



**MAPS**

Methodology for Assessing  
Procurement Systems

# ASSESSMENT OF ANTIGUA AND BARBUDA'S PUBLIC PROCUREMENT SYSTEM

2019



**MAPS**

Methodology for Assessing  
Procurement Systems

## Antigua and Barbuda

---

# Assessment of the Public Procurement system

March 2019

Final Revisions May 2022

---





# Table of Contents

---

Acronyms .....	4
Executive summary .....	5
1. Introduction .....	9
2. Analysis of Country Context.....	10
2.1. Political, economic and geostrategic situation of the country .....	10
2.2. The Public Procurement System and its links... ..	13
2.3. National policy objectives and sustainable development goals .....	14
2.4. Public Procurement Reform.....	15
3. Assessment .....	17
3.1. Pillar I - Legal, Regulatory and Policy Framework.....	19
3.2. Pillar II - Institutional Framework and Management Capacity .....	23
3.3. Pillar III - Public Procurement Operations and Market Practices .....	30
3.4. Pillar IV - Accountability, Integrity and Transparency of the Public Procurement System.....	36
4. Consolidated Recommendations .....	46
5. Information regarding Validation .....	48
6. Annex I: Source Documents .....	50
7. Annex II: Interviewed Stakeholders .....	51

# Acronyms

---

ABLP: Antigua and Barbuda Labour Party

CARICOM: Caribbean Community

CCI: Caribbean Challenge Initiative

CDB - Caribbean Development Bank

DoGA: Directorate of Gender Affairs

ECCB: Eastern Caribbean Central Bank

GDP: Gross Domestic Product

HDI: Human Development Index

JCPC: Judicial Committee of the Privy Council

MTDS: Medium-Term Debt Management Strategy

OECS: Organization of Eastern Caribbean States

ONDCP: Office of National Drug Control and Money Laundering Policy Antigua and Barbuda

QNI: Quality National Index

UPP: United Progressive Party

UNDP: United Nations Development Program

SIDS: Small Island Developing States

XCD: Eastern Caribbean Dollar



# Executive summary

---

Antigua and Barbuda has taken first steps to improve its public procurement framework, for example by adopting a new Procurement and Contract Administration Act in 2011. However, these new rules are not enacted and a number of elements of the public procurement system remain behind potential. Relative strengths exist in the area of integrity and accountability, where elements of an anti-corruption framework for public procurement have been put in place.

## **Pillar I**

The legal and regulatory framework in Antigua and Barbuda is characterised by the fact that the most recently adopted Procurement and Contract Administration Act (2011) has not been enacted nor implemented. Public procurement in Antigua and Barbuda is conducted according to the rules detailed in the Tenders Board Act (1991/2002).

While the approved Act does cover many of the assessment criteria in this pillar, the lack of implementation means that most of these provisions remain ineffective. The Procurement and Contract Administration Act touches upon many aspects of the public procurement system, beyond pillar I, such as institutional arrangements. Due to a lack of legal clarity, performance in the procurement system is suffering.

Antigua and Barbuda lacks implementing regulations and tools to support the legal framework. As these instruments are needed to make the legal framework for public procurement operational, this represents a major gap.

Antigua and Barbuda does not make considerations related to sustainability in its public procurement framework. The law does not make considerations of international commitments.

Assessors assigned several red flags in this pillar.

## **Pillar II**

There is no integration between the financial management system and the public procurement system and no provisions as to how processes, appropriations and payments are to be handled. There are no financial procedures defined in the different existing legal instruments. There is no existing requirement for a procurement plan to be prepared in the procuring entities.

The 2011 Procurement and Contract Administration Act establishes and clarifies certain procurement institutions and their responsibilities. However, ambiguity remains as to what kind of institutions are considered as procuring entities. A potential institutional conflict of interest exists in the role of the Procurement Board, as it is both regulator for procurement and responsible for purchasing decisions. The Department of Public Works conducts some centralised procurement ad hoc, but overall, consolidation and aggregation remain limited.

There is no information system supporting public procurement, no training or professionalization activities, and no ability to develop and improve. Requirements to gather information and data are limited to retaining some information, but there are not obligations related to develop and maintain an information system.



Several red flags were raised in this pillar.

### **Pillar III**

Most of the procurement processes in Antigua and Barbuda are being conducted through non-competitive methods by seeking waivers for the obligation to conduct a competitive tender, with limited justification. Public information is scarce. Most documents are confidential. As a result, participation from external stakeholders is limited.

Procurement is conducted “on paper”. The Tenders Board does not have complete records of all processes. Contracts and amendments are handled directly by the procuring entities. Finally, no procurement strategies have been developed for the most important sectors in the public procurement system.

The most important constraint for suppliers to participate in the public procurement market is the serious delay in payments. In addition, there are no fora for dialogue with the private sector, nor training programmes in place for suppliers. Although the Tenders Board has approved a register of previous suppliers. This register is not fully implemented and is not used. Antigua and Barbuda’s public procurement market is not fully functional.

Several red flags were raised in this pillar.

### **Pillar IV**

Stakeholder participation in public procurement is largely absent in Antigua and Barbuda, due to legal constraints and a lack of transparency of procurement information. There are no formal dialogue mechanisms between government and civil society. Procurement documents are confidential.

Antigua and Barbuda has an audit framework in place, but it has considerable gaps with regards to regular implementation. There is no mechanism or provision related to internal control. The Public Accounts Committee is not meeting regularly. The audit office does not have the capacity to undertake all audits that would be required.

While there is a mechanism for challenges and appeals, there is no administrative complaints procedure in place. The 2011 Procurement and Contract Administration Act includes the possibility of a person to file a complaint related to the award of a contract or the procurement process to the Ombudsman.

In relation to anti-corruption measures, Antigua and Barbuda has adopted a legal and regulatory framework and institutions. Antigua and Barbuda has several provisions enacted in legislation related to anti-corruption and prohibited practices. Substantive gaps include the lack of capacity of the Integrity Commission and Public Services Commission, the lack of civil society organisations to monitor procurement and the absence of secure mechanisms for reporting prohibited practices. There is no debarment procedure and suppliers are being excluded from the public procurement system at the discretion of procuring officers. Finally, there are no mechanisms to detect and prevent corruption in procurement, no civil society organisations carrying out contract monitoring and social audit, and no secure and confidential channels for reporting prohibited practices or unethical behaviour.

The assessors assigned several red flags.



## Overview of compliance

Substantial gaps identified

Gaps identified

Overall compliance

\* Red flag raised

PILLAR I	
<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*
	1(b) – Procurement methods*
	1(c) – Advertising rules and time limits*
	1(d) – Rules on participation*
	1(e) – Procurement documentation and technical specifications*
	1(f) – Evaluation and award criteria*
	1(g) – Submission, receipt, and opening of tenders*
	1(h) – Right to challenge and appeal *
	1(i) – Contract management *
	1(j) – Electronic Procurement (e-Procurement) *
	1(k) – Norms for safekeeping of records, documents and electronic data *
1(l) – Public procurement principles in specialized legislation *	
<b>2. Implementing regulations and tools support the legal framework.</b>	2(a) – Implementing regulations to define processes and procedures*
	2(b) – Model procurement documents for goods, works, and services*
	2(c) – Standard contract conditions*
	2(d) – User’s guide or manual for procuring entities*
<b>3. The legal framework reflects the country’s secondary policy objectives and international obligations</b>	3(a) – Sustainable Public Procurement (SPP)*
	3(b) – Obligations deriving from international agreements*

PILLAR II	
<b>4. The public procurement system is mainstreamed and well integrated into the public financial management system.</b>	4(a) – Procurement planning and the budget cycle*
	4(b) – Financial procedures and the procurement cycle*
<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 institution function
	5(b) – Responsibilities of the normative/regulatory function*
	5(c) – Organisation, funding, staffing, and level of independence and authority*
	5(d) – Avoiding conflict of interest*
<b>6. Procuring entities and their mandates are clearly defined.</b>	6(a) – Definition, responsibilities and formal powers of procuring entities*
	6(b) – Centralized procurement body
<b>7. Public procurement is embedded in an effective information system.</b>	7(a) – Publication of public procurement information supported by information technology*
	7(b) – Use of e-Procurement *



	7(c) – Strategies to manage procurement data *
<b>8. The public procurement system has a strong capacity to develop and improve.</b>	8(a) – Training, advice and assistance *
	8(b) – Recognition of procurement as a profession *
	8(c) – Monitoring performance to improve the system *

<b>PILLAR III</b>	
<b>9. Public procurement practices achieve stated objectives.</b>	9(a) – Planning
	9(b) – Selection and contracting *
	9(c) – Contract management *
<b>10. The public procurement market is fully functional.</b>	10(a) – Dialogue and partnerships between public and private sector
	10(b) – Private sector’s organisation and access to the public procurement market *
	10(c) – Key sectors and sector strategies

<b>PILLAR IV</b>	
<b>11. Transparency and civil society engagement foster integrity in public procurement.</b>	11(a) – Enabling environment for public consultation and monitoring
	11(b) – Adequate and timely access to information by the public
	11(c) – Direct engagement of civil society
<b>12. The country has effective control and audit systems.</b>	12(a) – Legal framework, organisation and procedures of the control system *
	12(b) – Coordination of controls and audits of public procurement
	12(c) – Enforcement and follow-up on findings and recommendations
	12(d) – Qualification and training to conduct procurement audits
<b>13. Procurement appeals mechanisms are effective and efficient.</b>	13(a) – Process for challenges and appeals *
	13(b) – Independence and capacity of the appeals body *
	13(c) – Decisions of the appeals body
<b>14. The country has ethics and anticorruption measures in place.</b>	14(a) – Legal definition of prohibited practices, conflict of interest, and associated responsibilities, accountabilities, and penalties
	14(b) – Provisions on prohibited practices in procurement documents
	14(c) – Effective sanctions and enforcement systems *
	14(d) – Anti-corruption framework and integrity training *
	14(e) – Stakeholder support to strengthen integrity in procurement *
	14(f) – Secure mechanism for reporting prohibited practices or unethical behavior *
	14(g) – Codes of conduct/codes of ethics and financial disclosure rules



# 1. Introduction

---

According to estimates by international organisations, public procurement represents 7 to 20% of a country's gross domestic product. Often, this share is considerably higher in small island states such as Antigua and Barbuda. This context highlights the importance of public procurement in delivering essential public services, especially in a context of limited fiscal resources. As an indispensable means for delivering government activity, public procurement is imperative for achieving all aspects of the Sustainable Development Goals (SDGs). Public procurement also offers the opportunity to realise specific country objectives. Transparency and accountability, as well as governance as a whole, can be strengthened by strong public procurement systems. Public procurement also has an impact on employment, private sector growth and investment.

The recently revised Methodology for Assessing Procurement Systems (MAPS) provides a holistic assessment framework by establishing the criteria of an effective and efficient procurement system that countries should strive to achieve. Like the Sustainable Development Goals, MAPS is relevant for all countries, irrespective of income level or development status. This report details the findings of an assessment of the public procurement system in Antigua and Barbuda, using the new MAPS (2018). The assessment was led by the Ministry of Finance and Corporate Governance in Antigua and Barbuda, with support by the Caribbean Development Bank (CDB) and implemented by the Organisation for Economic Cooperation and Development (OECD), with expert peer review from the CARICOM Secretariat, CDB, the UK Department for International Development (DFID) and the World Bank, who form the Technical Advisory Group (ITAG) for the project.

The assessment is part of a simultaneous assessment of five Eastern Caribbean States, Anguilla, Antigua and Barbuda, the British Virgin Islands, St. Kitts and Nevis and Montserrat. The primary objective of the assessment was to conduct a thorough, external assessment of Antigua and Barbuda's public procurement system that reveals strengths and weaknesses, benchmarking the system with international good practices and standards. The findings of the assessment will be used to improve and reform public procurement in Antigua and Barbuda, by providing concrete recommendations that can be prioritised and presented in a detailed action plan.

In the last five years, partly as a result of the need to better maximise scarce resources in an environment of high debt and low growth, a significant number of Caribbean States have demonstrated that they are committed to public procurement reform programmes. This is evidenced by the passing of new procurement legislation in several countries and the planning of reforms in others. In these reform agendas, countries see benefit in cooperating regionally and sharing experiences. In this context, this MAPS assessment has a second function of serving as a testing exercise, applying the recently revised methodology for the first time in a small-island developing country context. This assessment was launched in the spring of 2018. The fact finding meetings were conducted in June 2018; a validation workshop was conducted in Washington, DC in September 2018. The project "dovetails" with a DFID funded, World Bank executed, procurement reform project covering Dominica, Grenada, Saint Lucia, and St. Vincent and the Grenadines.



## 2. Analysis of Country Context

---

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

Antigua and Barbuda is a country consisting of two major inhabited islands (Antigua and Barbuda) and other, smaller ones. It has a total area of 442 km<sup>2</sup>. It gained independence from the United Kingdom on 1 November 1981, but maintains many aspects of the British culture such as English as its official language. Antigua and Barbuda is a member of the Commonwealth of Nations. Its capital is St. John's on the island of Antigua, which has the largest port of the country.

The current population of Antigua and Barbuda is 103,000 based on the latest United Nations estimates. The median age is 30.9 years and 20.9% of the population lives in urban areas. The island of Antigua has about 82,000 residents.<sup>1</sup>

Reviewing the different world indexes, Antigua and Barbuda ranks 56<sup>th</sup> in the 2017 Quality of Nationality Index (QNI), first among the OECS members.<sup>2</sup> In terms of the Human Development Index (HDI), Antigua and Barbuda ranks 62<sup>nd</sup> among 188 countries.<sup>3</sup> In the 2018 Doing Business Ranking, Antigua and Barbuda ranks 107<sup>th</sup>.<sup>4</sup>

The estimated 2017 Gross Domestic Product (GDP) was USD 1.4 billion<sup>5</sup>. Tourism is the main industry in Antigua and Barbuda. According to the World Travel and Tourism Council, the total contribution of travel and tourism to GDP in Antigua and Barbuda was 51.8% in 2017, making it the 8<sup>th</sup> in the world when ranked by this indicator. The total contribution of the tourism industry to employment, including indirect jobs, was 46.1% for the same year.<sup>6</sup> Previously higher numbers were reduced by the negative impact of natural disasters. In September 2017, Hurricane Irma badly hit the island of Barbuda. Almost all buildings on the island were destroyed. The inhabitants were relocated to Antigua; some hundreds have since returned to their homes.

Other industries are investment banking and manufacturing. Some commercial foreign banks, especially from Canada and Britain, have established operations in the country.

Antigua and Barbuda is a parliamentary democracy under a constitutional monarchy. Queen Elizabeth II is head of state and appoints a Governor-General (Sir Rodney Williams). The Prime Minister (Gaston Browne) is the head of government. The Prime Minister advises the Governor-General on the appointment of a Council of Ministers (the "Cabinet"). The Cabinet exercises the executive power.

---

<sup>1</sup> <http://www.worldometers.info/world-population/antigua-and-barbuda-population/> (accessed 24 June 2018)

<sup>2</sup> Quality of Nationality Index, website: <https://www.nationalityindex.com/> (accessed 24 June 2018)

<sup>3</sup> Human Development Index, website: <http://hdr.undp.org/en/content/human-development-index-hdi> (accessed 24 June 2018)

<sup>4</sup> Doing Business Ranking, website: <http://www.doingbusiness.org> (accessed 24 June 2018)

<sup>5</sup> Global Finance, website: <https://www.gfmag.com/global-data/country-data/antigua-and-barbuda-gdp-country-report> (accessed 24 June 2018)

<sup>6</sup> World Travel and Tourism Council, website: <https://www.wttc.org/> (accessed 24 June 2018)



The central level of government includes 12 ministries, 5 government official offices and 21 statutory bodies. The latter are governed by the 2006 Financial Administration Act (FAA 2006) and their own acts. In addition, there is a local government of Barbuda, which consists of the Barbuda Council in charge of the affairs of the island of Barbuda.<sup>7</sup>

The government and the two chambers of the Parliament share legislative power. The parliament has two chambers: the Senate comprises 17 senators appointed by the Governor General; the House of Representatives comprises 17 elected representatives, out of which 15 are members of the Antigua and Barbuda Labour Party (ABLP). The Auditor General reports to Parliament. The Public Accounts Committee of Parliament is responsible for reviewing the Auditor General's reports.

The Antigua and Barbuda judicial branch consists of the Industrial Court and the Magistrates Court for minor offenses and the High Court for major offenses. The High Court is part of the Eastern Caribbean States Supreme Court (ECSSC). The OECS appoints their members. Appeals are taken to the Court of Appeal of the ECSSC. The final court of appeal is the Judicial Committee of the Privy Council (JCPC), located in London.

The Bird family dominated the country's politics in the decades after its independence in 1981. In 2004, the United Progressive Party (UPP), led by Baldwin Spencer, defeated Lester Bird (ABLP) and ended the reign by the Bird family. The current Prime Minister, Gaston Browne, is a member of the ABLP. He won the general elections in 2014 after defeating the ruling UPP.<sup>8</sup>

Antigua and Barbuda faces challenges related to money laundering and fraud. These problems stem from the country's role as an offshore centre with a relatively large financial sector and internet gaming industry. Nevertheless, according to the Antiguan Office of National Drug Control and Money Laundering Policy (ONDCP) the levels of crime have decreased thanks to institutional efforts and their partnerships with international agencies, as can be seen in the conclusions of the ONDCP's latest report, published in 2014.

Antigua and Barbuda fares well on the issue of corruption and transparency. The international advocacy organisation Freedom House<sup>9</sup> rated Antigua and Barbuda in 2016 with a score of 2 on a scale of 1 to 7, where 1 is most free. The main reasons of this score are the completed reforms relating to the following areas:<sup>10</sup>

- An Independent Elections Commission administers elections. In 2015, amendments to the Representation of the People Act were proposed to increase transparency in the campaign finance system.
- Accountability structures have had improvements since 2004, when the government enacted a Freedom of Information Act.

---

<sup>7</sup> Government of Antigua and Barbuda, website: <https://ab.gov.ag/> (accessed 24 June 2018)

<sup>8</sup> Caribbean Elections, website: [http://www.caribbeanelections.com/knowledge/country\\_browser/ag\\_profile.asp](http://www.caribbeanelections.com/knowledge/country_browser/ag_profile.asp) (accessed 24 June 2018)

<sup>9</sup> Freedom House advocates to advance freedom and democracy, <https://freedomhouse.org/about-us>

<sup>10</sup> Freedom House, website: <https://freedomhouse.org/report/freedom-world/2016/antigua-and-barbuda> (accessed 24 June 2018)



- In April 2015, the legislature abolished criminalisation of defamation. However, similar cybercrimes remain subject to imprisonment or fines under the Electronic Crimes Act of 2013.

The Constitution guarantees freedom of expression, of beliefs, of association and of assembly. The Freedom of Information Act gives citizens the statutory right to access official documents from public authorities and agencies.

Crime is, in general, low. However, some types of crime have been on the rise in the country, particularly murders.<sup>11</sup> The state actively attempts to combat organised crimes. Most victims report crimes to the police. Citizens generally do not view the police as a source of crime and violence.

The 2005 Equal Opportunity Act bars discrimination based on race, gender, class, political affinity, or place of origin. Nevertheless, challenges remain with regards to gender equality. For example, the proportion of seats held by women in the national parliament was 11.1% in 2018, according to the Inter-Parliamentary Union (IPU). This places Antigua and Barbuda at rank 200 out of 264.<sup>12</sup> Several active civil society organisations are working to reduce the gender gaps.

Universal secondary education was achieved in 2013. The Medium-Term Development Strategy 2016 to 2020 seeks to reduce overcrowding with respect to the provision of secondary education (25% overcapacity) through the construction of new schools and expansions to existing schools.<sup>13</sup>

Since 1997, according to UNDP, the Government of Antigua and Barbuda has accumulated a large level of debt. The government obtained help from the IMF and a concessionary loan of USD 50 million from the Bolivarian Republic of Venezuela.<sup>14</sup> Keeping this in mind, the public debt in 2016 was approximately USD 1.1 billion (XCD 3 billion)<sup>15</sup>, or 86.22% of Antigua and Barbuda's GDP. In 2016, the government applied a Medium-Term Debt Management Strategy (MTDS) tool to implement sound debt management over the medium term (2016-2020).<sup>16</sup> In March 2018, the Prime Minister, Gaston Browne announced that he had instructed the ECCB to make the final payment to the IMF and that the Venezuelan government will write off 50% of the loan through their PetroCaribe oil deal.<sup>17</sup>

Antigua and Barbuda is member of following international organizations:

- 1) The Caribbean Community (CARICOM), a full member since 1974 and a signatory to the CARICOM Single Market and Economy (CSME)
- 2) The African, Caribbean and Pacific Group (ACP), created with the Georgetown Agreement in 1975.

<sup>11</sup> International Security Sector Advisory Team (ISSAT), Antigua and Barbuda Country Profile, website: <https://issat.dcaf.ch/Learn/Resource-Library/Country-Profiles/Antigua-and-Barbuda-Country-Profile> (accessed 25 February 2019).

<sup>12</sup> The World Bank, website: <https://data.worldbank.org/indicator/sg.gen.parl.zs> (accessed 24 June 2018)

<sup>13</sup> Ministry of Education, Youth, Sports and Gender Affairs, website: [www.education.gov.ag/](http://www.education.gov.ag/) (accessed 24 June 2018)

<sup>14</sup> UNDP, website: [http://www.bb.undp.org/content/barbados/en/home/countryinfo/antigua\\_barbuda.html](http://www.bb.undp.org/content/barbados/en/home/countryinfo/antigua_barbuda.html) (accessed 24 June 2018)

<sup>15</sup> Debt Office. Ministry of Finance of Antigua and Barbuda.

<sup>16</sup> Country economy, website: <https://countryeconomy.com/national-debt/antigua-barbuda> (accessed 24 June 2018)

<sup>17</sup> The Daily Observer, website: <https://antiguaobserver.com/imf-debt-cleared-petrocaribe-debt-slashed/> (accessed 24 June 2018)



- 3) The United Nations (UN) since 1981 and active participant in international agencies for example: UNDP, United Nations Economic Commission for Latin America and the Caribbean (UNECLAC), Food and Agriculture Organisation of the United Nations (FAO), United Nations Educational Scientific and Cultural Organisation (UNESCO), International Labour Organisation (ILO), United Nations World Intellectual Property Organization (WIPO), among others.
- 4) The Organization of Eastern Caribbean States (OECS) was created with the Treaty of Basseterre, on 18 June 1981. The 2010 revised Treaty of Basseterre created an economic union, establishing a single financial and economic space with free movement of people, goods and capital. This monetary union is under the authority of the Eastern Caribbean Central Bank (ECCB), which was established in October 1983.
- 5) The Organization of American States (OAS), a member since 1981.
- 6) The World Trade Organization (WTO), became a member in 1995 and in 2013 Antigua and Barbuda won WTO permission to suspend American copyrights and patents, perhaps as a possible retaliatory response to US restrictions on the island's online gambling industry.
- 7) The CARIFORUM, which is the Body comprising Caribbean ACP States, was established in the early 1990s with several functions like manage and coordinate policy dialogue between its members and the European Union. One example of this dialogue is the Economic Partnership Agreement (EPA) concluded between the CARIFORUM States and the European Union.<sup>18</sup>

Antigua and Barbuda is part of important international conventions, such as the Inter-American Convention Against Corruption; the Convention on the Elimination of All Forms of Discrimination; the Climate Change Convention; the Paris Agreement; the Nagoya Protocol, among others.<sup>19</sup> It also has bilateral investment treaties with Germany, the United Kingdom; free trade agreements with Costa Rica and the Dominican Republic; and double taxation agreements with Denmark, Norway, Sweden and the United Kingdom.

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

The precise volume of public procurement in Antigua and Barbuda is not known. Publicly available national statistics do not allow calculating what public procurement represents as a share of GDP and of total government expenditure.

The Ministry of Finance is the most important institution in the Antigua and Barbuda public procurement system, as specified in the Tenders Board Act (1991, amended in 2002) and in the 2011 Procurement and Contract Administration Act, which has not been enacted to date. The hierarchy of the public procurement system is as follows: the Ministry of Finance is overseeing the work of the Procurement Board, which in turn oversees the work of the Procurement Unit. The Minister of Finance appoints a chairperson of the Procurement Board, which establishes a clear institutional link between the public procurement system

<sup>18</sup> European Union, website: [http://trade.ec.europa.eu/doclib/docs/2008/february/tradoc\\_137971.pdf](http://trade.ec.europa.eu/doclib/docs/2008/february/tradoc_137971.pdf) (accessed 24 June 2018)

<sup>19</sup> United Nations Treaty Collections, website: <https://treaties.un.org/> (accessed 24 June 2018); ECLAC - UN Observatory on Principle 10 in Latin America and the Caribbean, website: <https://observatoriop10.cepal.org/en/countries/2/treaties> (accessed 24 June 2018)



and public finance management. The Chief Procurement Officer heads the Procurement Unit. An Ombudsman is granted with authority to review practices and procedures.

According to information provided by the Ministry of Finance and Corporate Governance, between February 2016 and April 2017, almost half of all Tenders Board Decisions related to waivers, i.e. the majority of procurement procedures were not following a competitive method. About a sixth of the decisions each were public tenders or selective tenders.

The Chamber of Commerce is a key institution in the procurement system, representing suppliers and linking public and private sectors. Nevertheless, there is no formal system for dialogue in place.

The multilateral development banks, the international development agencies and the international agencies, particularly the Caribbean Development Bank, the Organisation of Eastern Caribbean States (OECS) and the Organization of American States (OAS), are key players in the public procurement system. As in most states in the region, procurements funded by multilateral development banks and bilateral donors are ruled by the regulation of the agency funding the project.

### 2.3. National policy objectives and sustainable development goals

Antigua and Barbuda is committed to the Sustainable Development Goals. In 2009, the country decided to join bulk purchasing of prescription drugs by the OECS countries through the Pharmaceutical Procurement System as a tool to fulfil the previous objective 8 (A Global Partnership for Development). The National Economic and Social Council Act creates a council with functions such as “promote the goals of economic growth and development, participation in economic decision- making and social equity” (section 3.1.a).

The country, being part of the Small Island Developing States (SIDS), is aware of the vulnerabilities and peculiar challenges that it has. This is reflected in the partnership initiatives and voluntary commitments in which Antigua and Barbuda is listed as a partner or lead entity in the online platform of Partnerships for the SDGs, for example:<sup>20</sup>

Name	Objective
<b>Barbados Declaration</b>	Renewable Energy - to diversify its matrix and achieve a target of 15% energy supply from renewable energy by 2030.
<b>The Caribbean Challenge Initiative (CCI)</b>	Conservation initiative that brings together governments, companies and partners to accelerate action on conservation in the Caribbean.
<b>The Caribbean Energy Efficiency Lighting Project (CEELP)</b>	Catalyse the transition to low carbon economies and sustainable energy sectors through the provision of energy efficient lighting to communities in the Eastern Caribbean. The countries must remove the policy, capacity and investment barriers to energy efficient lighting.

<sup>20</sup> Sustainable development knowledge platform, website: <https://sustainabledevelopment.un.org/topics/sids> (accessed 24 June 2018); Government of Antigua and Barbuda, website: [https://ab.gov.ag/pdf/statistics\\_reports/mdg\\_main\\_report2009.pdf](https://ab.gov.ag/pdf/statistics_reports/mdg_main_report2009.pdf) (accessed 24 June 2018)



<b>Lighthouses Initiative</b>	Assist in transforming SIDS energy systems through the establishment of the enabling conditions for a renewable energy-based future, among other initiatives about this topic.
-------------------------------	--

Source: UN, Sustainable Development Knowledge Platform.

During the United Nations Conference to Support the Implementation of Sustainable Development Goal 14 held in June 2017, Antigua and Barbuda's ambassador said that the country has taken actions in support of this goal. Activities included for example enacting and strengthening legislative frameworks to achieve better control and management of ocean and marine resources, updating the Fisheries Act and enacting the Environmental Protection and Management Act. In addition, Antigua and Barbuda has established a National Ocean Governance Committee.<sup>21</sup>

These initiatives are in line with the high risk of damage to life and property brought by increasingly dangerous hurricanes. When a hurricane strikes, emergency procedures, including for procurement, are in place.

## 2.4. Public Procurement Reform

Antigua and Barbuda is part of the regional initiative of several Caribbean states to review and reform public procurement. In 2011, as a result of the initiative, the House of Representatives and the Senate of Antigua and Barbuda passed the Procurement and Contract Administration Act, which has yet to be enacted. In the Explanatory Memorandum of the Bill, the government states that the act's purpose is to reform the law to comply with generally accepted international standards of government procurement, particularly the 1994 United Nations Commission on International Trade Law (UNCITRAL) Model Law on Procurement of Goods, Construction and Services. Further, the bill states that the standard requires competition wherever possible and award of contract based on fair competition. It is anticipated that the Director of Audit will conduct an annual review of solicitation, awards, and subsequent regulations for conformity with the Act.

However, this act has only been approved by the parliament, but not enacted by the Executive Council. Therefore, the reform has not achieved the envisioned benefit. The previous act (Tenders Board Act, 1991) continues to serve as the legal basis for public procurement in Antigua and Barbuda.

The 2015 PEFA report for Antigua and Barbuda highlights the important role that a reformed legal framework would play in addressing several challenges of the public administration. Notably, the 2011 Procurement and Contract Administration Act includes provisions for competitive procurement methods, and increased transparency in the public procurement process. This illustrates how important it is to link procurement reforms to financial reforms and more general governance initiatives.

According to the 2017 Budget Summary of the government of Antigua and Barbuda, the Ministry of Finance included in its priorities several procurement-related aspects, such as the modernization of

---

<sup>21</sup> CARICOM Press Releases, website: <https://caricom.org/media-center/communications/press-releases/antigua-and-barbudas-presentation-to-the-plenary-un-oceans-conference> (accessed 24 June 2018)



central procurement systems, the expansion of procurement outreach, maintenance of a vendor registry and development opportunities through procurement.

Following the recommendation of a report from the United Nations Office on Drugs and Crimes (2016)<sup>22</sup> related to the procurement system and corruption in small island developing states, the government of Antigua and Barbuda could continue the implementation the procurement reform taking into consideration that:

- complex systems are not operative, systems should be built on qualities and traditions of the island culture;
- focus should be on capacity building, training, professionalization and monitoring of procurement officers;
- using institutions with a combined mandate can be beneficial;
- accountability, transparency, and access to information should be strengthened;
- efforts among the other small islands should be combined;
- civil society should be involved; and
- the private sector should be involved.

---

<sup>22</sup> United Nations Office on Drugs and Crime (2016). The United Nations Convention against Corruption. Procurement and Corruption in Small Island Developing States: Challenges and Emerging Practices, <https://www.unodc.org/documents/corruption/Publications/2016/V1608451.pdf>.



## 3. Assessment

### Overview of compliance with MAPS indicators

Substantial gaps identified   Gaps identified   Overall compliance

\* Red flag raised

PILLAR I	
<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*
	1(b) – Procurement methods*
	1(c) – Advertising rules and time limits*
	1(d) – Rules on participation*
	1(e) – Procurement documentation and technical specifications*
	1(f) – Evaluation and award criteria*
	1(g) – Submission, receipt, and opening of tenders*
	1(h) – Right to challenge and appeal *
	1(i) – Contract management *
	1(j) – Electronic Procurement (e-Procurement) *
	1(k) – Norms for safekeeping of records, documents and electronic data *
1(l) – Public procurement principles in specialized legislation *	
<b>2. Implementing regulations and tools support the legal framework.</b>	2(a) – Implementing regulations to define processes and procedures*
	2(b) – Model procurement documents for goods, works, and services*
	2(c) – Standard contract conditions*
	2(d) – User’s guide or manual for procuring entities*
<b>3. The legal framework reflects the country’s secondary policy objectives and international obligations</b>	3(a) – Sustainable Public Procurement (SPP)*
	3(b) – Obligations deriving from international agreements*

PILLAR II	
<b>4. The public procurement system is mainstreamed and well integrated into the public financial management system.</b>	4(a) – Procurement planning and the budget cycle*
	4(b) – Financial procedures and the procurement cycle*
<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 institution function
	5(b) – Responsibilities of the normative/regulatory function*
	5(c) – Organisation, funding, staffing, and level of independence and authority*
	5(d) – Avoiding conflict of interest*
<b>6. Procuring entities and their mandates are clearly defined.</b>	6(a) – Definition, responsibilities and formal powers of procuring entities*



	6(b) – Centralized procurement body
7. Public procurement is embedded in an effective information system.	7(a) – Publication of public procurement information supported by information technology*
	7(b) – Use of e-Procurement *
	7(c) – Strategies to manage procurement data *
8. The public procurement system has a strong capacity to develop and improve.	8(a) – Training, advice and assistance *
	8(b) – Recognition of procurement as a profession *
	8(c) – Monitoring performance to improve the system *

PILLAR III	
9. Public procurement practices achieve stated objectives.	9(a) – Planning
	9(b) – Selection and contracting *
	9(c) – Contract management *
10. The public procurement market is fully functional.	10(a) – Dialogue and partnerships between public and private sector
	10(b) – Private sector’s organisation and access to the public procurement market *
	10(c) – Key sectors and sector strategies

PILLAR IV	
11. Transparency and civil society engagement foster integrity in public procurement.	11(a) – Enabling environment for public consultation and monitoring
	11(b) – Adequate and timely access to information by the public
	11(c) – Direct engagement of civil society
12. The country has effective control and audit systems.	12(a) – Legal framework, organisation and procedures of the control system *
	12(b) – Coordination of controls and audits of public procurement
	12(c) – Enforcement and follow-up on findings and recommendations
	12(d) – Qualification and training to conduct procurement audits
13. Procurement appeals mechanisms are effective and efficient.	13(a) – Process for challenges and appeals *
	13(b) – Independence and capacity of the appeals body *
	13(c) – Decisions of the appeals body
14. The country has ethics and anticorruption measures in place.	14(a) – Legal definition of prohibited practices, conflict of interest, and associated responsibilities, accountabilities, and penalties
	14(b) – Provisions on prohibited practices in procurement documents
	14(c) – Effective sanctions and enforcement systems *
	14(d) – Anti-corruption framework and integrity training *
	14(e) – Stakeholder support to strengthen integrity in procurement *
	14(f) – Secure mechanism for reporting prohibited practices or unethical behavior *
	14(g) – Codes of conduct/codes of ethics and financial disclosure rules

Note that in a number of areas, including financial procedures, e-procurement, and procurement operations, no quantitative data was provided to assess the quantitative assessment criteria. This suggests that further efforts to collect, manage and publish quantitative procurement data may be warranted to



promote transparency and support analysis of the performance of the public procurement system in Antigua and Barbuda.

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

This Pillar 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 legal and regulatory framework in Antigua and Barbuda is characterised by the fact that the Procurement and Contract Administration Act has not been enacted nor implemented. The previous Tenders Board Act governs public procurement; this current legal framework presents a number of gaps. While the approved Act does cover many of the assessment criteria in this pillar, the lack of implementation means that most of these provisions remain ineffective. As a consequence, the assessors raise a red flag for Pillar I in general, as the lack of clarity in the legal and regulatory framework represents a serious obstacle to achieving the main objectives of public procurement.

#### 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, etc.) to detailed regulation, procedures and bidding documents formally in use. It assesses the completeness of the legal framework and how different matters are covered, for example procurement methods, rules of procedure and systems that support procurement process.

Public procurement in Antigua and Barbuda is conducted according to the rules detailed in the Tenders Board Act (1991, amended in 2002), even though a new act, specifically on public procurement, was approved in 2011. This Public Procurement and Contract Administration Act has not been enacted since, which means that a clear legal framework for public procurement in Antigua and Barbuda is largely absent. Even with the provisions in the 2011 Procurement and Contract Administration Act, several gaps remain, which is why the assessors assign a red flag to the indicator.

#### Findings

The legal framework of Antigua and Barbuda is based on a relatively old law, the Tenders Board Act (1991, 2002). This Act was issued originally to regulate the operations of the Tenders Board and some aspects of the tender process. The provisions in the Tenders Board Act remain limited and largely do not comply with the assessment criteria. In 2011, the Procurement and Contract Administration Act was drafted to replace the Tenders Board Act. However, the Procurement and Contract Administration Act has not been enacted.

The assessment of this indicator evaluated both laws against the assessment criteria; however, given the limited provisions in the older Tenders Board Act and the availability of the more detailed Procurement and Contract Administration Act, a practical consideration was made to focus on the latter. From a



forward-looking perspective, aiming at providing the government with actionable policy advice, it was deemed important to evaluate the feasibility of the not-enacted 2011 The Procurement and Contract Administration Act vis a vis the MAPS assessment criteria. This analysis follows the question whether enacting this Act could provide a considerable step forward towards improving the public procurement system in Antigua and Barbuda as a “quick win”.

The majority of the sub-indicators covering the existence and clarity of the legal and regulatory instruments are not met and a red flag has to be assigned to every sub-indicator. Some gaps can be addressed with the enactment and implementation of the 2011 Procurement and Contract Administration Act. Several gaps would remain, however.

The fact that the Procurement and Contract Administration Act is approved but not enacted results in an unclear public procurement legal framework overall, which dissipates legal certainty for both public institutions and the private sector. While the Procurement and Contract Administration Act theoretically grants certain authorities to improve the public procurement system to the Ministry of Finance, these authorities cannot be used as long as the Procurement and Contract Administration Act is not enacted. This affects competitiveness, equal treatment and rights of the participants in procurement processes. The lack of implementation also affects the organization of the procurement system in terms of government bodies, authorities and civil servants responsible for public procurement as well as in the market opportunities to do business with the Government of Antigua and Barbuda.

The assessors identified opportunities to improve the rules of procedure by implementing the Procurement and Contract Administration Act and using the regulation power to rule in the above-mentioned aspects.

### **Substantive gaps**

Substantive gaps were identified with regards to three different aspects: first, related to the enforceability of the legal framework; secondly, related to procedural rules; and finally with regards to contract management.

The fact that the main law for public procurement is not enacted and implemented represents a major gap. Currently Antigua is applying the Tenders Board Act. The extended use of waivers to tender shows poor competitiveness in the procurement process.

Regarding procedural rules, substantive gaps in the legal and regulatory framework currently in force relate to the lack of:

- a specific rule to set a minimum time frame between the call for and submission of bids;
- procedures and mechanisms to ensure safety and confidentiality of the proposals. There are no standards on how to handle proposals once they are submitted by the tenderer; no standards are in place electronic records either;
- rules for dispute resolution during the procurement process and the absence of a clear right to judicial review over decisions of the Ombudsman;
- rules regarding SOE participation in the procurement process;
- rules on evaluation criteria, including technical specifications;
- norms for safekeeping records and treatment of confidential information;
- planning for an e-Procurement system development; and



- principles and norms for specialised legislations like PPPs and concessions.

Finally, a major gap was identified in the rules of contract management, including contract amendments and the lack of an information system of public procurement system.

These gaps are classified as high risk, and a red flag is assigned to this indicator as the lack of these provisions jeopardises the achievement of basic public procurement objectives.

### **Recommendations**

The Government could focus on measures to enforce the 2011 Procurement and Contract Administration Act. This could entail to use the regulatory functions of the Ministry of Finance and the Procurement Board to organize the legal instruments governing public procurement, set additional implementing rules and instruments to manage the procurement process in a fair and competitive framework, while respecting international agreements.

The Ministry of Finance could emphasise the importance of the public procurement system for delivering goods, works and services to citizens. As part of these efforts to raise awareness about the strategic dimension of public procurement for public service delivery and development, it would be important to demonstrate public procurement's share as part of GDP and overall government expenditure, notably to the Executive Committee.

Even if implemented, the Procurement and Contract Administration Act could be updated to include missing provisions, such as:

- rules to restrict discretion that procurement entities and officials have in conducting the procurement process;
- thresholds or the ability to set thresholds to define procurement methods;
- general conditions for the publication of market opportunities, minimum content, days between notice and submissions;
- applicable regulations for procurement by State-Owned Enterprises (or Statutory Bodies);
- the conditions for participation in public procurement, most notably general rules for qualification, eligibility and exclusions;
- specifications of procurement documents using technical specifications, ensuring neutral treatment with regards to such specifications;
- general provisions to ensure that, whatever evaluation criteria are used in competitive procurement methods, these criteria are objective and clearly defined in the procurement documents (including guidelines to assess quality);
- clarify the complaint system including competencies of the Ombudsman and related processes;
- contract management provisions, including rules in case the value or terms of the contracts are amended;
- norms for safekeeping of procurement documentation;
- e-Procurement strategy; and
- specialised legislation for PPPs and concessions.



## 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. This indicator is divided into four sub-indicators that address the existence of regulations that implement the legal framework and the development of support tools as manuals, guides and standard contracts.

### Findings

Antigua and Barbuda currently lacks implementing regulations and tools to support the legal framework. This represents a major gap, as these instruments are needed to make the legal framework for public procurement operational.

### Substantive gaps

The assessors identified three substantive gaps, which means that Antigua and Barbuda does not comply with any of the sub-indicators: First, regulations are not defined. Second, there is no public access to the entire regulatory framework. Third, supporting documents, standard clauses and contracts are not available. The assessors did not find evidence of the existence of supporting tools such as model procurement documents or standard contract conditions. The draft Procurement Manual based on the Procurement and Contract Administration Act cannot be considered a supporting tool, as it does not give guidance on the interpretation of the law or recommendations to follow when drafting procurement documents, selecting the supplier, performing or liquidating the contract.

The Act includes responsibilities for designing and drafting model procurement documents for a wide range of goods, works and services, including templates for contracts and for each category of goods, works and services to be procured. However, these responsibilities only take effect once the act is enacted.

The benefit of support procurement tools such as handbooks, model procurement documents and standard conditions enhance transparency, support procurement officers and prevent legal disputes before they arise, and communicate to competitors what the precise terms and conditions of a procurement opportunity are. This helps potential suppliers to prepare their participation; it also provides clarity on decision making by procuring entities and as a result, provides legal certainty to the market and manages expectations of businesses. On the side of the procurer, such documentation also supports officers in drafting documentation by offering a clear starting point based on which the procurement authority has to design and complete each process.

The absence of a regulatory framework and tools to support it puts the achievement of basic public procurement objectives at risk. Therefore, these substantial gaps are classified as high risk and a red flag is assigned to this indicator.

### Recommendations

Antigua and Barbuda could enforce the Procurement and Contract Administration Act and publish the entire legal framework in an easily accessible web portal.

In addition, the Procurement Board to define and execute a plan to prepare and publish model procurement documents, standard contracts and clauses and a procurement manual. This plan could prioritize the documents to be prepared and to identify the required resources to develop them.



Antigua and Barbuda could also review the Procurement Manual to make it an operative guidance tool.

### 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, etc., and obligations deriving from international agreements, are consistently and coherently reflected in the legal framework, i.e. whether the legal framework is coherent with the higher policy objectives of the country.

#### Findings

Antigua and Barbuda does not make considerations related to sustainability in its public procurement framework. No considerations of international commitments are made.

#### Substantive gaps

The assessors did not identify any references to a Sustainable Procurement Policy or to international obligations in the Tenders Board Act neither in the Procurement and Contract Administration Act. As the Tenders Board Act and the Procurement and Contract Administration Act both suffer this substantial gap, they are classified as high risk and a red flag is assigned to this indicator.

#### Recommendations

Antigua and Barbuda could evaluate the need to include sustainable public procurement in the legal framework and identify obligations derived from international instruments to be included in the legal and regulatory framework. Sustainable public procurement contributes to achieving environmental objectives. Antigua and Barbuda could benefit from a Sustainable Procurement Policy, for example in the area of waste management, including electronic waste, but also regarding water conservation and the promotion of sustainable agriculture. Furthermore, sustainable public procurement may increase awareness of environmental issues within the country and establish a norm for the private sector and for the society at large.

Antigua and Barbuda should honour its regional and international commitments when dealing with international acquisitions of goods and services or construction of works. The regulation could establish how the commitments are implemented in the procurement process.

## 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 constitute the overall governance in its public sector.

Some institutions and their responsibilities with regards to public procurement in Antigua and Barbuda have been established and clarified in the Tenders Board Act and the 2011 Procurement and Contract Administration Act, which has not been enacted or implemented. Some ad hoc centralisation of aspects of purchasing is conducted by the Department of Public Works.



There is no integration between the financial management system and the public procurement system and no provisions as to how processes, appropriations and payments are to be handled.

It is not clearly defined what kind of institutions are considered as procuring entities. Potential for an institutional conflict of interest exists because the Procurement Board is both regulator for procurement and at the same time responsible for purchasing decisions.

There is no information system supporting public procurement, no training or professionalization activities, and no ability to develop and improve.

#### **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 public financial management system. There is no clear relation between financial management and procurement planning in the legal framework of Antigua and Barbuda.

##### **Findings**

There are no financial procedures defined in the procurement process nor in the Tenders Board Act nor in the Procurement and Contract Administration Act. There is no existing requirement for a procurement plan to be prepared in the procuring entities. In addition, there is no clear appropriation process for acquisitions.

##### **Substantive gaps**

The substantive gaps identified in this indicator are related to the absence of financial management procedures in the procurement process. There are no general rules linking procurement and contract administration activity to financial planning. Procurement planning does not support the yearly financial planning.

There are no rules for financial planning and budgetary expending in the procurement process; expenditure is regulated with general rules that do not consider the particular stages and requirements of a procurement process.

At the level of the procurement process, there are no clear financial requirements either. The 2011 Procurement and Contract Administration Act requires an estimate of the value of the intended procurement. However, this estimate is not linked to the availability of funds (section 17). The assessors did not find requirements like funds availability certification or a process to authorise payments, or a mechanism for feedback related to delays in payments to suppliers.

There is no specific procedure for processing invoices and authorising payments in the procurement process. Stakeholders mentioned serious delays in payments. No information was available to assess the quantitative indicator (share of invoices paid on time.)

The lack of integration between the public financial system and the procurement system, from budgeting, planning, treasury operations for payment, contract management, among others, is a substantial gap. Therefore, it is classified as high risk and a red flag is assigned to this indicator.



## Recommendations

The government of Antigua and Barbuda could define procedures to harmonise the procurement rules to the budget and expenditure regulation. The main objective is to ensure that sufficient budget and cash flow is available to honour procurement obligations before entering into such obligation. Other procedures could be developed, for example an annual procurement plan and tools to report its execution. These procedures are important to provide clear expectations and procedures. If these are not available, experience shows that actors use ambiguities in their favour, potentially resulting in corruption.

## 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 co-ordination. The assessment of the indicator focuses on the existence, independence and effectiveness of these functions and the degree of co-ordination between responsible organisations.

The 2011 Procurement and Contract Administration Act that has not been enacted, covers most of the sub-indicators. There is an organisational structure to address the normative and regulatory function but its functions do not include all the responsibilities defined by this indicator.

## Findings

The Tenders Board Act does not assign the regulatory and normative function with regards to public procurement. According to the 2011 Procurement and Contract Administration Act, the Ministry of Finance is responsible for the normative and regulatory function in Antigua and Barbuda's public procurement system. However, this provision is not actually in force. Regulations and orders under the Procurement and Contract Administration Act are subject to the positive resolution of Parliament (section 54).

The 2011 Procurement and Contract Administration Act, once enforced, would establish the Procurement Board. The members of the Procurement Board are:

- two ex officio members: the Permanent Secretary of the Ministry responsible for Public Works and the Accountant General;
- a person appointed by the Ministry of Finance;
- an experienced attorney-at-law;
- two persons from the private sector appointed by the Minister of Finance.

However, the structure described in the Procurement and Contract Administration Act does not cover all responsibilities outlined in the assessment criteria. In addition, there is no clear regime to manage conflict of interests.

As the Procurement and Contract Administration Act is not enforced, there is no organisation, funding and staffing of the Procurement Unit.

## Substantive gaps

As mentioned before, the public procurement regulatory and normative function in Antigua and Barbuda described in the 2011 Procurement and Contract Administration Act, is not clearly enforced. This represents a major gap in itself.



In addition, a substantive gap relates to the existence of conflicts of interests in the Procurement Board. The Procurement Board has procuring responsibilities in accordance with section 41 of the Act and at the same time responsibilities to prepare regulations. This can result in a potential conflict of interest to the extent that the regulator is expected to intervene towards the enforcement of rules. With this combination of diverging responsibilities in the same institution, there is a risk that this institution must supervise itself without external accountability. Furthermore, there is no general provision regarding conflict of interest management.

Other gaps relate to the absence of assigned responsibilities for:

- monitoring of public procurement and gathering procurement information,
- statistical data and procurement reports,
- the development of initiatives to improve public procurement,
- providing tools and documents,
- training and professionalization of the procurement function,
- the development of an information and analysis system for procurement, including e-Procurement tools.

These gaps are classified as high risk and a red flag is assigned to this indicator based on the above findings.

### **Recommendations**

The first and most important recommendation is to enact and enforce the 2011 Procurement and Contract Administration Act and its provisions and review its existing gaps. The government of Antigua and Barbuda could assess the need to separate the operative from the regulatory functions of the Procurement Board, in order to reduce conflicts of interest. The second recommendation is to clearly designate a responsible entity in charge of developing the functions that are not currently covered by the Procurement Board. A careful evaluation could be undertaken to determine the appropriate institution for this task; one alternative could be to assign regulatory tasks to the ministry, while assigning operative tasks to the board.

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

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

Some provisions with regards to the responsibilities and rights of different entities in the public procurement processes exist, but many aspects remain unclear. A central procurement function does exist; however, limited consolidation and aggregation is conducted.

### **Findings**

The legal and regulatory framework in place (Tenders Board Act) does not contain clear provisions on the entities that can conduct procurement activities and applicable procedures. The Procurement and Contract Administration Act clearly defines the responsibilities and powers of the Procurement Board and



the Chief Procurement Officer. No thresholds are defined within the existing legislative framework that must be considered in order to determine which institution is responsible for the particular procurement case.

Under the Procurement and Contract Administration Act there is a central procurement function in the Procurement Board, which conducts centralised solicitation, not necessarily centralised procurement. This is done in the framework provided through the definition of solicitation set forth in the Procurement and Administration Act of 2011 and the possibilities that centralised procurement/framework agreements offer. The Department of Public Works has responsibilities related to inventory and minimizing costs of goods (section 12 of the 2011 Procurement and Contract Administration Act). These authorisations may be the origin of the department's activity as *de facto* central purchasing unit procuring office supplies, tires and cleaning products.

### **Substantive gaps**

Assessors identified substantive gaps in (i) the lack of clarity of the responsibilities of the procuring entities and the absence of procurement procedures; (ii) the absence of a centralised procurement body; and (iii) the absence of a clear accountability regime for the Procurement Board.

Visibility about the number, characteristics and needs of entities across the government that procure is central for planning adequate public procurement strategies and can ultimately ensure more efficient and effective public procurement. In addition, procurement officers, bidders and suppliers need to know the level of authority and the responsibilities of each one of the officers working in a procurement process, as well as know the procedures to be applied. Lack of clarity might result in legal uncertainty and may be the origin of misinterpretation and corruption. Centralised procurement may enhance efficiency and effectiveness in the system, reducing time invested in the procurement process, standardising government acquisitions, among others. Finally, an accountability system is key to generate confidence in the procurement system. Therefore, while these gaps were classified as medium risk, a red flag was assigned to this indicator.

### **Recommendations**

As with previous indicators, Antigua and Barbuda could address several gaps by enacting and enforcing the 2011 Procurement and Contract Administration Act, to ensure that all the responsibilities, processes and authorisations specified in this act are actually implemented. Several additional provisions could be included into the act to clarify which institutions are the procuring entities, their responsibilities, competencies and functions. Amendments to the regulation could also define an accountability policy for procuring entities, especially the Procurement Board.

In addition, Antigua and Barbuda could evaluate the possibility to institutionalise a centralised system for those goods, works and services that are easy to standardise and are procured repeatedly by several procuring entities. This will require defining a policy on this type of procedures, as well as the institutional requirements.



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

Substantive gaps were identified in this indicator. There is no information system or information policy in Antigua and Barbuda, requirements to gather information and data are limited to retaining some information, and there are not obligations related to develop and maintain an information system.

### Findings

There is no information system developed for procurement. Regulations include the obligation to publish some documents of the procurement process, but there is no policy to develop an information system. As a consequence, information about procurement processes remains very limited. The public procurement cycle is not completely covered.

E-Procurement and data analysis are not in place. There are some plans to develop e-Procurement tools, but none of them are currently implemented. Regarding data or information analysis, the legal framework includes an obligation to gather some data about procurement processes, but does not define clear procedures to analyse this information.

### Substantive gaps

Substantive gaps relate to the absence of technology to support an information system of public procurement, as well as the absence of an institution that has the assigned responsibility for:

- developing the information system,
- promoting and developing e-Procurement tools
- gathering, managing and using procurement data to improve the performance of the procurement system.

All of these findings represent major gaps that are an obstacle to achieving basic public procurement objectives; therefore, they were classified as high risk and a red flag is assigned to this indicator.

### Recommendations

Antigua and Barbuda could define a responsible entity to plan the development of a comprehensive information system for the procurement process. This could include the development of an open procurement policy to gather and use information of procurement procedures. In addition, such efforts could include the development of e-procurement tools and the definition of a strategy to analyse and use procurement data.

## 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. It evaluates the existence of strategies and programs for development and the professionalization of public procurement. The indicator is divided in three sub-indicators.



## Findings

Antigua and Barbuda does not meet the three sub-indicators due to a lack of structured training programmes, performance monitoring systems and because it does not recognise procurement as a profession.

### Substantive gaps

Major gaps were identified in this indicator, relating to the absence of a system to support the professionalization of procurement activities. There is no comprehensive training and evaluation procedure for procurement officers. No other support systems are developed. Another gap is the absence of procedures to use monitoring of the procurement system as a mean to develop the system itself.

There are no extensive training and evaluation procedures for procurement officers. The existing training events are not organised as part of a professionalization program and are not part of the development of procurement officers. The lack of training programs and support for the professionalization of the procurement function is a substantive gap. The gap related to professionalization of the procurement function means that there are no specific provisions to recognise procurement as a function requiring special training and evaluation.

In order to maximise the performance of procurers, it is vital to offer opportunities to develop their skills and knowledge related to public procurement. Targeted training is essential for developing the capacity of procurers. In addition, support services that provide guidance can complement training efforts on an ad hoc basis and commensurate to the concrete needs in the management of a public procurement process.

Another gap is the absence of procedures to monitor the procurement system. The existence of indicators of the public procurement system allows understanding how the system is working and to design and undertake initiatives to comply with the objectives of the system when it has not achieved. In order to apply capacity-building efforts as well as any policy changes with the best possible results, it is necessary to gather and analyse information about the performance of the system, which is why it is important to adopt a monitoring system.

These gaps represent substantial obstacles that might jeopardise the achievement of basic public procurement objectives. Therefore, they are classified as high risk and a red flag is assigned to this indicator.

### Recommendations

The main recommendation to the Government of Antigua and Barbuda is to design a procurement information system and establish indicators to monitor it. Monitoring could be used to drive the improvement of the system. Any activities could be linked closely to the creation of an information system and e-procurement system as outlined in indicator 7. As a first step, the main needs in the area of monitoring and training could be assessed, in order to prioritise most important tasks based on a realistic and accurate understanding of the situation. In implementing the information system, the government can set phases and assign responsibilities to different institutions to start intervening in specific areas of concern.



The Ministry of Finance could work with the states in the region to organize a professionalization programme for the procurement function. These efforts could build on the country's recent experience when assigning procurement officials to remotely join training The Caribbean Procurement Training and Consultancy Centre (CPTCC) in Jamaica. This training is accredited with the Chartered Institute of Purchasing and Supply (CIPs). Other procurers from the OECS participated in the training. By tackling such a challenge together, the different governments can learn from the good practices of their "neighbours", and also reap financial benefits by consolidating demand and access to training services.

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

This Pillar looks at 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.

Most of the procurement processes in Antigua and Barbuda are being conducted through non-competitive methods by seeking waivers for the obligation to conduct a competitive tender, with limited justification. Public information is scarce. Most documents are confidential. This has resulted in limited participation from external stakeholders. Procurement is carried out under a paper-based system and the Tenders Board does not have all the documents that make up the record of the process. Contracts and amendments are handled directly by the procuring entities. Finally, no procurement strategies have been developed for the most important sectors in the public procurement system.

The largest constraint for suppliers to participate in the public procurement market is the serious delay in payments. In addition, there are no fora for dialogue with the private sector, nor training programmes in place for suppliers. Although the Tenders Board has approved a register of previous suppliers, it is not fully implemented or used.

#### 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.

There are severe risks that Antigua is not achieving the objectives it seeks through public procurement. Red flags are raised for the widespread use of waivers to tender without a clear process of authorisation, and the serious delay in payments to suppliers.

#### Findings

A small sample of tender documents was provided during the fact-finding mission, including selective tenders (civil registry and cabinet dashboard), waivers of tender (construction of a pond and acquisition of conveyor belts for crushers), and public tendering (computers for board of education). The assessors



also had access to files for a process with prequalification of suppliers for road rehabilitation under CDB rules.

At the beginning of a procedure, the Tenders Board either grants authorization to waive a competitive tender or sends specifications to start the solicitation process to the requiring entity. In competitive processes, the Tenders Board carries out the invitation, drafts of tender documents, receives bids in a tender box and opens the bids. An evaluation committee is established in the procuring entity, which produces an evaluation report and submits it to the Tenders Board, which awards the process. Contract negotiation, signature, implementation, inspection and payment are the responsibility of the procuring entity. Statutory bodies are bound to the Tenders Board Act, but in practice follow their own procedures, with only ad hoc submissions to the Tenders Board.

Even though it is not established in legislation, procuring entities are acquiring certain common items such as office supplies, tires and cleaning products through the Ministry of Public Works which is a *de facto* central purchasing unit for these goods. The Ministry of Public Works conducts a bulk purchase process, stores the product in its inventory and then sends it to the requiring entities, which in turn pass the corresponding budget to the Ministry of Public Works. Although the interviewed procuring entities admit that this process is easier, they state that they still do burdensome paperwork related to this procurement. Inventory costs and corresponding risks are allocated entirely to the government.

Some of the pharmaceuticals needed are procured centrally via the framework created by the OECS. Other pharmaceuticals are bought locally from suppliers that represent foreign companies in Antigua and Barbuda.

Several procurement methods are specified in the legal and regulatory framework. Out of the options, most processes are conducted as waivers to tender. According to stakeholders, there is some subjectivity in granting waivers; often, the correct sequence is not adhered to, resulting in direct contracting before the waiver has been received or a change to the procurement method during the procurement process. Overall, the frequent use of non-competitive procurement procedures is problematic as it has a negative impact on the efficiency, effectiveness and fairness of procurement procedures, increasing opportunities for corruption.

Three procedures are available for competitive processes: 1) through selective tendering, 2) through open tendering, or 3) using the regulation of external donors or development banks. Pre-qualification is only used in the latter, such as the process for a road rehabilitation process procured using CDB funds. There are a limited number of public tenders.

Standardisation is not the norm for all procurement. The tender documents analysed share in general a common table of contents, but no common elements were found otherwise. The documents analysed contain clear procedures and times for bid submission, receipt and opening, but these do not comply with international best practice. Requirements, eligibility criteria and contracting clauses are not included.

Evaluation criteria go beyond cost, and include many aspects of the proposal, which are described in the tender documents. Nevertheless, the encountered descriptions are broad. There is no information included that details how exactly the bids will be evaluated, such as by means of formulae. This adds subjectivity.



The reviewed documents did not include any sustainability criteria, nor incentives for exceeding defined performance levels. No disincentives for poor performance currently used in the country.

Awards of the processes were not disclosed.

After the Tenders Board takes an award decision, procuring entities sign and implement contracts. The Tenders Board has no information about contracts. In the sample provided, there are extensive delays from the date of award to the date of signature, as clauses must be agreed after bids are submitted. This occurs because there is no information about the contract included in the tender documents, which gives rise to controversy once the contract is awarded. Persons interviewed said there is limited contract oversight and few inspections. This process does not follow standard procedures, which makes it difficult for suppliers to know how their contract will be managed.

Procurement is carried out in paper and files are not complete nor easily accessible; no statistics are available. None of the processes analysed had complete information in the file.

Suppliers complained about serious delays in the payment of obligations acquired by the procuring entities. One supplier said he had invoices outstanding for more than five years. This is creating cost overruns that may exceed 100% as described by the persons interviewed. Such large overruns are clearly impacting government finances, as well as small businesses with limited cash flow. Additional complaints relate to a lack of contract planning that impacts negatively the timeliness for contract amendments.

Although there are no legal or regulatory barriers to involvement of relevant stakeholders during the procurement process, there is practically no engagement of civil society.

### **Substantive gaps**

There is a substantive gap with regards to market research. There is no evidence of market analysis being undertaken for the optimal identification of procurement strategies. This is valid for all the procurement methods, including the requests for waivers of tenders.

The use of public tendering is not widespread. There is a substantive gap in choosing, documenting and justifying the procurement method, especially regarding the waivers to tender, as most processes are being carried out in a non-competitive way. A clear and objective process for authorising waivers is not being followed, bringing uncertainty to the stakeholders involved. This represents a major hurdle to the achievement of basic public procurement objectives, and thus constitutes a red flag.

The requirements needed for suppliers to be eligible to sell goods and services to the government could be better explained. Not doing so creates a high risk of selecting the incorrect supplier, and not obtaining the desired outcomes of the contract. In restricted and non-competitive procedures, the description of the desired outcome is very limited. This means that suppliers found it difficult to provide correct proposals. The Tenders Board might face challenges to come to an objective decision regarding the authorisation of waivers to tender. No sustainability clauses nor incentives for exceeding defined performance levels and disincentives for poor performance are used. Finally, contract clauses are not included in the tender documents, creating delays in the implementation, as these clauses are negotiated after the award of the contract.



There is also room for improvement in the specification of evaluation criteria, which currently creates space for subjectivity and is not sufficiently clear for bidders to understand how the evaluators come to a decision.

Public bid openings are not always used. The Tenders Board has begun to inform participating bidders of bidder names and corresponding prices via letter. Persons outside of the Tenders Board are not allowed to monitor bid submission, receipt and opening. Because of this lack of third-party oversight over the activities of the Tenders Board, there is no evidence that confidentiality is being ensured. Furthermore, in some cases, individuals from the private sector are appointed as members of the evaluation committees, which raises additional concerns related to confidentiality and potential conflicts of interest.

As many of the documents and decisions are confidential, there is no space for adequate oversight. Furthermore, according to stakeholder interviews, decisions from the evaluation committees or the Tenders Board were not always perceived as objective. This is emphasised by the fact that there are no guidelines to establish when a tender could be waived or how to correctly evaluate a tender. In addition, there is no evidence that contract awards are now being disclosed for public tenders in the Tenders Board website. Contract awards remain unannounced for other procurement methods, limiting the possibility of suppliers to complain and citizens to monitor contract delivery.

Contract supervision does not follow best practices of standardisation and control.

There is a substantive gap related to the timeliness of payments because of challenges in government cash flow, a lack of expedited invoice review and payment procedures. These issues are of concern because they hinder the participation of interested suppliers, cause higher prices and cost overruns for government and create cash flow issues to suppliers. Assessors raise a red flag for these gaps and they are classified as high risk.

Information to calculate quantitative indicators was not provided to the assessors, nor samples of contracts. No procurement statistics are in place, and decisions to modify regulation or procedures are not based on data. Procurement processes are carried out in a paper-based system. Files are not complete nor easily accessible. There is no record of the planning or contract implementation stages. None of the processes analysed had complete information on file, and the bids were not included in the file.

## **Recommendations**

Antigua and Barbuda could strengthen the overall performance of the public procurement processes. This could entail clarification of rules, but also measures to build the capacity of the procuring entities. A main objective could be to increase competition and use open tenders as the default method, while resorting to waivers only in well-justified cases. Standard documents, including standard contracting conditions, as well as manuals and other guidance could be developed to support procurers and suppliers during the procurement process. Tools could also address waivers, for example by structuring the requests and justification process through standard documents and manuals. In addition, these guidelines and capacity building efforts could include the contract management stage.

Multi-stage procedures could be used in complex procurements regardless of the origin of funds, to ensure that only qualified and eligible participants are included in the competitive process. This would save time in the selection process and limit the risk of ineligible suppliers bidding and potentially being awarded contracts. A pilot using one process could provide valuable insights to the Tenders Board.



Suitable framework agreements could be set up, as the need for them has been identified and the procuring entities are used already to acquiring certain goods from the Ministry of Public Works. In these agreements, the costs and risks of inventory could be left to the suppliers, which have the expertise to handle them. Goods could be purchased via purchase orders to a set of established suppliers.

To ensure that procedures are followed correctly, citizens and suppliers could be allowed to participate at milestones such as the opening of the bids for any competitive process. Transparency could be increased by disclosing awards and any other documents, for example. During the evaluation process, only public officials could be allowed to evaluate, with private consultants called for specific tasks. The government might wish to appropriately vet consultants before hiring them. Confidentiality and codes of conduct forms could be enforced with these persons from the private sector.

Implementing an e-Procurement system like the CARICOM's Public Procurement Notice Board would be preferred; in fact, Antigua and Barbuda can draw on a country page under this system. An even more basic, first step could be to use electronic files where possible. This would facilitate sharing information between different institutions in the public procurement system in a practical way. Such an approach could enable initial information gathering and create insights that can be used for procurement planning and reforms.

## 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, the kind of goods or services being demanded, etc.

Antigua and Barbuda's public procurement market is not fully functional. Assessors raise a red flag due to the serious delay in payments to suppliers. Other gaps identified include the lack of dialogue mechanisms with the private sector and the absence of sector strategies.

### Findings

There is no regular dialogue mechanism in place through associations or other means. The 2011 Procurement and Contract Administration Act was drafted without consultation from the private sector.

Some suppliers, especially SMEs, lack skills to provide complete responses to tender documents, especially to the most complex ones. Even in simple procurement, government officials refer to receiving bids with poor documentation and unclear answers. Although this is the case, no training programmes are available for building the capacity of suppliers and improving their skills to prepare them to participate in the public market. The Tenders Board refers to a lack of resources available to provide this kind of training. To correct this situation, the Tenders Board is planning to publish a roster of private experts available for suppliers to support their bidding process.

While a suppliers' register has recently been approved, such a register remains to be implemented and the Tenders Board does not keep a formal register of suppliers. Some initiatives to gather information on suppliers exist, but without any requirements as to how suppliers qualify for being included.



There is some degree of supplier organisation. Groups such as the Employers Federation and the Chamber of Commerce are present in-country and represent the interests of the private sector. Not all its members are willing to bid for business opportunities with the government. In fact, a considerable number of them are not willing to participate at all because of payment delays.

To tackle payment delays, the Ministry of Finance has established a new cash management team responsible for establishing priorities to pay with the available cash flow. However, priorities are not handled on a “first come, first served”-basis and are not defined objectively. This uncertainty has led to overprices that can be as high as 100% above general market prices.

Other constraints identified are: the lack of access to financing, unfair contract clauses which are negotiated after the process is awarded, and lack of effective and trustworthy review and appeal mechanisms. Foreign suppliers are affected by the lack of general information online and in general outside of the country. In fact, the procurement process is being carried entirely on paper. While bids are allowed to be sent by e-mail, this practice is not encouraged: when sending bid documentation via email, according to tender documents, authorities can charge bidders USD 200 for printing the documents in order to be able to analyse them.

Government officials identified public works, IT and pharmaceuticals as three of the main sectors in the public procurement market. These have not been included in any policy document for developing targeted procurement strategies and understanding the risks and opportunities that they entail.

### **Substantive gaps**

The government is not encouraging open dialogue with the private sector about procurement reform. There are no established mechanisms for dialogue nor a consultation process, even for the most important reforms such as the new Procurement and Contract Administration Act. Involving the private sector in shaping public procurement reform can help ensuring that the resulting, updated legal and regulatory framework does not provide undue hurdles towards participation of interested suppliers or create unfair advantages or disadvantages for certain groups.

There are no programmes to build capacity among private companies to help them participate in the public procurement market. No programmes are envisaged, as there is no clarity of available budget or the entity responsible for conducting that training. The idea of having a roster of private experts for suppliers could help bridge some of the gaps. However, available budgets and possible conflicts of interest need to be analysed before it is implemented.

There is no registry of suppliers. A form for registration has been developed but it is not yet enforced. The government has no clarity if it could be applied within the current legislation.

Many suppliers are not willing to participate in the public procurement market because of the above-mentioned constraints, including serious payment delays. Other constraints identified are the lack of the following: access to financing; fair contract clauses; effective and trustworthy review and appeal mechanisms; and lack of training and guidelines for suppliers, especially for SMEs.

A substantive gap persists because important sectors such as public works, IT and pharmaceuticals have not been included in any proper document for developing targeted procurement strategies, assessing risks and opportunities.



Taking these challenges together, these gaps are classified as high risk and a red flag is suggested to be assigned for this indicator, as the public procurement market does not seem functional, which represents a major obstacle to achieving public procurement objectives and because it cannot be mitigated directly or indirectly. An open dialogue would enable the government to better understand the effects of their actions on an important participant in public procurement, and allow the government to react accordingly.

### **Recommendations**

The most important aspect to be tackled relates to the serious delays in payments. Aside from efforts to better integrate the public finance management system with the public procurements system as outlined in indicator 4, it is recommended to further streamline the management of payments and budget appropriation.

A second major recommendation is to expand the engagement of suppliers. A structured mechanism for dialogue can provide support in tackling several of the issues outlined above, such as identification of constraints in participating in the public procurement market, exchange of feedback on public procurement rules and processes, and to communicate procurement opportunities. This can be the first step to increasing bidders' ability to respond to tenders, where training is not feasible due to budget constraints. In engaging suppliers, great care should be taken to conduct any exchange in an open and transparent way, i.e. allowing participation from all interested parties, communicating the possibility for exchange as widely as possible and communicating any results as widely as possible. This measure is important to counteract opportunities for corruption.

The approach to a supplier register could be reconsidered. First, the objectives for the public institutions could be defined, as well as the advantages for suppliers. On the basis of these considerations, the registration mechanism could be designed and embedded into a communication strategy. Finally, risks and opportunities for the identified sectors could be assessed and documented, to improve how procurement for these goods and services is being carried out.

## **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 takes aspects of the procurement system and governance environment to ensure they are defined and structured to contribute to integrity and transparency.

Stakeholder participation in public procurement is largely absent in Antigua and Barbuda, due to legal constraints and a lack of transparency of procurement information.

Antigua and Barbuda has an audit framework in place, but it has substantive gaps with regards to regular implementation. There is no mechanism or provision related to internal control.



While there is a mechanism for challenges and appeals, there is no administrative complaints procedure in place. The new Procurement and Contract Administration Act includes the possibility of a person to file a complaint related to the award of a contract or the procurement process to the Ombudsman.

In relation to anti-corruption measures, Antigua and Barbuda has adopted a legal and regulatory framework and institutions.

Considerable gaps remain, including of reporting on allegations of prohibited practices. There is no debarment procedure and suppliers are being excluded from the public procurement system at the discretion of procuring officers. Finally, there are no mechanisms to detect and prevent corruption in procurement, no civil society organisations carrying out contract monitoring and social audit, and no secure and confidential channels for reporting prohibited practices or unethical behaviour.

### 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 to 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: *i)* disclosure of information and *ii)* direct engagement of civil society through participation, monitoring and oversight.

Gaps were identified for this indicator because there are no formal dialogue mechanisms between government and civil society; and procurement documents are confidential.

#### Findings

Civil society is not involved in the public procurement reform process. For the drafting of the Procurement and Contract Administration Act, no consultation was carried out by the government with citizens. In addition, there are no programmes in place to build capacity of stakeholders to understand, monitor and improve public procurement.

Planning, selection and contract data remain confidential. Award information with the name of the supplier and bid price is only available for the few public tenders done, and this practice was begun only some years ago. Nevertheless, the assessors could not review historical award data in the Tenders Board's website. No information of award is disclosed for other procurement methods. The only document that is public and free for consultation is the invitation published in the newspaper and on the Tenders Board's website.

There are no specific references in legislation or regulation about citizen participation. Although there are no prohibitions, participation is not encouraged in any stage of the procurement cycle. Section 30.1.a. of the Tenders Board Act allows for the consultation with persons from the public at the tender, award and contract stages. However, these consultations are conducted only at the Board's discretion, and with certain individuals chosen by the Board. Furthermore, as Board business and documents are considered confidential (Section 31), observation by general citizens or external stakeholders is not possible. The new Procurement and Contract Administration Act does not include any provisions on this matter.



## **Substantive gaps**

There is no civil society involvement in public procurement reform process and no programmes are in place to change that situation or to build capacity of stakeholders to understand, monitor and improve public procurement.

General confidentiality of procurement documents as established in the Tenders Board Act, along with actual practices make it impossible for stakeholders to have adequate and timely access to information. The only documents published on the Tenders Board website are the invitation to tender and the award, but they are not kept as historical data available to all.

The Tenders Board Act has no provision allowing citizen participation. Consultation with persons from the public are allowed at the tender, award and contract stages, but only at the Tenders Board's discretion, and only to certain individuals chosen by the Board.

There is no evidence of direct participation from citizens in consultation, observation and monitoring.

Increasing the transparency of public procurement and encouraging participation of the public can have beneficial results for the effectiveness and efficiency of public procurement. Involving citizens in the public procurement cycle can ensure a closer alignment with needs. Overall, trust in public institutions is strengthened through increased transparency. These identified gaps therefore result in a classification of medium risk.

## **Recommendations**

As for indicator 10, the government could consider creating spaces for discussion with citizens, especially at the planning stage when opening bids and during contract implementation. For this, training could be provided, or at least guidelines could be created to build capacities among citizens and explain in a clear language provisions and procedures related to public procurement.

In addition, legal reforms could be considered, as neither the current act nor the new Procurement and Contract Administration Act provide for the possibility of citizen engagement and for open contracting. Confidentiality could be kept only at certain instances of the process, but general documents and milestones could be disclosed to enable stakeholder participation.

## **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 the purpose of this indicator, "effectiveness" means the expediency and thoroughness of the implementation of auditors' recommendations. The assessors could rely, in addition to their own findings, on the most recent public expenditure and financial accountability assessments (PEFA) and other analyses that may be available.

Antigua and Barbuda has audit systems but they have significant weaknesses. Gaps were identified for all sub-indicators. The assessors raise red flags because the Public Accounts Committee is not meeting regularly, and the audit office does not have the capacity to undertake all required audits.

## **Findings**



The legal framework establishes external control through the Director of Audit; provisions for internal control are missing. According to stakeholders, the audits that are conducted do not relate to procurement; no written procedures for conducting procurement audits exist.

When performed, these audits only include compliance checks. No considerations about the effectiveness or efficiency of procurement operations are reviewed. The auditors have sometimes found prices to be higher than normal. However, as the procedure follows the general rules and includes the authorization and sign-off by the corresponding minister, there is no finding included in the report about the cost overrun.

Internal audits are programmed annually. Some ad hoc audits are carried out. This only applies to central government; statutory bodies are not included in the audit programme.

The Director of Audit reports yearly to Parliament and a Public Accounts Committee of Parliament is in place to review these audit reports. In practice, examination does not take place, because the Public Accounts Committee of the Parliament in charge of this activity is not active and does not meet regularly.

The PEFA 2015 report identifies weaknesses in the response and follow-up of external audits. These include legal ambiguity for the following: publication of audits, sending the audit reports of the audited entities, and formal follow-up of audit findings.

There is no evidence of internal control mechanisms in place, nor do any written procedures specify internal controls.

After the audit report is submitted to the auditee, no specific timeframe is given to respond and implement recommendations. Furthermore, there is no evidence that recommendations are implemented. No follow-up mechanisms are in place to determine whether the recommendations were carried out or not. In fact, the only moment when the findings and recommendations by auditors are revised, is during the next audit round.

The process for selecting auditors follows the general procedure for selecting public officials and is deemed to be fair and transparent.

There is no programme established to train auditors on a regular basis nor any specific emphasis is put on procurement in the few isolated training sessions conducted, except for the one conducted in 2016 by a consultant hired by the Commonwealth Secretary, and one conducted by the European Union in 2015.

The appointment of auditors to specific audits depends on their general expertise and the classification of risk of the institution to be audited. Entities are classified as low -, medium-, or high-risk institutions according to previous audits, number of procurement processes conducted and budget. More experienced auditors are appointed to the high-risk entities, but there is no consideration of procurement knowledge for appointing auditors. Procurement specialists have never been consulted while performing audits.

### **Substantive gaps**

There is a substantive gap related to internal control, as there is no mention of it in legislation or regulation. Furthermore, there is no evidence of internal control mechanisms in place, nor any written procedures for them.



Audits of the procurement function are not undertaken on a regular basis. When conducted, these only include compliance checks. No aspects related to the effectiveness or efficiency of procurement operations are reviewed. Thus, cost overruns are generally not flagged as findings.

The Public Accounts Committee is responsible for reviewing the audit reports from the Director of Audit. However, the committee is not meeting regularly and it is not issuing recommendations based on the reports. This substantial gap is classified as high risk and constitutes a red flag for the indicator. Many statutory bodies have not undergone an external audit recently.

There is no follow-up mechanism set in place to determine whether the recommendations of the audit reports were carried out. Whether the audit recommendations are implemented or not is subject to the review during the following audit round. There is no evidence that recommendations are responded to and implemented. No specific time frame is given to audited entities to act upon the recommendations issued. These gaps are classified as medium risk.

No information was given to the assessors to calculate the corresponding quantitative indicators.

The audit office is understaffed and does not have the capacity to carry out all needed audits, especially for statutory bodies. No written procedures exist for conducting procurement audits and there is no training programme established for auditors. While these gaps are classified as medium risk, understaffing constitutes a red flag as this issue lies outside the procurement sphere and cannot be mitigated directly or indirectly.

### **Recommendations**

It is suggested that Antigua and Barbuda adopt legal and / or regulatory provisions for internal audit. Guidelines could include compliance, efficiency and effectiveness risk assessments and controls, and could be accompanied by corresponding reviews from auditors to complete the control cycle. The experience of neighbouring countries and multilateral agencies would be very valuable to properly address these needs.

As has been mentioned in the PEFA report, it is necessary to reactivate the Public Accounts Committee so that follow-up of the reports of the Director of Audit are carried out. Attention could also be brought to statutory bodies, as they execute a large amount of resources and there is limited oversight of them.

The audit function could receive written procedures specifying the various aspects needed to review while performing an audit, including the actions that could be taken after the audit report is sent to the auditee, with a specific mention to timeframes for answering to and implementing the recommendations and follow-up mechanisms. Training on these procedures could be offered, following international best practices for auditing.

### **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.



Antigua and Barbuda does not have any current provisions for administrative procurement appeals. Red flags for this indicator are related to the lack of trust of suppliers with the administrative procedure established in the Procurement and Contract Administration Act, and the lack of timely remedies for procurement processes.

## **Findings**

The 2011 Procurement and Contract Administration Act, although not implemented, includes the possibility to file a complaint related to the award of a contract or the procurement process to the Ombudsman. The Ombudsman would be responsible for reviewing the complaint. There are no administrative appeals bodies foreseen in the 2011 Procurement and Contract Administration Act. In addition, challenges may be presented directly to the judiciary, namely to the Magistrates Court or High Court, depending on the value of the contract in question. The judiciary is not involved in any way in procurement decisions.

Further review is undertaken by the Court of Appeal of the Eastern Caribbean Supreme Court and the Judicial Committee of the Privy Council (JCPC) located in London. Both the Court of Appeal and the JCPC issue final, enforceable decisions.

According to the Tenders Board, there had not been any cases of litigation against central government related to procurement. The assessor identified one case of an appeal against a decision of a statutory body: *ANTIGUA POWER COMPANY LIMITED V. THE ATTORNEY GENERAL et al.* (HCVAP 2009/006).

The judicial process takes into account information relevant to the case, as presented first by the complainant and then by the parties involved, including the Attorney General. Decisions of the judiciary are rendered based on available evidence submitted by the parties. For the case of the statutory body, the Court of Appeal analysed the affidavit of one of the parts, among other evidences, as well as the JCPC.

The judicial process is not free. The fees are detailed in the rules and regulation, specific for each case.

The judicial procedure is clear and available, but it does not impose remedies. The decisions are binding for all parties and the court appears to be functioning and adequately staffed. The JCPC procedure appears balanced and unbiased.

In the case analysed (*ANTIGUA POWER COMPANY LIMITED V. THE ATTORNEY GENERAL*) one of the JCPC's reasons for admitting the appeal was the delay in the Court of Appeal (twenty-two months between the argument concluding in the Court of Appeal and the handing down of the judgment).

For cases under XCD 15,000 there are few written decisions. For cases that go to the Court of Appeal or the JCPC, the decisions are published online.

## **Substantive gaps**

There is no legal or regulatory provision currently establishing the procedure for administrative challenges and appeals. The 2011 Procurement and Contract Administration Act includes the possibility that a person file a complaint related to the award of a contract or the procurement process to the Ombudsman (Section 48). The Ombudsman would be responsible for reviewing the complaint. There is no procedure for appealing the decision of the Ombudsman.



Although they are not always satisfied with the decisions resulting from procurement processes, suppliers affirmed they do not complain in general because they are afraid of being blacklisted for future procurement. Furthermore, they do not have the necessary information available to review the evaluation and comment on it or other parts of the process. These aspects hinder the achievement of public procurement goals, because even if the Ombudsman complaints system was operating, suppliers would not trust this process; furthermore, although the 2011 Procurement and Contract Administration Act has been enacted but not yet enforced. As this cannot be mitigated directly nor indirectly, it is classified as high risk and assessors raise a red flag for this indicator.

The judicial process is not free; it does not impose remedies. From the single case analysed, a serious delay in the Court of Appeal is evident. This could significantly impede the main goals of public procurement and cannot be mitigated directly nor indirectly, and thus is classified as high risk and constitutes a red flag.

### **Recommendations**

Antigua and Barbuda could consider establishing legislation for administrative appeals. If the 2011 Procurement and Contract Administration Act is enforced, legal clarity could be established as to what happens if a decision of the Ombudsman is contested. Administrative appeals could be free. Procedures could be defined for the parties to be confident of how the case will be handled. These procedures could include the possibility of imposing remedies if necessary.

Recommendations from indicators 11 and 14, about opening up contract information and establishing a clear debarment procedure, would pave the way to build trust with the suppliers and allow them to complain if they need to, without the fear of being blacklisted for future procurement.

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

This indicator assesses *i)* the nature and scope of anti-corruption provisions in the procurement system and *ii)* 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.

Albeit with certain gaps, Antigua and Barbuda has several provisions enacted in legislation related to anti-corruption and prohibited practices. Several red flags are raised for this indicator including the operation and capacity of the Integrity Commission and Public Services Commission, the lack of civil society organisations to monitor procurement and the absence of secure mechanisms for reporting prohibited practices.

### **Findings**

Antigua and Barbuda's anti-corruption framework is established in the Constitution and in what is known as the Landmark Trilogy Act. This Act includes the Integrity in Public Life Act, the Prevention of Corruption Act and the Freedom of Information Act. It also establishes agencies such as the Office of the Director of Audit, the Integrity Commission, the Public Service Commission, the Office of the Director of Public Prosecutions and the Attorney General.



The Integrity Commission is responsible for enforcement of the legal framework, as well as for preventative and investigative aspects of the anti-corruption framework. The Office of the Director of Public Prosecutions is in charge of criminal prosecutions. The Office of the Attorney General Office is responsible for ensuring the legislative and administrative framework to control, combat and eradicate corruption. The Public Service Commission exercises disciplinary control over public officials and may remove them from duty.

Prohibited practices in procurement are defined and include bribery offenses. Penalties for public officials and private persons implied in offences described are included as well, including monetary fines, prison and exclusion from public service. In 2016, a consultant hired by the Commonwealth Secretariat created a draft procurement manual that develops explanations of prohibited practices and associated penalties.

A Code of Conduct is established as part of the Integrity in Public Life Act. However, this Act only applies to high-level officials and members of the Tenders Board, as included under its Schedule A. The fourth round MESICIC implementation report (2015) concludes that there is ambiguity in what is public disclosure. This disclosure would not be sufficient to address potential conflicts of interest.

The legal framework does not specify any instruction for incorporating provisions related to prohibited practices in the procurement documents. The tender documents reviewed by the assessors contained a standard clause on the topic. However, this clause leaves no action to be taken by suppliers and seems to be only of an informative nature. There is no evidence that this practice is widespread for all tender documents and contracts.

The proposed vendor registration form includes a clause stating that the company or its employees are not involved in illegal operations, and not be under investigation for any wrongdoing in Antigua and Barbuda and elsewhere. This clause is very broad in its scope as it relates to investigation and not actual punishment.

Legal obligations in the various acts do not establish a responsibility for any of the public procurement institutions to report suspicious activity, but avenues for reporting are defined.

There is no evidence that procuring entities are indeed reporting allegations of fraud or know the corresponding procedure. The answer shared by many of the interviewed persons is that in case of evidence of a prohibited practice related to procurement, they would inform the Financial Secretary. In addition, there is no evidence of a mechanism in place for identifying and mitigating corruption risks in the public procurement cycle, nor of special measures for the detection and prevention of corruption associated with procurement.

Disciplinary penalties are very few. The 2015 MESICIC report described that the Public Service Commission found some officials guilty of corruption acts, but they were not dismissed from duty, and were only asked to repay the stolen money and transferred to another institution.

There is lack of capacity of institutions such as the Integrity Commission which is understaffed and has not carried out investigations.

The Integrity in Public Life Act mandates persons in public life, including members of the Tenders Board, to disclose their financial information. This information is not disclosed for public scrutiny, which would in any case be difficult because it is provided on paper and not electronically. Other public officials that



may be involved in public procurement in the requiring entities are not obliged to these disclosure requirements.

### **Substantive gaps**

The Integrity in Public Life Act which regulates conflicts of interest only applies to members of the Tenders Board and other high-level government officials. Other public officials including those that may be involved in certain procurement processes are not included under the scope of this act.

The cooling-off period for former public officials is established in the law but the provision is ambiguous and not bound in time. Disclosure of such situation by the public officials involved does not address the conflict of interest. This is gap classified as a medium risk.

There is a substantive gap because the legislation does not include provisions on prohibited practices in procurement documents. This is not addressed either in the new Procurement and Contract Administration Act. Although the tender documents reviewed contain information about prohibited practices, there is no request for action from the suppliers, asking them to abstain from such practices or sign a related commitment. There is no evidence that this provision is used in other procurement methods or enforced in contracts. This gap is classified as a medium risk.

The legislation establishes the possibility for the reporting of corruption allegations but does not state any requirement or procedure for procuring entities to report allegations of fraud or other prohibited practices. There is no evidence that procuring entities are reporting any allegation of prohibited practices. In addition, there is uncertainty among public officials regarding the procedure to do so.

There is no debarment system in place. Underperforming suppliers are debarred *de facto* with no due process and are excluded from further invitations to selective tendering or direct procurement in a manner that is completely at the discretion of the procuring officer.

Although the country has in place an anti-corruption framework with legislation and institutions with a clear level of responsibility, capacity of institutions such as the Integrity Commission is limited. This was admitted in the local media by its members recently when asked about the investigation of a former minister linked with a corruption case related to public contracts, when they stated that they “acknowledged that it does not have the staff or the resources to mount the investigation”<sup>23</sup>. The Integrity Commission has not undertaken investigations or pressed charges against individuals since being established in 2006. This indicates a substantive gap in the enforcement of penalties to punish fraud, corruption and other prohibited practices. The Public Services Commission seldom enforces disciplinary penalties completely. These gaps have been classified as high risk and, as the issues described in this paragraph cannot be mitigated directly nor indirectly, assessors raise a red flag.

In line with the described gap concerning internal control mechanisms in Indicator 12, there is no evidence of a mechanism in place for identifying and mitigating corruption risks in the public procurement cycle nor of special measures for the detection and prevention of corruption associated with procurement. In addition, there are no statistics on corruption-related proceedings and convictions. Integrity training is not provided on a regular basis to the officials in charge of public procurement, increasing the risk of

---

<sup>23</sup> <https://barbadostoday.bb/2018/06/16/antigua-investigation-commission-wants-to-probe-activities-of-former-minister/>



prohibited practices. These gaps have been classified as high risk and, as they cannot be mitigated directly nor indirectly, assessors raise a red flag.

There is an absence of civil society organisations that exist in the country with a focus on exercising social and audit control. The country has not adopted measures to promote an environment for civil society monitoring of procurement. Thus, integrity in public procurement is currently not being shaped by civil society. In a similar fashion, there is no evidence of support for integrity and ethical behaviour from the private sector and the local suppliers interviewed do not have internal compliance measures in place. These issues have been classified as high risk and, as they cannot be mitigated directly nor indirectly, constitute a red flag.

No secure, accessible and confidential channels are in place for reporting prohibited practices or unethical behaviour. Most of the persons interviewed, whether or not part of the government, would report a corruption case to the corresponding Permanent Secretary, but the procedure to do so is not formally established. A guarantee of confidentiality does not exist. In addition, there are no provisions to protect whistle-blowers.

Procedures and statistics are not in place to follow up possible disclosures. These disclosures would remain in the hands of the Permanent Secretary and any further report to other authorities would remain at his discretion, thus not allowing for a proper follow-up. These issues have been classified as high risk and, as they cannot be mitigated directly nor indirectly, constitute a red flag.

The Code of Conduct does not apply to all public officials. Only high-level officials and members of the Tenders Board are included in the scope of the Schedule A of the Integrity in Public Life Act. This code remains unknown to many public officials. Financial disclosure is not mandatory for all public officials that may be involved in public procurement. The financial disclosure forms are not accessible nor used by decision makers to prevent corruption risks throughout the public procurement cycle. These gaps are classified as medium risk.

## **Recommendations**

Legal reforms would be necessary to improve many of the gaps identified. Some provisions may be enforced by the use of soft law mechanisms such as guidelines. Provisions concerning conflicts of interest, the code of conduct and financial disclosure could be expanded to cover all public officials involved in public procurement. A clear procedure could be established for managing these conflicts, including for officials who have disclosed them. Cooling-off periods could be better defined. Clear time limits could be set. Financial forms could be used for assessing risks in procurement and for this, guidelines could be set for decision makers on how to properly use this information.

Legislation (or guidelines) could also have explicit information about how to incorporate provisions about prohibited practices into procurement documents. In any case, even in the absence of such legislation, the standard tender documents described in the recommendations of indicator 9 could include appendixes for suppliers to confirm understanding and acceptance of provisions related to fraud, corruption and other prohibited practices.

Legislation, regulation or guidelines could include concrete information about what kind of prohibited practices public procurement officials might encounter, and how such activity would look in practice. A clear response procedure could be established, with actions, reporting lines and responsible stakeholders,



removing discretion from Permanent Secretaries. The country could create confidential channels for denouncing, and whistle-blower protection.

If the new Procurement and Contract Administration Act is enforced, some gaps could be addressed in the regulation that could follow. A debarment procedure could be set up with a high level of priority and could be followed by the Procurement Board. No supplier should be impeded from participation if it has not been debarred through this procedure, which should have objective reasons to do so, and means of complaining or appealing these decisions.

The guidelines recommended in the sections devoted to indicators 10 and 11 could include section advising how citizens may participate in shaping integrity in public procurement, by means of audit and monitoring; and how suppliers could also take part in supporting ethical behaviour, by implementing measures such as internal compliance mechanisms. The latter could be supported by the associations that already operate in the state and could be part of the open dialogue between the government and the private sector.

The treatment of other gaps would require some level of resource allocation, such as providing integrity training for public officials; solving the understaffing in the Integrity Commission; maintaining statistics about corruption-related proceedings and convictions.

## 4. Consolidated Recommendations

Pillar I				
Enforce the 2011 Procurement and Contract Administration Act.	Publish the entire legal framework.	Address the gaps identified in the 2011 Procurement and Contract Administration Act.		
Pillar II				
Harmonise the procurement rules to budget and expenditure regulations.	Review and update the Procurement Manual to make it a handbook with guidelines.			
Pillar III				
Use electronic files for procurement processes and disclose awards.	Increase the use of competitive procedures, waivers only in few, well-justified cases.	Streamline the management of payments and budget appropriation to reduce the delay in payments.	Engage suppliers in a dialogue with government and reconsider the approach of the supplier register.	Study the separation of operative and regulatory functions at the Procurement Board.
Pillar IV				
Raise awareness about basic	Draft internal control procedures.	Improve capacities of the Public	Regulate a debarment system	Train public officials on



aspects of procurement with the public.	Accounts Committee, Audit Office, Integrity Commission and Public Services Commission.	and enable remedies.	integrity topics and provide guidance.
---	--	----------------------	--

An important recommendation is to enforce the 2011 Procurement and Contract Administration Act. The enforcement of this act is central to addressing a number of gaps across the public procurement system, from missing legal and regulatory provisions to procedures and institutional arrangements that follow from the law. Efforts to implement the 2011 Procurement and Contract Administration Act could be accompanied by measures such as the creation of model procurement documents, standard contracts and clauses and a procurement manual. The procurement manual could be revised to match the latest rules and practices.

An important aspect to consider in implementing the 2011 Procurement and Contract Administration Act is the institutional environment in support of such implementation. The Ministry of Finance and the Procurement Board could use the regulatory powers entrusted to them towards implementation. At the same time, there is some need to clearly designate the responsible institution that is in charge of driving the reforms. One factor in mobilising political support is to communicate the importance and impact of public procurement for the wider public across the government and beyond.

Additional recommendations aim at improving the public procurement legal and regulatory framework, which is likely a task for the medium term. Legal and regulatory reforms are needed to include provisions on a number of detailed aspects of the public procurement processes.

Part of the continued reform of the legal and regulatory framework could be to a) align it with international obligations, and b) evaluate to what extent inclusion of sustainable public procurement would be beneficial for Antigua and Barbuda’s context.

Additional aspects of the legal reform include to adopt rules for audit procedures as well as administrative appeals procedures. This could also include a reactivation of the Public Accounts Committee.

Some institutional arrangements could be part of continued reform efforts as well, aiming at clarifying the responsibilities and authorisations of contracting authorities and other institutions involved in public procurement, and considering increased centralisation.

In order to solve cash flow problems, Antigua and Barbuda could make it a priority to define procedures to align the procurement rules to the budget and expenditure regulations. Supporting procedures could be created, such as an annual procurement plan and tools to report its execution. This is particularly important to ensure that suppliers are paid timely and continue to see benefit in engaging in business with the government.

Information technology could be an additional area of reform: it can support the reforms mentioned above and at the same time alleviate capacity constraints. Avenues for implementation of e-procurement



could be explored, notably in regional cooperation. Attention could be paid to the possibility of using information collected in this system to analyse procurement performance.

Aside from changes to the legal and institutional framework, it is recommended that Antigua and Barbuda take measures to improve the actual implementation, performance and practices in the public procurement system. Measures could include structured training and other measures to support procurers in conducting procurement processes (such as supporting documents, trainings, etc.) In addition, Antigua and Barbuda could evaluate to what extent it could be beneficial to centralise procurement tasks to allow a smaller number of public servants to specialise in procurement and increase their capacity that way, while the remainder of the officers can focus on their substantive work.

In general, it could be beneficial for Antigua and Barbuda to render public procurement more open. This could include several dimensions, such as the involvement of the public in procurement processes (participation) as well as the publication of procurement documents (transparency). Increased engagement could be beneficial with regards to supplier relationships, where the approach to a supplier register could be reconsidered. Increasing transparency can in turn increase effectiveness as well as trust. This increased transparency could cover the entire public procurement system and the entire public procurement cycle, including planning, bidding, contract management, audit and appeals.

Finally, a dedicated effort could be devoted to improving the integrity framework. Aspects of this effort touch upon the areas mentioned above: strengthening the legal and regulatory framework, developing practical guidance and providing training, increasing transparency by providing more procurement information. Specifically, Antigua and Barbuda could consider adopting a code of conduct and procedures for managing conflict of interest, mechanisms to report wrongdoing and a debarment procedure.

## 5. Information regarding Validation

---

The first draft of the report was shared with the assessment focal points in all five states in September 2018. A workshop, both individually with the countries and as a group, was held in September 2018 in Washington, DC, in the margins of the annual meeting of the Inter-American Network on Government Procurement. This workshop served to discuss findings in advance of the formal submission of written comments. A second draft, incorporating comments from the countries, was shared with the countries and the ITAG in late December 2018. The ITAG have thus far reviewed four of the assessments. Comments from the ITAG were received in January 2019 and incorporated in the draft for publication in March 2019. This draft was shared with the states again, and was accepted to be presented at stakeholder workshops in March 2019.

This assessment was conducted by a MAPS assessment team coordinated by the OECD with the leadership and support from the Ministry of Finance and Corporate Governance in Antigua and Barbuda, CDB, and academic procurement experts. From Antigua and Barbuda, the main focal point was Sean Cenac. At CDB, Douglas Fraser and Johanna Pelaez were tasked with overseeing the assessment. Public procurement experts Maria Margarita Zuleta and Nicolás Penagos conducted background research and compiled the assessment. Paulo Magina and Lena Diesing, from the OECD coordinated and finalised the overall assessment. In addition, various individuals in Antigua and Barbuda – members of the administration, civil



society, private sector and media were open and frank interview partners that made this assessment possible in the first place. A full list of interview partners is provided in the annex to this report.



## 6. Annex I: Source Documents

---

The detailed assessment results (i.e. at sub-indicator level using the provided Excel-Sheet) are available in the indicator matrix file.

The documents analysed for this assessment were:

- 1) Public Expenditure and Financial Accountability (PEFA) Performance Assessment 2015
- 2) Finance Administration Act 2006
- 3) Procurement and Contract Administration Act 2011
- 4) Tender Board Act 1991 and its 2002 Amendment
- 5) Tender Board Membership Act 2000
- 6) Integrity in Public Life Act 2004
- 7) Freedom of Information Act 2004
- 8) Prevention of Corruption Act 2004
- 9) Office of Director of Audit Act 2014
- 10) MESICIC 2015 report
- 11) Tender Guidelines Circular
- 12) Tender Threshold Circular
- 13) Tender Board Checklists and Formats
- 14) Documents drafted by the Commonwealth Secretariat consultant
- 15) Government of Antigua and Barbuda Medium Term Development Strategy 2015



## 7. Annex II: Interviewed Stakeholders

Type of institution	Name of Institution in the country	Name
<b>Institution in charge of the normative/regulatory function for public procurement</b>	Tenders Board, Ministry of Finance and Corporate Governance	Mr. Sean Cenac, Chairman Ms. Monique Benjamin, Secretariat, Tenders Board Mr. Whitfield Harris - Board Member Dr. Cleopatra Gittens - Board Member
<b>Selected number of procuring entities including state owned enterprises</b>	(a) Ministry of Works	Mr. Lucine Hanley, Director  Mr. Clarence Pilgrim, Permanent Secretary
	(b) Ministry of Information, Telecommunications, Broadcasting and Information Technology	Ms. Michele Michael Mr. Daryl Jackson
	(c) State Insurance Corporate (State Owned Enterprise) <i>State Insurance – Treasury Bldg Project</i>	Mr. Andre Knight - Dep. Gen. Manager
	(d) Medical Benefits Scheme (State Owned Enterprise) <i>Pharmaceutical Tenders 18-month cycle</i>	Mr. Andre Bovell Ms. Sandra Jonas
<b>Authorities responsible for budgeting and financial procedures</b>	Budget Office, Ministry of Finance and Corporate Governance	Mrs. Carolyn Charles-Tonge Gail Imhoff-Gordon, Financial
<b>Authorities in charge of internal and external controls and audits</b>	Financial Secretary Deputy Financial Secretary Deputy Director of Audit, Audit Department	Mr. Whitfield Harris Mrs. Rasona Davis-Crump Ms. Denise Hunte



	Internal Audit, Treasury Department	Dr. Cleopatra Gittens, Accountant General Mrs. Shireen Etinoff McAlmont
<b>Anti-corruption agencies</b>	Office of National Drug and Money Laundering Control Policy (ONDCP)	
<b>Public Service Commission</b>	Public Service Commission	
	Establishment Department	Ms. Bernadine James
<b>Representatives of private sector</b>	<b>Information Technology:</b>	
	<ul style="list-style-type: none"> <li>Antigua Computer Technology Ltd.</li> <li>Comnett Ltd.</li> <li>Massy Technologies InfoCom (Antigua) Ltd</li> </ul>	Mr. Solomon Doumith Mr. Gerard Shoul Mr. Akeele Ferris
	<b>Contractors:</b>	Ms. Sanka George
	<ul style="list-style-type: none"> <li>George &amp; George Construction</li> <li>Harrigan Building Construction</li> <li>CO Williams Construction</li> </ul>	
	<b>Auto Industry:</b>	
	Hadeed Motors Co. Ltd Harney Motors Caribbean Premium Motors Hazel's Garage	Mr. Robert Emmanuel Mr. Stephen Barnes Ms. Jeannette Bowery Mr. Hazelroy Barnes
	<b>Pharmaceutical Procurement:</b>	
	AS Brydens & Sons (ANU) Ltd.	Mrs. Eleisha Yetzer, Ms. Frances-Ann Minors
	<b>Interior Furnishings:</b>	
	Quality Electrical Sales and Services Mi Casa Imports Ltd	Mr. Eugene Benjamin Mr. Shane MacKay



<b>International development partners engaged in procurement in the country (if not already otherwise involved)</b>	<ul style="list-style-type: none"> <li>• Commonwealth Secretariat (technical assistance mission in 2016);</li> <li>• World Bank, short term technical assistance on review of Procurement and Administration Act in 2013;</li> <li>• Caribbean Development Bank/OECS Procurement initiative.</li> </ul>	
<b>Media</b>	Observer Media Group (print / radio)	Mrs. Caecilia Derrick
	Antigua and Barbuda Broadcasting Service (radio / television)	
<b>Non-governmental organisations</b>	Chamber of Commerce Employers Federation	Mr. Martin Cave Ms. Arlene Martin





## **Methodology for Assessing Procurement Systems (MAPS)**

### **Indicator Matrix**

### **Antigua and Barbuda**

July 2019

Final Revisions May 2022

**Presentation Notes:**

- Where the assessment criteria were met, the 'Potential red-flag?' column was left blank. Where the assessment criteria were not met, the 'Potential red-flag?' column was completed as 'Yes' or 'No'.
- In some cases where a criterion was met, there may still be room for improvement and recommendations provided.

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

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

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 criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Is adequately recorded and organised hierarchically (laws, decrees, regulations, procedures), and precedence is clearly established.	<b>Assessment criteria not met.</b>  The Tender Board Act was enacted in 1991 and amended in 2002. Further in 2011 the Procurement and Contract Management Act (the Procurement Act) was issued in 2011 to replace the Tenders Board Act. However, in accordance with the interviews held by the assessors with the procurement officers of Government of Antigua and Barbuda the Procurement Act has not been enacted.  The existence of two different frameworks does not provide a clear environment for public procurement processes, creating gaps in the organisation of the legal framework.		The applicable legal framework is not organised.	Yes	To implement the Procurement Act and evaluate the need to develop further regulations.
(b) It covers goods, works and services, including consulting services for all procurement using public funds.	<b>Assessment criteria met.</b>  The Tenders Board Act covers procurement of goods, works and services (see introduction of the Act).  The Procurement Act does cover procurement of goods, works and services as well (see definition of procurement in the act).				
(c) PPPs, including concessions, are regulated.	<b>Assessment criteria not met.</b>  There is no mention of PPP's and concessions.		There is no mention to PPP's and concessions.	Yes	To evaluate the need to regulate PPP's and concessions.
(d) Current laws, regulations and policies are published and easily accessible to the public at no cost	<b>Assessment criteria not met.</b>  Regulations are not easily available to the public at the web page.		Laws and regulations are neither clear nor available.	Yes	To clarify the applicable regulations and publish them in the same web portal.

1(b) Procurement methods

The legal framework meets the following conditions:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Procurement methods are established unambiguously at an appropriate hierarchical level, along with the associated conditions under which each method may be used.	<b>Assessment criteria not met.</b>  The Tenders Board Act contains one competitive method and waivers to tender (section 4 as amended).  The Procurement Act refers (sections 18 to 25) to 7 different procurement methods (i) competitive sealed bids; (ii) competitive sealed proposals; (iii) large emergency solicitations; (iv) large sole solicitations; (v) competitive quotations; (vi) small emergency solicitations; and (vii) small source solicitations. However, there are no provisions related with applicable thresholds to define the correspondent method.		The Tenders Board provides for limited methods of procurement, the regulation on sole solicitation is not clear enough and the waivers to tender do not have a clear procedure and justification.	Yes	To enforce the existing Procurement Act and evaluate the need to develop further regulations that allows the different procurement methods to be operative.
(b) The procurement methods prescribed include competitive and less competitive procurement procedures and provide an appropriate range of	<b>Assessment criteria not met.</b>  Only tenders and waiver to tenders are provided in the Tenders Board Act.		Procurement methods are not appropriately established.	Yes	To enforce the existing Procurement Act and evaluate the need to develop further regulations that allows the

options that ensure value for money, fairness, transparency, proportionality and integrity.	The methods established in the Procurement Act include a range of competitive and non-competitive options.				different procurement methods to be operative.
(c) Fractioning of contracts to limit competition is prohibited.	<b>Assessment criteria not met.</b> Section 6 of the Procurement Act specifically restricts artificially contracts division. However, the Procurement Act is not operative.		Since the Act is not being enforced, the restriction to contract fractioning is not applicable. Also, thresholds to use more competitive methods are no established, so there is no way to determine if a contract is fractioned.	Yes	To enforce the existing Procurement Act and evaluate the need to develop further regulations that allows the different procurement methods to be operative.
(d) Appropriate standards for competitive procedures are specified.	<b>Assessment criteria not met.</b> The Procurement Act does not restrict officer's discretion, there are no thresholds applicable for different procurement method, and regulations are not in place to define that.		There are no standards for competitive procedures defined in the legal framework.	Yes	To regulate the Procurement Act, restrict discretion of procurement officers and establish thresholds to define methods and procedures.

1(c) Advertising rules and time limits

The legal framework meets the following conditions:

Assessment criteria	Step 1: <b>Qualitative analysis</b> (comparison of actual situation vs. assessment criteria)	Step 2: <b>Quantitative analysis</b>	Step 3: <b>Gap analysis</b> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(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)).	<b>Assessment criteria not met.</b> The Tenders Board Act requires a publication in the Gazette (section 20(3)(a)) or an invitation addressed to bodies or persons selected by the Board, whenever the Board considers it.  Section 26 of the Procurement Act does include an obligation to publish procurement opportunities in at least one newspaper when the procurement method is a competitive sealed bids or a competitive sealed proposals and for the invitations to qualify. It is worth to note that when there is a prequalification, there is no publication because the Chief Procurement Officer shall give notice only to the applicants who are pre-qualified.		The obligation in place to publish documents and tender opportunities is not applicable for all opportunities.	Yes	To enforce the Procurement Act and its publication rules.
(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.	<b>Assessment criteria not met.</b> The Tenders Board Act does not specify the time for such publications.  Section 26 of the Procurement Act states that the notice in the newspaper shall be made for a reasonable period before the day and time for the close of bids or proposals or invitation to pre-qualify.		There is no a time set by the regulation to publish procurement opportunities.	Yes	To enforce the Procurement Act and regulate the timing for publications of procurement opportunities.
(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).	<b>Assessment criteria not met.</b> No. The Tenders Board Act requires a publication in the Gazette or an invitation addressed to bodies or persons selected by the Board, whenever the Board considers it.  The information regarding open tenders is not easy to find in the Gazette.		There is no an obligation to publish open tenders in newspapers or at a unique official web site.	Yes	To enforce the Procurement Act and regulate the minimum standards for open tender notices and publications.
(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.	<b>Assessment criteria not met.</b> The Tenders Board Act specifies the content that the notice shall have. The Procurement Act does not specify the contents of the notices.		The legal framework does not determine the minimum content of the notices inviting to participate in open tenders.	Yes	To enforce the Procurement Act and regulate the minimum standards for open tender notices and publications, as well as the content of such notices.

1(d) Rules on participation

The legal framework meets the following conditions:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) It establishes that participation of interested parties is fair and based on qualification and in accordance with rules on eligibility and exclusions.	<b>Assessment criteria not met.</b> There is no specific rule to define eligibility or exclusions.		The legal framework does not include guidance to determine inclusion or exclusion criteria. The Procurement Act, even if not enforced, does not define inclusions and exclusions.	Yes	To regulate principles and rules about eligibility and exclusions.
(b) It ensures that there are no barriers to participation in the public procurement market.	<b>Assessment criteria not met.</b> There is no specific rule to prevent or justify actions or requirements that may cause a barrier to participate.		The legal framework does not include guidance to prevent barriers to participate in procurement procedures. The Procurement Act, even if not enforced, does not define barrier restrictions.	Yes	To identify and regulate potential barriers.
(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.	<b>Assessment criteria not met.</b> There is no specific rule to define exclusions.		The legal framework does not include guidance to determine exclusion criteria. The procurement Act, even if not enforced, does not define exclusions.	Yes	To regulate principles and rules about eligibility and exclusions.
(d) It establishes rules for the participation of state-owned enterprises that promote fair competition.	<b>Assessment criteria not met.</b> There is no specific rule to define SOE participation.		There is no regulation for SOE	Yes	To evaluate the need to regulate SOE participation in procurement.
(e) It details the procedures that can be used to determine a bidder's eligibility and ability to perform a specific contract.	<b>Assessment criteria not met.</b> There is no specific rule to define bidders' eligibility.		The legal framework does not include guidance to determine bidders' eligibility. The Procurement Act, even if not enforced, does not define principles for that so it should be defined in the tender notice.	Yes	To regulate bidders eligibility criteria.

1(e) Procurement documentation and specifications

The legal framework meets the following conditions:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) 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>Assessment criteria not met.</b> There is no evidence that the enforced regulations include a minimum content rule. The not enforced Procurement Act does not include that either.		Procurement documents content is not regulated	Yes	To regulate the procurement documents minimum content.
(b) It requires the use of neutral specifications, citing international norms when possible, and provides for the use of functional specifications where appropriate.	<b>Assessment criteria not met.</b> There is no evidence that the enforced regulations include a rule on technical specifications. The not enforced Procurement Act does not include that either.		Procurement documents content is not regulated	Yes	To regulate the procurement documents minimum content and define rules on technical descriptions.
(c) It requires recognition of standards that are equivalent, when neutral specifications are not available.	<b>Assessment criteria not met.</b> There is no evidence that the enforced regulations include a rule on technical specifications. The not enforced Procurement Act does not include that either.		Procurement documents content is not regulated	Yes	To regulate the procurement documents minimum content and define rules on technical descriptions.
(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)	<b>Assessment criteria not met.</b> There is no mention to the right to request clarifications in the legal framework.		The right to request clarification is not clear	Yes	To enforce the Procurement Act and regulate the right to request clarification on the procurement documents.

1(f) Evaluation and award criteria

The legal framework mandates that:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations

(a) 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,	<b>Assessment criteria not met.</b>  There is no evidence that the enforced regulations include objective evaluation criteria. The not enforced Procurement Act mandates the evaluation criteria to be defined in the procurement documents (section 30(2)), but does not includes rules relating objectivity or other applicable principles.		There are no enforced rules for objective evaluations of bidders.	Yes	To enforce the Procurement Act and regulate rules for bidders evaluation
(b) The use of price and non-price attributes and/or the consideration of life cycle cost is permitted as appropriate to ensure objective and value-for-money decisions.	<b>Assessment criteria not met.</b>  There is no evidence that the enforced regulations include non-price attributes. The not enforced Procurement Act does mention the importance of quality and capability in relation to price.		There is no value-for-money concept developed in the legal framework	Yes	To enforce the Procurement Act and develop the value-for-money concept within the regulation.
(c) Quality is a major consideration in evaluating proposals for consulting services, and clear procedures and methodologies for assessment of technical capacity are defined.	<b>Assessment criteria not met.</b>  There is no evidence that the enforced regulations include quality attributes. The not enforced Procurement Act does not include procedures and methodologies to assess quality and technical capacity and does not mandate for its inclusion in the procurement documents.		There are no procedures and methodologies to assess quality and technical capacity.	Yes	To develop procedures and methodologies to assess quality and technical capacity to evaluate proposals.
(d) The way evaluation criteria are combined and their relative weight determined should be clearly defined in the procurement documents.	<b>Assessment criteria not met.</b>  There is no evidence that the enforced regulations include obligations to define relative weight of evaluation criteria. The not enforced Procurement Act states that the procurement documents shall establish the quality, availability and capability in relation to price for purposes of evaluation.		There is no evidence that the enforced regulations include obligations to define relative weight of evaluation criteria. The not enforced Procurement Act states that the procurement documents shall establish the quality, availability and capability in relation to price for purposes of evaluation.	No	To enforce the Procurement Act.
(e) 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.	<b>Assessment criteria not met.</b>  There is no evidence that the enforced regulations include confidentiality obligations. The not enforced Act includes this obligation in section 18.		The confidentiality obligation is not clear	Yes	To enforce the Act.

1(g) Submission, receipt, and opening of tenders

The legal framework provides for the following provisions:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Opening of tenders in a defined and regulated proceeding, immediately following the closing date for bid submission.	<b>Assessment criteria met.</b>  The Tenders Board Act and the Procurement Act include provisions for opening of tenders.				To enforce the Procurement Act and evaluate the need to have further regulations.
(b) Records of proceedings for bid openings are retained and available for review.	<b>Assessment criteria not met.</b>  The Tenders Board Act does not contain provisions regarding records on the opening of tender box and offers. The not enforced Procurement Act does not include a policy on information treatment and retention of records.		There are no provisions related with retention of records on bid openings.	Yes	To enforce the Procurement Act and evaluate the need to have further regulations related with retention of records on bid openings.
(c) Security and confidentiality of bids is maintained prior to bid opening and until after the award of contracts.	<b>Assessment criteria not met.</b>  The Tenders Board Act neither the Procurement Act (not enforced) includes security and confidentiality rules for the bids.		There is no tender procedure adopted related with security and confidentiality of bids prior to opening.	Yes	To enforce the Procurement Act and evaluate the need to have further regulations related with security and confidentiality of bids prior to opening.
(d) The disclosure of specific sensitive information is prohibited, as regulated in the legal framework.	<b>Assessment criteria not met.</b>  The Tenders Board Act neither the Procurement Act (not enforced) includes a policy on specific sensitive information.		There are no provisions to handle sensitive information from bidders.	Yes	To enforce the Procurement Act and evaluate the need to have further regulations to handle sensitive information

MAPS assessment in: Antigua and Barbuda

Name/organisation: OECD

Date: July 2019

(e) The modality of submitting tenders and receipt by the government is well defined, to avoid unnecessary rejection of tenders.	<b>Assessment criteria not met.</b> The Tenders Board Act neither the Procurement Act (not enforced) includes a clear policy to avoid rejections.		The forms of submitting tenders and receipt by the government are not defined.	Yes	To enforce the Procurement Act and evaluate the need to have further regulations for submission of bids.
--	--	--	--	-----	--

1(h) Right to challenge and appeal

The legal framework provides for the following:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Participants in procurement proceedings have the right to challenge decisions or actions taken by the procuring entity.	<b>Assessment criteria not met.</b> The Tenders Board Act has no provision for challenges and appeals.  The not enforced Procurement Act refers to the Ombudsman Act of 1994 to receive complaints on a procurement procedure only after the contract is award. There is no other complaint system in the Procurement Act that allows participants to ask for revision of the decisions made by the procurement authorities.		There is no administrative procedure to be used in case of conflict before and during the procurement process. Since there is no rule in this matter it is not clear if the tendered have any kind of right or protection within the procurement entity.  The Ombudsman shall lead the complaint procedure for conflicts after the contract is award is not operating.	No	To enforce the Procurement Act and make the review system functional.
(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.	<b>Assessment criteria not met.</b> No. There is no complaint system in the legal framework that allows participants to ask for revision of the decisions made by the procurement authorities.		There is no administrative procedure to be used in case of conflict before and during the procurement process.  The procedure stated for complaints after the contract is awarded is not operating and in any event the scope of the decisions of the Ombudsman is not clearly established.	Yes	To develop some mechanism that allows the participants in a public procurement process to express conflicts or challenge decision of the procurement entity.
(c) Rules establish the matters that are subject to review.	<b>Assessment criteria not met.</b> No. There is no complaint system in the legal framework that allows participants to ask for revision of the decisions made by the procurement authorities		There is no administrative procedure to be used in case of conflict before and during the procurement process.  The procedure stated for complaints after the contract is awarded is not operating and in any event the scope of the decisions of the Ombudsman is not clearly established.	Yes	To develop some mechanism that allows the participants in a public procurement process to express conflicts or challenge decision of the procurement entity.
(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.	<b>Assessment criteria not met.</b> No. There is no complaint system in the legal framework that allows participants to ask for revision of the decisions made by the procurement authorities		There is no administrative procedure to be used in case of conflict before and during the procurement process.  The procedure stated for complaints after the contract is awarded is not operating and in any event the scope of the decisions of the Ombudsman is not clearly established.	Yes	To develop some mechanism that allows the participants in a public procurement process to express conflicts or challenge decision of the procurement entity.
(e) Applications for appeal and decisions are published in easily accessible places and within specified time frames, in line with legislation protecting sensitive information.	<b>Assessment criteria not met.</b> No. There is no complaint system in the legal framework that allows participants to ask for revision of the decisions made by the procurement authorities		There is no administrative procedure to be used in case of conflict before and during the procurement process.  The procedure stated for complaints after the contract is awarded is not operating and in any event the scope of the decisions of the Ombudsman is not clearly established.	Yes	To develop some mechanism that allows the participants in a public procurement process to express conflicts or challenge decision of the procurement entity.
(f) Decisions by the independent appeals body can be subject to higher-level review (judicial review).	<b>Assessment criteria not met.</b> There are no provisions regarding the judicial review of Ombudsman decisions.		There is no administrative procedure to be used in case of conflict before and during the procurement process.  There is no provision related with the possibility to challenge the decisions made by the Ombudsman.	Yes	To develop some mechanism that allows the participants in a public procurement process to express conflicts or challenge decision of the procurement entity.

1(i) Contract management

The legal framework provides for the following:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Functions for undertaking contract management are defined and responsibilities are clearly assigned,	<b>Assessment criteria not met.</b> There are no mentions with regards to contract management.		The legal framework does not include contract management provisions	Yes	To define rules and responsibilities for contract management.
(b) Conditions for contract amendments are defined, ensure economy and do not arbitrarily limit competition.	<b>Assessment criteria not met.</b> There are no rules on contract amendments.		The legal framework does not provide general criteria for amendments to contracts.	Yes	To enforce the Procurement Act and regulate contracts amendment.

(c) There are efficient and fair processes to resolve disputes promptly during the performance of the contract.	<b>Assessment criteria not met.</b> There are no rules to resolve disputes during the performance of the contract.		There is no dispute resolution process to be applied during the performance of the contract outside the courtroom. Therefore, the judicial system applies to resolve disputes.	Yes	To include in the regulation the option to use alternative dispute resolution methods to solve disputes arising from the performance of the contracts.
(d) The final outcome of a dispute resolution process is enforceable.	<b>Assessment criteria not met.</b> There are no rules to resolve disputes during the performance of the contract.		The mechanism to solve disputes shall include the level of enforceability of its decisions.	Yes	To include the level of enforceability of the outcome of the methods to solve disputes arising from the performance of the contracts.

1(j) Electronic Procurement (e-Procurement)

The legal framework provides for the following:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) The legal framework allows or mandates e-Procurement solutions covering the public procurement cycle, whether entirely or partially.	<b>Assessment criteria not met</b> There is no systems or mandates for the use of electronic tools in the procurement process.		There is no development in terms of usage of electronic tools to support the public procurement process.	Yes	To define a plan to use, where applicable, electronic tools to support public procurement.
(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.	<b>Assessment criteria not met</b> There is no systems or mandates for the use of electronic tools in the procurement process.		There is no development in terms of usage of electronic tools to support the public procurement process.	Yes	To define a plan to use, where applicable, electronic tools to support public procurement.
(c) The legal framework requires that interested parties be informed which parts of the processes will be managed electronically.	<b>Assessment criteria not met</b> There is no systems or mandates for the use of electronic tools in the procurement process.		There is no development in terms of usage of electronic tools to support the public procurement process.	Yes	To define a plan to use, where applicable, electronic tools to support public procurement.

1(k) Norms for safekeeping of records, documents and electronic data

The legal framework provides for the following:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(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.	<b>Assessment criteria not met.</b> There are no rules for the safekeeping and retention of information.		There is no developed policy and regulation on information treatment.	Yes	To evaluate the need of information use and retention and define a policy.
(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.	<b>Assessment criteria not met.</b> There are no rules for the safekeeping and retention of information.		There is no developed policy and regulation on information treatment.	Yes	To evaluate the need of information use and retention and define a policy.
(c) There are established security protocols to protect records (physical and/or electronic).	<b>Assessment criteria not met.</b> There are no rules for the safekeeping and retention of information.		There is no developed policy and regulation on information treatment.	Yes	To evaluate the need of information use and retention and define a policy.

1(l) Public procurement principles in specialized legislation

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

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(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.	<b>Assessment criteria not met.</b> The statutory bodies have their own regulation to procure. The not enforced Procurement Act is not clear on its application to the statutory bodies.		The legal framework does not cover statutory bodies.	Yes	To make enforceable the Procurement Act and regulate its application to the procurement of statutory bodies.
(b) Public procurement principles and/or laws apply to the selection and contracting of public private partnerships (PPP), including concessions as appropriate.	<b>Assessment criteria not met.</b> There is no policy for PPP's or concessions.		There is no policy for PPP's and concessions	Yes	To evaluate the need to develop a PPP's policy
(c) Responsibilities for developing policies and supporting the implementation of PPPs, including concessions, are clearly assigned.	<b>Assessment criteria not met.</b> There are not responsible entities to develop policy.		There is no responsible entity for policy development	Yes	To designate an entity responsible for policy development.

2. Implementing regulations and tools support the legal framework.

2(a) Implementing regulations to define processes and procedures

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) There are regulations that supplement and detail the provisions of the procurement law, and do not contradict the law.	<b>Assessment criteria not met</b> There are no regulations so it cannot contradict the acts.		There are no regulations.	Yes	To make the Procurement Act enforceable and define the convenience of issuing regulations.
(b) The regulations are clear, comprehensive and consolidated as a set of regulations readily available in a single accessible place.	<b>Assessment criteria not met</b> There are no regulations.		There are no regulations.	Yes	To make the Procurement Act enforceable and define the convenience of issuing regulations.
(c) Responsibility for maintenance of the regulations is clearly established, and the regulations are updated regularly.	<b>Assessment criteria not met</b> According to section 50 of the Procurement Act, the Finance Ministry is responsible for making regulations. However, there is no regular updating.		There are no regulations.	Yes	To make the Procurement Act enforceable and define the convenience of issuing regulations.

2(b) Model procurement documents for goods, works, and services

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(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.	<b>Assessment criteria not met.</b> There is no evidence of the existence of model documents under the Tenders Board Act. The Procurement and Contract Administration Act, despite not being enforced, does include a responsibility for the Chief Procurement Officer to develop standard solicitation documents (section 10).		There are no model procurement documents. There is no responsibility to develop model documents, contract clauses or standard conditions in place.	Yes	To make the Procurement Act enforceable, to regulate the mandatory use of the standard documents and to develop the standard contracts.
(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.	<b>Assessment criteria not met.</b> There is no evidence of the existence of model documents or clauses under the Tenders Board Act. The Procurement and Contract Administration Act, despite not being enforced, does include a responsibility for the Chief Procurement Officer to develop standard solicitation documents.		There is no responsibility to develop model documents, contract clauses or standard conditions in place.	Yes	To make the Procurement Act enforceable, to regulate the mandatory use of the standard documents and to develop the standard contracts.
(c) The documents are kept up to date, with responsibility for preparation and updating clearly assigned.	<b>Assessment criteria not met.</b> There is no evidence of the existence of model documents under the Tenders Board Act. The Procurement Act, despite not being enforced, does include a responsibility to develop it.		There is no responsibility to develop model documents, contract clauses or standard conditions in place.	Yes	To make the Procurement Act enforceable and to regulate the system to update the standard documents.

2 (c) Standard contract conditions

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) There are standard contract conditions for the most common types of contracts, and their use is mandatory.	<b>Assessment criteria not met</b> There is no evidence of the existence of standard contract conditions under the Tenders Board Act.  The Procurement Act, despite not being enforced, does include a responsibility for the Chief Procurement Officer to develop standard solicitation documents and we assume that the contract conditions are included therein.		There are no standard documents for the most common types of contracts and no mandate for its obligatory use.	Yes	To make the Procurement Act enforceable, to regulate the mandatory use of the standard documents and to develop the standard contracts.
(b) The content of the standard contract conditions is generally consistent with internationally accepted practice.	<b>Assessment criteria not met</b> There is no evidence of the existence of standard contract conditions under the Tenders Board Act.  The Procurement Act, despite not being enforced, does include a responsibility for the Chief Procurement Officer to develop standard solicitation documents and we assume that the standard contract conditions are included therein.		There are no standard contracts.	Yes	To make the Procurement Act enforceable, to regulate the mandatory use of the standard documents and to develop the standard contracts consistent with international practice.
(c) Standard contract conditions are an integral part of the procurement documents and made available to participants in procurement proceedings.	<b>Assessment criteria not met</b> There is no evidence of the existence of standard contract conditions under the Tenders Board Act.  The Procurement Act, despite not being enforced, does include a responsibility for the Chief Procurement Officer to develop standard solicitation documents and we assume that the standard contract conditions are an integral part thereof.		There are no standard contracts.	Yes	To make the Procurement Act enforceable, to regulate the mandatory use of the standard documents and to develop the standard contracts.

2 (d) User's guide or manual for procuring entities

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) There is (a) comprehensive procurement manual(s) detailing all procedures for the correct implementation of procurement regulations and laws.	<b>Assessment criteria not met</b> There is no evidence of the existence of a procurement manual under the Tenders Board Act.  The Procurement Act does not make specific reference to a procurement manual but it states the Chief Procurement Officer shall prepare tools to facilitate procurement process and bearing in mind so (section 10(1)(a)), officers from Antigua and Barbuda delivered a document called procurement manual to the assessors during the finding mission. However, the manual does not set guidelines, it does not solve frequently asked questions, but rather basically repeats what is stated in the Act.		The manual provided does not set guidelines or answer frequently asked questions, but repeats what is stated in the Act.	Yes	To make the Procurement Act enforceable.
(b) Responsibility for maintenance of the manual is clearly established, and the manual is updated regularly.	<b>Assessment criteria not met</b> There is no responsibility established in the Procurement Act related with updating the manual.		There is no responsibility established in the Procurement Act related to updating the manual.	Yes	To establish responsibility for updating the manual.

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

3(a) Sustainable Public Procurement (SPP)

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) The country has a policy/strategy in place to implement SPP in support of broader national policy objectives.	<b>Assessment criteria not met</b> There is no procurement policy that specifically addresses SPP guidelines.		There is no mention to a sustainability agenda in the public procurement legal framework.	Yes	To evaluate the need to include a SPP Policy in the legal framework, especially by identifying obligations derived from international instruments.
(b) The SPP implementation plan is based on an in-depth assessment; systems and tools are in place to	<b>Assessment criteria not met</b> No. Since there is no policy in this matter, no implementation plan is adopted.		There is no mention to a sustainability agenda in the public procurement legal framework.	Yes	To consider the need to develop and implementation plan in this matter as a first step to include

operationalise, facilitate and monitor the application of SPP.					the SPP agenda in the legal framework.
(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 cycle.	<b>Assessment criteria not met</b> The legal framework does not include provisions in this matter.		There is no mention to a sustainability agenda in the public procurement legal framework.	Yes	To evaluate the need to include a SPP Policy in the legal framework at all stages of the procurement process.
(d) The legal provisions require a well-balanced application of sustainability criteria to ensure value for money.	<b>Assessment criteria not met</b> The legal framework does not include provisions in this matter.		There is no mention to a sustainability agenda in the public procurement legal framework.	Yes	To evaluate the need to include a SPP Policy in the Legal Framework, especially by identifying obligations derived from international instruments.

3(b) Obligations deriving from international agreements

Public procurement-related obligations deriving from binding international agreements are:

Assessment criteria	Step 1: <b>Qualitative analysis</b> (comparison of actual situation vs. assessment criteria)	Step 2: <b>Quantitative analysis</b>	Step 3: <b>Gap analysis</b> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) clearly established	<b>Assessment criteria not met.</b> There is no reference in the legal framework to the international agreements.		There is no policy to implement or integrate obligations derived from international agreements.	Yes	To evaluate the need to include in the legal framework and policies obligations derived from international agreements.
(b) consistently adopted in laws and regulations and reflected in procurement policies.	<b>Assessment criteria not met.</b> There is no policy to adopt obligations derived from international agreements.		There is no policy to implement or integrate obligations derived from international agreements.	Yes	To evaluate the need to include in the legal framework and policies obligations derived from international agreements.

**Pillar II. Institutional Framework and Management Capacity**

**4. The public procurement system is mainstreamed and well integrated into the public financial management system**

4(a) Procurement planning and the budget cycle

The legal and regulatory framework, financial procedures and systems provide for the following:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Annual or multi-annual procurement plans are prepared, to facilitate the budget planning and formulation process and to contribute to multi-year planning.	<b>Assessment criteria not met</b> There is no specific provision to prepare procurement plans.		There is no specific provision to prepare procurement plans.	Yes	To define the obligation and procedures to adopt a Public Procurement Plan and its contents.
(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).	<b>Assessment criteria not met</b> There is no specific provision for expenditure appropriation in the procurement process neither in the Tenders Board Act nor in the not enforced Procurement Act.		There is no specific provision for expenditure appropriation in the procurement process.	Yes	To define procedures to harmonise the procurement rules to budget and expenditure regulation to assure before entering into any obligation the existence of budget and cash flows to honour procurement obligations in accordance with the term of the procurement documents.
(c) A feedback mechanism reporting on budget execution is in place, in particular regarding the completion of major contracts.	<b>Assessment criteria not met</b> There is no specific provision for expenditure appropriation and reporting in the procurement process neither in the Tenders Board Act nor in the not enforced Procurement Act. During the assessors visit to Antigua the procurement officers informed them about delays in payments against contract obligations.		There is no mechanism in place to report budget execution arising from major contract performance.	Yes	To define a mechanism to report budget execution in procurement for major contracts performance which with time should be applicable to all contracts.

4(b) Financial procedures and the procurement cycle

The legal and regulatory framework, financial procedures and systems should ensure that:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) No solicitation of tenders/proposals takes place without certification of the availability of funds.	<b>Assessment criteria not met</b> There is no specific obligation to certify the availability of funds to start the procurement process.		There is not a budgetary procedure associated to the procurement process to certify in advance availability of funds for each procurement process.	Yes	To define a mechanism to certify availability of funds within the budget for each procurement process.
(b) The national regulations/procedures for processing of invoices and authorisation of payments are followed, publicly available and clear to potential bidders.*	<b>Assessment criteria not met</b> There is no specific procedure for processing invoices and authorising payments in the procurement process.		There is no general financial procedure for processing invoices and payments arising from procurement process.	Yes	To define the obligation and procedures to adopt a Public Procurement Plan and budgetary procedures.
// 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.		No information was provided to the assessors to calculate quantitative indicators.			

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

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 criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations

(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.	<p><b>Assessment criteria partially met</b></p> <p>The Tenders Board Act assigns the regulatory function to the Ministry of Finance and the responsibility to conduct tenders on behalf of the government and the statutory bodies. The Cabinet may prescribe other duties to the Tenders Board.</p> <p>The Procurement Act states clearly the functional responsibilities (section 10, 11, 12 and 44) of the procurement authorities</p>		While the Procurement Act is not enforced, the Tenders Board Act assigns the regulatory function and the responsibility to conduct tenders.	No	To enforce the Procurement Act.
--	---	--	---	----	---------------------------------

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 criteria	Step 1: <b>Qualitative analysis</b> (comparison of actual situation vs. assessment criteria)	Step 2: <b>Quantitative analysis</b>	Step 3: <b>Gap analysis</b> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) providing advice to procuring entities	<p><b>Assessment criteria not met</b></p> <p>The Tenders Board Act does not define an institution that should provide advice to procuring entities.</p> <p>The not enforced Procurement Act includes in the obligations of the Chief Procurement Officer to provide advice to government on all aspects of procurement.</p>		The current Tenders Board Act does not define an institution that should provide advice to procuring entities and the Procurement Act is not enforced.	No	To make enforceable the Procurement Act.
(b) drafting procurement policies	<p><b>Assessment criteria not met</b></p> <p>The Tenders Board Act does not define an institution that should draft procurement policies.</p> <p>The not enforced Procurement Act gives this responsibility to the Ministry of Finance and the Procurement Board.</p>		The current Tenders Board Act does not define an institution that should draft procurement policies and the Procurement Act is not enforced.	No	To make enforceable the Procurement Act.
(c) proposing changes/drafting amendments to the legal and regulatory framework	<p><b>Assessment criteria not met</b></p> <p>The Tenders Board Act establishes does not define an institution that should propose changes or draft amendments to the legal and regulatory framework.</p> <p>According to section 50 of the Procurement Act, the Finance Ministry is responsible for the regulatory function in the procurement sector.</p>		The current Tenders Board Act does not define an institution that should propose changes or draft amendments to the legal and regulatory framework and the Procurement Act is not enforced.	No	To make enforceable the Procurement Act.
(d) monitoring public procurement	<p><b>Assessment criteria not met</b></p> <p>There is no responsibility to monitor public procurement.</p>		There is no specific responsibility to monitor public procurement.	Yes	To designate a responsible entity to monitor public procurement.
(e) providing procurement information	<p><b>Assessment criteria not met</b></p> <p>There is no responsibility to provide procurement information.</p>		There is no specific responsibility to provide procurement information.	Yes	To designate a responsible entity to provide procurement information.
(f) managing statistical databases	<p><b>Assessment criteria not met</b></p> <p>There is no responsibility to manage statistical information.</p>		There is no specific responsibility to manage statistical databases.	Yes	To designate a responsible entity to manage statistical databases.
(g) preparing reports on procurement to other parts of government	<p><b>Assessment criteria not met</b></p> <p>There is no responsibility to report to other parts of government.</p>		There is no specific responsibility to report to other parts of government.	Yes	To designate a responsible entity to report to other parts of government.
(h) developing and supporting implementation of initiatives for improvements of the public procurement system	<p><b>Assessment criteria not met</b></p> <p>There is no responsibility to develop improvement initiatives in the system.</p>		There is no specific responsibility to develop improvement initiatives in the System.	Yes	To designate a responsible entity to develop improvement initiatives in the System.
(i) providing tools and documents, including integrity training programmes, to support training and capacity	<p><b>Assessment criteria not met</b></p> <p>There is no responsibility to provide training.</p>		There is no specific responsibility to provide training.	Yes	To designate a responsible entity to provide training.

development of the staff responsible for implementing procurement					
(j) supporting the professionalization of the procurement function (e.g. development of role descriptions, competency profiles and accreditation and certification schemes for the profession)	<b>Assessment criteria not met</b> There is no responsibility to professionalise the procurement function.		There is no specific responsibility to professionalise the procurement function.	Yes	To designate a responsible entity to professionalise the procurement function.
(k) designing and managing centralised online platforms and other e-Procurement systems, as appropriate	<b>Assessment criteria not met</b> There is no responsibility to design and manage e-Procurement tools.		There is no specific responsibility to design and manage e-Procurement tools.	Yes	To designate a responsible entity to design and manage e-Procurement tools.

5(c) Organisation, funding, staffing, and level of independence and authority

Assessment criteria	Step 1: <b>Qualitative analysis</b> (comparison of actual situation vs. assessment criteria)	Step 2: <b>Quantitative analysis</b>	Step 3: <b>Gap analysis</b> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(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.	<b>Assessment criteria met</b> The normative function is entrusted to the Finance Minister.				
(b) Financing is secured by the legal/regulatory framework, to ensure the function's independence and proper staffing.	<b>Assessment criteria met</b> The normative function is entrusted to the Finance Minister.				
(c) The institution's internal organisation, authority and staffing are sufficient and consistent with its responsibilities.	<b>Assessment criteria not met</b> It is not clear how the responsibility is defined inside the Ministry, but at the moment regulations have not been prepared.		The normative function responsible is defined, but is has not been executed. It might be necessary to define with more clarity the responsible instance and its capacity.	Yes	To evaluate the needs to be able to regulate and enforce the Procurement Act.

5(d) Avoiding conflict of interest

Assessment criteria	Step 1: <b>Qualitative analysis</b> (comparison of actual situation vs. assessment criteria)	Step 2: <b>Quantitative analysis</b>	Step 3: <b>Gap analysis</b> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) The normative/regulatory institution has a system in place to avoid conflicts of interest.*  * 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.	<b>Assessment criteria not met</b> There is no specific provision on conflicts of interest.	No information was provided to the assessors to calculate quantitative indicators.	There are no regulations relating to conflicts of interest.	Yes	To identify and regulate conflicts of interest.

6. Procuring entities and their mandates are clearly defined

6(a) Definition, responsibilities and formal powers of procuring entities

The legal framework provides for the following:

Assessment criteria	Step 1: <b>Qualitative analysis</b> (comparison of actual situation vs. assessment criteria)	Step 2: <b>Quantitative analysis</b>	Step 3: <b>Gap analysis</b> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Procuring entities are clearly defined.	<b>Assessment criteria not met</b> Legal framework does not clearly define the procuring entities.		The procuring entities are not identified or described in the legal framework.	Yes	To identify procuring entities.

(b) Responsibilities and competencies of procuring entities are clearly defined.	<b>Assessment criteria not met</b> The Tenders Board Act does not define responsibilities and competencies of procuring entities. The 2011 Act provides for responsibilities for the Procurement Board and the Chief Procurement Officer, and some duties of the responsible authority.		Since the procuring entities are not identified or described in the legal framework, its responsibilities and competences are not defined.	Yes	To identify procuring entities. To clarify the concept of responsible authority.
(c) Procuring entities are required to establish a designated, specialised procurement function with the necessary management structure, capacity and capability.*  // Minimum indicator // * <b>Quantitative indicator to substantiate assessment of sub-indicator 6(a)</b> <b>Assessment criterion (c):</b> <b>- procuring entities with a designated, specialised procurement function (in % of total number of procuring entities).</b> <b>Source: Normative/regulatory function.</b>	<b>Assessment criteria not met</b> There are no provisions in the legal framework regarding specialised procurement function.	No information was provided to the assessors to calculate quantitative indicators			
(d) Decision-making authority is delegated to the lowest competent levels consistent with the risks associated and the monetary sums involved.	<b>Assessment criteria not met</b> The Tenders Board Act does not provide for a delegation system however, it considers the creation of committees to advise and make recommendations to the Board. The 2011 Procurement Act mentions (sections 2(3) and 2(4); section 11(3) and 11(4) and limits to delegation in section 9(4); delegation but not associate to competencies.		There is no clear regulation on decision-making authority delegation associated to the risk thereof.	Yes	To regulate decision-making authority delegation
(e) Accountability for decisions is precisely defined.	<b>Assessment criteria not met</b> There is a definition of responsibility in the legal framework but not for accountability of the decisions made in the procurement process.		Accountability of the procurement authorities is not clearly defined.	Yes	To establish an accountability regime (content, opportunity, interaction with civil society) for each procurement authority

6(b) Centralized procurement body

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) The country has considered the benefits of establishing a centralised procurement function in charge of consolidated procurement, framework agreements or specialised procurement.	<b>Assessment criteria met</b> There is a central procurement function in the Board for conducting centralised solicitation, not necessarily centralised procurement. The Government of Antigua & Barbuda has some experience in centralised procurement led by the department of public works.				To enforce the Procurement Act and use centralised procurement.
(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.	<b>Assessment criteria not met</b> The Department of Public Works has responsibilities related to inventory and minimizing costs of goods (section 12 of the 2011 Procurement and Contract Administration Act). These authorisations may be the origin of the department's activity as <i>de facto</i> central purchasing unit procuring office supplies, tires and cleaning products.			No	To enforce the Procurement Act and use centralised procurement.
(c) The centralised procurement body's internal organisation and staffing are sufficient and consistent with its responsibilities.	<b>Not possible to evaluate</b> The Assessors were not provided with information about the central purchasing unit.				To enforce the Procurement Act and use centralised procurement.

**7. Public procurement is embedded in an effective information system**

7(a) Publication of public procurement information supported by information technology

The country has a system that meets the following requirements:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(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.	<b>Assessment criteria not met</b>  There is no complete information available and no system to monitor outcomes, results and performance.		There is not an information system in place.	Yes	To specify the documents and information of the procurement system that have to be open for the public and the opportunity thereof, the responsible officers to make such data available and evaluate the possibility to publish it at the official webpage or in a centralised online portal for procurement
(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.	<b>Assessment criteria not met</b>  There is no a procurement information system in place. There are not comprehensive data registered or published about the procurement process.		There is not an information system in place.	Yes	To evaluate the possibility of developing a centralised online portal for procurement and structure the data thereof
(c) The information system provides for the publication of: * <ul style="list-style-type: none"> <li>• procurement plans</li> <li>• 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</li> <li>• linkages to rules and regulations and other information relevant for promoting competition and transparency.</li> </ul> <p><b>// Minimum indicator // Quantitative indicators to substantiate assessment of sub-indicator 7(a) Assessment criterion (c):</b></p> <ul style="list-style-type: none"> <li>• procurement plans published (in % of total number of required procurement plans)</li> <li>• key procurement information published along the procurement cycle (in % of total number of contracts) :</li> <li>• invitation to bid (in % of total number of contracts)</li> <li>• contract awards (purpose, supplier, value, variations/amendments)</li> <li>• details related to contract implementation (milestones, completion and payment)</li> </ul>	<b>Assessment criteria not met</b>  There is no complete information available and no system to monitor outcomes, results and performance.	No information was provided to the assessors to calculate quantitative indicators.	There is not an information system in place.	Yes	See recommendation in (a) above.

<ul style="list-style-type: none"> <li>• annual procurement statistics</li> <li>• appeals decisions posted within the time frames specified in the law (in %).</li> </ul> Source: Centralised online portal.					
(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).	<b>Assessment criteria not met</b> There is no complete information available and no system to monitor outcomes, results and performance.		There is no information system developed.	Yes	To develop a project to open procurement data in a specified timing.
(e) Information is published in an open and structured machine-readable format, using identifiers and classifications (open data format).*	<b>Assessment criteria not met</b> There is no complete information available and no system to monitor outcomes, results and performance.	No information was provided to the assessors to calculate quantitative indicators.	There is no information system developed.	Yes	To structure procurement data as part of the project to open it.
* Recommended quantitative indicator to substantiate assessment of sub-indicator 7(a) Assessment criterion (e): - Share of procurement information and data published in open data formats (in %). Source: Centralised online portal.					
(f) Responsibility for the management and operation of the system is clearly defined.	<b>Assessment criteria not met</b> There is no complete information available and no system to monitor outcomes, results and performance.		There is no information system developed.	Yes	To assign responsibilities for management and operation the system when developing the project to open procurement data

7(b) Use of e-Procurement

Assessment criteria	Step 1: <b>Qualitative analysis</b> (comparison of actual situation vs. assessment criteria)	Step 2: <b>Quantitative analysis</b>	Step 3: <b>Gap analysis</b> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) E-procurement is widely used or progressively implemented in the country at all levels of government.*  <b>// Minimum indicator // * Quantitative indicators to substantiate assessment of sub-indicator 7(b) Assessment criterion (a):</b> <b>uptake of e-Procurement</b> - 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.	<b>Assessment criteria not met</b> There is no e-Procurement strategy. There are no implemented solutions.	No information was provided to the assessors to calculate qualitative indicators.	There is no e-Procurement use or strategy.	Yes	To develop an e-Procurement strategy and its action plan.
(b) Government officials have the capacity to plan, develop and manage e-Procurement systems.	<b>Assessment criteria not met</b> There is no e-Procurement strategy. There are no implemented solutions or plans to do it.		There is no e-Procurement use.	Yes	To develop an e-Procurement strategy and its action plan which shall include training, change management and knowledge management.

(c) Procurement staff is adequately skilled to reliably and efficiently use e-Procurement systems.	<b>Assessment criteria not met</b> There is no evidence since currently, there is no e-Procurement strategy. There are no implemented solutions or plans to do it.		There is no e-Procurement use.	Yes	To assess the skills of the procurement officers to use e-Procurement solutions as part of the e-Procurement strategy to design the training program in accordance with such skills.
(d) Suppliers (including micro, small and medium-sized enterprises) participate in a public procurement market increasingly dominated by digital technology.*  * 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.	<b>Assessment criteria not met</b> There is no e-Procurement strategy. There are no implemented solutions or plans to do it.	No information was provided to the assessors to calculate qualitative indicators.	There is no e-Procurement use.	Yes	To include the suppliers in the action plan of the e-Procurement strategy.
(e) If e-Procurement has not yet been introduced, the government has adopted an e-Procurement roadmap based on an e-Procurement readiness assessment.	<b>Assessment criteria not met</b> There is no e-Procurement strategy.		There is no e-Procurement strategy or plan to start using it.	Yes	To develop an e-Procurement strategy and its action plan.

7(c) Strategies to manage procurement data

Assessment criteria	Step 1: <b>Qualitative analysis</b> (comparison of actual situation vs. assessment criteria)	Step 2: <b>Quantitative analysis</b>	Step 3: <b>Gap analysis</b> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(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.	<b>Assessment criteria not met</b> There is no policy for data gathering in the procurement process.		There is no information policy.	Yes	To define a policy for the treatment of information in the procurement system.
(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.	<b>Assessment criteria not met</b> There is no evidence of the existence of an information system.		There is no evidence that the gathered information is stored in a system or platforms with that kind of functionality.	Yes	To develop procedures to systematise the data gathered.
(c) The reliability of the information is high (verified by audits).	<b>Assessment criteria not met</b> There is no evidence of audits on the information.		There is no evidence of audits on the existent information.	Yes	To perform audits over procurement information gathered.
(d) Analysis of information is routinely carried out, published and fed back into the system. *  // 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	<b>Assessment criteria not met</b> There is no evidence that the gathered information is periodically evaluated.	No information was provided to the assessors to calculate quantitative indicators.	There is no evidence of information analysis.	Yes	To perform information analysis on the data gathered.

MAPS assessment in: Antigua and Barbuda

Name/organisation: OECD

Date: July 2019

<b>most recent fiscal year.</b> <b>Source: Normative/regulatory</b> <b>function/E-Procurement system.</b>					
---	--	--	--	--	--

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

8(a) Training, advice and assistance

There are systems in place that provide for:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) substantive permanent training programmes of suitable quality and content for the needs of the system.	<b>Assessment criteria not met</b> The Tenders Board Act does not make any reference to training. The 2011 Procurement Act states that the Procurement Unit is responsible for training.		There is no a training program in place.	Yes	To develop a training program.
(b) routine evaluation and periodic adjustment of training programmes based on feedback and need.	<b>Assessment criteria not met</b> There is no evidence of routine evaluation of the procurement officers.		There is no an evaluation system for the training received by officers from time to time.	Yes	To develop a training program, including an evaluation system for the training part of the program and the ones offered outside of it.
(c) advisory service or help desk function to resolve questions by procuring entities, suppliers and the public.	<b>Assessment criteria not met</b> There is no evidence of a help desk system.		There is no help desk system to assist procurement entities, suppliers and the publics	Yes	To design an agile Q&A system that can develop to a help desk system.
(d) a strategy well-integrated with other measures for developing the capacity of key actors involved in public procurement.	<b>Assessment criteria not met</b> There is no evidence of that kind of strategy.		The training programs are not articulated with the indicators of the procurement system and with the career of procurement officers as civil servants.	Yes	To develop a training program integrated with the public servant career system and the indicators of the public procurement system.

8(b) Recognition of procurement as a profession

The country's public service recognises procurement as a profession:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) 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>Assessment criteria not met</b> There is no recognition of procurement as specific function and the positions are not clearly defined.		There is no clear evidence on the professionalization of the procurement function.	Yes	To incorporate in the regulation the career path of the procurement officer, identifying the existing positions and its requirements and the job description
(b) Appointments and promotion are competitive and based on qualifications and professional certification.	<b>Assessment criteria not met</b> There is no evidence of the existence of this criterion to appoint and promote procurement personnel.		There is no a competitive system to be a procurement officer or to be promoted therein.	Yes	To incorporate in the regulation mentioned above a competitive system based on merits to apply for procurement positions covering the promotions.
(c) Staff performance is evaluated on a regular and consistent basis, and staff development and adequate training is provided.	<b>Assessment criteria not met</b> There is no evidence for routine evaluation and training.		There is no a performance evaluation system of procurement officers	Yes	To adopt an evaluation system for the performance of procurement officers and linked the results to the career path of such officers.

8(c) Monitoring performance to improve the system

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) The country has established and consistently applies a performance measurement system that focuses on both quantitative and qualitative aspects.	<b>Assessment criteria not met</b> The public procurement system does not have a performance measurement system in place. Since the legal framework does not include obligations regarding data gathering and performance monitoring, no activities at this level have been detected.		There are no monitoring responsibilities and activities to assess the performance of the procurement system.	Yes	To define a policy for monitoring procurement system covering quality and quantitative indicators.
(b) The information is used to support strategic policy making on procurement.	<b>Assessment criteria not met</b> There is no evidence of use of data to formulate procurement policy.		The information is not used for policy, implementation and evaluation purposes	Yes	To articulate the results of the performance measurement system with policy development

MAPS assessment in: Antigua and Barbuda  
 Name/organisation: OECD  
 Date: July 2019

(c) Strategic plans, including results frameworks, are in place and used to improve the system.	<p><b>Assessment criteria not met</b></p> <p>There is no strategic plan developed to structure reform initiatives in place, linked with the performance.</p>		The performance indicators should be the basis of interventions to improve the procurement system	Yes	To articulate the results of the performance measurement system with opportunities to improve the system.
(d) Responsibilities are clearly defined.	<p><b>Assessment criteria not met</b></p> <p>The public procurement system does not have a performance measurement system in place. Therefore, there are not responsibilities defined for monitoring and improving the procurement system.</p>		There are no monitoring responsibilities and activities.	Yes	To define a policy for monitoring procurement system covering quality and quantitative indicators establishing the responsible authority for each activity.

**Pillar III. Public Procurement Operations and Market Practices**

**9. Public procurement practices achieve stated objectives**

9(a) Planning

Assessment criteria	Step 1: <b>Qualitative analysis</b> (comparison of actual situation vs. assessment criteria)	Step 2: <b>Quantitative analysis</b>	Step 3: <b>Gap analysis</b> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Needs analysis and market research guide a proactive identification of optimal procurement strategies.	<p><b>Assessment criteria not met.</b>  A small sample of tender documents was provided during the mission, including selective tenders (civil registry and cabinet dashboard), waivers of tendering (construction of a pond and acquisition of conveyor belts for crushers), and public tendering (computers for board of education). The assessors also had access to a process with prequalification of suppliers for road rehabilitation under CDB rules.</p> <p>Waivers of tender have limited information and there is thus no evidence of thorough market analysis. Market analysis for the rest of the processes are not documented in the files checked nor optimal strategies identified.</p> <p>Procurement officials in general only ask for quotes to estimate the value of the contract.</p> <p>If errors in the description of the need are identified by interested suppliers, they may ask for clarification. Nevertheless, tender documents are not modified in general (except for extending the deadline for submitting bids). Participating suppliers bid and include a note explaining why their bid differs from what was asked for.</p>		<p>The needs analysis is only detailed for the biggest projects of the sample checked. Other processes lack a complete needs analysis, and this is especially true for the requests for waiver to tender.</p> <p>There is a substantial gap in what refers to market research. There is no evidence of market analysis being undertaken for the optimal identification of procurement strategies. This is valid for all the procurement methods, including the requests for waivers of tenders.</p> <p>Procurement officials in general only ask for quotes to estimate the value of the contract.</p> <p>Furthermore, for competitive processes, even when interested suppliers have pointed to mistakes in the needs requested, tender documents are not modified.</p>	No	Develop standard documents for all procurement methods, including waivers to tender which should comprise planning elements and justification. Provide training thereof.
(b) The requirements and desired outcomes of contracts are clearly defined.	<p><b>Assessment criteria not met.</b>  Specifications are defined for the public tender processes reviewed, in the document provided by the procuring entity to the Tenders Board. This information is then used for tendering. This information is lacking in the rest of procurement methods.</p> <p>Requirements and evaluation criteria are not clearly set out in procurement documents, and thus provide no confidence for potential suppliers about the outcome of the process. Contract clauses are not included in the tender documents.</p> <p>Suppliers state that eligibility criteria are not well established. This has led to suppliers with no experience in a certain sector bidding for specific tenders. For example, they cite a case of a clothing company winning a contract to provide computers and IT equipment.</p>		<p>There is a substantial gap in properly stating the requirements needed for suppliers to be eligible to sell goods and services to the government, which creates a high risk of selecting the incorrect supplier, and not obtaining the desired outcomes of the contract.</p> <p>In restricted and non-competitive procedures, the specification of the desired outcome is very limited, making it difficult for suppliers to respond correctly in the first case, and in the latter for the Tenders Board to come to an objective decision regarding the authorisation of waivers to tender.</p> <p>Contract clauses are not included in the tender documents.</p>	No	Provide training and produce guidelines to properly state requirements, including for non-competitive processes.
(c) Sustainability criteria, if any, are used in a balanced manner and in accordance with national priorities, to ensure value for money.	<p><b>Assessment criteria not met.</b>  No sustainability criteria were identified in the sample.</p>		No sustainability criteria were identified in the sample.	No	Use the information from the planning stage to determine if sustainability criteria may be included.

9(b) Selection and contracting

Assessment criteria	Step 1: <b>Qualitative analysis</b> (comparison of actual situation vs. assessment criteria)	Step 2: <b>Quantitative analysis</b>	Step 3: <b>Gap analysis</b> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Multi-stage procedures are used in complex procurements to ensure that only qualified and eligible participants are included in the competitive process.	<p><b>Assessment criteria partially met.</b>  Pre-qualification is only used in processes that use rules of donors or foreign agencies, such as the road rehabilitation process procured using CDB funds.</p>		There is no evidence that multi-stage procedures are used in complex procurements which follow internal procedures of Antigua and Barbuda.		Begin with a pilot process carried out by means of a multi-stage procedures to learn from it.
(b) Clear and integrated procurement documents, standardised where possible and proportionate to the need, are used to encourage broad participation from potential competitors.	<p><b>Assessment criteria partially met.</b>  The tenders analysed share in general a common table of contents. Nevertheless, standardisation is not the norm for all procurement.</p>		Standardisation is not fully enforced.		Draft complete templates and enforce their use.

<p>(c) Procurement methods are chosen, documented and justified in accordance with the purpose and in compliance with the legal framework.</p>	<p><b>Assessment criteria not met.</b> Some of the persons interviewed during the fact-finding mission expressed the view that there is a certain subjectivity from the Tenders Board regarding the assessment of requests for waivers. In fact, the Tenders Board would like to develop guidelines to determine objectively when to waive tender. The justification for asking for waivers is not always properly and completely justified.</p> <p>Some contracts have been signed directly with suppliers before receiving an authorization to waive tender from the Tenders Board. Suppliers interviewed affirmed that in some other cases procurement has started as a competitive process and after bids were received, a waiver to tender was issued, allowing for the direct contracting of one of the suppliers.</p> <p>Even though it is not established in legislation, procuring entities are acquiring certain common items such as office supplies, tires and cleaning products through the Ministry of Public Works which is a <i>de facto</i> central purchase unit for these goods.</p> <p>The Ministry of Public Works conducts a bulk purchase process, stores the product in its inventory and then sends it to the requiring entities, which in turn pass the corresponding budget to the Ministry of Public Works. Although the interviewed procuring entities admit that this process is easier, they state that they still have to do burdensome paperwork related to this procurement. Inventory costs and corresponding risks are allocated entirely to the government.</p> <p>The Ministry of IT is one of the few institutions which is conducting public tenders.</p>		<p>The use of public tendering is not widespread. There is a substantial gap in choosing, documenting and justifying the procurement method, especially regarding the waivers to tender. A clear and objective process for authorising waivers is not being followed, bringing uncertainty to the stakeholders involved.</p>	<p>Yes</p>	<p>Provide training and guidelines and have a clear procedure for the Tenders Board to waive tenders.</p> <p>Use framework agreements.</p>
<p>(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.</p>	<p><b>Assessment criteria partially met.</b> The tender documents of the public tender examined contain clear procedures and times for bid submission, receipt and opening. Although clearly described, these don't follow international best practices. Even for public tenders, public bid openings are not always used. The Tenders Board has started to send letters to participating bidders noting the bidder names and corresponding prices.</p>		<p>The tender documents evidence a substantive gap as public bid openings are not always used; and citizens and bidders are not monitoring bid submission and receipt.</p>		<p>Include provisions in the standard documents to allow citizens to attend bid openings and monitor bid submission and receipt.</p>
<p>(e) Throughout the bid evaluation and award process, confidentiality is ensured.</p>	<p><b>Assessment criteria not met.</b> Technicians from the private sector are sometimes appointed in the evaluation committees that are set up to evaluate. There is no evidence that documents are kept confidential during the evaluation with all the persons involved in these committees. Furthermore, there are possible conflicts of interest with these.</p>		<p>As persons outside of the Tenders Board are not allowed to monitor bid submission, receipt and opening, there is no evidence that confidentiality is being ensured. Furthermore, in some cases where the individuals from the private sector are appointed in the evaluation committees, which raise more issues related to confidentiality and conflict of interest.</p>	<p>No</p>	<p>Use codes of conduct or other procedures to ensure confidentiality especially from external evaluators.</p>
<p>(f) Appropriate techniques are applied, to determine best value for money based on the criteria stated in the procurement documents and to award the contract.</p>	<p><b>Assessment criteria partially met.</b> In the public tenders analysed the evaluation criteria go beyond cost and include many aspects of the proposal. The tender document contains a section describing the criteria used for evaluation. Nevertheless, its description is broad and there is no information related to how will the bids be evaluated, for example by means of formulae, bringing subjectivity to the process. For example, the cost of product is said to receive 20% of the score in the public tender for the cabinet dashboard, but it is not clear how will that score be assigned, nor how will the individual costs of software, hardware, support over time, and others weigh in the scoring.</p>		<p>The specification of evaluation criteria is ambiguous, and leaves space for subjectivity of interpretation from bidders and evaluators.</p>		<p>Ensure that evaluation criteria are unambiguous. Provide training and guidelines on that topic.</p>
<p>(g) Contract awards are announced as prescribed.</p>	<p><b>Assessment criteria partially met.</b> Contract awards were not disclosed. Now, the Tenders Board says it is disclosing the name and price of the selected bidder in its website, but only for the few public tenders. There is no historical information and the assessors could not evidence any award uploaded in <a href="http://www.tendersboard.gov.ag/awards/">http://www.tendersboard.gov.ag/awards/</a>.</p>		<p>There is no evidence that contract awards are now being disclosed for public tenders in the Tenders Board website. Contract awards remain unannounced for other procurement methods, limiting the possibility of suppliers complaining and citizens monitoring contract delivery.</p>		<p>Announce contract awards for all procurement methods.</p>
<p>(h) Contract clauses include sustainability considerations, where appropriate.</p>	<p><b>Assessment criteria not met.</b> No sustainability contract clauses are used.</p>		<p>No sustainability contract clauses are used.</p>	<p>No</p>	<p>Include If possible in standard tender documents.</p>
<p>(i) Contract clauses provide incentives for exceeding defined performance</p>	<p><b>Assessment criteria not met.</b> Incentives for exceeding defined performance levels and disincentives for poor performance are not used in the country.</p>		<p>Incentives for exceeding defined performance levels and disincentives for poor performance are not used in the country.</p>	<p>No</p>	<p>Include If possible in standard tender documents.</p>

levels and disincentives for poor performance.					
<p>(j) The selection and award process is carried out effectively, efficiently and in a transparent way. *</p> <p>*Recommended quantitative indicators to substantiate assessment of sub-indicator 9(b) Assessment criterion (j):</p> <ul style="list-style-type: none"> <li>- average time to procure goods, works and services</li> <li>number of days between advertisement/solicitation and contract signature (for each procurement method used)</li> <li>- average number (and %) of bids that are responsive (for each procurement method used)</li> <li>- share of processes that have been conducted in full compliance with publication requirements (in %)</li> <li>- number (and %) of successful processes (successfully awarded; failed; cancelled; awarded within defined time frames)</li> </ul> <p>Source for all: Sample of procurement cases.</p>	<p><b>Assessment criteria not met.</b></p> <p>Interviewed suppliers think that there is no level playing-field and contract clauses are not always honoured. They have no way of reviewing the evaluation report or checking the prices, brands and other bid information of the awarded supplier.</p> <p>As contract clauses are not included in the tender documents, many contracts have serious delays because contracts must be negotiated after bids are submitted. Thus, procuring entities don't see their needs met in a timely manner. One of the contracts of the tenders revised by the assessors had a delay of more than 300 days because of this.</p>	No information was provided to the assessors to calculate quantitative indicators.	<p>There are serious gaps related to the transparency, effectiveness and efficiency of the selection and evaluation process. As many of the documents and decisions are confidential there is no space for proper oversight. Furthermore, interviewed stakeholders do not evidence that decisions from the evaluation committees or the Tenders Board are carried out objectively. This is emphasised by the fact that there are no guidelines to establish when a tender should be waived or how to correctly evaluate a tender.</p> <p>In addition, contract clauses are not included in the tender documents which leads to delays in meeting the need of the procuring entity.</p> <p>Information to calculate quantitative indicators was not furnished to the assessors.</p>	Yes	<p>Move to more open contracting, disclose documents and decisions for external stakeholders to monitor. Generate guidelines to promote an objective evaluation and decision-making process for waiving tenders.</p> <p>The tender documents should include a draft of the contract that will be signed to reduce the delays related to contract implementation.</p>

9(c) Contract management

Assessment criteria	Step 1: <b>Qualitative analysis</b> (comparison of actual situation vs. assessment criteria)	Step 2: <b>Quantitative analysis</b>	Step 3: <b>Gap analysis</b> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
<p>(a) Contracts are implemented in a timely manner.*</p> <p>Recommended quantitative indicator to substantiate assessment criterion (a): time overruns (in %; and average delay in days)</p>	<p><b>Assessment criteria not met.</b></p> <p>The Tenders Board has no information concerning contracts. From the sample provided, there are extensive delays from the date of award to the date of signature, as clauses must be agreed after bids are submitted.</p> <p>There is no information about the contract included in the tender documents, which gives rise to controversy once the contract is awarded and delays the signing of the contract.</p>	No information was provided to the assessors to calculate quantitative indicators.	No quantitative information was provided to the assessors. There is evidence of important delays in contract implementation, especially between the award and the signature of the contract.	No	Include contract clauses in the tender documents to mitigate the possibility of controversy after the award of the contract.
<p>(b) Inspection, quality control, supervision of work and final acceptance of products is carried out.*</p> <p>Recommended quantitative indicator to substantiate assessment criterion (b): quality-control measures and final acceptance are carried out as stipulated in the contract (in %)</p>	<p><b>Assessment criteria not met.</b></p> <p>Persons interviewed said there is limited inspection and supervision of contracts. Supervision is the responsibility of the procuring entity, and the Tenders Board has no information about how the contract is carried out. This process does not follow standard procedures, and each entity may follow a different procedure, which makes it difficult for suppliers to know how they will be controlled.</p>	No information was provided to the assessors to calculate quantitative indicators.	Contract supervision does not follow best practices of standardisation and control. Supervision and inspection are activities that seem not to be happening on a regular basis.	Yes	Produce guidelines for contract management and supervision.
<p>(c) Invoices are examined, time limits for payments comply with good international practices, and payments are processed as stipulated in the contract.</p> <p>Recommended quantitative indicator to substantiate assessment criterion (c): invoices for procurement of goods,</p>	<p><b>Assessment criteria not met.</b></p> <p>Suppliers complained about serious delays in the payment of obligations acquired by the procuring entities. One supplier said he had invoices delayed for more than five years. This is creating cost overruns that may exceed 100% as described by the persons interviewed.</p>	No information was provided to the assessors to calculate quantitative indicators.	There is a substantial gap related to the timeliness of payment related to cash flow issues and lack of precise invoice checking and payment procedures. This is impeding interested suppliers participation, causing cost overruns for government and creating cash flow issues to the incumbent suppliers.	Yes	Include invoice and financial procedures in the contract management guidelines to be drafted. Allow that processes are carried out only after ensuring budget availability and centralise the payments to suppliers.

works and services are paid on time (in % of total number of invoices).					
(d) Contract amendments are reviewed, issued and published in a timely manner.*  Recommended quantitative indicator to substantiate assessment criterion (d): contract amendments (in % of total number of contracts; average increase of contract value in %)	<b>Assessment criteria not met.</b> Suppliers identified a lack of contract planning that impacts negatively the timeliness for contract amendments. These are agreed in many occasions as a last-minute resort in order to avoid completely running out of stock, for example for pharmaceuticals. Suppliers feel forced to sign amendments that are not properly reviewed.	No information was provided to the assessors to calculate quantitative indicators.	Contract amendments are being left to negotiate and sign at the end of the contract, pressing suppliers and making government come at risk of not being properly supplied.	No	Include provisions about how to handle contract amendments in the contract management guidelines to be drafted.
(e) Procurement statistics are available and a system is in place to measure and improve procurement practices.	<b>Assessment criteria not met.</b> No procurement statistics are in place, and decisions to modify regulation or procedures are not based on data.		No procurement statistics are in place, and decisions to modify regulation or procedures are not based on data.	No	Use some type of e-Procurement system to have better access to information about the procurement processes and enforce that procuring entities inform the Tenders Board about contract information during the implementation stage.
(f) Opportunities for direct involvement of relevant external stakeholders in public procurement are utilised.*  Recommended quantitative indicator to substantiate assessment criterion (f): percentage of contracts with direct involvement of civil society: planning phase; bid/proposal opening; evaluation and contract award, as permitted; contract implementation) Source for all: Sample of procurement cases.	<b>Assessment criteria not met.</b> Although there are no legal or regulatory barriers to involvement of relevant stakeholders during the procurement process, there are few questions or comments arising from suppliers and even less from civil society.  There is no citizen participation or involvement related to the procurement method, including if waivers were given, as this information remains classified. The interviewed persons from the Tenders Board only remembered one case in the last years where they received a question regarding a building for the Department of Marine Services built by a Canadian contractor, where a local supplier asked why the waiver was authorised.  Most of the involvement happens during the time allowed for bidding, when some suppliers ask questions, in general by email. Questions are answered by email to all suppliers who have expressed interest, but other stakeholders have no access to these answers.  After the evaluation has been carried out, it is not usual to have participation from stakeholders.	There was no evidence of direct involvement of civil society in any of the tender documents reviewed by the assessors.	Opportunities for direct involvement of relevant external stakeholders in public procurement are not utilised. Information about procurement processes is scarce, including the decision of the Tenders Board to authorise a waiver to tender. The only moment when some involvement takes place is before the submission of bids, when some suppliers ask questions.	No	Allow external stakeholders to be present at key milestones of the procurement process and disclose documents and decisions.
(g) The records are complete and accurate, and easily accessible in a single file.*  // Minimum indicator // * Quantitative indicators to substantiate assessment of sub-indicator 9(c) Assessment criterion (g): - share of contracts with complete and accurate records and databases (in %) Source: Sample of procurement cases*	<b>Assessment criteria not met.</b> Procurement is carried out on paper and files are not complete nor easily accessible. There is no record of the planning or contract implementation stages. None of the processes analysed had complete information in the file, and the bids were not included in the file.  Documents are printed even if received in digital files, as is made explicit in the tender documents of the public tenders analysed.	0%	Procurement is carried out on paper and files are not complete nor easily accessible. There is no record of the planning or contract implementation stages. None of the processes analysed had complete information in the file, and the bids were not included in the file.	No	Use some type of e-Procurement system to have better access to information about the procurement processes and enforce that procuring entities inform the Tenders Board about contract information during the implementation stage.

**10. The public procurement market is fully functional**

10(a) Dialogue and partnerships between public and private sector

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(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	<b>Assessment criteria not met.</b> There is no regular dialogue mechanism in place through associations or other means. The new procurement rules were drafted without consultation from the private sector.  Suppliers were not consulted about amending the legal and regulatory framework. For the new Act, they did not participate in its drafting nor were they able to comment it.	No list of suppliers was provided to the assessors to conduct surveys.	The government is not encouraging open dialogue with the private sector about procurement reform. There are no established mechanisms for dialogue nor a consultation process. There was no consultation with the private sector about the new act.	No	Use existing associations to promote a dialogue with the private sector.

<p>when formulating changes to the public procurement system. The dialogue follows the applicable ethics and integrity rules of the government.*</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 10(a) Assessment criterion (a):</p> <ul style="list-style-type: none"> <li>- perception of openness and effectiveness in engaging with the private sector (in % of responses).</li> </ul> <p>Source: Survey.</p>				
<p>(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.</p>	<p><b>Assessment criteria not met.</b></p> <p>No training programmes are in place for building the capacity of suppliers and improving their skills to prepare them to participate in the public market. The Tenders Board has no responsibility in making guidelines for suppliers which are seen as a possible means of improving this situation. The Tenders Board also refers to lack of resources available to train suppliers. They are planning on having a roster of private experts available for suppliers to support their bidding process, but there is no consideration of the cost this would bring to suppliers, nor possible conflicts of interest.</p>		<p>There are no programmes to build capacity among private companies to help them participate in the public procurement market. No programmes are envisaged as there is no clarity of available budget or the entity responsible for conducting that training. The idea of having a roster of private experts for suppliers could help bridge some of the gaps, but budget and conflict of interest need to be analysed before it is implemented.</p>	<p>No</p> <p>Provide training, and if not possible, at least guidelines to explain procurement procedures to the suppliers.</p>

10(b) Private sector's organisation and access to the public procurement market

Assessment criteria	Step 1: <b>Qualitative analysis</b> (comparison of actual situation vs. assessment criteria)	Step 2: <b>Quantitative analysis</b>	Step 3: <b>Gap analysis</b> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
<p>(a) The private sector is competitive, well-organised, willing and able to participate in the competition for public procurement contracts.*</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 10(b) Assessment criterion (a):</p> <ul style="list-style-type: none"> <li>• number of registered suppliers as a share of total number of suppliers in the country (in %)</li> <li>• share of registered suppliers that are participants and awarded contracts (in % of total number of registered suppliers)</li> <li>• total number and value of contracts awarded to domestic/foreign firms (and in % of total)</li> </ul> <p>Source: E-Procurement system/Supplier Database.</p>	<p><b>Assessment criteria partially met.</b></p> <p>Some suppliers lack the skills to provide complete responses to tender documents. Even in simple procurement, government officials refer to receiving bids with poor documentation and unclear answers.</p> <p>There are organisations such as the Employers Federation and the Chamber of Commerce.</p> <p>An important number of suppliers are not willing to participate because of the delays in payment.</p> <p>There is no registry of suppliers selling to the government nor participating in general in the country. From the Commonwealth Secretariat Consultancy, vendor registration forms were designed and socialised with certain suppliers. These forms have not been enforced and the government has no clarity if they could be applied within the current legislation.</p> <p>Some procurement entities, such as the Ministry of Public Works, the Medical Benefits Division and the State Insurance Corporation keep local lists of suppliers they have worked with and that may be contacted in the future, but these do not constitute proper registries, and there is no specific procedure for suppliers to apply for inclusion.</p>	<p>- Number of registered suppliers as a share of total number of suppliers in the country: 0%.</p> <p>For the rest of the recommended quantitative indicators: no information available.</p>	<p>The private sector is organised and has associations that represent them. There is a substantive gap as many suppliers are not willing to participate in competition for public procurement contracts as there is an important issue with payments being delayed.</p> <p>There is no registry of suppliers. A form for registration has been developed but it is not yet enforced and the government has no clarity if it could be applied within the current legislation.</p>		<p>Promote the use of a register of suppliers.</p>
<p>(b) There are no major systemic constraints inhibiting private sector access to the public procurement market.</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 10(b) Assessment criterion (b):</p> <ul style="list-style-type: none"> <li>- perception of firms on the appropriateness of conditions in the public procurement market (in % of responses).</li> </ul> <p>Source: Survey.</p>	<p><b>Assessment criteria not met.</b></p> <p>The main constraint stated by local suppliers to participating in the public procurement market of Antigua and Barbuda is the serious delay in payments. Only those suppliers that are able to provide credit to government actually sell to the public agencies. One supplier said he had invoices delayed for more than five years.</p> <p>Other constraints identified are the lack of access to financing, fair contract clauses, and lack of effective and trustworthy review and appeal mechanisms.</p> <p>Especially for SMEs, suppliers interviewed identified that they do not have the skills to respond to complex tender documents and thus would not be able to participate in public tenders or certain selective tenders. This is further emphasized by lack of training or guidelines for suppliers.</p>	<p>No list of suppliers was provided to the assessors to conduct surveys.</p>	<p>There are major systematic constraints that inhibit private sector access to the public procurement market. The biggest constraint is the serious delay in payments, which causes that only those suppliers who have the financial capacity to sell with medium-term credit can bid in tenders.</p> <p>Other constraints identified are the lack of the following: access to financing; fair contract clauses; effective and trustworthy review and appeal mechanisms; and lack of training and guidelines for suppliers, especially for SMEs.</p>	<p>Yes</p>	<p>Include invoice and financial procedures in the contract management guidelines to be drafted. Allow that processes are carried out only after ensuring budget availability and centralise the payments to suppliers.</p>

	<p>To tackle the payment delays, the Ministry of Finance has established a new cash management team responsible for establishing priorities to pay with the available cash flow. These are not established under a first come first serve basis and are subjectively defined. This uncertainty has led to overprices that can reach 100% more than the general market prices.</p> <p>Participation of foreign suppliers is difficult because of the lack of general information outside the country or by online means; the process being carried entirely on paper; and the printing costs associated with bids sent by e-mail, which are allowed but in practice not encouraged, as there is a printing fee of USD 200 for the public tenders analysed.</p>			
--	---	--	--	--

10(c) Key sectors and sector strategies

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Key sectors associated with the public procurement market are identified by the government.	<p><b>Assessment criteria not met.</b> Public works, IT and pharmaceuticals are some of the main sectors that were described as being important by government officials during the fact-finding mission. These have not been included in any proper document for developing targeted procurement strategies.</p> <p>A vendor registration form has been designed but it is not yet in use, so the government does not have complete information of suppliers per sector.</p>		A substantial gap persists because these have not been included in any proper document for developing targeted procurement strategies.	No	Draft documents to study the key sectors identified, assess possible risks and craft individual procurement strategies.
(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><b>Assessment criteria not met.</b> As sectors are not identified, there is no assessment of risks and opportunities.</p>		As sectors are not identified, there is no assessment of risks and opportunities.	No	Include risk assessments in the documents to be drafted.

**Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System**

**11. Transparency and civil society engagement foster integrity in public procurement**

**11(a) Enabling environment for public consultation and monitoring**

Assessment criteria	Step 1: <b>Qualitative analysis</b> (comparison of actual situation vs. assessment criteria)	Step 2: <b>Quantitative analysis</b>	Step 3: <b>Gap analysis</b> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) A transparent and consultative process is followed when formulating changes to the public procurement system.	<b>Assessment criteria not met.</b> There is no civil society involvement in public procurement reform process. The government did not consult citizens when enacting the new act.		There is no civil society involvement in public procurement reform process. The government did not consult citizens when enacting the new act.	No	Have meetings and invite citizens through radio and newspapers and provide training for civil society.
(b) Programmes are in place to build the capacity of relevant stakeholders to understand, monitor and improve public procurement.	<b>Assessment criteria not met.</b> There are no programmes in place to build capacity of stakeholders to understand, monitor and improve public procurement.		There are no programmes in place to build capacity of stakeholders to understand, monitor and improve public procurement.	No	Provide basic training to explain especially consultation and monitoring.
(c) There is ample evidence that the government takes into account the input, comments and feedback received from civil society.	<b>Assessment criteria not met.</b> As there is no dialogue with civil society, there is no feedback or recommendations from non-governmental stakeholders. In the few cases where there has been some kind of supplier intervention in proposed procurement documents, such as the planned vendor registration form, few actions were taken, and no follow-up was done.		As there is no dialogue with civil society, there is no feedback or recommendations from non-governmental stakeholders. In the few cases where there has been some kind of supplier intervention in proposed procurement documents, such as the planned vendor registration form, few actions were taken, and no follow-up was done.	No	Answer the comments received from citizens.

**11(b) Adequate and timely access to information by the public**

Assessment criteria	Step 1: <b>Qualitative analysis</b> (comparison of actual situation vs. assessment criteria)	Step 2: <b>Quantitative analysis</b>	Step 3: <b>Gap analysis</b> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Requirements in combination with actual practices ensure that all stakeholders have adequate and timely access to information as a precondition for effective participation.	<b>Assessment criteria not met.</b> Award information with the name of the supplier and its bid price is only available for the few public tenders done, and that practice begun only some years ago. Nevertheless, the assessors could not check historical award data in the Tenders Board's website. No information of award and contracts are disclosed for other procurement methods.  The only other document that is public is the invitation published in the newspaper and on the Tenders Board's website.  Actual practice identified mostly by suppliers show that there is no extensive access to information. Notices to tender are checked by suppliers in newspapers and billboards for public works. There is no information about the planning stage that is made available.		General confidentiality of procurement documents along with actual practices make it impossible for stakeholders to have adequate and timely access to information. Only some documents are published in the website is the invitation to tender and the award, but they are not kept as historical data available to all.	No	Disclose procurement documents.

**11(c) Direct engagement of civil society**

Assessment criteria	Step 1: <b>Qualitative analysis</b> (comparison of actual situation vs. assessment criteria)	Step 2: <b>Quantitative analysis</b>	Step 3: <b>Gap analysis</b> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) 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>Assessment criteria not met.</b> The Tenders Board act has no provision allowing citizen participation in the planning phase. Section 30.1.a. allows for the consultation with persons from the public at the tender, award and contract stages, but only at the Board's discretion, and to only certain individuals chosen by the Board. Furthermore, as Board business and documents are considered confidential (Section 31), general citizen observation is not possible.  The new Procurement and Contract Administration Act does not include any provision on this matter, except for the limited possibility of a person to complain about the award of a contract or procurement procedure (Section 48).  There are no specific mentions to legislation or regulation about citizenship participation. Although there are no prohibitions, there is no participation foreseen for any stage of procurement.		The Tenders Board act has no provision allowing citizen participation in the planning phase. Section 30.1.a. allows for the consultation with persons from the public at the tender, award and contract stages, but only at the Board's discretion, and to only certain individuals chosen by the Board. Furthermore, as Board business and documents are considered confidential (Section 31), general citizen observation is not possible.	No	Disclose contract information. This would require for some documents a legal reform to make this information non-confidential.

	Furthermore, the fact that most of the information is deemed to be confidential by the current legislation makes it difficult for these stakeholders to participate.				
(b) There is ample evidence for direct participation of citizens in procurement processes through consultation, observation and monitoring.	<b>Assessment criteria not met.</b> There is no evidence of direct participation from citizens in consultation, observation and monitoring.		There is no evidence of direct participation from citizens in consultation, observation and monitoring.	No	Provide spaces for discussion and provide training and guidelines to explain procurement to citizens.

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

12(a) Legal framework, organisation and procedures of the control system

The system in the country provides for:

Assessment criteria	Step 1: <b>Qualitative analysis</b> (comparison of actual situation vs. assessment criteria)	Step 2: <b>Quantitative analysis</b>	Step 3: <b>Gap analysis</b> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) laws and regulations that establish a comprehensive control framework, including internal controls, internal audits, external audits and oversight by legal bodies	<b>Assessment criteria partially met.</b> The Director of Audit Act (No. 4 of 2014) is the piece of legislation corresponding to audit in the state, and establishes its duties and powers, which include the audit and examination of all public accounts and referral of a corresponding report to the House of Representatives; informing of any irregularity in the expenditure of public money to the relevant accounting officer in the corresponding ministry and to the Financial Secretary. The act provides for a comprehensive control framework, but does not include provisions on internal control.		There is no law or regulation about internal control in the country.		Create legislation or regulation for internal control.
(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	<b>Assessment criteria partially met.</b> The persons who attended the mission affirmed that there are no audits related to procurement conducted on a regular basis. When performed, these audits only include compliance checks, and no considerations about the effectiveness or efficiency of procurement operations are checked.  The auditors have sometimes found prices to be higher than normal, but as the procedure follows the general rules and includes the authorization and sign-off by the corresponding minister, there is no finding drafted about the cost overrun.  Most of the attention in audits is related to checking on whether the amounts were paid according to the contract.  Internal audits are programmed annually and some ad hoc audits are made. This only applies to central government, and the statutory bodies are not included in the audit programme.		Internal control procedures or audits of procurement are not undertaken on a regular basis. When conducted, these only include compliance checks, and no considerations about the effectiveness or efficiency of procurement operations are checked. Thus, cost overruns are generally not flagged as findings.		Ensure that procurement audit is carried out and pay close attention to cost overruns and effectiveness and efficiency considerations, going beyond compliance checks.
(c) internal control mechanisms that ensure a proper balance between timely and efficient decision-making and adequate risk mitigation	<b>Assessment criteria not met.</b> There is no evidence of internal control mechanisms in place.		There is no evidence of internal control mechanisms in place.	No	Create internal control mechanisms.
(d) 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>Assessment criteria partially met.</b> According to the PEFA 2015 report, central government entities representing at least 50% of total expenditures are audited annually. Many of the statutory bodies have not undergone an independent external audit recently.  External audits are presented to the Parliament on a yearly basis. No special emphasis on procurement is made. One of the statutory bodies interviewed stated that they hire an international audit firm to perform external audits.		External audits are presented to the Parliament on a yearly basis but no special emphasis on procurement is made. The major central government entities are included in the audit. There is a gap related to the external audit of statutory bodies, many of which have not undergone an external audit recently.		Enforce the audit of statutory bodies.
(e) review of audit reports provided by the SAI and determination of appropriate actions by the legislature (or other body responsible for public finance governance)	<b>Assessment criteria partially met.</b> The Director of Audit reports to Parliament and a Public Accounts Committee of Parliament is in place to review these audit reports. Nevertheless, examination does not actually take place because the Public Accounts Committee of the Parliament in charge is not active and does not meet regularly. Thus, the Parliament is not issuing any recommendations related to issues identified in the audits.		The Public Accounts Committee which is responsible for reviewing the reports from the Director of Audit is not meeting regularly and is not issuing recommendations based on the reports.	Yes	Ensure that the Public Accounts Committee meets regularly to review audit reports received.
(f) clear mechanisms to ensure that there is follow-up on the respective findings.	<b>Assessment criteria not met.</b> The PEFA 2015 report identifies weaknesses in the response and follow-up of external audits. These include legal ambiguity for the publication of audits, sending the audit reports of the audited entities, and formal follow-up of audit findings.		There is no follow-up mechanism set in place for checking whether the recommendations of the audit reports were carried out. The implementation of recommendations done by auditors are only revised, is in the following audit.	No	Set up a follow-up mechanism to check the implementation of audit recommendations.

	The only moment when the findings and recommendations done by auditors are revised, is in the next audit.			
--	---	--	--	--

12(b) Coordination of controls and audits of public procurement

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) There are written procedures that state requirements for internal controls, ideally in an internal control manual.	<b>Assessment criteria not met.</b> No written procedures specifying internal control exist.		No written procedures specifying internal control exist.	No	Draft internal control mechanisms and guidelines.
(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.	<b>Assessment criteria not met.</b> No written procedures exist for conducting procurement audits.		No written procedures exist for conducting procurement audits.	No	Draft procedures for conducting procurement audits, based on international best practices.
(c) There is evidence that internal or external audits are carried out at least annually and that other established written standards are complied with.*  * 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.	<b>Assessment criteria partially met.</b> Internal and external audits are said to be carried out annually for central government institutions, but not for statutory bodies. Nevertheless, these audits do not always consider procurement.	No quantitative indicators were shared with the assessors.	The persons interviewed stated that internal and external audits are said to be carried out annually for central government institutions, but not for statutory bodies. These audits do not always consider procurement.		Enforce the audit of statutory bodies.
(d) Clear and reliable reporting lines to relevant oversight bodies exist.	<b>Assessment criteria partially met.</b> According to the interviews conducted to the auditors, in the event of detecting possible irregularities, the auditor would report to the Director of Audit. Reports of the Director of Audit are sent to the House of Representatives. In case of any irregularity in the expenditure of public money, information must be sent to the relevant accounting officer in the corresponding ministry and to the Financial Secretary. There is no evidence of clarity of what would happen next, and thus there is room for improvement in establishing clear reporting lines in these cases.		Auditors report irregularities to the Director of Audit but have no clear understanding of the reporting line.		Have clear provisions on reporting lines to oversight bodies.

12(c) Enforcement and follow-up on findings and recommendations

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Recommendations are responded to and implemented within the time frames established in the law.*  * Recommended quantitative indicator to substantiate assessment of sub-indicator 12(c) Assessment criterion (a): - Share of internal and external audit recommendations implemented within the time frames established in the law (in %). Source: Ministry of Finance/Supreme Audit Institution.	<b>Assessment criteria not met.</b>  See 12(a)(f).	No quantitative indicators were shared with the assessors.	There is no evidence that recommendations are responded to and implemented. No time frame is given to audited entities. No information was given to the assessors to calculate the corresponding quantitative indicator.	No	Enforce that entities implement recommendations.

(b) There are systems in place to follow up on the implementation/enforcement of the audit recommendations.	<b>Assessment criteria not met.</b>		There is no evidence of systems in place to follow-up on the implementation of audit recommendations.		Create procedures for following-up on the implementation of recommendations.
---	-------------------------------------	--	---	--	--

12(d) Qualification and training to conduct procurement audits

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) 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.*  * Recommended quantitative indicator to substantiate assessment of sub-indicator 12(d) Assessment criterion (a): - number of training courses conducted to train internal and external auditors in public procurement audits. Source: Ministry of Finance/Supreme Audit Institution.  * Recommended quantitative indicator to substantiate assessment of sub-indicator 12(d) Assessment criterion (a): - share of auditors trained in public procurement (as % of total number of auditors). Source: Ministry of Finance/Supreme Audit Institution.	<b>Assessment criteria partially met.</b> There is no programme established to train auditors on a regular basis nor any specific emphasis on procurement in the few training sessions conducted. The persons interviewed only recalled a training programme conducted by the EU three years ago. In addition, there is evidence that a training session was conducted in 2016 by the consultant hired by the Commonwealth Secretary for some auditors.	No quantitative indicators were shared with the assessors.	There have been few recent training sessions for auditors and there is no established programme to train them. The sole source of information for this indicator was the interviews conducted, and no quantitative information was given to the assessors.		Ensure that auditors take regular training.
(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>Assessment criteria partially met.</b> According to the auditors, entities are classified as low -, medium-, or high-risk institutions according to previous audits, number of procurement processes conducted and budget. More experienced auditors are appointed to the high-risk entities, but there is no consideration of procurement knowledge for appointing auditors. There is no use of external procurement specialists.		Auditors are appointed to specific audits according to their experience and the level of risk of the audited entity. No consideration is made related to the procurement expertise of the auditor. In any case, procurement is not a specific topic that is analysed in depth in the audits.		Identify procurement know-how among the auditors and use this to appoint the best to the procurement audits.
(c) Auditors are selected in a fair and transparent way and are fully independent.	<b>Assessment criteria met.</b> According to the auditors interviewed, the process for selecting auditors follows the general procedure for selecting public officials and is deemed to be fair and transparent. The audit office is small and understaffed to perform all audits necessary, especially regarding statutory bodies. A centralised human resources department conducts the initial part of the selection process for new auditors. The final decision is made by the Director of Audit.		At the moment, the audit office remains understaffed.	Yes	Appoint more auditors and train them to carry out procurement audits.

13. Procurement appeals mechanisms are effective and efficient

13(a) Process for challenges and appeals

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Decisions are rendered on the basis of available evidence submitted by the parties.	<b>Assessment criteria partially met.</b> The Tenders Board Act has no provision for challenges and appeals. The new Procurement and Contract Administration Act includes the possibility for a person to file a complaint related to the award of a contract or the procurement process to the Ombudsman (Section 48). The Ombudsman is responsible for reviewing the complaint.  Decisions of the judiciary are rendered based on available evidence submitted by the parties. For example in the case ANTIGUA POWER COMPANY LIMITED V. THE ATTORNEY GENERAL et al.		There is no legal or regulatory provision currently establishing the procedure for challenges and appeals. The new Act includes the possibility for a person to file a complaint related to the award of a contract or the procurement process to the Ombudsman (Section 48). The Ombudsman would be responsible for reviewing the complaint. But there is no procedure for appealing the decision of the Ombudsman.	Yes	Enforce the new act and create and appeals mechanism for decisions made by this person.

	(HCVAP 2009/006) when the Court of Appeal analysed the affidavit of one the parts, among other evidences.		In practice, suppliers say they do not complain because they fear being blacklisted from future procurement. In addition, as most information remains confidential, they are not able to check the evaluation report or other parts of the process.		
(b) The first review of the evidence is carried out by the entity specified in the law.	<p><b>Assessment criteria partially met.</b> The Ombudsman under the Procurement and Contract Administration Act would be the first review entity.</p> <p>Suppliers affirmed they do not complain in general because they are afraid of being blacklisted from future procurement. Furthermore, they do not have the necessary information available to check the evaluation and comment on it or other parts of the process.</p> <p>The case may be presented directly to the judiciary to ask for review of a government decision or action. According to Deputy Solicitor General interviewed, if the case amount is below of 15,000 XCD it would go to the low court (Magistrates Court); if it is above that amount, it goes to the High Court in Antigua.</p> <p>Reviewing the Magistrate's Code of Procedure Act and its Amendments there is no explicit mention of the entity in charge of this first review. Nevertheless, the Civil Procedures Rules of Eastern Caribbean Supreme Court state that "these Rules apply to all civil proceedings in the Eastern Caribbean Supreme Court in any of the Member States or Territories" (rule 2.2.1).</p>		No entity specified.		Enforce the new act.
<p>(c) The body or authority (appeals body) in charge of reviewing decisions of the specified first review body issues final, enforceable decisions. *</p> <p>// Minimum indicator // * Quantitative indicator to substantiate assessment of sub-indicator 13(a) Assessment criterion (c): - number of appeals. Source: Appeals body.</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 13(a) Assessment criterion (c): number (and percentage) of enforced decisions. Source: Appeals body.</p>	<p><b>Assessment criteria partially met.</b> The legislation does not specify any administrative appeals body.</p> <p>The constitutional norm "Schedule 2 to the order transitional provisions arrangement of paragraphs" said that "the Supreme Court established by the Order shall, unless Parliament otherwise provides, be styled the Eastern Caribbean Supreme Court."</p> <p>According to the above, the Eastern Caribbean Supreme Court consists of two divisions, a Court of Appeal and a High Court of Justice. The Appeals procedure is contained in the Part 60 of the Civil Procedure Rules, 2000. As well, the section 166 of the Magistrate's Code of Procedure Act, establishes that "the expression "Court of Appeal" means the Court of Appeal of the Eastern Caribbean Supreme Court."</p> <p>Lastly, there is a court of final appeal: the Judicial Committee of The Privy Council (JCPC) located in London.</p> <p>Both of these issue final, enforceable decisions, although the Tenders Board informed the assessors that there had not been any cases of litigation against government related to procurement.</p>	<p>Number of appeals: 0 for procurement carried out by central government entities (as informed by the Tender Board during the interviews and written communications)</p> <p>1 case was found by the assessor in the JCPC. In this case the decision was enforced.</p>	No entity specified.		Draft legislation for administrative appeals.
(d) 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.	<p><b>Assessment criteria not met.</b> According to the Deputy Solicitor General, there is a time frame for submitting appeals to the judiciary of six months after the contested decision from the administration.</p>		The time it takes for a case to be handled in the judiciary makes it impossible to have a decision during the course of a procurement process, before it is awarded.	Yes	Legal reforms to create a procedure to appeal decisions before the award of a contract.

13(b) Independence and capacity of the appeals body

The appeals body:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) is not involved in any capacity in procurement transactions or in the process leading to contract award decisions	<p><b>Assessment criteria partially met.</b> There is no evidence of an administrative appeals body in the Procurement and Contract Administration Act. In the case of the judiciary, it is not involved in any way in procurement transactions.</p>				

(b) does not charge fees that inhibit access by concerned parties	<b>Assessment criteria not met.</b> The fees for the judicial process are detailed in the rules and regulation, specific for each case. For example, for the JCPC cases the Appendix to the Judicial Committee (Appellate Jurisdiction) Rules 2009 and the Practice Directions, establish these fees.		The judicial process is not free.	No	Create a free administrative procedure.
(c) follows procedures for submission and resolution of complaints that are clearly defined and publicly available  <b>// Minimum indicator // * Quantitative indicator to substantiate assessment of sub-indicator 13(b) Assessment criterion (c):</b> <b>- appeals resolved within the time frame specified in the law/exceeding this time frame/unresolved (Total number and in %).</b> <b>Source: Appeals body.</b>	<b>Assessment criteria met.</b> The judicial procedure is clear and available.	0 appeals against central government procurement. In the case found in the JCPC, the case was not resolved in time in the Appeals Court and was thus submitted to the JCPC.			
(d) exercises its legal authority to suspend procurement proceedings and impose remedies	<b>Assessment criteria not met.</b> The judicial process does not impose remedies.		The judicial process does not impose remedies.	Yes	Create an administrative appeals body with the power of imposing remedies.
(e) issues decisions within the time frame specified in the law/regulations*	<b>Assessment criteria not met.</b> There are no cases to study for central government agencies. In the case analyzed (ANTIGUA POWER COMPANY LIMITED V. THE ATTORNEY GENERAL) one of the JCPC's reasons for admitting the appeal was the delay in the Court of Appeal (twenty-two months between the argument concluding in the Court of Appeal and the handing down of the judgment).		From the single case analysed, a serious delay in the Appeals Court is evident.	Yes	Create an expedited administrative appeals system.
(f) issues decisions that are binding on all parties	<b>Assessment criteria met.</b> The decisions are binding on all parties.				
(g) is adequately resourced and staffed to fulfil its functions.	<b>Assessment criteria met.</b> The court appears to be functioning and be adequately staffed.				

13(c) Decisions of the appeals body

Procedures governing the decision making process of the appeals body provide that decisions are:

Assessment criteria	Step 1: <b>Qualitative analysis</b> (comparison of actual situation vs. assessment criteria)	Step 2: <b>Quantitative analysis</b>	Step 3: <b>Gap analysis</b> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) based on information relevant to the case.	<b>Assessment criteria met.</b> The judicial process takes into account information relevant to the case, as presented first by the complainant and then by the parties involved, including the Attorney General.				
(b) balanced and unbiased in consideration of the relevant information.*  <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). Source: Survey.</i> <i>- share of suppliers that perceive appeals decisions as consistent (in % of responses).Source: Survey.</i>	<b>Assessment criteria met.</b> The Appeals Court and JCPC procedure appears balanced and unbiased.	No quantitative indicators were shared with the assessors.			
(c) result in remedies, if required, that are necessary to correcting the	<b>Assessment criteria not met.</b> There are no remedies imposed.	No quantitative indicators were shared with the assessors.	There are no remedies imposed.	No	Create an administrative appeals body with the power of imposing remedies.

<p>implementation of the process or procedures.*</p> <p><i>* 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: Appeals body.</i></p>				
<p>(d) decisions are published on the centralised government online portal within specified timelines and as stipulated in the law.*</p> <p><i>// 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.*</i></p>	<p><b>Assessment criteria partially met.</b> For cases under 15,000 XCD there are few written decisions. For cases that go to the Court of Appeal or the JCPC, the decisions are published online. There is no evidence of specified timelines stipulated in a law.</p>	<p>No quantitative indicators were shared with the assessors.</p>	<p>There are no timelines specified in the law for publishing appeals decisions.</p>	<p>Publish the information as soon as a decision is made, and include timelines for publication in the legislation.</p>

**14. The country has ethics and anticorruption measures in place**

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 criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
<p>(a) definitions of fraud, corruption and other prohibited practices in procurement, consistent with obligations deriving from legally binding international anti-corruption agreements.</p>	<p><b>Assessment criteria met.</b> Antigua and Barbuda ratified the Inter-American Convention against Corruption in 2004, the United Nations Convention against Corruption in 2006, and has been a member since 2010 of the Mechanism for follow-up on the implementation of the Inter-American Convention against Corruption (MESICIC). Act No. 21 of 2004 (Prevention of Corruption Act) provides definitions of prohibited practices in procurement, both for someone offering an “advantage” as defined in section 2 of the Act, and for a public official soliciting or receiving such advantage in relation to a procurement process. Furthermore, Act No. 23 of 2004, The Integrity in Public Life Act, expands the prohibited practices related to the improper acceptance of gifts and rewards, related to procurement processes. There is a draft procurement manual created by the consultant hired by the Commonwealth Secretariat in 2016, that develops the explanation of these matters.</p>				
<p>(b) 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>	<p><b>Assessment criteria met.</b> Section 8 of the Prevention of Corruption Act provides for several penalties for public officials and private persons implied in offences described in the Act, including monetary, prison and exclusion from public service.</p>				
<p>(c) definitions and provisions concerning conflict of interest, including a cooling-off period for former public officials.</p>	<p><b>Assessment criteria partially met.</b> The Code of Conduct included as Schedule 2 of the Integrity in Public Life Act includes in section f the prohibition to a public official of the “use his official influence in support of any scheme or in furtherance of any contract or proposed contract or other matter in regard to which he has an interest”. Section i of the Code of Conduct states that a person in public life shall not “while he is a person in public life, acquire, or become a partner or shareholder in, or director or manager of a firm or company which has or had a contract with the Government or with the public body of which that person is or was a member or employee, during the tenure of his office; but this</p>		<p>The Integrity in Public Life Act which regulates conflicts of interest only applies to member of the Tenders Board and other high-level government officials. Other public officials including those that may be involved in certain procurement processes are not included under the scope of this act.</p>		<p>Amend the Integrity in Public Life Act to broaden its scope and include all officials involved in procurement. In the meantime, enforce provisions included in legislation via soft law mechanisms such as guidelines.</p>

	<p>paragraph does not apply where the person to whom this Code applies makes a public disclosure of such partnership, shareholding or other interest". The provision has no clear time frame, applies to the whole of Government and not only to the institution where the official served, and can be bypassed if the official discloses the situation. Furthermore, the Act only applies to high-level officials. The fourth round MESICIC implementation report (2015) considers there is ambiguity in what is public disclosure, and in any case, this disclosure would not be enough to prevent potential conflicts of interest.</p>		<p>The cooling-off period for former public officials is established in the law but the provision is ambiguous and not bound in time.</p>	
--	---	--	---	--

14(b) Provisions on prohibited practices in procurement documents

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
<p>(a) The legal/regulatory framework specifies this mandatory requirement and gives precise instructions on how to incorporate the matter in procurement and contract documents.</p>	<p><b>Assessment criteria not met.</b> The legal framework does not specify any instruction for incorporating provisions related to prohibited practices into the procurement documents. The proposed vendor registration form includes a clause for eligibility related to not being connected, both as an enterprise and for its employees, to illegal operations, and not being under investigation under the Government of Antigua and Barbuda, or any other government, of proscribed practices such corruption, fraud, coercion, collusion or any other unethical practices. This clause is very broad in its scope as it relates to investigation and not actual punishment.</p>		<p>There is a substantial gap because the legislation does not include provisions on prohibited practices in procurement documents. This is not addressed either in the new Act.</p>	No	<p>Include such provisions in amendments to laws.</p>
<p>(b) Procurement and contract documents include provisions on fraud, corruption and other prohibited practices, as specified in the legal/regulatory framework.</p>	<p><b>Assessment criteria partially met.</b> The tender documents reviewed by the assessors contained a section specifying that "Antigua and Barbuda has a policy of zero tolerance on certain prohibited practices, including fraud, corruption, collusion, unethical practices, and obstruction. The Cabinet Secretariat is committed to preventing, identifying and addressing all acts of fraud and corrupt practices against the government of Antigua and Barbuda". This clause leaves no action to be taken by suppliers, and seems to be only of an informative nature.  There is no evidence that practice is widespread for all tender documents and contracts.</p>		<p>Although the tender documents reviewed contain information about prohibited practices, there is no request for action from the suppliers, asking them to abstain from such practices or sign a related commitment. There is no evidence that this provision is used in other procurement methods or enforced in contracts.</p>		<p>Improve the drafting of the provisions related to prohibited practices that are currently included in the tender documents.</p>

14(c) Effective sanctions and enforcement systems

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
<p>(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.</p>	<p><b>Assessment criteria not met.</b> There are provisions in the Integrity in Public Life Act and Freedom of Information Act about the possibility of a person that knows about corruption acts or other prohibited practices to report them. These provisions are stated as possibilities, not as obligations and there is no evidence of requirement of procuring entities to report prohibited practices to authorities.  Section 22 of the Office of the Director of Audit Act (2014) provides a legal basis for the Office of the Director of Audit to notify irregularities in the expenditure of public funds to the relevant accounting officer and the Financial Secretary. The MESICIC 2015 report recommends this notification to be extended to other relevant institutions such as the Integrity Commission and the Attorney General.</p>		<p>The legislation establishes the possibility of reporting corruption allegations, but does not state any requirement or procedure for procuring entities to report allegations of fraud or other prohibited practices.</p>	No	<p>Specify explicitly the requirement to report allegations of prohibited practices either in legislation or guidelines.</p>
<p>(b) There is evidence that this system is systematically applied and reports are consistently followed up by law enforcement authorities.</p>	<p><b>Assessment criteria not met.</b> There is no evidence that procuring entities are reporting allegations of fraud, or know the corresponding procedure. The answer shared by many of the interviewed persons is that in case of evidence of a prohibited practice related to procurement, they would inform the Financial Secretary.</p>		<p>There is no evidence that procuring entities are reporting any allegation of prohibited practices. There is uncertainty among public officials regarding the procedure to do so.</p>	No	<p>Enforce the reporting of allegations once the obligation has been made explicitly in legislation or guidelines.</p>
<p>(c) There is a system for suspension/debarment that ensures due process and is consistently applied.</p>	<p><b>Assessment criteria not met.</b> The Tenders Board Act does not include any process for debarment. The Procurement and Contract Administration Act gives the Procurement Board the duty of debarring a person from participating in solicitations, but as the act has not yet been enforced, no regulations are set up for that purpose.  When a supplier does not comply with the contract, some of the officials interviewed affirmed that public officials would not send further invitations to tender to that supplier.</p>		<p>There is no debarment system in place. Underperforming suppliers are <i>de facto</i> debarred with no due process, and are excluded from further invitations to selective tendering or direct purchasing in a manner that is absolutely to the discretion of the procuring officer.</p>	No	<p>Create a debarment procedure in the regulation.</p>

<p>(d) There is evidence that the laws on fraud, corruption and other prohibited practices are being enforced in the country by application of stated penalties.*</p> <p><i>* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(c) Assessment criterion (d):</i>          - 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.          - 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.</p>	<p><b>Assessment criteria not met.</b>          The 2015 MESISIC report found that there was a lack of follow-up of information passed on by the Office of the Director of Audit to authorities. The report also found that there were no ongoing investigations by the Integrity Commission, and no charges had ever been pressed against anyone in the 10 years of existence of this entity. This is apparently linked to a lack of staff and resources.</p> <p>Disciplinary penalties are very few. The 2015 MESISIC report described that the Public Service Commission found some officials guilty of corruption acts, but they were not dismissed from duty, and were only asked to repay the stolen money and transferred to another institution.</p>	<p>No quantitative indicators were shared with the assessors.          No list of suppliers was provided to the assessors to conduct surveys.</p>	<p>The Integrity Commission has not undertaken investigations or pressed charges against individuals since being established in 2006. This indicates a substantial gap in the enforcement of penalties to punish fraud, corruption and other prohibited practices.</p> <p>Disciplinary penalties are seldom enforced completely by the Public Services Commission.</p>	<p>Yes</p>	<p>Ensure that the Integrity Commission fulfils its duties.</p>
---	--	---	--	------------	---

14(d) Anti-corruption framework and integrity training

Assessment criteria	Step 1: <b>Qualitative analysis</b> (comparison of actual situation vs. assessment criteria)	Step 2: <b>Quantitative analysis</b>	Step 3: <b>Gap analysis</b> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
<p>(a) The country has in place a comprehensive anti-corruption framework to prevent, detect and penalise 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.*</p> <p><i>*Recommended quantitative indicator to substantiate assessment of sub-indicator 14(d) Assessment criterion (a):</i>          - percentage of favourable opinions by the public on the effectiveness of anti-corruption measures (in % of responses).          Source: Survey.</p>	<p><b>Assessment criteria partially met.</b>          The country has in place an anti-corruption framework established in the Constitution and in what is known as the Landmark Trilogy Act, which includes the Integrity in Public Life Act, the Prevention of Corruption Act and the Freedom of Information Act, and which involves agencies such as the Office of the Director of Audit, the Integrity Commission, the Public Service Commission, the Office of the Director of Public Prosecutions and the Attorney General.</p> <p>The Integrity Commission is responsible for: receiving declarations of the affairs of persons holding specific positions in public life; establishing probity, integrity and accountability in public life; and investigating complaints in contravention of the Prevention of Corruption Act. It can charge a person in breach of the Code of Conduct and refer them to the Director of Public Prosecutions. The Office of the Director of Public Prosecutions is in charge of criminal prosecutions. The Office of the Attorney General Office is responsible for ensuring the legislative and administrative framework to control, combat and eradicate corruption. The Public Service Commission exercises disciplinary control over public officials and may remove them from duty.</p> <p>There is lack of capacity of institutions such as the Integrity Commission which is understaffed and has not carried out investigations.</p>	<p>No list of suppliers was provided to the assessors to conduct surveys.</p>	<p>Poor capacity of institutions such as the Integrity Commission to enable them to carry out its responsibilities properly. This was admitted by its members recently when asked about the investigation of a former minister linked with a corruption case related to public contracts, when they stated that they “acknowledged that it does not have the staff or the resources to mount the investigation”</p>	<p>Yes</p>	<p>Provide more resources for the Integrity Commission.</p>
<p>(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.</p>	<p><b>Assessment criteria not met.</b>          There is no evidence of a mechanism in place for identifying and mitigating corruption risks in the public procurement cycle.</p>		<p>In line with the described gap about internal control mechanisms, there is no evidence of a mechanism in place for identifying and mitigating corruption risks in the public procurement cycle.</p>	<p>Yes</p>	<p>Ensure that the corresponding institutions within the anti-corruption framework can use mechanisms to identify and mitigate corruption risks in procurement.</p>
<p>(c) As part of the anti-corruption framework, statistics on corruption-</p>	<p><b>Assessment criteria not met.</b></p>		<p>There are no statistics on corruption-related proceedings and convictions.</p>	<p>No</p>	<p>Ensure that the corresponding institutions within the anti-</p>

related legal proceedings and convictions are compiled and reports are published annually.	The 2015 MESICIC report found no regularly published statistics about corruption-related proceedings and convictions, and recommends the set-up of a system to compile this information and disclose it periodically, for the institutions involved in the anti-corruption framework, including the Office of the Director of Audit, the Integrity Commission, the Office of the Director of Public Prosecutions and the Attorney General.				corruption framework can calculate statistics on corruption-related proceedings and convictions.
(d) Special measures are in place for the detection and prevention of corruption associated with procurement.	<b>Assessment criteria not met.</b> There is no evidence of special measures for the detection and prevention of corruption associated with procurement.		There is no evidence of special measures for the detection and prevention of corruption associated with procurement.	No	Ensure that the corresponding institutions within the anti-corruption framework can enforce special measures to identify and mitigate corruption risks in procurement.
(e) Special integrity training programmes are offered and the procurement workforce regularly participates in this training.	<b>Assessment criteria not met.</b> The 2015 MESICIC report found that there was no on-going training offered about the work of the Integrity Commission, the Integrity in Public Life Act, nor the Prevention of Corruption Act, and thus recommends that these programs be implemented for public officials.  Although training on integrity matters is not conducted on a regular basis, some procuring entities like the Ministry of IT stated that they participated in two sessions last year about integrity and code of conduct for public officials.		Integrity training is not provided on a regular basis to the officials in charge of public procurement, increasing the risk of prohibited practices.	No	Provide training on integrity for public officials.

14(e) Stakeholder support to strengthen integrity in procurement

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) There are strong and credible civil society organisations that exercise social audit and control.	<b>Assessment criteria not met.</b> Citizens are not engaged with civil society organisations for the social audit and control of government contracts.		There is no evidence of civil society organisations that exist in the country with a focus on exercising social and audit control.	Yes	Articulate directly with citizens in meetings and with specific training.
(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.	<b>Assessment criteria not met.</b> The 2015 MESICIC report states that "Antigua and Barbuda has not yet considered and adopted measures intended to establish, maintain and strengthen mechanisms for consulting civil society and nongovernmental organizations on efforts intended to prevent corruption".		The country has not adopted measures to promote an environment for civil monitoring of procurement.	No	Train citizens on basic aspects of procurement.
(c) There is evidence that civil society contributes to shape and improve integrity of public procurement.*  <i>* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(e) Assessment criterion (c): - number of domestic civil service organisations (CSOs), including national offices of international CSOs) actively providing oversight and social control in public procurement. Source: Survey/interviews.</i>	<b>Assessment criteria not met.</b> Integrity in public procurement is not currently being shaped by civil society. No domestic civil service organisations are actively providing oversight and social control in public procurement.	- number of domestic civil service organisations (CSOs), including national offices of international CSOs) actively providing oversight and social control in public procurement: 0 (based on interviews).	Integrity in public procurement is currently not being shaped by civil society.	No	Provide training for citizens to begin a culture of oversight and social control.
(d) Suppliers and business associations actively support integrity and ethical behaviour in public procurement, e.g. through internal compliance measures.*  <i>* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(e) Assessment criterion (d): - number of suppliers that have internal compliance measures in place (in %). Source: Supplier database.</i>	<b>Assessment criteria not met.</b> The interviewed suppliers stated that they don't have any internal compliance measure in place. Suppliers do not feel an important part in shaping integrity in public procurement.	No quantitative indicators were shared with the assessors.	There is no evidence of support for integrity and ethical behaviour from the private sector and the local suppliers interviewed do not have internal compliance measures in place.	Yes	Build on the experience of neighbouring countries where enterprises are using internal control mechanisms to promote these tools in Antigua and Barbuda.

14(f) Secure mechanism for reporting prohibited practices or unethical behaviour

Assessment criteria	Step 1: <b>Qualitative analysis</b> (comparison of actual situation vs. assessment criteria)	Step 2: <b>Quantitative analysis</b>	Step 3: <b>Gap analysis</b> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) There are secure, accessible and confidential channels for reporting cases of fraud, corruption or other prohibited practices or unethical behaviour.	<b>Assessment criteria not met.</b> Section 22 of the Integrity in Public Life Act specifies the possibility to file a complaint to report a breach of the Code of Conduct. The procedure to do this is not clear and this possibility is seldom used. As public officials refer that they would inform the corresponding Permanent Secretary, there is no evidence of a confidential channel to report these cases. For other citizens there is no clear channel to report prohibited practices, and the suppliers interviewed stated that in case of corruption, they would also seek to inform the Permanent Secretary.		There are no secure, accessible and confidential channels in place for reporting prohibited practices or unethical behaviour. Most of the persons interviewed, whether or not part of the government, would report a corruption case to the corresponding Permanent Secretary, but the procedure to do so, and to guarantee confidentiality does not exist.	Yes	Create a channel for reporting cases of prohibited practices.
(b) There are legal provisions to protect whistle-blowers, and these are considered effective.	<b>Assessment criteria not met.</b> Section 22 of the Integrity in Public Life Act specifies that a person that complains about a breach of the Code of Conduct is not liable to civil or criminal proceeding provided he proves that the complaint was made in good faith. There are no legal provisions to protect whistle-blowers.		There are no provisions to protect whistle-blowers.	Yes	Create provisions to protect whistle-blowers.
(c) There is a functioning system that serves to follow up on disclosures.	<b>Assessment criteria not met.</b> Section 24 of the Integrity in Public Life Act provides the legal framework of the procedure followed to investigate a case based on a complaint of a possible breach of the Code of Conduct. But there is no system to follow up on these complaints and as mentioned before, no statistics are recorded to track the functioning of the system.		Procedures and statistics are not in place to follow up possible disclosures. These disclosures would remain in the hands of the Permanent Secretary and any further report to other authorities would remain at his discretion, thus not allowing for a proper follow-up.	Yes	Create a system to follow up on disclosures.

14(g) Codes of conduct/codes of ethics and financial disclosure rules

Assessment criteria	Step 1: <b>Qualitative analysis</b> (comparison of actual situation vs. assessment criteria)	Step 2: <b>Quantitative analysis</b>	Step 3: <b>Gap analysis</b> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) There is a code of conduct or ethics for government officials, with particular provisions for those involved in public financial management, including procurement.*  <i>* 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.</i>	<b>Assessment criteria partially met.</b> The Integrity in Public Life Act includes as its Schedule B a Code of Conduct for all persons in public life included under Schedule A. The Code of Conduct has provisions related to anti-corruption, like the prohibition to accept gifts. These provisions include two clauses related specifically to conflicts of interest in procurement, which contain ambiguities described under sub-indicator 14(a). This Code of Conduct applies to all persons in public life as defined in Schedule A of the Act, which correspond to high-level officials, including those of statutory bodies. All members of the Tenders Board are also included.  Although the Code of Conduct is established in legislation, many public officials interviewed were not aware of its existence, and those who did, were not aware of its content.	No quantitative indicators were shared with the assessors.	The Code of Conduct does not apply to all public officials. Only high-level officials and members of the Tenders Boards are included in the scope of the Schedule A of the Integrity in Public Life Act.  The provisions related to procurement have ambiguities that were mentioned in indicator 14(a).  The Code of Conduct remains unknown to many public officials.		Amend the Integrity in Public Life Act to cover all procurement officials and correct its ambiguities. In the meantime, enforce some of its provisions through guidelines. Train officials so that they know what the Code of Conduct contains.
(b) The code defines accountability for decision making, and subjects decision makers to specific financial disclosure requirements.*  <i>* 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.</i>	<b>Assessment criteria partially met.</b> The Integrity in Public Life Act mandates persons in public life, including members of the Tenders Board to disclose their financial information. This information is not disclosed for public scrutiny, which would in any case be difficult because they are filled out on paper and not electronically. Other public officials that may be involved in public procurement in the requiring entities are not obliged to meet these disclosure requirements.	No quantitative indicators were shared with the assessors.	Financial disclosure is not mandatory for all public officials that may be involved in public procurement.		Amend the Integrity in Public Life Act to cover all procurement officials.
(c) The code is of mandatory, and the consequences of any failure to comply are administrative or criminal.	<b>Assessment criteria met.</b>				

	Section 20 of the Integrity in Public Life Act specify the consequences of failing to file a declaration for persons in public life, and include monetary fines and prison. Nevertheless, there are no administrative sanctions, as recommended by the MESICIC 2015 report.				
(d) Regular training programmes are offered to ensure sustained awareness and implementation of measures.	<p><b>Assessment criteria not met.</b></p> <p>The Integrity Commission informed the MESICIC 2015 report that there was no training conducted to help persons in public life file their declarations correctly.</p> <p>Training about the Code of Conduct is not carried out.</p>		Regular training programmes are not offered.	No	Provide training on the code of conduct and financial disclosure.
(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.	<p><b>Assessment criteria not met.</b></p> <p>The financial disclosure forms are kept in paper and not available to decision makers. There is no real use of these forms to prevent public procurement risks.</p>		The financial disclosure forms are not accessible nor used by decision makers to prevent corruption risks throughout the public procurement cycle.	No	Improve the way information is collected and put the information to use.

MAPS assessment in: Antigua and Barbuda  
Name/organisation: OECD  
Date: July 2019

***Additional findings for country context***

--