

# Transparent Public Procurement Rating



## Albania

### Public Procurement Legislation Assessment

The Assessment of the Public Procurement Legislation of Albania was prepared by the Albanian Institute of Science.

The Project – [Transparent Public Procurement Rating](#) – is implemented by the Institute for Development of Freedom of Information (IDFI) in partnership with a [network](#) of organizations and procurement specialists from more than 20 countries.



Project is Financially Supported by the Open Society Institute Budapest Foundation (OSI)

*The opinions expressed in this draft document belong to the Institute for Development of Freedom of Information (IDFI) and its partner organizations, and do not reflect the positions of Open Society Institute Budapest Foundation (OSI). Therefore, this organization is not responsible for the content of this report.*

2018

# Introduction

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

## Structure and Logic

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

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

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

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

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

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

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

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

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

Indicators are also arranged according to the procurement process:

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

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

## Limitations

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

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

## About the Project

The Methodology has been developed within the framework of the project [Transparent Public Procurement Rating \(TPPR\) – Assessing Public Procurement Legislation and the Enforcement Process in the Eurasian Region](#).

The project was funded by Open Society Institute Budapest Foundation (OSI) and has been implemented by a Georgia-based civil society organization [Institute for Development of Freedom of Information \(IDFI\)](#) together with 5 partner organizations from each country in the Eurasian region covered by the project:

Armenia – [Freedom of Information Center of Armenia](#)

Azerbaijan – [Transparency International \(TI\)](#)

Belarus – [BIPART](#)

Moldova – [Expert-Grup](#)

Ukraine – [Transparency International \(TI\)](#)

In its initial stage, the TPPR project only covers the Eastern Partnership (EaP) Region; however, it plans to scale the methodology up to larger regions in the future.

## 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	Article 66 of the law no 9723, date 3.05.2007 “On the business registration”
2.	Budgets of all public procuring entities are publicly available. – [ 1 point ]	1	Annual budget law and the article 7 of the law no 119/2014 “On the right to information”
3.	Public officials are required by law to file asset declarations. – [ 1 point ]	1	Article 3 and article 3/1 of the law “On declaration and audit of assets, financial obligations of elected persons and certain public servants”

4.	The country has adopted legal provisions ensuring the right to request public information.– [ 1 point ]	1	Law no 119/2014 “On the right to information”
5.	Legislation includes provisions regulating whistleblower protection. – [ 1 point ]	1	Law no 60/2016 “On whistleblowing and protection of whistleblowers”

## Indicators by Procurement Process

General Characteristics of the Procurement System			
#	Indicator	Score	Relevant Article and Law (if applicable)
1.	Public Procurement Legislation ( <b>PPL</b> ), 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	Law “PP” 9643 date 20.11.2006  (Law PP = “On Public Procurement”  CMD 914 date 29.12.2014 (CMD = Council of Ministers Decision)
2.	PPL (including primary and secondary legislation) is available in a single and accessible place. – [ 1 point ]	0.5	<a href="http://www.app.gov.al">www.app.gov.al</a>



	<p><b>Scoring Method</b></p> <ul style="list-style-type: none"> <li>• Electronic, machine-readable, free of charge – [ 1 ]</li> <li>• Electronic, machine-readable, not free of charge – [ 0.75 ]</li> <li>• Electronic, non-machine-readable – [ 0.5 ]</li> <li>• Only on paper – [ 0.25 ]</li> <li>• None – [ 0 ]</li> </ul> <p><i>Uniformity of the Legislative Framework</i></p>		
3.	<p>PPL applies to all state budget and local government entities (including their respective Legal Entities of Public Law (LEPLs), state owned companies and non-commercial legal entities) and all exempted entities are clearly indicated. – [ 1 point ]</p> <p><b>Point Distribution</b></p> <ul style="list-style-type: none"> <li>a) All state budget entities – [ 0.2 ]</li> <li>b) Local government entities – [ 0.2 ]</li> <li>c) Legal Entities of Public Law (LEPL) – [ 0.2 ]</li> <li>d) State owned companies – [ 0.2 ]</li> <li>e) State non-commercial legal entities – [ 0.2 ]</li> </ul> <p><i>Uniformity of the Legislative Framework</i></p>	<p>Overall: 1</p> <p>Components:</p> <ul style="list-style-type: none"> <li>a) 0.2</li> <li>b) 0.2</li> <li>c) 0.2</li> <li>d) 0.2</li> <li>e) 0.2</li> </ul>	<p>Article 3/14-14.1 of Law 9643 “PP”</p> <p>14. “Contracting authority” means any entity, which is subject to this law for the execution of its public contracts. These entities are the following:</p> <ul style="list-style-type: none"> <li>a) Constitutional institutions, other central institutions, independent central institutions and local governing units,</li> <li>b) Any entity: <ul style="list-style-type: none"> <li>(i) Established to pursue a general and non-economic or commercial interest;</li> <li>(ii) Has legal personality;</li> <li>(iii) Financed, for the most part, by the central government, regional or local authorities, or other public entities or managed by them or through an administrative, managerial or supervisory board, where more than half of the members is appointed by the central government, regional or local authorities, or by other public bodies;</li> </ul> </li> <li>c) organisations established by one or several of these authorities or one or several of such public bodies.</li> </ul> <p>14.1 “Contracting authorities” means also the following:</p>

			<p>a) Any contracting authority as defined in paragraph 14, when it performs one of the activities referred to in Article 58/1 of this law;</p> <p>b) Public undertaking, if the contract is awarded for the purposes of exercising any of the activities referred to in Article 58/1 of this law. For the purpose of this provision “public undertaking” is any undertaking, over which contracting authorities listed in paragraph 14 may exercise, directly or indirectly, a dominant influence by virtue of their ownership of it, their financial participation therein, or the rules which govern it. A dominant influence is presumed when contracting authorities listed in paragraph 14, directly or indirectly, in relation to an undertaking:</p> <p>i) Hold the majority of the entity’s subscribed capital; or</p> <p>ii) Control the majority of the votes attached to shares issued by that entity; or iii) May appoint more than half of the entity’s administrative, management or supervisory body.</p>
4.	<p>The scope of coverage of PPL includes all sectors of the economy where competition is possible and exemptions are clearly listed in the PPL. – [ <b>1 point</b> ]</p> <p><b>Point Distribution</b></p> <p>a) The scope of coverage of PPL includes all sectors of the economy where competition is possible. – [ <b>0.5</b> ]</p> <p>b) PPL clearly lists or refers to all exemptions. – [ <b>0.5</b> ]</p>	<p>Overall: 1</p> <p>Components:</p> <p>a) 0.5</p> <p>b) 0.5</p>	Article 4 - 9 of Law 9643 “PP”

	<i>Uniformity of the Legislative Framework</i>		
5.	<p>PPL determines a separate state body (procurement regulatory body) responsible for managing public procurement or assigns this function to a subordinate public body (ies). – [ <b>1 point</b> ]</p> <p><b>Scoring Method</b></p> <ul style="list-style-type: none"> <li>• PPL determines a separate state body responsible for managing public procurement which is authorized to have income in addition to state funding. – [ <b>1</b> ]</li> <li>• PPL determines a separate state body responsible for managing public procurement. – [ <b>0.75</b> ]</li> <li>• PPL assigns this function to a subordinated public body (ies). – [ <b>0.5</b> ]</li> <li>• There is no responsible state body. – [ <b>0</b> ]</li> </ul> <p><i>Uniformity of the Legislative Framework</i></p>	0.5	<p>Article 13 (1) of Law 9643 “PP”</p> <p>“The PPA is a central body, a public legal person reporting to the Prime Minister, and financed by the State Budget”</p>
6.	<p>PPL stipulates that the procurement regulatory body is responsible for at least coordination and monitoring (i.e. data collection and analysis as opposed to regulation and control) of public procurement activities. – [ <b>1 point</b> ]</p> <p><i>Uniformity of the Legislative Framework</i></p>	1	<p>Article 13 (2)(g) of Law 9643 “PP”</p> <p>“1. The PPA is a central body, a public legal person reporting to the Prime Minister, and financed by the State Budget”</p> <p>“Verifies the implementation of public procurement procedures, after the phase of the procurement contract signing, under the requirements set out in laws and regulations, the recommendations of the auditing bodies for procurement procedures, as well as monitors the public procurement</p>

			system performance through information received from periodic reports obtained from Contracting Authorities”.
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. – [ <b>1 point</b> ]</p> <p><b>Point Distribution</b></p> <ul style="list-style-type: none"> <li>a) Legislation provides for a mechanism of consultation with the private sector. – [ <b>0.25</b> ]</li> <li>b) Legislation provides for a mechanism of consultation with the civil society sector. – [ <b>0.25</b> ]</li> <li>c) PPL obligates the entity responsible for managing public procurement to use this mechanism on a regular basis. – [ <b>0.5</b> ]</li> </ul> <p style="text-align: right;"><i>Accountability and Integrity</i></p>	<p>Overall: 0</p> <p>Components:</p> <ul style="list-style-type: none"> <li>a) 0</li> <li>b) 0</li> <li>c) 0</li> </ul>	No Prevention
8.	<p>PPL stipulates that electronic means is the primary method of conducting public procurement and of communication between procuring entities and tender participants. – [ <b>1 point</b> ]</p> <p><b>Point Distribution</b></p> <ul style="list-style-type: none"> <li>a) PPL stipulates that electronic means is the primary method of conducting public procurement. – [ <b>0.5</b> ]</li> <li>b) PPL stipulates that electronic means is the primary method of</li> </ul>	<p>Overall: 1</p> <p>Components:</p> <ul style="list-style-type: none"> <li>a) 0.5</li> <li>b) 0.5</li> </ul>	<p>a) Articles 22, 36 of Law 9643 “PP”</p> <p>CMD no 918, date 29.12.2014 “On realization of public procurement procedures of in electronic means”.</p> <p>b) Articles 22, 36 of Law 9643 “PP” except complaints (art 63) which are in written</p>

	<p>communication between procuring entities and tender participants. – [ 0.5]</p> <p><i>Efficiency</i></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>	1	<p>Article 38 (4) of Law 9643 “PP”</p> <p>“All procurement notices shall be published on the web-site of the PPA”</p> <p>Article 5 of CMD 914 date 29.12.2014 <a href="http://www.app.gov.al">www.app.gov.al</a></p> <p>1.The CA shall send to the Public Procurement Agency for publication in the Public Notifications Bulletin and for publication on the website any notice about the open procedure, restricted procedure, negotiated procedure with prior publication of contract notice, request for proposal, design contest and consultancy services.</p> <p>2. The contracting authority shall be obliged to send to the Public Procurement Agency, with a cover letter, a copy in writing of the contract notice and an electronic copy (CD) of all tender documents. The contracting authority shall be responsible for the equivalence of the abovementioned copy, together with the tender documents drawn up by the procurement unit and administered by the contracting authority for the tender effects. The Public Procurement Agency shall be obliged to publish the contract notice and tender documents on its official website at the same time with their publication in the Public Notifications Bulletin. Advice and electronic download of tender documents should be easily accessible for the public. The use of these documents for the purpose of participating in the tender shall be permitted without any limitation. The same publication, advise, downloading and application procedure will be</p>

			<p>followed even in cases of clarifications or in cases of changes that have been made to tender documents after the first publication.</p> <p>3. In the case of procurement procedures conducted by electronic means, uploading of the contract notice and tender documents in the electronic system shall be made by the contracting authority itself. The publication of the notice on the Public Procurement Agency website will be made public on the following working day from the day of uploading of the notice into the system.</p> <p>4. A summary of the contract notice above the high monetary threshold should be published in, at least, one newspaper with a wide distribution in Europe.</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> <i>Source: EU Standard</i></p>	1	<p>Article 38 of Law 9643 "PP", Article 5 of CMD 914 date 29.12.2014 <a href="http://www.app.gov.al">www.app.gov.al</a></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><b>Point Distribution</b></p>	<p>Overall:1</p> <p>Components:</p> <p>a) 1/5</p>	<p>Articles 1, 2 of Law 9643 "PP".</p> <p>a) Articles 1, 2 of Law 9643 "PP".</p> <p>b) Article 46 of Law 9643 "PP".</p> <p>c) Article 5 of CMD 914 date 29.12.2014.</p>

	<p>a) PPL should not allow domestic preferences. – <b>[1/5]</b></p> <p>b) Participation of any candidate or group of candidates is based on qualification.– <b>[1/5]</b></p> <p>c) Ensures that registration if required does not constitute a barrier to participation in tenders. – <b>[1/5]</b></p> <p>d) State owned companies are not given any preference.– <b>[1/5]</b></p> <p>e) Time-periods, including any extension of the time-periods, shall be the same for all interested or participating candidates.– <b>[1/5]</b></p> <p style="text-align: right;"><i>Competitiveness and Impartiality</i> <b>Source: GPA Standard</b></p>	<p>b) 1/5</p> <p>c) 1/5</p> <p>d) 1/5</p> <p>e) 1/5</p>	<p>d) Articles 1, 2 of Law 9643 “PP”.</p> <p>e) Articles 42, 43 of Law 9643 “PP”.</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.– <b>[1 point]</b></p> <p style="text-align: right;"><i>Competitiveness and Impartiality</i></p>	1	<p>Article 43 (7) of Law 9643 “PP”.</p> <p>“7. In case of awarding procedures below the low value threshold, the minimum deadline for the submission of bids shall be 10 days from the date, in which the contract notice has been published on the PPA website”</p>
13.	<p>PPL stipulates that each procuring entity has a staff member(s) responsible for conducting procurement activities. – <b>[1 point]</b></p> <p style="text-align: right;"><i>Uniformity of the Legislative Framework</i></p>	1	Article 12/5 of Law 9643 “PP”, Article 57 of CMD 914 date 29.12.2014
14.	<p>PPL references sanctions for violations of the PPL. – <b>[1 point]</b></p>	1	Articles 72,73 of Law 9643 “PP”

	<i>Accountability and Integrity</i>		
15.	<p>Legislation explicitly defines fraud and corruption / abuse of public office and spells out the individual responsibilities and consequences for government employees and private firms or individuals found guilty of fraud or corruption. – [ <b>1 point</b> ]</p> <p><i>Accountability and Integrity</i> <b>Source: OECD Methodology</b></p>	1	<p>Articles 3, 13, 26, 72, 73 of Law 9643 “PP”,</p> <p>Articles 79,80,81,82 of CMD 914 date 29.12.2014</p>
16.	<p>PPL ensures the right to review (complaints), for all interested parties, including general public, tender participants and potential suppliers. – [ <b>1 point</b> ]</p> <p><b>Scoring Method</b></p> <ul style="list-style-type: none"> <li>• PPL ensures the right to review, for general public, tender participants and potential suppliers. – [ <b>1</b> ]</li> <li>• PPL ensures the right to review, for tender participants and potential suppliers. – [ <b>0.75</b> ]</li> <li>• PPL ensures the right to review, for tender participants. – [ <b>0.25</b> ]</li> <li>• No one has the right to review. – [ <b>0</b> ]</li> </ul> <p><i>Uniformity of the Legislative Framework</i></p>	0.75	<p>Article 63 of Law 9643 “PP”</p> <p>“1. Any person having or having had an interest in a procurement procedure and who has been or risks being harmed by a decision made by a CA, which infringes this law, may challenge such decision”</p>
17.	PPL ensures the right to review throughout the procurement process. – [	Overall:	Article 63 of Law 9643 “PP”,



	<p><b>1 point ]</b></p> <p><b>Point Distribution</b></p> <ul style="list-style-type: none"> <li>a) Complaints can be filed at any time during the procurement process up until the signing of the contract. – [ <b>1/3</b> ]</li> <li>b) A procurement contract cannot be awarded with a pending complaint.– [ <b>1/3</b> ]</li> <li>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. – [ <b>1/3</b> ]</li> </ul> <p style="text-align: right;"><i>Uniformity of the Legislative Framework</i></p>	<p>2/3</p> <p>Components:</p> <ul style="list-style-type: none"> <li>a) 1/3</li> <li>b) 1/3</li> <li>c) 0 (there is no standstill from contract award decision till signing of the contract)</li> </ul>	<ul style="list-style-type: none"> <li>a) Article 63 of Law 9643 “PP”</li> <li>b) Articles 63, 64 of Law 9643 “PP”</li> <li>c) Article 63 of Law 9643 “PP”</li> </ul>
18.	<p>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. – [ <b>1 point</b> ]</p> <p><b>Point Distribution</b></p> <ul style="list-style-type: none"> <li>a) PPL ensures the existence of an independent review body. – [ <b>0.7</b> ]</li> <li>b) The review body includes civil society members. – [ <b>0.3</b> ]</li> </ul> <p style="text-align: right;"><i>Uniformity of the Legislative Framework</i></p>	<p>Overall: 0.7</p> <p>Components:</p> <ul style="list-style-type: none"> <li>a) 0.7</li> <li>b) 0</li> </ul>	<p>Article 19/1 of Law 9643 “PP”</p> <p>“The Public Procurement Commission is the highest body in the field of procurement, which examines appeals on public procurement procedures in compliance with the requirements established by this law”</p> <p>a) Article 19/1 of Law 9643 “PP”</p>

19.	<p>PPL ensures electronic, machine-readable and free of charge access to submitted complaints, either the full text or key information contained in these documents. – [ <b>1 point</b> ]</p> <p><b>Scoring Method</b></p> <ul style="list-style-type: none"> <li>• Electronic, machine-readable, free of charge – [ <b>1</b> ]</li> <li>• Electronic, machine-readable, not free of charge – [ <b>0.75</b> ]</li> <li>• Electronic, non-machine-readable – [ <b>0.5</b> ]</li> <li>• Only on paper – [ <b>0.25</b> ]</li> <li>• None – [ <b>0</b> ]</li> </ul> <p><i>Transparency</i></p>	0.5	Article 18 of CMD 184 date 17.03.2010
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. – [ <b>1 point</b> ]</p> <p><b>Scoring Method</b></p> <ul style="list-style-type: none"> <li>• Electronic, machine-readable, free of charge – [ <b>1</b> ]</li> <li>• Electronic, machine-readable, not free of charge – [ <b>0.75</b> ]</li> <li>• Electronic, non-machine-readable – [ <b>0.5</b> ]</li> <li>• Only on paper – [ <b>0.25</b> ]</li> <li>• None – [ <b>0</b> ]</li> </ul> <p><i>Transparency</i></p>	<p>0.5</p> <p>Full text</p> <p>Electronic, non machine-readable, free of charge (except data classified as state or commercial secret)</p>	Article 13 of CMD 184 date 17.03.2010

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: – [ <b>1 point</b> ]</p> <p><b>Point Distribution</b></p> <ul style="list-style-type: none"> <li>a) Subject-matters (CPV- or other similar classificatory system) of planned procurements. – [ <b>0.25</b> ]</li> <li>b) Planned dates (a range of week/month/quarter) of publication of the notices of intended procurement. – [ <b>0.25</b> ]</li> <li>c) Estimated value of procurements. – [ <b>0.25</b> ]</li> <li>d) Source of funding. – [ <b>0.25</b> ]</li> </ul> <p><i>Efficiency</i></p>	<p>Overall:</p> <p>1</p> <p>Components:</p> <ul style="list-style-type: none"> <li>a) 0.25</li> <li>b) 0.25</li> <li>c) 0.25</li> <li>d) 0.25</li> </ul>	<p>Article 4 of CMD 914 date 29.12.2014</p> <p>a), b),c),d),</p>
2.	<p>PPL ensures electronic, machine-readable and free of charge access to public procurement annual plans of all procuring entities or key information included in these documents. – [ <b>1 point</b> ]</p> <p><b>Scoring Method</b></p>	<p>0.5</p> <p>Electronic, non</p>	<p>Article 4 (1) of CMD 914 date 29.12.2014</p> <p>“After collecting data from the contracting authorities, as set out above,</p>

	<ul style="list-style-type: none"> <li>• Electronic, machine-readable, free of charge – [ 1 ]</li> <li>• Electronic, machine-readable, not free of charge – [ 0.75 ]</li> <li>• Electronic, non-machine-readable – [ 0.5 ]</li> <li>• Only on paper – [ 0.25 ]</li> <li>• None – [ 0 ]</li> </ul> <p style="text-align: right;"><i>Transparency</i></p>	machine-readable, free of charge	the Public Procurement Agency shall prepare the summary projections register of public procurement and publish it electronically on its website by February.”
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 style="text-align: right;"><i>Efficiency</i> <b>Source: OECD Methodology</b></p>	1	<p>Article 3 of Law 9643 “PP”</p> <p>Article 4 of CMD 914 date 29.12.2014</p>
4.	<p>PPL stipulates that procurement process should not normally be initiated until the appropriate financial resources have been identified. – [1 point]</p> <p style="text-align: right;"><i>Accountability and Integrity</i></p>	1	<p>Article 60 (1) of CMD 914 date 29.12.2014</p> <p>“Upon the approval of the budget law and after the calculation of the limit fund under Article 59 of these rules, when there is a need for works/goods/services, the head of the contracting authority or the authorized official shall immediately issue the procurement order, which shall contain the following:</p> <ul style="list-style-type: none"> <li>- The procurement subject matter;</li> <li>- The calculated fund of the budget year</li> </ul>

			<p>- The level of the procurement procedure and the reasons for its use; and the total calculated fund, in the case of multi-year contracts;</p> <p>- The names of the members of the procurement unit“</p>
5.	<p>PPL defines the composition, powers, responsibilities and decision-making procedures of the body (tender commission or a person) responsible for conducting tender within the procuring entity. – <b>[1 point]</b></p> <p><i>Uniformity of the Legislative Framework</i></p>	1	<p>Article 12 (5) of Law 9643 “PP”</p> <p>“The CA shall establish a procurement unit within its structure, whose duties and responsibilities are defined in the public procurement rules.”</p> <p>Articles 56,57,58 of CMD 914 date 29.12.2014</p>
6.	<p>Minimum monetary thresholds exist for different types of procurement. – <b>[ 1 point ]</b></p> <p><i>Efficiency</i></p>	1	<p>Article 27 of Law 9643 “PP”</p> <p>Article 8 of CMD 914 date 29.12.2014</p>
7.	<p>PPL stipulates that open tender is the default procedure for any public procurement, and all exceptions are clearly listed by the PPL. – <b>[ 1 point ]</b></p> <p><b>Point Distribution</b></p> <p>a) Open tender is the default procedure for any public procurement. – <b>[ 0.5 ]</b></p> <p>b) All exceptions are clearly listed by the PPL. – <b>[ 0.5 ]</b></p>	<p>Overall: 1</p> <p>Components:</p> <p>a) 0.5</p> <p>b) 0.5</p>	<p>Articles 30, 31, 32, 33, 34, 34/1, 35, 35/1 of Law 9643 “PP”</p> <p>Art. 30 (1)“The open procedure shall be the preferred procurement procedure”</p> <p>Articles 32, 33, 34,35,36,37,38,39, 40, 40/1, 41 of CMD 914 date 29.12.2014</p> <p>Art. 33 (1 &amp; 2) “1. The open procedure, under Article 30 of the Public Procurement Law, is the procurement procedure that can be used by any</p>

	<i>Competitiveness and Impartiality</i>		contracting authority that procures works/services/goods with a value above the low monetary threshold without having to justify the application of this procedure.  2. The contracting authority may choose other procurement procedures, only in justified cases, as provided for in the Public Procurement Law and in these rules”
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>	1	Article 33 of Law 9643 “PP”  Article 36 of CMD 914 date 29.12.2014
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	0.5  All points from a) to e) are included	Article 33 of Law 9643 “PP”  Article 36 of CMD 914 date 29.12.2014

	<p>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.</p> <p>c) Insofar as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the procuring entity, the goods or services could not be obtained in time using open tendering or selective tendering.</p> <p>d) Where a procuring entity procures a prototype or a first good or service that is developed at its request in the course of, and for, a particular contract for research, experiment, study or original development.</p> <p>e) For purchases made under exceptionally advantageous conditions that only arise in the very short term in the case of unusual disposals such as those arising from liquidation, receivership or bankruptcy, but not for routine purchases from regular suppliers. – [ 1 ]</p> <p><b>Scoring Method</b></p> <p>In case of any additional exceptions – [ 0.5 ]</p> <p><i>Uniformity of the Legislative Framework</i>  <b>Source: GPA Standard</b></p>		
<p style="text-align: center;"><b>Tendering Phase</b></p>			

#	Indicator	Score	Relevant Article and Law (if applicable)
1.	<p>PPL stipulates that the notice of intended procurement / tender documentation must include at least: – [ <b>1 point</b> ]</p> <p><b>Point Distribution</b></p> <ul style="list-style-type: none"> <li>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. – [ <b>1/8</b> ]</li> <li>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. – [ <b>1/8</b> ]</li> <li>c) CPV codes (or other classificatory system of a similar nature). – [ <b>1/8</b> ]</li> <li>d) Estimated value of the goods or services to be procured. – [ <b>1/8</b> ]</li> <li>e) The time-frame for delivery of goods or services or the duration of the contract.– [ <b>1/8</b> ]</li> <li>f) The procurement method that will be used. – [ <b>1/8</b> ]</li> <li>g) The address (where applicable) and any final date for the submission of requests for participation in the procurement. – [ <b>1/8</b> ]</li> <li>h) A list and brief description of any conditions (eligibility criteria)</li> </ul>	<p>Overall: 7/8</p> <p>Components:</p> <ul style="list-style-type: none"> <li>a) 1/8</li> <li>b) 1/8</li> <li>c) 0</li> <li>d) 1/8</li> <li>e) 1/8</li> <li>f) 1/8</li> <li>g) 1/8</li> <li>h) 1/8</li> </ul>	<p>Articles 38, 39, 40 of Law 9643 “PP”</p> <p>Articles 11,12,13,14 of CMD 914 date 29.12.2014</p> <p>(CPV was added in May 2017)</p>



	<p>for participation of candidates, including any requirements for specific documents or certifications to be provided by candidates in connection therewith. – [ 1/8 ]</p> <p><i>Competitiveness and Impartiality</i></p> <p><b>Source: GPA Standard</b></p>		
2.	<p>PPL stipulates that the notice of intended procurement / tender documentation must include: – [ 1 point ]</p> <p><b>Point Distribution</b></p> <ul style="list-style-type: none"> <li>a) Payment conditions – [ 0.2 ]</li> <li>b) Information about bid security (if required) – [ 0.2 ]</li> <li>c) Source of funding – [ 0.2 ]</li> <li>d) Payment information for multi-year contracts – [ 0.2 ]</li> <li>e) Draft of contract – [ 0.2 ]</li> </ul> <p><i>Competitiveness and Impartiality</i></p>	<p>Overall: 1</p> <p>Components:</p> <ul style="list-style-type: none"> <li>a) 0.2</li> <li>b) 0.2</li> <li>c) 0.2</li> <li>d) 0.2</li> <li>e) 0.2</li> </ul>	<p>Articles 38, 39, 40 of Law 9643 “PP”</p> <p>Articles 11,12,13,14 of CMD 914 date 29.12.2014</p> <p><b>Article 10</b> <b>Standard Tender Documents</b></p> <p>The Public Procurement Agency shall prepare the format of the standard tender documents to be used during the procurement procedures. These documents shall provide information, which has to do with the subject matter of the contract and the type of procedure, which shall in any case be supplemented by the contracting authorities. During the preparation of the tender documents, the contracting authority shall use the standard documents as defined in the procurement rules and it shall make them available free of charge electronically or against payment in cases when it is decided by the contracting authority in procurement procedures that do not require public notice, under Article 38 of the Public Procurement Law. In any case, the names and numbers of economic operators that have shown interest in purchasing the tender documentation or its inspection should be kept secret.</p> <p><b>Article 11</b> <b>Content of Standard Tender Documents</b></p>

			<p>1. Standard Tender Documents shall contain general information and specific information.</p> <p>2. The general information shall be prepared according to the relevant forms, part of the standard tender documents. This information shall include:</p> <p>The contract notice;</p> <p>Invitation to tender (in case of phased procedures);</p> <p>Guidelines for candidates/bidders;</p> <p>General qualification/participation criteria;</p> <p>Form of disclosing the conflict of interest;</p> <p>Economic bid;</p> <p>Bid security, if required;</p> <p>Notification of disqualification of bidders/candidates;</p> <p>Complaints;</p> <p>The notification of the winner;</p> <p>The general terms and conditions of the contract.</p> <p>The framework agreement template;</p> <p>Bid bond;</p> <p>Notice of the signed contract.</p> <p>3. Specific information shall include information on works, goods and services contracts.</p> <p>a) Specific information on works contracts shall include, at least, the following:</p> <p>The project and specifications;</p> <p>Detailed bill of quantity and costs;</p>
--	--	--	---

			<p>Implementation schedule;</p> <p>Special requirements for qualification and the award criteria.</p> <p>b) Specific information on goods contracts shall include, at least, the following:</p> <p>Technical specification</p> <p>Delivery schedule;</p> <p>Special requirements for qualification and award criteria for the winner.</p> <p>c) Specific information on service contracts shall include, at least, the following:</p> <p>Terms of reference;</p> <p>Implementation schedule;</p> <p>Requests for key personnel;</p> <p>Special requirements for qualification and winner award criteria.</p> <p><b>Article 12</b></p> <p><b>Contract notice</b></p> <p>The contract notice shall contain all the necessary information that enables economic operators to decide whether or not to participate in public procurement procedures.</p> <p>This information shall include: the name and address of the contracting authority and the person (s) responsible for the procedure; the subject matter; the notice reference and procurement procedure; the estimated limit value of the contract and the duration of the contract; a brief description of the contract and/or <i>lots</i> if used; the winner's award criteria; the terms of the framework agreement; place, methods and fee for obtaining the tender documents, if required; the place, date and time for submitting bids and for opening them; language/languages of</p>
--	--	--	---

			<p>bids and documents; further information as deemed useful by the contracting authority.</p> <p>In the case of phased procurement procedures, the information given in the contract notice should refer to the first stage of the qualification of the procedure.</p> <p><b>Article 13</b></p> <p><b>Invitation to bid</b></p> <p>Invitation to bid shall be sent only to the candidates selected in the first phase of the qualification through the phased procurement procedure. It shall contain all the necessary information in order to enable the selected candidates to submit their bids.</p> <p>This information shall include:</p> <ul style="list-style-type: none"> <li>- A reference to the published contract notice;</li> <li>- The winner's award criteria;</li> <li>- The framework agreement terms, if applicable;</li> <li>- Place, date and time for submitting the bids and for their opening;</li> <li>- Language/languages of bids and documents;</li> <li>- Further information that the contracting authority deems necessary.</li> </ul> <p><b>Article 14</b></p> <p><b>Guidelines for bidders/candidates</b></p> <p>1. The guidelines should contain all relevant information for the preparation of the bid, as well as actions prohibited by law. They shall explain that participants in the procurement procedure should only use standard tender documents, without making any changes.</p> <p>In the case of procurement procedures above high monetary limits,</p>
--	--	--	---

			<p>tender documents shall be drafted in Albanian and English, unless otherwise provided for in the relevant agreements.</p> <p>In the case of procurement procedures above high monetary thresholds, the contracting authority may convert the value of the submitted bid into an international currency as selected by it in the tender documents at the official exchange rate of the Bank of Albania as of the date, on which the contract notice was sent for publication. In procurement procedures under high monetary thresholds, the language used shall be the Albanian language.</p> <p>3. The guidelines should stipulate that, if the contracting authority deems it necessary to carry out a visit to the site/facility, then all participants in the tender should have equal opportunity to observe the work/execution site. In addition, the contracting authority may organize a preliminary conference (also in the case of goods), where all candidates may seek clarification of the uncertainties that arise during the preparation of the documents.</p> <p>Requests for clarification should be submitted in writing and the respective responses of the contracting authority should be sent, without exception, to all economic operators that have requested the tender documents.</p> <p>In the case of procurement procedures by electronic means, the requests for clarification shall be made under the guidelines of the Public Procurement Agency.</p> <p>4. Any change in tender documents should be notified to all interested economic operators, under Article 42 of the Public Procurement Law and under these rules.</p> <p>5. When preparing bids, candidates or bidders should include all fiscal obligations, which are in force up to 28 (twenty eight) days prior to the</p>
--	--	--	---

			<p>opening of the bids, with the exception of VAT, which, if applicable , will be calculated on the bid value.</p> <p>6. The economic bids submitted by the bidder should be fixed during the execution of the contract and should not be subject to any change.</p> <p>If, after the date of signing the contract, any law, regulation, order, guideline or procedure with the effect of law in the Republic of Albania enters into force, is passed or amends and affects the conditions, including the date of delivery or contract price, the terms or price of the contract will be governed to the extent that the contractor has been affected by the fulfillment of its obligations under the contract.</p> <p>The bid submitted with a variable price will be rejected by the contracting authority as unacceptable.</p> <p>7.Guidelines shall provide information also about the procedure of reviewing and filing complaints.</p>
3.	<p>PPL defines all eligibility criteria for participation in tender that must include at least: – [ <b>1 point</b> ]</p> <p><b>Point Distribution</b></p> <p>a) Capabilities with the respect to personnel, equipment, and construction or manufacturing facilities.– [ <b>1/3</b> ]</p> <p>b) Financial position.– [ <b>1/3</b> ]</p>	<p>Overall: 1</p> <p>Components:</p> <p>a) 1/3</p> <p>b) 1/3</p>	<p>Article 45 of Law 9643 “PP”</p> <p>Articles 11, 15, 26,27,28,29,30,31 of CMD 914 date 29.12.2014</p>

	<p>c) Grounds of restriction for participation.– [ 1/3 ]</p> <p><i>Competitiveness and Impartiality</i></p> <p><b>Source: EBRD Methodology</b></p>	c) 1/3	
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><b>Point Distribution</b></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><b>Source: EU Standard</b></p>	<p>Overall: 1</p> <p>Components:</p> <p>a) 0.5</p> <p>b) 0.5</p> <p>Only in the situation of lack of personnel</p>	<p>Article 26 of Law 9643 “PP”</p> <p>Articles 57, 58 of CMD 914 date 29.12.2014</p> <p>a) Art. 57 (1) “In case of shortage of staff, the contracting authority may establish a joint procurement unit with one or more contracting authorities or may employ external experts upon a contract.”</p> <p>b) Art. 58 The Bid Evaluation Committee shall be appointed by a special order of the head of the contracting authority and it shall consist of not less than 3 persons, where, at least, one shall be a field expert. The responsible persons for drafting tender documents can’t be appointed as members of the Bid Evaluation Committee</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. – [</p>	<p>0.5</p> <p>Electronic, non machine-</p>	<p>Articles 38, 39, 40 of Law 9643 “PP”</p>

	<b>1 point ]</b>  <b>Scoring Method</b> <ul style="list-style-type: none"> <li>• Electronic, machine-readable, free of charge – [ 1 ]</li> <li>• Electronic, machine-readable, not free of charge – [ 0.75 ]</li> <li>• Electronic, non-machine-readable – [ 0.5 ]</li> <li>• Only on paper – [ 0.25 ]</li> <li>• None – [ 0 ]</li> </ul> <p style="text-align: right;"><i>Transparency</i></p>	readable, free of charge	Articles 11,12,13,14 of CMD 914 date 29.12.2014
6.	<p>PPL ensures electronic, machine-readable and free of charge access to tender documentation amendments, either the full text or key information contained in these documents. – [ 1 point ]</p> <b>Scoring Method</b> <ul style="list-style-type: none"> <li>• Electronic, machine-readable, free of charge – [ 1 ]</li> <li>• Electronic, machine-readable, not free of charge – [ 0.75 ]</li> <li>• Electronic, non-machine-readable – [ 0.5 ]</li> <li>• Only on paper – [ 0.25 ]</li> <li>• None – [ 0 ]</li> </ul> <p style="text-align: right;"><i>Transparency</i></p>	0.5  Electronic, non machine-readable, free of charge	Articles 42, 48 of Law 9643 “PP”  Article 62 of CMD 914 date 29.12.2014
7.	<p>PPL ensures electronic, machine-readable and free of charge access to tender candidate applications (all documents needed for the request to participate in a tender), either the full text or key information contained</p>	0.5  Electronic, non machine-	Articles 1, 36,43, 44 of Law 9643 “PP”



	<p>in these documents. – [ <b>1 point</b> ]</p> <p><b>Scoring Method</b></p> <ul style="list-style-type: none"> <li>• Electronic, machine-readable, free of charge – [ <b>1</b> ]</li> <li>• Electronic, machine-readable, not free of charge – [ <b>0.75</b> ]</li> <li>• Electronic, non-machine-readable – [ <b>0.5</b> ]</li> <li>• Only on paper – [ <b>0.25</b> ]</li> <li>• None – [ <b>0</b> ]</li> </ul> <p><i>Transparency</i></p>	readable, free of charge	Article 5 of CMD 914 date 29.12.2014
8.	<p>PPL ensures electronic, machine-readable and free of charge access to information about the bids offered by tender participant. – [ <b>1 point</b> ]</p> <p><b>Scoring Method</b></p> <ul style="list-style-type: none"> <li>• Electronic, machine-readable, free of charge – [ <b>1</b> ]</li> <li>• Electronic, machine-readable, not free of charge – [ <b>0.75</b> ]</li> <li>• Electronic, non-machine-readable – [ <b>0.5</b> ]</li> <li>• Only on paper – [ <b>0.25</b> ]</li> <li>• None – [ <b>0</b> ]</li> </ul> <p><i>Transparency</i></p>	<p>0.5</p> <p>Electronic, non-machine-readable (some exceptions are foreseen regarding commercial secrets, confidential information and Data Saving Law)</p>	Article 21 of Law 9643 “PP”
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. – [ <b>1 point</b> ]</p>	<p>0.5</p> <p>Electronic, non machine-readable, free of</p>	<p>Article 55 of Law 9643 “PP”</p> <p>Articles 66,67 of CMD 914 date 29.12.2014</p>

	<b>Scoring Method</b> <ul style="list-style-type: none"> <li>• Electronic, machine-readable, free of charge – [ 1 ]</li> <li>• Electronic, machine-readable, not free of charge – [ 0.75 ]</li> <li>• Electronic, non-machine-readable – [ 0.5 ]</li> <li>• Only on paper – [ 0.25 ]</li> <li>• None – [ 0 ]</li> </ul> <p style="text-align: right;"><i>Transparency</i></p>	charge	
10.	<p>Unless justified by the subject-matter of the contract, technical specifications shall not refer to a specific make or source, or a particular process which characterizes the products or services provided by a specific economic operator, or to trade marks, patents, types or a specific origin or production with the effect of favoring or eliminating certain undertakings or certain products. – [ 1 point ]</p> <p style="text-align: right;"><i>Competitiveness and Impartiality</i> <b>Source: EU Standard</b></p>	1	<p>Article 23/5 of Law 9643 “PP”</p> <p>“There shall be no requirement or reference in the technical specifications to a particular trademark or name, patent, design or type, specific origin, producer or service provider, except for cases when there is no sufficient, precise or understandable way of the requirements description provided that the words “or equivalent” are included in these 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 style="text-align: right;"><i>Efficiency</i></p>	1	<p>Article 50 of Law 9643 “PP”</p>

12.	<p>Legislation explicitly defines conflict of interest and includes mechanisms for its prevention: – [ <b>1 point</b> ]</p> <p><b>Point Distribution</b></p> <ul style="list-style-type: none"> <li>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. – [ <b>1/3</b> ]</li> <li>b) PPL stipulates that persons responsible for procurement decision-making in procuring entities must declare in writing any conflict of interest with tender participants. – [ <b>1/3</b> ]</li> <li>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. – [ <b>1/3</b> ]</li> </ul> <p style="text-align: right;"><i>Accountability and Integrity</i>  <b>Source for a): EU Standard</b>  <b>Source for b): OECD Methodology</b></p>	<p>Overall: 2/3 of 1 point</p> <p>Components:</p> <ul style="list-style-type: none"> <li>a) 1/3</li> <li>b) 1/3</li> <li>c) 0</li> </ul>	<p>Article 26 of Law 9643 “PP”</p> <p>Articles 11,16 of CMD 914 date 29.12.2014</p>
-----	---	--	---

13.	<p>PPL stipulates that award decisions must be made solely on the basis of evaluation criteria that have been precisely specified in advance in the tender documentation. – [ 1 point ]</p> <p><i>Competitiveness and Impartiality</i></p>	1	<p>Article 53 of Law 9643 “PP”</p> <p>Article 66 of CMD 914 date 29.12.2014</p>
14.	<p>PPL stipulates that upon modification of any criteria and requirements set out in tender documentation prior to the completion of tender application submission period, a procuring entity shall transmit in writing all such modifications: – [ 1 point ]</p> <p><b>Point Distribution</b></p> <p>a) To all tender candidates; and – [ 0.5 ]</p> <p>b) Give additional adequate time (either by extending or restarting the time) to allow such candidates to modify and re-submit amended tender application. – [ 0.5 ]</p> <p><i>Competitiveness and Impartiality</i></p>	<p>Overall: 1</p> <p>Components:</p> <p>a) 0.5</p> <p>b) 0.5</p>	<p>Article 42 (2) of Law 9643 “PP”</p> <p>“At any time prior to the deadline for submission of bids, the CA may, for any reason, whether on its own initiative or as a result of a request for clarification by an economic operator, modify the tender document by drafting an addendum. All addendums should be immediately communicated to all economic operators, which have obtained the tender documents and it shall become binding on those economic operators. The addendum shall be made available also by electronic means.</p> <p>2/1 In any case, when tender documents are modified, contracting authorities shall extend the deadline for the submission of bids, by 5 days, whereas for procurements above the high monetary thresholds by 10 days“</p> <p>Article 62 of CMD 914 date 29.12.2014</p>
15.	<p>PPL stipulates that procuring entities shall inform each tender participant of the decision reached about the winner of the tender, including failure to do so, as soon as it is made, but no later than the end</p>	1	<p>Article 55 of Law 9643 “PP”</p>

	of the following working day. – [ <b>1 point</b> ]  <i>Transparency</i>		Article 67 of CMD 914 date 29.12.2014
16.	<p>PPL ensures that on request from the tender participant the procuring entity shall as quickly as possible inform: – [ <b>1 point</b> ]</p> <p><b>Point Distribution</b></p> <ul style="list-style-type: none"> <li>a) Any unsuccessful tender candidate of the reasons for the rejection of its request to participate (if such approval is required).– [ <b>0.5</b> ]***</li> <li>b) Any unsuccessful tender participant of the reasons for the rejection of its bid. – [ <b>0.5</b> ]</li> </ul> <p>*** If a) is not applicable, b) equals [ <b>1 point</b> ].</p> <p style="text-align: right;"><i>Transparency</i> <b>Source: EU Standard</b></p>	<p>Overall: 1</p> <p>Components:</p> <ul style="list-style-type: none"> <li>a) 0.5</li> <li>b) 0.5</li> </ul>	<p>Article 55 of Law 9643 “PP”</p> <p>Article 67 of CMD 914 date 29.12.2014</p>
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: – [ <b>1 point</b> ]</p> <p><b>Point Distribution</b></p> <ul style="list-style-type: none"> <li>a) Life-cycle cost – [ <b>1/3</b> ]</li> <li>b) Best price-quality ratio – [ <b>1/3</b> ]</li> </ul>	<p>Overall: 1</p> <p>Components:</p> <ul style="list-style-type: none"> <li>a) 1/3</li> <li>b) 1/3</li> </ul>	<p>Article 55 of Law 9643 “PP”</p> <p>Art. 55 (1) The winning bid should be:</p> <p>a) the bid, which, under the requirements and criteria as set forth in the tender documents, meets the requirements of the procurement subject matter with the lowest price; or b) the most economically advantageous tender based on various criteria related to the subject matter of the contract to be procured, such as: quality, price, technical characteristics,</p>

	c) Environmental and/or social costs – [ 1/3 ]  <i>Efficiency</i> <b>Source: EU Standard</b>	c) 1/3	aesthetic, functional and environmental features, operating costs, the economic efficiency, after-sales maintenance, delivery or execution deadline, provided that the following criteria be objective and non-discriminatory”  Article 31 (2) of CMD 914 date 29.12.2014  „The criterion of the most economically advantageous tender shall be used in complex contracts of a special nature that, in addition to the price for the work/goods/services, which constitute the subject matter of the contract, which contain also other elements of economic value and, which charge to the contracting authority costs such as after-sale services, spare parts, most favorable technical solutions, future technical support, or those which are less polluting to the environment.
<b>Post-tendering Phase</b>			
#	Indicator	Score	Relevant Article and Law (if applicable)
1.	PPL stipulates that upon successful conclusion of tender (upon choosing and announcing of the winner) the following information must be made public as soon as it is available: – [ 1 point ]  <b>Point Distribution</b>	Overall: 0.9  Components:  a) 0.1	Article 58 of Law 9643 “PP”  Article 21 of CMD 914 date 29.12.2014

	<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.– [ <b>0.1</b> ]</p> <p>b) Subject of procurement.– [ <b>0.1</b> ]</p> <p>c) CPV codes (or other classificatory system of similar nature).– [ <b>0.1</b> ]</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.– [ <b>0.1</b> ]</p> <p>e) Type of award procedure; in the case of negotiated procedure without prior publication, justification.– [ <b>0.1</b> ]</p> <p>f) Date of the signing of contract(s) or of framework agreement(s).– [ <b>0.1</b> ]</p> <p>g) Duration of the contract. – [ <b>0.1</b> ]</p> <p>h) Number of bids and their respective amounts received.– [ <b>0.1</b> ]</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).– [ <b>0.1</b> ]</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</p>	<p>b) 0.1</p> <p>c) 0.1</p> <p>d) 0.1</p> <p>e) 0.1</p> <p>f) 0.1</p> <p>g) 0.1</p> <p>h) 0.1</p> <p>i) 0.1</p> <p>j) 0</p>	
--	---	---	--

	<p>information may be obtained. – [ 0.1 ]</p> <p><i>Transparency</i></p> <p><b>Source: EU Standard</b></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><b>Point Distribution</b></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>Overall: 1</p> <p>Components:</p> <p>a) 0.5</p> <p>b) 0.5</p>	<p>Article 61 of Law 9643 “PP”</p> <p>(1) CA shall ask bidders in the contract notice or in the tender documents to indicate in their bids the percentage of the contract they may wish to subcontract to third parties and any proposed sub-contractors.</p> <p>(2) This percentage, which is bound to be sub-contracted, shall be proportionate to the value of the contract and it should not exceed 40 % of the overall contract value.</p> <p>Article 75 of CMD 914 date 29.12.2014</p> <p>1. The contracting authority may allow subcontracting to carry out a part of the contract. Contractors can in no case transfer the contract to third parties. The contracting authority shall allow subcontracting in particular to promote the participation of small and medium-sized economic operators.</p> <p>2. It is necessary for the tender documents to clearly determine whether the subcontracting is allowed or not and whether the contracting authority will make direct payments or not to the subcontractor.</p> <p>3. Under no circumstances shall subcontracting exceed 40% of the value of the contract.</p> <p>4. Upon submission of bids, bidders should declare the works/services/goods or a part of them that they intend to subcontract,</p>



			<p>if they are declared winners, as well as the name of the subcontractor.</p> <p>5. Prior to the conclusion of the contract, the successful bidder should submit to the contracting authority a notarized copy of the subcontracting agreement and proof of the qualifications and technical requirements of the subcontractor in such a way that the contracting authority may approve the subcontracting. The Bid Evaluation Committee shall evaluate whether the subcontractor meets the requirements of Article 45 of the Public Procurement Law or not, as well as whether the subcontractor possesses or not the technical qualifications for the part of the work and the services it will perform or for the goods it will supply.</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><b>Scoring Method</b></p> <ul style="list-style-type: none"> <li>• Electronic, machine-readable, free of charge – [ 1 ]</li> <li>• Electronic, machine-readable, not free of charge – [ 0.75 ]</li> <li>• Electronic, non-machine-readable – [ 0.5 ]</li> <li>• Only on paper – [ 0.25 ]</li> <li>• None – [ 0 ]</li> </ul> <p style="text-align: right;"><i>Transparency</i></p>	<p>0.5</p> <p>(only key information)</p>	<p>Article 25 of CMD 914 date 29.12.2014</p> <p>Art. 25 (1) The contracting authority shall send the notice of the signed contract for publication within 5 days of concluding the contract.</p> <p>(2) The notice should contain: - The reference number of the procedure/contract and the name of the contracting authority; - Description of works/goods/services, the price and duration of the contract; - Other data from the contracting authority.</p> <p>(3) The contracting authority should send the awarded contract for publication in the case of a contract concluded by a framework agreement.</p>
4.	PPL ensures electronic, machine-readable and free of charge access to contract amendments, either the full text or key information contained	0	

	<p>in these documents. – [ <b>1 point</b> ]</p> <p><b>Scoring Method</b></p> <ul style="list-style-type: none"> <li>• Electronic, machine-readable, free of charge – [ <b>1</b> ]</li> <li>• Electronic, machine-readable, not free of charge – [ <b>0.75</b> ]</li> <li>• Electronic, non-machine-readable – [ <b>0.5</b> ]</li> <li>• Only on paper – [ <b>0.25</b> ]</li> <li>• None – [ <b>0</b> ]</li> </ul> <p><i>Transparency</i></p>		
5.	<p>PPL ensures electronic, machine-readable and free of charge access to contract performance information (acceptance act and milestone reports), either the full text or key information included in these documents. – [ <b>1 point</b> ]</p> <p><b>Scoring Method</b></p> <ul style="list-style-type: none"> <li>• Electronic, machine-readable, free of charge – [ <b>1</b> ]</li> <li>• Electronic, machine-readable, not free of charge – [ <b>0.75</b> ]</li> <li>• Electronic, non-machine-readable – [ <b>0.5</b> ]</li> <li>• Only on paper – [ <b>0.25</b> ]</li> <li>• None – [ <b>0</b> ]</li> </ul> <p><i>Transparency</i></p>	0	
6.	<p>PPL ensures electronic, machine-readable and free of charge access to payment receipts, either the full text or key information contained in</p>	0	

	<p>these documents. – [ <b>1 point</b> ]</p> <p><b>Scoring Method</b></p> <ul style="list-style-type: none"> <li>• Electronic, machine-readable, free of charge – [ <b>1</b> ]</li> <li>• Electronic, machine-readable, not free of charge – [ <b>0.75</b> ]</li> <li>• Electronic, non-machine-readable – [ <b>0.5</b> ]</li> <li>• Only on paper – [ <b>0.25</b> ]</li> <li>• None – [ <b>0</b> ]</li> </ul> <p><i>Transparency</i></p>		
7.	<p>PPL clearly defines the procedures for inspection and quality control procedures: – [ <b>1 point</b> ]</p> <p><b>Point Distribution</b></p> <p>a) Quality control (<b>QC</b>) procedures for goods, works and services are well defined in the draft contracts/documents or in the regulations. – [ <b>0.5</b> ]</p> <p>b) Inspection of civil works is carried out by independent engineering firms or qualified government supervisors and inspectors. – [ <b>0.5</b> ]</p> <p><i>Efficiency</i></p> <p><b>Source: OECD Methodology</b></p>	<p>Overall: 1</p> <p>Components:</p> <p>a) 0.5</p> <p>b) 0.5</p>	<p>Article 62 of Law 9643 “PP”</p> <p>Article 77 of CMD 914 date 29.12.2014</p> <p>Art. 77 (1) During the performance of the contract, the contracting authority and/or other state bodies authorized by law shall supervise the activity of the contractor under the requirements, which are set out in the tender documents and the legislation in force.</p> <p>(3) In order to ensure that the quality of works, services or goods is the same as that, for which contractor is declared a winner, the contracting authority shall monitor the implementation of the contract and, in the event of a breach of the required conditions, it shall apply the penalties as prescribed in the contract. The contracting authority shall keep a written record in the presence of the contractor during the inspections. In case the contractor is not present, the contracting authority shall communicate in writing the contents of this record.</p>

			(4) At the end of the contract, the contracting authority shall prepare a summary report on the accuracy and quality of the contract execution. A copy of this report shall be also given to the contractor at his request.
8.	<p>PPL ensures electronic, machine-readable and free of charge access to any inspection and quality control reports, either the full text or key information contained in these documents. – [ 1 point ]</p> <p><b>Scoring Method</b></p> <ul style="list-style-type: none"> <li>• Electronic, machine-readable, free of charge – [ 1 ]</li> <li>• Electronic, machine-readable, not free of charge – [ 0.75 ]</li> <li>• Electronic, non-machine-readable – [ 0.5 ]</li> <li>• Only on paper – [ 0.25 ]</li> <li>• None – [ 0 ]</li> </ul> <p><i>Transparency</i></p>	0	
9.	<p>Procedures for acceptance of final products and processing of final payments are clearly defined by the PPL or contract law and are incorporated as standard clauses in contracts.– [ 1 point ]</p> <p><i>Efficiency</i></p> <p><b>Source: OECD Methodology</b></p>	0	
10.	PPL defines specific procedures for modifying contracts. – [ 1 point ]	0	

	<i>Uniformity of the Legislative Framework</i>		
11.	<p>PPL stipulates that procurement contract must include dispute resolution procedures. – [ <b>1 point</b> ]</p> <p><i>Uniformity of the Legislative Framework</i></p>	<p>1</p>	<p>Articles 60 of Law 9643 “PP”</p> <p>Standard tender documentation</p>
12.	<p>PPL stipulates that all procurement related documentation must be maintained: – [ <b>1 point</b> ]</p> <p><b>Scoring Method</b></p> <ul style="list-style-type: none"> <li>• In electronic form for a period of at least 10 years. – [ <b>1</b> ]</li> <li>• In paper form for a period of at least 3 years. – [ <b>0.5</b> ]</li> </ul> <p><i>Transparency</i></p>	<p>0</p> <p>(PPL does not contain any provision of the period in electronic form, or in paper form)</p>	
13.	<p>PPL stipulates that public procurement operations must be subject to internal and external audit conducted by qualified specialists. – [ <b>1 point</b> ]</p> <p><b>Point Distribution</b></p> <p>a) PPL stipulates that public procurement operations must be subject to internal audit conducted by qualified specialists. – [ <b>0.5</b> ]</p> <p>b) PPL stipulates that public procurement operations must be</p>	<p>Overall: 1</p> <p>Components:</p> <p>a) 0.5</p> <p>b) 0.5</p>	<p>Articles 12,13 of Law 9643 “PP”</p>

	subject to external audit conducted by qualified specialists. – [ <b>0.5]</b>  <i>Accountability and Integrity</i>		
--	---	--	--