

# Transparent Public Procurement Rating



## Ukraine Public Procurement Legislation Assessment

The Assessment of the Public Procurement Legislation of Ukraine was prepared by Transparency International Ukraine (TI-Ukraine).

The Project – [Transparent Public Procurement Rating](#) – is implemented by the Institute for Development of Freedom of Information (IDFI) in Partnership with Transparency International Ukraine (TI-Ukraine), Transparency International Azerbaijan (TI-Azerbaijan), Expert-Grup (Moldova), Freedom of Information Center of Armenia (FOICA) and SYMPA/BIPART (Belarus).



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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.

# Ukraine

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

2016	2017	2018	2019	2020
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>

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

2016	2017	2018	2019	2020
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

*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**

Article 11 of Law of Ukraine "On state registration of legal entities, physical persons-entrepreneurs and non- governmental organizations".

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



**Scoring Method**

- ☒ Yes  
☐ No

This indicator point: **1**

Article 3 of Law of Ukraine "On openness of use of public funds". Article 4 of Law of Ukraine "On public procurement".

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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

Article 45 of Law of Ukraine “On prevention of corruption”.

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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

Law of Ukraine “On access to public information”.

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5

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

^

Scoring Method

- ☒ Yes
- ☐ No


This indicator point: 1

Chapter 8 of Law of Ukraine “On prevention of corruption”.

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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

1. Law of Ukraine “On Public procurement” – further PPL. 2. 2 dedicated Government Decrees and 7 specific Orders of the Ministry of Economic Development and Trade of Ukraine (Authorized body on PP regulation).

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

[www.me.gov.ua](#) [www.rada.gov.ua](#)  
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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 ].

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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

Point 9 of article 1 of PPL.

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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

Art.2 of PPL, incl. list of exemptions in point 3 of this article.

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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 ].

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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: 0.75

Point 34 of art.1 of PPL. Government Decree #459 from 20.08.2014.

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This indicator point: **1**

Point 2 of article12 and point 1 of article 14 of PPL.

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**14** PPL establishes a single official point of access (i.e. an online portal) for all procedures and information related to public procurement. – [ 1 point ]. 

*Scoring Method*

- ☒ Yes
- ☐ No


This indicator point: **1**

Article 10 of PPL.

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**15** 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 ]. 

*Scoring Method*

- ☒ Yes
- ☐ No

This indicator point: **1**

Point 3 of article 12 of PPL.

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16

PPL ensures that tender candidates must be given equal treatment, without regard to nationality, residency or political affiliation: – [ 1 point ].

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Point Distribution

- ☒ PPL should not allow domestic preferences – [ 1|5 ]
- ☒ Participation of any candidate or group of candidates is based on qualification – [ 1|5 ]
- ☒ Ensures that registration if required does not constitute a barrier to participation in tenders – [ 1|5 ]
- ☒ State owned companies are not given any preference – [ 1|5 ]
- ☒ Time-periods, including any extension of the time-periods, shall be the same for all interested or participating candidates – [ 1|5 ]

This indicator point: 1

Article 5 of PPL. Point 4 of article 22 of PPL.

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17

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 ].

^

Scoring Method

- ☒ Yes
- ☐ No

This indicator point: 1

Point 3 of art.21 of PPL.

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18

PPL stipulates that each procuring entity has a staff member(s) responsible for conducting procurement activities. – [ 1 point ].

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Scoring Method

- ☒ Yes
- ☐ No

This indicator point: 1

Article 11 of PPL.

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19 PPL references sanctions for violations of the PPL. – [ 1 point ].

Scoring Method

- ☒ Yes
- ☐ No

This indicator point: 1

Art.38 of PPL, Art.164-14 of Code of Administrative Violations.

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20 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 ].

Scoring Method

- ☒ Yes
- ☐ No

This indicator point: 1

Law of Ukraine "On prevention of corruption", Criminal Code of Ukraine (articles 191, 366, 368).

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21 PPL ensures the right to review (complaints), for all interested parties, including general public, tender participants and potential suppliers. – [ 1 point ].

Scoring Method

- ☒ 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 ]

This indicator point: 1

Point 27 of article 1 of PPL, Art. 18 of PPL (last indent of point 2, point 12), Article 55 of Constitution of Ukraine Civil Procedural Code of Ukraine Economic Procedural Code of Ukraine.

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22 PPL ensures the right to review throughout the procurement process. – [ 1 point ].



Point Distribution

- ☒ Complaints can be filed at any time during the procurement process up until the signing of the contract – [ 1|3 ]
- ☒ A procurement contract cannot be awarded with a pending complaint – [ 1|3 ]
- ☒ 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 ]

This indicator point: 1

Point 2 of art.18 of PPL.

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23 PPL ensures the existence of an independent (from parties involved in a procurement dispute) review body with the authority to review complaints and grant remedies. – [ 1 point ].



Point Distribution

- ☒ PPL ensures the existence of an independent review body – [ 0.7 ]
- ☐ The review body includes civil society members – [ 0.3 ]

This indicator point: 0.7

Point 3 of art. 8 of PPL.

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24 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 ].



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

Point 1 of art.18 of PPL.

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25 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 ].



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

Point 11 of art.18 of PPL.

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Pre-Tendering Phase

26 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". The annual plan must include at least: – [ 1 point ].



Point Distribution

- ☒ Subject-matters (CPV - or other similar classificatory system) of planned procurements – [ 0.25 ]
- ☒ Planned dates (a range of week | month | quarter) of publication of the notices of intended procurement – [ 0.25 ]
- ☒ Estimated value of procurements – [ 0.25 ]
- ☒ Source of funding – [ 0.25 ]

This indicator point: 1

Point 2 of art.22 of PPL. MEDTA Order #490 from 22/03.2016 (form and content of PP annual plan).



27 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 ]

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

Art. 4 of PPL.



28 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 ]

Scoring Method

- ☒ Yes
- ☐ No

This indicator point: 1

Budget Code of Ukraine, in particularly art.2.



29 PPL stipulates that procurement process should not normally be initiated until the appropriate financial resources have been identified (Including budgetary as well as non-budgetary resources e.g. grants, credits by international organizations, investment funds received under state guarantees, funds from state-owned enterprises, etc.). – [1 point]

Scoring Method




- ☒ Yes
- ☐ No

This indicator point: 1

Point 1 of article 19, point 1 of article 23, articles 32-36 of Budget Code of Ukraine.

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30 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]. 

Scoring Method


- ☒ Yes
- ☐ No

This indicator point: 1

Art.11 of PPL, dedicated detailed Order of MEDTA of Ukraine No557 from 30.03.2016.

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31 Minimum monetary thresholds exist for different types of procurement. – [ 1 point ]. 

Scoring Method

- ☒ Yes
- ☐ No

This indicator point: 1

Point 1 of article 2 of PPL.

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32 PPL stipulates that open tender is the default procedure for any public procurement, and all exceptions are clearly listed by the PPL. – [ 1 point ].

Point Distribution

- ☒ Open tender is the default procedure for any public procurement – [ 0.5 ]
- ☒ All exceptions are clearly listed by the PPL – [ 0.5 ]

This indicator point: 1

Point 1 of article 20 of PPL. Points 3 and 4 of article 2 of PPL.

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33 PPL stipulates that justification for using a non-competitive procedure must be made public by the procuring entity. – [ 1 point ].

Scoring Method

- ☒ Yes
- ☐ No

This indicator point: 1

Point 3 of article 35 of PPL.

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34 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 ].

Scoring Method

- ☒ If all the conditions given below are satisfied - [ 1 ]
- ☐ If there are other exceptions – [ 0.5 ]
- ☐ None of the above – [ 0 ]

This indicator point: 1

- 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, software, services or installations procured under the initial procurement; or would cause significant inconvenience or substantial duplication of costs for the procuring entity.

- 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.
- 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.
- 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.

Point 2 of art.35 of PPL.

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## Tendering Phase

35 PPL stipulates that the notice of intended procurement/tender documentation must include at least: – [ 1 point ].



*Point Distribution*

- ☒ 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 ]
- ☒ 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 ]
- ☒ CPV codes (or other classificatory system of a similar nature) – [ 1|8 ]
- ☒ Estimated value of the goods or services to be procured – [ 1|8 ]
- ☒ The time-frame for delivery of goods or services or the duration of the contract – [ 1|8 ]
- ☒ The procurement method that will be used – [ 1|8 ]
- ☒ The address (where applicable) and any final date for the submission of requests for participation in the procurement – [ 1|8 ]
- ☒ 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 ]

This indicator point: **1**

Point 1 of art.21, point 2 of art.22 of PPL.

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36 PPL stipulates that the notice of intended procurement/tender documentation must include: – [ 1 point ].



*Point Distribution*

- ☒ Payment conditions – [ 0.2 ]
- ☒ Information about bid security (if required) – [ 0.2 ]
- ☒ Source of funding – [ 0.2 ]
- ☒ Payment information for multi-year contracts – [ 0.2 ]

This indicator point: 1

Point 2 of art.22 of PPL. MEDTA Order #490 from 22.03.2016 (form and content of Announcement about holding open tender).

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37 PPL defines all eligibility criteria for participation in tender that must include at least: – [ 1 point ].



*Point Distribution*

- ☒ Capabilities with the respect to personnel, equipment, and construction or manufacturing facilities – [ 1|3 ]
- ☒ Financial position – [ 1|3 ]
- ☒ Grounds of restriction for participation – [ 1|3 ]

This indicator point: 1

Point 2 of art.16 of PPL (inc. financial position) Points 1 and 2 of art.17 of PPL.

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38 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 defined by the national legislation). – [ 1 point ].



*Point Distribution*

- ☒ PPL stipulates that procuring entities may seek consultations for the purpose of planning procurement from independent experts or market participants – [ 0.5 ]
- ☒ 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 ]

This indicator point: 1

Point 8 of article 9 and point 4 of article 4 of PPL. .

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39

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 ].

^

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

Points 1 and 5 of article10 of PPL.

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40

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 ].

^

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

Points 1 (indent 3) and 5 of art.10 of PPL.

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41

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 ].

^

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**

Point 1 of art.14 of PPL.

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42   PPL ensures electronic, machine-readable and free of charge access to information about the bids offered by tender participant. – [ 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**

Article 27 of the PPL.

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43   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 ].

^

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**

Points 1 and 5 of art.10 of PPL.

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44 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 ].

Scoring Method


- ☒ Yes
- ☐ No

This indicator point: 1

Sub-point 3 of point 2 of art.22 of PPL.

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45 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 ]. 

Scoring Method

- ☒ Yes
- ☐ No

This indicator point: 1

Art.24 of PPL.

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46 Legislation explicitly defines conflict of interest and includes mechanisms for its prevention: – [ 1 point ]. 

Point Distribution

- ☒ 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 ]
- ☒ 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 ]
- ☐ 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 financially or otherwise – [ 1|3 ]

This indicator point: **0.66**

Point 1 of rt.11 of PPL Art.28 of Law of Ukraine "On prevention of corruption".

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**47   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 ].**



*Scoring Method*

- ☒ Yes
- ☐ No

This indicator point: **1**

Point 15 of art. 1 and art. 28 of PPL.

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**48   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 ].**



*Point Distribution*

- ☒ To all tender candidates; and – [ 0.5 ]
- ☒ 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 ]

This indicator point: **1**

Point 2 of art.23 of PPL.

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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

Point 1 of art.32 of PPL.

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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

Points 2 and 3 of art.30 of PPL. Point 1 (2 indent) of art.32 of PPL.

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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: 1

Subpoint 4 of point 1 of article 1, point 3 of article 29 of PPL.

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## 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

Art.19, subpoint 4 of point 2 of article 22, article 23 of PPL. MEDTA Order #490 MEDTA Order #490 Art.19 of PPL Point 1 of art.10, Art.19 of PPL MEDTA Order #490.

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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: 1

Point 1 of art.19 of PPL.

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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

Point 1 of art. 10 of PPL (it requires to publish all contracts but they are published as scanned, not machine-readable).

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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: 1

Point 1 of art.10 (relevant key info is published in form of separate report).

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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

Point 1 of art.10 (relevant key info is published in form of separate report).

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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

Art. 3 of Law of Ukraine “On openness of use of public funds”.

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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: 1

Regulated by Civil and Business Codes and Government Decree #668 from 01.08.2005 (for civil works).

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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

Points 3,6,9,18 of article 7-1 of PPL.

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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

Point 1 of art.36 of PPL referring to Civil and Business Codes.

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

Scoring Method

- ☒ Yes
- ☐ No

This indicator point: 1

Points 4 and 5 of art.36 of PPL.

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



*Scoring Method*

- ☒ Yes
- ☐ No

This indicator point: **1**

Regulated by Civil and Business Codes and Government Decree #668 from 01.08.2005 (for civil works).

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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**

Sub-point 5 of point 3 of art.12 of PPL.

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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**

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Point 3 of art.7 of PPL.

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