



**MAPS**

Methodology for Assessing  
Procurement Systems

# ASSESSMENT OF BHUTAN PUBLIC PROCUREMENT SYSTEM

2025





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Methodology for Assessing  
Procurement Systems

## Bhutan

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# Assessment of the Public Procurement system

Main Report – Volume I

*Revised Version of February 2025*



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***Appendix – Additional Notes in Procurement Rules and Regulations (PRR 2023) to this Volume I***

*This report is in three parts with attachments under Volume III*

Volume I – Main Report (this volume)

Volume II – Detailed Matrix (with color chart as Volume IIA)

Volume III- Appendixes with Concept Note etc.

Attachment A- Works Procurement- Procurement Reform Actions to Build Quality Infrastructure/Works

Attachment B- Rapid Assessment of Health Sector Procurement



# Acknowledgments

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# Acronyms

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ACAB	Anti-Corruption Act of Bhutan 2011
ACC	Anti-Corruption Commission
ADB	Asian Development Bank
APP	Annual Procurement Plan
ASC	Assessment Steering Committee
BCSN	Bhutan Civil Society Network
BCTA	Bhutan Construction Transport Authority
BMT	Budget Monitoring Tool
BTI	Bhutan Transparency Initiative
BUP	Budget Utilization Plan
CAD	Current Account Deficit
CBF	Competency-Based Framework
CCA	Central Coordinating Agency of Internal Audit Services
CDB	Construction Development Board
CEM	Country Economic Memorandum
CFS	Cluster Finance Service
CPPMD	Central Procurement and Property Management Division
CRPFM	Climate Responsive Public Financial Management
CSO	Civil Society Organization
DPBP	Department of Planning, Budget and Performance National Budget
DTA	Department of Treasury and Accounts
e-GP	Electronic Government Procurement System
e-PEMS	Electronic Public Expenditure Management System
ESD	Engineering Service Division
FAM	Finance and Account Manual
GECDP	Gender, Environment, Climate, Disaster and Poverty
GLOF	Glacial Lake Outburst Flood
GMP	Good Manufacturing Practices
GNH	Gross National Happiness
GNI	Gross National Income
GDP	Gross Domestic Product
GIZ	German Agency for International Cooperation ( <i>Deutsche Gesellschaft für Internationale Zusammenarbeit</i> )
GOI	Government of India
GPP	Green Public Procurement
GPPMD	Government Procurement and Property Management Division
ICT	Information and Communication Technology
IFI	International Financial Institution
IPSAS	International Public Sector Accounting Standards
IRB	Independent Review Body
JNEC	Jigme Namgyel Engineering College
MAPS	Methodology for Assessing Procurement System
MAX	Managing for Excellence

MoF	Ministry of Finance
MYRB	Multi-Year Rolling Budget
NGO	Nongovernmental Organization
NICF	National Internal Control Framework
NKRA	National Key Result Area
NSB	National Statistical Bureau
OAG	Office of Attorney General
OCDS	Open Contracting Data Standard
OECD	Organization for Economic Co-operation and Development
OIP	Organizational Integrity Plan
PEFA	Public Expenditure and Financial Accountability
PER	Public Expenditure Review
PFA	Public Finance Act
PFM	Public Financial Management
PFM-MDF	Public Financial Management-Multi Donor Fund
PMDD	Procurement Management and Development Division
PPP	Public-Private Partnership
PPPD	Public Procurement Policy Division
PRR	Procurement Rules and Regulations
RAA	Royal Audit Authority
RCSC	Royal Civil Service Commission
RGoB	Royal Government of Bhutan
RIM	Royal Institute of Management
SBD	Standard Bidding Document
SCD	Systematic Country Diagnostic
SDF	Sustainable Development Fee
SDGs	Sustainable Development Goals
SPP	Sustainable Public Procurement
SPRR	Simplified Procurement Rules and Regulations
TTL	Task Team Leader
UNCAC	United Nations Convention Against Corruption
VNR	Voluntary National Review

## **CURRENCY EQUIVALENTS**

Currency: Ngultrum (Nu or BTN) Nu 1 = US\$0.01219

US\$1 = Nu 82.0596 (rates as of June 30, 2023)

**GOVERNMENT FISCAL YEAR:** July 1–June 30

# Executive Summary including Highlights

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**Background:** In 2020–21, the Ministry of Finance, Royal Government of Bhutan (RGoB), requested the World Bank’s assistance to assess Bhutan’s public procurement system using the Methodology for Assessing Procurement Systems (MAPS). The MAPS assessment was carried out in the context of a broader government-led reform effort, including the development of an electronic Government Procurement System (e-GP). The assessment was conducted by the World Bank in partnership with the Asian Development Bank (ADB) and in close cooperation with the Procurement Management and Development Division (PMDD) of the Ministry of Finance (MoF).

The MAPS assessment aimed to identify strengths, gaps, and needed improvements with reference to four pillars: Legal Framework, Institutional Framework, Procurement Operations, and Accountability. It covered national and local government procurement, with additional focus on civil works (approximately 70 percent of total procurement spend) and the health sector, which faces particular issues due to small market size. An Assessment Steering Committee (ASC), including officials from key agencies and stakeholders, was established. The government also designated focal point officials in PMDD to both assist and provide coordination for the Assessment Team, comprising experts hired by the World Bank and ADB.

A virtual launch workshop was held on May 19, 2022. Despite COVID-19 restrictions, key activities and consultations were conducted. After travel restrictions were eased, an implementation mission to Thimphu, Bhutan, was undertaken in during January 16–27, 2023, for discussions/consultations with all stakeholders. A cut-off date of March 31, 2023, was agreed for the analysis of the procurement legal framework. Assessment activities were substantially completed by October 2023. The validation workshop was conducted in February 2024, following national elections, with findings validated by relevant stakeholders, including from agencies, ministries, the private sector, and civil society organizations (CSOs). In March/April 2024 there was an additional mission to engage with the RGoB on issues affecting Works Procurement and Health Sector Procurement, with findings subsequently validated. Reform of Procurement Rules and Regulations (PRR) and SPRR<sup>1</sup> 2021 was ongoing during the MAPS assessment process. On July 1, 2023, the new Procurement Rules and Regulations 2023 (PRR 2023) came into force, replacing PRR and SPRR 2021. The report acknowledges developments and progress with the introduction of PRR 2023.

**Key gaps:** Based on details in the report, despite strong Pillars I and IV, significant gaps under Pillars II and III hinder value for money outcomes, primarily due to operational inefficiencies. Some key gaps are noted in the paragraphs below, with reference to the pillars and the works and health sectors. For a comprehensive list of all gaps, with analysis and explanation, see the full report and matrix.

In general, to further improve the public procurement system, the RGoB needs to address resource and staffing constraints as well as bolster interinstitutional efforts and coordination.

**Pillar I: Legal, Regulatory, and Policy Framework:** Lack of provisions for output-based (functional) solutions, no norms for safekeeping records, and no Sustainable Public Procurement (SPP) policy/strategy and implementation plan.

**Pillar II: Institutional Framework and Management Capacity:** Insufficient resources and staffing of PMDD and Central Procurement and Property Management Division (CPPMD), lack of capability within procuring

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<sup>1</sup> SPRR = Simplified PRR.



agencies, inadequate training coverage and enforcement of competency-based framework (CBF), limited e-GP data processing capabilities, and no procurement performance measurement system.

**Pillar III: Public Procurement Operations and Market Practices:** Lack of evidence for market research, no use of multistage/two-envelope procedures for more complex procurements, incomplete/incorrect records, and difficulties in accessing comprehensive procurement records.

**Pillar IV: Accountability, Integrity, and Transparency of the Public Procurement System:** Inadequate enabling environment for CSOs, insufficient information access, and resources for complaints resolution.

**Works Procurement:** Focus on lowest quoted price leading to poor-quality infrastructure, award to low bids without examination, lax monitoring, and absence of Standard Bidding Documents (SBDs) for large contracts.

**Health Sector Procurement:** Reliance on small local importers, small volumes and high prices, long lead times, market failures resulting in need for re-tendering, life cycle costing not used for medical equipment, and need for real-time online medicine monitoring platform.

### Top Strategic Priority Reform Actions by Theme

To address the gaps identified in the report and further improve the procurement system, the following priority Reform Actions are proposed, presented by theme. Implementing these reforms requires political will, interinstitutional efforts, and support from international financial institutions (IFIs), aiming for better quality infrastructure, improved efficiency, transparency, and increased public trust.

#### Sustainable Public Procurement and Building Quality Infrastructure

1. Develop an SPP policy/strategy to implement SPP—economic, environmental (including climate considerations and social)—in support of broader national policy objectives and reflecting national priorities, including gross national happiness (GNH). This should include a clear implementation plan/road map to cover the introduction of systems and tools to operationalize, facilitate, and monitor the application of SPP in priority areas.
2. Prepare SBD for contracts of large value based on international practices, following rated criteria and two-envelope bidding system and with sustainability criteria and clear guidance on treatment of abnormally low bids.

#### Leadership of PMDD and Resource, Staffing, and Training Needs

3. Upgrade the level of Head of PMDD to at least a Director and ensure continuity of leadership, with the option to create, in future, an independent authority or office reporting to MoF, based on experience of effective functioning of public procurement authority/office for countries with economy of similar size.
4. Provide adequate resources to PMDD commensurate with its mandate. Also, staffing issues of CPPMD are to be addressed by MoF. Enforcement of CBF for procurement workforce of procuring entities and adequate training to fully cover the requirement in terms of quality and content for the full range of procurement and contracts management training needs.

#### Effective Use of e-GP

5. Establish effective capability within PMDD to operate and manage the e-GP solution independently. This includes building internal expertise and reducing dependency on the e-GP provider.

6. Develop performance measurement system, on the lines of those in neighboring countries, as part of e- Procurement.
7. Create conditions for effective analysis of procurement data by the country's authorities and by civil society, including adoption of Open Contracting Data Standard (OCDS) in the e-GP system.

#### **Enabling Civil Society Engagement**

8. Create an enabling environment for direct participation of CSOs through CSO-government collaboration guidelines, including seeking stakeholder support to strengthen integrity in procurement, and an Asset Declaration Form to improve clarity on beneficial ownership.

#### **Sector-Specific Improvements**

9. **Works:** Implement National Construction Industry Policy 2020, analyze local contractor market capacity, update SBDs for large works, prepare guidance on handling abnormally low bids, and improve contract management and quality control.
10. **Health sector:** Develop SBDs for Health Sector Procurement, prepare health sector guidance note including addressing market analysis and small market issues, and develop a long-term plan for cost-effective procurement and utilization of equipment.

## Executive Summary

### Background and objective

Over the past two decades, Bhutan has experienced continued, rapid, and stable economic growth. With a gross national income (GNI) per capita of US\$3,040 in 2021, Bhutan has a lower-middle-income status. According to World Bank data,<sup>2</sup> the gross domestic product (GDP) for Bhutan in 2021 was US\$2.54 billion (current US\$). Historically, procurement constitutes 40 percent of government expenditure and 10–15 percent of GDP.<sup>3</sup>

Since Bhutan shifted to a democratic constitutional monarchy in 2008, the country has embarked on a development strategy founded on the principle of GNH. A major reform effort of Bhutan's public procurement system is currently under way, including the phased development and implementation of an e-GP. These developments are linked to public finance management (PFM) reforms being implemented by the RGoB under the PFM Reform Strategy 2017–2021, to strengthen areas such as financial management information systems, accounting standards for the public and private sectors, procurement, internal controls, budget documents, parliamentary committees on budget and public accounts, and capacity building.

The PFM Reform Strategy was prepared based on the Public Expenditure and Financial Accountability (PEFA) assessment 2016,<sup>4</sup> which assessed the procurement system using high-level indicators, limited to a few dimensions of procurement. A deep dive was needed and the RGoB, through MoF and PMDD), requested the World Bank's technical assistance in carrying out a holistic assessment of the public procurement system using the internationally accepted Methodology for Assessment of Procurement Systems (MAPS) (2018).

MAPS assesses the following aspects of a procurement system: value for money, fairness, transparency, and good governance, using an approach based on an analysis of four 'Pillars': (I) the legal and policy framework; (II) the institutional framework and management capacity; (III) the operation of the system and competitiveness of the national market; and (IV) the accountability, integrity, and transparency of the procurement system. Each pillar is broken down into indicators and sub-indicators, each with defined criteria that assessors apply to establish whether there are no gaps, minor gaps, or substantive gaps. The assessment uses both qualitative and quantitative analysis:

The objective of this MAPS assessment is to assist the RGoB in identifying the strengths, gaps, and needed improvements in the public procurement system. This is to enable the RGoB to prioritize and strategically pursue further procurement reform, which, when implemented, is expected to result in substantial savings in government expenditure.

### Process and Basis of the MAPS Assessment

The MAPS assessment was conducted under the full ownership of the government, with support from the World Bank in partnership with the ADB. The MAPS assessment addresses all indicators in the MAPS, and additional analysis was carried out on sector-specific priorities in the Works Procurement and Health Sector Procurement.

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<sup>2</sup> <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=BT>.

<sup>3</sup> On an average based on publication of Royal Audit Authority of Bhutan (Advisory of November 2021).

[https://www.bhutanaudit.gov.bt/wp-content/uploads/2021/12/02.-AGAS\\_Review-of-Government-Procurement-System.pdf](https://www.bhutanaudit.gov.bt/wp-content/uploads/2021/12/02.-AGAS_Review-of-Government-Procurement-System.pdf)

<sup>4</sup> <https://www.pefa.org/news/bhutan-leverages-pefa-leap-forward-pfm-reforms>

The MAPS assessment commenced in November 2021, with desk-based reviews. There was a virtual launch workshop on May 19, 2022. The activities continued at a slow pace due to restrictions in movement arising out of COVID-19. After travel restrictions were eased, an implementation mission to Thimphu, Bhutan, was undertaken during January 16–27, 2023, with all members of the Assessment Team participating. The MAPS assessment activities were substantially completed by October 2023. A validation workshop was held on February 13, 2024.

Based on the feedback of the validation workshop, in March–April 2024, a rapid assessment of Health Sector Procurement and Works Procurements (Procurement Reform Actions to Build Quality Infrastructure/Works) was carried out. These reports are given in Attachment A and Attachment B, respectively, in Appendices Volume III of the Assessment Report.<sup>5</sup>

A cut-off date of March 31, 2023, was agreed upon for a detailed legal analysis. The Procurement Rules and Regulations (PRR) in force on that date were the PRR 2019 and Simplified PRR (SPRR); these rules were analyzed and assessed. As part of the government’s ongoing reform effort, the new PRR came into effect on July 1, 2023, (PRR 2023), replacing PRR 2019 and SPRR 2021. Changes were also made to the SBDs in July 2023. PRR 2023 is not the subject of detailed analysis and assessment by the MAPS Team. Where recommendations under analysis of the legal framework in Pillar 1 advise changes in the legislative framework, the extent to which PRR 2023 resolves the gaps identified has been acknowledged in the Assessment Report. An Appendix is added in the Main Report (Volume I) with (a) notes and comments on PRR 2023 and (b) gaps and recommendations identified in the MAPS assessment as requiring legislative change and whether/to what extent these are addressed by PRR 2023.

Results of the latest PEFA Assessment (published on June 30, 2023)<sup>6</sup>were incorporated in this Assessment Report, as relevant.

The sampling strategy for selecting procurement cases (under Pillar III, Indicator-9) was adopted as per MAPS guidance on determining a representative sample.

### **Major Strengths under each Pillar**

Key findings and major strengths of the public procurement system in Bhutan are summarized in the following section, with reference to the four MAPS pillars.

#### ***Pillar I: Legal, Regulatory, and Policy Framework***

The legal and regulatory framework is well recorded, with broad scope of application, an appropriate range of procurement methods and with all documents, including Standard Bidding Documents, available on the e-GP website. The use of e-GP means that the level of transparency of opportunities is good. Rules on eligibility and debarment are clear.

Evaluation is of the ‘Best Evaluated Bid’, not solely based on price, applying published criteria and methodologies. Contract management is well covered in the legal and regulatory framework. Bidders have a right to challenge decisions using the clearly defined e-GP grievance process and there is a right of appeal to the Independent Review Body (IRB), whose decisions are published on the e-GP website.

There are clear rules for implementation supported by a good range of model procurement documents, including standard conditions, for the most common types of procurement.

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<sup>5</sup> These are not Sector-Level Assessments (SLAs) as per MAPS but they capture key findings and needed improvements in these sectors as rapid/limited assessment.

<sup>6</sup> <https://www.pefa.org/node/5111>

Sustainable development, environmental protection, and the creation of a sustainable society are strongly embedded. Bhutan's key underpinning principles/policy objectives derive from constitutional principles. This includes the concept of GNH, which seeks to integrate socioeconomic development goals with environmental protection, cultural preservation, and good governance.

### ***Pillar II: Institutional Framework and Management Capacity***

The procurement system is well integrated with the PFM system, as reflected in PRR 2019, Budget Manual 2016, Finance and Account Manual (FAM), and the Multi-Year Rolling Budgeting (MYRB) System.

The legal and regulatory framework clearly defines the institutions that have procurement responsibilities and a centralized procurement body that exists. The normative and regulatory function is discharged by PMDD to cover procurement policy, capacity building and training, advice and guidance to procuring agencies, and management of the e-GP website; these functions are clearly assigned.

Bhutan's e-GP system, implemented in phases since June 2017, provides easily accessible procurement information. The system covers various aspects, including procurement plans, tenders, contracts, and grievance handling.

Procurement is recognized as a profession. There is a CBF for procurement officers with job descriptions. Procurement positions are defined at different professional levels with requisite qualifications and competencies.

PMDD has provided Chartered Institute of Procurement & Supply (CIPS) professional training to procurement officers in the past, with funding support from the World Bank.

### ***Pillar III: Public Procurement Operations and Market Practices***

The assessment of Bhutan's public procurement system found that procurement planning is being undertaken for most contracts. Based on sample cases, the average number of responsive bids in the situation of Open Tendering Method was 5.2, which is evidence of adequate competition. The average number of days to award the contract was 87 under the Open Tendering Method, and there is evidence that majority of contracts were awarded in the initial bid validity period. Around 82 percent of procurement processes were fully compliant with publication requirements. Related to contract management, 84 percent of the sampled contracts were completed without time overrun.

### ***Pillar IV: Accountability, Integrity, and Transparency of Public Procurement System***

The feedback from Civil Society Organizations (CSOs) participating in the survey presents a mixed response, making it difficult to identify clear strengths in terms of transparency and civil society engagement related to integrity in the procurement process. Related to transparent and consultative process in formulating changes to the public procurement system, based on the written response from 11 CSOs in October 2022, it was seen that response is not that positive, with 'Yes' in 55 percent of the cases and 'Maybe' in 45 percent. On CSOs permitted or encouraged to act as observers, actively monitor, or have other involvement in preparation for or conduct of procurement proceedings, the response was 'Yes' in 9 percent of the cases, 'Maybe (partially)' in 64 percent, and 'No' in 27 percent.

The National Internal Control Framework (NICF), issued in 2013, is a comprehensive framework providing effective internal controls. External audits of the RGoB and local governments are undertaken by the Royal Audit Authority (RAA), which is established as an independent constitutional body.

The appeals mechanism is conducted using the e-GP system and follows clear rules, procedures, and timelines for submission and decision-making. All decisions of the IRB are published promptly on the e-GP website, and they are clear and well-reasoned.

Definitions of fraud, corruption, and other prohibited practices are set out in the procurement legal framework and are consistent with obligations deriving from United Nations Convention against Corruption (UNCAC), as also reflected in the Anti-Corruption Act of Bhutan 2011 (ACAB). Definitions of individual responsibilities, accountability, and penalties are set out in ACAB. Procurement and contract documents include provisions on fraud and corruption and other prohibited practices. Bidders are required to sign Integrity Pact statements as a condition of admission to eligibility. SBDs incorporate provisions on fraud, corruption, and other prohibited practices.

### **Priority Areas for Improvement**

Recommendations for priority areas for improvement are listed in the following section. These measures are aligned with the reform initiatives of the RGoB. The implementation of improvements has already started in some of these areas, which is noted below.

#### ***Pillar I: Legal, Regulatory, and Policy Framework***

*Promote the use of functional specifications, where appropriate:* Actively promote the use of output-based specifications where this may encourage the use of innovative solutions and support implementation by providing guidelines on how to plan for and prepare output-based approaches to procurement and drafting of specifications.

*Improve record keeping with a comprehensive list of procurement records and documents, document retention period, and security protocol:* (a) prepare a guideline, or similar, for use by procuring agencies to cover the safekeeping and retention of procurement records and documents in both physical and electronic form; (b) review standard retention period to reduce the likelihood of loss of relevant evidence in the investigation and/or prosecution of potential cases of fraud and corruption; and (c) prepare a dedicated security protocol on retention of procurement records, covering the whole procurement process and including physical records. This is also highly relevant to assessment under Pillar III.

*Prepare a consolidated version of PRR to include all amendments,* including those contained in SPRR 2021<sup>7</sup> and e-GP guidelines. This is required so that a single comprehensive document is available to ensure precision and clarity on the wording and application of amended provisions. This will enhance accessibility and practical understanding of the procurement system and facilitate improved implementation of the legal framework by stakeholders. This recommendation has been substantially addressed in PRR 2023.

*Develop an SPP/strategy to implement SPP—economic and environmental (including climate considerations and social)—in support of broader national policy objectives and reflecting national priorities, including GNH.* This should include a clear implementation plan/road map to cover the introduction of systems and tools to operationalize, facilitate, and monitor the application of SPP in priority areas in particular. It should also identify and provide for changes to the legal/regulatory framework to allow for sustainability to be incorporated at all stages of the procurement cycle, ensuring well-balanced application of sustainability criteria from planning through to delivery and monitoring. SPP requirements embedded in the legal and regulatory framework should be reflected in model procurement documents and contract conditions and in supporting practical guidelines implementation.

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<sup>7</sup> As amended on July 1, 2023, PRR 2023.

*Keep the impact of Sustainable Development Fee (SDF) under review:* During the MAPS assessment, an SDF of US\$200 per day was introduced and interpreted as payable by all suppliers using foreign staff for the delivery of services under public procurement contracts. This was raised as a matter of significant concern by the private sector. The MAPS Assessment Team acknowledges that the changes to the SDF are recent and ongoing<sup>8</sup> and so the impact is still unclear. The Team recommends that the RGoB (if it has not already started to do so) initiate ongoing critical review and evaluation of the impact of the requirement for payment of SDF on competitiveness and value for money outcomes in public procurement, to assess the need for general or specific waivers.

## ***Pillar II: Institutional Framework and Management Capacity***

*Address the concern of the private sector on timely payment of invoices:* The MoF/PMDD to monitor verification and payment of invoices to ensure timely payment,<sup>9</sup> including through the e-GP system/electronic Public Expenditure Management System (e-PEMS), which enables bidders to generate e-Invoices for further processing of payment. It is understood that the government has set up Cluster Finance Service (CFS) offices across the country. These offices use software to monitor all payments and release them on a timely basis.

*Provide resources and upgrade/fill the position of Head of PMDD at a sufficient level of authority:* The position of Division Head for PMDD is not high level and does not have an authoritative standing relative to its mandate and required quality of services. MoF should consider providing adequate funding, resources, and staffing.

*Present the published procurement information in a machine-readable format and adopt the OCDS:* This will facilitate easier access, analysis, and utilization of the data by external entities. The implementation of the OCDS in the e-GP system, as compliance with this standard, will promote transparency, accessibility, and comparability of procurement data, aligning with international best practices.

*Strengthen operational capability:* Establish effective capability within PMDD to operate and manage the e-GP solution independently. This includes building internal expertise and reducing dependency on the e-GP provider. Strengthening operational capability will maximize the benefits of the e-GP solution and facilitate long-term succession planning if the current e-GP solution changes.

*Improve the e-GP system's information gathering capacity:* Capacity should be created for autonomous extraction of information from the system to produce reports and analysis on procurement. Users should be empowered to ensure that all information is uploaded into the system and that this information is complete. Control mechanisms must be implemented to block the advancement of processes without complete information. The introduction of open data standards and machine-readable information may allow for automated validation of information quality and should be considered.

*Implement permanent and relevant training programs:* MoF to address budget/resource issues so that training is provided to meet the skills gap of the procurement professionals.

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<sup>8</sup> Press Release of August 26, 2023: "Bhutan expands its tourist incentives for visitors, with the daily Sustainable Development Fee reduced by 50% for another four years, until 2027." [https://a.storyblok.com/f/171618/x/e09a12cfba/press-release\\_bhutan-sdf-reduction-release\\_final.pdf](https://a.storyblok.com/f/171618/x/e09a12cfba/press-release_bhutan-sdf-reduction-release_final.pdf).

During the MAPS assessment, there were changes to the amount of SDF payable and apparent changes in the designation of visitors to the country by whom the SDF was payable. According to recent clarification provided by PMDD, the SDF is no longer paid if the visit is business or work related.

<sup>9</sup> PEFA of June 30, 2023 (PI-25) did not raise any concern on compliance with payment rules and procedures.

*Enforce CBF:* As per the Royal Civil Service Commission (RCSC) website, there is a CBF for procurement officers with job descriptions,<sup>10</sup> but it needs to be implemented. As per clarification provided by PMDD, based on the CBF, the division has conducted only one training for all the procurement professionals in 2020–2021. The division has not been able to continue the training due to a lack of budgetary support.

*Monitor performance to improve system:* PMDD/MoF to develop a performance measurement system, on the lines of those in neighboring countries as part of e-Procurement.

### **Pillar III: Public Procurement Operations and Market Practices**

*Enable multistage bidding:* PMDD should improve the e-GP system by enabling two-stage bidding and preventing procuring agencies from conducting parts of the process offline due to inflexible deadlines.

*Enhance completeness and accuracy of records:* Efforts to be made to make records complete and accessible (see recommendation under Pillar I). The use of e-GP should be enhanced.

*Train private sector participants:* PMDD to be provided with resources to train and build the capacity of the private sector.

### **Pillar IV: Accountability, Integrity, and Transparency of Public Procurement System**

*Revive CSO-government collaboration:* This should be a collaborative initiative among MoF/PMDD, RAA, Anti-Corruption Commission (ACC), and the CSO Network to improve the effectiveness of CSO engagement in the procurement process and contract implementation.

*Institute a mechanism to carry out specialized procurement audits on a regular basis by Central Coordinating Agency of Internal Audit Services (CCA):* CCA to undertake regular risk-based and targeted specialized procurement audits.

*PMDD to follow up on procurement-related recommendations of RAA<sup>11</sup> in coordination with CCA:* Related to coordination and control, based on RAA “The enforcement of procurement norms is weakened basically due to lack of accountability culture and mechanism for sanctions on delinquent officials and parties, and also due to inadequacies in monitoring and coordination functions between different agencies and authorities,” which is in line with MAPS findings and requires follow-up.

*Improve stakeholder support to strengthen integrity in procurement:* Engage CSOs as third-party monitors to strengthen integrity in procurement. The financial/Asset Declaration Form to clarify on beneficial ownership.

## **Sector-Specific Findings and Needed Improvements**

### **Works Procurement - Procurement Reform Actions to Build Quality Infrastructure/Works**

Based on the published materials by the RGoB and findings by the Assessment Team, critical factors affecting Works Procurement and quality of infrastructure include the following:

- (a) Public works do not have a good reputation of building quality infrastructure—also there is no third-party monitor.

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<sup>10</sup> RCSC website,

<https://www.rcsc.gov.bt/en/competency/>

<https://www.rcsc.gov.bt/wp-content/uploads/2021/04/CBF-Final-Report.pdf> (CBF for procurement officer).

<https://www.rcsc.gov.bt/en/property-management-services/> (Job Description)

<sup>11</sup> [https://www.bhutanaudit.gov.bt/wp-content/uploads/2021/12/02.-AGAS\\_Review-of-Government-Procurement-System.pdf](https://www.bhutanaudit.gov.bt/wp-content/uploads/2021/12/02.-AGAS_Review-of-Government-Procurement-System.pdf)

- (b) The construction industry does not have proper construction standard and code of practices.
- (c) Inadequacy of planning, feasibility studies, and survey is leading to design errors.
- (d) SBDs are not used for contracts of large value (US\$10 million) based on international practices, following rated criteria and two-envelope bidding system and with sustainability criteria. This means that such facilities may not provide value-for-money outcomes.
- (e) Procuring agencies' cost estimates are often not accurate and price adjustments for longer duration contracts are not based on international practices.
- (f) Although the evaluation criteria are comprehensive and clear, most procuring agencies still focus on the lowest quoted price, including abnormally low bids, without due examination.
- (g) Lax monitoring of the contract implementation has caused termination of contracts, resulting in arbitration and then compensation payments as per contract terms.

## **Recommendations**

*Implement National Construction Industry Policy 2020 to improve quality of construction:* The measures suggested in this policy need to be implemented through legislation. Several of the measures are consistent with key procurement reform actions to build quality infrastructure/works and will require coordination among stakeholders in the construction industry.

*Adopt the use of output/performance/functional specifications:* Consider the use of output-based specifications in cases where this may encourage innovative solutions. Provide guidelines on how to plan for and prepare output-based approaches to procurement and drafting of specifications.

*Analyze the Works Procurement market to assess the capacity of local contractors to appropriately package contracts to elicit interest from both local and international contracts, based on their capacity and capability.*

*Use rated criteria* to factor in technical superiority into the computation of final scores, as also recommended by the RAA Advisory of November 2021. Guidance may be taken from the World Bank practices introduced in April 2023. The technical evaluators should not have access to price information for an unbiased evaluation and the selection of quality bids without relying on the lowest bid price; therefore, two-envelope bidding is recommended.

*Update SBD for large works:* This SBD was prepared in 2019, with some update in July 2023. There is a need for comprehensive review of SBD for contracts above a defined threshold—US\$10 million—where a two-envelope system with rated criteria may be used.

*Prepare guidance on dealing with situations of abnormally low bids,* based on practices of IFIs, including the World Bank and ADB, to ensure better value for money. The provisions of PRR/SBD of July 2023 on bid need review.

*Align price adjustment provisions and practices based on international practices:*

- (a) Consider adopting an internationally accepted price adjustment formula as used by multilateral development banks/IFIs/FIDIC (Fédération Internationale des Ingénieurs – Conseils) for works.
- (b) RGoB/National Statistical Bureau (NSB) may consider collaborating with the construction industry and private sector to identify and adopt base indexes and track the prices for construction input such as equipment, material, and fuel, without relying on the Government of India (GOI) Wholesale Price-Index permanently.

*Bhutan Schedule of Rates and cost estimating:* As per the National Construction Industry Policy 2020, enforcement and regulation are needed. In partnership with relevant agencies, the ministry should regularly update the Bhutan Schedule of Rates based on the construction cost index compiled by NSB.

*Improve contracts management and quality control:* Address issues in implementation based on findings on sample cases in MAPS, institute a Contract Monitoring System (part of e-GP) through third-party monitoring of quality controls, and enforce a formal system of contract closing.

*Use innovative procurement, financing, and contract implementation approaches for better value for money:* These include the use of life cycle costing principles at the design stage, Output and Performance-Based Road Contracts (OPBRCs), and other variations of public-private partnerships (PPPs) for entire life cycle costs and benefits to maximize the efficiency of service delivery.

*Improve capacity/decision-making abilities of procurement and project management professionals for better outcomes:* The public officials responsible for procurement and contract implementation need to be adequately trained and empowered to exercise discretion and professional judgment as necessary to ensure the successful outcome of a project while ensuring that all such decisions are transparent, fully documented, and justified.

### **Health Sector Procurement - A Rapid Assessment**

Health Sector Procurement in the Bhutanese health system, which is almost entirely public, is well organized and largely effective in providing the majority of products needed to fulfill the promise of universal health coverage for the population.

The government relies on local importers to supply medicines, consumables, and devices. These importers are small businesses and often have to source from medical wholesalers in India, which limits information exchange with manufacturers and makes collecting market intelligence difficult. Small volumes lead to higher prices and lead times compared to larger markets.

Some products need to be re-tendered or are unavailable, potentially causing treatment interruptions. Medical equipment was regulated to reduce the number of brands that are in use (standardization). Life cycle costing for equipment has not yet been introduced. The Bhutan Food and Drug Authority regulates market access for pharmaceuticals and started regulating consumables and devices as well.

Capacity is limited and there is no verification of certificates submitted by applicants or good manufacturing practices (GMP) inspection in factories from which suppliers are sourcing. Consequently, the risk of procuring substandard medicines is defined by the performance of the regulatory agency in the country or state where the factory is situated.

There are also quality risks for medical devices and equipment. The procurement process does not currently include verification and authentication mechanisms, which increases the risk that suppliers may submit forged certificates or pass off refurbished items as new. This lack of oversight in the procurement system potentially compromises the quality of healthcare equipment provided, posing risks to public health and safety.

### **Recommendations**

To mitigate quality risks associated with medical devices and equipment, it is crucial to incorporate robust verification and authentication procedures into the procurement process. Such measures would ensure that suppliers cannot submit forged certificates or sell refurbished items as new, thereby improving the

overall integrity and reliability of health sector procurements. Strengthening these processes will contribute to enhancing the quality of medical equipment and safeguarding public health outcomes.

*Be more flexible in use of procurement methods depending on the level of competition, including use of two-stage bidding for complex equipment.*

*Develop SBDs for health sector goods such as pharmaceuticals, consumables, and medical equipment.*

*Prepare and publish a Health Sector Guidance Note that addresses the specific challenges of the sector. This note could cover the existing flexibility allowed and recommendations in this assessment. This should include market analysis and dealing with the situation of small markets.*

*Develop a policy on managing cost increases for specialized medicines that are purchased with an exemption for individual patients ('name patient drugs') to make costs more manageable in the future.*

*Obtain specialized external know-how to develop a plan for long-term cost effectiveness:* The need to phase out and replace a significant share of the medical equipment currently in use creates an opportunity to develop a long-term plan for cost-effective equipment procurement and utilization. For both these initiatives, it would be necessary to bring in specialized external know-how on a contract basis.

### **Overview of Compliance to Assessment Criteria, Gaps, and Red Flags**

The following table provides an overview of the findings of the assessment on the level of total 55 sub-indicators under four pillars. Each sub-indicator is identified (marked X) depending on the findings (full compliance/gaps identified/substantive gaps identified). This table also shows the red flags<sup>12</sup> identified (marked X). Most of these red flags are elements that significantly impede the main goals of public procurement and cannot be mitigated directly or indirectly. Such factors could lie outside the sphere of public procurement.

The sub-indicators listed in the table below are further divided into individual assessment criteria which are each assessed separately according to the MAPS. The number of qualitative criteria per sub-indicator varies between 1 and 11, in some cases supported by quantitative indicators. In total, there are 210 criteria to be assessed under 55 sub-indicators, as elaborated in the detailed matrix.

The compliance table presents an aggregated conclusion based on all the assessed criteria for each sub-indicator. This means that where a single criterion under a sub-indicator is assessed to have a gap, this will trigger the 'Gaps identified' or 'Substantive gaps identified' finding (depending on the nature of the gap) in this compliance table for that sub-indicator (marked X). This can apply even where all other criteria under that particular sub-indicator are achieved as relevant (shaded light grey). It is therefore important to refer to the full assessment findings and supporting analysis in the detailed matrix.

<i>Remarks on gaps marked X for table below</i>
No criteria of the sub-indicator have gaps ( <b>Full compliance</b> )
Some criteria of the sub-indicator have minor gaps, but none have substantive gaps ( <b>Gaps identified</b> )
At least one criterion of the sub-indicator has a substantive gap ( <b>Substantive gaps identified</b> )

<sup>12</sup> Guidance on gaps, risks, and red flags is found in <https://www.mapsinitiative.org/methodology/templates-guidance/>.

<b>PILLAR I</b> (Legal, Regulatory, and Policy Framework)		<b>Full compliance</b>	<b>Gaps identified</b>	<b>Substantive gaps identified</b>	<b>Red flags</b>
<b>1. The public procurement legal framework achieves the agreed principles and complies with applicable obligations</b>	1(a) - Scope of application and coverage of the legal and regulatory framework	X	-	-	
	1(b) - Procurement methods	X	-	-	
	1(c) - Advertising rules and time limits	X	-	-	
	1(d) - Rules on participation			X	X
	1(e) - Procurement documentation and technical specifications		-	X	
	1(f) - Evaluation and award criteria	X	-	-	
	1(g) - Submission, receipt, and opening of tenders	X	-	-	
	1(h) - Right to challenge and appeal			X	
	1(i) - Contract management	X	-	-	
	1(j) - Electronic Procurement (e-Procurement)	X	-	-	
	1(k) - Norms for safekeeping of records, documents and electronic data	-	-	X	X
	1(l) - Public procurement principles in specialized legislation	X	-	-	
<b>2. Implementing regulations and tools support the legal framework</b>	2(a) - Implementing regulations to define processes and procedures		X	-	
	2(b) - Model procurement documents for goods, works, and services	X	-	-	
	2(c) - Standard contract conditions used	X	-	-	
	2(d) - User's guide or manual for procuring entities		-	X	
<b>3. The legal framework reflects the country's secondary policy objectives and international obligations</b>	3(a) - Sustainable Public Procurement (SPP)	-	-	X	X
	3(b) - Obligations deriving from international agreements				Not assessed as not applicable

<b>PILLAR II</b> (Institutional Framework and Management Capacity)		<b>Full compliance</b>	<b>Gaps identified</b>	<b>Substantive gaps identified</b>	<b>Red flags</b>
<b>4. The public procurement system is mainstreamed and well-integrated with the public financial management system</b>	4(a) - Procurement planning and the budget cycle		X	-	
	4(b) - Financial procedures and the procurement cycle		X	-	

<b>PILLAR II</b> (Institutional Framework and Management Capacity)		<b>Full compliance</b>	<b>Gaps identified</b>	<b>Substantive gaps identified</b>	<b>Red flags</b>
<b>5. The country has an institution in charge of the normative/regulatory function</b>	5(a) - Status and legal basis of the normative/regulatory function	X	-	-	
	5(b) - Responsibilities of the normative/regulatory function		-	X	X
	5(c) - Organisation, funding, staffing, and level of independence and authority	-	-	X	X
	5(d) - Avoiding conflict of interest	X	-	-	
<b>6. Procuring entities and their mandates are clearly defined</b>	6(a) - Definition, responsibilities and formal powers of procuring entities		X	-	
	6(b) - Centralized procurement body	-		X	X
<b>7. Public procurement is embedded in an effective information system</b>	7(a) - Publication of public procurement information supported by information technology			X	X
	7(b) - Use of e-Procurement			X	X
	7(c) - Strategies to manage procurement data	-	-	X	X
<b>8. The public procurement system has a strong capacity to develop and improve</b>	8(a) - Training, advice and assistance			X	X
	8(b) - Recognition of procurement as a profession		X	-	
	8(c) - Monitoring performance to improve the system	-	-	X	X

<b>PILLAR III</b> (Public Procurement Operations and Market Practices)		<b>Full compliance</b>	<b>Gaps identified</b>	<b>Substantive gaps identified</b>	<b>Red flags</b>
<b>9. Public procurement practices achieve stated objectives</b>	9(a) - Planning			X	X
	9(b) - Selection and contracting			X	
	9(c) - Contract management	-		X	X
<b>10. The public procurement market is fully functional</b>	10(a) - Dialogue and partnerships between public and private sector	-		X	X
	10(b) - Private sector's organisation and access to the public procurement market	-	X	-	
	10(c) - Key sectors and sector strategies	-	-	X	

<b>PILLAR IV</b> (Accountability, Integrity, and Transparency of the Public Procurement System)		<b>Full compliance</b>	<b>Gaps identified</b>	<b>Substantive gaps identified</b>	<b>Red flags</b>
<b>11. Transparency</b>	11(a) - Enabling environment for public consultation and monitoring	-		X	

<b>PILLAR IV</b> (Accountability, Integrity, and Transparency of the Public Procurement System)		<b>Full compliance</b>	<b>Gaps identified</b>	<b>Substantive gaps identified</b>	<b>Red flags</b>
<b>and civil society engagement strengthen integrity in public procurement</b>	11(b) - Adequate and timely access to information by the public	-	-	X	
	11(c) - Direct engagement of civil society	-	-	X	X
<b>12. The country has effective control and audit systems</b>	12(a) - Legal framework, organization and procedures of the control system		X	-	
	12(b) - Coordination of controls and audits of public procurement		X	-	
	12(c) - Enforcement and follow-up on findings and recommendations		X	-	
	12(d) - Qualification and training to conduct procurement audits		X	-	
<b>13. Procurement appeals mechanisms are effective and efficient</b>	13(a) - Process for challenges and appeals	X	-	-	
	13(b) - Independence and capacity of the appeals body		X	-	
	13(c) - Decisions of the appeals body		X	-	
<b>14. The country has ethics and anti-corruption measures in place</b>	14(a) - Legal definition of prohibited practices, conflicts of interest, and associated responsibilities, accountabilities, and penalties		X	-	
	14(b) - Provisions on prohibited practices in procurement documents	X	-	-	
	14(c) - Effective sanctions and enforcement systems	X	-	-	
	14(d) - Anti-corruption framework and integrity training		X	-	
	14(e) - Stakeholder support to strengthen integrity in procurement			X	X
	14(f) - Secure mechanism for reporting prohibited practices or unethical behaviour	X	-	-	
	14(g) - Codes of conduct/codes of ethics and financial disclosure rules		X	-	

# 1. Introduction

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## **Context**

The Royal Government of Bhutan (RGoB), through the Ministry of Finance (MoF) and Procurement Management and Development Division (PMDD), requested the World Bank's technical assistance in carrying out a holistic assessment of the public procurement system using Methodology for Assessing Procurement System (MAPS) 2018. This is the first time that such a comprehensive assessment was conducted under the full ownership of the government, with support provided by the World Bank in partnership with the Asian Development Bank (ADB).

While various procurement reform initiatives were undertaken over the last two decades, these were mostly done in a piecemeal ad hoc manner. After a review by the Organization for Economic Co-operation and Development (OECD) in 2008, there has not been any comprehensive, up-to-date assessment of the public procurement system so far for grounding the procurement reform efforts in a strategic manner.

## **Development Objectives**

The objective of the assessment is to assist the RGoB in identifying the strengths, gaps, and improvements needed in the public procurement system to enable the government to prioritize and strategically pursue procurement reform going forward.

The assessment will support this agenda through (a) identifying the strengths and weaknesses of the public procurement system, its relative importance, and major risks; (b) identifying any substantive gaps that impede the efficient use of public funds; (c) making appropriate recommendations to address the identified gaps; (d) elaborating a strategy and reform action plan to improve procurement performance to deliver better economic and social outcomes; and (e) identifying modern ways of doing procurement to achieve quality and value for money.

The World Bank is currently supporting the development of the electronic Government Procurement System (e-GP) system in Bhutan through the Public Financial Management-Multi Donor Fund (PFM-MDF) and looking into the prospects of not only using the e-GP system but also adopting other acceptable features of the government procurement system for procurement under World Bank-financed projects in Bhutan.

## **Scope and Methodology**

The scope of the MAPS assessment covers procurement by national and local government agencies governed by the national Procurement Rules and Regulations (PRR). As proposed by PMDD/MoF, the assessment would exclude procurement for state-owned enterprises (SOEs), defense, and national security agencies. PMDD informed that SOEs are not governed by the national PRR and do not fall under the purview of PMDD/MoF. They have their independent procurement rules and regulations approved by their Board of Directors, albeit expected to be aligned with the national PRR. Therefore, the MAPS assessment focuses on national and local government agencies.

PMDD has also proposed to give particular attention, as part of the core MAPS assessment, to the procurement of civil works and procurement in the health sector, partly for further strengthening the public procurement system's capabilities to respond to situations of emergency need, for example, pandemics and natural disasters.

Details of Health Sector Procurement and Works Procurement are given as Attachment A and Attachment B, respectively, in Volume III of this Assessment Report

## **Leadership and Assessment Team**

An Assessment Steering Committee (ASC) provided leadership and guidance to the Assessment Team throughout this project. It is established under the Chairmanship of Secretary, MoF/Director General/Director, Department of National Properties, MoF and includes officials from other key government agencies involved in public procurement, private sector, civil society, World Bank, and ADB.

The assessment was conducted under the leadership of the World Bank, working closely with PMDD and in collaboration with ADB, supported by specialized consultants. The entire task was led and coordinated by a Task Team Leader (TTL) of the World Bank and supported by a co-TTL also from the World Bank. The Lead International Consultant (Procurement) and International Consultant (Legal), both hired by the World Bank, were responsible for the preparation of the draft Assessment Report, supported by other consultants/experts.

The government also designated the focal point officials in PMDD to assist the Assessment Team in coordinating the assessment and to work on a dedicated basis as an integral part of the Assessment Team.

## **Other Involved Institutions**

Apart from MoF/PMDD, the Assessment Team received extensive input and cooperation from agencies with oversight over procurement, such as Anti-Corruption Commission (ACC), the Royal Audit Authority (RAA), the Central Coordinating Agency of Internal Audit Services (CCA), and Office of Attorney General (OAG) to understand the interpretation of the procurement rules and related documents and their link to public financial management (PFM) and budget cycle, internal and external control, and nature and scope of anti-corruption provisions in the procurement system and how all these are implemented and managed in practice.

## **Process, Validation, and Timeline**

An implementation mission to Thimphu, Bhutan, was undertaken during January 16–27, 2023 by the combined delegation of the World Bank and ADB. The objective of the mission was to conduct meetings with all key stakeholders to get their input and feedback based on briefing materials provided in advance of the meetings. The meeting was coordinated by PMDD, MoF.

The Assessment Team (the Team), led by the TTL from the World Bank, met with representatives of civil society organizations (CSOs), Office of Consumer Protection, the Royal Institute of Management (RIM), selected SOEs, MAPS Steering Committee, the Country Director/Representative of ADB, and the World Bank. The Team conducted a Business Outreach Seminar with the private sector, which was a combined event of the RGoB, ADB, and the World Bank that covered business opportunities in ADB/World Bank for the private sector and also sought feedback from the private sector on the survey results based on MAPS.

The Team met with oversight bodies such as the OAG, RAA, and ACC. As a follow-up to the MAPS Steering Committee meeting, the Team had a detailed discussion with the Director General of the Department of Medical Supplies and Health Infrastructure. Additionally, a meeting was held with procuring agencies involved in the procurement process, most of them part of the sample agencies, to seek their feedback.<sup>13</sup>

The sampling strategy was agreed with PMDD and included the selection of 10 procuring entities representative of the country's procurement practices as well as distribution of the sample cases by type

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<sup>13</sup> There was further engagement with stakeholders on Works Procurement and Health Sector Procurement after the validation workshop in February 2024.

of contract and procurement methods. For each of the entities, the annual procurement plans (APPs) for the last five fiscal years were collected.

To collect approximately 100 procurement cases, and anticipating difficulties in collecting documentation, about 12 to 15 contracts were identified per procuring entity. For each sample case, the Assessment Team collected evidence of the entire procurement cycle, from procurement planning to contract execution. All the information collected was anonymized, compiled in a file, and processed as a whole to obtain the required performance indicators set out in Indicator 9 of the methodology.

### **Timeline of the Assessment and Limitations encountered**

The assessment was carried out in November 2021, starting with desk reviews. There was a virtual launch workshop on May 19, 2022. The activities continued at a slow pace due to restrictions in movement arising out of COVID-19. After travel restrictions were eased, an implementation mission to Thimphu, Bhutan, was undertaken during January 16–27, 2023. This enabled the Assessment Team to have face-to-face discussions with key stakeholders. Several virtual clarification meetings with PMDD and key stakeholders were held for required additional input. A cut-off date of March 31, 2023, was agreed for assessment of the legal and regulatory framework. As part of the government’s ongoing reform effort, new procurement regulations came into effect on July 1, 2023 (PRR 2023), superseding the previous PRR and Simplified Procurement Rules and Regulations (SPRR) 2021. Changes were also made to the Standard Bidding Documents (SBDs) in July 2023 as part of the government’s reform effort. While the PRR 2023 is not the subject of assessment by the MAPS team, any gaps identified in this MAPS Assessment that are resolved by the PRR 2023 have been acknowledged in the analysis of the relevant indicator. Based on all available inputs, a draft Assessment Report was completed by the Assessment Team in end-September 2023. A validation workshop with key stakeholders was held on February 13, 2024.

#### **Summary of Timeline of the Assessment**

- **November, 2021:** Commencement of the assessment
- **May 19, 2022:** Virtual launch workshop
- **June–December 2022:** The activities continued at a slow pace due to restrictions in movement arising out of COVID-19.
- **January 16–27, 2023:** Implementation mission to Thimphu (after travel restrictions were eased).
- **July 1, 2023:** The new PRR came into effect on July 1, 2023 (PRR 2023), superseding PRR 2019 and SPRR 2021.
- **Mid-October 2023:** Completion of the draft Assessment Report.
- **February 13, 2024:** Stakeholder validation workshop.
- **March/April 2024:** Engagement with stakeholders in Works Procurement and Health Sector Procurement.

## **2. Analysis of Country Context**

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### **2.1. Political, economic, and geostrategic situation of the country**

#### **Country Overview**

Bhutan is a small, landlocked country nestled in the Himalayas, with steep mountains, deep valleys, and scattered settlements. The country is approximately 38,394 km<sup>2</sup> and has borders with China and India. With forest coverage exceeding 70 percent, Bhutan is one of the few carbon-negative countries in the

world. Bhutan started opening up to the outside world only in the early 2000s. Bhutan’s independence throughout its history has helped preserve its rich cultural heritage and traditions.<sup>14</sup> The resident population of Bhutan is about 800,000 with a population growth rate of 1.3 percent per year.

Figure 1: Map of Bhutan



## Political Context

Bhutan’s political system evolved rapidly since 2008, from an isolated absolute monarchy into a democratic constitutional monarchy, with a remarkable degree of stability and continuity. Bhutan enjoys good bilateral and multilateral relations with its diplomatic partners and neighboring countries. The political environment is stable, and Bhutan’s governance track record is sound, which has allowed the government to accelerate reform efforts.

## Economic Overview<sup>15</sup>

Bhutan has experienced rapid economic growth. Annual real gross domestic product (GDP) growth averaged 7.5 percent since the 1980s, driven by the public sector-led hydropower sector<sup>16</sup> and strong performance in services, including tourism. Hydropower accounts for more than one-third of the country’s goods exports and domestic revenues and constitutes 16 percent of the GDP. With a gross national income (GNI) per capita of US\$3,700 in 2022, Bhutan is approaching the World Bank threshold for upper-middle-income status. Rapid economic growth has had a positive impact on poverty reduction, with extreme

<sup>14</sup> World Bank. 2020. *Bhutan Systematic Country Diagnostic: Taking Bhutan’s Development Success to the Next Level*.

<sup>15</sup> World Bank sources- Contribution by the Country Economist of Bhutan based on Macro Poverty Outlook Spring Meetings 2024.

<sup>16</sup> Bhutan’s economy is shaped by hydropower development and its special relationship with India. Economic growth has been driven by public sector-led hydropower development and the sale of electricity to India. The completed and ongoing hydropower projects are mostly financed through bilateral loans and capital grants from India in the ratio of 70:30 on average. India is Bhutan’s largest trading partner, accounting for 84 percent and 80 percent of exports and imports in 2023, respectively.

poverty eliminated by 2022. The percentage of the population living below the upper-middle-income poverty line (set at US\$6.85 per day) decreased from 39.5 percent in 2017 to 8.4 percent by 2022.

The economy is projected to grow by 4.9 percent in FY23/24, supported by higher growth in tourism-related services and the industry sector due to gradual increase in mining (mineral products) and manufacturing activities (base metals). On the demand side, growth is supported by non-hydro goods and services exports and consumption, reflecting higher government spending. Medium-term growth is expected to be supported by a recovery in non-hydro industry and services sectors and by the commissioning of new hydropower plant.

The fiscal deficit is expected to increase to 5 percent of GDP in FY23/24 due to a major salary increase. An increase in tax revenue will be offset by lower hydro revenues and external grants. Capital expenditures are projected to decline as it is the first year of the 13th Five Year Plan. By contrast, current expenditures are expected to increase due to a major salary hike for public servants to address significant staff attritions. The fiscal deficit is expected to narrow in the medium term, reflecting a moderation in primary recurrent expenditure and increased hydropower revenues. Despite a decline in hydropower debt, public debt is projected to remain elevated as a share of GDP in the short to medium term due to high fiscal deficits. Risks to debt sustainability are expected to remain moderate as the bulk of the debt is linked to hydro project loans from India (to be repaid from future hydro revenues) with low refinancing and exchange rate risks. The current account deficit (CAD) is projected to decline to 15.7 percent of GDP in FY23/24 due to a large reduction in IT equipment imports and to moderate further in the medium term, supported by an increase in tourism and electricity exports. International reserves are expected to decline to 3.8 months of import coverage in FY23/24.

## **Social Setting**

Recent changes in the country's social fabric have opened opportunities to improve Bhutan's human capital. Human capital has developed unevenly as young Bhutanese migrate to the cities in search of better jobs and living conditions. Gender inequalities have increased as educated women have less economic mobility than male peers. Spatial disparities also affect human capital development, as people and services are concentrated in Bhutan's capital, Thimphu. The proportion of seats held by women in the National Parliament is 17 percent in 2021, up from 8.51 percent in 2010.

## **Corruption Perception Index and Governance Indicators**

The Corruption Perception Index for 2023 by Transparency International,<sup>17</sup> scoring on a scale of 0 (highly corrupt) to 100 (very clean), ranked Bhutan 26 out of 180 countries, with a score of 68 out of 100. The 2021 assessment of Bhutan's ACC by Transparency International<sup>18</sup> finds that the institution continues to perform very well: two-thirds of the 50 measured indicators were rated as high.

Bhutan has recorded improvement in all the Worldwide Governance Indicators over the 10 years between 2008 and 2018. It scores as high as the 92nd percentile for the control of corruption, the highest in the region. The executive is broadly accountable to Parliament, and there is an independent judiciary and effective supreme audit institution. The media is free to expose and criticize government action and corruption. Still, evidence suggests that the media engages in self-censorship. Nongovernmental organizations (NGOs) and professional associations are newer than the community-based traditions of civil society, and NGOs generally rely on royal patronage due to sponsorship. Public administration functions

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<sup>17</sup> <https://www.transparency.org/en/countries/bhutan>

<sup>18</sup> <https://www.transparency.org/en/publications/anti-corruption-agency-assessment-bhutan-anti-corruption-commission>

well, and the civil service is professional, but the burden of government regulations is considered a competitive disadvantage for the country.<sup>19</sup>

### **Challenges of a Small Landlocked Domestic Market**

As per the 2020 Systematic Country Diagnostic (SCD), Bhutan's small landlocked domestic market makes it difficult to exploit economies of scale, and low connectivity makes it difficult for local producers to become part of global value chains. Large infrastructure investments have led to a significant extension of road networks. Since 1997, the government has built more than 6,920 km of motorable roads. Together with investments in telecommunication systems, these have improved the physical and digital links between major urban population centers and connected remote areas. While Bhutanese traders enjoy low tariff barriers and increasingly efficient customs facilities, the cost of transporting goods to and from external markets has gone up because of deficiencies in the quality of infrastructure and poor logistics performance, both domestically and along transit corridors. Bhutan's logistics performance is low and has not improved for a decade: it ranks 135 of 160 countries in the International Logistics Performance Index.

### **International Obligations**

There are no specific chapters or annexes of public procurement to the South Asian regional trade agreements to which Bhutan is a party. Bhutan is not a member of the World Trade Organization.

### **Development Challenges**

Despite significant progress in reducing poverty in Bhutan, there are still substantial urban-rural disparities in poverty and other welfare indicators.

The lack of economic diversification and promotion of private sector activity poses risks to the long-term sustainability of growth and job creation. Analysis from the forthcoming Bhutan Country Economic Memorandum (CEM) suggests that GDP growth has been largely driven by the publicly led hydropower sector while structural transformation has been slow. With limited economic diversification and nascent private sector development, jobs remain concentrated in the less productive agriculture and public sectors. Youth unemployment, which was already high before the pandemic, increased to 29 percent in 2022, which contributed to an increase in outward migration. This has raised concerns about a significant brain drain from the country. Non-hydropower sector growth has been constrained by the country's geography, challenging investment climate, and competition from large SOEs.

Bhutan is vulnerable to natural hazards and climate change, with the poorest communities at the highest risk of poverty and displacement. Even without climate change, Bhutan faces various natural hazards due to its fragile mountainous environment, including flash floods, glacial lake outburst floods (GLOFs), landslides, forest fires, and windstorms. Climate change is expected to affect Bhutan's natural resources, water, forests, and biodiversity. It will also affect its climate-sensitive economic sectors, hydropower and agriculture as well as infrastructure and people. Given their dependence on traditional agriculture, rural areas are most at risk of altered seasonal patterns, including heatwaves and droughts, which could increase the risk of people falling deeper into poverty due to crop failures and reduced agricultural yields.

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<sup>19</sup> Concept Note for MAPS- Bhutan- Source World Bank

## 2.2. The Public Procurement System and its links with the public finance management and public governance systems

### Procurement expenditure and link to Public Expenditure and Financial Accountability (PEFA)

Based on the information provided by PMDD of MoF, the total public procurement spent in FY20/21 was about Nu 41 billion (approximately equivalent to US\$550 million), which includes procurement financed from RGoB budget and external sources in almost equal share. PMDD also informed that this amount excludes procurement by SOEs, the total value of which is expected to be significant but could not yet be confirmed by PMDD as SOEs are not governed by the national PRR, do not fall under the purview of PMDD/MoF, and have their own procurement rules and regulations, approved by their Board of Directors, which are supposed to be broadly aligned with the national PRR.

As per the World Bank data,<sup>20</sup> GDP for Bhutan in 2021 was US\$2.54 billion (current US\$). Historically, procurement expenditure constitutes 40 percent of government expenditure and 10–15 percent of GDP on an average based on the following data available from the publication of the RAA of Bhutan (RGoB).<sup>21</sup>

Figure 2: Government procurement expenditure, RAA of Bhutan

Government procurement constituted 40% of government expenditures for last five years (2016-17 to 2020-21)<sup>1</sup> as summarized in **Table 1.1**. In terms of its contribution to country's economy, it accounted for 10-15 per cent of the GDP on average. Therefore, it constitutes a significant market and an important aspect of country's economic growth.

Table 1.1: RGoB's procurement expenditures during FY 2016-17 to 2020-21						
(in million Nu.)						
Particulars	2016-17	2017-18	2018-19	2019-20	2020-21	TOTAL
<b>Procurement Expenditures:</b>	<b>23,270.78</b>	<b>25,754.00</b>	<b>15,887.57</b>	<b>20,109.14</b>	<b>26,132.14</b>	<b>111,153.69</b>
Goods	4,517.26	4,577.07	3775.15	5,194.75	4,517.26	24,577.04
Works	17,135.45	19,501.34	10,436.83	13,189.73	17,588.81	77,852.18
Services	1,618.07	1,675.60	1,675.60	1,724.66	2,030.54	8,724.48
<b>Total RGoB's Expenditures:</b>	<b>49,966.61</b>	<b>56,331.36</b>	<b>44,054.13</b>	<b>57,572.28</b>	<b>71,091.81</b>	<b>279,016.19</b>
<b>% of Procurement Expenditures to Total</b>	<b>46.57%</b>	<b>45.72%</b>	<b>36.06%</b>	<b>34.93%</b>	<b>36.76%</b>	<b>40.00%</b>
<b>GDP*</b>	<b>156,112.65</b>	<b>174,516.00</b>	<b>176,404.30</b>	<b>179,567.99</b>	<b>186,652.99</b>	<b>873,253.93</b>
<b>% of Procurement Expenditures to GDP</b>	<b>14.91%</b>	<b>14.76%</b>	<b>9.01%</b>	<b>11.20%</b>	<b>14.00%</b>	<b>12.73%</b>

Source: RGoB's Annual Financial Statements, DPA, MoF  
\*Budget Report, MoF

According to the SCD, further improvements are needed for PFM.

A cross-cutting theme was that enhanced use of information and communication technology (ICT) can help make Bhutan's PFM more efficient. Improvements in PFM will depend on reliable and timely data on

<sup>20</sup> <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=BT>

<sup>21</sup> Publication of Royal Audit Authority of Bhutan (Advisory of November 2021).

[https://www.bhutanaudit.gov.bt/wp-content/uploads/2021/12/02.-AGAS\\_Review-of-Government-Procurement-System.pdf](https://www.bhutanaudit.gov.bt/wp-content/uploads/2021/12/02.-AGAS_Review-of-Government-Procurement-System.pdf)

fiscal performance. Good accounting and reporting give government decision-makers and other stakeholders accurate information on the use of public funds and public assets and liabilities. However, the accounting and auditing capacity shortage in Bhutan complicates the effective and efficient use of public funds. Moreover, the budget has not yet been made sensitive to climate change and gender equality.

The annual budget call notification for FY23/24<sup>22</sup> reminds budgetary agencies to ensure that the budget proposals include cross-cutting issues such as Gender, Environment, Climate, Disaster and Poverty (GECDP), but specific mechanisms are yet to be established.

Budget Notification dated July 4, 2022,<sup>23</sup> stressed that to ensure that there is no rush of spending during the last quarter of the fiscal year and to maintain quality of expenditure, all the budgetary bodies are required to initiate the APP and complete all tendering processes (from publication to contract signing) for the approved budget latest by the 2nd quarter of the fiscal year. However, based on clarification provided by PMDD on July 12, 2023, there was no compliance to the notification and it is expected that linking of APP with the budget will be implemented through e-GP system.

According to the latest PEFA published in 2023 (June 30, 2023),<sup>24</sup> “The RGoB has been implementing public financial management (PFM) reforms since 2017 under the PFM Reform Strategy 2017-2021. The Reform Strategy was a medium-term effort on part of the RGoB to strengthen areas such as financial management information systems (FMIS), accounting standards for the public and private sectors, procurement, internal controls, budget documents, parliamentary committees on budget and public accounts, and capacity building. The Reform Strategy was prepared based on the PEFA assessment conducted in 2016, which followed the first assessment in 2010. Several achievements have been made under the Reform Strategy, notably the launch of the electronic Public Expenditure Management System (e-PEMS), implementation of the electronic Government Procurement (e-GP) system, creation of Cluster Finance Services (CFS), notification of International Public Sector Accounting Standards (IPSAS), and inclusion of gender and climate aspects in the annual National Budget Report.”

And further, “Related to impact of PFM on budgetary and fiscal outcome, PEFA 2023 assessment shows that – at the overall level – the RGoB’s PFM performance in 2022 averages a PI score close to “B”, which is comparable to 2016, and means that the RGoB’s PFM performance continues to be sound and in line with many elements of good international practices.”

Whether the government budget is realistic and implemented as intended is measured by comparing actual revenues and expenditures (the immediate results of the PFM system) with the original approved budget. The score was ‘B’ as the aggregate expenditure out-turn was between 90 percent and 110 percent of the approved aggregate budgeted expenditure for at least two of the last three years, as per table 3.2 of the PEFA 2023 report.

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<sup>22</sup> <https://www.mof.gov.bt/wp-content/uploads/2023/01/BudgetNotification2023-31012023.pdf>

<sup>23</sup> <https://www.mof.gov.bt/notifications/budget-notification-for-fy-2022-23/>

<sup>24</sup> <https://www.pefa.org/node/5111>

Figure 3: Comparison of Original Budget and Actual Expenditure for FY 2019/20 to 2021/22

3.6. **Performance level and evidence for scoring of the dimension:** The RGoB's original budget and actual expenditures for the last three fiscal years are shown in the table below together with the calculated deviation.

**Table 3.2: Total budget and actual expenditure**

	2019/20	2020/21	2021/22
Original budget (Nu. Million)	61,197.307	69,151.122	73,919.335
Actual expenditure (Nu. Million)	57,572.280	71,091.810	69,156.587
<b>Actual Expenditure/Original Budget %</b>	<b>94%</b>	<b>103%</b>	<b>94%</b>

Note: Actual expenditure includes expenditure for donor funded projects (loans and grants) except debt interest, and lending and repayment.

Sources: Annual financial statements (AFS) and National Budget Reports/Multi-Year Rolling Budget (MYRB) system.

Based on the PEFA 2023 assessment related to Procurement (PI-24) as a high-level indicator on (a) Procurement Monitoring, (b) Procurement Methods, (c) Public Access to Procurement Information, and (d) Procurement Complaints Management, the overall score using 2022 data is 'B', which is same as the 2016 score.

Table 1:

**Table 3.72: Summary of scores for PI-24 and performance table**

Indicator/Dimension	2016 Score	2022 Score	Brief justification for score
<b>PI-24 Procurement</b>	<b>B</b>	<b>B</b>	Scoring method M2
24.1 Procurement monitoring	C	C	About one-third of procurement is carried out through the electronic government procurement (e-GP) system. For the balance, procurement records are maintained at the agency-level. Records are accurate and complete for a majority of transactions with data on what has been procured, value of procurement, and who has been awarded contracts.
24.2 Procurement methods	B	B	As per the PRR 2019, the basic method of procurement is open tender. It comprises more than 76% of total value of all contracts (e-GP and manually) awarded during FY 2021/22.
24.3 Public access to procurement information	B	B	All key procurement information for national procurement is publicly available on <a href="http://www.egp.gov.bt">www.egp.gov.bt</a> , except for annual procurement statistics. Information on bidding opportunities and contract awards for tenders outside the e-GP is made available through national media and on the websites of the respective procuring entities.
24.4 Procurement complaints management	A	A	The complaint resolution system meets six out of six criteria. Grievances are processed through the e-GP system and all decisions are accessible to the public.

Table 2 shows, as per PEFA 2023, the value of procurement undertaken by RGoB entities (excluding Dzongkhags, Gewogs, and Thromdes) during FY21/22.

Table 2:

Procurement method	Through e-GP (Nu, millions)	Manual outside e-GP (Nu, millions)	Total (Nu, millions)	Share (%)
Open tender	1,716.77	2,120.53	3,837.30	76
Limited tendering	51.15	800.087	851.24	17
Limited enquiry	59.46	127.94	187.40	4
Direct contracting	0.92	155.55	156.47	3
Total for FY21/22	1,828.31	3,204.10	5,032.41	100
Share (%)	36.33	63.67 <sup>25</sup>	100	

In addition to the PEFA PFM report, in June 2023, Bhutan published the PEFA Assessment of Climate Responsive Public Financial Management (CRPFM).<sup>26</sup> Indicator 8 of the CRPFM, or CRPFM-8, relates to climate-responsive procurement. This indicator examines the extent to which climate change mitigation and adaptation measures are embedded into key aspects of procurement management. It measures the extent to which the government purchases goods, services, and works that cause minimal adverse impacts on climate change. It also evaluates the resilience and responsiveness of the procurement system to climate-induced risks and the system's responsiveness to climate-induced disasters. Table 3 presents the summary of scores and performance table for CRPFM-8.

#### Summary of scores for CRPFM-8 and performance table

Indicator/Dimension	Score	Brief justification for score
<b>CRPFM-8. Climate responsive procurement</b>	<b>D+</b>	Scoring method M2
CRPFM-8.1 Climate responsive procurement framework	C	The scope of the RGoB's PRR 2019 is subject to the climate-responsive procurement principles.
CRPFM-8.2 Climate responsive public procurement operations	C	The SPRR 2021 help expedite procurement in response to climate-induced disasters.
CRPFM-8.3 Climate responsive public procurement monitoring	D	While there is a specific operational system in place to ensure compliance of emergency procedures used in case of climate-induced disasters, compliance of contract awards and implementation with climate-responsive specifications of tenders and contracts is not verified and no databases/records capture information on climate-responsive procurement, including emergency procurement
CRPFM-8.4 Climate responsive public procurement reporting	D	The RGoB does not prepare climate-responsive procurement reports.

#### Public Procurement Environment and key stakeholders

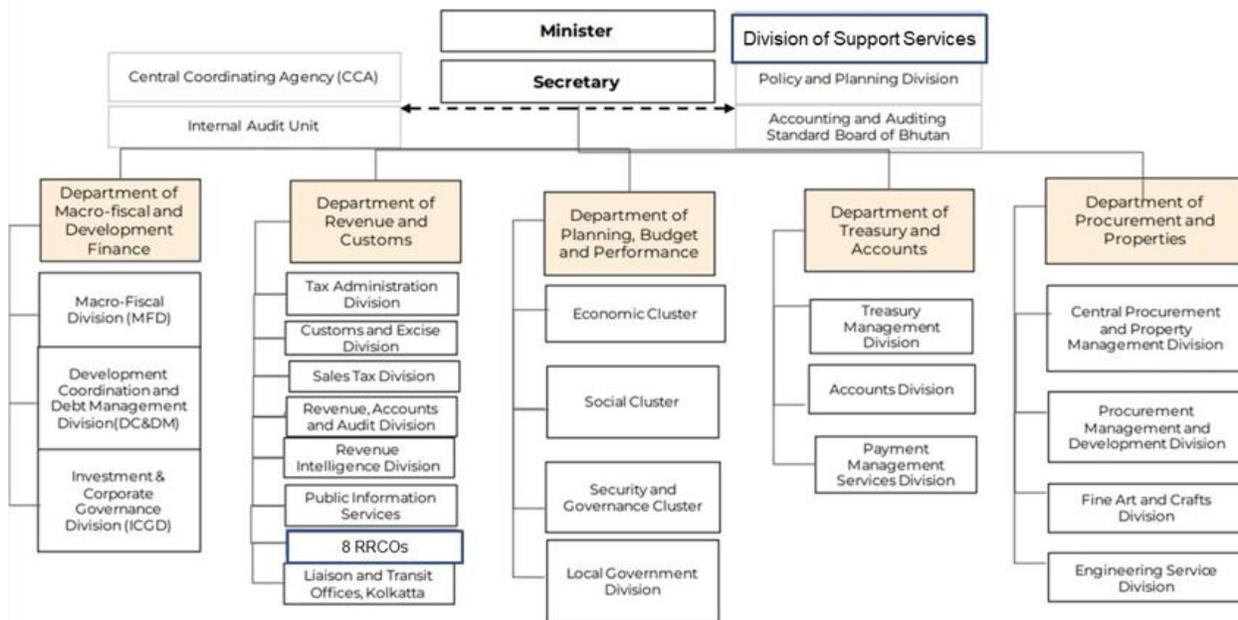
According to the new organization chart of MoF,<sup>27</sup> PMDD is under the Department of Procurement and Properties.

<sup>25</sup> As per clarification of PMDD, this includes mostly donor funded procurement, where RGoB PRR is not applicable

<sup>26</sup> <https://www.pefa.org/node/5251>

<sup>27</sup> <https://www.mof.gov.bt/about-us/organisational-chart/>

Figure 4: Organogram of MoF, as of April 25, 2023<sup>28</sup>



Based on the stakeholder analysis, as also reflected in the Concept Note, PMDD under MoF is the key counterpart agency. PMDD is keen on engaging and leading the Bhutan MAPS ASC, under the overall leadership of MoF.<sup>29</sup> PRR 2019<sup>30</sup> established Government Procurement and Property Management Division (GPPMD) as the procurement policy and professional development agency, which was renamed in 2021 to PMDD.

In addition to the institutions referred to above, other stakeholders who influence the operating environment of public procurement, and with whom the MAPS Assessment team engaged, are mapped below:

### Other Stakeholders

*Procuring entities/employer:* Public procurement is decentralized to units in all budgetary (procurement) agencies. In accordance with the definition under PRR 2019, the employer is the government agency which enters into a contract with a supplier, service provider, or contractor for procurement of goods, services, or execution of works for the government. The terms ‘procuring agency’, ‘procuring entity’, ‘client’, ‘purchaser’, and ‘employer’ are synonymous. They are responsible for conduct of the procurement process, bid evaluation, and award and contract implementation. The following are some of the procuring agencies that are part of the sample: (a) Ministry of Health, (b) Ministry of Works and Human Settlement, (c) Ministry of Education, and (d) MoF.

Due to importance of health sector and works procurement, with deeper engagement, additional reports were prepared on procurement issues affecting these sectors

<sup>28</sup> Accessed on June 14, 2023.- and reproduced

<sup>29</sup> [Ministry of Finance | Royal Government of Bhutan \(mof.gov.bt\)](https://mof.gov.bt)

<sup>30</sup> [PRR2019.pdf \(mof.gov.bt\)](https://mof.gov.bt)

*The key oversight agencies consulted as stakeholders are (a) ACC,<sup>31</sup> (b) RAA,<sup>32</sup> (c) CCA,<sup>33</sup> (d) Office of Consumer Protection<sup>34</sup> to oversee National Competition Policy,<sup>35</sup> and (d) Independent Review Body (IRB).<sup>36</sup>*

Assessment Team found that Royal Audit Authority has published very useful reports on public procurement as advisory services and their input was incorporated in the Assessment Report

These key oversight agencies thus have a critical part to play in ensuring effective control and audit through systems and a control framework, which has a day-to-day impact on the conduct of public procurement

ACC have a key role in the oversight, enforcement and accountability with particular focus on anti-corruption issues which have a significant impact on the perception and practice of public procurement

*Development partners:* As part of the stakeholders' consultations, the Assessment Team coordinated the technical inputs of the other development partners actively involved in the procurement reform agenda in Bhutan. This includes the donors of the PFM-MDF implemented by MoF and administered by the World Bank, which provides support to procurement reform in Bhutan

The collaboration between the World Bank and Asian Development Bank was very beneficial for this assessment

*CSOs and private sector:*<sup>37</sup> CSOs such as SAARC Business Association of Home-Based Workers and Loden Foundation involved in public procurement are among the stakeholders that will be consulted together with the private sector and business associations (contractors, suppliers, consultants), academia, and media. There is a need to locate CSOs active in governance, procurement, and service delivery.

Engagement with CSOs and private sector stakeholders brought a unique perspective to the understanding of operation of the procurement system in practice as well as valuable suggestions and input for proposals for improvements and reform.

*PEFA 2023 and PER 2023 Team:* The Assessment Team also got useful input the from PEFA and Public Expenditure Review (PER) teams, with effective collaboration among these teams to deal with issues affecting public procurement

## 2.3. National policy objectives and Sustainable Development Goals

The Constitution of Bhutan places significant importance on the duty of every citizen to contribute to environmental conservation and support environment-friendly practices and policies (A.5). It places specific environmental obligations on the government (A.5) and states that one of the objectives of elected local governments is to "Ensure the provision of services to communities in a sustainable manner."

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<sup>31</sup> [Anti-Corruption Commission of Bhutan | "If You Care, You Will Dare" \(acc.org.bt\)](https://www.acc.org.bt)

<sup>32</sup> [www.bhutanaudit.gov.bt](http://www.bhutanaudit.gov.bt)

<sup>33</sup> [Auditcharter01012015-3.pdf \(mof.gov.bt\)](https://www.mof.gov.bt/Auditcharter01012015-3.pdf)

<sup>34</sup> [Office of Consumer Protection - Consumers International](https://www.consumersinternational.org/)

<sup>35</sup> [National-Competition-Policy-2020.pdf \(gnhc.gov.bt\)](https://www.gnhc.gov.bt/National-Competition-Policy-2020.pdf)

<sup>36</sup> [Independent Review Body - Rules and Procedures.pdf \(egp.gov.bt\)](https://www.egp.gov.bt/Independent-Review-Body-Rules-and-Procedures.pdf)

<sup>37</sup> [Dzi Seldra](https://www.dzi.org.bt/)

(A.22). In support of its commitment to sustainable development, Bhutan has been guided by the concept of gross national happiness (GNH), which seeks to integrate socioeconomic development goals with environmental protection, cultural preservation, and good governance. Bhutan is a signatory to multilateral environmental agreements including the Paris Agreement on climate change and has ratified the Convention on Biological Diversity. The objective of Bhutan's 12th Five Year Plan (2018–2023) is “Just, Harmonious and Sustainable Society through enhanced Decentralisation” with priorities to create a sustainable society including ensuring renewable energy supply and improving efficiency and effectiveness of public service delivery. The 12th Five Year Plan included flagship programs for startup and cottage and small industries, sustainable tourism development, and commercialization of organic production.

In 2018, the RGoB presented its first voluntary national review (VNR) report of the Implementation of the 2030 Agenda for Sustainable development. A second VNR was presented in 2021 and that report notes (p. 90) the incorporation of green elements into the public procurement system. Bhutan adopted the 2030 Agenda for Sustainable Development and Sustainable Development Goals (SDGs) in September 2021 during the 70th Session of the United National General Assembly. Bhutan was identified as an SDG priority country for implementation of SDGs.

The EuropeAid SWITCH-Asia Programme<sup>38</sup> supported the development of Green Public Procurement (GPP) Bhutan (2012–2017), contributing toward SDG Goal 12: Responsible consumption and production, with outputs including research and publication of reports on quantitative mapping of public procurement in Bhutan (2015), legal analysis of public procurement framework in Bhutan identifying prospects for procuring green (2015), and ‘Checklist of Implementing Green Public Procurement in Bhutan (2017)’, ‘Procuring Green’ handbooks for policy makers and public procurement on procurement of goods and services and public works (2017).<sup>39</sup> There is currently a small active project ‘Criteria Development for Green Public Procurement and Eco-label in Bhutan’ financed by the German government and executed by German Agency for International Cooperation (*Deutsche Gesellschaft für Internationale Zusammenarbeit*, GIZ) with local implementation, focusing on development of environmental criteria for cement and steel.

The GNH Commission authored the 12th Five Year Plan covering November 2018 to October 2023 with the objective of a *Just, Harmonious and Sustainable Society through enhanced Decentralization*. It comprises 17 National Key Result Areas (NKRAs), including NKRA 12 - Corruption Reduced that aims to strengthen good governance and contribute to building a corruption-free society by promoting ethical leadership, instilling integrity at the individual level, and strengthening systems and institutions through collaboration among all actors. Planned under NKRA 12 are (a) enhancing efficiency, effectiveness, and credibility of the ACC; (b) enhancing mainstreaming of integrity and anti-corruption measures in agencies; and (c) improving public sector performance to ensure value for money and accountability, transparency, and effective service delivery by public institutions.

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<sup>38</sup> <https://www.switch-asia.eu/project/gpp-bhutan/>

<sup>39</sup> [http://gpp.rim.edu.bt/wp-content/uploads/2017/05/GPP\\_Goods-Services-II\\_Revised.pdf](http://gpp.rim.edu.bt/wp-content/uploads/2017/05/GPP_Goods-Services-II_Revised.pdf)  
[http://gpp.rim.edu.bt/wp-content/uploads/2017/05/IISD-Handbook\\_Works.pdf](http://gpp.rim.edu.bt/wp-content/uploads/2017/05/IISD-Handbook_Works.pdf)

Related to horizontal policy objectives<sup>40</sup> in public procurement, there are limited initiatives as indicated above. This topic is analyzed further under Indicator 3 of this report.

## 2.4. Public Procurement Reform

The public procurement system in Bhutan has undergone significant development since 1999, when a Procurement Manual was created and incorporated into the Financial Manual of that time. In 2006, a procurement cadre was established in the Royal Civil Service Commission (RCSC), and in 2008, the Public Procurement Policy Division (PPPD) was created within the Department of National Properties of MoF. This was followed by the creation of PRR 2009, which operationalized the provisions on procurement in the Public Finance Act 2007 (PFA).

The World Bank carried out a pilot program on the use of country systems in 2008–2010.<sup>41</sup> The assessment used a two-stage assessment methodology that comprises (a) an assessment of the overall quality of the national procurement system using 54 baseline indicators of the OECD/DAC methodology and (b) an assessment of the consistency and equivalency of the procurement system with the principles of the World Bank's Procurement Guidelines and SBDs.

The draft report contains the following findings:

“The findings of these assessments demonstrate that recent years' focused efforts on public procurement reforms have produced significant progress in Bhutan. In a number of areas, however, additional efforts are required to achieve adequate procurement standards. Among the positive features are (i) the introduction of the Procurement Rules and Regulations 2009 and Standard Bidding Documents, (ii) the establishment of the Public Procurement Policy Division, (iii) the career path and recruitment tools put in place for a procurement profession, (iv) the generally well-functioning procurement market, and (v) a strong framework for control and audit, spearheaded by the Royal Audit Authority and the Anti-Corruption Commission.

In contrast, there is a need for improvements in regard to (i) procurement knowledge and skills development and (ii) access to procurement training and capacity development opportunities. The absence of a complaints review mechanism, a procurement system weakly linked to the broader public financial management framework and a fledgling internal audit function are among the areas of weaknesses yet to be addressed.”

In recent years, SBDs were formulated to accompany the PRR, representing a significant milestone in strengthening Bhutan's procurement system. The establishment of the PPPD elevated a number of regulatory and oversight functions to a higher strategic level. The PRR was revised in 2014. PRR 2019 established the GPPMD as the new procurement policy and professional development agency in the recent comprehensive revision. In 2021, GPPMD was renamed PMDD. In Bhutan, public procurement is decentralized to units in all budgetary (procurement) agencies.

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<sup>40</sup> Any of a variety of objectives of economic, environmental, and social nature (such as sustainable green growth, the development of small and medium enterprises, innovation, standards for responsible business conduct or broader industrial policy objectives), which governments increasingly pursue through use of procurement as a policy lever (sometimes referred to as 'secondary' policies, in contrast with the so-called 'primary' objectives of delivering goods and services in a timely, economical, and efficient manner (*Source: Glossary of MAPS Methodology 2018*).

<sup>41</sup> Piloting Program for the use of Country Systems Draft Report on the Assessment of the Public Procurement System (Based on internal working document of the World Bank)

A major effort to reform Bhutan’s public procurement system is currently under way. The reform involves a phased development and implementation of an e-GP accessible through the internet. The RGoB funded Phase I of e-GP from its own funds, launching it on June 21, 2017. Phase II of e-GP was completed and launched in July 2020, paving the way for the implementation of the final Phase III. Phases II and III of the e-GP system are supported by the World Bank.<sup>42</sup> The reform aims at having all public contracts for goods, works, and services procured through the e-GP system. The e-GP functions include handling of procurement-related grievances, reporting, data analytics, e-catalogues, purchase order, contract management, and reverse auction. It is already integrated with the budgeting system and the construction development board (CDB) platform for managing consultants and contractors in a whole-of-government approach.

According to a report by RAA<sup>43</sup> in November 2021, there is “lack of strategic approach in integrating government procurement to consolidate processes and facilitate innovations, and inability to ensure the quality of deliverables have become impediments in achieving value for money in government procurement. The review identified the following reasons that are seen to cause the above issues: (i) Incoherent policies in government procurement that impose limitations on procuring agencies to go for quality; (ii) The enforcement of procurement norms is weakened basically due to lack of accountability culture and mechanism for sanctions on delinquent officials and parties, and also due to inadequacies in monitoring and coordination functions between different agencies and authorities; (iii) There is a lack of overall capability of the procurement systems in the country to render high professionalism in managing government procurement; and (iv) Limited ICTisation of procurement processes to render efficient processes, and facilitate strategic approach towards organising government procurement.”

The abovementioned RAA report further states that government procurement is plagued with numerous irregularities that have the potential to undermine good governance. Therefore, to render procurement processes that respond to the needs of the time and facilitate value for money in public procurement, transformative changes must be initiated strategically. The systems and processes must be overhauled and must be reinforced through a strong culture of ethics and professionalism.

The OAG issued a report in December 2021<sup>44</sup> on ‘Issues and Gap Analysis in the Public Procurement of Works (above Nu 5 million) Contract Implementation and Settlement of Dispute’. The Assessment Team has used this input in the Annex on Works Procurement, which is part of this Assessment Report.

With all the above initiatives by the RGoB and the keen interest on the part of important stakeholders in improving the public procurement system of Bhutan, including MoF/PMDD, RAA, ACC, OAG, procuring entities, the private sector, and CSOs, this assessment’s results are expected to inform the strategic planning process for future public procurement reform in Bhutan.

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<sup>42</sup> PFM-MDF.

<sup>43</sup> [https://www.bhutanaudit.gov.bt/wp-content/uploads/2021/12/02.-AGAS\\_Review-of-Government-Procurement-System.pdf](https://www.bhutanaudit.gov.bt/wp-content/uploads/2021/12/02.-AGAS_Review-of-Government-Procurement-System.pdf)

<sup>44</sup> <https://oag.gov.bt/wp-content/uploads/2021/12/Report-for-web.pdf>

## 3. Assessment

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### 3.1. Pillar I - Legal, Regulatory, and Policy Framework

Pillar I assesses the existing legal, regulatory, and policy framework for public procurement. It identifies the formal rules and procedures governing public procurement and evaluates how they compare to international standards. The practical implementation and operation of this framework is the subject of Pillars II and III. The indicators within Pillar I embrace recent developments and innovations that have been increasingly employed to make public procurement more efficient. Pillar I also considers international obligations and national policy objectives to ensure that public procurement lives up to its important strategic role and contributes to sustainability.

The summary analysis of Pillar I below is based on an assessment of the legal and regulatory framework at the agreed cut-off date of March 31, 2023. At that date, the primary sources were PRR 2019 (as applicable) and SPRR 2021.<sup>45</sup>

Reform of the PRR and SPRR 2021 was ongoing during the MAPS assessment process. On July 1, 2023, the new PRR 2023 came into force, replacing the PRR and SPRR 2021.

PRR 2023 have not been analyzed or assessed for this MAPS assessment as they came into force after the agreed cut-off date. However, the MAPS Assessment Team wishes to acknowledge the developments and progress made as a result of the introduction of PRR 2023. Thus, where a gap is identified in this matrix under Pillar I, with a recommendation for legislative change in PRR, comment has been added to the specific recommendation on whether or not the recommendation has been adopted and the gap resolved. This is also reflected in the summary table of substantive gaps and recommendations for relevant criteria (see 1(d), 1(h) and 2(a)).

***See Additional Notes on PRR 2023 at Appendix to this Volume I***

**Part 1 of Appendix** contains additional notes that highlight and comment on a number of changes introduced by PRR 2023 as well as information on additional supporting documentation issued in July 2023. Part 1 is provided for information purposes only, to give readers of this report an insight into some of the ongoing developments in the procurement legal framework, and is not the subject of assessment under MAPS. **Part 2 of Appendix** contains ‘Gaps and Recommendations’ identified in the MAPS assessment as requiring legislative change and indicates whether/to what extent these have been addressed by PRR 2023.

#### Indicator 1. The public procurement legal framework achieves the agreed principles and complies with applicable obligations

The indicator covers the different legal and regulatory instruments established at varying levels, from the highest level (national law, act, regulation, decree, and so on) to detailed regulation, procedures, and bidding documents formally in use.

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<sup>45</sup> SPRR 2021 were effective from November 2, 2021, and superseded SPRR 2020.

- **Synthesis of the indicator**

Most of the criteria in this indicator are met, as the legal and regulatory framework is well recorded, with broad scope of application, an appropriate range of procurement methods, and all documents, including SBDs, available on the e-GP website. The use of e-GP means that the level of transparency of opportunities is good. Rules on eligibility and debarment are clear and can be further improved by inclusion of specific references to terrorism, trafficking, and other specified offences. The requirement for payment of the Sustainable Development Fee (SDF) is a potential barrier to entry, the impact of which should be kept under review.<sup>46</sup> Evaluation is of the ‘Best Evaluated Bid’, not solely based on price, applying published criteria and methodologies. Provisions on specifications are predominantly input based and could be improved and use of brand names is permitted in certain cases. Contract management is well covered in the legal and regulatory framework but measures to strengthen recordkeeping and document retention rules need to be further considered. Bidders have a right to challenge decisions using the clearly defined e-GP grievance process, and there is a right of appeal to the IRB, whose decisions are published on the e-GP website. The procurement of public-private partnerships (PPPs) is covered by separate specialized legislation, and procurement by SOEs must comply with public procurement principles.

- **Findings**

The PRR, issued by MoF pursuant to statutory powers,<sup>47</sup> are the primary source of the procurement legal framework in Bhutan. The PRR are a hybrid legislation containing substantive provisions and principles generally included in public procurement laws, plus more detailed that address issues of implementation. The SPRR were issued as an interim measure in response to the COVID-19 pandemic,<sup>48</sup> to amend and simplify some of the provisions in the PRR. There are also provisions ensuring correct application of the PRR in the context of e-GP. The PRR/SPRR and other amendments to the PRR to reflect requirements of e-GP are not presented in a consolidated manner. The PRR are supported by notifications and circulars which are binding in nature, unless they contradict higher-level rules. Amendments to the PRR, consolidating previous changes and introducing some new and updating provisions, are planned to take effect from July 1, 2023, at which point the SPRR will be withdrawn.<sup>49</sup>

In terms of scope of application, the PRR cover goods, works, and services, including consulting services for all procurement using public money. ‘Public money’ is a defined term<sup>50</sup> and excludes money received by SOEs (see below). Reasonable exemptions and exclusions from application of the PRR are clearly specified. The procurement of PPPs is regulated by specialized rules, specifically the Public Private Partnership Rules and Regulations.

Turning to available methods of procurement, there is a range of procurement methods listed in the PRR, including competitive and less competitive procurement procedures. Less process-heavy methods with faster time scales can be used for lower value and less complex contracts, with use of a two-stage process

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<sup>46</sup> During the MAPS assessment, there were changes to the amount of SDF payable and apparent changes in the designation of visitors required to pay the SDF. According to recent clarification by PMDD, the SDF is no longer paid if the visit is business or work related.

<sup>47</sup> PRR and SPRR were issued pursuant to clear enabling provisions at s.104 of the Public Finance (amendment) Act of Bhutan 2012 which provides that the MoF may issue “rules, manuals, directives, instructions or notifications on specific matters” listed in s.104(a) to (k). Section 104(i) refers to the “procurement system which is, equitable, transparent, competitive and cost effective.” PRR 2023 are issued pursuant to the same power.

<sup>48</sup> Simplified Procurement Rules and Regulations 2021 superseded Simplified Rules and Regulations 2020.

<sup>49</sup> New PRR 2023 have been published and PRR 2019 and SPRR have been withdrawn.

Page on Procurement Rules and Regulations and SBD 2023

[Department of Procurement and Properties | Ministry of Finance, Royal Government of Bhutan \(mof.gov.bt\)](http://mof.gov.bt)

<sup>50</sup> Definition of ‘public money’ in PRR is aligned with the Public Finance Act 2007 (as amended).

permitted in specified circumstances including for large and complex contracts. Open tender/bidding is mandatory for contracts above Nu 1 million for works contracts and Nu 1 million for goods and services contracts.<sup>51</sup> Use of other procurement methods is subject to meeting specified conditions, including financial thresholds. Safeguards are in place to prevent splitting of contracts to avoid competition.

The e-GP website is where notifications of open tenders/bidding opportunities must be published, together with bidding documents. The information available on the e-GP website is sufficient and minimum time scales for responses are specified.

The PRR clearly set out grounds for exclusion and eligibility, together with procedures to be used to determine eligibility as well as the process for administrative debarment (declaration of ineligibility). There are, however, no provisions in the PRR referring specifically to exclusion on grounds of conviction for participation in a criminal organization, terrorism, money laundering, child labor, or human trafficking. Completion of an Integrity Pact Statement is a condition for eligibility, together with other criteria relating to general suitability, financial capability, and technical ability. In the case of works-related activities, the CDB<sup>52</sup> maintains lists of suitable registered contractors and consultants, including foreign suppliers. SOEs are eligible to bid only when they meet conditions intended to promote fair competition. In June 2022, legislation was passed requiring foreigners visiting Bhutan to pay an SDF of US\$200 per day, an increase from the previous rate of US\$65 per day, subject to waivers in specified cases. This has been interpreted as payable by foreigners visiting for work/business as well as tourists. Concerns about the impact of SDF on bids and business were raised with the MAPS Assessment Team by private sector representatives, and the SDF is identified as a potential barrier to entry.<sup>53</sup>

A range of SBDs is published for mandatory use and include minimum content specified in the PRR. Simplified bidding documents are permitted, where appropriate, for methods other than open bidding. Potential bidders are able to request clarification of bidding documents.

Provisions in the PRR on preparation of specifications use a predominantly input-based approach. The PRR require national and international standards to be used in specifications and include an underlying obligation not to restrict competition or favor any particular supplier. Provisions in the SPRR, however, permit procuring agencies to specify two brand names<sup>54</sup> after having carried out thorough market research and needs analysis. The MAPS Assessment Team understands that this provision was introduced in response to practical problems encountered in Bhutan, primarily due to its geographical location and small market size. For certain items, best value-for-money outcomes are not being achieved, due to the multiplicity of branded items in use by purchasers. This is magnified when purchases involve equipment requiring consumables, spare parts, and servicing, and the problem is particularly acute in the health sector. A standardization approach is thus being adopted to reduce the number of brands purchased country-wide, aiming to both streamline procurement and deliver better value-for-money outcomes. In the particular country context, this is not classified as a gap, but it is advised that clear and practical guidelines are published to support market research, needs analysis, and audit trail of decision-making, leading to the decision to restrict the number of brands. In addition, it is advised that the impact of this

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<sup>51</sup> These are increased thresholds introduced by SPRR.

<sup>52</sup> Part of newly created Bhutan Construction Transport Authority (BCTA) following merger of Road Safety Transport Authority and Construction Development Board, 2023.

<sup>53</sup> Over the course of the MAPS assessment, there were changes to the amount of SDF payable and apparent changes in the designation of visitors required to pay the SDF. According to recent clarification by PMDD, the SDF is no longer payable where visit is business or work related.

<sup>54</sup> Proposed amendments to PRR permit agencies to specify two to three brand names.

policy on the procurement market is kept under careful and critical review to ensure that its effect on the market is understood and that it achieves its aims.

Evaluation of tenders is based on the 'Best Evaluated Bid', applying objective criteria set out in the bidding document. The bidding document must also set out the methodology for evaluation, including weighting. Price is only one criterion for evaluation; life cycle costing can be used and quality is a major consideration in evaluation of proposals for consultants' services. Confidentiality must be maintained throughout the evaluation and bid period until after the award of contracts, with specific reference to protection of commercially sensitive information. The method for submitting tenders is clear, and opening of tenders takes place immediately following submission of bids, applying a defined and recorded process, with the e-GP system providing a bid opening report to all participating bidders.

Participants in procurement proceedings have the right to challenge decisions or actions taken by procuring agencies, with the initial 'grievance' submitted to the Head of the Procuring Agency using the e-GP system. The PRR establish the matters that are subject to review, together with time scale for submission and decisions on grievances. A grievance may, however, only be submitted after the contract award decision has been made. This is identified as a gap as it reduces the potential efficacy of the grievance mechanism. There is a right of administrative review of a grievance decision to the IRB, which may suspend award decisions and has the power to grant a range of remedies. IRB decisions are published on the e-GP website but time frames for publication are not specified, and this is an area for improvement. IRB decisions can be appealed to the courts.

Contract management issues are addressed in the PRR which define and allocate these responsibilities covering the life of the contract. Contract amendments are subject to appropriate standard contract conditions. The PRR and conditions of contract set out processes for efficient and fair resolution of disputes arising during performance of the contract, with a requirement for the parties to seek to resolve contract disputes amicably before referring to other means of dispute resolution. The legal framework provides for alternative means of dispute resolution including mediation and arbitration, and arbitral awards are enforceable.

The legal framework mandates use of e-GP by all procuring agencies and any other public entities spending public funds for the procurement of goods, works, and services. e-GP is not yet rolled out as an end-to-end system and so its application extends partially to the procurement cycle.<sup>55</sup> The bidding documents set out instructions to bidders clearly outlining the process to be followed. Additionally e-GP User Manuals are available for bidders. e-GP tools and standards specified for e-GP contain appropriate provisions to ensure privacy, security of data, and authentication.

Safekeeping of records and documents is an area where a number of gaps, and thus areas for improvement, have been identified, and poor recordkeeping in practice was noted while sampling procurement files. While the PRR include provisions concerning storage of documents and security protocols are in place to protect e-GP records, there is no single comprehensive list of the procurement records and documents to be retained. Policies on retention of documents are compatible with audit cycles but the standard retention period of 36 months after expiry of the contract or audit (whichever is the later) for records pertaining to award of contracts is relatively short in the context of prosecution of fraud and corruption.

Concluding the analysis of Pillar I Indicator 1, MoF is responsible for developing PPP policy and supporting implementation. Specialized legislation on procurement of PPPs requires competitive tenders conducted

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<sup>55</sup> As per clarification provided by PMDD, from July 2023 Phase III of e-GP was rolled out, which includes contract management. Therefore, e-GP will cover the full procurement cycle from planning to contract management once it is fully implemented.

with probity, fairness, and transparency. The PRR permit SOEs to adopt separate rules and regulations for the management of their procurements, provided such rules are within the broad principles of the PRR. In the absence of separate rules, the PRR apply.

- **Gaps**

### ***Substantive gaps***

**SDF:** The recent increase in the SDF payment may create a barrier to entry for both foreign and domestic bidders who rely on foreign workers for contract delivery. This could reduce competition and negatively affect the market by decreasing the value-for-money outcome. This gap is allocated to a red flag because it arises from national policy and cannot be addressed merely by changes to the public procurement legal and regulatory framework.

**Functional specifications:** Although there are some provisions permitting customization of scope of works/specifications as well as some flexibility in selection criteria and permitted use of negotiation, PRR 5.2.2.11 concerning preparation of technical specifications is, essentially, an input-based (not a 'functional') approach. This may limit the opportunities for innovation contract delivery in certain cases.

**Trigger for submission of a complaint (grievance):** The right to submit a complaint (grievance) is triggered by the receipt of the letter of intent to award the contract. It is not possible to submit a complaint using the grievance mechanism before the deadline for presenting bids. Thus, there is no opportunity to use the grievance mechanism to both raise and resolve concerns about the procurement documents (such as potential bias in specifications or inappropriate contract terms) or the pre-qualification or selection process before bid submission. This limits the potential efficacy of the grievance mechanism.

**Recordkeeping - comprehensive list of procurement records and documents:** There is no single comprehensive list of procurement records and documents to be retained.<sup>56</sup> Procuring agencies thus have no clear universally applicable guide on precisely what must be retained. This may result in inconsistency and also hinder effective implementation or review of performance, which depends on the availability of information and records that track each procurement action.

**Recordkeeping - document retention period:** The standard retention period (for records pertaining to award of contract) of 36 months after the expiry of contract or audit settlement, whichever is later, is relatively short in the context of potential cases of fraud and corruption and thus there is the possibility of loss of relevant evidence. This gap is allocated a red flag because remedying the gap is not solely in the purview of MoF/PMDD and requires interinstitutional cooperation.

**Recordkeeping - security protocol:** There is no dedicated security protocol to protect physical procurement records covering the entire procurement process. This information is important for both internal and external control systems to ensure ease of access by appropriate authorities to all relevant information relating to each procurement action.

### ***Minor gaps***

**Specific grounds for exclusion:** The PRR do not include provisions for specific exclusions based on criminal activity such as participation in a criminal organization, terrorism, money laundering, child labor, or human trafficking.

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<sup>56</sup> Based on clarification provided by PMDD, there is no comprehensive list; however, as per PRR clause 5.3.6.4 and 5.3.6.5, recordkeeping and retention should be as per FRR.

**Statutory time frame for publication of decisions of the IRB:** The legal framework does not specify a time frame for publication of IRB decisions.<sup>57</sup> This is identified as a minor gap because it is technical in nature. All decisions are required to be published and, in practice, are published immediately on the e-GP grievance page.

- **Recommendations**

***To address substantive gaps***

**Keep impact of SDF under review:** The MAPS Assessment Team acknowledges that the changes to the SDF are recent and so the impact is still unclear. The Team recommends that the Government of Bhutan, if it has not already started to do so, initiates ongoing critical review and evaluation of the impact of the requirement for payment of SDF on competitiveness and value-for-money outcomes in public procurement, to assess the need for general or specific waivers.

**Promote use of functional specifications, where appropriate:** Actively promote use of output-based specifications in cases where this may encourage the use of innovative solutions and support implementation by providing guidelines on how to plan for and prepare output-based approaches to procurement and drafting of specifications.

**Allow submission of a complaint (grievance) prior to bid submission:** Amend the legal framework (PRR) to allow submission of a complaint (grievance) before issuing the letter of intent to award the contract, thus permitting bidders/potential bidders to raise and resolve concerns before bid submission on matters such as content of procurement documents, including specifications and contract terms, and the conduct of the procurement process.

**PRR 2023:** Relevant provisions in PRR 2023 (s.8.1 Procurement Grievance Mechanism) have not been amended to clearly specify the right to submit a complaint (grievance) before receipt of the letter of intent to award the contract. Thus, the gap is not resolved.

**Recordkeeping - consolidated recommendation** (see below for detailed recommendations on document retention period and security protocol): Prepare a guideline, or similar, for use by procuring agencies to cover the safekeeping and retention of procurement records and documents in both physical and electronic form. This guideline should include a comprehensive list of what records must be retained at operational level by all procuring agencies, how records are to be securely stored, and for what period specified records shall be stored. This guideline will need to reference the relevant e-GP system and protocols for procurement or part of procurements conducted using e-GP. It should be appropriately balanced to best meet the needs of contract management, performance review, audit, and fraud and corruption investigations/prosecutions.

**Recordkeeping - document retention period:** Review the standard retention period for procurement files to reduce the likelihood of loss of relevant evidence during investigation and/or prosecution of potential cases of fraud and corruption. This review should be conducted jointly by key stakeholders including PMDD/MoF, ACC, RAA, and OAG, to ensure an appropriate balance between the need to ensure availability of information with the practicalities of information storage, particularly while procurement files remain paper based.

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<sup>57</sup> Based on clarification provided by PMDD, as per IRB clause 60, the IRB shall deliver its decisions on the application for review within 10 days from the commencement of the review proceeding provided in clause 54 and 55.

**Recordkeeping - security protocol:** Prepare a dedicated security protocol on retention of procurement records, covering the whole procurement process and including physical records. This could form part of the guideline proposed in the consolidated recommendation for recordkeeping.

**To address minor gaps**

**Add specific grounds for exclusion:** The legal framework for procurement (PRR) should be amended to explicitly exclude bidders with convictions for criminal offenses such as participation in criminal organizations, terrorist activities, money laundering, child labor, and human trafficking.

**PRR 2023** do not include the specific provisions set out in this recommendation and so the gap is not resolved.

**Introduce statutory time frame for publication of decisions of the IRB:** To increase legal certainty, include a specified time frame for publication of IRB decisions in the procurement legal framework.

**Summary of substantive gaps and recommendations of Indicator 1**

Substantive gap	Risk classification and red flags	Recommendations
<b>1(d) Rules on participation</b>		
Barriers to entry - SDF	High risk Red flag	Initiate ongoing critical review and evaluation of the impact of the requirement for payment of SDF on competitiveness and value-for-money outcomes in public procurement, to assess the need for general or specific waivers.
<b>1(e) Procurement documentation and specifications</b>		
Functional specifications - lack of provisions on use of output-based (functional)	Medium risk	Promote and support the use of output-based specifications in cases where this may encourage use of innovative solutions.
<b>1(h) Right to challenge and appeal</b>		
Timing of availability of grievance mechanism	Medium risk	Amend legal framework (PRR) to allow submission of a complaint (grievance) before issuing the letter of intent to award the contract.  PRR 2023: Relevant provisions in PRR 2023 (s.8.1 Procurement Grievance Mechanism) have not been amended to clearly specify the right to submit a complaint (grievance) before receipt of the letter of intent to award the contract and so the gap is not resolved.
<b>1(k) Norms for safekeeping records, documents and electronic data</b>		
Safekeeping and retention of procurement records	Medium risk	Consolidated recommendation for 1(k): Prepare a guideline, or similar, for use by procuring agencies, to cover the safekeeping and retention of procurement records and documents in both physical and electronic form.

Substantive gap	Risk classification and red flags	Recommendations
Standard retention period	High risk Red flag	Review standard retention period to reduce the likelihood of loss of relevant evidence during investigation and/or prosecution of potential cases of fraud and corruption.
Security protocols to protect records	Medium-risk	Prepare a dedicated security protocol on retention of procurement records, covering the whole procurement process and including physical records.

<b>Suggestions for improvement</b>
Sub-indicator 1(e) Use of brand names <sup>58</sup>
<p>The MAPS Assessment Team suggests that clear and practical guidelines are published to support procuring entities in the process of market research, needs analysis, and audit trail of decision-making, leading to the decision to restrict the number of brands specified. In addition, it is advised that the effect on the procurement market of the provisions permitting use of brand names is kept under careful and critical review to ensure that its impact on the market is understood and that it achieves stated aims.</p>
Sub-indicator 1(h) Debriefing
<p>To reduce the likelihood of complaints and to support improved quality of bids, consider providing guidance and training for procuring agencies on preparation for and conduct of debriefings. This will ensure, in particular, that bidders receive meaningful information from procuring entities, enabling them to understand areas for improvement which they can apply in future bidding.</p> <p>See also analysis at 9(b)(g).</p>

**Indicator 2. Implementing regulations and tools support the legal framework**

This indicator verifies the existence, availability, and quality of implementing regulations, operational procedures, handbooks, model procurement documentation, and standard conditions of contract. Ideally, the higher-level legislation provides the framework of principles and policies that govern public procurement. Lower-level regulations and more detailed instruments supplement the law, make it operational, and indicate how to apply the law to specific circumstances.

- **Synthesis of the indicator**

Most of the criteria in this indicator are met as there are clear rules for implementation supported by a good range of model procurement documents, including standard conditions, for the most common types of procurement. All documents are available online at a single location. Responsibility for review, maintenance, and updating of documents in support of the procurement legal regime is clearly designated. There is room for improvement in the presentation of the PRR and highly specialized procurement would benefit from SBDs tailored to meet those specific needs. Guidelines or manuals on conduct of

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<sup>58</sup> Refer for more details in Annex on Health Sector Procurement in Volume III.

procurement are currently limited to Works Procurement and should be expanded to cover a wider range of procurement.

- **Findings**

The PRR/SPRR 2021 are hybrid legislation containing substantive provisions and principles generally included in public procurement laws, plus more detailed rules that address implementation issues. The substantive and implementing provisions in the PRR/SPRR are consistent and are all available from the e-GP websites. The approach used is in accordance with the legal tradition in Bhutan and, when asked, stakeholders did not raise general concerns about the accessibility, comprehensiveness, or presentation of the procurement legal framework. However, the amendments made by the SPRR and other amendments to the PRR by virtue of e-GP guidelines are not presented in a consolidated manner in a single document; this area could be improved. The PRR/SPRR 2021 are supported by binding notifications and circulars issued by MoF/PMDD to address gaps in policy, ensure effective delivery and consistency, and provide clarification.

There is a good range of model procurement documents that procuring agencies are required to use, covering the procurement of goods, works, and some services, including consulting services. There are standard contract conditions consistent with internationally accepted practices which are an integral part of the model procurement documents. There are no model procurement documents for highly specialized procurement, such as the health sector and ICT. There are detailed guidelines for procurement of works covering relevant procedures but no similar guidelines or manuals for procurement of small works, goods, services, or consultancy services or for more specialized procurement.

MoF/PMDD is responsible for review, maintenance, and updating of implementing regulations, standard procurement/contract documents, and user guides/manuals and does so on a regular basis.

- **Gaps**

***Substantive gaps***

**Lack of consolidated version of the PRR with all amendments:** The PRR with amending provisions made by the SPRR 2021 and e-GP guidelines are not available in a consolidated version, which reduces clarity and may hinder practical understanding for stakeholders of the procurement legal framework as a whole.

**The collection of procurement guidelines and manuals is not comprehensive:** Procurement guidelines or manuals are beneficial for widening and improving knowledge and understanding of the operation of the procurement system and thus facilitate better implementation of the procurement legal framework. The only detailed guidelines with a specific focus are evaluation guidelines for the procurement of works. There are no equivalent detailed guidelines with a particular focus on procurement of small works, goods, services or consultancy services or for more specialized procurement, so the coverage is not comprehensive.

- **Recommendations**

***To address substantive gaps***

**Prepare a consolidated version of the PRR to include all amendments,** including those contained in the SPRR 2021 and e-GP guidelines. This is required so that a single comprehensive document is available to ensure precision and clarity on the wording and application of amended provisions, enhance accessibility and practical understanding of the procurement system, and facilitate improved implementation of the legal framework by stakeholders.

PRR 2023 have consolidated the legislative framework as recommended and thus this gap is resolved.

**Expand the collection of procurement guidelines and manuals to apply to a wider range of procurement activities.** Review procurement activities and sectors to identify priority areas that will benefit from comprehensive guidelines for all procurement procedures to widen knowledge and facilitate better implementation. Prepare relevant documents to expand the collection of procurement guidelines to a wider range of procurement activities.

**Summary of substantive gaps and recommendations of Indicator 2**

Substantive gap	Risk classification and red flags	Recommendations
2(a) Lack of consolidated version of the PRR with all amendments	Low risk	<p>Prepare a single, consolidated version of the PRR incorporating all amendments, to enhance accessibility and understanding of the procurement legal framework for all stakeholders.</p> <p><b>PRR 2023</b> have consolidated the legislative framework as recommended and thus this gap is resolved.</p>
2(d) Collection of procurement guidelines and manuals is not comprehensive.	Medium risk	Expand the collection of procurement guidelines to apply to a wider range of procurement activities.

Suggestions for improvement
Sub-indicator 2(a) Consolidated version of regulations
<p>Consider ways in which future amendments to the PRR are presented, to enhance clarity and understanding for all stakeholders. Thought should also be given on whether there is a simple way to draw together all current notifications and circulars in one location and clearly flag the relevant provisions in the PRR/SPRR to which they relate, presenting the legal framework in a user-friendly and holistic manner. This could, potentially, be further expanded to also reference relevant provisions of SBDs.</p>
Sub-indicator 2(b) Procurement documents for highly specialized procurement
<p>There are no model procurement documents for highly specialized procurement such as health procurement of medical equipment and pharmaceuticals or for procurement of information technology, which are purchases of significant importance. These sectors, in particular, often involve specialized requirements including in some cases long-term support/maintenance which may need industry-specific contractual provisions or innovative approaches to achieve the most effective delivery and best value-for-money outcomes in line with industry practices.</p> <p>Consider undertaking a review of specialized sectors to identify priority areas that will benefit from specialized model procurement documents, including conditions of contract tailored to local needs, and prepare the relevant documents.</p>

### Indicator 3. The legal and policy frameworks support the sustainable development of the country and the implementation of international obligations

This indicator assesses whether horizontal policy objectives—such as goals aiming at increased sustainability, support for certain groups in society, and obligations deriving from international agreements—are consistently and coherently reflected in the legal framework. In other words, it evaluates whether the legal framework is coherent with the higher policy objectives of the country.

- **Synthesis of the indicator**

Sustainable development, environmental protection, and the creation of a sustainable society are strongly embedded as key underpinning principles/policy objectives of Bhutan deriving from constitutional principles. This includes the concept of GNH that seeks to integrate socioeconomic development goals with environmental protection, cultural preservation, and good governance. Priorities for a sustainable society are expressed in Bhutan’s 12th Five Year Plan (2018–2023) and VNRs of Implementation of the 2030 Agenda for Sustainable development. There is, however, currently no Sustainable Public Procurement (SPP) policy/strategy in place to implement SPP in support of broader national policy objectives, and there are only very limited provisions in the PRR incorporating sustainability (environmental requirements) into the procurement cycle. Substantive gaps are thus identified in the assessment of sub-indicator 3(a).

*Note:* Sub-indicator 3(b) is not assessed because there are no public procurement specific chapters or annexes to the South Asian regional trade agreements to which Bhutan is a party. Bhutan is not a member of the World Trade Organization.

- **Substantive gaps**

**SPP policy/strategy and implementation plan:** There is no sustainable public procurement policy/strategy in place to implement SPP in support of broader national policy objectives. Consequently, there is no implementation plan or systems and tools in place to operationalize, facilitate, and monitor the application of SPP. This is identified as a red flag as it will require engagement across government to tie in with national priorities and is not solely within the purview of PMDD/MoF.

**Sustainability in the procurement cycle:** The legal and regulatory framework does not provide for sustainability to be incorporated at all stages of the procurement cycle.

- **Recommendations**

**Consolidated recommendation for sub-indicator 3(a):** Develop a sustainable public procurement policy/strategy to implement SPP (economic, environmental [including climate considerations], and social [including gender equality]) in support of broader national policy objectives and reflecting national priorities, including GNH.<sup>59</sup> This should include a clear implementation plan/road map to cover introduction of systems and tools to operationalize, facilitate, and monitor the application of SPP in priority areas in particular. It should also identify and provide for changes to the legal/regulatory framework to allow for sustainability to be incorporated at all stages of the procurement cycle, ensuring well-balanced application of sustainability criteria from planning through to delivery and monitoring. SPP requirements embedded in the legal and regulatory framework should be reflected in model procurement

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<sup>59</sup> Preparation of the SPP policy and strategy and accompanying implementation plan/road map should include consideration of impact of SDF requirements if this remains payable. See analysis, gap, and recommendation at 1(d)(b)).

documents, contract conditions, and supporting practical guidelines for implementation and related training.

### Summary of substantive gaps and recommendations of Indicator 3

Substantive gap	Risk classification and red flags	Recommendations
3(a) Sustainable Public Procurement		
No SPP policy/strategy or implementation plan	High/Red flag	Develop a sustainable public procurement policy/strategy to implement SPP, to including a clear implementation plan/road map to cover introduction of systems and tools to operationalize, facilitate, and monitor the application of SPP. Identify and provide for relevant changes to the legal/regulatory framework to allow for sustainability to be incorporated at all stages of the procurement cycle and incorporate these requirements in model documents, with supporting guidelines and training.
Sustainability in the procurement cycle		

## 3.2. Pillar II - Institutional Framework and Management Capacity

Pillar II assesses how the procurement system defined by the legal and regulatory framework in a country is operating in practice, through the institutions and management systems that make up the overall governance in its public sector.

Pillar II evaluates how effective the procurement system is in discharging the obligations prescribed in the law, without gaps or overlaps. It assesses (a) whether it is adequately linked with the country’s PFM system, (b) whether institutions are in place to handle necessary functions, and (c) whether the managerial and technical capacities are adequate to undertake efficient and transparent public procurement processes.

### Indicator 4. The public procurement system is mainstreamed and well integrated with the public financial management system

This indicator focuses on how well integrated the procurement system is with the PFM system, given the direct interaction between procurement and financial management, from budget preparation to planning treasury operations for payments.

- **Synthesis of the indicator**

The procurement system is well integrated with the PFM system, as reflected in PRR 2019, Budget Manual 2016, Finance and Account Manual (FAM), and Multi-Year Rolling Budgeting (MYRB) system. Procurement expenditure under capital and recurrent budget constitutes about 40 percent of actual expenditure. For example, for the current fiscal year, Budget Notification dated July 4, 2022 for Financial Year 2022–2023<sup>60</sup> was issued by MoF in the 7th Session of the Third Parliament. The Budget Appropriation Act FY2022–23

<sup>60</sup> <https://www.mof.gov.bt/notifications/budget-notification-for-fy-2022-23/>.

was passed, with appropriation as indicated on total resources, total expenditure, and deficit as percentage of GDP. It contains the focus of expenditure and stresses the need for financial prudence and strong financial discipline to avoid cost overruns and follow the practice of combining procurement and budget cycle.

- **Findings**

As per PRR s.1.1.7, the APP provides that the procuring agency shall prepare a procurement plan of goods, works, and services in the prescribed format for each fiscal year. The APP must be approved by the head of the procuring agency/appropriate authority. The APP is indicative only and does not create a legal or binding commitment to go to tender. PRR s.1.1.7.2 requires that the procurement plan “shall be fully integrated with applicable budget processes and circulars or the budget preparation instructions issued by MoF.”

Based on provisions in FAM and as per the PEFA assessment, budget funds are appropriate in a timely manner to cover the contract amount in the budget period.

**Provisions in FAM:** Section 3.1.1 Chapter III on release of funds - Once the budget has been approved by the Parliament, the Department of Planning, Budget and Performance National Budget (DPBP) shall issue a budget notification to provide the budgetary bodies with their approved budget details. MoF shall release funds to budgetary bodies after the budget has been approved by Parliament, in accordance with the provisions of PFA.

Further, in accordance with Section 3.2 on procedure for release of funds, in particular 3.2.1, the budget execution phase shall start with the release of funds through the Letter of Credit system in the respective bank accounts maintained at the agent banks. Subject to fulfillment of the necessary formalities, the DPA shall ensure the timely release of funds to the budgetary bodies concerned to facilitate the execution of programs and activities included in the approved budget.

As per Section 3.2.2, the budgetary bodies shall plan their works in such a way as to avoid the lapses of released funds at the close of a fiscal year and submit their Budget Utilization Plan (BUP) accordingly. To minimize the chances of idle funds lapsing at the year-end, the Department of Treasury and Accounts (DTA) shall be empowered to fix periods in the last quarter of the year, after which the release of funds shall generally not be permitted.

As per PEFA, Indicator PI-1 assesses whether the government budget is realistic and implemented as intended. This is measured by comparing actual revenues and expenditures (the immediate results of the PFM system) with the original approved budget.

The score is ‘B’ as per PEFA. To ensure adequate monitoring of physical and financial progress of activities, MoF has developed the online Budget Monitoring Tool (BMT), which mandates the budgetary bodies to submit their work plans (both physical and financial) for approved capital activities on a quarterly basis. The agencies provide the physical and financial progress of the approved activities, which enables them to realign activities with the budget based on emerging needs. It is expected that this practice will improve the implementation of activities and result in lower variances between the original budget and the actual expenditure.

Procurement expenditure under capital and recurrent budget constitutes about 40 percent of actual spending.

Related to the feedback mechanism on budget execution, as per the PEFA 2023 report, there is a set of standard rules and regulations for project monitoring. This includes PFA 2007, FRR 2001, PRR 2019, national

monitoring and evaluation framework, and project documents outlining the work plan and project implementation plan.

In addition, as required by the FRR 2016, the mid-year budget review is also carried out annually wherein the major change in the work plan (both physical and financial plan) is being facilitated based on the ground realities.

PRR s.1.1.6.1 on Identification of Need requires that all procurement under this rule shall be initiated after first determining the need for the subject matter and that need is neither artificially created nor exaggerated with an intention to channel benefits to a certain individual(s) or organization (s).

As per the PEFA 2023 report, based on assessment under internal control on non-salary expenditure (PI-25), comprehensive expenditure commitment controls are in place and effectively limit commitments to projected cash availability and approved budget allocations, earning Score A. The above system of control, and the APP, demonstrates that no solicitation of tender takes place without ascertaining the availability of funds with due attention to avoid a rush of spending during the last quarter of the fiscal year.

As per the PEFA 2023 report, based on assessment under internal control of non-salary expenditure, on compliance with payment rules and procedures, all payments are compliant with regular payment procedures. All exceptions are properly authorized in advance and justified (Score A).

Based on sample cases under Indicator 9, generally, payments are made within reasonable time frames. However, economic operators reported situations in which payment exceeded 60 days, as explained below.

According to private sector survey questions and responses, 68 percent responded 'yes' and 32 percent 'no' for 'Are payment provisions fair?'. For the question 'In your view, how often are the payments delayed because of delay in verification of invoices?', 28 percent responded rarely, 46 percent often, and 18 percent very often.

- **Gaps**

***Minor gaps***

**Financial plan for major multi-year project/contracts does not include recurrent cost implication:** As per PEFA 2023 Indicator 11.3 (Score D), during the annual budget preparation process, the MYRB system has a provision wherein the budgetary bodies can indicate the budget plan for major multi-year projects. In addition, starting 2022/23, the capital budget write-up format has a provision wherein the budgetary bodies had to indicate the financial plan for each project, including the recurrent cost implication of the proposed activities. However, all this is not yet reported in detail in the National Budget Report, although it is covered in the (MTFF).

**Lack of monitoring system on payment of invoices also linked to e-Procurement system:** According to the private sector survey, there were delays in verification of invoices and payment.

**Budget cycle - Lack of monitoring of Budget Notification dated July 4, 2022, on Early Procurement Action:** As per the notification, to maintain quality of expenditure, all the budgetary bodies are required to initiate the APP and complete all tendering processes (from publication all the way through contract signing) for the approved budget latest by the 2nd quarter of the fiscal year.

- **Recommendations**

***To address minor gaps***

**Financial plan for major multi-year project/contracts to include recurrent cost implication:** As recommended in PEFA 2023 under Indicator 11.3, this needs to be done at the level of major contracts.

**Address concern of private sector on timely payment of invoices:** MoF/PMDD to monitor verification and payment of invoices to ensure timely payment including through the e-GP system/e-PEMS, which enables bidders to generate e-invoices for further processing of payment. (It is understood that the government has started CFS offices across the country. These offices use software to monitor all payments and release them on time).<sup>61</sup>

**Budget cycle - Early Procurement Action:** PMDD's plan is to ensure its compliance through the e-GP system whereby the timeline for the preparation of the APP for the planned activities will be frozen after the 2nd quarter of the fiscal year and no user can initiate any tender in the e-GP without preparing the APP first.

#### **Summary of substantive gaps and recommendations of Indicator 4**

There are no substantive gaps under Indicator 4.

#### **Indicator 5. The country has an institution in charge of the normative/ regulatory function**

This indicator refers to the normative/regulatory function in the public sector and its proper discharge and coordination. The assessment of the indicator focuses on the existence, independence, and effectiveness of these functions and the degree of coordination between responsible organizations. Depending on the institutional set-up chosen by a country, one institution may be in charge of all normative and regulatory functions. In other contexts, key functions may have been assigned to several agencies, for example, one institution might be responsible for policy, while another might be in charge of training or statistics. As a general rule, the normative/regulatory function should be clearly assigned without gaps and overlaps. Too much fragmentation should be avoided, and the function should be performed as a well-coordinated joint effort.

- **Synthesis of the indicator**

The normative and regulatory functions are discharged by PMDD to primarily cover procurement policy, capacity building and training, advice and guidance to procuring agencies, and management of e-GP website; these functions are clearly assigned.

PRR s.8.2.1 provides that the GPPMD (PMDD) is established within MoF "to facilitate policy and professional development in the field of procurement" and requires that "The GPPMD [PMDD] and its staff shall not make contract award recommendations, serve as a member of any Tender Committee or carry out any activity as procuring agency." The Model Public Service Code of Conduct, which applies to all public servants, including PMDD staff, includes appropriate COI provisions covering activity both during and post-employment.

PMDD provides secretariat services for the IRB, which conducts reviews of decisions on complaints (grievance). Therefore, the functions of the normative/regulatory function are assigned without gaps and overlaps.

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<sup>61</sup> Based on clarification provided by PMDD on November 10, 2023, the payment module has been integrated with e-GP; hence, payment monitoring is captured in the contract management module. The Head of Agency can view and monitor the status of the payment through the e-GP system as procurement system is decentralized.

However, there are resource constraints, and the level of standing of PMDD in terms of effectively discharging its functions and responsibilities compared to its mandate is limited.

- **Findings**

According to the organizational chart of MoF (New),<sup>62</sup> PMDD works under the Department of Procurement and Properties as one of the four divisions. The Department of Procurement and Properties reports to a Secretary-level official reporting to the Minister of Finance.

The website of MoF<sup>63</sup> does not provide details of activities and resources of PMDD. According to the MoF website,<sup>64</sup> the position of Director for DPP is currently vacant. Three Division Heads are listed: Chief Procurement Officer for PMDD, Chief Procurement Officer for Central Procurement and Property Management Division (CPPMD), and a Chief Engineer, who appears to be responsible for the Engineering Service Division (ESD).

The website on e-Procurement, managed by PMDD, does not provide details of activities of PMDD, except for contact/helpdesk information.<sup>65</sup>

PRR Chapter 8 provides details on institutional arrangements and specific functions of PMDD.

These functions encompass a host of activities that, among others, include the following: (a) monitor the implementation of the PRR/SPRR through the collection and analysis of reports provided by the procuring agencies; (b) provide annual reports to the Secretary, MoF, on the functioning of the national procurement system; (c) develop and promulgate implementing regulations, methodologies, guidelines, and documentation such as standard bidding and contract documents; (d) provide to procuring agencies, on request, advice and guidance on the interpretation and application of the rule and supporting regulations, guidelines, and documentation; (e) coordinate, in consultation with the relevant training organizations in the Kingdom, the development of a national capacity-building strategy and encourage the professionalization of the procurement function; (f) coordinate and facilitate, in consultation with the relevant governmental and private organizations in the Kingdom, the development of advanced electronic procurement mechanisms with a view to improving the efficiency of the procurement system; (g) develop and administer the review mechanism; (h) act as the central counterpart for any procurement-related issues in connection with donors or foreign investors; and (i) provide and conduct workshops, conferences, and seminars aimed at improving awareness and understanding of the government's procurement policy and practices.

PMDD is one of the divisions under the Department of Procurement and Properties. It has no separate budget but during the previous fiscal year (FY22/23), it had a budget allocated for the training of the users of the e-GP system (Nu 2.5 million) and for the following fiscal year (FY23/24), there was a proposed budget of Nu 7 million for the redevelopment of the e-Tool system (evaluation tool for procurement of works) on the microservices platform.

There was no separate budget allocation for PMDD/IRB.

- **Gaps**

***Substantive gap***

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<sup>62</sup> [Organizational Chart | Ministry of Finance, Royal Government of Bhutan \(mof.gov.bt\)](https://www.mof.gov.bt/).

<sup>63</sup> [Department of Procurement and Properties | Ministry of Finance, Royal Government of Bhutan \(mof.gov.bt\)](https://www.mof.gov.bt/).

<sup>64</sup> <https://www.mof.gov.bt/dnp-staff/> (accessed on June 15, 2023)

<sup>65</sup> [Contact \(egp.gov.bt\)](https://www.mof.gov.bt/dnp-staff/).

**Lack of resources and insufficient staffing of PMDD in government:** Based on details provided by PMDD, apart from the Chief Procurement Officer of PMDD, very few staff meet the mandate of PMDD as per the PRR. The resources are insufficient to discharge its functions and responsibilities such as training, preparation of annual reports, and e-GP tasks.

This is identified as a red flag under 5(b) and 5 (c) as it will require engagement across government to tie in with national priorities and is not solely within the purview of PMDD/MoF.

**Minor gap**

**PMDD is not able to fulfil its mandate due to a lack of budgetary support.** Based on the clarification by PMDD, it has not been able to sustain professional development of the procurement officer due to a lack of budgetary support.

- **Recommendations**

**To address substantive gap**

**Provide resources and upgrade/fill the position for PMDD at least at the level of a Director:** The level of Division Head for PMDD is not high and does not have an authoritative standing compared to its mandate and required quality of services.

**To address minor gap**

**Lack of budgetary support to meet the mandate:** MoF to allocate sufficient budget to support professional development of the procurement officer.

**Summary of substantive gaps and recommendations of Indicator 5**

Substantive gap	Risk classification and red flags	Recommendations
5(b) and 5(c) Lack of resources and insufficient staffing of PMDD in the government	High, Red flag	To provide resources staffing and upgrade /fill the position for PMDD at least at the level of a Director

Suggestions for improvement
Sub-indicator 5(a) Dedicated PMDD website or webpage The e-GP page contains a lot of information concerning the procurement system. It may be beneficial to consider a dedicated website for PMDD or an improved webpage for PMDD on the MoF website. This is to further enhance transparency by presenting comprehensive information and resources for procuring entities, private sector, and the public, not only in relation to the e-GP system but also to reflect the wider roles, responsibilities, and activities of PMDD.
Sub-indicator 2(b) Procurement documents for highly specialized procurement There are no model procurement documents for highly specialized procurement such as health procurement of medical equipment and pharmaceuticals or for procurement of information technology, which are purchases of significant importance. These sectors, in particular, often involve specialized requirements including in some cases long-term support/maintenance which may require industry-specific contractual provisions or innovative approaches to achieve the most effective delivery and best value-for-money outcomes in line with industry practices. Consider undertaking a review of specialized sectors to identify priority areas which will benefit from specialized model procurement documents including conditions of contract tailored to local needs and prepare relevant documents.

## Indicator 6. Procuring entities and their mandates are clearly defined

This indicator assesses (a) whether the legal and regulatory framework clearly defines the institutions that have procurement responsibilities and authorities; (b) whether there are provisions for delegating authorities to procurement staff and other government officials to exercise responsibilities in the procurement process, and (c) whether a centralized procuring entity exists.

- **Synthesis of the indicator**

Legal and regulatory framework clearly defines the institutions that have procurement responsibilities, and a centralized procurement body exists, though it has limited resources and therefore undertakes limited centralized procurement.

- **Findings**

PRR s.1.1.2.1 provides that the PRR apply to “all Government agencies, including Armed Forces” except in specified cases. The term ‘government agency’ is defined as “an entity of the government whose source of funding is the government” and includes government ministries; local governments<sup>66</sup>—Dzongkhag Tshogdu (district council), Gewog Tshogde (county council), and Thromde Tschogde (municipal council)—and ‘autonomous bodies’, which is also a defined term and can cover state enterprises.

**SOEs:** PRR s.1.1.2.4 provides that “Corporations (except thromde) and Financial Institutions fully or partly owned by the Royal Government, Trust Funds, and Welfare Funds may adopt separate rules and regulations for the management of their procurements, provided such rules are within the broad principles of these rules and are approved by their respective Boards of Directors/ Trustees.”

The responsibilities and competencies of the procuring agency are defined in PRR Chapter 3 on Organization of Procurement

Decision-making is delegated at the appropriate level as per provisions of the PRR and accountability is clearly defined in Chapter 3 on Organization of Procurement, which defines the levels and composition of the tender committee as well as responsibilities and power of the procuring agency (SPRR 2021).

However, there is a need for ensuring that procurement officers are assigned to all procuring agencies.

CPPMD under MoF is a centralized procurement function in charge of consolidated national procurement of cement and HDPE pipes. CPPMD has recently started to centrally procure, at the national level, desktop and laptop computers. CPPMD is also procuring, on a pilot basis, a small basket of items commonly used by procuring agencies in Thimphu. Contracts for common use items, which are essentially framework agreements, are currently awarded on an annual basis.

There is one staff member in CPPMD who is responsible for centralized procurement operations. This staff is supported in practice by the Chief Procurement Officer of CPPMD.

Based on clarification provided by PMDD on July 12, 2023, CPPMD is currently understaffed, given its mandate and the current staff strength, especially at the officer level.

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<sup>66</sup> Local Government Act 2009, Chapter 2, s.4.

## Gaps

### Minor Gaps

Based on provisions under s 3.1.1, each agency must have the tender committee (TC) e at appropriate level for every tender. When initiating a tender in the eGP the tender initiator has to identify and email notification is sent to all the nominated TC members through email with tender details.

All procuring agencies must have a dedicated procurement officers but due to certain reasons not all procuring agencies may have one at a particular time. All ministries would have approved at least 2-3 procurement officers while other agencies would at least one approved position. However, these fall short due to natural exit of persons. Based on available information in practice it is seen that there is shortfall in deputing dedicated procurement officer for all procuring agencies

### Substantive gaps

**Resources of CPPMD:** Based on clarification provided by PMDD on July 12, 2023, "If CPPMD is to do justice and fulfill its main mandates of promulgating and implementing best practices of centralized procurement and property management to deliver value for money and deliver at a strategic level, we need additional staff to undertake research in international best practices, evaluate and monitor the current practices<sup>67</sup> of CPPMD to propose improvements, and study and identify more common-use items and services for centralization and cost savings."

Due to understaffing, the internal organization of CPPMD is a substantive gap

Considered Red Flag as CPMDD/MoF is not empowered and it requires inter-institutional review including from Royal Civil Service Commission.

- **Recommendations**

#### To address minor gaps

PMDD to take stock of dedicated procurement officer for all procuring agencies and take corrective action for compliance, based on needs.

#### To address Substantive Gaps

**Resource Issues of CPPMD:** MoF to address resource constraint of CPPMD.

#### Summary of substantive gaps and recommendations of Indicator 6

Substantive gap	Risk classification and red flags	Recommendations
6 (b) Centralized procurement body		
Internal organization, staffing	High, Red Flag	Resource issues and staffing of CPPMD to be addressed by MoF

## Indicator 7. Public procurement is embedded in an effective information system

The objective of this indicator is to assess the extent to which the country or entity has systems to publish procurement information, to efficiently support the different stages of the public procurement process

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<sup>67</sup> Based on clarification by PMDD on November 10, 2023, CPPMD is currently staffed with two officers in addition to the chief. There is no trained professional to handle the centralized procurement.

through the application of digital technologies, and to manage data that allow for analysis of trends and performance of the entire public procurement system.

- **Synthesis of the indicator**

The findings of the assessment reveal that Bhutan's e-GP system, implemented since June 2017, provides easily accessible procurement information. The system covers various aspects, including procurement plans, tenders, contracts, and grievance handling. Although the system has witnessed increasing adoption and functionality over time, there are areas for improvement. The home page's user-friendliness can be enhanced, and the system should address limitations in monitoring the contract execution phase. The report also suggests reducing dependency on the e-GP provider for effective operational management.

Several gaps were identified in the assessment. First, the e-GP system lacks coverage of the contract execution phase, hindering comprehensive monitoring. Additionally, the information published is not available in a machine-readable format, limiting external analysis. The system also does not support the Open Contracting Data Standard (OCDS) that promotes transparency. The COVID-19 pandemic posed challenges, and the system lacked flexibility during the lockdown period. There is a significant reliance on the e-GP provider, raising concerns about long-term sustainability. Users inconsistently upload relevant information, affecting the completeness of the procurement process, and PMDD lacks autonomy in gathering comprehensive information.

- **Findings**

The procurement information in Bhutan is easily accessible through the e-GP system, which has been in use since June 2017. The system has experienced increasing adoption and functionality over time.

The e-GP system provides public information on various aspects, including APPs, tenders, contracts, debarment and grievance, and community contracts. Interested parties can access relevant information, such as FAQs, training courses, manuals, guidelines, SBDs, and forms related to procurement activities.

The system is accessible through the website <https://www.egp.gov.bt> and has been made mandatory for procurement across government agencies, budgetary bodies, ministries, constitutional bodies, districts, municipalities, sub-districts, regional offices, and local level administrations (gewogs).

The e-GP system has been deployed in phases, and the final phase is planned for implementation in July 2023.

Certain information on the e-GP portal is freely accessible without registration, including tender notices and APPs. However, bidding requires user registration and the payment of a fee. The fee for registration and renewal varies for different types of bidders.

Procurement plans are prepared by each procuring agency and fully integrated with applicable budget processes and circulars. The plans follow the prescribed format and align with the budget preparation instructions issued by MoF.

Regarding specific procurements, tender notices are available on the e-GP system and are classified based on the procurement method. Bidding documents can be accessed and downloaded from the system after user registration, which requires payment. Bid openings are conducted online, and the bid opening report is provided to participating bidders through the tender dashboard.

The e-GP system also publishes a list of awarded contracts, including the name of the successful bidder, the date of the award decision, and the price to be paid. However, as of June 2023, no functionalities are in place to monitor the execution phase of contracts or handle contract amendments and payments.

Appeals decisions are promptly published on the e-GP website and can be accessed through the 'Grievance' tab.

The e-GP system provides links to rules and regulations, e-learning resources, user manuals, FAQs, SBDs, and forms. However, the presentation of notifications, news, and advertisements on the home page is not user-friendly, and some of the news items are outdated.

Responsibility for the management and operation of the system is clearly defined and allocated to PMDD. However, in practice, PMDD heavily relies on the e-GP provider, which limits its capacity for effective operational management of the system.

PMDD's responsibilities include coordinating and facilitating the use of information technology in procurement, establishing a website for the dissemination of procurement-related information, and developing advanced electronic procurement mechanisms to improve efficiency.

Overall, the e-GP system in Bhutan enables accessible procurement information, but there are areas for improvement, such as enhancing the user-friendliness of the home page, addressing limitations in contract execution monitoring, and reducing dependency on the e-GP provider for operational management.

Despite the mandatory nature of the e-GP system, the Assessment Team found that some users do not consistently upload all relevant information into the system. This indicates a gap in ensuring complete data entry and utilization of the system's capabilities.

It is noteworthy that all procurement activities are conducted online, indicating a comprehensive adoption of the e-GP system throughout the procurement process. The analysis also indicates that there are no apparent access constraints for economic operators, irrespective of their size. This suggests a level playing field and equal access to the e-GP system for all participants.

The assessment revealed significant limitations in obtaining procurement data from the e-GP system and a lack of data processing capabilities. The dependency on the e-GP solution provider was found to be strong, indicating potential reliance on external support for managing and accessing the system. The e-GP system primarily contains information from the pre-contractual phase, while the entire contract execution phase is stored outside the system. This fragmentation of data hinders the comprehensive analysis of trends, levels of participation, procurement efficiency, economy, and compliance with requirements.

During the assessment, a serious gap in the information stored in the system was identified. It was observed that even for cases where information such as evaluation reports were uploaded, there were deficiencies. The authorities attributed these gaps to the specific circumstances during the COVID-19 pandemic lockdown period, but it was evident that the deficiencies extended beyond that period. Routine analysis of the information stored in the system was not evident, indicating a lack of systematic data analysis practices.

- **Gaps**

#### **Substantive Gaps**

**Machine-readable format:** The information published on the e-GP system is not available in a machine-readable format. This lack of structured data makes it challenging for external entities to analyze and utilize the information effectively.

Considered Red Flag as these organizational/resource issues are beyond the control of PMDD

**Open data format:** The e-Procurement system does not support the OCDS. This standard promotes transparency and accessibility of procurement data by requiring the publication of comprehensive information at each phase of the procurement process. The absence of this support represents a gap in aligning with international best practices.

**System's information gathering capacity:** PMDD lacks autonomy in extracting queries related to the data stored in the system, limiting its ability to gather comprehensive information. These limitations hinder the analysis of various aspects, such as trends, levels of participation, procurement efficiency, economy, and compliance with requirements. Consequently, the system's information is deemed unreliable and/or incomplete.

Considered Red Flag as these organizational/resource issues are beyond the control of PMDD.

**Dependency on e-GP provider:** PMDD has a strong dependency on the e-GP provider for the management and operation of the system. This reliance limits PMDD's capacity for effective operational management, raising concerns about succession planning and long-term sustainability.

Considered Red Flag as these organizational/resource issues are beyond the control of PMDD.

### **Minor Gaps**

**Contract execution phase:** The e-GP system does not currently address the contract execution phase. This means that there are no functionalities in place to monitor the execution of contracts, resulting in a gap in the system's coverage of the procurement process.

**Constraints during COVID-19 lockdown:** The COVID-19 pandemic and subsequent lockdown periods posed significant challenges to the use of the e-GP system. The system lacked the flexibility to suspend deadlines for critical activities during these periods. As a result, the evaluation of proposals and subsequent phases had to be conducted offline without proper documentation uploaded into the system. This situation created difficulties for the evaluation team in analyzing the data and maintaining an efficient process.

**Completeness of procurement processes:** The Assessment Team found that in many cases users do not upload all the relevant information in the e-GP system.

**Contractual changes:** The e-GP system does not store contract amendments, indicating a gap in capturing and maintaining crucial data related to contractual changes. Additionally, there is no routine analysis of the information available in the system, suggesting a lack of systematic data analysis practices.

- **Recommendations**

#### ***To address substantive gaps***

**Machine-readable format:** Present the published procurement information in a machine-readable format. This will facilitate easier access, analysis, and utilization of the data by external entities.

**Adopt OCDS:** Implement the OCDS in the e-Procurement system. Compliance with this standard will promote transparency, accessibility, and comparability of procurement data, aligning with international best practices.

**Strengthen operational capability:** Establish effective capability within PMDD to operate and manage the e-GP solution independently. This includes building internal expertise and reducing dependency on the e-

GP provider. Strengthening operational capability will maximize the benefits of the e-GP solution and facilitate long-term succession planning if the current e-GP solution changes.

**System’s information gathering capacity:** Capacity should be created for autonomous extraction of information from the system to produce reports and analysis on procurement. Users should be empowered to ensure that all information is uploaded into the system and that this information is complete. Control mechanisms must be implemented to block the advancement of processes without complete information. The introduction of open data standards and machine-readable information may allow for automated validation of information quality and should be considered.

***To address minor gaps***

**Enhance the e-GP system:** The e-GP system should be improved to include the contract execution phase. This enhancement will ensure comprehensive coverage of the entire procurement process within the system.

**Analysis module:** Develop and integrate an analysis module into the e-GP system. This module would enable effective analysis of procurement information, providing valuable insights for decision-making and process improvement.

**Completeness of procurement processes:** A communication and capacity-building plan should be developed and delivered with the aim of making users aware of the need to upload all documentation for each procurement process into the e-GP system.

**Summary of substantive gaps and recommendations of Indicator 7**

Substantive gap	Risk classification and red flags	Recommendations
7(a) Publication of public procurement information supported by information technology		
<b>Machine-readable format and OCDS and responsibility for the management and operation of the system</b>	High, Red flag	The information published on the e-GP system is not available in a machine-readable format. This lack of structured data makes it challenging for external entities to analyze and utilize the information effectively.  The e-Procurement system does not support the OCDS. This standard promotes transparency and accessibility of procurement data by requiring the publication of comprehensive information at each phase of the procurement process. The absence of this support represents a gap in aligning with international best practices.
7(b) Use of e-Procurement		
<b>Strengthen operational capability</b>	High, Red flag	Establish effective capability within PMDD to operate and manage the e-GP solution independently. This includes building internal expertise and reducing dependency on the e-GP provider. Strengthening operational capability will maximize

Substantive gap	Risk classification and red flags	Recommendations
		the benefits of the e-GP solution and facilitate long-term succession planning if the current e-GP solution changes.
7(c) Strategies to manage procurement data		
<b>System's information gathering capacity</b>	High , Red flag	Capacity should be created for autonomous extraction of information from the system to produce reports and analysis on procurement. Users should be empowered to ensure that all information is uploaded into the system and that this information is complete. Control mechanisms must be implemented to block the advancement of processes without complete information. The introduction of open data standards and machine-readable information may allow for automated validation of information quality and should be considered.

**Indicator 8. The public procurement system has a strong capacity to develop and improve**

This indicator focuses on the strategies and ability of the public procurement systems to develop and improve. Three aspects should be considered: (a) whether strategies and programs are in place to develop the capacity of procurement staff and other key actors involved in public procurement; (b) whether procurement is recognized as a profession in the country's public service; and (c) whether systems have been established and are used to evaluate the outcomes of procurement operations and develop strategic plans to continuously improve the public procurement system.

- **Synthesis of the indicator**

Procurement is recognized as a profession. As per the RCSC website, there is a competency-based framework (CBF) for procurement officers with job descriptions. These documents on CBF and job description are well written and provide good guidance on specific function, with procurement positions defined at different professional levels, and job descriptions, requisite qualifications, and competencies as required by these assessment criteria. However, there are few permanent and relevant training programs for new and existing staff in government procurement and for the private sector.

- **Findings**

***Training and capacity building***

The RIM confirmed, in discussion with the Assessment Team on January 20, 2023, in Thimphu that it conducts the UK CIPS programme and serves as an examination center. It registers up to level 6 CIPS and provides online learning. In the past, RIM was part of e-GP training and also provides training to the private sector.

All civil servants are required to participate in a one-month Foundation Programme and, once posted, must undertake high-level in-service training.

In the post-graduate diploma in financial management course run by RIM, 40 hours are dedicated to procurement management, which includes legislation, procurement, supply chain, and contract management.<sup>68</sup>

The Materials and Procurement Management course at Jigme Namgyel Engineering College (JNEC), Deothangas, offers a Diploma in Materials and Procurement Management. It is a two-year, full-time course, and the award granting body is the Royal University of Bhutan.

To provide information and communication on the PRR, the division conducts an awareness program on PRR (reforms 2023) and has organized a conference in the past.<sup>69</sup>

Also, PMDD provided CIPS professional training to procurement officers with funding support from the World Bank. A total of five RGoB officials completed CIPS level 6 (professional diploma in procurement, although only two officials are now in the civil service). The majority of them had completed CIPS level 4 and a few of them level 5. However, with the termination of the World Bank project, the professional training could not be sustained, and the new officers who have joined the profession have not been able to avail themselves of the training since then.

Although one of the main mandates of PMDD is to implement measures aimed at developing human resources and professionalism in procurement in the government, it was not possible to provide such training opportunities due to a lack of budgetary and technical support.

According to the FAQ on the e-GP website, e-GP training is mandatory for identified government agencies involved in the procurement activities and is optional for the bidders.

### **Recognition of procurement as a profession**

Procurement is recognized as a profession and is part of the civil service.

As per the RCSC website, there is CBF for procurement officers with job description,<sup>70</sup> as indicated earlier. As per clarification provided by PMDD, based on the CBF, PMDD has conducted only one training session for all procurement professionals in FY20/21. Since then, the division has been unable to continue due to a lack of budgetary support.

As per the CBF final report, the taskforce team developed this CBF after attending a five-day cascading workshop from November 23 to 28, 2021, which included a retreat, consultation meetings with procurement colleagues, and presentation of draft CBF to the Management-Department and Ministerial HRC.

The job descriptions of procurement officers are defined for various levels: P5 Assistant Procurement Officers, P4 Procurement Officer, P3 Senior Procurement Officer, P2 Deputy Chief Procurement Officer, and P1 Chief Procurement Officer. For each of these positions, the job description defines (a) job identification, (b) duties and responsibilities, (c) knowledge and skills requirements, (d) complexity of work,

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<sup>68</sup> [http://www.rim.edu.bt/?page\\_id=9195](http://www.rim.edu.bt/?page_id=9195).

<sup>69</sup> As per clarification provided by PMDD on July 22, 2023.

<sup>70</sup> RCSC website.

<https://www.rcsc.gov.bt/en/competency/>.

<https://www.rcsc.gov.bt/wp-content/uploads/2021/04/CBF-Final-Report.pdf> (CBF for procurement officer).

<https://www.rcsc.gov.bt/en/property-management-services/> (Job description).

(e) scope and effect of work, (f) instructions and guidelines and guidelines available, (g) work relationship, (h) supervision over others, and (i) job environment.

**Monitoring performance to improve the system**

Regarding performance assessment system, RCSC has a system known as the Managing for Excellence (MAX) system, which is mandatory for all civil servants. (There is no such performance measurement system for procurement).

- **Gaps**

**Substantive gaps**

**Limited existence of permanent and relevant training programs:** These trainings do not fully cover the requirement in terms of quality and content for the full range of procurement and contracts management training needs.

Considered Red Flag as resources are not under the control of PMDD

**Performance measurement system:** There is no performance measurement system for procurement.

These gaps are identified as a red flag as it will require engagement across government to tie in with national priorities and is not solely within the purview of PMDD/MoF.

**Minor gaps**

**Lack of evidence on enforcement of CBF:** The Assessment Team was not able to find how CBF is implemented after consultations in November 2021.

- **Recommendations**

**To address substantive gaps**

**Limited existence of permanent and relevant training programs:** MoF to address budget/resource issues so that training is provided to meet the skills gap of the procurement professionals.

**Monitoring performance to improve system:** PMDD/MoF to develop performance measurement system, on the lines of those in neighboring countries, as part of e-Procurement.

**To address minor gaps**

**Lack of evidence on enforcement of CBF:** MoF to take stock as a follow-up.

**Summary of substantive gaps and recommendations of Indicator 8**

Substantive gap	Risk classification and red flags	Recommendations
Sub-indicator 8 (a) Limited existence of permanent and relevant training programs	High, Red flag	Budget to be provided by MoF
Sub-indicator 8 (c) Monitoring performance to improve system	High, Red flag	PMDD/MoF to develop performance measurement system, on the lines of those in neighboring countries, as part of e-Procurement

### 3.3. Pillar III - Public Procurement Operations and Market Practices

This pillar assesses the operational efficiency, transparency, and effectiveness of the procurement system at the level of the implementing entity responsible for managing individual procurements (procuring entity). In addition, it looks at the market as one means of judging the quality and effectiveness of the system in putting procurement procedures into practice. This pillar focuses on how the procurement system in a country operates and performs in practice.

#### Indicator 9. Public procurement practices achieve stated objectives.

The objective of this indicator is to collect empirical evidence on how procurement principles, rules, and procedures formulated in the legal and policy framework are being implemented in practice. It focuses on procurement-related results that in turn influence development outcomes, such as value for money, improved service delivery, trust in government, and achievement of horizontal policy objectives.

- **Synthesis of the indicator**

The assessment of Bhutan's public procurement system found evidence of procurement planning but no evidence of market research. The use of SBDs with clear awarding criteria seeking the best value for money was found to be good, but meeting requirements was reported to be difficult for local suppliers due to high dependence on foreign markets. The SDF was identified as a significant constraint for companies operating in a small and competitive market.

Two-stage biddings have not been used since the introduction of e-GP in Bhutan. Limitations in the e-GP system during the COVID-19 pandemic led to several procurements being finalized outside of the system, affecting traceability and compliance with publication requirements.

The assessment found that less than 20 percent of contracts had execution delays exceeding the initial time frame; however, private sector survey respondents reported project execution delays and late delivery of work sites. Civil society involvement in public procurement was not common, and there were difficulties in obtaining all the documents related to the sample, with incomplete files and no policy on safekeeping and retention of procurement records.

The recommendations include conducting market research, enabling two-stage bidding, encouraging greater civil society engagement in public procurement, creating guidelines to mitigate risks and execute quality control, monitoring payment deadlines, and adopting OCDS in the e-GP solution. Procuring agencies should perform market research to ensure the requirements are suitable for the market conditions. Capacity-building programs should be created to enhance procurement data analysis skills, and the use of e-GP should be enhanced through a survey to identify limitations and address gaps.

The sampling strategy was agreed with PMDD and included the selection of 10 procuring entities representative of the country's procurement practices as well as distribution of the sample cases by type of contract and procurement methods. For each of the entities, the APPs for the last five fiscal years were collected.

To collect approximately 100 procurement cases, and anticipating difficulties in collecting documentation, about 12 to 15 contracts were identified per procuring entity. For each sample case, the Assessment Team collected evidence of the entire procurement cycle, from procurement planning to contract execution. All the information collected was anonymized, compiled in a file, and processed as a whole to obtain the required performance indicators set out in Indicator 9 of the methodology.

- **Findings**

The assessment found evidence of procurement planning but no evidence of market research. SBDs are available on a government website and were found to be used with minor deviations. However, during a workshop with private sector representatives, it was reported that meeting requirements is challenging for local suppliers due to high dependence on foreign markets. The SDF, applicable to all international travellers, including those contracted under public contracts, was identified as a significant constraint for companies operating in a small and competitive market, compromising overall outcomes.

The assessment found that two-stage biddings have not been used since the introduction of e-GP in Bhutan, although procurement methods are chosen in compliance with the legal framework. Bid submission, receipt, and opening procedures are clearly described, but limitations in the e-GP system during the COVID-19 pandemic led to several procurements being finalized outside of the system, affecting traceability and compliance with publication requirements. The sample analysis showed good use of SBDs with clear awarding criteria seeking the best value for money. Contract awards are published in the e-GP system, and poor performance is disincentivized through the existence of penalties. Overall, Bhutan's Public Procurement System appears to function in line with international best practices, although cancellations of some contracts warrant analysis to identify root causes.

The assessment shows that less than 20 percent of contracts had execution delays exceeding the initial time frame, with an average delay of more than 30 days. The COVID-19 pandemic was cited as a reason for some of the exceptional delays. A high percentage of private sector survey respondents reported project execution delays and late delivery of work sites. Economic operators stated that supervisory actions were almost non-existent despite the sample revealing that 77 percent of cases had supervision and quality control activities. Payments were generally made within reasonable time frames, but some payments took over 60 days, and the verification of invoices was cited as a cause of payment delays. Civil society involvement in public procurement was not common, with limited participation in projects financed by development partners, and 73 percent of respondents to the CSOs survey stated that there were no capacity-building programs to promote their participation in active monitoring of public procurement. There were difficulties in obtaining all the documents related to the sample, with incomplete files and no policy on safekeeping and retention of procurement records.

- **Gaps**

***Substantive gaps***

**Market research:** Although there is evidence of procurement planning, which can be seen as a baseline for the definition of a procurement strategy, evidence could not be obtained to sustain the existence of market research conducted by procuring agencies.

**SPP:** There is no strategy or action plan for SPP. Additionally, the existence of an SDF is perceived as an issue by the private sector.

Also see Gaps in relation to (1) impact of Sustainable Development Fee (SDF) at 1(d)(b) and (2) SPP at Indicator 3(a)(a) to 3(a)(c) and Rationale for Red Flag.

**Multistage procedures:** According to the information collected during the Assessment Team mission to Bhutan, two-stage biddings were used in the past. However, the assessment found that two-stage bidding/two envelope bidding is currently not being used in Bhutan. This leads to selection primarily based on lowest bid price. The technical evaluators should not have access to price information for an unbiased evaluation based on quality of proposal,

**Completeness and accessibility of records:** The Assessment Team encountered serious difficulties in obtaining all the documents related to the sample. Most of the sample files were incomplete, and it was clear that there was no policy for the safekeeping and retention of procurement records. Although the e-GP solution offers the capability to store documents, much of the documentation produced throughout the procurement process was not available. The documentation of various processes was dispersed or nonexistent, and this situation worsened when there was a change of process or contract manager.

### ***Minor gaps***

**Civil society engagement:** Engagement of civil society in public procurement is limited or non-existent during bid submission, receipt, and opening.

**Confidentiality:** Bhutan's e-GP system ensures confidentiality throughout the evaluation and award process. However, during the COVID-19 pandemic, cases were reported where part of the process was conducted offline. In such cases, there is no clarity about confidentiality being ensured.

**Contract management:** There are no clauses to incentivize exceeding defined performance, and poor performance is disincentivized through penalties. The sample of procurement cases reveals that less than 20 percent of contracts took longer to execute than planned, but there are inconsistencies between private sector perception and the data collected. Some projects lack quality control/inspection, and there are payment delays. Contract amendments are not common, and procurement statistics are not available. Civil society involvement is not practiced, and procurement records are incomplete and not easily accessible.

- **Recommendations**

### ***To address substantive gaps***

**Market research:** Procuring agencies should conduct market research eventually based in Guidelines to be issued by PMDD on the subject.

**SPP:** PMDD should evaluate the impact of SDF in the awarded contracts to assess the need to waive this fee for companies.

**Multistage bidding:** PMDD should make improvements to the e-GP system by enabling two-stage bidding and preventing procuring agencies from conducting parts of the process offline due to inflexible deadlines.

**Procurement records:** The use of e-GP should be enhanced through a survey to identify limitations and address gaps.

### ***To address minor gaps***

**Market research:** Procuring agencies should conduct market research eventually based on guidelines to be issued by PMDD on the subject.

**Contract management:** Guidelines should be drafted to execute quality control and to prepare a capacity-building program for procuring agency adoption. Payment deadlines must be monitored to ensure compliance, and guidelines and capacity-building programs should be created for this.

**Civil society engagement:** PMDD should also take action to encourage greater civil society engagement in public procurement, including offering a capacity-building program to enhance procurement data analysis skills.

**Contract management:** PMDD should update the SBDs to include clauses that incentivize achievement of defined levels of performance. PMDD is also recommended to initiate a process to assess delays in contract execution and create guidelines to mitigate risks.

**Procurement statistics:** OCDS should be adopted in the e-GP solution to ensure an effective analysis of procurement data by authorities and civil society.

**Civil society engagement:** The active participation of CSOs in monitoring public procurement should be encouraged through capacity building.

A separate note on **Works Procurement** is provided in the Annex in Volume III of the Assessment Report, which combines some of the findings and recommendations mentioned above.

### Summary of substantive gaps and recommendations of Indicator 9

Substantive gap	Risk classification and red flags	Recommendations
9(a) Planning		
There is no strategy or action plan for SPP and the existence of an SDF is seen as an issue by the private sector.	High risk, Red flag	In addition to 3(a)(a), PMDD to evaluate the impact of SDF in the awarded contracts to assess the need to waive this tax for companies.
9(b) Selection and contracting		
The use of two-stage bidding is not in place.	Medium risk	PMDD to enhance the e-GP system to allow for two-stage bidding.
Contract clauses do not include sustainability considerations.	Medium risk	Same as 9(a)(c)
There are no clauses to incentivize exceeding defined performance.	Low risk	PMDD to update the SBDs to include provisions to incentivize defined performance level.
9(c) Contract management		
Issuing contract amendments is not a practice.	High risk	PMDD to draft guidelines and prepare a capacity-building program to ensure adoption by procuring agencies.
Procurement statistics are not available.	Low risk	Conditions should be created for an effective analysis of procurement data by the country's authorities and by civil society. The adoption of OCDS in the e-GP solution can support this path.
Civil society involvement in public procurement is not a practice.	Low risk	The active participation of CSOs in monitoring public procurement should be promoted. Additionally, a capacity-building program should be created to ensure that CSO members have the necessary knowledge to participate and contribute to better results and outcomes.
The records are not complete or accurate and are not easily accessible in a single file.	High risk, Red Flag	Efforts should be made to make records complete and accessible. The use of e-GP should be enhanced. A survey of all limitations and the correction of some gaps should be promoted.

## Indicator 10. The public procurement market is fully functional

The objective of this indicator is primarily to assess the market response to public procurement solicitations. This response may be influenced by many factors such as the general economic climate, policies to support the private sector and a good business environment, strong financial institutions, the attractiveness of the public system as a good, reliable client, and the kind of goods or services being demanded.

- **Synthesis of the indicator**

This analysis is based on a private sector survey of 92 respondents and additional feedback from a face-to-face meeting in Thimphu on January 18, 2023. The results are presented in Volume III.

- **Findings**

Based on presentation to the private sector on January 18, 2023, the assessment team analyzed the key feedback from private sector surveys on what should be improved with respect to the conditions in the public procurement market as far as private companies/bidders are concerned. The feedback is divided into a few topics as under:

*On procurement planning:*

“Better procurement planning by procuring agencies prior to floating tenders is necessary. Regulations are well drafted, but agencies are unable to understand the procedures. Confusion within the procuring agencies is passed onto bidders resulting in non-award or failed projects”.

*On quality:*

“It is imperative that procurement agencies are required to look into quality of the products and international certifications. The lowest bidder means waste of government resources and sometime triple expenses for going lowest bidder”.

“Faster quality inspections and payment of bills. This will intern generate money in the company to pay for other bills and get goods delivered to the respective locations earlier”.

*On e-GP:*

“The online system has to be made user friendly and there should be timely dissemination of information”.

*On debriefing:*

“The procuring agency should clearly inform the bidders who won and lost. Certain procuring agencies do not disclose who the awardee was”.

These valid concerns from the private sector, as expressed above, are also reflected in gap analysis under relevant criteria including in quantitative analysis.

Related to open dialogue with the private sector on formulating changes in public procurement, 45 percent of respondents indicated that the government does not get in touch, 38 percent stated mostly, 13 percent not at all, and 4 percent yes always. Additionally, 33 percent do not have resources to keep up with the changes, 48 percent have mostly such resources, about 10 percent have resources, and 9 percent no resources at all.

Regarding the private sector's capacity building on training, guidance, and helpline, 60 percent of respondents stated no, and 40 percent stated yes.

Related to systemic constraints to public procurement market, about 30–40 percent of respondents indicated payment provisions and award criteria are not fair.

In the face-to-face interaction with private sector on January 18, 2023, based on the feedback it was noted that Bhutan being a land locked country impacts the capacity of the private sector that is highly dependent on imports and external capacity, often hard to get. The feedback during face-to-face interaction also highlighted: (i) Several complaints about the e-gp system - an outdated system that requires improvement; (ii) failures during contract execution due to poor management, lack of supervision and cost constraints (iii) several procurements with requirements that are very hard to meet; and (iv) No debriefs being provided to the private sector

These challenges—ranging from systemic communication gaps to structural limitations in Bhutan's market—create a fragmented and often inefficient procurement environment. Limited private sector capacity, the absence of regular dialogue between government and industry, and logistical difficulties stemming from Bhutan's landlocked geography collectively undermine supplier confidence, reduce competition, and constrain innovation. Moreover, the lack of sector-specific procurement strategies and underinvestment in market engagement further hinder the development of a mature and responsive supplier base. Addressing these interconnected constraints will be essential to improve market responsiveness, enhance competition, and ensure value for money in public procurement.

MAPS Assessment Team made an effort to explore issues in the Health Sector and Works Procurement through rapid assessments. Refer to Attachments on Works Procurement and Rapid Assessment of Health Sector - Annex III

- **Gaps**

***Substantive gaps***

Inadequate resources with the government to train and develop the capacity of the private sector. This is considered a red flag as resources are not under the control of PMDD and require interinstitutional support.

There are no sector strategies.

***Minor gaps***

Inadequate attention to dialogue with the private sector and its capacity building.

Systemic constraints on payment provisions and award criteria.

- **Recommendations**

***To address minor gaps***

Improve dialogue with the private sector.

Remove systemic constraints on payment provisions and award criteria and other constraints based on the feedback

### Summary of substantive gaps and recommendations of Indicator 10

Substantive gap	Risk classification and red flags	Recommendations
Sub-indicator 10(a) on capacity and 10 (c) on sector strategies		
Inadequate resources with the government to train and develop capacity of the private sector	Medium, Red flag	PMDD to be provided with resources to train and build capacity of the private sector
There are no sector strategies.	Medium	Carry out sector market analysis and develop procurement policy

## 3.4. Pillar IV - Accountability, Integrity, and Transparency of the Public Procurement System

Pillar IV includes four indicators that are considered necessary for a system to operate with integrity, that has appropriate controls that support the implementation of the system in accordance with the legal and regulatory framework, and that has appropriate measures in place to address the potential for corruption in the system. It also covers important aspects of the procurement system, which include stakeholders, including civil society, as part of the control system. This pillar ensures that the procurement system and governance environment are defined and structured to contribute to integrity and transparency.

### Indicator 11. Transparency and civil society engagement strengthen integrity in public procurement

Civil society, in acting as a safeguard against inefficient and ineffective use of public resources, can help make public procurement more competitive and fairer, improving contract performance and securing results. Governments are increasingly empowering the public to understand and monitor public contracting. This indicator assesses two mechanisms through which civil society can participate in the public procurement process: (a) disclosure of information and (b) direct engagement of civil society through participation, monitoring, and oversight.

- **Synthesis of the indicator**

Related to transparent and consultative process in formulating changes to the public procurement system, based on the written response from 11 CSOs in October 2022, it is seen that the response is not entirely positive with 'Yes' in 55 percent of cases and 'Maybe' in 45 percent of cases.

Regarding programs in place for building the capacity of CSOs to support participation in public procurement, the written responses in quantitative terms was 'No' in 73 percent of cases and 'Maybe (partially)' in 27 percent of cases.

Similarly, in response to the question of whether CSOs are encouraged to act as enablers of good practices or called upon to contribute to the improvement of public procurement outcomes, for example, by suggesting changes to projects, the response was 73 percent - firm No; 9 percent - No with comment that CSOs are never part of government procurement; 9 percent -uncertain; and 9 percent - Yes

On CSOs permitted or encouraged to act as observers, actively monitor or have other involvement in preparation for or conduct of procurement proceedings, the response was 'Yes' in 9 percent of cases, Maybe ( partially)' in 64 percent of cases, and 'No' in 27 percent of cases.

The Assessment Team had face-to-face interaction with seven CSOs on January 16, 2023, in Thimphu, which confirmed the above findings related to lack of effective engagement with CSOs. There was a consensus among CSOs on the lack of adequate and timely access to information for effective participation in public procurement.

- **Findings**

***Relevant/representative feedback from CSOs***

There are a few positive comments as well as comments pointing out gaps and comments suggesting improvements. However, overall, there is lack of a transparent and consultative process.

The Assessment Team found feedback to be a mix of positive comments, comments reflecting gaps and those suggesting improvements which were categorized. On an overall basis the gaps dominate on issues of lack of transparency, CSOs not being provided a critical oversight role, lack of access to data with suggested improvements through e-Procurement, and empowering of CSOs through regular communication

**Transparency and Access to Information:** While Bhutan's e-GP system represents an important step toward improving procurement transparency, CSOs observed that its complexity and limited user-friendliness may restrict broader access to procurement information. Several CSOs reported that while procurement documents are available online, obtaining specific or detailed data often requires additional follow-ups with agencies. This indicates that there are opportunities to further strengthen open data practices and enhance the accessibility of procurement information. CSOs also noted challenges in systematically accessing data, with some describing Bhutan as facing limitations in data availability. Addressing these constraints through user-centered improvements to the e-GP platform and more proactive data disclosure could further enhance transparency and public trust.

**Capacity Building of CSOs:** Consultations with CSOs highlighted the need for structured initiatives to build civil society capacity in procurement monitoring and oversight. At present, most CSOs do not have access to specialized training or resources that would enable them to engage more effectively in public procurement processes. In contrast to practices in some other jurisdictions, where civil society organizations are supported to play an oversight role, CSOs in Bhutan expressed that additional support could better enable them to contribute meaningfully to procurement transparency and accountability. Investing in CSO capacity development would help strengthen the overall integrity framework of the procurement system.

**Limited Direct Engagement:** The involvement of CSOs in procurement oversight activities remains limited and is primarily linked to specific donor-funded initiatives rather than being systematically embedded within the national procurement system. CSOs indicated that while there have been isolated instances of engagement, a more consistent and institutionalized framework for civil society participation could be beneficial. Strengthening structured engagement mechanisms would allow CSOs to provide valuable insights during policy formulation, project monitoring, and reforms, thus enhancing the inclusiveness and responsiveness of Bhutan's procurement system.

**Challenges in Monitoring:** Monitoring public procurement requires technical expertise, access to information, and financial resources. CSOs reported that in the absence of specialized knowledge and support, their ability to effectively monitor procurement activities remains constrained. The development of procurement monitoring guidelines tailored for CSOs, coupled with targeted capacity-building programs and resource support, would significantly enhance civil society's contribution to ensuring value

for money and promoting transparency. Strengthening the enabling environment for CSO monitoring would further consolidate Bhutan’s efforts toward open and accountable governance.

- **Gaps**

**Minor gaps**

**Need for better consultative process:** CSOs believe there is a need for better consultative process, including e-GP through simplified and user-friendly way.

**Substantive gaps**

**Lack of enabling environment for CSOs to help make public procurement process more competitive and fairer and improve contract performance:** It is seen that although CSOs are willing to contribute and act toward safeguarding against inefficient and ineffective use of public resources, there is a lack of enabling environment from the government. Based on the majority of responses, there is no environment to consider input from CSOs.

Considered Red Flag as it is beyond the purview of PMDD and it requires inter-institutional collaboration

**Lack of efforts in building capacity of CSOs:** CSOs are never part of the government procurement system and there is no initiative on the part of government to build their capacity.

**Inadequate access of information to CSOs and the public due to lack of a functioning e-Procurement system.**

- **Recommendations**

**To address minor gaps**

**Enhance consultations with CSOs** through simplified and user-friendly methods, including the use of e-GP, providing an opportunity to comment through online consultations and virtual meetings/discussions.

**Need to revive CSO-government collaboration:** For example, a guideline drafted by the Executive Committee of the BCSN or similar initiative. This should be a collaborative initiative among MoF/PMDD, RAA, ACC, and CSO Network, to improve the effectiveness of CSO engagement in the procurement process and contract implementation.

**Promote Open Data Practices:** Strengthen procurement transparency by adopting open data standards and making procurement information more accessible, searchable, and downloadable through the e-GP platform.

**Summary of substantive gaps and recommendations of Indicator 11**

Substantive gap	Risk classification and red flags	Recommendations
11(a) on an enabling environment for public consultation and monitoring, 11 (b) adequate and timely access to information, and 11 (c) Direct engagement of civil society		
Lack of enabling environment for CSOs to help make public procurement process more	Medium	Need to improve CSO-government collaboration with participation from

Substantive gap	Risk classification and red flags	Recommendations
competitive and fairer and improve contract performance		MoF/PMDD, RAA, ACC, for a meaningful and effective role of CSO
Inadequate access of information to CSO	Medium	Government to ensure adequate access to information for the public including through e-Procurement system
Direct engagement of civil society	High, red flag	Organize a seminar/workshop for the CSOs to review and discuss the existing public procurement system so that they are well informed about the importance of the system. Create enabling environment for direct participation of CSOs through CSO-government collaboration guidelines.

**Indicator 12. The country has effective control and audit systems**

The objective of this indicator is to determine the quality, reliability, and timeliness of the internal and external controls. Equally, the effectiveness of controls needs to be reviewed. For this indicator, ‘effectiveness’ means the expediency and thoroughness of the implementation of auditors’ recommendations. In addition to their own findings, the assessors should rely on the most recent PEFA assessments and other available analyses.

- **Synthesis of the indicator**

There is a comprehensive control framework for an effective control and audit system. In 2013, MoF issued the National Internal Control Framework (NICF) <sup>71</sup> to provide an overall framework for implementing and maintaining effective internal controls, describe internal controls for heads of agencies to implement, and describe appropriate internal control practices for major functional areas.

External audit of the RGoB and local governments is undertaken by RAA, which is established as a constitutional body. Article 25 (1) of the Constitution 2008 stipulates that “There shall be a Royal Audit Authority to audit and report on the economy, efficiency, and effectiveness in the use of public resources.” Based on the PEFA 2023 report, as per Indicator PI-30.4 on Independence of SAI, RAA operates independently from the executive, ensured through the Constitution and the Audit Act of Bhutan 2018. <sup>72</sup>

The Guidelines on Compliance Audit issued by RAA provide sufficient details to carry out procurement audit, broken down by subject matter, audit scope, and criteria.

PMDD has no direct role in carrying out procurement-related audit

- **Findings**

Based on the RAA Strategic Plan of 2020–2025, NICF sets the control environment and the ‘tone at the top’ and all agencies are obliged to follow this.

Chapter 6 of NICF on procurement internal control and best practices sets its objective as “Agencies are responsible for developing and maintaining procurement processes that are in compliance with all laws,

<sup>71</sup> <https://www.mof.gov.bt/wp-content/uploads/2014/07/InternalControlFramework.pdf>

<sup>72</sup> <https://www.bhutanaudit.gov.bt/wp-content/uploads/2020/07/Audit-Act-of-Bhutan-2018.pdf>

administrative requirements, and ethical standards pertaining to purchasing and procurement. All departments are responsible for conducting the purchasing function in a manner which results in the most effective and efficient use of state funds.”

There is an Internal Audit Manual issued by MoF in accordance with requirements of Section 23(0) of the PFA, 2007.

In accordance with Chapter 5 on Functions and Jurisdiction of RAA ( Section 67–70) as per the Audit Act of Bhutan 2018,<sup>73</sup> “The Authority shall (i) promote accountability, transparency and integrity in public operations through its reports and recommendations; (ii) audit and report on the economy, efficiency and effectiveness in the use of public resources; (iii) carry out performance, financial, compliance, special audits and any other form of audits that the Auditor General may consider appropriate; and (iv) Performance audit include but not limited to examination and reporting on the economy, efficiency and effectiveness in public operations on selected schemes, themes or topic as may be considered necessary by the Authority.”

As per Section 113 Audit Act of Bhutan 2018, the Annual Audit Report shall, among others, include (a) aspects of economy, efficiency, and effectiveness in the public operations; (b) cases of fraud and corruptions, mismanagement and malpractices, violation of laws, rules and regulations, shortfalls, lapses and deficiencies; and (c) summary of significant issues and recommendations from the performance audit reports issued by the Authority.

Based on the Annual Audit Report for 2021–2022 ending June 30, 2022, the audit was conducted by RAA as required under the Audit Act of Bhutan 2018, the PFA of Bhutan 2007 and Public Finance (Amendment) Act 2012, and the Financial Rules and Regulations 2016.

As per findings under PI-31, (a) Parliament’s scrutiny of the AARs for the last three fiscal years was completed within six months from receipt of the AARs from the RAA; (b) Parliament’s PAC has undertaken in-depth hearings on key findings of audit reports, covering a few audited RGoB entities; (c) in its review reports on the AARs, which are tabled in and deliberated on in Parliament, the PAC issues recommendations on actions to be implemented by the executive. Follow-up on implementation of the recommendations is undertaken systematically.

The Auditor General’s Advisory Series on ‘Review of Government Procurement System’ is issued in accordance with Section 114 of the Audit Act of Bhutan 2018 intended toward promoting accountability, transparency, integrity, and value for money in government procurements. The report of November 2021 contains important recommendations on improving the public procurement system<sup>74</sup> that requires follow-up.

- **Gaps**

***Minor gaps***

**Lack of engagement by internal auditors on specialized procurement audit:** Based on the feedback by CCA (related to internal audit), CCA did not carry out specialized procurement audits. However, the internal auditors in the respective agencies, during their internal audit engagements, have assessed and evaluated the adequacy of internal controls in the procurement process when some procurement

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<sup>73</sup> <https://www.bhutanaudit.gov.bt/wp-content/uploads/2020/07/Audit-Act-of-Bhutan-2018.pdf>

<sup>74</sup> [https://www.bhutanaudit.gov.bt/wp-content/uploads/2021/12/02.-AGAS\\_Review-of-Government-Procurement-System.pdf](https://www.bhutanaudit.gov.bt/wp-content/uploads/2021/12/02.-AGAS_Review-of-Government-Procurement-System.pdf)

component is involved. However, CCA could not quantify this in terms of the percentage of internal audit targeted toward the complete procurement process.

**No data on follow-up of CCA recommendation and those by external auditors (RAA):** With respect to internal audit recommendations, there was no data with CCA on follow-up/tracking mechanism instituted between CCA and internal auditors of respective agencies. Similarly, there are no data on follow-up of procurement-related recommendations by RAA.

- **Recommendations**

***To address minor gaps***

**Institute a mechanism for CCA to carry out specialized procurement audits on a regular basis,** focusing on risk-based and targeted audits.

**PMDD to follow up on procurement-related recommendations of RAA in coordination with CCA:** These are useful important recommendations to improve public procurement system.

**CCA to follow-up on external audit recommendations,** also by instituting a tracking mechanism for external audit recommendations

**Summary of substantive gaps and recommendations of Indicator 12**

There are no substantive gaps under Indicator 12.

**Indicator 13. Procurement appeals mechanisms are effective and efficient**

Pillar I covers aspects of the appeals mechanism as it pertains to the legal framework, including creation and coverage. This indicator further assesses the appeals mechanisms for a range of specific issues regarding efficiency in contributing to the compliance environment in the country and the integrity of the public procurement system.

- **Synthesis of the indicator**

The criteria in this indicator are generally met. The appeals mechanism is conducted using the e-GP system and follows clear rules, procedures, and timelines for submission and decision-making. The number of applications for review by the IRB is not high, averaging five per year. All decisions of the IRB are published promptly on the e-GP website, and they are clear and well-reasoned.

There are minor gaps linked to those addressed more fully under other indicators relating to the requirement for timelines for publication of decisions to be specified in legislation (sub-indicator 1(h)), and recommendation to include review of resources and staffing to support IRB functions as part of a wider review of PMDD resource and staffing (sub-indicator 5(c)). These are included in the findings and gaps for indicator 13 to ensure that these issues do not get overlooked and are addressed in following up recommendations under 1(h) and 5(c).

- **Findings**

The e-GP includes a grievance management system through which an initial grievance is submitted to the procuring entity. Bidders can also use the e-GP system to submit an application for review to the IRB upon payment of a fee, together with documentary evidence in support of the claim. Timelines for submission and handling of grievances are specified. A bidder must apply for review by the IRB within 5 days of the decision by the Head of the Procuring Agency, and the IRB must make its decision within 10 days.

The procedures for submission and resolution of complaints are outlined in the IRB Rules and Procedures, supported by an e-GP Grievance Manual. The IRB is established as an independent review function, and there are appropriate safeguards in place to ensure the IRB panel members are not involved in procurement transactions or in the process leading to contract award decision. PMDD provides secretariat services in support of the IRB.

The IRB has the authority to suspend procurement procedures, and it imposes a range of remedies, including those necessary to correct the implementation of the procurement procedure. Remedies imposed by the IRB in cases reviewed (2018–2022) include annulment of tender decision, annulment of contract and direction to re-tender, direction to re-evaluate, and direction to review bid condition.

IRB decisions are made within specified time scales based on available evidence submitted by the parties and they are binding, with all decisions enforced. They are based on information relevant to the case and are consistent, balanced, and unbiased. About 80 percent of the small number of survey respondents who had submitted appeals to the IRB stated that the IRB review system was trustworthy and fair, and 100 percent believed that the decisions of the IRB were consistent. Overall, 82 percent of the wider group of 67 respondents in the private sector survey on this issue confirmed that the review system acts or mostly acts in accordance with the rule of law and is predictable.

**Gaps**

- *Minor gaps*

**Specified timeline for publication of IRB decisions:** Analysis at sub-indicator 1(h)(e) notes that the legal framework does not specify a time frame for publication of IRB decisions and identifies this as a minor gap as decisions are, in practice, published promptly.

**Staff resources:** Analysis at indicator 5(c)(c) identifies lack of resources and staffing for PMDD as a substantive gap. The Assessment Team understands that, in general, resources are stretched at PMDD. According to the Assessment Team, this is likely to have a negative impact on all activities of PMDD, including resources and staffing to support the functions of the IRB. This is, therefore, flagged as a minor gap to be addressed as part of wider consideration of overall resources and staffing for PMDD.

- **Recommendations to address minor gaps**

**Specified timeline for publication of IRB decisions:** Recommendation at sub-indicator 1(h)(e) - To increase legal certainty, include in the procurement legal framework a specified time frame for publication of IRB decisions.

**Staff resources:** In reviewing resources and staffing of PMDD (see indicator 5(c)), MoF/PMDD to consider whether secretariat services to the IRB are sufficient and whether an allocated budget for the secretariat may enhance the functioning of the IRB.

Suggestions for improvement
Sub-indicator 13(b) Procedures for submission and resolution of complaints
Include link to e-GP Grievance Management Manual from Grievance tab on e-GP home page.
Sub-indicator 13(c) Decisions of the appeals body

The list of IRB decisions published on the e-GP website could be improved to increase stakeholder understanding of the IRB review process and outcomes. The list of decisions is currently presented using only a PDF reference, for example, '04-2022-2023.pdf' or '17.pdf', which does not refer to the case number and provides no information on the parties, subject matter, or outcome of the decision. Individual decisions are published as searchable PDFs but it is not possible to search the collection of decisions as a whole using the e-GP system. IRB Secretariat could, as an initial measure, consider publishing an index of the published decisions on the e-GP grievance decision page, including basic data on each decision. In the longer term, the e-GP system may be improved to allow for online interrogation of the collection of IRB decisions.

## Indicator 14. The country has ethics and anti-corruption measures in place

This indicator assesses (a) the nature and scope of anti-corruption provisions in the procurement system and (b) how they are implemented and managed in practice. This indicator also assesses whether the system strengthens openness and balances the interests of stakeholders and whether the private sector and civil society support the creation of a public procurement market known for its integrity.

- **Synthesis of the indicator**

Definitions of fraud, corruption, and other prohibited practices are set out in the procurement legal framework and are consistent with obligations under the United Nations Convention against Corruption (UNCAC), as also reflected in the Anti-Corruption Act of Bhutan 2011 (ACAB).

Definitions of individual responsibilities, accountability, and penalties are set out in ACAB.

Procurement and contract documents include provisions on fraud and corruption and other prohibited practices, and bidders are required to sign integrity pact statements as a condition of admission to eligibility.

SBDs<sup>75</sup> incorporate provisions on fraud, corruption, and other prohibited practices.

ACAB Chapter 5, which applies to procuring entities as well as individuals, covers Complaint Management Policy and Procedure. It specifies the duty to report acts of corruption to the ACC, the procedure to be followed for handling complaints, and penalties for false reporting.

- **Findings**

As indicated earlier, definitions of individual responsibilities, accountability, and penalties are set out in ACAB. The penalties for bribery and other corruption-related offenses are also specified in ACAB, with respective sections detailing offenses ranging from misdemeanor to felony of fourth degree or value based, whichever is higher.

Rules on Administrative Disciplinary Actions, July 2022, RCSC<sup>76</sup> s.27(n) requires civil servants to maintain their integrity and uphold the dignity of the office to which they are appointed and in accordance with the rules, administrative offenses and corresponding sanctions are classified into major and minor.

Guidance on Managing Conflict of Interest<sup>77</sup> is provided by the ACC. This guidance defines conflict of interest broadly as follows: "A 'Conflict of Interest' involves a conflict between the public duty and private

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<sup>75</sup> Document sampled: e-SBD for Works (above Nu 5 Million), 2019

<https://www.egp.gov.bt/softSBD.jsp>

<sup>76</sup> <https://www.rcsc.gov.bt/wp-content/uploads/2022/07/Rule-for-Administrative-actions.pdf>

<sup>77</sup> <https://www.acc.org.bt/sites/default/files/Col2018updated.pdf>

interests of a public official in which the public official has private interests which would improperly influence the performance of his/her official duties and responsibilities. A conflict of interest can arise from avoiding personal losses as well as gaining personal advantage, financial or otherwise.” This guidance explains actual, perceived, and potential COI and provides a format for declaring and managing COI.

The Annual Report of 2021–2022 of the ACC indicates that there is systematic follow-up of complaints received through complaints evaluation and action, which may include full investigation.

There is a comprehensive anti-corruption framework to prevent, detect, and penalize corruption in government through the National Integrity Anti-Corruption Strategy that requires agencies to implement integrity measures in the form of an Organizational Integrity Plan (OIP), which is evaluated annually.

ACC has the mandate to combat and prevent corruption as enshrined in Article 27 of the Constitution of the Kingdom of Bhutan through a three-pronged strategy of investigation, prevention, and education.

A National Integrity and Anti-Corruption Strategy (2019–2023) has been adopted<sup>78</sup> for implementation by all public agencies. Under this strategy, agencies are required to implement integrity measures in the form of an OIP which is annually evaluated for effective implementation and greater ownership.

The ACC has published a comprehensive Corruption Risk Management Manual,<sup>79</sup> which is a step-by-step practical guide for procuring entities and other organizations in conducting corruption risk management, including in the field of public procurement.

On an ongoing basis, the ACC conducts advocacy sessions for various target groups and has undertaken thematic sessions for vulnerable sectors, including procurement, to orient them on the corruption vulnerabilities and tools (ethics, integrity, and professionalism) to offset the impending risk of succumbing to corruption.<sup>80</sup>

Bhutan Transparency Initiative (BTI) is one of the country’s prominent CSOs that promote transparency, accountability, and integrity through policy-oriented research, development of training tools, and policy dialogue facilitation. One such study is the National Corruption Barometer Survey, which is conducted once every three years.

Integrity Vetting Rules 2022 were also adopted to promote and mainstream integrity in the public and private sector.<sup>81</sup> These rules apply to the selection, recruitment, promotion, nomination, appointment, or selection of a person to public office as well as in the award of a public contract or entering into a public contractual relationship. They further enhance the existing Integrity Vetting System operated by ACC, which has issued integrity vetting reports since 2016.

- **Gaps**

***Minor gap***

**There is no specific provision for a cooling-off period for former public officials.** Model Public Service Code of Conduct, s.35,<sup>82</sup> requires in the context of post-public service restrictions that “A Public Servant shall: (a) not take advantage of his or her official position to obtain opportunity for future employment;

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<sup>78</sup> Adopted in accordance with 12th NKRA ‘Corruption Reduced’.

<sup>79</sup> <https://www.acc.org.bt/sites/default/files/Final%20guideline%20for%20systems%20approach%20to%20corruption%20prevention.pdf>

<sup>80</sup> Information provided by ACC to MAPS Assessment Team, February 2023.

<sup>81</sup> <https://www.acc.org.bt/?q=node/2365>.

<sup>82</sup> <https://www.acc.org.bt/pdf/MPSCC.pdf>

and (b) forthwith disclose to his or her supervisor, management, or relevant authority any offer of employment received.”

**Substantive gap**

**Lack of enabling environment for the engagement of CSOs for third-party monitoring:** Monitoring is limited to the role of BTI. As also rightly highlighted by Transparency International’s Corruption Perception Index, diagonal accountability in the Bhutanese public sector is weak without adequate engagement of CSOs, also there is lack of clarity on beneficial ownership information in financial disclosure. Considered red flag as it requires inter-institutional effort and collaboration.

**Recommendations**

**To address minor gap**

There is need for clarity in the Model Public Service of Conduct on the cooling-off period for former public officials.

**To address substantive gap**

Engage CSOs as third-party monitors to strengthen integrity in procurement, and provide clarity on beneficial ownership information in financial disclosure.

**Summary of substantive gaps and recommendations of Indicator 14**

Substantive gap	Risk classification and red flags	Recommendations
14 (e) and (g) Stakeholder support to strengthen integrity in procurement, lack of CSO involvement, lack of information on beneficial ownership in financial disclosure forms	High, Red flag	Engage CSOs as third-party monitors to strengthen integrity in procurement, and provide clarity on beneficial ownership information in financial disclosure as a suggestion for improvement

## 4. Consolidated Recommendations and Key Actions

The consolidated recommendations are provided at the end of each indicator and covered in the Executive Summary as pillar-wise summary. These recommendations are listed below.

**Pillar I: Legal, Regulatory, and Policy Framework**

*Promote the use of functional specifications, where appropriate:* Actively promote the use of output-based specifications where this may encourage the use of innovative solutions.

*Improve recordkeeping with a comprehensive list of procurement records and documents, document retention period, and security protocol:* For example, prepare guidelines, review standard retention period, and prepare a dedicated security protocol on retention of procurement records.

*Prepare a consolidated version of PRR to include all amendments,* including those contained in SPRR 2021<sup>83</sup> and e-GP guidelines. This is required so that a single comprehensive document is available.

<sup>83</sup> As amended on July 1, 2023, PRR 2023

*Develop an SPP policy/strategy to implement SPP—economic, environmental (including climate considerations) and social (including gender equality)—in support of broader national policy objectives and reflecting national priorities.*

*Keep impact of SDF under review:* At the time of the MAPS assessment, an SDF of [xx dollars per day] was interpreted as payable by all suppliers using foreign staff for the delivery of services under public procurement contracts. This was raised as a matter of significant concern by the private sector. The MAPS Assessment Team acknowledges that the changes to the SDF are recent<sup>84</sup> and so the impact is still unclear. The Team recommends that the RGoB, if it has not already started to do so, initiate ongoing critical review and evaluation of the impact of the requirement for payment of SDF on competitiveness and value-for-money outcomes in public procurement, to assess the need for general or specific waivers.

## **Pillar II: Institutional Framework and Management Capacity**

*Address the concern of the private sector on timely payment of invoices:* MoF/PMDD to monitor verification and payment of invoices to ensure timely payment, including through e-GP system/e-PEMS.<sup>85</sup>

*Provide resources and upgrade/fill the position of Head of PMDD at a sufficient level of authority:* The position of Division Head for PMDD is not high level and does not have an authoritative standing relative to its mandate and required quality of services.

*Present the published procurement information in a machine-readable format and adopt OCDS:* This will facilitate easier access, analysis, and utilization of the data by external entities.

*Strengthen operational capability on e-GP:* Establish effective capability within PMDD to operate and manage the e-GP solution independently.

*Improve the e-GP system's information gathering capacity:* Capacity should be created for autonomous extraction of information from the system to produce reports and analysis on procurement.

*Implement permanent and relevant training programs:* MoF to address budget/resource issues so that training is provided to meet the skills gap of the procurement professionals.

*Enforce CBF:* As per the RCSC website, there is a CBF for procurement officers with job descriptions,<sup>86</sup> but it needs to be implemented.

*Monitor performance to improve system:* PMDD/MoF to develop a performance measurement system, on the lines of those in neighboring countries, as part of e-Procurement.

## **Pillar III: Public Procurement Operations and Market Practices**

*Enable multistage bidding:* PMDD should improve the e-GP system by enabling two-stage bidding and preventing procuring agencies from conducting parts of the process offline due to inflexible deadlines.

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<sup>84</sup> Press Release of August 26, 2023: “Bhutan expands its tourist incentives for visitors, with the daily Sustainable Development Fee reduced by 50% for another four years, until 2027” [https://a.storyblok.com/f/171618/x/e09a12cfba/press-release\\_bhutan-sdf-reduction-release\\_final.pdf](https://a.storyblok.com/f/171618/x/e09a12cfba/press-release_bhutan-sdf-reduction-release_final.pdf)

<sup>85</sup> Though PEFA 2023 findings ( PI-25) shows compliance with payment rules and procedures

<sup>86</sup> RCSC website,

<https://www.rcsc.gov.bt/en/competency/>

<https://www.rcsc.gov.bt/wp-content/uploads/2021/04/CBF-Final-Report.pdf> (CBF for procurement officer).

<https://www.rcsc.gov.bt/en/property-management-services/> (Job Description)

*Enhance completeness and accuracy of records:* Efforts to be made to make records complete and accessible (see recommendation under Pillar I). The use of e-GP should be enhanced.

*Train private sector participants:* PMDD is to be provided with resources to train and build the capacity of the private sector.

#### **Pillar IV: Accountability, Integrity, and Transparency of Public Procurement System**

*Revive CSO-government collaboration:* This should be a collaborative initiative among MoF/PMDD, RAA, ACC and CSO Network, to improve the effectiveness of CSO engagement in the procurement process and contract implementation.

*Institute a mechanism to carry out specialized procurement audit on a regular basis by the CCA:* CCA to undertake regular risk-based and targeted specialized procurement audit.

*Improve stakeholder support to strengthen integrity in procurement:* Engage CSOs as third-party monitors to strengthen integrity in procurement.

#### **Sector-Specific Recommendation**

RGoB may consider implementing sector-specific recommendations as given in the Executive Summary of the report and detailed in Annex in Volume III of the report.

## 5. Suggested Priorities for Strategic Planning Process

The Assessment Team has summarized, in the table below, a suggested timeline and priority with strategies for implementation to be decided by the government. The strategy needs to be realistic and aligned with other reform initiatives, ensuring a balance of perspectives and including a good mix of ‘quick wins’ as well as medium- and long-term initiatives. Accordingly, in the following table, (a) timeline is indicated as short term (ST), medium term (MT), and long term (LT) or through continuous improvements; (b) priorities are categorized as 1, 2, or 3; and (c) responsibility is assigned.

No.	Key Recommendations	Timeline	Priority	Responsibility
<b>Legislative, Regulatory, and Policy Framework</b>				
1	Promote use of functional specifications, where appropriate	MT	2	PMDD/MoF
2	Improve recordkeeping with a comprehensive list of procurement records and documents, documents retention period, security protocol	MT	1	PMDD/MoF
3	Keep impact of SDF under review	Continuous	2	RGoB
<b>Institutional Framework and Management Capacity</b>				
4	Address concern of private sector on timely payment of invoices	MT	1	MoF
5	Provide resources and upgrade /fill the position for Head of PMDD at a sufficient level of authority:	MT	1	MoF
6	Present the published procurement information in a machine-readable format and adopt OCDS:	LT	2	PMDD/MoF
7	Strengthen operational capability on e-GP	MT	2	PMDD/MoF
8	Improve e-GP system's information gathering capacity	MT	2	PMDD/MoF
9	Implement permanent and relevant training programs	LT	1	PMDD/MoF
10	Enforce CBF:	MT	1	PMDD/MoF
11	Monitor performance to improve system	LT	1	PMDD/MoF

No.	Key Recommendations	Timeline	Priority	Responsibility
<b>Public Procurement Operations and Market Practices</b>				
12	Enable multistage bidding	MT	2	PMDD/MoF
13	Enhance completeness and accuracy of records	Continuous	1	All procuring agencies
14	Train private sector participants	Continuous	2	PMDD
<b>Accountability, Integrity, and Transparency of Public Procurement System</b>				
15	Revive CSO-government collaboration	MT	2	PMDD/MoF/ACC
16	Undertake risk-based and targeted specialized procurement audit on a regular basis	MT	1	CCA
17	Improve stakeholder support to strengthen integrity in procurement	Continuous	2	PMDD/ACC

### Sector-specific key priorities

No.	Key Recommendations	Timeline	Priority	Responsibility
<b>Works Procurement</b>				
1	Implement National Construction Industry Policy 2020 to improve quality of construction	MT	1	Ministry of Infrastructure and Transport
2	Carry Works Procurement market analysis for assessment of the capacity of local contractor	MT	2	PMDD and Ministry of Infrastructure and Transport
3	Update SBDs for Large Works above a specified threshold (such as above US\$10 million, with rated criteria and two-envelope system)	ST	1	PMDD and Ministry of Infrastructure and Transport
4	Prepare Guidance on dealing with situations of Abnormally Low Bid	ST	1	PMDD
5	Improve contracts management and quality control	Continuous	2	All procuring agencies
<b>Health Sector Procurement</b>				
1	Develop SBDs for health sector goods	MT	1	PMDD/ Ministry of Health
2	Prepare Health Sector Guidance Note (including market analysis and dealing with situation of small market)	MT	2	PMDD/ Ministry of Health
3	Develop a long-term plan for cost-effective equipment procurement and utilization	LT	3	PMDD/ Ministry of Health

Based on the recommendations of this assessment in general and the priority areas for improvement, in particular, PMDD could prepare a detailed action plan. It is expected that the findings and recommendations of the assessment shall inform the strategic planning process for future procurement reforms or system development by the RGoB. However, setting the sequencing to implement the recommended improvement activities to address substantive gaps would be left to the discretion of the RGoB. It is expected that the findings of this assessment would offer the opportunity for the RGoB and participating development partners to explore possible ways and means to support the recommended actions plan.

**As the next practical step**, the role of the MAPS Steering Committee should be changed to a ‘Public Procurement Reform Group’ to be hosted by PMDD as a secretariat to implement the reform agenda.

## 6. Information regarding Validation

Chapter 1 of the report provides a chronology of all consultations and validation till October 2023 when a draft Assessment Report was completed. Several consultations were held with PMDD and the ASC during the assessment. In the validation mission, the Assessment Team presented the findings to key stakeholders, and their feedback was obtained and incorporated into the draft Assessment Report. The Validation Workshop has broadly validated the assessment findings and recommended reform actions to address remaining challenges for the improvement of the quality and performance of the country's public procurement system. All the details on consultations are covered in **Annex in Volume III** of the Assessment Report. The following table provides the summary.

#	Description	Planned/Actual date
1	Completion of the draft Assessment Report for review by PMDD/RGoB	October 2023
2	Completion of revised draft Assessment Report after incorporating comments from PMDD	January 31, 2024
3	Stakeholder validation workshop ( in person)	February 13, 2024
4	Revised version of Works and Health Sector Procurement	April 2024
5	Completion of revised draft Assessment Report after incorporating feedback from the validation workshop and incorporating further analysis on Works Procurement and Health Sector Procurement in March and April 2024	May 14, 2024
6	Report sent for internal peer-review in the World Bank	July 2024
7	Decision Review Meeting by the World Bank	July 29, 2024
8	Report Submission to MAPS Secretariat and completion of ATAG Review <sup>87</sup>	July 14, 2025
9	Revised version of the report and non-objection by ATAG/MAPS Secretariat	August 14, 2024
10	Final report submission to the RGoB to seek its agreement to publish the assessment report	August 27, 2024
11	Dissemination/Publication of final MAPS report	October 2024

<sup>87</sup> Report to be sent to PMDD/MoF for advance information

## Appendix – Additional Notes in PRR 2023

### Part 1 Additional information - Notes and comments on PRR 2023

### Part 2 Gaps and Recommendations identified in MAPS assessment as requiring legislative change and whether/to what extent addressed by the PRR 2023 (extracted from Section of Report and repeated here for completeness)

#### Part 1 Additional information - Notes and comments on the PRR 2023

These notes flag a number of changes introduced by the PRR 2023. These are for general information only. They do not constitute an exhaustive review of PRR 2023 and do not apply MAPS. They are intended to give readers of this report an insight into some of the ongoing developments in the procurement legal framework, which occurred after the agreed cut-off date for legal analysis for the MAPS assessment, March 31, 2023.<sup>88</sup> They include some suggestions for ongoing review activity to ensure that changes deliver positive and effective outcomes.

Issuance of the PRR 2023 is part of a planned longer-term procurement reform process. The PRR 2023 consolidates and updates the legal framework, building on provisions in the PRR and SPRR 2021.<sup>89</sup> They do not represent a radical departure in terms of structure and general content.

The PRR 2023 have reduced some of the flexibilities introduced in SPRR 2020/2021 in response to the COVID pandemic but, reflecting the need for reform, have not always reverted to exactly the same position as under PRR 2019. For example, SPRR 2020/2021 introduced short minimum time limits for submission of bids, a much-reduced standstill period on notification of intention to award under the open procedure, and a reduction in the number of bidders which may be invited in the limited tender method. Considering each of those three issues,

- **Time limits for bid submission:** PRR 2023 replaces the minimum limits for submission of bids introduced by SPRR 2020/2021 with new minimum time limits. These are longer than the tight limits in SPRR 2020/2021 but shorter than those which applied under the PRR 2019. For example, the minimum period for submission of bids in national competitive bidding was 30 days under the PRR 2019, 10 days under SPRR 2020/2021, and is now 21 days under the PRR 2023.

*PRR 2023 Clause 5.1.3. The MAPS Assessment Team suggests that the use and impact of these shorter minimum time limits for submission of bids is kept under review, including through engagement with the private sector, to ensure that sufficient time is allowed for bid preparation in practice, to facilitate high-quality tender submissions.*

- **Standstill period:** For notification of intention to award under the open procedure, SPRR 2020/2021 reduced the standstill period from 10 days to 2 working days. This has now increased to 5 days under the PRR 2023.

*PRR 2023 Clause 5.4.9. The MAPS Assessment Team suggests that the impact of the 5-day standstill period (which is quite short) is kept under review, including through engagement with the private sector, to ensure that the time allowed is sufficient to balance the requirements for streamlined review against the practical impact of delays in contract award.*

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<sup>88</sup> Primary Sources for information presented in this Additional information box: summary information in Excel spreadsheets provided by PMDD to the MAPS Assessment Team dated March 3, 2023, and PMDD presentation 'Awareness of changes in public procurement' dated May 29, 2023. References checked with PRR 2023, published version dated July 1, 2023.

<sup>89</sup> SPRR 2021 were effective from November 2, 2021, and superseded SPRR 2020.

- **The PRR 2023** have reinstated the PRR 2019 provision allowing the number of bidders in limited tendering method to be restricted between three and five. This number was reduced to a minimum of two bidders for works contracts under the SPRR 2020/2021.

Some flexibility introduced by SPRR 2020/2021 have been retained or expanded, as in the case of permitted grounds for use of the direct contracting method.

- **Direct contracting method:** *PRR 2023 Clause 4.2.4.2. The MAPS Assessment Team suggests that the use and impact of these provisions on the use of direct contracting method is kept under close review to ensure that they are not overused and do not result in a reduction in value-for-money outcomes or less competition.*

New or amended provisions have also been introduced, including abnormally low bids, widening of vested powers of the tender committee,<sup>90</sup> a new requirement for compulsory pre-bid meetings to be conducted in specified cases,<sup>91</sup> and revision of the standard payment period, now requiring payment to be made within 25 days after submission of correct bills/invoices.<sup>92</sup> Procurement financial thresholds have also been revised.<sup>93</sup>

- **Abnormally low bid provisions:** *PRR 2023 Clause 5.4.5. The MAPS Assessment Team suggests that careful consideration be given to whether the abnormally low bid provision requiring the elimination of bids 20 percent below or above the procuring agency's estimate is advisable. It may be considered better practice to use such a measure as a trigger for investigation into whether or not the bid is abnormally low as, in some cases, low-priced bids may have well-founded and justifiable reasons and still be deliverable.*

## Supporting documentation

When the PRR 2023 came into force on July 1, 2023, new/revised SBDs, procedural rules, and guidelines, were also published and came into effect. SBDs 2023 for procurement of Works (above Nu 5 million), Small Works (up to Nu 5 million), and Goods (above Nu 0.5 million and up to Nu 05 million) were issued, replacing 2019 versions. An SBD for Subcontracting 2023 was published as well as new e-SRFQs<sup>94</sup> and new/revised guidelines.<sup>95</sup> The Rules of Procedure for the IRB 2023 also came into effect, replacing the 2015 version. The changes were supported by a new Public Procurement Training Module 2023.

## Part 2

**Gaps and recommendations identified in the MAPS assessment as requiring legislative change and whether/to what extent addressed by the PRR 2023** (extracted from Section of Report and repeated here for completeness)

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<sup>90</sup> PRR 2023 Clause 3.1.2.4.

<sup>91</sup> PRR 2023 Clause 5.1.5.1(c).

<sup>92</sup> PRR 2023 Clause 6.3.1.7.

<sup>93</sup> PRR 2023 Clause 4.1.

<sup>94</sup> e-SRFQs (2023) for Catering Services, Canteen Services, Event Management, Hiring of Vehicles, e-Reverse Auction.

<sup>95</sup> Evaluation Guidelines for Procurement of Works (above 5 million) 2023; Guidelines for Preferred List of Bidders 2023; Guidelines of Milestone Contract 2023; Guidelines for Framework Contract 2023; Guidelines for e-Reverse Auction 2023.

**Sub-indicator 1(d) Grounds for exclusion**

**Gap - Lack of specific grounds for exclusion:** The PRR do not include provisions for specific exclusions based on criminal activity such as participation in a criminal organization, terrorism, money laundering, child labor, or human trafficking.

**Recommendations - Add specific grounds for exclusion:** The legal framework for procurement (PRR) should be amended to explicitly exclude bidders with convictions for criminal offenses such as participation in criminal organizations, terrorist activities, money laundering, child labor, and human trafficking.

*PRR 2023 do not include the specific provisions set out in this recommendation and so the gap is not resolved.*

**Sub-indicator 1(h) Challenge and appeal - Timing of availability of grievance mechanism**

**Gap - Trigger for submission of a complaint (grievance):** The right to submit a complaint (grievance) is triggered by the receipt of the letter of intent to award the contract. It is not possible to submit a complaint using the grievance mechanism before the deadline for presenting bids. Thus, there is no opportunity to use the grievance mechanism to both raise and resolve concerns about the procurement documents (such as potential bias in specifications or inappropriate contract terms) or the pre-qualification or selection process before bid submission. This limits the potential efficacy of the grievance mechanism.

**Recommendations - Allow submission of a complaint (grievance) prior to bid submission:** Amend the legal framework (PRR) to allow submission of a complaint (grievance) before issuing the letter of intent to award the contract, thus permitting bidders/potential bidders to raise and resolve concerns before bid submission on matters such as content of procurement documents, including specifications and contract terms, and the conduct of the procurement process.

*PRR 2023: Relevant provisions in PRR 2023 (s.8.1 Procurement Grievance Mechanism) have not been amended to clearly specify the right to submit a complaint (grievance) before receipt of the letter of intent to award the contract. Thus, the gap is not resolved.*

**Sub-indicator 2(a) Implementing regulations**

**Gap - Lack of consolidated version of the PRR with all amendments:** The PRR with amending provisions made by the SPRR 2021 and e-GP guidelines are not available in a consolidated version, which reduces clarity and may hinder practical understanding for stakeholders of the procurement legal framework as a whole.

**Recommendations - Prepare a consolidated version of the PRR to include all amendments,** including those contained in SPRR 2021 and e-GP guidelines. This is required so that a single comprehensive document is available to ensure precision and clarity on the wording and application of amended provisions, enhance accessibility and practical understanding of the procurement system, and facilitate improved implementation of the legal framework by stakeholder.

*PRR 2023 have consolidated the legislative framework as recommended and thus this gap is resolved.*

# Annexes/Appendixes

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**Volume II – Detailed Matrix** (with colored chart as Volume IIA)

**Volume III- Appendixes**

Appendix 1- Concept Note

Appendix 2: Consultations with Private Sector and results of Private Sector Survey

Appendix-3: Consultations with CSOs and feedback

Appendix – 4: Minutes of meeting including with the Steering Committee

Appendix – 5: List of persons met-including at Validation Workshop

Appendix – 6: Master Excel File and Analysis of Sample Cases - Indicator-9

Appendix – 7: Resource List- Web links to involved institutions, other assessments, relevant laws, statistics, etc.

**Attachments to Volume III**

Attachment A- Works Procurement- Procurement Reform Actions to Build Quality Infrastructure/Works

Attachment B- Rapid Assessment of Health Sector Procurement



**MAPS**

Methodology for Assessing  
Procurement Systems

## Bhutan: Indicator Matrix (Volume II of the Report)



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# Pillar I. Legal, Regulatory, and Policy Framework

**Legal and regulatory framework assessed.** The legal and regulatory framework analyzed for the purposes of this MAPS Assessment is the framework in force in Bhutan at 31 March 2023. At that date, the primary sources were the Procurement Rules and Regulations 2019 (“PRR”) and the Simplified Rules and Regulations 2021 (“SPRR 2021”), issued by the Ministry of Finance pursuant to statutory powers. SPRR 2021 replaced the Simplified Rules and Regulations 2020 which had been issued as an interim measure in response to the COVID-19 pandemic, to amend and simplify some of the provisions in the PRR and facilitate procurement in these exceptional circumstances.

SPRR 2021 remained in force at 31 March 2023, the cut-off date for legal framework documents analyzed for the purposes of this MAPS Assessment. The analysis in this Matrix presents the provisions in the PRR and includes notes, where relevant, on the simplified measures/amendments introduced by SPRR 2021.

**Procurement Rules and Regulations 2023 (“PRR 2023”).** On 1 July 2023, new procurement rules came into force, replacing both PRR and SPRR 2021. PRR 2023 incorporates a number of the simplified measures introduced by SPRR 2021 as well as other updating provisions. The Issuance of the PRR 2023 is part of a planned longer term procurement reform process.

The PRR 2023 consolidates and updates the legal framework. They build on provision in the PRR and SPRR and do not represent a radical departure in terms of structure and general content. Changes introduced by PRR 2023 or retained from SPRR 2021 include: revised procurement thresholds; mandatory pre-bid clarification meetings with bidders for contracts above specified thresholds; revised time limits for submission of tenders (for example, 21 days for national competitive bidding, 30 days for international competitive bidding); increase in percentage for domestic preference; abnormally low bid provisions with automatic rejection of bids offered which are 20% below or above the agency estimate; permitted use of negotiation on terms and conditions for all procurement methods; mandatory contract compliance monitoring by Tender Committee/Monitoring Committee and detailed project reporting for high value works contracts. In the context of the procurement grievance mechanism, PRR 2023 now allows for review by the Secretariat of admissibility of cases.

The PRR 2023 has not been analyzed or assessed for the purposes of this MAPS Assessment as they came into force after the cut-off date of 31 March 2023. The MAPS Assessment team wishes, however, to acknowledge developments and progress made as a result of the introduction of the PRR 2023. Thus, where a Gap is identified in this Matrix under Pillar I, with a Recommendation for legislative change, comment has been added to the Recommendation on whether or not the Recommendation has been adopted and thus the Gap has been resolved.

## Indicator 1. The public procurement legal framework achieves the agreed principles and complies with applicable obligations

### Sub-indicator 1(a) Scope of application and coverage of the legal and regulatory framework

The legal and regulatory body of norms complies with the following conditions:

#### Assessment criterion 1(a)(a):

Is adequately recorded and organized hierarchically (laws, decrees, regulations, procedures), and precedence is clearly established.

<b>Conclusion:</b>	No gap
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# Pillar I. Legal, Regulatory, and Policy Framework

<b>Red flag:</b>	No
<b>Qualitative analysis</b> The legal and regulatory framework is well recorded and organized hierarchically, with precedence clearly established.	
<b>Constitution:</b> The Constitution of the Kingdom of Bhutan, adopted in 2008 <sup>1</sup> (“the Constitution”), provides that the form of Government shall be that of a Democratic Constitutional Monarchy (A.1(3) and confirms that the Constitution is the Supreme Law of the State (A.1(9)).	
<b>Acts of Parliament:</b> A.10(1) of the Constitution provides that there shall be a Parliament for Bhutan in which all legislative powers under the Constitution are vested and which shall consist of the Druk Gyalpo (The King of Bhutan), the National Council and the National Assembly. A.13(a) of the Constitution provides that a Bill passed by the Parliament shall come into force upon Assent of the Druk Gyalpo. Once a Bill is in force it is referred to as an “Act” of Parliament.	
<b>Procurement Rules and Regulations 2019 (“PRR”):</b> There is no public procurement Act. The procurement legal and regulatory framework is contained in Procurement Rules and Regulations 2019 which is delegated legislation issued by the Ministry of Finance, pursuant to s.104 Public Finance (Amendment) Act of Bhutan 2012. <sup>2</sup>	
<b>Simplified Procurement Rules and Regulations 2021 (“SPRR”):</b> In 2021, the Ministry of Finance published Simplified Procurement Rules and Regulations 2021 (superseding Simplified Rules and Regulations 2020) as an ongoing interim measure, in response to the COVID-19 pandemic. SPRR 2021 simplify the PRR in respect of some provisions in the PRR and provide that all other relevant provisions in PRR shall remain in force. SPRR 2021 remain in force on 31 March 2023.	
There has been ongoing discussion between PMDD and other government stakeholders about whether it is appropriate to place procurement rules at a higher level in the legal hierarchy and introduce a public procurement Act. The conclusion is that for the time being, the PRR are working sufficiently well in practice not to require a new Act and the current focus is on introducing measures to improved efficiency, streamline procurement and capacity building.	
<b>Notifications and Circulars:</b> The Ministry of Finance publishes procurement related Notifications on the e-GP website. These are issued to address gaps in policy, ensure effective delivery and consistency. Information Circulars are published on the Ministry of Finance website. Notifications and circulars are mandatory in nature with binding force unless they contradict higher level rules. <sup>3</sup>	
<b>Guidelines:</b> Implementation of procurement in practice is supported by enforceable Guidelines issued by the Ministry of Finance pursuant to powers in the Public Finance Act 2007. Ministry of Finance has, for example, published Guidelines for Procurement of Works (above Nu. 5 million), 2019 and Electronic Government Procurement (e-GP) Guidelines (December 2020 (“e-GP Guidelines”).	

<sup>1</sup> Constitution of the Kingdom of Bhutan adopted on the Fifteenth Day of the Fifth Month of the Male Earth Rat Year corresponding to the Eighteenth Day of July, Two Thousand and Eight. ISBN 99936-754-0-7

National Assembly of Bhutan website: [https://www.nab.gov.bt/dz/business/constitution\\_of\\_bhutan](https://www.nab.gov.bt/dz/business/constitution_of_bhutan)

<sup>2</sup> Information provided to MAPS Assessment team in discussion with Office of Attorney General and PMDD, January 2023.

<sup>3</sup> Mandatory nature of Notifications clarified and confirmed in discussions between MAPS Assessment Team and Office of Attorney General, January 2023.

# Pillar I. Legal, Regulatory, and Policy Framework

Appendix 2 of the e-GP Guidelines entitled “Rules and Regulations (PRR) 2019 and e-Government Procurement (e-GP) System” lists relevant provisions in PRR 2019 and sets out how they are amended for the purposes of alignment when conducting procurement through the e-GP system.

**Manuals:** Implementation and use of e-GP is supported by a range of e-GP manuals for both procuring agencies/entities and bidder (see Indicator 2 (c) for more detail).

**Standard procurement documents:** The Ministry of Finance publishes a range of Standard Bidding Documents (SBDs/eSBDs), Standard Requests for Proposals (SRFP) and Standard Requests for Expressions of Interest, to be used in conjunction with PRR 2019(see Indicator 2 (b) for more detail).

## Gap analysis

## Recommendations

### Assessment criterion 1(a)(b):

It covers goods, works and services, including consulting services for all procurement using public funds.

**Conclusion:**No gap

**Red flag:** No

### Qualitative analysis

The PRR apply to procurement by all Government agencies of goods, works and services, including consulting services, subject to exemptions listed in the PRR. “Works”, “Goods”, “Services”, “Consulting Services” and “Non-Consulting Services” are appropriately and widely defined in PRR s.1.1.3, Definitions.

“Public procurement” is defined as “procurement using public money”. “Public Money” is “All money received by the Government and by budgetary bodies, including the proceeds of all loans raised, grants received, money collected for specific purposes and retained in separate accounts by law, and any other money that the Minister of Finance determines as public money,....” but “money held in trust or custody on behalf of non-government parties, or money received by State Enterprises” is excluded from the definition of public money. This definition of “public money “is the same as in the Public Finance Act 2007 (as amended), s.190 (w).

[see 1(l)(a) for analysis of rules applying to State Enterprises/State Owned Enterprises (SOEs)]

**Exemptions and exclusions from application of PRR:** PRR s.1.1.2 provides that the PRR shall not apply where the Government grants specific exemptions from the application of the PRR, relating to security interests/special security measures and externally financed projects. In addition, PRR s.1.1.2 provides that the PRR shall not apply in the following cases (summarized): entrustment/deposit work between Government agencies, work to be executed is of specialized nature and the required level of skills and/or technical know-how is not available with the contractors; under emergency situation (an ‘emergency’ being a sudden unforeseen event which can result in injury, loss of life or critical damage

## Pillar I. Legal, Regulatory, and Policy Framework

to property or Infrastructure or economic loss) that need urgent attention; works are to be carried out through community participation; work needs to be carried out without interrupting the ongoing work; procurement of items which are required to be canalized through agencies specified by the Government; public private partnership (PPPs) projects; purchasing or renting land, buildings or other immovable property (excluding refurbishment works or construction works); employing staff (excluding the engagement of contractors and consultants), and; procurement of air tickets

### Gap analysis

### Recommendations

#### Assessment criterion 1(a)(c):

PPPs, including concessions, are regulated.

**Conclusion:** No gap

**Red flag:** No

### Qualitative analysis

PPPs are excluded from the application of the PRR and are regulated by specialized rules, the Public Private Partnership Rules and Regulations 2017.

PRR s.1.1.2.3 provides that the PRR shall not apply in the case of “public private partnership (PPP) projects which shall be carried out as per PPP Rules and Regulations issued by Ministry of Finance. “Ministry of Finance has issued Public Private Partnership Rules and Regulations, 2017<sup>4</sup> (“PPP Rules and Regulations 2017”). All government agencies are required to ensure compliance with the PPP Rules and Regulations 2017.<sup>5</sup>The PPP Rules and Regulations 2017 govern the overall management of PPP projects by Implementing Institutions and other competent designated authorities, as set out in the Government of Bhutan Public Private Partnership Policy, March 2016 (“PPP Policy”).<sup>6</sup>

### Gap analysis

### Recommendations

#### Assessment criterion 1(a)(d):

Current laws, regulations and policies are published and easily accessible to the public at no cost.

**Conclusion:** No gap

**Red flag:** No

### Qualitative analysis

<sup>4</sup>Public Private Partnership Rules and Regulations, 2017

[https://www.mof.gov.bt/wp-content/uploads/2014/07/PPP\\_RulesRegulations2017.pdf](https://www.mof.gov.bt/wp-content/uploads/2014/07/PPP_RulesRegulations2017.pdf)

<sup>5</sup> Ministry of Finance Notification No. MoF/DMEA/ICGD/PPP-11/2017/399

<https://www.mof.gov.bt/wp-content/uploads/2017/10/Notification30102017.pdf>

<sup>6</sup> Public Private Partnership Policy, March 2016

<https://www.mof.gov.bt/wp-content/uploads/2018/04/PPP-Policy-TOC100418.pdf>

# Pillar I. Legal, Regulatory, and Policy Framework

The PRR, SPRR, Notifications, eSBDs, Guidelines and e-GP User Manuals are all published and easily accessible to the public at no cost. The documents are available to download from the “Resources” link on the e-GP website home page: <https://www.e-GP.gov.bt/Index.jsp>

## Gap analysis

## Recommendations

### Sub-indicator 1(b) Procurement methods

**The legal framework meets the following conditions:**

#### Assessment criterion 1(b)(a):

Procurement methods are established unambiguously at an appropriate hierarchical level, along with the associated conditions under which each method may be used.

**Conclusion: No gap**

**Red flag: No**

#### Qualitative analysis

There is a range of procurement methods listed in the PRR with Open Tender/Bidding method being the standard method of procurement above specified financial thresholds. Other methods are exceptions, use of which is subject to financial thresholds and conditions for their use.

PRR s.4.2.1 Procurement Methods, lists the following procurement methods which may be conducted using either one envelope process or two-stage process (in circumstances listed in PRR 4.3).

- Open Tender/Bidding Method (OTM)
- Limited Tender/Bidding Method (LTM)
- Limited Enquiry Method (LEM)
- Direct Contracting
- Framework Contracting
- Electronic Reverse Auction (e-auction)

PRR s.4.2.2 Open Tender/Bidding Method, provides that Open Tender/bidding shall be the basic method of government procurement and shall be applied unless there are circumstances which justify the use of other exceptional methods specified in PRR ss.4.2.3 to 4.2.5. PRR s.4.2 sets out the conditions under which each method may be used.

International competitive bidding: PRR s.4.1.2 provides that the Procuring Agency may conduct open or limited tendering from foreign bidders under the following circumstances: “a. When certain goods or domestic contractors with required capacity to undertake certain works or the service providers are not available in the country; or b. For donor funded projects when the funding agreement requires the procuring agency to resort to international market.”

SPRR combines Limited Tender Method and Limited Enquiry Method and permits procuring agencies to choose to apply the range of available methods, provided that conditions for use of the relevant method is satisfied.

**Financial thresholds:** PRR s.4.1.1 Procurement Thresholds, sets out financial threshold levels for application of competitive tenders methods, which shall be reviewed and revised by the MoF if necessary in relation to the consumer price index. SPRR increased the threshold for mandatory use of Open Tender/Bidding to Nu.15 million for Works contracts and Nu.1 million for Goods and Services

## Pillar I. Legal, Regulatory, and Policy Framework

contracts. The thresholds are summarized in the table below, including amended higher thresholds, according to the SPRR.

	Limited Enquiry LEM	Limited Tender/ Bidding LTM	Open Tender/Bidding OTM
<b>Works</b>	PRR		
	Up to Nu.400,000	Above Nu.400,000 and up to Nu.1.8 million (Nu. 18,00,000)	Above Nu.1.8 million (Nu.18.00.000)
	SPRR		
	Up to Nu.15 million	Above Nu.15 million	
<b>Goods &amp; Services</b>	PRR		
	Up to Nu.200,000	Above Nu.200,000 and up to Nu.400,000	Above Nu.400,000
	SPRR		
	Goods Up to Nu.1 million	Goods Above Nu.1 million	

*Nu.1 million = approx. USD 12,000 (twelve thousand US Dollars)*

**Low value procurements:** PRR s.4.2.5.2 provides that Direct Contracting Method may be applied for purchases up to a maximum of 0.050 (point zero five) million Nu. “for the purpose of day to day administration”.

**Conditions for use (works, goods and non-consultancy services):** PRR s.4.2.2 Open Tender/Bidding Method, provides that Open Tender/bidding shall be the basic method of government procurement and shall be applied unless there are circumstances which justify the use of other exceptional methods. In addition to the thresholds set out in the table above, Chapter 4 PRR/SPRR set out appropriate, clear and detailed conditions for use of each procurement method at: PRR s.4.2.3.1 Limited Tender/Bidding Method (LTM), PRR s.4.2.4 Limited Enquiry Method (LEM), PRR s.4.2.5 Direct Contracting Method (DCM).

**Community Contracting (for works only):** In addition to the procurement methods listed above, PRR s.4.2.6 permits the use of Community Contracting (“direct contracting of small works to a local community by the gewog administration as per community contract protocol.”) in the case of works with estimated value of not more than Nu. 1.5 (one point five) million. In this case the work can be awarded to the local community in accordance with the Community Contract Protocol 2021 developed by the then Department of Local Governance, Ministry of Home and Cultural Affairs.

**Procurement of consultancy services:** PRR Chapter 7 Procurement of Consultants Services, provides for use of competitive Quality Cost Based Selection (QCBS) as the default method for procurement of consultants’ services and states that “Cost as a factor of selection shall be used judiciously”. Other methods of selection may be used in specified circumstances. The other methods are: Selection under a Fixed Budget (FBS), Least-Cost Selection (LCS), Selection Based on Consultants’ Qualifications (CQS), Single-Source Selection (SSS) with provision also for Selection of Independent Individual Consultant,

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Selection of Particular Types of Consultants, use of Government Officials and Civil Servants as consultants and use of Procurement Agents.

**Framework contracting:** The PRR also provide for use of Framework contracting (PRR 4.2.7) where the Procuring Agency and the Supplier agree to the terms and conditions, in particular the prices which shall apply over a given period of time not exceeding one year. The procurement methods in the PRR apply to the award of a framework contract;

**Electronic Reverse Auction(e-Auction)** (PRR s.4.2.8) can be used in RFQ procedure in which prequalified/registered bidders bid against each other on price, with the lowest price considered for award.

## Gap analysis

## Recommendations

### Assessment criterion 1(b)(b):

The procurement methods prescribed include competitive and less competitive procurement procedures and provide an appropriate range of options that ensure value for money, fairness, transparency, proportionality and integrity.

**Conclusion: No gap**

**Red flag: No**

## Qualitative analysis

The prescribed procurement methods include competitive methods of Open Tender/Bidding Method (OTM), including international bidding, and Limited Tender/Bidding Method (LTM), limited enquiry method (LEM) and forms of direct contracting (see analysis at 1(b)(a) for further detail). Lighter, less process-heavy methods with faster times scales can be used for lower value and less complex contracts. PRR s.4.3 Procurement Processes, provides for the use of one envelope process in most cases and two stage process, in specified circumstances including for large and complex contracts. In the context of use of direct award in the event of emergency, the PRR provide that situations created by a procuring agency through lack of planning or risk mitigation do not constitute an emergency. The availability of framework contracting and electronic reverse auction allows further options for procurement.

## Gap analysis

## Recommendations

### Assessment criterion 1(b)(c):

Fractioning of contracts to limit competition is prohibited.

**Conclusion: No gap**

**Red flag: No**

## Qualitative analysis

PRR s.4.1.1.4 provides that procurement of works, supplies or services shall not be split or based on

# Pillar I. Legal, Regulatory, and Policy Framework

unusual or peculiar methods of calculation with the purpose of avoiding application of particular procurement methods.

SPRR s.29 provides that procurement of works may be split into packages by the Tender Committee so as to apply the range of procurement methods (Open tender/bidding, limited tender/bidding, limited enquiry). In practice this provision is used where there is a need to split packages for works such as road construction which will be more efficiently delivered by awarding smaller packages using one of the specified procurement methods, on a locality basis.<sup>7</sup>

## Gap analysis

## Recommendations

### Assessment criterion 1(b)(d):

Appropriate standards for competitive procedures are specified.

**Conclusion: No gap**

**Red flag: No**

## Qualitative analysis

PRR s.4.2 sets out the conditions under which each method may be used and limit the circumstances where direct contracting may be used, thus restricting procuring agencies' and procurement officials' discretion.

## Gap analysis

## Recommendations

### Sub-indicator 1(c)

#### Advertising rules and time limits

**The legal framework meets the following conditions:**

### Assessment criterion 1(c)(a):

The legal framework requires that procurement opportunities are publicly advertised, unless the restriction of procurement opportunities is explicitly justified (refer to indicator 1(b)).

**Conclusion: No gap**

**Red flag: No**

## Qualitative analysis

The legal framework requires procurement opportunities to be publicly advertised on e-GP. An abridged version may be sent to mass circulated newspapers and where applicable/feasible announced over website, national radio, TV and other mass media.

PRR s.5.1.2 Invitation for Bids, requires that invitation for bids shall be notified to bidders in Open Tender Bidding by publication in "a mass circulated newspaper and where applicable/feasible announced over the website, national radio, TV and other mass media. In addition, the notification shall be displayed on the notice board of the procuring agency concerned." In the case of selection of

<sup>7</sup> Intention, impact and use of SPRR s.29 discussed with PMDD, January 2023.

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consultants, PRR s.7.3.1 requires advertisement of expression of interest in the national media and, where feasible, on a website which has free access, including if appropriate in an international newspaper or technical magazine.

e-GP Guidelines (Version 2.0), Appendix 2 Procurement Rules and Regulations and e-Government Procurement e-GP system: Provides that the notice will be published in e-GP website and other mass media (for detail see 1(c)(c))

## Gap analysis

## Recommendations

### Assessment criterion 1(c)(b):

Publication of opportunities provides sufficient time, consistent with the method, nature and complexity of procurement, for potential bidders to obtain documents and respond to the advertisement. The minimum time frames for submission of bids/proposals are defined for each procurement method, and these time frames are extended when international competition is solicited.

### Conclusion: No gap

### Red flag: No

### Qualitative analysis

Minimum time frames for submission of bids/proposals are defined for each procurement method and are longer for international bidding. Procuring agencies are required to take into account the nature and complexity of the procurement when specifying time limits for responses. The time limits set are sufficient.

PRR s.5.1.3 Minimum Time limits for Submission of Bids, provides that the “time limits for submission of bids shall be reasonable, taking in to account the nature of goods, services or works to be procurement, including the time necessary of site visits where appropriate, and give adequate and equal time for all bidders to prepare their bids.” PRR 5.1.3 requires the following minimum time scales to be observed and includes extended time frame for international competitive bidding. “Days” mean calendar days.

Amendments introduced by the SPRR as a temporary measure reduced the minimum time limits for submission of bids in National Competitive Bidding from 30 days (25 days for e-GP) to 10 days and for National Limited Bidding from 14 days (9 days for e-GP) to 3 days, see table below. The requirement to take into the account the subject matter of procurement and to allow adequate time for bidders according to context continues to apply and these time limits are minimum time limits. Data from sampled contracts shows an average of 17 days for National Competitive Bidding and 27 days for National Limited Bidding (see indicator 9 for further information/analysis). The MAPS Assessment team understands<sup>8</sup> that contractors and procuring agencies raised with the Ministry of Finance concerns about the impracticality of use of reduced minimum time limits for larger civil construction projects, resulting in reconfirmation that these are minimum time limits and that longer periods should be used, according to the complexity of the project requirements. The short-term revisions to

<sup>8</sup> Information provided by MAPS Assessment Team local expert.

## Pillar I. Legal, Regulatory, and Policy Framework

the PRR provide for minimum time limits of 21 days for National Competitive Bidding (30 days for international competitive bidding) and 5 days for National Limited Bidding.

Minimum Time Limits	Open Bidding		Limited Bidding		Limited Enquiry	Direct Contracting
	International Competitive Bidding	National Competitive Bidding	International Limited Bidding	National Limited Bidding		
Number of days from the Day the documents are made available	45	30 Electronic: 25*	25 Electronic: 20*	14 Electronic: 9*	5	By mutual agreement
		SPRR 10		SPRR 3		

\*PRR s.5.1.3.3 provides that the time limits for receipt of tenders in Open Bidding procedures or a Limited Bidding procedure may be reduced by 5 days where the procuring agency offers unrestricted and full direct access by electronic means to the contract documents, and any supplementary documents from the date of notification.

SPRR s.74 provides that preparation of bidding documents for procurement of goods, works and services shall through e-GP system by procuring agencies already implementing e-GP.

### Gap analysis

### Recommendations

#### Assessment criterion 1(c)(c):

Publication of open tenders is mandated in at least a newspaper of wide national circulation or on a unique Internet official site where all public procurement opportunities are posted. This should be easily accessible at no cost and should not involve other barriers (e.g. technological barriers).

**Conclusion: No gap**

**Red flag: No**

#### Qualitative analysis

Open Bidding tenders must be published on e-GP system which is a central official site which is easily accessible at no cost. An abridged version may be sent to mass circulated newspapers and where applicable/feasible announced over website, national radio, TV and other mass media.

PRR s.5.1.2 Invitation for Bids, requires that invitation for bids shall be notified to bidders in Open Tender Bidding by publication in “a mass circulated newspaper and where applicable/feasible announced over the website, national radio, TV and other mass media. In addition, the notification shall be displayed on the notice board of the procuring agency concerned.”

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In the case of selection of consultants, PRR s.7.3.1 requires advertisement of expression of interest in the national media and, where feasible, on a website which has free access, including if appropriate in an international newspaper or technical magazine.

e-GP Guidelines (Version 2.0), Appendix 2 Procurement Rules and Regulations and e-Government Procurement e-GP system: Provides that in Open Tender Bidding method, the notice will be published in e-GP website and an abridged version may be sent to mass circulated newspapers and where applicable/feasible announced over website, national radio, TV and other mass media

## Gap analysis

## Recommendations

### Assessment criterion 1(c)(d):

The content published includes enough information to allow potential bidders to determine whether they are able to submit a bid and are interested in submitting one.

**Conclusion: No gap**

**Red flag: No**

## Qualitative analysis

The published content is sufficient. PRR s.5.1.2.2 provides that the notification for invitation of bids shall include reference to:

The identity of the Procuring agency; a summary of the assignment under bid; period for execution of assignment; address for obtaining the bidding documents, further information and submission of bids; Cost of bidding documents where applicable (i.e. printing costs); procedural requirements; final date and time for submission of bids.

e-GP: Procurement documents are available for inspection and can be downloaded without charge from the e-GP system, but only for registered users who are required to pay for registration. If a potential bidder wishes to submit a tender they must pay for the bidding documents, with the cost being the printing cost.<sup>9</sup>

## Gap analysis

## Recommendations

### Sub-indicator 1(d) Rules on Participation

The legal framework meets the following conditions:

### Assessment criterion 1(d)(a):

It establishes that participation of interested parties is fair and based on qualification and in accordance with rules on eligibility and exclusions

<sup>9</sup> Confirmed in discussions between MAPS Assessment Team and procuring agencies, January 2023.

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<b>Conclusion: No gap</b>
<b>Red flag: No</b>
<b>Qualitative analysis</b> Qualification criteria, concerning eligibility and suitability, and grounds for exclusion are set out in the legal framework.  <b>Qualification criteria:</b> PRR s.2.1.3 Qualification Criteria for Registration or Prequalification, lists the qualification criteria under three headings: (1) General suitability which may include evidence that none of the grounds for exclusion listed in PRR s.2.1.4 apply; (2) financial capability which may include provision of audited balance sheets, statement of overall turnover and tax clearance certificate; and (3) technical ability.  <b>Grounds for exclusion:</b> PRR s.2.1.4 Exclusion of Bidders, lists grounds for exclusion of bidders. A bidder shall be excluded from registration or prequalification and participating in a procurement procedure where the specified grounds for exclusion apply, as listed in paragraphs a) to g). PRR s.1.1.4 provides that bidders are required, as a condition of admission to eligibility, to execute and attach to their bids an Integrity Pact Statement in the form provided in the Bidding Documents.(see also, analysis at indicator 1(d)(c))  <b>Registration System for works contractors:</b> PRR Chapter 2 Registration and Qualification of Bidders, provides for the creation and operation of Registration Systems to reduce the administrative burden of repeated qualification of bidders of similar procurement, by creating a presumption of suitability, and to ensure a continued pool of suitably qualified suppliers/contractors. PRR s.2.1.1.3 provides that bidders who are not registered on a registration system will be required to demonstrate their qualifications to the registering authority prior to participating in the procurement procedure. The Construction Development Board (CDB) <sup>10</sup> is the competent authority which establishes and maintain the Lists of Registered Contractors and Consultants for works related activities. (PRR s.2.3.1). Registration fees vary according to the size of the supplier. Turnaround on applications for registration is one day. <sup>11</sup>  PRR s.2.4 allows for Procuring Agencies to maintain list(s) of qualified bidders for use in the case of Limited tendering or Limited Enquiry Method, based on criteria set out in PRR s.2.1.3 which are to be updated once per year.
<b>Gap analysis</b>
<b>Recommendations</b>
<b>Assessment criterion 1(d)(b):</b> It ensures that there are no barriers to participation in the public procurement market.
<b>Conclusion:Substantive gap</b>

<sup>10</sup> Part of newly created Bhutan Construction Transport Authority (BCTA) following merger of Road Safety Transport Authority and Construction Development Board, 2023.

<sup>11</sup> Information provided by CDB in meeting with MAPS Assessment team, January 2023.

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## Red flag: Yes

**Qualitative analysis** Domestic preference provisions are not excessive and the registration system for works related activities is straightforward. The requirement for payment of a substantially increased SDF by foreigners including those visiting for work/business purposes is, however, a potential barrier to entry.

### Domestic preference

There are domestic preference provisions but these are not excessive and application is subject to safeguards. PRR s.1.1.2.2 Domestic Preference, provides that in any procurement, goods of Bhutanese origin may be given preferential treatment, provided the price difference does not exceed 10% (ten per cent). Use of preferences shall be indicated in the bidding documents. PRR s.1.1.2.2 also provides that in the case of works when tenders from foreign bidders are invited a 10% (ten per cent) margin of preference may be given to National bidders. This is subject to the safeguard that in these circumstances a bid shall not be preferred to another where its acceptance would oblige the Procuring Agency to acquire material having technical characteristics different from those of the existing material, resulting incompatibility or technical difficulties in operation and maintenance of disproportionate costs.

SPRR s.62 provides that procurement of locally manufacture/produced goods shall be given preferential treatment of 10% Domestic Preference, in accordance with Guidelines issued by the Ministry of Finance.

**CDB Registration of Construction contractors, consultants, engineers and architects:** There are approximately 2500 parties registered with the CDB or which there are less than 10 foreign suppliers. Foreign suppliers seeking CDB registration need to provide certifications of incorporation and trade license in their own country. Turnaround time on applications is one day.

**Sustainable Development Fee (SDF):** In June 2022 legislation was passed requiring foreigners visiting Bhutan to pay a Sustainable Development Fee (SDF) of USD 200 per day,<sup>12</sup> an increase from the previous rate of USD 65 per day, subject to waivers in specified cases.<sup>13</sup> Bhutan fully reopened to visitors post COVID-19 pandemic in September 2022. SDF is being interpreted as payable by foreigners visiting for work/business, as well as tourists, unless a waiver applies. Concerns about the impact of the SDF were raised with the MAPS Assessment Team by private sector representatives.<sup>14</sup> (see also sub-indicators 3(a) and 9(a)(c)).

### Gap analysis

The recent requirement for payment of a substantially increased SDF by foreigners visiting for work/business purposes is a potential barrier to entry, both for foreign bidders and for domestic bidders relying on foreign workers for contract delivery, such as for specialized maintenance or support services. This may prove to be a powerful disincentive to bidder participation and is already

<sup>12</sup> Tourism Levy Act of Bhutan 2022 & Tourism Council of Bhutan Notification TCB/Transformation-01/2022/774 [https://www.tourism.gov.bt/uploads/attachment\\_files/tcb\\_eTgzl6X8\\_Tourism%20Levy%20Act%20of%20Bhutan%202022.pdf](https://www.tourism.gov.bt/uploads/attachment_files/tcb_eTgzl6X8_Tourism%20Levy%20Act%20of%20Bhutan%202022.pdf)

<sup>13</sup> Sustainable Development Fee “Approved List” with waivers (does not include contractors delivering services under government contracts) [https://www.doi.gov.bt/wp-content/uploads/2022/10/SDF\\_others\\_Approved-List.pdf](https://www.doi.gov.bt/wp-content/uploads/2022/10/SDF_others_Approved-List.pdf)

<sup>14</sup> Discussions between MAPS Assessment Team and private sector representatives, January 2023.

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perceived as such by some parts of the private sector bidding community. It may have a negative market impact by reducing competition and value for money outcome.

This Gap is allocated a red flag because it arises from national policy and cannot be addressed merely by changes to the public procurement legal and regulatory framework.

### Recommendations

It is acknowledged by the MAPS Assessment Team that the changes to the SDF are recent and so the impact is still unclear. We recommend the Government of Bhutan, if they have not already started to do so, to initiate ongoing critical review and evaluation of the impact of the requirement for payment of SDF<sup>15</sup> on competitiveness and value for money outcomes in public procurement, to assess need for general or specific waivers.

### Assessment criterion 1(d)(c):

It details the eligibility requirements and provides for exclusions for criminal or corrupt activities, and for administrative debarment under the law, subject to due process or prohibition of commercial relations.

**Conclusion: Minor gap**

**Red flag: No**

### Qualitative analysis

Eligibility requirements are clear set out in the PRR and grounds for exclusion and debarment include criminal and corrupt activities but there are no specific references to exclusion on the grounds of participation in a criminal organization; terrorist related offences; money laundering; child labor; trafficking in human beings. There is an administrative debarment system with prescribed processes defined in the PRR.

**Eligibility and exclusion:** The PRR set out eligibility requirements and provides for exclusion from participation in public procurement for criminal and corrupt activities. PRR s.1.1.4 defines “corrupt practices”, “Fraudulent practice”, “Collusive practice”, “Obstructive practice”. PRR also provides that a proposal for award will be rejected if it is determined that the Bidder recommended for award has, directly, or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for the contract in question. PRR s.1.1.4 provides that bidders are required, as a condition of admission to eligibility, to execute and attach to their bids an Integrity Pact Statement in the form provided in the Standard Bidding Documents.

### Administrative Debarment

PRR s.1.1.4 provides for declaration of ineligibility (debarment) from award of RGoB financed contracts as a consequence of engagement in corrupt, fraudulent, collusive, coercive or obstructive practices. The Debarment Rules 2019 are published by the Anti-Corruption Commission (ACC) pursuant to powers conferred by ss.40(3) and 171 Anti-Corruption Act of Bhutan 2011<sup>16</sup> (“ACAB”). The Debarment

<sup>15</sup> Over the course of the MAPS assessment there were changes to the amount of SDF payable and apparent changes in the designation of visitors to the country by whom the SDF was payable. According to clarification provided by PMDD after the 31 March 2023 cut off, the SDF is no longer payable where visit is business or work related.

<sup>16</sup> The Debarment Rules 2019, Royal Government of Bhutan Anti-Corruption Commission, 12 July 2019. <https://www.acc.org.bt/pdf/DebarmentRules2019.pdf>

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Rules 2019 apply to all individuals and/or entities who have, are or will participate in public contractual transactions. The Debarment Rules 2019 cover: establishment and membership of the Debarment Committee; establishment of Committee Secretariat, which is the PMDD; sanctionable practices; process for referral and proceedings of the Debarment Committee; sanctions including debarment for one to five years, and; access to and publication of information about debarment including list of debarred suppliers on e-GP. Debarment means that the debarred respondent shall not be eligible to: be granted another business activity license for the carrying out same business activity for which the sanction was imposed or participate in any public procurement for the debarred period.

On 13 July 2021, the Notification of Debarment Committee Activation<sup>17</sup> published by the Department of National Properties, Ministry of Finance, confirmed the names of the Debarment Committee and stated that any Public Agencies desiring to initiate debarment may do so, in accordance with the Debarment Rules 2019.

There is a debarment list on the e-GP website accessible from the e-GP homepage by clicking the “Debarment” tab.<sup>18</sup>

## Gap analysis

Bhutan is a party to BIMSTEC Convention on Cooperation in Combating International Terrorism, Transnational Organized Crime and Illicit Trafficking (2021)<sup>19</sup> and there are provisions for exclusion related to criminal offenses. There are, however, no provision in the PRR referring specifically to exclusion from participation in a public procurement process, in line with the MAPS methodology wording, on the grounds that a firm or individuals have been the subject of a conviction by final judgment for: participation in a criminal organization; terrorist offences or offences linked to terrorist activities, or inciting or aiding or abetting or attempting to commit such an offence; money laundering or terrorist financing; child labor; and all forms of trafficking in human beings, or the equivalent of those offences.

## Recommendations

Add provision to procurement legal framework explicitly referring to exclusion of bidders on grounds of conviction by final judgment for: participation in a criminal organization; terrorist offences or offences linked to terrorist activities, or inciting or aiding or abetting or attempting to commit such an offence; money laundering or terrorist financing; child labor; and all forms of trafficking in human beings, or the equivalent of those offences – with reference to relevant national, international legislation and agreements, where appropriate.

**PRR 2023:** PRR 2023 does not include the specific provisions set out in this Recommendation and so the Gap is not resolved.

## Assessment criterion 1(d)(d):

It establishes rules for the participation of state-owned enterprises that promote fair competition.

<sup>17</sup> MoF/DNP/GPPMG-17/2021-22/40

<https://www.e-GP.gov.bt/ViewNews.jsp?newsType=l&nId=80>

<sup>18</sup> At 18 December 2022, six companies are listed on the e-GP website as debarred, three for corrupt practices.

[https://www.e-GP.gov.bt/resources/common/DebarmentListing.jsp?lang=en\\_US&langForMenu=en\\_US](https://www.e-GP.gov.bt/resources/common/DebarmentListing.jsp?lang=en_US&langForMenu=en_US)

<sup>19</sup> BIMSTEC Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation

<https://bimstec.org/bimstec-member-states/>

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<b>Conclusion: No gap</b>
<b>Red flag: No</b>
<b>Qualitative analysis</b> Rules for participation of state-owned enterprises limit entitlement to participate to cases where fair competition is maintained.  PRR s.5.1.4.2 Eligibility of Bidders, provides that “Government-owned enterprises in Bhutan shall be eligible only if they can establish that they are (i) legally and financially autonomous, (ii) operate under commercial law, and (iii) are not a dependent agency of the Employer.” This is reflected in the standard evaluation form at PRR 3 which lists a ground for rejection as a bidder being “Government Enterprise and legally not autonomous”. Equivalent provisions apply to selection of consultants.
<b>Gap analysis</b>
<b>Recommendations</b>
<b>Assessment criterion 1(d)(e):</b> It details the procedures that can be used to determine a bidder’s eligibility and ability to perform a specific contract.
<b>Conclusion: No gap</b>
<b>Red flag: No</b>
<b>Qualitative analysis</b> PRR Chapter 2 Registration and qualification of bidders, sets out details of the processes to be used to determine a bidder’s eligibility and ability to perform a specific contract, covering: Registration systems, Qualification criteria, Exclusion of Bidders, and Pre-Qualification.
<b>Gap analysis</b>
<b>Recommendations</b>
<b>Sub-indicator 1(e)</b> <b>Procurement documentation and specifications</b> The legal framework meets the following conditions:
<b>Assessment criterion 1(e)(a):</b> It establishes the minimum content of the procurement documents and requires that content is relevant and sufficient for suppliers to respond to the requirement.
<b>Conclusion: No gap</b>
<b>Red flag: No</b>
<b>Qualitative analysis</b>

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The PRR establish the minimum content of procurement documents and the required content, which includes specification/scope of works, methods and factors or criteria for evaluating and comparing bids, pricing details, form of contract and contract conditions, with a sample agreement. This is sufficient for suppliers to respond to the requirement of the public agency.

PRR s.1.1.3 Definitions, defines “Bidding Documents” as “the set of the set of documents sold or issued by the intending employer/purchaser/procuring agency to potential bidders in which the specifications, terms and conditions of the proposed procurement are prescribed.” It confirms that “The terms “bidding documents”, “tender documents” are synonymous. PRR s.5.2 Bidding Documents, requires that the bidding documents shall explain in detail the requirements of the purchaser, the instructions and conditions of bidding and the provisions of the proposed contract. In the case of works, the procuring agency shall use the Bhutan Schedule of Rates (BSR) where applicable to establish the cost of works. PRR s.5.2.2 Components, lists and explains the following items which shall, as far as possible be included in bidding documents, especially in the Open Bidding Method: Invitation for bids, bidding instructions, methods and factors or criteria for evaluating and comparing bids, pricing details, currency in which price is to be quoted, bid form and price schedules, form of contract and contract conditions (with a sample agreement) and specification/scope of works.

PRR s.5.1.1.1. confirms that the steps to be followed and documentation prescribed in Chapter 5 “is aimed mostly to cover... the Open Tender Bidding method.” It goes on to confirm that “Reasonably simplified forms of these shall, however, be followed in other procurement methods too.”

### Gap analysis

### Recommendations

#### Assessment criterion 1(e)(b):

It requires the use of neutral specifications, citing international norms when possible, and provides for the use of functional specifications where appropriate.

#### Conclusion: Substantive gap

#### Red flag: No

#### Qualitative analysis

The legal framework includes provisions on preparation of specifications and provides for use of international standards where appropriate but the legal provisions provide for an essentially input-based (not a “functional”) approach. In the particular country context, use of neutral specifications in all cases is not a realistic solution to achieve best value for money outcomes and thus provisions in PRR permitting use of brand names are not found to be a Gap.

**Specifications citing international norms:** PRR s.6.3.4.1 requires specifications to prepared using nationally accepted standards and there is a national standards board (Bhutan Standards Bureau).<sup>20</sup> International standards are to be used where national standards do not exist or are inappropriate.

<sup>20</sup>The Bhutan Standards Bureau (“BSB”), established pursuant to Bhutan Standards Act 2010, is the autonomous national standards body of Bhutan. BSB has been a correspondent member of International Standards Organization since 2005

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**Functional Specifications:** Although there are some provisions permitting customization of scope of works/specifications as well as some flexibility in selection criteria and permitted use of negotiation, PRR s.5.2.2.11 concerning preparation of technical specifications is, essentially, an input-based (not a “functional”) approach.

**Use of Brand Names<sup>21</sup>:** PRR s.5.2.2.12 provides that “In both the cases of goods and works, care shall be taken not to use any particular brand name or catalogue number that would tend to restrict competition or to favour any particular supplier. If the use of such brand names or catalogue number is unavoidable, the words “or their equivalent” should follow them.” This approach is reflected in provisions on required contractual obligations.

However, an amendment to PRR s.5.2.2.12 made by s.68 SPRR 2021 allows Procuring Agencies to specify brand names, subject to safeguards, as follows: “...to ensure competition is not restricted or to favour any particular supplier, the Procuring Agency basing on the nature of procurement having carried out thorough market research and need analysis can at least specify TWO BRAND NAMES which shall be approved by the Tender Committee.”<sup>22</sup> (Proposed short term amendments to PRR permit agencies to specify two to three brand names).

The MAPS Assessment team understand that s.68 SPRR, permitting use of brand names, was introduced in response to practical problems encountered in Bhutan, primarily due to its geographical location and small market size. The MAPS Assessment team were informed that there are significant challenges in achieving potential better value for money outcomes through bulk purchasing due to multiplicity of branded items in use by purchasers.

This is magnified where purchases are of equipment requiring consumables, spare parts and servicing. Problems are particularly acute in the health sector (see separate explanatory note) but was also mentioned both by purchasers and suppliers in the context of procurement of IT and office equipment in particular. In its Advisory Review on Government Procurement (November 2021),<sup>23</sup> the Royal Audit Authority also identified problems resulting from restrictions in the PRR on use of brand [names] or makes of items in procurement documents.

The RAA was concerned that the restriction “sets an inherent limitation on procuring agencies’ preference for high quality goods” and noted that it has created problems with obtaining best quality at competitive rates and resulted in procurement of cheap, poor-quality items. The RAA recommended that the restrictions on specifying a brand be removed, to ensure quality. In response to these practical problems, the RGoB has decided to adopt a standardization approach, aimed at reducing the number brands purchased in order both to streamline procurement and deliver better value for money outcomes. This is in addition to moves to increase centralized purchasing (see analysis at 6(b)). There are specific measures applying to procurement of medical equipment (see separate explanatory note).

<https://www.mfa.gov.bt/list-of-un-related-organizations-intergovernmental-organizations-of-which-bhutan-is-a-member/#:~:text=Bhutan%20became%20a%20member%20of%20IFC%20in%202003.&text=Bhutan%20became%20a%20Correspondent%20Member%20of%20SO%20in%202005>.

<sup>21</sup>Refer for more explanation to Annex .. on Health Sector Procurement in Volume III of the Assessment Report

<sup>22</sup>Proposed short term amendments to PRR permit agencies to specify two to three brand names.

<sup>23</sup> [https://www.bhutanaudit.gov.bt/wp-content/uploads/2021/12/02.-AGAS\\_Review-of-Government-Procurement-System.pdf](https://www.bhutanaudit.gov.bt/wp-content/uploads/2021/12/02.-AGAS_Review-of-Government-Procurement-System.pdf)

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In the particular country context, use of neutral specifications in all cases is not a realistic solution to achieve best value for money outcomes and provisions in PRR permitting use of brand names are not found to be a Gap.

## Gap analysis

Functional specifications: Although there are some provisions permitting customization of scope of works/specifications as well as some flexibility in selection criteria and permitted use of negotiation, PRR s.5.2.2.11 concerning preparation of technical specifications is, essentially, an input-based (not a “functional”) approach. This may limit the opportunities for innovation contract delivery, in certain cases.

## Recommendations

Functional specifications: Actively promote use of output-based specifications in cases where this may encourage use of innovative solutions and support implementation by providing guidelines on how to plan for and prepare output-based approaches to procurement and drafting of specifications.

## Suggestion for improvement

The MAPS Assessment team suggest that clear and practical guidelines are published to support procuring entities in the process of market research, needs analysis and audit trail of decision-making leading to the decision to restrict the number of brands specified. In addition, it is advised that the effect on the procurement market of the provisions permitting use of brand names is kept under careful and critical review to ensure that its impact on the market is understood and that it achieves stated aims.

## Assessment criterion 1(e)(c):

It requires recognition of standards that are equivalent, when neutral specifications are not available.

**Conclusion: No gap**

**Red flag: No**

## Qualitative analysis

PRR s.5.2.2.12 provides that “In both the cases of goods and works, care shall be taken not to use any particular brand name or catalogue number that would tend to restrict competition or to favor any particular supplier. If the use of such brand names or catalogue number is unavoidable, the words “or their equivalent” should follow them.” This approach and the principle of equivalence is reflected in provisions on required contractual obligations at PRR s.6.3.4.1.

See analysis at 1(e)(c) of provisions in SPRR permitting use of brand names and conclusions of MAPS assessment team.

## Gap analysis

## Recommendations

## Assessment criterion 1(e)(d):

Potential bidders are allowed to request a clarification of the procurement document, and the procuring entity is required to respond in a timely fashion and communicate the clarification to all potential bidders (in writing).

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**Conclusion: No gap**

**Red flag: No**

## **Qualitative analysis**

Potential bidders can request clarification of procurement documents using a dedicated on-line function of the e-GP system, with appropriate response times and publication requirements.

PRR s.5.1.5 Clarification of Bidding Documents, sets out the process for requests by prospective bidders for clarification of bidding documents, to be received no later than a predetermined number of days prior to the deadline for submission of bids and response by the Procuring Agency “within the prescribed period”. Copies of the Procuring Agency’s response shall be forwarded to all purchasers of the bidding documents without disclosing the name of the bidders seeking clarification. Changes shall be affected by issuing amendments.

PRR s.5.2.2.3 requires that the method of clarification must be set out in the Bidding Instructions.

PRR s.7.3 provides for clarification process in the context of procurement of consultancy services.

e-GP Guidelines (Version 2.0): The e-GP system includes a function for on-line clarification of bidding documents and is explained in e-GP Guidelines (Version 2.0). Appendix 2 of those Guidelines, Procurement Rules and Regulations and e-Government Procurement e-GP system describes the clarification process with response times and publication requirements.

## **Gap analysis**

## **Recommendations**

### **Sub-indicator 1(f) Evaluation and award criteria The legal framework mandates that:**

#### **Assessment criterion 1(f)(a):**

The legal framework mandates that the evaluation criteria are objective, relevant to the subject matter of the contract, and precisely specified in advance in the procurement documents, so that the award decision is made solely on the basis of the criteria stipulated in the documents.

**Conclusion: No gap**

**Red flag: No**

## **Qualitative analysis**

The legal framework requires evaluation criteria to be both objective and relevant. The award decision must be made on the basis of criteria and methodology set out in the procurement documents.

PRR s.5.4.1.1 provides that the “purpose of the bid evaluation process shall be to determine which of the bids received are responsive and thereafter compare the responsive bids against each other to select the lowest evaluated bid.”

PRR s.5.4.3 provides that the price offered by a bidder shall be only one of the criteria for evaluation of bids. In addition to the price, the evaluation criteria shall include criteria from the following non-exclusive list, as appropriate and if laid down in the Standard Bidding Documents. Such criteria shall be expressed in monetary value where applicable: a) Preferential treatment for goods of Bhutanese

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origin, if laid down in the bidding documents; b) Date of completion of works, services and/or delivery of goods; c) Running cost and cost effectiveness; d) After-sales service and technical assistance; e) Commitments with regard to spare parts, security of supplies and the prices thereof; f) Quality and technical merit of the works, services or supplies.

PRR s.5.4.3.3 provides that “Additional criteria, if any used, shall be objective and non-discriminatory and shall be expressed in monetary value where applicable.”

PRR s.5.4.4 provides that “Such methods and factors as specified in the bidding documents shall only be used in actual evaluation and not some other methods or criteria. Introduction of methods and factors not mentioned in the bidding documents would be considered unfair and shall be prohibited.”

SPRR s.86 replaced lowest evaluated bid with “Best Evaluated Bid” (“BEB”). SPRR s.86 provides that Best Evaluated Bid “means the responsive bid which offers the best value for money, evaluated on the basis of various objective criteria set out in the bidding document. BEB does not necessarily mean the lowest quoted price (price shall be only one criteria for evaluation.)”

## Gap analysis

## Recommendations

### Assessment criterion 1(f)(b):

The legal framework allows the use of price and non-price attributes and/or the consideration of life cycle cost as appropriate to ensure objective and value-for-money decisions.

**Conclusion: No gap**

**Red flag: No**

## Qualitative analysis

The legal framework allows for the use of price and non-price attributes as can be seen from the provisions on PRR s.5.4.3 Evaluation Criteria described above (1(f)(a)). In addition, PRR s. 1.1.3 Definitions, defines “Procurement” as all aspects of purchasing or hiring of goods, services or engagement of contractors spanning the whole life cycle from identification of needs to the end of the useful life and subsequent disposal of an asset.

## Gap analysis

## Recommendations

### Assessment criterion 1(f)(c):

The legal framework mandates that quality is a major consideration in evaluating proposals for consulting services, and clear procedures and methodologies for assessment of technical capacity are defined.

**Conclusion: No gap**

**Red flag: No**

## Qualitative analysis

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The PRR require that quality is a major consideration in evaluation of proposals for consultants services and there is a clear process and methodology for assessment of technical capacity.

Procurement of consultancy services: PRR Chapter 7 Procurement of Consultants Services, provides for use of competitive Quality Cost Based Selection (QCBS) as the default method for procurement of consultants' services and states that "Cost as a factor of selection shall be used judiciously". This Chapter 7 sets out clear procedures and methodologies for assessment, with evaluation carried out in two stages: first quality (technical) and then cost. Criteria for evaluation of technical proposals are experience, quality, qualifications, knowledge transfer (where relevant) and extent of participation by nationals among key staff. Criteria are marked on a scale with proposed weightings disclosed in the RFP. There are provisions concerning combined quality and cost evaluation and weighting between quality and cost.

## Gap analysis

## Recommendations

### Assessment criterion 1(f)(d):

The legal framework mandates that the way evaluation criteria are combined and their relative weight determined should be clearly defined in the procurement documents.

**Conclusion: No gap**

**Red flag: No**

## Qualitative analysis

The legal framework, at PRR s.5.2.2.4 Bidding Documents, provides that "the methods and factors or criteria for evaluating and comparing bids shall be indicated in the bidding documents, where possible in descending order of importance. The factor and methods of giving preferential treatment to national bidders shall be explained especially in international bidding. The methods that will be used for making adjustments shall also be explained therein. "

PRR s.3.1.4 Responsibilities and Powers of Tender Evaluation Committee, requires the Tender Evaluation Committee to evaluate bids using the criteria and methodologies specified in the bidding documents.

## Gap analysis

## Recommendations

### Assessment criterion 1(f)(e):

The legal framework mandates that during the period of the evaluation, information on the examination, clarification and evaluation of bids/proposals is not disclosed to participants or to others not officially involved in the evaluation process.

**Conclusion: No gap**

**Red flag: No**

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## Qualitative analysis

The legal framework mandates appropriate confidentiality requirements to apply during the period of evaluation.

PRR s.3.1.4 Responsibilities and Powers of Tender Evaluation Committee, includes in the list of responsibilities “Maintain confidentiality of information related to bid evaluation proceedings until the letter of intent to award is issued.” PRR s.5.3.3 Confidentiality of bid documents and proceedings, requires that bid shall be treated with confidentiality at all times and after bid opening the bid documents and contents shall not be released to any unauthorized party. Bid evaluation proceedings shall be kept confidential until the award of contract is announced. PRR s.5.3.7 Rules applicable to Communication, requires communication, exchange and storage of information to be carried out in such a way as to ensure integrity of data and the confidentiality of tenders and other communications. PRR Form 4 Tender Committee/Opening Committee/Evaluation Committee Declaration Form, to be completed by each committee member, includes a declaration that the committee member shall maintain strict confidentiality of information related to evaluation of bids and recommendations for award of contract until the issuance of letter of intent to award the contract.

## Gap analysis

## Recommendations

### Sub-indicator 1(g)

#### Submission, receipt, and opening of tenders

The legal framework mandates that:

#### Assessment criterion 1(g)(a):

Opening of tenders in a defined and regulated proceeding, immediately following the closing date for bid submission.

**Conclusion: No gap**

**Red flag: No**

## Qualitative analysis

The PRR set out a well-defined and regulated process for receipt and opening of bids immediately following the closing date for bid submission.

PRR s.5.3.5 Opening of Bids, provides “Bid opening shall take place on the same day immediately following the deadline of the submission of bids.” It requires that the receiving, opening and recording of bids shall be carried out in a manner that ensures and reflects complete transparency and integrity. e-GP Guidelines (Version 2.0), Appendix 2 Procurement Rules and Regulations and e-Government Procurement e-GP system: confirms that in the e-GP system it is not possible for the Bidder to review the bid opening process and that after the opening process is completed all participating bidders will get the bid opening report (BOR) in the tender dashboard.

## Gap analysis

## Recommendations

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<b>Assessment criterion 1(g)(b):</b> Records of proceedings for bid openings are retained and available for review.
<b>Conclusion: No gap</b>
<b>Red flag: No</b>
<b>Qualitative analysis</b> There is a standard form Record of Bid Opening and all participating bidders are automatically sent a Bid Opening Report through e-GP.  Form PRR-1 includes a standard form Record of Bid Opening to be signed by all members of the Bid Opening Committee, listing the name and nationality of bidder, bid price, discount, bid security amount, validity of bid security and remarks. It also includes a list of bidder's official representatives who attended the public opening of bids and record of "complaints/manifestations" received during the opening of bids. <b>PRR s.5.3.6 Storage of Bid Documents</b> requires the Procuring Agency to maintain records and documents regarding their public procurement activities for a minimum period as prescribed and defined in the Finance and Accounting Manual, Financial Rules and Regulations <sup>24</sup> . e-GP Guidelines (Version 2.0), Appendix 2 Procurement Rules and Regulations and e-Government Procurement e-GP system: provides that after the opening process is completed all participating bidders will get the bid opening report (BOR) in the tender dashboard and "All bid documents which are recorded in the bid opening shall be secured and saved in the e-GP Server, which can be accessed for future reference by the [Procuring Agency]."  SPRR s.91 emphasizes the importance of recording keeping in general and provides that "It shall be MANDATORY for the Procuring Agency to maintain detail, paper minutes and records of the deliberations and decisions and reasons for any decision and action."
<b>Gap analysis</b>
<b>Recommendations</b>
<b>Assessment criterion 1(g)(c):</b> Security and confidentiality of bids is maintained prior to bid opening and until after the award of contracts.
<b>Conclusion:No gap</b>
<b>Red flag: No</b>
<b>Qualitative analysis</b> The legal and regulatory framework provides for the security and confidentiality of bids to be maintained prior to bid opening and throughout the tender evaluation process until after award of

<sup>24</sup> Financial Rules and Regulations 2016 (FRR 2016) consist of 4 manuals: (i) Financial Management Manual (FMM); (ii) Budget Manual (BM); (iii) Finance and Accounting Manual (FAM); and (iv) Property Management Manual. MoF Notification: MoF/DPA-FRR/20-16-17/821, December 27, 2016.

<https://www.mof.gov.bt/notifications/notifications-sect/notification-on-frr-2016-13-jan-2017/>

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contracts, with committee members require to sign declaration forms including requirements to maintain strict confidentiality of information.

PRR s.3.1.5.2 provide that no member of the Tender Committee shall communicate any information on bid proceedings to an outside party. PRR s.3.1.4 includes in the list of responsibilities of the Tender Evaluation Committee to “Maintain confidentiality of information related to bid evaluation proceedings until the letter of intent to award is issued” and to complete a declaration form accordingly. PRR s.5.3.2 requires that bids are confidentially and treated with confidentiality at all times. Bid evaluation proceedings shall be kept confidential until the award of contract is announced.

PRR s.5.3.7 Rules applicable to Communication, requires communication, exchange and storage of information to be carried out in such a way as to ensure integrity of data and the confidentiality of tenders and other communications.

e-GP Guidelines (Version 2.0), Appendix 2 Procurement Rules and Regulations and e-Government Procurement e-GP system: provide that submitted bids shall be stored in an electronic tender box and will be encrypted, being fully unreadable. “Only at the time of opening, the opening committee members will be able to decrypt (readable) by their User ID and e-signature (password).

## Gap analysis

## Recommendations

### Assessment criterion 1(g)(d):

The disclosure of specific sensitive information is prohibited, as regulated in the legal framework.

**Conclusion: No gap**

**Red flag: No**

### Qualitative analysis

In addition to general confidentiality requirements described in indicator 1(g)(d), PRR s.5.4.10 Debriefing, provides that on debriefing an aggrieved bidder, the procuring agency shall not include information that is confidential or commercially sensitive to other bidders.

## Gap analysis

## Recommendations

### Assessment criterion 1(g)(e):

The modality of submitting tenders and receipt by the government is well defined, to avoid unnecessary rejection of tenders.

**Conclusion: No gap**

**Red flag: No**

### Qualitative analysis

PRR s.5.17 Submission of Bids clearly defines the requirements for submission and receipt of bid including requirements on sealed bids and deliver of bids to the procuring entity.

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e-GP: The Bidder Tendering User Manual for e-GP system details the process for submission of bids using the e-GP system

## Gap analysis

## Recommendations

### Sub-indicator 1(h) Right to challenge and appeal

The legal framework provides for the following:

#### Assessment criterion 1(h)(a):

Participants in procurement proceedings have the right to challenge decisions or actions taken by the procuring entity.

#### Conclusion: Substantive gap

#### Red flag: No

#### Qualitative analysis

Participants in procurement proceedings have the right to challenge decisions or actions taken by the procuring agency. The initial challenge (“complaint” or “grievance”) is submitted to the Head of the Procuring Agency responsible for the conduct of the procurement in question, and the submission and handling of the grievance is conducted using the e-GP system includes a “Grievance” (complaint) function. It is, however, not possible to submit a complaint using the grievance mechanism prior to the deadline for presenting bids.

PRR s.8.1 Procurement Grievance Mechanism: provides that the obligations imposed on Procuring Agencies [by the PRR] are duties owed to suppliers, contractors and service providers and confirms that “Any supplier, contractor or service provider who has or is likely to suffer, loss or injury resulting from an alleged breach of such duty, may make a complaint or seek review in accordance with this section, provided that the complaint or review procedure shall be brought promptly and in any event within the prescribed time.” The grievance is submitted in writing to the head of the procuring agency responsible for such procedure.

PRR s.3.1.2.3 Responsibilities and Powers of Tender Committee provides, at (h) that a function of the Tender Committee is to “function as a first-tier grievance redressal body for complaints related to pre-award stage of procurement”

e-GP: Grievance Management User Manual, 15 September 2020 is published to guide bidders on how to register a grievance on the e-GP and Procuring Agencies on how to process and resolve a grievance through e-GP.

#### Gap analysis

The right to submit a complaint (grievance) is triggered by the receipt of the letter of intent to award the contract. It is not possible to submit a complaint using the grievance mechanism prior to the deadline for presenting bids. Thus, there is no opportunity to use the grievance mechanism to both raise and resolve concerns prior to bid submission about the procurement documents (such as potential bias in specifications or inappropriate contract terms), or the pre-qualification or selection process. This limits the potential efficacy of the grievance mechanism.

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## Recommendations

Amend the legal framework to allow submission of a complaint (grievance) prior to letter of intent to award, thus permitting bidders/potential bidders to raise and resolve concerns prior to bid submission on matters such as content of procurement documents including specifications and contract terms, and the conduct of the procurement process.

**PRR 2023:** Relevant provisions in PRR 2023 (s.8.1 Procurement Grievance Mechanism) have not been amended to clearly specify the right to submit a complaint (grievance) prior to receipt of the letter of intent to award the contract and so the Gap is not resolved.

## Suggestion for improvement

In order to reduce the likelihood of complaint and to support improved quality of bids, consider providing guidance and training for procuring agencies on preparation for and conduct of debriefings by procuring agencies. This is to ensure, in particular, that bidders receive meaningful information from procuring entities to enable them to understand areas for improvement which they can apply in future bidding.

## Assessment criterion 1(h)(b):

Provisions make it possible to respond to a challenge with administrative review by another body, independent of the procuring entity that has the authority to suspend the award decision and grant remedies, and also establish the right for judicial review.

**Conclusion: No gap**

**Red flag: No**

## Qualitative analysis

The PRR provides for a right of administrative review of a decision on complaint (grievance) to the Independent Review Body (IRB). The IRB is constituted on an ad-hoc basis and is established with rules of operation to maintain independence and manage any potential conflicts of interest. The IRB has authority to suspend the procurement procedure pending its decision, in specified cases and has power to grant a range of remedies. PRR provide for the right of judicial review of decisions made by the IRB.

**Right of review:** PRR s.8.1.4 provides for a right of review. A supplier, contractor or service provider who does not receive a decision from a Procuring Agency in response to a complaint (grievance) or is not satisfied with a decision received may initiate a review procedure before the Independent Review Body (“IRB”) established by the Ministry of Finance. IRB is supported by a Secretariat, provided by PMDD.

**IRB Independence from the procuring entity:** PRR s.8.1.0 provides that the constitution, rules of procedures and operation of the IRB shall be established by the Ministry of Finance. The Ministry of Finance issued Rules and Procedures of the Independent Review Body in 2015 (“IRB Rules & Procedures”), pursuant to the 2009 PRR. According to the IRB Rules & Procedures, Chapter III, the IRB shall be composed of seven members appointed by the Ministry of Finance, from: Ministries of Works and Human Settlement, Economic Affairs and Finance, Construction Development Board, Contractors’ Association of Bhutan, Bhutan Chamber of Commerce and Industry, and the Office of the Attorney General. The IRB panel is constituted on a case-by-case basis, in response to a request for review. Members of the IRB committee must be “appropriately qualified and impartial experts”. The IRB Rules & Procedures require that no members of the IRB have conflict of interest pertaining to issues to be

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discussed and require members to refrain from participation in specific meetings if there is a conflict of interest.

**Suspension:** PRR s.8.1.8 permits the IRB to order suspension of the procurement procedure pending its final decision on merits of the claim, where three cumulative conditions are met: a) the complainant demonstrates a prima facie case, such that it is more likely than not that he will succeed in his claim; and b) the complainant is likely to suffer irreparable harm in the absence of a suspension; and c) the grant of the suspension would not cause disproportionate harm to the public interest, the procuring agency or to other suppliers and contractors.

**Remedies:** PRR s.8.1.7 lists remedies available to the IRB, on both an interlocutory and final decision basis. The remedies are: a) make a declaration with regard to the legal rules or principles which apply to the subject matter of the proceedings; b) annul in whole or in part any unlawful act or decision of the procuring agency, whose power shall include the power to remove any unlawful technical or other specifications; c) prohibit the procuring agency from acting unlawfully, from making an unlawful decision or from following an unlawful procedure; d) order the termination of the procurement procedure;

### **Right for judicial review**

PRR s.8.1.9 provides a right of appeal to the Court against a decision of the IRB, on a question of law. The IRB review process must be exhausted prior to appeal to the Courts.<sup>25</sup>

### **Gap analysis**

### **Recommendations**

### **Assessment criterion 1(h)(c):**

Rules establish the matters that are subject to review.

### **Conclusion: No gap**

### **Red flag: No**

### **Qualitative analysis**

The legal framework lists the matter that are subject to review (complaint/grievance).

PRR s.8.1.1 provides that the obligations imposed on Procuring Agencies [by the PRR] are duties owed to suppliers, contractors and service providers.

PRR s.8.1.2 confirms that “Any supplier, contractor or service provider who has or is likely to suffer, loss or injury resulting from an alleged breach of such duty, may make a complaint or seek review in accordance with this section, provided that the complaint or review procedure shall be brought promptly and in any event within the prescribed time.”

PRR s.8.13 provides that a supplier, contractor or service provider may, in the event of a perceived breach of a duty imposed upon a Procuring Agency in respect of a specific procurement procedure, submit a written complaint to the head of the procuring agency responsible for such procedure.

### **Gap analysis**

<sup>25</sup> Confirmed in discussions between MAPS Assessment Team and Office of Attorney General, January 2023.

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## Recommendations

### Assessment criterion 1(h)(d):

Rules establish time frames for the submission of challenges and appeals and for issuance of decisions by the institution in charge of the review and the independent appeals body.

**Conclusion: No gap**

**Red flag: No**

### Qualitative analysis

The PRR establish the time frames for submission of complaints (grievance) to the procuring agency and issuance of decisions by the procuring agency. The PRR also establish the time frames for submission of applications for review to the IRB and issuance of decisions by the IRB.

**Time frames for complaint to procuring agency and issuance of decision:** PRR s.8.1.3 requires a supplier, contractor or service provide to submit a written complaint to the head of the procuring agency “promptly and in any event within 10 days of the letter of intent to award the contract”. SPRR reduce this period to 2 working days (see analysis at 13(a)(d)). PRR s.8.1.4 requires the head of the agency to issue a written decision within 7 days after submission of the complaint which shall: a) state the reasons for the decision; and b) if the complaint is upheld in whole or in part, indicate the corrective measures to be taken.

**Time frames for application for review to Independent Review Body and issuance of decision:** PRR s.8.1.6 provides that the complainant shall make an application for review to the IRB within 5 days of the decision of the Head of the Procuring Agency or, where no such decision has been taken, within 15 days of the original complaint. IRB Rules & Procedures, paragraph 16 provides that the IRB must deliver the Decision of the Review “in a timely fashion subject to article 57 of [IRB Rules & Procedures] within ten (10) days from the commencement of the review proceedings”. IRB Rules & Procedures paragraph 43 provide that the Secretariat shall register the commencement of the review procedure in the Register of Applications for Review.

**Gap analysis.**

## Recommendations

### Assessment criterion 1(h)(e):

Applications for appeal and decisions are published in easily accessible places and within specified time frames, in line with legislation protecting sensitive information.

**Conclusion: Minor gap**

**Red flag: No**

### Qualitative analysis

Application for appeal is retained on dedicated register. Decisions of the IRB, protecting sensitive information, are published very promptly on the e-GP website despite the lack of specified time frames for publication.

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**Applications to IRB:** IRB Rules & Procedures, paragraph 8 requires the Secretariat to keep the Register of Applications for Review in paper form and for a copy of the Register to be retained in electronic form.

**Decisions of IRB:** IRB Rules & Procedures, paragraphs 63 to 65, require the publication of a summary of each IRB decision on the website of the PPPD in a prescribed form. The published decision includes the basic facts, reasoning and findings of the IRB using a specific format, respecting protection of sensitive information. The Secretariat maintains the full file pertaining to each decision.

There is no specified timeframe for publication of decisions of the IRB. In practice, decisions of the IRB are published on the eGP grievance page immediately after they have been sent to the parties to the action.

## Gap analysis

The legal framework does not specify a time frame for publication of IRB decisions.

This is identified as a minor gap because it is technical in nature as all decisions are required to be published and in practice are published on the on the eGP grievance page immediately.

For consistency, this gap, and related recommendation, is repeated at indicator 13(d).

## Recommendations

In order to increase legal certainty, include in the procurement legal framework a specified time frame for publication of IRB decisions.

## Assessment criterion 1(h)(f):

Decisions by the independent appeals body can be subject to higher-level review (judicial review).

## Conclusion: No gap

## Red flag: No

## Qualitative analysis

Right for judicial review is specified in the legal framework. PRR s.8.1.9 provides a right of appeal to the Court against a decision of the IRB, on a question of law.

## Gap analysis

## Recommendations

### Sub-indicator 1(i) Contract management

The legal framework provides for the following:

## Assessment criterion 1(i)(a):

Functions for undertaking contract management are defined and responsibilities are clearly assigned.

## Conclusion: No gap

## Red flag: No

## Qualitative analysis

Responsibility for contract management is clearly assigned to the Procuring Agency and Standard Operating Procedures for Public Procurement Personnel lists contract management as one of the responsibilities of procurement personnel. PRR clearly defines contract management tasks and

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elements of contract management, which cover the period from contract award to conclusion and resolution of disputes, if any.

PRR s.6.4 Contract Management, refers to contract management to “include all administrative, financial, managerial and technical tasks to be performed by the procuring agency from contract award until it is successfully concluded or terminated and, payment is made and disputes or claims under it has been resolved”. This section goes on to list/define elements of contract management falling within the responsibility of the Procuring Agency from review and approval of work plan to conclusion of contract and handling of disputes.

Standard Operating Procedures for Public Procurement Personnel<sup>26</sup> lists the responsibilities of procurement personnel, including contract management and relevant contract management procedures.

SPRR ss.42 to 48 Monitoring of Works Contracts, requires the Tender Committee to mandatorily monitor compliance with contract milestones (SPRR s.42) and sets out other requirements relating to ongoing monitoring, meeting with contractor, and for Procurement Officers to be involved in the entire procurement process including monitoring of projects.

### Gap analysis

### Recommendations

### Assessment criterion 1(i)(b):

Conditions for contract amendments are defined, ensure economy and do not arbitrarily limit competition.

### Conclusion: No gap

### Red flag: No

### Qualitative analysis

Appropriate conditions for contract amendments are defined in the legal framework and reflected in SBDs and Standard Conditions of Contract.

PRR s.6.3 Important Conditions of Contract, includes provisions on and appropriate conditions which should not arbitrarily limit competition, relating to Price Adjustments, Variation in Quantities, and variations in works contract. These provisions are reflected in the SBDs and Standard Conditions of Contract.

SPRR s.32 provides that change in quantities for a particular item of work can be considered a variation only if the following two conditions are fulfilled: (1) If the final quantity of the work done differs from the quantity in the Bill of Quantities (BoQ) for the particular item by more than twenty percent (20%) and (2) the cost of variation beyond twenty percent (20%) limit exceeds one percent (1%) of the Initial Contract Value. Any change in quantity variation shall be approved by the Tender Committee prior to execution of the work.

### Gap analysis

### Recommendations

<sup>26</sup>Standard Operating Procedures for Public Procurement Personnel, November 2021<sup>26</sup>.

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<b>Assessment criterion 1(i)(c):</b> There are efficient and fair processes to resolve disputes promptly during the performance of the contract.
<b>Conclusion: No gap</b>
<b>Red flag: No</b>
<b>Qualitative analysis</b> The legal framework provides for processes for efficient and fair resolution of disputes arising during performance of the contract, with a requirement to seek to resolve contract disputes at a local level before referral to adjudication, arbitration or initiation of court proceedings.  The procurement legal framework provides for an escalating system of dispute resolution with initial responsibility for dispute resolution lying with the Procuring Agency's Tender Committee (PRR s.3.1.2.3) which must seek to resolve contract disputes prior to referral on to adjudication or arbitration. The contract must include dispute resolution provisions and the PRR s.6.3.8. allow for mediation, arbitration and court proceedings, with a clause requiring the parties to attempt to reach an amicable settlement before turning to other tribunals or courts. SPRR s.98 stresses the importance of clarity as to dispute resolution mechanism and requires Procuring Agencies, line with Clause 6.3.8 of the PRR, to clearly specify in the Special Conditions of Contract (SCC) the chosen mechanism for contract dispute resolution.
<b>Gap analysis</b>
<b>Recommendations</b>
<b>Assessment criterion 1(i)(d):</b> The final outcome of a dispute resolution process is enforceable.
<b>Conclusion: No gap</b>
<b>Red flag: No</b>
<b>Qualitative analysis</b> There is an Alternative Dispute Resolution Act 2013 applying to domestic and international arbitration which deals with recognition and enforcement of arbitral award, and a specialist ADR Centre. <sup>27</sup> Bhutan acceded to the New York Convention on the Recognition and Enforcement of Arbitral Awards on 25 September 2014. <sup>28</sup>
<b>Gap analysis</b>
<b>Recommendations</b>
<b>Sub-indicator 1(j)</b> <b>Electronic Procurement (e-Procurement)</b> The legal framework provides for the following:

<sup>27</sup>ADR Centre <https://www.bhutanadrcentre.bt/>

<sup>28</sup><https://www.newyorkconvention.org/countries>

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### Assessment criterion 1(j)(a):

The legal framework allows or mandates e-Procurement solutions covering the public procurement cycle, whether entirely or partially.

**Conclusion: No gap**

**Red flag: No**

### Qualitative analysis

The legal framework mandates use of e-GP by all Procuring Agencies and any other public entities spending public funds for the purposes of procurement of goods, works and services. e-GP is not yet rolled out as an end-to-end system and so application of e-GP applies partially to the procurement cycle and it is not yet available for use in international competitive bidding.

PRR s.9.1.2 Electronic Government Procurement, requires that “All government agencies shall use e-GP system for all kinds of procurement activities and it shall be guided by e-GP guideline issued by Ministry of Finance.” Use of e-GP is mandatory for all budgetary bodies including Ministries, Constitutional Bodies, Dzongkhags, Autonomous Bodies, Thromdes, Drungkhags and Regional Offices and was extended to 205 local level administrations (Gewogs) with effect from July 1, 2022.<sup>29</sup> SPRR s.74 provides that preparation of bidding documents for procurement of goods, work and services “shall be done through e-GP System by the Procuring Agencies already implementing e-GP.” International competitive bidding is currently not conducted using e-GP.

The Ministry of Finance has published enforceable e-GP Guidelines.<sup>30</sup> e-GP Guidelines s.2 Scope and Application of the e-GP system, confirms that the e-GP system shall be used by the procuring agencies and any other public entities spending public funds for the purposes of procurement of goods, works and services, applying the e-GP Guidelines. Appendix 2: “ Rules and Regulations (PRR) 2019 and e-Government Procurement (e-GP) System”, lists relevant provisions in PRR 2019 and sets out how they are amended and aligned for the purposes of conducting procurement through the e-GP system.

**Gap analysis**

**Recommendations**

### Assessment criterion 1(j)(b):

The legal framework ensures the use of tools and standards that provide unrestricted and full access to the system, taking into consideration privacy, security of data and authentication.

**Conclusion: No gap**

**Red flag: No**

### Qualitative analysis

PRR 5.3.7. requires that “The tools to be used for communicating by electronic means, as well as their technical characteristics, must be non-discriminatory, generally available and interoperable with the

<sup>29</sup> MoF Notification: MoF/FS-04/DNP/2021-2022/4 e-GP roll out in 205 Gewogs.

<sup>30</sup> Electronic Government Procurement (e-GP) Guidelines, v.2.0, December 2020

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information and communication technology products in general use in Bhutan.” and goes on to reference requirements for encryption and electronic signatures (where relevant). There are general requirements in PPR requiring confidentiality and security of data and the e-GP Guidelines confirm arrangements for security of date, encryption and authentication.

### Gap analysis

### Recommendations

#### Assessment criterion 1(j)(c):

The legal framework requires that interested parties be informed which parts of the processes will be managed electronically.

**Conclusion: No gap**

**Red flag: No**

#### Qualitative analysis

The legal framework includes provisions to ensure that interested parties are informed which parts of the procurement processes will be managed electronically.

PPR Chapter 9 Electronic Government Procurement provides as follows

“9.1.2. All government agencies shall use e-GP system for all kinds of procurement activities and it shall be guided by e-GP guideline issued by Ministry of Finance.” The e-GP Guidelines provide information for interested parties on which parts of the processes will be managed electronically. e-GP Guidelines are supplemented by comprehensive e-GP User Manuals including Bidder Registration User Manual and Bidder Tendering User Manual.

PPR require that Procuring Agencies ensure that bidding documents clearly set out instructions to bidders on the process which will be followed. Procuring Agencies are required to use e-SBDs which include Instructions to Bidders which provide information on submission, opening and evaluation of bids and on award of the contract.

### Gap analysis

### Recommendations

#### Sub-indicator 1(k)

##### Norms for safekeeping of records, documents and electronic data

The legal framework provides for the following:

#### Assessment criterion 1(k)(a):

A comprehensive list is established of the procurement records and documents related to transactions including contract management. This should be kept at the operational level. It should outline what is available for public inspection including conditions for access.

**Conclusion: Substantive gap**

**Red flag: No**

#### Qualitative analysis

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Whilst there are provisions in the PRR concerning storage of documents (see 1(k)(b)), there is no single comprehensive list of the procurement records and documents to be retained. See also analysis at indicator 9.

### Gap analysis

There is no single comprehensive list of the procurement records and documents to be retained. Procuring Agencies thus have no clear universally applicable guide on precisely what must be retained and this may result in inconsistency and also hinder effective implementation or review of performance, which depend on the availability of information and records that track each procurement action.

### Recommendations

The following recommendation is a consolidated recommendation for Indicator 1(k).

Prepare a guideline, or similar, for use by Procuring Agencies, to cover the safekeeping and retention of procurement records and documents in both physical and electronic form this guideline should include: a comprehensive list of what records must be retained at operational level by all Procuring Agencies; how records are to be securely stored, and; for what period specified records shall be stored. This guideline will need to reference the relevant e-GP system and protocols for procurement or part of procurements conducted using e-GP and be appropriately balanced to best meet the needs of contract management, performance review, audit and fraud and corruption investigations/prosecutions.

### Assessment criterion 1(k)(b):

There is a document retention policy that is both compatible with the statute of limitations in the country for investigating and prosecuting cases of fraud and corruption and compatible with the audit cycles.

### Conclusion: Substantive gap

**Red flag: Yes**

### Qualitative analysis

The document retention policy is compatible with audits cycles. There is no statute of limitations in Bhutan and there is no limitation period specified for prosecution of fraud and corruption cases. The standard retention period for retention of records is relatively short, raising the possibility of loss of relevant evidence in some cases.

PRR s.5.3.6 Storage of Bid Documents requires the Procuring Agency to maintain records and documents regarding their public procurement activities for a minimum period as prescribed and defined in the Finance and Accounting Manual, Financial Rules and Regulations (F&AM).<sup>31</sup>Chapter XI, FAM 2016 provides that the minimum preservation period shall be reckoned from the date of

<sup>31</sup> Financial Rules and Regulations 2016 (FRR 2016) consist of 4 manuals: (i) Financial Management Manual (FMM); (ii) Budget Manual (BM); (iii) Finance and Accounting Manual (FAM); and (iv) Property Management Manual. MoF Notification: MoF/DPA-FRR/20-16-17/821, December 27, 2016.

<https://www.mof.gov.bt/notifications/notifications-sect/notification-on-frr-2016-13-jan-2017/>

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completion of audit by the Royal Audit Authority and settlement of audit observations pertaining to the contents of the records, if any. Records pertaining to the award of contract are to be retained for 36 months after expiry of contract or audit settlement, whichever is later. Destruction of records after expiry of the specified period is subject to clearance by the Royal Audit Authority and maintenance of a Register of destructed records is mandated.

This document retention period is compatible with the audit cycle. There is no statute of limitations in Bhutan. There is no limitation period specified for prosecution of fraud and corruption cases.<sup>32</sup>The standard retention period (for records pertaining to award of contract) of 36 months after expiry of contract or audit settlement, whichever is later, is relatively short in the context of potential cases of fraud and corruption and thus there is the possibility of loss of relevant evidence.

### Gap analysis

The standard retention period (for records pertaining to award of contract) of 36 months after expiry of contract or audit settlement, whichever is later, is relatively short in the context of potential cases of fraud and corruption and thus there is the possibility of loss of relevant evidence.

This Gap is allocated a red flag because remedying the Gap is not solely in the purview of MoF/PMDD and requires inter-institutional cooperation.

### Recommendations

Review the standard retention period in the case of procurement files to reduce the likelihood of loss of relevant evidence in the case of investigation and/or prosecution of potential cases of fraud and corruption. This review will need to be conducted jointly by key stakeholders including PMDD/Ministry of Finance, Anti-Corruption Commission, Royal Audit Authority and Office of the Attorney General to ensure an appropriate balance between the need to ensure availability of information with the practicalities of information storage, particularly while procurement files remain paper-based. See also Consolidated Recommendation at 1(k)(a).

### Assessment criterion 1(k)(c):

There are established security protocols to protect records (physical and/or electronic).

### Conclusion: Substantive gap

### Red flag: No

### Qualitative analysis

There is no dedicated comprehensive security protocol. PRR s.5.3.6 Storage of Bid Documents requires the Procuring Agency to keep original copies of bid documents in a secure place kept in a secure place, for a minimum specified period (see 1(k)(b)). There is no dedicated security protocol to protect physical procurement records. **The** e-GP system has embedded security protocols to protect records submitted and retained on e-GP system and Financial Management Manual 2016 includes requirements concerning back up and storage of electronic records.

### Gap analysis

There is no dedicated security protocol to protect physical procurement records covering the entire procurement process. This information is important for both internal and external control systems to

<sup>32</sup> Confirmed in discussions between MAPS Assessment Team and Office of Attorney General, January 2023.

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ensure ease of access, by appropriate authorities, to all relevant information relating to each procurement action.

### **Recommendations**

Prepare a dedicated security protocol on retention of procurement records, covering the whole procurement process and including physical records. This could form part of the guideline proposed in the consolidated recommendation at 1(k)(a).

### **Sub-indicator 1(l)**

#### **Public procurement principles in specialized legislation**

The legal framework provides for the following:

#### **Assessment criterion 1(l)(a):**

Public procurement principles and/or the legal framework apply in any specialised legislation that governs procurement by entities operating in specific sectors, as appropriate.

**Conclusion: No gap**

**Red flag: No**

#### **Qualitative analysis**

The PRR permit SOEs to adopt separate rules and regulations for the management of their procurements provided such rules are within the broad principles of the PRR. In the absence of separate rules the PRR apply. PRR require that public procurement principles apply to the conduct of procurement by SOEs using their own rules. Review of sample SOEs rules confirm that public procurement principles apply to procurement by SOEs.

PRR s.1.1.2.4 provides that “Corporations (except thromde) and Financial Institutions fully or partly owned by the Royal Government, Trust Funds, and Welfare Funds may adopt separate rules and regulations for the management of their procurements, provided such rules are within the broad principles of these rules and are approved by their respective Boards of Directors/ Trustees. In the absence of such separate rules and regulations, procurements conducted by these bodies shall be governed by the rules under this Procurement Rules & Regulations.” Public Finance Act 2007 s.100 provides the “Any expenditure of state enterprises shall be subject to the financial management and control requirements prescribed in the financial rules and regulations of the respective state enterprises having due regard to economy and efficiency.”

SOEs in Bhutan are grouped in two broad categories: (1) those falling within the direct ownership of the Ministry of Finance (“MoF SOEs”) which are socially oriented with non-financial objectives; and (2) commercially oriented SOEs within the DHI Group (Druk Holdings and Investments (DHI), a holding company formed under the Ministry of Finance (MoF)), which are, variously, fully owned, controlled or linked to DHI.

Discussions which the MAPS Assessment team had with MoF SOEs confirmed that these SOEs have their own internal rules for procurement which are very closely modelled on the PRR and, where required, these organizations use e-GP to advertise opportunities as well as advertising on their own websites. They also use the standard eSBDs.

DHI operates a publicly available centralized procurement portal/e-Procurement system “Tender Bhutan”<sup>33</sup> with the following companies listed as users: Bhutan Power Corporation Limited, Bhutan Telecom Limited, Druk Holdings and Investments Limited, Dungsam Polymers Limited, State Mining

<sup>33</sup><https://tender.bt/> accessed 18 February 2023.

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Corporation Limited and Thimphu TechPark Limited. Sampled advertisements included downloadable bidding documents.

Sampled Delegations of Powers and SOE Procurement Manuals for works, goods and services require procurement processes to comply with principles of transparency, accountability, responsibility and integrity, with use of open tenders above specified thresholds.

### Gap analysis

### Recommendations

#### Assessment criterion 1(I)(b):

Public procurement principles and/or laws apply to the selection and contracting of public private partnerships (PPP), including concessions as appropriate.

**Conclusion: No gap**

**Red flag: No**

#### Qualitative analysis

The principles of probity, fairness and transparency apply to procurement of PPPs. S.6 PPP Rules and Regulations 2017 require the implementing institution to “Carry out all its responsibilities related to Public Private Partnership Projects with complete probity and ensure a fair and transparent project procurement”, with no conditions in the Project Tender Documents favouring any individual entity or group of entities, and to maintain documents and record of the entire procurement process. PPP Rules and Regulations 2017 provide for conduct of a competitive tender process for selection of a partner for PPP.

### Gap analysis

### Recommendations

#### Assessment criterion 1(I)(c):

Responsibilities for developing policies and supporting the implementation of PPPs, including concessions, are clearly assigned.

**Conclusion: No gap**

**Red flag: No**

#### Qualitative analysis

The Ministry of Finance is responsible for developing PPP policy. In 2017, Ministry of Finance Notification No. MoF/DMEA/ICGD/PPP-11/2017/399 confirmed that a PPP unit has been established under the Investment and Corporate Governance Division (ICGD), Department of Macroeconomic Affairs (DMEA), Ministry of Finance “to facilitate effective implementation of PPP projects.”

The Ministry of Finance, Department of Macroeconomic Affairs has published the following documents to support implementation of the PPP Policy and PPP Rules and Regulations 2017:<sup>34</sup> Public

<sup>34</sup> Ministry of Finance Notification (14 June 2019), with links to documents

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Private Partnership Guidelines 2019<sup>35</sup>; PPP Standard Bidding Documents: Request for Expression of Interest (EOI) 2019; Request for Proposals (One-Stage) 2019; Request for Proposal (Two-Stage) 2019; Request for Qualifications 2019; Standard Heads of Agreements: Availability Fee Based PPP 2019; User Fee Based PPP 2019; Public Private Partnership Manual Project Screening Tool 2019. PPP Guidelines 2019 emphasize the principle of fair and equal access to all PPP Projects.

In practice, PPP has been rarely used. There has been one PPP contract for a multi-deck car park in Thimphu, which has been the subject of delayed completion, and there is one water related PPP project for ongoing. PMDD is currently reviewing the PPP legal framework as part of the wider reform process.<sup>36</sup>

## Gap analysis

## Recommendations

### Indicator 2. Implementing regulations and tools support the legal framework

#### Sub-indicator 2(a)

#### Implementing regulations to define processes and procedures

#### Assessment criterion 2(a)(a):

There are regulations that supplement and detail the provisions of the procurement law, and do not contradict the law.

**Conclusion:** No gap

**Red flag:** No

#### Qualitative analysis

PRR/SPRR 2021 is hybrid legislation, containing substantive provisions generally included in public procurement laws plus more detailed provisions which address issues of implementation. This is in accordance with the legal tradition in Bhutan. In the country context, the MAPS Assessment team concluded that for the purposes of analysis and assessment of sub-indicator 2(a) it was appropriate to consider the provisions of PRR/SPRR2021 and supporting clarificatory legal framework.

The detailed regulatory provisions in the PRR/SPRR 2021 supplement and do not contradict the general provisions. The PRR/SPRR 2021 are supported by binding Notifications and Circulars, issued by the Ministry of Finance to address gaps in policy, ensure effective delivery and consistency and provide clarification. Notifications of current application are published on the e-GP website, Circulars are published on the Ministry of Finance website. MAPS Assessment team noted one example where a Notification on the PMDD website had, in fact, been withdrawn by means of a Circular subsequently

<https://www.mof.gov.bt/public-notifications/dept-of-macroeconomic-affairs/notification-14-june-2019/>

<sup>35</sup>Public Private Partnership Guidelines 2019

[https://www.mof.gov.bt/wp-content/uploads/2019/06/PPP\\_Guidelines.pdf](https://www.mof.gov.bt/wp-content/uploads/2019/06/PPP_Guidelines.pdf)

<sup>36</sup>Information provided to MAPS Assessment Team by PMDD in discussions, January 2023.

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published on the Ministry of Finance website, but this oversight does not appear to be a frequently occurring issue.<sup>37</sup>

The MAPS Assessment team explored with stakeholders the question of whether they encounter problems with accessing and understanding the legal and regulatory framework and the detailed PRR/SPRR 2021 in particular. Stakeholders did not raise general concerns about the accessibility, comprehensiveness or presentation of the procurement legal framework.<sup>38</sup>

### Gap analysis

### Recommendations

#### Assessment criterion 2(a)(b):

The regulations are clear, comprehensive and consolidated as a set of regulations readily available in a single accessible place.

**Conclusion:** Minor gap

**Red flag:** No

#### Qualitative analysis

PRR/SPRR 2021 are clear, comprehensive and available, together with Circulars and Notifications on the e-GP website.<sup>39</sup> However, the PRR/SPRR and other amendments to PRR to reflect requirements of eGP are not presented in a consolidated manner.

#### Gap analysis

PRR with amending provisions made by SPRR 2021 and e-GP Guidelines are not available in a consolidated version which reduces clarity and may hinder practical understanding for stakeholders of the procurement legal framework as a whole.

### Recommendations

Prepare a consolidated version of PRR to include all amendments, including those contained in SPRR 2021 and e-GP guidelines. This is required so that a single comprehensive document is available to ensure precision and clarity on the wording and application of amended provisions and thus enhance accessibility and practical understanding of the procurement system and facilitate improved implementation of the legal framework by stakeholders.

**PRR 2023:** PRR 2023 has consolidated the legislative framework as recommended and thus this Gap is resolved.

### Suggestion for improvement

<sup>37</sup> PMDD Notification dated 19 May 19, 2022 MoF/DNP/PMDD-05/2021-2022/1367, withdrawn by paragraph 8 of Budget Notification for the Financial Year 2022-2023 dated July 4, 2022 MoF/Budget Notification/2022-2023/012.

<sup>38</sup> In meetings between MAPS Assessment Team and purchasers and suppliers in January 2023, very specific issues about the drafting of individual provisions in PRR/SPRR were raised by purchasers and suppliers. The MAPS Assessment team noted that the issues raised are being considered as part of the short- and medium-term public procurement reforms underway in 2023.

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Consider ways in which future amendments to the PRR are presented, to enhance clarity and understanding for all stakeholders. Thought should also be given on whether there is a simple way to draw together all current Notifications and Circulars in one location and clearly flag the relevant provisions in the PRR/SPRR to which Notifications and Circulars relate in order to present the legal framework in a user-friendly and holistic manner. This could, potentially, be further expanded to also reference relevant provisions of standard bidding documents.

### Assessment criterion 2(a)(c):

Responsibility for maintenance of the regulations is clearly established, and the regulations are updated regularly

**Conclusion:** No gap

**Red flag:** No

### Qualitative analysis

PRR s.8.2.2 Functions of the Government Procurement and Property Management Division (GPPMD)[now Procurement and Management Development Division (“PMDD”)], lists the duties and authorities of the GPPMD [PMDD] which include: “d) develop and promulgate implementing regulations, methodologies, guidelines and documentation such as standard bidding and contract documents for the benefit of procuring agencies;”

### Gap analysis

### Recommendations

### Sub-indicator 2(b)

#### Model procurement documents for goods, works and services

### Assessment criterion 2(b)(a):

There are model procurement documents provided for use for a wide range of goods, works and services, including consulting services procured by public entities.

**Conclusion:** No gap

**Red flag:** No

### Qualitative analysis

There are model procurement documents for goods (large and small value) works (large and small value) and consulting services and also for procurement of canteen, catering and event management services and hiring of vehicles and machineries.

The Ministry of Finance publishes a range of Standard Bidding Documents (SBDs/eSBDs), Standard Requests for Proposals (SRFP) and Standard Requests for Expressions of Interest, to be used in conjunction with PRR 2019 and SPRR 2021, where relevant.

#### e-SBDs from e-GP website [at 10 March 2023]

eSBD Procurement of Goods Large (above Nu 0.500 million), December 2020
eSBD Procurement of Goods Small (up to Nu 0.500 million), December 2020
eSBD Procurement of Works Large (above Nu.5 million), 2019
eSBD Procurement of Works Small (up to Nu.5 million), December 2020

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eSBD/eSRFP Procurement of Consulting Services Selection based on Consultant's Qualification (CQS) (Lump Sum Contract), December 2020
eSBD/eSRFP Procurement of Consulting Services Selection based on Consultant's Qualification (CQS) (Time Based Contract), December 2020
eSREol Consulting Services (Firms), December 2020
eSRFP Large (Lump-Sum), Procurement of Consulting Services (Lump Sum Contract), December 2020
eSRFP Large (Time-Based), Procurement of Consulting Services (Time-Based Contract), December 2020
eSRFP Small (Lump-Sum), Procurement of Consulting Services (Lump-Sum contract), December 2020
eSRFP Small (Time-Based), Procurement of Consulting Services (Time-Based Contract), December 2020
eSRFP Individual Consultant (Time Based and Lump sum), Procurement of Individual Consultants, December 2020
eSRFQ Canteen Service, Procurement of Canteen Services, November 2021
eSRFQ Catering Service, Procurement of Catering Services, October 2021
eSRFQ Event Management, Event Management Services, Novembre 2021
eSRFQ, Hiring of Vehicles, Hiring of Vehicles and Machineries, November 2021

There are no model procurement documents for highly specialized procurement such as health sector and information & communications technology.

### Gap analysis

### Recommendations

#### Suggestion for improvement

There are no model procurement documents for highly specialized procurement such as health sector procurement of medical equipment, pharmaceuticals or for procurement of information technology which are purchases of significant importance. These sectors, in particular, often involve specialized requirements including in some cases long term support/maintenance which may require industry specific contractual provisions or innovative approaches in order to achieve most effective delivery and best value for money outcomes in line with industry practices.

Consider undertaking a review of specialized sectors to identify priority areas which will benefit from specialized model procurement documents including conditions of contract tailored to local needs, and prepare relevant documents.

#### Assessment criterion 2(b)(b):

At a minimum, there is a standard and mandatory set of clauses or templates that reflect the legal framework. These clauses can be used in documents prepared for competitive tendering/bidding.

#### Conclusion: No gap

#### Red flag: No

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## Qualitative analysis

Procuring Agencies are required to use standard bidding document for use in competitive tendering/bidding, with minimum changes as necessary to address project specific conditions. The standard bidding documents reflect the legal framework.

Mandatory use of standard bidding documents: PRR s.5.1.1.2 requires the procuring agency to use applicable standard bidding documents, with minimum changes as necessary to address project specific conditions. Reasons for changes, if any, shall be recorded and approval sought from the Head of the Procuring Agency. PRR s.5.2 Bidding Documents lists the items (with explanations) which shall, as far as possible be included in bidding documents, especially in the open method.

## Gap analysis

## Recommendations

### Assessment criterion 2(b)(c):

The documents are kept up to date, with responsibility for preparation and updating clearly assigned.

**Conclusion: No gap**

**Red flag: No**

## Qualitative analysis

Standard Bidding Documents are kept up to date, with most recent eSBDs published in 2021, and responsibility for preparation and updating rests with PMDD.

PRR s.8.2.2 Functions of the Government Procurement and Property Management Division (GPPMD) [PMDD], lists the duties and authorities of the GPPMD [PMDD] which include:

“d) develop and promulgate implementing regulations, methodologies, guidelines and documentation such as standard bidding and contract documents for the benefit of procuring agencies;”

## Gap analysis

## Recommendations

### Sub-indicator 2(c) Standard contract conditions used

### Assessment criterion 2(c)(a):

There are standard contract conditions for the most common types of contracts, and their use is mandatory.

**Conclusion: No gap**

**Red flag: No**

## Qualitative analysis

Standard contract conditions are an integral part of the e-SBDs which procuring agencies are required (mandated) to use, completing templates provided through the e-GP system. There are contract conditions for most common types of contracts and there are specific provisions in PRR s.6 concerning the form and content of contract documents and fundamental conditions of contract.

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e-GP Guidelines s.6.1 Document Library, provides: a. Forms for preparing electronic tender documents and any other activities of the procurement process shall be prepared and updated only by the GPPMD [PMDD].

(See Suggestion for improvement at 2(b)(a) - to identify and develop SBDs and contract conditions for highly specialized areas of procurement).

### Gap analysis

### Recommendations

#### Assessment criterion 2(c)(b):

The content of the standard contract conditions is generally consistent with internationally accepted practice.

**Conclusion: No gap**

**Red flag: No**

### Qualitative analysis

Content of standard contract conditions are, in the main, modelled on MDB model documents and are generally consistent with internationally accepted practice.

*Following documents were sampled for analysis of conditions of contract*

e-SBDs 2020 versions from e-GP website [4 July 2022]	General Conditions of Contract (GCC) Special Conditions of Contract (SCC) Standard Terms and Conditions (T&C)
eSBD Procurement of Goods Large (above Nu 0.500 million), December 2020	Sections VII GCC Section VII SCC
eSBD Procurement of Goods Small (up to Nu 0.500 million), December 2020	T&Cs short form
eSBD Procurement of Works Large (above Nu.5 million), December 2020	Sections VI GCC Section VII SCC
eSBD Procurement of Works Small (up to Nu.5 million), December 2020	Section V GCC Guidance Notes: GCC “not to altered or modified under any circumstances” Section VI SCC
eSRFP Individual Consultant (Time Based and Lump sum), Procurement of Individual Consultants, December 2020	Standard forms of contract (i) lump sum (ii) time based

### Gap analysis

### Recommendations

#### Assessment criterion 2(c)(c):

Standard contract conditions are an integral part of the procurement documents and made available to participants in procurement proceedings.

**Conclusion: : No gap**

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**Red flag: No**

### **Qualitative analysis**

Standard contract conditions are an integral part of the e-SBDs which procuring agencies are required to use, completing templates provided through the e-GP system. e-SBDs are available to participants in procurement proceedings from the date of publication of the advertisement/invitation and can be downloaded from e-GP.

### **Gap analysis**

### **Recommendations**

### **Sub-indicator 2(d)**

#### **User's guide or manual for procuring entities**

### **Assessment criterion 2(d)(a):**

There is (a) comprehensive procurement manual(s) detailing all procedures for the correct implementation of procurement regulations and laws.

### **Conclusion: Substantive gap**

**Red flag: No**

### **Qualitative analysis**

There are detailed Evaluation Guidelines only for procurement of larger works, plus more generic Guidelines and Standard Operating Procedures for Public Procurement Personnel and e-GP Manuals, but coverage is not comprehensive.

**Guidelines and Manuals:** Implementation of procurement in practice is supported by enforceable Guidelines issued by the Ministry of Finance pursuant to powers in the Public Finance Act 2007. Ministry of Finance has, published Evaluation Guidelines for Procurement of Works (above Nu. 5 million), 2019 and Electronic Government Procurement (e-GP) Guidelines (December 2020 ("e-GP Guidelines")).

There are also e-GP manuals, explaining how to use the e-GP system, for both procuring agencies/entities and bidders which are available to download from the e-GP User Manual page, including: Bidder Registration User Manual, Bidder Tendering User Manual, Financial Institution User Manuals, Head of Procuring Agency (HoPA) User Manual and Grievance Management User Manual. The Ministry of Finance has also published Guidelines and Standard Operating Procedures for Public Procurement Personnel, November 2021<sup>40</sup>.

### **Gap analysis**

Procurement guidelines or manuals are beneficial to widen and improve knowledge and understanding of the operation of the procurement system and thus facilitate better implementation of the procurement legal framework. The only detailed Guidelines with specific focus are evaluation guidelines for procurement of works. There is no equivalent detailed Guidelines with specific focus on procurement of small works, goods, services or consultancy services or for more specialized procurement and so coverage is not comprehensive.

<sup>40</sup><https://www.e-GP.gov.bt/ViewNews.jsp?newsType=I&nId=88>

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## **Recommendations**

Review procurement activities and sectors to identify priority areas which will benefit from comprehensive guidelines for all procurement procedures to widen knowledge and facilitate better implementation. prepare relevant documents to expand the collection of procurement guidelines to a wider range of procurement activities.

## **Assessment criterion 2(d)(b):**

**Responsibility for maintenance of the manual is clearly established, and the manual is updated regularly.**

**Conclusion: No gap**

**Red flag: No**

## **Qualitative analysis**

PRR s.8.2.2 Functions of the Government Procurement and Property Management Division (GPPMD) [PMDD], lists the duties and authorities of the GPPMD [PMDD] which include:

“d) develop and promulgate implementing regulations, methodologies, guidelines and documentation such as standard bidding and contract documents for the benefit of procuring agencies;”

The User’s Guides and Manuals are regularly updated, as can be seen from versioning of Manuals and publications during the period of the MAPS assessment.

**Gap analysis**

**Recommendations**

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## Indicator 3. The legal and policy frameworks support the sustainable development of the country and the implementation of international obligations

<b>Sub-indicator 3(a) Sustainable Public Procurement (SPP)</b>
<b>Assessment criterion 3(a)(a):</b> The country has a policy/strategy in place to implement SPP in support of broader national policy objectives
<b>Conclusion:</b> Substantive gap
<b>Red flag:</b> Yes
<b>Qualitative analysis</b> Sustainable development, environmental protection and the creation of a sustainable society are key underpinning principles/policy objectives of Bhutan. This can be seen, for example, in provisions in the Constitution; the concept of Gross National Happiness (GNH) which seeks to integrate socio-economic development goals with environmental protection, cultural preservation and good governance; the multilateral conventions to which Bhutan is a signatory, priorities for a sustainable society expressed in Bhutan's 12 <sup>th</sup> Five Year Plan (2018-2023) and voluntary national reviews (VNR) of Implementation of the 2030 Agenda for Sustainable development. There is, however, currently no sustainable public procurement policy/strategy in place to implement SPP in support of broader national policy objectives.
<b>Gap analysis</b> There is no sustainable public procurement policy/strategy in place to implement SPP in support of broader national policy objectives.  This is identified as a red flag as it will require engagement across government to tie in with national priorities and is not solely within the purview of PMDD/MoF.
<b>Recommendations</b> Consolidated recommendations for all of Indicator 3.  Develop a sustainable public procurement policy/strategy to implement SPP (economic, environmental (including climate considerations) and social (including gender equality)) in support of broader national policy objectives and reflecting national priorities, including Gross National Happiness. <sup>41</sup> This should include a clear implementation plan/road map to cover introduction of systems and tools to operationalize, facilitate and monitor the application of SPP in priority areas in particular. It should also identify and provide for changes to the legal/regulatory framework to allow for sustainability to be incorporated at all stages of the procurement cycle ensuring well-balanced application of sustainability criteria from planning through to delivery and monitoring. SPP requirements embedded in the legal and regulatory framework should be reflected in model

<sup>41</sup> Preparation of the SPP policy and strategy and accompanying implementation plan/road map should include consideration of impact of SDF requirements if this remains payable. See Analysis, Gap and Recommendation at 1(d)(b)).

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procurement documents, contract conditions and in supporting practical guidelines implementation and related training.

### **Assessment criterion 3(a)(b):**

The SPP implementation plan is based on an in-depth assessment; systems and tools are in place to operationalise, facilitate and monitor the application of SPP.

**Conclusion:** Substantive gap

**Red flag:** Yes

### **Qualitative analysis**

There is currently no sustainable public procurement policy/strategy in place to implement SPP in support of broader national policy objectives and thus no implementation plan or systems and tools in place to operationalize, facilitate and monitor the application of SPP.

### **Gap analysis**

There is no implementation plan or system and tools in place to operationalize, facilitate and monitor the application of SPP.

This is identified as a red flag as it will require engagement across government to tie in with national priorities and is not solely within the purview of PMDD/MoF.

### **Recommendations**

See consolidated recommendations at 3(a)(a)

### **Assessment criterion 3(a)(c):**

The legal and regulatory frameworks allow for sustainability (i.e. economic, environmental and social criteria) to be incorporated at all stages of the procurement.

**Conclusion:** Substantive gap

**Red flag:** No

### **Qualitative analysis**

The EuropeAid SWITCH-Asia Programme<sup>42</sup> has supported the development of GPP Bhutan (2012-2017), with outputs including; research and publication of reports on quantitative mapping of public procurement in Bhutan (2015) and legal analysis of public procurement framework in Bhutan identifying prospects for procuring green (2015), and; Checklist of Implementing Green Public Procurement in Bhutan (2017), “Procuring Green” Handbooks for policymakers and public procurement on procurement of Goods and Services and Public Works (2017).<sup>43</sup> There is currently a small active project “Criteria Development for Green Public Procurement and Eco-label in Bhutan”, financed by the German government and executed by GIZ with local implementation, focusing on development of environmental criteria for cement and steel.

<sup>42</sup><https://www.switch-asia.eu/project/gpp-bhutan/>

<sup>43</sup>[http://gpp.rim.edu.bt/wp-content/uploads/2017/05/GPP\\_Goods-Services-II\\_Revised.pdf](http://gpp.rim.edu.bt/wp-content/uploads/2017/05/GPP_Goods-Services-II_Revised.pdf)  
[http://gpp.rim.edu.bt/wp-content/uploads/2017/05/IISD-Handbook\\_Works.pdf](http://gpp.rim.edu.bt/wp-content/uploads/2017/05/IISD-Handbook_Works.pdf)

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<p>There are, however, only very limited provisions in the PRR incorporating sustainability (environmental requirements) into the procurement cycle at the stage of preparation of specifications and evaluation.</p>
<p><b>Gap analysis</b> The legal and regulatory framework does not provide for sustainability to be incorporated at all stages of the procurement cycle.</p>
<p><b>Recommendations</b> See consolidated recommendation at 3(a)(a)</p>
<p><b>Assessment criterion 3(a)(d):</b> The legal provisions require a well-balanced application of sustainability criteria to ensure value for money.</p>
<p><b>Conclusion:</b> Substantive gap</p>
<p><b>Red flag:</b> No</p>
<p><b>Qualitative analysis</b> See analysis at 3(a)(c)</p>
<p><b>Gap analysis</b> See analysis at 3(a)(c)</p>
<p><b>Recommendations</b> See consolidated recommendation at 3(a)(a)</p>
<p style="text-align: center;"><b>Sub-indicator 3(b)</b> <b>Obligations deriving from international agreements</b> <b>Public procurement-related obligations deriving from binding international agreements are:</b></p>
<p><b>Assessment criterion 3(b)(a):</b> Clearly established</p>
<p><b>Conclusion:</b> Choose an item.</p>
<p><b>Red flag:</b> Choose an item.</p>
<p><b>Qualitative analysis</b> <b>3(b) is not assessed.</b> Bhutan is not a member of the World Trade Organization.<sup>44</sup> Bhutan is a member of the South Asian Association for Regional Cooperation and a signatory to the Agreement on South Asian Free Trade Area (SAFTA)(2004) and South Asian Agreement on Trade in Services (SATIS)(2012). There is, however, no public procurement specific chapter or annex to SAFTA or SATIS and thus no relevant provisions for assessment</p>
<p><b>Gap analysis</b></p>
<p><b>Recommendations</b></p>

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**Assessment criterion 3(b)(b):**

Consistently adopted in laws and regulations and reflected in procurement policies.

**Conclusion:** Choose an item.

**Red flag:** Choose an item.

**Qualitative analysis**

**3(b)(b) is not assessed (see note at 3(b)(a))**

**Gap analysis**

**Recommendations**

**Indicator 4. The public procurement system is mainstreamed and well- integrated into the public financial management system**

<b>Sub-indicator 4(a)</b>
<b>Procurement planning and the budget cycle</b>
The legal and regulatory framework, financial procedures and systems provide for the following:
<b>Assessment criterion 4(a)(a):</b> Annual or multi-annual procurement plans are prepared, to facilitate the budget planning and formulation process and to contribute to multi-year planning.
<b>Conclusion:</b> No gap
<b>Red flag:</b> No
<b>Qualitative analysis</b>
The following provisions require preparation of Annual Procurement Plan with Multi- Year Rolling Budgeting (MYRB) system with full integration of applicable budget process as reflected in PRR and the Budget Manual and a system of annual budget notification at the beginning of FY.
<b>Provisions in Procurement Rules and Regulations 2019 (PRR)</b>
PRR s.1.1.7 Annual Procurement Plan (APP), provides that the Procuring Agency shall prepare a procurement plan of goods, works and services in the prescribed format for each fiscal year. The APP must be approved by the head of the procuring agency/appropriate authority (HOPA). The APP is indicative only and does not create a legal or binding commitment to go to tender. PRR s.1.1.7.2 requires that the procurement plan “shall be fully integrated with applicable budget processes and circulars or the budget preparation instructions issued by” MoF. PRR s.1.1.7.7 the APP is indicative only and does not create a legal or binding commitment to go for tender PRR s.3.1.1.6 provides that the Head of Procuring Agency (HoPA) “shall review and approve annual procurement plants and any revisions thereof in order to ensure it supports the objectives and operations of the procuring agency.”
<b>Multi-Year Rolling Budgeting (MYRB) System</b>
Based on PEFA 2023, for Indicator/Dimension PI-4 on Budget Classification, assesses the extent to which the government budget and accounts classification is consistent with international standards, it states that Budget formulation, execution and reporting are based on every level of administrative, economic and functional classification using GFS/COFOG (Government Finance Statistics-Classification of the Functions of Government) compliant classifications (Score A). And further it is stated in PEFA report that Budget preparation and execution is done using the Multi-Year Rolling Budgeting (MYRB) system, which is a web-based real-time system that connects the MoF’s DPBP with the budgetary bodies. The MYRB allows users to generate financial information online efficiently.
<b>Provisions in Budget Manual 2016</b>
Section 1.9: a. Programs and policies proposed in the budget shall be consistent with the five-year plan. b. The Budget may be constrained by fiscal policy to allow less spending than the total program assumed in the Plan.

## Pillar II. Institutional Framework and Management Capacity

Chapter II, Section 2.1: on Budget Cycle: It is divided in following phases, Budget Preparation, Budget Approval, Budget Execution, Budget Accountability and Interim Revisions with a provision for approval of Budget Appropriation Bill by the Parliament in June and after Budget Notification by Ministry of Finance in July, implementation of budgeted activities is undertaken by responsible Agencies “year-round”. For Budget Accountability a mid-year review is undertaken by MoF and Agencies in December/January

Section 3.3 (i): on budget preparation and submission by agencies stipulate that proposals/estimates for any activity or project the execution of which extends beyond the budget (fiscal) year shall be limited to the amount to be expended within the fiscal year. The amount required in the succeeding fiscal year(s) shall be projected in the annual budget proposals of such years(s). The preparation of forward estimates under the rolling budget mechanism is expected to facilitate such multi-year budgetary estimations.

### **Budget Notification dated July 4, 2022 for Financial Year 2022-2023<sup>45</sup>**

This notification states that the 7<sup>th</sup> Session of the Third Parliament has passed the Budget Appropriation Act FY 2022-23 with appropriation as indicated on total resources, total expenditure and deficit as percentage of GDP. It contains the focus of expenditure and stresses the need for financial prudence and strong financial discipline to avoid cost overruns (Please see further explanation under Sub-indicator 4(b) on practice of combining procurement and budget cycle)

### **Gap analysis**

### **Recommendations**

### **Assessment criterion 4(a)(b):**

Budget funds are committed or appropriated in a timely manner and cover the full amount of the contract (or at least the amount necessary to cover the portion of the contract performed within the budget period).

**Conclusion:** No gap

**Red flag:** No

### **Qualitative analysis**

Based on provisions in FAM and as per PEFA assessment budget funds are appropriated in a timely manner to cover the amount of contract in the budget period

### **Provisions in Finance and Account Manual (FAM)**

Section 3.1.1 Chapter III on release of funds: Once the budget has been approved by the Parliament, the Department of National Budget (DNB) shall issue a Budget Notification to provide the Budgetary Bodies with their approved budget details. The Ministry of Finance shall release funds to budgetary bodies after the budget has been approved by Parliament in accordance with the provisions of Public Finance Act (PFA)

<sup>45</sup><https://www.mof.gov.bt/notifications/budget-notification-for-fy-2022-23/>

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Further in accordance with Section 3.2 on procedure for release of funds, in particular 3.2.1, the budget execution phase shall start with the release of funds through the Letter of Credit (LC) system in the respective bank accounts maintained at the agent banks. Subject to fulfilment of the necessary formalities, the DPA shall ensure timeliness of release of funds to the concerned Budgetary Bodies in order to facilitate execution of programmes and activities, which are included in the approved budget

And as per Section 3.2.2, the Budgetary Bodies shall plan their works in such a way as to avoid lapse of released funds at the close of a fiscal year and submit their Budget Utilization Plan (BUP) accordingly. In order to minimize the chances of idle funds getting lapsed at the year-end, the Department of Public Accounts (DPA) shall be empowered to fix time periods in the last quarter of the year, after which release of funds shall generally not be permitted

**As per PEFA Indicator PI-1** assesses whether the government budget is realistic and implemented as intended. This is measured by comparing actual revenues and expenditures (the immediate results of the PFM system) with the original approved budget.

3.6. **Performance level and evidence for scoring of the dimension:** The RGoB's original budget and actual expenditures for the last three fiscal years are shown in the table below together with the calculated deviation.

**Table 3.2: Total budget and actual expenditure**

	2019/20	2020/21	2021/22
Original budget (Nu. Million)	61,197.307	69,151.122	73,919.335
Actual expenditure (Nu. Million)	57,572.280	71,091.810	69,156.587
<b>Actual Expenditure/Original Budget %</b>	<b>94%</b>	<b>103%</b>	<b>94%</b>

Note: Actual expenditure includes expenditure for donor funded projects (loans and grants) except debt interest, and lending and repayment.

Sources: Annual financial statements (AFS) and National Budget Reports/Multi-Year Rolling Budget (MYRB) system.

The score is "B" as per PEFA. In order to ensure adequate monitoring of physical and financial progress of activities, the MoF has developed the online Budget Monitoring Tool (BMT), which mandates the budgetary bodies to submit their work plans (both physical and financial) for approved capital activities on a quarterly basis. The agencies provide the physical and financial progress of the approved activities, which enables them to realign activities with the budget based on emerging needs. It is expected that this practice will improve the implementation of activities and result in lower variances between original budget and the actual expenditure

Procurement expenditure under capital and recurrent budget constitute about 40% of actual expenditure

### Gap analysis

However, as per PEFA 2023, Indicator 11.3 (Score D) During the annual budget preparation process, the MYRB system has a provision wherein the budgetary bodies can indicate the budget plan for major multi-year projects. In addition, starting 2022/23, the capital budget write-up format has a provision wherein the budgetary bodies had to indicate the financial plan for each project, including the recurrent cost implication of the proposed activities. However, all this is not yet reported in detail

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in the National Budget Report, although it is covered in the MTFF.

### Recommendations

#### ***Suggestion for improvement***

Financial plan for each project to include recurrent cost implications as recommended in PEFA 2023 under Indicator 11.3

#### **Assessment criterion 4(a)(c):**

A feedback mechanism reporting on budget execution is in place, in particular regarding the completion of major contracts.

**Conclusion:** Minor gap

**Red flag:** No

### Qualitative analysis

Based on Budget Manual, and Draft PEFA 2023 findings, there is a feedback mechanism on budget execution including for major contracts

**The MoF's 2016 Budget Manual** specifies that the goal of a monitoring shall be to check progress of the capital expenditures. Financial and physical progress of major investment projects is monitored at the level of the departments through Project Steering Committees and, centrally, by the MoF and, up to its dismantlement, the GNHC from time to time as necessary. Information on implementation of such projects is prepared after each monitoring visit and submitted to the specific department and to development partners, as relevant<sup>46</sup>.

**Feedback mechanism on Budget Execution:** As per PEFA 2023 report, there is a set of standard rules and regulations for project monitoring. This includes the PFA 2007, FRR 2001, Procurement Rules and Regulations (PRR) 2019, national monitoring and evaluation framework, and project documents wherein the work plan and project implementation plan are outlined.

In addition, as required by the FRR 2016, the mid-year budget review is also carried out annually wherein the major change in the work plan (both physical and financial plan) is being facilitated based on the ground realities. Accordingly, the targets set in the APAs are also being revisited and revised. The major projects progress updates for both financial and physical is being updated and made available in the public domain

Based on PEFA Assessment (2023) in accordance with PEFA indicator 11.4 on Investment Project Monitoring the score is "B" with supporting facts as: "The three-level monitoring is done by: (i) site engineers; (ii) implementing agencies; and, (iii) central coordinating agencies (the erstwhile GNHC and the MoF). Monthly and quarterly progress reports are prepared and shared with stakeholders, including development partners where agreed. There is a vast corpus of rules, regulations and guidelines defining standard procedures and rules for project implementation. Implementing agencies

<sup>46</sup> PEFA 2023

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on a regular basis monitor total costs and physical progress of projects. Information on major investment projects is published on an annual basis”

### Gap analysis

There is no feedback mechanism on the completion of a major contract. However, with the procurement reform 2023, all procurement of large works (Above Nu. 5 million) are supposed to implement milestone agreements for contract management.<sup>47</sup>

### Recommendations

To monitor progress on major contracts as part of procurement reform of 2023 of the government

### Sub-indicator 4(b)

#### Financial procedures and the procurement cycle

The legal and regulatory framework, financial procedures and systems should ensure that:

#### Assessment criterion 4(b)(a):

No solicitation of tenders/proposals takes place without certification of the availability of funds.

**Conclusion:** No gap

**Red flag:** No

### Qualitative-analysis

The following provisions in PPR require that any procurement is initiated after identification of needs and linked with budget approval and availability of funds:

PPR s. 1.1.6.1 on Identification of need requires that all procurement under this rule shall be initiated after first determining the need for the subject matter and that need is neither artificially created nor exaggerated with intention to channel benefits to certain individual(s) or organization (s)

*Notification dated May 19, 2022 by Department of National Properties, MoF states past practices*

The above notification on aligning procurement and budget cycle, brought to the notice of procuring agencies that there was a mismatch between the procurement and budget cycle and that procuring agencies were inviting the tenders for annual procurement before the approval of the budget: (i) that led to award of contracts without confirmed budget availability under specific OBC; (ii) there were incorrect reporting of government spending, as tenders are created using “own funds” rather than the capital/recurrent budget in the electronic government procurement ( e-GP)

In accordance with the notification of May 19, 2022, procuring agencies are advised to align procurement and budget cycle and abide by the following (i) consolidate and finalize the item list and estimated quantity, in consultation all the regional offices within the Dzongkhag by the end of July 2022; (ii) prepare and publish the tenders in the e-GP under appropriate budget heads by the end of August 2022; and (iii) open, evaluate award and sign contract by the end of September 2022, Therefore procurement cycle will be from October-September. The procuring agencies are to initiate procurement only after approval of the budget. Procuring agencies were advised for the current cycle to extend the existing annual framework contract till the end of September 2022.

As per Budget Notification dated July 4, 2022<sup>48</sup> the above notification dated May 19, 2022 was withdrawn to state at point 8 of notification that in order to ensure that there is no rush of spending

<sup>47</sup>Based on clarification provided by PMDD on July 12, 2023.

<sup>48</sup> <https://www.mof.gov.bt/notifications/budget-notification-for-fy-2022-23/>

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during the last quarter of the FY and to maintain quality of expenditure, all the budgetary bodies are required to initiate Annual Procurement Plan (APP) and complete all tendering processes( from publication all the way through Contract Signing) for the approved budget latest by the 2<sup>nd</sup> quarter of the FY

**Based on PEFA Report of 2023**, on assessment under Internal Control on non-salary expenditure (PI-25) ,(i)Comprehensive expenditure commitment controls are in place and effectively limit commitments to projected cash availability and approved budget allocations- Score A

The above system of control, and APP demonstrates that no solicitation of tender takes place without ascertaining the availability of funds with due attention to avoid rush of spending during the last quarter of FY

### **Gap analysis**

No implementation in FY 22-23 and compliance on the signing of the contract till by value and number till Dec 2022 and from Jan 1, 2023 to March 31, 2023.<sup>49</sup>

No compliance monitoring was carried out till date after the issuance of the notification. The PMDD plans to ensure its compliance through the e-GP system whereby the timeline for the preparation of Annual Procurement Plan (APP) for the planned activities will be freezed after the second quarter of the FY and no user can initiate any tender in the e-GP without preparing the APP first.

### **Recommendations**

#### ***Suggestion for improvement***

To ensure implementation on early procurement action as per MoF notification of July 4, 2023

#### **Assessment criterion 4(b)(b):**

The national regulations/procedures for processing of invoices and authorisation of payments are followed, publicly available and clear to potential bidders.\*

**Conclusion:** Minor gap

**Red flag:** No

#### **Qualitative analysis**

Based on PEFA Report of 2023, based on assessment under Internal Control on non-salary expenditure, on Compliance with payment rules and procedures, all payments are compliant with regular payment procedures. All exceptions are properly authorized in advance and justified (score A).

Based on Sample cases under Indicator -9, Generally, payments are made within reasonable timeframes. However, economic operators reported situations in which payment exceeded 60 days as explained below;

Based on private sector survey question and responses, Are payment provisions fair, 68% responded yes, 32% No and to the question In your view, how often do the payment was delayed because of delay in verification of invoices,28% responded rarely, 46% often and 18% very often.

<sup>49</sup>Based on clarification from PMDD on July 12, 2023.

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Related to monitoring of invoices through e-GP system, PMDD clarified in its response on July 12, 2023 that “the e-GP phase III is implemented from July 1, 2023 and contract management is one of the major modules of e-GP Phase III. The e-GP system now has functions to generate and submit e-Invoice online through the system. After the completion of work, the bidders can generate the e-Invoice accordingly and submit it to the procuring agency, who will then verify it and forward it to the accounts personnel. The payment will be processed from the ePEMS system and after successful completion of payment, the status of the payment will be updated in the e-GP. The e-GP system has been integrated with the ePEMS”.

### Quantitative analysis

// Minimum indicator // \* Quantitative indicator to substantiate assessment of sub-indicator 4(b)  
Assessment criterion (b):

- invoices for procurement of goods, works and services paid on time (in % of total number of invoices).

Source: PFM systems.

- Information on the number of invoices paid on time against the total number of invoices of invoices is not available for the entire period of analysis.

### Gap analysis

Based on private sector survey there were delays in verification of invoices and payment

### Recommendations

MoF/PMDD to monitor verification and payment of invoices to ensure timely payment including through e-GP and e-PEMS (link to Indicator 7)

## Indicator 5. The country has an institution in charge of the normative/regulatory function

### Sub-indicator 5(a)

#### Status and legal basis of the normative/regulatory institution function

The legal and regulatory framework, financial procedures and systems provide for the following:

#### Assessment criterion 5(a)(a):

The legal and regulatory framework specifies the normative/regulatory function and assigns appropriate authorities formal powers to enable the institution to function effectively, or the normative/regulatory functions are clearly assigned to various units within the government.

**Conclusion:** No gap

**Red flag:** No

### Qualitative analysis

The normative and regulatory functions is discharged by PMDD to primarily cover procurement policy, capacity building and training, advice and guidance to procuring agencies, managing e-GP website and these functions are clearly assigned. Based on the Organizational Chart of Ministry of Finance (New). PMDD works under Department of Procurement and Properties as one of four “Division”. Department of Procurement and Properties reports to Secretary level person reporting to Minister of Finance. PRR Chapter 8 provides details on Institutional Arrangements and specific functions of PMDD which are

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listed under various sub-indicators under 5 (b) on responsibilities of the normative and regulatory functions. PRR s.8.1.10 provides that the constitution, rules of procedures and operation of the IRB shall be established by the Ministry of Finance.

PRR Chapter 8 Institutional Arrangements, s.8.2 establishes and specifies the functions of the Government Procurement and Property Management Division (GPPMD) [now referred to as "Procurement and Management Development Division (PMDD)"].

PRR s.8.2.1 provides that the GPPMD [PMDD] is established within the Ministry of Finance "to facilitate policy and professional development in the field of procurement" and requires that "The GPPMD [PMDD] and its staff shall not make contract award recommendations, serve as a member of any Tender Committee or carry out any activity as procuring agency."

PRR s.8.2.2.1 Functions of the Government Procurement and Property Management Division, provides that the GPPMD [PMDD] shall have the duties and authorities listed.

### Gap analysis

### Recommendations

### Suggestion for improvement

The e-GP page contains a lot of information concerning the procurement system, it may be beneficial to consider a dedicated website for the PMDD or an improved webpage for PMDD on MoF website. This is in order to further enhance transparency by presenting comprehensive information and resources for procuring entities, private sector and the public, not simply in relation to the e-GP system but to reflect the wider roles, responsibilities and activities of the PMDD.

### Sub-indicator 5(b)

#### Responsibilities of the normative/regulatory function

The following functions are clearly assigned to one or several agencies without creating gaps or overlaps in responsibility:

#### Assessment criterion 5(b)(a):

providing advice to procuring entities

**Conclusion:** No gap

**Red flag:** No

### Qualitative analysis

PRR s.8.2.2.1 Functions of the Government Procurement and Property Management Division, provides that the GPPMD[PMDD] shall have the duties and authorities listed, including:

- e. act as a focal point for enquiries and information regarding public procurement in Bhutan;
- f. provide to procuring agencies, on request, advice and guidance on the interpretation and application of the rule, and supporting regulations, guidelines and documentation provided always that such advice and guidance shall not be given nor accepted as a recommendation or decision in the conduct of any specific procurement procedure; carry out and/or commission studies and research on procurement.

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<b>Gap analysis</b>
<b>Recommendations</b>
<b>Assessment criterion 5(b)(b):</b> drafting procurement policies
<b>Conclusion:</b> No gap
<b>Red flag:</b> No
<b>Qualitative analysis</b>  Public Finance Act of Bhutan 2007 (as amended) s.14 provides that the Minister of Finance shall be responsible for framing fiscal policies. Public Finance Act of Bhutan 2007 (as amended) s.20 provides that the Ministry of Finance shall be responsible for implementation of policies set by the Minister of Finance.  The range of duties and authorities of PMDD as listed at s. 8.2.2.1 of PRR covers host of activities that covers any procurement related function under MoF and by implication it covers drafting procurement policies  In accordance with s.8.2.2.1 (d), PMDD is required to develop and promulgate implementing regulations, methodologies, guidelines and documentation such as standard bidding and contract documents for the benefit of procuring agencies
<b>Gap analysis</b>
<b>Recommendations</b>
<b>Assessment criterion 5(b)(c):</b> proposing changes/drafting amendments to the legal and regulatory framework
<b>Conclusion:</b> No gap
<b>Red flag:</b> No
<b>Qualitative analysis</b>  PRR s.8.2.2.1 Functions of the Government Procurement and Property Management Division, provides that the GPPMD [PMDD] shall have the duties and authorities listed, including: c. propose improvements to the rule and supporting regulations, guidelines and documentation [based on monitoring and reporting activities]; d. develop and promulgate implementing regulations, methodologies, guidelines and documentation such as standard bidding and contract documents for the benefit of procuring agencies; g. carry out and/or commission studies and research on procurement, comparisons and future projections with a view to improving the procurement system;

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<b>Gap analysis</b>
<b>Recommendations</b>
<b>Assessment criterion 5(b)(d):</b> monitoring public procurement
<b>Conclusion:</b> No gap
<b>Red flag:</b> No
<b>Qualitative analysis</b>  PRR s.8.2.1 Functions of the Government Procurement and Property Management Division, provides that the GPPMD [PMDD] shall have the duties and authorities listed, including: a. monitor the implementation of the [PRR/SPRR] through the collection and analysis of reports provided by the procuring agencies based on reporting formats developed by the GPPMD [PMDD]; b. provide annual reports to the Secretary, Ministry of Finance on the functioning of the national procurement system;
<b>Gap analysis</b>
<b>Recommendations</b>
<b>Assessment criterion 5(b)(e):</b> providing procurement information
<b>Conclusion:</b> No gap
<b>Red flag:</b> No
<b>Qualitative analysis</b>  PRR s.8.2.1 Functions of the Government Procurement and Property Management Division, provides that the GPPMD [PMDD] shall have the duties and authorities listed, including: b. provide annual reports to the Secretary, Ministry of Finance on the functioning of the national procurement system; d. develop and promulgate implementing regulations, methodologies, guidelines and documentation such as standard bidding and contract documents for the benefit of procuring agencies; e. act as a focal point for enquiries and information regarding public procurement in Bhutan; f. provide to procuring agencies, on request, advice and guidance on the interpretation and application of the rule, and supporting regulations, guidelines and documentation provided always that such advice and guidance shall not be given nor accepted as a recommendation or decision in the conduct of any specific procurement procedure; k. coordinate and facilitate, in consultation with the relevant governmental and private organizations in the Kingdom, the policy for the use of information technology in procurement, including the establishment of a GPPMD [PMDD] website for the dissemination of procurement related information and the creation and use of databases for the collection and analysis of procurement reports as defined in (a) above;
<b>Gap analysis</b>

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<b>Recommendations</b>
<b>Assessment criterion 5(b)(f):</b> managing statistical databases
<b>Conclusion:</b> No gap
<b>Red flag:</b> No
<b>Qualitative analysis</b> Duties and authorities of PMDD is covered under the following points of s8.2.2.1 of PRR <ul style="list-style-type: none"><li>a. monitor the implementation of the [PRR/SPRR] through the collection and analysis of reports provided by the procuring agencies based on reporting formats developed by the GPPMD [PMDD];</li><li>k. coordinate and facilitate, in consultation with the relevant governmental and private organizations in the Kingdom, the policy for the use of information technology in procurement, including the establishment of a GPPMD[PMDD] website for the dissemination of procurement related information and the creation and use of databases for the collection and analysis of procurement reports as defined in (a) above;</li></ul>
<b>Gap analysis</b>
<b>Recommendations</b>
<b>Assessment criterion 5(b)(g):</b> preparing reports on procurement to other parts of government
<b>Conclusion:</b> No gap
<b>Red flag:</b> No
<b>Qualitative analysis</b> Duties and authorities of PMDD is covered under the following points of s8.2.2.1 of PRR <ul style="list-style-type: none"><li>b. provide annual reports to the Secretary, Ministry of Finance on the functioning of the national procurement system;</li></ul> <p>However, with the completion of the development of the e-GP system, PMDD has clarified on July 12, 2023 that they are preparing a report generation format, based on which they will be able to acquire all necessary procurement data for the preparation of annual procurement reports.</p>
<b>Gap analysis</b> Based on PMDD clarification on July 12, 2023 though one of the responsibilities of PMDD is to provide an annual report to the secretary of the MoF on the functioning of the national procurement system, no report has been printed or presented to the secretary yet; instead, it has been communicated whenever required.

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<b>Recommendations</b> PMDD to prepare Annual Report also with input from e-GP system.
<b>Assessment criterion 5(b)(h):</b> developing and supporting implementation of initiatives for improvements of the public procurement system
<b>Conclusion:</b> No gap
<b>Red flag:</b> No
<b>Qualitative analysis</b> <b>Based on activities undertaken by PMDD they are responsible for developing and supporting initiatives on public procurement as required by PRR</b>  PRR s.8.2.1 Functions of the Government Procurement and Property Management Division, provides that the GPPMD [PMDD] shall have the duties and authorities listed, including: c. propose improvements to the rule and supporting regulations, guidelines and documentation [based on monitoring and reporting activities]; g. carry out and/or commission studies and research on procurement, comparisons and future projections with a view to improving the procurement system; l. coordinate and facilitate, in consultation with the relevant governmental and private organizations in the Kingdom, the development of advanced electronic procurement mechanisms with a view to improving the efficiency of the procurement system; o. keep abreast of and disseminate as appropriate information regarding international developments in procurement and best practice which may impact on and assist in the improvement of the national procurement system;
<b>Gap analysis</b>
<b>Recommendations</b>
<b>Assessment criterion 5(b)(i):</b> providing tools and documents, including integrity training programmes, to support training and capacity development of the staff responsible for implementing procurement
<b>Conclusion:</b> No gap
<b>Red flag:</b> No
<b>Qualitative analysis</b>  PRR s.8.2.1 Functions of the Government Procurement and Property Management Division, provides that the GPPMD [PMDD] shall have the duties and authorities listed, including:  q. develop and promulgate the code of conduct that shall apply to each official of a procuring entity involved in public procurement. The code of conduct shall address: i. Conflict of interest in procurement; ii. Measures to regulate matters concerning personnel responsible for procurement;

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iii. Screening procedures and training requirements. iv. Any other matter related to ethics of public procurement

### Gap analysis

### Recommendations

#### Assessment criterion 5(b)(j):

supporting the professionalisation of the procurement function (e.g. development of role descriptions, competency profiles and accreditation and certification schemes for the profession)

**Conclusion:** Substantive gap

**Red flag:** Yes

### Qualitative analysis

PRR s.8.2.1 Functions of the Government Procurement and Property Management Division, provides that the GPPMD [PMDD] shall have the duties and authorities listed, including:

h. coordinate, in consultation with the relevant training organizations in the Kingdom, the development of a national capacity building strategy and encourage the professionalization of the procurement function;

i. liaise with the relevant governmental organizations in the Kingdom to implement measures aimed at developing human resources and professionalism in procurement within the central and local government;

o. keep abreast of and disseminate as appropriate information regarding international developments in procurement and best practice which may impact on and assist in the improvement of the national procurement system;

p. provide and conduct, in collaboration with relevant governmental and private organizations in the Kingdom and outside the Kingdom, workshops, conferences and seminars aimed at improving awareness and understanding of the government's procurement policy and practices;

PMDD has been able to carry out most of the functions, such as the development of an e-GP system, the operationalization of a grievance system, rule interpretations, the development and promulgation of best practices (issued PRR 2023 and SBDs 2023) etc, however, PMDD have not been able to sustain procurement officer professional development due to a lack of budgetary support<sup>50</sup>.

PMDD has previously hosted international and domestic conferences and seminars for procurement professionals with the aim of improving awareness and comprehension of the government's procurement policies and practices. We are no longer able to hold such events due to a lack of financial support, but the division continues to deliver virtual awareness to procurement professionals (awareness on the e-GP III phase and procurement reforms-2023).

### Gap analysis

Based on the clarification given by PMDD, they have not been able to sustain procurement officer professional development due to a lack of budgetary support.

<sup>50</sup>Based on the clarification provided by PMDD on July 12, 2023, in practice.

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Considered Red Flag as it is beyond the purview of PMDD/MOF to arrange budgetary support and it requires inter-institutional review including from Royal Civil Service Commission

### Recommendations

MoF to allocate sufficient budget to support professional development of procurement officer

### Assessment criterion 5(b)(k):

designing and managing centralised online platforms and other e-Procurement systems, as appropriate

**Conclusion:** No gap

**Red flag:** No

### Qualitative analysis

PRR s.8.2.1 Functions of the Government Procurement and Property Management Division, provides that the GPPMD [PMDD] shall have the duties and authorities listed, including:

k. coordinate and facilitate, in consultation with the relevant governmental and private organizations in the Kingdom, the policy for the use of information technology in procurement, including the establishment of a GPPMD [PMDD] website for the dissemination of procurement-related information and the creation and use of databases for the collection and analysis of procurement reports as defined in (a) above;

l. coordinate and facilitate, in consultation with the relevant governmental and private organizations in the Kingdom, the development of advanced electronic procurement mechanisms with a view to improving the efficiency of the procurement system;

### Gap analysis

### Recommendations

### Sub-indicator 5(c)

#### Organisation, funding, staffing, and level of independence and authority

### Assessment criterion 5(c)(a):

The normative/regulatory function (or the institutions entrusted with responsibilities for the regulatory function if there is not a single institution) and the head of the institution have a high-level and authoritative standing in government.

**Conclusion:** Substantive gap

**Red flag:** Yes

### Qualitative analysis

PMDD is responsible for normative/regulatory function under Department of Procurement and Properties reporting to Ministry of Finance

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The position of Director in the Department of Procurement and Properties is vacant. The position of Chief Procurement Officer is at the level of Division Head<sup>51</sup>

PMDD is allocated with a total of 7 staff as follows: (i) Chief Procurement Officer; (ii) Engineer -1; (iii) Procurement Officer – 4; and (iv) Administrative. Assistant - 1

There is no legal officer post in PMDD according to the approved staffing list, but one legal officer is internally arranged depending on the division's necessity and requirements. The legal officer serves as the IRB secretariat's legal advisor and is responsible for any legal matters pertaining to procurement.

### Gap analysis

The position of Director (who reports to the Secretary of MoF, as per their Organization Chart) is vacant for a long time. The current Chief Procurement Officer of PMDD is at the level of Division Head, which is not an authoritative standing in the government

Considered Red Flag as it is beyond the purview of PMDD/MOF to find adequate staffing and resources and it requires inter-institutional review including from Royal Civil Service Commission.

### Recommendations

MoF/RCSC to consider appropriate staffing, budget and resources for PMDD. To elevate the position of Chief Procurement Officer of PMDD to at least a Director level

### Assessment criterion 5(c)(b):

Financing is secured by the legal/regulatory framework, to ensure the function's independence and proper staffing.

**Conclusion:** Substantive gap

**Red flag:** Yes

### Qualitative analysis

PMDD is one of the divisions under the Department of Procurement and Properties. PMDD has no separate budget as such; but, during the previous fiscal year (22-23), they had a budget allocated for the training of the users of the e-GP system (Nu. 2.5 million), and for the following fiscal year (23-24), there is a proposed budget of Nu. 7 million for the re-development of the e-Tool system (evaluation tool for procurement of works) on the microservices platform.

### Gap analysis

PMDD has no separate budget, and the funds allocated appear to be insufficient to meet its mandate (including IRB) as defined in PRR. For example, despite the fact that it is one of the division's mandates, the division has never issued an annual report which is owing to a variety of challenges, such as manpower constraints, a lack of procurement data.

<sup>51</sup> <https://www.mof.gov.bt/dnp-staff/>

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Considered Red Flag as it is beyond the purview of PMDD/MOF and it requires inter-institutional review including from Royal Civil Service Commission for adequate staffing and resources to fulfil mandate of PMDD
<b>Recommendations</b> MoF/RCSC to allocate sufficient budget and staffing to fulfill the mandate of PMDD.
<b>Assessment criterion 5(c)(c):</b> The institution's internal organisation, authority and staffing are sufficient and consistent with its responsibilities.
<b>Conclusion:</b> Substantive gap
<b>Red flag:</b> Yes
<b>Qualitative analysis</b> PMDD is allocated with a total of 7 staff as follows: (i)Chief Procurement Officer; (ii)Engineer -1; (iii) Procurement Officer – 4; and (iv) Administrative. Assistant - 1  There is no legal officer post in PMDD according to the approved staffing list, but one legal officer is internally arranged depending on the division's necessity and requirements. The legal officer serves as the IRB secretariat's legal advisor and is responsible for any legal matters pertaining to procurement.
<b>Gap analysis</b> Insufficient staffing and resources of PMDD.  Considered Red Flag as of PMDD/MOF is not empowered and it requires inter-institutional review including from Royal Civil Service Commission.
<b>Recommendations</b> MoF to take stock of resource and staffing of PMDD to meet its mandate, including consideration of resources and staff to support IRB functions.  For consistency, this gap, and related recommendation, is noted at indicator 13(b)(g).
<b>Sub-indicator 5(d)</b> <b>Avoiding conflict of interest</b>
<b>Assessment criterion 5(d)(a):</b> The normative/regulatory institution has a system in place to avoid conflicts of interest.*
<b>Conclusion:</b> No gap
<b>Red flag:</b> No
<b>Qualitative analysis</b>  PRR s.8 establishes the PMDD “to facilitate policy and professional development in the field of development”. There is a clear separation of duties. The PMDD monitors implementation of PRR/SPRR through collection and analysis of reports but the PMDD's functions do not include monitoring or audit at the level of individual procurement processes, thus significantly reducing the possibility of conflict of interest in the PMDD's activities.

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Audit of procurement (compliance and performance) is conducted by the Royal Audit Authority which also has in place appropriate provisions to prevent conflicts of interest in the context of undertaking audit of procurements. Conflict of interest is widely defined to include actual, perceived or potential conflicts of interest and provision in the Anti-Corruption Act 2011 address failure to declare conflict of interest.

In addition, PRR s.8 includes provisions specifically aimed at preventing conflicts of interest in respect of individual members or staff, requiring that “[PMMD] and its staff shall not make contract award recommendations, serve as a member of any Tender Committee or carry out any activity as procuring agency.” The Model Public Service Code of Conduct, which applies to all public servants including PMDD staff, includes appropriate COI provisions covering activity both during and post-employment. The PMDD provides the secretariat services for the Independent Review Body which conducts reviews of decisions on complaint (grievance). The IRB is constituted on an ad-hoc basis and is established with rules of operation to maintain independence and manage any potential conflicts of interest.

Related to the following question of Conflict of Interest in the private sector survey the response from 92 respondents is as under:

Question: Is there a problem with conflict of interest in respect of the procurement-related roles of public bodies such as the Ministry of Finance, Procurement Management and Development Division (PMDD), Anti-Corruption Commission, Royal Audit Authority, and Central Coordinating Agency (Internal Audit Services)

Response: 74% indicated no perceived COI: 18% minor conflict and 8% reported abundant conflict

It appears from the above facts discussions with private sector and detailed feedback that for normative and regulatory bodies there is no COI.

### Quantitative analysis

*\* Recommended quantitative indicator to substantiate assessment of sub-indicator 5(d) Assessment criterion (a):*

*- Perception that the normative/regulatory institution is free from conflicts of interest (in % of responses).*

*Source: Survey.*

### Gap analysis

### Recommendations:

## Indicator 6. Procuring entities and their mandates are clearly defined

### Sub-indicator 6(a)

#### Definition, responsibilities and formal powers of procuring entities

The legal framework provides for the following:

#### Assessment criterion 6(a)(a):

Procuring entities are clearly defined.

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<b>Conclusion:</b> No gap
<b>Red flag:</b> No
<b>Qualitative analysis</b> <p>PRR s.1.1.2.1 provides that the PRR apply to “all Government agencies, including Armed Forces” except in specified cases. The term “Government Agency” is defined as “an entity of the Government whose source of funding is the government” and includes: Government Ministries; local governments,<sup>52</sup> being Dzongkhag Tshogdu [District council], Gewog Tshogde [County council] and Thromde Tschogde [Municipal Council] and “autonomous bodie”s which is also a defined term and can cover state enterprises (see below). The PRR include general “catch-all” definitions of procuring entities using the synonymous terms “procuring agency” or “procuring entity” which are used widely in the procurement legal framework.</p> <p>State Owned Enterprises: PRR s.1.1.2.4 provides that “Corporations (except thromde) and Financial Institutions fully or partly owned by the Royal Government, Trust Funds, and Welfare Funds may adopt separate rules and regulations for the management of their procurements, provided such rules are within the broad principles of these rules and are approved by their respective Boards of Directors/ Trustees. In the absence of such separate rules and regulations, procurements conducted by these bodies shall be governed by the rules under this Procurement Rules &amp; Regulations.” See also analysis of SOE procurement at 1(l)(a).</p>
<b>Gap analysis</b>
<b>Recommendations</b>
<b>Assessment criterion 6(a)(b):</b> Responsibilities and competencies of procuring entities are clearly defined.
<b>Conclusion:</b> No gap
<b>Red flag:</b> No
<b>Qualitative analysis</b> <p>Responsibilities and competencies of Procuring Agency is defined at PRR Chapter 3 on Organization of Procurement</p> <p>It requires a Tender Committee of an appropriate level to be constituted by the Head of Procuring Agency (HoPA) to ensure compliance with the PRR. (s. 3.1.1,1). In accordance with s. 3.1.1.4 the procurement procedures shall be executed and contracts awarded by HOPA. The HOPA shall be responsible for all decisions made in accordance with the provisions of PRR.</p> <p>Based on other provisions under s 3.1.1 the tender committee shall be at the appropriate level. For every tender there is a need for TC in each agency. While initiating a tender in the eGP the tender initiator has to identify and email notification is sent to all the nominated TC members through email with tender details.</p> <p>All procuring agencies must have a dedicated procurement officers but due to certain reasons not all procuring agencies may have one at a particular time. All ministries would have approved at least 2-</p>

<sup>52</sup> Local Government Act 2009, Chapter 2, s.4.

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3 procurement officers while other agencies would at least one approved position. However, these fall short due to natural exit of persons. Based on available information in practice it is seen that there is shortfall in deputing procurement officer for all procuring agencies

### Gap analysis

### Recommendations

#### Assessment criterion 6(a)(c)

establish a designated, specialised procurement function with the necessary management structure, capacity and capability.\*

**Conclusion:** Minor gap

**Red flag:** No

### Qualitative analysis

As per PRR there is a need for need for qualified personnel to discharge responsibilities of procurement function

s.3.1.1.5 of PRR require that “The HOPA shall ensure that the Tender Committee and Evaluation Committee members, including other relevant procurement personnel have attended procurement training/capacity development/ sensitization program. Within six (6) months upon designation, the Tender Committee and Evaluation Committee members should have satisfactorily completed such program conducted, authorized or accredited by the Government Procurement and Property Management Division”

All procuring agencies must have a dedicated procurement officers but due to certain reasons not all procuring agencies may have one at a particular time. All ministries would have approved at least 2-3 procurement officers while other agencies would at least one approved position. However these fall short due to natural exit of persons. Based on available information in practice it is seen that there is shortfall in deputing procurement officer for all procuring agencies, and though for major departments and ministries, the criteria are met there are gaps in practice on a fully dedicated procurement officer for all agencies

### Quantitative analysis

// Minimum indicator // \* Quantitative indicator to substantiate assessment of sub-indicator 6(a) Assessment criterion (c):

- procuring entities with a designated, specialised procurement function (in % of total number of procuring entities).

Source: Normative/regulatory function.

Based on data provided by PMDD, there are total 368 procuring agencies as per e-GP , but number of fully dedicated procurement officer is 72, which points to be fact that there are Tender Committee for all procuring agencies, but not fully dedicated procurement officers for all

### Gap analysis

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<b>Recommendations</b>
<b>Assessment criterion 6(a)(d):</b> Decision-making authority is delegated to the lowest competent levels consistent with the risks associated and the monetary sums involved.
<b>Conclusion:</b> No gap
<b>Red flag:</b> No
<b>Qualitative analysis</b>  Decision-making is delegated at appropriate level as per provisions of PRR. Tender Committees Responsibilities listed at PRR 3.1.2.3 & SPRR ss.42-48 Tender Committees at different levels of government - Gewog, Dzongkhag, Field level, Departmental, Ministerial as well as Autonomous Bodies, with upper limits and requirements for referral to higher level committee above thresholds - NB referral no longer required pursuant to SPRR 2021s.76
<b>Gap analysis</b>
<b>Recommendations</b>
<b>Assessment criterion 6(a)(e):</b> Accountability for decisions is precisely defined.
<b>Conclusion:</b> No gap
<b>Red flag:</b> No
<b>Qualitative analysis</b> Chapter 3 on organization of procurement defines levels and composition of tender committee, responsibilities and power of Procuring Agency (SPRR 2021)
<b>Gap analysis</b>
<b>Recommendations</b>
<b>Sub-indicator 6(b)</b> <b>Centralized procurement body</b>
<b>Assessment criterion 6(b)(a):</b> The country has considered the benefits of establishing a centralised procurement function in charge of consolidated procurement, framework agreements or specialised procurement.
<b>Conclusion:</b> Minor gap
<b>Red flag:</b> No

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### Qualitative analysis<sup>53</sup>

**Summary:** The Central Procurement and Property Management Division (CPPMD) under the Ministry of Finance is a centralized procurement function in charge of consolidated national procurement of cement and HDPE pipes. CPPMD has recently started to centrally procure, at a national level, [desktop and laptop computers]. CPPMD is also procuring, on a pilot basis, a small basket of common use items for procuring agencies in Thimphu.

**Cement and HDPE pipes:** There are two specialist items which have been procured long-term on a national basis by CPPMD: cement and HDPE pipes. Procuring entities are mandated to use centralized procurement of these items by Notifications issued by Cabinet.

**Desktop and laptop computers:** CPPMD has recently started to procure [desktop and laptop computers] for all public agencies in Bhutan, including goods receipt and quality assessment of products.

**Common use items:** Since 2015/16 the CPPMD has been piloting centralized procurement of a small basket of common use items for government offices (ministries) and autonomous agencies based in Thimphu. The common use items are stationery/paper, , printer cartridges and two types of files. Contracts are awarded to multiple suppliers on a % allocation basis. There are also plans to centralize the procurement of printers with the intention of reducing the number of brands of printers used and rationalizing the currently lengthy list of consumables (printer cartridges).

Contracts for common use items, which are essentially framework agreements, are currently awarded on an annual basis.

### Gap analysis

It appears that centralized procurement is in pilot phase due to resource constraint

### Recommendations

To fully roll out centralized procurement system after assessing cost and benefit on its use with adequate resources

### Assessment criterion 6(b)(b):

In case a centralised procurement body exists, the legal and regulatory framework provides for the following:

- Legal status, funding, responsibilities and decision-making powers are clearly defined.
- Accountability for decisions is precisely defined.
- The body and the head of the body have a high-level and authoritative standing in government.

**Conclusion:** Substantive gap

**Red flag:** No

### Qualitative analysis

There is one member of staff in CPPMD responsible for centralized procurement operations. That

<sup>53</sup>Information in this analysis for 6(b)(a) provided by PMDD and CPPMD in discussions with MAPS Assessment team, January 2023.

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member of staff is supported in practice by the [Chief Procurement Officer] of CPPMD, with two procurement officers in addition to the chief in CPPMD

### Gap analysis

Not fully functional Need to increase resources

### Recommendations

To fully roll out centralized procurement system after assessing cost and benefit on its use with adequate resources

### Assessment criterion 6(b)(c):

The centralised procurement body's internal organisation and staffing are sufficient and consistent with its responsibilities.

**Conclusion:** Substantive gap

**Red flag:** Yes

### Qualitative analysis

"CPPMD is currently understaffed given its mandate and the current staff strength especially at the officer level. CPPMD has started centralized procurement for common-use items Viz., toner & cartridge, A4 size, 75 GSM paper, standard size stapler pin, two commonly used office files) since 2017 and a whole-of-the-government approach for centralized procurement for ICT devices (laptops & desktops) since 2021. The two procurement officers are currently bogged down with tendering and procurement management processes involving chiefly administrative in nature and not been able to focus at the strategic level".<sup>54</sup>

And further, "If the CPPMD is to do justice and fulfill its main mandates of promulgating and implementing best practices of centralized procurement and property management to deliver value for money and deliver at a strategic level, we need additional staff to undertake research in international best practices, evaluate and monitor the current practices of CPPMD to propose improvements, and study and identify more common-use items and services for centralization and cost savings'.

CURRENT STAFF STRENGTH: 1 Chief, 2 procurement officers, 2 Diploma engineers, Record Officer, 2 Record Asst. 1 Adm.

### Gap analysis

Based on discussions held by MAPS Team with CPPMD in January 2023, mission the Assessment Team is of the view that resource constraint of PMDD needs to be addressed by MOF for its effective functioning

Considered Red Flag as CPMDD/MOF is not empowered and it requires inter-institutional review including from Royal Civil Service Commission

<sup>54</sup>Based on clarification provided by PMDD on July 12, 2023.

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### Recommendations

MoF to address resource constraint of CPPMD

### Indicator 7. Public procurement is embedded in an effective information system

#### Sub-indicator 7(a)

#### Publication of public procurement information supported by information technology

The country has a system that meets the following requirements:

#### Assessment criterion 7(a)(a):

Information on procurement is easily accessible in media of wide circulation and availability. Information is relevant, timely and complete and helpful to interested parties to understand the procurement processes and requirements and to monitor outcomes, results and performance.

**Conclusion:** No gap

**Red flag:** No

#### Qualitative analysis

Procurement information is accessible and generally available in local and English languages. There is an e-procurement system in use since June 2017, with increasing adoption and functionalities. The e-GP includes public information on Annual Procurement Plans, Tenders, Contracts, Debarment and Grievance, plus a report section for Community Contracts.

There is an area in the e-GP system with relevant information for interested parties where a list of FAQs, training courses, manuals, guidelines, standard bidding documents and some forms relevant to the activity are available.

#### Gap analysis

#### Recommendations

#### Assessment criterion 7(a)(b):

There is an integrated information system (centralised online portal) that provides up-to-date information and is easily accessible to all interested parties at no cost.

**Conclusion:** No gap

**Red flag:** No

#### Qualitative analysis

The e-GP system is available by accessing the url <https://www.egp.gov.bt>. From January 2018, use of the e-GP system was mandatory for procurement of goods, works and services across Government agencies<sup>55</sup>, all budgetary bodies including Ministries, Constitutional Bodies, Dzongkhags (districts), Autonomous Bodies, Thromdes (municipalities), Dungkhags (sub-district) and Regional Offices. Mandatory use of e-GP was extended to 205 local level administrations (Gewogs) with effect from July 1, 2022.<sup>56</sup>

<sup>55</sup>Source e-GP website: News <https://www.egp.gov.bt/ViewNews.jsp?newsType=N&nId=1>

<sup>56</sup> MoF Notification: MoF/FS-04/DNP/2021-2022/4 e-GP roll out in 205 Gewogs.

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The system has been deployed in phases with commencement of implementation of the 3rd and final phase planned for July 2023.

Some of the information available on the portal is freely accessible without registration, namely tender notices, annual procurement plans and some resources, while bidding requires registration and the payment of a fee, according to the e-GP system Terms & Conditions, *“Bidders/Suppliers/Consultants will be charged a minimal fee of Nu. 500 (Ngultrum Five Hundred) for the user registration, and annually it should be renewed. Nu. 250 (Ngultrum Two Hundred Fifty) will be charged each year for renewal of their account. For international Bidders/Consultants and Consultants, registration fee is USD \$100 (US Dollars One Hundred Only) and annual renewal fee is USD \$30 (US Dollars Thirty Only).”*

### Gap analysis

### Recommendations

#### Assessment criterion 7(a)(c):

The information system provides for the publication of: \*

- procurement plans
- information related to specific procurements, at a minimum, advertisements or notices of procurement opportunities, procurement method, contract awards and contract implementation, including amendments, payments and appeals decisions
- linkages to rules and regulations and other information relevant for promoting competition and transparency.

**Conclusion:** Minor gap

**Red flag:** No

### Qualitative analysis

**Annual procurement plans:** PRR s.1.1.7 Requires each Procuring Agency to prepare a procurement plan of goods works and services in a prescribed format for each fiscal year, which “shall be fully integrated with the applicable budget processes and circulars or the budget preparation instructions issued by the Ministry of Finance.”

#### Information on specific procurements

- **Advertising:** Tender notices are available in the system. The legal framework requires procurement opportunities to be publicly advertised on e-GP [[e-GP Guidelines (Version 2.0), Appendix 2 Procurement Rules and Regulations and e-Government Procurement e-GP system]. An abridged version may be sent to mass circulated newspapers and where applicable/feasible announced over website, national radio, TV and other mass media. PRR s.5.1.2.2 provides that the notification for invitation of bids shall include reference to: the identity of the Procuring agency; a summary of the assignment under bid; period for execution of assignment; address for obtaining the bidding documents, further information and submission of bids; Cost of bidding documents where applicable (i.e. printing costs); procedural requirements; final date and time for submission of bids. The notices are classified by type of procurement method.
- **Bidding documents:** Bidding documents are available in the system, subject to (paid) registration of the user. SPRR s.74 provides that preparation of bidding documents for procurement of goods,

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works and services shall through e-GP system by procuring agencies already implementing e-GP. Procurement documents are available for inspection and can be downloaded without charge from the e-GP system but only for registered users, who are required to pay for registration. If a potential bidder wishes to submit a tender they must pay for the bidding documents, with the cost being the printing cost.<sup>57</sup>

- **Bid opening:** The e-GP system provides for online bid opening. e-GP Guidelines provide that after the bid opening process is completed all participating bidders will get the bid opening report (BOR) in the tender dashboard.
- **Contract Award:** A list of awarded contracts is freely available in the system. PRR s.6.1.1.3 requires the Letter of Acceptance (LOA) issued through e-GP to all participating bidders to also be published on the e-GP website for public view. This notification must include the name of the successful bidder, the date of the award decision and the price to be paid for the goods, works or services. e-GP system provides a summary of Contract Award Details.
- **Contract implementation /Contract amendments/payments.** As of June 2023, there are no functionalities in systems to ensure the execution phase of contracts.
- **Appeals decisions:** all (100%) are published promptly on the e-GP website and can be accessed by clicking on the “Grievance” tab and following link to “decision”

**Linkages to rules and regulations and other information:** There are links (right hand side of e-GP home page) at e-learning, downloads, resources, to:

- e-GP guidelines
- e-GP User Manuals
- e-GP FAQs
- PRR & SPRR
- Standard Bidding Documents/e-SBDs plus some forms

On the Home page, there are also scrolling links to: Notifications and News and Advertisements. Those are not presented in a user-friendly format and the issuing date is missing. Some of the “news” items are quite old, dating from the first deployment of the e-GP system.

**Community contracting:** there is also a “Report” page which lists community contracts awarded.

### Quantitative analysis

*// Minimum indicator // Quantitative indicators to substantiate assessment of sub-indicator 7(a)  
Assessment criterion (c):*

- *procurement plans published (in % of total number of required procurement plans)*
- *key procurement information published along the procurement cycle (in % of total number of contracts) :*
  - *invitation to bid (in % of total number of contracts)*
  - *contract awards (purpose, supplier, value, variations/amendments)*
  - *details related to contract implementation (milestones, completion and payment)*
  - *annual procurement statistics*
  - *appeals decisions posted within the time frames specified in the law (in %).*

*Source: Centralised online portal.*

<sup>57</sup> Confirmed in discussions between MAPS Assessment Team and procuring agencies, January 2023.

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The use of the e-GP system is mandatory since January 2018. Therefore, all procuring agencies publish:

- Annual Procurement plans
- Invitation to bid
- Contract awards
- Appeals decisions

There is no data for the contract execution phase, as well as statistical information.

### Gap analysis

The e-GP system does not currently address the contract execution phase. Additionally, the information published is not in a machine-readable format, making it difficult for external entities to analyze it. The e-Procurement System does not support Open Contracting Data Standard.

During the lock-down periods caused by the COVID-19 pandemic, serious constraints were placed on the use of the e-GP system. Given the way the system is set up, there is no possibility to suspend deadlines on critical activities. This led to the evaluation of proposals and subsequent phases being conducted offline. On the other hand, and despite the possibility of uploading the documentation resulting from these phases into the system, this did not occur. This constraint resulted in serious difficulties for the evaluation team in conducting the analysis.

### Recommendations

The e-GP System should be enhanced to include the contract execution phase. A module enabling the analysis of procurement information should also be made available. The data to be made available should be presented in a machine-readable format and the adoption of OCDS is also recommended.

### Assessment criterion 7(a)(d):

In support of the concept of open contracting, more comprehensive information is published on the online portal in each phase of the procurement process, including the full set of bidding documents, evaluation reports, full contract documents including technical specification and implementation details (in accordance with legal and regulatory framework).

**Conclusion:** Substantive gap

**Red flag:** No

### Qualitative analysis

Refer to 7(a)(c).

### Gap analysis

Refer to 7(a)(c).

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<b>Recommendations</b> Refer to 7(a)(c).
<b>Assessment criterion 7(a)(e):</b> Information is published in an open and structured machine-readable format, using identifiers and classifications (open data format).*
<b>Conclusion:</b> Substantive gap
<b>Red flag:</b> No
<b>Qualitative analysis</b> Refer to 7(a)(c).
<b>Quantitative analysis</b>  <i>* Recommended quantitative indicator to substantiate assessment of sub-indicator 7(a) Assessment criterion (e):</i> <i>- Share of procurement information and data published in open data formats (in %).</i> <i>Source: Centralised online portal.</i>  There is no information published in open data format.
<b>Gap analysis</b> There is no information published in open data format.
<b>Recommendations</b> Refer to 7(a)(c).
<b>Assessment criterion 7(a)(f):</b> Responsibility for the management and operation of the system is clearly defined.
<b>Conclusion:</b> Substantive gap
<b>Red flag:</b> Yes
<b>Qualitative analysis</b> Responsibility for management and operation of the system is clearly defined and allocated to the PMDD, according to provisions of the PRR. However, in practice, the PMDD is heavily dependent on the e-GP provider and this dependence limits the capacity for effective operation management of the e-GP system. As an example, a strong dependency on the e-GP provider to extract raw data from the e-GP system was verified by the MAPS Assessment Team.  PRR s.8.2.1 Functions of the Government Procurement and Property Management Division, provides that the GPPMD [PMDD] shall have the duties and authorities listed, including: k. coordinate and facilitate, in consultation with the relevant governmental and private organizations in the Kingdom, the policy for the use of information technology in procurement, including the establishment of a GPPMD [PMDD] website for the dissemination of procurement related information and the creation and use of databases for the collection and analysis of procurement reports as defined in (a) above;

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I. coordinate and facilitate, in consultation with the relevant governmental and private organizations in the Kingdom, the development of advanced electronic procurement mechanisms with a view to improving the efficiency of the procurement system;

### Gap analysis

The strong dependency of PMDD on the e-GP provider for management and operation of the system limits the PMDD's capacity for effective operational management of the system and raises potential concerns in terms of succession planning.

Considered Red Flag as these organizational/resource issues are beyond the control of PMDD.

### Recommendations

The creation of an effective capability to operate the e-GP solution within the PMDD is critical for a full exploitation of the solution's benefits and to facilitate longer term succession planning in the event of changes to the current e-GP solution.

### Sub-indicator 7(b) Use of e-Procurement

#### Assessment criterion 7(b)(a):

E-procurement is widely used or progressively implemented in the country at all levels of government.\*

**Conclusion:** No gap

**Red flag:** No

#### Qualitative analysis

The e-GP has been mandatory use in the country since January 2018. The implementation started with a pilot project and has been scaled up and improved to its current state. As of June 2023, the 3rd phase of deployment is expected to occur in July 2023 to include the contract execution phase.

#### Quantitative analysis

// Minimum indicator // \* Quantitative indicators to substantiate assessment of sub-indicator 7(b)  
Assessment criterion (a):

uptake of e-Procurement

- number of e-Procurement procedures in % of total number of procedures

- value of e-Procurement procedures in % of total value of procedures

Source: e-Procurement system.

All procurement is made through the e-GP system. By ALL we mean all, considering the scope of the assessment, which excludes donor-funded projects

#### Gap analysis

#### Recommendations

#### Assessment criterion 7(b)(b):

Government officials have the capacity to plan, develop and manage e-Procurement systems.

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<b>Conclusion:</b> Substantive gap
<b>Red flag:</b> Yes
<b>Qualitative analysis</b> Refer to 7(a)(f). Considered Red Flag as these organizational/resource issues are beyond the control of PMDD.
<b>Gap analysis</b> Refer to 7(a)(f). Considered Red Flag as these organizational/resource issues are beyond the control of PMDD.
<b>Recommendations</b> Refer to 7(a)(f).
<b>Assessment criterion 7(b)(c):</b> Procurement staff is adequately skilled to reliably and efficiently use e-Procurement systems.
<b>Conclusion:</b> Minor gap
<b>Red flag:</b> No
<b>Qualitative analysis</b> <ul style="list-style-type: none"><li>Despite the mandatory use of e-GP in the country since January 2018 publication of detailed e-GP guidelines and despite the massive use, the Assessment Team found that in many cases users do not upload all the relevant information in the system. The e-GP system is not equipped with functionalities that allow it to validate the content of the documents that are uploaded. In addition, and especially during the pandemic, there was a need to remove a number of controls and process and, although partially, some procurement procedures were conducted outside the solution, which led to incomplete processes. In addition, the extreme difficulty experienced by the team in obtaining the complete files of the selected procurement cases led the evaluation team to issue this judgement 'Team found that in many cases users do not upload all the relevant information in the system', although it is not possible to pinpoint whether there is any specific type of missing information.</li></ul>
<b>Gap analysis</b> The assessment found that in many cases users do not upload all the relevant information in the system.
<b>Recommendations</b> A communication and capacity building plan should be developed and delivered with the aim of making users aware of the need to upload all documentation for each procurement process into the e-GP system.
<b>Assessment criterion 7(b)(d):</b> Suppliers (including micro, small and medium-sized enterprises) participate in a public procurement market increasingly dominated by digital technology.*
<b>Conclusion:</b> Minor gap

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**Red flag:** No

### Qualitative analysis

All procurement is done online and there do not seem to be any access constraints for economic operators, regardless of their size. Quantitative data disaggregated by supplier size (e.g., SME vs. large enterprises) is not systematically available at present.

### Quantitative analysis

*\* Recommended quantitative indicators to substantiate assessment of sub-indicator 7(b) Assessment criterion (d):*

- bids submitted online (in %)
- bids submitted online by micro, small and medium-sized enterprises (in %)

Source: e-Procurement system.

### Gap analysis

While all procurement is conducted online through the e-GP system and there are no reported access constraints for economic operators regardless of their size, there is currently no systematic quantitative data available to confirm this observation.

### Recommendations

Strengthen data collection through the e-GP system to monitor participation rates by supplier size and geographic location, and undertake periodic assessments to identify and address any access constraints for small and rural suppliers.

### Assessment criterion 7(b)(e):

If e-Procurement has not yet been introduced, the government has adopted an e-Procurement roadmap based on an e-Procurement readiness assessment.

**Conclusion:** Choose an item.

**Red flag:** Choose an item.

### Qualitative analysis

Not assessed.

### Gap analysis

Not assessed.

### Recommendations

## Sub-indicator 7(c) Strategies to manage procurement data

### Assessment criterion 7(c)(a):

A system is in operation for collecting data on the procurement of goods, works and services, including consulting services, supported by e-Procurement or other information technology.

**Conclusion:** Substantive gap

**Red flag:** Yes

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### Qualitative analysis

Refer to 7(a)(f). Obtaining procurement data from the e-GP system proves to be very limited and data processing is practically non-existent. During the assessment a strong dependency on the e-GP solution provider was detected.

### Gap analysis

The information gathering capacity of the system is limited. There is no autonomy on the part of the PMDD to extract queries relating to the data contained in the system and assigned red flag as resolving these are beyond the control of PMDD.

### Recommendations

Capacity should be created for autonomous extraction of information from the system to produce reports and analysis on procurement.

### Assessment criterion 7(c)(b):

The system manages data for the entire procurement process and allows for analysis of trends, levels of participation, efficiency and economy of procurement and compliance with requirements.

**Conclusion:** Substantive gap

**Red flag:** No

### Qualitative analysis

The system contains information from the pre-contractual phase. The entire contract execution phase is kept outside the system. Given the limitations to the processing of the information mentioned above, analysis of trends, levels of participation, efficiency and economy of procurement and compliance with requirements are not possible.

### Gap analysis

Given the limitations to the processing of the information mentioned above, analysis of trends, levels of participation, efficiency and economy of procurement and compliance with requirements are not possible

### Recommendations

Refer to 7(c)(a).

### Assessment criterion 7(c)(c):

The reliability of the information is high (verified by audits).

**Conclusion:** Substantive gap

**Red flag:** No

### Qualitative analysis

Refer to 7(a)(c).

During the assessment a serious gap in the information stored in the system was identified. The authorities claim that the gaps identified are limited to cases processed during the lock down period resulting from pandemic COVID-19. However, even for those cases where information such as assessment reports were uploaded into the system, there were deficiencies.

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### Gap analysis

The information is not reliable and/or complete. Contract amendments are not stored in the system.

### Recommendations

An effort should be made to empower users to ensure that all information is uploaded into the system, and that the information uploaded is complete.

Control mechanisms must be implemented to block the advancement of processes whose information is not complete. The introduction of open data standards and machine-readable information may allow for automated validation of information quality, and should be considered.

### Assessment criterion 7(c)(d):

Analysis of information is routinely carried out, published and fed back into the system. \*

**Conclusion:** Substantive gap

**Red flag:** No

### Qualitative analysis

Refer to 7(c)(a).

There is no evidence of routine analysis of information.

### Quantitative analysis

// Minimum indicator // \* Quantitative indicators to substantiate assessment of sub-indicator 7(c) Assessment criterion (d):

- total number and value of contracts
- public procurement as a share of government expenditure and as share of GDP
- total value of contracts awarded through competitive methods in the most recent fiscal year.

Source: Normative/regulatory function/E-Procurement system.

Based on data now available from PEFA 2023 at PI -24, total value of procurement undertaken by RGoB entities (i.e., excluding Dzongkhags, Gewogs and Thromdes) during the FY 2021/22 was 5032.41 Nu Million, with share of Open Tender as 76%, Limited Tender as 17%, Limited Enquiry as 4% and Direct Contracting as 3%.

### Gap analysis

There is no routine analysis of information. The share of competitive method compared to Direct Contracting is dominant at 97% in the most fiscal year FY 2021/22

### Recommendations

Refer to 7(a)(c).

## Indicator 8. The public procurement system has a strong capacity to develop and improve

### Sub-indicator 8(a)

#### Training, advice and assistance

There are systems in place that provide for:

### Assessment criterion 8(a)(a):

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Substantive permanent training programmes of suitable quality and content for the needs of the system.

**Conclusion:** Substantive gap

**Red flag:** Yes

### Qualitative analysis.

From 2018 - 2023, the PMDD provided procurement training to 1838 individuals representing procuring agencies

Related to training on procurement feedback from RIM<sup>58</sup> was as under:

- RIM confirmed that they conduct the UK CIPS programme and are an examination centre. They register up to level 6 CIPS and they provide on-line learning.
- RIM was part of e-GP training
- All civil servants are required to participate in a one-month Foundation Programme and, once posted, must undertake high level in-service training.
- In the post-graduate diploma in financial management course there are 40 hours on procurement management which include legislation, procurement, supply chain and contract management<sup>59</sup>.
- PPMD do a lot of training
- RIM also provides training to private sector, if requested

On e-GP Training based on FAQ on e-GP website it is mandatory for identified government agencies who are involved in the procurement activities, and it is optional for the bidders.

In order to provide information and communication on procurement rules and regulations, the division conducts an awareness programme on Procurement Rules and Regulations (reforms 2023) as well as organized a conference in the past<sup>60</sup>

PMDD had provided CIPS professional training to procurement officers with funding support from World Bank. There were total of 5 RGoB officials who completed CIPS level 6 (professional diploma in procurement and although only two officials are now in the civil service) and the majority of them had completed CIPS level four and few of them level five. However, with the termination of the World Bank project, the professional training couldn't be sustained and the new officers that have joined the profession have not been able to avail the training since then.

### Gap analysis

These training do not fully cover the requirement in terms of quality and content for the full range of procurement and contracts management training needs

Although it's one of the main mandates of PMDD to implement measures aimed at developing human resources and professionalism in procurement in the government, due to lack of budgetary and technical support it was not possible to provide such training opportunities

Insufficient permanent training is due to lack of resources. Considered Red Flag as resources are not under the control of PMDD

<sup>58</sup>Meeting with Royal Institute of Management (RIM) on 20 January 2023

<sup>59</sup>[http://www.rim.edu.bt/?page\\_id=9195](http://www.rim.edu.bt/?page_id=9195)

<sup>60</sup>Clarification provided by PMDD on July 22, 2023

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<b>Recommendations</b> MoF to provide resources for a sustainable and suitable training
<b>Assessment criterion 8(a)(b):</b> Routine evaluation and periodic adjustment of training programmes based on feedback and need.
<b>Conclusion:</b> Substantive gap
<b>Red flag:</b> Yes
<b>Qualitative analysis</b> From 2018 to 2023, the PMDD provided procurement training to 1838 individuals representing procuring agencies. Training on the e-GP system and PRR was provided.  As indicated above there are limited training opportunities now due to lack of resources
<b>Gap analysis</b> There is no evidence of any feedback mechanism on routine evaluation and periodic adjustment of training needs. Considered Red Flag as resources are not under the control of PMDD
<b>Recommendations</b> MoF to provide resources for training including dedicated officers in PMDD on training and capacity building who also ensure that feedback is obtained on training conducted for improvements in future
<b>Assessment criterion 8(a)(c):</b> Advisory service or help desk function to resolve questions by procuring entities, suppliers and the public.
<b>Conclusion:</b> Minor gap
<b>Red flag:</b> No
<b>Qualitative analysis</b> <b>Related to e-GP based on FAQ,</b> most preferred mode of communication is by reaching the PMDD office via <a href="mailto:gppmd@mof.gov.bt">gppmd@mof.gov.bt</a> . Further clarifications can be obtained by calling the helpdesk numbers provided under "Contact us" at the bottom of e-GP home page.  To address the frequently asked questions about e-GP, PMDD has created video tutorials (19 videos) with funding from the RGoB to supplement the communication provided through email and call helpdesk numbers. <sup>61</sup>  PMDD, as a division, clarifies procurement policy questions via email and helpline numbers listed on the e-GP home page. In the past, when funds were available, the division provided training opportunities to both government agencies and private sectors on the use of the e-GP system. In addition, the division also provided awareness programme on procurement rules and regulations and related standard bidding documents. Due to budget restrictions, the division is now providing virtual awareness of e-GP and PRR reforms. Based on the number of emails and phone calls received by the

<sup>61</sup>Based on clarification provided by PMDD on July 12, 2023.

## Pillar II. Institutional Framework and Management Capacity

division asking for clarifications, it appears that the virtual method of giving training and awareness is ineffective.
<b>Gap analysis</b> Virtual training is not that effective. No in person training due to lack of resources
<b>Recommendations</b> MoF to provide resources for in person training for make it more effective
<b>Assessment criterion 8(a)(d):</b> A strategy well-integrated with other measures for developing the capacity of key actors involved in public procurement.
<b>Conclusion:</b> Substantive gap
<b>Red flag:</b> Yes
<b>Qualitative analysis</b> As explained above the training programs are insufficient
<b>Gap analysis</b> There is no strategy to improve capacity of key actors involved in public procurement. Considered Red Flag as resources are not under the control of PMDD
<b>Recommendations</b> MoF/PMDD to make concerted efforts to provide resources and take measures developing the capacity of key actors involved in public procurement.
<b>Sub-indicator 8(b)</b> <b>Recognition of procurement as a profession</b> The country's public service recognises procurement as a profession:
<b>Assessment criterion 8(b)(a):</b> Procurement is recognised as a specific function, with procurement positions defined at different professional levels, and job descriptions and the requisite qualifications and competencies specified.
<b>Conclusion:</b> Minor gap
<b>Red flag:</b> No
<b>Qualitative analysis</b>  Procurement is recognized as a profession and part of civil service.  As per Royal Civil Service Commission website, there is Competency Based Framework (CBF) for procurement officers with job description. link provided below:  <a href="https://www.rcsc.gov.bt/en/competency/">https://www.rcsc.gov.bt/en/competency/</a>  <a href="https://www.rcsc.gov.bt/wp-content/uploads/2021/04/CBF-Final-Report.pdf">https://www.rcsc.gov.bt/wp-content/uploads/2021/04/CBF-Final-Report.pdf</a> (Competency-based framework for procurement officer).  <a href="https://www.rcsc.gov.bt/en/property-management-services/">https://www.rcsc.gov.bt/en/property-management-services/</a> (Job Description )

## Pillar II. Institutional Framework and Management Capacity

Based on the CBF<sup>62</sup> Final report, “The CBF of the procurement officer has been developed to further enhance the capacity and capabilities of the procurement officers to be efficient and effective in the changing dynamics of responsibilities. It highlights the Knowledge, Skills and Abilities (KSA) required for Procurement Officers at various levels to achieve a high level of professional competencies and deliver the highest standard services. The framework is developed with the following aim and objectives. The competency framework for procurement officers includes 3 role profiles, 2 competency areas, 24 key competencies-15 technical competencies and 9 leadership competencies and 37 behavioral indicators exclusively identified and designed for the procurement officers in the Civil Service

As per the CBF Final Report, the taskforce team after attending 5 days cascading workshop from 23rd to 28th November 2021 developed this Competency Based Framework by having retreat, consultation meetings with Procurement colleagues, presentation of draft CBF to the Management-Department and Ministerial HRC

Related to Job Description of Procurement Officers, it is defined from the level P5 Assistant Procurement Officers; P4 Procurement Officer; P3 Senior Procurement Officer; P2 Dy Chief Procurement Officer and P1 Chief Procurement Officer. For each of these positions the Job Description document defines (i) job identification; (ii) duties and responsibilities; (iii) knowledge and skills requirements; (iv) complexity of work; (v) scope and effect of work; (vi) instructions and guidelines and guidelines available; (vii) work relationship; (viii) supervision over others; and (ix) job environment

These documents on CBF and Job Description are well written and provides good guidance on specific function, with procurement positions defined at different professional levels, and job descriptions and the requisite qualifications and competencies, as required by this assessment criteria

### **Gap analysis**

It is not evident how CBF is implemented in practice due to lack of resources

### **Recommendations**

As per CBF recommendations. “Based on the current competency gap analysis in CBF, various short term and long-term competency development interventions are recommended including classroom setting, online training sessions, workshops, seminars and master's courses to build the competencies of Procurement Officers at various proficiency levels”. MoF to find resources to implement the recommendations

### **Assessment criterion 8(b)(b):**

Appointments and promotion are competitive and based on qualifications and professional certification.

**Conclusion:** No gap

**Red flag:** No

<sup>62</sup>[CBF-Final-Report.pdf \(rcsc.gov.bt\)](#)

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<p><b>Qualitative analysis</b></p> <p>As per CBF and Job description for every position level, CIPs or equivalent certificate is required.</p>
<p><b>Gap analysis</b></p>
<p><b>Recommendations</b></p>
<p><b>Assessment criterion 8(b)(c):</b> Staff performance is evaluated on a regular and consistent basis, and staff development and adequate training is provided.</p>
<p><b>Conclusion:</b> Minor gap</p>
<p><b>Red flag:</b> No</p>
<p><b>Qualitative analysis</b></p> <p>The IWP is used to evaluate staff performance. There is no budget to support staff development and training. PMDD was able to host three yearly conferences (2018-2020) for all procurement professionals.</p>
<p><b>Gap analysis</b></p> <p>As explained above, there is lack of resources</p>
<p><b>Recommendations</b></p> <p>Adequate resources to be provided</p>
<p style="text-align: center;"><b>Sub-indicator 8(c)</b> <b>Monitoring performance to improve the system</b></p>
<p><b>Assessment criterion 8(c)(a):</b> The country has established and consistently applies a performance measurement system that focuses on both quantitative and qualitative aspects.</p>
<p><b>Conclusion:</b> Substantive gap</p>
<p><b>Red flag:</b> Yes</p>
<p><b>Qualitative analysis</b></p> <p>On performance assessment system, RCSC (Royal Civil Service Commission) has one system known as the MAX system (Managing for Excellence), which is mandatory for all civil servants. There is no such performance measurement system for procurement</p>
<p><b>Gap analysis</b></p> <p>No performance measurement system for procurement Considered Red Flag as PMDD was not a situation to develop any performance measurement system, mostly due to resource constraint</p>
<p><b>Recommendations</b></p> <p>PMDD/MoF to develop performance measurement system, on the lines of those in neighboring countries, as part of e- Procurement</p>
<p><b>Assessment criterion 8(c)(b):</b> The information is used to support strategic policy making on procurement.</p>
<p><b>Conclusion:</b> Substantive gap</p>

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<b>Red flag: Yes</b>
<b>Qualitative analysis</b> Explained above
<b>Gap analysis</b> Explained above. Red Flag as explained under 8 ( c ) ( a )
<b>Recommendations</b> Explained above
<b>Assessment criterion 8(c)(c):</b> Strategic plans, including results frameworks, are in place and used to improve the system.
<b>Conclusion:</b> Substantive gap
<b>Red flag: Yes</b>
<b>Qualitative analysis</b> Explained above
<b>Gap analysis</b> Explained above
<b>Recommendations</b> Explained above
<b>Assessment criterion 8(c)(d):</b> Responsibilities are clearly defined.
<b>Conclusion:</b> Substantive gap
<b>Red flag: Yes</b>
<b>Qualitative analysis</b> As above Red flag as explained above under 8 ( c ) ( a )
<b>Gap analysis</b> As above
<b>Recommendations</b> As above

**Indicator 9. Public procurement practices achieve stated objectives**

<b>Sub-indicator 9(a) Planning</b>
<p><b>Assessment criterion 9(a)(a):</b> Needs analysis and market research guide a proactive identification of optimal procurement strategies.</p>
<p><b>Conclusion:</b> Substantive gap</p>
<p><b>Red flag:</b> No</p>
<p><b>Qualitative analysis</b> Although there is evidence of procurement planning, which can be seen as a baseline for the definition of a procurement strategy, evidence could not be obtained to sustain the existence of market research.</p>
<p><b>Gap analysis</b> There is no evidence of PA’s conducting market research.</p>
<p><b>Recommendations</b> PA’s to conduct market research eventually based in Guidelines to be issued by PMDD on the subject.</p>
<p><b>Assessment criterion 9(a)(b):</b> The requirements and desired outcomes of contracts are clearly defined.</p>
<p><b>Conclusion:</b> No gap</p>
<p><b>Red flag:</b> No</p>
<p><b>Qualitative analysis</b> Standard Bidding Documents for different types of contracts and amounts are available at <a href="https://www.egp.gov.bt/eSBDs.jsp">https://www.egp.gov.bt/eSBDs.jsp</a>. Those documents follow MDB’s guidelines and allow for a clear definition of the requirements and desired outcomes. In addition, from the sample analysis, the assessment team could identify the use of SBD’s in different cases, with no or minor deviations from the standard.  Nevertheless, during the Workshop with Private Sector representatives held in Thimphu during the assessment team mission to Bhutan, situations where the described where meeting the requirements set is very difficult for local suppliers, mainly due to the high dependence on the foreign markets to supply the country.</p>
<p><b>Gap analysis</b> No gaps were identified.</p>
<p><b>Recommendations</b></p>
<p><b>Suggestion for improvement</b> Following the recommendation to 9(a)(a) above, PA’s should perform market research to ensure the requirements are suitable for the market conditions.</p>
<p><b>Assessment criterion 9(a)(c):</b> Sustainability criteria, if any, are used in a balanced manner and in accordance with national priorities, to ensure value for money.</p>

## Pillar III. Public Procurement Operations and Market Practices

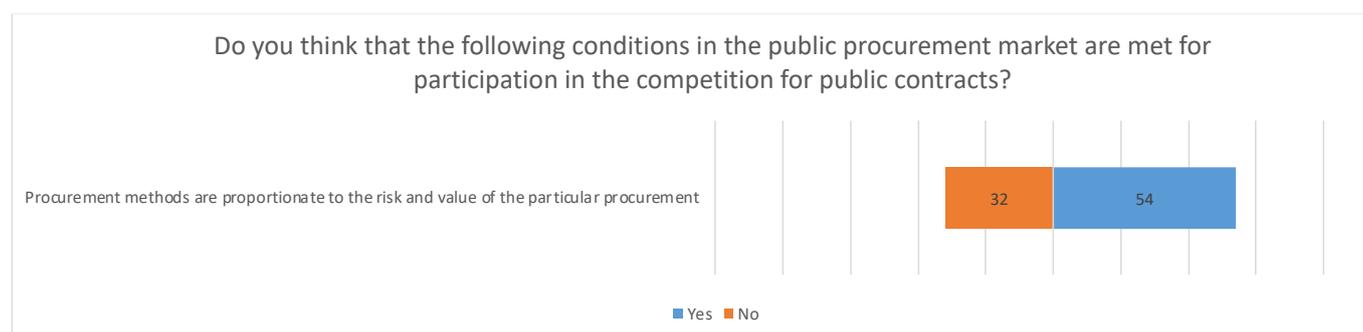
<p><b>Conclusion:</b> Substantive gap</p>
<p><b>Red flag:</b> Yes</p>
<p><b>Qualitative analysis</b> See analysis of (1) impact of Sustainable Development Fee (SDF) at 1(d)(b) and (2) SPP at Indicator 3(a)(a) to 3(a)(c)</p>
<p><b>Gap analysis</b> See Gaps in relation to (1) impact of Sustainable Development Fee (SDF) at 1(d)(b) and (2) SPP at Indicator 3(a)(a) to 3(a)(c) and Rationale for Red Flag</p>
<p><b>Recommendations</b> See Recommendations in relation to (1) impact of Sustainable Development Fee (SDF) at 1(d)(b) and (2) SPP at Indicator 3(a)(a) to 3(a)(c)</p>
<p><b>Sub-indicator 9(b)</b> <b>Selection and contracting</b></p>
<p><b>Assessment criterion 9(b)(a):</b> Multi-stage procedures are used in complex procurements to ensure that only qualified and eligible participants are included in the competitive process.</p>
<p><b>Conclusion:</b> Substantive gap</p>
<p><b>Red flag:</b> No</p>
<p><b>Qualitative analysis</b> According to the information collected during the assessment team mission to Bhutan, two-stage biddings were used in the past. However, since the introduction of e-GP in the country, PA's have not been using two-stage bidding as this method is not available in the system.</p>
<p><b>Gap analysis</b> The use of two-stage bidding is not in place.</p>
<p><b>Recommendations</b> PMDD to enhance the e-GP system to allow for two-stage bidding, including use of Design Build contest (Performance/output-based contracting) instead of just item rate contracts.</p>
<p><b>Assessment criterion 9(b)(b):</b> Clear and integrated procurement documents, standardized where possible and proportionate to the need, are used to encourage broad participation from potential competitors.</p>
<p><b>Conclusion:</b> No gap</p>
<p><b>Red flag:</b> No</p>
<p><b>Qualitative analysis</b></p>

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As stated in 9(a)(b), Standard Bidding Documents for different types of contracts and amounts are available at <https://www.egp.gov.bt/eSBDs.jsp>. Those documents follow MDB's guidelines and allow for a clear definition of the requirements and desired outcomes.

In addition, from the sample analysis, the assessment team could identify the use of SBD's in different cases, with no or minor deviations from the standard.

When inquired about the choice of procurement methods by Procuring Agencies, 63% of the respondents to the Private Sector Survey agreed that those are proportionate to the risk and value of the particular procurement.



**Source:** Private Sector Survey

### Gap analysis

No gaps were identified.

### Recommendations

#### Assessment criterion 9(b)(c):

Procurement methods are chosen, documented and justified in accordance with the purpose and in compliance with the legal framework.

**Conclusion:** Minor gap

**Red flag:** No

### Qualitative analysis

Based on the interviews with the procuring agencies, and on the sample, cases analyzed, procurement methods are chosen in accordance with the purpose and in compliance with the legal framework.

### Gap analysis

The use of two-stage bidding for complex procurement is not in place.

### Recommendations

Same as 9(b)(a).

#### Assessment criterion 9(b)(d):

Procedures for bid submission, receipt and opening are clearly described in the procurement documents and complied with. This means, for instance, allowing bidders or their representatives to attend bid openings, and allowing civil society to monitor bid submission, receipt and opening, as prescribed.

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<b>Conclusion:</b> Minor gap
<b>Red flag:</b> No
<b>Qualitative analysis</b> Procedures for bid submission, receipt and opening are clearly described in the procurement documents and guidelines are available in <a href="https://www.egp.gov.bt/eSBDs.jsp">https://www.egp.gov.bt/eSBDs.jsp</a> . However, during the COVID-19 pandemic, due to limitations in the e-GP system, several procurements were initiated in the e-GP system and finalized outside of it, with severe impact on traceability and compliance with publication requirements. This was highly seen in the analyzed sample, where in several cases evaluation reports and contracts were not available in the system. Adding to that, during the Workshop with Private Sector representatives held in Thimphu during the assessment team mission to Bhutan, representatives claimed that although they are allowed to attend bid openings, this is useless, as they fear to be added to “informal blacklists” if they dare to challenge any decision.  Civil Society engagement in public procurement is limited or inexistant.
<b>Gap analysis</b> Civil Society engagement in public procurement is limited or non-existent.
<b>Recommendations</b> PMDD to take measures to promote CSO’s engagement. Such measure should include a capacity building programme to build CSO’s capacity in terms of procurement data analysis.
<b>Assessment criterion 9(b)(e):</b> Throughout the bid evaluation and award process, confidentiality is ensured.
<b>Conclusion:</b> Minor gap
<b>Red flag:</b> No
<b>Qualitative analysis</b> Bhutan’s e-GP system ensures confidentiality throughout the evaluation and award process. Nevertheless, and during the COVID-19 Pandemic, cases were report when part of the process was conducted offline. In such cases, there is no clarity about confidentiality being ensured.
<b>Gap analysis</b> Some of the sample cases were not fully completed through the e-GP system. This situation lead to a lack of clarity about confidentiality being ensured.
<b>Recommendations</b> PMDD to enhance the e-GP system to avoid situations in which the PA’s took part of the process offline to overcome difficulties dealing with rigid deadlines.
<b>Assessment criterion 9(b)(f):</b> Appropriate techniques are applied, to determine best value for money based on the criteria stated in the procurement documents and to award the contract.

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**Conclusion:** No gap

**Red flag:** No

### Qualitative analysis

The analyzed sample provided several examples of good use of Standard Bidding Documents with awarding criteria defined in a way seeking the best value for money.

The above seems to be reinforced by the perception of the respondents to the Private Sector Survey whose majority agreed that the award criterion is usually simple and objective and that both procurement methods and contract provisions contribute to a good risk management.



**Source:** Private Sector Survey

### Gap analysis

No gaps were identified.

### Recommendations

#### Assessment criterion 9(b)(g):

Contract awards are announced as prescribed

**Conclusion:** No gap

**Red flag:** No

### Qualitative analysis

Contract awards are published in the e-GP system, available at <https://www.egp.gov.bt/resources/common/ContractListing.jsp>.

### Gap analysis

There is no gap.

### Recommendations

#### Assessment criterion 9(b)(h):

Contract clauses include sustainability considerations, where appropriate

**Conclusion:** Substantive gap

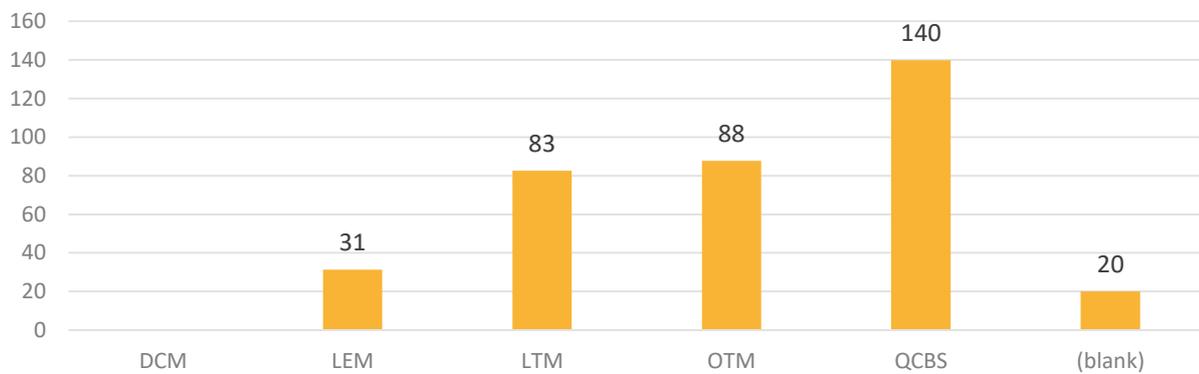
**Red flag:** No

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<p><b>Qualitative analysis</b> See Indicator 3 and 9(a)(c) above.</p>
<p><b>Gap analysis</b> See Indicator 3 and 9(a)(c) above.</p>
<p><b>Recommendations</b> See Indicator 3 and 9(a)(c) above.</p>
<p><b>Assessment criterion 9(b)(i):</b> Contract clauses provide incentives for exceeding defined performance levels and disincentives for poor performance</p>
<p><b>Conclusion:</b> Substantive gap</p>
<p><b>Red flag:</b> No</p>
<p><b>Qualitative analysis</b> No instances were found where performance is incentivized through contractual clauses. Instead, poor performance is addressed by penalties, which is a common method for managing performance-related issues.</p>
<p><b>Gap analysis</b> There are no clauses to incentive for exceeding defined performance. On the contrary, poor performance is disincentivized through the existence of penalties.</p>
<p><b>Recommendations</b> PMDD to update the Standard Bidding Documents to include provisions to incentive defined performance level.</p>
<p><b>Assessment criterion 9(b)(j):</b> The selection and award process is carried out effectively, efficiently and in a transparent way*</p>
<p><b>Conclusion:</b> Minor gap</p>
<p><b>Red flag:</b> No</p>
<p><b>Qualitative analysis</b> Bhutan's Public Procurement System appears to function in line with international best practices. It offers procurement methods appropriate to the expected outcome and associated risks. The time taken between the announcement/invitation and signing of the contract is appropriate to the complexity of the procedures. The number of responsive bids is sufficient to ensure healthy levels of competition, especially in the Limited Enquiry Method which averages over 10 responsive bids. The sample also showed that the vast majority of contracts are successfully executed. However, there are some cancellations justified by unsuccessful bids. This fact justifies analysis to identify root causes. In addition, the majority of the contracts are awarded within the initial validity of the bid.</p>
<p><b>Quantitative analysis</b></p>

# Pillar III. Public Procurement Operations and Market Practices

Average of Number of Days between advertisement/solicitation and contract signature



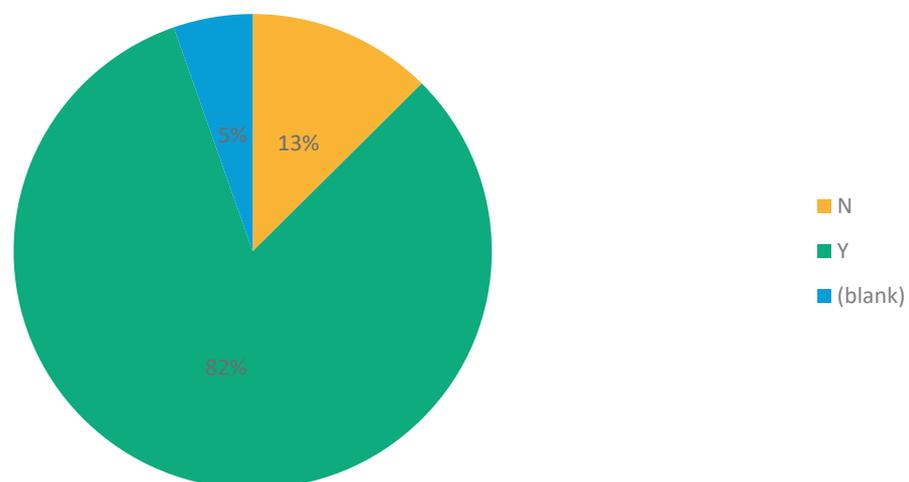
Source: Sample of procurement cases

Average number of bids that are responsive



Source: Sample of procurement cases

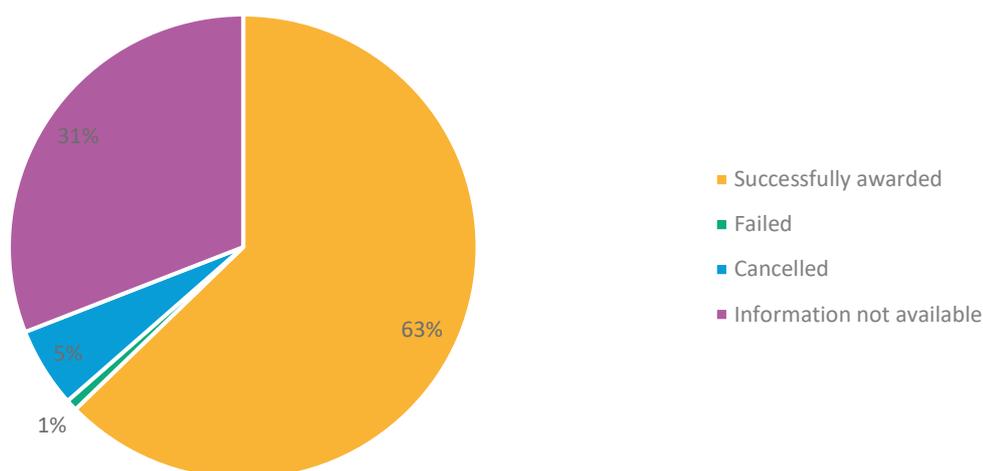
Share of processes that have been conducted in full compliance with publication requirements



## Pillar III. Public Procurement Operations and Market Practices

Source: Sample of procurement cases

Number (and %) of successful processes (successfully awarded; failed; cancelled; awarded within defined time frames)



Source: Sample of procurement cases

### Gap analysis

There are some tender cancellations justified by unsuccessful bids. This fact justifies analysis to identify root causes.

### Recommendations

PMDD to analyze the root causes of unsuccessful bids.

### Sub-indicator 9(c) Contract management

#### Assessment criterion 9(c)(a):

Contracts are implemented in a timely manner.\*

**Conclusion:** Minor gap

**Red flag:** No

#### Qualitative analysis

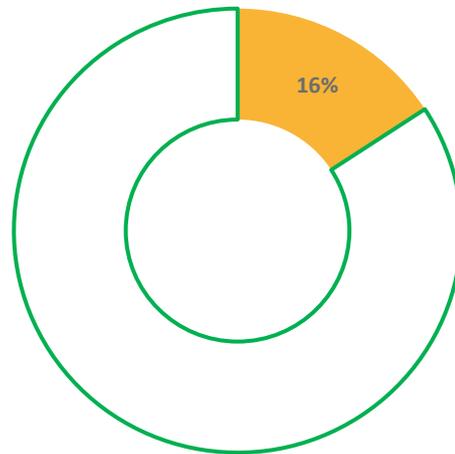
The sample of procurement cases shows a percentage of less than 20% of contracts whose execution exceeds the time initially foreseen, including both service and works contracts. The same sample shows an average delay of more than 30 days. However, it should be noted that some of the cases reported are due to exceptional situations created by the COVID-19 pandemic.

In the responses to the Private Sector Survey, there is a high prevalence of operators who state that they have already started work late, due to delays in the delivery of the site. Additionally, 57% of the responses indicate delays during project execution.

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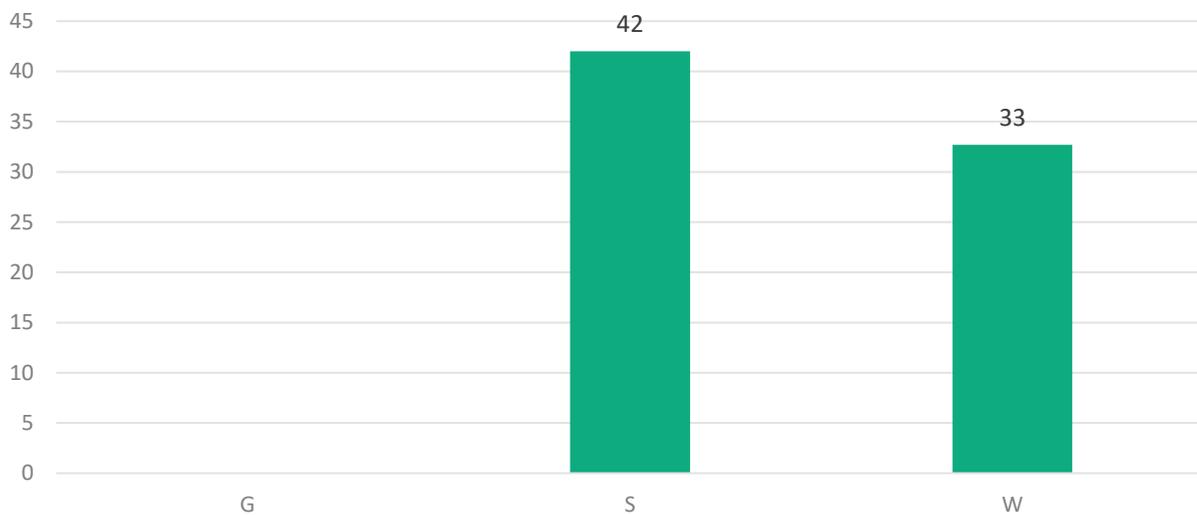
## Quantitative analysis

### Percentage of contracts with time overruns



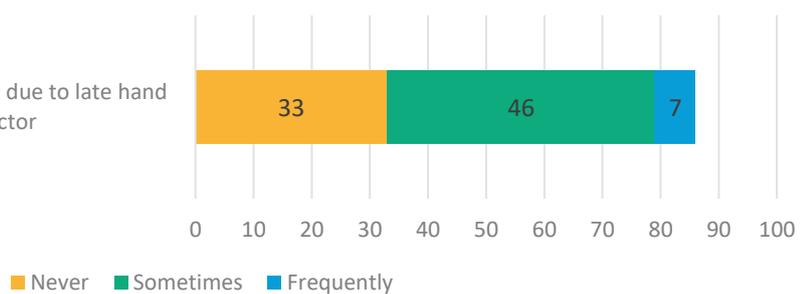
Source: Sample of procurement cases

### Average delay in days per type of contract



Source: Sample of procurement cases

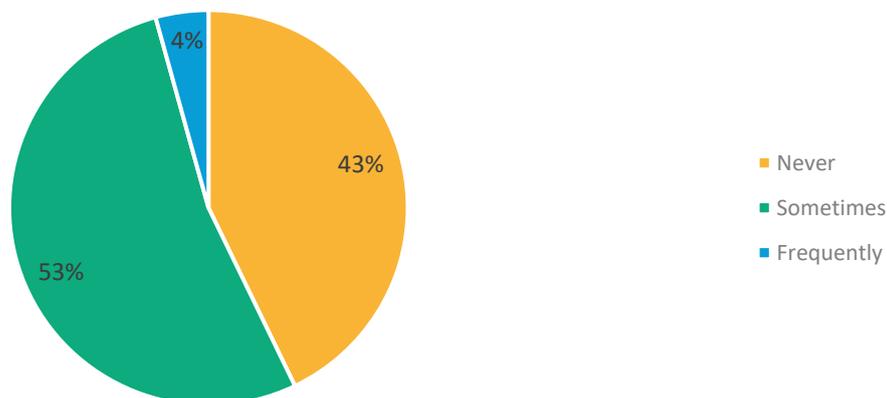
### Commencement of the works was delayed due to late hand over of the site to the contractor



Source: Private Sector Survey

## Pillar III. Public Procurement Operations and Market Practices

For the contract implementation phase, how often has your company/organization experienced the project completion was delayed



Source: Private Sector Survey

### Gap analysis

The sample of procurement cases shows a percentage of less than 20% of contracts whose execution exceeds the time initially foreseen. There are inconsistencies between the private sector perception and the data collected.

### Recommendations

PMDD to initiate a process to assess the existence and impact of delays in contract execution per type of contract. This should be followed by the creation of Guidelines to be circulated among PA's to mitigate potential risks related to delays in execution.

### Assessment criterion 9(c)(b):

Inspection, quality control, supervision of work and final acceptance of products is carried out.\*

**Conclusion:** Minor gap

**Red flag:** No

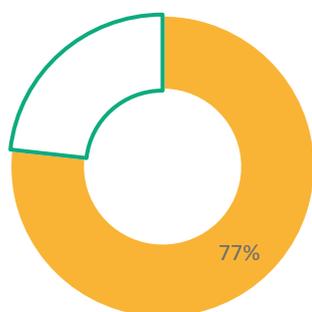
### Qualitative analysis

The sample revealed that in 77% of the cases inspection, quality control or supervision of the works and final acceptance of the goods were carried out. However, economic operators revealed to the assessment team that supervisory actions are almost non-existent.

### Quantitative analysis

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Percentage of cases in which quality-control measures and final acceptance were carried out as stipulated



**Source:** Sample of procurement cases

### Gap analysis

There are cases in which quality control/inspection is not carried out. This may jeopardize the results and expected outcomes.

### Recommendations

PMDD to draft Guidelines on how to execute quality control/supervision actions and to prepare a capacity building programme to ensure adoption by PA's.

### Assessment criterion 9(c)(c):

Invoices are examined, time limits for payments comply with good international practices, and payments are processed as stipulated in the contract.

**Conclusion:** Minor gap

**Red flag:** No

### Qualitative analysis

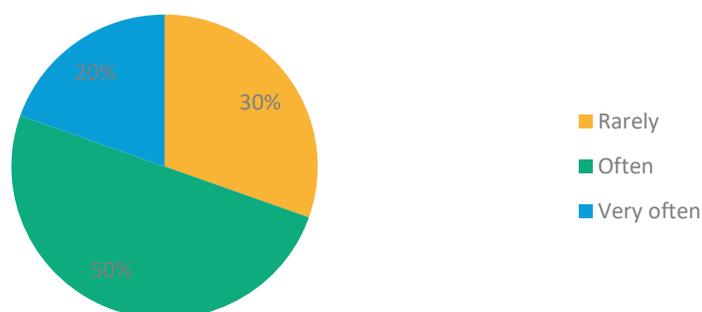
Generally, payments are made within reasonable timeframes. However, economic operators reported situations in which payment exceeded 60 days.

In the Private Sector Survey, economic operators mentioned the verification of invoices process as being one of the sources for payments delays.

### Quantitative analysis

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In your view, how often do the the payment was delayed because of delay in verification of invoices?



Source: Private Sector Survey

### Gap analysis

There are cases where payments are not made on time.

### Recommendations

Payment deadlines should be monitored to ensure 100% compliance.

### Assessment criterion 9(c)(d):

Contract amendments are reviewed, issued and published in a timely manner.\*

**Conclusion:** Substantive gap

**Red flag:** No

### Qualitative analysis

The sample revealed a number of situations where the signature of addenda would be necessary, notably by extension of the original contracts. However, only in two cases in the sample were addenda signed.

### Quantitative analysis

Please see above.

### Gap analysis

Issuing contract amendments is not a practice.

### Recommendations

PMDD to draft Guidelines and to prepare a capacity building programme to ensure adoption by PA's.

### Assessment criterion 9(c)(e):

Procurement statistics are available and a system is in place to measure and improve procurement practices.

**Conclusion:** Substantive gap

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**Red flag:** No

### Qualitative analysis

Statistics on public procurement are not available, either through open consultation mechanisms or through published reports. However, a number of reforms are underway to improve current procurement practices, including improvements to the e-GP system.

### Gap analysis

Procurement statistics are not available.

### Recommendations

Conditions should be created for an effective analysis of procurement data by the country's authorities and by the civil society. The adoption of Open Contracting Data Standards in the e-GP solution can support this path.

### Assessment criterion 9(c)(f):

Opportunities for direct involvement of relevant external stakeholders in public procurement are utilised.\*

**Conclusion:** Substantive gap

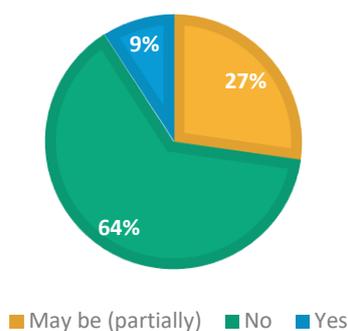
**Red flag:** No

### Qualitative analysis

Civil Society involvement in Public Procurement is not a practice. In fact, in the response to the survey launched, 64% of CSOs state that their participation is not encouraged. Also in the context of this survey, it was mentioned by respondents that the limited participation of CSOs occurs essentially in projects financed by Development Partners. One of the gaps identified is the lack of capacity of CSOs, with 73% of respondents stating that there are no capacity-building programmes to promote their participation in the active monitoring of public procurement.

### Quantitative analysis

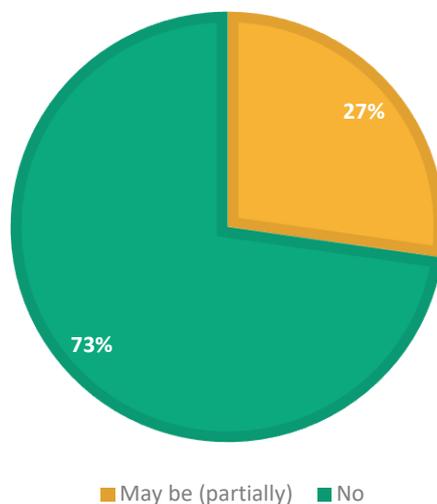
Are CSOs permitted or encouraged to act as observers, actively monitor or have other involvement in preparation for or conduct of procurement proceedings?



**Source:** Survey to the Civil Society Organizations

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Are there programs in place to build the capacity of csos to support participatory in the public procurement?



**Source:** Survey to the Civil Society Organizations

### Gap analysis

Civil Society involvement in Public Procurement is not a practice.

### Recommendations

See 9(c)(e).

The active participation of CSOs in monitoring public procurement should be promoted. Additionally, a capacity building programme should be created to ensure that CSO members have the necessary knowledge to participate and contribute to better results and outcomes.

### Assessment criterion 9(c)(g):

The records are complete and accurate, and easily accessible in a single file.\*

**Conclusion:** Substantive gap

**Red flag:** Yes

### Qualitative analysis

See 1(k).

The Assessment Team encountered serious difficulties in obtaining all the documents related to the sample. Most of the sample files were incomplete and it was clear that there is no policy on safekeeping and retention of procurement records. The e-GP solution, although offering the capability to store documents, did not have much of the documentation produced throughout the procurement process. The documentation of various processes was dispersed or non-existent, and this situation worsened when there was a change of process or contract manager.

### Quantitative analysis

See above.

### Gap analysis

The records are not complete or accurate and are not easily accessible in a single file.

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This Gap is allocated a red flag because remedying the Gap is not solely in the purview of MoF/PMDD and requires inter-institutional cooperation.

### Recommendations

Efforts to be made to make records easily accessible. The use of e-GP should be enhanced. A survey of all limitations and the correction of some gaps should be promoted.

### Indicator 10. The public procurement market is fully functional

#### Sub-indicator 10(a)

#### Dialogue and partnerships between public and private sector

##### Assessment criterion 10(a)(a):

The government encourages open dialogue with the private sector. Several established and formal mechanisms are available for open dialogue through associations or other means, including a transparent and consultative process when formulating changes to the public procurement system. The dialogue follows the applicable ethics and integrity rules of the government.\*

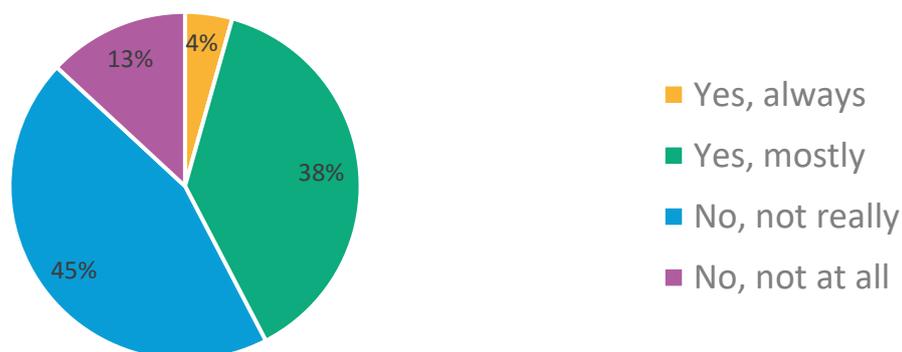
**Conclusion:** Minor gap

**Red flag:** No

##### Qualitative analysis

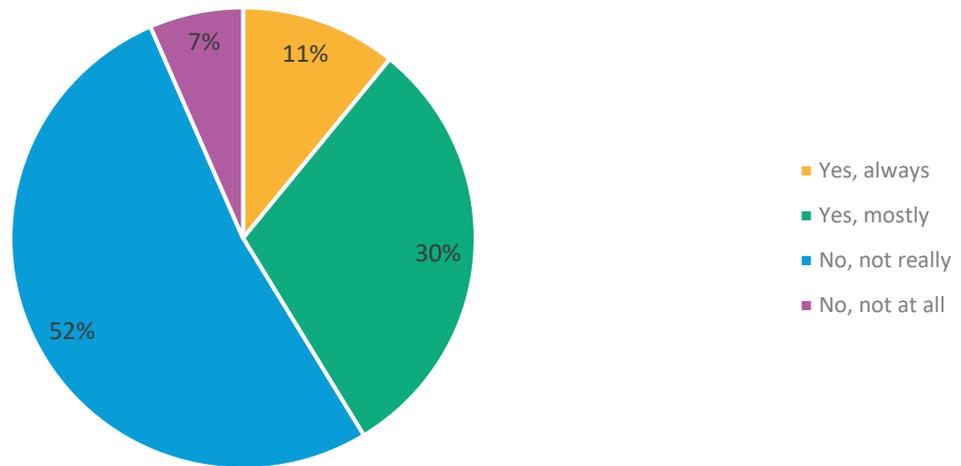
This analysis is based on private sector survey from 92 respondents and additional feedback in face-to-face meeting in Thimphu on January 18, 2023

Does the government get in touch with associations or organizations representing the private sector or business interests (e.g. Bhutan Chamber of Commerce and Industry(BCCI), Construction Association of Bhutan (CAB), etc.) to communicate changes to the le

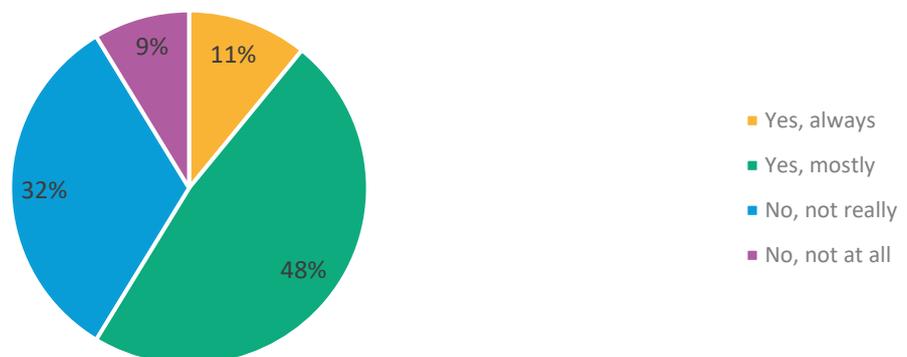


## Pillar III. Public Procurement Operations and Market Practices

Do you find the changes to the legal procurement framework difficult to follow?



Do you have the resources to keep up with the changes made to the legislative framework?



### Quantitative analysis

\* Recommended quantitative indicator to substantiate assessment of sub-indicator 10(a) Assessment criterion (a):

- perception of openness and effectiveness in engaging with the private sector (in % of responses).

Source: Survey.

## Pillar III. Public Procurement Operations and Market Practices

### Gap analysis

Based on the above data it is seen that about 50% of respondents report that there is lack of openness and effectiveness in engaging with private sector while formulating changes to procurement policy

### Recommendations

RGoB to take steps to improve the perception on openness and engagement with private sector by instituting a formal mechanism for consultations.

### Assessment criterion 10(a)(b):

The government has programmes to help build capacity among private companies, including for small businesses and training to help new entries into the public procurement marketplace.

**Conclusion:** Substantive gap

**Red flag:** Yes

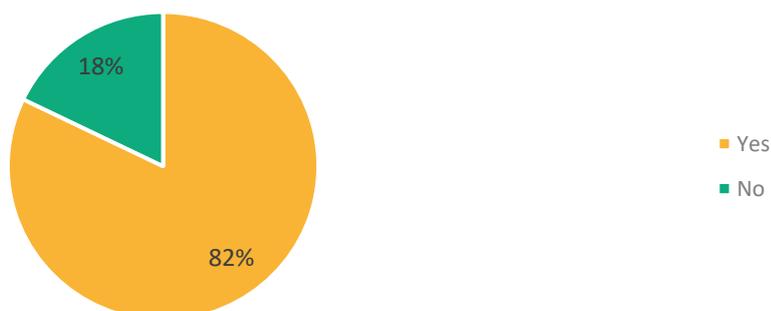
### Qualitative analysis

Government has inadequate resources to build capacity among private sector

Does the government help you keep pace with procurement reforms? Are you aware of training, guidelines, helplines, programs/support being provided by the government for private contractors and for SMEs?



have you ever participated in such a program or training or information session?



## Pillar III. Public Procurement Operations and Market Practices

### Gap analysis

Inadequate resources with the government to train and develop capacity of the private sector. Considered Red Flag as resources are not under control of PMDD and requires interinstitutional support

### Recommendations

PMDD to be provided with resources to train and build capacity of the private sector

### Sub-indicator 10(b)

#### Private sector's organisation and access to the public procurement market

### Assessment criterion 10(b)(a):

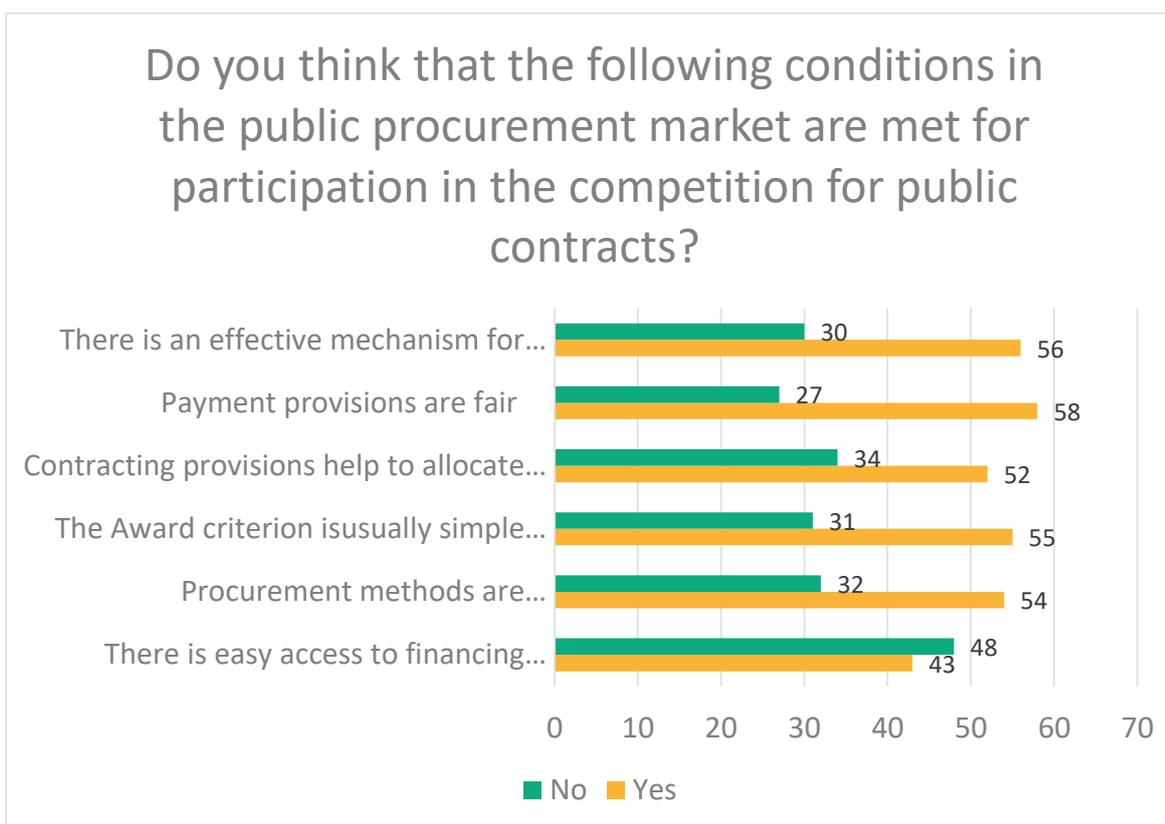
The private sector is competitive, well-organised, willing and able to participate in the competition for public procurement contracts.\*

**Conclusion:** Minor gap

**Red flag:** No

### Qualitative analysis

The question and responses from 92 participants



### Quantitative analysis

\* Recommended quantitative indicator to substantiate assessment of sub-indicator 10(b) Assessment criterion (a):

- number of registered suppliers as a share of total number of suppliers in the country (in %)
- share of registered suppliers that are participants and awarded contracts (in % of total number of registered suppliers)

## Pillar III. Public Procurement Operations and Market Practices

• *total number and value of contracts awarded to domestic/foreign firms (and in % of total)*  
Source: E-Procurement system/Supplier Database.

Based on information given by PMDD:

1. No. of national bidder registered in e-GP system – 6094
2. No. of international bidder registered - 34
3. Total registered bidders in e-GP system = 6128.
4. Contract awarded through e-GP system – 3178 bidders.
5. Total value of contract awarded through e-GP system = Nu. 11763 million (national bidder).

### Gap analysis

There are constraints for private sector to participate, where based on response received between 30-50% of responses on constraints like access to financing, procurement methods proportional to risk, reasonable contracting provisions and award conditions

Based on face-to-face interaction with private sector in January 2023, and feedback it was noted as Bhutan is a land locked country it impacts the capacity of the private sector that is highly dependent on imports and external capacity, often hard to get.

### Recommendations

Government to enhance dialogue with private sector participants to remove constraints

### Assessment criterion 10(b)(b):

There are no major systemic constraints inhibiting private sector access to the public procurement market.

**Conclusion:** Minor gap

**Red flag:** No

### Qualitative analysis

Please see data as above

### Quantitative analysis

*\* Recommended quantitative indicator to substantiate assessment of sub-indicator 10(b) Assessment criterion (b):*

*- perception of firms on the appropriateness of conditions in the public procurement market (in % of responses).*

*Source: Survey.*

### Gap analysis

Based on the above that there is system constraint on payment provisions, award criterion and access to financing based on majority of response.

Further based on face-to-face interaction with private sector, it was noted that: (i) there are several complaints about the e-gp system - outdated system that requires improvement; (ii) failures during contract execution due to poor management, lack of supervision and cost constraints; (iii) several procurements with requirements that are very hard to meet; and (iv) no debriefs are provided to the private sector

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<p><b>Recommendations</b></p> <p>Government to consider steps to remove systemic constraints on payment provisions, award criterion and access to financing</p>
<p><b>Sub-indicator 10(c)</b> <b>Key sectors and sector strategies</b></p>
<p><b>Assessment criterion 10(c)(a):</b> Key sectors associated with the public procurement market are identified by the government.</p>
<p><b>Conclusion:</b> Substantive gap</p>
<p><b>Red flag:</b> No</p>
<p><b>Qualitative analysis</b> There are no sector strategies</p>
<p><b>Gap analysis</b> MAPS Assessment Team made a limited effort to explore issues in Health Sector and Works Procurement .Refer to Note on Health Sector and Works Procurement –Annex III Based on interaction of Assessment Team both on Health and Works procurement, through a follow-up mission and with extensive interest and input from RGoB, it is noted that the government is now serious in taking follow-up action based on MAPS recommendations on sector strategy.</p>
<p><b>Recommendations</b> To carry out sector market analysis and develop procurement policy and take follow-up action to start with in Health and Works procurement based on recommendations</p>
<p><b>Assessment criterion 10(c)(b):</b> Risks associated with certain sectors and opportunities to influence sector markets are assessed by the government, and sector market participants are engaged in support of procurement policy objectives.</p>
<p><b>Conclusion:</b> Substantive gap</p>
<p><b>Red flag:</b> No</p>
<p><b>Qualitative analysis</b> As at (a) above</p>
<p><b>Gap analysis</b> As at (a) above</p>
<p><b>Recommendations</b> As at (a) above</p>

**Indicator 11. Transparency and civil society engagement strengthen integrity in public procurement**

<b>Sub-indicator 11(a)</b>
<b>Enabling environment for public consultation and monitoring</b>
<b>Assessment criterion 11(a)(a):</b> A transparent and consultative process is followed when formulating changes to the public procurement system.
<b>Conclusion:</b> Minor gap
<b>Red flag:</b> No
<p><b>Qualitative analysis</b></p> <p>This analysis is based on written response to questions addressed to 11 CSOs in September 2022. The Assessment Team met with 7 CSOs on January 16, 2023 in Thimphu, for face-to-face discussions to validate their responses and to seek additional feedback.</p> <p><i>Question: Is there a transparent and consultative process when changes are formulated to the public procurement system? For example, changes or developments in procurement related to national strategy, the procurement legal framework and procurement in practice?</i></p> <p>Response: In quantitative terms, the response was “Yes” in 55% cases; and “May be” in 45% of cases</p> <p>Representative/relevant responses include the following: (i)The Government is following a transparent and consultative process when changes are formulated to the public procurement system. The government uses the website or share through official correspondence regarding the changes(ii)Would consider the implementation as transparent since it will provide the organization with good planning, focusing, evaluating and monitoring. It will also help organization to keep tract of budget and decision- making process; (iii)We have seen media notifications of changes and also in the e-procurement portal. The e-portal also needs to reflect if certain contracts and consulting works are open to CSOs if Client Ministries and Departments choose to outsource to also CSOs (iii)For the want of “Transparency” we lose time and resources, and at the end transparency is questionable; (iv)The GOVT announces them in the local papers and websites; (v)We think there is a transparent and consultative process involved with the agencies and public entities in formulation of procurement related frameworks; (vi) The public procurement system of government is made transparent through the e-GP system. However, the system requires simplification and made user-friendly.</p>
<p><b>Gap analysis</b></p> <p>CSOs consider that there is need for better consultative process including e- GP through simplified and user-friendly way</p>
<p><b>Recommendations</b></p> <p>To enhance consultations with CSO through simplified and user friendly way including through e-GP</p>
<b>Assessment criterion 11(a)(b):</b> Programmes are in place to build the capacity of relevant stakeholders to understand, monitor and improve public procurement.
<b>Conclusion:</b> Substantive gap
<b>Red flag:</b> No
<p><b>Qualitative analysis</b></p> <p><i>Question: Are there programs in place to build the capacity of CSOs to support participatory in the public procurement?</i></p>

## Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

<p>Response: In quantitative terms the response was “No” in 73% of cases and May be (partially)” in 27% of cases</p> <p>Representative/relevant responses include the following: (i) There isn’t any program in place to build the capacity of CSOs to support participatory in the public procurement in general. However, at CSOs level government supported few of the capacity building program to participated and support on procurement ...( ii)As stated earlier, CSOs are never part of the government procurement system; (iii)We need these programmes for capacity enhancement if we want to facilitate the participation of CSOs in public procurement – as facilitators of the process or also as bidders for goods and services; (iv)The main advantage of this would be to keep the companies expenditure to a minimum. By making process considerably not complicated particularly as it can be tricky to produce quantifiable measures of factors which relate to quality. Implementing process .....(v)There need to have a sanitization on new procurement frameworks and capacity building training/workshop for the CSOs.</p>
<p><b>Gap analysis</b> Based on feedback, CSOs are never part of the government procurement system and no initiative on the part of government to build capacity of CSOs</p>
<p><b>Recommendations</b> Government to consider partnership with CSO including through building capacity</p>
<p><b>Assessment criterion 11(a)(c):</b> There is ample evidence that the government takes into account the input, comments and feedback received from civil society.</p>
<p><b>Conclusion:</b> Substantive gap</p>
<p><b>Red flag:</b> No</p>
<p><b>Qualitative analysis</b> Few questions and responses to get feedback on this criterion are as under: <i>Question: Are CSOs encouraged to act as enablers of good practices, being called upon to contribute to the improvement of public procurement outcomes, for example, by suggesting changes to projects?</i> Responses on quantitative basis: 73%- No; 9% -No – CSOs are never any part of government procurement; 9% -uncertain; and 9% -Yes Representative/relevant responses include the following: (i) Elsewhere, CSO play critical oversight roles but in Bhutan, we are being kept busy by the regulating authorities that we hardly find ourselves significant enough to carry out that role. Role is reversed in our case; (ii)In very few instances, donor funded projects (ADB, World Bank) may provide a condition that CSOs be involved in providing oversight but the RGOB does not have such rules or practices. So, this is mostly non-existent. We need to have a discussion;</p>
<p><b>Gap analysis</b> Based on majority of responses, there is no environment to consider input from CSO</p>
<p><b>Recommendations</b> Government to create enabling environment for effective participation of CSOs</p>

# Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

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<b>Sub-indicator 11(b)</b> <b>Adequate and timely access to information by the public</b>
<b>Assessment criterion 11(b)(a):</b> Requirements in combination with actual practices ensure that all stakeholders have adequate and timely access to information as a precondition for effective participation.
<b>Conclusion:</b> Substantive gap
<b>Red flag:</b> No
<b>Qualitative analysis</b> Related to access to information on public expenditure, questions and responses were as under: <b>Question:</b> <i>Do you think that there is public expenditure data available for CSO scrutiny? (Please consider the different phases from planning, budgeting, procurement, contracting and payments)</i> Responses: (i) The challenge for us all may be - How can such information be made publicly available for scrutiny and feedback to MOF? What are the implications of facilitating the availability of such information? How can the constructive responses/feedback be managed; (ii)The proposal for projects and receipt and payment vouchers are scrutinized by the Royal Audit Authority. However, we are not aware of such public expenditure data.  <i>Few more questions: Does the data have to be requested or is it available to anyone who is interested in consulting?</i>  Responses(i) We are living in a <b>data deficient country</b> . Data may not be available or not collated as data to be made available and there may be certain restrictive practices in data provision. Data has to be begged for. Often people have to go desk to desk, office to office for data; (ii)There is no open data policy in the country. Getting required data is the most difficult task; (iii)  <i>Question: Is the data made available free of charge?</i> Response: Yes, but not so easy to get  <i>Question: Is the data made available in a timely manner?</i> Response: Depends on the head of agency; Sometimes it may take some time, before data is released.  <i>Question: Is the data made available in the most appropriate format for your analysis?</i> Response: Depends. Not always before. Now for e.g. we can download excel sheets from the NSB, MOAF?etc; No, most data are in PDF format which is difficult to analyze, it should be available in excel, CSV and other usable format. <i>Question: Are the data made available sufficient for accurate and useful analysis</i> Response: Difficult to gauge this if we do not know how the data was collected and collated and if there have been manipulations or not;No, but it depends
<b>Gap analysis</b> Based on feedback, there is inadequate access of information to CSO and public also due to lack of a functioning e- Procurement system

# Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

<b>Recommendations</b> Government to ensure adequate access to information to public including through e-Procurement System
<b>Sub-indicator 11(c)</b> <b>Direct engagement of civil society</b>
<b>Assessment criterion 11(c)(a):</b> The legal/regulatory and policy framework allows citizens to participate in the following phases of a procurement process, as appropriate: <ul style="list-style-type: none"><li>• the planning phase (consultation)</li><li>• bid/proposal opening (observation)</li><li>• evaluation and contract award (observation), when appropriate, according to local law</li><li>• contract management and completion (monitoring).</li></ul>
<b>Conclusion:</b> Substantive gap
<b>Red flag:</b> Yes
<b>Qualitative analysis</b>  Question: Are CSOs permitted or encouraged to act as observers, actively monitor or have other involvement in preparation for or conduct of procurement proceedings? Response: As quantitative, response was “Yes” in 9% of cases, “ May be ( partially)” in 64% of cases, and “No” in 27% of cases.  Representative/relevant responses include the following: (i): Involvement and engagement of CSO is minimal as CSO are not considered as equal partner; (ii)We have not been part of this but we understand some CSO’s represent this process on a committee; (iii)It is difficult for the CSOs to monitor the procurement process. Procurement monitoring requires technical expertise and also funding to support the monitoring activities. There should be a procurement monitoring guideline developed for the CSOs. The guideline would give necessary information for an effective procurement monitoring;(iv) CSOs are directly not involve in the changes to the public procurement system. There need to have a CSOs involvement since we work towards the interest of the public and also mandated to follow the Procurement Rules and Regulations as per the Civil Society Organizations Authority’s Acts and RAA; (v)It would be effective and efficient to maintain company expenditure to a minimum cost with the measure and enforce the requirements to the supplier; (vi)No, CSOs are never part of any government procurement neither we are invited as observers;; (vii) It would be effective and efficient to maintain company expenditure to a minimum cost with the measure and enforce the requirements to the supplier.
<b>Gap analysis</b> Requires enabling environment for CSO participation in procurement process. Considered red flag as it requires inter-institutional efforts and collaboration
<b>Recommendations</b> Requires CSO-Government collaboration guidelines
<b>Assessment criterion 11(c)(b):</b> There is ample evidence for direct participation of citizens in procurement processes through consultation, observation and monitoring.

# Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

<b>Conclusion:</b> Substantive gap
<b>Red flag:</b> Yes
<b>Qualitative analysis</b>  Around the issue on direct participation of citizens in procurement process, the question and responses are as under  <i>Question: How can opportunities be created for more dialogue and partnership with CSOs, to improve the public procurement system in Bhutan?</i>  Responses: (i)CSO Network has 8 thematic groups. While all the CSO are not appropriate in this field, Good Governance, Media and Democracy thematic Group could be made part of the committee or the task force member; (ii)Empowering the CSOs through regular communication on procurement rules and regulations. Organize a seminar/workshop for the CSOs to review and discuss the existing public procurement system so that CSOs are well informed about the importance of the system. Organise dialogue that will bring together government representatives and the CSOs interested in learning more about the public procurement system and to improve it; (iii)There is a CSO-Government Collaboration Guideline drafted by the Executive Committee of the Bhutan Civil Society Network (BCSN). The Committee of Secretaries had not approved this. It provides ideas and possibilities of how CSOs can participate with Government. The participation of CSOs in public procurement system can also feature in this Guideline which I think currently does not include this. It may be an opportunity to include this and revise the document and then have the COS approve it; (iv) Awareness creation, engagement and involving in the public procurement decision making platform or processes; (v) Work closely with Bhutan Civil Society Network  One of the issues in face-to-face related to an unwillingness and hesitancy on the part of CSO to disturb the status quo and to ask difficult questions to avoid any kind of confrontation. Another issue was absence of right expertise and lack of enabling environment and resources to support CSO participation in the procurement process,
<b>Gap analysis</b> Based on feedback there is need forEmpowering the CSOs through regular communication on procurement rules and regulations and/or through CSO-Government collaboration guidelines Considered Red Flag as it is beyond the purview of PMDD and it requires inter-institutional collaboration
<b>Recommendations</b> Organize a seminar/workshop for the CSOs to review and discuss the existing public procurement system so that CSOs are well informed about the importance of the system. Create enabling environment for Direct Participation of CSO through CSO-Government collaboration guidelines

## Indicator 12. The country has effective control audit systems

### Sub-indicator 12(a)

#### Legal framework, organisation and procedures of the control system

## Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

The system in the country provides for:

**Assessment criterion 12(a)(a):**

laws and regulations that establish a comprehensive control framework, including internal controls, internal audits, external audits and oversight by legal bodies

**Conclusion:** No gap

**Red flag:** No

**Qualitative analysis**

There is a comprehensive control framework as elaborated below:

External audit of the RGoB and LGs is undertaken by the RAA, which is established as a constitutional body. Article 25 (1) of the Constitution 2008 stipulates that *“There shall be a Royal Audit Authority to audit and report on the economy, efficiency, and effectiveness in the use of public resources”*.

Audit Act of Bhutan 2018- Relevant Provisions are as follows:

Preamble: Constitution provides the Royal Audit Authority of Bhutan as an independent Authority, to enhance accountability and proper utilization of public resources through effective auditing and reporting without fear, favour or prejudice, and to promote Good Governance

Chapter 1, Section 4 Principal Objectives of the Act: (1) Promote accountability, transparency, integrity and value for money in public operations; (2) Confer on the Authority adequate powers necessary to carry out the audits without fear, favour or prejudice; and (3) Protect constitutional independence of the Authority.

Chapter 2, Section 6 and 7 Establishment of the Authority: There shall be an independent Authority to be known as the Royal Audit Authority which shall be the Supreme Audit Institution of Bhutan. The Authority shall be headed by the Auditor General

The MoF in 2013 issued the National Internal Control Framework (NICF)<sup>63</sup> so as to provide an overall framework for implementing and maintaining effective internal controls, describe internal controls for heads of agencies to implement, and describe appropriate internal control practices for major functional areas

Internal Audit Charter issued by MoF<sup>64</sup> in November 2014 “provide legal basis to the function of Internal Audit in Government agencies and authorize access to records, personnel and physical properties relevant to the performance of engagements. It also defines the scope of the work and provides framework within which the Internal Audit in Government agencies and the Central Coordinating Agency under Ministry of Finance shall function”

Since its establishment, CCA has developed and issued the Internal Audit Standards (Bhutan Government Internal Audit Standards, 2017), Internal Audit Activity Charter, Code of Ethics, manuals, and guidelines (Performance Audit Guideline 2019, Quality Assurance and Improvement Guideline 2019) to standardize and coordinate a uniform, consistent and effective internal audit function across the budgetary bodies. In the year 2020, the third Organization Development Exercise (ODE) of MoF

<sup>63</sup><https://www.mof.gov.bt/wp-content/uploads/2014/07/InternalControlFramework.pdf>

<sup>64</sup><https://www.mof.gov.bt/wp-content/uploads/2014/07/Auditcharter01012015-3.pdf>

## Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

recommended changing the name of CCA to **Internal Audit Coordinating Agency(IACA)** given its role in coordination and management of internal audit functions within the budgetary bodies across the country<sup>65</sup>.

### Gap analysis

### Recommendations

#### Assessment criterion 12(a)(b):

internal control/audit mechanisms and functions that ensure appropriate oversight of procurement, including reporting to management on compliance, effectiveness and efficiency of procurement operations

**Conclusion:** No gap

**Red flag:** No

### Qualitative analysis

Internal control / audit mechanism and functions that ensures appropriate oversight of procurement as elaborated below

**In accordance with Chapter 5 on Functions and Jurisdiction of RAA ( section 67-70),** The Authority shall (i) promote accountability, transparency and integrity in public operations through its reports and recommendations; (ii) audit and report on the economy, efficiency and effectiveness in the use of public resources; (iii) carry out performance, financial, compliance, special audits and any other form of audits that the Auditor General may consider appropriate; and (iv) Performance audit include but not limited to examination and reporting on the economy, efficiency and effectiveness in public operations on selected schemes, themes or topic as may be considered necessary by the Authority

**Further, in accordance with Section 74** on Compliance audit , it may cover a wide range of subject matter providing assurance to intended users about the outcome of the evaluation or measurement of a subject matter against suitable criteria through independent assessment whether: (1) Applicable laws, rules, regulations, policies, directives, systems and practices are complied with and systems are instituted to identify them and monitor compliance thereof; (2) The accounts have been maintained in the prescribed forms and such accounts fairly represent the position of the transactions; (3) The program implementations are adequately monitored to avoid incidences of cost and time overruns; (4) The inventory of public properties is accurate and up-to-date, and custody, control, management and physical safeguard measures instituted are adequate; (5) Physical assets and infrastructures reported actually exist and confirm to the required specifications and standard; (6) The available resources including human, financial and other assets are properly utilized; (7) The debts, liabilities and specific purpose funds are recorded accurately and managed properly; and (8) The implementation of programs and activities areas planned and the intended objectives achieved.

<sup>65</sup><https://www.mof.gov.bt/secretariat/central-coordinating-agency/>

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<p><b>Section 75</b> Conduct special audits and any other form of audits as the Authority may consider significant and necessary including the investigation and in-depth examination of accounts and operations of the entities under the Authority’s jurisdiction.</p> <p><b>Section 78</b> Conduct environment audits in respect of any activity involving public funds and resources including natural resources.</p> <p><b>Section 82;</b> Conduct any other theme-based audit including, audit of sustainable development goals, gender-based audit, multilateral accords, agreements, convention, protocols and may embrace emerging audit approaches as deemed appropriate.</p>
<b>Gap analysis</b>
<b>Recommendations</b>
<b>Assessment criterion 12(a)(c):</b> internal control mechanisms that ensure a proper balance between timely and efficient decision-making and adequate risk mitigation
<b>Conclusion:</b> No gap
<b>Red flag:</b> No
<b>Qualitative analysis</b>  Based on Internal Auditor Strategic Action Plan 2021-2025 issued by MOF Dec 2019) <sup>66</sup> , one of the key strategic focus is use of Data Analytics in Audit. According to this strategic plan: “ Auditing is an iterative process that requires the auditor’s judgment to constantly evaluate the evidence and determine when procedures are adequate to minimize audit risk. Usage of data analytical tools & techniques is therefore almost required in technology disruptive world where most of the data of government agencies are being exposed to technologies such as Multi Year Rolling Budget (MYRB), e-procurement, Electronic Public Expenditure Management System (ePEMS), Revenue Accounting and Management Information System (RAMIS), e-government etc”.
<b>Gap analysis</b>
<b>Recommendations</b>
<b>Assessment criterion 12(a)(d):</b> independent external audits provided by the country’s Supreme Audit Institution (SAI) that ensure appropriate oversight of the procurement function based on periodic risk assessments and controls tailored to risk management
<b>Conclusion:</b> Minor gap
<b>Red flag:</b> No
<b>Qualitative analysis</b>  Independent external audits are provided with appropriate risk assessment as elaborated below:

<sup>66</sup><https://www.mof.gov.bt/wp-content/uploads/2020/11/InternalAuditStrategicPlan2021-2025.pdf>

## Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

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**In accordance with section 11, 12, 13 of the Audit Act of Bhutan 2018, on the Functional Independence,** the Royal Audit Authority shall enjoy full functional independence including planning and programming, investigation and reporting with regard to Auditing. The Authority shall exercise its powers and perform its functions without fear, favour or prejudice and The Authority in exercising its powers or functions shall not entertain direction of any person or authority except as otherwise provided in this Act

The above functional independence is reinforced by **provisions of Section 14, 15, 16 Audit Act of Bhutan 2018 on Financial Independence** that inter alia includes that the State shall make adequate financial provisions for the independent administration of the Authority The State shall institute effective mechanism to implement the Constitutional provision as in section 14 of this Act and most importantly, In case of the decision of Parliament on National Budget is delayed, Ministry of Finance shall provide the Authority with interim funds, which shall be at least equal to the previous year's current budget and further in accordance with **section 17 and 18 there shall be Independence of human resources** and that . The Authority shall determine its organizational structure in consultation with Royal Civil Service Commission and administer it independently. The Authority shall have independence and powers to regulate appointments, management and dismissal of its staff other than the Auditor General in accordance with the Civil Service Act.

**Section 90 Audit Act of Bhutan 2018 on Jurisdiction:** The jurisdiction of the Authority to conduct audits *inter alia* include the following: Accounts of the budgetary bodies including agency of Government; Foreign assisted, donor assisted or special projects of the Royal Government; Autonomous state colleges, universities and all autonomous bodies of the Royal Government; All state enterprises in which government has stake, financial institutions including the Central and other Banks and their subsidiaries established under the laws of Bhutan in which the Government has an ownership interest; All entities including non-governmental organizations, foundations, charities and civil societies fully or partly funded by the Government;

Section 113 **Audit Act of Bhutan 2018,** The Annual Audit Report shall inter alia include: (i) Aspects of economy, efficiency and effectiveness in the public operations; (ii) Cases of fraud and corruptions, mismanagement and malpractices, violation of laws, rules and regulations, shortfalls, lapses and deficiencies; (iii) Cases where the Authority did not receive responses to preliminary audit observations and Action Taken Report on the final audit report, and significant cases where the Authority did not receive acceptable response or cooperation; (iv) Significant audit findings and recommendations for improvement of agencies audited; (v) Future course of action in the interest of enhancing accountability and improving auditing operation capacity; (vi) Summary of significant issues and recommendations from the Performance Audit reports issued by the Authority

**Based on PEFA Report of 2023, as per Indicator PI 30.4 on Independence of SAI,** The RAA operates independently from the executive, ensured through the Constitution and the Audit Act, with respect to (i) procedures for appointment and removal of the Auditor General, (ii) planning of audit engagements, (iii) arrangements for publicizing reports, and (iv) approval and execution of the RAA's budget. The RAA has unrestricted and timely access to records, documentation and information. However, for budget approval the RAA follows the RGoB budgeting procedure and requests its budget

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through the MoF (Score is “C”)
<p><b>Gap analysis</b> Based on PEFA 2023, The RAA has unrestricted and timely access to records, documentation and information. However, for budget approval the RAA follows the RGoB budgeting procedure and requests its budget through the MoF (Score is “C”)</p>
<p><b>Recommendations</b> Government to consider if budgeting procedure could be modified</p>
<p><b>Assessment criterion 12(a)(e):</b> review of audit reports provided by the SAI and determination of appropriate actions by the legislature (or other body responsible for public finance governance)</p>
<p><b>Conclusion:</b> No gap</p>
<p><b>Red flag:</b> No</p>
<p><b>Qualitative analysis</b>  Review of audit reports are provided by SAI as elaborated below: Section 114: The Auditor General may submit to His Majesty the Druk Gyalpo, the Prime Minister and the Parliament, any other report including the Auditor General’s Advisory Series and Occasional Papers covering specific or range of issues intended towards promoting accountability, transparency, integrity and value for money in public operations. Tabling of audit reports to the Parliament Section 115 and 116 on Tabling of audit reports to the Parliament: The Auditor General shall submit the Annual Audit Report to Parliament and any other audit reports including performance audit reports as the Auditor General may consider significant Any audit report submitted to Parliament shall be tabled before the Joint Sitting of Parliament in the manner established for the purpose  <b>Based on the Annual Audit Report for 2021-22 ending June 30<sup>th</sup> 2022</b>, the audit was conducted by the RAA as required under the Audit Act of Bhutan 2018, the Public Finance Act of Bhutan 2007 and Public Finance (Amendment) Act 2012, and the Financial Rules and Regulations 2016.</p>
<p><b>Gap analysis</b></p>
<p><b>Recommendations</b></p>
<p><b>Assessment criterion 12(a)(f):</b> clear mechanisms to ensure that there is follow-up on the respective findings.</p>
<p><b>Conclusion:</b> No gap</p>
<p><b>Red flag:</b> No</p>
<p><b>Qualitative analysis</b></p>

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## There is evidence of follow-up on findings:

As per PEFA Report of 2023 PI- 30.2 The AARs were submitted by the RAA to Parliament 7.8 months, 2.5 months and 2.5 months, respectively, after receipt from the MoF of the AFS for the last three fiscal years (Score C) and PI- 30.3 External audit follow-up. There is clear evidence of effective and timely follow-up by the executive on audit findings and recommendations during the last three fiscal years (Score A)

As per PEFA Report 2023 PI-31 Article 25 (6) of the Constitution 2008 mandates the Public Accounts Committee (PAC) “... to review and report on the Annual Audit Report to Parliament for its consideration or on any other report presented by the Auditor General”. The PAC is a joint committee of the National Council and the National Assembly, and is governed by the Rules of Procedure of the Public Accounts Committee 2015. The PAC is required to review, examine, evaluate and report on the financial and administrative activities of any agency cited in the AAR.

As per findings under PI-31: (i) Parliament’s scrutiny of the AARs was for the last three fiscal years completed within six months from receipt of the AARs from the RAA; (ii) Parliament’s PAC has undertaken in-depth hearings on key findings of audit reports, which have covered a few audited RGoB entities.; (iii) In its review reports on the AARs, which are tabled in and deliberated on in Parliament, the PAC issues recommendations on actions to be implemented by the executive. Follow-up on implementation of the recommendations is undertaken systematically (iv) All hearings are held in public, and additional field visits are also carried out. The PAC’s reports are tabled in joint sittings of Parliament for deliberation and consideration. The reports are published on the official website of Parliament. (Overall score B+)

There was follow-up of recommendations on RAA Report of Nov 2021 on Procurement as confirmed by PMDD in its response on July 12, 2023

## Gap analysis

## Recommendations

### Sub-indicator 12(b)

### Coordination of controls and audits of public procurement

#### Assessment criterion 12(b)(a):

There are written procedures that state requirements for internal controls, ideally in an internal control manual.

**Conclusion:** No gap

**Red flag:** No

#### Qualitative analysis

Written procedures do exist as elaborated below:

As per PEFA 2023 report related effectiveness of internal control framework” The requirement for the MoF to set rules, procedures and standards for an effective, efficient and transparent system of

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internal controls, and to monitor its performance, is stated in the PFA 2007 (Section 23 (e)). **Coordination of controls and audits of public procurement** so as to provide an overall framework for implementing and maintaining effective internal controls, describe internal controls for heads of agencies to implement, and describe appropriate internal control practices for major functional areas. The NICF is based on the five components – control environment, risk assessment, control activities, information and communication, and monitoring – identified by international standards.<sup>67</sup> Specific internal control requirements are detailed in the FMM 2016 (Section 3.3. E.), as a separate element of the ‘System of Accounting’, and oblige all entities to establish proper working systems and procedures, including transparent and well-defined controls and checks, to achieve the RGoB’s financial management and accountability objectives”.

Based on Royal Audit Authority Strategic Plan of 2020-2025, NICF sets the control environment and sets the “tone at the top” and all agencies are obliged to follow this.

Chapter-6 of NICF on procurement internal control and best practices sets its objective as “Agencies are responsible for developing and maintaining procurement processes that are in compliance with all laws, administrative requirements, and ethical standards pertaining to purchasing and procurement. All departments are responsible for conducting the purchasing function in a manner which results in the most effective and efficient use of state funds”.

There is Internal Audit Manual issued by MoF in accordance with requirements of Section 23(0) of the Public Finance Act, 2007

### Gap analysis

### Recommendations

#### Assessment criterion 12(b)(b):

There are written standards and procedures (e.g. a manual) for conducting procurement audits (both on compliance and performance) to facilitate co-ordinated and mutually reinforcing auditing.

**Conclusion:** No gap

**Red flag:** No

#### Qualitative analysis

The Guidelines on Compliance Audit issued by RAA, provides sufficient details to carry out procurement audit broken into subject matter, audit scope and criteria. For example, it states at para 2.38 as an illustration: “The audit aims to review the procurement practices against Procurement Rules and Regulations and the extent to which the procurement practices followed by public procuring agencies comply with the Rules. In this respect, the audit will cover the procurement policy, planning and sourcing stages of the procurement lifecycle. It will encompass an assessment of all procurement activities for one-year period from 1st July 2014 – 30th June 2015”

### Gap analysis

<sup>67</sup> The five components set out in the Committee of Sponsoring Organizations (COSO) framework.

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<b>Recommendations</b>				
<b>Assessment criterion 12(b)(c):</b>				
There is evidence that internal or external audits are carried out at least annually and that other established written standards are complied with.*				
<b>Conclusion:</b> Minor gap				
<b>Red flag:</b> No				
<b>Qualitative analysis</b>				
<p>There is sufficient evidence on carrying out of external audit but there is lack of follow-up by Internal Audi</p> <p>RAA conducts basically three types of audits, financial, compliance and performance<sup>68</sup>.as described in respective manuals. Based on feedback received from RAA on March 01, 2023: (i) <i>Financial audits</i>: conducted for all government agencies which are allotted Letter of Credit (LC) and Project Letter of Credit (PLCs). These audits are conducted by the RAA’s auditors. The financial audit of government owned companies, Civil Society Organizations (CSOs) and Religious Organizations (ROs) are outsourced to private auditing firms appointed by RAA; (ii) <i>Compliance audits</i>: RAA conducts entity - based Compliance audits for government owned companies which includes corporations and financial institutions for which the statutory audits(financial) are outsourced to empaneled private auditing firms. Theme based compliance audits involves multiple agencies based on the themes selected; and (iii) <i>Performance audits</i>: RAA conducts performance audits based on the topics from its five -year strategic plan. The topics are prioritized during annual planning cycle and usually limited to 3 to 5 topics in a year.</p> <p>Based on feedback from CCA (Internal Audit) and RAA, while RAA is active in review of Public Procurement System, both as part of their compliance and performance audit, and also publish studies as advisory on review of public procurement system<sup>69</sup>, which may be characterized as procurement performance audit, CCA's Internal Audit Target is for the entire process of acquisition and use of funds, without any target for procurement performance audit.</p> <p>Audit observations on public procurement forms significant portion of financial and compliance audit reports which are compiled and reported through Annual Audit Reports. As per RAA, procurement has been considered as audit thrust area in its annual audit plans due to high risk and vulnerability for abuse and mismanagement</p> <p>The statistics on types of audits is as under</p>				
<b>Types of Audit</b>	<b>2019</b>	<b>2020</b>	<b>2020-21</b>	<b>2021-22</b>
Financial Audit	558	466	480	387

<sup>68</sup><https://www.bhutanaudit.gov.bt/documents/guidelines-and-manuals/>

<sup>69</sup> [https://www.bhutanaudit.gov.bt/wp-content/uploads/2021/12/02.-AGAS\\_Review-of-Government-Procurement-System.pdf](https://www.bhutanaudit.gov.bt/wp-content/uploads/2021/12/02.-AGAS_Review-of-Government-Procurement-System.pdf)

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Compliance Audit	52	42	29	59
Performance Audit	6	2	4	7
Outsourced audits of CSOs and ROs	*	*	44	48
Statutory Audits of Corporation & FIs	43	44	48	45

\*Included in financial audit

Source: RAA: Compiled for Annual Audit Reports

### Quantitative analysis

\* Recommended quantitative indicator to substantiate assessment of sub-indicator 12(b) Assessment criterion (c):

- number of specialised procurement audits carried out compared to total number of audits (in %).
- share of procurement performance audits carried out (in % of total number of procurement audits).

Source: Ministry of Finance/Supreme Audit Institution.

### Gap-analysis

Based on feedback given by CCA (related to Internal Audit), CCA does not Specialised procurement audits have not been carried out but the Internal Auditors in the respective agencies during their course of internal audit engagements where some procurement component is involved have assessed and evaluated the adequacy of internal controls in procurement process, however, this cannot be quantified in terms of percent. Internal Audit targeted towards complete procurement process and system has not been done.

### Recommendations

CCA to be involved in specialized procurement audit

### Assessment criterion 12(b)(d):

Clear and reliable reporting lines to relevant oversight bodies exist.

**Conclusion:** No gap

**Red flag:** No

### Qualitative analysis

AS stated earlier the Guidelines on Compliance Audit issued by RAA, provides sufficient details to carry out procurement audit broken into subject matter, audit scope and criteria and with clear reporting lines

### Gap analysis

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<b>Recommendations</b>
<b>Sub-indicator 12(c)</b>
<b>Enforcement and follow-up on findings and Recommendations</b>
<b>Assessment criterion 12(c)(a):</b> Recommendations are responded to and implemented within the time frames established in the law.*
<b>Conclusion:</b> No gap
<b>Red flag:</b> No
<b>Qualitative analysis</b>  Based on PEFA 2023, as per findings under External Audit PI-30 (i) on Submission of audit reports to the legislature (i) The AARs were submitted by the RAA to Parliament 7.8 months, 2.5 months and 2.5 months, respectively, after receipt from the MoF of the AFS for the last three fiscal years( Score - C); and (ii) on External audit follow-up, there is clear evidence of effective and timely follow-up by the executive on audit findings and recommendations during the last three fiscal years( score A). Based on input provided by RAA on March 01, 2023, recommendations included in the Annual Audit Report (AAR 2019 to AAR 2021-22) is summarized as:(i) Need for agencies to enforce contractual provision of insurance for works; (ii) Review the prevalent practice of granting advances to contractors beyond the scope of PRR; (iii) Need to review policy of direct purchase of HDPE pipes from domestic manufacturers; (iv) Implementing agencies should strictly enforce applicable liquidated damage clause for procurement of works and goods; (v) Agencies should carry out extensive monitoring and supervision during construction and handing-taking to avoid excess payment and acceptance of defective works; (vi) Government should review the need for a policy to bring consultants under the ambit of public accountability; (vii) Government should reinforce quality management system in construction projects undertaken by agencies; (viii)Government should review community contract protocol; and (ix) Effective Internal control system must be enforced and implemented throughout the agencies
<b>Quantitative analysis</b>  <i>* Recommended quantitative indicator to substantiate assessment of sub-indicator 12(c) Assessment criterion (a):</i> <i>- Share of internal and external audit Recommendations implemented within the time frames established in the law (in %).</i> <i>Source: Ministry of Finance/Supreme Audit Institution.</i>
<b>Gap analysis</b>
<b>Recommendations</b>
<b>Assessment criterion 12(c)(b):</b>

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There are systems in place to follow up on the implementation/enforcement of the audit Recommendations.
<b>Conclusion:</b> Minor gap
<b>Red flag:</b> No
<b>Qualitative analysis</b>  Based on input provided by RAA on March 01, 2023: (i) The recommendations included in the individual audit reports are directed to the agencies specifying actions related to restitutions, sanctions and corrections. After the report is issued, the agencies are given one month for initiating actions as per the recommendations of the RAA within which, the agencies are required to submit Action Taken Report (ATR) to RAA. The RAA reviews the ATRS and communicates its decisions. If actions are not taken, the RAA regularly reminds the agencies and on a regular basis, submits Follow Up Report to the Public Accounts Committee; (ii) As for performance and theme -based audit reports, after the reports are issued, the agencies are asked to submit Management Action Plan (MAP) which will detail actions proposed to be taken in response to the audit recommendations along with timeline for completion. It also specifies officials responsible for initiating actions. The RAA reviews the status of implementation of recommendations against the agreed timeline and communicates with the agencies; and (iii)As a part of enforcement, all audit issues and recommendations are tagged with names of officials. Unless the actions are taken based on RAA's recommendations, the RAA withholds Audit Clearance of those officials. The Audit Clearances are required for various purposes like promotion, training, resignations, interviews etc. For the private parties such as contractors, the Audit Clearances are withheld if issues are not resolved. The Audit Clearances are required for renewal of the licenses  There are issues on follow-up by CCA (Internal Audit)
<b>Gap analysis</b> Based on feedback of CCA (Internal Audit) on Feb 09, 2023 CCA does not compile data on external audit recommendations implementation by the respective agencies. However, with respect to internal audit recommendations there is no data with CCA as there is no follow up tracking mechanism instituted between CCA and internal auditors of respective agencies.
<b>Recommendations</b> CCA to follow-up on external audit recommendations also by instituting a tracking mechanism for external audit recommendations
<b>Sub-indicator 12(d)</b> <b>Qualification and training to conduct procurement audits</b>
<b>Assessment criterion 12(d)(a):</b> There is an established programme to train internal and external auditors to ensure that they are qualified to conduct high-quality procurement audits, including performance audits.*
<b>Conclusion:</b> Minor gap

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<b>Red flag:</b> No
<b>Qualitative analysis</b> Internal Auditors: Based on feedback from CCA (Internal Audit) on Feb 9, 2023, no training courses were conducted to train auditors in public procurement audits as CCA does not have budget to conduct trainings on procurement and therefore none of the internal auditors are trained in public procurement.  External Auditors: Feedback received from RAA on March 01, 2023 indicates that the RAA trains its auditors throughout the year at Professional Development Center, Tsirang on various topics relevant to auditors. The topics for training are based on Training Needs Assessment conducted annually and administered as per Annual Training Calendar. Following are some of the recent topics related to procurement (Annual Report of PDC) in the recent times ( March 2021- Dec 2022): (i)eGP& Construction Audit- 8 days; (ii) eGP training- 5 days, 10 participants; (iii) Procurement and civil work audit training – 10 days, 22 participants ( 19 males and 3 females); (iv) e- GP- 5 days – 5 days 25 participants ( 18 males& 7 females; and (v) Construction Management software- 4days, 19 participants ( 14 males&5 females) and ( vi) Hydropower projects – 2 batches, total 6 days with 64 participants ( 47 males & 17 females)  However, related to CCA (Internal Audit) there are issues as reflected in gap analysis
<b>Quantitative analysis</b>  <i>* Recommended quantitative indicator to substantiate assessment of sub-indicator 12(d) Assessment criterion (a):</i> - number of training courses conducted to train internal and external auditors in public procurement audits. - share of auditors trained in public procurement (as % of total number of auditors). <i>Source for all: Ministry of Finance/Supreme Audit Institution.</i>
<b>Gap analysis</b> No training courses were conducted to train internal auditors in public procurement audits since CCA does not have budget to conduct trainings on procurement. None of the internal auditors are trained in the public procurement
<b>Recommendations</b> PMDD to conduct training on procurement for internal auditors
<b>Assessment criterion 12(d)(b):</b> The selection of auditors requires that they have adequate knowledge of the subject as a condition for carrying out procurement audits; if auditors lack procurement knowledge, they are routinely supported by procurement specialists or consultants.
<b>Conclusion:</b> Minor gap
<b>Red flag:</b> No
<b>Qualitative analysis</b> As in (a) above

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<b>Gap analysis</b> As in (a) above
<b>Recommendations</b>
<b>Assessment criterion 12(d)(c):</b> Auditors are selected in a fair and transparent way and are fully independent.
<b>Conclusion:</b> No gap
<b>Red flag:</b> No
<b>Qualitative analysis</b> Sufficient guidance is available in the Audit Act of 2018 Bhutan to ensure that auditors are selected in a fair and transparent way and are fully independent
<b>Gap analysis</b>
<b>Recommendations</b>

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## Indicator 13. Procurement appeals mechanisms are effective and efficient

Sub-indicator 13(a) Process for challenges and appeals
<p><b>Assessment criterion 13(a)(a):</b> Decisions are rendered on the basis of available evidence submitted by the parties.</p>
<p><b>Conclusion:</b> No gap</p>
<p><b>Red flag:</b> No</p>
<p><b>Qualitative analysis</b></p> <p>Decisions are made on the basis of available evidence which is submitted by the parties using the e-GP grievance management system. There are provisions to ensure that on application for review by IRB all relevant documents are available and IRB may, and does, request additional evidence upon which to base its decision.</p> <p>Initial challenges (complaint/grievance) are considered by the Procuring Agency in response to a written request and a complainant uploads relevant supporting documents using the e-GP grievance management system. The decision on complaint issued by the Procuring Agency must state reasons for the decision.</p> <p>Review (appeal): IRB Rules and Procedures, paragraph 32, requires the Application for Review (appeal) to be made using a standard Application for Review form together with copies of any documentary evidence relied upon in support of the claim set out in the application. In practice this is now dealt with through the e-GP grievance management system and the IRB Secretariat undertakes a compliance check and ensures that all relevant documents are available and additional evidence is requested where necessary.<sup>70</sup> IRB Rules and Procedures, paragraph 46 provides for a decision without hearing, to be made on the basis of the terms of reference and review of the documents on record. IRB Rules and Procedures, paragraphs 54 to 56 concerns requirements for documentary evidence.</p>
<p><b>Gap analysis</b></p>
<p><b>Recommendations</b></p>
<p><b>Assessment criterion 13(a)(b):</b> The first review of the evidence is carried out by the entity specified in the law.</p>
<p><b>Conclusion:</b> No gap</p>
<p><b>Red flag:</b> No</p>
<p><b>Qualitative analysis</b></p> <p>First review of evidence is carried out by the Procuring Agency as specified in PRR. On appeal to IRB, copies of documentary evidence relied upon by the claimant in support of its application are uploaded through the e-GP grievance management system and evidence is reviewed in compliance with provisions of PRR and IRB Rules and Procedures (See analysis at 13(a)(a) for more information).</p>

<sup>70</sup>Confirmed in discussions between MAPS Assessment Team and IRB Secretariat, January 2023.

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<b>Gap analysis</b>					
<b>Recommendations</b>					
<b>Assessment criterion 13(a)(c):</b> The body or authority (appeals body) in charge of reviewing decisions of the specified first review body issues final, enforceable decisions. *					
<b>Conclusion:</b> No gap					
<b>Red flag:</b> No					
<b>Qualitative analysis</b> IRB Rules and Procedures paragraph 61 provides that the decision of the IRB “shall be final and binding”. 100% of decisions are enforced (see quantitative analysis below)					
<b>Quantitative analysis</b>					
<i>// Minimum indicator // * Quantitative indicator to substantiate assessment of sub-indicator 13(a) Assessment criterion (c): - number of appeals.</i>					
<i>Source: Appeals body.</i>					
<i>* Recommended quantitative indicator to substantiate assessment of sub-indicator 13(a) Assessment criterion (c): number (and percentage) of enforced decisions.</i>					
<i>Source: Independent Review Body, November 2022.</i>					
Year	Total Number of applications for review	Total number of decisions issued	Outcome of applications		Number of decisions enforced Number and %
			Decided in favor of procuring agency Number and %	Decided in favor of complainant Number and %	
2017-18	3	3	0 0%	3 100%	3 100%
2018-19	5	5	5 100%	0 0%	5 100%
2019-20	7	7	3 43%	4 57%	7 100%
2020-21	5	5	5 100%	0 0%	5 100%
2021-22	5	5	2 40%	3 60%	5 100%
2022*	5	3	2 66%	1 33%	3 100%

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*to 22 November 2022
<b>Gap analysis</b>
<b>Recommendations</b>
<b>Assessment criterion 13(a)(d):</b> The time frames specified for the submission and review of challenges and for appeals and issuing of decisions do not unduly delay the procurement process or make an appeal unrealistic.
<b>Conclusion:</b> No gap
<b>Red flag:</b> No
<p><b>Qualitative analysis</b> The time frames for submission, review and issuing of decisions on complaint (grievance) to procuring agency and review by IRB do not unduly delay the procurement process or make appeal unrealistic.</p> <p><b>Time frames for complaint (grievance) to procuring agency and issuance of decision</b> PRR s.8.1.3 requires a supplier, contractor or service provide to submit a written complaint (grievance) to the head of the procuring agency “promptly and in any event within 10 days of the letter of intent to award the contract”. In practice this is done through the e-GP grievance system. As a temporary measure, the SPRR reduce the period for submission of a complaint (grievance) to 2 working days. The private sector did not raise specific concerns with the Assessment Team about this short time frame and number of complaints has not reduced. PRR s.8.1.4 requires the head of the agency to issue a written decision within 7 days after submission of the complaint which shall: a) state the reasons for the decision; and b) if the complaint is upheld in whole or in part, indicate the corrective measures to be taken.</p> <p><b>Time frames for application for review to Independent Review Body and issuance of decision</b> PRR s.8.1.6 provides that the complainant shall made an application for review by the IRB within 5 days of the decision of the Head of the Procuring Agency or, where no such decision has been taken, within 15 days of the original complaint. IRB Rules &amp; Procedures, paragraph 16 provides that the IRB must deliver the Decision of the Review “in a timely fashion subject to article 57 of [IRB Rules &amp; Procedures] within ten (10) days from the commencement of the review proceedings”. IRB Rules &amp; Procedures paragraph 43 provide that the Secretariat shall register the commencement of the review procedure in the Register of Applications for Review.</p>
<b>Gap analysis</b>
<b>Recommendations</b>
<p><b>Sub-indicator 13(b)</b> <b>Independence and capacity of the appeals body</b> The appeals body:</p>

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<b>Assessment criterion 13(b)(a):</b> is not involved in any capacity in procurement transactions or in the process leading to contract award decisions
<b>Conclusion:</b> No gap
<b>Red flag:</b> No
<b>Qualitative analysis</b>  The IRB is established as an independent review function and there are appropriate safeguards in place to ensure the IRB panel members are not involved in procurement transactions or in the process leading to contract award decision.  <b>Independence from the procuring entity:</b> PRR s.8.1 provides that the constitution, rules of procedures and operation of the IRB shall be established by the Ministry of Finance. The Ministry of Finance issued Rules and Procedures of the Independent Review Body in 2015 (“IRB Rules & Procedures”), pursuant to the 2009 PRR. According to the IRB Rules & Procedures, Chapter III, the IRB shall be composed of seven members appointed by the Ministry of Finance, from: Ministries of Works and Human Settlement, Economic Affairs and Finance, Construction Development Board, Contractors’ Association of Bhutan, Bhutan Chamber of Commerce and Industry, and the Office of the Attorney General. Members of the IRB committee must be “appropriately qualified and impartial experts”. The IRB Rules & Procedures require the IRB to ensure that no members of the IRB have conflict of interest pertaining to issues to be discussed and require members to refrain from participation in specific meetings if there is a conflict of interest. Membership of the IRB is currently not at full capacity although in practice there is the necessary quorum for decision making on individual grievance procedures. IRB Secretariat is drawn from PMDD which is not involved in procurement transactions of procuring agencies or the process leading to contract award decisions
<b>Gap analysis</b>
<b>Recommendations</b>
<b>Assessment criterion 13(b)(b):</b> does not charge fees that inhibit access by concerned parties
<b>Conclusion:</b> No gap
<b>Red flag:</b> No
<b>Qualitative analysis</b>  There is a non-refundable Registration Fee Nu. 5,000 (five thousand) <sup>71</sup> per application for review by IRB which is a reasonable level. Payment of this fee was not raised as an inhibiting factor by the private sector when engaging with the MAPS Assessment Team.
<b>Gap analysis</b>

<sup>71</sup> 5,000 Ngultrums is approximately USD 63.

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<b>Recommendations</b>
<b>Assessment criterion 13(b)(c):</b> follows procedures for submission and resolution of complaints that are clearly defined and publicly available
<b>Conclusion:</b> No gap
<b>Red flag:</b> No
<b>Qualitative analysis</b> IRB Secretariat and IRB follow procedures for submission and resolution of complaints which are set out in IRB Rules and Procedures and e-GP Grievance Management Manual <sup>72</sup> . The IRB Rules and Procedures are publicly available from the e-GP website and clearly define the procedures for submission resolution of complaints. e-GP Grievance Management Manual is publicly available from the e-GP website and clearly explains submission and handling of complaints to procuring agencies and submission and handling of appeals to IRB using the e-GP system.
<b>Gap analysis</b>
<b>Recommendations</b>
<b>Suggestion for improvement</b> Include link to e-GP Grievance Management Manual from Grievance tab on e-GP home page.
<b>Assessment criterion 13(b)(d):</b> exercises its legal authority to suspend procurement proceedings and impose remedies
<b>Conclusion:</b> No gap
<b>Red flag:</b> No
<b>Qualitative analysis</b>  <b>Suspension of procurement proceedings pending final decision of IRB:</b> IRB Rules and Procedures s.8.1.8 gives IRB legal authority to order suspension of procurement procedures where conditions are satisfied. <b>Remedies:</b> Analysis of decisions of the IRB demonstrates that it imposes a range of remedies, according to the particular facts of the case. Remedies imposed by the IRB in cases reviewed (2018 to 2022) include: annulment of tender decision, annulment of contract and direction to re-tender, direction to re-evaluate and direction to review bid conditions. In addition, the IRB issues advisory notes as part of the decision, addressed to procuring agencies , for example; recommending improvements in processes or communications with contractors; advising against insertion of additional clauses into contracts, and; reminders to ensure that methodologies are clearly defined.
<b>Gap analysis</b>

<sup>72</sup> Checked in meeting between MAPS Assessment Team and IRB Secretariat, January 2023.

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<b>Recommendations</b>					
<b>Assessment criterion 13(b)(e):</b> issues decisions within the time frame specified in the law/regulations*					
<b>Conclusion:</b> No gap					
<b>Red flag:</b> No					
<b>Qualitative analysis</b> IRB Rules & Procedures, paragraph 16 provides that the IRB must deliver its decision “in a timely fashion subject to article 57 of [IRB Rules & Procedures] within ten (10) days from the commencement of the review proceedings”. IRB Rules & Procedures paragraph 43 provide that the Secretariat shall register the commencement of the review procedure in the Register of Applications for Review.					
<b>Quantitative analysis</b>  <i>Quantitative indicator to substantiate assessment of sub-indicator 13(b) assessment criterion (e):</i> • <i>appeals resolved within the time frame specified in the law/exceeding this time frame/unresolved (Total number and in %).</i> <i>Source: Independent Review Body, November 2022.</i>					
Year	Total Number of applications for review	Number of applications for review Number and %			
		Rejected	Resolved within time frame specified	Resolved outside time frame specified	Unresolved
2017-18	3	None 0%	Yes 100%	None 0%	None 0%
2018-19	5	None 0%	Yes 100%	None 0%	None 0%
2019-20	7	None 0%	Yes 100%	None 0%	None 0%
2020-21	5	None 0%	Yes 100%	None 0%	None 0%
2021-22	5	None 0%	Yes 0%	None 0%	None 0%
2022-23 (As of 3rd November 2022)	5	2	Yes 100%	None 0%	None 0%
<b>Gap analysis</b>					

## Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

<b>Recommendations</b>
<b>Assessment criterion 13(b)(f):</b> issues decisions that are binding on all parties
<b>Conclusion:</b> No gap
<b>Red flag:</b> No
<b>Qualitative analysis</b> IRB Rules and Procedures s..61 provides that the decision of the IRB “shall be final and binding”. All IRB decisions include a statement that the decision of the IRB is final and binding.
<b>Gap analysis</b>
<b>Recommendations</b>
<b>Assessment criterion 13(b)(g):</b> is adequately resourced and staffed to fulfil its functions.
<b>Conclusion:</b> Minor gap
<b>Red flag:</b> No
<b>Qualitative analysis</b>  <b>Secretariat:</b> PMDD serves as the IRB's secretariat. PMDD indicated in direct discussions that they are able to handle the secretariat functions, with a need to prioritise when a grievance is received. There is no separate budget earmarked for IRB purposes, and according to clarifications received from PMDD <sup>73</sup> the division currently has no plans to propose a budget.
<b>Gap analysis</b> Analysis at indicator 5(c)(c) identifies lack of resources and staffing for PMDD as a substantive gap. The Assessment Team understands that, in general, resources are stretched at PMDD. In the view of the Assessment Team, this is likely to have a negative impact on all activities of PMDD including resourcing and staffing to support the functions of the IRB. This is therefore flagged as a minor gap, to be addressed as part of wider consideration of overall resources and staffing for PMDD.
<b>Recommendations</b> In reviewing resources and staffing of PMDD (see indicator 5(c) MoF/PMDD to include consideration of whether secretariat services to IRB are sufficient and whether an allocated budget for secretariat may enhance functioning of the IRB.
<b>Sub-indicator 13(c)</b> <b>Decisions of the appeals body</b>
Procedures governing the decision making process of the appeals body provide that decisions are:
<b>Assessment criterion 13(c)(a):</b> based on information relevant to the case.
<b>Conclusion:</b> No gap

<sup>73</sup> Written clarifications received from PMDD on July 12, 2023.

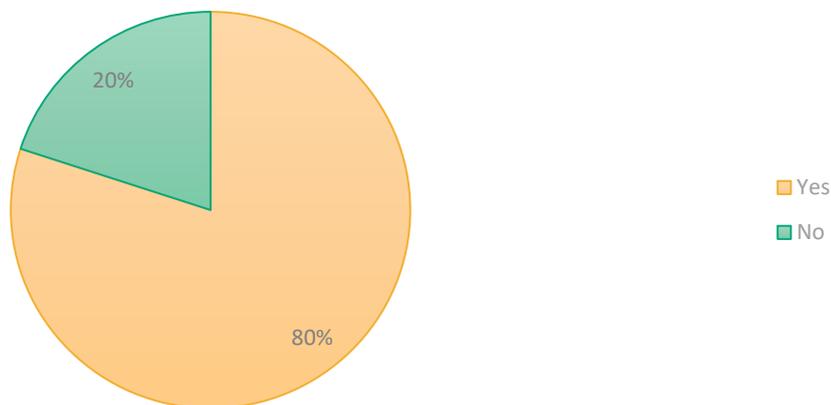
## Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

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<b>Red flag:</b> No
<b>Qualitative analysis</b> 24 IRB decisions, covering the period 2018 to 2022, were reviewed by the MAPS Assessment Team. Analysis of these published decisions demonstrates that they are made on the basis of information relevant to the case.
<b>Gap analysis</b>
<b>Recommendations</b>
<b>Suggestion for improvement</b> Whilst information contained in the decisions is sufficient and quality of decisions is good, the published decisions could be further improved by providing more detailed information on the facts of the case. This would assist readers to better understand the context of some of the more detailed reasoning in the decisions.
<b>Assessment criterion 13(c)(b):</b> balanced and unbiased in consideration of the relevant information.*
<b>Conclusion:</b> No gap
<b>Red flag:</b> No
<b>Qualitative analysis</b> Analysis of published decisions demonstrates thorough analysis of the issues and balanced and unbiased consideration of relevant information.
<b>Quantitative analysis</b>  <i>Recommended quantitative indicator to substantiate assessment of sub-indicator 13(c) Assessment criterion (b):</i> <i>- share of suppliers that perceive the challenge and appeals system as trustworthy (in % of responses).</i> <i>Source: Survey.</i> <i>Note: Responses received from 10 private sector participants who have submitted appeals.</i>

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Did you feel the Independent Review Body (IRB) review system was trustworthy and fair?

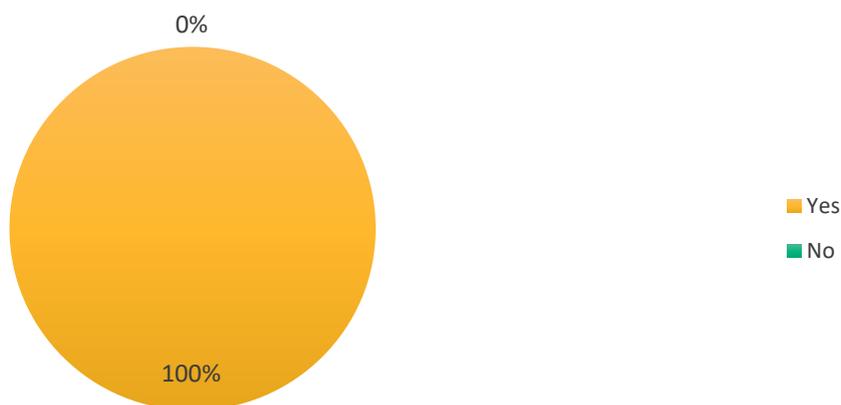


- share of suppliers that perceive appeals decisions as consistent (in % of responses).

Source: Survey.

Note: Responses received from 10 private sector participants who have submitted appeals

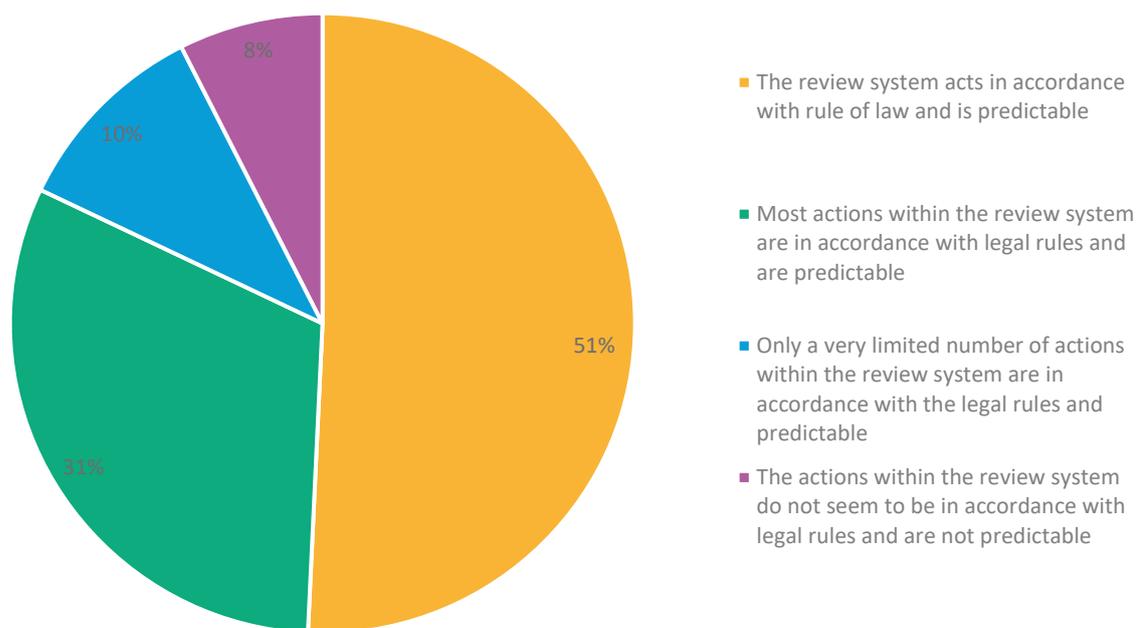
**Did you believe the decision by the Independent Review Body (IRB) was consistent?**



Additional question answered by 67 private sector participants

## Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

Generally speaking, what is your assessment of the Independent Review Body (IRB) system of review (including its consistency) with regards to public procurement?



### Gap analysis

### Recommendations

#### Assessment criterion 13(c)(c):

result in remedies, if required, that are necessary to correcting the implementation of the process or procedures.\*

**Conclusion:** No gap

**Red flag:** No

### Qualitative analysis

Analysis of decisions of the IRB demonstrates that it imposes a range of remedies, according to the particular facts of the case. Remedies imposed by the IRB in cases reviewed (2018 to 2022) include: annulment of tender decision, annulment of contract and direction to re-tender, direction to re-evaluate and direction to review bid conditions and in cases analysed, appear appropriate for correcting implementation.

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In addition, the IRB issues advisory notes as part of the decision, addressed to procuring agencies for example; recommending improvements in processes or communications with contractors; advising against insertion of additional clauses into contracts, and; reminders to ensure that methodologies are clearly defined.

## Quantitative analysis

*\* Recommended quantitative indicator to substantiate assessment of sub-indicator 13(c) Assessment criterion (c): - outcome of appeals (dismissed; decision in favour of procuring entity; decision in favour of applicant) (in %).*

*Source: Independent Review Body, November 2022*

Year	Total number of decision issued	Outcome of applications		Number of decisions enforced Number and %
		Decided in favour of procuring agency Number and %	Decided in favour of complainant Number and %	
2017-18	3	0 0%	3 100%	3 100%
2018-19	5	5 100%	0 0%	5 100%
2019-20	7	3 43%	4 57%	7 100%
2020-21	5	5 100%	0 0%	5 100%
2021-22	5	2 40%	3 60%	5 100%
2022 (As of 3rd November)	3	2 66%	1 33%	3 100%

## Gap analysis

## Recommendations

### Assessment criterion 13(c)(d):

decisions are published on the centralised government online portal within specified timelines and as stipulated in the law.\*

**Conclusion:** Minor gap

**Red flag:** No

## Qualitative analysis

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See analysis, minor gap and recommendation at 1(h)(e) concerning statutory time line for publication of IRB decision.

Although no time line for publication is specified in the legal framework, IRB secretariat confirm that all decisions are published on eGP grievance page immediately after decisions have been sent to the parties to the process. Promptness of publication of IRB decisions on eGP grievance page was verified by Assessment Team by means of regular checks of website page for publication and decision dates.

## Quantitative analysis

// Minimum indicator // \*Quantitative indicator to substantiate assessment of sub-indicator 13(c) Assessment criterion (d):

- share of appeals decisions posted on a central online platform within timelines specified in the law (in %).

Source: Centralised online portal.\*

100% of decisions are posted on e-GP, on a dedicated “grievance” page.

## Gap analysis

## Recommendations

## Suggestion for improvement

The list of IRB decisions published on the e-GP website could be improved to increase stakeholder interest and understanding of the IRB review process and outcomes. The list of decisions is currently presented using only a pdf reference, for example “04-2022-2023.pdf” or “17.pdf” which does not refer to the case number and provides no information on the parties, subject matter or outcome of the decision. Individual decisions are published as searchable pdfs but it is not possible to search the collection of decisions as a whole using the e-GP system. IRB Secretariat could, as an initial measure, consider publishing an index of the published decisions on the e-GP grievance decision page, including basic data on each decision. In the longer term, the e-GP system may be improved to allow for on-line interrogation of the collection of IRB decisions.

## Indicator 14. The country has ethics and anticorruption measures in place

### Sub-indicator 14(a)

#### Legal definition of prohibited practices, conflict of interest, and associated responsibilities, accountabilities, and penalties

The legal/regulatory framework provides for the following:

#### Assessment criterion 14(a)(a):

definitions of fraud, corruption and other prohibited practices in procurement, consistent with obligations deriving from legally binding international anti-corruption agreements.

**Conclusion:** No gap

## Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

<b>Red flag:</b> No
<b>Qualitative analysis</b> <p>Definitions of fraud, corruption and other prohibited practices are set out in the procurement legal framework and are consistent with obligations deriving from UNCAC, as also reflected in the Anti-Corruption Act of Bhutan 2011 (ACAB).</p> <p>Bhutan is a signatory to, and has ratified, the United Nations Convention against Corruption (UNCAC). The Anti-Corruption Act of Bhutan 2011 (“ACAB”) is the primary source of legislation concerning fraud and corruption<sup>74</sup>. Provisions related to fraud and corruption in procurement are covered in the following sections of the ACAB: (i) Active and Passive Bribery in relation to bids [Sections 48 &amp; 49]; (ii) Active and Passive Bribery in relation to contract [Sections 50 &amp; 51]; (iii) Active and Passive Bribery in relation to auction [Sections 46 &amp; 47]; and (iv) Active and Passive Bribery of public servant [Sections 42 &amp; 43]. Other offences relevant to tendering processes include: (i) Abuse of functions [Sections 58 &amp; 59]; (ii) Failure to declare conflict of interest [Section 63]; (iii) Abuse of privileged information [Section 65]; and (iv) Failure to protect public property and revenue [Section 61]</p> <p>PRR s.1.1.4 Fraud and Corruption, provides that “it is RGoB policy to require that Purchasers, Bidders, Suppliers, Contractors and their Subcontractors observe the highest standards of ethics during the procurement and execution of contracts”. [FN1] PRR s.1.1.4 comprehensively defines “corrupt practices”, “Fraudulent practice”, “Collusive practice”, “Obstructive practice” in an appropriate manner.</p>
<b>Gap analysis</b>
<b>Recommendations</b>
<b>Assessment criterion 14(a)(b):</b> <p>definitions of the individual responsibilities, accountability and penalties for government employees and private firms or individuals found guilty of fraud, corruption or other prohibited practices in procurement, without prejudice of other provisions in the criminal law.</p>
<b>Conclusion:</b> No gap
<b>Red flag:</b> No
<b>Qualitative analysis</b> <p>Definitions of individual responsibilities, accountability and penalties are set out in ACAB (see provisions listed in analysis at 14(a)(a). The penalties for the bribery and other corruption related offenses are also specified in the ACAB in respective sections ranging from misdemeanor to felony of fourth degree or value based whichever is higher.</p> <p>Rules on Administrative Disciplinary Actions, July 2022, Royal Civil Service Commission<sup>75</sup> s.27(n) requires Civil Servants are expected to maintain integrity and uphold dignity of the office to which they are appointed and in accordance with the rules, administrative offenses and corresponding sanctions are classified into major and minor.</p>

<sup>74</sup>[https://www.acc.org.bt/sites/default/files/ACA%202011\\_1.pdf](https://www.acc.org.bt/sites/default/files/ACA%202011_1.pdf)

<sup>75</sup><https://www.rcsc.gov.bt/wp-content/uploads/2022/07/Rule-for-Administrative-actions.pdf>

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The ACC Commission has also developed Gift Rules for implementation by public agencies and public agencies are required to maintain a Gift Register.
<b>Gap analysis</b>
<b>Recommendations</b>
<b>Assessment criterion 14(a)(c):</b> definitions and provisions concerning conflict of interest, including a cooling-off period for former public officials.
<b>Conclusion:</b> Minor gap
<b>Red flag:</b> No
<b>Qualitative analysis</b> ACAB s.63 provides as follows: “Failure to declare conflict of interest (1) Where a public servant or his or her relative or associate has a private or personal interest in a decision to be taken by a public agency, that public servant shall not vote or take part in a proceeding or process of the public agency relating to such decision. (2) A public servant who fails to comply with subsection (1) of this section shall be guilty of an offence. (3) An offence under this section shall be a misdemeanor”. Guidance on Managing Conflict of Interest <sup>76</sup> is provided by the Anti-Corruption Commission. This Guidance defines conflict of interest broadly as follows: “A ‘Conflict of Interest’ involves a conflict between the public duty and private interests of a public official in which the public official has private interests which would improperly influence the performance of his/her official duties and responsibilities. A conflict of interest can arise from avoiding personal losses as well as gaining personal advantage-whether financial or otherwise”. This guidance explains actual, perceived and potential COI and provides a format to declare and manage COI. There is no specific provision on cooling-off period for former public officials. Model Public Service Code of Conduct, s.35 <sup>77</sup> requires in the context of post-public service restrictions that “A Public Servant shall: (a) not take advantage of his or her official position to obtain opportunity for future employment; and (b) forthwith disclose to his or her supervisor, management, or relevant authority any offer of employment received”.
<b>Gap analysis</b> No specific provision on cooling-off period of former public officials
<b>Recommendations</b> The Guidance on Managing Conflict of Interest to include specific provision on cooling-off period of former public officials
<b>Sub-indicator 14(b)</b> <b>Provisions on prohibited practices in procurement documents</b>
<b>Assessment criterion 14(b)(a):</b> The legal/regulatory framework specifies this mandatory requirement and gives precise instructions on how to incorporate the matter in procurement and contract documents.
<b>Conclusion:</b> No gap

<sup>76</sup><https://www.acc.org.bt/sites/default/files/Col2018updated.pdf>

<sup>77</sup><https://www.acc.org.bt/pdf/MPSCC.pdf>

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**Red flag:** No

### **Qualitative analysis**

Procuring entities are obliged to use standard bidding documents and contract conditions which contain relevant provisions on prohibited practices.

The PRR provide that Use of standard bidding documents and standard contract conditions is mandatory with templates provided only and only minimum changes are permitted, relating solely to project specific conditions (see analysis at 2(b)(b) and 2(c)(a)). Standard bidding documents and standard contract conditions contain relevant provisions on prohibited practices and bidders are required to sign Integrity Pact statements as a condition of admission to eligibility. (see analysis at 14(b)(c)).

### **Gap analysis**

### **Recommendations**

#### **Assessment criterion 14(b)(b):**

Procurement and contract documents include provisions on fraud, corruption and other prohibited practices, as specified in the legal/regulatory framework.

**Conclusion:** No gap

**Red flag:** No

### **Qualitative analysis**

Procurement and contract documents include provisions on fraud and corruption and other prohibited practices and bidders are required to sign Integrity Pact statements as a condition of admission to eligibility.

Standard Bidding Documents<sup>78</sup> incorporate provisions on fraud, corruption and other prohibited practices. Instructions to Bidders at clause 2 (ITB 2) on Fraud and Corruption stipulates that: “ It is RGoB’s policy to require that Employers, Bidders, Suppliers, Contractors and their Subcontractors observe the highest standards of ethics during the procurement and execution of contracts”. This clause defines corrupt practices, fraudulent practices, coercive practices and obstructive practices and these definitions are incorporated into the General Conditions of Contract (GCC 60.1).

These provisions at ITB clause 2 also stipulates that Employer will: “(b) reject a proposal for award if it determines that the Bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for the contract in question. (c) will sanction a firm or individual, including declaring them ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that they have, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for, or in executing contract; (d) will have the right to require that a provision be included in Bidding Documents and in contracts, requiring Bidders, Suppliers, Contractors and their

<sup>78</sup> Document sampled: e-SBD for Works (above Nu 5 Million), 2019  
<https://www.egp.gov.bt/softSBD.jsp>

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Subcontractors to permit the Employer, any organization or person appointed by the Employer and/or any relevant RGoB agency to inspect their accounts and records and other documents relating to the Bid submission and contract performance and to have them audited by auditors appointed by the Employer; (e) requires that Bidders, as a condition of admission to eligibility, execute and agree the Integrity Pact; and (f) will report any case of corrupt, fraudulent, collusive, coercive or obstructive practice to the relevant RGoB agencies, including but not limited to the Anti-Corruption Commission (ACC) of Bhutan, for necessary action in accordance with the statutes and provisions of the relevant agency”.

Similar provisions as above have been incorporated in other SBDs such as those for Goods and Consultancy services.

The provisions in the Standard Bidding Documents GCCs are based on PPR s.1.1.4 as elaborated at Criterion 14 (a) (a) above and are in line with international practices including those followed by Multilateral Development Banks.

### Gap analysis

### Recommendations

#### Sub-indicator 14(c)

#### Effective sanctions and enforcement systems

#### Assessment criterion 14(c)(a):

Procuring entities are required to report allegations of fraud, corruption and other prohibited practices to law enforcement authorities, and there is a clear procedure in place for doing this.

**Conclusion:** No gap

**Red flag:** No

#### Qualitative analysis

ACAB Chapter 5, which applies to procuring entities as well as individuals, covers Complaint Management Policy and Procedure. It specifies the duty to report acts of corruption to the ACC, the procedure to be followed complaints and also penalty for false reporting.

### Gap analysis

### Recommendations

#### Assessment criterion 14(c)(b):

There is evidence that this system is systematically applied and reports are consistently followed up by law enforcement authorities.

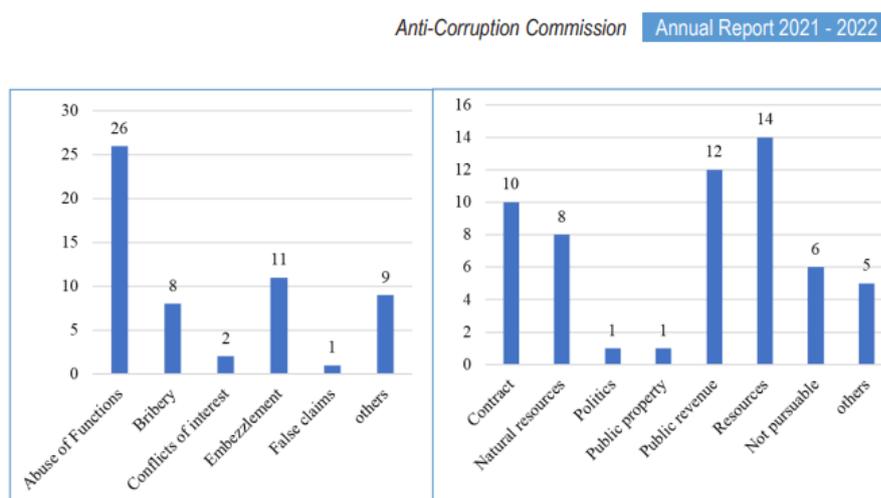
**Conclusion:** No gap

**Red flag:** No

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## Qualitative analysis

The Annual Report of 2021-22 of ACC indicates that there is systematic follow-up of complaints received through complaints evaluation and action, which may include full investigation. The Annual Report of ACC 2021-2022 shows the types of complaints that qualified for investigation which encompasses procurement and contracts management as reflected in the table below, from that Annual Report:



**Figure 2.7:** Complaints qualified for investigation by type of corruption offences and area

Section 77 (5) of ACAB 2011 stipulates Complaint Management Policy and Procedure. The complaints are received by the Complaint Management Division (CMD) and registered in the Complaints & Investigation Management System. Actions on the complaints include investigation, information enrichment, sharing with agencies either for action or sensitization, and a decision to drop (where no action is required). For those complaints that are shared with the agencies, the Commission follows up by means of an “Action Taken Report”. Complaints which are investigated may result in prosecution or disciplinary action.

## Gap analysis

### Recommendations

#### Assessment criterion 14(c)(c):

There is a system for suspension/debarment that ensures due process and is consistently applied.

**Conclusion:** No gap

**Red flag:** No

## Qualitative analysis

The Debarment Rules 2019 requires the procuring agency to refer any instances, including but not limited to fraud and corruption, to the Debarment Committee which is constituted to review referrals, conduct debarment proceedings and impose sanctions. (see analysis at 1(d)(c)). There is a debarment

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<p>list on the e-GP website accessible from the e-GP homepage by clicking the “Debarment” tab.<sup>79</sup> According to PRR, debarment constitutes a ground for ineligibility from participation in procurement for RGoB financed contracts.</p> <p>Guidelines on Suspension of Business License sets out conditions and manner to suspend a license or prohibit an individual or entity, whether national or foreign, from participating in a contractual relationship with public agencies.</p>
<b>Gap analysis</b>
<b>Recommendations</b>
<b>Assessment criterion 14(c)(d):</b> There is evidence that the laws on fraud, corruption and other prohibited practices are being enforced in the country by application of stated penalties.*
<b>Conclusion:</b> No gap
<b>Red flag:</b> No
<b>Qualitative analysis</b> There is good evidence on enforcement of laws on fraud and corruption and other prohibited practices Since its inception the ACC has investigated 103 corruption cases related to procurement of which 66 cases were forwarded to the Office of the Attorney General (OAG) for prosecution, 21 cases were shared with agencies for administrative actions, 9 cases were dropped while 7 cases are still with the Commission. From the 66 cases referred to the OAG, different courts have convicted 111 individuals in 46 cases while two cases have been dropped, nine cases were acquitted, four cases are still under trial and five cases are under OAG’s review. Further, since October 2021, the ACC has prohibited 14 business entities from entering into contractual relationship with the public agencies till pending the outcome of the case. <sup>80</sup> The e-Procurement website lists 14 debarred business entities. <sup>81</sup> Most of the listed entities are debarred for corrupt practices. As per information from PMDD, in every tender both the parties need to sign integrity pact, code of conduct and ethics for procurement officer is already issued by PMDD, for check and balance there are external agencies like ACC and RAA
<b>Quantitative analysis</b>  <i>* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(c) Assessment criterion (d):</i>

<sup>79</sup> At 18 December 2022, six companies are listed on the e-GP website as debarred, three for corrupt practices. [https://www.e-GP.gov.bt/resources/common/DebarmentListing.jsp?lang=en\\_US&langForMenu=en\\_US](https://www.e-GP.gov.bt/resources/common/DebarmentListing.jsp?lang=en_US&langForMenu=en_US)

<sup>80</sup> Information provided by ACC to MAPS Assessment team, February 2023.

<sup>81</sup> [https://www.egp.gov.bt/resources/common/DebarmentListing.jsp?lang=en\\_US&langForMenu=en\\_US](https://www.egp.gov.bt/resources/common/DebarmentListing.jsp?lang=en_US&langForMenu=en_US)

# Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

- *Firms/individuals found guilty of fraud and corruption in procurement: number of firms/individuals prosecuted/convicted; prohibited from participation in future procurements (suspended/debarred).*  
 Source: Normative/regulatory function/anti-corruption body.

The e-Procurement website lists 14 debarred business entities.<sup>82</sup> Eleven of the listed entities are debarred on the ground of “Corrupt practice”.

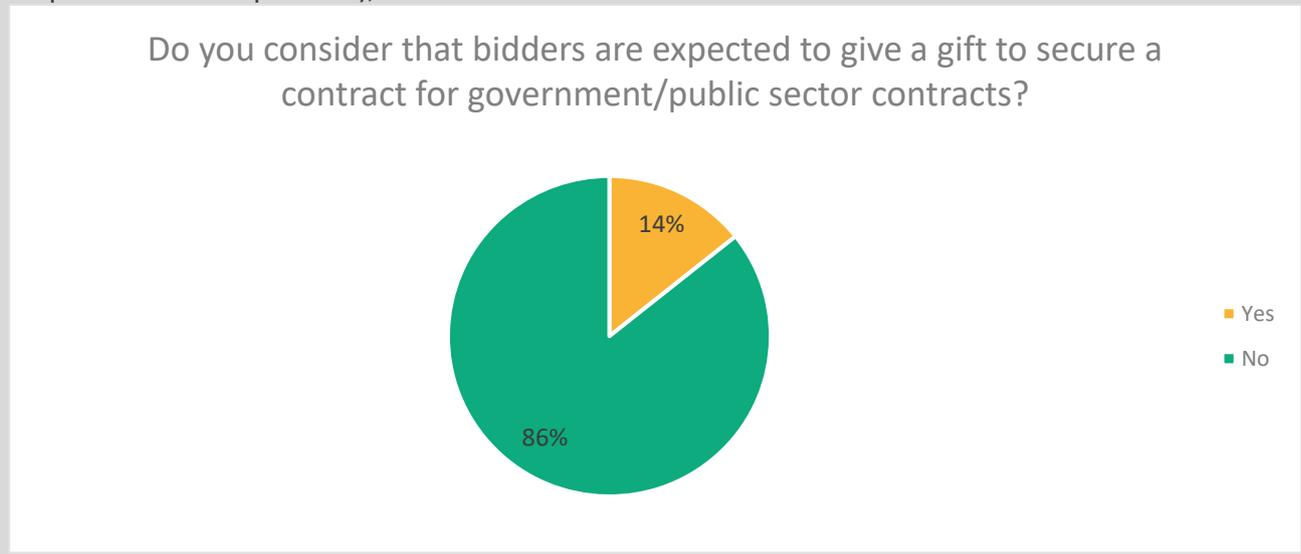
- *Government officials found guilty of fraud and corruption in public procurement: number of officials prosecuted/convicted.*

Source: Normative/regulatory function/anti-corruption body.

- *Gifts to secure public contracts: number of firms admitting to unethical practices, including making gifts in (in %).*

Source: Survey.

Responses to private sector survey conducted by MAPS Assessment Team: 92 participants (70 responses on this question), as follows:



Yes: 14%, No: 86%

### Gap analysis

### Recommendations

#### Sub-indicator 14(d)

#### Anti-corruption framework and integrity training

#### Assessment criterion 14(d)(a):

The country has in place a comprehensive anti-corruption framework to prevent, detect and penalize corruption in government that involves the appropriate agencies of government with a level of responsibility and capacity to enable its responsibilities to be carried out.\*

**Conclusion:** No gap

**Red flag:** No

<sup>82</sup>[https://www.egp.gov.bt/resources/common/DebarmentListing.jsp?lang=en\\_US&langForMenu=en\\_US](https://www.egp.gov.bt/resources/common/DebarmentListing.jsp?lang=en_US&langForMenu=en_US)

## Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

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### **Qualitative analysis**

There is a comprehensive anti-corruption framework to prevent, detect and penalize corruption in government through the National Integrity Anti-Corruption Strategy which requires agencies to implement integrity measures in the form of an Organizational Integrity Plan (OIP) which is evaluated annually.

The Anti-Corruption Commission has the mandate to combat and prevent corruption as enshrined in the Article 27 of the Constitution of the Kingdom of Bhutan through a three-pronged strategy of investigation, prevention and education.

A National Integrity and Anti-Corruption Strategy (2019 – 2023) has been adopted<sup>83</sup> for implementation by all public agencies. Under this Strategy, agencies are required to implement integrity measures in the form of an Organizational Integrity Plan (OIP) which is annually evaluated for effective implementation and greater ownership. According to the Annual Report of the ACC for 2021-22, over the previous three years, implementation of the OIP by the organizations improved and gained momentum. Through the implementation of the OIP, integration of integrity promotion tools such as the Declaration and Management of Conflict of Interest (Col) for recruitment, promotion and procurement purposes have improved. Similarly, compliance to Asset Declaration and Management has also improved over the years

According to the National Corruption Barometer Survey 2020<sup>84</sup> conducted by the Bhutan Transparency Initiative, 72% of the respondents rated ACC well on educating the public, 75% of the respondents rated ACC well on preventing corruption, 74% rated ACC well on investigating corruption. The lowest rating was for the handling of corruption complaints at 60%. Overall, 74.6 % of the respondents rated the ACC well on combating corruption. The 2021 Anti-Corruption Agency Strengthening Initiative Assessment<sup>85</sup> conducted by Transparency International rated four of the indicators under detection, investigation and prosecution dimension under high score, four indicators in the moderate score and only one indicator in the low score. As for the dimension prevention, education & outreach, the study rated seven out of eight indicators in the high score with only one indicator rated under moderate score.

The private sector survey conducted by MAPS Assessment Team elicited responses from 92 participants and points to a high degree of effectiveness on anti-corruption measures. (see figure below).

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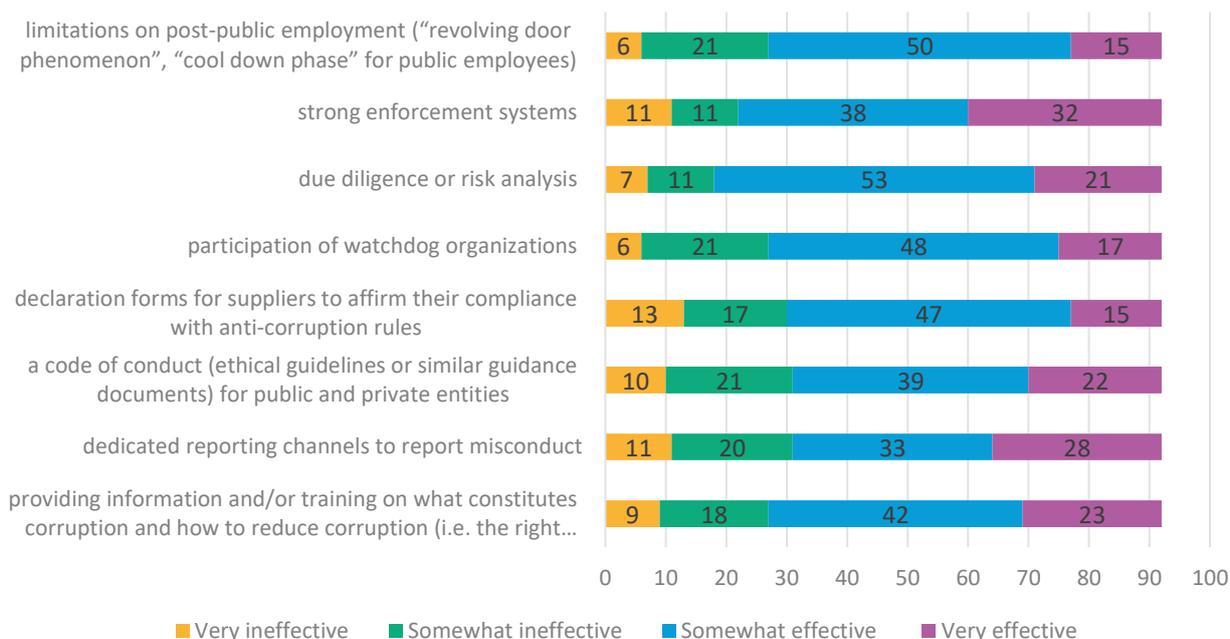
<sup>83</sup> Adopted in accordance with 12<sup>th</sup> National Key Result Area 'Corruption Reduced'.

<sup>84</sup> <https://bhutantransparency.org/wp-content/uploads/2021/06/NCBSR-2020-final.pdf>

<sup>85</sup> Anti-Corruption Agency Strengthening Initiative, Assessment of Bhutan Anti-Corruption Commission 2021, Transparency International

# Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

There are many ways to reduce corruption in public procurement. Below, you find a list of possible avenues. In your view, in the Bhutan context, how effective are these measures in reducing corruption in public procurement?



## Quantitative analysis

The above data from various sources points to a high degree of effectiveness on anti-corruption measures

*\*Recommended quantitative indicator to substantiate assessment of sub-indicator 14(d) Assessment criterion (a):*

-

Source: Survey.

## Gap analysis

## Recommendations

### Assessment criterion 14(d)(b):

As part of the anti-corruption framework, a mechanism is in place and is used for systematically identifying corruption risks and for mitigating these risks in the public procurement cycle.

**Conclusion:** No gap

## Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

**Red flag:** No

### Qualitative analysis

A mechanism is in place to systemically identifying corruption risk and its mitigation Integrity measures have been mainstreamed into procuring agencies, most recently through the mandatory application of the National Integrity and Anti-Corruption Strategy (NIACS,2019-2023)<sup>86</sup>, with “corruption reduced” being one of the National Key Results areas in the 12<sup>th</sup> Five Year Plan and implemented through Government Performance Management System/Strategic Corporate plans.

The ACC has published a comprehensive Corruption Risk Management Manual<sup>87</sup> which is a step- by - step practical guide for use by procuring entities and other organizations in conducting CRM, including in the field of public procurement.

The ACC, as part of its activities, also conducts proactive as well as reactive empirical anti-corruption research, system studies and corruption risk assessments. The assessments are followed by implementation of recommendations in the respective agencies and/or services. The same is applicable for procurement. For example, in December 2017 the ACC in collaboration with the then Ministry of Works & Human Settlement, Ministry of Finance and Royal University of Bhutan published an empirical study titled ‘Towards Enhanced Efficiency, Accountability and Transparency in Public Road Construction’<sup>88</sup> with the objective to evaluate the process where corruption is likely to occur, describe the cause and effect of corruption thereby coming up with appropriate preventive measures.

### Gap analysis

### Recommendations

### Assessment criterion 14(d)(c):

As part of the anti-corruption framework, statistics on corruption-related legal proceedings and convictions are compiled and reports are published annually.

**Conclusion:** No gap

**Red flag:** No

### Qualitative analysis

The Commission is required by the Article 27 (4) of the Constitution of the Kingdom of Bhutan and ACAB s.169 to submits an Annual Report on its policies and performance (including statistics) to the *Druk Gyalpo*, the Prime Minister and Parliament. Annual Reports are also published on the ACC.<sup>89</sup>

### Gap analysis

### Recommendations

<sup>86</sup> National Integrity and Anti-Corruption Strategy (NIAC,2019-2023) on Developing Accountable, Moral and Transparent Systems and Individuals <https://www.acc.org.bt/pdf/NIACS%202019-2023.pdf>

<sup>87</sup> <https://www.acc.org.bt/sites/default/files/Final%20guideline%20for%20systems%20approach%20to%20corruption%20prevention.pdf>

<sup>88</sup> [https://www.acc.org.bt/sites/default/files/PRC\\_2017SuperFinal2Dec2017.pdf](https://www.acc.org.bt/sites/default/files/PRC_2017SuperFinal2Dec2017.pdf)

<sup>89</sup> [Annual Reports | Anti-Corruption Commission of Bhutan \(acc.org.bt\)](https://www.acc.org.bt/sites/default/files/Annual%20Reports%20Anti-Corruption%20Commission%20of%20Bhutan%20(acc.org.bt).pdf)

## Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

<b>Assessment criterion 14(d)(d):</b> Special measures are in place for the detection and prevention of corruption associated with procurement.
<b>Conclusion:</b> No gap
<b>Red flag:</b> No
<b>Qualitative analysis</b> In addition to preventive measures ensured through corruption risk management (CRM) processes, anti-corruption research, system studies and corruption risk assessments referred to under Sub-indicator 14 (d) (b), the Integrity Vetting System and Rules for Integrity Vetting 2022 promotes prevention of corruption by vetting the integrity of person and/or entity before award of a public contract or entering into a public contractual relationship. <sup>90</sup> Declaration and management of Conflict of Interests (CoI) has also been mainstreamed into procurement processes. To facilitate declaration and management of CoI, a Model Guideline on Managing Conflict of Interest in the public sector has been adopted since 2017. Debarment, and Suspension of Business License, are additional preventive and deterrence tools. The ACC also issues prevention advisories. For example, in May 2022 the ACC issued a prevention advisory for the community contracting in the Gewogs highlighting the causes and schemes of corruption and strategies to prevent it. Similarly, in 2010 the ACC conducted a reactive system study wherein the procurement of medical equipment by the Ministry of Health was reviewed.
<b>Gap analysis</b>
<b>Recommendations</b>
<b>Assessment criterion 14(d)(e):</b> Special integrity training programmes are offered and the procurement workforce regularly participates in this training.
<b>Conclusion:</b> Minor gap
<b>Red flag:</b> No
<b>Qualitative analysis</b> The ACC provides an e-learning course to promote Ethics and Integrity for Civil Servants, with an upgraded version launched on 9 December 2021 (International Anti-Corruption Day). The course was upgraded to optimize the use of technology in enhancing ethical culture in the public service. To strengthen Civil Service Values and Conduct, the RCSC has made the completion of the course and submission of certificate mandatory for potential/aspiring candidates for promotion to P1 (including both Specialist and Management, as notified on 1 March 2022).

<sup>90</sup><https://www.acc.org.bt/pdf/RulesIVR2022.pdf>

## Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

Additionally, as a part of the mandatory activities pertaining to the ‘Conduct of ethical leadership trainings’ in Organizational Integrity Plan (OIP), officials in P1 and above positions have availed the Level 2: Ethical Leadership of the course. Towards providing alternative platform to sensitize on ethics, integrity and professionalism culture at workplace and beyond, the course is designed to be self-paced and online. A total of 2,322 users had enrolled as of 30 June 2022, out of which 530 and 1,011 users have completed Level 1 and Level 2 respectively.

The ACC conduct, on an ongoing basis, advocacy sessions to various target groups and has conducted thematic sessions for vulnerable sectors including procurement, to orient them on the corruption vulnerabilities and tools (Ethics, Integrity & Professionalism) to offset the impending risk of succumbing to corruption.<sup>91</sup>

Also based on feedback of Feb 07, 2023 received from ACC, considering that the officials of the Department of Prevention & Education have to constantly conduct advocacy sessions to various target groups, it is important that the officials are certified (such as Certified Integrity Officer). However, such capacity development is contingent on the technical and financial assistance of the counterparts. Constrained by the resources, the Commission as of now is not able to facilitate necessary training programmes for the officers

### Gap analysis

The capacity building initiatives are constrained by availability of resources

### Recommendations

RGoB to make resources available for conducting regular integrity training including on red flags in procurement

### Sub-indicator 14(e)

#### Stakeholder support to strengthen integrity in procurement

### Assessment criterion 14(e)(a):

There are strong and credible civil society organisations that exercise social audit and control.

**Conclusion:** Minor gap

**Red flag:** No

### Qualitative analysis

Bhutan Transparency Initiative (BTI) is one of the prominent Civil Society Organizations (CSOs) in the country promoting transparency, accountability and integrity through policy-oriented research, development of training tools and facilitation of policy dialogue. One such study is the National Corruption Barometer Survey which is conducted once in every three years covering on the levels of corruption, forms of corruption, the quality of the delivery of public services, effectiveness and support of existing anti-corruption initiatives, access to anti-corruption services, delivery of justice and in general the degree of corruption in the country. Further, BTI also actively promoted constructive citizen engagement and participation at various stages of development activities/programs by adopting Social Accountability tools

### Gap analysis

The effectiveness of CSOs is impeded due to lack of enabling environment

<sup>91</sup> Information provided by ACC to MAPS Assessment Team, February 2023.

# Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

## Recommendations

Please see recommendations at 14 (e) (b)

## Assessment criterion 14(e)(b):

There is an enabling environment for civil society organisations to have a meaningful role as third-party monitors, including clear channels for engagement and feedback that are promoted by the government.

**Conclusion:** Substantive gap

**Red flag:** Yes

## Qualitative analysis

Engagement of CSOs for a third-party monitoring is limited to the role of BTI. As also rightly highlighted by the Transparency International's Corruption Perception Index (CPI), diagonal accountability in the Bhutanese public sector is weak without adequate engagement of CSOs.

However, the ACC has been actively engaging CSO to prevent corruption and most importantly raise integrity consciousness. As part of the CSO Engagement program, the ACC is partnering with the CSOs to nurture governance, social accountability and civic engagement. To this end, a CSO Accountability Standard has been developed and adopted by 48 CSOs.

Responses to the private sector survey conducted by MAPS Assessment Team: 92 participants (70 responses on the issue of CSO oversight was as follows:



Yes: 17%, No: 83%

## Gap analysis

Lack of involvement of CSO as third-party monitor. Considered red flag as it requires inter-institutional effort and collaboration

## Recommendations

Government to consider use of CSOs as third-party monitor and create enabling environment

## Assessment criterion 14(e)(c):

There is evidence that civil society contributes to shape and improve integrity of public procurement.\*

**Conclusion:** Substantive gap

**Red flag:** Yes

## Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

### Qualitative analysis

While there are no instances of CSOs providing oversight and social control specifically in the public procurement, the ACC in partnership with the Department of Local Governance, the Royal Institute of Management and BTI introduced Social Accountability tools in 2013 towards engaging citizens in prioritization, planning, budget allocation, expenditure tracking and monitoring of development activities.

More importantly, the ACC Prevention Division is currently exploring the possibilities of including Civil Society Organizations as third-party monitor in the bidding process and contract administration, which will be implemented as part of the Integrity Pact. Such a mechanism will help in detecting unethical behaviors thereby providing adequate checks for clean and improved procurement practices free of fraud and corruption.

### Quantitative analysis

*\* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(e) Assessment criterion (c):*

*- number of domestic civil society organisations (CSOs), including national offices of international CSOs) actively providing oversight and social control in public procurement.*

*Source: Survey/interviews.*

### Gap analysis

As in 14 ( e) (b), Lack of involvement of CSO as third-party monitor. Considered red flag as it requires inter-institutional effort and collaboration

### Recommendations

As in 14 (e) (b)

### Assessment criterion 14(e)(d):

Suppliers and business associations actively support integrity and ethical behaviour in public procurement, e.g. through internal compliance measures.\*

**Conclusion:** No gap

**Red flag:** No

### Qualitative analysis

In the country context of Bhutan, Business Integrity Initiative of Bhutan to promote integrity and ethical behaviors explained below is considered sufficient

Towards enhancing ethical business in the country by strengthening the anti-corruption regime, Business Integrity Initiative of Bhutan (BIIB) has been initiated. Under this initiative, 15 Druk Holding Investment Portfolio and Listed Companies and 3 private entities have signed Corporate Integrity Pledge committing to uphold principles of ethics and integrity to promote a fair and clean business environment in the conduct of its business. As part of the BIIB, the ACC conducts sensitization workshops to business firms as well as the contractors (small, medium and large) to commit to promoting ethical business.

# Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

<p><b>Quantitative analysis</b></p> <p>Not applicable in the country context</p> <p><i>* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(e) Assessment criterion (d):</i>  <i>- number of suppliers that have internal compliance measures in place (in %).</i>  <i>Source: Supplier database.</i></p>
<p><b>Gap analysis</b></p>
<p><b>Recommendations</b></p>
<p style="text-align: center;"><b>Sub-indicator 14(f)</b>  <b>Secure mechanism for reporting prohibited practices or unethical behavior</b></p>
<p><b>Assessment criterion 14(f)(a):</b>  There are secure, accessible and confidential channels for reporting cases of fraud, corruption or other prohibited practices or unethical behaviour.</p>
<p><b>Conclusion:</b> No gap</p>
<p><b>Red flag:</b> No</p>
<p><b>Qualitative analysis</b></p> <p>There are various modes for reporting cases of corruption to the Commission such as Fax, Website, walk-in, WhatsApp &amp; Wechat (<i>Juenlam ACC</i>), telephone, Mobile App (“MyACC” which can also be used to track status of a complaint lodged with ACC<sup>92</sup>) and post. <sup>93</sup></p>
<p><b>Gap analysis</b></p>
<p><b>Recommendations</b></p>
<p><b>Assessment criterion 14(f)(b):</b>  There are legal provisions to protect whistle-blowers, and these are considered effective.</p>
<p><b>Conclusion:</b> No gap</p>
<p><b>Red flag:</b> No</p>
<p><b>Qualitative analysis</b>  ACAB s.115 provides for anonymity of reporting persons. ACAB s.117 and Royal Bhutan Police Act 2009 s.198 provides for physical protection to complainants, informers, witnesses and their families in corruption-related cases, including from economic and other threats. Procedural protections of witnesses and victims are provided for in ACA s.118. ACAB s.119 covers the protection of informants</p>

<sup>92</sup><https://www.acc.org.bt/?q=node/2365>

<sup>93</sup> Information confirmed by ACC to MAPS Assessment team, February 2023.

## Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

of ACC from any action or proceeding, including disciplinary action. In addition, Witness Protection Guidelines have been developed and rolled out in July 2020. These Guidelines are aimed at **effectively protecting witnesses and to ensure that witnesses give evidence and testimony during prosecution and investigation without fear of reprisal and victimization.**

### Gap analysis

### Recommendations

#### Assessment criterion 14(f)(c):

There is a functioning system that serves to follow up on disclosures.

**Conclusion:** No gap

**Red flag:** No

#### Qualitative analysis

Covered at 14(f)(b) above

### Gap analysis

### Recommendations

#### Sub-indicator 14(g)

#### Codes of conduct/codes of ethics and financial disclosure rules

#### Assessment criterion 14(g)(a):

There is a code of conduct or ethics for government officials, with particular provisions for those involved in public financial management, including procurement.\*

**Conclusion:** No gap

**Red flag:** No

#### Qualitative analysis

In December 2022, the Anti -Corruption Commission published the Model Public Service Code of Conduct<sup>94</sup> which applies to all public servants including those engaged in procurement. Section 7 of the Code requires that “A Public Servant shall demonstrate the highest standards of professional competence, fairness, integrity, and selflessness; and uphold the public interest at all times to maintain, sustain, and strengthen the public trust and confidence in the public service”. Section 3 of the Code of Conduct provides that: “The Head or senior management in an agency shall be responsible for implementing this Model Code by developing their own code of conduct, based on this Model Code, tailored to the functions and responsibilities they are expected to carry out and to suit their particular requirements and circumstances”.

Integrity Vetting Rules 2022 were also adopted to promote and mainstream integrity in the public and private sector. <sup>95</sup> These rules apply to the selection, recruitment, promotion, nomination, appointment, or selection of a person to public office and in the award of a public contract or entering

<sup>94</sup>Model Public Service Code of Conduct, Executive Order No. ACC/LD-06/2022/2745 dated 30 December 2022

<sup>95</sup><https://www.acc.org.bt/?q=node/2365>

## Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

into a public contractual relationship. They further enhance the existing Integrity Vetting System operated by ACC, which has issued integrity vetting reports since 2016. In the country context this comprehensive Code of Conduct is sufficient to satisfy this criterion.

### Quantitative analysis

The code applies to all public servants including those in public financial management and procurement

*\* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(g) Assessment criterion (a):*

*- share of procurement entities that have a mandatory code of conduct or ethics, with particular provisions for those involved in public financial management, including procurement (in % of total number of procuring entities).*

*Source: Normative/regulatory function.*

### Gap analysis

### Recommendations

#### Assessment criterion 14(g)(b):

The code defines accountability for decision making, and subjects decision makers to specific financial disclosure requirements.\*

**Conclusion:** No gap

**Red flag:** No

### Qualitative analysis

The Model Code defines accountability of decision making requires every covered person to declare their personal asset, income, liability as well as those of his/her spouse and/or dependent as per the Asset Declaration Rules 2022<sup>96</sup>.

### Quantitative analysis

Asset Declaration compliance rate of procurement personnel in the income year was 98.99%, with 196 of 198 procurement personnel declaring their assets and liabilities on time, while 2 declared late. *Source: Anti-Corruption Commission, February 2023.*

<sup>96</sup><https://www.acc.org.bt/pdf/ADRule2022.pdf>

## Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

*\* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(g) Assessment criterion (b):*  
*- officials involved in public procurement that have filed financial disclosure forms (in % of total required by law).*  
*Source: Normative/regulatory function.*

### Gap analysis

### Recommendations

#### Assessment criterion 14(g)(c):

The code is of mandatory, and the consequences of any failure to comply are administrative or criminal.

**Conclusion:** No gap

**Red flag:** No

#### Qualitative analysis

Compliance with the Model Code (as adopted by public agencies) is mandatory. Failure to comply may result in disciplinary sanctions in the incidences of breach of code of conduct without limiting the application of any civil or criminal sanctions if the breach of the code of conduct constitutes a criminal or statutory offense which is punishable under any other relevant law.

### Gap analysis

### Recommendations

#### Assessment criterion 14(g)(d):

Regular training programmes are offered to ensure sustained awareness and implementation of measures.

**Conclusion:** Minor gap

**Red flag:** No

#### Qualitative analysis

### Gap analysis

Based on feedback provided by ACC on Feb 07, 2023, towards building an informed and awakened citizenry, advocacy and education programs geared towards ensuring sustainability of integrity measures are being conducted for a wide range of audiences from ministries/agencies, local government, tertiary institutes, schools, corporations, private sectors, Civil Society Organizations, Media, general public and spiritual institutions.

Moreover, theme-based integrity training or workshops are being conducted based on the vulnerability of professions and sectors. In addition, capacity building programmes for the agency

## Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

focal for Asset Declaration System, Integrity Vetting System and Organizational Integrity Plan are conducted periodically to capacitate on the systems and processes to ensure effective implementation.

### Recommendations

#### Assessment criterion 14(g)(e):

Conflict of interest statements, financial disclosure forms and information on beneficial ownership are systematically filed, accessible and utilised by decision makers to prevent corruption risks throughout the public procurement cycle.

**Conclusion:** No gap

**Red flag:** No

#### Qualitative analysis

Conflict of interest statements and financial disclosure forms are systematically filed by all covered person public procurement cycle as per Asset Declaration Rules 2022<sup>97</sup> as also indicated above. It is seen from the website of Asset Declaration System<sup>98</sup> as of May 06, 2023 that period of filing declaration is March 1, 2023 to April 30, 2023 for the current year with compliance rate for 2023 is 93.72% (it was 98.39% in 2022) and the Asset Declaration Form<sup>99</sup> is very comprehensive as confirmed by ACC they are active in verification of declaration.

However, as a suggestion for improvement, financial disclosure/Asset Declaration form should clarify on beneficial ownership

As per PRR CoI declaration it is must for every tender committee sitting.

#### Gap analysis

### Recommendations

<sup>97</sup><https://www.acc.org.bt/pdf/ADRule2022.pdf>

<sup>98</sup><https://ads.acc.org.bt/>

<sup>99</sup>[ADForm\\_Eng.pdf \(acc.org.bt\)](#)



**MAPS**

Methodology for Assessing  
Procurement Systems

# Bhutan

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## Assessment of the Public Procurement System

Highlight and Executive Summary



**THE WORLD BANK**  
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Asian Development Bank

**Background:** In 2020–21, the Ministry of Finance, Royal Government of Bhutan (RGoB), requested the World Bank’s assistance to assess Bhutan’s public procurement system using the Methodology for Assessing Procurement Systems (MAPS). The MAPS assessment was carried out in the context of a broader government-led reform effort, including the development of an electronic Government Procurement System (e-GP). The assessment was conducted by the World Bank in partnership with the Asian Development Bank (ADB) and in close cooperation with the Procurement Management and Development Division (PMDD) of the Ministry of Finance (MoF).

The MAPS assessment aimed to identify strengths, gaps, and needed improvements with reference to four pillars: Legal Framework, Institutional Framework, Procurement Operations, and Accountability. It covered national and local government procurement, with additional focus on civil works (approximately 70 percent of total procurement spend) and the health sector, which faces particular issues due to small market size. An Assessment Steering Committee (ASC), including officials from key agencies and stakeholders, was established. The government also designated focal point officials in PMDD to both assist and provide coordination for the Assessment Team, comprising experts hired by the World Bank and ADB.

A virtual launch workshop was held on May 19, 2022. Despite COVID-19 restrictions, key activities and consultations were conducted. After travel restrictions were eased, an implementation mission to Thimphu, Bhutan, was undertaken in during January 16–27, 2023, for discussions/consultations with all stakeholders. A cut-off date of March 31, 2023, was agreed for the analysis of the procurement legal framework. Assessment activities were substantially completed by October 2023. The validation workshop was conducted in February 2024, following national elections, with findings validated by relevant stakeholders, including from agencies, ministries, the private sector, and civil society organizations (CSOs). In March/April 2024 there was an additional mission to engage with the RGoB on issues affecting Works Procurement and Health Sector Procurement, with findings subsequently validated. Reform of Procurement Rules and Regulations (PRR) and SPRR<sup>1</sup> 2021 was ongoing during the MAPS assessment process. On July 1, 2023, the new Procurement Rules and Regulations 2023 (PRR 2023) came into force, replacing PRR and SPRR 2021. The report acknowledges developments and progress with the introduction of PRR 2023.

**Results of the assessment:** The four pillars of the MAPS methodology comprise a total of 14 indicators, 55 sub-indicators, and 210 assessment criteria of a qualitative and quantitative nature. A ‘snapshot’ of the assessment results is provided in the chart below, with full details set out in the report.

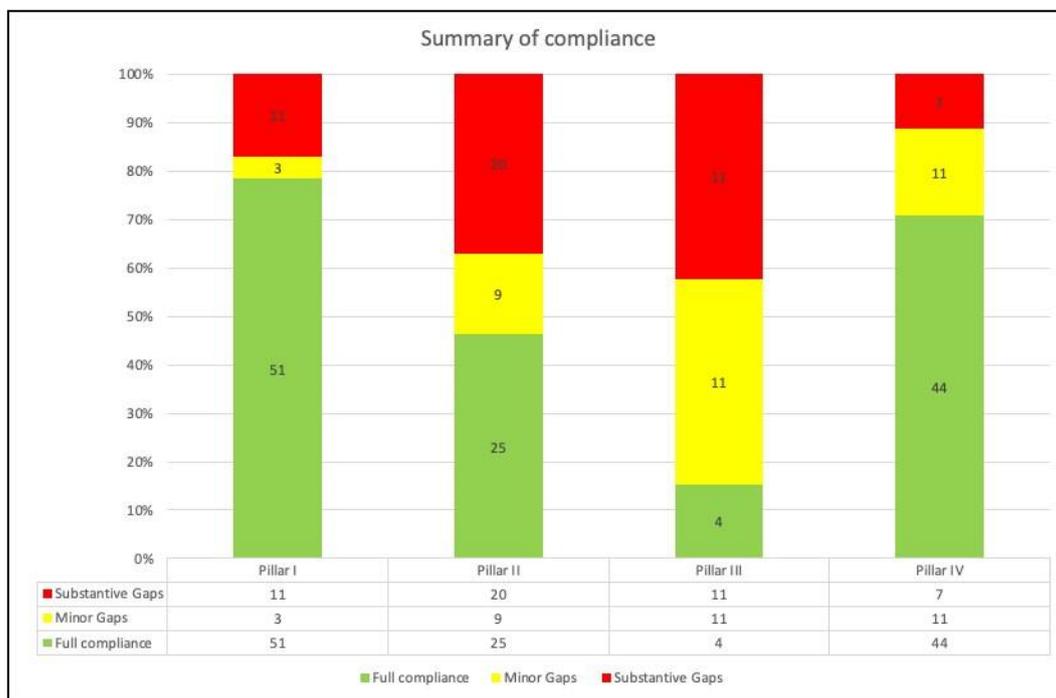
- Out of the 207 criteria assessed, 124 are in full compliance (about 60 percent), with a strong Pillar I (about 78 percent) and Pillar IV (about 71 percent).
- Forty-nine substantive gaps (about 24 percent, out of a total of 207 criteria) were identified. Pillar II has 20 substantive gaps out of 54 criteria (about 37 percent) and Pillar III has 11 substantive gaps out of 26 criteria (about 42 percent).
- Where a substantive gap is identified, the MAPS Assessment Team must consider whether a red flag<sup>2</sup> is assigned. The number of red flags assigned is 26 out of 49 substantive gaps (about

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<sup>1</sup> SPRR = Simplified PRR.

<sup>2</sup> As per MAPS Guidance, red flags are elements that significantly impede the main goals of public procurement and cannot be mitigated directly or indirectly. Red flags usually arise in practice from situations that are outside the procurement sphere and thus not completely controllable when undertaking efforts to improve procurement.

53 percent). These are predominant in Pillar II, with 15 out of 26 substantive gaps (about 58 percent).



**Key gaps:** Despite strong Pillars I and IV, significant gaps under Pillars II and III hinder value for money outcomes, primarily due to operational inefficiencies. Some key gaps are noted in the paragraphs below, with reference to the pillars and the works and health sectors. For a comprehensive list of all gaps, with analysis and explanation, see the full report and matrix.

In general, to further improve the public procurement system, the RGoB needs to address resource and staffing constraints as well as bolster interinstitutional efforts and coordination.

**Pillar I: Legal, Regulatory, and Policy Framework:** Lack of provisions for output-based (functional) solutions, no norms for safekeeping records, and no Sustainable Public Procurement (SPP) policy/strategy and implementation plan.

**Pillar II: Institutional Framework and Management Capacity:** Insufficient resources and staffing of PMDD and Central Procurement and Property Management Division (CPPMD), lack of capability within procuring agencies, inadequate training coverage and enforcement of competency-based framework (CBF), limited e-GP data processing capabilities, and no procurement performance measurement system.

**Pillar III: Public Procurement Operations and Market Practices of :** Lack of evidence for market research, no use of multistage/two-envelope procedures for more complex procurements, incomplete/incorrect records, and difficulties in accessing comprehensive procurement records.

**Pillar IV: Accountability, Integrity, and Transparency of the Public Procurement System:** Inadequate enabling environment for CSOs, insufficient information access, and resources for complaints resolution.

**Works Procurement:** Focus on lowest quoted price leading to poor-quality infrastructure, award to low bids without examination, lax monitoring, and absence of standard bidding documents for large contracts.

**Health Sector Procurement:** Reliance on small local importers, small volumes and high prices, long lead times, market failures resulting in the need for re-tendering, life cycle costing not used for medical equipment, and need for real-time online medicine monitoring platform.

### Top Strategic Priority Reform Actions by Theme

To address the gaps identified in the report and further improve the procurement system, the following priority Reform Actions are proposed, presented by them. Implementing these reforms requires political will, interinstitutional efforts, and support from international financial institutions (IFIs), aiming for better quality infrastructure, improved efficiency, transparency, and increased public trust.

#### Sustainable Public Procurement and Building Quality Infrastructure

1. Develop an SPP policy/strategy to implement SPP—economic, environmental (including climate considerations and social)—in support of broader national policy objectives and reflecting national priorities, including gross national happiness (GNH). This should include a clear implementation plan/road map to cover the introduction of systems and tools to operationalize, facilitate, and monitor the application of SPP in priority areas.
2. Prepare Standard Bidding Document for contracts of large value based on international practices, following rated criteria and two-envelope bidding system and with sustainability criteria and clear guidance on treatment of abnormally low bids.

#### Leadership of PMDD and Resource, Staffing, and Training Needs

3. Upgrade the level of Head of PMDD to at least a Director and ensure continuity of leadership, with the option to create, in future, an independent authority or office reporting to MoF, based on experience of effective functioning of public procurement authority/office for countries with economy of similar size.
4. Provide adequate resources to PMDD commensurate with its mandate. Also, staffing issues of CPPMD are to be addressed by MoF. Enforcement of CBF for procurement workforce of procuring entities and adequate training to fully cover the requirement in terms of quality and content for the full range of procurement and contracts management training needs.

#### Effective Use of e-GP

5. Establish effective capability within PMDD to operate and manage the e-GP solution independently. This includes building internal expertise and reducing dependency on the e-GP provider.
6. Develop performance measurement system, on the lines of those in neighboring countries, as part of e- Procurement.
7. Create conditions for effective analysis of procurement data by the country's authorities and by civil society, including adoption of Open Contracting Data Standard (OCDS) in the e-GP system.

#### Enabling Civil Society Engagement

8. Create an enabling environment for direct participation of CSOs through CSO-government collaboration guidelines, including seeking stakeholder support to strengthen integrity in procurement, and an Asset Declaration Form to improve clarity on beneficial ownership.

#### Sector-Specific Improvements

9. **Works:** Implement National Construction Industry Policy 2020, analyze local contractor market capacity, update Standard Bidding Documents for large works, prepare guidance on handling abnormally low bids, and improve contract management and quality control.

10. **Health sector:** Develop Standard Bidding Documents for Health Sector Procurement, prepare health sector guidance notes including addressing market analysis and small market issues, and develop a long-term plan for cost-effective procurement and utilization of equipment.

## Executive Summary

### Background and objective

Over the past two decades, Bhutan has experienced continued, rapid, and stable economic growth. With a gross national income (GNI) per capita of US\$3,040 in 2021, Bhutan has a lower-middle-income status. According to World Bank data,<sup>3</sup> the gross domestic product (GDP) for Bhutan in 2021 was US\$2.54 billion (current US\$). Historically, procurement constitutes 40 percent of government expenditure and 10–15 percent of GDP.<sup>4</sup>

Since Bhutan shifted to a democratic constitutional monarchy in 2008, the country has embarked on a development strategy founded on the principle of GNH. A major reform effort of Bhutan's public procurement system is currently under way, including the phased development and implementation of an e-GP. These developments are linked to public finance management (PFM) reforms being implemented by the RGoB under the PFM Reform Strategy 2017–2021, to strengthen areas such as financial management information systems, accounting standards for the public and private sectors, procurement, internal controls, budget documents, parliamentary committees on budget and public accounts, and capacity building.

The PFM Reform Strategy was prepared based on the Public Expenditure and Financial Accountability (PEFA) assessment 2016,<sup>5</sup> which assessed the procurement system using high-level indicators, limited to a few dimensions of procurement. A deep dive was needed and the RGoB, through MoF and PMDD, requested the World Bank's technical assistance in carrying out a holistic assessment of the public procurement system using the internationally accepted Methodology for Assessment of Procurement Systems (MAPS) (2018).

MAPS assesses the following aspects of a procurement system: value for money, fairness, transparency, and good governance, using an approach based on an analysis of four 'Pillars': (I) the legal and policy framework; (II) the institutional framework and management capacity; (III) the operation of the system and competitiveness of the national market; and (IV) the accountability, integrity, and transparency of the procurement system. Each pillar is broken down into indicators and sub-indicators, each with defined criteria that assessors apply to establish whether there are no gaps, minor gaps, or substantive gaps. The assessment uses both qualitative and quantitative analysis.

The objective of this MAPS assessment is to assist the RGoB in identifying the strengths, gaps, and needed improvements in the public procurement system. This is to enable the RGoB to prioritize and strategically pursue further procurement reform, which, when implemented, is expected to result in substantial savings in government expenditure.

### Process and Basis of the MAPS Assessment

The MAPS assessment was conducted under the full ownership of the government, with support from the World Bank in partnership with ADB. The MAPS assessment addresses all indicators in the MAPS, and additional analysis was carried out on sector-specific priorities in the Works Procurement and Health Sector Procurement.

The MAPS assessment commenced in November 2021, with desk-based reviews. There was a virtual launch workshop on May 19, 2022. The activities continued at a slow pace due to restrictions in movement arising out of COVID-19. After travel restrictions were eased, an implementation mission to Thimphu, Bhutan, was undertaken during January 16–27, 2023, with all members of the Assessment

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<sup>3</sup> <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=BT>

<sup>4</sup> On an average based on publication of Royal Audit Authority of Bhutan (Advisory of November 2021). [https://www.bhutanaudit.gov.bt/wp-content/uploads/2021/12/02.-AGAS\\_Review-of-Government-Procurement-System.pdf](https://www.bhutanaudit.gov.bt/wp-content/uploads/2021/12/02.-AGAS_Review-of-Government-Procurement-System.pdf)

<sup>5</sup> <https://www.pefa.org/news/bhutan-leverages-pefa-leap-forward-pfm-reforms>

Team participating. The MAPS assessment activities were substantially completed by October 2023. A validation workshop was held on February 13, 2024.

Based on the feedback of the validation workshop, in March–April 2024, a rapid assessment of Health Sector Procurement and Works Procurements (Procurement Reform Actions to Build Quality Infrastructure/Works) was carried out. These reports are given in Attachment A and Attachment B, respectively, in Appendices Volume III of the Assessment Report.<sup>6</sup>

A cut-off date of March 31, 2023, was agreed upon for detailed legal analysis. The Procurement Rules and Regulations (PRR) in force on that date were the PRR 2019 and Simplified PRR (SPRR); these rules were analyzed and assessed. As part of the government’s ongoing reform effort, the new PRR came into effect on July 1, 2023, (PRR 2023), replacing PRR 2019 and SPRR 2021. Changes were also made to the Standard Bidding Documents in July 2023. PRR 2023 is not the subject of detailed analysis and assessment by the MAPS Assessment Team. Where recommendations under analysis of the legal framework in Pillar 1 advise changes in the legislative framework, the extent to which PRR 2023 resolves the gaps identified has been acknowledged in the Assessment Report. An Appendix is added in the Main Report (Volume I) with (a) notes and comments on PRR 2023 and (b) gaps and recommendations identified in the MAPS assessment as requiring legislative change and whether/to what extent these are addressed by PRR 2023.

Results of the latest PEFA Assessment (published on June 30, 2023)<sup>7</sup>were incorporated in this Assessment Report, as relevant.

The sampling strategy for selecting procurement cases (under Pillar III, Indicator-9) was adopted as per MAPS guidance on determining a representative sample.

### **Major Strengths under each Pillar**

Key findings and major strengths of the public procurement system in Bhutan are summarized in the following section, with reference to the four MAPS pillars.

#### ***Pillar I: Legal, Regulatory, and Policy Framework***

The legal and regulatory framework is well recorded, with broad scope of application, an appropriate range of procurement methods and with all documents, including Standard Bidding Documents, available on the e-GP website. The use of e-GP means that the level of transparency of opportunities is good. Rules on eligibility and debarment are clear.

Evaluation is of the ‘Best Evaluated Bid’, not solely based on price, applying published criteria and methodologies. Contract management is well covered in the legal and regulatory framework. Bidders have a right to challenge decisions using the clearly defined e-GP grievance process and there is a right of appeal to the Independent Review Body (IRB), whose decisions are published on the e-GP website.

There are clear rules for implementation supported by a good range of model procurement documents, including standard conditions, for the most common types of procurement.

Sustainable development, environmental protection, and the creation of a sustainable society are strongly embedded. Bhutan’s key underpinning principles/policy objectives derive from constitutional principles. This includes the concept of GNH, which seeks to integrate socioeconomic development goals with environmental protection, cultural preservation, and good governance.

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<sup>6</sup> These are not Sector-Level Assessments (SLAs) as per MAPS but they capture key findings and needed improvements in these sectors as rapid/limited assessment.

<sup>7</sup> <https://www.pefa.org/node/5111>

### ***Pillar II: Institutional Framework and Management Capacity***

The procurement system is well integrated with the PFM system, as reflected in PRR 2019, Budget Manual 2016, Finance and Account Manual (FAM), and the Multi-Year Rolling Budgeting (MYRB) System.

The legal and regulatory framework clearly defines the institutions that have procurement responsibilities, and a centralized procurement body exists. The normative and regulatory function is discharged by PMDD to cover procurement policy, capacity building and training, advice and guidance to procuring agencies, and management of the e-GP website; these functions are clearly assigned.

Bhutan's e-GP system, implemented in phases since June 2017, provides easily accessible procurement information. The system covers various aspects, including procurement plans, tenders, contracts, and grievance handling.

Procurement is recognized as a profession. There is a CBF for procurement officers with job descriptions. Procurement positions are defined at different professional levels with requisite qualifications and competencies.

PMDD has provided professional training to procurement officers in the past, with funding support from World Bank.

### ***Pillar III: Public Procurement Operations and Market Practices***

The assessment of Bhutan's public procurement system found that procurement planning is being undertaken for most contracts. Based on sample cases, the average number of responsive bids in the situation of Open Tendering Method was 5.2, which is evidence of adequate competition. The average number of days to award the contract was 87 under the Open Tendering Method, and there is evidence that majority of contracts were awarded in the initial bid validity period. Around 82 percent of procurement processes were fully compliant with publication requirements. Related to contract management, 84 percent of the sampled contracts were completed without time overrun.

### ***Pillar IV: Accountability, Integrity, and Transparency of Public Procurement System***

The feedback from Civil Society Organizations (CSOs) participating in the survey presents a mixed response, making it difficult to identify clear strengths in terms of transparency and civil society engagement related to integrity in the procurement process. Related to transparent and consultative process in formulating changes to the public procurement system, based on the written response from 11 CSOs in October 2022, it was seen that response is not that positive, with 'Yes' in 55 percent of the cases and 'Maybe' in 45 percent. On CSOs permitted or encouraged to act as observers, actively monitor, or have other involvement in preparation for or conduct of procurement proceedings, the response was 'Yes' in 9 percent of the cases, 'Maybe (partially)' in 64 percent, and 'No' in 27 percent.

The National Internal Control Framework (NICF), issued in 2013, is a comprehensive framework providing effective internal controls. External audit of the RGoB and local governments is undertaken by the Royal Audit Authority (RAA), which is established as an independent constitutional body.

The appeals mechanism is conducted using the e-GP system and follows clear rules, procedures, and timelines for submission and decision-making. All decisions of the IRB are published promptly on the e-GP website, and they are clear and well-reasoned.

Definitions of fraud, corruption, and other prohibited practices are set out in the procurement legal framework and are consistent with obligations deriving from United Nations Convention against Corruption (UNCAC), as also reflected in the Anti-Corruption Act of Bhutan 2011 (ACAB). Definitions of individual responsibilities, accountability, and penalties are set out in ACAB. Procurement and contract documents include provisions on fraud and corruption and other prohibited practices.

Bidders are required to sign Integrity Pact statements as a condition of admission to eligibility. Standard Bidding Documents incorporate provisions on fraud, corruption, and other prohibited practices.

### **Priority Areas for Improvement**

Recommendations for priority areas for improvement are listed in the following section. These measures are aligned with the reform initiatives of the RGoB. The implementation of improvements has already started in some of these areas, which is noted below.

#### ***Pillar I: Legal, Regulatory, and Policy Framework***

*Promote the use of functional specifications, where appropriate:* Actively promote the use of output-based specifications where this may encourage the use of innovative solutions and support implementation by providing guidelines on how to plan for and prepare output-based approaches to procurement and drafting of specifications.

*Improve record keeping with a comprehensive list of procurement records and documents, document retention period, and security protocol:* (a) prepare a guideline, or similar, for use by procuring agencies to cover the safekeeping and retention of procurement records and documents in both physical and electronic form; (b) review standard retention period to reduce the likelihood of loss of relevant evidence in the investigation and/or prosecution of potential cases of fraud and corruption; and (c) prepare a dedicated security protocol on retention of procurement records, covering the whole procurement process and including physical records. This is also highly relevant to assessment under Pillar III.

*Prepare a consolidated version of PRR to include all amendments,* including those contained in SPRR 2021<sup>8</sup> and e-GP guidelines. This is required so that a single comprehensive document is available to ensure precision and clarity on the wording and application of amended provisions. This will enhance accessibility and practical understanding of the procurement system and facilitate improved implementation of the legal framework by stakeholders. This recommendation has been substantially addressed in PRR 2023.

*Develop an SPP/strategy to implement SPP—economic and environmental (including climate considerations and social)—*in support of broader national policy objectives and reflecting national priorities, including GNH. This should include a clear implementation plan/road map to cover the introduction of systems and tools to operationalize, facilitate, and monitor the application of SPP in priority areas in particular. It should also identify and provide for changes to the legal/regulatory framework to allow for sustainability to be incorporated at all stages of the procurement cycle, ensuring well-balanced application of sustainability criteria from planning through to delivery and monitoring. SPP requirements embedded in the legal and regulatory framework should be reflected in model procurement documents and contract conditions and in supporting practical guidelines implementation.

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#### ***Pillar II: Institutional Framework and Management Capacity***

*Address the concern of the private sector on timely payment of invoices:* MoF/PMDD to monitor verification and payment of invoices to ensure timely payment,<sup>9</sup> including through the e-GP system/electronic Public Expenditure Management System (e-PEMS), which enables bidders to generate e-Invoices for further processing of payment. It is understood that the government has set

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<sup>8</sup> As amended on July 1, 2023, PRR 2023.

<sup>9</sup> PEFA of June 30, 2023 (PI-25) did not raise any concern on compliance with payment rules and procedures.

up Cluster Finance Service (CFS) offices across the country. These offices use software to monitor all payments and release them on a timely basis.

*Provide resources and upgrade/fill the position of Head of PMDD at a sufficient level of authority:* The position of Division Head for PMDD is not high level and does not have an authoritative standing relative to its mandate and required quality of services. MoF should consider providing adequate funding, resources, and staffing.

*Present the published procurement information in a machine-readable format and adopt the OCDS:* This will facilitate easier access, analysis, and utilization of the data by external entities. The implementation of the OCDS in the e-GP system, as compliance with this standard, will promote transparency, accessibility, and comparability of procurement data, aligning with international best practices.

*Strengthen operational capability:* Establish effective capability within PMDD to operate and manage the e-GP solution independently. This includes building internal expertise and reducing dependency on the e-GP provider. Strengthening operational capability will maximize the benefits of the e-GP solution and facilitate long-term succession planning if the current e-GP solution changes.

*Improve the e-GP system's information gathering capacity:* Capacity should be created for autonomous extraction of information from the system to produce reports and analysis on procurement. Users should be empowered to ensure that all information is uploaded into the system and that this information is complete. Control mechanisms must be implemented to block the advancement of processes without complete information. The introduction of open data standards and machine-readable information may allow for automated validation of information quality and should be considered.

*Implement permanent and relevant training programs:* MoF to address budget/resource issues so that training is provided to meet the skills gap of the procurement professionals.

*Enforce CBF:* As per the Royal Civil Service Commission (RCSC) website, there is a CBF for procurement officers with job descriptions,<sup>10</sup> but it needs to be implemented. As per clarification provided by PMDD, based on the CBF, the division has conducted only one training for all the procurement professionals in 2020–2021. The division has not been able to continue the training due to a lack of budgetary support.

*Monitor performance to improve system:* PMDD/MoF to develop a performance measurement system, on the lines of those in neighboring countries as part of e-Procurement.

### ***Pillar III: Public Procurement Operations and Market Practices***

*Enable multistage bidding:* PMDD should improve the e-GP system by enabling two-stage bidding and preventing procuring agencies from conducting parts of the process offline due to inflexible deadlines.

*Enhance completeness and accuracy of records:* Efforts to be made to make records complete and accessible (see recommendation under Pillar I). The use of e-GP should be enhanced.

*Train private sector participants:* PMDD to be provided with resources to train and build the capacity of the private sector.

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<sup>10</sup> RCSC website,

<https://www.rcsc.gov.bt/en/competency/>

<https://www.rcsc.gov.bt/wp-content/uploads/2021/04/CBF-Final-Report.pdf> (CBF for procurement officer).

<https://www.rcsc.gov.bt/en/property-management-services/> (Job Description)

#### **Pillar IV: Accountability, Integrity, and Transparency of Public Procurement System**

*Revive CSO-government collaboration:* This should be a collaborative initiative among MoF/PMDD, RAA, Anti-Corruption Commission, and the CSO Network to improve the effectiveness of CSO engagement in the procurement process and contract implementation.

*Institute a mechanism to carry specialized procurement audit on a regular basis by Central Coordinating Agency of Internal Audit Services (CCA):* CCA to undertake regular risk-based and targeted specialized procurement audits.

*PMDD to follow up on procurement-related recommendations of RAA<sup>11</sup> in coordination with CCA:* Related to coordination and control, based on RAA “The enforcement of procurement norms is weakened basically due to lack of accountability culture and mechanism for sanctions on delinquent officials and parties, and also due to inadequacies in monitoring and coordination functions between different agencies and authorities,” which is in line with MAPS findings and requires follow-up.

*Improve stakeholder support to strengthen integrity in procurement:* Engage CSOs as third-party monitors to strengthen integrity in procurement. The financial/Asset Declaration Form to clarify on beneficial ownership.

#### **Sector-Specific Findings and Needed Improvements**

##### **Works Procurement - Procurement Reform Actions to Build Quality Infrastructure/Works**

Based on the published materials by the GoB and findings by the Assessment Team, critical factors affecting Works Procurement and quality of infrastructure include the following:

- (a) Public works do not have a good reputation of building quality infrastructure—also there is no third-party monitor.
- (b) The construction industry does not have proper construction standards and code of practices.
- (c) Inadequacy of planning, feasibility studies, and surveys are leading to design errors.
- (d) Standard Bidding Documents are not used for contracts of large value (US\$10 million) based on international practices, following rated criteria and two-envelope bidding system and with sustainability criteria. This means that such facilities may not provide value-for-money outcomes.
- (e) Procuring agencies’ cost estimates are often not accurate and price adjustments for longer duration contracts are not based on international practices.
- (f) Although the evaluation criteria are comprehensive and clear, most procuring agencies still focus on the lowest quoted price, including abnormally low bids, without due examination.
- (g) Lax monitoring of the contract implementation has caused termination of contracts, resulting in arbitration and then compensation payments as per contract terms.

#### **Recommendations**

*Implement National Construction Industry Policy 2020 to improve quality of construction:* The measures suggested in this policy need to be implemented through legislation. Several of the measures are consistent with key procurement reform actions to build quality infrastructure/works and will require coordination among stakeholders in the construction industry.

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<sup>11</sup> [https://www.bhutanaudit.gov.bt/wp-content/uploads/2021/12/02.-AGAS\\_Review-of-Government-Procurement-System.pdf](https://www.bhutanaudit.gov.bt/wp-content/uploads/2021/12/02.-AGAS_Review-of-Government-Procurement-System.pdf)

*Adopt the use of output/performance/functional specifications:* Consider the use of output-based specifications in cases where this may encourage innovative solutions. Provide guidelines on how to plan for and prepare output-based approaches to procurement and drafting of specifications.

*Analyze the Works Procurement market to assess the capacity of local contractors to appropriately package contracts to elicit interest from both local and international contracts, based on their capacity and capability.*

*Use rated criteria* to factor in technical superiority into the computation of final scores, as also recommended by the RAA Advisory of November 2021. Guidance may be taken from the World Bank practices introduced in April 2023. The technical evaluators should not have access to price information for an unbiased evaluation and the selection of quality bids without relying on the lowest bid price; therefore, two-envelope bidding is recommended.

*Update Standard Bidding Document for large works:* This Standard Bidding Document was prepared in 2019, with some update in July 2023. There is a need for comprehensive review of Standard Bidding Documents for contracts above a defined threshold—US\$10 million—where a two-envelope system with rated criteria may be used.

*Prepare guidance on dealing with situations of abnormally low bids,* based on practices of IFIs, including the World Bank and ADB, to ensure better value for money. The provisions of PRR/Standard Bidding Document of July 2023 on abnormally low bid need review.

*Align price adjustment provisions and practices based on international practices:*

- (a) Consider adopting an internationally accepted price adjustment formula as used by multilateral development banks/IFIs/ Fédération Internationale des Ingénieurs - Conseils (FIDIC) for works.
- (b) RGoB/National Statistical Bureau (NSB) may consider collaborating with the construction industry and private sector to identify and adopt base indexes and track the prices for construction input such as equipment, material, and fuel, without relying on the Government of India (GOI) Wholesale Price-Index permanently.

*Bhutan Schedule of Rates and cost estimating:* As per the National Construction Industry Policy 2020, enforcement and regulation are needed. In partnership with relevant agencies, the ministry should regularly update the Bhutan Schedule of Rates based on the construction cost index compiled by NSB.

*Improve contracts management and quality control:* Address issues in implementation based on findings on sample cases in MAPS, institute a Contract Monitoring System (part of e-GP) through third-party monitoring of quality controls, and enforce a formal system of contract closing.

*Use innovative procurement, financing, and contract implementation approaches for better value for money:* These include the use of life cycle costing principles at the design stage, Output and Performance-Based Road Contracts (OPBRCs), and other variations of public-private partnerships (PPPs) for entire life cycle costs and benefits to maximize the efficiency of service delivery.

*Improve capacity/decision-making abilities of procurement and project management professionals for better outcomes:* The public officials responsible for procurement and contract implementation need to be adequately trained and empowered to exercise discretion and professional judgment as necessary to ensure the successful outcome of a project while ensuring that all such decisions are transparent, fully documented, and justified.

### **Health Sector Procurement - A Rapid Assessment**

Health Sector Procurement in the Bhutanese health system, which is almost entirely public, is well organized and largely effective in providing the majority of products needed to fulfill the promise of universal health coverage for the population.

The government relies on local importers to supply medicines, consumables, and devices. These importers are small businesses and often have to source from medical wholesalers in India, which limits information exchange with manufacturers and makes collecting market intelligence difficult. Small volumes lead to higher prices and lead times compared to larger markets.

Some products need to be re-tendered or are unavailable, potentially causing treatment interruptions. Medical equipment was regulated to reduce the number of brands that are in use (standardization). Life cycle costing for equipment has not yet been introduced. The Bhutan Food and Drug Authority regulates market access for pharmaceuticals and started regulating consumables and devices as well.

Capacity is limited and there is no verification of certificates submitted by applicants or good manufacturing practices (GMP) inspection in factories from which suppliers are sourcing. Consequently, the risk of procuring substandard medicines is defined by the performance of the regulatory agency in the country or state where the factory is situated.

There are also quality risks for medical devices and equipment. The procurement process does not currently include verification and authentication mechanisms, which increases the risk that suppliers may submit forged certificates or pass off refurbished items as new. This lack of oversight in the procurement system potentially compromises the quality of healthcare equipment provided, posing risks to public health and safety.

## **Recommendations**

To mitigate quality risks associated with medical devices and equipment, it is crucial to incorporate robust verification and authentication procedures into the procurement process. Such measures would ensure that suppliers cannot submit forged certificates or sell refurbished items as new, thereby improving the overall integrity and reliability of health sector procurements. Strengthening these processes will contribute to enhancing the quality of medical equipment and safeguarding public health outcomes.

*Be more flexible in use of procurement methods depending on the level of competition, including use of two-stage bidding for complex equipment.*

*Develop Standard Bidding Documents for health sector goods such as pharmaceuticals, consumables, and medical equipment.*

*Prepare and publish a Health Sector Guidance Note that addresses the specific challenges of the sector. This note could cover the existing flexibilities allowed and recommendations in this assessment. This should include market analysis and dealing with the situation of small markets.*

*Develop a policy on managing cost increases for specialized medicines that are purchased with an exemption for individual patients ('name patient drugs') to make costs more manageable in the future.*

*Obtain specialized external know-how to develop a plan for long-term cost effectiveness:* The need to phase out and replace a significant share of the medical equipment currently in use creates an opportunity to develop a long-term plan for cost-effective equipment procurement and utilization. For both these initiatives, it would be necessary to bring in specialized external know-how on a contract basis.

## **Overview of Compliance to Assessment Criteria, Gaps, and Red Flags**

The following table provides an overview of the findings of the assessment on the level of total 55 sub-indicators under four pillars. Each sub-indicator is identified (marked X) depending on the findings

(full compliance/gaps identified/substantive gaps identified). This table also shows the red flags<sup>12</sup> identified (marked X). Most of these red flags are elements that significantly impede the main goals of public procurement and cannot be mitigated directly or indirectly. Such factors could lie outside the sphere of public procurement.

The sub-indicators listed in the table below are further divided into individual assessment criteria which are each assessed separately according to the MAPS. The number of qualitative criteria per sub-indicator varies between 1 and 11, in some cases supported by quantitative indicators. In total, there are 210 criteria to be assessed under 55 sub-indicators, as elaborated in the detailed matrix.

The compliance table presents an aggregated conclusion based on all the assessed criteria for each sub-indicator. This means that where a single criterion under a sub-indicator is assessed to have a gap, this will trigger the 'Gaps identified' or 'Substantive gaps identified' finding (depending on the nature of the gap) in this compliance table for that sub-indicator (marked X). This can apply even where all other criteria under that particular sub-indicator are achieved as relevant (shaded light grey). It is therefore important to refer to the full assessment findings and supporting analysis in the detailed matrix.

<i>Remarks on gaps marked X for table below</i>
No criteria of the sub-indicator have gaps ( <b>Full compliance</b> )
Some criteria of the sub-indicator have minor gaps, but none have substantive gaps ( <b>Gaps identified</b> )
At least one criterion of the sub-indicator has a substantive gap ( <b>Substantive gaps identified</b> )

<b>PILLAR I</b> (Legal, Regulatory, and Policy Framework)		<b>Full compliance</b>	<b>Gaps identified</b>	<b>Substantive gaps identified</b>	<b>Red flags</b>
<b>1. The public procurement legal framework achieves the agreed principles and complies with applicable obligations</b>	1(a) - Scope of application and coverage of the legal and regulatory framework	X	-	-	
	1(b) - Procurement methods	X	-	-	
	1(c) - Advertising rules and time limits	X	-	-	
	1(d) - Rules on participation			X	X
	1(e) - Procurement documentation and technical specifications		-	X	
	1(f) - Evaluation and award criteria	X	-	-	
	1(g) - Submission, receipt, and opening of tenders	X	-	-	
	1(h) - Right to challenge and appeal			X	
	1(i) - Contract management	X	-	-	
	1(j) - Electronic Procurement (e-Procurement)	X	-	-	
	1(k) - Norms for safekeeping of records, documents and electronic data	-	-	X	X
1(l) - Public procurement principles in specialized legislation	X	-	-		
<b>2. Implementing regulations and tools support the</b>	2(a) - Implementing regulations to define processes and procedures		X	-	
	2(b) - Model procurement documents for goods, works, and services	X	-	-	

<sup>12</sup> Guidance on gaps, risks, and red flags is found in <https://www.mapsinitiative.org/methodology/templates-guidance/>.

<b>PILLAR I</b> (Legal, Regulatory, and Policy Framework)		<b>Full compliance</b>	<b>Gaps identified</b>	<b>Substantive gaps identified</b>	<b>Red flags</b>
<b>legal framework</b>	2(c) - Standard contract conditions used	X	-	-	
	2(d) - User's guide or manual for procuring entities		-	X	
<b>3. The legal framework reflects the country's secondary policy objectives and international obligations</b>	3(a) - Sustainable Public Procurement (SPP)	-	-	X	X
	3(b) - Obligations deriving from international agreements				Not assessed as not applicable

<b>PILLAR II</b> (Institutional Framework and Management Capacity)		<b>Full compliance</b>	<b>Gaps identified</b>	<b>Substantive gaps identified</b>	<b>Red flags</b>
<b>4. The public procurement system is mainstreamed and well-integrated with the public financial management system</b>	4(a) - Procurement planning and the budget cycle		X	-	
	4(b) - Financial procedures and the procurement cycle		X	-	
<b>5. The country has an institution in charge of the normative/regulatory function</b>	5(a) - Status and legal basis of the normative/regulatory function	X	-	-	
	5(b) - Responsibilities of the normative/regulatory function		-	X	X
	5(c) - Organisation, funding, staffing, and level of independence and authority	-	-	X	X
	5(d) - Avoiding conflict of interest	X	-	-	
<b>6. Procuring entities and their mandates are clearly defined</b>	6(a) - Definition, responsibilities and formal powers of procuring entities	X	-	-	
	6(b) - Centralized procurement body	-		X	X
<b>7. Public procurement is embedded in an effective information system</b>	7(a) - Publication of public procurement information supported by information technology			X	X
	7(b) - Use of e-Procurement			X	X
	7(c) - Strategies to manage procurement data	-	-	X	X
<b>8. The public procurement system has a strong capacity to develop and improve</b>	8(a) - Training, advice and assistance			X	X
	8(b) - Recognition of procurement as a profession		X	-	
	8(c) - Monitoring performance to improve the system	-	-	X	X

<b>PILLAR III</b> (Public Procurement Operations and Market Practices)		<b>Full compliance</b>	<b>Gaps identified</b>	<b>Substantive gaps identified</b>	<b>Red flags</b>
<b>9. Public procurement practices achieve stated objectives</b>	9(a) - Planning			X	X
	9(b) - Selection and contracting			X	
	9(c) - Contract management	-		X	X
<b>10. The public procurement market is fully functional</b>	10(a) - Dialogue and partnerships between public and private sector	-		X	X
	10(b) - Private sector's organisation and access to the public procurement market	-	X	-	
	10(c) - Key sectors and sector strategies	-	-	X	

<b>PILLAR IV</b> (Accountability, Integrity, and Transparency of the Public Procurement System)		<b>Full compliance</b>	<b>Gaps identified</b>	<b>Substantive gaps identified</b>	<b>Red flags</b>
<b>11. Transparency and civil society engagement strengthen integrity in public procurement</b>	11(a) - Enabling environment for public consultation and monitoring	-		X	
	11(b) - Adequate and timely access to information by the public	-	-	X	
	11(c) - Direct engagement of civil society	-	-	X	X
<b>12. The country has effective control and audit systems</b>	12(a) - Legal framework, organisation and procedures of the control system		X	-	
	12(b) - Coordination of controls and audits of public procurement		X	-	
	12(c) - Enforcement and follow-up on findings and recommendations		X	-	
	12(d) - Qualification and training to conduct procurement audits		X	-	
<b>13. Procurement appeals mechanisms are effective and efficient</b>	13(a) - Process for challenges and appeals	X	-	-	
	13(b) - Independence and capacity of the appeals body		X	-	
	13(c) - Decisions of the appeals body		X	-	
<b>14. The country has ethics and anti-corruption measures in place</b>	14(a) - Legal definition of prohibited practices, conflicts of interest, and associated responsibilities, accountabilities, and penalties		X	-	
	14(b) - Provisions on prohibited practices in procurement documents	X	-	-	
	14(c) - Effective sanctions and enforcement systems	X	-	-	
	14(d) - Anti-corruption framework and integrity training		X	-	
	14(e) - Stakeholder support to strengthen integrity in procurement			X	X

<b>PILLAR IV</b> (Accountability, Integrity, and Transparency of the Public Procurement System)		<b>Full compliance</b>	<b>Gaps identified</b>	<b>Substantive gaps identified</b>	<b>Red flags</b>
	14(f) - Secure mechanism for reporting prohibited practices or unethical behaviour	X	-	-	
	14(g) - Codes of conduct/codes of ethics and financial disclosure rules		X	-	

**Summary of Compliance as Aggregated (based on Detailed Matrix)**

<b>Pillar</b>	<b>Full compliance</b>	<b>Gaps identified</b>	<b>Substantive gaps identified (of which red flags)</b>	<b>Total</b>
<b>Pillar I</b>	51	3	11 (4)	<b>65</b>
<b>Pillar II</b>	25	9	20 (15)	<b>54</b>
<b>Pillar III</b>	4	11	11 (3)	<b>26</b>
<b>Pillar IV</b>	44	11	7 (4)	<b>62</b>
<b>Total</b>	<b>124</b>	<b>34</b>	<b>49 (26)</b>	<b>207</b>

Note: Out of 210 criteria, 3 were not assessed.



**MAPS**

Methodology for Assessing  
Procurement Systems

## Bhutan: Assessment of the Public Procurement System

**This Appendix provides further information supporting the assessment  
Volume III**

## List of Appendix

### Appendix 1- Concept Note



Concept Note\_MAPS  
Bhutan\_Final\_approve

### Appendix 2: Consultations with Private Sector and results of Private Sector Survey



Latest Jan 18  
morning -Bhutan MAF



Survey Questions for  
Private Sector on Pub

### Appendix-3: Consultations with CSOs and feedback



Latest Jan 16^J  
2023-Bhutan MAPS pr

### Appendix – 4: Minutes of meeting including with the Steering Committee



February 2023 -  
LATEST MAPS Meeting



Bhutan MAPS  
Steering Committee n

### Appendix – 5: List of persons met- - Add Validation Workshop later

### Appendix – 6: Master Excel File and Analysis of Sample Cases - Indicator-9



BTN\_MAPS\_Analysis\_s  
anitized.xlsx

## Appendix – 7: Write-up on specific topics

- Health Sector Procurement



BTN\_MAPS - Health  
sector analysis (Views

- Works Procurement



Oct 2023  
Bhutan--MAPS -Works

## Appendix –8 Awareness of Changes in Public Procurement effective July 1, 2023- presentation by PMDD May 29, 2023



Public procurement  
awareness (1)- Bhutar

## Appendix – 9: Resource List- Web links to involved institutions, other assessments, relevant laws, statistics, etc.



July 31 Revision  
DM-AA\_BT\_MAPS\_Leg



# Bhutan

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Works Procurement

Procurement Reform Actions to Build Quality Infrastructure/Works

(Annex to the Report)



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Asian Development Bank

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*This annex is part of the Core MAPS Assessment that required particular attention to procurement of civil works, and it is not a Sector Level Assessment (SLA) as per MAPS.*

## Works Procurement: Procurement Reform Actions to Build Quality Infrastructure/Works in Bhutan

### A. Background

The Royal Government of Bhutan (RGoB) is keen on taking steps toward procurement reform to build quality infrastructure in Bhutan, as evidenced by discussions held with key stakeholders and published material. This section attempts to focus on root causes affecting the quality of construction, value for money (VFM), time and cost overrun, contract disputes, and failures based on sources from the Ministry of Infrastructure and Transport, Royal Audit Authority (RAA), and Attorney General's office as well as through discussions held and feedback from the key stakeholders including government agencies, the private sector, and civil society organizations, as part of the MAPS assessment. The Assessment Team also reviewed the Standard Bidding Document (SBD) for Large Works (above Nu 5 million), including e-SBD updated on July 1, 2023, on relevant provisions on this topic.

MAPS requires the collection of empirical evidence on how procurement principles, rules, and procedures formulated in the legal and policy framework are being implemented in practice. It focuses on procurement-related results that in turn influence VFM, improved service delivery, trust in government, and achievement of horizontal policy objective of an economic, environmental, and social nature, such as sustainable green growth. The assessment at Pillar III (Indicator 9) presents most of the findings based on sample cases.

It is possible that while there is compliance to procurement principles, rules, and procedure, the results on the ground, quality of the infrastructure, and service delivery are inadequate, which appears to be the case for Bhutan. Other areas of overall concern as per MAPS indicators are inadequate institutional and management capacity, with use of e-Procurement in its early stages without any strategies to manage procurement data. Also, as pointed out by RAA in its review of the government procurement system in 2021, there is lack of accountability culture in enforcement of procurement norms and there are inadequacies in monitoring and coordination functions between different agencies and authorities.

As per the Ministry of Finance (MoF) sources/Budget notification for FY22/23,<sup>1</sup> there is a focus on sustainable infrastructure development with Capital Budget being Nu 38.466 billion, which represents 47 percent of the total budget appropriation of Nu 81.827 billion for FY22/23.<sup>2</sup> This notification also required the following:

“It is imperative for all the budgetary bodies to take proactive measures to review and spend every amount of monies allocated wisely, exercise prudence with strong financial discipline to avoid cost overruns, unnecessary spending, prevent financial leakages and drive cost efficiencies and productivity savings in all our expenditures. Accordingly, the collective measures will contribute to achieve maximum returns from the capital investments and maintain recurrent budget within the estimated domestic revenue.”

“Cost and time overrun: one of the common issues observed across the budgetary bodies is the cost and time overrun of project/activity. As such budgetary bodies are advised to ensure completion of prerequisite formalities such as designs, drawings, cost estimates, necessary clearances, and tendering processes for timely implementation of project/activity and minimize cost overruns to the extent possible.”

The realization of the government's objective of sustainable infrastructure development requires a host of measures such as appropriate construction sector strategy, effective and efficient procurement

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<sup>1</sup> <https://www.mof.gov.bt/wp-content/uploads/2022/07/Budget-Notification-for-FY-2022-23-English-version.pdf>

<sup>2</sup> The share of capital expenditure is Nu 29.315 billion (34.28 percent) of budget appropriation of Nu 85.522 billion as per budget notification of July 7, 2023.

procedures, and contract management practices to make it possible to obtain best VFM in the procurement and execution of contract.

The scale of capital expenditure on Works Procurement identified in the RAA Audit Report of 2020–2021 indicates that the average share of five major capital expenditures to total capital expenditure for five fiscal years stand at 67.33 percent as detailed below.

### 1.2.2 MAJOR CAPITAL EXPENDITURES

The five major capital expenditures from FY 2016-17 till FY 2020-21 presented in **Table 1.2**.

**Table 1.2: Major Capital Expenditure over the past five FYs (Nu. in Million)**

OBJECT CLASS	2016- 17	2017-18	2018-19	2019-20	2020-21	Total	Overall
Exp. on Structure - Roads	6,283.23	7,317.33	3,688.79	4,317.76	6,874.30	28,481.41	23.62%
Exp. on Structure - Buildings	6,501.51	7,336.92	3,325.02	4,817.69	5,376.19	27,357.33	22.69%
Capital Grants	1,595.51	2,846.17	1,080.59	2,455.76	1,982.25	9,960.28	8.26%
Exp. on Structure - Others	1,902.76	1,386.30	813.31	1,367.64	2,362.95	7,832.96	6.50%
Training - Others	1,555.06	1,696.50	1,487.53	1,011.37	1,808.46	7,558.92	6.27%
<b>Total Capital Expenditure</b>	<b>25,837.02</b>	<b>28,836.65</b>	<b>16,285.47</b>	<b>22,046.93</b>	<b>27,576.03</b>	<b>120,582.14</b>	<b>67.33%</b>

As highlighted in the **Table 1.2**, the major capital expenditures comprised of expenditures on Structure- Roads, expenditure on structure-buildings and capital grants, representing 23.62%, 22.69% and 8.26% respectively over the five financial years. The average share of five major capital expenditures to total Capital expenditure for five FYs stands at 67.33%.

For a successful project outcome, the planning stage of procurement requires a thorough needs analysis followed by market research to inform the development of an optimal procurement strategy, appropriate design, technical specifications, a realistic procurement plan, cost estimates, construction schedule, and project readiness, such as clearances on land availability for timely implementation of the project/activity with minimum cost overruns. There is a need to find root cause for inadequate quality and time and cost overruns by examining the entire procurement process<sup>3</sup> from the time the need is identified till it is satisfied.

Discussions with the Procurement Management and Development Division (PMDD) and feedback from the private sector indicate that low-quality infrastructure, time and cost overrun, and contract failures may arise in some of the major contracts due to awarding contract to abnormally low bids (ALBs), without examining the ability of the bidder to perform the contract at the offered price, combined with a tendency to decide award of contract based on the lowest price.

This points to a need for an enabling environment and the capacity for public officials to make decisions in the best interest of the government. The public officials responsible for procurement need to be adequately trained and empowered to exercise discretion and professional judgment as

<sup>3</sup> The process starts with the identification of a need and continues through planning, preparation of specifications/requirements, budget considerations, selection, contract award, and contract management. It ends on the last day of the defect liability period.

necessary to ensure the successful outcome of the project while ensuring that all such decisions are transparent, fully documented, and justified.

The development of skills to exercise professional judgment (or discretion) without fear becomes more relevant for public officials when procurement rules and regulations are guided by general procurement principles of VFM, economy, integrity, fit for purpose, efficiency, transparency and fairness. Specifically, as per PRR 2023 for Bhutan, the lowest evaluated bid is defined as the bid which offers the best VFM, evaluated on the basis of various objective criteria set out in the bidding document. It does not necessarily mean the 'lowest quoted price'.

The issue of quality infrastructure is also linked to the need for a strong system of public investment management in the country. Based on Public Expenditure and Financial Accountability (PEFA) 2023,<sup>4</sup> Indicator PI 11 scores a D+ (on a scale of A–D, with A being fully compliant) mainly due to inadequacies in the economic analysis of investment projects, investment project selection, investment project costing, and to some extent on investment project monitoring. For example, (a) implementing agencies prepare Detailed Project Reports (DPRs) or Initial Project Documents (IPDs) and also detailed feasibility studies; although some socioeconomic impacts are discussed in DPRs/IPDs, economic analysis (that is, cost-benefit analysis) is not done systematically and (b) while projections of the total capital cost of major investment projects, together with a year-by-year breakdown of capital costs and estimates of recurrent costs for the next three years, are available at the aggregate level, project-wise details are not available. Budget documents only contain capital cost projections for the forthcoming year.

The findings of the Assessment Team indicate a host of issues that affect quality infrastructure, time, and cost overrun, which significantly impede the main goals of public procurement. These issues cannot be mitigated directly or indirectly as they are mostly beyond the control of PMDD, for example, resource and staffing constraint in PMDD and lack of availability of sufficiently trained and skilled procurement workforce in the public bodies. In addition, lack of contract management capacity is the main binding constraint in delivering quality infrastructure. These sector-specific improvements need interinstitutional effort and coordination to mitigate the substantial gaps, which are also characterized as 'red flags' in the assessment report.

## A. Key Issues Identified from Published Reports

The key issues related to Works Procurement based on sources of (a) Ministry of Infrastructure and Transport, (b) RAA, and (c) Office of Attorney General are covered in the following paragraphs.

*(a) Based on the published report on the National Construction Industry Policy<sup>5</sup> (revised first draft of May 4, 2018) by the Ministry of Infrastructure and Transport,<sup>6</sup> critical issues affecting quality infrastructure were identified as follows:*

- Public works do not have a good reputation of building quality infrastructure. This is compounded by time and cost overruns. There are many factors directly leading to failure of projects. Construction firms fail to provide adequate expertise to oversee proper execution and supervision of the construction works, and the procuring agencies fail in their monitoring and evaluation of the works.
- Moreover, the construction industry does not have proper construction standard and code of practices.
- There is a huge deficit in supply of skilled national workforce.

<sup>4</sup> <https://www.pefa.org/node/5111>.

<sup>5</sup> [https://www.moit.gov.bt/wp-content/uploads/2018/04/Revised%20First%20Draft\\_9%20May%2018.pdf](https://www.moit.gov.bt/wp-content/uploads/2018/04/Revised%20First%20Draft_9%20May%2018.pdf).

<sup>6</sup> Earlier the Ministry of Works and Human Settlement.

- The Road Act of Bhutan 2013 sets the standards for road construction and establishes clear delineation of roles and responsibilities of governmental bodies at various levels and road users. The Department of Roads is conferred all the authority necessary to perform its functions in relation to construction, maintenance, safety, and management of roads. Moreover, through this act, the private sector participation in development and management of road infrastructure is promoted and regulated.
- In most cases of public works, inadequacy in planning, feasibility studies, and survey leads to design errors. Without the Standard Operation Procedure, planners, designers, and quantity estimators perform their tasks based on their individual knowledge or hands-on trainings received from their seniors and supervisors.
- The Bhutan Schedule of Rates (BSR) reflects only suggestive averages and not accurate current market rates, so the procuring agencies' cost estimates are often inaccurate. Project duration estimation is a specialist subject and currently the derivation of project duration for construction of public works is arbitrary. In addition, the procuring agencies, without an officially published construction cost index, have resorted to non-uniform methods for calculating the cost index.
- The government has promoted joint venture (JV) projects with foreign partners for some complex projects. Due to poor contract management and inadequate monitoring, international JV partners do not physically implement the projects.
- Poor performances of the contractors are leading to termination of contracts. While termination of contracts delays the completion of project, complacency leads to further delays. The debarment rules are not yet implemented and terminated contractors are allowed to bid for subsequent projects on equal footing, often winning the project.
- The industry does not have a fully codified construction standards and a code of practice. The existing Specification of Road and Building Works is not being diligently referred to. Since the dissolution of Standard and Quality Control Authority, some valuable documents such as Standards for Doors and Windows, Plumbing Code, Testing of Building Materials and Field Investigations, Manual on Storage and Stacking, and others have lost their essence. Additionally, without third-party monitoring of construction quality, most public works are of poor quality.
- Contractors are deliberately deviating from specifications and use substandard materials to reduce the cost of construction. In addition, acceptance of substandard materials and works by the procuring agencies' engineers is gravely affecting the ultimate quality of work.

Based on further deliberations, the Ministry of Works and Human Settlement, as the apex ministry for the construction sector, issued the National Construction Industry Policy 2020.<sup>7</sup> As per communication from the MoF, RGoB, to the World Bank<sup>8</sup> regarding this policy, "This reform will contribute to achieving the 12th FYP's National Key Results Areas (NKRA) #6 on Carbon Neutrality, Climate and Disaster Resilience, #9 on Infrastructure, Communication and Public Services, and #15 on Sustainable Human Settlements. The RGOB is committed to improving the quality of construction practices and professionalizing the construction industry through the establishment of the Engineering Council of Bhutan and reestablishment of the Construction Development Board as the Construction Development Authority. This will be achieved by the establishment of the Construction Industry Act.

<sup>7</sup> <https://policy.thinkbluedata.com/node/4096#:~:text=Overall%20Summary%3A,concept%20and%20energy%20efficient%20technologies.>

<sup>8</sup> <https://documents1.worldbank.org/curated/en/681721589994820753/pdf/Official-Documents-Letter-of-Development-Policy-for-Credit-6622-BT-and-PEF-Grant-TF0B2602-Closing-Package.pdf>

We believe that this reform will lay the foundation for a regulatory and institutional framework with proper certification and capacity building of professionals and contractors in the country towards a safe, resilient and energy efficient built environment.”

This revised and final National Construction Industry Policy 2020 (the Policy of 2020) has adopted the following measures **to improve quality of construction**:

“To deliver infrastructure of acceptable quality, it is important to strengthen the monitoring system, and ensure certification of products and required infrastructure facilities are in place. The following measures shall be pursued:

- i. The Authority<sup>9</sup> to develop “Code of Conduct and Ethics” for contractors and consultants and The Council to develop “Code of Conduct and Ethics” for construction professionals.
- ii. Construction Industry to promote research and development in collaboration with the Royal University of Bhutan and other regional and international accredited institutes
- iii. The Ministry to develop guidelines for quality assurance and worksite safety.
- iv. All relevant agencies to ensure universal access to all public infrastructure in concurrence to the relevant government guidelines
- v. Procuring agencies to develop strategies for operation and maintenance for utility services to ensure durability and sustainability of the infrastructure.
- vi. BSB in collaboration with relevant agencies to develop or adopt national standards and code of practice applicable to construction industry including certification of materials and products.
- vii. The Ministry to facilitate establishment of material testing laboratories at appropriate locations.
- viii. Procuring agencies to ensure execution of Quality Assurance Plan and Environmental Management Plan for all public works including restoration of damaged local areas and public amenities.
- ix. Contractors to submit monthly expenditure plan, in their proposal for disbursement and effective utilization of mobilization advance fund.
- x. Procuring agencies to ensure construction of public buildings by certified builders and supervision of works by certified engineers
- xi. All relevant agencies to ensure construction of private buildings are supervised by certified engineers.”

As part of enforcement and regulation, this Policy of 2020 requires that the ministry in partnership with relevant agencies should update regularly the BSR based on the construction cost index compiled by the National Statistics Bureau (NSB). Procuring agencies should ensure that the contract is administered and managed as per the terms and conditions of the contract.

The above findings (as underlined) are elaborated later by the MAPS Assessment Team as a suggestion from a procurement reform perspective.

The Policy of 2020 outlines the following measures to be pursued: (a) promote private sector participation in financing construction and maintenance of infrastructure projects through the arrangements of public-private partnerships (PPPs) and (b) promote FDI in construction projects and

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<sup>9</sup> Construction Development referred as ‘Authority’.

encourage firms involved in design and construction of specialized and mega projects to engage local contractors/firm for skill and technology transfer.

The Policy of 2020 suggests the following measures to strengthen institutional mechanism: “The government shall formally mandate CDB, herein after referred to as ‘The Authority’, as regulatory agency with the mandates that would include but are not limited to the following: a. Register, certify and issue license of contractors and consultants; b. Carry out compliance audit of agencies on quality and construction safety; and c. Carry out capacity building of contractors and consultants. ii. The Ministry in collaboration with relevant agencies shall draft necessary legal instruments to enforce provision of the policy. iii. The Ministry as sector agency shall develop measures to improve coordination among stakeholders in the construction industry.”

The above measures need to be implemented through legislation and several of these are consistent with key procurement reform actions to build quality infrastructure/works as given in the last section of this annex.

*(b) Issues on Works Procurement Identified in RAA Advisory of November 2021<sup>10</sup>*

- A system of robust and standardized monitoring and supervision must be rendered to ensure that procuring agencies obtain required deliverables at right price and quality.
- The evaluation of works needs to factor in the technical superiority when computing final scores. The final point is driven by the financial bid only. Thus, there is a need to factor in technical superiority in the final score to safeguard against poor performance that will affect the quality of outputs. This could be achieved by assigning appropriate weightage to technical scores in computing the final score.
- Defect liability period must be determined based on the value, type, complexity, and expected life of the structures to ensure adequate coverage of risks that may arise due to poor quality of works.
- The construction duration for the project should be determined scientifically based on the critical path method factoring in the resources to be deployed, availability of materials, seasonality, and so on to reflect more realistic deadline of the project.
- There is a need for robust collaborative and oversight mechanism for effective enforcement and administration of public procurement.
- BSR must be reviewed holistically to provide comprehensive guidance for incorporating work items and prices.
- The process of validating any decisions made at the level of site supervision must be instituted to ensure compliances to contract agreements: (a) use of materials as per the specifications and quantities (cement, stone, wood, sand, and so on); (b) engagement of committed resources (man and machineries); (c) use of advances provided for specific purposes; and (d) enforcement of quality plans (control and assurance).

*(c) Publication by the Office of Attorney General<sup>11</sup> - Issues and gap analysis in the public procurement of works (above Nu 5 million), contract implementation, and settlement of dispute*

- The procurement of works (above Nu 5 million) includes significant projects such as roads and bridges, which constitute infrastructure development in the country.

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<sup>10</sup> [https://www.bhutanaudit.gov.bt/wp-content/uploads/2021/12/02.-AGAS\\_Review-of-Government-Procurement-System.pdf](https://www.bhutanaudit.gov.bt/wp-content/uploads/2021/12/02.-AGAS_Review-of-Government-Procurement-System.pdf)

<sup>11</sup> <https://oag.gov.bt/wp-content/uploads/2021/12/Report-for-web.pdf>

- The budget for government procurement (works, goods, and services) was Nu 109 billion and Nu 116 billion for the 11th and 12th Five Year Plan, respectively.<sup>1</sup> About 15 percent of the gross domestic product (GDP) accounts for this spending. Hence, efficient and impactful utilization of this budget is important.
- The practical implementation of the procurement process and the contract management is characterized by lack of due diligence, lax implementation of the relevant rules and guidelines, and poor accountability on the part of most procuring agencies as well as the bidders and contractors.
- Although the evaluation criteria are comprehensive and clear, most procuring agencies still emphasize the lowest quoted price in the second stage. This is because once bidders qualify on the technical aspects by scoring a minimum requirement of 75 percent, they become eligible for bidding. As the emphasis is on the price in the second stage, the award is usually given only to the lowest quoted bid. This, along with other factors such as lax monitoring of the contract implementation, has led to termination of most contracts, resulting in arbitration and then compensation payments under the contract terms.
- The clauses on abnormally low price do not provide the threshold below the departmental estimate based on which a bid may be considered as abnormally low. In addition, the practice among most procuring agencies is to award the contract even to a bidder who has quoted abnormally low price, up to 40 percent lower than the departmental estimate, after asking for additional security or the price difference between departmental estimate and the contract amount.
- Taking examples from the World Bank's Procurement Framework and Regulations for Projects (after July 1, 2016),<sup>12</sup> ADB Procurement Policy (after July 1, 2017),<sup>13</sup> and other procurement systems prevalent in the developed countries, framing guidelines (by PMDD) on various aspects of following the procurement cycle to guide the practitioners will be effective in improving the procurement system and contract management in the country: These aspects include (a) overview of procurement, (b) mandatory prerequisite studies, (c) market research and price analysis, and (d) contract management.
- Implement the capacity development of procurement officers in all the agencies based on the Competency-Based Framework for Procurement Officers wherein need analysis was thoroughly carried out in accordance with the existing competencies of the professionals involved in procurement and contract management.
- Implement the capacity development of engineers in all the agencies based on the Competency-Based Framework for Civil Engineers wherein need analysis was thoroughly carried out in accordance with the existing competencies of the professionals involved in infrastructure planning, development, and regulation. Additional procuring officers or project managers may need to be deployed or recruited where quantity and complexity of the projects demand, for timely implementation of works without deviations or compromises in quality.
- Although the PRR clearly stipulates the roles and mandates of PMDD, the lack of human resources and expertise in PMDD has restrained it from fully fulfilling its obligations. As a result, training in the field of procurement is lacking and professional development programs are absent. Further, PMDD is required to develop a code of conduct to address measures for regulating matters concerning personnel responsible for procurement, which is currently not available.

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<sup>12</sup> <https://www.worldbank.org/en/projects-operations/products-and-services/brief/procurement-new-framework>.

<sup>13</sup> <https://www.adb.org/documents/adb-procurement-policy>.

## B. Major Findings from Sample Cases/Draft MAPS Assessment of 2023–2024

- **Absence of functional/output/performance-based specification:** PRR s.5.2.2.11 concerning preparation of technical specifications is, essentially, an input-based (not a ‘functional’) approach. This may limit the opportunities for innovation contract delivery in certain cases.
- **Absence of SBD for Works based on international practices and with sustainability criteria:** For example, SBD for Large Works above Nu 5 million allows to award the contract to a bidder who does not have specific experience based on merit point evaluation. It does not include sustainability criteria as part of specification requirement and evaluation criteria.
- **Limitation on use of two-envelope and rated criteria system:** After the introduction of the electronic government procurement system (e-GP), two-envelope bidding with or without rated criteria cannot be used, which may be required for large and complex works procurement.
- **Issues in contracts management:** There is a lack of contract management skills in the infrastructure implementation departments. There are no clauses to incentivize exceeding defined performance, and poor performance is disincentivized through penalties. Some projects lack quality control/inspection, and there are payment delays. Contract amendments are not common, and procurement statistics are not available. Civil society involvement is not practiced, and procurement records are incomplete and not easily accessible.
- **Data from sample cases on works contract**

- i. Out of 22 works contracts where data were available, 73 percent were completed without time overruns and 77 percent without cost overruns.
- ii. Average of planned contract duration: 108 days - data from 16 contracts; Actual contract duration: 133 days - data from 10 contracts.
- iii. Number of cases with time overrun: 6 contracts identified with an average of 67 days overrun.
- iv. Instances of excessive time and/or cost overrun: 11 cases.

Poor recordkeeping was one of the major gaps identified. This means that the low precision of the data presented prevents any extrapolation.

## C. Issues Identified from Additional Inputs/Feedback on Works Contract<sup>14</sup>

### (i) Abnormally Low Bids and Front-loaded Bids

The Assessment Team discussed with procuring and implementing agencies and collected a few cases of highway/road contracts in Bhutan with issues on ALBs and front-loading, as described briefly in the box below:

#### ***ALB - Case Examples of Highway/Road Contracts***

**Case 1:** A highway contract was awarded at the contractor’s quoted rate of about Nu 80 million against the departmental estimate of Nu 130 million, about 40 percent below the estimate (ALB). The contract start date was June 2015 and completion date was November 2017. However, there was time overrun. The contractor could not progress even after repeated warning and the contract was finally terminated in March 2019.

<sup>14</sup> Apart from sample cases, the Assessment Team discussed key constraints with the procuring agencies/procuring entities, private sector, and PMDD and collected additional cases. Analysis used provisions in SBD for Large Works (above Nu 5 million) and PRR July 2023.

**Case 2:** Another highway contract was awarded at contractor's quoted amount of Nu 80 million against the departmental estimate of Nu 140 million, 43 percent below the estimate (ALB). The contract start date was June 2015 and completion date was November 2017. However, there was time overrun. The contractor could not progress even after repeated warning and the contract was terminated in September 2019.

The department re-tendered both the contract packages and awarded them to another contractor who completed in January 2021.

**Consequence of ALB:** *Time overrun, claims, disputes, contract failure, low quality*

**ALBs in Combination with Front-loaded bids**

**Case 3:** A road contract was awarded at a contract price of Nu 18 million to the lowest bidder. The start date of the contract was June 2018 and the end date was April 2019, for a duration of 17 months.

The contractor quoted Nu 50/cum against the departmental estimate of Nu 216.10/cum for bill of quantities (BoQ) Item 3 (Excavation of All Types of Rocks) and quoted Nu 120/cum against departmental estimate of Nu 59.35/cum for BoQ Item 4 (Excavation of All Types of Soil). Due to these unbalanced rates, the contractor's quoted bids price was 38.86 percent below the departmental estimate and the contractor submitted a cash warrant of Nu 5.246 million as an additional differential security.

The contractor failed to submit the realistic work plan and milestone contract. Despite this, the contractor completed the BoQ Item 4 (Excavation of All types of Soil), which was quoted high, and accordingly the payment was passed. On the other hand, it appears the contractor deliberately left out BoQ Item No. 3 (Excavation of All types of Rocks), which was quoted abnormally low.

The contractor completely abandoned the work site from October 2018 and refused to execute the works despite repeated requests for resumption of works by the department. The contractor registered the dispute with the Alternative Dispute Resolution Centre (ADRC). The contractor claimed that the blasting of rocks was not covered under BoQ Item No. 3 and demanded a market rate analysis for BoQ Item No. 3 against his quoted amount of Nu 50/cum. The litigation continued, the case went up to the Supreme Court, and finally the contractor won the case. The department had to pay the analyzed rate for Item No.3 (Excavation of All Types of Rocks) and the contractor completed the work only in 2022.

**Consequence of ALB in combination with Front-loaded bids:** *Time overrun, claims, dispute, low quality.*

The new PRR, which came into effect on July 1, 2023, includes the (new or revised) provisions in **5.4.5 (Abnormally Low Bids)**. In accordance with these provisions, as per July 1, 2023, version of SBD, Instructions to Bidders, ITB 31, "31.1 An Abnormally Low Bid is one where the Bid price, in combination with other constituent elements of the Bid, appears unreasonably low to the extent that the Bid price raises material concerns as to the capability of the Bidder to perform the Contract for the offered Bid price. Before proceeding to further analysis, the Procuring Agency shall revisit their departmental estimate to ensure its realistic rates compared to the prevailing market rates. 31.2 After revisiting the departmental estimate as provided in clause 31.1, if the Procuring Agency determines that the Bid offered by the Bidder is 20% below or above the Agency estimate, the Procuring Agency shall eliminate the Bid(s) before proceeding towards Bid evaluation."

No further guidance is available on the website of PMDD/MoF on detecting and dealing with ALB.

Related to front-loading for the new PRR, the procuring agency may require clarifications/explanations from bidders for ‘seriously unbalanced or front-loaded’ but not ‘abnormally low’ bids. In ALB, the procuring agency is required to revisit departmental estimate.

**PRR 2023: 5.4.6. Seriously unbalanced or front-loaded Bids - 5.4.6.1.** “If the Bid that results in the lowest evaluated bid is, in the Procuring Agency’s opinion, seriously unbalanced or front-loaded, the Procuring Agency may require the Bidder to provide written clarifications, including detailed price analyses to demonstrate the consistency of the prices with the scope of Works, proposed methodology, and schedule. After evaluating the detailed price analyses the Procuring agency may as appropriate: a. Accept the bid; and require that the total amount of the performance security be increased from ten percent (10%) up to maximum of 30% of the initial contract price; or alternatively, the procuring agency may ask the successful bidder to deposit the difference between departmental estimate and contract amount in the form of cash warrant in addition to 10% performance security. However, the total performance security amount shall be limited to maximum of 30% of initial contract price; or b. Reject the bid/proposal.”

The practice of rejecting bids below a predetermined value (20 percent) is not consistent with international good practices, more so in the absence of a robust system of cost estimation or price benchmarking. As pointed out in earlier paragraphs, BSR reflects only suggestive averages and not accurate current market rates, so the procuring agencies’ cost estimates are often inaccurate. Tools such as price benchmarking<sup>15</sup> are available to improve the cost estimate.

Related to ALB, ADB regulation requires, “when such a (abnormally low) bid is identified, the borrower shall seek written explanations of the proposed price or costs from the bidder.”

Similar provisions exist in the Procurement Regulation of the World Bank, as also reflected in the Procurement Guidance<sup>16</sup> on the treatment and identification of Abnormally Low Bids and Proposals (July 2016) that requires the five-stage process of ‘identify, clarify, justify, verify and decide’, with examples of identification following the ‘relative’ and ‘absolute’ approach.

There are two approaches to identifying a potential ALB depending on the number of bids/proposals received. Where fewer than five substantially responsive bids have been received, the ‘absolute’ approach identifies an ALB based on a comparison of the evaluated bid price, and its constituent parts, with the borrower’s own cost estimate. If the bid price is 20 percent or more below the borrower’s cost estimate when fewer than five substantially responsive bids are received, then the borrower should clarify the bid price with the bidder to determine whether the bid is abnormally low. The ‘relative’ approach uses a statistical calculation with at least five substantially responsive prices. A potential ALB is identified where the low bid is more than one standard deviation below the average of the substantially responsive bids received.

PMDD/MoF may wish to revisit the existing provisions in PRR 2023 and in SBDs on ALB and align these with international good practices to improve the quality of infrastructure and for better results.

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<sup>15</sup> <https://thedocs.worldbank.org/en/doc/a67dfe2685f063233ccfb0cbea46ea2-0290012023/original/16651-wb-price-benchmarking.pdf> (October 2023) Procurement Guidance defines price benchmarking as “the practice whereby market analysis, cost estimating tools, affordable cost targeting, and design/manufacturing analysis are used to establish the fair market price.” This definition may usefully be interpreted as using price benchmarking as a tool at the start of a procurement or project to determine a ‘fair price’ and to indicate the potential monetary expense that can help improve the cost estimate.

<sup>16</sup> [Microsoft Word - Guidance on ALB FINAL.docx \(worldbank.org\)](#)

## (ii) JV Contracts

### **Examples of failure of JV Contract**

There was a case of a JV where the lead partner was not physically present in the country, which led to delays and failure of contract. The JV was formed mainly to fulfill evaluation criteria (in terms of fulfilling the bid and technical capacity for major projects). It is reported that the international partner was never seen at the site and the resources promised by the firm were not supplied. The contract was delayed.

Another example of failure of a JV project is the construction of road awarded to JV partners (local and international). The contract amount was about Nu 300 million. The contract commencement date was September 2015 and contract completion date was August 2017. Delays in the progress of work began in November 2015. The contractor was warned about the delays in every monthly progress meeting and was constantly advised to make up for the delay by increasing the required resources. The international partner's involvement was stressed from beginning of the project (October 2015) but no serious attention was given to the request even after several meetings. The international partner was not involved in execution and did not fulfill its obligation as the lead partner. The contract was terminated in January 2017 when the overall progress was just about 15 percent, after a time lapse of more than 70 percent.

As per the July 1, 2023 SBD, ITB 3 Eligible Bidders, "3.1. A Bidder may be a private entity, government-owned entity, subject to ITB sub-clause 3.4, or any combination of such entities in the form of a Joint Venture (JV) under an existing agreement or with the intent to enter into such an agreement supported by a letter of intent. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the entire Contract in accordance with the Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the Bidding process and, in the event the JV is awarded the Contract, during contract execution. Unless specified in the BDS, there is no limit on the number of members in a JV."

ITB 29 on JVs explains evaluation and comparison of bids, in particular, "In the case of Joint Venture, Consortium & Association (JV/C/A), the individual credentials of the JV/C/A partners need to be averaged using their stake for the purpose of evaluation under the parameters of similar work experience, performance score from previous work, works (any category) completed in last five (5) years, Bid capacity and credit line available. For the parameters of equipment and manpower, there sources or information committed/provided by the JV/C/A as a single entity will be considered for award of points."

The above provisions, although derived from international practices, require a thorough examination in framing an appropriate qualification requirement and the contract size based on market situation.

Based on market study on civil works contract in Nepal, it was observed that foreign contractors were not interested in bidding for smaller-value contracts, and given the size of usual bid packaging, the local contractors were not qualified. JVs were formed between local and foreign contractors to merely satisfy the qualification requirement without any intention of executing the contract by the foreign contractors, leaving a large contract in the hands of local contractors, who lacked experience and resources. This led to delays, loss of quality, or contract failures.

A similar situation in Bhutan necessitates a market study and an assessment of the capacity of local contractors, appropriate packaging of contract, and framing of qualification requirements to elicit interest from both local and foreign contractors, who have sufficient resources to execute the contract either individually, as a JV, or as subcontractor.

### (iii) Evaluation and Qualification Criteria

As part of the consultation/validation process, bidders and contractors have expressed their concern on the existing provisions on evaluation and qualification criteria that may lead to award of work to inexperienced contractors through a scoring system where it is feasible to get minimum technical score of 70 out of 100 points on capability and capacity combined without having similar work experience

As per the SBD of July 1, 2023, Section IV on Evaluation and Qualification Criteria (Large Works above Nu 5 million), award criteria use capability (70 points) and capacity (30 points) to determine technical score, with breakdown of “**Capability (70 points)** 2.2.1. Similar Work Experience (0-10 points) 2.2.2. Access to adequate equipment (0-20 points) 2.2.3. Access to skilled manpower (0-20 points) 2.2.4. Average performance score from previous works (0-10 points) 2.2.5. Works (any category) completed in last five calendar years (0-10 points) 2.3. **Capacity (30 points)** 2.3.1. Bid Capacity (0-25 points) 2.3.2. Credit Line available (unused) (0-5 points).”

A bidder should obtain a score of at least 70 out of 100 points on these parameters (capability and capacity combined) to qualify for the award stage.

**Award:** The bids with minimum qualifying score of 70 out of 100 points will then be evaluated on a set of price preference parameters and financial parameters. About 30 percent of technical evaluation score shall be carried forward to the second stage of evaluation. This score will be combined with the financial bid to obtain the overall technical-financial score. The following shall be the score bearing: (a) financial score - 70 percent and (b) technical score - 30 percent.

The formula for combining these score states that the contractor with the highest overall technical and financial score shall be recommended for the award of the work. Therefore, bidders’ and contractors’ concern is valid that with the above scoring system, a contractor with no similar work experience could be awarded the contract.

The most critical experience requirement in a large civil works contract (or in any contract) is the experience of having completed a work of similar nature and complexity, which should be a pass/fail criterion.

The term ‘technical’ in SBD for Large Works refers to a combination of capacity and capability (qualification requirement), without reference to responsive of technical proposal which is defined in the bidding document as “A substantially responsive bid is one which conforms to all the terms, conditions and specifications of the bidding documents, without material deviation or reservation” (ITB 26).

The current system of single-envelope, single-stage bidding where both technical and financial parts are opened could lead to bias toward lowest price rather than quality of the technical proposal. The technical evaluators should not have access to price information for an unbiased evaluation and selection on quality bids without reliance on the lowest bid price. Therefore, two-envelope bidding is recommended.

A qualification requirement comprises historical information such as turnover and general and specific experience, whereas a technical proposal is what is offered in a particular bid or proposal based on works requirement/technical specification of the employer.

Based on bidding documents of works for World Bank-financed projects,<sup>17</sup> for example, Request for Bids for Works - Two-Envelope with Rated Criteria (July 2023) requires “minimum technical

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<sup>17</sup> <https://projects.worldbank.org/en/projects-operations/products-and-services/brief/procurement-new-framework>

requirements, if any, (or refer to appropriate technical requirements parts) that have to be met by the technical proposals prior to being considered for technical evaluation by applying the scored technical factors/subfactors.”

These factors include (a) the extent to which the technical proposal exceeds the requirements of the specification; (b) method statement for construction activities (and design, if any); (c) site organization, team composition, qualifications, and experience of contractor’s personnel; (d) work program; (e) management strategies and implementation plans (MSIPs) for environmental and social; (f) quality of sustainable procurement proposal; and (g) key equipment strategy. The evaluation of technical proposal requires a weight in percentage for each of these technical factors.

The recent Procurement Guidance (April 2023) by the World Bank<sup>18</sup> on evaluating bids and proposals, including use of rated criteria, provides guidance on determining the minimum quality threshold which includes technical factors as in paragraph above with a technical scoring methodology.

**PRR 5.4.3.** of July 1, 2023 on **Evaluation Criteria** stipulates “5.4.3.1. The price offered by a bidder shall be only one of the criteria amongst many others for evaluation of bids. 5.4.3.2. In addition to the price, the evaluation criteria shall include criteria from the following non-exclusive list, as appropriate and if laid down in the Standard Bidding Documents. Such criteria shall be expressed in monetary value where applicable: a. Preferential treatment for goods of Bhutanese origin, if laid down in the bidding documents; b. Date of completion of works, services and/or delivery of goods; c. Running cost and cost effectiveness; d. After-sales service and technical assistance; e. Commitments with regard to spare parts, security of supplies and the prices thereof; and f. Quality and technical merit of the works, services or supplies. 5.4.3.3. Additional criteria, if any used, shall be objective and nondiscriminatory and shall be expressed in monetary value where applicable.”

PMDD may consider preparation of SBD for Large Works above a defined threshold (US\$2 million, 5 million, or 10 million, as appropriate) based on Request for Bids for Works - Two-Envelope with Rated Criteria (July 2023), which is adapted to the requirements of Bhutan and is consistent with PRR 2023.

The above step adopting rated criteria with two-envelope system will also be consistent with the RAA Advisory of November 2012 that recommended, “The evaluation of works needs to factor in the technical superiority into computation of final scores. The final point is basically driven by the financial bid only. Thus, there is a need to factor in technical superiority in the final score to safeguard against poor performance that will have impact on the quality of outputs. This could be done by assigning appropriate weightage for technical scores in computing the final score,” pointed out in earlier sections.

#### **(iv) Price Adjustment Provision in SBD**

As per the SBD of July 2023, price adjustments are applicable if the contract duration is beyond **12 months**, as prescribed in the Procurement Rules and Regulations. The formula to be adopted to calculate the price adjustment is defined in the GCC 48 of SBD. This requires using indexes by the NSB.

NSB is required to publish the indexes but is not able to do; it publishes only the Consumer Price Index (CPI). As the national indexes are not available, the procuring agencies usually use the Wholesale Price Index (WPI) for all items published by the Office of Economic Adviser, Government of India (GoI). The WPI of India is not relevant for Bhutan.

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<sup>18</sup> <https://thedocs.worldbank.org/en/doc/61a81c4c9c79428afa613f076fa8bb2e-0290032023/original/Evaluating-Bids-and-Proposals-with-Rated-Criteria.pdf>

As per GCC 48.5, the price adjustments shall be mandatorily applicable for contract duration of more than twelve (12) months. No price adjustments shall be allowed within the first twelve (12) months of any contract.

To elaborate further,

**“GCC 48. Price Adjustment 48.1.** If during the contract, there is an increase or decrease in the cost of materials as reflected by the Material Index Numbers published by the National Statistical Bureau (NSB), a corresponding increase or decrease in the payment to the contractor or recoverable from the Contractor shall be effected on the basis of the following formulae, such calculation being done for every successive period of 3 months after the 12th month of the Contract duration:

Adjustment for variation of material prices:

$$V = W \times 0.80 \times 0.75 \times (M - M_0) / M_0$$

where:

V= amount of variation for materials payable to/recoverable from the contractor for the period under review;

W= value of the work done during the period under review minus (amount of secured advance recovered in the same period + value of works executed under variations for which the variations are paid in the new rate);

M<sub>0</sub> = Material Index for the month in which the tender was submitted;

M = the average value of the above Index Number for the 3 months period under review;

48.2 Price adjustment formula for Labor shall be calculated as follows:

$$V_L = W \times 0.80 \times 0.25 \times (L - L_0) / L_0$$

V= amount of variation for labor payable to/recoverable from the contractor for the period under review;

W = value of the work done during the period under review minus (amount of secured advance recovered in the same period + value of works executed under variations for which the variations are paid in the new rate);

L<sub>0</sub> = National Wage Rate at the time of tender

preparation;

<sup>44</sup> Until NSB comes up with the Material Index for the Royal Government of Bhutan, the Wholesale Price Index (all commodities) for Materials shall be used for the purpose of this clause. Visit [www.eaindustry.nic.in](http://www.eaindustry.nic.in) for the Wholesale Price Index.

L= Revised National Wage Rate for the period under review.

48.3 For the applications of the above formulae, the appropriate Index Numbers published by the National Statistical Bureau shall be adopted.

48.4 To the extent that full compensation for any rise or fall in costs to the contractor is not covered by the provisions of this or other clauses in the contract, the unit rates and prices included in the contract shall be deemed to include amounts to cover the contingency of such other rise or fall in costs.

48.5 The price adjustments shall be mandatorily applicable for contract duration of more than twelve (12) months. No price adjustments shall be allowed within first twelve (12) months of any contract.

48.6 Price Adjustment shall apply only for work carried out within the stipulated time or extensions granted by the Procuring Agency and shall not apply to work carried out beyond the stipulated time for reasons attributable to the Contractor.”

**Analysis of price indexes.** In the context of price indexes, the above formula requires use of the National Wage Rate for Labor (L) and Material Index (M), with a stipulation in a footnote that “Until NSB comes up with the Material Index for the Royal Government of Bhutan, the Wholesale Price- Index (all commodities) for Materials shall be used for the purpose of this clause. Visit [www.eaindustry.nic.in](http://www.eaindustry.nic.in) for the Wholesale Price Index.”

As per the Gol website <https://eaindustry.nic.in/>, the WPI captures average movement of wholesale prices of goods, consisting mostly of food, manufactured products, fuel, and power in India. Such prices are not relevant for input of construction material in Bhutan and should not be used as a proxy in totality. As an interim measure, some of the construction-related items such as steel and cement may be used.

A collaborative effort is needed between the RGoB and private sector to identify and track relevant indexes used for construction input.

Based on the provisions of price adjustment formula (attached), as in the Procurement of Works in the Requests for Bid - Two-Envelope with Rated Criteria<sup>19</sup> (July 2023) of the World Bank, “the Employer is advised by a professional with experience in construction costs and the inflationary effect on construction costs when preparing the contents of the Schedule of Cost Indexation. In the case of very large and/or complex works contracts, it may be necessary to specify several families of price adjustment formulae corresponding to the different works involved.”

The provisions in the SBD for Works are not consistent with international practices because of the following:

- (a) Based on distribution of risks and responsibilities and as per international norms derived from practices in multilateral development banks (MDBs)/FIDIC, the price adjustment formula in bidding document shall state either that (i) bid prices will be fixed or (ii) the price adjustments will be made to reflect any changes (upward or downward) in major cost components of the contract such as labor, equipment, materials, and fuel.
- (b) As per international practices, price adjustment provisions are not included where completion of work is within 18 months, but for longer duration contracts, price adjustment is allowed with base cost indexes or reference prices expressed in the relevant currency of payment, with base date like 28 days before the bid closing date and actual payment in relevant currency based on indexes 49 days before the applicable payment certificate date (an example).
- (c) Therefore, a price adjustment formula should allow partial compensation based on the agreed formula from the base date to the date of execution for rise and fall in the cost of labor, goods, and other input but applicable for the first billing and not 12 months after the effective date of contract.
- (d) Based on MDB practices, the bidding document for contracts for shorter duration may also include a similar provision for price adjustment when future local or foreign inflation is expected to be high.

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<sup>19</sup> <https://projects.worldbank.org/en/projects-operations/products-and-services/brief/procurement-new-framework>

- (e) Other aspects of price adjustment need to be considered, such as correction factor where the payment currency is different from the source of the input, to avoid incorrect adjustments.

There is a need to align with international practices on price adjustment provisions to ensure appropriate incentive to the contractor to maintain quality of the works.

#### **(v) Bhutan Schedule of Rates**

Related to findings as part of the National Construction Policy (draft 2018/final 2020), it is stated that BSR reflects only suggestive averages and not accurate current market rates, so the procuring agencies' cost estimates are often inaccurate. As per the Policy of 2020, enforcement and regulation are needed. The ministry in partnership with relevant agencies should update regularly the BSR based on the construction cost index compiled by NSB.

The preparation of schedule of rates is generally the responsibility of the Engineering Department within a Public Works Department in a country. In the case of Bhutan, the schedule of rates is prepared by the relevant ministry.<sup>20</sup>

The reference section at the end of this annex lists resource material for consideration by the Ministry of Infrastructure and Transport.

#### **(vi) Sustainability Considerations in the Bidding Document Conditions, Evaluation Criteria, and GCC**

Sustainability criteria (such as social development and environmental protection) are not directly reflected in the SBD. The reference to 'environment' appears under GCC 19.1 on Safety "The contractor and the procuring agency shall comply with Occupational Health and Safety related regulations for the safety of all activities on the site. 19.2. The contractor shall comply with all applicable safety regulations for the adequacy and safety of site operations and methods of construction, and he shall adopt measures to prevent injuries to persons or damage to properties or utilities. He shall avoid undue interference with private business, public travel, or with the work of other contractors. He shall take steps to protect the *environment and to minimize noise, pollution or other undesirable effects resulting from his method of operation.*"

The latest Sustainable Procurement Guidance of June 2023 published by the World Bank<sup>21</sup> may be a source to be suitably applied as relevant for Bhutan.

#### **(vii) Improving Contracts Management for Quality Infrastructure/Works**

Based on sample cases, it was observed that some projects lack quality control/inspection in contracts management, and there are payment delays. Contract amendments are not common, and procurement statistics are not available. Civil society involvement is not practiced, and procurement records are incomplete and not easily accessible. A contract monitoring system (linked to e-Procurement) is needed to enforce contract provisions for completion of contracts (including by JVs) within time and cost and with quality. Without third-party monitoring of construction quality, most of the public works are of poor quality.

The recordkeeping in contracts management could be improved through a formal system of contract closing procedure and checklist, which has led to good results in large power projects in India.

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<sup>20</sup> [Ministry of Infrastructure and Transport – "Construction Industry: Solutions through innovation and improved technology" \(moit.gov.bt\)](https://moit.gov.bt)

<sup>21</sup> <https://projects.worldbank.org/en/projects-operations/products-and-services/brief/e-s-procurement-joint-guidance-on-sustainable-procurement>

For large and complex contracts, it is quite common that contracts passively expire rather than be actively closed due to fear of releasing the contractor from all its obligations, as may be the situation in Bhutan due to lack of record on contract amendments.

Based on the provisions of contract and standard procedures, a completion certificate is to be given by the employer to the contractor on completion of the work. This also requires strict enforcement of contract conditions. It is essential that the contractor fulfils all obligations in terms of the contract, all due payments of the contractor is released, all records are available for future reference, all claims and disputes are resolved, and the contract is closed in a methodical manner and no-claim certificate is obtained from the contractor.

A well-documented checklist on contract closing certificates and obtaining a no-claim certificate should include “The contractor certifies that with the final payment, they shall have no claim, whatsoever of any description, on any account, against the government, against the contract agreement executed by them and they declare unequivocally, that with this payment, they have received all the amounts payable to us, and have no dispute of any description whatsoever.”

#### D. Innovative Procurement Practices to Enhance Quality of Infrastructure

##### Use of Life Cycle Cost at Design and Appraisal Stage<sup>22</sup>

According to the World Bank Procurement Guidance on this topic,<sup>23</sup> evaluation of bid/proposal costs may include an assessment of **life cycle costs (LCCs)**. The principle of **VFM** does not necessarily mean selecting the lowest price but rather the lowest total cost of ownership (or LCC) over a specified period, generally the useful life of an asset. VFM represents the optimum combination of total cost of ownership and quality (or fitness for purpose) to meet the buyer’s requirements. The potential benefits of LCC, if calculated during the design phase, are higher than if calculated during the bidding phase, with decreasing potential for value improvement in the operation and maintenance (O&M) phase. Based on ISO 15686-5 (ISO, 2008), the potential for value improvement is greatest at the design appraisal stage, as also represented in Figure 1.

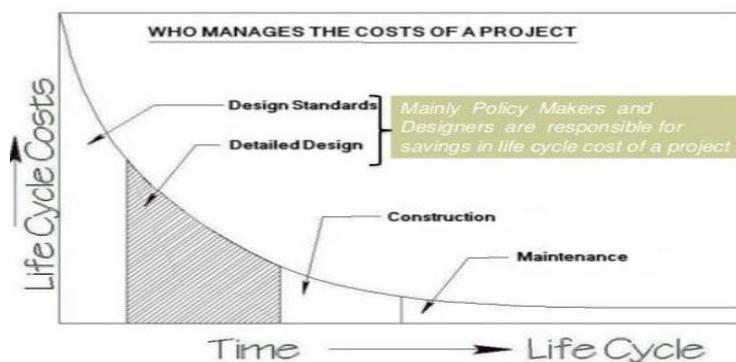


Figure 1: LCC of a project

A supplement to ISO 15686-5 was published to provide a standard LCC method for construction procurement (BSI 2008) and it was revised.<sup>24</sup> This may be used by project authorities.

<sup>22</sup> Internal documents of the World Bank - Draft Practice Manual on Use of LCC for Infrastructure Project (October 2023).

<sup>23</sup> World Bank. 2016. "Procurement Guidance. Evaluation Criteria: Use of Evaluation Criteria for Procurement of Goods, Works, and Non-Consulting Services Using RFP." Washington, DC: World Bank, 13–14.

<sup>24</sup> ISO 15686-5 on standard LCC method for construction procurement - Building and Construction Asset.

**Value engineering** covers various aspects of the construction process from design to execution and maintenance, with the overarching goal of achieving best VFM to improve the quality, performance, efficiency, constructability, safety, and environmental aspects in construction projects at the least LCC. Value engineering starts at the design stage with an in-depth assessment of what the employer needs to include in the organization’s specifications to achieve functionality, moving during construction to ways the contractor can deliver the functionality more efficiently. The three are therefore related concepts. Value engineering applies to the entire life cycle of the project and requires the involvement of various stakeholders in the process.

On average, **engineering, procurement, and construction (EPC)** and **PPP contracts** that incentivize optimization of costs over the project life cycle by transferring responsibilities of design and construction quality to contractors have helped bring in efficiencies into project contracting and implementation, reducing bid evaluation and contract award periods, and containing time and cost overruns. These contracts also offer scope for harnessing economies of scale/technology.

**LCC in various contract types:** There is a transition in LCC responsibilities and opportunities from the client to the contractor as the contract type moves from item-rate through EPC to PPP.



Contractor’s responsibility for overall O&M increases

Figure 2: Transition in LCC responsibilities per contract type

The contractor takes on increasingly longer-term responsibility for the overall O&M (performance)

of the road. However, the scope for design innovation/options may be limited, depending upon the level of detail (constraints on solutions) specified in the employer’s design requirements for EPC and PPP contracts. However, these contracts cannot address employer’s risks such as availability of right-of-way: time savings arising from EPC and PPP contracts may be lost if the site is not handed over in line with the contract’s provisions.

As part of a recent study carried out by the World Bank, 14 contracts were reviewed (9 EPC and 5 item-rate contracts) to assess their performance against the contract type. To control other variables, sample contracts were taken from TNRSR and TNRSR II, both implemented by the same entity (Highways Department of Government of Tamil Nadu) in the same state (Tamil Nadu). EPC contracts had much lower time overruns (4 percent for EPC versus 103 percent for item-rate) and lower contract cost variation (INR 27 million, or 2 percent, under EPC versus INR 471 million, or 23 percent, under item-rate contracts) which indicates the efficiency gains from the use of EPC contracts.

**Output and Performance-Based Road Contracts (OPBRC):** Road authorities sometimes face difficulties under traditional works contracts to ensure that design of works is adequate, the quality of works is adequate, works are completed at the price given by winning contractor, and roads are maintained after construction works are completed.

To respond to these concerns, OPBRC type contracts may be used to (a) manage and maintain existing roads during multiyear periods; (b) bring roads to a maintainable condition and then manage and maintain them for several years; (c) rehabilitate and improve roads and then manage and maintain them for several years; and (d) construct new roads, followed by a long period of management and maintenance. This may be an example of ways to ensure that the LCC of the roads concerned is adequately covered during a large part of the lifetime of the infrastructure investment. Sample specification and Request for Bid Document (July 2023) is available<sup>25</sup> as a resource on the procurement website of the World Bank.

<sup>25</sup> <https://projects.worldbank.org/en/projects-operations/products-and-services/brief/procurement-new-framework>

**Contract and financing arrangements under PPP.** The World Bank PPP Knowledge Lab defines a PPP as, “a long-term contract between a private party and a government entity, for providing a public asset or service, in which the private party bears significant risk and management responsibility, and remuneration is linked to performance.” This spans from a full private investment to concession, design-build (DB), design-build-operate (DBO), build-operate-transfer (BOT), build-own-operate-transfer (BOOT), **design-build-finance-maintain-operate (DBMFO)**, management contract, and OPBRC. The life cycle approach, which is at the core of the rationale for using PPPs for delivery of public services, considers the entire life costs and benefits to maximize efficiency of service delivery.

**Use of Hybrid Annuity Model (HAM).** This model has significant potential to boost investments in public infrastructure through PPPs. The innovative features include financial risk sharing between the government and private sector.<sup>26</sup> This has been used effectively in India, as described in the referenced Asian Development Bank (ADB) paper.

## E. Key Procurement Reform Actions to Build Quality Infrastructure/Works

- (i) Implement National Construction Industry Policy 2020** to improve quality of construction. The measures suggested in this policy need to be implemented through legislation. Several of these measures are consistent with key procurement reform actions to build quality infrastructure/works and will require coordination among stakeholders in construction industry.
- (ii) Adopt output/performance/functional specifications:** Encourage use of output-based specifications in cases where this may lead to innovative solutions and provide guidelines on how to plan for and prepare output-based approaches to procurement and drafting of specifications (use design-build or other innovative approaches). Use ISO 15686-5 on standard life cycle costing method for construction procurement (BSI 2008), at the design and appraisal stages for value improvement. (RGoB representatives informed that DoST had been using a maintenance contract for roads modelled on a performance-based contract).
- (iii) Carry out Works Procurement market analysis** to assess the capacity of the local contractor and appropriate packaging of contract to elicit interest from both local and international contracts, based on their capacity and capability.
- (iv) Use rated criteria** to factor in technical superiority into the computation of final scores, as also recommended by the RAA Advisory of November 2021. Guidance may be taken from the practices in the World Bank, as introduced in April 2023. The technical evaluators should not have access to price information for an unbiased evaluation and for selection on quality bids without reliance on the lowest bid price, and therefore two-envelope bidding is recommended. In PRR 2023, rated criteria are already practiced. However, the rated criteria used are mainly related to qualifications of the bidders. Rated criteria should focus on the quality of bids, not the qualification of the bidders. This threshold for use of rated criteria for civil works could be above US\$10 million.
- (v) Update SBD for Large Works above a defined threshold.** This SBD was prepared in 2019, with an update in July 2023. There is a need for a comprehensive review of the SBD for contracts above a defined threshold (US\$2 million, US\$5 million, or US\$10 million, as appropriate) based on experience gained and current international practices/models, including sustainability criteria, use of rated criteria with two-envelope system, and environmental and social (E&S) requirements such as sexual exploitation and abuse (SEA)/sexual harassment (SH).
- (vi) Prepare guidance on dealing with situations of ALBs,** based on practices of international finance institutions (IFIs) including the World Bank and ADB to ensure better VFM. The provisions of the PRR/SBD of July 2023 on ALB need review.

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<sup>26</sup> [The Hybrid Annuity Model for Public-Private Partnerships in India's Road Sector: Lessons for Developing Asia | Asian Development Bank \(adb.org\)](https://www.adb.org/publications/the-hybrid-annuity-model-for-public-private-partnerships-in-india-s-road-sector-lessons-for-developing-asia)

- (vii) Align price adjustment provisions and practices based on international practices:** (a) consider adopting an internationally accepted price adjustment formula as used by MDBs/IFIs/FIDIC for works; (b) RGoB/NSB may consider collaborating with the construction industry and private sector to identify and adopt base indexes and track the prices for construction input such as equipment, material, and fuel without relying *forever* on the GoI WPI (in the interim, use the relevant WPI of the GoI for construction-related items); (c) seek advice from professionals with experience in construction costs for large and complex works on applicable formula and indexes; and (d) as part of good contracts management practice, track indexes/reference prices in the contract if these are published, and in case of discontinuance, substitute with applicable index/reference price promptly, as determined by the engineer and as per contract provisions, to avoid contractual disputes.
- (viii) BSR and cost estimating.** As per the Policy of 2020, enforcement and regulation are needed. The ministry in partnership with relevant agencies should update regularly the BSR based on the construction cost index compiled by NSB. Also consider examples/good practices from other countries.
- (ix) Improve contracts management and quality control.** Address issues in implementation based on findings on sample cases in MAPS. Institute a contract monitoring system (part of e-GP) and through a third-party, monitor quality controls. Institute a formal system of contract closing to enforce contract provision for completion of contracts (including by JVs) within time/cost and with requisite quality.
- (x) Use innovative procurement, financing, and contract implementation approaches for better VFM.** These include use of LCC principles at the design stage, OPBRC, and other variations of PPP for entire life cycle costs and benefits to maximize efficiency of service delivery.
- (xi) Improve capacity/decision-making abilities of procurement and project management professionals for better outcomes.** The public officials responsible for procurement and contract implementation need to be adequately trained and empowered to exercise discretion and professional judgment as necessary to ensure the successful outcome of the project while ensuring that all such decisions are transparent, fully documented, and justified. This will require better recordkeeping for the entire procurement process and the capacity development of officers in all the procuring agencies based on the competency-based framework for procurement officers and construction and project management professionals. PMDD may introduce separate professional certification for procurement of large works and contract management. The RGoB should facilitate capacity development of the bidding community.

## Attachment I Schedule of Cost Indexation

*(extracts from SBD -RFP, Two Envelope, Rated Criteria, Works, July 2023, The World Bank)*

**[Note to Employer:** Schedule for Cost Indexation shall normally be applied for contracts where the specified Time for Completion exceeds 18 months. Contracts for shorter specified Time for Completion, where local or foreign inflation is expected to be high, shall also include Schedule for Cost Indexation as appropriate.

*It is recommended that the Employer is advised by a professional with experience in construction costs and the inflationary effect on construction costs when preparing the contents of the Schedule of Cost Indexation. In the case of very large and/or complex works contracts, it may be necessary to specify several families of price adjustment formulae corresponding to the different works involved.*

**When finalizing the contract document, ensure that the finalized Schedule of Cost Indexation is attached to the Contract Agreement.]**

*[The formulae for price adjustment shall be of the following general type:]*

$$P_n = a + b \frac{L_n}{L_0} + c \frac{E_n}{E_0} + d \frac{M_n}{M_0} + \dots \text{where:}$$

“P<sub>n</sub>” is the adjustment multiplier to be applied to the estimated contract value in the relevant currency of the work carried out in period “n,” this period being a month unless otherwise stated in the Contract Data;

“a” is a fixed coefficient, stated in the relevant table of adjustment data, representing the non-adjustable portion in contractual payments;

“b,” “c,” “d,” ... are coefficients representing the estimated proportion of each cost element related to the execution of the Works as stated in the relevant table of adjustment data; such tabulated cost elements may be indicative of resources such as labour, equipment and materials;

“L<sub>n</sub>,” “E<sub>n</sub>,” “M<sub>n</sub>,” ... are the current cost indices or reference prices for period “n,” expressed in the relevant currency of payment, each of which is applicable to the relevant tabulated cost element on the date 49 days prior to the last day of the period (to which the particular Payment Certificate relates); and

“L<sub>0</sub>,” “E<sub>0</sub>,” “M<sub>0</sub>,” ... are the base cost indices or reference prices, expressed in the relevant currency of payment, each of which is applicable to the relevant tabulated cost element on the Base Date.

The cost indices or reference prices stated in the Table of Adjustment Data shall be used. If their source is in doubt, it shall be determined by the Engineer. For this purpose, reference shall be made to the values of the indices at stated dates (quoted in the fourth and fifth columns respectively of the table).

If the currency in which the Contract price is expressed is different from the currency of the country of origin of the indices, a correction factor will be applied to avoid incorrect adjustments of the Contract price. The correction factor shall be:  $Z_0 / Z_1$ , where,

$Z_0$  = the number of units of currency of the origin of the indices which equal to one unit of the currency of the Contract Price on the Base date, and

$Z_1$  = the number of units of currency of the origin of the indices which equal to one unit of the currency of the Contract Price on the Date of Adjustment.

## Attachment II

### List of references and resource material

1. Electronic Government Procurement (e-GP), RGOB, Ministry of Finance  
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5. [National Construction Industry Policy 2020](https://policy.thinkbluedata.com/node/4096#:~:text=Overall%20Summary%3A,concept%20and%20energy%20efficient%20technologies) <https://policy.thinkbluedata.com/node/4096#:~:text=Overall%20Summary%3A,concept%20and%20energy%20efficient%20technologies>.
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<https://www.worldbank.org/en/projects-operations/products-and-services/brief/procurement-new-framework> - Sample Specifications for Output and Performance Based Road Contracts  
<https://thedocs.worldbank.org/en/doc/780841478724671583-0290022017/Procurement-Guidance-identification-and-treatment-of-Abnormally-Low-Bids-and-Proposals>  
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<https://blogs.worldbank.org/transport/performance-based-contracts-promoting-quality-road-maintenance-and-economic-efficiency>
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10. Government of India- Ministry of Road Transport and Highways notification – Circular dated February 09, 2016 on Hybrid Annuity Model for Implementing Highways Projects-

<https://morth.nic.in/sites/default/files/implementing.pdf>

11. ISO (the International Organization for Standardization)-Building and constructed assets – Service life planning – Part 5: Life-cycle costing-

<https://www.iso.org/obp/ui/#iso:std:iso:15686:-5:ed-2:v1:en>

12. Construction Association of Bhutan <https://www.cab.org.bt/about/>

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There are examples from India like CPWD or Indian Railways and from Bangladesh

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Examples from the website of Chief Advisor Cost in Department of Expenditure, Government of India

<http://www.cac.gov.in/>

Government Accountability Office (GAO) of USA has a guide on best practices on cost estimating and assessment guide

Price Benchmarking publication of the Bank in the report

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# MAPS

Methodology for Assessing  
Procurement Systems

## Bhutan

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### Rapid Assessment of Health Sector Procurement

(Annex to the Report)



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Asian Development Bank

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*This annex is part of the Core MAPS Assessment that required particular attention to Health Sector Procurement, and it is not a Sector Level Assessment (SLA) as per MAPS.*

# Rapid Assessment of Health Sector Procurement in Bhutan

## (Draft for review)

### A. Background

At the request of the Ministry of Health, Department of Medical Products (DMP), a World Bank team conducted a short mission to review the current practices in the procurement of health sector goods (medicines, consumables, devices, equipment, and traditional medicines) in Bhutan. The objective of the review was to identify potential solutions for challenges the DMP has been facing in ensuring uninterrupted supply of all products needed in the system. The review is based on unpublished data and reports received from the DMP and stakeholder interviews and discussions during a one-week mission from March 11 to 15, 2024.

This assessment is part of the Core MAPS Assessment that requires particular attention to Health Sector Procurement, and it is not a Sector Level Assessment (SLA) as per MAPS.

### B. Executive Summary

Health Sector Procurement in the Bhutanese health system, which is almost entirely public, is well organized and largely effective in providing the majority of products needed to fulfil the promise of universal health coverage for the population.

The government relies on local importers to supply medicines, consumables, and devices. These importers are small businesses and often have to source from medical wholesalers in India, which limits information exchange with manufacturers and makes collecting market intelligence difficult. Small volumes lead to higher prices and lead times compared to larger markets.

Some products need to be re-tendered or are unavailable, potentially causing treatment interruptions. Medical equipment was regulated to reduce the number of brands that are in use (standardization). Life cycle costing for equipment has not been introduced yet. The Bhutan Food and Drug Authority (BFDA) regulates market access for pharmaceuticals and started regulating consumables and devices as well.

Capacity is limited, and there is no verification of certificates submitted by applicants or good manufacturing practices (GMP) inspection in factories from which suppliers are sourcing. Consequently, the risk of procuring substandard medicines is defined by the performance of the regulatory agency in the country or state where the factory is situated. Some of the Indian states from which Bhutan procures medicines do not have the capacity or political will to enforce international quality standards on their domestic manufacturers.

There are also quality risks for medical devices and equipment. The procurement process does not include verification and authentication, meaning there is a risk that suppliers submit forged certificates and sell refurbished items as new.

Recommendations for addressing these issues include contracting with a commercial verification provider, a more flexible use of procurement methods depending on the level of competition, use of two-stage bidding for complex equipment, development of Standard Bidding Documents (SBDs) for health sector goods (such as pharmaceuticals, consumables, and medical equipment) and a guidance note that addresses the specific challenges of the sector.

The Health Sector Guidance Note could cover the existing flexibilities allowed and recommendations in this assessment. Cost increases for specialized medicines that are purchased with an exemption for individual patients ('name patient drugs') will require development of a policy to make them more manageable in the future.

The need to phase out and replace a significant share of the medical equipment currently in use creates an opportunity to develop a long-term plan for cost-effective equipment procurement and utilization. For both these initiatives, it would be necessary to bring in specialized external know-how on a contract basis.

### C. Key Findings and Suggested Areas of Improvements

- The public sector provides all health services, with a focus on primary care

Bhutan has a public health system that covers all health services for the entire population. Health care is free, with medicines and medical supplies procured by the DMP and provided at public facilities at no cost. There are no private clinics or physicians except for a few diagnostic centers that offer imaging services on a fee-for-service basis. Private pharmacies exist (about 70 in the entire country) and sell mostly over-the-counter (OTC) medicines and nutritional supplements. For conditions that cannot be treated in the country, patients are referred to providers outside the country (usually in India) to receive treatment. There is a mechanism for reimbursement of costs for such cases. Medicines prescribed by physicians outside the country can be purchased in the name of the patient through a special fund.

Bhutan has made significant investments into primary care. Every subdistrict has a primary care facility. There are 20 district hospitals that offer secondary level services and have ambulance services. For more severe cases, there are two regional referral hospitals in Gelephu and Mongar and the national referral hospital (Jigme Dorji Wangchuck National Referral Hospital, JDWNRH) in Thimphu. In total, there are 290 health facilities and 81 facilities specialized on traditional medicine.

- Pharmaceutical sector oversight is limited by lack of resources

The pharmaceutical sector is regulated by the BFDA. The Medical Product Division is responsible for oversight of all medicines, consumables, and medical devices except for narcotics and controlled substances, which are administered by a separate division. The Drug Evaluation Section is responsible for the registration of medicines. The Licensing and Vigilance Section licenses suppliers and conducts post-marketing surveillance. The Medical Devices Section registers medical devices and consumables.

The BFDA has a small team with only 13 technical staff in the Medical Product Division and 2 in the Controlled Substances Division. It does not have the resources to perform all tasks that typically fall under a national medicines regulatory agency. The BFDA has been assessed as Maturity Level 1 under the WHO<sup>1</sup> Global Benchmarking Tool for medicines regulatory agencies. A concept for investments and training needed to reach a higher maturity level exists but has not yet been approved or funded.

Processing time for product registration is 60 calendar days, which is very short by international standards. In the case of the standard route of registration, a comprehensive set of documents is required. If any document is missing or incomplete, the clock stops and the applicant (one of the local importers—foreign entities cannot apply directly) has six months to retrieve the missing information from the manufacturer

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<sup>1</sup> World Health Organization.

and send it to the BFDA. This means that the total time from application to registration can take considerably longer than 60 days.

There are two ‘fast-track’ options for registration: the ‘abridged route’ applies to products registered by a stringent regulatory agency or by any two national regulatory agencies. The ‘company recognition route’ applies to seven companies that achieved a high score in a GMP inspection conducted by the BFDA. Due to resource limitations, no inspections have been held since 2019. The validity of the GMP certificate expires after five years, meaning that 2024 is the last year in which the companies granted this route will be able to utilize it. Both fast-track options differ from the standard route in the number of documents required for the application. The maximum processing time remains 60 days in all cases, but the likelihood of a delay due to incomplete documentation is significantly lower for the two fast-track options.

When reviewing applications for registration, the BFDA has to rely on the submitted documents as there are no resources for site inspections. This means that Bhutan is exposed to a level of risk of importing substandard medicines that is defined by the quality found in the markets of the countries of origin. The BFDA organizes random sampling and testing of medical products in two contract medicine quality control laboratories in India and Nepal. According to BFDA staff, the rate of products that fail the test is about 10 percent.

The Medical Devices Section was added two years ago and covers mostly consumables and small devices. There is no capacity yet to regulate larger medical equipment.

The DMP maintains an Essential Medicines List (EML), which is binding for all health service providers in the public sector and informs public procurement. It also defines which medicines should be available at which level of care. The list is updated every two years by a committee that includes clinical experts for different specialties.

- Health Sector Procurement is well organized, and roles are clear

All medicines currently used in the public sector are imported, with the majority from India. Despite the small market size, there are over 130 importers offering medicines that are on the EML. About 35 of them participate in public tenders, with any individual tender typically receiving a maximum of 10 bidders. Bhutan has one manufacturer of generic medicines, a company named Azista. This manufacturer has not yet been able to offer competitive prices in public tenders.

The 2023 budget for procurement of essential medicines was Nu 506 million (approximately US\$6.1 million), of which about Nu 85 million was used for traditional medicines. The private sector does not have aggregated sales data. One published estimate for the total market size is US\$ 8.95 million.<sup>2</sup>

The annual procurement cycle starts with quantification. Health facilities use an online system for inventory management (Electronic Bhutan Medical Supplies Inventory System, EBMSIS). Data from this system is used to estimate future demand. Health facilities submit their requests (indentations) to the quantification team at the DMP (QPD), where the data are entered into another digital system. Indents are centrally verified, and manual corrections are made in consultation with hospitals if needed. Data are consolidated based on the remaining stock levels and budget to finalize amounts for procurement.

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<sup>2</sup> <https://www.statista.com/outlook/hmo/pharmaceuticals/bhutan>

Qualification is done for a 14-month supply to cover the overlap between procurement cycles and ensure that there is a buffer stock in case of unexpected demand.

At this point the procurement team takes over, issues the tenders, and receives the bids. Bids are evaluated by an Evaluation Committee, which is chaired by a representative of the end user (hospital physician) and includes a procurement officer as facilitator, technical experts, and a finance officer (total 3–5 people). This committee submits the recommendation to the High-Level Tender Committee (HLTC), which is chaired by the President of National Medical Services and includes the Director General of the DMP, Directors of Department of Clinical Services and Biomedical Engineering, and the Chief Financial Officer of the National Medical Services. The HLTC can accept or reject the recommendations of the Evaluation Committee. In case of rejection, the Evaluation Committee is asked to re-evaluate. The most common reason for rejection is financial—the price is deemed too high.

If the HLTC accepts the recommendation of the Evaluation Committee, the DMP procurement team issues ‘intention to award’ to the bidders, followed by a 10-day standstill period to allow for complaints. If a complaint is received, the team has five days to address it. Then the selected suppliers have 15 days to furnish a performance security, after which the contract is signed, and the purchase order is issued. Purchase order quantity could be less than the quantity in the contract. Once the orders are processed, procurement officers may follow up with suppliers to check progress, until the goods are delivered.

The process for medical devices and equipment is similar. Biomedical engineers review the specifications, which are brand neutral. They maintain a complete inventory of devices and equipment for the country and verify that the requested piece is not available elsewhere. Procurement for critical equipment is done through limited national bidding among suppliers for the brands that have been pre-identified in a standardization process. The objective is to avoid aggregating equipment from too many different sources, which creates calibration, maintenance, and training challenges and has led to significant premature write-offs of unusable equipment in the past.

Suppliers deliver to the final destination in Bhutan, which could either be the medical store or, in the case of medical equipment, a health facility (Incoterm Delivered Duty Paid (DDP) at a Place). Goods are received and inspected by a three-person Acceptance Committee, which includes technical experts and end users. In the case of medical equipment, the supplier handles the installation in the presence of biomedical engineer(s) and end users, and this is followed by the quality inspection (QI). The documentation is sent to the medical store, where records are kept. Payment to the supplier must be made within 25 days of acceptance of the delivery.

The Logistics Management Division is responsible for storage of products, including buffer stock, and distribution to all facilities. Goods are pre-packed for individual facilities, which is in line with international good practice.

- [Geography and small population make the market less attractive for suppliers](#)

Bhutan has a population of about 700,000 and, as a lower-middle-income country, a relatively small health budget. Given that all citizens receive free care at public health facilities, there is no private sector market for prescription medicines. Combined with the geographic location and difficulty of reaching remote locations, these factors make for a relatively unattractive market.

Nevertheless, the DMP manages to ensure over 95 percent availability of regularly used essential medicines and supplies at health facilities.<sup>3</sup> The higher availability is also due to a number of ad hoc and emergency procurements.

Manufacturing companies interested in selling in Bhutan have to work through national agents. There is a requirement to have representation through a legal entity in Bhutan that is registered with the BFDA and potentially undergo further validation, if a company wants to participate in public tenders. Most manufacturer-agent relationships are exclusive, meaning a specific brand can only be purchased through one importer.

Bhutanese importers of medical products are small businesses with low financial reserves. If they win a tender, they need to provide performance security and prepay the full price of the product they order to the manufacturer abroad. Working capital loans used to pay for these costs carry interest rates at or above 10 percent per year, which need to be earned back through the profits made from the sale.

Stakeholders complain that the procurement process takes too long and is cumbersome. There is an understanding that tenders need to be issued even for products that come from a single source or for which past tenders have failed. Fear of audit creates risk-averse behavior, which can harm patients when critical products become unavailable or substandard products are delivered.

A small number of generic brands are not easily interchangeable due to a narrow therapeutic window. For example, transplant patients would have to spend a few days in the hospital to safely switch from one immunosuppressant brand to another. This puts the importer in a monopoly position and leads to high prices for these medicines.

If a manufacturer does not meet the agreed delivery deadlines, the importer is liable and has to pay compensation (liquidated damages - LD) amounting to thrice the market rate for loans. This can make importers risk averse and prevent them from bidding for products that may be difficult to find in the market, particularly if volumes are low.

Importers may also incur losses if the order amount is significantly below the tender amount for which they received a price quotation from the manufacturer. The manufacturer may charge them a higher price, but they are bound by their bid. A price adjustment clause in case of reduced quantity in the contract/purchase order could address this issue.

There have been cases in which the government was not able to pay suppliers within 25 days of acceptance, as contractually required. The latest edition of the SBDs allows suppliers to claim interest for delayed payments.

Some medicines are neither on the EML nor registered by the BFDA but are needed for individual patients. These medicines are imported under a special exemption that allows individual import for personal use ('name patient drugs'). The DMP works with the Royal Bhutanese Consulate in Kolkata, India, which sources these products in the local market. The expenditure for these medicines is about 20 percent of the budget for essential medicines, with an upward trend.

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<sup>3</sup> Primary Healthcare in Bhutan - Findings from the Primary Health Care Performance Initiative assessment (unpublished draft, World Bank); according to the DMP, there may be unreported stock-outs of items that are not regularly used.

- [Traditional medicine plays an important role in Bhutanese culture](#)

The state-owned enterprise Menjong Sorig has a monopoly on producing a range of products based on an ancient Buddhist script. Ingredients are sourced from rural communities in the mountains; this process provides livelihoods and is designed to be sustainable. Some rare ingredients need to be sourced from abroad. Fluctuations in availability can lead to delays in manufacturing or variability of yields.

The budget for traditional medicines is not separate from the essential medicines budget. If there are funding shortfalls, the DMP tends to cut back procurement of traditional medicines first. This can threaten the viability of this business.

With investment in GMP-compliant manufacturing, new product development, and export to developed countries that use traditional medicines and supplements, Menjong Sorig could make an important economic contribution to the country. Stability in the home market is an important prerequisite for the success of such a strategy.

- [The current procurement practice creates significant quality risks](#)

The tender evaluation process is based almost exclusively on paper, with no verification of certificates. Falsification of certificates and test results is not uncommon in regional markets.

Suppliers should provide samples for consumables or small devices, but sometimes they do not comply, which increases the risk of procuring sub products.

The absence of any verification and authentication is particularly concerning in the case of implantable devices such as heart valves or artificial joints. This market has been known for questionable business practices and the presence of substandard products for years. Failure of such an implant causes immediate and severe disability for the patient and potentially serious liability issues for the physician responsible.

In the case of diagnostic and imaging devices, there is a market for refurbished equipment. There is a risk that a supplier will try to sell a refurbished piece as new. Quality control at delivery alone may not detect this; an effective authentication mechanism is needed.

Based on the feedback from end users and biomedical engineers, it seems that life cycle costing (total cost to owner) for equipment is not done adequately, and factors such as quality, reliability, and usability in the existing environment are not sufficiently considered. When defining specifications, there is a need to collect data on the physical environment and infrastructure of the place where the equipment will be placed. Durability and low maintenance requirements are important evaluation criteria in a country with long travel times and a limited number of service technicians.

Physician/user preference should be given more weight for items that are used by physicians during surgery or in other stressful situations or if switching brand requires retraining of the professional using this product. Prioritizing price over quality in such situations can have a negative impact on patient outcomes and create higher costs over time. The development of specific guidance notes for these situations would give procurement staff and committee members the backing needed to defend their recommendations and decisions.

For complex diagnostic and surgical procedures, there is a trend toward 'bedside partnerships' between manufacturers and end users. These can have different forms, with either in-person or remote services

provided by experts on the manufacturing side to support the physician during or after the procedure and ensure that the procedure is done in compliance with the respective protocol. The objective is to ensure that the implanted device can function optimally. The DMP does not have experience with the discovery and procurement process for such partnership arrangements.

- [Continuous improvement of procedures can increase stakeholder satisfaction](#)

Development of SBDs for health sector goods would help address concerns that decisions necessary to improve patient care and safety are questioned by supervising agencies.

Medicines and consumables could be categorized (A, B, and C categories) according to criteria such as anticipated annual consumption (AAC) value, competitiveness of the market, product availability, and potentially others. For each category, the most appropriate procurement method would be selected (framework agreement, annual tenders, request for quotation, or direct purchasing). Products can be used from one category to another based on market changes and experiences from previous cycles.

Supply orders for high-volume (A category) items (which tend to run out and require emergency procurement) could be placed twice a year with one-month buffer stock.

Supply orders for B category items could be placed for 12 months, with an additional 3-month buffer stock. Supply orders for C category could be placed for a two-year requirement as it will have minimum impact on the budget and will increase availability.

Framework agreement could be the method of procurement for B and C categories.

Using 'Request for Information' or two-stage bidding could lead to better outcomes for procurement of complex devices and equipment. Specifications should be written to include requirement for life cycle costing. Additional guidance materials and training can be provided by the World Bank team.

The issues started cropping up between the DMP and Menjong Sorig on pricing, levy of LD, quantities ordered, and so on. Using a simple dispute resolution mechanism would help build trust and bring overall improvement in patient care in traditional medicine.

Third-party inspection agent needs to be hired (such as SGS - <https://www.sgs.com/en>) to improve quality of large value and critical pharmaceuticals, medical consumables, and equipment.

The market research and horizon scanning function at the DMP should be strengthened. Price benchmark data can be obtained from price lists issued by prequalified international wholesalers (<https://www.ghsupplychain.org/ghsc-eligible-wholesaler-list>). Contracting with such wholesalers can also be a potential solution if the regional market does not offer a product or if product quality is not ensured. If the DMP mandates such a requirement into the specifications, local importers would need to source from one of these suppliers. It may be worth hiring a local consultant to reach out to several international wholesalers, exploring their conditions and whether they could become regular suppliers for the Bhutanese market.

Civil works planning and drawings for health facilities need to be cleared by end users and biomedical engineers. When drafting equipment specifications, it is essential to verify the conditions at the place where the equipment will be installed.

- Both medicines policy and medical equipment policy should undergo a strategy review

Innovation in the biomedical field creates pressure on the health system. New medicines and surgical techniques create additional demands. Medical equipment has become more complex, with different technologies interconnected through digital systems that can improve the quality and efficiency of clinical services, if designed and used correctly. However, these developments come with budget pressures and a constant need for learning and system adaptations. The DMP alone cannot address such challenges—an ‘all-hands-on-deck’ approach is needed, with collaboration from clinicians, nursing and technical staff, biomedical engineers, IT specialists, and policy makers from different ministries to develop strategies and policies for Bhutan to be ready for these changes.

Innovative medicines can help patients with otherwise incurable diseases. However, most new medicines are prohibitively expensive, given the budget envelopes of middle-income countries. Through the ‘name patient’ approach, Bhutan currently has a flexible and relatively unbureaucratic solution to provide medicines that are not in the EML. However, this approach will become unsustainable if it is passively managed, as there is no limit to growth and no effective way of assessing whether the medicines paid for by the government are cost-effective in the Bhutanese health system. As a first step, it would be useful to explore how other countries are managing access to high-cost medicines that are not covered in the existing health system.

The majority of medical equipment in Bhutanese health facilities are approaching the end of their useful life and will need to be replaced in the next five years. This provides an opportunity to develop a long-term equipment strategy with life cycle planning and full implementation of the standardization that has already been decided. The DMP would need support from a specialized medical equipment consultant for this task. The World Bank had framework agreements with three consulting firms during COVID; this information has been shared with the DMP. Such a consultant can also advise whether purchasing or rental plus maintenance services (also called Managed Equipment Services, MES) would be a better solution for Bhutan.

Complex technologies are increasingly sold as packages, with services provided by the manufacturer or by specialized companies (for example, Fresenius VAMED). These companies act as integrators for combined solutions that can include planning, equipment purchase and long-term management, training, and monitoring. In the Organisation for Economic Co-operation and Development (OECD) countries, it is not unusual for an entire radiology department in a major hospital be run by an external firm, sometimes including the medical staff. Several middle-income countries have started outsourcing specialized clinical services such as dialysis. For complex surgeries and diagnostic procedures, ‘insourcing’ of technical expertise is a common approach, where physicians in the hospital work side by side with experts from the company providing the technology. These solutions require a customized procurement model and capacity for contract management, with collaboration between administrative and clinical staff.

As a small and geographically less accessible country, Bhutan does not get the attention of manufacturers of medical products as other larger markets do. Even the national suppliers lack contact with all manufacturers whose products they sell—often buying from other distributors in India. This leads to a serious information deficit and risk of making suboptimal decisions when procuring medical products. One way of overcoming this challenge could be to seek a collaboration with a larger country or private hospital chain in the region and explore options to pool procurement of specific items, such as high-cost medicines and equipment, and service contracts.

# Annex: Organigram of the Bhutan National Medical Services

