

Transparent Public Procurement Rating



The Philippines

Public Procurement Legislation Assessment

The Assessment of the Public Procurement Legislation of the Philippines was prepared by the Institute for Leadership, Empowerment and Democracy in 2018.



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2016 - 2020

Introduction

The TPPR Methodology is envisioned to be a universal methodology for assessing public procurement legislations (PPLs) with the ultimate goal of identifying the strengths and weaknesses of legal frameworks and their enforcement around the globe.

Structure and Logic

The Methodology is composed of 64 indicators, each of which holds a similar degree of importance. A number of these indicators are further broken down into scoring components.

The Methodology covers all the major components of any public procurement system, from the nature of the legislation to the complaint review process, with focus on the transparency of public procurement systems.

The selection of indicators for the Methodology was largely based on international best practice, international standards and aspects of other existing methodologies in the sphere of public procurement, such as:

- EBRD Methodology and Standard
- GPA Standard (WTO)
- OECD Methodology and Principles
- EU Standard (**Directive 2014/24/EU**)
- Open Contracting Data Standard (OCDS)

Several indicators have been directly taken from one of the sources listed above as examples of best international practice. All of these indicators have been properly referenced.

During the indicator selection and elaboration process, an effort was made to ensure that the Methodology can be used to assess many different kinds of public procurement systems, but at the same time set high standards.

The indicators are separated into 5 groups (benchmark indicators) that represent the key characteristics (values) of a well-functioning, transparent and accountable public procurement system:

1. **Uniformity of the Legislative Framework** – 14 indicators
2. **Efficiency** – 10 indicators
3. **Transparency** – 18 indicators
4. **Accountability and Integrity** – 7 indicators
5. **Competitiveness and Impartiality** – 10 indicators

The methodology also includes 5 indicators that are used to assess legal components **that are not directly part** of the public procurement legislation but are crucial in terms of creating a transparent environment necessary for a proper functioning of any public procurement system. These indicators are grouped separately under '**Transparency Environment**'.

Indicators are also arranged according to the procurement process:

1. **Pre-tendering Phase** – procurement processes leading up to the publication of a notice of intended procurement.
2. **Tendering Phase** – procurement processes between publication of a notice of intended procurement and selection of a tender winner.
3. **Post-tendering Phase** – procurement processes after the selection of a tender winner.

These two arrangements allow for both process and value-based assessments of public procurement legislations.

Limitations

Public procurement systems vary significantly by country. The TPPR Methodology is intended to be applicable on a global scale, meaning that the indicators cannot be too specific and cannot cover all the possible variations and exceptions.

For the same reason, the TPPR Methodology can only be used to assess public procurement legislations on the national level, and it does not include indicators for any industry specific rules.

Scoring System

Each indicator included in the TPPR Methodology is granted equal weight and receives a maximum of 1 point. With a total of 64 indicators, public procurement legislations are rated on the scale of **0 to 64** (converted to percentages for easier understanding and visualization).

Indicators that are further broken down into scoring components are nevertheless worth 1 point. Each scoring component is evaluated separately.

The Methodology uses two ways to distribute points among scoring components of an indicator:

1. **'Scoring method'** is used when scoring components of an indicator overlap (meaning they do not add up as points) or have an unequal distribution of points.
2. **'Point distribution'** is used when each scoring component of an indicator is given an equal share of the overall point granted to that indicator.

This scoring system and the structure of the Methodology allow for the results to be presented in three ways:

1. **Country Overall Results and Rating** – country overall results on the scale of 0-64 are converted into and presented using percentages (0-100%). Countries are then ranked by their overall results.
2. **Results by Benchmark Indicators** – results for benchmark indicators are presented only through percentages, since benchmark indicators include an unequal number of indicators (and, therefore, unequal number of maximum points).
3. **Results by Procurement Process** – results for different phases of the procurement process are presented only through percentages, due to unequal number of indicators included in each phase.

Countries are also ranked and compared by their results for each benchmark indicator.

Visualization

Visualizing the results of the assessment is crucial to the goal of the methodology. For this purpose, the overall points received by each country shall be shown graphically using the scale of 0-100%, divided into 4 quarters of a specific color:

- Low compliance with TPPR Standards – 0% to 25% (red)
- Average compliance with TPPR Standards – 26% to 50% (orange)
- Good compliance with TPPR Standards – 51% to 75% (yellow)
- Excellent compliance with TPPR Standards – 76% to 100% (green)

Visualizations will also include spider graphs depicting country results by benchmark indicators and the procurement process, and multi-colored bar graphs for comparing country results in these categories.

Terminology

This methodology uses universally accepted procurement terminology as well as a few terms of its own design, in order to make key distinctions easier.

Acceptance act – A document signed by parties through which they agree on the terms by which a bargain is concluded.

Bid – Price offered by a tender participant during the bidding procedure.

Bid Security – A refundable amount of money paid by tender candidates validating their participation in a tender.

Coordination – Providing assistance to economic operators and procuring entities to engage in procuring activities.

Day – In the context of this methodology a day implies a calendar day.

Economic Operator – business or other organization which supplies goods, works or services.

Legal entity of public law (LEPL) (Public Legal Entity) – Organization created by the government or a government body, but separated from state management, and performing public authority independent of state control.

Machine-readable – A data format that can be processed (i.e. extract, transform and process) by a computer.

Monitoring – Data collection and analysis.

State non-commercial legal entity – A body governed by public law, having legal personality, not having an industrial or commercial character, and funded or managed, for the most part, by state entities.

Non-competitive procedure (direct procurement) – A type of public procurement procedure that does not involve prior publication of a notice of intended procurement.

Notice of intended procurement – A call for participation in an open tender issued by procuring entities.

Open tender – A type of tender, in which any economic operator can request participation.

Post-tendering phase – procurement processes after the selection of a tender winner.

Pre-tendering phase – procurement processes leading up to the publication of a notice of intended procurement.

Procurement regulatory body – a state body responsible for managing the public procurement system without necessarily incorporating lawmaking and law enforcement functions.

Procuring entity – A state budget and local government entity (including their respective LEPLs and state owned companies).

Public procurement annual plan – A document issued by procuring entities that contains information about all procurements planned within a fiscal year.

Tender – A type of public procurement procedure that involves bidding.

Tender application – An economic operator's official request to participate in a tender that includes all the documents requested by the procuring entity.

Tender candidate – An economic operator willing to participate in a tender.

Tender commission – A group of persons within a procuring entity responsible for conducting procurement (this function can also be performed by a single person).

Tender documentation – A collection of documents containing full information about the procurement, such as its subject-matter, technical requirements/specification, eligibility and evaluation criteria, draft contract conditions etc.

Tender participant – An economic operator that has been allowed to participate in a tender.

Tendering phase – procurement processes between publication of a notice of intended procurement and selection of a tender winner.

TPPR Methodology Indicators

<i>Transparency Environment</i>			
#	Indicator	Score	Relevant Article and Law (if applicable)
1	Business registry is publicly available. – [1 point]	1	Section 8, Republic Act No. 9184 (RA 9184), entitled “An Act Providing for the Modernization, Standardization and Regulation of the Procurement Activities of the Government and for Other Purposes”, including its 2016 revised Implementing Rules and Regulations (IRR)
2	Budgets of all public procuring entities are publicly available. – [1 point]	1	RA No. 10964 , entitled “2018 General Appropriations Act (GAA)”, available at the Department of Budget and Management website
3	Public officials are required by law to file asset declarations. – [1 point]	1	Section 8, RA No. 6713 , entitled “An Act Establishing a Code of Conduct and Ethical Standards for Public Officials and Employees, to Uphold the Time-Honored Principle of Public Office Being a Public Trust, Granting Incentives and Rewards for Exemplary Service, Enumerating Prohibited Acts and Transactions and Providing Penalties for Violations Thereof and for Other Purposes”.
4	The country has adopted legal provisions ensuring the right to request public information. – [1 point]	1	Comment: There is no law, but there exists an Executive Order (EO) No. 2 , entitled “Operationalizing in the Executive Branch the People’s Constitutional Right to Information and the State Policies of Full Public Disclosure and Transparency in the Public Service and Providing Guidelines Therefor”.

5	Legislation includes provisions regulating whistleblower protection. – [1 point]	1	RA 6981 , entitled “An Act Providing for a Witness Protection, Security and Benefit Program and for Other Purposes”.
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Indicators by Procurement Process

<i>General Characteristics of the Procurement System</i>			
#	Indicator	Score	Relevant Article and Law (if applicable)
1	<p>Public Procurement Legislation (PPL), which may include primary and secondary legislation, lays out the basic principles and general framework of the procurement process, makes it operational and indicates how the law must be applied to specific circumstances. – [1 point]</p> <p><i>Uniformity of the Legislative Framework</i></p>	1	<p>Republic Act No. 9184 (RA 9184), entitled “An Act Providing for the Modernization, Standardization and Regulation of the Procurement Activities of the Government and for Other Purposes”</p> <p>2016 revised Implementing Rules and Regulations (IRR) of RA 9184</p> <p>Generic Procurement Manuals for Goods, Civil Works and Consulting Services</p> <p>Standard Bidding Documents for Good, Civil Works and Consulting Services</p> <p>Various Government Procurement Policy Board Resolutions, Guidelines and Circulars</p>

2	<p>PPL (including primary and secondary legislation) is available in a single and accessible place. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p><i>Uniformity of the Legislative Framework</i></p>	1	<p>Republic Act No. 9184 (RA 9184), entitled “An Act Providing for the Modernization, Standardization and Regulation of the Procurement Activities of the Government and for Other Purposes”</p> <p>2016 revised Implementing Rules and Regulations (IRR) of RA 9184</p>
3	<p>PPL applies to all state budget and local government entities (including their respective Legal Entities of Public Law (LEPLs), state owned companies and non-commercial legal entities) and all exempted entities are clearly indicated. – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> a) All state budget entities – [0.2] b) Local government entities – [0.2] c) Legal Entities of Public Law (LEPL) – [0.2] d) State owned companies – [0.2] e) State non-commercial legal entities – [0.2] <p><i>Uniformity of the Legislative Framework</i></p>	<p>Overall: 1</p> <p>Components:</p> <ul style="list-style-type: none"> a) 0.2 b) 0.2 c) 0.2 d) 0.2 e) 0.2 	<p>Vide: Section 4, RA 9184 and its 2016 IRR.</p> <p><i>This Act shall apply to the Procurement of Infrastructure Projects, Goods, and Consulting Services, regardless of source of funds, whether local or foreign, by all branches and instrumentalities of government, its departments, offices and agencies, including government-owned and/or –controlled corporations and local government units, subject to the provisions of Commonwealth Act No.138. Any treaty or international or executive agreement affecting the subject matter of this Act to which the Philippine government is a signatory shall be observed.</i></p>
4	<p>The scope of coverage of PPL includes all sectors of the</p>	1	<p>Section 4 on Scope and Coverage, and Section 10 on</p>

	<p>economy where competition is possible and exemptions are clearly listed in the PPL. – [1 point]</p> <p>Point Distribution</p> <p>a) The scope of coverage of PPL includes all sectors of the economy where competition is possible. – [0.5]</p> <p>b) PPL clearly lists or refers to all exemptions. – [0.5]</p> <p><i>Uniformity of the Legislative Framework</i></p>		Competitive Bidding as primary mode of procurement, as embodied in RA 9184.
5	<p>PPL determines a separate state body (procurement regulatory body) responsible for managing public procurement or assigns this function to a subordinate public body(ies). – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> ● PPL determines a separate state body responsible for managing public procurement which is authorized to have income in addition to state funding. – [1] ● PPL determines a separate state body responsible for managing public procurement. – [0.75] ● PPL assigns this function to a subordinated public body(ies). – [0.5] ● There is no responsible state body. – [0] 	0.75	<p>Vide: Section 63, RA 9184 and its 2016 IRR.</p> <p>Comment: The Government Procurement Policy Board (GPPB) is the central procurement policy making arm of the Philippine Government established under RA 9184 and funded through the General Appropriation Act, any funds received by the Board or its Technical Support Office (TSO) revert to the general coffers of government and are not considered income.</p>

	<i>Uniformity of the Legislative Framework</i>		
6	<p>PPL stipulates that the procurement regulatory body is responsible for at least coordination and monitoring (i.e. data collection and analysis as opposed to regulation and control) of public procurement activities. – [1 point]</p> <p><i>Uniformity of the Legislative Framework</i></p>	1	Vide: Section 63, RA 9184; and, 63(d), 2016 IRR.
7	<p>Legislation provides for a mechanism of consultation with the private and civil society sectors that is aimed at receiving feedback and identifying problems in the procurement system. PPL obligates the entity responsible for managing public procurement to use this mechanism on a regular basis. – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> a) Legislation provides for a mechanism of consultation with the private sector. – [0.25] b) Legislation provides for a mechanism of consultation with the civil society sector. – [0.25] c) PPL obligates the entity responsible for managing public procurement to use this mechanism on a regular basis. – [0.5] 	<p>Overall: 1</p> <p>Components:</p> <ul style="list-style-type: none"> a) 0.25 b) 0.25 c) 0.5 	<p>Vide: Section 63(d), 2016 IRR; and, Section 13.4, 2016 IRR -</p> <p><i>To enhance the transparency of the process, the BAC shall, during the eligibility checking, shortlisting, pre-bid conference, preliminary examination of bids, bid evaluation, and post-qualification, invite, in addition to the representative of the COA, at least two (2) observers, who shall not have the right to vote, to sit in its proceedings where:</i></p> <p><i>1. At least one (1) shall come from a duly recognized private group in a sector or discipline relevant to the procurement at hand, for example:</i></p> <ul style="list-style-type: none"> <i>a) For Infrastructure Projects, national associations of constructors duly recognized by the Construction Industry Authority of the Philippines (CIAP), such as, but not limited to the following:</i> <p><i>(1) Philippine Constructors Association, Inc.; or</i></p>

	Accountability and Integrity		<p>(2) National Constructors Association of the Philippines, Inc.</p> <p>b) For Goods, a specific relevant chamber-member of the Philippine Chamber of Commerce and Industry.</p> <p>c) For Consulting Services, a project-related professional organization accredited or duly recognized by the Professional Regulation Commission or the Supreme Court, such as, but not limited to:</p> <p>(1) Philippine Institute of Civil Engineers (PICE);</p> <p>(2) Philippine Institute of Certified Public Accountants (PICPA);</p> <p>or</p> <p>(3) Confederation of Filipino Consulting Organizations; and</p> <p>2. The other observer shall come from a non-government organization (NGO).(a)</p> <p>13.2. The observers shall come from an organization duly registered with the Securities and Exchange Commission (SEC) or the Cooperative Development Authority (CDA),</p> <p>and should meet the following criteria:</p> <p>a) Knowledge, experience or expertise in procurement or in the subject matter of the contract to be bid;</p> <p>b) Absence of actual or potential conflict of interest in the</p>
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			<p><i>contract to be bid; and</i></p> <p><i>c) Any other relevant criteria that may be determined by the BAC.</i></p>
8	<p>PPL stipulates that electronic means is the primary method of conducting public procurement and of communication between procuring entities and tender participants. – [1 point]</p> <p>Point Distribution</p> <p>a) PPL stipulates that electronic means is the primary method of conducting public procurement. – [0.5]</p> <p>b) PPL stipulates that electronic means is the primary method of communication between procuring entities and tender participants. – [0.5]</p> <p><i>Efficiency</i></p>	<p>Overall: 0.5</p> <p>Components:</p> <p>a) 0</p> <p>b) 0.5</p>	<p>Vide: Section 8, RA 9184.</p> <p>Comments: The Philippine Government Electronic Procurement System (PhilGEPS) is the central portal of information on government procurement. It is the “primary and definitive source of information on government procurement” in the Philippines.</p> <p>Additionally, the PhilGEPS allows the use of electronic bidding or eBidding, apart from the Electronic Bulletin Board; Registry of Suppliers, etc.; Electronic Catalogue; and Virtual Store features. As such, the procurement legal framework allows for a “hybrid” approach by allowing both manual and electronic bid submission, which should be given full weight, rather than providing a full score (0.5) for a mandatory electronic bid submission, thereby setting aside the efficiency derived at allowing for manual bid submission</p>
9	<p>PPL establishes a single official point of access (i.e. an online portal) for all procedures and information related to public procurement. – [1 point]</p>	<p>1</p>	<p>Vide: Section 8, RA 9184 and its 2016 IRR - <i>To promote transparency and efficiency, information and communications technology shall be utilized in the conduct of procurement procedures. Accordingly, there shall be a single portal that</i></p>

	<i>Efficiency</i>		<i>shall serve as the primary source of information on all government procurement.</i>
10	<p>Legislation requires that software used for electronic procurement and related communication shall be non-discriminatory, free to use and interoperable with the ICT products in general use and shall not restrict economic operators' access to the procurement procedure. – [1 point]</p> <p><i>Competitiveness and Impartiality</i> <i>Source: EU Standard</i></p>	1	Vide: Section 8, RA 9184 and its 2016 IRR.
11	<p>PPL ensures that tender candidates must be given equal treatment, without regard to nationality, residency or political affiliation: – [1 point]</p> <p>Point Distribution</p> <p>a) PPL should not allow domestic preferences. – [1/5]</p> <p>b) Participation of any candidate or group of candidates is based on qualification. – [1/5]</p> <p>c) Ensures that registration if required does not constitute a barrier to participation in tenders. –</p>	<p>Overall: 4/5</p> <p>Components:</p> <p>a) 0</p> <p>b) 1/5</p> <p>c) 1/5</p> <p>d) 1/5</p> <p>e) 1/5</p>	<p>Comments: The relevant provision(s) of RA 9184 and its 2016 IRR and GPPB Resolutions <i>vis</i> the sub-indicators are:</p> <p>a) Section 23 RA 9184; Section 23.4 and 24.3, 2016 IRR.</p> <p>b) Section 23 and 24 RA 9184 and its 2016 IRR.</p> <p>c) Section 8.5.1, 2016 IRR; GPPB Resolution No. 26-2017 and GPPB Circular No. 07-2017, dated 31 July 2017.</p> <p>d) Sections 23.5 and 24.6, 2016 IRR.</p> <p>e) Time periods for the procurement process are applicable to all bidders. Please see Annex “C” of the 2016 IRR</p>

	<p>[1/5]</p> <p>d) State owned companies are not given any preference. – [1/5]</p> <p>e) Time-periods, including any extension of the time-periods, shall be the same for all interested or participating candidates.– [1/5]</p> <p><i>Competitiveness and Impartiality</i> Source: GPA Standard</p>		
12	<p>PPL stipulates that a procuring entity shall, consistent with its own reasonable needs, provide sufficient time (based on the GPA standard - Article XI) for candidates to prepare and submit tender application. – [1 point]</p> <p><i>Competitiveness and Impartiality</i></p>	1	<p>Vide: Sections 21.2.1, 22.2 and 25.5, 2016 IRR.</p> <p>Under the procurement law and the 2016 IRR, prospective bidders are given ample time to prepare a responsive bid.</p> <p>Annex “C” of the 2016 IRR on timelines – (https://www.gppb.gov.ph/laws/laws/RevisedIRR.RA9184.pdf, pp. 123-125)</p> <p>26 Calendar Days for Goods and Services; 36 Calendar days for Works</p>
13	<p>PPL stipulates that each procuring entity has a staff member(s) responsible for conducting procurement activities. – [1 point]</p> <p><i>Uniformity of the Legislative Framework</i></p>	1	<p>Comments: The GPRA, RA 9184, established a Selection Committee known as the Bids and Awards Committee (BAC) supported by a Technical Working Group (TWG) and a BAC Secretariat. (Vide: Sections 11, 12.1, 14, 2016 IRR.</p>
14	<p>PPL references sanctions for violations of the PPL. –</p>	1	<p>Vide: Sections 65 (Penal Clause/Criminal Liability), 67 (Civil</p>

	<p>[1 point]</p> <p><i>Accountability and Integrity</i></p>		Liability) and 69 (Administrative Liability, RA 9184 and its 2016 IRR.
15	<p>Legislation explicitly defines fraud and corruption / abuse of public office and spells out the individual responsibilities and consequences for government employees and private firms or individuals found guilty of fraud or corruption. – [1 point]</p> <p><i>Accountability and Integrity</i> Source: OECD Methodology</p>	1	<p>Vide: Section 65, RA 9184 and its 2016 IRR; RA 3019, entitled “Anti-Graft and Corrupt Practices Act”; RA 6713, entitled “Code of Conduct and Ethical Standards for Public Officials and Employees”.</p> <p>See also: Clause 3 and 4, Instructions to Bidders, Standard Bidding Documents for Goods, Civil Works and Consulting Services</p>
16	<p>PPL ensures the right to review (complaints), for all interested parties, including general public, tender participants and potential suppliers. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> ● PPL ensures the right to review, for general public, tender participants and potential suppliers. – [1] ● PPL ensures the right to review, for tender participants and potential suppliers. – [0.75] ● PPL ensures the right to review, for tender participants. – [0.25] ● No one has the right to review. – [0] <p><i>Uniformity of the Legislative Framework</i></p>	1	<p>Vide: Sections 55, 56, 57 and 58, RA 9184 and its 2016 IRR.</p> <p><i>55. Protests on Decisions of the BAC. – Decisions of the BAC in all stages of procurement may be protested to the head of the procuring entity and shall be in writing. Decisions of the BAC may be protested by filing a verified position paper and paying a nonrefundable protest fee. The amount of the protest fee and the periods during which the protests may be filed and resolved shall be specified in the IRR.</i></p>

17	<p>PPL ensures the right to review throughout the procurement process. – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> a) Complaints can be filed at any time during the procurement process up until the signing of the contract. – [1/3] b) A procurement contract cannot be awarded with a pending complaint. – [1/3] c) A reasonable amount of time should be left between publication of the contract award decision and the signing of the contract, in order to give any stakeholder the opportunity to challenge the award decision. – [1/3] <p><i>Uniformity of the Legislative Framework</i></p>	<p>Overall: 1</p> <p>Components:</p> <ul style="list-style-type: none"> a) 1/3 b) 1/3 c) 1/3 	<p>Comments: The relevant provision(s) of RA 9184 and its 2016 IRR <i>vis</i> the sub-indicators are:</p> <ul style="list-style-type: none"> a) Section 55.1, 2016 IRR. b) Sections 37.1.3 and 57, RA 9184 and its 2016 IRR. c) Section 37.1.1, RA 9184 and its 2016 IRR. <p><i>37. Notice and Execution of Award. – Within a period not exceeding fifteen (15) calendar days from the determination and declaration by the BAC of the Lowest Calculated Responsive Bid or Highest Rated Responsive Bid, and the recommendation of the award, the Head of the Procuring Entity or his duly authorized representative shall approve or disapprove the said recommendation. In case of approval, the Head of the Procuring Entity or his duly authorized representative shall immediately issue the Notice of Award to the bidder with the Lowest Calculated Responsive Bid or Highest Rated Responsive Bid. Within ten (10) calendar days from receipt of the Notice of Award, the winning bidder shall formally enter into contract with the Procuring Entity. When further approval of higher authority is required, the approving authority for the contract shall be given a maximum of twenty (20) calendar days to approve or disapprove it.</i></p>
18	<p>PPL ensures the existence of an independent (from</p>	<p>Overall: 0</p>	<p>Vide: Section 58, RA 9184 and its 2016 IRR.</p>

	<p>parties involved in a procurement dispute) review body with the authority to review complaints and grant remedies. – [1 point]</p> <p>Point Distribution</p> <p>a) PPL ensures the existence of an independent review body. – [0.7]</p> <p>b) The review body includes civil society members. – [0.3]</p> <p><i>Uniformity of the Legislative Framework</i></p>	<p>Components:</p> <p>a) 0</p> <p>b) 0</p>	<p>Comment: The WTO-GPA recognizes Courts as an independent review body to look into issues and concerns raised by parties to the entire procurement exercise.</p>
19	<p>PPL ensures electronic, machine-readable and free of charge access to submitted complaints, either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] 	0.25	<p>Vide: Section 58.3, 2016 IRR of RA 9184.</p>

	<ul style="list-style-type: none"> Only on paper – [0.25] None – [0] <p style="text-align: right;"><i>Transparency</i></p>		
20	<p>PPL ensures electronic, machine-readable and free of charge access to dispute resolutions (of the independent review body), either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> Electronic, machine-readable, free of charge – [1] Electronic, machine-readable, not free of charge – [0.75] Electronic, non-machine-readable – [0.5] Only on paper – [0.25] None – [0] <p style="text-align: right;"><i>Transparency</i></p>	0	<p>Comment: Court decisions are public records and can be accessed physically through the courts.</p>

<i>Pre-tendering Phase</i>			
#	Indicator	Score	Relevant Article and Law (if applicable)
1	PPL obligates procuring entities to publish as early as possible in each fiscal year a notice regarding their future procurement plans - "public procurement annual plan".	<p>Overall: 1</p> <p>Components:</p>	<p>Comment: In the Philippines the so-called “public procurement annual plan” is also known as the “Annual Procurement Plan (APP)”. Sub-indicators a to d are supported</p>

	<p>The annual plan must include at least: – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> a) Subject-matters (CPV- or other similar classificatory system) of planned procurements. – [0.25] b) Planned dates (a range of week/month/quarter) of publication of the notices of intended procurement. – [0.25] c) Estimated value of procurements. – [0.25] d) Source of funding. – [0.25] <p style="text-align: right;"><i>Efficiency</i></p>	<ul style="list-style-type: none"> a) 0.25 b) 0.25 c) 0.25 d) 0.25 	<p>by Section 7.3.4 and Appendix 2, 2016 IRR of RA 9184.</p> <p>APP contains the following information:</p> <ul style="list-style-type: none"> a) Name of Procurement Project; b) Procurement Management Office (PMO)/end-user/implementing unit; c) Method of Procurement; d) Schedule of identified procurement activities as reflected in the APP form approved by the GPPB6 ; e) Source of funds; f) Indicative ABC; and g) Other relevant descriptions of the project, if applicable. <p>(Vide: Section 7.3.4, 2016 IRR of RA 9184)</p>
2	<p>PPL ensures electronic, machine-readable and free of charge access to public procurement annual plans of all procuring entities or key information included in these documents. – [1 point]</p> <p>Scoring Methodin</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] 	1	<p>Vide: Section 7.3.5, 2016 IRR of RA 9184.</p>

	<ul style="list-style-type: none"> None – [0] <p><i>Transparency</i></p>		
3	<p>Legislation stipulates that the planning of procurement and estimation of associated expenditures are part of the state budget formulation process in a fiscal year. – [1 point]</p> <p><i>Efficiency</i></p> <p>Source: OECD Methodology</p>	1	<p>Vide: Section 7, Rule II – Procurement Planning, RA 9184 and its 2016 IRR.</p>
4	<p>PPL stipulates that procurement process should not normally be initiated until the appropriate financial resources have been identified. – [1 point]</p> <p><i>Accountability and Integrity</i></p>	1	<p>Comment: An approved Budget for the Contract (ABC) must be had before a procurement activity is commenced. The ABC is funded through the General Appropriations Act, Corporate Budget or the Appropriations Ordinance, as the case may be. Be that as it may, no procurement can be made unless the ABC is available. The ABC is already included in the Annual Procurement Plan of the Procuring Entity. (Vide: 2018 GAA and Section 7.3.4 of the 2016 IRR of RA 9184</p>
5	<p>PPL defines the composition, powers, responsibilities and decision-making procedures of the body (tender commission or a person) responsible for conducting tender within the procuring entity. – [1 point]</p> <p><i>Uniformity of the Legislative Framework</i></p>	1	<p>Comment: The functions, duties and responsibilities of the BAC, including its TWG and Secretariat are defined in Section 11 and 12 of RA 9184 and its 2016 IRR.</p>

6	<p>Minimum monetary thresholds exist for different types of procurement. – [1 point]</p> <p><i>Efficiency</i></p>	1	<p>Comment: Procurement conducted through the alternative modalities of “Shopping” (Section 52, RA 9184 and its 2016 IRR) and “Negotiated Procurement through Small Value Procurement” (Section 53.9, 2016 IRR of RA 9184) shall not exceed Php 1 Million (Vide: Annex “H”, 2016 IRR of RA 9184). For “Repeat Order” (Section 51, RA 9184 and its 2016 IRR), the goods and equipment to be procured shall not exceed 25% of the original quantity. This shall then dictate the cost or amount of the goods procured through “Repeat Order”. Procurement through Competitive Bidding does not provide for any budgetary threshold, floor or ceiling.</p>
7	<p>PPL stipulates that open tender is the default procedure for any public procurement, and all exceptions are clearly listed by the PPL. – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> a) Open tender is the default procedure for any public procurement. – [0.5] b) All exceptions are clearly listed by the PPL. – [0.5] <p><i>Competitiveness and Impartiality</i></p>	<p>Overall: 1</p> <p>Components:</p> <ul style="list-style-type: none"> a) 0.5 b) 0.5 	<p>Comments: Competitive Bidding is the primary mode of procurement (Vide: Section 10, RA 9184 and its 2016 IRR) - Competitive Bidding. – <i>All Procurement shall be done through Competitive Bidding, except as provided for in Article XVI of this Act.</i></p> <p>However, the procurement law allows for the use of Alternative Methods of Procurement for economy and efficiency. (Vide: Sections 48 to 53 of RA 9184 and its 2016 IRR).</p>
8	<p>PPL stipulates that justification for using a non-</p>	1	<p>Comment: The grounds or elements for the use of any of the</p>

	<p>competitive procedure must be made public by the procuring entity. – [1 point]</p> <p><i>Accountability and Integrity</i></p>		<p>alternative modalities of procurement are contained in the procurement law and its associated IRR. Procuring entities in using any of the alternative methods of procurement are expected to comply with the requirements or elements of each of these alternative modalities. In this regard, the rationale for the adoption of the alternative method is contained in the Resolution of the BAC, which are public documents that can be made available to interested parties upon request – Executive Order No. 2, Series of 2016).</p>
9	<p>PPL stipulates that provided that it does not use this provision for the purpose of avoiding competition among suppliers or in a manner that discriminates against foreign suppliers or protects domestic suppliers, a procuring entity may use non-competitive procedure (direct procurement) when: – [1 point]</p> <ul style="list-style-type: none"> a) Where the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist. b) For additional deliveries by the original supplier of goods or services that were not included in the initial procurement where a change of supplier for such additional goods or services cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, 	1	<p>Comment: The Procurement Law allows the use of any the following alternative modalities of procurement, subject to compliance with the elements or requirements of the law and the rules, thus:</p> <ul style="list-style-type: none"> a) Limited Source Bidding (Section 49, RA 9184 and its 2016 IRR); b) Direct Contracting (Section 50, RA 9184, and its 2016 IRR); c) Repeat Order (Section 51, RA 9184 and its 2016 IRR); d) Shopping(Section 52, RA 9184 and its 2016 IRR); and, e) Negotiated Procurement (Section 53, RA 9184 and its 2016 IRR)

	<p>software, services or installations procured under the initial procurement; or would cause significant inconvenience or substantial duplication of costs for the procuring entity.</p> <p>c) Insofar as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the procuring entity, the goods or services could not be obtained in time using open tendering or selective tendering.</p> <p>d) Where a procuring entity procures a prototype or a first good or service that is developed at its request in the course of, and for, a particular contract for research, experiment, study or original development.</p> <p>e) For purchases made under exceptionally advantageous conditions that only arise in the very short term in the case of unusual disposals such as those arising from liquidation, receivership or bankruptcy, but not for routine purchases from regular suppliers. – [1]</p> <p>Scoring Method</p> <p>In case of any additional exceptions – [0.5]</p> <p><i>Uniformity of the Legislative Framework</i> Source: GPA Standard</p>		
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<i>Tendering Phase</i>			
#	Indicator	Score	Relevant Article and Law (if applicable)
1	<p>PPL stipulates that the notice of intended procurement / tender documentation must include at least: – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> a) Name and address of the procuring entity and other information necessary to contact the procuring entity and obtain all relevant documents relating to the procurement, and their cost and terms of payment, if any. – [1/8] b) A description of the procurement, including the nature and the quantity of the goods or services (including construction) to be procured or, where the quantity is not known, the estimated quantity. – [1/8] c) CPV codes (or other classificatory system of a similar nature). – [1/8] d) Estimated value of the goods or services to be procured. – [1/8] e) The time-frame for delivery of goods or services 	<p>Overall: 1</p> <p>Components:</p> <ul style="list-style-type: none"> a) 1/8 b) 1/8 c) 1/8 d) 1/8 e) 1/8 f) 1/8 g) 1/8 h) 1/8 	<p>Comments: The content of the Notice of Intended Procurement are specifically outlined in the “Invitation to Bid” (Vide: Section 21.1 of the 2016 IRR of RA 9184; and, Section I, Standard Bidding Documents for Goods and Civil Works. For consulting services, the Request for Expression of Interest serves as the Invitation to Bid, which is also found in Section I of the Standard Bidding Documents for Consulting Services.</p>

	<p>or the duration of the contract. – [1/8]</p> <p>f) The procurement method that will be used. – [1/8]</p> <p>g) The address (where applicable) and any final date for the submission of requests for participation in the procurement. – [1/8]</p> <p>h) A list and brief description of any conditions (eligibility criteria) for participation of candidates, including any requirements for specific documents or certifications to be provided by candidates in connection therewith. – [1/8]</p> <p style="text-align: right;"><i>Competitiveness and Impartiality</i> Source: GPA Standard</p>		
2	<p>PPL stipulates that the notice of intended procurement / <u>tender documentation</u> must include: – [1 point]</p> <p>Point Distribution</p> <p>a) Payment conditions – [0.2]</p> <p>b) Information about bid security (if required) – [0.2]</p> <p>c) Source of funding – [0.2]</p> <p>d) Payment information for multi-year contracts –</p>	<p>Overall: 1</p> <p>Components:</p> <p>a) 0.2</p> <p>b) 0.2</p> <p>c) 0.2</p> <p>d) 0.2</p> <p>e) 0.2</p>	<p>Comments: The relevant provision(s) of the Standard Bidding Documents for Goods, and Civil Works <i>vis</i> the sub-indicators are as follows:</p> <p>a) Clause 10, General Conditions of the Contract.</p> <p>b) Clause 18, Instructions to Bidders.</p> <p>c) Clause 2, Instructions to Bidders.</p> <p>d) Clause 10, General Conditions of the Contract, as qualified through the Special Conditions of the Contract.</p>

	<p>[0.2]</p> <p>e) Draft of contract – [0.2]</p> <p><i>Competitiveness and Impartiality</i></p>		e) Section VIII, Bidding Form, Contract Agreement Form
3	<p>PPL defines all eligibility criteria for participation in tender that must include at least: – [1 point]</p> <p>Point Distribution</p> <p>a) Capabilities with the respect to personnel, equipment, and construction or manufacturing facilities. – [1/3]</p> <p>b) Financial position. – [1/3]</p> <p>c) Grounds of restriction for participation. – [1/3]</p> <p><i>Competitiveness and Impartiality</i></p> <p>Source: EBRD Methodology</p>	<p>Overall: 1</p> <p>Components:</p> <p>a) 1/3</p> <p>b) 1/3</p> <p>c) 1/3</p>	<p>Comments: The relevant provision(s) of the 2016 IRR for the procurement of Goods, and Civil Works <i>vis</i> the sub-indicators are as follows:</p> <p>For point a) Section 25.2(a) and (b), 2016 IRR of RA 9184.</p> <p>For point b) Section 25.2(a) and (b), 2016 IRR of RA 9184.</p> <p>For point c) Section 23.4 and 24.3, 2016 IRR of RA 9184.</p>
4	<p>PPL stipulates that procuring entities may seek consultations for the purpose of planning procurement (drafting of tender documentation) from independent experts or market participants. In such cases, these experts or market participants may not take part or benefit from tenders they helped plan unless it can be demonstrated that there is no conflict of interest (as</p>	<p>Overall: 1</p> <p>Components:</p> <p>a) 0.5</p> <p>b) 0.5</p>	<p>Comments: The relevant provision(s) of RA 9184 and its 2016 II <i>vis</i> the sub-indicators are as follows:</p> <p>a) Section 7.3.3(c), 2016 IRR of RA 9184 - “In order to hasten project implementation, Procuring Entities which may not have the proficiency or capability to undertake a particular procurement, as determined by the HoPE</p>

	<p>defined by the national legislation). – [1 point]</p> <p>Point Distribution</p> <p>a) PPL stipulates that procuring entities may seek consultations for the purpose of planning procurement from independent experts or market participants. – [0.5]</p> <p>b) PPL prohibits these experts or market participants from taking part or benefiting from tenders they helped plan, unless it can be demonstrated that there is no conflict of interest (as defined by the national legislation). – [0.5]</p> <p style="text-align: right;"><i>Efficiency</i> Source: EU Standard</p>		<p>concerned, may outsource the procurement tasks by: ... c) Recruiting or engaging consultants to assist them directly and/or train their staff in the management of the procurement function.</p> <p>b) Section 47.2(a-j), 2016 IRR of RA 9184</p>
5	<p>PPL ensures electronic, machine-readable and free of charge access to notices of intended procurement (including tender documentation), either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] 	1	<p>Vide: Section 8.2.1, 2016 IRR of RA 9184 - <i>The Electronic Bulletin Board – “Procuring Entities shall post the Invitation to Bid for Goods and Infrastructure Projects or the Request for Expression of Interest for Consulting Services, in the electronic bulletin board in accordance with Section 21 of this IRR.</i></p>

	<ul style="list-style-type: none"> • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p><i>Transparency</i></p>		
6	<p>PPL ensures electronic, machine-readable and free of charge access to tender documentation amendments, either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p><i>Transparency</i></p>	0.75	<p>Vide: Section 17.4, 2016 IRR of RA 9184 - The Procuring Entity shall post the complete Bidding Documents at its website and the PhilGEPS website from the time the Invitation to Bid/Request for Expression of Interest is advertised.</p> <p>Section 22.5.3, 2016 IRR of RA 9184 – Any amendment to the Bidding Documents shall be coured through a Supplemental Bulletin that has to be posted in the PhilGEPS, the website of the procuring entity and at a conspicuous place in the premises of the procuring entity.</p> <p>Comment:</p> <p>The bidding document may be distributed free of charge. (Vide; Section 17.4, 2016 IRR of RA 9184.</p>
7	<p>PPL ensures electronic, machine-readable and free of charge access to tender candidate applications (all documents needed for the request to participate in a tender), either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p>	0.25	<p>Comments:</p> <p>The procurement legal framework allows for a “hybrid” approach by allowing both manual and electronic bid submission. Once the bids are opened, access to bidders bid or offer is allowed under Executive Order No. 2 - on Freedom of Information</p>

	<ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] 		
8	<p>PPL ensures electronic, machine-readable and free of charge access to information about the bids offered by tender participant. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p style="text-align: right;"><i>Transparency</i></p>	0.25	<p>Comments:</p> <p>The procurement legal framework allows for a “hybrid” approach by allowing both manual and electronic bid submission. Once the bids are opened, access to bidders bid or offer is allowed under Executive Order No. 2 - on Freedom of Information</p>
9	<p>PPL ensures electronic, machine-readable and free of charge access to decisions of the tender commission, either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p>	1	<p>Comment: The Supplemental/Bid Bulletin is posted at the PhilGEPS (Vide: Section 22.5.3, 2016 IRR of RA 9184). On the other hand, the Notice of Award (NOA) and Notice to Proceed issued by the Head of the Procuring Entity shall likewise be posted in the website of the procuring entity, and the PhilGEPS (Vide: Sections 37.1.6 and 37.4.2, respectively, 2016</p>

	<ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p style="text-align: right;"><i>Transparency</i></p>		IRR of RA 9184).
10	<p>Unless justified by the subject-matter of the contract, technical specifications shall not refer to a specific make or source, or a particular process which characterizes the products or services provided by a specific economic operator, or to trade marks, patents, types or a specific origin or production with the effect of favoring or eliminating certain undertakings or certain products. – [1 point]</p> <p style="text-align: right;"><i>Competitiveness and Impartiality</i> Source: EU Standard</p>	1	Vide: Section 18, RA 9184 and its 2016 IRR - <i>Specifications for the procurement of Goods shall be based on relevant characteristics, functionality and/or performance requirements. Reference to brand names shall not be allowed except for items or parts that are compatible with the existing fleet or equipment of the same make and brand, and to maintain the performance, functionality and useful life of the equipment. This Section shall also apply to the goods component of Infrastructure Projects and Consulting Services</i>
11	<p>PPL stipulates that procuring entities may require tender candidates to confirm the validity of their bid with a bid security that is refunded once the procedure is completed. – [1 point]</p> <p style="text-align: right;"><i>Efficiency</i></p>	1	Vide: Sections 27.1 to 27.6, 2016 IRR of RA 9184.

12	<p>Legislation explicitly defines conflict of interest and includes mechanisms for its prevention: – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> a) The concept of conflicts of interest covers at least any situation where staff members of the procuring entity or of a procurement service provider acting on behalf of the procuring entity who are involved in the conduct of the procurement procedure or may influence the outcome of that procedure, have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure. – [1/3] b) PPL stipulates that persons responsible for procurement decision-making in procuring entities must declare in writing any conflict of interest with tender participants. – [1/3] c) The legislative framework prohibits the participation of active public officials and former public officials for a reasonable period of time after leaving office in public procurement procedures in ways that benefit them, their relatives, and business or political associates 	<p>Overall: 2/3</p> <p>Components:</p> <ul style="list-style-type: none"> a) 1/3 b) 0 c) 1/3 	<p>Comments: The relevant applicable provisions <i>vis</i> the sub-indicators are as follows:</p> <ul style="list-style-type: none"> a) Section 47, RA 9184 and its 2016 IRR. b) Under Section 47 of the procurement law and its associated rules and regulations, it is the obligation of the bidder to do the disclosure. c) Section 7(b), RA 6713 provides for the prohibition for one (1) year to be engaged in connection with any matter before the office he used to be with.
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	<p>financially or otherwise. – [1/3]</p> <p><i>Accountability and Integrity</i></p> <p>Source for a): EU Standard</p> <p>Source for b): OECD Methodology</p>		
13	<p>PPL stipulates that award decisions must be made solely on the basis of evaluation criteria that have been precisely specified in advance in the tender documentation. – [1 point]</p> <p><i>Competitiveness and Impartiality</i></p>	1	<p>Vide: Section 34, RA 9184 and its 2016 IRR.</p> <p>Comment: Award of contract shall be given to the bidder with the Lowest Calculated and Responsive Bid (LCRB) [Vide: Section 34.4, 2016 IRR of RA 9184]</p>
14	<p>PPL stipulates that upon modification of any criteria and requirements set out in tender documentation prior to the completion of tender application submission period, a procuring entity shall transmit in writing all such modifications: – [1 point]</p> <p>Point Distribution</p> <p>a) To all tender candidates; and – [0.5]</p> <p>b) Give additional adequate time (either by extending or restarting the time) to allow such candidates to modify and re-submit amended tender application. – [0.5]</p> <p><i>Competitiveness and Impartiality</i></p>	<p>Overall: 1</p> <p>Components:</p> <p>a) 0.5</p> <p>b) 0.5</p>	<p>Comments: The applicable provisions of the procurement law and its associated IRR relative to Points Distribution a and b are Sections 22.5 and 26, 2016 IRR of RA 9184.</p> <p>For point a) 22.5.3 - <i>Any Supplemental/Bid Bulletin issued by the BAC shall also be posted in the PhilGEPS, the website of the Procuring Entity concerned, if available, and at any conspicuous place within the premises of the Procuring Entity. It shall be the responsibility of all those who have properly secured the Bidding Documents to inquire and secure Supplemental/Bid Bulletins that may be issued by the BAC. However, bidders who have submitted bids before the issuance of the Supplemental/Bid Bulletin must be informed and allowed to modify or withdraw their bids in accordance with Section 26 of this IRR.</i></p>

		<p>For point b) Bidders are given time to submit responsive bids by allowing for seven (7) calendar days issuance of supplemental/bid bulletin before the bid opening date, thus:</p> <p>22.4. The minutes of the pre-bid conference shall be recorded and prepared not later than five (5) calendar days after the pre-bid conference, and shall be made available to prospective bidders not later than five (5) days upon written request. Decisions of the BAC amending any provision of the Bidding Documents shall be issued in writing through a Supplemental/Bid Bulletin at least seven (7) calendar days before the deadline for the submission and receipt of bids.(a)</p> <p>22.5. Supplemental/Bid Bulletins</p> <p>22.5.1. Requests for clarification(s) on any part of the Bidding Documents or for an interpretation must be in writing and submitted to the BAC of the Procuring Entity concerned at least ten (10) calendar days before the deadline set for the submission and receipt of bids. The BAC shall respond to the said request by issuing a Supplemental/Bid Bulletin, duly signed by the BAC Chairperson, to be made available to all those who have properly secured the Bidding Documents, at least seven (7) calendar days before the deadline for the submission and receipt of bids.(a) 22.5.2. For purposes of clarifying or modifying any provision of the Bidding Documents, Supplemental/Bid Bulletins may be issued upon the Procuring Entity's initiative at least seven (7) calendar</p>
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			days before the deadline for the submission and receipt of bids. Any modification to the Bidding Documents shall be identified as an amendment.
15	<p>PPL stipulates that procuring entities shall inform each tender participant of the decision reached about the winner of the tender, including failure to do so, as soon as it is made, but no later than the end of the following working day. – [1 point]</p> <p style="text-align: right;"><i>Transparency</i></p>	1	Vide: Section 37.1.1, 2016 IRR of RA 9184.
16	<p>PPL ensures that on request from the tender participant the procuring entity shall as quickly as possible inform: – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> a) Any unsuccessful tender candidate of the reasons for the rejection of its request to participate (if such approval is required). – [0.5] *** b) Any unsuccessful tender participant of the reasons for the rejection of its bid. – [0.5] <p>*** If a) is not applicable, b) equals [1 point].</p> <p style="text-align: right;"><i>Transparency</i></p>	<p>Overall: 1</p> <p>Components:</p> <ul style="list-style-type: none"> a) Not Applicable b) 1 	<p>Comment:</p> <p>The BAC, or the selection committee under Section 37.1.1, 2016 IRR, shall inform all other bidders of its recommendation to award contract to the Lowest Calculated Responsive Bidder (LCRB) or Highest Rated Responsive Bidder (in case of Consulting Services), which will allow the non-successful bidders to inquire from the procuring entity on the reason(s) why their bids did not qualify.</p>

	Source: EU Standard		
17	<p>PPL stipulates that in cases when evaluation criteria include both price and quality, the winner shall be chosen using a cost-effectiveness approach, such as: – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> a) Life-cycle cost – [1/3] b) Best price-quality ratio – [1/3] c) Environmental and/or social costs – [1/3] <p style="text-align: right;"><i>Efficiency</i> Source: EU Standard</p>	<p>Overall: 1/3</p> <p>Components:</p> <ul style="list-style-type: none"> a) 0 b) 1/3 c) 0 	<p>Comment:</p> <p>For the procurement of Goods and Civil Works, the Philippine procurement law makes use of the non-discretionary pass/fail criterion on both the technical and financial aspect of the project. As such, offers that would comply with all the Technical Requirements shall be marked “pass” (“Fail” if otherwise), and those whose bid price or price offer is “equal to or lower” than the Approved Budget for the Contract will marked pass as well. It is only in the procurement of Consultancy Services that the procurement legal framework of the Philippines will allow for a “Merit or Point System” that would identify for assigned rates for the Technical and Financial aspects of the project, whether the evaluation procedure adopted is “Quality Based” or “Quality-Cost Based” evaluation methodology.</p>

Post-tendering Phase			
#	Indicator	Score	Relevant Article and Law (if applicable)
1	PPL stipulates that upon successful conclusion of tender (upon choosing and announcing of the winner) the following information must be made public as soon as it	<p>Overall: 0.9</p> <p>Components:</p>	<p>Comments:</p> <p>The Notice of Award and the Contract itself, including the Notice to Proceed are published in the PhilGEPS that would</p>

	<p>is available: – [1 point]</p> <p>Point Distribution</p> <p>a) Name, type, identification number, address, telephone, fax number (where applicable), email and internet address of the procuring entity and, where different, of the service from which additional information may be obtained. – [0.1]</p> <p>b) Subject of procurement. – [0.1]</p> <p>c) CPV codes (or other classificatory system of similar nature). – [0.1]</p> <p>d) Description of the procurement: nature, extent, quantity or value of goods, works and services. Where the contract is divided into lots, this information shall be provided for each lot. – [0.1]</p> <p>e) Type of award procedure; in the case of negotiated procedure without prior publication, justification. – [0.1]</p> <p>f) Date of the signing of contract(s) or of framework agreement(s). – [0.1]</p> <p>g) Duration of the contract. – [0.1]</p> <p>h) Number of bids and their respective amounts</p>	<p>a) 0.1</p> <p>b) 0.1</p> <p>c) 0.1</p> <p>d) 0.1</p> <p>e) 0.1</p> <p>f) 0.1</p> <p>g) 0.1</p> <p>h) 0</p> <p>i) 0.1</p> <p>j) 0.1</p>	<p>cover all the necessary information in the Point Distribution except letter (h) [Vide: Sections 37.1.6 and 37.4.2, respectively, 2016 IRR of RA 9184. Section 37.2.3 of the 2016 IRR of RA 9184 provides for the documentary inclusions and information in the ensuing contract for the project.</p>
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	<p>received. – [0.1]</p> <p>i) Name, address, telephone, fax number (where applicable), email address and internet address of the successful tender participant(s) including: information whether the contract was awarded to a group of economic operators (joint venture, consortium or other) (where applicable). – [0.1]</p> <p>j) Name and address of the body responsible for review and, where appropriate, mediation procedures. Precise information concerning the deadline for review procedures, or if need be, the name, address, telephone number, fax number (where applicable) and email address of the service from which this information may be obtained. – [0.1]</p> <p style="text-align: right;"><i>Transparency</i> Source: EU Standard</p>		
2	<p>PPL stipulates that the information on subcontractors must be made public upon successful conclusion of tender (upon choosing and announcing of the winner). – [1 point]</p> <p>Point Distribution</p> <p>a) Procurement contracts include information on what proportion of the contract can be</p>	<p>Overall: 0</p> <p>Components:</p> <p>a) 0</p> <p>b) 0</p>	<p>Comments: Subcontracting is allowed under the Standard Bidding Documents for Goods (Clause 8, ITB and Clause 7, GCC); Civil Works (Clause 8, ITB and GCC); and, Consulting Services (Clause 6, ITB and Clause 50, GCC).</p> <p>In all standard bidding docs the information on subcontractor is not mandatory to be published but a choice - 8.3.<i>The Bidder may identify the subcontractor to whom a portion of the</i></p>

	<p>subcontracted to third parties. – [0.5]</p> <p>b) Information on subcontractor/s (if any): name, address, ID, contact information, is made public as soon as this information is available. – [0.5]</p> <p><i>Transparency</i></p>		<p><i>Goods will be subcontracted at any stage of the bidding process or during contract implementation. If the Bidder opts to disclose the name of the subcontractor during bid submission, the Bidder shall include the required documents as part of the technical component of its bid.</i></p>
3	<p>PPL ensures electronic, machine-readable and free of charge access to procurement contracts, either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p><i>Transparency</i></p>	1	<p>Vide: Section 37.4.2, 2016 IRR. - <i>The Procuring Entity, through the BAC Secretariat, shall post a copy of the Notice to Proceed and the approved contract in the PhilGEPS and the website of the Procuring Entity, if any, within fifteen (15) calendar days from the issuance of the Notice to Proceed.</i></p>
4	<p>PPL ensures electronic, machine-readable and free of charge access to contract amendments, either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p>	0.25	<p>Vide: Section 37.4.2, 2016 IRR.</p>

	<ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p style="text-align: right;"><i>Transparency</i></p>		
5	<p>PPL ensures electronic, machine-readable and free of charge access to contract performance information (acceptance act and milestone reports), either the full text or key information included in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p style="text-align: right;"><i>Transparency</i></p>	0.25	<p>Comment: Contract Performance Information or Contractor's Performance Evaluation are made available pursuant to the Freedom of Information executive issuance.</p>
6	<p>PPL ensures electronic, machine-readable and free of</p>	0.25	<p>Comment: Access to payment receipts may be had pursuant</p>

	<p>charge access to payment receipts, either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p><i>Transparency</i></p>		to the Freedom of Information Executive Issuance.
7	<p>PPL clearly defines the procedures for inspection and quality control procedures: – [1 point]</p> <p>Point Distribution</p> <p>a) Quality control (QC) procedures for goods, works and services are well defined in the draft contracts/documents or in the regulations. – [0.5]</p> <p>b) Inspection of civil works is carried out by independent engineering firms or qualified government supervisors and inspectors. – [0.5]</p> <p><i>Efficiency</i></p>	<p>Overall: 1</p> <p>Components:</p> <p>a) 0.5</p> <p>b) 0.5</p>	<p>Vide: Clause 16, GCC, Standard Bidding Documents for Goods. Clauses 34 – 39, GCC, Standard Bidding Documents for goods. Clause 34, Standard Bidding Documents for Civil Works.</p>

	Source: OECD Methodology		
8	<p>PPL ensures electronic, machine-readable and free of charge access to any inspection and quality control reports, either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p><i>Transparency</i></p>	0.25	<p>Comment: Information on the “inspection and quality control reports” may be obtained through the Freedom of Information Executive Issuance.</p>
9	<p>Procedures for acceptance of final products and processing of final payments are clearly defined by the PPL or contract law and are incorporated as standard clauses in contracts. – [1 point]</p> <p><i>Efficiency</i></p> <p>Source: OECD Methodology</p>	1	<p>Comment: Procedures for acceptance of final products and processing of final payments are contained in the standard bidding documents for Good and Civil Works. (Vide: Clause 16, Standard Bidding Documents for Goods and Services)</p>
10	<p>PPL defines specific procedures for modifying contracts. –</p>	1	<p>Comment: The Contract Implementation Guidelines for Goods (Amendment to Order) and Civil Works (Variation Order –</p>

	<p>[1 point]</p> <p><i>Uniformity of the Legislative Framework</i></p>		Change Work or Change Order) are contained Annexes “D” and “E”, 2016 IRR of RA 9184.
11	<p>PPL stipulates that procurement contract must include dispute resolution procedures. – [1 point]</p> <p><i>Uniformity of the Legislative Framework</i></p>	1	Vide: Section 59 (2), RA 9184 and its 2016 IRR on “Settlement of Disputes”.
12	<p>PPL stipulates that all procurement related documentation must be maintained: – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> ● In electronic form for a period of at least 10 years. – [1] ● In paper form for a period of at least 3 years. – [0.5] <p><i>Transparency</i></p>	0.5	Comment: Archiving of procurement related documents is found in RA 9470 , entitled “National Archives of the Philippines Act of 2007” and its associated Implementing Rules and Regulations
13	<p>PPL stipulates that public procurement operations must be subject to internal and external audit conducted by qualified specialists. – [1 point]</p> <p>Point Distribution</p> <p>a) PPL stipulates that public procurement</p>	<p>Overall: 1</p> <p>Components:</p> <p>a) 0.5</p> <p>b) 0.5</p>	Comment: Procurement activities of government are subjected to internal and external audit. For internal audit, the relevant rule is covered by the Philippine Government Internal Audit Manual issued by the Department of Budget and Management through DBM Circular Letter No. 2011-5, Series of 2011, pursuant to Executive Order No. 292, otherwise known as the Administrative Code of the

	<p>operations must be subject to internal audit conducted by qualified specialists. – [0.5]</p> <p>b) PPL stipulates that public procurement operations must be subject to external audit conducted by qualified specialists. – [0.5]</p> <p><i>Accountability and Integrity</i></p>		<p>Philippines (Vide: https://www.dbm.gov.ph/wp-content/uploads/2012/03/CL-2011-5.pdf; See also: https://www.philhealth.gov.ph/about_us/transparency/board/PGIAM.pdf).</p> <p>As regards external audit of procurement activities of government, this is performed by the Supreme Auditing Institution in the Philippines – the Commission on Audit – pursuant to the mandate provided under Article IX-D, 1987 Philippine Constitution.</p>
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