

Kingdom of Eswatini

Assessment of the Public Procurement System

ANNEX 1

Concept Note



MAPS

Methodology for Assessing
Procurement Systems

Concept Note for Assessment of Eswatini Public Procurement System: 2023-2024

31 MAY 2023



I. Context and background

1. **Background:** The Government of the Kingdom of Eswatini (Government) represented by the Ministry of Finance, requested through a letter dated 8 February 2022 (see Annex 1), the African Development Bank (AfDB) to support the country by leading the assessment of the public procurement system of Eswatini in collaboration with Government. The assessment will be carried out with the full involvement of all Stakeholders and Development Partners (DPs) following the Methodology for Assessing Procurement Systems (MAPS, Version 2018). This assessment is timely as part of the public procurement reform agenda.
2. **Country Overview:** The Kingdom of Eswatini is a landlocked country in Southern Africa which shares borders with Mozambique and South Africa. Eswatini has an area of 17,364 km² comprising primarily rolling hills and mountains with some sloping plains and a climate varying from tropical to near temperate. It is vulnerable to extreme weather dynamics, including Cyclone Eloise in 2021. The administrative capital is Mbabane and the royal and legislative capital is at Lobamba. Eswatini has an estimated population of 1.192 million people, with a population growth rate of 0.72%. The population is predominantly Swazi, with other groups including Zulu, as well as people of European ancestry and the predominant religion in the country is Christianity. Official languages are siSwati and English. Eswatini gained independence from British colonial rule in 1968 and a new constitution was adopted in 2005. The legal system is a mix of civil, common and traditional law.
3. **Political Context:** Eswatini has a dual governance structure, in which the modern parliamentary system consisting of a bicameral Parliament (comprising a House of Assembly and Senate) and the traditional monarchy run concurrently. King Mswati III is the Head of State and appoints the Prime Minister (Head of Government), Cabinet Ministers, and other senior officials. The current Prime Minister, Mr. Cleopas S. Dlamini, was appointed in July 2021, succeeding the late former Prime Minister Ambrose Dlamini. Elections in Eswatini are held every five years but political parties cannot register and participate in elections. Election to office is, thus, based on individual merit and not on a political party basis. The House of Assembly (lower house) is comprised of 69 members, of which 59 members are directly elected by the electorate, while the King appoints the other 10 members. The King also appoints 20 members of the 30-seat Senate (upper chamber), with the remainder selected by the House of Assembly. All members of Parliament serve five-year terms. The next elections are expected in September 2023. In June 2021, the country experienced social unrest that was triggered by calls for further opening of political space. Following mediation efforts led by the Southern Africa Development Community (SADC) in November 2021, King Mswati III committed to hold an inclusive national dialogue to find a solution to the country's political challenges.
4. **Economic Overview:** Eswatini is a lower middle-income country (MIC) with an estimated GDP per capita of USD4,444. The kingdom is a member of the monetary union, the Common Monetary Area (CMA), with South Africa, Namibia and Lesotho. Eswatini's national currency, the Lilangeni, is pegged at par to the South African Rand. Eswatini is also a member country of the Southern African Customs Union (SACU), with Botswana, Lesotho, Namibia and South Africa, which share a common external tariff policy, freely exchange their goods internally, and distribute among themselves the pool of customs and excise taxes collected by the union. Eswatini's largest export and import market is South Africa, at about 65% and 72%, respectively.



The major economic sectors contributing to overall GDP in 2021 are the services sector (53.9%), industry sector (32.2%) and agriculture (8.3%). Manufacturing (26.7% of GDP) remains the single largest subsector and is vertically integrated with key agricultural sectors, followed by wholesale and retail (14.4%). The total share of employment in services increased from 64.5% in 2018 to 68.8% in 2019, while the share of employment in agriculture and industry declined from 13% to 12% and from 24% to 23%, respectively, during the same period. Eswatini's economic growth decelerated from 7.9% in 2021 to 3.6% in 2022 partly due to base effects and the spill over effects from South Africa's weak growth, and the disruptive effects of Russia's invasion of Ukraine, which induced a slump in demand due to an upsurge in inflation, an increase in the cost of credit, and fiscal constraints. In agriculture, sugar cultivation and processing were affected by excessive rainfall, high fertiliser, and pesticide costs, which affected yields. Government's cash flow challenges also negatively impacted implementation of construction projects. Inflation increased to 4.8% in 2022, from 3.7% in 2021, mainly driven by food and transport costs. In a bid to tame rising inflation, monetary policy was tightened, as the discount rate was gradually increased to 7.25% in March 2023, from 3.75% in January 2022.

The 2022 fiscal deficit is estimated at 4.6% of GDP, similar to 2021, which is a result of fiscal consolidation and is expected to narrow to 3% of GDP in 2024, from 5.1% in 2023, due to a strong rebound in SACU receipts in 2023. Public debt stood at 43.7% of GDP as of end March 2023, from 35.5% at end March 2022. With the forecasted higher growth trajectory, public debt-GDP ratio is expected to decline to 41% and 38% in 2023 and 2024, respectively. The government remains committed to restore fiscal sustainability and curbing further buildup of domestic arrears, which stood at 6.3% of GDP in March 2023, from 7.3% as of end March 2022. To further raise long-term capital, Eswatini plans to issue rand denominated sovereign bonds on the Johannesburg Stock Exchange, which, in terms of exchange rate risk, is deemed to be of low risk to debt distress, given the Rand's parity with the Lilangeni. Economic tailwinds include the huge increase in SACU revenues windfalls and the proposed SACU Stabilisation Fund expected to foster fiscal stability. Headwinds remain the higher global inflation, weak growth of South Africa and the outstanding national dialogue.

5. **Social Context:** Eswatini has made good progress on access to basic education with gross enrolment rates at 126% for primary and 100% for junior secondary. However, skilling and preparing the youth for a dynamic labour market is a challenge. Enrolments in Technical, Vocational Education and Training (TVET) are low, partly due to low public investment, fewer qualified academic staff, weak online learning systems and a curriculum that is poorly linked to industry needs, hence fuelling skills mismatch, and youth unemployment. Unemployment declined from 28.2% in 2013 to 22.2% in 2019, before climbing to 33.3% (youth 58.2%) due to company closures brought about by COVID-19. Women dominate the informal business sector with approximately 65% of MSME business owners being female, concentrated in wholesale and agriculture related enterprises.
6. **Development Challenges:** Poverty and inequality, which have been worsened by COVID-19, are core development challenges for Eswatini. The country has a Gini index score of 54.6 on inequality in 2016 (51.5 in 2009) and is among the top five most unequal countries in the world. According to the 2017 Household and Income Expenditure Survey, 58.9% of the population live below the national poverty line. Poverty is more pronounced in rural areas (at 70.2%) than urban areas (19.6%). More males live below the poverty line (67%) than females (59.4%). The overall Human Development Index value of 0.597 (2021) shows a slight decline (0.611 in 2019) mainly attributable to decrease in life expectancy. Eswatini's HDI is now ranked at 144 out of 191 (from 138/189 in 2019). The country's formal health care sector, organized into three levels – primary, secondary and tertiary health care, receives around 10% of the



national budget, mostly for recurrent spending. The sector's challenges include rising non-communicable diseases prevalence, workforce shortages and inadequate healthcare infrastructure. Eswatini has made some progress in prioritizing policies, laws and strategies that promote women's rights, including Constitutional guarantees for gender equality. However, life experiences of most women in Eswatini have remained unchanged and difficult and gender-based violence is highly prevalent.

- 7. Public Procurement in Eswatini:** The Government spends a significant amount of public funds on public procurement. According to the Ministry of Finance Expenditure Estimates, the Kingdom of Eswatini spent SZL 20 billion in 2018/19 which was 32% of GDP, SZL 21.7 billion in 2019/20 which was 33.5% of GDP and SZL 22.6 billion in 2020/21 which was 34% of GDP.

Public Procurement in the Kingdom of Eswatini is regulated by the Public Procurement Act, 2011 (PPA), which came into effect in 2013. Prior to the PPA, public procurement was conducted applying Stores Regulations issued pursuant to s.26 Finance and Audit Act, 1967 and in local government through provisions of the Swaziland Urban Act, 1969. The PPA describes the institutional framework, methods of procurement, procedures, rules and ethical behaviour. The objectives of the PPA include ensuring transparency and accountability, economic efficiency, maximum competition, promotion of diverse private sector participation, development of economic capacity and promotion of regional and international trade. PPA applies to all public procurement conducted by "Procuring Entities" (PE) which is a defined term covering any entity designated to conduct public procurement activities including any Ministry, Department, Agency, Category A public enterprise or Local Government Authority, subject to specified exceptions. The PPA provides for detailed implementation by means of Regulations. The Public Procurement Regulations, 2020 (PPR) were gazetted and became operational on 24 May 2021. The PPA provides for the preparation and mandatory use of standard tender documents and other standard procurement documents. Standard Bidding Documents (SBDs) have been developed and are due for publication in June 2023. Capacity building training on the new SBDs has recently been undertaken with procuring entities.

Use of electronic procurement is currently limited. There is a tender portal which is used for advertisement of tender opportunities. In 2019, ESPRA, with technical assistance from the World Bank, conducted an e-Government Procurement (e-GP) Readiness Assessment. This was followed up with publication of an e-GP strategy in 2020, aimed at providing information on the e-GP System as well as guidance on its implementation. The Cabinet approved the e-GP Strategy, but implementation is lagging behind.

The e-GP Strategy highlighted the following weaknesses in public procurement in Eswatini: (i) unethical market practices and uncompetitive prices; (ii) weak internal controls and (iii) fraud and corruption. Further challenges faced in public procurement include: shortage of procurement staff with requisite skills; lack of professionalization; limited availability of procurement data making monitoring and regulation problematic; inadequate information technology (IT) tools. The Government has been making efforts to strengthen the procurement management function for major spending ministries, starting with initial institutional capacity-building activities and implementation of the legal framework including the operationalization of Public Procurement Regulations in 2021.

- 8. Need for a MAPS assessment:** MAPS 2018 is a universal tool reflective of leading international procurement practice that serves as a guide towards sustainable and inclusive public procurement reform. There has been no comprehensive country-level procurement



assessment carried out in Eswatini. A PEFA assessment was carried out in 2010 (published in 2011). A medium to long term recommendation was continued enhancement of procurement reforms and in 2011 the Procurement Act was passed, establishing ESPPRA, with clarificatory circulars published in the interim, pending publication of the Public Procurement Regulations in 2020. Through use of this MAPS Assessment the Government aims to identify opportunities for, and challenges to, the country's procurement system, which will provide guidance in the identification of gaps based on a detailed set of qualitative and quantitative criteria for enhancing the current procurement framework and processes to make it more responsive to the needs of the Government.

Public procurement reform is ongoing in Eswatini and this MAPS assessment will take place at a particularly good point in development of the system, as the PPR have been operation for approximately two years. The timing of this MAPS assessment will assist ongoing reforms by providing an independent assessment, applying the core MAPS Methodology, of the way in which the updated legislative framework (PPA and PPR) is working and how it is applied in practice. The findings of the quantitative indicators will also serve as the baseline for the assessment of impact of procurement reforms in future. The outcomes of this MAPS assessment, applying the core MAPS Methodology, will help inform the effective roll out and implementation of that e-GP strategy in the future.

II. Objectives

1. The broad objective of the assessment is to support the Government in improving the performance of the public procurement system and yield optimal results in the use of public funds and delivery of services to citizens while maintaining high standards of integrity.
2. Specifically, the assessment will:
 - Develop a shared understanding of the current state of Eswatini's Public Procurement System amongst all stakeholders to strategise future reform efforts, to achieve a modern and harmonised procurement system based on the core principles of transparency, accountability and value for money;
 - Identify the strengths and weaknesses of the public procurement system and suggest improvement measures, with particular reference to ongoing reform of the legal framework and introduction and roll-out of e-GP.
3. Based on the results of the core assessment, further MAPS supplementary modules may be undertaken in the future.

III. Scope of the assessment

1. **Parts of government to be covered:** The assessment will cover all Procuring Entities as defined in the PPA, which includes central government, local government and Category A parastatal organisations.

IV. Information sources

1. **Qualitative information:** Key information sources are listed below. The MAPS initiative Checklist of Background Documents will be used.



- **Documents making up the legal and regulatory framework:** Laws, Regulations, Circulars, Guidelines, Manuals, Bidding Documents, etc. Provided by ESPPRA to assessment team.
 - **Other assessments, studies and reports** publicly available and related to Eswatini Public Financial Management and public procurement system from government, Development Partners and other sources. Identified/provided by ESPPRA and assessment team.
 - **Specialised reports/documents such as:** Audit reports published by/available from Office of Auditor General, Court Rulings if publicly available, relevant published reports and decisions of anti-corruption and competition authorities. Through on-line searches by assessment team, provided by ESPPRA or following direct request to relevant authorities.
 - **Statistical information:** from ESPPRA databases and procurement portal provided by ESPPRA; information on review from Independent Review Committee; financial and statistical information from relevant Government Ministries/agencies.
 - **Direct engagement** with personnel involved in procurement from procuring entities identified as key stakeholders in Annex 4, to assess how the procurement system is functioning at the field level. Direct engagement will also take place, as appropriate, with other stakeholders within Government, Civil Society Organizations (CSOs), professional associations, Chamber of Commerce (Business Eswatini) Federation of Eswatini Business Community (FESBC) (employer federation for operators of local businesses including informal sector, micro & SMEs), academia and research institutions, bidding community and other private sector bodies. In some cases, depending on the particular circumstances, direct engagement may be in the form of workshops (see below).
 - **Workshops** with stakeholders (Government, private sector, civil society, media, academia, etc.) to seek their views on the Eswatini public procurement system and solicit feedback on the MAPS assessment for validation purposes. These may be preceded or follow up by Questionnaires/surveys to collect qualitative information.
 - **Questionnaires/surveys** will be prepared to collect qualitative and quantitative data/information on a confidential basis from private sector and CSO stakeholders, in particular, through electronic means such as Microsoft survey tool or Survey Monkey. To be combined with quantitative surveys (see below).
2. **Qualitative data:** Qualitative data is available from ESPPRA with data sourced primarily from (1) compliance Audit Reports on procurement related activities of procuring entities, pursuant to oversight functions in s.10 PPA; and (2) reports on Workload and Capacity Assessment of procuring entities undertaken to determine procurement capacity, need for and level of authority of an Entity Tender Board, pursuant to s.27 PPA. The Office of the Auditor General is also an important source of qualitative data and the Assessment Team will engage directly with the Office of the Auditor General.
 3. **Quantitative data:** The main sources of quantitative data will be ESPPRA and Ministry of Finance. Procuring entities are required to submit quarterly reports on procurement activities. Quarterly Reports from procuring entities are sourced from ESPPRA (for local government and Category A Parastatals) and Ministry of Finance (for central government), to provide information on procurement expenditure and contracts.
 4. **Data collection from representative samples of actual procurement transactions, from planning to contract management (“procurement files”), for assessment of indicator 9:** There are 91 procuring entities in total. Sampling will be focused on top-spending and most active procuring entities in central government, local government and parastatals, with representative distribution of samples from each of these types of procuring entities. It is currently proposed that 10 sample procurement files will be obtained from each of 9 procuring entities (90 sample files in total). The 9 procuring entities will be selected from the



list of 17 procuring entities identified as key procuring entity stakeholders in Annex 4, following receipt and analysis of information on their procurement activities. The sampled procurement files shall be representative of overall procurement activity and thus cover procurement of supplies, works, consulting and non-consulting services) and a range of procurement procedures. Data collection will include as many qualitative and quantitative indicators possible.

5. There is no e-GP system and thus the data source for selection of procurement files for sampling will primarily be ESPPRA databases. In addition, it is envisaged that the selected procuring entities will be asked to provide Annual Procurement Plans and a list of awarded contracts in the past 5 financial years (2018-19, 2019-20, 2020-21, 2021-22, 2022-23 (Financial year runs to 31 March)).
6. Prior to the launch mission, the MAPS Assessment Team shall finalize with ESPPRA the number and identity of procuring entities and number of cases for the sample procurement files, based on considerations consistent with guidance given at paragraphs 27 and 28 of the MAPS Methodology. This should facilitate direct engagement with those selected procuring entities during the launch mission. An additional mission later in the assessment is foreseen to allow for engagement with procuring entities aimed at clarification of potential questions and to finalize data collection. The final approach and methodology of sampling shall be included in the assessment report.
7. **Survey based quantitative indicators:** Survey-based quantitative indicators will be applied. Questionnaires/surveys will be prepared to collect qualitative and quantitative data/information on a confidential basis from private sector and CSO stakeholders, in particular, through electronic means such as Microsoft survey tool or Survey Monkey, to be combined with qualitative surveys (see above). Identification of recipients of questionnaires/surveys, to ensure representative answers, will be finalized during the launch mission when it is also planned to engage directly with private sector and CSO stakeholders to seek their input on this issue.

V. Governance and assessment team

1. **Lead institution:** The lead institution is the African Development Bank (AfDB), while the Eswatini Public Procurement Regulatory Agency (ESPPRA), an independent regulatory body established under the Public Procurement Act 2011 and reporting to the Ministry of Finance, will have overall ownership and strategic leadership role.
2. **External (international) partners:** The African Development Bank is the key external (international) partner, providing operational leadership for conduct of the assessment. The MAPS assessment team will be led by a Task Manager (TM) from the African Development Bank, who will liaise with the Government, stakeholders and Development Partners to ensure timely implementation. The African Development Bank shall also provide the expertise of a country economist, public financial management specialist, governance expert and procurement consultants (to provide specific inputs as requested by the TM). The Development Partners, including the World Bank, will provide a technical expertise (either staff or consultant) to provide limited input as requested by the TM.
3. **The Assessment Steering Committee (ASC)** will provide leadership and guidance to the Assessment Team throughout this project. It will review the draft outputs of the Assessment Team before embarking on the quality review within the Bank and by the MAPS Secretariat



and the Assessment Technical Advisory Group (ATAG). The ASC will be established under the Chairmanship of the Chief Executive Officer of ESPPRA and will include officials from other Government agencies involved in public procurement, private sector entities, civil society organizations and Development Partners.

ASC is expected to comprise officials/representatives from the organizations listed in Annex 2 Members of Assessment Steering Committee. The composition of the assessment steering committee will be discussed and finalized before the launch workshop.

4. **National coordinator:** The national coordinator is Thandeka Dube, ESPPRA who has necessary resources of ESPPRA at her disposal. See Annex 3 Members of Assessment Team and main focal person at ESPPRA.
5. **Lead assessor:** the Government has appointed Honorary Professor Susan Penelope Smith (Susie Smith) as Lead Consultant and Procurement Lawyer (international) to lead the assessment, in accordance with agreed Terms of Reference. Susie is a UK qualified lawyer with extensive experience of advising on public procurement law and practice, governance and reform issues and with project management skills. See Annex 3 Members of Assessment Team and main focal person at ESPPRA and CV at Annex 5.
6. **Local consultant:** the Government has appointed Lomakhosi W. Magagula, Managing Director Zeal Procurement and Supply Chain Limited, as Local Consultant, in accordance with agreed Terms of Reference. The primary role of the Local Consultant is data collection relating to sample contracts and procurement files. Loma is a very experienced CIPS professional and has worked in and with the public sector in Eswatini since 2003, including time with ESPPRA. See Annex 3 Members of Assessment Team and main focal person at ESPPRA and CV at Annex 5.

VI. Stakeholders

1. **Key stakeholders that will be involved in the assessment:** The table at Annex 4 lists key stakeholders that will be invited to be involved in the assessment. In addition to key institutions: Ministry of Finance, ESPPRA, Independent Review Committee, Technical Secretariat, and Government Tender Board, the list of key stakeholders includes: procuring entities at central and local government level as well as parastatals; centralised procurement bodies; authorities in charge of internal and external controls; anti-corruption and competition agencies/bodies; public service, training and research institutions/organisations; professional procurement body; media; representatives of the private sector; civil society organisations and representatives of marginalised groups.
2. **Involvement of stakeholders in collection of information and validation of findings and recommendations:** Stakeholders shall be engaged through appropriate communication and targeted interviews/participation in surveys/ consultations for the purposes of collection of information.

In terms of process and sequencing, the initial results of the assessment shall be shared with ESPPRA for its input at the stage of preparation of the draft report. The Assessment Team may seek additional input from key stakeholders including the private sector at the stage of the draft report.

To ensure that the assessment findings are valid and credible, a joint validation workshop shall be arranged in collaboration with ESPPRA and other development partners involving all



stakeholders to present and agree on: (i) findings of the assessment, (ii) reform priorities, and (iii) a shared strategy for addressing key weaknesses in the public procurement system.

A robust quality-assurance approach shall be followed on review of compliance with the assessment process and assessment report as per the MAPS methodology including quality review of assessment results by the peer reviewers from AfDB and other Development Partners before submission for clearance by AfDB Management.

Upon clearance of the report, review and quality assurance by the MAPS Secretariat and the Assessment Technical Advisory Group (ATAG) shall be sought as required by the process for external certification of MAPS assessments and their comments incorporated in the final report.

VII. Communication and Use

1. **Language of the assessment:** the assessment will be carried out in English, which is one of the official languages of Eswatini.
2. **Communication, publication and use of the assessment results:** Preparation of the assessment report will involve extensive consultations with a wide range of stakeholders from the Government, development partners, private sector and civil society, for which a number of meetings and workshops will be arranged.
3. During the assessment, the Steering Committee will have at the minimum, quarterly meetings (virtual or physical) with the Assessment Team to discuss the progress and assist in overcoming any obstacles and/or bottlenecks that may occur during the assessment period. The assessment report will be presented to the higher level in Government and subsequently shared with other key stakeholders in line with the dissemination plan agreed between the AfDB and Government. If the final Report receives the MAPS Seal of Approval, it shall be published.

VIII. Outputs and timetable

1. **Main output:** The main output will be a report assessing the adequacy of the current public procurement system in Eswatini using the MAPS 2018 tool to identify strengths as well as gaps and/or weaknesses and providing recommendations for further improvement. The report will include prioritisation of recommendations to support the Government's strategic planning process for prioritising future procurement reform efforts, setting revised targets, and making necessary adjustments in procurement policy and implementation modalities.
2. **Assessment in three phases:** The assessment will be conducted in three phases:

Phase 1. Planning and preparing for the assessment phase, which includes:

- **Establishing a multi-disciplinary team** for carrying out the assessment (Assessment Team). This activity has been concluded in respect of the core team comprising AfDB TL, lead consultant and local consultant. See Annex 3 Members of Assessment Team and main focal person at ESPPRA.
- **Consultation with ESPPRA** to: (i) discuss and build consensus around the MAPS 2018 methodology application, validation process, data collection; (ii) conduct stakeholder mapping and agree on composition of the Steering Committee; and (iii) make sure that the



scope of the MAPS assessment is tailored to the Government's public procurement strategy and development objectives. This activity is ongoing.

Phase 2. Conducting the Assessment Phase assessment phase, which includes:

- **Desk review** of the documents making up the legal and regulatory frameworks and other relevant policy documents, based on a MAPS Checklist of Background Documents.
- **Collecting other relevant qualitative data** through a combination of questionnaires/surveys, interviews and workshops.
- **Collecting hard data as required by MAPS for quantitative indicators in the form of statistical information on public procurement performance** from files on sampled contract cases and through public and private sector surveys.
- **Conducting data analysis against the MAPS indicators** using the MAPS Methodology three-step approach: Qualitative analysis, quantitative analysis, gap analysis.
- **Formulating findings and recommendations** (based on the MAPs Methodology three-step approach)
- **Validation** by means of direct engagement with Steering Committee and Stakeholders.

Phase 3. Reporting phase, which includes:

- **Preparing the draft assessment report** in light of the validation process, with prioritisation of recommendations, to assist preparation of strategic action plan.
 - **Sharing of the draft assessment report** with Government counterparts, Steering Committee for comments and adjusting draft assessment report as appropriate.
 - **Submission of draft assessment report for quality assurance**
 - **Preparing the final assessment report** taking into account the comments received during the quality assurance process.
 - **Follow up:** Subsequently, the Government will liaise with counterparts, as needed, to seek support for implementation of the strategic action plan and continue monitoring the outcomes.
3. The key outputs and deadlines (starting with this Concept Note) are set out in the table below.

<i>Output</i>	<i>Responsible</i>	<i>Cooperation with</i>	<i>Timeline/Deadlines</i>
Final Concept note for submission to ATAG/MAPS Secretariat	AfDB	Assessment team & ESPPRA	April 2023
Organizational and logistical arrangements for preparatory meetings	ESPPRA	Assessment Team	April/May 2023
Organizational and logistical arrangements for Launch Workshop	ESPPRA	Assessment Team Stakeholders	April/May 2023 Week of 15 – 19 May 2023 for Launch Workshop
Analysis of country context	Assessment team	Assessment Steering Committee (ASC)	September 2023
Assessment of the public procurement system: <ul style="list-style-type: none"> • Collect data (qualitative and quantitative data) • Apply the MAPS indicators using the three-step approach 	Assessment team	Lead Institution	May 2023 to October 2023



<i>Output</i>	<i>Responsible</i>	<i>Cooperation with</i>	<i>Timeline/Deadlines</i>
First preliminary draft of Assessment Report (initial findings)	Assessment team	ASC	September/October 2023
Developing recommendations for prioritised reform	Assessment team		September/October 2023
Draft full Assessment Report for review/comments (including prioritised recommendations)	Assessment team	ASC	October 2021
Validation of findings	Assessment team	ASC Stakeholders	October/November 2023
Amended draft full Assessment Report	Assessment team	ASC	November/December 2023
Assessment Report submitted for Quality Assurance	Assessment team	MAPS Secretariat and Assessment Technical Advisory Group (ATAG)	End December 2023
Responding to outcomes of Quality Assurance process and submitting final report	Assessment team	ASC	First quarter 2024
Publication of MAPS assessment report	MAPS Secretariat		End of first quarter 2024

4. The following table provides a general overview of the succession of the different activities.

Overview of Tasks (activities) / Months	2023										2024		
	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
1. Concept Note, Logistics, kick-off meetings													
2. Analysis of Country Context													
3. Assessment: Data Collection													
4. Assessment: Analysis (3-steps)													
5. Recommendations													
6. Validation													
7. Report Writing													
8. Quality Assurance													
9. Final Report/ Dissemination													



IX. Budget and external support

1. Estimated Input of AfDB Staff/Consultants/Government Staff

The estimated input of AfDB staff, consultants and Government staff for the assessment is set out below.

Item	Item	Estimated Input in days	Remarks
A.	Government Staff		
	Assessment Steering Committee	N/A	Government Counterpart fund
	Assessment Team (<i>Government Focal point, legal expert plus any other member</i>)	N/A	Government Counterpart fund
	Administrative Support including local travel	N/A	Government Counterpart fund
B	AfDB Staff Time		
	Regional procurement coordinator	20	AfDB internal budget
	Procurement specialist	20	AfDB internal budget
	Governance expert	10	AfDB internal budget
	Country economist	10	AfDB internal budget
	Financial management specialist	10	AfDB internal budget
C	Experts hired under MAPS by Government of Eswatini		
	Lead consultant/Procurement Lawyer (international)	110	Overall lead for the assessment and legal review and provision of detailed comments on various national public procurement laws and regulations
	Procurement consultant (national)	30	Coordination and collection of information for the Assessment Team, analysis and input for report writing
C	Input from other MDB (WB)		
	Lead procurement specialist	5	World Bank contribution
	Procurement specialist	10	World Bank contribution



2. Cost Estimates

The overall costs of the MAPS Assessment exercise are estimated as follows:

Technical assistance	USD
External Expert(s): National consultant	20,000
External Expert(s): International consultants (including additional consultants cited under Section V, para. 2 above)	125,713
<i>Sub-total External Experts</i>	145,713
Travel, accommodation, per diem	USD
Travel costs – Estimated three trips for the lead consultant and AfDB core team	40,000
<i>Sub-total Travel costs</i>	40,000
Other Expenditures (costs for consultations, etc.)	
MAPS Workshops	5,000
Other expenditures and administrative support to steering committee	1,000
<i>Sub-total Other Expenditures</i>	6,000
TOTAL	191,713

3. Logistical arrangements

ESPPRA will be responsible for leading on logistical arrangements such as: providing office space and in-country transport for consultants (where required); facilitating/providing contacts for purposes of conduct or surveys, questionnaires and sampling; arranging interviews, workshops and missions.



Annex 1

Request letter

Telephone: 4048145-9
Fax: 4043187
Telex: 2109 WD



MINISTRY OF FINANCE
PO BOX 443
MBABANE
ESWATINI

THE KINGDOM OF ESWATINI

08th February, 2022

OUR REF: Minfin/2022-23/2

Leila Farah Mokadem
Director General
African Development Bank,
339 Witch Hazel Avenue,
Highveld Extension 78 Eco Park,
Centurion 0157, Private bag X1262,
Silverton, Pretoria
South Africa.

Dear Madam,

SUBJECT: Eswatini - Public Procurement Technical Assistance – Request for MICTAF Grant

The Government of the Kingdom of Eswatini through Eswatini Public Procurement Regulatory Agency (ESPPRA) is currently implementing the 'Capacity Building for Policy makers in Eswatini' component under the *Capacity Development for Economic Diversification and Industrialization in Africa and the Expansion of Bank Interventions in the Education and Skills Development Sector in the Continent* Project, an AfDB sponsored project. Undertaking capacity building for policy makers will address some of the capacity constraints in procurement in Eswatini. However, there is a pressing need to assess the institutional, organizational and human resources capacity in public procurement in Eswatini in order to inform future reforms and capacity building interventions.

A comprehensive review of the Eswatini public procurement system using the Methodology for Assessing Procurement Systems (MAPS) will achieve the goal of identifying weaknesses, developing strategies to address identified weaknesses and contribute to accelerating public procurement reform in the country as well as address public procurement constraints. The assessment would result in the development of recommendations and a prioritized reform action plan which would inform the Government's efforts towards an enhanced public procurement system.

The Government of the Kingdom of Eswatini remains committed to improving the performance of the public procurement system and yielding optimal results in the use of public funds and delivery of services to citizens and residents of Eswatini while maintaining high standards of integrity and transparency.



It is within this context that I request the Bank's support to the estimated sum of USD 165,000.00 to enable us carryout a MAPS Assessment in Eswatini and for technical assistance in Public Procurement.

Please accept madam, assurances of my highest consideration.

Yours sincerely,



Sizakele P. Dlamini

Principal Secretary

Sign here



Annex 2

Members of Assessment Steering Committee

Members of Assessment Steering Committee:

Function	Institution	Name (Principal/Alternate)	Designation	Email
Chair	ESPPRA	Mr. V. Matsebula	CEO	vmatsebula@esppra.co.sz
Members:				
1. Representative, Ministry of Finance				
2. Representative, Central Government Stores (or Director, Central Medical Stores)				
3. Representative, National Tender Board				
4. Representative, Ministry of Economic Planning and Development				
5. Delegation of European Union				
6. Representative of World Bank				
7. Attorney General's office, Ministry of Justice and Constitutional Affairs				
8. Chairman, Independent Review Committee				
9. Representative, Ministry of Public Works and Transport				
10. Anti-Corruption Commission				
11. CSOs (CANGO and FODSWA)				
12. Private Sector Entities (Business Eswatini)				
13. Category A-parastatal representative (EEC)				
14. Local Government Representative (Mbabane)				



Annex 3

Members of Assessment Team and main focal person at ESPPRA

Members of Assessment Team:

Function	Institution	Name	Designation	Email
Lead	African Development Bank	Amilcar Bilale	Chief Regional Procurement Coordinator	a.bilale@afdb.org
Members:				
Procurement Expert	African Development Bank	Chongo Chitupila	Senior Procurement Specialist	c.chitupila@afdb.org
Expert	World Bank and other development partners (for input and peer review of draft report)			
Consultant(s)	African Development Bank	Susan Penelope Smith	Lead International Consultant/Procurement Lawyer	susiewsmith@gmail.com
		Lomakhosi Wendy Magagula	National Consultant	
Main Focal Person from ESPPRA	ESPPRA	Thandeka Dube	Project Coordinator	tdube@esppra.co.sz



Annex 4

List of Key Stakeholders

Type of function or institution	Name of Institution in the country
Authority in charge of the assessment (typically the regulatory authority, ministry, or centre of government)	Ministry of Finance/ESPPRA
Institution in charge of the normative/regulatory function for public procurement	ESPPRA
Administrative/judicial review (appeals) body for procurement	1.Independent Review Committee 2.Judiciary (Courts)
Selected number of procuring entities including state owned enterprises (selection can be made based on regional or thematic focus of assessment)	1.Eswatini Water Services Corporation (EWSC) 2.Eswatini Electricity Corporation (EEC) 3. Eswatini Water and Agricultural Development Enterprise (ESWADE) 4.Mbabane Municipal 5.Manzini Municipal Council 6.Ministry of Public Works and Transport 7.Ministry of Health (including Central Medical Stores) 8. Ministry of Defence and National Security 9. Royal Eswatini Police Service 10.Central Government Stores (CGS) 11. Ministry of Natural Resources and Energy 12.Eswatini Energy Regulatory Authority 13. Ministry of Economic Planning and Development (Microprojects, Millennium Projects Unit) 14.Eswatini Civil Aviation Authority (ESWACAA) 15. National Disaster Management Agency (NDMA) 16. Ministry of Agriculture 17. Ministry of Housing and Urban Development
Centralized procurement body, if any	1.Technical Secretariat (MoF) 2.Central Government Stores 3.Central Medical Stores
Authorities responsible for budgeting, payment and financial procedures	Treasury Department (Ministry of Finance)
Authorities in charge of internal and external controls and audits	1.Office of the Auditor General 2.Internal Audit Department (Ministry of Finance)
Anti-corruption agencies	1.Anti-Corruption Commission 2. Royal Eswatini Police Service (REPS) (Fraud and Commercial) 3.Public Accounts Committee 4.Public Enterprise Unit Tribunal
Competition bodies, e.g. Competition Commission	Eswatini Competition Commission



Government Legal	Office of the Attorney General
Authority responsible for Public Private Partnerships	Ministry of Finance
Public Service Commission	Ministry of Public Service (Civil Service Commission)
Training institutions	Institute of Development Management (IDM) University of Eswatini (UNESWA) Regent Business Institute
Procurement professional body	CIPS Eswatini
Representatives of private sector	Business Eswatini (Chamber of Commerce - umbrella organisation for Eswatini businesses) Federation of Eswatini Business Community (FESBC) – employer federation for operators of local businesses including informal sector, micro & SME
SME development/support	Ministry of Commerce (SMME Unit) The Small Enterprises Development Company (SEDCO)
Representatives of civil society	Coordinating Assembly of Non-Governmental Organisations (CANGO), is a network of over 70 member organisations
Research institutions, Academia	Eswatini Economic Policy Analysis and Research Centre (ESEPARC)
Media	Times of Eswatini Eswatini Observer Eswatini Television Authority Eswatini Broadcasting and Information Services Channel Eswatini The Nation
International partners engaged in procurement in the country (if applicable and not already otherwise involved in the assessment, e.g. through the Technical Advisory Group)	World Bank International Fund for Agricultural Development (IFAD) European Union United Nations
Representatives of Marginalized groups	1.Eswatini Youth Council 2.Federation of the disabled persons in Eswatini (FODSWA) 3.Women in Law



Annex 5

CVs of Consultants appointed

International Consultant – Lead and Legal

Susie Smith

(Susan Penelope Smith)

Summary

UK qualified lawyer based in Bristol, UK. LLB (Hons.) University of Bristol, postgraduate studies in legal practice, European Union Law, Competition Law and Local Government Law. Admitted to the Roll of Solicitors England and Wales (1991) and the Republic of Ireland (2018). Freelance procurement consultant and trainer with extensive practical experience in advising on public procurement, commercial law and country procurement assessments and MAPS Assessments.

Honorary Professor of Law, Public Procurement Research Group, University of Nottingham.

Work history: Worked from 1991 in private law firms and in local government in the UK, specialising in procurement, major projects (PFI/PPP) and commercial work. Partner at Bevan Brittan LLP (legal firm) for 10 years until 2007 - Head of Commercial Department managing large and busy teams, including dealing with finance, HR and resourcing issues; Head of the Procurement, Competition and State Aid team. Work included advising on major procurement infrastructure projects, framework agreements and dynamic purchasing system requiring engagement at high level within government and other organisations.

2008-2022 Legal consultant to Bevan Brittan LLP and freelance procurement legal consultant (international) with work including: reviews of national legislation and practice, drafting legislation and guidance, preparation of public procurement training manuals, training on a wide range of topics including procurement in practice and for procurement review bodies, and annual country monitoring assessments.

MAPS Methodology (2018 version) Assessments 2019-2023

Legal consultant (procurement lawyer) working for World Bank (WB) and African Development Bank (AfDB) on assessments using MAPS Methodology 2018 version for: Rwanda (2019), Ethiopia (2019), Philippines (2019-2021), Indonesia (2019-2022), Timor-Leste (2020-2022), Mauritius (2021-2022), Bhutan (2022-2023). MAPS Certified Assessor (April 2023).

OECD Sigma Country Monitoring Reports 2008-2021

Legal consultant on assessment of procurement systems using the Methodological Framework for Principles of Public Administration (from 2016) and earlier assessment methodologies (2008-2015): Serbia, Montenegro, North Macedonia.

Reviews of Public Procurement Law, Public-Private Partnership Laws and Strategies, operating procedures and training manuals 2007-2021: Armenia, Azerbaijan, Bangladesh, Bosnia & Herzegovina, Kosovo, North Macedonia, Timor-Leste, Turkey, Serbia & Western Balkan region.

Other roles: Editorial board member and regular contributor to the Public Procurement Law Review. Founder member of Procurement Lawyer's Association (UK and Ireland), Voted Who's Who Legal Procurement Lawyer of the Year 2011 & 2012. PhD supervisor (2008-2011), Tribunal Judge (2011-12).



Lomakhosi Wendy Magagula Local Procurement Consultant

RECOGNITIONS: *The 100 Most Influential Women in Supply Chain in African, AWISCA Year 2022. Pan African Awards – Top Woman Professional of the Year, 2023. Eswatini CIPS Branch Chairperson.*

“SUMMARY”

1. PROCUREMENT SPECIALIST:

A Qualified Procurement Professional in CHARTERED INSTITUTE OF PROCUREMENT AND SUPPLY (MCIPS). An Executive MBA in SUPPLY CHAIN & LOGISTICS MANAGEMENT attained from Eaton Business School | Guglielmo Marconi University of Italy and a Post Graduate Diploma in SC&LM, Cambridge Qualification. This is backed by an Accounting background in Chartered Accounting Technician (CAT)

2. WORK EXPERIENCE:

Zeal Procurement & Supply Chain (PTY) Ltd: Founder & Managing Director. ROLES: Overall visionary of the firm. From Overseeing the Procurement Consultancy Firm to Providing Capacity Building to Procuring Entities. Developing Content for Various Procurement Training needs. Pursuing International Business Markets and Global sourcing. Development of Bidding Documents for Goods, Works & Services. Development of Supply Chain Strategies and restructuring. Development of Procurement Manuals & Policies and alignment with the PPA of 2011 & PPR of 2020. Recruitment of Procurement Personnel. Times of Eswatini Newspaper Seasonal Procurement articles writer.

Eswatini Public Procurement Regulatory Agency (ESPPRA): Acting Manager Capacity Building & Advisory Department. ROLES: Preparing Annual Budget in line with the Annual Management Plan. Innovating Strategic Initiatives that drive the Agency forward through Capacity Building activities. Tabling revenue generation opportunities to the RMT. Ensuring the Visibility of the Agency is enhanced. Procurement Technical Guidance to All the Entities which are regulated by the Agency. Supporting the development of Standard Tendering Documents. Preparing all Training Materials as per the Client needs.

Central Transport Organisation – Ministry Of Works: BUYER/Procurement Clerk. ROLES: Procuring all spares for the government fleet. Negotiating prices and sourcing supplies. Goods Evaluation process for selective commodities. Supplier Appraisal and Site Inspections. Generating Purchasing Orders, Expediting Orders, Goods Receiving and Inspection up to Vendor Rating. Supplier Selection Process. Warehouse and Inventory Management.

3. PROJECTS:

Steering Committee Member – WFP/FAO/Ministry of Education Home-grown School Feeding Project. (2019 – 2021). Part of the team drafting PPR of 2020. Part of the development of the Standard Tendering Documents. Work Load and Capacity Assessment Project, (Tool & Implementation) for PEs to award Thresh-holds and Establishment of Entity Tender Boards as prompted by Section 27 of the PPA of 2011.



Kingdom of Eswatini

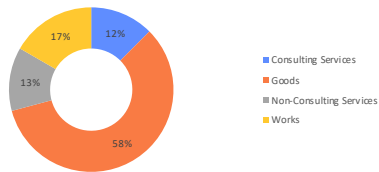
Assessment of the Public Procurement System

ANNEX 2

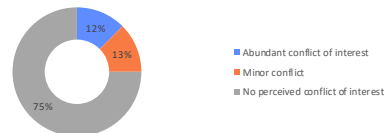
Private Sector Surveys

Forms/questions

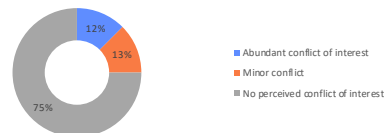
Distribution of respondents by area of activity



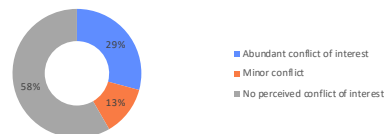
Are there any conflicts of interest related to public procurement in the ESPPRA (Eswatini Public Procurement Regulatory Agency)?



Are there any conflicts of interest related to public procurement in the Technical Secretariat of the Ministry of Finance?



Are there conflicts of interest in the procurement operations promoted by the Procuring Entities or the Government Tender Board?



When changes are made to the legal and regulatory framework for public procurement, does the Government or ESPPRA contact private sector/MSME or representative associations to communicate the...



Do you find the changes to the legal and regulatory framework for public procurement difficult to follow?



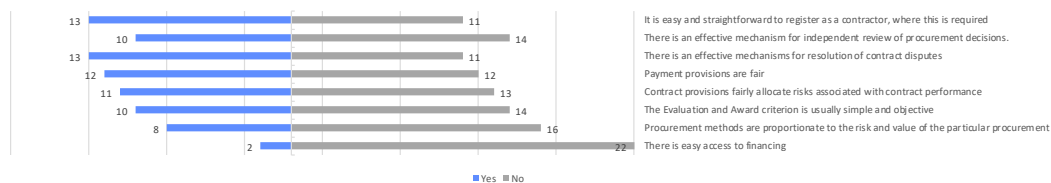
Do you have the resources to keep up with the changes made to the legal and regulatory framework for public procurement?



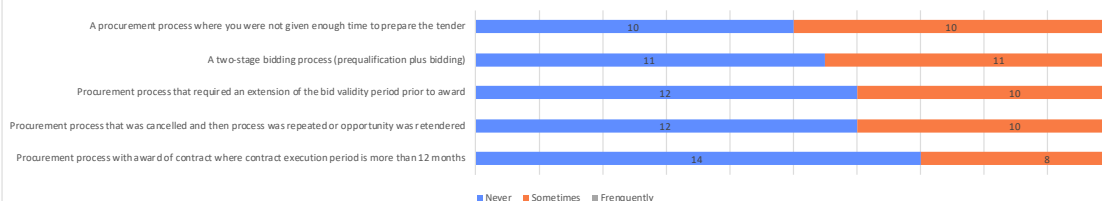
Do you receive the necessary support from the Government and/or ESPPRA to fully understand changes to the legal and regulatory framework?



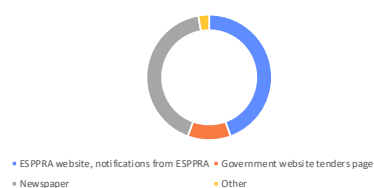
Do you think that the following conditions in the public procurement market are met for participation in the competition for public contracts?



Has your company/organization experienced the following:



Where do you find out about public procurement opportunities?



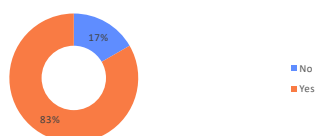
In your opinion, are the requirements and objectives of the contract to be awarded well defined in the bidding documents?



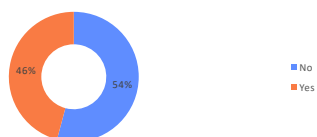
In your opinion, are the bidding documents clear and easy to interpret?



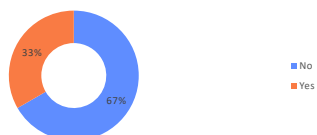
Are the procedures for bid submission, receiving and opening clearly described in the tender documents and are they adhered to?



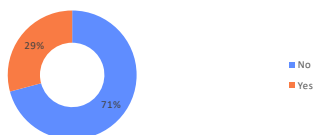
Are appropriate techniques applied to determine the best evaluated tender based on the criteria indicated in the tender documents?



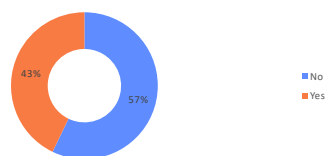
In your opinion, is sufficient visibility given to the reasoning behind decisions throughout the procurement process?



Have you ever submitted an application to a procuring entity for review of a procurement decision taken by that procuring entity?



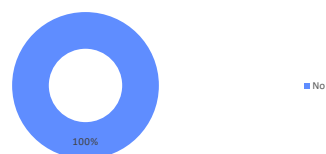
Please indicate if you felt the process was trustworthy and fair.



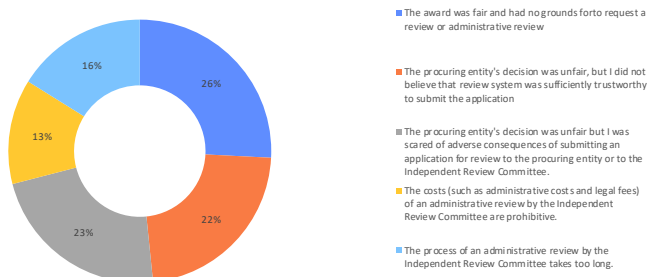
Have you ever submitted an application for administrative review to the Independent Review Committee (IRC)?



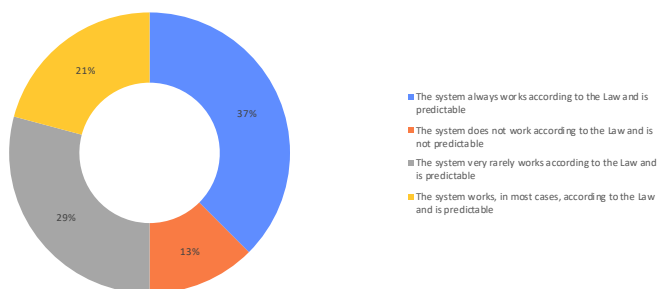
Please indicate if you felt the IRC process was trustworthy and fair.

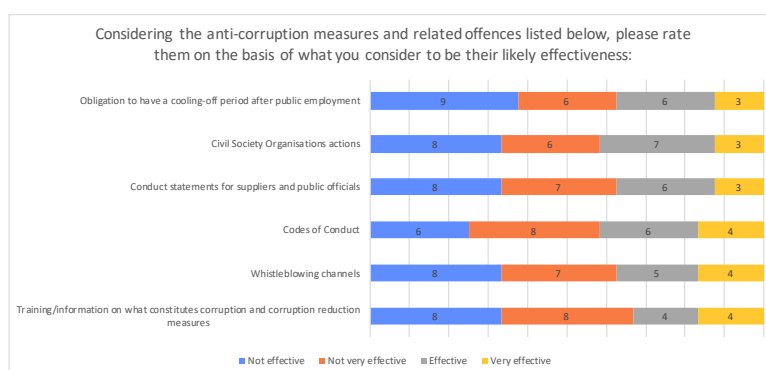
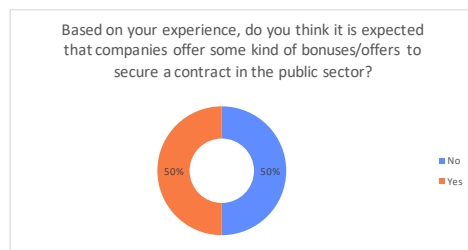
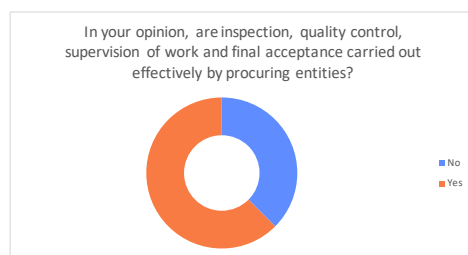
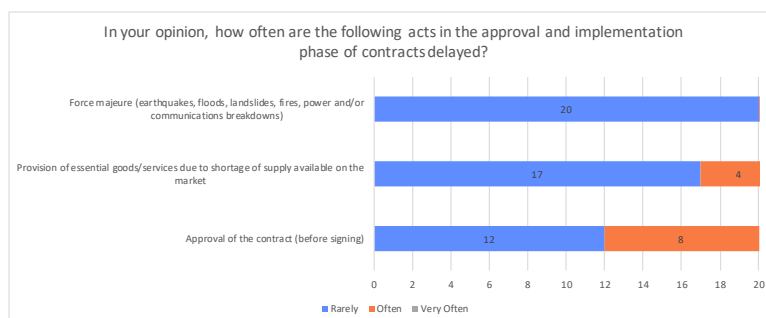
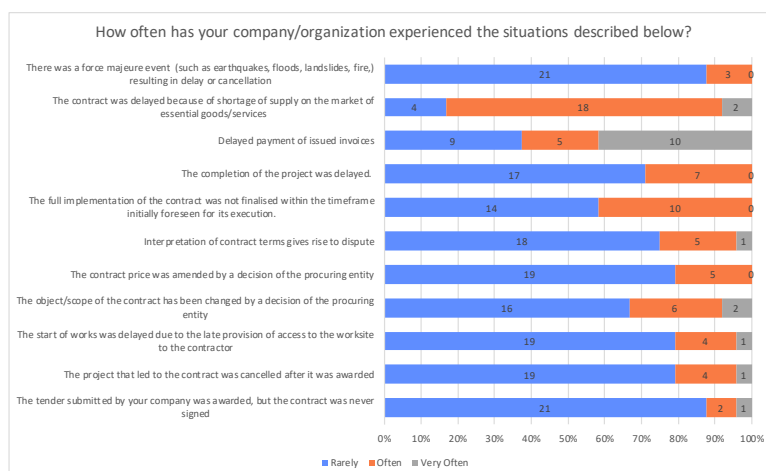


If you have never submitted an application for review of a decision taken by a procuring entity or never submitted an application for administrative review to the IRC please indicate why:



Overall, how do you rate the review and appeals system (review by procuring entities and Independent Review Committee)?





Kingdom of Eswatini

Assessment of the Public Procurement System

ANNEX 3

Assessment Steering Committee Membership, meetings and updates

Membership of Assessment Steering Committee				
Function	Institution	Name (Principal/Alternate)	Designation	Email
Chair	ESPPRA	Mr. V. Matsebula	CEO	vmatsebula@esppra.co.sz
Members:				
<ol style="list-style-type: none"> 1. Representative, Ministry of Finance 2. Representative, Central Government Stores (or Director, Central Medical Stores) 3. Representative, National Tender Board 4. Representative, Ministry of Economic Planning and Development 5. Delegation of European Union 6. Representative of World Bank 7. Attorney General's office, Ministry of Justice and Constitutional Affairs 8. Chairman, Independent Review Committee 9. Representative, Ministry of Public Works and Transport 10. Anti-Corruption Commission 11. CSOs (CANGO and FODSWA) 12. Private Sector Entities (Business Eswatini) 13. Category A-parastatal Representative (EEC) 14. Local Government Representative (Mbabane) 				

Assessment Steering Committee – Meetings and written updates			
Date		Meeting	Update
15 May 2023	Launch Mission	X	
07 July 2023			X
21 September 2023		X	
10 October 2023			X
11 November 2023		X	
12 December 2023			X
07 February 2024	Validation Mission	X	

Kingdom of Eswatini

Assessment of the Public Procurement System

ANNEX 4

Validation Workshop

Organisations represented

**MAPS STAKEHOLDER CLARIFICATION AND VALIDATION WORKSHOP
THURSDAY 8 FEBRUARY 2024**

ORGANISATIONS REPRESENTED

Ministry of Finance
Eswatini Public Procurement Regulatory Agency (ESPPRA)

Anti-Corruption Commission
Eswatini Broadcasting and Information Service (EBIS)
Eswatini Civil Aviation Authority (ESWACAA)
Eswatini Electricity Company (EEC)
Eswatini Energy Regulatory Authority (ESERA)
Eswatini National Rural Farmers Association (Enarfa)
Eswatini National Youth Council (ENYC)
Eswatini Television Authority (ESTVA)
Eswatini Water and Agricultural Development Enterprise (ESWADE)
Internal Audit, Ministry of Finance
Manzini Council
Micro Projects Unit, Ministry of Economic Planning & Development
Ministry of Agriculture
Ministry of Economic Planning & Development
Ministry of Finance
Ministry of Health
Ministry of Public Service
Municipal Council of Mbabane
National Disaster Management Agency (NDMA)
Observer (newspaper)
Times of Eswatini
University of Eswatini (UNESWA)
African Development Bank
World Bank

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Assessment of the Public Procurement System

ANNEX 5

Resources - websites

Main Websites used:

No	Information	Website
1.	AfDB Country Data	https://www.afdb.org/en/countries/southern-africa/eswatini
2.	Afrobarometer	https://www.afrobarometer.org/countries/eswatini/
3.	Anti-Corruption Commission (ACC)	http://acc.gov.sz/
4.	BTI	https://bti-project.org/en/?&cb=00000
5.	Construction Industry Council (CIC)	https://www.cic.co.sz/
6.	Eswatini Public Procurement Regulatory Agency (ESPPRA)	https://esppra.co.sz/sppra/
7.	Eswatini Legal Information Institute	https://eswatinilii.org/
8.	Financial Action Task Force (FATF)	https://www.fatf-gafi.org/en/countries/detail/Eswatini.html
9.	Freedom House	https://freedomhouse.org/country/eswatini
10.	International Monetary Fund (IMF)	https://www.elibrary.imf.org/downloadpdf/journals/002/2022/356/002.2022.issue-356-en.pdf
11.	International Trade Department	https://itdswaziland.org/
12.	Ministry of Finance	https://www.gov.sz/index.php/ministries-departments/ministry-of-finance
13.	Media Institute of Southern Africa (MISA)	MISA transparency Assessment 2020 https://data.misa.org/api/files/1629105376208qzoooup11.pdf
14.	National Archives	http://102.23.132.20/index.php
15.	Office of the Auditor General	https://www.gov.sz/index.php/home-auditor
16.	Open Budget Survey 2021 - Eswatini	https://internationalbudget.org/open-budget-survey/country-results/2021/eswatini
17.	Open Society Initiative of Southern Africa (OSISA)	https://osisa.org/democracy-governance/
18.	PEFA global report on PFM	https://www.pefa.org/global-report-2020/en/?current=/home
19.	Press Freedom Index	https://rsf.org/en/index

No	Information	Website
20.	Transparency International Corruption Perception Index	https://www.transparency.org/en/cpi/2023
21.	UN Treaty Body Database	https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=167&Lang=EN
22.	WB Country Data	https://data.worldbank.org/country/eswatini?view=chart
23.	World Trade Organisation (WTO)	https://www.wto.org/english/thewto_e/countries_e/swaziland_e.htm

