

Transparent Public Procurement Rating (TPPR)



Ecuador

Public Procurement Legislation Assessment

2020

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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.

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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 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	According to article 18 of the Companies Act (Ley de Compañías), the Superintendency of Companies will organize, under its responsibility, a registry of companies. This information is public through the website https://appscvsmovil.supercias.gob.ec/portallnformacion/sector_societario.zul
2.	Budgets of all public procuring entities are publicly available. – [1 point]	1	According to article 7 of the Organic Law of

			Transparency and Access to Public Information (Ley Orgánica de Transparencia y Acceso a la Información Pública), all public institutions must publish "Total information on the annual budget that the institution administers, specifying income, expenses, financing and operating results in accordance with the budget classifiers, as well as liquidation of the budget, specifying recipients of the delivery of public resources."
3.	Public officials are required by law to file asset declarations. – [1 point]	1	According to the Constitution, article 231. There's also a Law for Presentation and Control of Asset Declarations (Ley de Presentación y Control de Declaraciones Patrimoniales Juradas).
4.	The country has adopted legal provisions ensuring the right to request public information. – [1 point]	1	The Organic Law of Transparency and Access to Public Information (Ley Orgánica de Transparencia y Acceso a la Información Pública) has been in effect since 2004.
5.	Legislation includes provisions regulating whistleblower protection. – [1 point]	0	The Organic Criminal Code (Código Orgánico Integral Penal, COIP) currently does not include any protection for the whistleblowers. As of June 2020, a new article (article 430.1)

			will be incorporated, through which a whistleblower can request his entry into the National System for Protection and Assistance to Victims, Witnesses and other Participants in the Criminal Process.
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Indicators by Procurement Process

General Characteristics of the Procurement System			
#	Indicator	Score	Relevant Article and Law (if applicable)
1.	<p>Public Procurement Legislation (PPL), which may include primary and secondary legislation, lays out the basic principles and general framework of the procurement process, makes it operational and indicates how the law must be applied to specific circumstances. – [1 point]</p> <p><i>Uniformity of the Legislative Framework</i></p>	1	The Organic Law of the National Public Procurement System and its regulation (Ley Orgánica del Sistema Nacional de Contratación Pública y Reglamento a la Ley Orgánica del Sistema Nacional de Contratación Pública).
2.	<p>PPL (including primary and secondary legislation) is available in a single and accessible place. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] 	1	<p>As of January 2020, the official journal (Registro Oficial) that publishes all the regulations approved in Ecuador, is electronic and free of charge.</p> <p>https://www.registroficial.gob.ec/</p>

	<ul style="list-style-type: none"> None – [0] <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>Point Distribution</p> <ul style="list-style-type: none"> a) All state budget entities – [0.2] b) Local government entities – [0.2] c) Legal Entities of Public Law (LEPL) – [0.2] d) State owned companies – [0.2] e) State non-commercial legal entities – [0.2] <p><i>Uniformity of the Legislative Framework</i></p>	<p>Overall: 1</p> <p>Components:</p> <ul style="list-style-type: none"> a) 0.2 b) 0.2 c) 0.2 d) 0.2 e) 0.2 	<p>Article 1 of the Organic Law of the National Public Procurement System and its regulations applies to all institutions at all levels of government.</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. – [1 point]</p> <p>Point Distribution</p> <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] b) PPL clearly lists or refers to all exemptions. – [0.5] <p><i>Uniformity of the Legislative Framework</i></p>	<p>Overall: 1</p> <p>Components:</p> <ul style="list-style-type: none"> a) 0.5 b) 0.5 	<p>Articles 1 and 2 of the Organic Law of the National Public Procurement System.</p>
5.	<p>PPL determines a separate state body (procurement regulatory body) responsible for managing public procurement or assigns this function to a subordinate public body(ies). – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> PPL determines a separate state body responsible for managing public procurement which is authorized to have income in addition to state funding. – [1] PPL determines a separate state body responsible for managing public procurement. – [0.75] PPL assigns this function to a subordinated public body(ies). – [0.5] There is no responsible state body. – [0] 	<p>1</p>	<p>Article 10 of the Organic Law of the National Public Procurement System, creates the procurement regulatory body (Servicio Nacional de Contratación Pública - SERCOP), as a public, technical-regulatory body with its own legal personality and administrative, technical, operational, financial and budgetary autonomy. Article 13 of</p>

	<i>Uniformity of the Legislative Framework</i>		the same Law establishes other possible sources of income, in addition to the General State Budget.
6.	<p>PPL stipulates that the procurement regulatory body is responsible for at least coordination and monitoring (i.e. data collection and analysis as opposed to regulation and control) of public procurement activities. – [1 point]</p> <p><i>Uniformity of the Legislative Framework</i></p>	1	Articles 10, 14 and 21 of the Organic Law of the National Public Procurement System, establish the attributions of the procurement regulatory body (SERCOP), among which are establishing guidelines and tools for public contracting, administering the national contracting portal and preparing and publishing statistics.
7.	<p>Legislation provides for a mechanism of consultation with the private and civil society sectors that is aimed at receiving feedback and identifying problems in the procurement system. PPL obligates the entity responsible for managing public procurement to use this mechanism on a regular basis. – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> a) Legislation provides for a mechanism of consultation with the private sector. – [0.25] b) Legislation provides for a mechanism of consultation with the civil society sector. – [0.25] c) PPL obligates the entity responsible for managing public procurement to use this mechanism on a regular basis. – [0.5] <p><i>Accountability and Integrity</i></p>	<p>Overall: 0</p> <p>Components:</p> <ul style="list-style-type: none"> a) 0 b) 0 c) 0 	There's no mechanism of consultation with the private and civil society sectors in the Law.
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> <ul style="list-style-type: none"> a) PPL stipulates that electronic means is the primary method of conducting public procurement. – [0.5] 	<p>Overall: 1</p> <p>Components:</p> <ul style="list-style-type: none"> a) 0.5 b) 0.5 	According to article 21 of the Law, the Official Public Procurement Service of Ecuador is the COMPRASPUBLICAS electronic portal that is mandatory for all entities subject to the

	<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>Law and it is managed by the National Public Procurement Service. According to article 28 all the procedures must preferably be done using electronic means.</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>According to article 21 of the Law, the Official Public Procurement System of Ecuador is the COMPRASPUBLICAS electronic portal that is mandatory for all entities subject to the Law and it is managed by the National Public Procurement Service. This article also says that this electronic portal will be the only means used to carry out any electronic procedure related to a process of public procurement.</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>Several articles of the Law determine that the COMPRASPUBLICAS electronic portal is free to use, and that the National Public Procurement Service and the institutions of the National Public Procurement System will seek the interconnection and interoperability of their information systems and databases.</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>	Overall:	<p>Although article 4 of the Law mentions fair treatment and equality as principles, article 25.1 privileges national</p>

	<p>a) PPL should not allow domestic preferences. – [1/5]</p> <p>b) Participation of any candidate or group of candidates is based on qualification. – [1/5]</p> <p>c) Ensures that registration if required does not constitute a barrier to participation in tenders. – [1/5]</p> <p>d) State owned companies are not given any preference. – [1/5]</p> <p>e) Time-periods, including any extension of the time-periods, shall be the same for all interested or participating candidates.– [1/5]</p> <p style="text-align: right;"><i>Competitiveness and Impartiality</i> Source: GPA Standard</p>	<p>Compo nents: 0.2</p> <p>a) 0</p> <p>b) 0</p> <p>c) 0</p> <p>d) 0</p> <p>e) 1/5</p>	<p>participation, establishing that "the specifications will contain evaluation criteria that encourage and promote local and national participation, through a margin of preference for providers of works, goods and services, including consulting, of local and national origin." Article 25.2 gives preference to goods, works and services of Ecuadorian origin, and to the actors of the Popular and Solidarity Economy and Micro, small and medium-sized companies. Article 2 even considers special regime processes "those that the State subscribes with public sector entities, among themselves, or those with public companies or companies whose subscribed capital belongs, at least fifty (50%) percent to public law entities or their subsidiaries." Article 18 establishes as a requirement for bidding in a procurement process the registration in the Single Registry of Suppliers. Regarding the time periods there are no distinctions made in the legislation, so the same time frames apply to all interested candidates.</p>
12.		1	Article 52 of the regulation for the

	<p>PPL stipulates that a procuring entity shall, consistent with its own reasonable needs, provide sufficient time (based on the GPA standard - Article XI) for candidates to prepare and submit tender application. – [1 point]</p> <p><i>Competitiveness and Impartiality</i></p>		<p>Organic Law of the National Public Procurement System establishes that the period between the invitation to tender and the closing of the reception of tenders shall be fixed by the contracting entity in accordance with the amount and complexity of the procurement, taking into consideration the time required for suppliers to prepare their tenders. In no case shall the term be less than ten days nor greater than thirty days, except in the case of works contracts in which the maximum term may be up to forty-five days.</p>
13.	<p>PPL stipulates that each procuring entity has a staff member(s) responsible for conducting procurement activities. – [1 point]</p> <p><i>Uniformity of the Legislative Framework</i></p>	0	<p>There is no reference of this topic in the PPL legislation</p>
14.	<p>PPL references sanctions for violations of the PPL. – [1 point]</p> <p><i>Accountability and Integrity</i></p>	1	<p>Title VI of the Organic Law of the National Public Procurement System deals with infractions and sanctions that apply to vendors/suppliers. The first general provision of the Law establishes that violations of the law committed by a public servant involved in the contracting process will be sanctioned by the Comptroller General of the State.</p>

15.	<p>Legislation explicitly defines fraud and corruption / abuse of public office and spells out the individual responsibilities and consequences for government employees and private firms or individuals found guilty of fraud or corruption. – [1 point]</p> <p style="text-align: right;"><i>Accountability and Integrity</i> Source: OECD Methodology</p>	1	<p>The Organic Law of the National Public Procurement System does not establish these issues. These are established in the Organic Penal Code, Chapter V, section III on offences against the efficiency of public administration.</p>
16.	<p>PPL ensures the right to review (complaints), for all interested parties, including general public, tender participants and potential suppliers. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • PPL ensures the right to review, for general public, tender participants and potential suppliers. – [1] • PPL ensures the right to review, for tender participants and potential suppliers. – [0.75] • PPL ensures the right to review, for tender participants. – [0.25] • No one has the right to review. – [0] <p style="text-align: right;"><i>Uniformity of the Legislative Framework</i></p>	0.75	<p>Article 102 of the Organic Law of the National Public Procurement System establishes that complaints may be submitted to SERCOP by those who have a direct interest and consider themselves affected by the actions taken by contracting entities in relation to public procurement regulations. The use of the words "direct interest" and "considered themselves affected" can be interpreted in an exclusive sense. However, as published on the SERCOP website there is the possibility for any citizen to report irregularities and non-compliance with la PPL, this is not based in any specific article of the Law.</p> <p>https://www.compraspublicas.gob.ec/ProcesoContratacion/compras/FO/combaterCorrupcion.cpe</p>

			and https://www.youtube.com/watch?v=Q2zyBRFUta0)
17.	<p>PPL ensures the right to review throughout the procurement process. – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> a) Complaints can be filed at any time during the procurement process up until the signing of the contract. – [1/3] b) A procurement contract cannot be awarded with a pending complaint. – [1/3] c) A reasonable amount of time should be left between publication of the contract award decision and the signing of the contract, in order to give any stakeholder the opportunity to challenge the award decision. – [1/3] <p style="text-align: right;"><i>Uniformity of the Legislative Framework</i></p>	<p>Overall: 0.33</p> <p>Components:</p> <ul style="list-style-type: none"> a) 1/3 b) 0 c) 0 	Based on articles 102 and 103 of the Organic Law of the National Public Procurement System.
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. – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> a) PPL ensures the existence of an independent review body. – [0.7] b) The review body includes civil society members. – [0.3] <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"> a) 0.7 b) 0 	Claims and appeals are known by SERCOP, independent of the parties involved (articles 102 and 103). In the case of more serious disputes, the Law establishes the possibility of activating alternative methods, such as mediation and arbitration in law (article 104) or file actions in Courts (article 105).
19.	<p>PPL ensures electronic, machine-readable and free of charge access to submitted complaints, either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] 	0	There is no reference of this topic in the PPL legislation

	<ul style="list-style-type: none"> Only on paper – [0.25] None – [0] <p style="text-align: right;"><i>Transparency</i></p>		
20.	<p>PPL ensures electronic, machine-readable and free of charge access to dispute resolutions (of the independent review body), either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> Electronic, machine-readable, free of charge – [1] Electronic, machine-readable, not free of charge – [0.75] Electronic, non-machine-readable – [0.5] Only on paper – [0.25] None – [0] <p style="text-align: right;"><i>Transparency</i></p>	0	There is no reference of this topic in the PPL legislation
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> <ul style="list-style-type: none"> a) Subject-matters (CPV- or other similar classificatory system) of planned procurements. – [0.25] b) Planned dates (a range of week/month/quarter) of publication of the notices of intended procurement. – [0.25] c) Estimated value of procurements. – [0.25] d) Source of funding. – [0.25] <p style="text-align: right;"><i>Efficiency</i></p>	<p>Overall: 0.75</p> <p>Components:</p> <ul style="list-style-type: none"> a) 0.25 b) 0.25 c) 0.25 d) 0 	Article 22 of the Organic Law of the National Public Procurement System and article 26 of its Regulation establish the obligation to publish the Annual Procurement Plan (PAC) within the first 15 days of January. The PACs must contain: - The hiring processes that will be carried out in the fiscal year. - A description of the subject matter of each process, sufficient to enable vendors to identify the goods or services to be contracted. - The

			estimated budget. - The Plan's implementation timeline.
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 style="text-align: right;"><i>Transparency</i></p>	1	<p>According to article 22 of the Organic Law of the National Public Procurement System, all procurement entities should upload their public procurement annual plans in the official procurement portal (https://www.compraspublicas.gob.ec/ProcesoContratacion/compras/PC/buscarPACe.cpe)</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 style="text-align: right;"><i>Efficiency</i> Source: OECD Methodology</p>	1	<p>According to article 22 of the Organic Law of the National Public Procurement System, the Annual Procurement Plan must be formulated with its budget, always aligned with the institution's four-year budget planning, the National Development Plan and the General State Budget. According to article 87 of the Organic Code of Planning and Public Finance (Código Orgánico de Planificación y Finanzas Públicas), this programming / planning serves as a mandatory framework for the formulation of the General State Budget.</p>

4.	<p>PPL stipulates that procurement process should not normally be initiated until the appropriate financial resources have been identified. – [1 point]</p> <p><i>Accountability and Integrity</i></p>	1	<p>According to article 22 of the Organic Law of the National Public Procurement System and article 27 of its Regulation, prior to launching a contracting process, the budgetary availability and the existence of sufficient resources to cover the obligations arising from the contracting must be verified and certified by the financial director of the institution.</p>
5.	<p>PPL defines the composition, powers, responsibilities and decision-making procedures of the body (tender commission or a person) responsible for conducting tender within the procuring entity. – [1 point]</p> <p><i>Uniformity of the Legislative Framework</i></p>	1	<p>Articles 42 and 49 of the Organic Law of the National Public Procurement System establish the obligation to set up a technical commission for public tenders and short-list procurement, and set out its core responsibilities. It also establishes the responsibilities of the highest authority of the procuring entities in certain types of procurement processes.</p>
6.	<p>Minimum monetary thresholds exist for different types of procurement. – [1 point]</p> <p><i>Efficiency</i></p>	1	<p>Article 40 of the Organic Law of the National Public Procurement System establishes monetary thresholds for the different types of procurement based on a formula involving a coefficient of the annual state budget. SERCOP publishes the</p>

			tables detailing the thresholds that apply to each year in its website. (https://portal.compraspublicas.gob.ec/sercop/montos-de-contratacion-2020/)
7.	<p>PPL stipulates that open tender is the default procedure for any public procurement, and all exceptions are clearly listed by the PPL. – [1 point]</p> <p>Point Distribution</p> <p>a) Open tender is the default procedure for any public procurement. – [0.5]</p> <p>b) All exceptions are clearly listed by the PPL. – [0.5]</p> <p><i>Competitiveness and Impartiality</i></p>	<p>Overall: 0</p> <p>Components:</p> <p>a) 0</p> <p>b) 0</p>	Open tender is not the default procedure.
8.	<p>PPL stipulates that justification for using a non-competitive procedure must be made public by the procuring entity. – [1 point]</p> <p><i>Accountability and Integrity</i></p>	1	Article 40 of the Organic Law establishes the rule by which a non-competitive procedure can be used and direct contracting can be done. It is not at the discretion or justification of the procuring entity.
9.	<p>PPL stipulates that provided that it does not use this provision for the purpose of avoiding competition among suppliers or in a manner that discriminates against foreign suppliers or protects domestic suppliers, a procuring entity may use non-competitive procedure (direct procurement) when: – [1 point]</p> <p>a) Where the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist.</p> <p>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</p>	0.5	According to the Organic Law, direct procurement is applicable in Ecuador by reason of amount (articles 40, 51 and 52.1), for purchases through electronic catalog of certain products (article 44) and in exceptional cases of emergency (article 57). Article 52.2 of the law establishes that contracts for small amounts can be made directly. Also, article 89

	<p>procurement; or would cause significant inconvenience or substantial duplication of costs for the procuring entity.</p> <p>c) Insofar as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the procuring entity, the goods or services could not be obtained in time using open tendering or selective tendering.</p> <p>d) Where a procuring entity procures a prototype or a first good or service that is developed at its request in the course of, and for, a particular contract for research, experiment, study or original development.</p> <p>e) For purchases made under exceptionally advantageous conditions that only arise in the very short term in the case of unusual disposals such as those arising from liquidation, receivership or bankruptcy, but not for routine purchases from regular suppliers. – [1]</p> <p>Scoring Method</p> <p>In case of any additional exceptions – [0.5]</p> <p style="text-align: right;"><i>Uniformity of the Legislative Framework</i> Source: GPA Standard</p>		<p>of the regulation establishes direct procurement in communication areas. Finally, contracts by special regime, referred to in Article 2 of the law, are usually not competitive.</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>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>Article 31 of the Organic Law of the National Public Procurement System and articles 20 and 28 of its Regulation establish that SERCOP will develop model tender documentation that will be compulsory for contracting entities to use. However, the legislation also states that the institutions can modify and adjust the model tender documents to the</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 candidates in connection therewith. – [1/8]</p> <p style="text-align: right;"><i>Competitiveness and Impartiality</i> Source: GPA Standard</p>	<p>f) 0</p> <p>g) 0</p> <p>h) 0</p>	<p>particular needs as long as they comply with the law and the regulation. Although the legislation does not specify the content of the tender documentation, it does establish that they must contain all the technical, economic and legal information required in a process. The model of tender documentation developed by SERCOP can be found here: https://bit.ly/2Z29SOc However, due to the fact that the model procurement documentation can be change at any moment by SERCOP and that the regulation of the law states that the institutions can modify and adjust the model tender documents to the particular needs, it is necessary to set basic requirements for the tender documents in the law of its regulation.</p>
2.	<p>PPL stipulates that the notice of intended procurement / tender documentation must include: – [1 point]</p> <p>Point Distribution</p> <p>a) Payment conditions – [0.2]</p> <p>b) Information about bid security (if required) – [0.2]</p> <p>c) Source of funding – [0.2]</p> <p>d) Payment information for multi-year contracts – [0.2]</p> <p>e) Draft of contract – [0.2]</p> <p style="text-align: right;"><i>Competitiveness and Impartiality</i></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>Article 31 of the Organic Law of the National Public Procurement System and articles 20 and 28 of its Regulation establish that SERCOP will develop model tender documentation that will be compulsory for contracting entities to use. However, the legislation also states that the institutions can modify and adjust the model tender</p>

		e) 0	documents to the particular needs as long as they comply with the law and the regulation. Although the legislation does not specify the content of the tender documentation, it does establish that they must contain all the technical, economic and legal information required in a process. The model of tender documentation developed by SERCOP can be found here: https://bit.ly/2Z29SOc However, due to the fact that the model procurement documentation can be change at any moment by SERCOP and that the regulation of the law states that the institutions can modify and adjust the model tender documents to the particular needs, it is necessary to set basic requirements for the tender documents in the law of its regulation.
3.	<p>PPL defines all eligibility criteria for participation in tender that must include at least: – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> 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] <p style="text-align: right;"><i>Competitiveness and Impartiality</i> Source: EBRD Methodology</p>	<p>Overall: 1</p> <p>Components:</p> <ul style="list-style-type: none"> a) 1/3 b) 1/3 c) 1/3 	<p>The Organic Law and its Regulation establish that, in order to participate in tender, you must register in the Single Registry of Suppliers (Registro Único de Proveedores - RUP), whose criteria must be determined by SERCOP. The legal, technical and economic capacity depends on the rules established for each type of process</p>

			according to the Organic Law and its Regulation. Articles 62 and 63 of the Organic Law establish the disabilities that restrict participation.
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> <ul style="list-style-type: none"> a) PPL stipulates that procuring entities may seek consultations for the purpose of planning procurement from independent experts or market participants. – [0.5] 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 style="text-align: right;"><i>Efficiency</i> Source: EU Standard</p>	<p>Overall: 0</p> <p>Components:</p> <ul style="list-style-type: none"> a) 0 b) 0 	There is no reference of this topic in the PPL legislation.
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] <p style="text-align: right;"><i>Transparency</i></p>	1	Article 31 of the Organic Law of the National Public Procurement System establishes that the tender documentation is public and free of charge for every person through the official public procurement portal.

6.	<p>PPL ensures electronic, machine-readable and free of charge access to tender documentation amendments, either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p style="text-align: right;"><i>Transparency</i></p>	1	Article 31 of the Organic Law of the National Public Procurement System establishes that the tender documentation, including clarifications and modifications, are public and free of charge for every person through the official public procurement portal.
7.	<p>PPL ensures electronic, machine-readable and free of charge access to tender candidate applications (all documents needed for the request to participate in a tender), either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p style="text-align: right;"><i>Transparency</i></p>	0	In the Ecuadorian regime there is no request to participate in a tender, but direct applications. All those who want to participate, as indicated, must be part of the Single Registry of Suppliers. Therefore, this question is not applicable.
8.	<p>PPL ensures electronic, machine-readable and free of charge access to information about the bids offered by tender participant. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p style="text-align: right;"><i>Transparency</i></p>	1	Article 13, numeral 5, of the Regulation of the Organic Law of the National Public Procurement System establishes that the offers submitted by the bidders, with the exception of the information qualified as confidential by the contracting entity in accordance with the tender documents, shall be published on the official public procurement portal. Article 53 of the regulation establishes

			that at least the following information about the offers must be published: 1. Identification of the participant. 2. Basic description of the work, good or service offered; and 3. Unit price if applicable and total value of the offer.
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 style="text-align: right;"><i>Transparency</i></p>	1	According to article 13, numeral 6, of the Regulation, the award resolution must be published in the electronic system. In the event that no bids are presented, the resolution declaring the process void must also be uploaded, according to article 48 of the Regulation.
10.	<p>Unless justified by the subject-matter of the contract, technical specifications shall not refer to a specific make or source, or a particular process which characterizes the products or services provided by a specific economic operator, or to trade marks, patents, types or a specific origin or production with the effect of favoring or eliminating certain undertakings or certain products. – [1 point]</p> <p style="text-align: right;"><i>Competitiveness and Impartiality</i> Source: EU Standard</p>	1	This is not considered in the Organic Law or its Regulation, but in the SERCOP Resolutions on the matter. In Chapter II of the Codification and Updating of the Resolutions issued by SERCOP, regarding the technical specifications, terms of reference and establishment of deadlines and terms, article 108, numeral 4, establishes that no reference to trademarks may be made, or trade names, commercial names or types, patents, copyrights, particular

			designs or types, nor specific data, producers or suppliers.
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>	0	The guarantees, established in article 73 of the Organic Law, are specifically applicable when the process has already been awarded, to confirm the contract. This is not previously required for offers.
12.	<p>Legislation explicitly defines conflict of interest and includes mechanisms for its prevention: – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> a) The concept of conflicts of interest covers at least any situation where staff members of the procuring entity or of a procurement service provider acting on behalf of the procuring entity who are involved in the conduct of the procurement procedure or may influence the outcome of that procedure, have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure. – [1/3] b) PPL stipulates that persons responsible for procurement decision-making in procuring entities must declare in writing any conflict of interest with tender participants. – [1/3] c) The legislative framework prohibits the participation of active public officials and former public officials for a reasonable period of time after leaving office in public procurement procedures in ways that benefit them, their relatives, and business or political associates financially or otherwise. – [1/3] <p><i>Accountability and Integrity</i> Source for a): EU Standard Source for b): OECD Methodology</p>	<p>Overall: 1</p> <p>Components:</p> <ul style="list-style-type: none"> a) 1/3 b) 1/3 c) 1/3 	Articles 153 and 232 of the Constitution establish specific parameters of conflicts of interest. However, the country does not have a specific law on the matter. The Organic Law and its Regulations do not define conflicts of interest. However, some rules related to conflicts of interest are regulated as prohibitions to contract in articles 62 and 63 of the Organic Law. Article 18 of the Regulation establishes that the members of the Technical Commission in charge of a contractual process cannot have conflicts of interest with the bidders; if there are, it will be an excuse.

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 style="text-align: right;"><i>Competitiveness and Impartiality</i></p>	1	<p>According to article 32 of the Organic Law and article 24 of the Regulation, the contract is awarded to the bidder whose proposal represents the best cost, and the objective parameters of evaluation provided in each procedure.</p>
14.	<p>PPL stipulates that upon modification of any criteria and requirements set out in tender documentation prior to the completion of tender application submission period, a procuring entity shall transmit in writing all such modifications: – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> 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] <p style="text-align: right;"><i>Competitiveness and Impartiality</i></p>	<p>Overall: 0.5</p> <p>Components:</p> <ul style="list-style-type: none"> a) 0.5 b) 0 	<p>Article 31 of the Organic Law establishes that any modification must be published, thus reaching all the people who participate in the process. There is no rule related to time adjustments in case of modifications.</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 of the following working day. – [1 point]</p> <p style="text-align: right;"><i>Transparency</i></p>	1	<p>Article 13 of the Regulation establishes that the award decisions are public and must be uploaded to the electronic portal. Article 17 of the Regulation, on notifications, establishes that participants are notified electronically directly, and through the publication of the resolution on the electronic portal. In the event that electronic notification is not possible, it establishes</p>

			the possibility of making physical notification.
16.	<p>PPL ensures that on request from the tender participant the procuring entity shall as quickly as possible inform: – [1 point]</p> <p>Point Distribution</p> <p>a) Any unsuccessful tender candidate of the reasons for the rejection of its request to participate (if such approval is required). – [0.5] ***</p> <p>b) Any unsuccessful tender participant of the reasons for the rejection of its bid. – [0.5]</p> <p>*** If a) is not applicable, b) equals [1 point].</p> <p style="text-align: right;"><i>Transparency</i> Source: EU Standard</p>	<p>Overall: 0</p> <p>Components:</p> <p>a) 0</p> <p>b) 0</p>	<p>In the Ecuadorian regime there is no request to participate in a tender, but direct applications. All those who want to participate, as indicated, must be part of the Single Registry of Suppliers. Therefore, this question is not applicable.</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: – [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 style="text-align: right;"><i>Efficiency</i> Source: EU Standard</p>	<p>Overall: 0.66</p> <p>Components:</p> <p>a) 1/3</p> <p>b) 1/3</p> <p>c) 0</p>	<p>Article 32 of the Law establishes that the contract will be awarded to the bidder whose proposal represents the best price / cost, according to what is defined in numbers 17, 18 and 19 of article 6 of this Law; and, to the objective parameters of evaluation foreseen in each procedure. According to article 6, numerals 17, 18 and 19, of the Organic Law it is considered: 17. Best Price / Cost in Normalized Goods or Services: Offer that complying with all the technical, financial and legal specifications and requirements demanded in the pre-contractual documents, offers the lowest price.</p>

		<p>18. Best Price Cost in Works, or in Non-Standard Goods or Services: Offer that represents to the entity the best present and future conditions in technical, financial and legal aspects, without the lowest price being the only selection parameter. In any case, the evaluation parameters must compulsorily appear in the specifications.</p> <p>19. Best Price Cost in Consulting: Criterion of "Quality and Cost" with which the consulting contracts will be awarded, due to the weighting determined for the effect in the corresponding Specifications, and without in any case the cost having a incidence rate greater than twenty (20%) percent. Also, article 20 of the Regulation establishes that procurements documents should establish the conditions that allow the most advantageous combination of all the benefits of the work to be executed, the item to be acquired or the service to be contracted and all its associated costs, present and future</p>
<p>Post-tendering Phase</p>		

#	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> <ul style="list-style-type: none"> 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] b) Subject of procurement. – [0.1] c) CPV codes (or other classificatory system of similar nature). – [0.1] 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] e) Type of award procedure; in the case of negotiated procedure without prior publication, justification. – [0.1] f) Date of the signing of contract(s) or of framework agreement(s). – [0.1] g) Duration of the contract. – [0.1] h) Number of bids and their respective amounts received. – [0.1] 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] 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 style="text-align: right;"><i>Transparency</i> Source: EU Standard</p>	<p>Overall: 0.8</p> <p>Components:</p> <ul style="list-style-type: none"> a) 0.1 b) 0.1 c) 0 d) 0.1 e) 0.1 f) 0.1 g) 0.1 h) 0.1 i) 0.1 j) 0 	<p>Article 13 of the law requires the publication of the resolution of the award (which must be reasoned) as well as the signed contract. The publicity and free access to contracts is also established in articles 147 and 148 of the regulation of the law. This information should be uploaded in official website of public contracting. Article 112 of the regulation of the law establishes that the contract must attach the procurement documents, the winner offer and any document referred to in the contract.</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>Overall: 0.5</p>	<p>Both, the Organic Law and its Regulation, establish rules for subcontracting. Article 79 of the Organic Law</p>

	<p>Point Distribution</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 style="text-align: right;"><i>Transparency</i></p>	<p>Compo nents:</p> <p>a) 0.5</p> <p>b) 0</p>	<p>allows partial subcontracting, but with people who are registered in the Single Registry of Suppliers (RUP). Subcontracting cannot exceed 30% of the contract total amount. Article 120 of the Regulation also indicates that there can be subcontracts as long as the entity approves it in advance. Information on subcontractors is not publicly available, with the exception of public works contracts.</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 style="text-align: right;"><i>Transparency</i></p>	1	<p>Article 13 of the Regulation, requires the publication of the signed contract. The publicity and free access to contracts is also established in articles 147 and 148 of the Regulation.</p>
4.	<p>PPL ensures electronic, machine-readable and free of charge access to contract amendments, either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p style="text-align: right;"><i>Transparency</i></p>	1	<p>Article 13, numeral 8, of the regulation of the law establishes that the contract amendments must be published in the official public contracting website.</p>

5.	<p>PPL ensures electronic, machine-readable and free of charge access to contract performance information (acceptance act and milestone reports), either the full text or key information included in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p style="text-align: right;"><i>Transparency</i></p>	1	Article 13 of the Regulation, requires the publication of the certificates of delivery and reception (acceptance act).
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 style="text-align: right;"><i>Transparency</i></p>	0	According to article 13 of the Regulation, the payment schedule is public, but this does not include payment receipts.
7.	<p>PPL clearly defines the procedures for inspection and quality control procedures: – [1 point]</p> <p>Point Distribution</p> <ol style="list-style-type: none"> Quality control (QC) procedures for goods, works and services are well defined in the draft contracts/documents or in the regulations. – [0.5] Inspection of civil works is carried out by independent engineering firms or qualified government supervisors and inspectors. – [0.5] <p style="text-align: right;"><i>Efficiency</i> Source: OECD Methodology</p>	<p>Overall: 0.5</p> <p>Components:</p> <p>a) 0</p> <p>b) 0.5</p>	According to article 70 of the Organic Law, contracts shall contain specific provisions related to the functions and duties of the contract administrators, as well as those who will exercise supervision or control. According to Article 121, the control inspection is carried out for infrastructure procurement and the contract manager shall ensure that it acts in accordance with the specifications contained

			in the procurement/tender documents or in the contract itself. There is no reference to control (QC) procedures for goods, works and services. Also article 15 of the Organic Law, it is the responsibility of the State control agencies as General Comptroller's Office (Contraloría General del Estado) to carry out controls on the contracting procedures.
8.	<p>PPL ensures electronic, machine-readable and free of charge access to any inspection and quality control reports, either the full text or key information contained in these documents. – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • Electronic, machine-readable, free of charge – [1] • Electronic, machine-readable, not free of charge – [0.75] • Electronic, non-machine-readable – [0.5] • Only on paper – [0.25] • None – [0] <p style="text-align: right;"><i>Transparency</i></p>	0	There are no provisions in this regard in the Organic Law or its Regulation.
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 style="text-align: right;"><i>Efficiency</i> Source: OECD Methodology</p>	1	Acceptance / reception is established in article 81 of the Organic Law. In contracts for the acquisition of goods and the provision of services, including consultancy, there will be only one reception, which will take place in accordance with the provisions of the contract and will have the effects of definitive reception. In works

			<p>execution contracts, as well as in integral fixed price contracts, there will be a provisional and a definitive reception. In the cases in which, at the contractor's request, the Contracting Entity does not make any pronouncement or initiate the reception within the periods determined in the Regulation, such reception shall be deemed to have been received in full and shall produce the sole effect of termination of the contract. The contracting entity will declare the presumed receipt in its favor, in relation to the contractors, in the event that they expressly refuse to subscribe the expected delivery - reception record, or if they do not subscribe it within ten days, from the formal request of the contracting entity.</p>
10.	<p>PPL defines specific procedures for modifying contracts. – [1 point]</p> <p><i>Uniformity of the Legislative Framework</i></p>	1	<p>Articles 72 and 85 of the Law. Articles 138 and 149 of the Regulation, related to modifying contracts.</p>
11.	<p>PPL stipulates that procurement contract must include dispute resolution procedures. – [1 point]</p> <p><i>Uniformity of the Legislative Framework</i></p>	1	<p>The dispute resolution mechanisms are established between articles 160 and 163 of the Regulations,</p>

			including provisions on arbitration clauses, arbitration agreements and contentious administrative jurisdiction.
12.	<p>PPL stipulates that all procurement related documentation must be maintained: – [1 point]</p> <p>Scoring Method</p> <ul style="list-style-type: none"> • In electronic form for a period of at least 10 years. – [1] • In paper form for a period of at least 3 years. – [0.5] <p style="text-align: right;"><i>Transparency</i></p>	0	<p>The Organic Law and its Regulation don't establish any provision on this subject. Article 10 of the Organic Law on Transparency and Access to Public Information establishes that the time for conservation of public documents will be determined by the Law on the National Archive System. Article 14 of the National Archives Law establishes that active archives are those whose documents are considered to be of frequent use and which have been in existence for 15 years or less, however this law doesn't specify anything about electronic records.</p>
13.	<p>PPL stipulates that public procurement operations must be subject to internal and external audit conducted by qualified specialists. – [1 point]</p> <p>Point Distribution</p> <ul style="list-style-type: none"> 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] <p style="text-align: right;"><i>Accountability and Integrity</i></p>	<p>Overall: 1</p> <p>Components:</p> <ul style="list-style-type: none"> a) 0.5 b) 0.5 	<p>Article 14 of the Organic Law establishes that the control of the National Public Procurement System will be intensive, interrelated and completely articulated between the different entities with competence for this purpose. It will include the pre-contractual phase, the contract</p>

			execution phase and the contract evaluation phase. Article 15 of the Organic Law, establishes that it is the responsibility of the control entities, within the framework of its powers, to carry out controls following the contracting procedures carried out by the Contracting Entities.
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