

Rwanda

Assessment of the Public Procurement System

Executive Summary of the Report



Methodology for Assessing
Procurement Systems (MAPS)

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WORLD BANK GROUP
Governance



Government of
Rwanda

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The assessment of the public procurement system in Rwanda is covered over three volumes:

Volume I: Main Report: This includes an introduction, analysis of the country context, and an assessment to cover four pillars: Pillar I on Legal, Regulatory, and Policy Framework; Pillar II on Institutional Framework and Management Capacity; Pillar III on Public Procurement Operations and Market Practices; and Pillar IV on Accountability, Integrity and Transparency of the Public Procurement System, which are all detailed under 14 indicators, with tabulation on substantial gaps/red flags and risk classification and recommendations. Finally, this volume provides consolidated recommendations, an action plan, and next steps and lists key steps of the validation process of the assessment report. An acknowledgement section appears at the beginning of this volume.

Volume II: Detailed Report - Indicator Matrix for Pillar I, II, III, IV: This covers the assessment criteria, qualitative analysis, quantitative analysis, gap analysis, potential red flags, and initial input for recommendations as per standard MAPS template.

Volume III: Annexes: This covers the concept note (Annex 1); additional material in support of assessment (Annex 2); e-GP System in Rwanda: challenges and recommendations (Annex 3); voices from private sector - results of the Private Sector Survey (Annex 4); Rwanda - Sample cases - Approach for sampling (Annex 5); and Letter dated January 04, 2019, from MINECOFIN in support of MAPS assessment (Annex 6)

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A. Background

Introduction: The public procurement system of Rwanda is characterized by a consolidated legislative framework, an effective control and audit system with strong ethics and anti-corruption measures, and a fully functional e-Procurement system till the stage of contract signing. However, there are issues related to professionalization of procurement function, capacity of procuring entities (PEs), and contract management. There is also a need to improve dialogue and partnership with private sector and civil society organizations (CSOs) and enhance citizen engagement to bring better transparency. To further improve the public procurement system and its practices, reflective of international procurement frameworks, the Government of Rwanda (GoR) sought the World Bank's assistance in January 2019 to carry out an assessment based on the Methodology for Assessing Procurement Systems (MAPS) 2018 framework under the leadership of the Rwanda Public Procurement Authority (RPPA).

Objective of MAPS assessment: The main development objectives are (a) to assess the strengths, weaknesses, and gaps of the public procurement system, in general; (b) to identify gaps in the implementation of the newly developed e-GP system, in particular; (c) to improve effectiveness of procurement professionalization; (d) to improve the procurement process and contracts management in practice; and (e) to improve demand-side governance by disclosing procurement data following Open Contracting Data Standards (OCDS) or through other enhancements in the existing system, as practical.

Methodology of assessment The MAPS assessment for Rwanda was guided by four pillars of the new MAPS (2018) analytical framework. These four pillars are (i) Pillar I: Legal, Regulatory, and Policy Framework; (ii) Pillar II: Institutional Framework and Management Capacity; (iii) Pillar III: Procurement Operations and Market Practices; and (iv) Pillar IV: Accountability, Integrity, and Transparency. The assessment carefully considered—and customized, if needed, to fit for purpose—14 qualitative indicators and 15 quantitative indicators. The findings of the both the qualitative and quantitative indicators is expected to be the baseline from which to assess the impact of future procurement reforms as per the priorities set by the government. The new MAPS methodology also requires that (a) the procurement reforms be linked to analysis of the country context, public financial management, public governance system, and sustainable development goals; (b) the findings of the assessment should inform the strategic planning process for future public procurement reform or system development; and (c) the strategy should be realistic, aligned with other reform initiatives, ensure a balance of perspectives, and include a good mix of ‘quick-wins’, as well as medium- and long-term initiatives.

Assessment team and collaboration The assessment was carried out by the World Bank from February 2019 in collaboration with the RPPA and other development partners such as the African Development Bank (AfDB) and the UK Department for International Development DFID. The assessment team relied on desk reviews of published documents, laws and regulations, three missions to Kigali, and discussions with stakeholders, including with control and oversight bodies, review of 81 sample contracts from 15 Procuring Entities (PEs), a private sector survey on perception of public procurement, discussion with representatives from Civil Society Organizations (CSOs), intensive support and input from the RPPA, and guidance from the Steering Committee. The assessment team had meetings with the Steering Committee in May 2019 and in June 2019 as part of field missions when face-to-face consultations with the private sector were carried out. The stakeholder analysis is provided as part of the country context. There were issues and delays in collection of data for sample cases which was resolved by the RPPA providing its two staff to collect data through e-GP and physical files. Based on results of findings a validation mission was undertaken in October 2019. The process of validation is summarized in a table at the end of the Main Report (Volume I)

Share of public procurement in government expenditure Public Procurement is a crucial component of good governance and sustainable economies with inclusive growth and one of the key elements for the effective and efficient functioning of the public sector and for service delivery. Governments around the world spend approximately USD 9.5 trillion in public contracts every year. This fact means that on average, public procurement constitutes around 12–20 percent of a country’s GDP. The GDP for Rwanda was USD 9.1 billion in 2017 as per World Bank data. Based on the data available on the Ministry of Finance and Economic Planning (MINECOFIN) website, the scale of public procurement expenditure is derived as RWF 1,066.5 billion in 2017/18 which constitutes 13.5 percent of GDP of RWF 7,898 billion. This compares well with Organisation for Economic Co-operation and Development (OECD) data which states that public procurement accounts for 15 percent of GDP in Africa.



B. Country Context and Linkage of Procurement to Public Financial Management and Governance

Strengthening of public procurement systems is central for achieving concrete and sustainable results and building effective institutions. With economy and efficiency in the procurement process there could be substantial savings of public resources. In the mid-1990s, Rwanda was one of the world's poorest countries. Rwanda's visionary leadership and institutions, which it put in place during the nation building in the 1990s and 2000s, played a central role in Rwanda's recovery. Rwanda's future aspirations are extremely ambitious. These aspirations are reflected in the country's Vision 2020 and Vision 2050 as also in the development and poverty reduction strategies document, namely the 7 Year Government Program: National Strategy for Transformation (NST 1) 2017–2024. Vision 2050 aspires to take Rwanda to upper-middle-income-country status by 2035 and high-income status by 2050, with the intention of providing productive economic opportunities and higher-quality living standards to all Rwandan citizens (Source: GoR 2017).

Vision 2020 identified six pillars to achieve its goals: (i) good governance and a capable state; (ii) human resource development and a knowledge-based economy; (iii) a private sector-led economy; (iv) infrastructure development; (v) productive and market oriented agriculture; and (vi) regional and international economic integration. Gender equality, environmental sustainability, and long-term commitment to science and technology were the cross-cutting themes to support the six pillars. All these areas are vitally linked to the public procurement system of the country and the GoR has taken an early lead in improving its public procurement system.

Rwanda was the first country in the Africa region to request consideration as a pilot country under the World Bank's Use of Country Procurement Systems Piloting Program approved by the Board of the World Bank in April 2008. The assessment, which was carried out in 2009 and 2010, involved a benchmarking based on MAPS, the OECD- DAC methodology that required a score of either 3 out of 3 or minimum 2+ action and minimum 3 of 54 sets of sub-indicators built around 12 indicators and 4 pillars. Based on this rigorous assessment, the Public Procurement System of Rwanda was able to meet 49 out of 54 sub-indicators. The agreed mitigation actions for areas of improvements were the following:

- Complete the last stage of the RPPA's devolution of the transaction function to PEs
- Bring to a new level the capacity-building strategy
- Continue to improve the enabling environment for private sector participation
- Strengthen internal controls and step up the oversight function and application of remedies

In addition to the above, an assessment was also carried out on equivalency of Rwanda's procurement procedure with the World Bank's procurement policies and assessment of national bidding documents which were generally considered consistent with the International Bidding Procedure of the World Bank and the World Bank's standard bidding documents (SBD), with certain gaps which were expected to be handled in legal agreements for pilot projects and as part of the assessment of executing agencies. The pilot was expected to be rolled out in 2011, but on the basis of new policy and reform initiatives on the part of the World Bank and other multilateral development agencies and the needs of several other borrowing countries, the Use of Country Systems (UCS) pilot itself was abandoned. However, this exercise on UCS helped to provide a visibility to the public procurement system of Rwanda on a global platform.

The public procurement reform in Rwanda was also influenced by the assessment carried out by AfDB as Bank Procurement Assessment Report (BPAP) of 2016, which was an exercise based on an earlier version of MAPS and carried out in the context of AfDB's new Procurement Framework of October 2015, in support of greater use of borrowers procurement systems (BPS) for AfDB-funded projects. Based on this report of AfDB, the government agreed to revise the public procurement law (PPL) and regulations related to certain observed gaps. The contribution from AfDB has continued further in the current MAPS assessment. The AfDB team joined the Steering Committee meetings, reviewed the report, and provided valuable comments.

Earlier in the year 2004, the GoR decided to decentralize public procurement activities. From February 20, 2011, all responsibilities and activities regarding contract awarding, signing, and contract management were transferred to public PEs and the RPPA remained with the responsibility of being a procurement oversight body, having the mission geared toward regulations, capacity building, and control. The GoR issued a Ministerial Order, in 2014, establishing regulation on public procurement, standard bidding documents, and standard contracts. The primary legislation governing public procurement in Rwanda is Law No.62/2018 of 25/08/2018 (PPL). It is seen from the RPPA Annual Activity Report of 2017–2018 that the RPPA is still involved in granting requests for authorization to PEs to use less competitive methods of procurement due to circumstances determined in the PPL.

A Public Expenditure and Financial Accountability (PEFA) assessment was carried out in 2016, published in 2017 (PEFA 2017) that included effectiveness of the procurement system as per Indicator PI-24. There was overall good rating on most of the dimensions, but there were issues related to the dimension on public access to procurement information.

Based on a joint report of the World Bank and GoR, several steps were taken to improve accountability over the executive and strengthen oversight by the Parliament. A Public Accounts Committee was created in 2011 to scrutinize external audit reports and enforce

audit recommendations. The committee conducted in-depth hearings on audit findings. The Office of the Auditor General (OAG) built its own credibility as Rwanda's supreme audit institution by contributing to improved public financial management in line with standards of the International Organization of Supreme Audit Institutions.

Generally, public procurement is susceptible to corruption because of the vast sums of money that governments spend, high degree of discretion that public officials enjoy, and difficulty in detecting and investigating cases of corruption. However, in Rwanda, the anticorruption efforts were led effectively by the office of Ombudsman. These efforts have proven effective, well reflected in Rwanda's international rankings with particularly strong performance on indicators of government effectiveness, control of corruption, rule of law, and regulatory quality. For example, Rwanda ranks 48 (out of 180 countries) for control of corruption, in the Transparency International's Corruption Perception Index of 2017, a vast improvement over its 2006 ranking of 121, placing it third (alongside Mauritius) on the continent. However, Rwanda's ranking on voice and accountability remains below that of its regional and low-income peers.

The World Bank Group's 'Doing Business Report of 2019' ranks Rwanda 29 out of 190 countries in the world (ranking is 38 out of 190 countries according to the 2020 report) for the ease of establishing and running a business (World Bank Group 2019). Despite the ranking, the private sector still maintains a relatively limited presence, overwhelmingly dominated with small firms that lack the economies of scale critical for competitiveness and have limited export presence.

This new version of MAPS is timely in the wake of the launch of Sustainable Development Goals (SDGs), which like MAPS is relevant for all countries, irrespective of income level or development status. MAPS is related to Goal 12, which calls for the promotion of sustainable procurement practices in line with the national priorities and policies, and Goal 16, which calls for effective and accountable institutions. The GoR has published a document on Voluntary National Review Report on implementation of SDGs. As per this report SDGs have been integrated in Vision 2050 as per the situation of Rwanda, the National Strategy for Transformation, NST1 (2017–2024), and related sectors' and districts' strategies

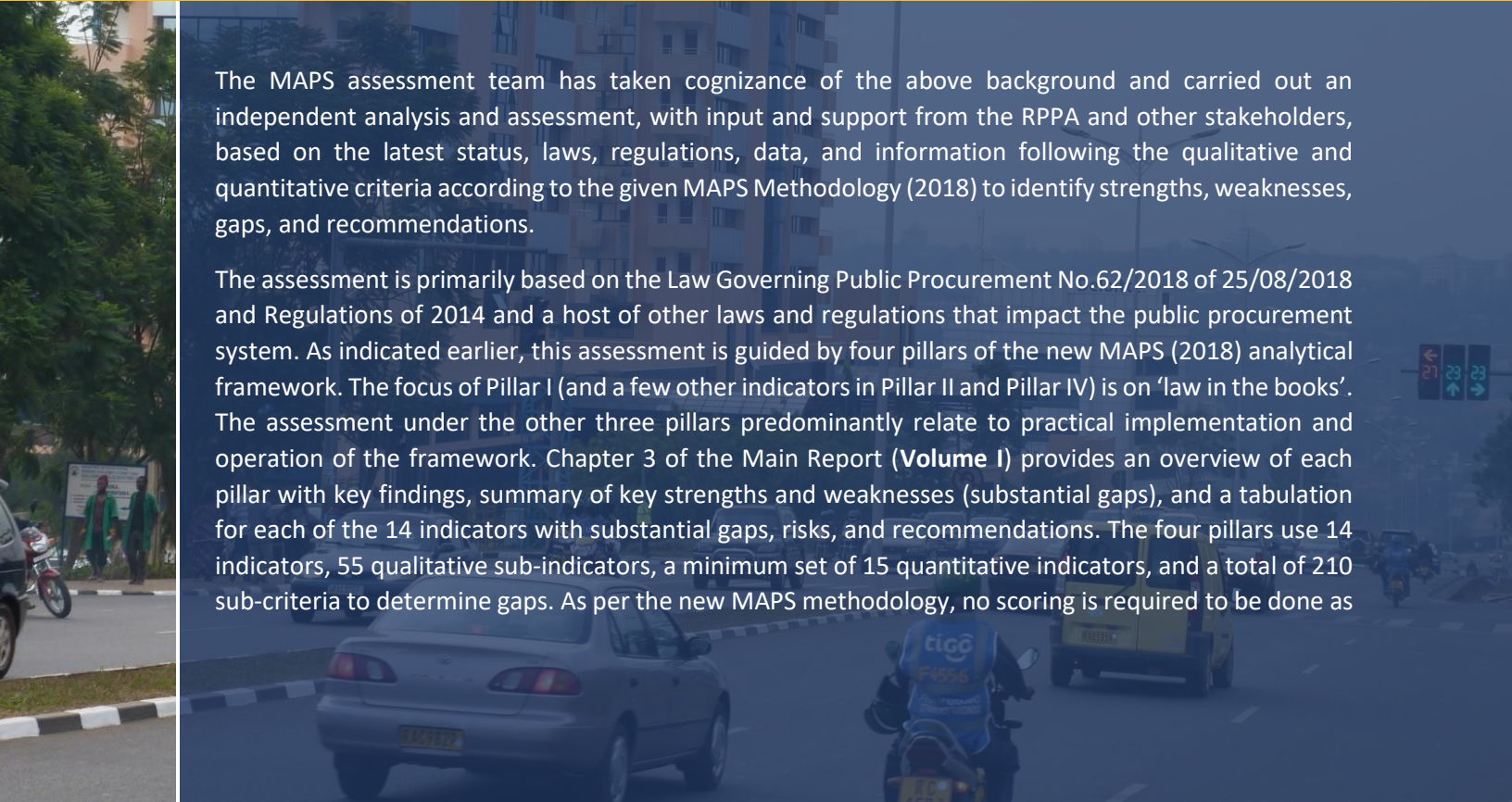
Related to importance of women in decision-making and the gender gap, based on a World Economic Forum publication, equal contribution of women and men in the process of deep economic and societal transformation is critical. Based on this report, covering 149 countries Rwanda is placed sixth. Obviously, it was made possible through the combined will of the people of Rwanda, constitutional provisions, and adherence to the same. Based on Article 10 of the Constitution of Rwanda, the State of Rwanda commits itself to upholding the fundamental principles which among others includes , "building a State governed by the rule of law, a pluralistic democratic Government, equality of all Rwandans and between men and women which is affirmed by women occupying at least thirty percent (30%) positions in decision making organ." For example, it is seen in Article 13 of the current PPL of 2018 on members of independent review panel and modalities for their

appointment that out of 11 members, 30 percent must be women, a provision which is enforced in practice.

The above scenario, in the area of political, economic, geostrategic, and gender gap contexts as linked to procurement, though optimistic, requires extraordinary efforts to realize the aspirations as reflected in Vision 2020 and beyond in the governance, public financial management, and procurement system of Rwanda for effective service delivery and results on the ground.



C. Overview of Assessment and Key Findings



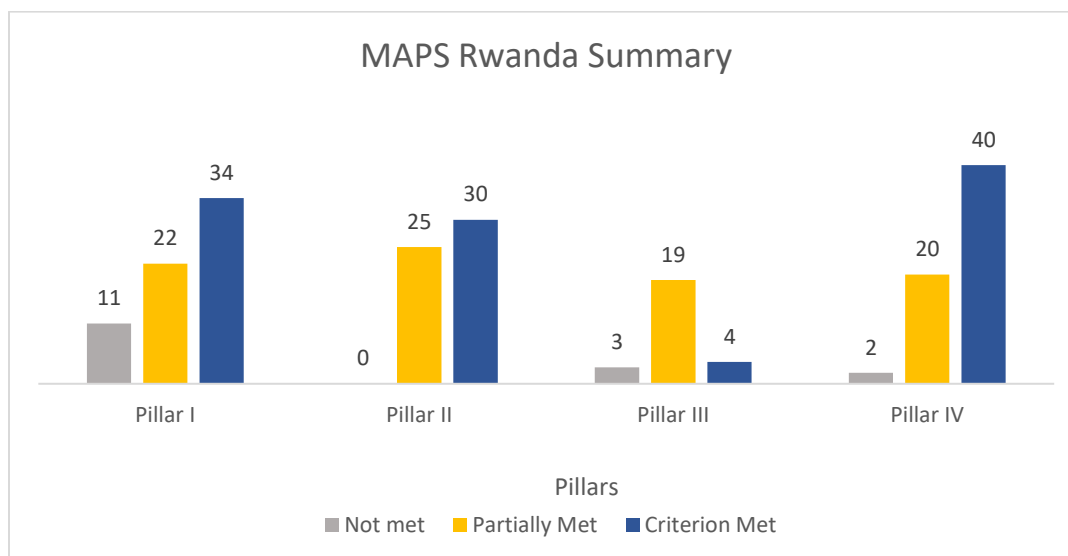
The MAPS assessment team has taken cognizance of the above background and carried out an independent analysis and assessment, with input and support from the RPPA and other stakeholders, based on the latest status, laws, regulations, data, and information following the qualitative and quantitative criteria according to the given MAPS Methodology (2018) to identify strengths, weaknesses, gaps, and recommendations.

The assessment is primarily based on the Law Governing Public Procurement No.62/2018 of 25/08/2018 and Regulations of 2014 and a host of other laws and regulations that impact the public procurement system. As indicated earlier, this assessment is guided by four pillars of the new MAPS (2018) analytical framework. The focus of Pillar I (and a few other indicators in Pillar II and Pillar IV) is on 'law in the books'. The assessment under the other three pillars predominantly relate to practical implementation and operation of the framework. Chapter 3 of the Main Report (**Volume I**) provides an overview of each pillar with key findings, summary of key strengths and weaknesses (substantial gaps), and a tabulation for each of the 14 indicators with substantial gaps, risks, and recommendations. The four pillars use 14 indicators, 55 qualitative sub-indicators, a minimum set of 15 quantitative indicators, and a total of 210 sub-criteria to determine gaps. As per the new MAPS methodology, no scoring is required to be done as

in the previous version of MAPS (score of 0, 1,2, or 3) or as in the PEFA framework 2016 (A, B, C, or D). The analysis of each of the 210 sub-criteria was carried out to cover as Step 1, qualitative analysis (comparison of actual situation versus assessment criteria); step 2, quantitative analysis (where applicable); and step 3, gap analysis/conclusion (describing any substantial gaps). This analysis is captured in a detailed matrix and presented as **Volume II** of the assessment report, which is the basis for overview of each pillar in Volume I. The analysis also indicates any potential ‘red-flags’ (The red flags were assigned based on guidance given at paragraph 24 of the MAPS 2018 document, which are factors outside the control of procurement, in this case the RPPA, but it impedes the main goal of procurement) and initial input for recommendation. **Volume III** presents the annexes of this assessment report and contains the Concept Note and related materials and other details of the assessment.

Based on the analysis of 210 sub-criteria under four pillars as reflected in the detailed matrix in Volume II, the situation on criteria not met, partially met, or met is as in the following table and chart

Criteria	Pillar I	Pillar II	Pillar III	Pillar IV	Total
Not met	11	0	3	2	16
Partially Met	22	25	19	20	86
Criterion Met	34	30	4	40	108
Total	67	55	26	62	210



The key observations are described under each pillar including substantial gaps (with an indication of sub-criteria met, not met, or partially met) and recommended actions. ‘Red flag’ items are indicated at the end of this section.



Pillar I: Legislative and Regulatory Framework

Summary of key strengths

- The legal framework is clearly structured and reasonably comprehensive, with higher level, primary legislation providing the overarching structure supported by secondary legislation, guidelines, manuals, and standard documents. It sets out fundamental principles governing public procurement which include efficiency, fairness, and transparency.
- The introduction and use of the e-procurement system should, in theory, contribute significantly to maintain or raise levels of transparency as well as increase cost effectiveness and improve the efficiency of procurement processes while reducing administrative burdens.
- A right of review of decisions of contracting entities is available to participants and prospective participants at any stage in the procurement process.

Substantial gaps and recommended actions

(i) Non-alignment of the overall legal and regulatory framework with changes resulting from the PPL 2018: There is currently a lack of clear alignment between the PPL, the Public Procurement Regulations (PP Regulations) and the use of the e-procurement portal. Further, the PPL and PP Regulations do not set out a comprehensive list of the records to be maintained either for paper-based or electronic procurement. There is no easily accessible published document retention policy or security protocols. The 2010 User Guide is out of date and not aligned with PPL 2018 or e-procurement.

Sub-criteria 1(g)(a) - not met, 1(g)(e) - partially met, 1(j)(a) - partially met, 1(k)(a) and 1(k)(b) - not met, 2(a)(a), 2(a)(b), 2(b)(c) and 2(b)(d) – all partially met.

Recommended action Amend PPL (if necessary) and adopt and publish as quickly as possible the new PP Regulations for the implementation of PPL 2018, aligned with e-procurement. Codification of legal requirements into the new PP Regulations should include provisions on record keeping and transactions as well as document retention and security, be aligned with e-procurement processes, and be supported by practical and up-to-date guidance, policies, and protocols (as appropriate).

(ii) Special regulations for commercial public institutions: PPL A.2 on the Scope of Law does not list procurement by commercial public institutions as an excluded category, which may appear in contradiction with PPL Article 5 which states that institutions whose budget is not approved by the Parliament is governed by special regulations approved by an order of the minister in charge of public investments. Procurement rules of public commercial institutions are not essentially aligned with the overall public procurement framework set out in the PPL, and there is no information to determine whether they are harmonized with one another too. There is no evidence that the special procurement regulations are approved by ministerial order as required by PPL A.5 or that rules are publicly available. The complaints review mechanism used by commercial public institutions, an essential element of accountability and fairness in public procurement, is limited to review by internal structures of the commercial institution (for example, WASAC).

Sub-criteria 1(a)(b) - partially met, 1(l)(a) - not met.

Recommended action The RPPA in cooperation with the minister in charge of public investments should consider identifying and publishing the list of commercial institutions which are subject to special regulations. An assessment should be undertaken to determine the extent of and further need for harmonization with the PPL and between the special regulations of such commercial institutions. For transparency purposes, the special regulations approved by the minister should at a minimum require the public disclosure of special procurement rules, as well as disclosure of reports and data on volume of procurement, share of competitive versus non-competitive procedures, and complaints received and resolved.

(iii) Use of methods other than the open procedure – the authorization process: PPL A.29 that refers to “Impossibility to meet the requirements for methods provided for under this law other than open tender method” appears to overwrite the detailed conditions for use of each method offering misplaced discretion to the RPPA (with confirmation from the responsible supervising minister that such procurement is in ‘public interest’) to approve the use of noncompetitive methods if conditions for the application are not met. There are no provisions in the PPL or PP Regulations setting out the detailed criteria which the RPPA uses to assess the application for authorization and make a decision whether to approve or reject the application, even if to confirm that they will only approve a request if the conditions for the use of each method, set out in the PPL, are met. There is a danger that a non-transparent system of ex ante (prior) approval for use of methods other than open procedure could be used by PEs to avoid using competitive procedures. This may be used, for example, to favor a particular contractor or as a way to deal with poor or lazy procurement practices such as leaving it too late to run an open procurement or insufficient market analysis to identify more than one potential provider. This is particularly the case if justifications can be in broad terms such as being in ‘public interest’. Moreover, the RPPA’s authority to allow derogations from the PPL without strong and clear conditions, dilutes the accountability of PEs

Sub-criteria 1(b)(a) and 1(b)(b) - partially met.

Recommended action The process set out in Article 29 should be reconsidered and preferably abolished. If the government considers it important to keep this arrangement in place till the capacity of the procurement workforce is upgraded, then revisions to the PPL and/or PP Regulations should be considered to limit the ex-ante function of the RPPA to review and approve use of non-competitive methods if the conditions for the use of such method as provided in the PPL are not met however conditions exist and use of such method is justified.

(iv) Price preference: There is a wide-ranging set of requirements on exclusive preferences for goods produced in Rwanda and categorization that promotes preference for local goods and services which may be construed as a barrier to effective competition.

Sub-criteria 1(d)(b) - partially met.

Recommended action In applying the various schemes and preferences for locally produced goods or services, the government could consider the effects of participation of foreign bidders whose presence should not be underestimated in terms of innovative solutions, value for money, and flow of knowledge that they bring into the country. Based on hard data, the government should find out if such conditions create oligopolistic or monopolistic conditions. Among other things, the government may categorize micro, small, and medium enterprises (MSMEs), including in the e-GP system, and consider other means to improve local participation: (1) including margin of price preference in favor of MSMEs applied in evaluation and comparison of bids; (2) setting aside procurement below certain monetary levels or types of procurement for award to small and medium enterprises (SMEs); (3) basing quotas for award of contracts to SMEs on a percentage of the value of total procurement of a procuring entity (PE); (4) specifying levels of subcontracting to SMEs to be met by prime contractors; and (5) bundling procurement into smaller contracts to encourage SMEs and local companies.

(v) Sustainable procurement and use of life cycle costing as part of framing technical specifications and as economic evaluation criteria: The PPL and PP Regulations do not contain specific provisions on sustainable procurement, for example the use of life-cycle costing or method by which life-cycle costs are determined.

Sub-criteria 3(a)(c), 3(a)(b) and 3(a)(d) – all not met.

Recommended action Revise PPL and/or PP Regulations to include explicit provisions on sustainable procurement including use of life cycle costing, supported by practical Guidance and methodologies, where appropriate.

(vi) Right to challenge and appeal: PPL A.49 requires that the PE must notify the successful and unsuccessful bidders of the provisional outcome of the bid evaluation. However, PPL A.49 does not appear to place a PE under an obligation to provide the information to the bidder without delay and within a short, specified time period following receipt of the request. Nor is it clear what kind of information must be provided and whether the information provided at this stage must include an explanation as to why it is

proposed not to select a particular bid. This may potentially create problems for a bidder seeking to substantiate grounds for a complaint within the seven-day period.

Sub-criteria 1(h)(a), 1(h)(b) and 1(h)(e) – partially met.

Recommended action It is of utmost importance for the transparency and fairness of the procurement complaints review mechanism to provide timely and sufficient information to bidders for them to prepare and file meaningful complaints.

Pillar II: Institutional Framework and Management Capacity

Summary of key strengths

- Existence of multi-annual procurement plan to facilitate budget planning based on a three-year Medium Term Expenditure Framework (MTEF)
- Existence of an institution in charge of the normative, regulatory function, namely the RPPA, which has been established by law with legal personality and administrative and financial autonomy
- Existence of a functioning e-Procurement System (UMUCYO) till contract award, including an e-GP appeal module for complaints review.
- Existence of the RPPA Strategic Plan (2018–2021) to handle key issues of training and improving skills and knowledge of public procurement officials.
- Establishment of law on 'Association of procurement professionals and determining its organization and functioning'
- Existence of a provision that requires a PE to put in place a procurement officer(s) in charge of organizing the procurement process from planning stage to the end of the contract (Article 11 of the PPL) that requires the procurement officer to monitor contract execution in collaboration with other departments
- Existence of a well-functioning website for the RPPA that provides comprehensive information of laws, regulations, and procurement documents, including regular publication of its annual activity report

Substantial gaps and recommended actions

(i) Incompatibility in the functions of RPPA: The RPPA is responsible for functions and roles normally assigned to regulatory and normative bodies. There are however additional tasks such as approval authority for use of methods other than open procedure and the role of secretariat to the Independent Review Panel (IRP or NIRP), which not only put the RPPA in direct involvement with specific transactions, but also have the potential to create actual or perceived conflicts of interest, with each other but also in relation to the other functions. Specifically, the RPPA approves the use of methods other than open tender, while at the same time it will be acting as secretariat/budget holder of the National Independent Review Panel (NIRP), which can potentially be faced with a complaint challenging the RPPA's approval of use of a non-competitive method. It is questionable how objective NIRP can be to overthrow the decision by the RPPA, and bidders may not have confidence in the impartiality and independence of NIRP. More generally, involvement of the RPPA in the authorization process and as secretariat of NIRP are not consistent with the primary function of the RPPA as regulatory and oversight body where independence in assessing the functioning of the procurement system is required. The RPPA cannot discharge such a function with full independence and objectivity. In addition, the RPPA lacks the financial independence needed to discharge its duties such as training and capacity building. The given budget is not sufficient compared to the overall scale of procurement and to demonstrate meaningful impact on the overall performance of the public procurement system in the country.

Sub-criteria 5(c)(c), 5(d)(a)- both partially met.

Recommended action To avoid any actual or perceived conflicts of interest, the RPPA's functions need to be reconsidered, especially when it comes to be a budget holder and secretariat to NIRP. Until an assessment and/or decision is made by the government on a truly independent complaints review mechanism, short-term fixes can be put in place, including eliminating the RPPA's role as secretariat of NIRP, making direct budget allocation (if possible within the budgetary system) to NIRP, appointing NIRP members through open public competition, and tightening of the grounds for dismissal to limit discretion.

(ii) Lack of a permanent and relevant training program: There is no permanent and relevant training program for new and existing staff in government procurement to judge the relevance, nature, scope, and sustainability of training programs. Training is based on availability of budget from PEs rather than needs analysis. Relevant trainings are not available to build capacity for private sector and CSOs. There is no training program on integrity aspects in procurement.

Sub-criteria 8(a)(a) and 8(a)(b) - partially met.

Recommended action Need to institute a permanent and relevant training plan based on (i) skills gap inventory to match the needs of the system; (ii) sufficiency in terms of content and frequency; (iii) provision for evaluation of the training program and monitoring of progress in addressing capacity issues; and (iv) budget constraints of the RPPA to be addressed so that training is provided as per needs assessment rather than availability of

budget from PEs. To train key actors in procurement, in particular private sector and CSOs, the training should include integrity training programs.

(iii) Funding constraints on professionalization of procurement function: The professional body's independence is compromised due to budget allocation from MINECOFIN through the RPPA's operating and facilitation budget. Though the professional body is aspiring to become independent there are serious staff and financial constraints. Contribution from the members could only cover purchase of computers.

Sub-criteria 8(a)(a) and 8(a)(d) - both partially met.

Recommended action The Association of Procurement Professionals needs to be financially independent by (i) increasing membership fees, proposed to be doubled from current annual fee of RWF 50,000 (USD 54 approximately), (ii) organizing trainings, (iii) certifying - there is a plan to commence issuing annual membership certificate or card, (iv) engaging in study services; (v) increasing corporate membership; and (vi) gaining initial support from development partners and government (say for three years) cognizant of the fact that in long term such support may not be available.

Pillar III: Procurement Operations and Market Practices

Summary of key strengths

- Based on the results of 81 sampled contracts from 15 PEs and results of a survey on the perception of the private sector, this pillar appears to be the weakest among the four pillars. However, there are certain good examples of contracts management: (i) out of 81 contracts, 37 (45.6 percent) were executed without any time overrun; (ii) the assessment found that 68 contracts (83.9 percent) had measures for inspection, quality controls, supervision of work, and final acceptance of products where goods, services, or works were received in good quality and appropriate quantity; and (iii) on total contracts executed, the assessment found that for 51 contracts (representing 62.9 percent) invoices were paid within 45 days as required by the PPL. Further, there were certain good initiatives by the RPPA, like advocacy to resolve the issue of delayed payments and procurement awareness meetings with the private sector, both of which need scaling up for better impact.

Substantial gaps and recommended actions

(i) Needs analysis and market research - its linkage to selection of procurement method: There is a need for PEs to carry out needs analysis linked to budget and market research to guide the proactive identification of optimal procurement strategies and choosing of an appropriate procurement method based on market situation.

Sub-criteria 9(a)(a) - partially met.

Recommended action Market research to guide choice of procurement strategy and method.

(ii) Some delays in award of contracts and lack of competition: The average number of days between advertisement/solicitation and contract signature: based on sampled cases for 58 contracts out of 81, award was made within initial validity. Lack of competition: participation was between 1 to 4 bids in more than 50 percent of cases.

Sub-criteria 9(b)(j) - partially met.

Recommended action Strong monitoring is required to ensure that all contracts are awarded within initial validity of bids. The RPPA and PEs need to remove constraints like delayed payment, fair distribution of risks and responsibilities, an effective appeals mechanism (see feedback from private sector also as item (iv) below), and enhancement of competition.

(iii) Serious contract implementation issues: The assessment was conducted on a sample of 81 cases; 25 (30.8 percent) contracts had time overrun. Regarding payment of invoices: Of the total contracts executed, the assessment found 30 contracts (representing 37 percent) whose invoices were not paid within 45 days as required by the PPL.

Sub-criteria 9(c)(a), 9(c)(b), 9(c)(c), 9(c)(d), 9(c)(f) - all partially met.

Recommended action May need a host of measures like strengthening of needs analysis at planning stage, incorporation of appropriate contract clauses consistent with laws and regulations which are consistently applied, improvement in capability of contract officers on contract management, sector market analysis for determining optimum contract size and analyzing whether contractors fail due to their capacity to deliver, improvement of capability of local construction companies, removal of constraints of delayed payments, institution of a formal system of contract closing so that contracts do not “expire passively”, but are “closed actively” after contractor fulfills all its obligations and provides a no-dues certificate, before their performance security is released.

(iv) Constraints faced by private sector to access public procurement market: Based on the results of private sector survey about 40-60 percent of participants indicated major constraints for participation, such as access to financing, methods and procedures, fair distribution of risks in the contract, and lack of effective appeals mechanism and dispute resolution. About 70 percent of participants identified absence of fair payment provisions as a constraint as it does help offset cost of doing business with the government.

Sub-criteria 10(a)(a), 10(a)(b), 10(b)(a), and 10(b)(b) - all partially met.

Recommended action More outreach with the private sector is needed to understand their concerns and take corrective measures to improve competition, including through a fair distribution of risks and responsibilities among contracting parties.

(v) No evidence of sector market analysis: This study is required to determine sector specific risks and the government's intervention to influence a specific market segment.

Sub-criteria 10(c)(a) and 10(c)(b) - both not met.

Recommended action Based on the government's priority spending areas, key sectors are to be identified for sector market analysis to strengthen competition, integrity, sustainability, and innovation in public procurement, and there is a need for strengthening of the research and monitoring unit of the RPPA.

Pillar IV: Accountability, Integrity, and Transparency of Public Procurement

Summary of key strengths

- A strong legal framework, organization and procedure on control system, and anti-corruption framework
- In-depth performance audit related to contract implementation by OAG
- Regular and substantive procurement audit by the RPPA

Substantial gaps and recommended actions

(i) Transparency and civil society engagement including citizens: CSO in Rwanda remain weak due to a variety of constraints. The e-GP system does not publish data in machine-readable formats. There are some report formats available, but these are not adequate to get a complete picture of the procurement sector. The current e-GP system does not support OCDS and also does not have a comprehensive business intelligence system. The legal framework does not provide for citizen engagement in planning, selection, and implementation phases of procurement.

Sub-criteria 11(a)(a), 11(a)(b), 11(a)(c), 11(b)(a), 11(c)(a), 11(c)(b), 14(e)(a), 14(e)(b), 14(e)(c) - all partially met.

Recommended action Enhance consultations with CSOs and build their capacity, integrate comprehensive business intelligence tools with visual representation of data and infographics, and allow citizens to participate in needs analysis and contract monitoring (time element of award) through a transparent procurement plan tool and timely execution of contracts.

(ii) Enhanced collaboration between OAG and the RPPA on procurement audit: Both OAG and the RPPA carry out procurement audits as per their respective mandates, and these are coordinated through a formal arrangement between the two institutions.

Sub-criteria 12(b)(b) - met, but improvement needed, 12(d)(a) and 12(d)(b) - both partially met.

Recommended action The procurement audit (both on compliance and performance) being carried out to be coordinated and mutually reinforcing.

(iii) Decisions of the appeals body: There is a need to publish comprehensive information on receipt and processing of complaints and also publish all of the decisions of the Independent Review Body.

Sub-criteria 13(b)(a) - partially met.

Recommended action Independent Review Body should ensure prompt publication of all decisions on its website and it should be easily accessible and searchable format.

(iv) Independence of Complaints Review Body: As currently structured, with its budget and secretariat provided by the RPPA, the Independent Review Body lacks full institutional independence. The process for appointment and qualification criteria of the members are not set out in the PPL.

Sub-criteria 13(b)(a) - partially met.

Recommended action Explore options to enhance the independence of complaints review mechanism. Until an assessment is carried out by the government on where to host this important function, short-term fixes can be put in place, including eliminating the RPPA's role as secretariat of NIRP, making direct budget allocation (if possible within the budgetary

system) to NIRP, appointing NIRP members through open public competition, and tightening of the grounds for dismissal to limit discretion.

(v) Anti-corruption framework and integrity training: The mechanism for identification and detection of corruption risks and mitigating these in the procurement cycle is not available. There is no training on integrity-related aspects of procurement. Statistics on corruption-related legal proceedings and conviction are not available.

Sub-criteria 14(d)(b) and 14(d)(d) - partially met and 14(d)(c) - not met.

Recommended action An anti-corruption strategy needs to include the use of modern technology like artificial intelligence to detect cases of fraud and corruption through enhancements in the e-GP portal. Such findings should also help in instituting and incorporating lessons learned into integrity training. There is a need to publish statistics on corruption-related legal proceedings and convictions, including regular publication of the Annual Report by the Office of Ombudsman.

Chapter 3 of Volume I in the tabulation on substantial gaps and red flags, if any, identifies a total of eleven items as red flags. These are related to the following sub-indicators: 1(a)(b) on scope of application and coverage - special procurement regulation for commercial institutions, 1(b)(a) on procurement methods - authorization process for use of methods other than open procedure, 3(a)(b) on sustainable procurement, 4(a)(c) on feedback mechanism of budget execution, 5(c)(b) on financial independence and staffing, 5(c)(d) on avoiding conflict of interest, 6(a)(a) on responsibility and accountability of PE, 9(a)(a) on planning and market research, 11(a)(a) on enabling environment for CSOs, 11(c)(a) on direct engagement of civil society, and 13(b)(a) on independence and capacity of appeals body.

An aerial photograph of a city street in Rwanda. The street has a white crosswalk and several cars, including a blue car and a white car. There are people walking on the sidewalks and a group of people on motorcycles in the middle of the street. Buildings are visible in the background, including a tall building with a '2000' sign on its roof. The image is used as a background for the document.

D. Summary of Key Recommendations

- **Update regulations, bidding documents, and guidance manual** to align these with overall legal and regulatory framework with changes resulting from the PPL 2018 and the introduction of e-procurement (The GoR is planning to address this when the New Ministerial Order establishing Regulations is adopted and published in the time frame of March–June 2020).
- **Enhance budget allocation to the RPPA** so that they can discharge their core functions, including, but not limited to, update and alignment of regulation and guidance documents with PPL 2018 and training and capacity building of all the actors in procurement, including private sector and CSO.
- **Remove the conflicting role of the RPPA** in authorizing use of less competitive bidding methods, define conditions for its use more precisely to prevent its misuse, and make procuring entities fully accountable without leaning on the RPPA, with a provision of targeted ex post audit by the RPPA and OAG.
- **Enhance professionalization of procurement function** by holding regular trainings to meet the requirements of 'skill gaps' of all the actors in procurement (including decision makers, oversight and control bodies, private sector, and CSOs), instituting a system of mandatory certification of procurement professionals and, in future, with some planning and resources, this professional body may be used initially as a forum for exchange of knowledge for procurement professionals in the Africa region and later converted into a center for learning. This initiative is ambitious, but with support from all stakeholders possible with the advantage Rwanda has in use of three languages (English, French, and Kinyarwanda) apart from its lead in public procurement reform and overall governance system.
- **Improve contract management.** This may need several measures like strengthening needs analysis at the planning stage, improving capability of contract officers, improving capability of local construction companies, removing constraints of delayed payment, and instituting a formal system of contract closing
- **Improve dialogue and partnership with private sector and CSOs** and citizens engagement and bring better transparency with the business intelligence tool with visual representation of data and infographics on the entire procurement, cycle including contract implementation.

E. Action Plan on Key Recommendations

These actions include a suggested timeline and priorities with strategies for implementation to be decided by the government. The strategy needs to be realistic, aligned with other reform initiatives, ensure a balance of perspectives, and include a good mix of 'quick wins' and medium- and long-term initiatives. Accordingly, in the following table, (i) time line is indicated as Short Term (ST); Medium Term (MT); and Long Term or through continuous improvements; (ii) priorities are categorized as 1, 2 or 3; and (iii) Responsibility is assigned.

Key Recommendations	Timeline	Priority	Responsibility
<i>Legislative, Regulatory, and Policy Framework</i>			
1. Amend PPL (if necessary) and adopt and publish as quickly as possible the new PP Regulations for the implementation of the PPL 2018, aligned with e-procurement.	MT	1	RPPA
2. Review and harmonize the various special procurement regulations of commercial public institutions to ensure consistency with the PPL and between the special regulations of various commercial institutions.	MT	2	RPPA and minister in charge of public investments
3. Review the existing price preference provisions to balance the preference for locally produced goods, and participation of MSMEs while ensuring participation of foreign bidders.	MT	2	MINECOFIN/RPPA
4. Reconsider the requirement for review and authorization by the RPPA for use of noncompetitive method if the conditions for the use of such method as provided in the PPL are not met, which dilutes the accountability of procurement decisions of the PEs (and supervising minister) or consider defining more clearly the exceptional circumstances where prior approval by the RPPA is required.	MT	2	MINECOFIN/RPPA
5. Revise PPL and/or PP Regulations to include explicit provisions on sustainable procurement including use of life cycle costing while framing employer's requirements/technical specification and financial evaluation criteria for award of complex contracts.	LT	2	RPPA

Key Recommendations	Timeline	Priority	Responsibility
6. Provide timely and sufficient information to bidders for them to prepare and file meaningful complaints under the procurement complaints review mechanism.	LT	1	RPPA/IRP
<i>Institutional Framework and Management Capacity</i>			
7. Reconsider the RPPA's role in the review and authorization of use of noncompetitive method if the conditions for the use of such method as provided in the PPL are not met (which diffuses the responsibility and accountability of PE). In addition, the role of the RPPA as secretariat to NIRP which creates actual or perceived conflict of interest with its role as reviewer of noncompetitive methods, should eventually be eliminated.	MT	1	MINECOFIN/RPPA
8. Institute a permanent and relevant training plan including integrity training programs based on needs assessment and train key actors in procurement, in particular private sector and CSOs.	MT	2	RPPA
9. Improve effectiveness of the Association of Procurement Professional by making it financially independent by (i) increasing membership fees, (ii) organizing trainings, (iii) issuing membership certificates, (iv) engaging in study services, and (v) ensuring support from development partners.	MT	2	RPPA
<i>Public Procurement Operations and Market Practices</i>			
10. Strengthen needs analysis and market research to guide a proactive identification of optimal procurement strategies and choose an appropriate procurement method based on market situation.	MT	1	PEs
11. Strengthen contract management through host of measures like improving capability of contract officers on contract monitoring, sector market analysis for determining optimum contract size and to analyze if contractors fail due to their capacity to deliver, improving capability of local construction companies, removing constraints of delayed payment, instituting a formal system of contract closing.	Continuous	1	PEs
12. Enhance outreach with private sector to understand their concerns and take corrective measures to improve competition.	Continuous	2	RPPA and PEs

Key Recommendations	Timeline	Priority	Responsibility
13. Carry out sector market analysis based on government's priority spending areas with a view to strengthen competition, integrity, sustainability, and innovation in public procurement.	MT	2	RPPA and line ministry of relevant sector
Accountability, Integrity, and Transparency of Public Procurement System			
14. Enhance consultations with CSOs and build their capacity, integrate comprehensive business intelligence tools with visual representation of data and infographics, and allow citizens to participate in needs analysis and contract monitoring (time element of award) through a transparent procurement plan tool and timely execution of contracts.	LT	2	Rwanda Governance Board/RPPA
15. Encourage home-grown, credible and independent CSOs to play a role in social audit and control on the procurement process and contracts management with suitable financial incentives provided to such CSOs.	MT	2	Rwanda Governance Board/RPPA
16. Enhance collaboration between OAG and RPPA on procurement audit - the procurement audit (both on compliance and performance) being carried out should be coordinated and mutually reinforcing.	Continuous	2	OAG/RPPA
17. Explore options to enhance the independence of the complaints review mechanism. Until an assessment is carried out by the government on where to host the complaints review function, short-term fixes can be put in place, including eliminating the RPPA's role as secretariat of NIRP, making direct budget allocation (if possible within the budgetary system) to NIRP, appointing NIRP members through open public competition and tightening of the grounds for dismissal to limit discretion.	MT	1	MINECOFIN/RPPA
18. Ensure prompt publication of a decision by the IRP on its website making it easily accessible and searchable.	Continuous	1	IRP
19. Include the use of modern technology (like artificial intelligence) in the anti-corruption strategy and ensure special measures are put in place to detect cases of fraud and corruption, including through enhancements in the e-GP portal. Need to publish statistics on corruption-related legal	LT	2	RPPA/Ombudsman

Key Recommendations	Timeline	Priority	Responsibility
proceedings and convictions, including regular publication of annual report.			

Finally, there are the following needs (i) balance among four pillars for a well-functioning procurement system including effective contract implementation. A strong legislative framework including extensive provisions on articles related to contract execution in the PPL, an effective control and audit system with strong measures on ethics, and anti-corruption measures, as it stands now, needs to be balanced with professionalization of the procurement function with adequate and regular training, with a focus on the pillar for private sector and civil society engagement; (ii) **coordination, cooperation, and commitment on the part of stakeholders** to act on prioritized reform (long term, medium term, short term, and continuous improvements) as per the action plan given above; and (iii) **the GoR through demonstrated action and leadership creates a conducive public procurement environment** where procurement professionals/supervising officials are encouraged to take decisions by exercising due diligence and well-documented discretion in interpretation and application of rules without fear and act with integrity, knowledge, and confidence to deliver results on the ground.

F. Next Steps

Based on the above this report was subjected to a peer review process internally within the World Bank. The finalized draft report as cleared by the Bank Management on February 25, 2020, was submitted for MAPS quality review by the Technical Advisory Group (TAG, a team of international experts) and the Steering Committee for validation and endorsement. TAG validation was completed in April 2020. The Steering Committee endorsed the report in March 2020. The process of validation is summarized in the last section of the Main Report (Volume I).

As next steps, dissemination and follow-up action shall be taken as recommended.

To keep the momentum, the role of the MAPS Steering Committee may be changed to 'Public Procurement Reform Group (PPRG) for Rwanda' to be hosted by the RPPA as secretariat to implement the reform agenda. As the next practical step, to effectively implement the finalized recommended action plan, the government, with the advice and assistance of the PPRG, could prepare a detailed plan, including mechanisms to measure progress over time, and arrange appropriate funding in consultation with development partners.