

Transparent Public Procurement Rating

INSTITUTE FOR DEVELOPMENT OF
FREEDOM OF INFORMATION



Georgia Public Procurement Legislation Assessment

The Assessment of the Public Procurement Legislation of Georgia was prepared by the Institute for Development of Freedom of information (IDFI).

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Methodology

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:

- BRD 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.

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, read, transform) 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, state owned companies and non-commercial legal entities).

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.

Georgia

Please select the **year of filling in the questionnaire**:

2016 2017 2018 2019 2020

Please select **which years the evaluation is applicable to**:

2016 2017 2018 2019 2020

Example: If you are filling in the questionnaire in 2020 and public procurement legislation has not been changed in your country for the last 4 years, you should put '2020' in the 'year of filling in the questionnaire' and select the years 2016, 2017, 2018, 2019 and 2020 in the 'years the evaluation is applicable to', thus identifying that the filled in information is applicable to the current as well as the previous years.

Transparency Environment

1 Business registry is publicly available. – [1 point]. ^

Scoring Method

- Yes
 No

This indicator point: **1**

Website : <https://www.napr.gov.ge/pol>

[Edit comment](#)

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2 Budgets of all public procuring entities are publicly available. – [1 point]. ^

Scoring Method

- Yes
 No

This indicator point: **1**

Budget Code of Georgia Art. 4 (b) Budget Code of Georgia Art. 1¹ (2) Budget Code of Georgia Art. 7 (1)

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3 Public officials are required by law to file asset declarations. – [1 point].



Scoring Method

- Yes
 No

This indicator point: **1**

Law On Conflict of Interest and Corruption in Public Service (Chapter IV)

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4 The country has adopted legal provisions ensuring the right to request public information. – [1 point].



Scoring Method

- Yes
 No

This indicator point: **1**

General Administrative Code of Georgia (Chapter III)

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5 Legislation includes provisions regulating whistleblower protection. – [1 point].



Scoring Method

- Yes
 No


This indicator point: **1**

Law On Conflict of Interest and Corruption in Public Service (Chapter V¹)

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General Characteristics

6 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] 

Scoring Method

Yes

No


This indicator point: **1**

Law of Georgia on Public Procurement

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7 PPL (including primary and secondary legislation) is available in a single and accessible place. – [1 point] 

Scoring Method

None – [0]

Only on paper – [0.25]

Electronic, non-machine-readable – [0.5]

Electronic, machine-readable, not free of charge – [0.75]

Electronic, machine-readable, free of charge – [1]


This indicator point: **1**

N/A

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8 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] 

Point Distribution

- 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]

This indicator point: **1**

Law of Georgia on Public Procurement Art. 3 (1)

[Edit comment](#) [Delete comment](#)



9 The scope of coverage of PPL includes all sectors of the economy where competition is possible and exemptions are clearly listed in the PPL. – [1 point].



Point Distribution

- a) The scope of coverage of PPL includes all sectors of the economy where competition is possible - [0.5]
- b) PPL clearly lists or refers to all exemptions – [0.5]

This indicator point: **1**

Law of Georgia on Public Procurement Art. 3 (1)

[Edit comment](#) [Delete comment](#)



10 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].



Scoring Method

- 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]

This indicator point: **1**

Law of Georgia on Public Procurement Art. 4

[Edit comment](#) [Delete comment](#)

Comment – please specify provision (article, sub-article) of relevant legislation. If there is no relevant legal basis insert 'N/A'.

Add comment

49 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].

Scoring Method

- Yes
 No

This indicator point: **1**

Order No 9 of the Chairman of the State Procurement Agency Art. 14 (6) E-Procurement User Manual Chapter 5 (5.1)

Edit comment

Delete comment

Comment – please specify provision (article, sub-article) of relevant legislation. If there is no relevant legal basis insert 'N/A'.

Add comment

50 According to PPL legislation: – [1 point].

Scoring Method

- a) In order to participate in a tender, interested parties have to refer to a procuring entity with relevant requests beforehand and the procuring entity is not obliged to either inform interested parties of the reasons for rejecting requests nor to inform those who made it to the bidding stage of the reasons for rejecting bids; or interested parties can participate in a tender without the need of referring to a procuring entity beforehand, but the entity is not obliged to inform interested parties of the reasons for rejecting bids [0] .
- b) In order to participate in a tender interested parties need to refer to a procuring entity with relevant requests beforehand and the procuring entity is obliged to inform interested parties of the reasons for rejecting requests but is not obliged to inform those who made it to be bidding stage of the reasons for rejecting bids; or procuring entity is not obliged to inform interested parties of the reasons for rejecting requests but is obliged to inform those who made it to be bidding stage of the reasons for rejecting bids – [0.5] .
- c) In order to participate in a tender interested parties need to refer to a procuring entity with relevant requests beforehand and the procuring entity is obliged to inform interested parties of the reasons for rejecting requests as well as inform those who made it to the bidding stage of the reasons for rejecting bids; or interested parties can participate in a tender without the need of referring to a procuring entity beforehand and the entity is obliged to inform interested parties of the reasons for rejecting bids – [1]

This indicator point: **1**

Order No 9 of the Chairman of the State Procurement Agency Art.6 (4) Order No 9 of the Chairman of the State Procurement Agency Art. 14 (6) E-Procurement User Manual Chapter 5 (5.1)

Edit comment

Delete comment

Comment – please specify provision (article, sub-article) of relevant legislation. If there is no relevant legal basis insert 'N/A'.

Add comment

51 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].



Point Distribution

- Life-cycle cost – [1|3]
- Best price-quality ratio – [1|3]
- Environmental and/or social costs – [1|3]

This indicator point: **0.33**

Order No 11 of the Chairman of the State Procurement Agency Art. 4

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Comment – please specify provision (article, sub-article) of relevant legislation. If there is no relevant legal basis insert 'N/A'.

[Add comment](#)

Post-Tendering Phase

52 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 is available: – [1 point].



Point Distribution

- 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]
- Subject of procurement – [0.1]
- CPV codes (or other classificatory system of similar nature) – [0.1]
- 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]
- Type of award procedure; in the case of negotiated procedure without prior publication, justification – [0.1]
- Date of the signing of contract(s) or of framework agreement(s) – [0.1]
- Duration of the contract – [0.1]
- Number of bids and their respective amounts received – [0.1]
- 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]
- 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]

This indicator point: **1**


Order No 9 of the Chairman of the State Procurement Agency Art. 19 Law of Georgia on Public Procurement Chapter II Art. 10¹ (3³)

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Comment – please specify provision (article, sub-article) of relevant legislation. If there is no relevant legal basis insert 'N/A'.

[Add comment](#)

53 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] 


Point Distribution

- Procurement contracts include information on what proportion of the contract can be subcontracted to third parties – [0.5]
- Information on subcontractors (if any): name, address, ID, contact information, is made public as soon as this information is available - [0.5]

This indicator point: **0**

Comment – please specify provision (article, sub-article) of relevant legislation. If there is no relevant legal basis insert 'N/A'.

Add comment

54 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] 

Scoring Method

- 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]

This indicator point: **0.5**


Order No 9 of the Chairman of the State Procurement Agency Art. 15 (6)

Edit comment

Delete comment

Comment – please specify provision (article, sub-article) of relevant legislation. If there is no relevant legal basis insert 'N/A'.

Add comment

55 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] 

Scoring Method

- 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]

This indicator point: **0.5**

Order No 9 of the Chairman of the State Procurement Agency Art.20 (1)

Edit comment

Delete comment

Comment – please specify provision (article, sub-article) of relevant legislation. If there is no relevant legal basis insert 'N/A'.

Add comment

56 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].

Scoring Method

- 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]

This indicator point: **1**

Order No 9 of the Chairman of the State Procurement Agency Art. 22¹ (2)

Edit comment

Delete comment

Comment – please specify provision (article, sub-article) of relevant legislation. If there is no relevant legal basis insert 'N/A'.

Add comment

57 PPL ensures electronic, machine-readable and free of charge access to payment receipts, either the full text or key information contained in these documents. – [1 point].

Scoring Method

- 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]

This indicator point: **1**

Order No 9 of the Chairman of the State Procurement Agency Art. 22¹ (2) Order No 2 of the Chairman of the State Procurement Agency Art. 5 The PPL clearly states the responsibility to publish information about the payments, however, does not mention the format. In practice, major information is available in machine readable format (amount, recipient, transfer date, source) on the SPA website and relevant guidelines are provided on what and how to upload within the electronic system in the system's guidebook. (4)

Edit comment

Delete comment

Comment – please specify provision (article, sub-article) of relevant legislation. If there is no relevant legal basis insert 'N/A'.

Add comment

58 PPL clearly defines the procedures for inspection and quality control procedures: – [1 point].

Point Distribution

- Quality control (QC) procedures for goods, works and services are well defined in the draft contracts, documents or in the regulations – [0.5]
- Inspection of civil works is carried out by independent engineering firms or qualified government supervisors and inspectors – [0.5]

This indicator point: **0.5**

Order No 9 of the Chairman of the State Procurement Agency Art. 22

[Edit comment](#)

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Comment – please specify provision (article, sub-article) of relevant legislation. If there is no relevant legal basis insert 'N/A'.

[Add comment](#)

59 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]. ^

Scoring Method

- 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]

This indicator point: **1**

Law of Georgia on State Audit Office Chapter V Art. 25

[Edit comment](#)

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Comment – please specify provision (article, sub-article) of relevant legislation. If there is no relevant legal basis insert 'N/A'.

[Add comment](#)

60 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]. ^

Scoring Method

- Yes
- No

This indicator point: **1**

Order No 9 of the Chairman of the State Procurement Agency Art. 19 (6(g))

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Comment – please specify provision (article, sub-article) of relevant legislation. If there is no relevant legal basis insert 'N/A'.

[Add comment](#)

61 PPL defines specific procedures for modifying contracts. – [1 point].



Scoring Method

Yes

No

This indicator point: **1**

Order No 9 of the Chairman of the State Procurement Agency Art. 20

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Comment – please specify provision (article, sub-article) of relevant legislation. If there is no relevant legal basis insert 'N/A'.

Add comment

62 PPL stipulates that procurement contract must include dispute resolution procedures. – [1 point].



Scoring Method

Yes

No

This indicator point: **1**

Law of Georgia on Public Procurement Chapter VI Art. 23 (2)m

[Edit comment](#)

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Comment – please specify provision (article, sub-article) of relevant legislation. If there is no relevant legal basis insert 'N/A'.

Add comment

63 PPL stipulates that all procurement related documentation must be maintained: – [1 point].



Scoring Method

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]

None of the above – [0]

This indicator point: **1**

Comment : The state procurement electronic system ensures that the information is maintained for indefinite period of time

[Edit comment](#)

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Comment – please specify provision (article, sub-article) of relevant legislation. If there is no relevant legal basis insert 'N/A'.

Add comment

64 PPL stipulates that public procurement operations must be subject to internal and external audit conducted by qualified specialists. – [1 point].

Point Distribution

- PPL stipulates that public procurement operations must be subject to internal audit conducted by qualified specialists – [0.5]
- PPL stipulates that public procurement operations must be subject to external audit conducted by qualified specialists – [0.5]

This indicator point: **1**

Law of Georgia on State Audit Office Chapter V Art. 17 Law of Georgia On Public Internal Financial Control Chapter I Art. 4

[Edit comment](#)

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Comment – please specify provision (article, sub-article) of relevant legislation. If there is no relevant legal basis insert 'N/A'.

[Add comment](#)