

Transparent Public Procurement Rating



Zimbabwe

Public Procurement Legislation Assessment

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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 TPR 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

Transparency Environment

#	Indicator	Score	Relevant Article and Law (if applicable)
1.	Business registry is publicly available – [1 point]	1	The Companies Act [Chapter 24:03]. In terms of section 5(1) of the Act there shall be an office in Harare and an office in Bulawayo called the companies Registration office for the registration of companies under this Act. Members of the public shall have access to the register at the Registrar’s offices.
2.	Budgets of all public procuring entities are publicly available – [1 point]	0	
3.	Public officials are required by law to file asset declarations – [1 point]	1	The Zimbabwe Anti-Corruption Commission (ZACC) Act chapter 9:22 hereinafter referred to as the Act <ul style="list-style-type: none"> • Section 8(1)(b) states that before any member performs any function as such, the member shall disclose to the president the full extent of all assets held by the member or his or her spouse in excess of such value as the president may specify • The act however does not provide for assets declarations by public officers thus public officers have taken advantage of this loophole to amass resources with no questions asked. – Assets declarations by public officers in Zimbabwe as an anti-corruption tool by Duri Joram “Duri J LLM Law 2017” • section 198 of the constitution of the Republic of Zimbabwe provides for the enactment of legislation that regulates assets disclosure by public officials
4.	The country has adopted legal provisions ensuring the right to request public information. – [1 point]	1	Access to Information and Privacy Protection Act widely limits the information accessible to the public while other legislation like the Public Order and Security Act effectively controls dissemination of any information to the public by restricting public gatherings. Section 5(1) of the access to information and protection of privacy Act chapter 10: 27 states as follows: 5 Right to information (1) Subject to section <i>ten</i> , every person shall have a right of access to any record, including a record containing personal information, that is in the custody or under the control of a public body: Provided that such access shall not extend to excluded information.
5.	Legislation includes provisions regulating whistle-blower protection – [1 point]	0	There is currently no legislation regulating whistle- blower protection in Zimbabwe. In a recent newspaper article the ZACC had this to say regarding the current position: ZACC deputy chairperson Dr Nanette Silukhuni said there is need to put in place mechanisms to protect citizens who would have provided information on cases of corruption. There is need for a law to specifically protect whistle-blowers and witnesses for them to freely give evidence. https://www.herald.co.zw/craft-laws-to-protect-whistleblowers/

INDICATORS BY PROCUREMENT PROCESS

General Characteristics of the Procurement System

#	Indicator	Score	Relevant Article and Law (if applicable)
1.	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] <i>Uniformity of the Legislative Framework</i>	1	Zimbabwe’s new Public Procurement and Disposal of Public Assets Act {Chapter 22:23} (the Public Procurement Act) came into effect on 1 January 2018. This is the leading legislation in the Public Procurement in Zimbabwe and hereinafter referred to as the Act in this section of the study findings. The Public Procurement Act regulates the procurement cycle from procurement planning, approaches to the market, evaluation and award of tenders, contract management and disposal of assets.
2.	PPL (including primary and secondary legislation) is available in a single and accessible place. – [1 point] Scoring Method <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] <i>Uniformity of the Legislative Framework</i>	1	Zimbabwe’s PPL primary legislation, the Public Procurement and Disposal of Public Assets Act [chapter 22:23] came into operation on the 1 st of January 2018. It is available on the official Zimbabwe legal information institute website https://zimlil.org/zw/legislation/act/2017/5 It is also available on the Reserve bank of Zimbabwe (RBZ) official website https://www.rbz.co.zw/index.php/about-us/about-us/legislation/acts/42-legislation/acts/509-public-procurement-and-disposal-of-public-assets-act-chapter-22-23
3.	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 <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] <i>Uniformity of the Legislative Framework</i>	Overall:0.6 Components: a)0.2 b)0.2 c)0 d)0.2 e)0	S2of the Act defines terms that are used throughout the Bill. The definitions are self- explanatory but it should be noted that the definition of “procuring entity” is a broad one which covers not only government ministries and departments but also statutory bodies (parastatals), government-controlled companies, provincial and metropolitan councils, local authorities (i.e. urban and rural district councils) and State partnerships and joint ventures.
4.	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 <ul style="list-style-type: none"> a) The scope of coverage of PPL includes all sectors of the economy where competition is possible. – [0.5] 	Overall: 1 Components: a)0.5 b)0.5	S3 (2) of the Public Procurement and Disposal of Assets (General) Regulations, 2018 states the exemptions where competition is not possible (2) The regulations do not apply to the leasing of- (a) facilities or amenities for sporting purposes or for a specific event, for a period not exceeding twelve months; and

<p>b) PPL clearly lists or refers to all exemptions. – [0.5] <i>Uniformity of the Legislative Framework</i></p>		<p>(b) Accommodation for office space or other purposes, so long as the lease is not for a period of more than three Years. See S10(5) of the Regulations states that The threshold for scrutiny of especially valuable procurement contracts by the Special Procurement Oversight Committee in terms of section 54 of the Act shall depend on whether a procuring entity falls within any of the following classifications... 54 Special Procurement Oversight Committee for certain especially sensitive or especially valuable contracts “especially sensitive”, in relation to a procurement contract or exempted contract, means a contract of such a nature or description as may be prescribed or as the Minister may indicate in writing to the Committee, being one that has or may have a significant impact— (a) upon the national economy or the economic interests of the State; or (b) in the sphere of— (i) the State’s foreign or international relations, or (ii) the public interest, national defence or national security; “especially valuable”, in relation to a procurement contract or exempted contract, means a procurement contract whose threshold exceeds by a prescribed margin any established prescribed threshold above which certain procurement proceedings may be applied under this Act;</p>
<p>5. 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] <i>Uniformity of the Legislative Framework</i></p>	<p>0.75</p>	<p>S 5 of the Act stipulates the establishment of the procurement regulatory body. The section reads: Establishment of Procurement Regulatory Authority of Zimbabwe There is hereby established an authority to be known as the Procurement Regulatory Authority of Zimbabwe, which shall be a body corporate capable of suing and being sued in its own name and, subject S40(3) of the Act – states that: A procuring entity shall not charge more for bidding documents than the cost of printing and distributing them, and where they are delivered by electronic means, they shall be free of charge. PART IV - Administration Fees Payable by Bidders for Bids Subject to Review No mention of payment of fees for bidding documents in the legislation only for reviewing bids.</p>
<p>6. 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>1</p>	<p>S 6(1)(b) of the act states that: Functions of Authority (1) The functions of the Authority shall be— to monitor and supervise procuring entities and the public procurement system in order to secure</p>

	<i>Uniformity of the Legislative Framework</i>		compliance with this Act, and to implement electronic means of monitoring and supervising procuring entities and the public procurement system
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> <p>a) Legislation provides for a mechanism of consultation with the private sector. – [0.25]</p> <p>b) Legislation provides for a mechanism of consultation with the civil society sector. – [0.25]</p> <p>c) PPL obligates the entity responsible for managing public procurement to use this mechanism on a regular basis. – [0.5]</p> <p><i>Accountability and Integrity</i></p>	<p>Overall: 0</p> <p>Components:</p> <p>a)0</p> <p>b)0</p> <p>c)0</p>	<p>The authority has no authority to change the law but they can contribute to desired changes through parliament and if CSOs and Business have feedback on the system they can give to PRAZ and these can be forwarded to parliament through the relevant minister for review. There is no evidence of specific forums for discussion of the performance of the system between government and business and Civil Society.</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</p> <p>Components:</p> <p>a) 0</p> <p>b) 0</p>	<p>S36Form of communication– the act provides that All communications between bidders and the procuring entity shall be in writing, and a procuring entity shall not entertain or respond to a communication from a bidder that is not in writing:</p> <p>Here the Act is not explicit whether such communication in written form can be electronic or only hard copy. Given the diversity of electronic forms of communication, it is not stated what is acceptable and how to authenticate such communication.</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><i>Efficiency</i></p>	<p>0</p>	<p>Section 69(6) of the Act states that the Authority must establish an electronic system for the purpose of this section, and specify the conditions under which access to electronic data in the system is open. Section 91 of Statutory instrument 5 of 2018 states that the Authority shall ensure that copies of all appropriate forms to be used in procurement proceedings are kept at its offices, where at all reasonable times they may be—</p> <p>(a) inspected by members of the public free of charge; and</p> <p>(b) purchased by interested parties for a reasonable fee not exceeding the cost of producing the forms(this implies hard copies only).</p> <p>Process not online it’s just access to documents online and not online completion and processing</p>

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></p> <p>Source: EU Standard</p>	<p>0</p>	
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. – [0.2]</p> <p>b) Participation of any candidate or group of candidates is based on qualification. – [0.2]</p> <p>c) Ensures that registration if required does not constitute a barrier to participation in tenders. – [0.2]</p> <p>d) State owned companies are not given any preference. – [0.2]</p> <p>e) Time-periods, including any extension of the time-periods, shall be the same for all interested or participating candidates. – [0.2]</p> <p><i>Competitiveness and Impartiality</i></p> <p>Source: GPA Standard</p>	<p>Overall:0</p> <p>Components:</p> <p>a) 0</p> <p>b) 0</p> <p>c) 0</p> <p>d) 0</p> <p>e) 0</p>	<p>S28 Participation by bidders – the act provides that</p> <p>(1) Except as prescribed under this Act or any other enactment, bidders shall be permitted to participate in procurement proceedings without regard to nationality(the exceptions are specified in section 10 of the regulations based on the size of the budget reserving for local entities only).</p> <p>Financial thresholds (10)</p> <p>(3) Where the price of the procurement requirement is—</p> <p>(a) above twenty thousand United States dollars but does not exceed five million United States dollars, in the case of construction works; or</p> <p>(b) above ten thousand United States dollars but does not exceed three hundred thousand United States dollars, in the case of goods; or</p> <p>(c) above five thousand United States dollars but does not exceed two hundred thousand United States dollars, in the case of consultancy and non-consultancy services;</p> <p>procuring entities may invite only Zimbabwean (domestic) suppliers to bid.</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 (minimum of 10 days). – [1 point]</p> <p><i>Competitiveness and Impartiality</i></p>	<p>1</p>	<p>S39 Bidding period – the act provides that</p> <p>(1) The bidding period shall commence on the date on which the bidding document is published in the <i>Gazette</i> in terms of section (2), and shall end on the date specified in that document or in a subsequent notice as the closing date for the submission of bids.</p> <p>(2) In determining the appropriate bidding period for any procurement, the procuring entity shall take into account—</p> <p>(a) the time reasonably required for bidders to prepare their bids, taking into account the level of detail required and the complexity of the bids, including the time needed for any site visits and pre-bid meetings; and</p> <p>(b) any need for bidders to submit authenticated legal documents or similar documents as part of their bids and the time required to obtain such documents; and</p> <p>(c) the time potential bidders need to obtain the bidding document and to deliver and submit their bids to the procuring entity; and</p> <p>(d) the time by which the procuring entity needs to be supplied with the procurement requirement:</p>

			<i>Provided that the bidding period for any procurement shall not be shorter than the period prescribed for that procurement or class of procurement, as the case may be.</i>
13.	PPL stipulates that each procuring entity has a staff member(s) responsible for conducting procurement activities. – [1 point] <i>Uniformity of the Legislative Framework</i>	1	S14 Responsibility for procurement (1) Subject to this Act— (2) Within any procuring entity, responsibility for ensuring that its procurement activities are carried out in compliance with this Act and any directions of the Authority shall devolve upon— (a) the entity’s accounting officer; and (b) within their spheres of responsibility, the members of the entity’s procurement management unit and the entity’s, employees and agents who are involved in any way with procurement.
14.	PPL references sanctions for violations of the PPL. – [1 point] <i>Accountability and Integrity</i>	1	S74 Public Procurement and Disposal of Public Assets (General) Regulations, 2018 - Sanctions that may be imposed by debarment committee
15.	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] <i>Accountability and Integrity</i> Source: OECD Methodology	1	Section 157 of the Act states that an allegation of intent to defraud is sufficient without alleging whom it is intended to defraud for an accused person to be tried before a court of law on a charge of fraud – Perhaps this is where legislation that protects whistle-blowers would come into play. <ul style="list-style-type: none"> • The 9th Schedule of the Act Includes all crimes and offences involving corruption, organised crime or harm to the National economy. This schedule also includes other relevant legislation in connection with these offences such as: • Grain Marketing Act [<i>Chapter 18:14</i>]. • The control of Goods Act Chapter 14:05
16.	PPL ensures the right to review (complaints), for all interested parties, including general public, tender participants and potential suppliers. – [1 point] Scoring Method <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] <i>Uniformity of the Legislative Framework</i>	0.75	S73 of the Act - Challenge to procurement proceedings states that (1) A potential or actual bidder in procurement proceedings who claims to have suffered, or to be likely to suffer, loss or injury due to a breach of a duty imposed on a procuring entity by or under this Act, may challenge the procurement proceedings by lodging a written notice with the procuring entity in accordance with this section. (2) Where notice of the award of a contract has not yet been issued, a challenge may be lodged at any stage of the procurement proceedings up to the date on which such notice is issued:
17.	PPL ensures the right to review throughout the procurement process. – [1 point]	Overall:1 Components: a)0.33	S73 of the Act - Challenge to procurement proceedings states that (1) A potential or actual bidder in procurement proceedings who claims to have suffered, or to be likely to suffer, loss or injury due to a breach of a duty imposed on a procuring entity by or under this

<p>Point Distribution</p> <p>a) Complaints can be filed at any time during the procurement process up until the signing of the contract. – [1/3]</p> <p>b) A procurement contract cannot be awarded with a pending complaint. – [1/3]</p> <p>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> <p><i>Uniformity of the Legislative Framework</i></p>	<p>b)0.33 c)0.33</p>	<p>Act, may challenge the procurement proceedings by lodging a written notice with the procuring entity in accordance with this section.</p> <p>(3) Where notice of the award of a contract has been issued, a challenge may be lodged only within the fourteen-day period referred to in section 55(2) or 60(14).</p>
<p>18. 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]</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>Overall:1 Components: a)0.7 b)0.3</p>	<p>75 Appointment of review panels</p> <p>(1) Review panels shall be appointed from one or more lists of panelists prepared by the Authority in terms of this section.</p> <p>(2) The Authority shall select persons for inclusion on a list of panelists by— (a) requesting—</p> <ul style="list-style-type: none"> (i) the Law Society of Zimbabwe; and (ii) the Civil Service Commission; and (iii) organisations representing professional associations or bodies or commercial and industrial entities; and (iv) other organisations which, in the opinion of the Board, have or represent persons who have expertise in fields relating to procurement; to nominate persons for inclusion on the list; and <p>(b) publishing advertisements in newspapers circulating in Zimbabwe, calling on persons to apply for inclusion on the list; and selecting from the nominees and the persons who respond to the advertisements panelists who—</p> <ul style="list-style-type: none"> (i) are or have been registered legal practitioners; or (ii) have been senior officers in the Civil Service with experience in procurement; or (iii) have qualifications or experience in fields relating to procurement.
<p>19. 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] 	<p>0.25</p>	<p>Regulations refer to documentary submissions and are silent on electronic versions</p>

	<ul style="list-style-type: none"> • Only on paper – [0.25] • None – [0] <i>Transparency</i>		
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] <i>Transparency</i>	0.25	Provides for written communication to all parties concerned

Pre-tendering Phase

#	Indicator	Score	Relevant Article and Law (if applicable)
1.	<p>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]</p> <p>Point Distribution</p> <p>a) Subject-matters (CPV- or other similar classificatory system) of planned procurements. – [0.25]</p> <p>b) Planned dates (a range of week/month/quarter) of publication of the notices of intended procurement. – [0.25]</p> <p>c) Estimated value of procurements. – [0.25]</p> <p>d) Source of funding. – [0.25]</p> <p><i>Efficiency</i></p>	<p>Overall: 1</p> <p>Components:</p> <p>a)0.25</p> <p>b)0.25</p> <p>c)0.25</p> <p>d)0.25</p>	<p>Section 22 (1) of the Act requires that</p> <ul style="list-style-type: none"> For each financial year and no later than one month after the end of such, a procuring entity shall prepare a procurement plan in accordance with a template prepared by the Authority and forward the plan without delay to the Authority. The Authority and the procuring entity shall publish, in summary form, the list of goods, construction works and services included in the entity’s annual plan for procurement during the coming financial year.
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 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>S23 Individual procurement plan</p> <p>23(2) The Authority shall publish on its website every plan forwarded to it in terms of Section 23 (1) of the Act. http://www.praz.gov.zw/index.php?option=com_phocadownload&view=category&id=17:annual-procurement-plans&Itemid=756&lang=en</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>S21 Public Procurement and Disposal of Public Assets act – provides that -</p> <p>In terms of Section 21 (1) of the Act, a procuring entity shall plan its procurement with a view to achieving maximum value for public expenditure, so that the procurement is carried out within available financial resources and other applicable limitations and at the most favorable time.</p>

<p>4. PPL stipulates that procurement process should not normally be initiated until the appropriate financial resources have been identified. – [1 point] <i>Accountability and Integrity</i></p>	<p>1</p>	<p>S20 Procurement preparation – the act provides that (1) For the purposes of any procurement, a procurement management unit shall use only the standard bidding documents that are produced and issued by the Authority. (2) A procuring entity shall ensure that, before initiating procurement proceedings, adequate funds have been budgeted and allocated to the procurement, including any funds required for the publication of notices: Provided that the absence of budgeted or allocated funds shall not inhibit a procuring entity from concluding a framework agreement, as long as any orders made in pursuance of such agreement are, on the date of the order, financed by budgeted or allocated funds.</p>
<p>5. 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] <i>Uniformity of the Legislative Framework</i></p>	<p>1</p>	<p>S8 Board of Authority – the act provides that (1) The operations of the Authority shall be managed and directed by a Board consisting of seven or nine members appointed, subject to this section, by the Minister after consultation with the President. The Board shall set up a structure which provides for the appointment of a procurement management unit headed by an accounting officer (the CEO) with procurement officers below.</p>
<p>6. Minimum monetary thresholds exist for different types of procurement. – [1 point] <i>Efficiency</i></p>	<p>1</p>	<p>S10 (3) of the Procurement Regulations requires that procuring entities may invite only Zimbabwean (domestic) suppliers to bid where the price of the procurement requirement is</p> <ul style="list-style-type: none"> • above US\$20 000.00 but does not exceed US\$5 000 000.00, in the case of construction works; or • above US\$10 000.00 but does not exceed US\$300 000.00, in the case of goods; or • above US\$5 000.00 but does not exceed US\$200 000.00, in the case of consultancy and non-consultancy services; <p>Section 10 (4) of the Procurement Regulations further state that procuring entities shall invite bids in accordance with the Act from both Zimbabwean (domestic) and foreign (international) bidders where the price of the procurement requirement exceeds—</p> <ul style="list-style-type: none"> • US\$5 000 000.00, in the case of construction works; or • US\$300 000.00, in the case of goods; or • US\$200 000.00, in the case of consultancy and non-consultancy services;
<p>7. 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 a) Open tender is the default procedure for any public procurement. – [0.5] b) All exceptions are clearly listed by the PPL. – [0.5] <i>Competitiveness and Impartiality</i></p>	<p>Overall: 1 Components: a)0.5 b)0.5</p>	<p>S30 Public Procurement and Disposal of Public assets act- Clause 30 states that the competitive bidding method of procurement is the normal method to be employed by procuring entities, unless circumstances demand that the other methods described in the Part should be employed. If one of those other methods is employed the procuring entity must record its reasons for employing it.</p>

<p>8. PPL stipulates that justification for using a non-competitive procedure must be made public by the procuring entity. – [1 point] <i>Accountability and Integrity</i></p>	<p>1</p>	<p>S30 Public Procurement and Disposal of Public Assets Act- - the act provides that When a method of procurement other than competitive bidding is used, the procuring entity shall include in the record of the procurement proceedings a written justification of the decision to utilise the procurement method, including the grounds for taking that decision.</p>
<p>9. 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] 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</p>	<p>0.5</p>	<p>S33 Direct procurement method—the act provides that The procuring entity procures its requirements from one bidder or supplier without having received bids from other bidders A procuring entity may use the direct procurement method—</p> <ul style="list-style-type: none"> • where no responsive bids have been submitted in response to a competitive bidding procedure: Provided that the procuring entity shall not substantially modify the requirements of the initial bid; or Public Procurement and Disposal of Public Assets • where, for technical or artistic reasons, or for reasons connected with protection of exclusive rights, the contract can be performed only by a particular supplier and no reasonable alternative or substitute exists; or • where, for reasons of extreme urgency not attributable to, and unforeseen by the procuring entity, the procurement requirement cannot be obtained in time by means of competitive bidding procedures; or • for additional supplies of goods or services by a supplier, where a change of supplier would cause problems of inter-changeability or incompatibility with existing equipment or discontinuity of services, which would cause significant inconvenience or substantial duplication of costs to the procuring entity; or • where a procuring entity procures a prototype or a first product or service from a research institute which is then developed at its request for a particular procurement contract for research, experiment, study or original development; or • where additional services which were not included in an initial procurement contract but which were within the objectives of the original bidding documents have, through unforeseen circumstances, become necessary to complete the services described in those documents: Provided that the total value of contracts awarded for the additional services shall not exceed fifty per centum of the amount of the original contract; or • for new services that repeat similar services provided under a procurement contract awarded following the competitive bidding method of procurement, where the procuring entity indicated in the original procurement notice that a direct procurement method might be used in awarding contracts for such new services; or • for acquisitions made under exceptionally advantageous conditions from unusual disposals such as legal forfeitures, liquidation, insolvency, judicial sale in execution or other forced sale or disposal; or • for the procurement of immovable property; or • for the procurement of spare parts of a proprietary nature.

<p>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></p> <p>Source: GPA Standard</p>		
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Tendering Phase

#	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> <p>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]</p> <p>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]</p> <p>c) CPV codes (or other classificatory system of a similar nature). – [1/8]</p> <p>d) Estimated value of the goods or services to be procured. – [1/8]</p> <p>e) The time-frame for delivery of goods or services 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 candidate’s in connection therewith. – [1/8]</p> <p><i>Competitiveness and Impartiality</i></p> <p>Source: GPA Standard</p>	<p>Overall:6/8</p> <p>Components:</p> <p>a)1/8</p> <p>b)1/8</p> <p>c)0</p> <p>d)0</p> <p>e)1/8</p> <p>f)1/8</p> <p>g)1/8</p> <p>h)1/8</p>	<p>S37 Public Procurement and Disposal of Public Assets act -</p> <p>A procuring entity shall invite bids—</p> <p>(a) through the publication of a bidding document; or</p> <p>(b) from all bidders on the list of pre-qualified bidders, where pre-qualification is used; or</p> <p>(c) from all bidders on the standing list of qualified bidders established in accordance with section 32, in the case of restricted bidding.</p> <p>S38 Contents and publication of procurement notices – the act provides that</p> <p>(1) A bidding document containing the procuring entity’s invitation to bid or, as the case may be, invitation to prequalify shall contain the following information—</p> <p>(a) the identity and address of the procuring entity and the contact details of the person from whom further information can be obtained; and</p> <p>(b) a description of the procurement, including the place of delivery of goods or services, the location of any construction works and the time within which the procurement requirement is to be provided; and</p> <p>(c) how the bidding documents or, if applicable, the prequalification documents may be obtained and the price, if any, payable for them; and</p> <p>(d) the place at which and the time within which bids or applications to prequalify must be submitted; and</p> <p>(e) such other matters as may be prescribed or as may be set out in standard forms issued by the Authority.</p> <p>(2) A procuring entity shall cause the bidding document containing its notice of invitation to bid or to pre-qualify, as the case may be, to be published in the <i>Gazette</i> and—</p> <p>(a) in at least one national newspaper of wide enough circulation to reach sufficient bidders to ensure effective competition; or</p> <p>(b) to the extent it is feasible to do so, on the Internet and on any website established by the Authority;</p> <p>(4) For the purpose of ensuring wide competition, a procuring entity may send its notice of invitation to bid or pre-qualify directly to potential bidders, to chambers of commerce and to trade or professional associations after the notice has been published in terms of subsection (2) or (3):</p> <p>Content of bidding documents (20)</p> <p>(b) a description of the procurement requirement, including any technical requirements and specifications; and</p> <p>(c) where not already determined through pre-qualification, the qualifications required for bidders and the documentation needed to establish those qualifications;</p>
2.	<p>PPL stipulates that the notice of intended procurement / tender documentation must include: – [1 point]</p> <p>Point Distribution</p>	<p>Overall:0.4</p> <p>Components:</p> <p>a) 0.2</p>	<p>S44 Public Procurement and Disposal of Public Assets act</p> <p>Bid security</p>

	<p>a) Payment conditions – [0.2] b) Information about bid security (if required) – [0.2] c) Source of funding – [0.2] d) Payment information for multi-year contracts – [0.2] e) Draft of contract – [0.2] <i>Competitiveness and Impartiality</i></p>	<p>b) 0.2 c) 0 d) 0 e) 0</p>	<p>(1) Subject to subsection (2) and to any prescribed requirements or conditions, a procuring entity may require bidders to provide bid security in order to deter irresponsible bids and encourage bidders to fulfil the conditions of their bids. (2) A requirement for the provision of bid security— (a) shall be stated in the procurement documents; and (b) shall be imposed equally on all bidders. S82 Payment under procurement contract—the act provides that (1) Payments under a procurement contract shall be made within the time-limits set out in the contract, and the contract may provide for the payment of compensation for a failure to make the payments within those time-limits. (2) A procurement contract may provide for the procuring entity to make progress payments based on progress in the fulfilment of the contract, and such payments may be— (a) calculated as a percentage of the total performance due under the contract; or (b) paid according to the achievement of performance milestones identified in the contract; or (c) based on actual quantities delivered or completed; or (d) paid or calculated on any other basis that may be prescribed</p>
3.	<p>PPL defines all eligibility criteria for participation in tender that must include at least: – [1 point] Point Distribution a) Capabilities with the respect to personnel, equipment, and construction or manufacturing facilities. – [1/3] b) Financial position. – [1/3] c) Grounds of restriction for participation. – [1/3] <i>Competitiveness and Impartiality</i> Source: EBRD Methodology</p>	<p>Overall:1 Components: a)1/3 b)1/3 c)1/3</p>	<p>S28 Public Procurement and Disposal of Public Assets act-Participation by bidders (1) Except as prescribed under this Act or any other enactment, bidders shall be permitted to participate in procurement proceedings without regard to nationality. (2) Subject to this section, a procuring entity may require bidders to meet such of the following criteria for eligibility as the procuring entity considers appropriate and relevant in the circumstances of the particular procurement— (a) that they meet specified ethical standards; (b) that they have the legal capacity to enter into the procurement contract; (c) that— (i) they are not insolvent, in liquidation or under judicial management; or (ii) their affairs are not being administered by a court or a judicial officer; or (iii) their business activities have not been suspended; and no legal proceedings are pending for any of the foregoing; (d) that they have paid all taxes, duties and rates for which they are liable in Zimbabwe, together with any contributions or payments due under the National Social Security Authority Act [<i>Chapter 17:04</i>]; (e) that neither they nor any of their officers have, in the five years immediately preceding the initiation of the procurement proceedings— (i) been convicted in any country of an offence related to their professional conduct or the making of false statements or misrepresentations as to their qualifications; or</p>

			(ii) been censured or subjected to any penalty in any country following disciplinary proceedings arising out of any conduct involving the making of false statements or misrepresentations; (f) any other criteria that will demonstrate that the bidders possess the professional and technical qualifications and competence, financial resources, equipment and other physical facilities, managerial capability, experience, business reputation and personnel, needed to perform the procurement contract. (3) Procuring entities shall not impose eligibility criteria that are unduly restrictive or designed to reduce competition, and shall prepare them for each procurement requirement, taking into account the size, complexity and technical requirements of the proposed procurement contract.
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 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><i>Efficiency</i></p> <p>Source: EU Standard</p>	<p>Overall:1</p> <p>Components:</p> <p>a)0.5</p> <p>b)0.5</p>	<p>S26 Market consultations – the act provides that</p> <p>(1) Before initiating any procurement procedure, a procuring entity may conduct market consultations with a view to preparing the contract specifications and informing potential bidders of the entity's procurement plans and requirements.</p> <p>(2) In the course of market consultations, a procuring entity may receive technical information and advice from independent experts or authorities and from potential bidders, and may use that information and advice in planning and conducting their procurement:</p> <p>Provided that the procuring entity-</p> <p>(a) shall ensure that its use of the information or advice does not distort competition and does not infringe the principles of non-discrimination and transparency; and</p> <p>(b) without limiting paragraph (a), where the information or advice was supplied by a bidder, shall communicate the information or advice to all other bidders.</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] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] 	0.25	<p>S38 Public Procurement and Disposal of Public Assets act – specifies the - Contents and publication of procurement notices</p> <p>(1) A bidding document containing the procuring entity's invitation to bid or, as the case may be, invitation to prequalify shall contain the following information—</p> <p>(a) the identity and address of the procuring entity and the contact details of the person from whom further information can be obtained; and</p> <p>(b) a description of the procurement, including the place of delivery of goods or services, the location of any construction works and the time within which the procurement requirement is to be provided; and</p> <p>(c) how the bidding documents or, if applicable, the prequalification documents may be obtained and the price, if any, payable for them; and</p>

	<i>Transparency</i>		(d) the place at which and the time within which bids or applications to prequalify must be submitted; and (e) such other matters as may be prescribed or as may be set out in standard forms issued by the Authority. (2) A procuring entity shall cause the bidding document containing its notice of invitation to bid or to pre-qualify, as the case may be, to be published in the <i>Gazette</i> and— (a) in at least one national newspaper of wide enough circulation to reach sufficient bidders to ensure effective competition; or (these newspapers are now published in hard copy and online – so this qualifies for electronic) (b) to the extent it is feasible to do so, on the Internet and on any website established by the Authority; (4) For the purpose of ensuring wide competition, a procuring entity may send its notice of invitation to bid or pre-qualify directly to potential bidders, to chambers of commerce and to trade or professional associations after the notice has been published in terms of subsection (2) or (3):
6.	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] <i>Transparency</i>	0.25	Communication will need to be sent out to all bidders <u>Modification of bidding documents</u> 22. (1) At any time before the end of the bidding period, the procuring entity may, for any reason, whether on its own initiative or as a result of a request for clarification by a potential bidder, modify the bidding documents by issuing an addendum. (2) The procuring entity shall communicate every modification of a bidding document promptly to all potential bidders that have been provided with the bidding document, and upon such communication the modification shall be binding on them.
7.	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] <i>Transparency</i>	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><i>Transparency</i></p>	0	
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> <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	
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><i>Competitiveness and Impartiality</i></p> <p>Source: EU Standard</p>	1	<p>Technical Requirements and Qualifications of Bidders</p> <p>S27 Description of subject-matter of procurement – the act states that</p> <p>(2) The requirements referred to in subsection (l) shall not refer to any particular trademark or brand name, or to any patent or design, or to any producer or service provider, unless there is no other practical way of describing the procurement requirement, in which event words such as "or equivalent" shall be included in the specifications.</p>
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><i>Efficiency</i></p>	1	<p>S44 Public Procurement and Disposal of Public Assets Act - Bid security</p> <p>(1) Subject to subsection (2) and to any prescribed requirements or conditions, a procuring entity may require bidders to provide bid security in order to deter irresponsible bids and encourage bidders to fulfil the conditions of their bids.</p> <p>(2) A requirement for the provision of bid security—</p>

			(a) shall be stated in the procurement documents; and (b) shall be imposed equally on all bidders.
12.	<p>Legislation explicitly defines conflict of interest and includes mechanisms for its prevention: – [1 point]</p> <p>Point Distribution</p> <p>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]</p> <p>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]</p> <p>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 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>	<p>Overall: 2/3</p> <p>Components:</p> <p>a)1/3</p> <p>b)1/3</p> <p>c)0</p>	<p>S52 Public Procurement and Disposal of Public Assets (General) Regulations, 2018</p> <p>Duty of panelists to be impartial and independent</p> <p>52. (1) In the performance of their functions panelists shall be independent and impartial and, in all respects relating to their status and ethical standards, shall be bound by the rules applicable to civil servants.</p> <p>(2) If a panelist stands to gain financially or has any other conflict of interest in relation to procurement proceedings under review by his or her review panel, he or she shall immediately, by notice to the Authority, resign his or her office as a member of that review panel and cease to take any part in its proceedings.</p> <p>(3) A panelist who has a direct or indirect personal interest in a matter being considered or to be considered by his or her review panel shall, as soon as reasonably practicable after the relevant facts concerning the matter have come to his or her knowledge, disclose the nature of his or her interest to the Authority, and thereupon the Authority, if it considers the interest to be material, shall appoint an alternative panelist.</p> <p>Principles of natural justice</p> <p>The Authority, the disciplinary committee and all other persons exercising disciplinary power under this Schedule shall observe the principles of natural justice that take into account the right to a fair hearing, the right to reply, and the need to ensure that there is no bias or conflict of interest nor an appearance of a bias or conflict of interest.</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>	<p>1</p>	<p>S30 Public Procurement and Disposal of Public Assets (General) Regulations,2018 – Evaluation of Bids</p> <p><i>Evaluation of bids</i></p> <p>30. (1) A procuring entity shall complete the evaluation of bids within fifteen days after the end of the bidding period:</p> <p>(2) The procuring entity shall evaluate all bids that have not been rejected as non-responsive under section 28, to determine—</p> <p>(a) whether the bids are responsive; and</p> <p>(b) where the bids are found to be responsive, to evaluate the bid prices.</p> <p>(3) For the purposes of evaluation, bids shall be regarded as substantially responsive where—</p>

			(a) the bidders fulfil the conditions of eligibility, if any, laid down in the bidding documents; and (b) the bids are administratively compliant, in that they are complete with the required information and duly filled in forms prescribed in the bidding documents; and (c) the bids comply substantially with the terms and conditions set out in the bidding documents.
14.	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 a) To all tender candidates; and – [0.5] 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] <i>Competitiveness and Impartiality</i>	Overall: 1 Components: a)0.5 b)0.5	S22 Public Procurement and Disposal of Public Assets (General) Regulations, 2018 - Modification of bidding documents Modification of bidding documents 22. (1) At any time before the end of the bidding period, the procuring entity may, for any reason, whether on its own initiative or as a result of a request for clarification by a potential bidder, modify the bidding documents by issuing an addendum. (2) The procuring entity shall communicate every modification of a bidding document promptly to all potential bidders that have been provided with the bidding document, and upon such communication the modification shall be binding on them.
15.	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] <i>Transparency</i>	0	68 Notification of contract award – the act provides that: Within one month after awarding a procurement contract, a procuring entity shall- (a) publish a notice of the award in the same manner as it published the procurement notice; and (b) send a copy of the notice to the Authority for publication on the Authority's website.
16.	PPL ensures that on request from the tender participant the procuring entity shall as quickly as possible inform: – [1 point] Point Distribution 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] *** If a) is not applicable, b) equals [1 point]. <i>Transparency</i> Source: EU Standard	Overall: 1 Components: a)0 b)1	42 Cancellation of procurement proceedings or rejection of bids: The Act states that (4) If so specified in the bidding documents, a procuring entity may reject all bids at any time prior to their acceptance, where the bids are not substantially responsive, or where there is evidence of lack of competition Provided that the procuring entity shall notify all the bidders promptly of the rejection of their bids and, upon request by any such bidder, shall inform the bidder of the reasons for the rejection.

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> <p>a) Life-cycle cost – [1/3]</p> <p>b) Best price-quality ratio – [1/3]</p> <p>c) Environmental and/or social costs – [1/3]</p> <p><i>Efficiency</i></p> <p>Source: EU Standard</p>	<p>Overall: 1</p> <p>Components:</p> <p>a)1/3</p> <p>b)1/3</p> <p>c)1/3</p>	<p>30 Public Procurement and Disposal of Public Assets (General) Regulations, 2018 - Evaluation of bids</p> <p>(4) If in evaluating a bid, the procuring entity finds a minor deviation between the bid and the requirements of the bidding documents which did not merit rejection of the bid when it was initially examined, the quantum and associated cost of the deviation shall be ascertained, and the evaluated cost of the bid shall then be compared to those of other bids to determine the lowest bid.</p> <p>(5) In competitive bidding with pre-qualification, once the procuring entity has ascertained the lowest responsive bid, it shall verify again the qualifications of the bidder to take account of any change since the original pre-qualification.</p> <p>18. Where procurement is effected by the competitive bidding method, with or without pre-qualification, or is for consultancy services under Part VIII of the Act, and the estimated price of the procurement requirement necessitates the soliciting of domestic or international bids in accordance with sections 10(3) and (4)—</p> <p>(g) specifications of the procurement requirement, where necessary appropriate, shall consider life cycle costs and the disposal of any hazardous and toxic waste based on standards set by the Environmental Management Agency, or shall be based on international standards.</p>
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Post-tendering Phase

#	Indicator	Score	Relevant Article and Law (if applicable)
1.	<p>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]</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 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><i>Transparency</i></p> <p>Source: EU Standard</p>	<p>Overall: 0.3</p> <p>Components:</p> <p>a)0.1</p> <p>b)0</p> <p>c)0</p> <p>d)0</p> <p>e)0</p> <p>f)0.1</p> <p>g)0</p> <p>h)0</p> <p>i)0.1</p> <p>j)0</p>	<p>68 Public Procurement and Disposal of Public Assets act - Notification of contract award</p> <p>Within one month after awarding a procurement contract, a procuring entity shall—</p> <p>(a) publish a notice of the award in the same manner as it published the procurement notice; and</p> <p>(b) send a copy of the notice to the Authority for publication on the Authority’s website.</p> <p>S55 Contract award – the Act provides that</p> <p>(2) Before the expiry of the period of bid validity, the procuring entity shall notify-</p> <p>(a) the successful bidder of the proposed award and of the time within which the contract must be signed, subject to any intervening challenge filed in accordance with Part X; and</p> <p>(b) the other bidders of the name and address of the proposed successful bidder and the price of the contract;</p> <p>and the contract shall not be signed until at least fourteen days have passed following the giving of that notice.</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>Overall:0.5</p> <p>Components:</p> <p>a)0.5</p> <p>b)0</p>	<p>78 Public Procurement and disposal of Public assets act - Procurement contract</p> <p>(1) Where possible, a procurement contract shall be based on the appropriate model contract set out or referred to in standard bidding documents developed by the Authority.</p>

	<p>a) Procurement contracts include information on what proportion of the contract can be 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>20 (2) Subject to this Part, a procuring entity shall ensure that every procurement contract it enters into—</p> <p>(o) covers other necessary issues concerning the obligations of the parties and clarifying the transaction, including price revision, warranties, contract modification, subcontracting, insurance obligations, and remedies for delay and non-performance.</p> <p>83 Subcontracting – the act states that</p> <p>(l) Unless the procurement contract provides otherwise, a contractor may subcontract part of its performance under the procurement contract, subject to the written approval of the procuring entity for each subcontract:</p> <p>Provided that the contractor shall not subcontract the performance of all its obligations under the contract, nor shall the contractor assign the entire contract to a Subcontractor.</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>	0	
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> <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	
5.	<p>PPL ensures electronic, machine-readable and free of charge access to contract performance information (acceptance act and milestone</p>	0	

	<p>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><i>Transparency</i></p>		
6.	<p>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]</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	
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>Source: OECD Methodology</p>	<p>Overall: 0.5</p> <p>Components:</p> <p>a)0.5</p> <p>b)0</p>	<p>Public Procurement and disposal of Public assets act, 2017 -Reports on performance of procurement contracts</p> <p>27 Description of subject-matter of procurement– the act provides that</p> <p>(1) A procuring entity shall ensure that its bidding documents-</p> <p>(a) set out clearly a full and appropriately detailed description of the procurement requirement, including-</p> <p>(i) the quality and quantity required; and</p> <p>(ii) its function and the purpose for which it is required; and</p> <p>(iii) any requirements relating to its performance, safety features and its safe disposal; and</p> <p>(iv) requirements as to inspection and testing; and</p> <p>(v) any applicable standards which, where possible, shall be international standards or Zimbabwean standards incorporating international standards and</p> <p>(b) specify the methods by which performance under the procurement contract will be measured for conformity with those requirements.</p>

			S64 of the Regulations (1) Procuring entities shall report to the Authority on the performance, management and completion of their procurement contracts.
8.	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] <i>Transparency</i>	0	
9.	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] <i>Efficiency</i> Source: OECD Methodology	0	
10.	PPL defines specific procedures for modifying contracts. – [1 point] <i>Uniformity of the Legislative Framework</i>	1	S78 Procurement Contract – the act requires that the contract shall specify a provision that (o) covers other necessary issues concerning the obligations of the parties and clarifying the transaction, including price revision, warranties, contract modification, subcontracting, insurance obligations, and remedies for delay and non-performance. S62 (3) of the regulations provide that (3) In a contract for a fixed supply or service and where it becomes necessary to vary the scope and costs of a contract that was awarded subject to prior review by the Special Procurement Review Committee, the variation of the contract shall only be effective after the prior review in terms of section 10(5). Where a procurement contract was concluded with a process that was not subject to prior review in terms of section 10(5), and the proposed scope or price variation escalates the procedure to a threshold subject to prior review, the proposed contract variation shall be subject to prior review in terms of Section 54 of the Act.

11.	PPL stipulates that procurement contract must include dispute resolution procedures. – [1 point] <i>Uniformity of the Legislative Framework</i>	1	S78 Procurement Contract – the act requires that the contract shall specify a provision that (n) contains provisions for dispute settlement; and
12.	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] <i>Transparency</i>	0.5	S69 Records of procurement proceedings – the act provides that (4) A procuring entity shall preserve the procurement record for at least six years following completion or termination of the procurement contract or cancellation of the procurement proceedings and
13.	PPL stipulates that public procurement operations must be subject to internal and external audit conducted by qualified specialists. – [1point] Point Distribution a) PPL stipulates that public procurement operations must be subject to internal audit conducted by qualified specialists. – [0.5] b) PPL stipulates that public procurement operations must be subject to external audit conducted by qualified specialists. – [0.5] <i>Accountability and Integrity</i>	Overall:0.5 Components: a)0 b)0.5	Part IV-Financial Provisions – <i>Audit of Accounts of Authority specified that</i> 19. (1) The accounts of the Authority shall be audited by the Auditor-General, who for the purpose shall have all the functions conferred on him or her by sections 8 and 9 of the Audit Office Act [Chapter 22: 18] as though the assets of the Authority were public moneys and the members, employees and agents of the Authority were officers as defined in that Act.