent body to discharge its

---

6 Future Drivers of Growth in Rwanda (2019)
mandate. Currently, the association does not have a full-time manager due to resource constraints and thus is relying on the government to undertake its duties, compromising its independence.

19. The professional body is not fully independent at this stage as it is receiving finance/budget from the Ministry of Finance and Economic Planning (MINECOFIN) through the RPPA under an operating and facilitation budget code. The little contribution from members could only cover the purchase of computers. The law establishing the procurement professional body has a provision requiring procurement professionals to be a member of the professional association to be eligible for hiring by public institutions. As a result, 99 percent of the current members are from the public institutions. Currently there are about 400 members. The list is available on the RPPA website. Perception of the Rwanda procurement professional body toward the Rwanda public procurement legal framework and practice is positive. The association has the perception that the public procurement framework and practice is improving from with time and on the right track. General meetings of the association are planned in the near future, and a strategic plan on how to become financially self-sufficient and thus an independent body is at the top of the agenda. Some proposals on how to become financially independent, to be discussed in an upcoming forum, include (a) increasing membership fees, (b) organizing trainings, (c) issuing certificates (there is a plan to commence issuing membership certificates), (d) engaging in study services, and (e) receiving support from development partners (DPs).

20. Reportedly the number of procurement complaints varied over a period of time, but there was an increase from 42 appeals in 2016–17 to 68 appeals in 2017–18 as per the National Independent Review Panel Annual Activity Report. The professional associations believe that this is because of awareness increased through media coverage and the Public Accountability Committee (PAC) in the Parliament, which investigates agencies identified having serious procurement flaws according to the Office of the Auditor General (OAG) reports, and the inquiry by PAC is conducted in public and findings are published.

Development Objectives of the Assessment

21. This assessment will support strengthening the public procurement system in Rwanda, which is an International Development Association (IDA) country, to improve efficiency of public spending and enhance service delivery. This aligns well with the third theme, Accountable Governance, of the Country Assistance Strategy (CAS) for Rwanda (2014–2018). The third theme comprises ‘Supporting accountable governance through public financial management and decentralization’. This supports the government’s objective of decentralizing decision-making and making the government more open and participatory in its processes. This theme includes likely IDA investment in public financial management (PFM), fiscal decentralization, statistical systems, and open data. The recommendations and action plan of the MAPS assessment could feed into future IDA PFM operations.

22. In summary, the main development objectives are to (a) assess the strengths, weaknesses, and gaps of the public procurement system, in general; (b) identify gaps in the implementation of the newly developed e-GP system, in particular; (c) improve effectiveness of procurement professionalization; (d) improve the procurement process and contracts management in practice; and (e) improve demand-side governance by disclosing procurement data following OCDS or through other enhancements in the existing system, as practical.

23. It is expected that an in-depth analysis of the public procurement system of Rwanda, among others, covering the issues as above, by adopting the latest MAPS assessment tool, would help in
identification of gaps, and the findings of the assessment could inform the strategic planning process for future public procurement reform or system development of Rwanda.

24. The GoR has shown keen interest in seeking the World Bank’s assistance to carry out an assessment based on MAPS (2018) under the leadership of the RPPA. The letter dated January 4, 2019, from MINECOFIN appears in Volume III of the Assessment Report.

Methodology of the Assessment

25. The MAPS assessment for Rwanda was guided by four pillars of the new MAPS (2018) analytical framework. These four pillars are (a) Pillar I: Legal, Regulatory, and Policy Framework; (b) Pillar II: Institutional Framework and Management Capacity; (c) Pillar III: Procurement Operations and Market Practices; and (d) Pillar IV: Accountability, Integrity, and Transparency. The assessment carefully considered—and customized, if needed, to fit for purpose—14 qualitative indicators and 15 quantitative indicators. The findings of the both the qualitative and quantitative indicators is expected to be the baseline from which to assess the impact of future procurement reforms as per the priorities set by the government.

26. Analysis as per MAPS methodology was applied using the following three-step approach:

<table>
<thead>
<tr>
<th>Steps</th>
<th>Assessment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Step 1</td>
<td>Review of the system applying assessment criteria expressed in qualitative terms. To provide detailed information related to this comparison (actual situation versus assessment criteria) and on changes under way.</td>
</tr>
<tr>
<td>Step 2</td>
<td>Review of the system applying a defined set of quantitative indicators (applying at least the minimum set of quantitative indicators defined). To detail the findings of this quantitative analysis.</td>
</tr>
<tr>
<td>Step 3</td>
<td>Analysis and determination of substantive or material gaps (gap analysis). Sub-indicators that exhibit a ‘substantive gap’ are to be clearly marked to illustrate the need for developing adequate actions to improve the quality and performance of the system. In case of identified reasons that are likely to prevent adequate actions to improve the system, ‘red flags’ need to be assigned. Red flags highlight any element that significantly impedes the achievement of the main considerations of public procurement and that cannot be mitigated directly or indirectly through the system.</td>
</tr>
</tbody>
</table>

27. The GoR, in a letter sent on February 11, 2019, from the Permanent Secretary/Secretary to Treasury, informed the institutions on the Steering Committee regarding support of the GoR on the MAPS assessment being undertaken by the World Bank and the RPPA in collaboration with other DPs. In this letter, institutions that are part of the Steering Committee were requested to nominate a member. The composition of the Steering committee (Director General, RRPA as Chair and representatives of other institutions as members) is (a) RPPA; (b) MINECOFIN; (c) Office of the Ombudsman; (d) Ministry of Local Government; (e) Ministry of Justice; (f) the World Bank; (g) African Development Bank (AfDB); (h) Transparency International (TI)-Rwanda; (i) the Private Sector Federation (PSF); and (j) UK Department for International Development (DFID).

28. The initiation of the task was carried out in the first mission to Kigali in the period February 18 to 22, 2019, led by the World Bank’s Lead Governance Specialist - Procurement from Washington, DC.

---

8 Methodology for Assessing Procurement System (MAPS) 2018
supported by a Senior Governance Specialist - Procurement, based in Kigali. The Assessment Team was supported by an International expert and a local expert with support provided by two RPPA staff. Based on stakeholder analysis, discussions were held with the RPPA and key stakeholders. A full list of stakeholders is given in Volume III of the Assessment Report. Volume III also contains the sampling methodology for procurement cases/files.

29. During this mission the Assessment Team met with the Director General of the RPPA and the Director of Capacity Development, who was nominated by the Director General for coordinating all activities on behalf of the RPPA. A presentation on the MAPS methodology was given to all the staff of the RPPA. The forum was chaired by the Director General, RPPA. The Assessment Team met with other key stakeholders, namely the OAG, Permanent Secretary, Office of Ombudsman, Executive Director of TI-Rwanda, President of Rwanda Procurement Professionals Association, and a representative of the PSF. The team also met with the Director of the Strategic Planning Department of Rwanda Association of Local Government Authorities. Discussions were held with DPs supported by an International procurement legal expert from Washington, DC, and an e- Procurement expert were inducted as part of the Assessment Team and they provided input and support throughout the assessment process.

30. In this first mission, discussions were also held with the World Bank financial management team and with the Country Economist and the Country Manager to seek their input and guidance. The procurement legal expert from Washington, DC, and an e- Procurement expert were inducted as part of the Assessment Team and they provided input and support throughout the assessment process.

31. The initial review of the legal, regulatory, and policy framework, institutional framework, and procurement appeals mechanism was carried out by the procurement legal expert, based on a desk review of all available documents. The full list of documents and references is given as part of Volume III of the Assessment Report.

32. The first meeting of the Steering Committee was held on May 16, 2019. In this meeting the Chair explained the role of the Steering Committee to members. A presentation was made by the World Bank on the methodology, and a tentative plan was finalized. The minutes of this meeting is given in Volume III of the Assessment Report. A mission to Kigali was also undertaken by the e-GP expert in the week of May 13, 2019. A brief report on e-Procurement is given in Volume III of the Assessment Report.

33. The second mission of the Assessment Team was undertaken in the week of June 10, 2019, with the objective of taking stock of all activities and obtaining missing information and data to complete the assessment. The second meeting of the Steering Committee was held on June 10, 2019. The Assessment Team sought assistance from the RPPA to provide additional support on data collection as there were challenges and delays in getting data, more so those related to physical files which were available at different locations in Rwanda. This assistance was provided efficiently and timely by RPPA staff. The minutes of the meeting is given in Volume III of the Assessment Report.

34. Pillar III on public procurement operations and market practices, looks at the operational efficiency, transparency, and effectiveness of the procurement system at the level of the implementing entity. This requires selection and review of a sample of actual procurement transactions (files) to determine how procurement operates and performs on the ground. The most challenging part of the assessment was identification and collection of data (qualitative and quantitative data) mostly through e-procurement (e-GP - UMUCYO portal) by going through data from July 1, 2017, till December 31, 2018, which apparently was an advantage, but a lot of data gaps were to be resolved.
35. For sample cases, this involved 15 entities and 81 sample contracts. As some of the large value contracts are under implementation and do not use e-procurement, the Assessment Team was required to collect data through physical files and visits to PEs. Also, for contract implementation, all the information was collected through physical files. The basic information on contract cases were collected primarily by two nominated staff of the RPPA, which demonstrated a strong commitment on the part of the GoR. This basic data provided a solid foundation for analysis and framing recommendations under Pillar III of the assessment.

36. As required by the MAPS methodology, a survey was undertaken to seek feedback from the private sector. The RPPA in collaboration with the World Bank launched on June 12, 2019, an electronic survey on **Perception of Private Sector on Public Procurement in Rwanda** with the following objectives:

- Seek feedback from contractors, suppliers, and consultants’ experience about awareness on bidding/consulting opportunities when bidding/submitting proposal for government-financed contracts
- Understand if there are consultations with the private sector in framing or changing procurement laws and regulations
- Understand and assess the reasons that may encourage or discourage firms from submitting bids/proposals
- Determine awareness of government’s complaints review mechanism
- Gauge firms’ perceptions regarding fraud and corruption risks in procurement and how it affects competitiveness
- Understand how to facilitate the dialogue and partnerships between the government and private sector through outreach and training programs to improve the public procurement system in Rwanda.

37. The survey was carried out through a combination of seeking anonymous feedback electronically through SurveyMonkey and face-to-face interaction with a representative group of suppliers, contractors, and consultants. Based on a questionnaire sent to 100 participants, electronic feedback was received from 34 participants, with a lot of follow-up. The consultation workshop with the private sector was hosted jointly by the RPPA and the World Bank in Kigali on June 12, 2019, on ‘Perception of Private Sector on Public Procurement in Rwanda - How to Improve Competitive Effectiveness’ and was attended by about 25 participants, representing suppliers, contractors, and consultants. After the introductory remarks by the Director General, RPPA, and a presentation by the World Bank, an on-the-spot quick survey was carried out based on a questionnaire of eight critical questions and feedback obtained without any attribution to the name of the feedback and 24 participants provided feedback. This was followed by a lively question and answer session. The results of these survey responses and discussions in the consultation workshop are captured at relevant sub-indicators of the Assessment Report.

38. A summary of this quick survey and feedback obtained is given in Volume III of the Assessment Report. The views expressed in the electronic survey, on-the-spot survey, and in discussions are suitably reflected in the analysis (both qualitative and quantitative) under relevant indicators of the Assessment Report.
Chapter 2: Analysis of Country Context

Political, Economic, and Geostrategic Situation of Rwanda

39. Rwanda is a landlocked and low-income country, located in central and east Africa in the region usually known as the ‘Great Lakes Region’ and positioned between Tanzania, the Democratic Republic of Congo, Uganda, and Burundi. Relatively small with about 26,000 square kilometers, Rwanda has a high population density of about 500 inhabitants per square kilometer for a total estimated population of 12.2 million as of 2017 (World Bank Group 2019). With a population growth rate average of 2.8 percent per year since 2009, the country’s young and growing population is expected to reach 16 million by 2030.

40. Rwanda’s visionary leadership and the institutions that it put in place during the nation-building in the 1990s and early 2000s played a central role in Rwanda’s recovery. Results-orientation in service delivery and a zero-tolerance approach to corruption helped create an environment conducive to the mobilization of external assistance. This has led Rwanda to be a highly favored recipient of development assistance, which has been the main source of its development finance. Official Development Assistance (ODA) inflows have averaged around 17 percent of GDP annually in 2000–17, nearly 5 percent more than the average of all Sub-Saharan African ODA countries, and nearly two times the average of all low-income countries. With Rwanda’s growing income, ODA inflows have declined from 20 percent of GDP in 2000–09 to less than 15 percent of GDP in 2010–17, but the level remains high.

41. Rwanda was able to achieve development success stories since the early 2000s. Between 2000 and 2017, real growth in GDP averaged 7.8 percent per year (World Bank Group 2019). One of the world’s poorest countries (only Mozambique was poorer than Rwanda) in the mid-1990s, Rwanda saw its per capita income increasing more than three-and-a-half-fold in 2000–17, being among the world’s fastest growing economies. Poverty in Rwanda dropped from 60.4 percent in 2001 to 38.2 percent in 2017. Extreme poverty reduced from 40 percent to 16 percent over the same period (The Republic of Rwanda 2018). However, Rwanda’s aspirations are even higher. The new 30-year vision for the period up to 2050 elaborates the country’s long-term development goals and reflects Rwanda’s high aspirations: to achieve upper-middle-income status by 2035 and high-income status by 2050 and to eradicate extreme poverty by 2024.

42. Rwanda’s achievements resulted mainly from the fiscal space created by high ODA inflows, which enabled maintenance of increasing public investments. Public investments have increased from 5 percent in the early 2000s to an average of 15 percent in recent years, lifting the overall investment to GDP ratio from 12 percent to 25 percent during the same period (World Bank Group; Government of Rwanda 2019). Although foreign public savings have been the main source of funding for Rwanda’s investments, Rwanda has increasingly relied on borrowing in recent years, including on commercial terms, as volumes of external assistance and public savings fell short of the public investment needs. This has led to a rapid increase in the debt-to-GDP ratio, from 19.8 percent of GDP in 2009 to 48.3 percent of GDP in 2017, of which about 76 percent is external debt. The recent debt sustainability analysis, of May 2018, assessed Rwanda’s debt to be sustainable.10

---

9 Reference documents for this section: Rwanda: Systematic Country Diagnostic (June 25, 2019); Future Drivers of Growth in Rwanda (2019).

10 International Monetary Fund and the World Bank (May 2018).
43. Rwanda’s economy relies heavily on basic farming methods and reliance on rain-fed agriculture. About 80 percent of farm households in Rwanda are engaged in small-scale rain-fed subsistence farming using traditional technologies which are susceptible to landslides, increasingly so because of climate change, and lower crop yields and food security. Rising temperatures affect crop and livestock productivity through crop failure, increased diseases, pests, and new pests that were previously unable to survive at the higher altitude. In addition, crop yields are also affected by excessive rainfall during short periods of time. About 90 percent of domestic cropland is on slopes, which are particularly susceptible to soil erosion and degradation due to the rain-fed nature of agriculture in Rwanda.

44. **Need to accelerate growth of trade.** There is a need to accelerate the growth of trade to achieve Rwanda’s aspiration to become a high-income country by 2050. GDP growth in the past two decades was powered to a large extent through inflows of development assistance, but such assistance is likely to taper gradually as Rwanda progresses toward middle-income status. Based on the joint publication of the GoR and the World Bank,11 “Trade will become an increasingly important driver of growth. Exports will provide foreign exchange to purchase much-needed investment in equipment, high-technology goods, intermediate components, and product varieties and will foster productivity by allowing firms to exploit increasingly large economies of scale. Increased import capacity will facilitate access to high-technology goods and foster competition that drives productivity.” For example, in 2016, half of Rwanda’s total export earnings of USD 1,685 million came from services to which tourism constituted 23 percent of exports, while transport, ICT, construction, and finance jointly accounted for another 11 percent.

45. **Importance of regional economic integration.** Rwanda considers regional economic integration as one of the crucial elements of achieving Vision 2050. Currently, Rwanda is a member of four key regional integration blocs: East African Community (EAC), the Common Market for Eastern and Southern Africa (COMESA), the Economic Community of the Great Lakes Countries (Communauté Économique des Pays des Grand Lacs, CEPGL), and the Economic Community of Central African States (ECCAS). Rwanda is also engaged in a tripartite agreement between EAC-COMESA-SADC12 and the African Union (AU) and has international trade agreements such as the Economic Partnership Agreement (EPA) and the Africa Growth and Opportunity Act (AGOA), with the European Union and the United States, respectively.

46. The above situation though laudable is not sufficient to meet Rwanda’s high aspirations. There is a need for a combination of steps to accelerate and sustain medium-term trade objectives, which are: (a) Harness the EAC and SADC as a platform for transformation by aligning regional incentives, harmonizing standards, and exploiting economies of scale; (b) Improve trade connectivity by lowering transport costs within and across the region; (c) Increase service sector productivity, both as a critical input to other priority sectors and as a source of exports; (d) Stimulate foreign and domestic investment into tradable sectors by using selective time-bound and performance-driven incentives; and (e) Accelerate industrialization through diversification, value addition, and quality upgrading. For example: “joining the EAC helped bring down tariffs, while also spurring substantial reductions in transport costs and time spent at border crossings. The accession into the EAC’s common external tariff reduced average tariff rates from 16.5 percent to 11 percent, which strongly benefited intraregional trade, especially with Tanzania and Uganda. Regional integration also enabled greater cooperation on trade facilitation along East Africa’s two trade corridors: Northern Corridor (Mombasa) and the Central Corridor (Dar es Salaam), which have significantly reduced the overall cost and time to move goods to port.”13

---

11 Future Drivers of Growth in Rwanda (2019).
12 SADC = South African Development Committee.
13 Future Drivers of Growth in Rwanda (2019).
Role of the private sector and small and medium enterprises (SMEs). The World Bank Group’s ‘Doing Business Report of 2019’ ranks Rwanda 29 out of 190 countries in the world for the ease of establishing and running a business (World Bank Group 2019). Despite the ranking, the private sector still maintains a relatively limited presence, overwhelmingly dominated with small firms that lack the scale of economies critical for competitiveness and have limited export presence (World Bank Group; Government of Rwanda 2019). “An economy cannot thrive without a healthy private sector. When local businesses flourish, they create jobs and generate income that can be spent and invested domestically. Any rational government that cares about the economic well-being and advancement of its constituency pays special attention to laws and regulations affecting local small and medium enterprises (SMEs). Effective business regulation affords micro and small firms the opportunity to grow, innovate, and, when applicable, move from the informal to the formal sector of an economy.”14 The economies with the most notable improvement in Doing Business 2019 are Afghanistan, Djibouti, China, Azerbaijan, India, Togo, Kenya, Côte d’Ivoire, Turkey, and Rwanda.

Role of state-owned enterprises (SOEs). The high costs of energy, finance, and trade logistics and low returns have been important contributing factors for the government to play a supporting role. Indeed, at the end of the 2000s, the government sought to partially privatize SOEs. This was matched by establishing new SOEs and quasi-public companies, which played a useful role in maintaining social and political stability and in generating revenues in the early years of reconstruction. Moreover, they have been used to de-risk strategic sectors, paving the way for private sector entry. While SOEs will remain crucial for several years to come, as the private sector needs time to build, there is, however, a strong need to define the future role of SOEs and further strengthen their corporate governance.

Regarding ICT infrastructure, according to the available sources, the number of internet users in Rwanda is 5,634,047 which is approximately 50 percent of the population. Based on published sources, it is seen that out of the 5,634,047 Rwandans with internet, only 7,237 or 0.1 percent use fixed internet. In other words, 99.9 percent of Rwandans access the internet via handheld mobile devices, such as smartphones. The infrastructure comprises 2,300 kilometers of fiber-optic telecommunications network across the country, but there is a need to expand the use of fixed internet as well.

Importance of women in decision-making and gender gap. Based on a World Economic Forum publication,15 equal contribution of women and men in the process of deep economic and societal transformation is critical. The Global Gender Gap index was introduced in 2006 by the World Economic Forum for capturing the magnitude of gender-based disparities and tracking their progress over time. This includes measurement on four dimensions: (a) economic participation and opportunity; (b) educational attainments; (c) health and survival; and (d) political empowerment. The most challenging gender gaps to close are the economic and political empowerment dimensions which will take 202 and 107 years to close respectively.

Based on this report, covering 149 countries, “The most gender-equal country to date is Iceland. It has closed over 85 percent of its overall gender gap. Iceland is followed by Norway (83.5 percent), Sweden and Finland (82.2 percent). Although dominated by Nordic countries, the top ten also features a Latin American country (Nicaragua, 5th), two Sub-Saharan African countries (Rwanda, 6th, and Namibia, 10th) and a country from East Asia (Philippines (8th). The top ten is completed by New Zealand (7th) and Ireland (9th).”

---

52. The situation of being ranked among the top ten in the world on gender gap is quite an achievement for Rwanda, and obviously it was made possible through the combined will of the people of Rwanda, constitutional provisions, and adherence to the same. Based on Article 10 of the Constitution of Rwanda, the State of Rwanda commits itself to upholding the fundamental principles which, among others, includes, “building a State governed by the rule of law, a pluralistic democratic Government, equality of all Rwandans and between men and women which is affirmed by women occupying at least thirty percent (30 percent) positions in decision making organ”. For example, it is seen in Article 13 of the current PPL of 2018 on members of IRP and modalities for their appointment that out of 11 members, 30 percent must be women.

53. The above scenario in the area of political, economic, and geostrategic context, though optimistic, requires extraordinary efforts to realize aspirations as reflected in Vision 2020 and beyond. This will also require further improvements in the governance, PFM, and procurement system of Rwanda.

The Public Procurement System and its Links with Public Financial Management and Public Governance System\textsuperscript{16}

54. The Country Policy and Institutional Assessment (CPIA) for Africa is an annual diagnostic tool which measures the quality of policies and institutional frameworks, and their ability to support sustainable growth and poverty reduction. The report provides scores for 16 criteria for each country and an overall regional score, which informs governments about the impact of the country’s efforts to support favorable growth and poverty reduction. Countries are rated on a scale of one (low) to six (high) for 16 dimensions reflecting four areas: economic management, structural policies, policies for social inclusion and equity, and public sector management and institutions. In 2017, the regional CPIA score was 3.1. Rwanda continued to lead at the regional level and globally, with a CPIA score of 4.0. Other countries at the high end of the regional score range were Senegal, with a score of 3.8, closely followed by Cabo Verde, Kenya, and Tanzania, all with scores of 3.7.\textsuperscript{17}

55. Related to good governance, Rwanda’s Constitution\textsuperscript{18} is: “Committed further to building a State based on consensual and pluralistic democracy founded on power sharing, national unity and reconciliation, good governance, development, social justice, tolerance and resolution of problems through dialogue.”

56. As per Article 95 of the Constitution, there is a clear hierarchy of laws, being the Constitution, organic laws, international treaties and agreements ratified by Rwanda, ordinary laws, and orders. As stated in the Law Governing Public Procurement Law No. 62/ 2018 of 25/08/2018 (PPL), the Parliament has adopted the PPL pursuant to the applicable provisions in the Constitution an Organic Law No. 12/2013/OL of 12/09/2013 on State finances and properties.

57. In accordance with Article 2 of the PPL on Scope of the Law, the PPL applies to all procurement of works, goods or supplies, and consultancy and non-consultancy services ordered by the PEs. However, the PPL does not apply to procurement of classified items relating to national defense and security. Also, in case provisions in the PPL conflict with provisions of a bilateral or multilateral treaty or other forms of

\textsuperscript{16}Reference documents for this section: Future Drivers of Growth in Rwanda (2019) and websites of the GoR and other agencies.

\textsuperscript{17}The Country Policy and Institutional Assessment (CPIA) for Africa for 2017.

agreement related to public procurement to which the GoR is a party, the provisions of those agreements prevail. Article 8 of the PPL states that, subject to other provisions of the PPL, in the case of public procurement in commercial public institutions whose budget is not approved by the Parliament, the same is governed by special regulations of each institution approved by an order of the minister in charge of public investment.

58. The key institutions in the normative and regulatory functioning of procurement involved in procurement are (a) the RPPA; (b) PEs (the total number of PEs as of March 31, 2019, is 150 as per the e-GP portal); and (c) the IRP. Other institutions that have roles in policy setting, procurement legislation, regulation, or in oversight are (a) MINECOFIN, (b) OAG, (c) Ministry of Justice/Attorney General, (d) Office of Ombudsman, and (e) Public Investment Committee (PIC), Rwanda Development Board (RDB), and Public Private Partnership (PPP) Unit.

59. **Rwanda Public Procurement Authority (RPPA):** The main mission of the RPPA is defined under Article 3 of Law No. 25/2011 of 30/06/2011, which are: 1° to ensure organization, analysis, and supervision in public procurement matters; 2° to advise the government and all public procurement organs on the policies and strategies in matters related to the organization of public procurement; 3° to control activities of awarding public contracts and their execution; 4° to develop professionalism of the staff involved in public procurement; 5° to provide technical assistance as needed and develop teaching material, organize trainings, and lay down the requirements which must be met by public procurement officers; 6° to collect and disseminate on a regular basis information on public procurement; 7° to put in place standard bidding documents (SBDs), bid evaluation reports, and other standard documents for use by public PEs; 8° to sensitize the public on matters related to public procurement; 9° to draw up and publish the list of bidders suspended or debarred from participating in public procurement; 10° to establish cooperation and collaboration with other regional and international agencies whose mission is similar to that of the RPPA; and 11° to perform such other duties as may be assigned by law and which are not contrary to its main mission.

60. Further, as per Article 4 Law No. 25/2011 of 30/06/2011, the RPPA shall have the following powers: 1° to suspend, upon request or on its own initiative and in accordance with the provisions of the PPL, a public tender evaluation or award process to conduct an investigation; 2° to summon anyone and require him/her to provide any information relevant to the fulfillment of its mission; 3° to carry out investigations in any entity governed by the PPL and get copies of documents related to public procurement where need be; 4° to seek assistance from experts to fulfill its mission; and 5° to suspend or approve the suspension or debarment of bidders from participating in public procurement.

61. In 2004, the GoR decided to decentralize public procurement activities. From February 20, 2011, all responsibilities and activities regarding contract awarding, signing, and contract management were transferred to public PEs and the RPPA remained with the responsibility of being a procurement oversight body having the mission geared toward regulations, capacity building, and control. However, it is seen from the RPPA Annual Activity Report of 2017–2018 that the RPPA is still involved in granting request for authorization to PEs to use less competitive methods of procurement due to circumstances determined in the PPL.

62. **Procuring Entities: (PEs):** As per Article 9 of the PPL, public procurement entities are “central government organs, local administration organs, public institutions, national commissions, government

---

projects or any other organs so empowered by the Chief Budget Manager.” In addition, ‘commercial public institutions’ where they use the state budget fall within the definition of PEs. As per Article 10 and Article 11, PEs establish a public tender committee with responsibilities as defined under the article and PEs put in place procurement officer(s) in charge of organizing the procurement process from the planning stage to the end of the contract with responsibilities as defined under Article 11.

63. **Independent Review Panel (IRP):** In accordance with Article 12 of the PPL, the IRP has the power to receive appeals on public procurement at the national level concerning decisions of the PE “from publication of the tender to the signature of the contract.” The secretariat of the IRP is within the RPPA. The IRP is composed of 11 members chosen for a non-renewable term of office for four years, appointed by an Order of the Minister of Finance and drawn from the public sector, private sector, and civil society. Members from the public sector shall not be more than five, and at least 30 percent of members must be women. Qualifications of the panel members are not clearly defined in the PPL nor are the dismissal criteria. The budget for the IRP is provided by the RPPA. Public Procurement Regulation (PP Regulation) shall determine the organization, power, and functioning of the IRP.

64. **Ministry of Finance and Economic Planning (MINECOFIN):** MINECOFIN was formed in March 1997 from the joining of the Ministry of Finance and the Ministry of Planning. This was done to improve the coordination between the functions of finance and planning. In the ministerial restructuring of February 1999, the ministry took on the function of development cooperation from the Ministry of Foreign Affairs. Related to public procurement, its goal, among others, includes the following:

- Maintain a stable macroeconomic environment with low inflation, moderate budget deficits, and sustainable public debt
- Foster greater evidence-based planning and performance-based budgeting
- Mobilize internal and external resources (that is, tax, social security contributions, grants, loans, and so on)
- Achieve the highest international standards in PFM to ensure accountable use of resources
- Improve the delivery of public services and accountability through effective financial and fiscal decentralization
- Contribute to increase the productivity of the economy, employment opportunities, the investment climate, and the quality of public investments
- Promote a dynamic, efficient, and stable financial market accessible to all segments of the population
- Contribute to foster deep regional integration through openness to change as well as mobility of goods

65. Based on the organization chart of MINECOFIN, the ministry is headed by a Minister, assisted by a Minister of State and Office of the Permanent Secretary/Secretary Treasury to whom the RPPA reports. Other offices under the administrative and financial control of MINECOFIN are National Budget Department; National Development Planning and Research Department; Office of the Chief Economist, with external finance division; Office of the Accountant General with Deputy Accountant General/Director General, Treasury, and Deputy Accountant General/Director General, Public Accounts, including the Integrated Financial Management Information System (IFMIS) Unit; Office of Chief Internal Auditor to cover both local and central government; and Single Project Implementation Unit.
66. **Office of the Auditor General (OAG):** The OAG is the Supreme Audit Institution [SAI] of Rwanda. The OAG was established in 1998 by Law No 79/2013 of 11/09/2013 determining the mission, organization, and functioning of the OAG and became the SAI of Rwanda in June 2003. It is headed by the Auditor General assisted by a Deputy Auditor General. The OAG is vested with legal personality.

67. According to Article 165 of the Constitution of the Republic of Rwanda of 6/2003 revised in 2015, the responsibilities of the Auditor General include the following: (a) auditing revenues and expenditures of the state as well as local administrative entities, public enterprises, parastatal organizations, and government projects; (b) auditing the finances of the institutions referred to above, particularly verifying whether the expenditures were in conformity with laws and regulations in force and sound management and whether they were necessary; and (c) carrying out all audits of accounts, efficient management, and control of the functioning of state organs and institutions mentioned above.

68. In addition, Article 166 of the Constitution as amended to-date stipulates that the Auditor General shall each year submit to each Chamber of Parliament, before the commencement of the session devoted to the examination of the budget of the following year, a complete report on the consolidated state accounts for the previous year, indicating the manner in which the budget was utilized.

69. The last Audit Report for the period ending June 30, 2018, was presented to the Parliament by the Auditor General on April 29, 2019. As in previous years, the report has identified instances of irregular expenditure, which is on the decline and as per the Auditor General “This is indicative of an improvement in our PFM systems and controls when it comes to recording and accounting for expenditure.” Other crosscutting findings identified during audits include cases of delayed and abandoned contracts, stalled projects, continuing cases of idle assets, failure to recover advance payment and performance securities, and noncompliance with taxation laws.

70. **Ministry of Justice/Attorney General:** The general mission of the Ministry of Justice/Office of the Attorney General is to organize and oversee the promotion of the rule of law, law enforcement, and justice for all. Some of the key activities of the Ministry of Justice/Office of the Attorney General are developing, disseminating, and coordinating implementation of policies, strategies, and programs; organizing and coordinating national legislation; regulating the law enforcement sectors and related subsectors; and providing legal advice and representation of the government and its institutions through (a) acting as a government technical adviser by providing requisite advice to the government and its institutions on legal matters; and (b) representing the government in disputes of any kind to which it is party at the national and international levels.

71. **Office of the Ombudsman:** This office, headed by the ombudsman, reports to the President of Rwanda. The ombudsman is assisted by two deputy ombudsmen, one in charge of preventing and fighting injustice and the other for preventing and fighting corruption and related offences. The office has a Permanent Secretary, who, among other things, is responsible for declaration of the asset unit, the corruption and related offences prevention unit, and special investigation on the corruption unit. Law No. 76/2013 of 11/09/2013 determines the mission, powers, organization, and functioning of the ombudsman. There are other laws like whistle-blowers protection law (2012) and law on fighting against corruption (2018) which guide the work of the ombudsman, besides the Rwanda Anti-Corruption Policy.

---

This policy also relies on international treaties like United Nations Convention Against Corruption/ African Union Convention Against Corruption.

72. The primary anti-corruption agency is the Office of the Ombudsman which is constitutionally independent and carries a wide mandate in the fight against corruption. A number of other institutions have core functions closely related to anti-corruption action but hold mandates where corruption is but one element. These include the National Public Prosecution Authority, the Rwanda National Police, the OAG, and the RPPA.

73. **Public Investment Committee (PIC), Rwanda Development Board (RDB), and Public Private Partnerships (PPPs) Unit.** The PIC is a national committee in charge of establishing high-level strategic guidance to ensure the highest-quality public investment program, including PPPs, based on adopted annual, medium-term, and long-term investment objectives. The RDB is in charge of attracting private investments from both domestic and foreign (foreign direct investment) sources. The RDB also serves as the secretariat of the PPP Steering Committee as per Article 2 of the Prime Minister’s Order determining the functioning of the PPP Steering Committee. In line with Article 10 of Law Nº14/2016 of 02/05/2016 ‘governing public private partnerships’, the RDB’s role also comprises the function of a specialized advisor for the preparation and implementation of PPPs.

74. The PPP unit is a center of technical expertise and assists line ministries and their affiliated agencies in developing and implementing projects through the PPP procurement route. Further, the PIC is a body that approves ongoing and new investments at the central government level, which meet the requirements for implementation. The PIC is chaired by a high-level representative of MINECOFIN. The committee comprises high-level representatives of key spending ministries.

75. **Other key players in the area of public procurement.** These are (a) Transparency International (TI) Rwanda; (b) Private Sector Federation-PSF; and (c) Development Partners (DPs) like AfDB, KFW, Belgian Development Agency, DFID, and the World Bank.

- **TI-Rwanda** is a Rwandan civil society organization (CSO) created in 2004 and became accredited as the national chapter of TI in September 2011 and is since then part of the TI movement. TI-Rwanda focuses on four thematic pillars: (a) Preventing and combating corruption; (b) Promotion of rule of law, transparency, and accountability; (c) Communication building and evidence-based advocacy; and (d) Citizen engagement.

Based on various publications including by TI-Rwanda, “Citizen Participation even has roots in the history of the country. There are different activities that were found in Rwandan culture way before colonization that could be defined as Citizen Participation. For example, Gacaca is traditional cultural communal law enforcement procedures. Through Gacaca Rwandan families used to participate in correcting each other without having to take all their cases to the king. Through this, the citizens participated in their own governance. Still, Rwanda’s homegrown solutions, where Citizen Participation plays an important role, are crucial for the development of the country.” TI-Rwanda has partnered with the Office of the Ombudsman, the Rwanda

24 [https://ombudsman.gov.rw/](https://ombudsman.gov.rw/)
25 Rwanda Anti-Corruption Policy (June 2012).
26 Public Private Partnership Guidelines (June 2018).
28 15 Years of TI-Rwanda experiences - Citizen’s Engagement as a Driver to Fight Corruption (2018).
Governance Board (RGB), and international financing institutions in the fight against corruption and created Advocacy and Legal Advice Centers (ALAC) and Concerned Citizen’s Committee.

- **PSF, Rwanda.** The PSF is a professional organization, dedicated to promote and represent the interests of the Rwandan business community. It is an umbrella organization that groups nine professional chambers. It was established in December 1999, replacing the former Rwanda Chamber of Commerce and Industry. According to the PSF, the Rwanda procurement law has included adequate provisions for competition and fairness that the PSF is comfortable with. The procurement practice is also perceived to be transparent enough. The PSF is given access to directly give its comments on the procurement laws to the Parliament. Currently the PSF is reviewing the draft ‘Partnership Law’. The PSF’s perception toward the RPPA is positive, in terms of its capacity and in reaching out and involving the private sector on every public procurement-related issue. The RPPA organized trainings specific to the PSF on the public procurement system, including on e-procurement.

76. **DPs.** Based on the National Budget Document of 2018/19, out of a total budget of RWF 2,443.5 billion, external grants and loans financed 33 percent of the budget and domestic sources accounted for the remaining 67 percent as depicted in the figure in Volume III (Annex 2) on Scale of public procurement expenditure. Based on the data available on the MINECOFIN website, the scale of public procurement expenditure is derived as given in the table below, according to which, public procurement expenditure of RWF 1,066.5 billion in 2017/18 constitutes 13.5 percent of GDP of RWF 7,898 billion.

<table>
<thead>
<tr>
<th>Description</th>
<th>2016/17</th>
<th>2017/18</th>
<th>2018/19 (Projected)</th>
<th>2019/20 (Projected)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Total Expenditure and Net lending</td>
<td>1,942.9</td>
<td>2,187.5</td>
<td>2,550.2</td>
<td>2,796.8</td>
</tr>
<tr>
<td>2. Current Expenditure on Purchase of Goods and Services</td>
<td>194.1</td>
<td>216.3</td>
<td>230.9</td>
<td>235</td>
</tr>
<tr>
<td>3. Capital Expenditure</td>
<td>759.5</td>
<td>850.2</td>
<td>1,040.6</td>
<td>1,152.1</td>
</tr>
<tr>
<td>(i) Domestic</td>
<td>418.2</td>
<td>463.2</td>
<td>638.3</td>
<td>694</td>
</tr>
<tr>
<td>(ii) Foreign</td>
<td>341.3</td>
<td>387.1</td>
<td>402.3</td>
<td>458.2</td>
</tr>
<tr>
<td>4. Public Procurement Expenditure (2+3)</td>
<td>953.6</td>
<td>1,066.5</td>
<td>1,271.5</td>
<td>1,387.1</td>
</tr>
<tr>
<td>5. GDP Fiscal Year at Current Prices</td>
<td>7,125.0</td>
<td>7,898.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Public Procurement as % of GDP</td>
<td>13.38%</td>
<td>13.50%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


77. A PEFA assessment was carried out in 2016 by AECOM International Development, Europe, with financing from the GoR and published in 2017 by the PEFA Secretariat (PEFA 2017). The overall objective of this PEFA assessment was to produce a comprehensive ‘PFM Performance Report’ according to the upgraded PEFA Performance Measurement Framework Methodology of 2016 to provide an analysis of the overall performance of the PFM systems of the country and to provide a baseline against which future progress can be measured.

78. As per PEFA 2017, regarding impact of PFM systems on the three main budgetary outcomes: (a) on aggregate fiscal discipline, the rating was reasonably good; (b) on strategic allocation of resources, most of the indicators received good overall rating; and (c) on efficient use of resources for service delivery,

---

financial management is not an end in itself, but rather a tool to assist a government to deliver services to its citizens, and of course, services cannot be delivered in the absence of funds. In this respect, the predictability in the availability of funds to support expenditure was at a satisfactory level, “rating for ‘performance information’ which can demonstrate the efficiency with which services are delivered (PI-8, ‘D’) is disappointing, as is that of the last of the completely new indicators introduced into the framework: ‘Public Asset Management’ (PI-12), which reveals a weak performance—with potentially severe consequences, in that resources are unlikely to be utilized efficiently or effectively by a government that does not know what assets it owns. Importantly, the mechanisms in place to reduce possible leakages in the system, such as internal controls, and controls over payroll (Pls 25 and 23, respectively) are good, while internal audit continues to improve (PI-26), as do basic accounting controls (PI 27) and the procurement indicator (PI-24).”

79. According to PEFA 2017, there are seven key programs in the current PFM reform strategy, which are (a) Economic Planning and Budgeting; (b) Resource Mobilization; (c) Budget Execution, Accounting, and Reporting; (d) External Oversight and Accountability; (e) Electronic Service Delivery and IFMIS; (f) Fiscal Decentralization; and (g) PFM Sector Coordination and Management. In addition, four priorities emerged as per PEFA 2017: (a) Increased resource mobilization; (b) Scaling up of the implementation of IFMIS; (c) Strengthen PFM systems at subnational level; and (d) Enhance training, professionalization, and capacity building across all PFM disciplines.

80. The World Bank also provided support to the tune of USD 100 million for the Public Sector Governance ‘Program-for-Results’, which aims to improve Rwanda’s PFM and statistics systems for the enhancement of transparency and accountability in the use of public funds, revenue mobilization, and the quality and accessibility of development data for decision-making. This P-for-R included actions for revised procurement regulations which were implemented in June 2015 and implementation of e-Procurement which was achieved in September 2018 (piloting was in July 2016 and full rollout on July 1, 2017). This program has progressed satisfactorily.

81. Based on a joint report of the World Bank and the GoR, several steps were taken to improve accountability over the Executive and strengthen oversight by the Parliament. Based on this report, “Public Accounts Committee was created in 2011 to scrutinize external audit reports and enforce audit recommendations. The committee has conducted in-depth hearings on audit findings, covered live by radio and national television and with attendance by senior officials, ministers, and the like (PEFA Secretariat 2017). The Office of the Auditor General (OAG) has built its own credibility as Rwanda’s supreme audit institution by contributing to improved public financial management in line with standards of the International Organization of Supreme Audit Institutions.”

30 More than 80 percent of government expenditures were audited (in fiscal 2013/14), and 60 percent of the recommendations in the OAG report were implemented (PEFA Secretariat 2017).”

31 Further based on the RPPA’s Annual Activity Report for 2017–18, a procurement audit was carried out for 68 PEs covering 1,276 tenders for an amount of RWF 390.793 billion.

82. A Public Financial Management Reform Project for Rwanda for a value of USD 20 million, with financing from the World Bank, is under implementation from December 2018. This project aims to
increase budget reliability and control of funds for service delivery, enhance budget transparency, and increase professionalization of the public finance officials.

83. Generally, public procurement is susceptible to corruption because of the vast sums of money that governments spend, high degree of discretion that public officials enjoy, and difficulty in detecting and investigating cases of corruption.

84. However, in Rwanda the anti-corruption efforts were led effectively by the Office of the Ombudsman. As per the joint publication of the World Bank and the GoR, “The legally independent Ombudsman’s Office and Rwanda Governance Board have an important mandate (among others) to carry out the fight against corruption and monitor service delivery. Strengthening checks and balances among the branches of government—in particular, ensuring the independence of the judicial system—would help to reduce monopoly power and increase accountability. Full independence of institutions like Parliament, the OAG, the Ombudsman’s Office, and RGB should be ensured in the long term by giving them more autonomy on budget prioritization and staffing (structure) independence.”

85. As a result of the above steps, the overall governance quality has improved significantly and been a driving force behind Rwanda’s rapid development story. Emerging from difficult initial conditions after the 1994 genocide, the government (a) created new homegrown institutions and programs to create an integrated Rwandan community, including revitalizing the umuganda community work program to bring people together around a common community purpose once a month; (b) reestablished the traditional community courts (Gacaca) and created mediation committees (abunzi) to achieve reconciliation and mete out justice; (c) sought to hold all government officials accountable for performance through the imihigo system of performance contracts; (d) established the Joint Action Development Forum, a participatory planning mechanism to improve the alignment of citizens’ and districts’ priorities; and (e) created umushyikirano, an annual forum for national dialogue to allow all citizens to have direct access to the most senior leadership in government.

86. Indeed, reestablishing peace and social stability and building the decimated social capital of trust were viewed as the underlying sociopolitical challenges of governance (World Bank Group; Government of Rwanda 2019). These efforts have proven effective, well-reflected in Rwanda’s international rankings, with particularly strong performance on indicators of government effectiveness, control of corruption, rule of law, and regulatory quality. For example, Rwanda ranks 48 (out of 180 countries) for control of corruption in the TI’s Corruption Perception Index of 2017, a vast improvement over its 2006 ranking of 121, placing it third (alongside Mauritius) on the continent. However, Rwanda’s ranking on voice and accountability remains below that of its regional and low-income peers and as depicted in the figure. (Figure 0.26 as appearing in the source document)

---

33 Future Drivers of Growth in Rwanda (2019).
34 Future Drivers of Growth in Rwanda (2019).
National Policy Objectives and Sustainable Development Goals

87. This new version of MAPS is timely in the wake of the launch of the Sustainable Development Goals (SDGs), which like MAPS is relevant for all countries, irrespective of income level or development status. MAPS is related to SDG12, which calls for the promotion of sustainable procurement practices in line with the national priorities and policies, and SDG16, which calls for effective and accountable institutions.35

88. The GoR has published a Voluntary National Review (VNR) Report on implementation of SDGs. As per this report, SDGs have been domesticated and integrated in Vision 2050, the National Strategy for Transformation 2017–2024 (NST1), and related sectors’ and districts’ strategies. NST1 mirrors the three dimensions of sustainable development: Economic, Social, and Environment. A dedicated SDG taskforce bringing together government ministries, DPs, CSOs, and the private sector was established to serve as the nucleus and focal point for ensuring interagency collaboration and coordination. Rwanda is committed to the enhanced delivery and realization of the SDGs including being selected to pilot one of the goals, SDG16 on building effective and capable institutions.36

89. Based on the above report, and as per NST1 Priority on Pillar - Economic Transformation (SDG12), Rwanda shall promote sustainable management of the environment and natural resources to transition Rwanda toward a Green Economy. Further under the Transformational Governance Pillar (SDG16), Rwanda shall strengthen capacity, service delivery, and accountability of institutions.

90. The above policy objectives and development goals are yet to be incorporated in laws, regulations, and standard procurement documents for the public procurement system of Rwanda as reflected under Pillar I on sustainable public procurement (SPP).

Public Procurement Reform in Rwanda

91. The RPPA is a public body established on February 20, 2008 by Law N° 63/2007 of 30/12/2007. It was created to replace the National Tender Board during a reform process in PFM launched by the GoR, in which public procurement reform was one of the most important components.37

92. The 2007 PPL improved upon the body of laws and regulations and a procurement reform history that aimed at instituting discipline in the use of public funds. In the pre-UNCITRAL era, the 1959 Royal Decree on Procurement of Works, Goods, and Transport Services was put in place to limit discretion in the use of public funds. An UNCITRAL based manual was prepared in 2004 to complement the decree. The National Tender Board was established in 1997 with a view to handle procurement transactions, modernize the legal and institutional framework, build capacity, and monitor performance. These reform initiatives continued with the support of the World Bank as well.

93. The RPPA since its inception strived to create capacity and transition the authority on the task of handling procurement transactions to the PEs. Prior review and transactions thresholds were gradually increased starting 2006, in consonance with the increased capacity and performance of procurement units. The RPPA created a dedicated website for publication of procurement information, elaborated SBDs

35 Foreword to MAPS 2018.
37 http://rppa.gov.rw
based primarily on SBDs of the World Bank, and created a complaints review mechanism including a functionally independent review board formed from representatives of private sector, civil society, and government.

94. The 2004 Country Procurement Issues Paper (CPIP) was the first assessment of the country procurement system since 1986 and was conducted jointly by the GoR and the World Bank. Recommendations from this CPIP was one of the primary influences guiding procurement reforms in Rwanda, as its main recommendations were incorporated in the action plan for procurement reform adopted by the government. 38

95. Rwanda was the first country in the Africa region to request consideration as a pilot country under the World Bank’s Use of Country Procurement Systems Piloting Program approved by the Board of the World Bank in April 2008. The assessment, which was carried out in 2009 and 2010, involved a benchmarking based on MAPS, the OECD/DAC methodology that required scoring of 54 sets of sub-indicators built around 12 indicators and 4 pillars. Based on this rigorous assessment, the public procurement system of Rwanda was able to meet 49 out of 54 sub-indicators. The agreed mitigation actions for areas of improvements were the following:

- Complete the last stage of the RPPA’s devolution of the transaction function to PEs
- Bring the capacity-building strategy to a new level
- Continue improving the enabling environment for private sector participation
- Strengthen internal controls and step up the oversight function and application of remedies.

96. In addition to the above, an assessment was also carried out on equivalency of Rwanda’s procurement procedure with the World Bank’s procurement policies and assessment of national bidding documents which were considered generally consistent with the International Bidding Procedure (International Competitive Bidding) of the World Bank and the World Bank’s SBDs, with certain gaps which were expected to be handled in legal agreements for pilot projects and as part of the assessment of executing agencies. The pilot was expected to be rolled out in 2011, but on the basis of new policy and reform initiatives on the part of the World Bank, other multilateral development agencies and the needs of several other borrowing countries, the UCS pilot itself was abandoned. However, this exercise on UCS helped to provide a visibility to the public procurement system of Rwanda on a global platform.

97. AfDB prepared a Bank Procurement Assessment Report (BPAR) in the context of AfDB’s new Procurement Policy Framework39 for AfDB Group funded operations which was approved by the AfDB Board in October 2015. This diagnostic work was based on the MAPS developed by the OECD/DAC. The 54 sub-indicators of MAPS were split into two categories as follows: (a) 21 sub-indicators referred to as ‘critical sub-indicators’ that were identified to assess the conformity of the borrower procurement system (BPS) with the AfDB’s fiduciary obligations, and which should be evaluated without negative impact on AfDB-funded operations to allow for the use of BPS; and (ii) 33 sub-indicators referred to as ‘development sub-indicators’ and considered to be essential in building the BPS, and which will be used in the framework of the Procurement Capacity Development Action Plan. This report was based on existing assessments of

---

39 AfDB’s Procurement Framework approved by the Bank’s Boards of Executive Directors, in October 2015, comprises the following documents: (a) “Procurement Policy for Bank Group Funded Operations”, (b) Methodology for Implementation of the Procurement Policy of the African Development Bank, (c) Procurement Manual, and (d) Procurement Toolkit.
AfDB and also the World Bank’s 2009 proposed piloting program on the UCS in World Bank-supported operations.

98. The main findings and recommendation of the BPAR of AfDB (2016) related to the public procurement system is summarized as follows:

- Rwanda’s public procurement system can be considered to be globally sound and adequate for its use in AfDB-funded operations, however for specific procurement transactions or groups of similar transactions under AfDB-funded project, the decision will depend on the sector market analysis, project, and executing agency risk analysis.

- Rwanda’s country procurement system globally meets the principles of equity, transparency, and integrity. The main issues identified with a negative impact on the use of BPS in AfDB-funded operations relate to (a) the registration of bidders and (b) the involvement of the RPPA in procurement transactions.

- The AfDB and the Government, will have to agree to revise the Procurement Law and Regulations in order to take into consideration the required changes, namely; (i) define a clear process for registration of national and foreign companies in the e-procurement system so that registration does not constitute a barrier to competition; (ii) remove RPPA from the approval of less competitive procurement transactions; and (iii) clearly state the conditions for use of less competitive methods by PEs.

99. A PEFA assessment was carried out in 2016, and published in 2017 (PEFA 2017), that included effectiveness of the procurement system as per PFM Performance Indicator PI-24. The first dimension focused on the extent to which prudent monitoring and reporting was in place to ensure value for money and fiduciary integrity, while the other dimensions focused on the operation of the procurement system, including the effectiveness of an independent administrative complaint resolution mechanism and public access to procurement information. The assessment covered all procurement for the central government using national procedures, including ministries, departments, and agencies and districts. The assessment was based on the data for the last completed fiscal year (2013/14). As per this assessment, 1,610 contracts for a value of RWF 120.140 billion (approximately USD 133 million, based on the exchange rate in 2018) were awarded in 2013/14 of which 81.9 percent were based on open bidding. There was an overall good rating on most of the dimensions, but there were issues related to the dimension on public access to procurement information. For example, as per the 2012–13 RPPA procurement audit report, only 7.5 percent of the PEs posted awarded contracts to their website, while for 2013/14, just 15.5 percent were available to their website. Besides, the RPPA procurement audit report is not explicit on PEs posting of data on resolution of procurement complaints that are supposed to be made public. With this the rating on the dimension on public access to procurement information was ‘C’, with an overall rating on PI-24 of B+ (on a scoring scale of A to D as per the PEFA methodology).

100. The MAPS Assessment Team has taken cognizance of the above background, but carried out an independent analysis and assessment, with input and support from the RPPA and other stakeholders, based on the latest status, laws, regulations, data, and information following the qualitative and quantitative criteria as per MAPS (2018) to identify the strengths, weaknesses, gaps, and recommendations.
Chapter 3: Assessment

101. This section of the Main Report discusses the findings of the assessment in relation to each of the pillars and indicators based on the qualitative review of the system and the application of quantitative indicators as defined in MAPS. It describes the main strengths and weaknesses and identifies the areas that show material or substantive gaps and require action to improve the quality and performance of the system. Substantial gaps are classified into categories by the risk they may pose to the system and actions are recommended to address these weaknesses. In case factors have been identified that are likely to prevent appropriate action to improve the public procurement system, ‘red flags’ are assigned as per criteria reflected at paragraph 24 of Section I of User’s Guide of MAPS 2018, which broadly defines it as factors that impede the main goals of public procurement but lie outside the sphere of public procurement. The detailed assessment results covering each sub-indicator and each criterion is given in the Annex of this Main Report in a matrix form as a separate document. All other back-up material and documentation in support of this analysis are given in the Annex of this Main Report. The Assessment Team has used the guidance and assessment criteria as given in MAPS 2018.

Pillar I. Legal, Regulatory, and Policy Framework

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

103. A consolidated list of applicable laws and regulations for Rwanda and documents referred for this Assessment Report is given in Volume III of the Assessment Report.

Overview of Pillar I with Key Findings

104. Laws, regulations, and precedence of the different instruments. The primary legislation governing public procurement in Rwanda is Law No.62/2018 of 25/08/2018 Governing Public Procurement (PPL). The PPL came into force on September 7, 2018, with a six-month transitional period for PEs to comply. The PPL is an ordinary law sitting within a clearly defined hierarchical legal framework in accordance with Article 95 of the Constitution. The PPL is supported by more detailed and/or specific instruments including the PP Regulations and a professional code of ethics, both issued by way of ministerial orders. In addition, there are ministerial instructions, circulars, guidelines, and SBDs, as well as

105. **Special regulations for commercial public institutions.** Commercial public institutions are subject to the PPL as PEs where they use the state budget. Commercial public institutions whose budget is not approved by Parliament are governed by special regulations of each institution issued by the minister in charge of public investments. These special regulations for commercial public institutions are not available in the public domain. With great efforts, the Assessment Team was able to obtain the procurement manual for one such commercial public institution, Water and Sanitation Corporation (WASAC) Ltd. (originally issued on August 25, 2014, and later revised on September 21, 2015), which was reviewed, and the details are provided in Volume II, Detailed Matrix. In brief, the manual recognizes the principles of transparency, fairness, competition, value for money, effectiveness, and accountability.

106. However, it is seen that the scope of the manual is defined as a ‘management tool’ for WASAC Ltd. How these principles are applied in practice is not known and participants are not aware of the rules governing procurement. The list of such commercial public institutions is not published, and the magnitude of procurement expenditure is not available. More broadly, there is no information to determine if the special regulations of various institutions are harmonized with one another.

107. **Law governing PPPs.** The award of PPP contracts for a wide scope of infrastructure facilities and assets are regulated by Law No. 14/2016 of 02/05/2015 Governing Public Private Partnerships (PPP Law). The potential sectors for PPPs include transportation, energy, social affairs, tourism, natural resources and environment, telecommunications and information technology, and any other sectors determined by order of the Prime Minister. The PPP Law does not apply to contracts subject to the PPL or to the privatization or divestiture of enterprises, assets, and any infrastructure facility owned by the government. The PPP Law generally requires a competitive procedure for the award of a PPP, with international and national advertisement, governed by the following principles: competition, transparency, fairness and non-discrimination, efficiency and effectiveness, protection of public property, and public interest and accountability. The PPP Law permits, in specified cases, the award, without competition, of a PPP contract to a partner who has made an unsolicited proposal. There are no readily available data on the practical use of unsolicited proposals in the award of PPP projects.

108. **Procurement plan.** The procurement rules require PEs to prepare and submit an annual procurement plan to the RPPA, indicating activities to be submitted to tender and related budget. Before commencing a procurement, the procurement office must ensure that the tender is included in the public procurement plan and the relevant budget for its execution is available. According to the PP Regulations,
specified elements of the procurement plan must be published. Revised procurement plans must also be published.

109. **Use of electronic system for public procurement.** For procurement subject to the PPL and above relevant thresholds public PEs must use the e-procurement system, UMUCYO, for conduct of procurement. The requirement to use e-procurement includes the publication of tender opportunities and electronic submission and opening of bids. Exceptions to this rule are only permitted with prior authorization from the RPPA. In practice, there is an ongoing phased rollout of UMUCYO since its launch in 2016. UMUCYO is easily accessible, online, and available at no charge to users, although contracting entities may charge for procurement documents, and suppliers are required to register to participate in tenders. Contracting entities also publish their annual procurement plans on UMUCYO. UMUCYO is an end-to-end system with, for example, contracts management and electronic payment functions in addition to functions supporting the conduct of tender processes.

110. **Public procurement methods.** The PPL provides that public procurement contracts subject to the PPL shall be awarded through open competition, unless otherwise provided for in the PPL. The open procedure is the default procedure for contracts over the national threshold. PEs are permitted to use other competitive procedures, subject to meeting conditions and/or thresholds set out in the PPL. The other competitive methods provided for in the PPL are pre-qualification (technically not a self-standing procurement method), restricted tendering, requests for quotation, simplified method, and two-stage tendering. Direct award (single source procurement) is permitted only where specified grounds for justification are satisfied. Procurement methods for award of contracts provided for in the PPL, together with conditions for their use, include force account and community participation approaches. The conditions for use of noncompetitive procurement methods are widely drafted and are potentially open to overuse, prior approval from the RPPA is required, in certain cases, for use of award methods other than the open procedure, although the PPL requirements and practice in this respect are not entirely clear.

111. Moreover, the force account and community participation approaches embedded into the PPL as procurement methods and with high levels of use, are approaches derived from the World Bank’s procurement rules. They were developed to be used only in very exceptional circumstances, for World Bank-financed operations where specific circumstances meant that it was not possible to deliver projects through other methods. In other jurisdictions, force account is similar to in-house procurement, which is normally excluded from the scope of the procurement law since this does not constitute procurement.

112. **Time for preparation of bids.** The PPL specifies minimum time limits between the call for proposals and submission of bids, which vary according to the nature and complexity of the procurement and also whether foreign bidders are expected to bid, in which case the time frames are longer. Most advertised opportunities use the open procedure, for which the minimum time frame for submission of tenders is 30 calendar days, and 45 days in the case of international tenders.

113. **Rules on participation.** The PPL sets out rules on eligibility to participate in procurement processes. Public companies and public institutions are eligible to participate as bidders in public procurement if they can prove that they are legally and financially autonomous and that they operate

---

46 The PP Regulations set out thresholds applying to the use of the competitive procedures available under the 2007 PPL, with the ‘lightest’ methods of procurement permitted for low-value tenders.

47 Article 29 of the PPL.
under commercial laws. The PPL also prescribes grounds for exclusion from participation and provides for rejection of offers where it is established that a bidder is engaged in corrupt or fraudulent practices.

114. There are no provisions in the PPL referring specifically to exclusion from participation due to conviction by final judgment for offences relating to participation in a criminal organization, terrorism, money laundering, child labor, trafficking in human beings, or the equivalent of those offences. There are provisions for temporary or permanent administrative debarment, subject to due process. The ‘blacklist’ of debarred bidders is published on the RPPA website, listing the name of the company/organization, name of the individual, ground for debarment, and period of debarment.

115. **Requirement for bidder’s qualification.** The PPL sets out a non-exhaustive list of requirements for bidder qualification. Qualification requirements must be published in advance and only the published requirements may be applied. The PE must check the accuracy of evidence/information provided by a bidder and a PE may disqualify a bidder for submitting false, materially confusing, or incomplete information. The PPL also includes requirements for bidders to be registered as businesses, to hold professional licenses, or to exercise any liberal profession, but the PPL does not require that the registration or licensing must be in Rwanda. For specified construction works and engineering consultancy services, local and foreign companies are required to apply to the RPPA for ‘categorization’ which assesses a company’s suitability to deliver contracts.

116. **Procurement documentation and specifications.** The PPL establishes the minimum content of procurement documents and requires that the tender document be prepared in accordance with the PPL, PP Regulations, and standard tender documents. PEs are required to use the SBDs published by the RPPA. The level of detail in the SBD varies according to the nature and complexity of the procurement covered by the particular SBD. Specifications must be objective and neutral, referring to national standards, or international standards where relevant, with recognition of the principle of equivalence. The use of output-based (functional) specifications to promote innovation is not covered by the legal framework. Potential bidders may request clarification of procurement documents and the PE must respond timely, with written clarification provided to all potential bidders.

117. **Evaluation and award criteria.** The legal framework requires that the procedure and criteria for bid evaluation and comparison are set out clearly in the tender documents. The SBDs have sections for specifying the evaluation criteria and methodology to be applied. Only pre-disclosed criteria may be used to evaluate bids, and nothing can be added or deleted in that respect. The submitted bid/proposal must be substantially responsive. In the case of works, the contract is awarded to the bidder whose bid/proposal is determined to have offered the lowest evaluated price/cost. Evaluation of price and non-price attributes is permitted, particularly in the case of supply of goods. While consideration of life cycle costing is permitted, there are no specific provisions concerning the method by which life cycle costs are determined. The default method for evaluation of proposals for consulting services is quality and cost-based selection. The PPL includes provisions on both exclusive preference and local price preference and the SBDs include price preference provisions and methods of calculation.

118. **Confidentiality in public procurement.** The PPL provides that during or after procurement proceedings the content of bids must not be disclosed, subject to disclosure required by law or for the purposes of appeal or audit. The PPL also forbids disclosure of information relating to a procurement whose disclosure is likely to impede respect for law or jeopardize public interest or would prejudice a bidder’s legitimate commercial interest (which is not defined) or inhibit fair competition.
119. The PPL requires the PE to notify successful and unsuccessful bidders of the provisional outcome of the award decision. The PPL does not require the PE to provide, in the initial notification, specified information which would assist transparency and effective review, such as the scores of the winning bidder and the relevant bidder or reasons why the bidder’s bid was unsuccessful. Bidders may apply for information on the reasons for the decision and have seven days in which to lodge a complaint before the contract is signed. After the contract is signed there is an additional right for a bidder to apply for information but not for the purposes of appealing against the award decision.

120. The PPL provides that the PE must publish a contract award notice on award of a contract, but it is not clear whether publication of a contract award notice is required when a noncompetitive procedure is used or for low-value contracts.

121. **Contract management.** The PPL includes more detail on contract provisions than commonly found in primary procurement legislation in other jurisdictions and includes some contract management-related provisions. The standard contract terms included in the SBDs are very comprehensive. The conditions for contract amendments are defined in the PPL and include limitation to ensure economy and avoid arbitrary limitation of competition. The SBDs provide for dispute resolution, including alternative dispute resolution, by way of mediation, arbitration, and adjudication.

122. **Right to challenge and appeal.** The PPL provides participants and prospective participants in procurement proceedings the right to challenge decisions or actions taken by a PE at any stage from publication of the tender opportunity to signing of the contract. Provisions on the conduct of the review process, including fees and time limits, are set out in the PPL and PP Regulations. The initial application for review is made in writing to the PE, with a right of appeal to the National Independent Review Panel (NIRP). When an appeal is lodged with the NIRP the procurement process is suspended pending the NIRP’s decision.

123. The NIRP may consider and decide on complaints without an oral hearing, but there is also the option for the NIRP to invite both sides to a hearing before the members of the panel. Complainants are entitled to be represented by a lawyer. The legal framework specifies the range of available remedies. The NIRP has authority to order a range of actions, including suspension of procurement proceedings. Decisions on appeal made by the NIRP must be published on the RPPA website. Decisions of the NIRP are final and binding, unless the decision has been reviewed by the court adjudicating the case on merit. The competent court for review is the commercial court. Decisions of the NIRP are not published.

124. Members of the NIRP are appointed, and may be dismissed, by the MINECOFIN. The NIRP budget and secretariat is provided by the RPPA.

**Key Strengths and Weaknesses (Substantial Gaps)**

**Strengths**

- The legal framework is clearly structured and reasonably comprehensive, with higher-level, primary legislation providing the overarching structure supported by secondary legislation, guidelines, manuals, and standard documents. It sets out fundamental principles governing public procurement which include efficiency, fairness, and transparency.

- The legal framework provides for a range of competitive procedures with varying degrees of complexity, for use according to the nature of the contract. Thus, simpler, faster methods may be used for low-value/lower-risk contracts while more onerous procedures are applicable for more
complex contracts which are higher value/higher risk. The legal framework provides for the open procedure to be the default procedure.

- Up-to-date SBDs are available and published on the RPPA portal. Their use is mandatory for contracts over specified thresholds. The SBDs include provisions concerning evaluation criteria and methodologies, where relevant, as well as detailed standard terms and conditions of contract. The PPL requires tender specifications to be objective and neutral with references to national or international standards and in recognition of an equivalent standard where appropriate.

- There are clear provisions in the PPL requiring contracting entities to publish the criteria to be used to evaluate bidder qualification and tenders and to use only published criteria and methodologies. There are legal requirements addressing conflicts of interest and on maintaining bidder confidentiality.

- Standard contract forms contained within the SBDs are comprehensive and include provisions to resolve disputes promptly during the performance of the contract, including alternative dispute resolution methods. There are provisions in the legal framework limiting cases where contract amendments are permitted.

- The introduction and use of the e-procurement system should, in theory, contribute significantly to maintain or raise levels of transparency as well as increase cost effectiveness and improve the efficiency of procurement processes while reducing administrative burdens.

- A right of review of decisions of contracting entities is available to participants and prospective participants at any stage in the procurement. The initial complaint is made to the contracting entity but there is entitlement to appeal to the IRP. Statutory time scales for conduct of the review and decision-making are relatively short and a range of remedies is available.

Weaknesses

125. The main weaknesses identified in the legal and regulatory framework are the following:

- Nonalignment of the overall legal and regulatory framework with changes resulting from the PPL 2018 and the introduction of e-procurement
- Scope and application of coverage—commercial public institutions, SOEs, and privately owned utilities with exclusive rights.
- Use of methods other than the open procedure—the authorization process by the RPPA.
- Justification for use of noncompetitive methods—single source procurement, force account, and community participation—and levels of use of those methods.
- Non-publication of contract award information—particularly for low-value contracts and contracts awarded using noncompetitive methods.
- Grounds for bidder exclusion, disqualification, and debarment process.
- Price preference and preferential treatment appears to be a barrier to participation of foreign bidders.
- Sustainability and life cycle costing are not explicitly provided for in the legal framework.
- Procurement complaints—time scales, grounds, and failure to publish all NIRP decisions and the institutional independence of the NIRP.
126. The above weaknesses are dealt with in detail as substantial gaps in the tables in this section under each Indicators.

127. Indicator-wise findings are summarized in the rest of this chapter.

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

128. The indicator covers the different legal and regulatory instruments established at varying levels, from the highest level (national law, act, regulation, decree, and so on) to detailed regulation, procedures, and bidding documents formally in use.

Findings

129. **Legal framework, application, and coverage of public procurement.** The law governing public procurement is Law No.62/2018 of 25/08/2018 Governing Public Procurement (PPL)⁴⁸. The PPL came into force on September 7, 2018, with a six-month transitional period for PEs to comply. The PPL is an ordinary law sitting within a clearly defined hierarchical legal framework. In the event of conflict with the PPL, the provisions of international treaties and agreements take precedence. The PPL takes precedence over and is supported by more detailed and/or specific instruments including PP Regulations⁴⁹ and professional code of ethics both issued by way of ministerial orders, ministerial instructions, circulars, guidelines, SBDs, and a Public Procurement User Guide.⁵⁰ Both the PP Regulations and the Public Procurement User Guide are out of date and require replacement or substantial amendment including alignment with the e-procurement system.

130. The legal framework applies to all procurement using public funds (goods, works, and services, including consulting services). The list of exclusions from the application of the PPL is limited but includes “classified items relating to national defense and security.” PEs are widely defined to cover public bodies, including subnational governments and commercial public institutions where they use the state budget. Commercial public institutions whose budget is not approved by Parliament are governed by special regulations of each institution. There is no consolidated list of PEs which are categorized as commercial public institutions and thus have adopted special regulations. These regulations are not published and available in public domain as also the volume of procurement activities carried out by such institution is not available.

131. **PPPs and concessions.** MINECOFIN takes the policy lead on PPPs. The RDB supports the implementation of PPPs. The award of PPP contracts for a wide scope of infrastructure facilities and assets are regulated by Law No. 14/2016 of 02/05/2015 Governing Public Private Partnerships⁵¹ (PPP Law). The potential sectors for PPPs include transportation, energy, social affairs, tourism, natural resources and environment, telecommunications and information technology, and any other sectors determined by

---

order of the Prime Minister. The PPP Law does not apply to contracts subject to the PPL or to the privatization or divestiture of enterprises, assets and any infrastructure facility owned by the Government. The PPP Law generally requires a competitive procedure for the award of a PPP, with international and national advertisement, governed by the following principles: competition, transparency, fairness and non-discrimination, efficiency and effectiveness, protection of public property, and public interest and accountability. The PPP Law permits, in specified cases, the award, without competition, of a PPP contract to a partner who has made an unsolicited proposal.

132. **Publication and accessibility.** Public procurement laws, ministerial orders, and ministerial instructions relating to public procurement, and circulars, SBDs, guidelines, and manuals are published on the website of the RPPA. The RPPA website is a freely accessible online portal. It is not clear from the RPPA website whether the information available, for example the ministerial orders, are fully up to date and comprehensive, and there appears to be some inconsistency in the availability of documents in different language versions of the website. It is uncertain what degree of public consultation is required prior to issue of ministerial orders. There is a general lack of interface and seamless ‘fit’ between the RPPA website and the UMUCYO website and guidance is available.

133. **Procurement methods.** The PPL provides that public procurement contracts subject to the PPL shall be awarded through open competition, unless otherwise provided for in the PPL. The open procedure is the default procedure for contracts over the national threshold. PEs are permitted to use other less competitive procedures, subject to meeting conditions and/or thresholds set out in the PPL, which generally reflect the nature and complexity of the contract concerned. In specified cases, prior approval from the RPPA is required to conduct procedures other than the open procedure. Direct award (single source procurement) is permitted only where specified grounds for justification are satisfied. Fractioning of contracts to avoid open competition is prohibited when it aims at circumventing competitive rules. A consolidated summary of the procurement methods available, including relevant thresholds and conditions, is not published.

134. **Advertising rules and time limits.** PEs are required to publish all tender opportunities on the e-procurement portal, except where the estimated value of the contract is below relevant thresholds published in the PP Regulations. Other circumstances where award without prior publication of a tender is permitted are specified in the PPL. When a PE does not use the e-procurement system and where no authorization has been obtained, the PPL provides that the contract shall not be paid for by the government, thus exposing suppliers to financial and commercial risk resulting from noncompliance by a PE.

135. The e-procurement portal, UMUCYO, is easily accessible online at no charge. The PPL requires only limited information to be included in the notice publicizing tender opportunities, although, in practice, the information published on UMUCYO is sufficient to allow potential bidders to determine whether they are able to submit a bid and are interested in submitting one. The minimum time between the call for proposals and submission of bids is specified in the PPL. Most advertised opportunities use the open procedure, for which the minimum time frame for submission of tenders is 30 calendar days. The minimum time frame is much shorter for submission of tenders using the simplified method, reflecting

---

53 The PP Regulations set out thresholds applying to the use of the competitive procedures available under the 2007 PPL, with the ‘lightest’ methods of procurement permitted for low-value tenders.
54 Rollout of use of the e-procurement system has been phased since its launch in 2016 and most, but not all, PEs now use the system.
the low-value non-complex nature of these procurements. Where foreign bidders are expected to compete, the time frames are longer. The minimum time between the call for proposals and submission of bids is specified in the PPL.

136. **Rules on participation.** The PPL sets out rules on eligibility to participate in procurement processes and grounds for exclusion. The legal framework details eligibility requirements and provides for rejection of offers where it is established that a bidder is engaged in corrupt or fraudulent practices. Public companies and public institutions are eligible to participate as bidders in public procurement if they can prove that they are legally and financially autonomous and that they operate under commercial laws.

137. There are no provisions in the PPL referring specifically to exclusion from participation due to conviction by final judgment for offences relating to participation in a criminal organization, terrorism, money laundering, child labor, trafficking in human beings, or the equivalent of those offences. There are provisions for administrative debarment subject to due process. The provisions of debarment stipulated under Chapter IV on Sanctions. PPL A.176 deals with temporary debarment (for example, false information regarding the company, its document or its capacity) and PPL A.177 with permanent debarment (for example, use of fraudulent means to evade sanctions) for which conditions are listed exhaustively under these articles and summarized under Indicator 14 of the Detailed Matrix in Volume II of the Assessment Report. The ‘Blacklist’ of debarred bidders is published on the RPPA website, listing the name of the company/organization, name of the individual, ground for debarment, and period of debarment.

138. The PPL sets out a non-exhaustive list of requirements for bidder qualification. Qualification requirements must be published in advance and only the published requirements may be applied. The assessment as to eligibility and ability may be combined with the procurement documents as part of the specific procurement or, in specified cases, be initiated as a separate exercise that is conducted before full offers are requested. The PE may require a bidder to provide evidence or information to establish that the criteria are met, in accordance with instructions set out in the tender document instructions. The PE must check the accuracy of evidence/information provided by a bidder and may disqualify a bidder for submitting false, materially confusing, or incomplete information.

139. There are a number of measures which may limit or hinder access to the market. The PPL includes provisions on both exclusive preference and local price preference and the SBDs, which PEs are required to use, include price preference provisions and methods of calculation. The PPL also includes requirements for bidders to be registered as businesses, to hold professional licenses, or to exercise any liberal profession, but the PPL does not require that the registration or licensing must be in Rwanda. For specified construction works and engineering consultancy services, local and foreign companies are required to apply to the RPPA for ‘categorization’ which assesses a company’s suitability to deliver contracts.

140. **Procurement documentation and specifications.** The PPL establishes the minimum content of procurement documents and requires that the tender document be prepared in accordance with the PPL, PP Regulations, and standard tender documents. SBDs are published by the RPPA and must be used by PEs. The level of detail varies according to the nature and complexity of the procurement covered by the particular SBD. Requirements in the specifications contained in the procurement documents must be objective and neutral, referring to national standards, or international standards where relevant, with recognition of the principle of equivalence. Some standard technical specifications have been published.

---

55 The SBDs include ‘Qualification information’ or ‘Post-qualification’ sections with forms for completion by bidders.
The use of output-based (functional) specifications to promote innovation is not covered by the legal framework. Some standard technical specifications have been published, which are generally input based in nature. Potential bidders may request clarification of procurement documents and the PE must respond timely, with written clarification provided to all potential bidders.

141. **Evaluation and award criteria.** The legal framework requires that the procedure and criteria for bid evaluation and comparison are set out clearly in the tender documents. Only the pre-disclosed criteria may be used to evaluate bids and nothing can be added or deleted in that respect. The submitted bid/proposal must be substantially responsive. In the case of works, the contract is awarded to the bidder whose bid/proposal is determined to have offered the lowest evaluated price/cost. Evaluation of price and non-price attributes is permitted, particularly in the case of supply of goods, where other criteria may be applied and monetized, to ensure value-for-money decisions. Consideration of life cycle costing is permitted, but there are no specific provisions concerning the method by which life cycle costs are determined. The default method for evaluation of proposals for consulting services is quality and cost-based selection. The SBDs have sections specifying the criteria and methodology to be applied, where relevant. In the case of consultancy services, the formula for assessment of combined criteria, including manner of combination and relative weighting, is set out in the PP Regulations. During the procurement process, information relating to the evaluation and comparison of bids or clarification on tenders and content of bids must not be disclosed.

142. **Submission, receipt and opening of tenders.** All public PEs must use the e-procurement system, UMUCYO, for conduct of procurement. This includes the electronic submission and opening of bids. However, the legal framework does not include details governing the modalities for opening bids or the preparation, retention, and availability of records of proceedings for bid opening, aligned with the e-procurement system. The PPL provides that during or after procurement proceedings the content of bids must not be disclosed, subject to disclosure required by law or for the purposes of appeal or audit. The PPL also forbids disclosure of information relating to a procurement whose disclosure is likely to impede respect for law or jeopardize public interest or would prejudice a bidder’s legitimate commercial interest (which is not defined) or inhibit fair competition. The 2010 Public Procurement User Guide includes the requirement for security and confidentiality but the user guide is not up to date because of the introduction of the new PPL 2018 and the move to e-procurement in particular.

143. **Right to challenge and appeal.** Participants and prospective participants in procurement proceedings have the right to challenge decisions or actions taken by the PE at any stage of the procurement proceedings. There is no requirement in the PPL to demonstrate actual or possible loss or injury because of the alleged noncompliance. The legal framework is not sufficiently proscriptive in terms of information to be provided to bidders concerning the proposed contract award and the time frame within which such information shall be provided. It also appears that there is no right to challenge a final contract award decision after it has been made.

144. The initial application for review is made in writing to the PE, with a right of appeal to an IRP, the NIRP. When an appeal is lodged with the NIRP the procurement process is suspended pending the NIRP’s decision. The NIRP has authority to order a range of actions, including cancelling procurement proceedings. The legal framework specifies the range of available remedies. There are rules which establish time frames for submission of challenges and appeals and for issuance of decisions by the NIRP. Decisions on appeal made by the NIRP must be published on the RPPA website, but there are no specified time frames for publication and not all decisions are published on the RPPA website. Decisions of the NIRP
are final and binding, unless the decision has been reviewed by the court adjudicating the case on merit. The competent court for review is the commercial court.

145. **Contract management.** The PPL provides more detail on contract provisions than commonly found in primary procurement legislation in other jurisdictions, and includes some contract management related provisions. The e-procurement system includes contract management and payment functions. The standard contract terms included in the SBDs are very comprehensive. The conditions for contract amendments are defined in the PPL and include limitations to ensure economy and avoid arbitrary limitation of competition. There are efficient and fair processes for prompt resolution of disputes during performance of the contracts, with amicable settlement as the first step. The SBDs provide for dispute resolution, including alternative dispute resolution, by way of mediation, arbitration, and adjudication. The PPL covers provisions concerning payment of invoices and refers to an order of the minister which determines the period within which the invoice is paid. The order of the minister has not yet been published.

146. **Electronic public procurement and norms for safekeeping of records, documents, and electronic data.** All public PEs must use the e-procurement system, UMUCYO, for conduct of procurement. The PPL and PP Regulations do not set out a comprehensive list of the records to be maintained either for paper-based or electronic procurement, and there are no document retention policies or comprehensive security protocols. There is currently a lack of clear alignment between the PPL, PP Regulations, and the use of the e-procurement system.

147. Tabulation on substantive gaps, risk classification (Low - L, Medium – M, or High - H), and recommendations is given below.

<table>
<thead>
<tr>
<th>Sub-indicator</th>
<th>Substantive Gap</th>
<th>Risk</th>
<th>Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>✅ 1(a)(b) Scope of application</td>
<td>PPL Article 2 on the Scope of Law does not exclude commercial public institutions, which is in contradiction with PPL Article 5 where such institutions whose budget is not approved by the Parliament is governed not by PPL but by special regulations of each institution approved by an order of the minister in charge of public investment.</td>
<td>M</td>
<td>The RPPA in cooperation with the minister in charge of public investments should consider identifying and publishing the list of commercial institutions which are subject to special regulations. An assessment should be undertaken to determine the extent of and further need for harmonization with the PPL and between the special regulations of such commercial institutions. In this vein, the special regulations approved by the minister should at a minimum require the public disclosure of special procurement rules, as well as disclosure of reports and data on volume of procurement, share of competitive versus noncompetitive procedures, and complaints received and resolved.</td>
</tr>
<tr>
<td>✅ 1(b)[a] Procurement methods</td>
<td>Use of methods other than open procedure - authorization process. It is not clear from the PPL (Article 29) whether prior approval is required from the RPPA in all cases where a method</td>
<td>M</td>
<td>The process set out in Article 29 should be reconsidered, preferably to be abolished. However, if the government considers it important to keep this arrangement in place till the capacity of procurement workforce is upgraded, then revisions to the PPL and/or PP</td>
</tr>
</tbody>
</table>
### Sub-indicator

<table>
<thead>
<tr>
<th>Sub-indicator</th>
<th>Substantive Gap</th>
<th>Risk</th>
<th>Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>other than an open tender is used or whether prior approval is only required where conditions for use of the particular method are not met.</td>
<td>There are no provisions in the legal framework setting out the detailed criteria and methodology which the RPPA uses to assess the application by PEs for authorization for use of methods other than the open procedure.</td>
<td>If up-to-date information is not available to suppliers then, particularly where authorization is given for noncompetitive procurement, this has a potentially negative impact on competition and transparency.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>There is a lack of up-to-date, comprehensive, and publicly available information on submission, process, and decisions made on these applications.</td>
<td>To increase transparency, there should be a requirement in the legal framework for prompt publication on the RPPA website/UMUCYO of authorizations granted by the RPPA to use methods other than the open procedure.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>The provisions of Article 29 appear to overwrite the detailed conditions for use of each method offering misplaced discretion to the RPPA (with confirmation from the responsible supervising minister that procurement is in public interest) to approve the use of noncompetitive methods if conditions for the application are not met.</td>
<td>Information published must include sufficient information, including reasons for the decision and allow sufficient time to permit suppliers to challenge the decision.</td>
<td>Regulations should be considered to limit the ex-ante function of the RPPA to review and approve the use of noncompetitive methods set out in the PPL, when conditions set out in the PPL exist and such use is justified.</td>
</tr>
</tbody>
</table>

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

To increase transparency, there should be a requirement in the legal framework for prompt publication on the RPPA website/UMUCYO of authorizations granted by the RPPA to use methods other than the open procedure.

Information published must include sufficient information, including reasons for the decision and allow sufficient time to permit suppliers to challenge the decision.
<table>
<thead>
<tr>
<th>Sub-indicator</th>
<th>Substantive Gap</th>
<th>Risk</th>
<th>Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>contractor or as a way to deal with poor or lazy procurement practices such as leaving it too late to run an open procurement or insufficient market analysis to identify more than one potential provider. This is particularly the case if justifications can be in undefined broad terms such as being in ‘public interest’. Moreover, the RPPA’s authority to allow derogations from the PPL without strong and clear conditions, dilutes the accountability of PEs.</td>
<td>M</td>
<td>PPL A.24 could be strengthened to reduce the likelihood of overuse or abuse. Redraft (PPL A.24(4)) to strengthen the provision so that single source procurement may only be used in exceptional circumstances. PPL A.26 and PPL A.27 could be strengthened to reduce the likelihood of overuse, inappropriate use, and or use based on non-economic considerations. In summary, redraft PPL A.24, PPL A.26, PPL A.27, and PPL A.29 to narrow the conditions where these methods of noncompetitive award may be used or justified clearly and not in broad terms such as being in the ‘public interest’.</td>
<td></td>
</tr>
<tr>
<td>Justification for single source procurement. The drafting of the justification for single source procurement in urgent situations (PPL A.24(4)) is not sufficiently strong to guarantee that it is used only in exceptional circumstances. Justification for use of other noncompetitive methods - force account and community participation. The conditions for use of force account (PPL A.26) and community participation (PPL A.27) are too broadly drafted and have the potential to be inappropriately used, overused, or used for non-economic considerations resulting in reduced competition.</td>
<td>L</td>
<td>The PPL should be amended to ensure that information in a tender notice includes at least a short description of the subject matter of the procurement, time lines, and reference to where bidding documents can be obtained.</td>
<td></td>
</tr>
</tbody>
</table>
| PPL A.33: The information included in the tender notice is insufficient to allow potential bidders to determine whether they are interested or able to submit a bid. | M | The RPPA to provide clear guidelines either through the PP Regulations or user guides on how these provisions should be interpreted by PEs.
<table>
<thead>
<tr>
<th>Sub-indicator</th>
<th>Substantive Gap</th>
<th>Risk</th>
<th>Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>widely or formalistically by PEs, which could cause problems or be misused.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Price preference provisions</strong></td>
<td>There is a set of requirements on exclusive preferences for goods produced in Rwanda and categorization that promotes preference for local goods and services. Though foreign companies can bid and be awarded a tender once, without categorization, they are required to apply for categorization later on. The categorization does not identify firms which are micro, small, and medium enterprises (MSMEs), though in practice most of the local firms fall under the category of MSME. In conclusion rules of eligibility, exclusive preferences for local bidders, and system of categorization may be construed as a barrier to competition.</td>
<td>In applying the various schemes and preferences for locally produced goods or services, the government could consider the effects on participation of foreign bidders whose presence should not be underestimated in terms of innovative solutions, value for money, and flow of knowledge that they bring into the country. Based on hard data, the government should find out if such conditions create oligopolistic or monopolistic conditions. Among other things, the government could consider alternative ways to improve local participation: (a) including margin of price preference in favor of SMEs applied in evaluation and comparison of bids; (b) setting aside contracts below certain monetary levels or types of procurement for award to SMEs; (c) basing quotas for award of contracts to SMEs on a percentage of the value of total procurement of a PE; (d) specifying levels of subcontracting to SMEs to be met by prime contractors; and (e) bundling procurement into smaller contracts to encourage SMEs and local companies.</td>
<td></td>
</tr>
<tr>
<td><strong>Grounds for exclusion:</strong></td>
<td>There are no provisions in the PPL referring specifically to exclusion on the grounds of a conviction by final judgment for specified criminal offences or corrupt activities.</td>
<td>The PPL to be revised to include specific provisions dealing with exclusions for convictions for specified criminal offences or corrupt activities.</td>
<td></td>
</tr>
<tr>
<td><strong>Debarment:</strong></td>
<td>Periods of debarment of five or seven years are relatively long and may have a negative impact on competition. The provision for debarment for a period of seven years for failure to inform a change of address appears disproportionate.</td>
<td>Consider reducing the periods for debarment. Specific guidance is needed to reduce discretion on these aspects and need to be addressed in the PP Regulations and/or User’s Guide for transparency and certainty (cross refer to sub-indicator 14(c)).</td>
<td></td>
</tr>
</tbody>
</table>
| **1(f) Evaluation and award criteria** | Use of price and non-price attributes in practice
Life cycle costing. The PPL and PP Regulations do not contain specific provisions concerning relative weighting and/or life cycle costing of the method by | L | Including life cycle costing provisions in higher level legislation supported by guidance on use of life cycle costing, where relevant, would emphasize its importance and ensure consistency and uniformity among PEs. Revise the PPL and/or PP Regulations to include explicit provisions on use of life cycle costing, |
<table>
<thead>
<tr>
<th>Sub-indicator</th>
<th>Substantive Gap</th>
<th>Risk</th>
<th>Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub</td>
<td>which life cycle costs are determined, which is also a gap under Indicator 3.</td>
<td></td>
<td>supported by practical guidance and methodologies, where appropriate</td>
</tr>
<tr>
<td>1(g) Submission, receipt, and opening of tender</td>
<td>There is a lack of clear and up-to-date rules, policies, and guidance on modalities for submission, receipt, and opening of bids; recording proceedings for bid opening; document retention; and security and confidentiality of bids.</td>
<td>L</td>
<td>Legal framework to be updated to reflect PPL 2018 and move to e-procurement system. This should be supported by publication of clear and up-to-date policies and guidance (as appropriate). This information should to be public and easily accessible.</td>
</tr>
</tbody>
</table>
| 1(h) Right to challenge and appeal | PPL A.49: Information to be provided in 7-day period before contract award. PPL A.49 does not appear to place a PE under an obligation to provide the information to the bidder without delay and within a short-specified period following receipt of the request. Nor is it clear on what kind of information and whether the information provided at this stage must include an explanation as to why it is proposed not to select their bid. This may potentially create problems for a bidder seeking to substantiate grounds for a complaint within the seven-day period. | L | It is of utmost importance for the transparency and fairness of the procurement complaints review mechanism to provide timely and sufficient information to bidders for them to prepare and file meaningful complaints. The PPL and, at a minimum, the PP Regulations must include provisions to address the gaps. Alternatively, a series of changes/measures could be considered to strengthen the review process:  
• After completion of bid evaluation, automatically communicate the evaluation results to all bidders who submitted bids, providing information on their respective bids, reasons for rejection, points awarded, evaluated total price, ranking, and so on, as relevant. Also, provide information on the successful bidder to whom the PE is proposing to award the contract.  
• The notification commences the ‘standstill period’, which can be 7–10 days during which bidders may complain. |
<p>| Right to challenge final award decision: The PPL does not, appear to provide a right to challenge the final award decision. PPL provides that after signature the PE must notify the other bidders that their bids were unsuccessful and bidders have a right to request an explanation as to why their bids were not selected. This is too late in the process for other bidders to seek | | |</p>
<table>
<thead>
<tr>
<th>Sub-indicator</th>
<th>Substantive Gap</th>
<th>Risk</th>
<th>Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Publication of information on appeals.</strong> List of appeals and appeals filed cannot be found on the NIRP website.</td>
<td></td>
<td>Appeals or, at a minimum, a list of accepted appeals with sufficient detail to identify the parties and subject matter of the appeals, should be published, on receipt and acceptance, on a dedicated web page or website and in an easily searchable format. The PPL or PP Regulations to be amended to include provisions on publication of information on appeals, including timelines for publication.</td>
<td></td>
</tr>
<tr>
<td><strong>Publication of decisions.</strong> Not all NIRP decisions are published on the NIRP website.</td>
<td></td>
<td>All decisions of the NIRP should be published on a dedicated web page or website within a short-specified period of the decision being made and in an easily searchable format. The PPL or PP Regulations to be amended to include provisions on publication of decisions, including specifying a short time frame for publication.</td>
<td></td>
</tr>
<tr>
<td><strong>1(j) Electronic public procurement</strong></td>
<td>Alignment with legal framework</td>
<td>M</td>
<td>Amend the PPL (if necessary) and adopt and publish as quickly as possible the new PP Regulations for the implementation of the PPL 2018, aligned with e-procurement.</td>
</tr>
<tr>
<td><strong>1(k) Norms for safekeeping of records, documents, and electronic data</strong></td>
<td>The PPL and PP Regulations do not set out a comprehensive list of the records to be maintained either for paper-based or electronic procurement. There are no easily accessible published document retention policy or security protocols. The 2010 User Guide is out of date and not aligned with PPL 2018 or e-procurement.</td>
<td>M</td>
<td>Codification of legal requirements into the new PP Regulations should include provisions on record keeping and transactions, document retention and security, aligned with e-procurement processes and supported by practical and up-to-date guidance, policies, and protocols (as appropriate).</td>
</tr>
<tr>
<td><strong>1(l) Public procurement principles in specialized legislation</strong></td>
<td>Procurement by public commercial entities is not essentially aligned with the overall procurement framework. There is no evidence the special procurement regulations are approved by ministerial order as required by the PPL. They are not publicly available, and there is no</td>
<td>M</td>
<td>The RPPA in cooperation with the minister in charge of public investments should consider identifying and publishing the list of commercial institutions which are subject to special regulations. An assessment should be undertaken to determine the extent of and further need for harmonization with the PPL and between the special regulations of such commercial institutions. In this vein, the special regulations</td>
</tr>
</tbody>
</table>
Sub-indicator | Substantive Gap | Risk | Recommendations
--- | --- | --- | ---
clarity on whether the special procurement regulations issues by any such commercial public institution are harmonized with one another. The complaints review mechanism, an essential element of accountability and fairness in public procurement, is limited to review by internal structures of the commercial institution
**Unsolicited proposals for PPP.** The provisions permitting the award without competition of a PPP contract following receipt of an unsolicited proposal have the potential to reduce the overall competitiveness of the market and negatively impact long term value for money outcomes.

Approved by the minister should at a minimum require the public disclosure of special procurement rules, as well as disclosure of reports and data on volume of procurement, share of competitive versus noncompetitive procedures, and complaints received and resolved.

With regard to PPP contract, the RDB (which serves as the Secretariat of the PPP Steering Committee) to review use of unsolicited proposal with a system of evaluating it against other competing proposals as per international practices including ‘Swiss Challenge’ as a method where the subject matter is put to competition after the unsolicited proposal is submitted and the first proposer is asked to match the alternative proposal price if he is not lowest.

---

The following table sets out non-substantial gaps and suggestions for improvements.

<table>
<thead>
<tr>
<th>Sub-indicator</th>
<th>Non-substantive Gap</th>
<th>Recommendations/Suggestions for Improvements</th>
</tr>
</thead>
<tbody>
<tr>
<td>1(a) Scope of application and coverage</td>
<td>Ministerial orders - easy availability. The English language version of the RPPA website site does not appear to contain a comprehensive set of the ministerial orders which apply to public procurement. It is not possible to establish with certainty from the English language version of the website whether the information provided on the RPPA website is exhaustive or up to date. RPPA website. There is some inconsistency between the documents available in all official languages. RPPA/UMUCYO interface. There is a general lack of ‘fit’ between the RPPA website and the UMUCYO website and guidance available. Ministerial orders - creation. It is not clear to what degree consultation is required prior to the issue of</td>
<td>In order to ensure easy access, a comprehensive and up-to-date collection of all relevant current documents should be published on the RPPA website, including the PPL, PP Regulations, ministerial orders, ministerial instructions, circulars, guidelines, SBDs, information and instructions on use of e-procurement, user guides, and a summary of all relevant financial thresholds. All published documents in the collection should be identified (indexed) in a consistent manner and be available in all language versions of the website. An index of documents, with links to the documents, would also be helpful. Ideally, PDF documents would be in a searchable format for ease of reference. Where documents are included in the collection for historic reference purposes (such as the old PPL 2007) there should be a</td>
</tr>
<tr>
<td>Sub-indicator</td>
<td>Non-substantive Gap</td>
<td>Recommendations/Suggestions for Improvements</td>
</tr>
<tr>
<td>---------------</td>
<td>---------------------</td>
<td>---------------------------------------------</td>
</tr>
<tr>
<td>Sub-indicator</td>
<td>Non-substantive Gap</td>
<td>Recommendations/Suggestions for Improvements</td>
</tr>
<tr>
<td>1(g) Submission, receipt, and opening of tenders</td>
<td>Commercial interest. The PPL provides for non-disclosure to protect ‘commercial interest’ but this term is not defined in the PPL. If this term is interpreted broadly post evaluation, transparency may be unnecessarily limited.</td>
<td>Commercial interest should be clearly defined in the PPL and supported by guidance. Additionally, instructions to bidders should be prepared on how to identify/mark commercially confidential information to balance the need for transparency with protecting legitimate commercial interests such as intellectual property rights or trade secrets.</td>
</tr>
<tr>
<td>1 (l) Public procurement principles in specialized legislation</td>
<td>Policy lead. The policy lead for the PPP is the RDB but there is no separate unit to undertake the task of the PPP with required expertise as per international practices.</td>
<td>The RDB to undertake an assessment based on international practices and constitute an independent PPP unit with a full range of expertise available as required for a PPP unit.</td>
</tr>
</tbody>
</table>

Indicator 2: Implementing regulations and tools support the legal framework

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

Findings

150. PP Regulations\(^56\) date from 2014. They supplement and provide more detail on various provisions of the procurement law but they are out of date and refer to the old 2007 PPL. According to the RPPA Strategic Plan, updated PP Regulations were planned for June 2019, but they are not yet published on the RPPA website.\(^57\) The RPPA is responsible for the preparation of SBDs which PE are required to use. SBDs (dated January 2019) have been published for large works, small works, supply of goods, supply of consultancy services, and supply of small consultancy services. These include comprehensive conditions of contract. There is no SBD for non-consultancy services. Comprehensive standard contract conditions are included as an integral part of the SBDs. There is a User Guide for Public Procurement which the RPPA

---


\(^57\) RPPA website accessed July 23, 2019.
is responsible for preparing and maintaining. The user guide dates from 2010, has not been updated and is not aligned with the new PPL or e-procurement system.

**Substantive Gaps**

151. Tabulation on substantive gaps, risk classification (Low - L, Medium – M, or High - H), and recommendations is given below.

- Red flag, if any

<table>
<thead>
<tr>
<th>Sub-indicator</th>
<th>Substantive Gap</th>
<th>Risk</th>
<th>Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>2(a) Implementing regulations to define processes</td>
<td>PP Regulations are not up to date and comprehensively aligned with the provisions</td>
<td>L</td>
<td>Adopt and publish as quickly as possible the new PP Regulations for the implementation of the PPL 2018, aligned with e-procurement.</td>
</tr>
<tr>
<td>and procedures</td>
<td>of the PPL and e-procurement.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2(d) User’s guide or manual for procuring entities</td>
<td>User guide. The current user guide dates from 2010 and is not aligned with the new PPL and e-procurement.</td>
<td>L</td>
<td>Prepare and publish as quickly as possible new user guides to align with the 2018 PPL and e-procurement system.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>The government is planning to produce new user guides by June 2020. It would be helpful to include more practical information and examples on specific topics such as life cycle costing and sustainable procurement.</td>
</tr>
</tbody>
</table>

**Non-substantial Gap and Suggestions for Improvements**

<table>
<thead>
<tr>
<th>Sub-indicator</th>
<th>Non-substantial Gap</th>
<th>Recommendation/Suggestions for Improvements</th>
</tr>
</thead>
<tbody>
<tr>
<td>2(a) Implementing regulations to define processes</td>
<td>SBD for non-consultancy services: There is currently no SBD for non-consultancy services and no standard contract conditions for non-consultancy services</td>
<td>Prepare and publish SBD for non-consultancy services with standard contract conditions (and if needed for information technology and supply and installation)</td>
</tr>
<tr>
<td>and procedures</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Indicator 3: The legal and policy frameworks support the sustainable development of the country and the implementation of international obligations**

152. This indicator assesses whether horizontal policy objectives, such as goals aiming at increased sustainability, support for certain groups in society, and so on, and obligations deriving from international agreements are consistently and coherently reflected in the legal framework, that is, whether the legal framework is coherent with the higher policy objectives of the country.
Findings

Sustainable Public Procurement (SPP)

153. The GoR has published a VNR Report on implementation of SDGs\(^58\) consistent with ‘Transforming our World: The 2030 Agenda for Sustainable Development’ of the United Nations and SDG12, which calls for promotion of sustainable procurement practices in line with national priorities and policies, and SDG16, which calls for accountable institutions. Based on this report Rwanda is committed to delivery and realization of SDGs and in fact is selected as a pilot for SDG16 on building effective and capable institutions. Further, as per the NST1 priority on Pillar - Economic Transformation (SDG12), Rwanda shall promote sustainable management of the environment and natural resources to transition Rwanda toward a Green Economy. Further, under the Transformational Governance Pillar (SDG16), Rwanda shall strengthen capacity, service delivery, and accountability of institutions.

154. Based on the VNR report (June 2019), there is a mechanism to monitor application of SPP in a general way without any reference to SPP which promotes the integration of three pillars of sustainable development: economic development, social development, and environmental protection; but related to sustainable procurement there is no implementation plan.

155. There is no specific policy or strategy to implement SPP in support of national policy objectives. There are no comprehensive measures in the public procurement legal and regulatory framework to address sustainability at all stages of the procurement cycle. There are targeted examples, such as the ‘Buy Made In Rwanda’ program. There are guidelines on enhancing value for money in public procurement\(^59\) but no specific legal provisions in the PPL or PP Regulations.

156. Guidelines for enhancing value for money in public procurement were issued in June 2018 by the RPPA: 010/2017/2018 -1996/RPPA\(^60\). The guidelines refer to the achievement of whole life cost and clearly defined benefits as well as the need to deliver to meet user need and source locally, but the focus is not on application of sustainability criteria.

157. Obligations deriving from international agreements. In the past there were dialogues with key regional integration blocs like COMESA, but these regional agreements are not specifically reflected in procurement policy.

158. Tabulation on substantive gaps, risk classification (Low - L, Medium – M, or High - H), and recommendations is given below.

<table>
<thead>
<tr>
<th>Sub-indicator</th>
<th>Substantive Gap</th>
<th>Risk</th>
<th>Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>✓ 3(a) Sustainable Public Procurement (SPP)</td>
<td>The legal framework does not address sustainability comprehensively and at all stages of the procurement cycle. The legal framework</td>
<td>M</td>
<td>Need to develop a policy to promote the integration of three pillars of sustainable development: economic development, social development, and environmental protection, by focusing on reduced demand for resources</td>
</tr>
</tbody>
</table>


\(^{59}\) Guidelines for enhancing Value for Money in Public Procurement, RPPA, June 2018 010/2017/2018 -1996/RPPA\(^60\).

<table>
<thead>
<tr>
<th>Sub-indicator</th>
<th>Substantive Gap</th>
<th>Risk</th>
<th>Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>does not address the specific requirement for application of sustainability criteria to ensure value for money.</td>
<td></td>
<td>and minimizing negative impact of goods, works, and services across their life cycle. Include sustainability provisions in higher-level legislation to emphasize its importance and ensure consistency and uniformity among PEs. Develop and adopt SPP policy/strategy and implementation plan. Revise the PPL and/or replace PP Regulations to include explicit provisions on sustainability at all stages of the procurement cycle, supported by practical guidance. Revise the PPL and/or replace PP Regulations to include explicit provisions on sustainability criteria, supported by practical guidance.</td>
</tr>
<tr>
<td>3(b) Obligations deriving from international agreements</td>
<td>Regional agreements are not specifically reflected in procurement policy.</td>
<td>L</td>
<td>Linkage to be established between regional economic integration and procurement policies.</td>
</tr>
</tbody>
</table>

**Pillar II. Institutional Framework and Management Capacity**

159. Pillar II assesses how the procurement system defined by the legal and regulatory framework in a country is operating in practice, through the institutions and management systems that make up overall governance in its public sector. Pillar II evaluates how effective the procurement system is in discharging the obligations prescribed in the law, without gaps or overlaps. It assesses (a) whether it is adequately linked with the country’s PFM system; (b) whether institutions are in place in charge of necessary functions; (c) existence of transparent and effective information system; and (d) whether the managerial and technical capacities are adequate to undertake efficient and transparent public procurement processes.

**Overview of Pillar II with key findings**

160. **Linkage of procurement system with budget management.** PPL A.16 requires PEs to prepare an annual procurement plan. In situations where execution covers a period longer than a fiscal year, the PE allocates in the budget of the year money corresponding to the planned activities. The tender execution budget for the remaining years is provided for each fiscal year. No tender solicitation can be made without money available for execution in the adopted budget. Regarding procurement of works, the budget manager plans in the budget activities for the works, if their study has been approved. As per PPL A30 before preparing the tender document, the procurement officer ensures that such a tender is included in the public procurement plan and relevant budget is available. As per the GoR PFM regulations, solicitation of tenders or proposals are preceded by existing budget allocation duly approved by the Parliament. Budget commitment on contract can be done only with prior check and availability of the related budget appropriations. This internal control regulation is reinforced by the existing IFMIS and e-Procurement which provide automatic control mechanism.
161. **Existence of institution in charge of the normative and regulatory functions.** The country has an institution in charge of the normative and regulatory function. The RPPA has been established by law and has legal personality and administrative and financial autonomy (Article 1 of law no. 25/2011 of 30/06/2011 establishing the RPPA and determining its mission, organization, and functioning - RPPA Law). The RPPA is an independent body under the supervision of MINECOFIN. The IRP which is the appeals body at the national level, is housed in the RPPA which is its Secretariat, and budget is provided by RPPA. The organization structure of RPPA is given in Volume III of the Assessment Report at its Annex 2 -

162. **PEs and their mandate.** PPL A.9 defines PEs as “central government organs, local administration organs, public institutions, national commissions, government projects or any other organs so empowered by the Chief Budget Manager.” In addition, “commercial public institutions” where they use the state budget fall within the definition of procurement entities.

163. **Centralized procurement bodies.** As per Article 3.9 of the PPL, there is definition of “Central purchasing body: public entity which conducts the procurement process and concludes a framework agreement with the successful bidder for works, supplies, and consultancy and non-consultancy services on behalf of other procuring entities.” However, in practice no such institution is in existence.

164. **E-procurement.** The e-procurement system is used by all PEs now and made mandatory. The UMUCYO e-procurement governmental website is easily accessible and free of charge. The pilot stage has been successful, and from July 2018 it is mandatory for all PEs to use the e-procurement system. The management of the e-procurement system is clearly defined. There is an e-procurement team in charge of managing the system and another team in charge of helping suppliers to be registered. Management is currently done by the project team. The current management structure is depicted in the diagram in Annex 3, Volume III.

165. **Existence of effective and transparent information system.** The e-procurement system is designed to generate monitoring information without any manipulation. The information regarding all procurement phases (advertisement, bidding period, evaluation, and contractual period) are available anytime. The RPPA publishes an Annual Activity Report.

166. **Strategy and program to develop capacity of procurement staff and for professionalization of the procurement function.** Based on the RPPA Strategic Plan (2018–2021), one of the key issues is improved skills and knowledge of trained public procurement officials. In terms of subprogram I.2 ‘Improved skills and knowledge of trained public procurement officials’, there is a list of indicators, baselines, targets in percentage, and accountability, but there is no list on existing and proposed training programs in procurement. The training modules are published on the RPPA website, which are the ‘Introductory Module in Public Procurement (March 2012)’ and a draft ‘Intermediate Level Training Module in Public Procurement (April 2012)’. Rwanda Association of procurement professionals is established by Law N°011/2016 of 02/05/2016 - Law establishing the association of procurement professionals and determining its organization and functioning. Article 2 of this law defines procurement professionals as those who are qualified persons, registered and authorized to practice the procurement profession as per this law.
Summary of Key Strengths and Weaknesses (Substantial Gaps) under Pillar II

Key strengths

- Existence of multiannual procurement plan to facilitate budget planning based on three-year Medium-Term Expenditure Framework (MTEF)
- Existence of an institution in charge of the normative, regulatory function namely, RPPA, which has been established by law with legal personality and administrative and financial autonomy
- Existence of a functioning e-procurement System (UMUCYO) till contract award including the e-GP appeal module for complaints review
- Existence of the RPPA Strategic Plan (2018–2021) to handle key issues of training and improving skills and knowledge of public procurement officials

Key weaknesses (substantial gaps)

- Independence of the RPPA impacted adversely due to budget constraints
- Conflict of interest situation for the RPPA due to their involvement in procurement transactions (like providing authorization to use less competitive methods other than open tender) and the IRP housed in the RPPA with the RPPA being a Secretariat and providing budget to the IRP
- Lack of independence of the IRP due to their dependence on budget of the RPPA, who have budget constraints
- e-GP does not support OCDS and does not have comprehensive business intelligence (BI) and data analytics capability

Indicator 4: The public procurement system is mainstreamed and well-integrated with the public financial management system

167. This indicator focuses on how well integrated the procurement system is with the PFM system, given the direct interaction between procurement and financial management, from budget preparation to planning treasury operations for payments.

Findings

168. Procurement planning and the budget cycle. Annual procurement plans are prepared to facilitate budget planning and to contribute to multiyear planning in a three-year MTEF. According to PPL A.16, when the execution period for the tender is longer than the fiscal year, the PE allocates in the budget for the year money corresponding to the planned activities. The tender execution budget for the remaining years is provided for each fiscal year. The Law on State Finance and Property provides that all public entities shall prepare and submit their quarterly budget execution reports to the minister. PP Regulations A.5 requires PEs to submit monthly reports to the RPPA showing how the procurement plan is being implemented.

169. Financial procedures and the procurement cycle: As per PPL A. 16, no tender solicitation can be made unless money for the execution is provided for in the adopted budget. The PFM law, regulations, and procedures provide a clear segregation of duties for invoice processing and payment under the overall oversight of the Chief Budget Manager. The national regulations/procedures for processing of invoices
and authorization of payments are significantly followed, publicly available, and understandable to potential bidders. On invoices for procurement of goods, works, and services paid on time (percentage of total number of invoices), out of total contracts executed, based on a sample, the assessment found 51 contracts (representing 62.9 percent) whose invoices were paid within 45 days as required by the PPL.

170. Tabulation on substantive gaps, risk classification (Low - L, Medium – M, or High - H), and recommendations is given below.

<table>
<thead>
<tr>
<th>Sub-indicator</th>
<th>Substantive Gap</th>
<th>Risk</th>
<th>Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 (a) (c) Feedback mechanism on budget execution</td>
<td>Even though, reporting requirement is supported by an adequate IFMIS and e-procurement system able to produce tailored feedback information on contracts completion, in practice, the contract implementation part of the e-procurement system is not functional. Analytical information on contracts or major contracts completion within the monthly financial report is very limited. There are cases of delayed and abandoned contracts as per the report of the Auditor General for the period ending June 30, 2018, and cases of contract failures, which are not reported by PEs as per the RPPA Annual Activity Report (2017–2018)</td>
<td>M</td>
<td>There is need to take a comprehensive look at the implementation of major contracts, analyzing issues affecting implementation like change in design and/or site location, land acquisition/ expropriation of properties located in the area of implementation of infrastructure, delays in payment/budget constraint, capacity/capability of selected contractors, and reasons for contract delays and failure and take timely corrective action. There is a need for an effective contract monitoring and closing mechanism to ensure that both the employer and contractor have fulfilled their obligations, there are no dues certificate from the contractor without any pending dispute, and facility is in effective use as intended (cross refer to sub-indicator 9(c) on contracts management in practice).</td>
</tr>
<tr>
<td>4 (b) (b) Timely payment of invoice</td>
<td>Evidence of timely payment of invoices for procurement of goods, works and services paid on time (percentage of total number of invoices) On total contracts executed, the assessment found 51 contracts (representing 62.9 percent) whose invoices were paid within 45 days as required by the PPL, while 14 contracts (representing 17.5 percent) were delayed and for 12 (14.8 percent) contracts the assessed PEs did not have information as payment files are elsewhere, so the assessment did not find that information (cross refer to sub-indicator 9(c)).</td>
<td>M</td>
<td>The RPPA to monitor timely payment of invoices and in case of delays interest for delayed payment to be made, not just penalty to the officer who delays or refuses to pay without reasonable ground.</td>
</tr>
</tbody>
</table>

---

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

171. This indicator refers to the normative/regulatory function in the public sector and its proper discharge and coordination. The assessment of the indicator focuses on the existence, independence, and effectiveness of these functions and the degree of coordination between responsible organizations. Depending on the institutional setup chosen by a country, one institution may be in charge of all normative and regulatory functions. In other contexts, key functions may have been assigned to several agencies, for example, one institution might be responsible for policy, while another might be in charge of training or statistics. As a general rule, the normative/regulatory function should be clearly assigned, without gaps and overlaps. Too much fragmentation should be avoided, and the function should be performed as a well-coordinated joint effort.

Findings:

172. **Status and legal basis of the normative and regulatory function.** The RPPA has been established by law with legal personality and administrative and financial autonomy (Article 1 of Law No. 25/2011 of 30/06/2011 is the Law establishing the RPPA and determining its mission, organization, and functioning). The RPPA is an independent body under the supervision of the ministry (MINECOFIN).

173. **Responsibilities of the normative/regulatory function.** The RPPA Law sets out the RPPA’s mission and provides requisite powers. The RPPA has clear powers to provide advice and information, monitor public procurement, develop and support initiatives, provide tools, documents, and training, and support professionalization. The drafting of procurement policies is not clearly assigned but it is understood that MINECOFIN is the policy making body. In practice, the RPPA is the body which proposes changes/drafting amendments to the legal and regulatory framework.

174. **Organization, funding, staffing, and level of independence and authority.** RPPA Law A.1 establishes the RPPA with legal personality and administrative and financial autonomy and provides that the RPPA shall be governed in accordance with general provisions governing public institutions. As per RPPA Law A.6, the RPPA is composed of two management organs: (a) the Board of Directors (BoD) and (b) the Director General. As per RPPA Law A.7, the BoD is a decision-making organ whose competence, responsibilities, and functioning and terms of office of its members are determined by a Prime Minister’s order. There is a performance contract concluded between the supervising authority of the RPPA (MINECOFIN) and its decision-making organ indicating the competence, rights, and obligations of each party for the RPPA to fulfill its mission.

175. Members of the BoD, including its chairperson and deputy chairperson, are appointed by Presidential Order. Members of the BoD shall be selected on the basis of their competence and expertise, and 30 percent of members shall be females. Therefore, the head of the institution namely the Director General with the supervision of the BoD has a high-level, authoritative standing in the government with a diverse and inclusive background.

176. As per the organization chart on the RPPA website as also in the RPPA Strategic Plan (2018/19–2020/21), the RPPA (excluding the IRP) has a total staff of about 50, divided into four units, Office of Director General (10 staff including the Director General), Monitoring & Audit Unit (20 staff including a
Director), Capacity Development Unit (9 staff including a Director), and Administration and Finance Unit (10 staff including a Director). Based on the RPPA Annual Activity Report 2017–2018 (November 2018), for the given year the revised budget was RWF 929,959,824 with execution of RWF 836,837,492 (about 90 percent of budget), out of which 61.10 percent related to compensation of employees and 30 percent to use of goods and services.

177. In 2017–18, due to RPPA budget constraints the training, which is one of its core functions, was carried out only for those PEs who were able to organize and sponsor those trainings. The given budget is not sufficient compared to the overall scale of procurement and to demonstrate meaningful impact on the overall performance of the public procurement system in the country.

178. Incompatibility in the functions of RPPA. The RPPA is responsible for functions and roles normally assigned to regulatory and normative bodies. There are however additional tasks such as approval authority for use of noncompetitive method if the conditions for the use of such method as provided in the PPL are not met and the role of secretariat to the IRP, which not only put the RPPA in direct involvement with specific transactions, but also have the potential to create actual or perceived conflicts of interest, with each other and also in relation to the other functions. Specifically, the RPPA approves the use of methods other than open tender, while at the same time it will be acting as secretariat/budget holder of the NIRP, which can potentially be faced with a complaint challenging the RPPA's approval of use of a noncompetitive method. It is questionable how objective the NIRP can be to overthrow a decision of the RPPA, and bidders may not have confidence in the impartiality and independence of the NIRP. More generally, involvement of the RPPA in the authorization process and as secretariat of the NIRP are not consistent with the primary function of the RPPA as a regulatory and oversight body where independence in assessing the functioning of the procurement system is required. The RPPA cannot discharge such a function without full independence and objectivity.

179. Tabulation on substantive gaps, risk classification (Low - L, Medium - M, or High - H), and recommendations is given below.

<table>
<thead>
<tr>
<th>Sub-indicator</th>
<th>Substantive Gap</th>
<th>Risk</th>
<th>Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>✓ 5(c) Financial independence and staffing</td>
<td>The RPPA is dependent for its resources on the state finances, and it is not clear if the available finances ensure the function’s independence and proper staffing.</td>
<td>M</td>
<td>There is a need to create sources of finances that provide some degree of independence to the RPPA to ensure proper staffing and resources to keep the services at the level of quality desired and to fulfill the mandate of the RPPA as required by the PPL. The RPPA to assess, through an independent agency, the focus of its activities compared to its mandate, adequacy of RPPA staffing, and budget to find out if there is a meaningful impact on improving the overall public procurement system.</td>
</tr>
<tr>
<td>✓ 5(d) Avoiding conflicts of interest</td>
<td>Conflicts of interest, with regard to the advisory and regulatory functions of the RPPA</td>
<td></td>
<td>To avoid actual or perceived conflicts of interest, the RPPA should not be involved with the complaints review function and procurement transaction function; also to improve accountability of PEs.</td>
</tr>
</tbody>
</table>

✓ Red flag, if any
Indicator 6: Procuring entities and their mandates are clearly defined

180. This indicator assesses (a) whether the legal and regulatory framework clearly defines the institutions that have procurement responsibilities and authorities, (b) whether there are provisions for delegating authorities to procurement staff and other government officials to exercise responsibilities in the procurement process, and (c) whether a centralized PE exists.

Findings

181. **Definition, responsibilities, and formal powers of PEs:** There is a lack of clarity concerning the definition of commercial public institutions and, in particular, whether SOEs are classified as commercial public institutions. It is also unclear whether privately owned enterprises with grants of exclusive rights are subject to the PPL. Responsibilities and competencies of PEs are clearly defined and they are required to appoint procurement officers with responsibilities defined in the PPL. Decision-making authority on matters such as the conduct of procurement, contract award decision, award and executing of contracts, contract monitoring, invoicing, and payments lies with the PEs and so is delegated to the lowest competent levels.

182. The PPL does not use the term ‘utilities’ and it does not contain specific provisions concerning the status of utility companies with special or exclusive rights.\(^{62}\) It is therefore not immediately apparent from the primary legislation what, if any, the nature and extent of coverage of the PPL is in respect of utilities. However, as noted above, ‘commercial public institutions’, where they use the state budget, fall within the definition of procurement entities.

183. **Centralized procurement body.** As per Article 3.9 of the PPL, there is a definition of “Central purchasing body: public entity which conducts the procurement process and concludes a framework agreement with the successful bidder for works, supplies, and consultancy and non-consultancy services on behalf of other procuring entities.”

184. Tabulation on substantive gaps, risk classification (Low - L, Medium - M, or High - H), and recommendations is given below.

<table>
<thead>
<tr>
<th>Sub-indicator</th>
<th>Substantive Gap</th>
<th>Risk</th>
<th>Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>6(a) on definition, responsibilities and</td>
<td>The status and definition of commercial public institution is not clear.</td>
<td></td>
<td>Improve clarity of definitions, in particular concerning the status of utility companies with special or</td>
</tr>
</tbody>
</table>

---

\(^{62}\) Utilities, including the water and energy sectors, are subject to regulation by RURA, the Rwanda Utilities Regulatory Authority

<table>
<thead>
<tr>
<th>Sub-indicator</th>
<th>Substantive Gap</th>
<th>Risk</th>
<th>Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>formal powers of procuring entities</td>
<td></td>
<td></td>
<td>exclusive rights and whether they are included in the definition of ‘procuring entity’ (see comment under sub-indicator 1(a)).</td>
</tr>
<tr>
<td>✔ 6(a) on responsibility and accountability of procuring entities</td>
<td>Involvement of the RPPA in authorization on use of less competitive bidding (other than open tender method) as per Article 29 of the PPL, dilutes the accountability of PEs. Based on statistical data (refer Indicator 7) and as per the RPPA Annual Activity Report for 2017–2018 the use of a noncompetitive method is in the range of 40–45 percent of total expenditure with open tender as 50 percent by value and 72 percent by number, which is much above any norm for a competitive and transparent procurement system.</td>
<td>L</td>
<td>PEs should be accountable for use of less competitive methods which should be subject to ex post audit by the RPPA and OAG.</td>
</tr>
<tr>
<td>6(b) Centralized procurement body</td>
<td>Despite a provision in law, the actual functioning of such a centralized body does not exist. In practice, the lead for specialized procurement is taken by ministries/PEs with specific expertise who procure bulk items, including requirements for other ministries/PEs.</td>
<td>L</td>
<td>The RPPA to consider benefits of a centralized procurement body to implement the provisions of the PPL through a specific guidance note to document the way specialized procurement is handled.</td>
</tr>
</tbody>
</table>

**Indicator 7: Public procurement is embedded in an effective information system**

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

**Findings**

186. **Publication of procurement information supported by information technology.** It is mandatory for all procurement entities to publish the procurement plan through the e-procurement system. The access to the website is free, and the e-procurement staff provide free services to suppliers for registration. The information system and the RPPA website provide for publication of (a) procurement plans: a PE cannot publish a tender without a previously published procurement plan, and the annual publication of procurement plans is required by the law; (b) tender notices that provide all information related to a procurement opportunity, such as the title, the place to deliver, the bid security, and so on; (c) links to rules and regulations that can be found in the website; the supplier can be informed on the debarment process and the ethics of the public procurement officer; (d) general information; (e) tender
information; (f) SBDs for goods/works/services; (g) required bidding documents; (h) user’s guide; and (i) Strategic Plan (2018–2021). There is an e-procurement team in charge of managing the system and another team in charge of helping suppliers to be registered.

187. Appeal decisions are published in the RPPA website. In e-GP, suppliers are notified through their inbox message (email and e-GP system). The NIRP has access to the e-GP appeal module, to get appeals, and send messages to entities, but does not publish the decisions. They send scanned copies to the RPPA which are accessible from the RPPA website (https://rppa.gov.rw/index.php?id=567).

188. The e-procurement system is designed to generate monitoring information without any manipulation. The information regarding all procurement phases (advertisement, bidding period, evaluation, and contractual period) are available at any time.

Some Key Statistical Information

<table>
<thead>
<tr>
<th>Period</th>
<th>Total Number of Contracts (Online)</th>
<th>Procurement Plans Published (Percentage of Total) (Online)</th>
<th>Key Procurement Information Published (Percentage of Total Number of Contracts)</th>
<th>Invitation to Bid (Percentage of Total Number of Contracts)</th>
<th>Total Number of Appeals Received (All Received Online Only)</th>
<th>Percentage of Total Appeals Decisions Posted</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1, 2017, to June 30, 2018</td>
<td>3,269</td>
<td>4,485 (100%)</td>
<td>100%</td>
<td>100%</td>
<td>30</td>
<td>100%</td>
</tr>
<tr>
<td>July 1, 2018, to March 31, 2019</td>
<td>3,214</td>
<td>5,427 (100%)</td>
<td>100%</td>
<td>100%</td>
<td>55</td>
<td>89% Others are in progress</td>
</tr>
</tbody>
</table>

Source: e-GP Portal.

189. **Use of e-procurement.** The e-procurement system is used by all PEs now and its use has been made mandatory. The pilot stage has been successful and from July 2018 it is mandatory for all PEs to use the e-procurement system. The e-GP system is still to be implemented in sectors, schools, health centers, and district pharmacies. The RPPA is implementing it in the district hospitals soon. Currently, the RPPA is working out the engagement strategy for schools and health facilities. The total value of expenditure was RWF 336.707 billion and the total number was 4,378 for 2017–2018, with breakdown of off-line and online procedures as under:

<table>
<thead>
<tr>
<th>Procedure</th>
<th>Total Value (in billion)</th>
<th>Percentage of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Off line by value / %</td>
<td>RWF 221.270</td>
<td>65.72% of total</td>
</tr>
<tr>
<td>Online by value / %</td>
<td>RWF 115.436</td>
<td>34.28% of total</td>
</tr>
<tr>
<td>Offline by number / %</td>
<td>1,571</td>
<td>35.88% of total</td>
</tr>
<tr>
<td>Online by number / %</td>
<td>2,807</td>
<td>64.12% of total</td>
</tr>
</tbody>
</table>

Source: e-Portal and Annual Activity Report of RPPA for 2017–2018

190. **Strategies to manage procurement data.** A system is in operation for collecting data on the procurement of goods, works, and services, including consulting services, supported by e-procurement or other information technology. The Monitoring and Audit Unit is in charge of collecting data on e-procurement. The system allows to collect data from e-bidding to awarding of the contract, such as the numbers of bidders, the prices submitted by each of them, the bidder, and the amount of the contract. The e-GP system does not have extensive standard analytical reports, but the RPPA has maintained an Excel file generated from the e-GP system with data sets and analytics.
191. The e-procurement system is designed to generate monitoring information without any manipulation. The information regarding all procurement phases (advertisement, bidding period, evaluation, and contractual period) are available anytime. Auditors have separate access to the e-GP system. They need permission to audit. Audit is done by the OAG.

192. The overall scale of public procurement compared to volume of government expenditure and its share in GDP is captured in the following table (for the period July 1, 2017, to June 30, 2018).

<table>
<thead>
<tr>
<th>Total Number of Contracts</th>
<th>Total Value of Contracts (RWF, billions)</th>
<th>Total Number of Contracts awarded through Competitive Methods</th>
<th>Total Value of Contracts Awarded through Competitive Methods RWF billion (%)</th>
<th>Volume of Government Expenditure (Public Procurement Expenditure) (RWF, billions)</th>
<th>Public Procurement as Share of Government Expenditure</th>
<th>Volume of GDP (RWF, billions)</th>
<th>Public Procurement as Share of GDP</th>
</tr>
</thead>
<tbody>
<tr>
<td>4,378</td>
<td>336.707</td>
<td>3,400</td>
<td>166.658 (49.50%)</td>
<td>2,187.5 (1,066.5)</td>
<td>48.74%</td>
<td>7,898</td>
<td>13.50%</td>
</tr>
</tbody>
</table>

193. The figure of RWF 336.707 billion is based on statistics from the RPPA Annual Activity Report (2017–2018) on page 14. The figure of total public procurement expenditure of RWF 1,066.5 billion is derived from MINECOFIN Rwanda Updated Macro-Framework - Public Data Set of May 2019. The competitive methods for this table is defined as open competitive tenders, both international and national, and request for quotation (RFQ). The remaining categories of restricted tender, single sourcing, community approach, and force account are considered noncompetitive.

194. Based on the RPPA Annual Activity Report for 2017–2018, the statistics for number of tenders and amount by type and method for the fiscal year 2017–2018 is as under. (the table numbers refer to the number as given in the source document)
195. The RPPA Annual Activity Report has indicated that: “The table 2.6 above shows a low level of use of open competitive method unlike the previous years, 49 percent (IOT + NOT). Some of the reasons behind this situation include: emergencies caused by heavy rainfall, infrastructure needed urgently for some strategic projects like Bugesera airport, pre-financing of some projects offered by some contractors and unlocking very many projects which had stalled due to poor performance of some contractors. These
reasons led to more use of single source and force account methods than in previous years. Sufficient measures will be taken to address the situation.”

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

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

197. Tabulation on substantive gaps, risk classification (Low - L, Medium - M, or High - H), and recommendations is given below.

- **Red flag, if any**

<table>
<thead>
<tr>
<th>Sub-indicator</th>
<th>Substantive Gap</th>
<th>Risk</th>
<th>Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>7(a) on publication of procurement information supported by information technology</td>
<td>OCDS. Currently, the e-GP system does not support the OCDS and does not publish data in machine-readable formats.</td>
<td>L</td>
<td>It is recommended to incorporate OCDS for structured data dissemination to facilitate transparency and citizen engagement and support better use of data in policy decisions.</td>
</tr>
<tr>
<td>7(b) Use of e-Procurement</td>
<td>Bids submitted by MSMEs are not identified (though it is understood that the majority of local firms fall under the category of MSME).</td>
<td>L</td>
<td>The e-GP system to enable MSME identification to develop policy and identify share of business attributed to MSME.</td>
</tr>
<tr>
<td>7 (c) strategies to manage procurement data</td>
<td>Analysis of information is not available publicly other than through the RPPA Annual Activity Report.</td>
<td>L</td>
<td>The e-GP system in Rwanda currently lacks a comprehensive tool for data mining, analysis, and generating comprehensive reports with visualization and infographics for using in decision-making. However, the system can be enhanced to incorporate OCDS and add a BI system.</td>
</tr>
</tbody>
</table>

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

198. This indicator focuses on the strategies and ability of the public procurement systems to develop and improve. Three aspects should be considered: (a) whether strategies and programs are in place to develop the capacity of procurement staff and other key actors involved in public procurement; (b) whether procurement is recognized as a profession in the country’s public service; and (c) whether systems have been established and are used to evaluate the outcomes of procurement operations and to develop strategic plans to continuously improve the public procurement system.
Findings

199. **Training, advice, and assistance.** Based on the RPPA Strategic Plan (2018–2021), one of the key issues is improved skills and knowledge of trained public procurement officials. In terms of subprogram I.2 ‘Improved skills and knowledge of trained public procurement officials’, there is a list of indicators, baselines, targets in percentage, and accountability (see details under 8(c)), but there is no list on existing and proposed training programs in procurement. There is an advisory help desk and hotline.

200. The training modules are published on the RPPA website, which are ‘Introductory Module in Public Procurement (March 2012)’ and a draft ‘Intermediate Level Training Module in Public Procurement (April 2012)’. As per the RPPA Annual Activity Report 2017–2018 from July 2017 to June 2018, capacity building, coaching, and mentoring officers in the Capacity Development Unit trained 583 officials from different public PEs that requested RPPA trainers. The capacity assessment conducted during 2016–2017 has pointed out PEs with weakness in applying procurement procedures. The OAG has also identified weak PEs. These PEs (30) have benefitted from procurement training.

201. There was also a monitoring and evaluation of training performance to determine whether the trained staff of previous years (2016–2017) applied their skills and knowledge as part of the internal tender committee and stayed for a sufficient duration in that role, whether the training was applied on the job and useful (97 percent said ‘yes’), and whether there was evidence on use of SBDs.

202. **Recognition of procurement as a profession.** Rwanda Association of procurement professionals is established by ‘Law N°011/2016 of 02/05/2016 - Law establishing the association of procurement professionals and determining its organization and functioning’. The professional body in the view of the government was formed as one of the pillars of procurement reform. The procurement professional body law has a provision requiring procurement professionals to be a member of the professional association to be hired by the public institutions. As a result, 99 percent of the current members are from the public institutions. Currently there are about 400 members. The list is available on the RPPA website.

203. A general meeting of the association is planned in the near future and a strategic plan on how to become independent of the government is at the top of the agenda. Some preliminary proposals suggested by the president, on how to become financially independent, are (a) increasing membership fees, (b) organizing trainings, (c) certifying members - there is a plan to commence issuing annual membership certificates/cards, (d) engaging in study services, and (e) receiving support from DPs.

204. **Monitoring performance to improve the system.** The RPPA has published a three-year strategic plan (2018–2021) which indicates the framework with goals, actions, indicators with baselines, targets, and accountability both in qualitative and quantitative terms. These include, under Outcome II: ‘Improved skills and knowledge of trained public procurement officials’, a host of activities that, among others, include (a) establishing an inventory of higher learning and training institutions that offer procurement courses in Rwanda and organizing and conducting meetings with such institutions; (b) establishing and updating a database of information relevant to procurement training, trainers, and trainees; (c) adopting and disseminating internal regulations and code of ethics for the Association of Procurement Professionals; (d) establishing conditions and procedures for selecting candidates to undertake Chartered Institute of Procurement and Supply (CIPS) under government sponsorship; (e) conducting training for officials of PEs that will be able to organize such training; (f) updating, approving, and publishing induction and refresher course training modules to reflect the applicable public procurement legal regulatory framework and best practices; (g) updating the list and Identifying newly recruited procurement officials,
specialist, and tender committee members and planning for their training and designing a training schedule for every category; (h) developing and publishing a detailed capacity-building plan/strategy/program informed by a capacity needs assessment; (i) establishing activities on capacity-building methodology which builds partnership between the RPPA and PEs in addressing persistent issues faced by PEs; and (j) approving the annual performance measurement tool to be used.

205. Tabulation on substantive gaps, risk classification (Low - L, Medium - M, or High - H), and recommendations is given below.

<table>
<thead>
<tr>
<th>Sub-indicator</th>
<th>Substantive Gap</th>
<th>Risk</th>
<th>Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>8(a) Training, advice, and assistance</td>
<td>There is no permanent and relevant training program for new and existing staff in government procurement, to judge the relevance, nature, scope, and sustainability. Training is based on availability of budget from PEs rather than needs analysis.</td>
<td>M</td>
<td>There is a need to institute a permanent and relevant training plan. A well-functioning system should (a) be based on skills gap inventory to match the needs of the system; (b) be sufficient in terms of content and frequency; and (c) provide for evaluation of the training program and monitoring progress in addressing capacity issues. The budget constraint of the RPPA is to be addressed so that training is provided as per needs assessment rather than availability of budget from PEs. Collaboration with other training institutions to be sought A sustainable and intensive training program to be instituted to train key actors in procurement, in particular private sector and CSOs. These training should include integrity training programs.</td>
</tr>
<tr>
<td></td>
<td>Relevant trainings not available to build capacity for private sector and CSOs. There is no training program on integrity aspects in procurement.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8(b) Recognition of procurement as a profession</td>
<td>The professional body’s independence is compromised due to budget allocation from MINECOFIN through the RPPA’s operating and facilitation budget. Though the professional body is aspiring to become independent there are serious staff and financial constraints. Contribution from the members could only cover purchase of computers.</td>
<td>M</td>
<td>The Association of Procurement Professionals needs to be financially independent and sustainable by (a) increasing membership fees (currently RWF 50,000 (USD 54), (b) organizing trainings, (c) certifying members - there is a plan to commence issuing membership certificates, (d) engaging in study services; (e) receiving initial support from DPs and the government; and (f) offering corporate membership.</td>
</tr>
<tr>
<td>8(b) Procurement positions defined with job description</td>
<td>There is no definition of procurement positions at different professional levels, job descriptions, and requisite qualification and competencies specified. The qualification and experience requirements of public</td>
<td>L</td>
<td>To define procurement positions at different professional levels, job descriptions, and requisite qualification and competencies specified. The PPL or PP Regulations to specify the qualification</td>
</tr>
</tbody>
</table>
### Sub-indicator | Substantive Gap | Risk | Recommendations
--- | --- | --- | ---
| Sub | tender committee members is not clear from the PPL or PP Regulations. | | and experience requirements of public tender committee members.

#### 8(c) Monitoring performance to improve the system

| Sub | The RPPA strategic plan 2018–2021 has developed a three-year strategy based on the assessment done regarding the performance indicator from the previous years. However, based on the published annual report, implementation of the above has been achieved in limited number of activities, conducting training for PEs, and addressing issues faced by PEs. | L | The RPPA to review implementation of the strategic plan and identify budget and resource constraints. (Mid-term review is expected in June 2020) |

---

**Pillar III. Public Procurement Operations and Market Practices**

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

**Summary of Pillar III Key Findings**

207. **Needs analysis and market research - its linkage to selection of procurement method.** Based on MAPS sub-criteria there is a requirement for needs analysis and market research to guide a proactive identification of optimal procurement strategies and choosing of an appropriate procurement method based on the market situation. Based on the sampled cases, it appears that a market research did not guide choice of procurement method which led to lack of competition. As required by MAPS criteria, the basic conditions governing the entire procurement process are established at the onset of the procurement process, highly influencing the achievement of the defined objective.

208. **Average number of days between advertisement/solicitation and contract signature.** Based on sampled cases, out of 81 cases where data was available, 58 contracts were awarded within initial validity and 16 were not awarded within initial validity. The average number of days was 172.4 for National Competitive Bidding, 362.7 for International Competitive Bidding, 68 for National Restricted Tender, and 105.3 for single source contracts.

209. **Contract implementation.** The assessment was conducted on a sample of 81 cases; 25 (30.8 percent) contracts had time overruns, 37 (45.6 percent) did not, 14 (17.2 percent) contracts did not have clear or complete data, 3 (3.7 percent) contracts were executed through force accounts, and 1 (1.2 percent) contract was not executed.

210. **Timely payment of invoices.** Of the total contracts executed, the assessment found 51 contracts (representing 62.9 percent) whose invoices were paid within 45 days as required by the PPL, while 14 contracts (representing 17.5 percent) were delayed; for 12 (14.8 percent) contracts the assessed PEs did
not have information as payment files were elsewhere, so the assessment did not find that information. Based on the RPPA Annual Activity Report of 2017–2018, the RPPA looked into the issue of delayed payment for services rendered by the private sector to government institutions, but it was a limited intervention involving a total amount of invoices for RFW 884.281 million (about USD 1 million).

211. **Limited evidence of dialogue and partnerships between public and private sector.** Based on the results of the private sector survey there is limited evidence of such partnership, which perhaps is based on limited data. Based on PSF perception, there is some evidence of dialogue and partnership with the private sector. Also based on the RPPA Annual Activity Report of 2017–2018, the RPPA organized a one-day public procurement awareness meeting with bidders at different locations with more than 600 participants.

**Summary of Key Strengths and Weaknesses (Substantial Gaps) under Pillar III**

212. **The key strength under this pillar** is that there are certain good examples of contracts management: (a) out of 81 contracts, 37 (45.6 percent) were executed without any time overrun; (b) the assessment found that 68 contracts (83.9 percent) had measures for inspection, quality controls, supervision of work, and final acceptance of products where goods, services, or works were received in good quality and appropriate quantity; and (c) on the total contracts executed, the assessment found that for 51 contracts (representing 62.9 percent) where invoices were paid within 45 days as required by the PPL. Further, there were certain good initiatives of the RPPA as follows:

- Advocacy of the RPPA for delayed payment; a good step but needs scaling up for impact.
- Meeting with bidders to improve public procurement awareness through a one-day program involving more than 600 participants from the private sector needed more frequently.

**Key weaknesses (substantial gaps)**

- Lack of market research to guide procurement method
- Some delays in award of contracts
- Contract awards not published/announced when process is carried out offline
- Contract clauses do not provide for incentives for exceeding defined performance levels
- Significant number of contracts with time overruns
- Significant delays in payment of invoices
- Contract amendments not issued on time for majority of contracts
- Limited opportunities for involvement of civil society or external stakeholders in monitoring of procurement process and contract implementation
- Lack of complete record in a single file
- Limited dialogue and partnership with the private sector
- No formal program to build capacity of private sector
- Absence of sector strategy to secure collaboration with sector market participants to strengthen integrity, sustainability, and/or innovation in public procurement
### Indicator 9: Public procurement practices achieve stated objectives

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

214. The assessment of Indicator 9 required the selection and review of a sample of actual procurement transactions; 81 samples were selected covering 15 PEs. As some of the large value contracts are under implementation and did not use e-procurement, the Assessment Team was required to collect data through physical files and visits to PEs. Also, for contract implementation, all the information was collected through physical files.

#### Findings

215. **Planning.** On a total number of 15 PEs sampled, for all 81 cases, a procurement plan with cost estimates and budget approval was available, but in only 39 cases procurement plans were updated. Rwanda has a legal framework on safety and environment protection, but neither the law on public procurement and related regulations nor the practice integrate clearly and systematically the measures to ensure SPP taking into account the environment.

216. **Selection and contracting.** In the assessed cases, procurement methods were chosen, but only noncompetitive methods were assumed to be documented and justified in accordance with the purpose and in compliance with the legal framework. Practically and mandatorily before the launch of the procurement process, the tender committee members met to approve the procurement method that was proposed by the procurement officer within the PE. However, there was no justification of choice based on market research. Multistage procedures are used in complex procurements to ensure that only qualified and eligible participants are included in the competitive process. For all sampled cases where competitive methods were used, there were clear integrated standardized procurement documents. Throughout the bid evaluation and award process, confidentiality was ensured.

217. **Contracts management.** This is one of the weakest areas in the procurement cycle, though there are certain positive aspects as indicated above under strengths; still there were a set of weaknesses in terms of delays in implementation, lack of timely issue of amendment, lack of inspection by qualified staff, and delays in payment of invoices, which are also covered in the table of substantial gaps.

- Tabulation on substantive gaps, risk classification (Low - L, Medium - M, or High - H), and recommendations is given below.

<table>
<thead>
<tr>
<th>Sub-indicator</th>
<th>Substantive Gap</th>
<th>Risk</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>✓ 9(a)(a) Planning</td>
<td>No appropriate market research that can lead the choice of methods and strategies.</td>
<td>H</td>
<td>Market research to be mandated to guide procurement strategy irrespective of method of procurement adopted (including competitive methods).</td>
</tr>
<tr>
<td>9(a)(c) Planning</td>
<td>Not enough evidence of the use of sustainability criteria</td>
<td>M</td>
<td>Sustainability and value-for-money considerations to be implemented, for example, take into</td>
</tr>
</tbody>
</table>

✓ Red flag, if any
to ensure value for money when they are used.

<table>
<thead>
<tr>
<th>9(b)(b) Selection and contracting</th>
<th>Lack of competition with participation which counted between 1 and 4 bids in more than 50 percent of cases for all types of procurement combined.</th>
<th>H</th>
<th>The RPPA and PEs to identify reasons for lack of competition and take measures to remove constraints.</th>
</tr>
</thead>
<tbody>
<tr>
<td>9(b)(d) Selection and contracting</td>
<td>There is no system of monitoring of bid submission, receipt, and opening by a CSO.</td>
<td>L</td>
<td>The RPPA to consider independent monitoring of bid submission, receipt, and opening by a CSO for better transparency.</td>
</tr>
<tr>
<td>9(b)(f) Selection and contracting</td>
<td>The assessment did not record any other technique for the purpose of increasing value for money.</td>
<td>L</td>
<td>There is need for using other techniques like taking into account life cycle costing to achieve value for money.</td>
</tr>
<tr>
<td>9(b)(g) Contract award announced</td>
<td>Contracts processed offline were not published.</td>
<td>L</td>
<td>The RPPA to publish.</td>
</tr>
<tr>
<td>9(c) Contracts management</td>
<td>Delays in implementation.</td>
<td>M</td>
<td>Improve capability of contract officers on contract management and sector market analysis for determining optimum contract size and to analyze if contractors fail due to their capacity to deliver, to improve capability of local construction companies, removing constraints of delayed payment, instituting a formal system of contract.</td>
</tr>
</tbody>
</table>

**Indicator 10: The public procurement market is fully functional**

218. The objective of this indicator is primarily to assess the market response to public procurement solicitations. This response may be influenced by many factors, such as the general economic climate, policies to support the private sector and a good business environment, strong financial institutions, the attractiveness of the public system as a good, reliable clients, the kind of goods or services being demanded, and so on.

**Findings**

219. **Dialogue and partnership with private sector.** Based on the results of a private sector survey, in response to a question, “Does the government get in touch with private association to communicate changes to procurement framework?” only 11.11 percent of respondents indicated ‘always’; 25.93 percent indicated ‘usually’; 33.33 percent indicated ‘sometimes’; 14.81 percent indicated ‘rarely’ and 14.81 percent ‘never’. Therefore, it is seen that the evidence of an open dialogue with the private associations, including a transparent and consultative process when formulating changes to the public procurement framework, is weak.

220. **Private sector’s organization and access to public procurement market.** PSF perception toward the RPPA is positive, in terms of its capacity and in reaching out and involving the private sector on every
public procurement-related issue. Based on the results of the survey, about 40–60 percent of participants indicated the major constraints for participation as access to financing, procurement methods and procedures that are proportionate to the risk and value in question, contracting provisions that do not fairly distribute risks, and lack of an effective appeals mechanism and dispute resolution. About 70 percent identified absence of fair payment provisions as a constraint as it does not help offset the cost of doing business with the government.

221. **Key sectors and sector strategies.** There is no evidence of sector market analysis to determine sector specific risks and the government’s scope to influence specific market segments.

222. The following table illustrates ‘Voices from private sector’ based on results of the survey.

<table>
<thead>
<tr>
<th>Based on Electronic Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>60 percent (out of 30 responses) indicated that there is no perceived conflict of interest situation in normative/regulatory institution or in PE</td>
</tr>
<tr>
<td>40–60 percent (out of 26 responses) identified access to finance, appropriate procurement method, procurement rules, contracting provisions, fairness of payment provisions, effective mechanism of appeals and dispute as constraints for participation in bidding opportunities</td>
</tr>
<tr>
<td>70 percent (out of 10 responses), felt appeals system to be trustworthy and fair</td>
</tr>
<tr>
<td>56 percent (out of 25 responses) indicated that they are aware of capacity building (including on e-GP) being run by government for private sector and SMEs</td>
</tr>
<tr>
<td>70 percent (out of 22 responses) indicated that CSOs’ involvement in overseeing procurement contracts would be beneficial in future</td>
</tr>
<tr>
<td>31.82 percent (out of 22 responses) indicated that companies are expected to give a gift to secure contracts in public sector</td>
</tr>
<tr>
<td>76 percent (out of 21 responses) feel that introduction of e-procurement has led to reduction in corruption</td>
</tr>
<tr>
<td>52 percent (out of 23 responses) feel that introduction of e-GP has led to loss of business for SMEs due to difficulties</td>
</tr>
</tbody>
</table>

**Critical Anonymous Written Feedback in Consultation Workshop Based on Quick Survey on June 12, 2019**

- “Make sure that e-procurement is working well”
- “Training and capacity building of SMEs required”
- “Improve contracts management”
- “Encourage joint venture, but find a way to better protect the locals who sometimes have no voice in the decision-making as they do not have majority (share)”
- “Concerning JV, RPPA should put in place a mechanism to protect local companies, who should not be excluded after the contract was won”
- “Sometimes budget is coming late, and you can get our invoices (paid) after many months”
- “Poor technical specification/Terms of Reference/Bidding Document”
- “To avail access to financing for small suppliers/consultants”
- “Sometimes RPPA get involved in decision-making of procurement on the final results of tender where there is a conflict”
- “In my view complaints review system improved because we use e-procurement system”
- “Interest on delayed payment to be included in the law”
223. Tabulation on substantive gaps, risk classification (Low - L, Medium - M, or High - H), and recommendations is given below:

- Red flag, if any

<table>
<thead>
<tr>
<th>Sub-indicators</th>
<th>Substantive Gap</th>
<th>Risk</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>10(a)(a) and</td>
<td>Lack of a formal mechanism on partnership and absence of ethics and integrity</td>
<td>L</td>
<td>Government to establish a formal mechanism and enhance its dialogue and partnership with private sector both on changes to the legislative process</td>
</tr>
<tr>
<td>(a)(b)</td>
<td>related training programs</td>
<td></td>
<td>and for information and training programs tailored to the needs of small businesses as well as to support supplier diversity. It should include a module on ethics and integrity in public procurement.</td>
</tr>
<tr>
<td>10(b)(b)</td>
<td>Based on the results of the survey, about 40–60 percent of participants indicated</td>
<td>M</td>
<td>More outreach and training of private sector participants is needed. The RPPA to discuss with private sector associations on constraints faced by them and take corrective measures to improve competition.</td>
</tr>
<tr>
<td>Private sector’s</td>
<td>major constraints for participation as access to financing, procurement methods</td>
<td></td>
<td></td>
</tr>
<tr>
<td>organization</td>
<td>and procedures that are proportionate to the risk and value in question,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>and access to</td>
<td>contracting provisions that do not fairly distribute risks, and lack of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>public</td>
<td>effective appeals mechanism and dispute resolution. About 70 percent identified</td>
<td></td>
<td></td>
</tr>
<tr>
<td>procurement</td>
<td>absence of fair payment provisions as a constraint as it does not help offset</td>
<td></td>
<td></td>
</tr>
<tr>
<td>market</td>
<td>cost of doing business with the government.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10(c)/(a) Key</td>
<td>No evidence of sector market analysis to determine sector specific risks and</td>
<td>M</td>
<td>Based on the government’s priority spending areas, key sectors to be identified for sector market analysis to strengthen competition, integrity,</td>
</tr>
<tr>
<td>sectors and</td>
<td>government’s scope to influence specific market segment.</td>
<td></td>
<td>sustainability, and innovation in public procurement.</td>
</tr>
<tr>
<td>sector</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>strategies</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

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

**Overview of Pillar IV with Key Findings**

225. **CSO engagement.** PPL Article 13 requires members of the IRP to be chosen, among others, from civil society. However, the PPL does not require the association of a CSO in monitoring the procurement process and contracts implementation. There are few instances of association of a CSO like TI-Rwanda in
contract monitoring at the district level. However, there are no homegrown CSOs active in contract monitoring, perhaps due to lack of incentives to engage in such activities.

226. **Effective audit and control system.** There is an internal procurement control and audit manual in 2010 published by the RPPA which is effectively implemented. The report published by the OAG includes performance and compliance audits, identification of root causes, and follow-up of serious contracts management issues.

227. **Appeals mechanism.** The first review of the application is carried out by the PE. A.53 of the PPL provides that the decisions of the NIRP are final and binding unless the decision has been reviewed by the court adjudicating the case on merit. The NIRP is not involved in procurement transaction and based on data and surveys the decisions of the IRP are generally considered trustworthy and consistent and rendered on time as per statistical information given in the detailed matrix under sub-indicator 13(a)(d).

228. **Ethics and anti-corruption measures.** Prohibited practices and conflict of interest situations in procurement are well-defined in the PPL and SBDs. There is a system for temporary and permanent debarment that ensures due process.

**Summary of Key Strengths and Weaknesses (Substantial Gaps)**

*Key strengths*

- A strong legal framework, organization, and procedure on control system
- In-depth performance audit related to contract implementation by the OAG
- Regular and substantive procurement audit by the RPPA

*Substantial gaps*

- Inadequate consultation with CSOs
- Lack of citizen engagement in monitoring the procurement process and contract implementation
- Need for collaboration on procurement audit between the RPPA and OAG to make it mutually reinforcing
- Lack of information on anti-corruption measures in procurement - no annual reports are published by the Office of the Ombudsman
- Lack of mechanism for identification and detection of corruption risk in procurement

**Indicator 11: Transparency and civil society engagement strengthen integrity in public procurement**

229. **Civil society, in acting as a safeguard against inefficient and ineffective use of public resources, can help to make public procurement prospective and fair, improving contract performance and securing results. Governments are increasingly empowering the public to understand and monitor public contracting. This indicator assesses two mechanisms through which civil society can participate in the public procurement process: (a) disclosure of information and (b) direct engagement of civil society through participation, monitoring, and oversight.**
Findings

230. **Enabling environment for public consultations and monitoring.** CSOs in Rwanda remain weak due to a variety of constraints that include inadequate consultations when formulating changes to the public procurement system, absence of any provision in the PPL on engagement of CSOs in procurement and contracts management monitoring, and absence of homegrown CSOs interested in participation.

231. **Adequate and timely access to information by the public.** The e-procurement system is accessible to all stakeholders to access the information before taking the decision to participate in a tender. The deadline is clearly indicated and the documentation easily accessible. The e-procurement team also provides a short training and information regarding the website whenever the bidder requests it. However, there is absence of OCDS.

232. **Direct engagement of civil society.** The legal framework does not provide for the citizens to participate in the planning process of the procurement phase. With the e-procurement system the entire process is done online. There was no provision in the law for the citizens to participate or monitor contract management. The RPPA has private sector representation as Board members, and the NIRP also has private sector and CSO representation (PPL Article 13). They are consulted every time public procurement regulations and policies need to be improved.

233. Tabulation on substantive gaps, risk classification (Low - L, Medium - M, or High - H), and recommendations is given below.

<table>
<thead>
<tr>
<th>Sub-indicators</th>
<th>Substantive Gap/ Risk/ Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>✔ 11(a) on enabling environment</td>
<td>CSOs in Rwanda remain weak due to a variety of constraints. L Government to take measures to enhance consultation with CSOs and build their capacity. There is a need for providing incentives for homegrown CSOs.</td>
</tr>
<tr>
<td>11(b) on adequate and timely access to information</td>
<td>The e-GP system does not publish data in machine-readable formats. There are some report formats available, but they are not adequate to get a complete picture of the procurement sector. The current e-GP system does not support OCDS and also does not have a comprehensive BI system. L To develop and integrate a comprehensive BI tool with visual representation of data and infographics which can be understood easily. It is recommended to incorporate OCDS for structured data dissemination to facilitate transparency and citizen engagement.</td>
</tr>
<tr>
<td>✔ 11(c) on Direct engagement of civil society</td>
<td>The legal framework does not provide for citizens engagement in planning, selection, and implementation phases of procurement. M PEs should allow citizens to participate in the planning of their activities. In the execution of the contract, citizens/CSOs should be invited to monitor the execution of the works contracts including through application of innovative techniques like geo-tagging and social audits. The RGB may possibly provide a mechanism to encourage homegrown CSOs.</td>
</tr>
</tbody>
</table>
Indicator 12: The country has effective control and audit systems

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

Findings

235. **Legal framework, organization, and procedures on control system.** The OAG as per its mandate under Article 165 of the Constitution, the Organic Law on State Finances and Property, and the Ministerial Order N° 003/17/10/TC of 27/10/2017 set the regulation for internal audit and audit committees. The OAG is the SAI. The OAG was established by Law n° 79/2013 of 11/09/2013 determining the mission, organization, and functioning of the OAG. The Constitution of the Republic of Rwanda (Article 165) mandates the Auditor General for (a) auditing revenues and expenditures of the state as well as local administrative entities, public enterprises, parastatal organizations, and government projects domestically or externally financed; and (b) auditing the finances of the institutions referred to above, particularly verifying whether the expenditures were in conformity with laws and regulations. The OAG applies audit standards compliant with international audit standards. The OAG conducts audit engagements in accordance with the International Standards of Supreme Audit Institutions and the Code of ethics consistent with the Code of Ethics of the International Organization of Supreme Audit Institutions. The Auditor General has to submit to each Chamber of Parliament, prior to the commencement of the session devoted to the examination of the budget of the following year, a complete report on the consolidated state accounts for the previous year indicating the manner in which the budget was utilized. This report for the period ending June 30, 2018, (as also for previous years) is available on the OAG website.

236. The RPPA has issued an internal procurement control and audit manual in 2010 which states the requirement for internal control procedures.

237. The findings of both the OAG and the RPPA are reflected in the next paragraph which resonates with the findings of the MAPS Assessment Team as reflected under sub-Indicator 9(c) under Pillar III on contracts management.

238. **Serious contract management issues as per audit reports.** Based on reports of the OAG (2018) and the RPPA Annual Activity Report (2018), there are serious contracts management issues related to delays in contract execution, abandoned contracts, and non-performance of contracts sometimes due to delayed payments. Relevant extracts from the OAG and the RPPA Annual Activity Report are given in Volume III of the Assessment Report.

239. **Coordination of controls and audits of public procurement.** Article 166 of the Constitution stipulates that the Auditor General shall each year submit to each Chamber of Parliament, prior to the commencement of the session devoted to the examination of the budget of the following year, a complete report on the consolidated state accounts for the previous year indicating the manner the budget was utilized. The specialized procurement audit is done by the RPPA. Based on the report of the OAG it is seen that OAG reports cover issues beyond compliance, and there are substantive finds and recommendations
to cover procurement performance and contracts management in OAG reports. There is a strong emphasis by the RPPA in conducting procurement audit based on the manual of 2010, which identifies serious gaps and issues. These audit reports are contained in the RPPA Annual Activity Reports and available on the RPPA website. The findings are reflected in the previous paragraph.

240. **Enforcement and follow-up on findings and recommendation.** Based on the report of OAG for the period ending June 30, 2018, “interrogate deeper the root cause of some of the recurring findings in our reports from one year to another through the adoption of root cause analysis model.” There are issues related to performance information on service delivery as per the PEFA report of 2017. The methodology followed by the RPPA includes compliance with the implementation of previous audit recommendations.

241. **Qualification and training to conduct procurement audit.** Auditors are selected by the ministry in charge of labor, like other public servants. The selection is made through writing exams and interviews. However, it is not clear if auditors are trained on procurement or there is collaboration and exchange of staff between the OAG and the RPPA and if procurement specialists or consultants support the OAG office.

242. Tabulation on substantive gaps, risk classification (Low - L, Medium - M, or High - H), and recommendations is given below.

<table>
<thead>
<tr>
<th>Sub-indicators</th>
<th>Substantive Gap</th>
<th>Risk</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>12(b) coordination of controls and audits of public procurement</td>
<td>There is no protocol or memorandum of understanding between the RPPA and the OAG on exchange of information on audit.</td>
<td>L</td>
<td>The RPPA and the OAG to carry out procurement audit (both on compliance and performance) which are coordinated and mutually reinforcing.</td>
</tr>
<tr>
<td>12(d) qualification and training to conduct procurement audit</td>
<td>Even though one of the focus areas of the OAG’s strategic plan is continued capacity building and training, the OAG and the RPPA need to collaborate on devising and conducting specific courses on procurement audit in additional to their general training to conduct audit.</td>
<td>L</td>
<td>Auditors to be trained in the area of public procurement with a specific course for procurement audit in addition to their general training to conduct audit.</td>
</tr>
</tbody>
</table>

**Indicator 13: Procurement appeals mechanisms are effective and efficient**

243. **Pillar I covers aspects of the appeals mechanism as it pertains to the legal framework, including creation and coverage.** This indicator further assesses the appeals mechanisms for a range of specific issues regarding efficiency in contributing to the compliance environment in the country and the integrity of the public procurement system.
Findings

244. **Process for challenges and appeals.** Decisions by the NIRP are rendered on the basis of available evidence submitted by the parties, which may include an oral hearing. PP Regulations A.53 lists the contents of the request for review which includes information on the decision or conduct against which a review is requested and any other relevant document the panel may request from the complainant.

245. **Independence and capacity of appeals body (NIRP).** According to (a) PPL A.12, the secretariat of the NIRP is within the RPPA; (b) PPL A.14, the NIRP is provided with a budget by the RPPA; (c) PPL A.13, the minister (from MINECOFIN) appoints NIRP members; (d) PPL A.15, the minister dismisses NIRP members for incapability, misconduct, or poor performance; and (e) regarding individual panel members: PP Regulations A.49 provides that NIRP members may not be members of a tender committee, staff, members of the RPPA BoD, or members of the district council.

246. PP Regulations A.59 is a provision dealing with conflict of interest, requiring a panel member (a) not to take part in “deliberations on the request until the decision thereof has been taken” where the member has applied for review and (b) not to take part in review proceedings where a member has “any relationship or misunderstanding with the complainant,” and to inform the NIRP in writing.

247. Members of the NIRP are appointed and dismissed by the minister. The NIRP is provided with a budget by the RPPA which also provides the NIRP secretariat. The way in which the IRP is funded, the location of the secretariat, and the way in which members are appointed and dismissed along with grounds for dismissal have the potential to compromise the independence of the NIRP.

248. As currently structured, with its budget and secretariat provided by the RPPA, the IRP lacks full institutional independence.

249. **Independence of complaints review body.** As currently structured, with its budget and secretariat provided by the RPPA, the IRP lacks full institutional independence. The relationship with the RPPA may create for the NIRP an actual or perceived conflict of interest arising from the RPPA’s role in authorizing the use of methods other than open tender. For example, the NIRP may be presented with a complaint challenging the RPPA’s approval. Furthermore, the appointment process, qualification criteria, and grounds for dismissal of the members are not set forth in the PPL. Until the government explores the options for establishing a fully independent complaints review mechanism, it may be appropriate to consider some short-term changes/fixes such as direct budget allocation to the NIRP (if possible, within the budgetary system), appointment of members by open public competition, specifying qualification criteria of the members in the PPL, and tightening of the grounds for dismissal of members to limit discretion.

250. **Decisions of the appeals body (NIRP).** Participants and prospective participants in procurement proceedings have the right to challenge decisions or actions taken by the PE at any stage of the procurement proceedings. The initial application for review is made in writing to the PE, with a right of appeal to an IRP, the NIRP. The PPL provides for automatic suspension of procurement proceedings pending decision of the IRP. The procedures for review are clearly defined in the PPL and PP Regulations which are publicly available but are not presented in a user-friendly format.

251. Decisions of the NIRP, which are enforceable and binding, are rendered on the basis of available evidence submitted by the parties, which may include oral hearing. The time frames specified for submission of a complaint and timeliness of decision by the NIRP should not unduly delay the
procurement process, although the legal framework does not say how quickly a decision must be issued to the parties. Transparency in the functioning of the review system may be enhanced by publishing all decisions of the IRP on time. The procurement appeals system would benefit from greater availability of user-friendly electronic means for submission of appeals, communication, and publication of decisions.

252. Tabulation on substantive gaps, risk classification (Low - L, Medium - M, or High - H), and recommendations is given below.

<table>
<thead>
<tr>
<th>Sub-indicator</th>
<th>Substantive Gap</th>
<th>Risk</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>13(b)</strong> Independence and capacity of the appeals body</td>
<td>As currently structured, with its budget and secretariat provided by the RPPA, the NIRP lacks full institutional independence.</td>
<td>M</td>
<td>To ensure institutional independence, the RPPA should not be involved with the complaints review function. Explore the options for enhancing and ultimately achieving the independence of the complaints review body, properly resourced and staffed with qualified members selected in a competitive and transparent manner. In the short term, it may be appropriate to consider some short-term changes/fixes such as direct budget allocation (if possible, within the budgetary system), appointment of members by open public competition, and tightening of the grounds for dismissal to limit discretion.</td>
</tr>
<tr>
<td><strong>13(c) Decisions of the appeals body</strong></td>
<td>General lack of transparency in the overall functioning of the review system due to the failure to publish comprehensive information on receipt and processing of complaints and also lack of publication of the decisions of the IRP.</td>
<td>M</td>
<td>To improve transparency the web page/website of the IRP should include easily accessible and easily searchable, up-to-date information on complaints received and resolved. There should be prompt publication of all of the decisions of the IRP in an easily searchable format which allows for a range of search terms.</td>
</tr>
</tbody>
</table>

**Indicator 14: The country has ethics and anti-corruption measures in place**

253. This indicator assesses (a) the nature and scope of anti-corruption provisions in the procurement system and (b) how they are implemented and managed in practice. This indicator also assesses whether the system strengthens openness and balances the interests of stakeholders and whether the private sector and civil society support the creation of a public procurement market known for its integrity.

254. **Legal definition of prohibited practices, conflict of interest.** It is given in PPL Article 3, under definition of terms corrupt practices, obstructive practices, collusive practices, fraudulent practices, and conflict of interest.
255. The PPL provides for cancellation of procurement procedures in the event of fraud or lack of fairness, rejection of offers in the event of corruption or fraud, and cancellation of contracts due to forged or fraudulent practices. The Code of Ethics sets out both principles and ethical standards and the consequences of noncompliance, without prejudice to other provisions in the criminal law.

256. The PPL sets out circumstances where conflict of interest arises and ‘Ministerial Instructions Establishing the Professional Code of Ethics Governing Public Agents Involved in Public Procurement’ require public officials to provide a declaration of interest in the event that a conflict is identified.

257. The SBDs contain instructions, provisions, and self-declaration for bidders to complete, including a clause on conflict of interest and debarment but not a declaration confirming that the bidder has not been prosecuted or convicted of fraud, corruption, or other prohibited practices. The SBDs also contain contractual provisions concerning fraud, corruption, and other prohibited practices as specified in the legal framework.

258. **Debarment and sanctions.** The PPL provisions cover the process leading to temporary or permanent debarment of suppliers, who are listed on the RPPA website. There is a lack of specific guidance on how and when poor contract performance may lead to debarment, and debarment grounds linked to criminal activities and corruption are insufficiently specified. The periods for debarment appear to be rather long or disproportionate in some cases. The PPL also includes provisions on financial sanctions payable by suppliers in specified circumstances.

259. In addition, the PPL sets out circumstances where public officials may be sanctioned by imprisonment and a fine levied for committing an offence relating to the award of procurement contracts, collusion, and other offences. The potential prison sentences and fines are high. While these may have a dissuasive effect on poor or corrupt behaviors, these significant sanctions can have a negative impact on the operation of the procurement system. Heavy weight sanctions may create a culture of fear, resulting in procurement officials acting defensively, to protect their position, and not resulting in the best value-for-money outcomes from procurement processes.

260. Tabulation on substantive gaps, risk classification (Low - L, Medium - M, or High- H), and recommendations is given below.

<table>
<thead>
<tr>
<th>Red flag, if any</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Sub-indicators</th>
<th>Substantive Gap</th>
<th>Risk</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>14(c) Effective sanctions and enforcement system</td>
<td>There is a lack of specific guidance on how and when poor contract performance may lead to debarment, and debarment grounds linked to criminal activities and corruption are insufficiently specified. The periods for debarment appear to be rather long or disproportionate in some cases. According to the list of debarred entities/individuals, poor performance is one of the two main grounds for debarring firms and individuals. PPL A.48 sets out the requirements for PEs issuing certificates of good completion at the end of each contract. Specific guidance on these may lead to abuse of discretion by PEs</td>
<td>L</td>
<td>Specific guidance needed to reduce discretion on these aspects and need to be addressed in the PP Regulations and/or user’s guide for transparency and certainty.</td>
</tr>
</tbody>
</table>
and lead to misconduct. Moreover, regarding debarment, it is not clear if failure by a bidder to obtain good completion certificate automatically leads to debarment.

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

Mechanism for identification and detection of corruption risk and mitigating these in the procurement cycle is not available. Annual reports are not published for the last three years with statistics on corruption-related legal proceedings and convictions

**Risk**

**M** Anti-corruption strategy needs to include the use of modern technology (including through artificial intelligence) to detect cases of fraud or corruption also through electronic e-GP portal by suitable enhancement to the system. The Office of the Ombudsman to regularly publish its Annual Report.

### Chapter 4: Consolidated Recommendations and Action Plan

#### Pillar-wise Key Recommendations

261. Based on the assessment conducted of the public procurement system including the rating against 54 baseline sub-indicators, the following key recommendations and action plan are proposed for the government’s consideration.

#### Pillar I - Legislative and Regulatory Framework

- **Amend the PPL (if necessary) and adopt and publish** as quickly as possible the new PP Regulations for the implementation of the PPL 2018, aligned with e-procurement. Codification of legal requirements into the new PP Regulations should include provisions on record keeping and transactions, document retention, and security, aligned with e-procurement processes and supported by practical and up-to-date guidance, policies, and protocols (as appropriate).

- **Review and harmonize the various special procurement regulations of commercial public institutions** to ensure consistency with the PPL and between the special regulations of various commercial institutions.

- **Review the existing price preference provisions to balance the** preference for locally produced goods and participation of MSMEs, while ensuring participation of foreign bidders.

- **Remove the requirement of authorization by the RPPA** for use of methods other than the open procedure which dilutes the accountability of procurement decisions of the PEs (and the supervising minister) or, at a minimum, consider defining more clearly the criteria for approval by the RPPA.

- **Reconsider classification of force account and community participation** as a means of financing and funds transfer rather than a procurement method, as these methods are used finally to adopt less competitive methods of procurement.
• **Amend legal framework to ensure that contract award information** including for contracts awarded using noncompetitive methods, is published promptly, within a defined period, on a freely accessible portal. The administrative burden for publication of low-value contract awards can be reduced by, for example, requiring quarterly publication of contract award information.

• **Revise the PPL and/or PP Regulations to include explicit provisions on sustainable procurement** including use of life cycle costing, supported by practical guidance and methodologies, where appropriate.

• **Revise the PPL and/or PP Regulations** to require the PEs to provide timely and sufficient information to bidders for them to prepare and file meaningful complaints.

**Pillar II - Institutional Framework and Management Capacity**

• **Avoid actual or perceived conflicts of interest.** The RPPA should not be involved with the complaints review function. If it is unavoidable, for financial, organizational, or other reasons, for the RPPA to maintain involvement as budget holder and provider of the secretariat for the IRP there should be robust structures, policies, and systems in place to prevent conflicts of interest or the potential of inappropriate influence.

• **Incorporate a comprehensive tool for data mining, analysis,** and generating comprehensive reports with visualization and infographics for use in decision-making in e-GP system, which can be enhanced to incorporate OCDS and a BI system

• **Remove budget constraint of the RPPA so that training is provided as per needs assessment** rather than availability of budget from PEs. A sustainable and intensive training program to be instituted to train key actors in procurement, in particular the private sector and CSOs. These training should include integrity training programs.

• **Need for financial independence of Association of Procurement Professional** by (a) increasing membership fees, (b) organizing trainings, (c) certifying members - there is a plan to commence issuing membership certificates, (d) engaging in study services, and (e) receiving support from DPs.

**Pillar III - Procurement Operations and Market Practices**

• **Recommended actions on contracts management.** It is seen that the PPL has extensive provisions on Contract Execution (Chapter III Article 91 to 149 of PPL 2018). It is expected that all these provisions are reflected in respective contracts, including provisions in regulations like rejection of bid with an abnormally low price (Article 3 of Regulation of 2014) which are consistently applied at selection and implementation stages. For example, the feature of abnormally low bids does not appear in the SBD for works. The procurement or supervising officer appointed as per the PPL and PP Regulations need to be fully trained on contracts management, as this part of the pillar appears to be weak despite such extensive provisions in the legislative framework.
Pillar IV - Accountability, Integrity, and Transparency of Public Procurement System

- **Take measures** (a) to enhance consultation with CSOs and build their capacity; (b) to develop and integrate a comprehensive BI tool with visual representation of data and infographics; it is recommended to incorporate OCDS for structured data dissemination to facilitate transparency and citizen engagement; and (c) to enable PEs to allow citizens to participate in the planning of their activities. To avoid suspicion of corruption the execution of the contract, citizens/CSO should be invited to monitor the execution of the works, including through application of innovative techniques like geo-tagging and social audits.

- **Carry out coordinated and mutually reinforcing procurement audits** by the OAG and the RPPA both on compliance and performance.

- **Improve transparency on the web page/website of the IRP.** It should include easily accessible and easily searchable, up-to-date information on complaints received and the conduct of those complaints, and there should be prompt publication of all of the decisions of the IRP in easily searchable format.

- **Need to include in anti-corruption strategy** the use of modern technology to detect cases of fraud or corruption through the electronic e-GP portal by suitable enhancement to the system. There is a need to publish statistics on corruption-related legal proceedings and convictions, including regular publication of the Annual Report by the Office of the Ombudsman.

Summary of Recommendations

- **Update** regulations, bidding documents, guidance manuals to align these with the overall legal and regulatory framework with changes resulting from the PPL 2018 and the introduction of e-procurement (*The GoR is planning to address this when the New Ministerial Order establishing Regulations is adopted and published in the time frame of March–June 2020.*)

- **Enhance** budget allocation to the RPPA so that they can discharge their core functions including, but not limited to, update and alignment of regulation and guidance documents with PPL 2018 and training and capacity building of all the actors in procurement, including the private sector and CSOs.

- **Remove** the conflicting role of the RPPA in authorizing use of less competitive bidding, define conditions for its use more precisely to prevent its misuse, and make PEs fully accountable without leaning on the RPPA, with a provision of targeted ex post audit by the RPPA and the OAG.

- **Enhance** professionalization of procurement function by holding regular trainings to meet the requirements of ‘skill gaps’ of all the actors in procurement (including decision makers, oversight and control bodies, private sector, and CSOs) and instituting a system of mandatory certification of procurement professionals, and in future, with some planning and resources, this professional body may be used initially as a forum for exchange of knowledge for procurement professionals in the Africa region and later converted into a center for learning. This initiative is ambitious, but with support from all stakeholders is possible with the advantage Rwanda has in use of three
languages (English, French, and Kinyarwanda) apart from its lead in public procurement reform and the overall governance system.

- **Improve contracts management.** This may need several measures like strengthening needs analysis at the planning stage, improving capability of contract officers, improving capability of local construction companies, removing constraints of delayed payment, and instituting a formal system of contract closing.

- **Improve** dialogue and partnership with the private sector and CSOs, and improve citizens engagement and bring better transparency with the BI tool with visual representation of data and infographics on the entire procurement cycle, including contract implementation.

**Action Plan on Key Recommendations**

262. These actions include suggested timeline and priority with strategies for implementation to be decided by the government. The strategy needs to be realistic, aligned with other reform initiatives, ensuring a balance of perspectives and including a good mix of ‘quick wins’, as well as medium- and long-term initiatives. Accordingly, in the following table, (a) timeline is indicated as Short Term (ST); Medium Term (MT); and Long Term (LT); or through continuous improvements; (b) priorities are categorized as 1, 2, or 3; and (c) responsibility is assigned

<table>
<thead>
<tr>
<th>Key Recommendations</th>
<th>Timeline</th>
<th>Priority</th>
<th>Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legislative, Regulatory, and Policy Framework</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Amend the PPL (if necessary) and adopt and publish as quickly as possible the new PP Regulations for the implementation of the PPL 2018, aligned with e-procurement.</td>
<td>MT</td>
<td>1</td>
<td>RPPA</td>
</tr>
<tr>
<td>2. Review and harmonize the various special procurement regulations of commercial public institutions to ensure consistency with the PPL and between the special regulations of various commercial institutions.</td>
<td>MT</td>
<td>2</td>
<td>RPPA and minister in charge of public investments</td>
</tr>
<tr>
<td>3. Review the existing price preference provisions to balance the preference for locally produced goods and participation of MSMEs while ensuring participation of foreign bidders.</td>
<td>MT</td>
<td>2</td>
<td>MINECOFIN/RPPA</td>
</tr>
<tr>
<td>4. Reconsider the requirement for review and authorization by the RPPA for use of noncompetitive method if the conditions for the use of such method as provided in the PPL are not met which dilutes the accountability of procurement decisions of the PEs (and the supervising minister) or consider defining more clearly the exceptional circumstances where prior approval by the RPPA is required.</td>
<td>MT</td>
<td>2</td>
<td>MINECOFIN/RPPA</td>
</tr>
<tr>
<td>Key Recommendations</td>
<td>Timeline</td>
<td>Priority</td>
<td>Responsibility</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------------------</td>
<td>----------</td>
<td>----------</td>
<td>------------------------</td>
</tr>
<tr>
<td>5. <strong>Revise the PPL and/or PP Regulations</strong> to include explicit provisions on sustainable procurement including use of life cycle costing.</td>
<td>LT</td>
<td>2</td>
<td>RPPA</td>
</tr>
<tr>
<td>6. <strong>Provide timely and sufficient information to bidders</strong> for them to prepare and file meaningful complaints under the procurement complaints review mechanism.</td>
<td>LT</td>
<td>1</td>
<td>RPPA/ IRP</td>
</tr>
<tr>
<td><strong>Institutional Framework and Management Capacity</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. <strong>Reconsider the RPPA’s role</strong> in the review and authorization of use of noncompetitive method if the conditions for the use of such method as provided in the PPL are not met (which diffuses the responsibility and accountability of PE). In addition, the role of the RPPA as secretariat to the NIRP which creates actual or perceived conflict of interest with its role as reviewer of noncompetitive methods, should eventually be eliminated.</td>
<td>MT</td>
<td>1</td>
<td>MINECOFIN/RPPA</td>
</tr>
<tr>
<td>8. <strong>Institute a permanent and relevant training plan</strong> including integrity training programs based on needs assessment and train key actors in procurement, in particular the private sector and CSOs.</td>
<td>MT</td>
<td>2</td>
<td>RPPA</td>
</tr>
<tr>
<td>9. <strong>Improve effectiveness of Association of Procurement Professional</strong> by making them financially independent by (a) increasing membership fees, (b) organizing trainings, (c) issuing membership certificates, (d) engaging in study services, and (v) receiving support from DPs.</td>
<td>MT</td>
<td>2</td>
<td>RPPA</td>
</tr>
<tr>
<td><strong>Public Procurement Operations and Market Practices</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10. <strong>Strengthen needs analysis and market research to</strong> guide a proactive identification of optimal procurement strategies and choosing an appropriate procurement method based on the market situation.</td>
<td>MT</td>
<td>1</td>
<td>PEs</td>
</tr>
<tr>
<td>11. <strong>Strengthen contracts management</strong> through a host of measures like improving capability of contract officers on contract monitoring, sector market analysis for determining optimum contract size and to analyze if contractors fail due to their capacity to deliver, improving capability of local construction companies, removing constraints of delayed payment, and instituting a formal system of contract closing.</td>
<td>Continuous</td>
<td>1</td>
<td>PEs</td>
</tr>
<tr>
<td>12. <strong>Enhance outreach with the private sector</strong> to understand their concerns and take corrective measures to improve competition.</td>
<td>Continuous</td>
<td>2</td>
<td>RPPA and PEs</td>
</tr>
<tr>
<td>13. <strong>Carry out sector market analysis</strong> based on the government’s priority spending areas with a view to strengthen competition, integrity, sustainability, and innovation in public procurement.</td>
<td>MT</td>
<td>2</td>
<td>RPPA and line ministry of relevant sector</td>
</tr>
</tbody>
</table>
### Accountability, Integrity, and Transparency of Public Procurement System

<table>
<thead>
<tr>
<th>Key Recommendations</th>
<th>Timeline</th>
<th>Priority</th>
<th>Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>14. <strong>Enhance consultations with CSOs</strong> and build their capacity, integrate comprehensive BI tools with visual representation of data and infographics, and allow citizens to participate in needs analysis and contract monitoring (time element of award) through a transparent procurement plan tool and timely execution of contracts.</td>
<td>LT</td>
<td>2</td>
<td>RGB/RPPA</td>
</tr>
<tr>
<td>15. <strong>Encourage homegrown credible and independent CSOs</strong> to play a role in social audit and control on procurement process and contracts management with suitable financial incentives provided to such CSOs.</td>
<td>MT</td>
<td>2</td>
<td>RGB/RPPA</td>
</tr>
<tr>
<td>16. <strong>Enhance collaboration between the OAG and the RPPA on procurement audit.</strong> The procurement audit (both on compliance and performance) being carried out to be coordinated and mutually reinforcing.</td>
<td>Continuous</td>
<td>2</td>
<td>OAG/RPPA</td>
</tr>
<tr>
<td>17. <strong>Explore options to enhance the independence of the complaints review mechanism.</strong> Until an assessment is carried out by the government on where to host this important function, short-term fixes can be put in place, including eliminating the RPPA’s role as secretariat of the NIRP, making direct budget allocation (if possible within the budgetary system) to the NIRP, appointment of the NIRP members by open public competition, and tightening of the grounds for dismissal to limit discretion.</td>
<td>MT</td>
<td>2</td>
<td>MINECOFIN/RPPA</td>
</tr>
<tr>
<td>18. <strong>Ensure prompt publication of all decisions</strong> by the IRP on its website, and it should be easily accessible and searchable.</td>
<td>Continuous</td>
<td>1</td>
<td>IRP</td>
</tr>
<tr>
<td>19. <strong>Include the use of modern technology (like artificial intelligence) in anti-corruption strategy</strong> to detect cases of fraud and corruption through enhancements in the e-GP portal. Need to publish statistics on corruption-related legal proceedings and convictions including regular publication of annual report</td>
<td>LT</td>
<td>2</td>
<td>RPPA/Ombudsman</td>
</tr>
</tbody>
</table>

263. **As next practical step,** change the role of MAPS Steering Committee (MASC) to a ‘Public Procurement Reform Group’ to be hosted by the RPPA as secretariat to implement the reform agenda.

### Process of Validation

264. The following table lists the process of validation with stakeholders which was held through multiple consultations both individually and collectively. The Steering Committee was consulted through three separate meetings and their feedback obtained during a larger stakeholder meeting. The Assessment Team had several meetings with the Director General of the RPPA, and their was validation obtained through sharing the report at all key stages. The process of endorsement of the government was carried out through the Steering Committee after the report was cleared with the World Bank’s
management followed by external certification by Technical Advisory Group of international experts before a wider dissemination of the Assessment Report is carried out in future.

<table>
<thead>
<tr>
<th>#</th>
<th>Description</th>
<th>Outcome</th>
<th>Action Taken</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Meeting with the RPPA and Steering Committee on October 21, 2019</td>
<td>Feedback obtained</td>
<td>Comments incorporated into the report</td>
</tr>
<tr>
<td>2</td>
<td>Validation Workshop with Stakeholders on October 24, 2019</td>
<td>Feedback obtained</td>
<td>Comments incorporated into the report</td>
</tr>
<tr>
<td>3</td>
<td>Follow-up meeting with the Director General, RPPA and his team on October 25, 2019</td>
<td>Feedback obtained</td>
<td>Comments incorporated into the report</td>
</tr>
<tr>
<td>4</td>
<td>Comments received from the Director General, RPPA on the Detailed Matrix on December 29, 2019</td>
<td>Feedback obtained</td>
<td>Comments incorporated into the report</td>
</tr>
<tr>
<td>5</td>
<td>Draft report sent to peer reviewers in the World Bank before decision meeting of February 25, 2020</td>
<td>Feedback obtained</td>
<td>Comments incorporated into the report</td>
</tr>
<tr>
<td>6</td>
<td>Report sent for external certification by Technical Advisory Group of international experts and comments received on April 13, 2020, and few till end of April 2020</td>
<td>Feedback obtained</td>
<td>Comments incorporated into the report</td>
</tr>
<tr>
<td>7</td>
<td>Approval of the Final Draft Report by the World Bank Management was done in the decision meeting of February 25, 2020</td>
<td>The Chair Cleared the report subject to comments</td>
<td>Comments incorporated into the report</td>
</tr>
<tr>
<td>8</td>
<td>Dissemination of report after endorsement by the GoR. Meeting of Steering Committee held on March 05, 2020</td>
<td>The Report was endorsed</td>
<td>Dissemination and follow-up action shall be taken as recommended</td>
</tr>
</tbody>
</table>