



# **REGIONAL COMPLIANCE AUDIT MANUAL**

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## **Case Study**

**2020**

## Preface

This volume accompanies the Compliance Audit Manual to which reference should be made.

The volume comprises a **Case Study** that shows how to identify examples of good international practice and the questions to ask when undertaking a **procurement compliance audit**.

This follows on from PASAI's Cooperative Audit programme that looked at this same topic and resulted in the regional audit report, [Collection of works on public procurement in the Pacific](https://www.pasai.org/pasai-regional-procurement-audit-report)<sup>1</sup>.



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<sup>1</sup> <https://www.pasai.org/pasai-regional-procurement-audit-report>

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## Version updates

It is important that records are kept of any major updates to the case study.

| Version | Details of Updates made | Revised version issued | Signed off through GB approval (GP paper reference, dates, details) |
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|         |                         |                        |   |

|   |           |
|---|-----------|
| <b>Preface .....</b>  | <b>2</b>  |
| <b>Acronyms.....</b>  | <b>6</b>  |
| <b>Case Study: Compliance Audit of Procurement.....</b>   | <b>7</b>  |
| <b>Introduction .....</b>   | <b>7</b>  |
| <b>Overview .....</b>   | <b>7</b>  |
| <b>Summary of Levels of Procurement Audit.....</b>  | <b>7</b>  |
| Meta Level.....   | 8         |
| Macro Level.....  | 8         |
| Micro Level.....  | 8         |
| <b>Meta Level .....</b>   | <b>9</b>  |
| 1. Do government policies promote and/or safeguard fair competition? .....  | 9         |
| 2. Does government have an overall procurement strategy and/or policy?.....   | 9         |
| 3. Are procurement policies and practises in line with (international) good practise standards?.....  | 9         |
| 4. Is the performance of the procurement function/unit benchmarked with other procurement functions/units in the different stages of the procurement process? .....   | 10        |
| 5. Are obtained prices/qualities competitive to prices/qualities obtained by other procurement functions/units, comparing obtained or improved value for money? ..... | 10        |
| 6. Are outsourcing and Public Private Partnerships considered as alternatives to in-house work? .....   | 11        |
| <b>Macro Level .....</b>  | <b>12</b> |
| 7. Does the department have a procurement strategy and is it implemented? .....   | 12        |
| 8. Is the department’s procurement function/unit well organized? .....  | 12        |
| 9. Is the procurement process well organized? .....   | 13        |
| 10. Do the employees have the necessary skills and experience to carry out procurements efficiently?.....   | 14        |
| 11. Are there appropriate controls in place to ensure that procurement complies with the relevant legislation?.....   | 14        |
| 12. Are there mechanisms in place to evaluate the performance of the department’s suppliers? .....  | 14        |
| 13. Are risks managed to provide reasonable assurance regarding department procurement-objectives? .....  | 15        |
| 14. Are there regular reviews and analysis of the performance of the procurement function/unit? .....   | 15        |

|   |           |
|---|-----------|
| <b>Micro Level .....</b>  | <b>16</b> |
| 15. Does the procurement project have a clear goal and does the goal meet the specified needs of the users?.....            | 16        |
| 16. Is the procurement project efficiently managed? .....   | 16        |
| 17. Are there appropriate controls in place to ensure that the procurement project complies with relevant legislation?..... | 19        |
| <b>Examples of Good Practice .....</b>  | <b>20</b> |
| <b>Introduction .....</b>   | <b>20</b> |
| <b>Law</b> Error! Bookmark not defined.   |           |
| Purpose .....   | 20        |
| Why is it relevant? .....   | 20        |
| Key Provisions .....  | 21        |
| <b>Management.....</b>  | <b>21</b> |
| Jamaica.....  | 21        |
| Republic of North Macedonia.....  | 22        |
| <b>Procurement Handbooks or Manuals .....</b>   | <b>23</b> |
| - Volume #1: General Provisions.....  | 23        |
| - Volume #2: Procedures for the Procurement of Goods, General Services and Works .....                                      | 23        |
| - Volume #3: Procedures for the Procurement of Consulting Services .....  | 23        |
| - Volume #4: Procedures for the Procurement of General Insurance Services .....   | 23        |

## Acronyms

|          | Detail   |
|----------|--|
| ESPP     | Electronic System for Public Procurement                 |
| GDP      | Gross Domestic Product                                   |
| IDI      | INTOSAI Development Initiative                           |
| IFI      | International Financial Institutions                     |
| INTOSAI  | International Organization of Supreme Audit Institutions |
| NCC      | National Contracts Commission                            |
| PAC      | Public Accounts Committee                                |
| PFM      | Public Financial Management                              |
| PPB      | Public Procurement Bureau                                |
| PPL      | Law on Public Procurement                                |
| SAC      | State Appeals Commission                                 |
| SAI      | Supreme Audit Institution                                |
| SME      | Small to Medium Enterprises                              |
| UN       | United Nations   |
| UNCITRAL | United Nations Commission on International Trade Law     |
| WTO      | World Trade Organization                                 |

# Case Study: Compliance Audit of Procurement

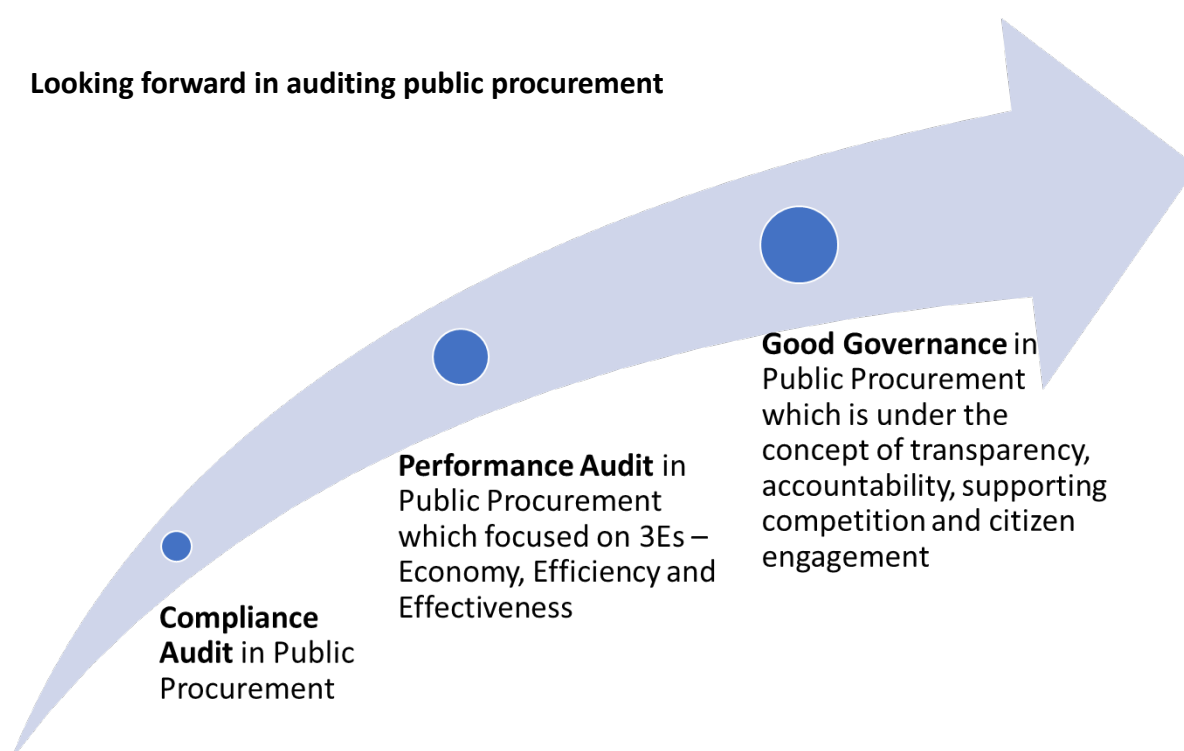
## Introduction

This part of the manual provides a detailed example of how to undertake a Systems Audit (Compliance Audit) on Procurement. The objective of the audit is to assess whether the system for making purchases is secure and to test whether or not it is being followed.

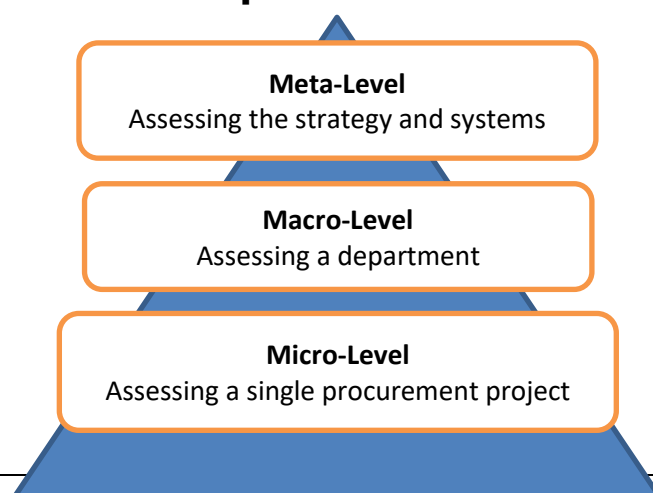
## Overview

The diagram below indicates the stages of auditing Public Procurement which a SAI can go through. At present, we will be concentrating on the Compliance Audit.

### Looking forward in auditing public procurement



### Summary of levels of procurement audit



## **Meta level**

This is an assessment of the government's overall procurement strategy. It seeks to answer questions such as:

- Do government policies promote and/or safeguard fair competition?
- Does government have an overall procurement strategy and/or policy?
- Are procurement policies and practices in line with (international) good practice standards?
- Is the performance of the procurement function/unit benchmarked with other procurement functions/units in the different stages of the procurement process?
- Are obtained prices/qualities competitive to prices/qualities obtained by other procurement functions/units, comparing obtained or improved value for money?
- Are outsourcing and Public Private Partnerships considered as alternatives to in-house work?

## **Macro level**

This is an assessment of an individual department's procurement function/unit. It seeks to answer questions such as:

- Does the department have a procurement strategy and is it implemented?
- Is the department's procurement function/unit well organised?
- Is the procurement process well organised?
- Do the employees have the necessary skills and experience to carry out procurements efficiently?
- Are there appropriate controls in place to ensure that procurement complies with the relevant legislation?
- Are there mechanisms in place to evaluate the performance of the department's suppliers?
- Are risks managed to provide reasonable assurance regarding department procurement-objectives?
- Are there regular reviews and analysis of the performance of the procurement function/unit?

## **Micro level**

This is an assessment of a single procurement project. It seeks to answer questions such as:

- Does the procurement project have a clear goal and does the goal meet the specified needs of the users?
- Is the procurement project efficiently managed?
- Are there appropriate controls in place to ensure that the procurement project complies with relevant legislation?

We will now examine each of these questions in more detail.



## Meta level

### 1. Do government policies promote and/or safeguard fair competition?

#### - Why is this important?

Public procurement can only be successful in a competitive business environment. There are business sectors in which sound competition must be promoted or needs government attention. Typical government policies within this context may include law and regulations to promote free trade as well as anti-corruption policies.

#### - Audit questions

- Is free and fair (international) competition promoted by government policies and legislation, in line with EU, trade organisations and other policies?
- Are regulations on taxes, fees, duties, excises, tariffs etc not impeding (international) competition?
- Do government agencies oversee that rules of competition are adhered to?
- Does government impose sanctions on companies unduly limiting competition?
- Are regulations and protective measures in place to avoid corruption?
- Is government transparent about winning bids and prices?

### 2. Does government have an overall procurement strategy and/or policy?

#### - Why is this important?

Considering the (financial) importance of procurements for government, it is essential to develop an overall government strategy and/or policy on public procurement. This would facilitate a more unified approach by various government institutions and public entities. This government policy could include performance targets for the various procuring units and ethical guidelines related to public procurements (for example on child labour, the environment etc).

#### - Audit questions

- Does government have an overall strategy and/or policy on public procurement, providing guidance for procuring entities?
- Does the government policy include:
  - Performance targets on value for money obtained and cost savings?
  - Ethical guidelines for public procurement?
  - Provisions for obtaining overall management information on public procurement?

### 3. Are procurement policies and practices in line with (international) good practice standards?

#### - Why is this important?

Multinational and Supranational organisations (for example the EU, UN, World Bank etc) have established standards and good practice guidelines for public procurement. These standards are designed to promote effective procurement, value for money, fair

competition, harmonisation and transparency. It is therefore important that government complies with international standards and adopts good practice guidelines.

- **Audit questions**

- Is government aware and informed about international procurement standards and good practice?
- Are procurement policies, procedures and organisation evaluated against these standards?
- Does government learn from benchmarking its own practices with international standards?

**4. Is the performance of the procurement function/unit benchmarked with other procurement functions/units in the different stages of the procurement process?**

- **Why is this important?**

Departmental agencies and non-departmental public bodies are responsible for determining the goods and services they need and for the way they acquire them. The procurement function/unit covers every aspect of the process of determining the need of goods and services (including works), and buying, delivering and storing them. Benchmarking with other procurement functions/units may highlight options for further improvements.

- **Audit questions**

- Is the procurement function/unit compared with other procurement functions/units and what are the results of a comparative analyses including the various stages in competitive procurement, for example:
  - Assessing the need for the goods and services;
  - Specification of requirement;
  - Agreeing list of potential suppliers;
  - Invitation to tender;
  - Evaluation of bids;
  - Selection of supplier;
  - Agreeing form of contract;
  - Formal awarding of contract;
  - Evaluation of contract performance?

**5. Are obtained prices/qualities competitive to prices/qualities obtained by other procurement functions/units, comparing obtained or improved value for money?**

- **Why is this important?**

Procurement should be based on value for money (defined as the optimum combination of whole life costs and fulfilment of customer's requirements) rather than initial purchase price. Benchmarking with other procurement functions/units may highlight options for further improvements.

- **Audit questions**

- How do procurement functions/units compare regarding:

- value for money obtained, comparing the quality of service and costs?
- improving value for money by for example:
  - reducing the cost of purchasing and the time it takes;
  - negotiation;
  - improving project-, contract-, asset- and/or risk management?
- How do the procurement functions/units manage the procurement risks (for example: the risk if the supplier does not deliver on time, to budget and of appropriate quality; the risk of indiscretion, fraud and waste)?
- Which forms of contract strategies are generally used by the procurement functions/units and is the choice to use this specific contract strategy inspired by the need to deliver value for money (most likely compared to other strategies)?
- Do the procurement functions/units work in compliance with proper project management procedures; so that projects are delivered on time, within cost limits, meeting quality standards and with minimum disruption of services?

## **6. Are outsourcing and Public Private Partnerships considered as alternatives to in-house work?**

### **- Why is this important?**

The use of competition and Public Private Partnership may ensure that the public way of handling tasks are organised appropriately and efficiently, including that there is a division of labour between the public and private sector. Therefore, it is important to consider in detail exactly what is produced in-house and what advantageously may be produced externally.

### **- Audit questions**

- Are decisions to outsource and being part of public private partnerships closely linked to the delivery of department's core services and functions?
- Are advantages and disadvantages of in-house production, outsourcing and Public Private Partnerships considered?
- Is it tested periodically, whether the public's way of handling tasks is competitive in relation to price and quality?
- Is it on a regular basis examined whether it is possible to enter into public private partnerships with private suppliers?
- Are services/tasks combined in such a way that the market is used where relevant?
- Is it assessed whether well-functioning markets exist for the departments' services/tasks?
- Is it considered whether services/tasks are of a sufficient volume to make it attractive to outsource these services/tasks?
- Does the department focus on procedure costs in connection with tendering or entering into Public Private Partnerships?

## Macro level

### 7. Does the department have a procurement strategy and is it implemented?

#### - Why is this important?

A strategic approach to procurement is important because it can assist a department in meeting its policy objectives and to obtain value for money in procurement. A procurement strategy can among other things help:

- Build a common idea of what is more important when procurement decisions are made (for example the relationship between price, quality and service);
- Optimise procurement in the organisation as a whole, by using the collective buying power and reducing internal administrative cost;
- Assuring the right competences among procurement staff and the right tools to support an efficient administration, for example e-procurement; and
- Support the achievement of departmental policy and business objective by making a link to the procurement goals.

#### - Audit questions

- Is the relationship between in-house and external work considered in the strategy?
- Does the strategy ensure that needs are met, but not exceeded?
- Does the strategy ensure that the concepts of standardisation and coordination of procurement are used to take advantage of the department's collective buying power?
- Does the strategy discuss the best manner of purchase, considering the types of goods and services needed?
- Does the strategy ensure that the best supplier is chosen considering: price, quality, service, dependable operation, internal operation costs, life time operation costs and codes of ethic?
- Does the strategy include a policy for identifying and training suitable procurement staff?
- Does the strategy ensure that appropriate controls are in place to:
  - Ensure propriety and regularity in delivery?
  - Address risk of fraud and corruption?
  - Monitor behaviour of procurement staff?
- Does the strategy contain incentives to evaluate the performance of the procurement function/unit?
- Is the strategy implemented across the entire organisation?

### 8. Is the department's procurement function/unit well organised?

#### - Why is this important?

Having procurement organised effectively is a very central area of effort, as the internal way of organising procurement may be a mean for a department to improve effectiveness of procurement. By this mean a department may reduce its costs of handling procurement and invoicing significantly.

#### - Audit questions

- Is there an overall mission for the procurement function/unit and is it determined which tasks the procurement function/unit should carry out?
- Have guidelines been set up for how the procurement function/unit should carry out its procurements?
- Has it been determined which areas of procurement the function/unit should cover?
- Has it been determined which shared services the procurement function/unit should be part of?
- Has it been determined how large a portion of the procurement portfolio that should be managed by the procurement function/unit and how large a portion that should be managed locally?
- Is the procurement function/unit organised the most appropriate way taking into consideration the actual tasks which the department has to carry out?
- Is the performance of the procurement function/unit regularly evaluated?

## 9. Is the procurement process well organised?

### - Why is this important?

Having the procurement process organised effectively is an important area of effort, as the procurement process may be a mean for a department to reduce transaction costs associated with procurement. The different steps in the procurement process are set out below.



By having the procurement process organised effectively a department may reduce its costs of placing orders, order confirmation, taking delivery of goods, invoice processing, bookkeeping and settlements.

### - Audit questions

- Has the department identified and described the different elements in the procurement process?
- Have guidelines been set up for how the procurement process should be conducted?
- Is the procurement process organised the most appropriate way taking into consideration the amount of procurement?
- Is the procurement process fully digitalised?
- Is electronic procurement applied to reduce transaction costs?
- Does the procurement process compile basic procurement information such as how much is bought and spend with individual suppliers?
- Is the efficiency of the procurement process regularly evaluated?

## **10. Do the employees have the necessary skills and experience to carry out procurements efficiently?**

### **- Why is this important?**

Procurement requires a mix of skills ranging from the ability to negotiate prices, interpreting market intelligence and an ability to negotiate terms and conditions, to competencies in electronic procurement and contract management. It is therefore important that the procurement function/unit has professional skills and experience to carry out the procurements efficiently.

### **- Audit questions**

- Do procurement staff have recognised professional procurement qualifications or sufficient training?
- Do procurement staff have skills to procure complex or special items (i.e. IT)?
- Does the procurement function/unit understand customer needs, supply markets and suppliers?
- Does the procurement function/unit have the ability to negotiate with customers and suppliers?
- Does the procurement function/unit have the ability to apply public procurement principles and to prepare tender and contract documents?
- Does the procurement function/unit have the ability to apply electronic procurement?
- Does the procurement function/unit have the ability to secure best performance from contractors?

## **11. Are there appropriate controls in place to ensure that procurement complies with the relevant legislation?**

### **- Why is this important?**

It is important that appropriate controls are in place to ensure that procurement complies with relevant legislation and other rules. Failure to comply has the effect that optimum procurement is not achieved and that the department runs the risk of legal proceedings.

### **- Audit questions**

- Are there internal control systems in place to secure that laws and regulations are observed?
- Are the internal control systems operational?
- Do the internal control systems function appropriately?
- Has management taken the necessary steps to ensure that relevant control systems are always up to date?

## **12. Are there mechanisms in place to evaluate the performance of the department's suppliers?**

### **- Why is this important?**

The performance of a department's suppliers is vital to an efficient procurement system and the attainment of department policy objectives. It is therefore important that there are mechanisms for evaluating the performance of suppliers. Failure to evaluate the

performance of suppliers includes a risk of not identifying problems at an early stage and of failing to follow up on a service level which is unsatisfactory.

- **Audit questions**

- Are there mechanisms for evaluating the department's suppliers' performance in relation to prices, quality, delivery and innovation?
- Do contracts contain regular reviews, targets and quality standards in order to assess suppliers' performance?
- Is there a forum where the department's suppliers' performance is regularly discussed with the suppliers?

### **13. Are risks managed to provide reasonable assurance regarding department procurement-objectives?**

- **Why is this important?**

The systematic application of management policies, procedures, and practices to the tasks of analysing, evaluating and controlling risk in the procurement area is important to provide reasonable assurance regarding entity procurement objectives. Failure to apply risk management in the procurement area may result in prices that are not competitive, reduced standards of received goods and services and dissatisfied stakeholders.

- **Audit questions**

- Is information gathered to produce knowledge about procured goods and services, prices paid and supplier performance?
- Are risks in the internal environment identified, for example:
  - Inadequate organisation of the procurement function/unit?
  - Dysfunctional culture?
  - Inferior competencies among procurement staff?
  - Ineffective internal communication in the procurement function/unit?
- Are risks in the external environment identified, for example:
  - Budgetary constraints?
  - Competition on procurement staff?
  - Threats to supplier relations?
  - Stakeholder-dissatisfaction?
- Are required quality and service standards set?
- Are behaviour modification applied to change procurement of goods and services if procurement is not functioning properly?
- Is there an effective risk management system continuously monitoring procurement risk?

### **14. Are there regular reviews and analysis of the performance of the procurement function/ unit?**

- **Why is this important?**

Regular review of the performance of the procurement function/unit is an important area of effort as it enables the department to identify opportunities to increase value for money and to identify malpractice and procurement fraud. Failure to regularly review the performance will result in increased risk if the procurement function/unit is malfunctioning.

- **Audit questions**
  - Does the department have a system for capturing performance data of the procurement function/ unit, and does the information include information on:
    - What is bought?
    - The prices paid?
    - Who are the key suppliers?
    - Ways of achieving goods and services?
    - Process cost of the procurement function?
  - Does the department evaluate and benchmark the performance of the procurement function/ unit against other comparable procurement functions/units?
  - Are there systems for recording and monitoring in order to discover malpractice and fraud in the procurement function/unit?

## Micro level

### 15. Does the procurement project have a clear goal and does the goal meet the specified needs of the users?

#### - Why is this important?

Having a clear goal may improve value for money and may ensure a link between the purchase on one hand and the achievement of departmental policy and business objectives on the other hand. Carefully prepared procurement goals can help achieve:

- That user's needs are met, but not exceeded;
- The best manner of purchase is chosen, considering the type of goods or service needed; and
- The procurement project can be evaluated.

#### - Audit questions

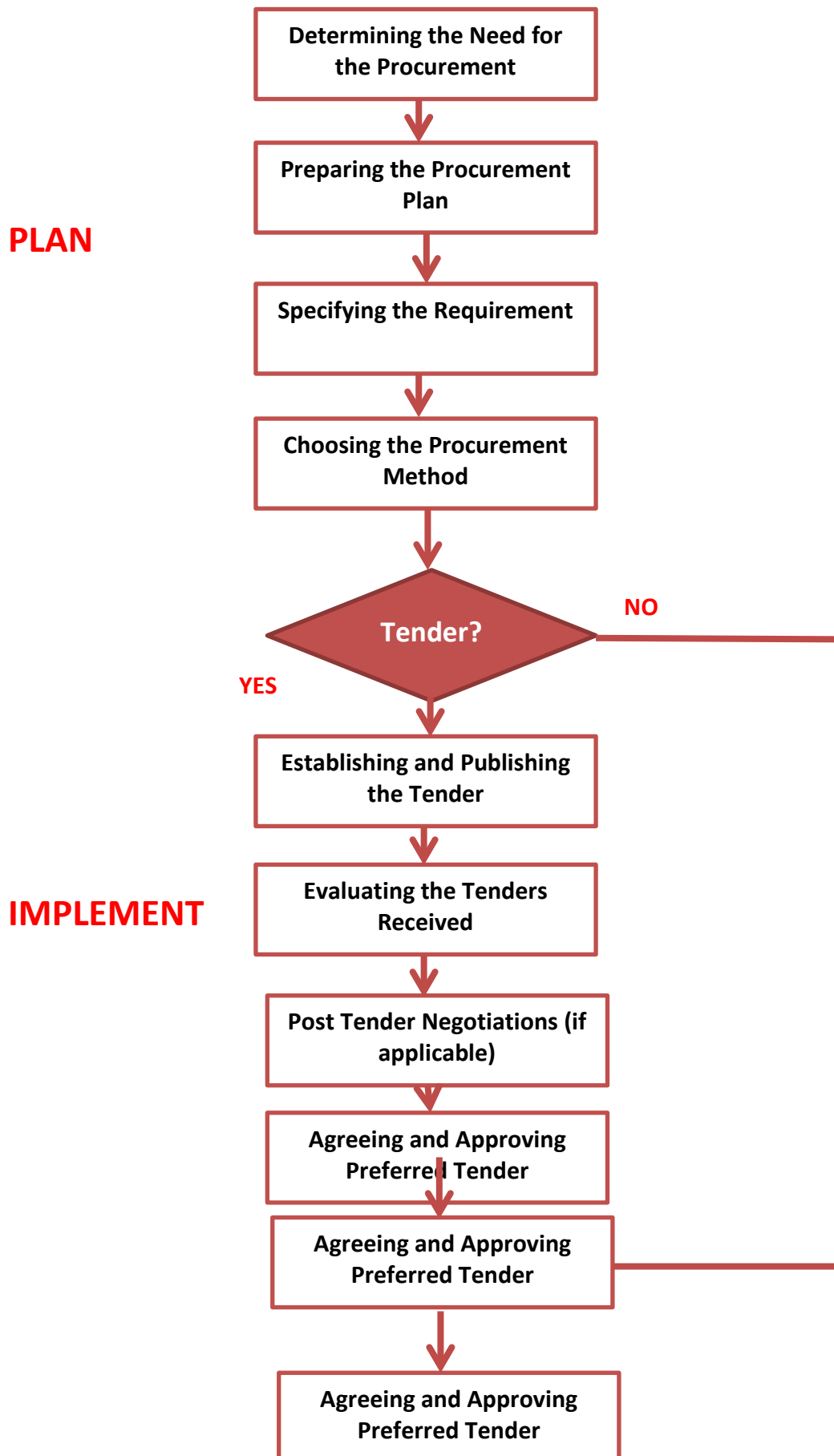
- Was there a need for the procurement project at all?
- Are the user's needs clearly and invariably defined and has the expected outcome or mission been clearly identified and communicated in measurable terms?
- Has alternatives been considered for the specified procurement project?
- Has an upper limit of cost been fixed?
- Has the expected benefits from realisation of the procurement project been calculated?

### 16. Is the procurement project efficiently managed?

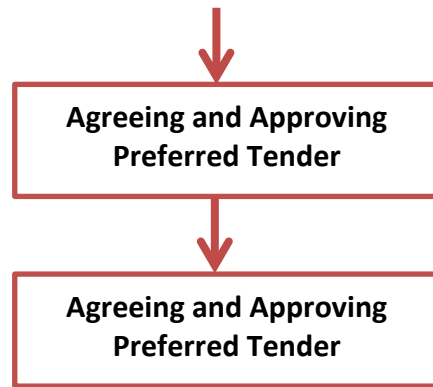
#### - Why is this important?

The different steps of the supply process have to be executed with the sufficient care. The following process cycle intends to show the different stages to be considered. Three main categories (plan, implement and manage) can be defined within the **Process Cycle**.





## MANAGE



### - Audit questions

- Are the right skills, experiences and competencies present in the acquisition workgroup and are the necessary outside specialists involved in part of the process?
- Does the procurement unit have sound commercial awareness and knowledge of suppliers and the market?
- Do procurement staff, supplier and end user communicate properly?
- Is confidentiality guaranteed during the whole process?

### Process Cycle:

#### Plan:

- Is it calculated whether aggregated procurement can be more cost-efficient?
- Is an appropriated degree of standardisation of goods and services respected?
- Is the foreseen budget compared with similar projects or procurements yet realised (historical standards)?
- Is a cost/benefit analysis, a cost/effectiveness or a financial analysis considering life-cycle costs performed and is the funding of the procurement guaranteed?
- Is a risk evaluation performed?
- Is the appropriate procurement approach being chosen (considering for example the possibility of contracting out work or procuring low value items through a specific low cost procuring system)?
- Are incentives to deliver on time and in quantity properly specified?

#### Implement:

- Are there written rules on requirements for the specific quote and tender used in the transaction and are they applied?
- Are there complementary rules to be used and are they applied? (e.g. emergency)
- Is the opportunity properly published?
- Is there time waste during tendering?
- Are information technology resources (e-procurement) used to reduce costs?
- Is the tender clearly and properly specified, including evaluation criteria and knowing about the market and therefore not over-prescriptive and receptive to innovation?

- Are prequalification criteria of suppliers (size of company, track record and experience of the company with government bodies, capacity for suppliers to take on risk from the contracting body, price, environmental criteria) properly defined and applied?
- Are tenders who do not comply with the requirements specified in the request for tenders rejected?
- Is evaluation of tenders objective and transparent and based solely on the published criteria?
- Is the contract awarded to the tender who best meets the relevant criteria?

**Manage:**

- Is the chosen supplier part of the department's database? Is it even a key supplier?
- Does the contract meet criteria of completeness and consistency?
- Are unsuccessful companies informed why their tender failed?
- Does the contract include performance-based clauses?
- In case of time and material and labour hour contracts, do the surveillance give an adequate and reasonable assurance that the contractor is using efficient methods and effective cost controls?
- Are review meetings organised during contract execution and do they meet demand?
- Are contract changes after awarding properly justified and executed?
- Are internal control mechanisms performed before payments?
- Are the established budget and timetable (milestones) respected?
- Has late payment interests to be rewarded and could they have been avoided?
- Are there any complaints of the suppliers and/or end-users?

**17. Are there appropriate controls in place to ensure that the procurement project complies with relevant legislation?****- Why is this important?**

Public procurement legislation contains rules concerning the process of acquiring goods, works and services by public sector entities. The primary purpose of such legislation is often to encourage economy and efficiency in the use of public funds - to give value for money. The essence of public procurement legislation is to define and implement the procedures that are most likely to produce an economic and efficient result, while respecting the public nature of the process, free competition and the duty of fairness to the suppliers.

**- Audit questions**

- Is there a legal authority for the procurement project?
- Are existing suppliers that have a special right to be consulted being contacted?
- Does the procurement project comply with regulations and rules of any trading block of which the country is a member?
- Do appropriate controls ensure that procurement decisions are not biased by conflicts of interest or corruption?

# Examples of good practice

## Introduction

In this section there are examples of best practice against which you can measure the situation you find during your audit. The examples cover:

- **legislation** (procurement law);
- **management** (how procurement is managed); and
- **procurement handbooks or manuals.**

## Legislation

The United Nations Commission on International Trade Law (UNCITRAL) has published a Model Law on the Public Procurement<sup>2</sup> (the Model Law). While individual country laws may differ slightly to reflect local situations, any audit of procurement must ensure the law complies in all material regards with the Model Law.

### Purpose

The Model Law on Public Procurement contains procedures and principles aimed at achieving value for money and avoiding abuses in the procurement process. The text promotes objectivity, fairness, participation and competition and integrity towards these goals. Transparency is also a key principle, allowing visible compliance with the procedures and principles to be confirmed.

The 2011 Model Law replaces the 1994 UNCITRAL Model Law on Procurement of Goods, Construction and Services. While the 1994 text was recognised as an important international benchmark in procurement law reform, in 2004, the Commission agreed that the 1994 Model Law would benefit from being updated to reflect new practices, in particular those resulting from the use of electronic communications in public procurement, and the experience gained in the use of that Model Law as a basis for law reform. Nonetheless, the principles and main procedures from the 1994 text, the foundation of its success, have not been changed.

### Why is it relevant?

The nature of procurement is that it involves discretionary decision-taking on behalf of government at all levels; procurement spending may represent 10 to 20 per cent of GDP and up to 50 per cent or even more of total government spending. The nature of procurement necessarily involves a risk of abuse and the size of the market shows that potential losses could be significant, but also procurement involves important projects (health, education, infrastructure), which will have a major impact on economic performance and development.

Accordingly, achieving value for money in procurement is critical. Responding to these key factors, the Model Law allows the enacting State to develop a procurement system that will both achieve value for money and avoid abuse.

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<sup>2</sup> [https://uncitral.un.org/en/texts/procurement/modellaw/public\\_procurement](https://uncitral.un.org/en/texts/procurement/modellaw/public_procurement)

## Key Provisions

The Model Law allows government purchasers to take advantage of modern commercial techniques, such as e-procurement and framework agreements, to allow it to maximise value for money in procurement. The Law contains procedures to allow for standard procurement, urgent or emergency procurement, simple and low-value procurement, and large and complex projects (in which, and where appropriate, the government can interact with potential suppliers and contractors to obtain the best solution to its needs).

All procedures are subject to rigorous transparency mechanisms and requirements to promote competition and objectivity. All decisions and actions taken in the procurement process can be challenged by potential suppliers. While the government purchaser therefore has discretion in deciding what to purchase and how to conduct the procurement, that discretion is subject to safeguards that are consistent with other international standards - notably, those imposed by the United Nations Convention Against Corruption.

The Model Law allows the enacting State to pursue its domestic policy objectives—such as promoting economic development through the support of SMEs—to the extent the government's international commitments allow.

The Model Law has also been prepared with a view to supporting the harmonisation of international standards in public procurement, and takes account of the provisions of the WTO Agreement on Government Procurement, the European Union Directives (on procurement and remedies), the UN Convention Against Corruption, the Procurement Guidelines and Consultant Guidelines of the World Bank and the equivalent documents of other IFIs.

The Model Law is aimed at assisting states in formulating a modern procurement law. Although developing countries and states whose economies are in transition were the main users of the 1994 text, the new Model Law reflects international best practice and is designed to be appropriate for all states.

## Management

When undertaking an audit of procurement, it is necessary to examine the overall management of the process. This does not mean how procurement is actually undertaken by ministries, etc but how the process is managed at the highest level. There is usually a Statutory Body established to ensure fair play in the procurement process. The audit will involve ensuring that, if such a body exists, it has the requisite powers, and makes use of them, to ensure effective public procurement. Two examples follow: one from Jamaica and one from the Republic of North Macedonia.

### Jamaica

Jamaica has an **Office of the Contractor-General<sup>3</sup> (OCG)** established under the Contractor-General's Act<sup>4</sup>.

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<sup>3</sup> [www.ocg.gov.jm](http://www.ocg.gov.jm)

<sup>4</sup> [http://www.oas.org/juridico/spanish/jam\\_res9.pdf](http://www.oas.org/juridico/spanish/jam_res9.pdf)

The OCG monitors and investigates the award and implementation of any government contract, in order to ensure that such contract is awarded impartially and on the basis of merit, that the circumstances under which it is awarded or terminated do not involve impropriety or irregularity, and that the contract is implemented in conformity with its terms and conditions.

In this task, it supports two commissions:

- **Parliamentary Commission of the Contractor-General:** the OCG's equivalent of the Public Accounts Committee (PAC) for the Auditor-General; and
- **National Contract Commission:** its primary objectives are the *"promotion of efficiency in the process of the award and implementation of Government contracts and ensuring transparency and equity in the awarding of such contracts"*.

The **National Contracts Commission (NCC)** and its **Sector Committees** is responsible for contracts of a value of above JMD<sup>5</sup> 5 million (Direct Contracting) and JMD 15 million regardless of method of procurement (up to JMD 40 million).

In order to ensure timely consideration of contract award recommendations, the NCC operates through Sector Committees located throughout the public sector. The primary function of each Sector Committee is to review and submit contract award recommendations to the NCC for approval within prescribed limits

## Republic of North Macedonia

The Republic of North Macedonia has two bodies overseeing the procurement process: the Public Procurement Bureau (PPB)<sup>6</sup> and the State Appeals Commission (SAC).

The PPB was established under Part III of the Law on Public Procurement<sup>7</sup> (PPL). The PPB assists contracting authorities and economic operators through its monitoring and day-to-day advisory and training activities.

The PPL, as a law governing a specific subject matter, governs the terms and procedures for awarding public procurement contracts, the authorisation of the Public Procurement Bureau and the authorisation of the State Appeals Commission.

The supervision and the enforcement of the public procurement system in North Macedonia is under the jurisdiction of the Ministry of Finance and the Public Procurement Bureau, as well as the State Appeals Commission as an independent body authorised to rule on the review procedures in public procurements.

The PPL applies to any contracts the total amount of which exceeds the equivalent of €500 in denars (based on the middle exchange rate published by the National Bank of the Republic of North Macedonia) on a monthly basis, excluding value added tax.

As an exemption from this general threshold, the PPL shall not apply for utilities contracts (water supply, energy, transport, postal services and other covered activities) when the

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<sup>5</sup> JMD1 = USD 0.00735 (16/8/2018)

<sup>6</sup> <https://www.bjn.gov.mk/en/>

<sup>7</sup> <http://www.euro-tenders.com/documents/Macedonia-Public%20Procurement%20Law.pdf>

estimated value of the contract is below €200,000 for public supply of works and services and €4 million for the public supply of works.

The contracting authority shall advertise the notice for the tender procedure to be conducted, in the form of an open procedure, restricted procedure, competitive dialogue, negotiated procedure without prior publication of a contract notice or contest for idea solution, on the Electronic System for Public Procurement (ESPP) and in the Official Gazette of Republic of North Macedonia.

The contracting authority mandatorily publishes notifications of concluded contracts (but not the whole contract) on the ESPP. This is a comprehensive online system, for the purpose of enabling greater efficiency and effectiveness in the field of public procurement.

The basic principles of public procurement as set out in the PPL are:

- competition between the bidders;
- equal treatment and non-discrimination of the bidders;
- transparency and integrity in the process for awarding contracts; and
- rational and efficient utilisation of funds in public procurement.

The application of an appeal shall automatically suspend the signing of the public contract and its execution until the decision on the appeal by the **State Appeals Commission** becomes final.

Notwithstanding this, the State Appeals Commission may approve the continuation of the public procurement procedure upon request of the contracting authority. The State Appeals Commission must decide within three days of the submitted request. If the public contract is signed contrary to these terms, it shall be deemed void. The request for continuation of the procedure for awarding a public procurement contract may be granted for reasons that may incur damages if the procedure is not conducted, and which are disproportional to its value.

## Procurement handbooks or manuals

To help ensure that procurement is done with due regards to economy, efficiency and effectiveness, it is essential that there is a detailed procurement handbook or manual.

Jamaica has a very detailed *Handbook of public sector procurement procedures*. Its four volumes are:

- Volume #1: General Provisions<sup>8</sup>
- Volume #2: Procedures for the Procurement of Goods, General Services and Works<sup>9</sup>
- Volume #3: Procedures for the Procurement of Consulting Services<sup>10</sup>
- Volume #4: Procedures for the Procurement of General Insurance Services<sup>11</sup>

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<sup>8</sup> <http://www.mof.gov.jm/documents/documents-publications/document-centre/file/235-handbook-of-public-sector-procurement-procedures-volume-1.html>

<sup>9</sup> <http://www.mof.gov.jm/documents/documents-publications/document-centre/file/236-handbook-of-public-sector-procurement-procedures-volume-2.html>

<sup>10</sup> <https://www.mof.gov.jm/documents/documents-publications/document-centre/file/237-handbook-of-public-sector-procurement-procedures-volume-3.html>

<sup>11</sup> <https://ppp.worldbank.org/public-private-partnership/library/handbook-public-sector-procurement-procedures-volume-4-march-2014>