



MAPS

Methodology for Assessing
Procurement Systems

ROAD SECTOR ASSESSMENT OF ETHIOPIA PUBLIC PROCUREMENT SYSTEM

2024

*Testing the MAPS Module on
Sector Level Assessment (SLA)*





MAPS

Methodology for Assessing
Procurement Systems

The Federal Democratic Republic of Ethiopia
Sector Level Assessment (SLA)
of the
Public Procurement System
(Road and Water Sectors)

The Assessment Report is divided in three parts (plus one Appendix)

[Road Sector \(This Volume\)- Part I](#)

Water Sector (Separate Volume)- Part II

**Appendix: contains common document like Concept Note, Results of Survey
(Separate Volume) – Part III**

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Acronyms

CURRENCY EQUIVALENTS

(Selling Exchange rate effective June 01,2023 Commercial Bank of Ethiopia)

1 US\$ = 55.4068¹ Birr

Fiscal year:

Ethiopian Fiscal Year (EFY): July 8 – July 7

Gregorian calendar: July 1 – June 30

In this document the term:

FY refers to the Gregorian fiscal year, unless described as EFY
year refers to the Gregorian calendar year, unless described as EC

Abbreviations and Acronyms

AfDB	African Development Bank
BoF	Bureau of Finance
CN	Concept Note
CPAR	Country Procurement System Assessment
CPF	Country Partnership Framework
CSO	Civil Society Organization
DFID	Department for International Development, UK
DPs	Development Partners
DPL	Draft Public Procurement Law
e-GP	Electronic Government procurement system
EC (number e.g. 2016)	Ethiopian Calendar year 2016 (corresponding to 2022/2023 fy).
ERA	Ethiopian Roads Authority
EU	European Union
FDRE	The Federal Democratic Republic of Ethiopia
GDP	Gross Domestic Product
GoE	Government of Ethiopia
GNI	Gross National Income
IBEX	Integrated Budget and Expenditure
IDA	International Development Association
IFMIS	Integrated Financial Management Information System
MAPS	Methodology for Assessing Procurement Systems
MoWE	Ministry of Water and Energy
MoF	Ministry of Finance
MoH	Ministry of Health
PEFA	Public Expenditure and Financial Accountability
PFM	Public Financial Management
PPD	Public Procurement Directive
PPL	Public Procurement Law

¹ <https://nbe.gov.et/commercial-banks-exchange-rate/>



PPPA	Public Procurement and Property Authority
SBD	Standard Bidding Documents
SLA	Sector Level Assessment
SOE	State-Owned Enterprise
TAG	Technical Advisory Group
UN	United Nations



Acknowledgments

The Government of Ethiopia in collaboration with the World Bank and Development Partners (WB&DP) carried out a procurement system assessment using MAPS II from December 2019- June 2021. The Assessment Report got published in November 2022 with a MAPS “**APPROVED**” seal after due validation by GoE. [ET-MAPS-volume-I.pdf \(mapsinitiative.org\)](#)

Following the core MAPS assessment (“Core MAPS assessment”), the GoE with support from the WB prepared a procurement reform strategy document and action plan to implement the recommendations of the MAPS assessment.

One of the priority actions identified in the action plan was to assess in detail the procurement system and performance in the Road and Water sector using the relevant sector-level supplementary module.

The Ethiopia Public Procurement System Assessment for Road and Water Sectors using 2022/2023 MAPS Sector Level Assessment (SLA) guide was initiated at the request of the Government of the Ethiopia (GoE), through MoF and a Steering Committee was established by the Government in guiding the SLA in September 2022.

The Bank Assessment Team would like to acknowledge, with appreciation and thanks, the extensive cooperation and guidance from government counterparts, especially from Public Procurement and Property Authority, and the Steering Committee.

The Assessment Team is grateful for inputs from the private sector, civil society organizations, and all those who attended the Launch Workshop and the Stakeholders Validation Workshop. The Assessment Team is also grateful to all the procuring entities from federal and city government agencies in particular the Ethiopian Roads Administration (ERA), and the Addis Ababa City Road Authority (AACRA) selected as public bodies/entities representing Road sector and further Ministry of Water and Energy, Addis Ababa Water and Sewerage Authority, and Ministry of Irrigation and Lowland to represent Water Sector.

The Sector Level Assessment (SLA) was led by Demelash Demssie, Senior Procurement Specialist as Task Team Leader (TTL), (Senior Procurement Specialist) Anjani Kumar, Procurement Hub Coordinator as Co-TTL, The Assessment Team consisted of a team of experts that included Belita Manka, Senior Counsel, Legal Vice-Presidency of the World Bank, Devesh Chandra Mishra (Lead Consultant), and Hussein Sebie Siraj, Daniel Agegnehu Teferi, Hagos Abdie Ahmed (all National Consultant), with overall coordination and support provided by Gizework Zewdie Mekuria (Program Assistant) from the World Bank. The Assessment Team received valuable input from the World Bank’s Procurement Team in Addis Ababa: Binyam Bedelu and Mogesie Ayele

MAPS Secretariat provided timely guidance for this pilot SLA during the Assessment.

The Assessment Team received valuable input from peer-reviewers (i) Richard Olowo (Lead Procurement Specialist, EEAR1); (ii) Shanker Lal (Lead Procurement Specialist, ESARU); (iii) Quamrul Hasan (Lead Procurement Specialist, EECRU); and (iv) Antonio Rodriguez Serrano (Senior Water Supply and Sanitation Specialist, SAEW2).



Finally, the Assessment Team gratefully acknowledges valuable guidance from Elmas Arisoy, Practice Manager, EAERU, Doina Petrescu, Operations Manager, AECE3, and Ousmane Dione, Country Director AECE3.



Executive summary

Background

The Government of Ethiopia (GOE) in collaboration with the World Bank (WB) and other Development Partners carried out an assessment of the public procurement system using MAPS II, from December 2019 - June 2020 (Core MAPS Assessment). The Core Assessment Report got published² in November 2022 with a MAPS “APPROVED” seal after due validation by GoE. Following the Core MAPS assessment, the GoE with support from the WB prepared a procurement reform strategy document and action plan to implement the recommendations. One of the priority actions identified in the action plan was to assess in detail the adequacy and performance of the public procurement system in the Road and Water sectors using the relevant MAPS sector-level supplementary module³. Accordingly, the WB in collaboration with the GOE and other stakeholders carried out sector-level assessment (SLA) for these two sectors.

This report specifically deals with **Road Sector**, and a similar report for Water Sector has been prepared and cross-cutting issues are highlighted in both the reports.

Objective of the SLA and the Methodology

The MAPS SLA's overarching goal is to provide an understanding of the overall functioning and performance of public procurement as well as the general business climate in the sector. The Ethiopian Roads Administration (ERA), and the Addis Ababa City Road Authority (AACRA), have been selected as public bodies/entities representing Road sector.

In brief, SLA enables a country to: (i) determine its needs in terms of procurement activities related to the sector; and if the sectorial development strategies are clear and coherent with the horizontal development objectives and adequately reflected in public procurement system; and (ii) assess the procurement capacity of sector-related institutions and the capacities of the private sector to achieve value for money; this includes the determination of the level of procurement competition in the sector.

The SLA indicators concern the first three pillars of the Core MAPS methodology: namely, Pillar I - the existing legal and policy framework; Pillar II - the institutional framework and management capacities; and Pillar III - procurement operations and market practices, all applied to sectors. The SLA module comprises of 10 Indicators, 32 sub-indicators and 127 criteria for the above three pillars to be directly assessed.

For a country that has applied the Core MAPS tool to assess its public procurement system, which is the case for Ethiopia, the indicators and sub-indicators in Pillar IV - accountability, integrity, and transparency of the procurement system that are applicable in this module are transposed without changes from the Core MAPS assessment report, after checking that the results of Core MAPS assessment regarding this pillar are valid and applicable to the SLA.

Assessment Process

This report was prepared by the assessment team which consists of national and international procurement experts, led by the World Bank under overall guidance of a steering committee established

² Link here <https://www.mapsinitiative.org/assessments/ET-MAPS-volume-I.pdf>

³ Link to version released for pilot testing [Sector Level Assessment - MAPS \(mapsinitiative.org\)](#)



by GoE. A consultation workshop was held in October 2022 with participation of all key stakeholders. A private sector survey was conducted during February-March 2023. Based on desk review and multiple consultations with stakeholders from October 2022 to April 2023, results of assessment were presented to the key stakeholders in a validation workshop on May 25, 2023, and their feedback obtained.

Results of the Assessment

Key strengths of the procurement system and performance

Legislation and Procurement Documents: The procurement legal and regulatory framework is adequately recorded and is organized hierarchically with precedence well established. The road sector both at federal and Addis Ababa City administration is governed by the key primary legislation on public procurement (Proclamation No. 649/2009 for Federal and Proclamation No. 17/2009 for AACRA supported by a comprehensive procurement Directive). For each procurement category, there are separate SBDs for international competitive bids (ICB) and national competitive bids (NCB). For procurement of works from international market (ICB), ERA uses bidding documents using FIDIC's Conditions of Contract.

Planning and budgeting: Procuring entities in the road sector prepare formal procurement plan after budget is approved and proclaimed. It is also noted that estimates of works, services and goods are used as an input for budget planning. Though there is no legal provision that prohibits solicitation of bids without confirming availability of budget, procuring entities in the sector established a mechanism to ensure that bids are not solicited before budget is secured. ERA carries out need analysis and market research every year to strategize procurement.

Staffing and training: The PPL allows procuring entities to establish adequately staffed procurement unit in their respective agencies. Accordingly, the procuring entities in the sector have established procurement units that are generally sufficiently staffed with qualified experts. There are also good efforts in providing training to staff through classroom training sessions as well as through on-the-job training.

Sectoral strategies: There are sectoral strategies developed and under implementation both in ERA and AACRA. The sectoral strategies are accompanied by related operational documents for medium and long term and capture the principal type of public procurement and the required technical features or characteristics.

Private sector engagement: ERA carries out consultative meeting with contractors and consultants at least twice in a year. Similar consultations are carried out annually by the BoF in AACRA. In each consultative meeting major problems that require change on the procurement legislations, systemic problems related to contract implementation are discussed. It is noted that ERA has been taking action to resolve problems that could be addressed in its capacity, and it forwards problems beyond its mandate to the concerned government bodies.

Key specific areas for improvement

Key specific areas which need improvement are provided along with recommended actions and their priorities in the table below:



Inconsistency and contradiction in the procurement documents: There are inconsistencies and contradictions between circulars, instructions, or similar advisory documents and primary and secondary legislations. There are cases in which the lower-level documents alter and deviate from the higher-level legislations.

Discriminatory and impractical qualification requirements: With a view to support the national bidders, different qualification requirements are used for national and foreign bidders in the same tendering process. This being in contradiction to the principles of nondiscrimination and fairness laid down in the primary legislation, has also the potential to impact long term growth of the national contractors. Further, by awarding contracts that are beyond the capacity of national contractors exposes them to failure in delivering contractual responsibilities and associated penalties. Requirement of experience in DBST type of road construction, which is now a days not so much prevalent, prohibits new entrants in competing in the bidding as they may not have this experience.

Unavailability of Model SBDs: The national SBDs are not consistent with the international practice related to price adjustment, dispute resolution mechanism and rate of progress & contract termination. The national SBD allows price adjustment for cost escalation after 12 months of contract implementation instead of the base date which is 28 days prior to bid submission. As a result, the bid prices are not free from price speculations. Arbitration is not allowed as dispute resolution mechanism. The provision allowing the engineer to measure rate of work progress and if necessary, recommend termination of contract, is not accommodated in the national SBD. In addition, the national SBDs do not have relevant SBDs applicable in road sector including DBO type of delivery.

Problem in developing Technical Standards: The mandate to issue and regulate technical standards in the road sector at federal level is given to the Ethiopian Road Administration and Ethiopian Construction Authority creating duplication and possible inconsistency. In addition, the standards of the federal road contracts are challenged at regional states level which have different standards (for instance road width) leading to disputes, delays and claims during implementation of contracts for road contracts going across regional states.

Limited use of technology: Implementation of E-procurement has started in sector entities at the Federal Government level covering procurement of Goods, Services and Works procured through NCB. However, implementation in the sector is at infant stage and limited only at federal level in ERA covering non ICB procurements only. Though ERA established an information system (ERA-MS) which captures information on the entire procurement process, the system has not yet utilized in generating reports to measure and improve procurement performance.

Absence of specialized procurement training: There is no regular specialized training program to train staff acquire the skill and competence required to carry out procurement particularly complex procurements in the sector. The professionalization training program established by PPPA (Authority) has not yet implemented the specialized level.

Challenges in evaluation of bids: Bidding documents in the road sector require verification of the audited financial statement submitted by bidders by a third party initially by the Ministry of Revenue and now by the Addis Ababa Chamber of commerce. This has created additional layer and process in the evaluation of the bids and also raises concern on the suitability and neutrality of the parties involved in the process. Except requesting clarification, the relevant ITB clause for ALB doesn't allow rejection of bids. Bidders



previous experience on similar contracts and financial turnover get substantially diminished due to steep inflation compromising bidder's ability to meet qualification requirements.

Lack of Sustainable Public Procurement policy/strategy: Except for some elements of sustainability that are reflected in the PPL (A.25), there is no comprehensive sustainable public procurement strategy or policy in the country. As a result, sustainable public procurement is not being practiced covering economic, social and environmental factors in the procurement cycle, as applicable.

Systemic challenges limiting competition and successful completion of contracts: Procurement in the sector is impacted by systemic challenges associated with shortage of foreign currency, delay in opening Letter of Credit and effecting payment, inflation, security, right of way issues. These challenges affected level of competition and successful completion of contracts.

Use of PPP to leverage private sector financing has not yet commenced: Road sector is one of the two sectors (with Energy) selected to start delivery of projects through PPP mechanism at the federal government level. Unlike the energy and other sectors (Health, Housing) which have finalized feasibility studies and embarked on procurement, no project in the road sector has yet crossed preparation stage and entered bidding stage. Besides, PPP is not yet adopted in Addis Ababa City Administration and in other regional states.

Recommendations

Area for improvement	Recommendation	
	Immediate priority	Subsequent Priority
Inconsistency and contradiction in the procurement documents	(i) The MoF and Authority to identify and address the inconsistencies, or misalignment that exists between the various documents in the legal framework. (ii) Consider combining all revisions into a single comprehensive document to ensure precision and clarity on the wording and application of amended provisions.	
Discriminatory and impractical qualification requirements	Avoid discriminatory and prohibitive qualification requirements.	Study and adopt transparent and fair mechanisms to enhance access of the local contractors to the procurement market consistent with international practice and including other procurement (like allowing payment in foreign currency for local contractors) and non-procurement supports.
Unavailability of Model SBDs	Revise the national SBDs to ensure consistency with the legal documents and international practice especially on price adjustment, dispute resolution mechanisms, and Rate of progress & Contract termination	Issue suitable SBDs covering different delivery modalities suitable for the sector.



Problem in developing Technical Standards	(i) Discuss and avoid duplication of work between the two institutions (ii) Carry out adequate consultation with the relevant parties before embarking on construction of roads that cut across regions.	Consult with relevant authorities and introduce a mechanism to prepare and agree on road standards applicable nationwide.
Limited use of technology	<i>(i) Upgrade the e-GP system to accommodate conditions of contract used in ICB procurement. (ii) Start generating and utilizing procurement performance reports from the information system to continually improve procurement performance in the sector.</i>	<i>Implement e-GP in the sector at both federal and regional level.</i>
Absence of specialized procurement training	<i>Prepare specialized training program for the sector in collaboration with the sector, PPPA and training institutes.</i>	<i>Design a mechanism to ensure financial sustainability of the training program including through collection of fees from trainees.</i>
Challenges in evaluation of bids	<i>(i) Avoid practice that create delay in evaluation of bids. In case, verification of documents required for due diligence, carry out on suspected cases only. (ii) Keep data base to avoid verification of the same documents in different tenders. (iii) Introduce provision that allows employers to reject ALB when unsatisfied by the explanation from the concerned bidder. (iv) Introduce mechanism to consider the impact of inflation when setting qualification requirements.</i>	
Lack of Sustainable Public Procurement policy/strategy	<i>Utilize the existing provisions in the PPL and SBDs to introduce SPP criteria in bidding documents, evaluation and contract documents</i>	<i>Develop SPP strategy and appropriate tools for implementation in the sector.</i>
Systemic challenges limiting competition and successful completion of contracts	<i>Consider the systemic challenges during design, preparation of bidding documents, evaluation and contract implementation.</i>	<i>Most of the issues are associated with the macro context of the country and requires solutions beyond the sector.</i>
Use of PPP to leverage private sector financing has not yet commenced	<i>Finalize preparation and start implementing road projects in the pipeline through PPP modality, where feasible.</i>	<i>Adopt PPP arrangement including legal framework, structure and capacity in the sector at regional and city administration level, as appropriate and where feasible.</i>

Overview of compliance



The following table provides an overview of the findings of the assessment on the level of sub-indicators. Each criterion under the respective sub-indicator is identified depending on the findings (full compliance/gaps identified/substantive gaps identified). This table also shows the red flags identified as per the guidance of 2023.

PILLAR I		Full compliance	Gaps identified	Substantive gaps identified	Red flags
1. The public procurement legal framework achieves the agreed principles and complies with applicable obligations.	1(a) – Coverage of the sector			X	
	1(b) – Rules on participation deriving from sustainability (social, economic and environmental) goals			X	X
	1(c) – Electronic Procurement (e-Procurement) in the sector		X		
	1(d) – Public procurement principles in specialized legislation governing public entities in the sector	X			
2. Implementing regulations and tools support the legal framework.	2(a) – Implementing regulations to define processes and procedures in the sector			X	
	2(b) – Model procurement documents for goods, works, and services for the sector			X	
	2(c) – Standard contract conditions used in the sector			X	
	2(d) – User’s guide or manual for procuring entities in the sector			X	
3. The legal framework applicable to the sector reflects the country’s horizontal policy objectives and international, including regional and sub-regional obligations	3(a) – Existence of sectorial policies and strategies that are clear and well-articulated to facilitate the determination of sector procurement needs		X		
	3(b) – Sustainable Public Procurement (SPP) in the sector			X	X
	3(c) Environmental and Socio-economic development aspirations		X		
	3(d) Obligations deriving from international, regional/sub-regional agreements applicable in the sector		X		



PILLAR II		Full compliance	Gaps identified	Substantive gaps identified	Red flags
4. The public procurement system is mainstreamed and well-integrated with the public financial management system.	4(a) – Procurement planning and the budget cycle in the sector			X	X
	4(b) – Financial procedures and the procurement cycle in the sector			X	
5. The sector has an institution in charge of technical normative functions	5(a) – Status and legal basis of the normative/regulatory function entrusted to the sector agencies			X	
6 Definition, responsibilities, and formal powers of procuring entities in the sector.	6(a) – Procuring entities are clearly defined		X		
	6(b) – Centralised procurement body		X		
7. Publication of public procurement information in the sector supported by information technology	7(a) – Definition, responsibilities, and formal powers of procuring entities in the sector			X	
	7(b) – Use of e-Procurement in the sector			X	
	7(c) – Strategies to manage procurement data in the sector			X	
8. The sector public procurement system has a strong capacity to develop and improve	8(a) – Training, advice and assistance in the sector		X		
	8(b) – Monitoring performance to improve sector outputs and outcomes			X	

PILLAR III		Full compliance	Gaps identified	Substantive gaps identified	Red flags
9. Public procurement practices achieve stated objectives in the sector.	9(a) – Planning in the sector			X	X
	9(b) – Selection and contracting in the sector		X		
	9(c) – Contract management practice in the sector			X	X
	9 (d) Efficiency of application of tools that support achievement of socio-economic development aspirations relative to the sector		X		
	9(e) Protection of the environment in the sector		X		
10. The public procurement	10(a) – Dialogue and partnerships between public and private sector		X		



PILLAR III		Full compliance	Gaps identified	Substantive gaps identified	Red flags
market is fully functional and competitive at the sector level	10(b) – Private sector’s organisation and access to the public procurement market			X	X
	10(c) Functionality and the level of competition in works contracts awarded in the sector			X	X
	10(d) Functionality and the level of competition in goods contracts awarded in the sector			X	X
	10(e) Functionality and level of competition in the consulting services contracts awarded in the sector			X	X



1. Introduction

Background

The Government of Ethiopia (GOE) decided in 2019 to assess and strengthen its public procurement system as part of the Growth and Transformation (GTP) agenda. The World Bank, in collaboration with other development partners, supported the government in conducting the assessment.

The key counterpart from GOE were represented by th Authority served as the focal entity in coordinating and facilitating engagement with MoF to provide overall leadership and guidance.

The primary objective of the assessment was to determine the quality and effectiveness of public procurement systems in Ethiopia, identifying strengths and areas of improvement that would enable the government to undertake reforms to adopt and implement modern, efficient, inclusive procurement systems at federal and regional levels.

The assessment (of Core MAPS) was conducted from September 2019 to June 2020 using the MAPS methodology and covered the legal, regulatory, and policy framework; institutional framework and management capacity; public procurement operations and market practices; and accountability, integrity, and transparency of the public procurement system, assessed using 14 qualitative indicators (with 55 sub-indicators and 210 criteria) and 15 quantitative indicators to support qualitative findings, gaps/areas of improvement and recommendations

The assessment covered the public procurement at the federal level and in four regional states The assessment covered the public procurement system at the federal level and in four regional states: Addis Ababa City Administration; Afar; Oromia; and Southern Nations, Nationalities, and People's region (SNNPR), which were selected to represent geographical spread and different levels of spending. Lower regional administration levels (selected zones and woredas) were also assessed.

The Assessment Report (for the Core MAPS) was completed in June 2020 and after quality review by the World Bank management, peer reviewers, GoE and Assessment Technical Advisory Group (ATAG) constituted by the MAPS Secretariat was revised in June-July 2021 after addressing all the comments The Assessment Report got MAPS "Seal of Approval" in November 2022, published and disseminated⁴

Following the core MAPS assessment, the GoE with support from the WB prepared a procurement reform strategy document and action plan to implement the recommendations of the MAPS assessment.

One of the priority actions identified in the action plan of the Core MAPS was to establish and carry out regular assessment of risks associated with identified key sectors. It was decided in August 2022⁵ to assess in detail the procurement system and performance in the Roads and Water Sectors using the relevant sector-level supplementary module which was released for pilot testing by the MAPS Secretariat.

⁴ <https://www.mapsinitiative.org/assessments/ET-MAPS-volume-I.pdf>

⁵ Letter of request from GOE



Context of the Assessment

In the 2021/22 budget year, the aggregate budget allocated for the Road and Water infrastructure was about half of the total federal government budget without accounting for the other huge investments in infrastructure projects in state-owned enterprises operating in the telecom, energy, and transport sectors.

The 10 Years' strategic plan of the GoE identifies the construction sector, in which Roads and Water Infrastructure are the key components, as one of the critical sectors for the achievement of the development objectives of the country.

Considering the huge government investment, the Road and water sectors are prone to fraud, corruption, and bid-rigging. The assessment will review those aspects of the procurement system that are exposed to corruption and review the adequacy and effectiveness of the mitigation measures in place (if any).

The Road and Water sectors were among the six sectors sampled during the Core MAPS assessment. The assessment identified that the sectors have not been equipped with suitable and proportional procurement working documents including Standard Bidding Documents, thresholds assigned by the MoF for use of different procurement methods have not been applicable particularly in the Road sector, different sector level guidance and circulars contravene provisions in the main procurement documents etc

Recent disruptions due to internal and external factors including COVID 19, greatly affected procurement performance in infrastructure projects including in Road and Water sectors. As a result, various contracts in the sectors faced a risk of termination and in some cases led to litigations. For instance, to complete various contracts in Water supply projects amid of the current high inflation, the MoF and subsequently, the MoWE issued circulars instructing public bodies to consider price adjustment on contracts otherwise signed on fixed price terms.

The construction industry in Ethiopia is characterized by similar procurement challenges associated with market failure, capacity limitation within the private sector and public bodies and integrity and corruption issues etc. Thus, it is expected that the recommendation and subsequent reform actions in the Roads and Water Sectors will have a much broader impact on improving procurement performance in the other sectors of the construction industry in Ethiopia.

This assessment report contains evidence-based findings and recommendations on the procurement system and performance in the Road and Water sectors to provide policymakers and practitioners with evidence that informs future reforms to improve the procurement systems and performance in the Roads and Water sector so that it will be more efficient, transparent, and deliver the best value for money out of the huge investment in the sectors.

Focus and Scope of Assessment

This report has integrated the findings of the Core MAPS with sector specific issues as per SLA pilot methodology The Sector Level Assessment (SLA) covers all relevant indicators to enable the assessors to get the full picture of the procurement system and performance in the Road and water sectors in Ethiopia, its strengths, and gap.

The construction sector is an engine of economic growth in the country in which the Road and water sectors consume the largest share of the government budget. Thus, the assessment aims at understanding



the public procurement system and performance in the Road and Water sectors using Sector Level Supplementary Module Assessment (SLA) and provide evidence-based recommendations for improvement.

The assessment was carried out using the SLA pilot module focusing on analysis of country context relevant to Road and Water Sectors, public procurement principles in specialized legislation in the sectors (if any) and their consistency with the main procurement legislation, structure and capacity of procuring entities, procurement performance from planning to contract implementation and the capacity and functioning of the private sector. In addition, the team has updated the findings of the core MAPS under pillar IV on relevant sub indicators and criteria.

MAPS Sector Level Assessment (SLA) Methodology

Based on guidance issued by MAPS secretariat in November 2022 and revised later in March 2023, the supplementary modules are extensions of the core MAPS framework. This means that they are structured around the same four pillars, namely (I) Legislative, Regulatory and Policy Framework, (II) Institutional Framework and Management Capacity, (III) Procurement Operations and Market Practices and (IV) Accountability, Integrity and Transparency of the Public Procurement System. For each pillar, the supplementary modules offer new indicators and sub-indicators that provide an increased understanding of how the procurement system performs in relation to particular topics.

As in the core methodology, all sub-indicators are assessed through objective criteria and substantiated by means of quantitative indicators calculated through surveys, data extracted from procurement portals, among other sources.

Because the supplementary module has followed the structure of the core MAPS, the User Guide and the related templates and guidance documents available at www.mapsinitiative.org has been used when conducting an assessment with the supplementary modules⁶.

The assessment aims at understanding the public procurement system and performance in the Road and Water sectors using Sector Level Supplementary Module Assessment (SLA) and provide evidence-based recommendations for improvement. The assessment will be carried out using the SLA pilot module focusing on analysis of country context relevant to Road and Water Sectors, public procurement principles in specialized legislation in the sectors (if any) and their consistency with the main procurement legislation, structure and capacity of procuring entities, procurement performance from planning to contract implementation and the capacity and functioning of the private sector. In addition, the team has updated the findings of the core MAPS under pillar IV on relevant sub indicators and criteria.

Process of Assessment

The assessment has reviewed the Ethiopian Core MAPS report thoroughly as part of the preparatory desk work. In addition, the team has reviewed the procurement legislations, procurement reform strategy document and action plan and relevant procurement and other documents related to the sector. Then,

⁶ <https://www.mapsinitiative.org/methodology/supplementary-modules/>



the Assessment Team has carried out the assessment in accordance with the MAPS Module Sector Level Assessment, which is available for pilot implementation, as shared with the team by the MAPS Secretariat.

Accordingly, the assessment has been carried out against the 32 sub-indicators identified in the SLA module. Of these 32 sub-indicators, 24 are derived from the MAPS core methodology and they have been adapted to focus on the selected sector. The remaining 8 are new sub-indicators. These SLA indicators concern the first three pillars of the MAPS methodology: namely, Pillar I - the existing legal and policy framework; Pillar II - the institutional framework and management capacities; and Pillar III - procurement operations and market practices. This requires assessing 126 criteria to cover three pillars and 32 sub-indicators. The indicators and sub-indicators in Pillar IV - accountability, integrity, and transparency of the procurement system that are applicable in this module has been transposed without changes from the MAPS core methodology, but it has captured the specific sector level aspects of the procurement system that are related to accountability, integrity, and transparency of the public procurement system. The assessment has covered the procurement system in the Road and Water Sectors at the federal and Addis Ababa City Administration which are governed by the public procurement framework and were covered in the core MAPS assessment.

Agencies covered to Support Sector Level Findings

The assessment has covered the procurement system in the Road and water Sectors at the federal and Addis Ababa City Administration which are governed by the public procurement framework and were covered in the core MAPS assessment. Accordingly, the following public bodies were covered in the assessment:

- The Ethiopia Roads Administration (Federal)
- Ministry of Water and Energy (Federal)
- Addis Ababa City, Road Authority and
- Addis Ababa Water and Sewerage Authority
- Ministry of Irrigation and Lowland Development (Federal)

This assessment is not an audit of representative entities in Road and Water sectors, but an analysis to understand gaps and areas of improvement at sector level in the country.

Leadership and Assessment Team: The AUTHORITY (Public Procurement and Property Authority) or the “Authority” established Assessment Steering Committee co-chaired by the African Development Bank and includes members from MoF, World Bank, Procuring Entities, and CSOs. The composition of the Steering Committee is in Appendix B. The PPPA is the focal agency in the implementation of MAPS Ethiopia SLA in the Road and water sectors. In addition to monitoring the assessment, the Assessment Steering Committee facilitated the assessment on the ground to ensure readiness, availability of procurement data, and collaboration from Public Bodies.

The Procurement Team of The World Bank in the Ethiopian country office with support and guidance from the Practice Manager led the implementation of MAPS Ethiopia SLA in the Road and water sectors. The Team was supported by experienced international and local consultants including international and country lawyers, procurement specialists, and communication specialist. The Team worked closely with the MAPS Secretariat for technical assistance and support and ATAG for quality assurance.



Team worked with the GOE's Counterpart Team and the Assessment Steering Committee. The Assessment Steering Committee shall be responsible for providing guidance and comment on the assessment and ensuring that all the necessary support is provided from the Government side.

The MAPS SLA module is prepared to cater to procurement performance in the procurement of Goods, Works, and Services and therefore the assessment shall review procurement in all the three categories. However, as the procurement of goods may not be substantial in the sector attempt will be made to review procurement performance in Goods Category related to the Road and Water sectors with a reasonable sample size. Considering their relative importance in the Road and Water Sectors, the assessment intended to focus on the procurement of Works contracts and selection of consultancy services related to feasibility studies and Design & supervision services.

The assessment team was required to follow the purposive sampling method to select Goods contracts associated with the procurement of Equipment and Machinery required in the Roads and Water Infrastructure construction. Based on availability of data, the assessment will cover at least 10 works contracts, 5 Consultancy contracts, and 3 Goods contracts that are recently completed in each of the 5 public bodies identified above. The team was required to include in the sample small value procurements carried out at local level particularly in the agencies selected from Addis Ababa City Administration.

Summary on key dates on the Assessment:

- a. Request received from GoE and the Authority to conduct Sector Level Assessment: May 8, 2021.
- b. SLA Assessment Team constituted: July-August 2022
- c. Steering Committee established by the Government in guiding the SLA: September 2022
- d. Initiating Workshop was held on with all stakeholders including Steering Committee: October 18, 2022
- e. Consultations held with the private sector: October 19, 2022
- f. Interviews, consultations from stakeholders during mission: October 10-20, 2022
- g. Desk review and continued interaction with all Stakeholders to get input: Nov 2022- April 2023
- h. Private Sector survey conducted: February 2023.
- i. Preparation of Results of Findings: mid- May 2023
- j. Validation Workshop with all Stakeholders: May 25, 2023



2. Analysis of Country Context

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

Ethiopia is one of the world's fastest-growing economies (6.1 percent growth rate in 2021) and the second most populous country in Sub-Saharan Africa (118m population; 80 percent rural). Ethiopia is a country of 98 nationalities and peoples, with roughly 93 languages spoken. Ethiopia's Federal arrangement consists of eleven Regional States and two City Administrations including the newly established Sidama and Southwest Regional states.

In the past 15 years, Ethiopia achieved strong economic growth, driven by large-scale public infrastructure investment. According to official data, GDP growth averaged 10.4 percent in 2004-2018, making Ethiopia one of the world's fastest-growing economies. This has dramatically increased GNI per capita, from US\$140 in 2004 to US\$ 890 in 2021⁷. However, Ethiopia remains one of the poorest countries in the world but has achieved substantial progress in economic, social, and human development over the past three decades. Despite these gains, around 30 million people in Ethiopia lived on less than US\$1.90 (2016) a day.

As per Ethiopia Risk and Resilience Assessment Report of May 2022 by the World Bank, the conflict in northern Ethiopia and violence in many parts of the country have resulted in an acute humanitarian crisis that poses multiple overlapping challenges to stability and security. In the year and a half since conflict erupted in the northern Ethiopian region of Tigray (and drew in the adjoining regions of Afar and Amhara), it has claimed thousands of lives and resulted in mass displacement and acute food insecurity. There has also been increased violence in other parts of the country, contributing to rising insecurity in different regions. Continuing hostilities have hindered sustained humanitarian support. This is exacerbated by climate shocks, effects of the COVID-19 pandemic, and a deteriorating economy, which negatively affect the broader macroeconomic context.

According to the World Bank sources⁸ there is a need for fostering inclusive growth and realizing peace dividends in Ethiopia. In spite of all accomplishments, the people of Ethiopia have been confronted with multiple challenges in the past few years that include:

- The health, social, and economic impacts of COVID-19 and associated containment measures;
- The devastating effects of the conflict in the North — specifically the human, infrastructure, health system, and educational losses; and
- Impacts of severe weather events, including drought in the south and east while there have been floods in the central highlands, as well as a historic 2020 locust infestation.

And further based on the same source of the World Bank, these challenges have placed a significant strain on the country's economy and have undermined the positive advancement in key developmental areas. The country has every chance to return to a strong development path and deliver a better tomorrow for its people. The November 2022 signing of the Cessation of Hostilities Agreement and consequent silencing of the guns, delivery of humanitarian assistance, and restoration of services in the North are critical and encouraging. It will be important to ensure that the peace is sustained, and that

⁷ World Bank WDI

⁸ <https://blogs.worldbank.org/nasikiliza/fostering-inclusive-growth-and-realizing-peace-dividends-ethiopia> (World Bank, March 22, 2023)



conflict-affected areas can heal, recover, and rebuild. It is also important that parts of the country which have also endured other shocks are given the opportunity and resources to overcome their challenges and obtain greater prosperity.

2.2 Road Sector Strategy

Strategic vision, values and goals for the sector: Based on the 10 years Road Sector Development Plan (2021-2030) the vision, mission and goals of Road Sector are as under⁹:

Vision: To see prosperous Ethiopia through increasing the road network coverage to a level of 245,000 Kilo Meter, during the period 2012 E.C to 2022 E.C (2020 to 2030 G.C), ensure access to standard and safe road to all people living in rural and urban areas and open up all development potential areas in the country thereby support the accelerated and sustained economic growth; *Mission:* Construct and administer sustainable roads through enhancing capability of institution and effective resource utilization *goal:* The road sector plan, during the 10 years period (2020 to 2030 G.C), has set goals to be achieved in the construction of roads at the level of Federal government, Regional governments, woredas and city administrations of the country which includes construction of new roads (8835 Kms), Construction of Express way Roads (1,349 kms), strengthening and upgrading of existing roads (22,630Kms), regular and heavy maintenance (230,691KMs) and various construction and upgrading and maintenance of roads at subnational, woreda and City Administration levels.

Challenges and Opportunities: The 10 year's plan identified major challenges in the sector which includes limitation in completing construction of roads within the agreed period, quality and budget and also lack of adequate follow up and maintenance of constructed roads. Some of the opportunities specified in the plan includes the overall government strategy for sustainable growth, GoE's commitment to invest in the road sector as priority sector, the established legal and institutional capacity to implement PPP, increasing number of local contractors and consultants etc. *Beneficiaries and stakeholders:* The development in the road sector is directly linked to the economic development of the country benefiting the entire population in terms of increasing connectivity, enhancing mobility of goods and services, reduced transportation cost etc. It also benefits the GoE in providing equitable social service and improved governance. The 10 years road sector development plan has also identified key stakeholders of the road sector with their level of impact on policy related decision making in the sector. Stakeholders that have high level of influence includes Financing Institutions/Development Partners, Parliament, Urban development and construction Transportation Standing Committee of parliament regional governments and City Administrations, Ministry of Transport, Ministry of Finance.

Major reforms in the road sector: Substantial progress has also been made in implementing institutional and policy reforms under the RSDP, which were intended to build institutional capacity of the road sector. The capacity of ERA has been strengthened over the years. The assessment team noted that the GoE has carried out major reforms in terms of restructuring and in improving institutional capacity in the road sector over the last few years. The major reforms include (i) Split of the operational and regulatory wings of ERA as two independent entities as per Regulation No. 247/2011 issued by the Council of Ministers in July 2011. (ii) To enhance capacity of construction contract administration, ERA has been reorganized the contract administration function under seven Contract Administration Directorates (iii) The ongoing modernization in ERA to ensure organizational excellence (iv) Establishment of Toll Roads Enterprise which provided dedicated and focused management structure in the construction and operation of toll

⁹ The 10 years Road Sector Development Plan (2021-2030)



roads. (v) The launch of Universal Rural Road Access Program (URRAP) aiming at connecting all Kebeles by standard and affordable all-weather roads that provide year-round access. In addition to the above reforms, over the 22 years that the Road sector Development program had been running (1997-2019), approximately Birr 373.1 billion has been expended on activities covering some 153,000 km of roads including maintenance. The road sector is the first priority of government, for which major share of the country's budget is allocated. Capital expenditure assignment of government mainly focuses on bringing sustainable development, ensuring economic transformation and eliminating poverty. In line with this the EFY 2015 (2022/2023 G.C) Capital expenditure assignment has given top priority for the road sector by allocating 65.4 billion Birr, which is 11.76 % of the country's annual budget for the year 2022/2023 G.C.

The 10 years plan captures procurement related interventions which includes (i) Capacity building actions for domestic contractors and consultants (ii) Actions to increase participation of local contractors in new procurements (iii) Encouraging new contractors and beginners to participate in the maintenance of roads (iv) Enhancing institutional capacity of construction companies.

2.3 Business Environment and Investment Climate:

Recently, the GOE made significant improvement to improve the business environment and investment climate in Ethiopia. In February 2021, the Ministry of Trade and Regional Integration (MOTRI) launched an eTrade platform (etrade.gov.et) for business registration licensing to enable individuals to register their companies and acquire business licenses online. This has made licensing and registration of business easier and faster. The amended commercial registration and licensing law has eliminated the requirement to publicize business registrations in local newspapers, allows business registration without a physical address, and reduces some other paperwork burdens associated with business registration. Other improvements to enhance the efficiency and competitiveness of business include the reform in the telecom and finance sectors. As part of telecommunication reform strategy and privatization of the telecom sector, a private service provider acquired license and has resumed operation. The GoE has solicited bid to engage additional service provider in the telecom sector. Similarly, the recent reality in digitization of payment is another success story in improving efficiency and competitiveness businesses and the overall economy. According to Transparency International, Ethiopia has made significant improvement in corruption perception index (CPI). In 2018, the Ethiopian CPI improved by 5 scores and reached CPI score of 39 from the 2018 score of 34. However, the CPI score in 2022 regressed by one score point. In terms of ranking, Ethiopia has also shown improvement. In 2022, the country perceived as the 94th least corrupt out of 180 countries as compared to its rank of 114th in 2018.¹⁰

To attract more foreign investment, the government passed a new investment law, acceded to the New York Convention on Arbitration, amended its 60-year-old commercial code, in addition to digitizing the commercial registration and business licensing processes. Though road sector or construction sector is not identified by Ethiopian Investment Corporation as the priority strategic sector of investment¹¹, there are attempts to attract investment in the construction sector. For instance, the government begun implementing the Public Private Partnership (PPP) Proclamation to allow for private investment in the power generation and road construction sectors.

¹⁰ <https://www.transparency.org/en/cpi/2018/index/eth>

¹¹ <https://www.investethiopia.gov.et/#>



While there are progresses, there are also challenges impacting business and investment in the economy. According to the World Bank Enterprise Surveys (2015)¹², access to finance is the major challenge to businesses followed by electricity and trade regulation. Though some of these challenges are probably addressed through recent reforms, the challenge to access finance and foreign currency are still apparently prevalent. Some of recent challenges in the construction sector include shortage of basic construction materials (cement), chronic foreign exchange shortages making it difficult to import required goods and services from abroad and the recent conflict and security situation in the country impacting the mobility of labor and materials needed for construction works.

2.4. History of Public Procurement Reform

Public procurement reform in Ethiopia is managed under the overall guidance of the MoF at federal level and BoFs at regional level. However, the Public Procurement and Property Authority at the federal level and regional regulatory bodies play a key leadership role in procurement reform and monitoring. Procurement reforms are administered under the PFM umbrella. This has provided opportunity for end-to-end review of the system from planning to contract implementation including payments systems. Besides, the planned interface between e-GP and IFMIS is expected to allow full integration of the procurement system with public financial management system related to budget allocation, payment, and reporting.

The public procurement system in Ethiopia evolved from centralized to fully decentralized system in which each regional government city administration established their own procurement system including legal and regulatory framework. The federal PPPA govern procurement implementation at federal level in which public bodies (procuring entities) are mandated to establish procurement unit and carry out their own procurement. Similar arrangement is established at each regional state and City administration. After establishing basic structure and capacity, the procurement reform has now focused in introducing technology which is electronic procurement that is started and under implementation at federal level though still at infant stage. Procurement proclamation: Though PPPA started the process to amend the procurement proclamation many years back, it is not yet finalized. Since the federal proclamation is normally serve as prototype, other regional states and city administration are not able to carry out revision to the PPL and modernize their procurement system.

PFM strategy: The public procurement reform is designed and is under implementation as an integral part of the overall PFM reform both at federal and regional level. At the federal level, reforming Procurement and Property Administration function was one of the 9 goals identified in the PFM Reform Strategy Document (2018-22). The MoF prepared a new PFM strategy for a period covering 2023 – 2027. The new PFM's strategy identified public procurement reform as one of the nine goals of the PFM reform. The new PFM strategy document recognizes the procurement reform strategy document and action plan prepared based on the core MAPS recommendation.

Governance Structure: The PFM reform including procurement is led by the National PFM reform steering committee chaired by Finance minister MoF with other ministers (Revenue, planning, National Bank of Ethiopia) being members of the national steering committee. Under the national steering committee,

¹² <https://www.enterprisesurveys.org/en/data/exploreeconomies/2015/ethiopia#2>



there is Technical PFM reform steering committee in which Authority is a member. The governance structure allows procurement reform to attract high level attention as part of the PFM reform.

Procurement Strategy: Following the Core MAPS assessment, Authority in collaboration with the WB prepared action plan and procurement reform strategy document. The authority has also started implementing the priority recommendations identified in the action plan and strategy document. The SLA assessment is one of the priority actions implemented based on the action plan. In addition, at the time of the assessment, Authority with support from the WB is implementing procurement system strengthening project that aims at enhancing the capacity of the regulatory bodies by establishing training program and providing training, supporting the newly established regional states to prepare procurement legal documents and conducting evidence based survey and preparing emergency procurement procedure, report on sustainable public procurement, streamlined procedure for procurement record management. In addition, Authority is benefiting from the IPF component of PforR program (Enhancing shared prosperity for equitable services) and also considered for financing of the key reform activities including e-GP in the governance project which is under preparation.

Key issues from Core MAPS that relates to the road sector

Based on findings under Pillar III under core MAPS, findings that are relevant to the road sector are : (i) Procurement methods are applicable based solely on monetary thresholds of contracts (mandated by the PPL) as opposed to market research and planning, including without proper consideration of sector specific characteristics: (ii) Although the PPL provides a seemingly sufficient range of procurement methods, there are factors that limit their use, resulting in seeking waivers or approval for use of nonstandard procedures. This occurs for example in construction sectors, where contracts are considered large at much higher values than in other sectors and above the threshold defined for open competition in the PPL; and (iii) For these contracts, the domestic industry is well developed, whereas foreign bidders would still not be interested in participating not only because of the size of the contract, but also because of payment problems due to the difficulty that public bodies have in accessing foreign exchange.

Challenges of the Road Sector: The two major challenges identified in the road sector are¹³:- (i) Failure to complete construction of roads within the agreed contract period, required quality and allocated budget; and (ii) Failure to provide the necessary maintenance of roads.

Causes that contribute for the above challenges include: (i) Poor planning of programs that result from insufficient consultation of stakeholders and lack of role clarity among implementing bodies of Federal and regional road agencies; (ii) Capacity limitation of implementing bodies that include low capacity of major stakeholders such as Ministry of Urban Development and Infrastructure , ERA, regional and woreda road agencies in implementing the RSDP; (iii) Capacity limitation of ERA in activities related to engineering procurement, design, contract administration and road asset management; (iv) Poor project management of local consultants and contractors; (v) Poor design quality; (vi) Low capacity of professionals in the sector; (vii) Continual increase of unit cost per kilo meter; (viii) Shortage of budget; (ix) Unavailability/shortage of foreign currency; and (x) Delay/difficulty in clearing right of way obstructions

Problems impacting the accomplishment of performance targets:

The following major problems are identified as problems impacting performance target of the road sector development program:

¹³ The 10 years Road Sector Development Plan (2021-2030) Section 1.2.4



- i. Out-dated Functional Classification System: There is no standard and up to date functional classification system of the road network. Road sections are indicated by towns or other points, which are missing from many maps. Evidently, each section is defined by the organization doing the work without reference to a standard classification. In many cases, there is no agreement on beginning and ends of each section.
- ii. Absence of Comprehensive Data/Information System: A data bank on the characteristics and condition of the road network does not exist.
- iii. Limited Cost Data for Maintenance Planning: Data used presently for the evaluation of the network are based on a limited sample of roads from the Maintenance Districts, each with its own criteria, and not on a network wide database.
- iv. The Need for Improved Feasibility Study: Although the feasibility studies have been started to be undertaken over several years ago, the same process for project evaluation and prioritization is used today. The result is a piecemeal project analysis instead of a network approach.
- v. Right-of-Way Clearance: Highway right-of-way acquisition and utilities accommodation in Ethiopia has become significantly more complex and literally stopping project implementation.

2.5. Political Economy Analysis- Identification of stakeholders and involved institutions:

Ethiopia follows a decentralized government system in which both the federal and sub national states are mandated to issue legal documents that governs government functions in the respective constituencies. Accordingly, the federal and all sub national states have issued procurement proclamation and directives and supporting documents applicable in their respective areas. However, the MoF and PPPA are also mandated to ensure harmonization among the different procurement legal documents and practices. In addition, procurement reforms including at sector levels are led by the MoF and PPPA in close collaboration with the respective agencies at sub national level and ministries.

At federal level, the responsibility for procurement reform is enshrined in both the MoF and PPPA. The expenditure control program directorate in the MoF lead procurement reforms as part of the overall PFM reform agenda. On the other hand, PPPA is also mandated to carry out system strengthening activities, capacity building and advice the government on procurement policy matters. The demarcation between the EMCP Division in the MoF and PPPA on procurement reform is unclear. Besides, the capacity of PPPA and regional regulatory agencies is not strong and commensurate with their level of responsibility. As per the core MAPS, the staff in PPPA get lower salary scale compared to the staff in the procuring entities and MoF. As a result, PPPA has not been able to attract and retain qualified experts that can advise procuring entities and deliver regulatory functions. In addition to staffing, there are other institutional and structural challenges impeding the capacity of PPPA to deliver its responsibilities. The assessment team noted that PPPA doesn't have adequate office space in one location and its staff are dispersed in 5 different buildings making management difficult and ineffective. Similarly, the procurement regulatory function in Addis Ababa City Administration is established under the Bureau of Finance without independent management and structure. In the absence of strong procurement regulatory function both at federal and regional levels, implementing procurement reforms at the required level could be a challenge.

PPPA has established semiannual consultation forums with the regional states and private sector. The semiannual consultation forum with the regional states has allowed to discuss on major procurement reform agendas and share experience between the federal PPPA and regional regulatory bodies and among the regional regulatory bodies. The forum has also supported to ensure harmonization among the various procurement systems in the country. The semiannual forum with the private sector had been a



very useful platform to understand concerns of the private sector on the procurement system and performance and relay expectations from the private sector. However, the assessment team noted that the forum with the private sector has not been conducted for the last successive years due to the low turnout and lack of interest from the private sector. It is advisable to revitalize the forums as a platform for sharing experiences and monitoring the ongoing and upcoming procurement reforms stemming from this assessment.

Key stakeholders of the procurement reform and the assessment in the sector:

- (i) As the MoF to provides overall leadership and guidance for the procurement reform in the country, this assessment received that from them during the whole process of this exercise. The MoF is expected to continue providing guidance and support in the implementation of the recommendations in collaboration with the subnational and sector ministry and other stakeholders.
- (ii) Similarly, at technical level, the Public Procurement and Property Authority (PPPA) served as the focal entity in coordinating and facilitating engagement from the Government side in the process of the assessment. It is expected that they will ensure that recommendations are translated into reform actions.
- (iii) The procuring entities in the Road sector are key stakeholders during the assessment and afterwards in implementing the recommendations stemming from the assessment. In particular, the MoWE and regional Water Bureaus are responsible in providing overall management, resource and monitoring to ensure implementation of the recommendations of the assessment in collaboration with the MoF, PPPA and other stakeholders. It is expected that the MoWE and regional water bureaus prepare an action plan by identifying priority activities, and including responsible bodies, time frame and resources.
- (iv) Some development partners are engaged in the country in the procurement reform agenda. They were engaged in providing technical and financial assistance to the assessment. The assessment was partly financed from the Global Procurement Partnership Trust Fund managed by the WB. In addition, the WB has also provided financial and technical support and led the assessment in collaboration with MoF, PPPA and relevant ministries. As a Steering committee co-chair, the AfDB has been engaged in guiding the assessment, reviewing the assessment results and providing feedback. The development partners are expected to continue with their technical and financial support during the implementation of the recommendations.
- (v) Being one of the key stakeholders in the procurement reform work, the private sector was involved as a source of information particularly in Pillar III which focuses on the interface between the private sector and public procurement in the sector. In addition to engaging the private sector through the sectoral associations, the assessment team also directly approached a good number of members of these private sector bodies that are involved in Water sector at federal and Addis Ababa city administration through consultative workshop and surveys. The collaboration with the private sector will continue to be essential in the implementation of the recommendation.
- (vi) Ethiopian Construction Authority plays a key role in registering and certifying contractors, consultants, and architects based on their personnel and equipment capacity and experience and thus they were engaged in the assessment process also; (vii) Civil Society Organizations: There are not many CSOs that are actively working in public procurement in Ethiopia. But COST Ethiopia has been working to ensure transparency and accountability in the Ethiopian construction sector for more than a decade and their input was sought.



3. Assessment

The assessment is adapted to cover SLA sub-indicators as per Supplementary Module as applicable to the sector (Pillar I, II, III to be summarized from Detailed Matrix). Pillar-IV is extracted from findings in Core MAPS on accountability, integrity and transparency issues.

3.1. Pillar I - Legal, Regulatory and Policy Framework

Pillar I of the MAPS core methodology assesses the existing legal, regulatory, and policy framework for public procurement. It identifies the formal rules and procedures governing public procurement within the broader legal framework affecting public procurement which includes the legal aspects of the public procurement administrative framework; those which affect the relations between the public entity and the private party; the business environment, including competition; the obligations to the public in general; international and regional obligations, and national policy objectives, including socio-economic aspirations.

Pillar I under the SLA assesses (i) the structure of the legal framework; clarity and precedence of the different instruments; (ii) consistency in the legal framework when it comes to procurement; (iii) consistency and coherence in addressing horizontal policy objectives and possible constraints in the policy space (such as the constitution or binding international/regional agreements) that may limit the possibility of public procurement living up to its important strategic role and contributing to sustainability; and (iv) comparability of the rules with good international standards and whether they foster competition.

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

The objective of this SLA indicator is to assess 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 applicable to the sector.

- **Synthesis of the indicator**

The procurement procedures in the Road sector adhere to the same legal framework applicable to the Federal Government and the Addis Ababa City Administration. In this regard, the Federal Public Procurement Proclamation – for federal agencies, and the Addis Ababa Procurement Proclamation for Addis Ababa entities, constitute the primary procurement legislation that apply to Road sector.

Overall, the legal and regulatory framework is adequately documented, hierarchically organized, and precedence is established. However, the vulnerabilities identified by Core MAPS assessment in 2021, including incoherence and inconsistency between and amongst the lower-level documents and primary procurement legislation, remain. The legal procurement landscape remains dispersed and fragmented.

Both the Federal and Addis Ababa procurement laws cover goods, works, and services, including consulting services, for all public procurement which is defined as “*procurement by a public body using public funds*”. The definition of “public body” includes *all entities using public funds* but it is ambiguous when it comes to state-owned/public enterprises and organizations, allowing for the prevalent view and current practice that these public enterprises are exempt from complying with procurement laws.



At the federal level, a specialized PPP statute governs sector-specific PPPs, including concessions. There is no PPP legislation issued by Addis Ababa City Administration. It remains challenging to have a complete picture of the public procurement legal framework in Ethiopia due to the lack of a central repository containing comprehensive, up-to-date procurement documents and information.

The legal framework stipulates candidates and/or bidders must meet the eligibility and qualification requirements that need to be outlined in the bidding documents. However, the existing registration requirements, differing qualification criteria for domestic and foreign bidders do not offer complete fairness and do not necessarily contribute to efficiency, open competition, and the achievement of value for money.

The Authority has developed standard bidding documents for goods, works or services, including consulting services. However, they are not sufficient and adequate for all categories of Road sector procurement activities and project delivery methods.

There currently exists no Sustainable Public Procurement (SPP) strategy or policy in Ethiopia. The legal framework contains a few provisions for participation and evaluation of proposals, but they are insufficient to promote sustainability and meet the country's development requirements. The legal framework permits electronic procurement solutions, and the implementation of an e-government procurement system, is presently in the initial stages of roll out, after a period of piloting.

- **Findings**

The Road sector procurement follows the legal procurement framework applicable for Federal government and Addis Ababa City Administration, depending on the entity carrying out procurement. At the Federal level, the Federal Government Procurement and Property Administration Proclamation No. 649/2009 (“PPL”), which came into force on 9 September 2009, is the primary legislation. This is supported by the Federal Public Procurement Directive, issued by the Ministry of Finance in June 2010 (“PPD”) as subsequently amended. Secondary legislation also includes regulations by the Council of Ministers and directives/circulars issued by Ministry of Finance, the Public Procurement and Property Authority (“Authority”) and other Federal ministries and/or public bodies. Regarding Addis Ababa City Administration level, the Government Procurement and Property Administration Proclamation No. 17/2009 which came into force on 9 November 2009, constitutes the primary legislation. It is supported by a comprehensive Procurement Directive No. 3/22, as subsequently amended.

The PPL and the PPD, circulars, advisory letters, and other documents issued by the Ministry of Finance and the Authority apply to all sectors, including the Road sector.

In terms of the scope of application, the legal framework covers goods, works and services, including consulting services for all procurement using public funds. Defense and security procurement is generally excluded from the coverage of the PPL as are the contracts between public bodies. The terms “goods”, “works”, “services” and “consultancy services” are all defined in the PPL.

“Public funds” is quite broadly drafted to mean *“any monetary resource appropriated to a public body from the Federal Government treasury”*, as well as aid grants and credit from foreign donors through the Federal government or internal revenue of the public body. PPL includes a definition of “Public Body” (procuring entity) as *“any public body, which is partly or wholly financed by the Federal Government budget, higher education institutions and public institutions of like nature”*. Public enterprises, state owned enterprises and organizations in which the state has significant stake, are neither expressly included in or excluded from the definition of “public body” allowing for the prevalent view and practice



that these entities are exempt from complying with public procurement legal framework, even though in some cases they receive budget allocations.

Road sector-related PPPs are governed by the Federal Proclamation 1076/2018 on Public Private Partnership (“PPP Proclamation”) issued in 2018 which applies to all sectors with exception of oil, mines, minerals, rights of air space, and privatization or divestiture of public infrastructure or public enterprises which are explicitly excluded. A PPP Directive No. 55/2010/2018 (“PPP Directive”) was issued to support the PPP Proclamation. The PPP Proclamation applies to PPP projects of public bodies and public enterprises from 22 February 2018. The definition of “Public Private Partnership” in the PPP Proclamation sets out the elements commonly used to define a PPP concession type arrangement: provision of a public services activity, benefit by way of compensation from the contracting authority (public body or state enterprise) or third-party sources or a combination, plus assumption of performance risk or use risk. The PPP Proclamation defines forms of PPPs and establishes a PPP Board with, amongst other things, powers of approval of PPP projects. It also establishes a PPP Directorate General within the Ministry of Finance whose role is to ensure that PPPs are carried out in accordance with the PPP Proclamation.

Federal PPL and secondary legislation (PPD, circulars, advisory letters) are published on the Authority’s website which is free to access on-line portal. There is a dedicated tab on the Authority’s homepage providing a link to “Legislation”. There are also tabs providing links to Standard Bidding Documents and Manuals. There is a link on the home page to circulars, addressed to public bodies and issued by the Authority, though not all circulars can be found there. The primary and secondary legislation is available for downloading in PDF format (in Amharic). The directives by other Federal ministries or links to them are not included in the Authority’s website. With respect to procurement documents at Addis Ababa level, there is no single place or portal/website where procurement documents are organized and available.

The Federal Government has issued Administrative Procedure Proclamation No 1183/2020, which requires that all laws, directives¹⁴ (and amendments thereto) issued by Federal, Dire Dawa, and Addis Ababa administrative organs be registered at the Attorney General's Office before they become effective.

The legal framework necessitates that candidates/bidders meet the qualification requirements outlined in the bidding documents. Qualification criteria include having the legal capacity to enter into a contract, being on supplier lists, not being bankrupt, having a valid trading license, and paying taxes in accordance with Ethiopian tax rules. Debarment is one of the grounds for exclusion of bidders. The PPD includes additional grounds for disqualification (an example of inconsistency and incoherence between PPL and PPD), such as the supply of goods originating in a nation with a trade prohibition, a UN trade embargo, where a bidder violates a provision of the PPL and PPD, where a bidder is debarred for breach of obligation under a previous contract, where bidder is proven to have offered an inducement or bribe, and where the bidder has committed an act of embezzlement, fraud or connivance.

One of the requirements of the PPL for participation of bidders in public procurement is inclusion in the Suppliers List. The PPD further lists the conditions the bidder should meet to be included in the Suppliers List. One of the requirements is the certificate of professional qualification from the appropriate body, if a supplier is a consultant, and a contractors’ competency certificate issued by the Ministry of Urban and

¹⁴ Currently, the PPL and amendments to PPD are published in the Attorney General’s website and amendments to the PPDs have been renumbered as directives. Website access on May 26, 2023:
<http://laws.eag.gov.et/Upload/CassationDecisionsDocument/718b9b49-2c7f-432d-8928-55e85843c65c.pdf>.



Infrastructure¹⁵ based on Registration Directive 648/2021. The firms can apply for certification based on firm's manpower, equipment and annual turnover requirements.

The requirements of the Registration Directive are onerous and provide little value. Contractors are compelled to comply with the regulations, but this has apparently led to practices in which professionals lend their professional certifications while falsely claiming to be employees of the contractor. Every year, contractors hunt for specialists who can rent them a professional certificate and sign as if they are an employee of the contractor.

Furthermore, the PPD establishes a different set of qualification criteria for domestic and foreign bidders requiring foreign bidders to meet higher annual turnover and general/specific experience. The approach is discriminatory to foreign bidders and violates the PPL's concept of fairness and non-discrimination. It also may affect the quality of the contractor increasing performance risks for the public body. The legal framework does not set rules for state-owned/public enterprises to participate as bidders in public procurement, except for SBDs which include provisions imported from the World Bank's standard procurement documents.

The rules on participation do not appear to be necessarily motivated by sustainability considerations, or aspirations based on future development objectives and needs. There is no national or sectorial Sustainable Public Procurement policy/strategy in place. However, some elements of sustainability exist in the legal framework like the concept of life cycle costing most advantageous tender as award criteria, use of rated or non-price criteria, price preference of 3% for small and micro-enterprises (SMEs). However, It is not clear how consistently these existing elements are applied in practice.

The PPL allows for the Minister of Finance to issue a Directive to determine the extent to which communication by electronic means may be used in addition to or instead of writing. Pursuant to the PPL, the Ministry of Finance issued Directive no. 814/ 2021 which entered into force on 27 August 2021 (the e-GP Directive). The e-GP Directive stipulates that all communications like procurement plan, invitation to bid, sale of bidding document, bid clarification and amendments, pre bid meetings, bid opening, bid evaluation and notification of results, lodging complaints and response thereto, as well as communication during contract administration and other related activities shall be carried out using the electronic system.

The Authority has completed the pilot phase and started the roll-out of the system in 74 federal agencies, with Road Sector public bodies among the entities picked for use of e-GP in this next phase of roll out. Public bodies may require an exemption/authorization from the Agency to not use the e-GP system. But it is not clear what kind of circumstances would justify the exemption. For example, ERA has been exempted from the application of the e-GP system for contracts above the NCB threshold since FIDIC conditions of contract, which are most commonly used for works contracts, are not part of the SBDs included in the Authority's database. In other words, the e-GP system does not allow the use of standard bidding documents that are not available in the database.

Any document shall be deemed accurate and legally binding as long as it is submitted in accordance with the electronic system. It is an end-to-end system applicable to all stages of procurement cycle, procurement planning, advertisement, bid submission, evaluation, award, bid complaints, and contract

¹⁵ The authority to register and issue certificate of competence has now been transferred to Ethiopian Construction through the Proclamation No. 524/2022 of 16 November 2022.



management. The e-GP system provides unrestricted and full access to the system, taking into consideration privacy, security of data and authentication.

As mentioned above, the Road sector procurement, including PPPs, is governed by the Federal and Addis Ababa legal procurement frameworks depending on the public body, and it is not subject to dedicated and specialized legislation.

Minor Gaps

Conditions for public-to-public contracting arrangements are not clearly specified in the legal framework.

Current laws and implementing regulations are not all publicly available and easily accessible to the public on a single, central, and accessible repository maintained by the Authority for federal legislation. Comprehensive up to date procurement related information is not available at the Authority's website. Some of the circulars cannot be found on the website. There are no links to other legislation issued by the Federal ministries and/or other public bodies that have impact on procurement. As a result, stakeholders cannot acquire a complete view of Ethiopian public procurement rules by simply visiting the Authority's website.

There is no central portal or website that is used for publication of the procurement documents in Addis Ababa City Administration. The key procurement documents including the proclamations are not electronically accessible. Legislation has been published in the City Gazette, but there is no website for which provides access to procurement legislation.

E-GP Directive applies only to public bodies that were designated as pilot entities. As the e-GP system has been rolled out and pilot is completed, the e-GP Directive may require an amendment to provide for application to all public bodies as determined by for example, the Ministry of Finance and/or the Authority.

Substantive Gaps

Inconsistency and misalignment exist between and among lower-level documents and primary legislation. There are several examples of legislative discrepancy at various levels. For example, the PPL and PPD provide for different disqualification grounds, judicial review of complaints, and timeframes for Complaints Review Body decisions; lower-level documents such as circulars, advisory letters, or directives by Federal ministries are inconsistent with the PPL and/or the PPD, for example, circulars amending the PPD in respect of price adjustment provisions and NCB thresholds, registration directive by Federal ministries that introduce restrictions on foreign bidders for grade 1 only inconsistencies between PPD and standard conditions of contract. There is no consistent mechanism within the Federal government to review and comment on circulars, letters, and advisory documents dealing with public procurement issues or having a direct impact on public procurement procedures issued by the various ministries and public bodies to ensure compliance with the existing legal framework.

The scope of PPL in terms of covered entities (e.g., SOEs/public enterprises) is not clear. The PPL's definition of "Public Body" is ambiguous and circular. It does not specify which entities are subject to the PPL. The PPL does not expressly include or exclude public or state-owned enterprises in which the



government has a strong interest or influence, allowing for the general perception and practice that state-owned/public enterprises are exempt from the application of the legal framework. Although activities for these entities are generally not financed by public funds, they may receive budget allocations on occasion. In practice, the SOEs/public enterprises often undertake procurement using their own manuals modeled primarily after the PPL and the Federal Standard Bidding Documents (SBDs).

Participation rules do not provide full fairness to all bidders, and barriers to participation exist. The general view among contractors is that the Registration Directive's requirements are onerous and add little value. Contractors are compelled to comply with the regulations, but this has apparently led to practices in which professionals lend their professional certifications while falsely claiming to be employees of the contractor. Every year, contractors hunt for specialists who can rent them a professional certificate and sign as if they are an employee of the contractor. Furthermore, the PPD provides for different, and considerably higher, qualification criteria for foreign bidders can be unjust. Conversely, the lowered qualification criteria for domestic bidders may compromise the quality of contractors increasing performance risks. It is identified as “Red flag” because of the contractor’s registration certificate which is one of the documents required for determining the qualification of the contractor, is managed by the ministry of urban and infrastructure and guided by factors outside of procurement.

The legal framework does not set rules for state-owned/public enterprises to participate as bidders in public procurement. As a result, SOEs compete with the private sector in ways that undermines fair competition and a level playing field. A lack of guidelines for SOE participation creates a conflict of interest because SOEs may on occasion be hired/contracted by public entities that have supervisory authority over SOEs or with which SOEs share supervision and ownership.

There is no specific SPP policy/strategy in the sector: The few environmental, social, and economic factors that are permitted, originate from the legal procurement framework. There are no established targets for contract awards to SMEs or other contracting groupings. There is little information on the consistency of compliance with or application of sustainability considerations. Currently, standard conditions of contract incorporate only a few labor and employment aspects. It is raised as “Red Flag” because the SPP strategy should be aligned with the overall sustainable development policy of the country which is dependent on the proactive involvement and action from other relevant ministries and stakeholders.

There are no rules for the exclusion of bidders for specified offenses. There are no provisions in the PPL that directly address exclusion from participation in a public procurement process because a firm or individual has violated or breached environmental, social, criminal, or corrupt activities. Such provisions do not exist in any other legislation either. Similarly, there are no provisions in the PPL for excluding bidders based on a final judgment conviction for: participation in a criminal organization; terrorist offences or offences linked to terrorist activities or inciting or aiding or abetting or attempting to commit such an offence; money laundering or terrorist financing; child labor, and all forms of trafficking in human beings, or the equivalent of those offences.

Recommendations

To address Minor Gaps



Consider developing guidance about the circumstances and implementation arrangements for the public-to-public-contracting. It may be advisable to consider more detailed provisions in PPL or PPD to offer clarity on this exemption from the scope of the PPL.

The Authority should adapt its website into a single, free-to-access repository for all procurement legislative documents and information, including linkages to other legislation affecting procurement. All procurement directives and circulars, including those issued by other Federal ministries/public bodies, on registration, etc., should be posted on the Authority's website. The repository must always be up to date. Ideally, the repository should also be easily searchable in all formats using a variety of search criteria, allowing all users to quickly locate advisory and other materials of interest to them.

For Addis Ababa, it is important to provide a readily accessible website for procurement documents. Consider publishing the procurement documents on a centralized portal (at least on federal Authority's website as a short-term solution).

To address Substantive Gaps

Adopt an action plan to identify and remedy discrepancies, incoherence, and misalignment across the various legal framework texts. Some of the actions include conducting a comprehensive review of all existing directives, circulars, or advisory documents issued by the Ministry of Finance, Authority, and other Federal ministries/public bodies with an impact on procurement (e.g., the Ministry of Urban and Infrastructure, the Ethiopian Construction Authority); and considering additional Authority functions to screen all circulars, letters, and similar advisory documents from all sources. This should be combined with an obligation on issuing Federal ministries/institutions to submit such documents to the Authority for review. Furthermore, any new directives, circulars, or other advisory documents related to, related to, or have an impact on procurement should provide direct references to the provisions of the PPL, PPD that they intend to clarify, supplement, or replace, while avoiding the use of lower-level documents to amend the higher legislation.

PPL should clarify the categories of public bodies covered and include in the scope SOEs/public enterprises with significant governmental interest and influence. In addition, for transparency and certainty, the Authority should compile a list of designated public entities, state companies, and other organizations subject to PPL and post it on the Authority's website.

Determine and eliminate requirements that create unequal and unfair conditions for bidders, and/or barriers to participation. There is a need to ensure that all levels of legislation are consistent with the PPL's requirement that public procurement adhere to the principle of non-discrimination and to eliminate provisions that differentiate qualification criteria based on the bidder's nationality. Qualification should not be denied for reasons unrelated to the bidder's or candidate's ability and resources to successfully complete the contract. The qualification requirements should be defined as skills, experience, and resources necessary to perform the contract. Qualification standards should be the same for all bidders, regardless of nationality. These registration requirements should not include criteria that are better assessed during a specific procurement process. The authorized entity¹⁶ in charge of registration should

¹⁶ Proclamation No. 524/2022 on Ethiopian Construction Authority (ECA) assigns the role of registration and issuance of competence certificate to contractors and consultants to ECA (A.5(12)).



assess current registration practices with the goal of streamlining and adjusting requirements to ensure efficiency and objectivity.

Amend the legal framework to include clear provisions on state-owned enterprises' participation as bidders in public procurement, to create a level playing field, and to ensure that the selection/bidding and contract implementation processes are free of conflicts of interest.

Develop an SPP policy/strategy that is in line with the country's Transformation and Growth Agenda:

Use existing enabling provisions in the legal framework to implement specific SPP elements. The Authority could develop guidelines, toolkits, standard bidding documents, and other tools to help public bodies incorporate environmental, social, and economic factors throughout the procurement cycle.

Include grounds for bidder disqualification for violations or breaches of environmental, social, criminal, or corrupt activities. Additionally, the legal framework should extend the ability to refer for debarment to stakeholders and parties other than public bodies (e.g., audit institutions). Also include explicit provisions to exclude bidders with convictions for criminal offenses such as participation in criminal organizations, terrorist activities, money laundering, child labor, and human trafficking.

Summary of substantive gaps and recommendations of Indicator 1

Substantive gap	Risk classification and red flags	Recommendations
1(a) Coverage of the sector		
Inconsistency and misalignment between documents of legal framework	High risk,	Adopt an action plan to identify and address the inconsistencies, incoherence or misalignment that exists between the various documents in the legal framework.
Coverage by PPL of procurement by state-owned/public enterprises by the PPL	Medium Risk	The PPL should define the covered categories of public bodies and include in the scope the state-owned/public enterprises with significant interest and influence by the state.
1(b) Rules on Participation		
Fairness of rules on participation	High Risk, Red Flag	Ensure consistency of all levels of legislation with the principle of non-discrimination by identifying and removing any provisions/requirements that differentiate the qualification criteria based on the bidder's nationality. Streamline and simplify the registration directives on competency certificates.



State-owned/public enterprises as bidders	Medium Risk	Add provisions to legal framework on conditions for participation of state-owned enterprises as bidders.
There is no specific SPP policy/strategy in the sector	High Risk, Red Flag	<ul style="list-style-type: none"> - Develop an SPP policy/strategy that is in line with the country's Transformation and Growth Agenda. - Use existing enabling provisions in the legal framework to implement specific SPP elements. - The Authority could develop guidelines, toolkits, standard bidding documents, and other tools to help public bodies incorporate environmental, social, and economic factors throughout the procurement cycle.
Grounds for exclusion – convictions for specified offenses	Medium Risk	Add provisions to procurement legal framework explicitly referring to exclusion of bidders for violation or breach of environmental, social laws, criminal or corrupt activities and conviction by final judgment for: participation in a criminal organization; terrorist offences or offences linked to terrorist activities, or inciting or aiding or abetting or attempting to commit such an offence; money laundering or terrorist financing; child labor; and all forms of trafficking in human beings, or the equivalent of those offences.

Indicator 2. Implementing regulations and tools support the legal framework at the sector level

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



Synthesis of the indicator

The majority of the requirements in this indicator are unmet. The gaps and recommendations are detailed below. To support the PPL as the primary legislation, the Federal Government and the Addis Ababa City Administration have created implementing regulations in the form of a Public Procurement Directive (PPD). The PPD is concise and comprehensive, and it is available on the Authority's website. The Authority is responsible for the upkeep of secondary legislation. The Ministry of Finance and the Authority may amend the PPD and/or issue circulars that change or replace portions of the PPD without referring to the impacted parts/provisions. Similarly, other Federal Ministries/entities may issue procurement-related directives/circulars. The road sector procurement adheres to the same implementing rules/regulations as for Federal and Addis Ababa.

The Authority has prepared a wide range of SBDs (issued in 2011) that include the minimum required provisions that will be included in contracts for the various types of procurement of goods, works, services, and consulting services in Road sector. The PPD mandates public bodies to use the SBDs, but they must also ensure that the bidding documents include the contents of the PPD. There are instances of inconsistencies between the provisions of the PPD and the SBDs, notably in terms of contract conditions, creating confusion, and it is lack of clear understanding and application by practitioners. Standard contract conditions are mandatory for use in the Road sector; however, they are not appropriate for all types of Road sector procurement. There is a need to update the SBDs and broaden the menu of existing contract conditions to allow for a wider range of project delivery methods and payment terms.

Findings

The PPD was issued in 2010 and has since been amended several times. The amendments are done either through standalone amendments or through circulars which often do not specify whether they are clarifying, amending, replacing or supplementing to the PPD provisions. These amendments have not been reflected in the PPD document leaving it unchanged since its issuance. The PPD offers extensive rules that address PPL's implementation issues. There are no separate implementing rules and regulations for the road sector. Hence, the PPD is required for all procurement in the Road sector. Circulars are another type of legislative instrument that are frequently issued by the Ministry of Finance or/and the Authority to clarify specific articles of the PPD or standard bidding documents that have at times reportedly introduced more ambiguity and discrepancy than clarity. In general, the Ministry of Finance and Authority have issued procurement-related circulars which often introduce inconsistency with the procurement legal framework. Because it is unclear if these circulars are clarifying, updating or replacing the PPD, their place in the rule's hierarchy is ambiguous. For example, the Authority, Ministry of Finance, Ministry of Education, and Ministry of Urban and Infrastructure have published four (4) circulars on price adjustment, which in some cases constitute de-facto amendments to the PPD rules on price adjustment. It is not clear whether circulars issued by other Ministries, public bodies are meant to apply to the public procurement system in general or to the issuing public body specifically.

The PPD is comprehensive and is easily accessible in a single location. However, it does not reflect changes made by circulars, amendments, or other advisory documents. Furthermore, as noted in Indicator 1, the



PPD appears to elaborate on the PPL provisions on occasion to an extent possibly not envisaged by the PPL provisions.

In 2011, the Authority issued SBDs for goods, works and services. They are available on the Authority's website. The SBDs, containing standard contract conditions, are required for use by Federal public bodies, which includes federal public bodies in the Road sector. SBDs are model documents for goods, works, or services, including consulting services. In each case, there are different SBDs for international competitive bidding (ICB) and national competitive bidding (NCB). There are also ICB and NCB SBDs for framework agreement procurement as well as procurement of information systems, textbooks, and health sector goods. Addis Ababa has not adopted its own SBDs, but instead uses the Federal SBDs as per an internal instruction by the City Administration.

The PPL specifies the minimum content of the bidding documents. The PPD requires public bodies to use the Authority's SBDs. The PPD contains extensive information on content of the SBDs requiring they include instructions to bidders with information on the bidding procedure, including evaluation and award, a statement of requirements, general and special conditions of contract, and bidding/contract forms, including the bid submission sheet. The bidding instructions and general contract requirements should not be modified, with the bid data sheet and special conditions of contract reflecting the characteristics of the bidding/contract in question. In some cases, the standard contract conditions are incompatible with the PPL and/or PPD.

Though the responsibility for maintaining and updating the SBDs, is clearly assigned to the Authority, the documents have not been updated since they were initially released in 2011. NCB and ICB documents include the same standard contract conditions with exception of foreign currency provisions in case of ICB. Moreover, the existing standard conditions do not reflect the international good practices for works contracts (e.g., FIDIC conditions of contract).

In the Road sector, public bodies typically use SBDs, including contract conditions on a Design-Bid-Build (DBB) and admeasurement contract basis. The Authority has not issued contract conditions that **can** be applied for road works procured through Output and performance Based Road Contracts (OPRC) and Design-Build project delivery method. Often Ethiopian Roads Administration (ERA) has to modify the standard documents to suit their needs. With approval of Authority, ERA uses the national standard contract conditions for maintenance works; FIDIC conditions of contract (Red Book), the 1987 (reprinted 1992); the FIDIC Plant, Design and Build, 1995 edition (Orange Book), and the OPRC (Output based Performance Road Contracts) of the World Bank. This indicates the current SBDs based on DBB/admeasurement contracts are not adequate for all types of project delivery in Road sector, and do not meet the needs for all contracts such as road maintenance, Design-Build/EPC type of projects, etc.

Minor Gaps

The PPD is not updated regularly. The PPL clearly assigns the responsibility for updating the secondary legislation to the Authority. However, to date the PPD is updated only with respect to select provisions upon request of procuring entities leaving the PPD pretty much intact. In other words, there is no updated and consolidated PPD document, which reduces clarity and may hinder practical understanding for stakeholders of the procurement legal framework as a whole.



SBDs are not kept up to date. The most recent SBDs were issued in 2011 which is past a decade, and there is no practice of regular updating. In lieu of regular revision/update, the Authority issues circulars for temporary resolution to the challenges the procuring entities face in the Road Sector. Issuing circulars to address procuring entities' ad hoc requests or revises SBDs is not sustainable and creates layers of legislation which are not properly captured in one single location.

Substantive Gaps

Inconsistencies between PPL and PPD and other lower-level documents. The PPD supplements the PPL and it is a single, comprehensive document, but it addresses a few things differently from the PPL such as disqualification grounds, judicial review of complaints, and timetables for Complaints Review Body decisions. As identified earlier, in many cases, the lower-level documents like circulars alter or result in de-facto amendment of the higher legislation like PPD.

No practice of regularly updating the model procurement documents: Instead, there is practice of issuing circulars to address evolving challenges creating layers of legislation not adequately recorded in a single document.

Existing Standard Bidding Documents, including standard conditions of contract are not suitable for all types of projects delivery methods and contracts in the Road sector. The existing SBDs suite is not suitable for all Road-related procurement. The existing ICB or NCB works contracts work well for traditional project delivery methods such as Design-Bid-Build (DBB) and admeasurement (unit price) contracts. It is limited in its application for other project delivery methods such as EPC, Design-Build, road maintenance services, etc.

Standard contract conditions are not necessarily compatible with the legal framework. There are several instances of inconsistency between the contractual terms in the standard conditions of contract with the PPL and/or PPD. Examples of provisions with inconsistencies include price adjustment, timelines for payments to contractors, use of and payment in foreign currency to local bidders for inputs originating from outside the country, methods for collecting retention money as well as conditions for replacing retention money with an unconditional bank guarantee.

Existing provisions of standard conditions are not fully in line with international good practices. Examples of such provisions include those on price adjustment, settlement of disputes, definition of works, rate of progress and termination.

The Federal-level Manual does not elaborate on the procurement procedures in the Road sector. The Manual is extremely general and does not contain guidance on specialized features of Road-sector procurement. The manual that was issued in 2011 has not been updated.

Recommendations

To address Minor gaps

Consider preparing an updated and consolidated version of PPD to include all amendments, including those via amendments, circulars, or other advisory documents, so that a single comprehensive document is available to ensure precision and clarity on the wording and application of amended provisions and thus facilitate practical understanding of stakeholders.



Update the existing SBDs/contract conditions based on feedback from public bodies, entities, and private sector. Consider putting in place a framework for soliciting and receiving continued feedback from all stakeholders across all sectors, which will feed into regular revisions to SBDs.

To address Substantive gaps

Identify and resolve the inconsistencies that exist between the PPL and PPD and other documents and prepare a consolidated PPD document to be updated regularly as part of the comprehensive review proposed under indicator 1(a), inconsistencies between PPD and PPL must be identified and resolved. Similarly, any discrepancy between the lower-level documents and PPD/PPL should also be addressed.

Develop customized documents for the Road sector that may be used for a variety of project delivery methods (EPC, DB, BOT, BOOT, MCA¹⁷) and with relevant payment conditions like cost plus, lump sum target cost etc., using best international practices. Prepare a new or customized Request for Proposals (RFPs) suitable for design and supervision consulting services both for time based and lump sum contracts.

Identify and eliminate the discrepancies that exist with SBDs and the PPD or higher-level legislation. This can be done as part of the comprehensive review proposed under indicator 1.

Undertake a study or comprehensive review of the current practices, issues, and challenges with the existing contract conditions to determine whether they are fit for purpose, fulfil the needs of the Road sector, and what innovations and international models can be adopted for ICB contracts in order to attract qualified bidders, ensure quality of works and achieve value for money.

Consider developing dedicated new guidelines or expanding the scope of the Manual, to address Road-sector specialized procurement nature.

Summary of substantive gaps and recommendations of Indicator 2

Substantive gap	Risk classification and red flags	Recommendations
2(a) Implementing Regulations		
Inconsistencies between the PPL and PPD, and lack of a consolidated PPD document.	High Risk,	As part of the overall review proposed under indicator 1(a), determine and resolve the inconsistencies between PPD and PPL and prepare a consolidated PPD document.
Amendments and circulars with effect of amending the PPD are not incorporated into the PPD document leaving it intact as was issued in 2010.	Medium	Consider combining all PPD revisions through amendments, circular or other letters into a single comprehensive document. Any future PPD amendments should be referred to as such and not be made through circulars.

¹⁷ MCA= Management Contracting Approach



2(b)&2(c) Model Procurement Documents and Standard Contract Conditions for Goods, Works, Services for the sector		
No practice of regularly updating the model procurement documents. Instead, there is practice of issuing circulars to address evolving challenges creating layers of legislation not adequately recorded in a single document	Medium	Update the SBDs by establishing a mechanism for requesting ongoing feedback from public bodies, the private sector, and other stakeholders, particularly those in highly specialized sectors such as the road sector, which should subsequently be considered and reflected in SBD revisions.
Existing SBDs/contract conditions are not suitable for all sector procurement	Medium risk	Develop customized documents for the Road sector that may be used for a wide range of project delivery methods and payment terms.
Conditions of contracts are not, in some cases, consistent with the legal framework.	High risk	Identify and eliminate the discrepancies that exist with PPD or other higher-level legislation.
Existing provisions of standard conditions of contract are not aligned with internationally accepted practices.	High risk,	Undertake a review of the current practices, issues and challenges with the existing contract conditions to determine whether they are fit for purpose, fulfil the needs of the Road sector, and what innovations and international models can be adopted for ICB contracts in order to attract qualified bidders, ensure quality of works, and achieve value for money.
2(d) User's guide or manual for procuring entities in the sector		
The Federal-level Manual does not elaborate on the procurement procedures in the Road sector and the manual is not updated since its issuance in 2011.	Low risk	Consider developing dedicated new guidelines or expanding the scope of the Manual, to address Road-sector specialized procurement nature and update the manual regularly.



Indicator 3. The legal and policy frameworks support the sustainable development of the country and the implementation of international obligations, including regional and sub-regional obligations.

The objectives of this indicator are to assess the existence of clear and well-articulated sectorial development strategies and an in depth analysis as to whether (i) horizontal policy objectives, normally involving goals aimed at increased sustainability; support for certain groups of society; improving the lives and well-being of citizens through economic redistribution; and protection of the environment, are consistently and coherently reflected in the legal and regulatory framework applicable to the sector; and (ii) possible constraints, if any, in the policy space, such as the binding international/regional/sub-regional agreements which may limit the possibility of public procurement living up to its important strategic role and contributing to sustainability.

Synthesis and Findings of the indicator

The ten- year development plan from 2021 to 2030 that was prepared by the Ministry of Planning and Development, articulates the economic development aspirations of the country including setting socio-economic development targets. At road sector level, the GoE has launched a strategy called the Road Sector Development Program (RSDP) since 1997. Currently, ERA is implementing the RSDP V that was planned to be completed in 2020 but not yet completed. While the RSDP V is still under implementation, ERA has prepared a 10 year- development plan for the year (2021 to 2030) which is aligned with the 10 years development plan of the country. This plan is not yet officially approved.

There is currently no sustainable public procurement policy/strategy in place to implement sustainable public procurement (SPP) in support of broader national policy objectives and no implementation plan or systems and tools to operationalize, facilitate and monitor the application of SPP. However, the legal framework includes a few measures that could potentially advance the sustainability considerations until and when a SPP policy is adopted. They are the concept of life-cycle costing, most advantageous tender as award criteria, use of rated or non-price criteria, price preference of 3% for SMEs where such enterprises compete with local suppliers in national competitive bidding. Currently, standard conditions of contract incorporate only a few labor and employment aspects which are not sufficient to implement environmental, social and economic aspects of sustainability.

Minor gaps

Use of PPP to leverage private sector financing has not yet commenced: Though sector strategies both in ERA and AACRA identifies PPP as one procurement delivery mechanism, PPP has not yet commenced. Road sector is one of the two sectors (with Energy) selected to start delivery of projects through PPP mechanism at the federal government level. Unlike the energy and other sectors (Health, Housing) which have finalized feasibility studies and embarked on procurement, no project in the road sector has yet crossed preparation stage and entered bidding stage. Besides, PPP is not yet adopted in Addis Ababa City Administration and in other regional states.

The sector strategy document not yet approved, and implementation not started.

Substantive Gap



There is no SPP Strategy/Policy and implementation plan for SPP, in place. During the assessment period, the GoE in collaboration with the WB is undertaking study to identify possible options for introducing SPP which will lead to preparation of SPP strategy document. It is raised as “Red Flag” because the SPP strategy should be aligned with the overall sustainable development policy of the country which is subjected to the proactive involvement and action from other relevant ministries and stakeholders.

The legal provisions address life cycle costing and environmentally friendly procurement only at a high level. There is no guidance how to operationalize these provisions at the procurement activity level and do not address the issue of well-balanced application of sustainability criteria to ensure value for money.

Recommendations

To address Minor Gaps

PPP modality: Finalize preparation and start implementing road projects in the pipeline through PPP modality, where feasible. Adopt PPP arrangement including legal framework, structure and capacity in the sector at regional and city administration level, as appropriate and where feasible.

Issue the sector strategy document and start implementation.

To address Substantial Gaps

Develop the SPP Strategy/Policy as well as a supporting plan to implement SPP (economic, environmental (including climate considerations) and social (including gender equality and responsiveness) in support of broader national policy objectives and reflecting national priorities. The government should investigate the practices and arrangements of other countries as part of the study and preparation phase.

Use existing enabling provisions in the legal framework to implement SPP, like preference for SMEs, promotion of environmentally friendly goods through the development of environmentally/climate friendly specifications, use of life cycle costing in bid evaluation, use of rated criteria related to SPP aspects, introduction of contractual terms that elaborate on environmental and social aspects, employment and labor standards, health and safety, gender-based violence obligations, subcontracting arrangements. In this respect, **the Authority could develop guidelines, toolkits, standard bidding documents, and other tools to help public bodies incorporate environmental, social, and economic factors throughout the procurement cycle.**

Summary of substantive gaps and recommendations of Indicator 3

Substantive gap	Risk classification and red flags	Recommendations
3(a) Procurement strategies as part of sectorial policies and strategies		
3(b) Sustainable Public Procurement in the sector		
Lack of Sustainable Public Procurement policy/strategy and SPP implementation plan to operationalize, facilitate and monitor the application of SPP.	High risk, Red Flag	Develop the SPP Strategy/Policy as well as a supporting plan to implement SPP (economic, environmental (including climate considerations) and



		<p>social (including gender equality and responsiveness) in support of broader national policy objectives and reflecting national priorities.</p> <p>Use existing enabling provisions in the legal framework to implement specific SPP elements. The Authority could develop guidelines, toolkits, standard bidding documents, and other tools to help public bodies incorporate environmental, social, and economic factors throughout the procurement cycle.</p>
The legal provisions require a well-balanced application of sustainability criteria to ensure value for money	Medium	<p>- Develop guidelines, toolkits, standard bidding documents, and other tools to help public bodies incorporate environmental, social, and economic factors throughout the procurement cycle and how to balance them with value for money principles. Countries around the world have devised a variety of techniques to incorporating sustainability into public procurement</p>

Suggestions for improvement (Minor Gaps)
Sub-indicator 1(a)(b)
Consider developing guidance about the circumstances and implementation arrangements for the public-to-public-contracting. One possibility is requiring public arrangements to be subject to the PPL, save in specified circumstances. Examples of such excluded circumstances could include genuine co-operation between public bodies to deliver public services/tasks at cost; direct award of contracts between public bodies; or assignment of tasks/functions where the direct award or assignment of tasks/functions and participating bodies are designated by specific laws. Similarly, it may be appropriate to consider clear provisions dealing with the situation where an entity is wholly owned by a public body, carries out public tasks and is not active on the market.



Sub-indicator 1(a)(d)
Addis Ababa to consider adopting a PPP legislation in line with priorities set by the City Administration.
Sub-indicator 1(a)(e)
The Authority should consider revamping its website to become the single free to access repository for all procurement legal documents and information, improve coverage and functionality of the PPA website and its up-to-date contents' maintenance. Regarding Addis Ababa, it is important to provide a readily accessible website for procurement documents. Consider publishing the procurement documents on a centralized portal (at least on federal Authority's website as a short-term solution).
Sub-indicator 1(j)(a)
Since the piloting phase was completed, the e-GP Directive may require an amendment to expand its application to all entities that the Government has determined should use the electronic system.
Sub-indicator 2(a)(c)
Consider combining all revisions into a single comprehensive document to ensure precision and clarity on the wording and application of amended provisions and thus, facilitate practical understanding of stakeholders. Develop a framework for soliciting and receiving continual feedback from all stakeholders across all sectors, which will feed into PPD revisions.
Sub-indicator 2(b)(c)
The Authority should update the SBDs by establishing a mechanism for requesting ongoing feedback from public bodies, the private sector, and other stakeholders, particularly those in highly specialized sectors such as the road sector, which should subsequently be considered and reflected in SBD revisions.
Sub indicator 3 (a) (a) and 3 (c) (b)
Approve the 10 year's road sector strategic plan and start implementation as part of the national development plan.

3.2. Pillar II - Institutional Framework and Management Capacity

Pillar II within the context of the Sector Level Assessment (SLA), examines the institutional framework and management capacity of the sector. It looks at how the procurement system as defined by the legal and regulatory framework is operating in practice through the institutions and management systems that are part of the overall public sector governance in the country.

The purpose of Pillar II is to evaluate how the key institutions are set up to discharge their obligations. It assesses whether: 1) the system is adequately linked with the country's public finance management system; 2) institutions in charge of necessary functions are in place and operating without gaps and overlaps; (3) the system is adequately equipped to collect, manage and evaluate the policies and operations; and (4) the managerial and technical capacities are adequate to undertake efficient and transparent public procurement processes.

SLA-Indicator 4. The public procurement system is mainstreamed and well-integrated with the public financial management system at the sector level

The purpose of this indicator is to focus on the degree of integration of the procurement system within the public financial management system for the sector.



Synthesis of the indicator

The degree of integration of procurement system with public financial management is achieved through MoF issuing a five year Macroeconomic and Fiscal Framework (MEFF) like from 2022/23 to 2026/27, dated March 2022, with major areas of expenditure like capital and recurrent, among others.

Federal Financial Administration Proclamation No.648/2009 require MEEF to cover for three consecutive years estimates of all revenues, estimates of capital and recurrent expenditure. Such expenditures need to use budget allocation by following Federal Budget Administration Directive that *inter alia* require public bodies including procuring entities in road sector to conduct budget planning and formulation as laid down in the Proclamation and Directive.

Project implementing bodies including in the ROAD sector are also required to prepare a project implementation plan as per Project Administration and Management Proclamation which came into force on July 29, 2020. There is lack of implementation of feedback mechanism on budget execution. There is no requirement that prevent solicitation of tender without certification of the availability of funds. However, in practice, procuring entities in the sector established mechanism to monitor confirmation of availability of budget before soliciting bids.

Findings

The legal framework requires annual or multi-annual procurement plans (as part of Implementation plan) to be prepared for facilitating the budget planning and formulation process and to contribute to multi-year planning,

The **Project Administration and Management Proclamation** require public bodies to prepare project Implementation Plan including physical and financial implementation plan. The viability of the plan is evaluated and prioritized for budgeting.

Procuring entities in the road sector conduct the budget planning and formulation as per the procedure laid in the Budget Administration Directive, i.e through preparing estimated expenses (including necessary estimate of the capital budget for procurement of new contracts and payment to be affected for contracts under implementation).

Though road works have long contract implementation period (could be 24- 36 months for example), budget funds are committed to cover the amount estimated to be spend in the fiscal year, as per the stipulation of Article 32 (3) of the proclamation 648 which reads as:- " Notwithstanding the provisions of sub-article (2)of this Article, in the case of concluding a long-term contract relating to a project lasting for more than one fiscal year, the ascertainment of budget appropriation for the first fiscal year of the project shall be sufficient."

In cases where there is a deficit of the budget fund allocated for the specific contract the procuring entities are empowered to transfer the budget from unutilized contracts. Article 4 (2) of the Budget proclamation enacted for EFY 2015 states that: "Request for budget transfer between programs administered by public bodies shall be made by the head of the public body and presented to the Ministry of Finance for approval."

As per Budget Administration Directive, procuring entities in the road sector provide quarterly reports within 15 days after each quarter and annual consolidated report before July 30 of the next budget year.



After closing of the financial year, the Minister of Finance reports on the budget execution to the Parliament on all budget lines.

Similarly, procuring entities under the road sector of Addis Ababa City Administration submit quarter and annual physical and financial execution reports to Bureau of Finance pursuant to the requirement stipulated in the respective Finance administration proclamation.

Moreover, IFMIS (Integrated Financial Management Information System), allows procuring entities to plan, follow and report on budget execution. However, the quarterly reporting on budget utilization through IFMIS is on program level and not on contract basis. .

In addition, feedback mechanism/reporting on budget execution upon completion of major contracts in the sector is included in the project administration and management proclamation number 12120/2020, that *inter alia* requires, preparing project completion report which should be submitted to the Planning and Development Commission and to the Ministry of Finance.

Payment procedure is clearly indicated in bidding documents which is also made part of the contract. In addition, the overall procedure and timing of payment is also stipulated in the public procurement directive which is publicly available.

The Federal as well as the Addis Ababa City Administration public procurement directives require Public Bodies to effect payment within 14 working days of receipt of the payment certificate which should be verified by the consulting engineer within seven days of receipt. However contrary to stipulations in the directive, the SBDs allow payment within 30 days in consultancy and 90 days in works contracts from receipt of payment certificate or invoice.

Minor Gaps

Enforcement of legal requirement on budget formulation on annual and multi-annual procurement

Plan: Annual or multi-annual procurement plans are not prepared to facilitate the budget planning and formulation process. Currently the legal requirement to submit feasibility study is included in the project Administration and management proclamation number 12120/2020, though it is not yet practiced. Hence the gap in this regard is mainly lack of enforcing the legal requirement.

Lack of feedback mechanism on budget execution: Though the Legal Framework provides a feedback mechanism through reporting on budget execution, including report on completion of major contracts, the procuring entities in the sector have not yet started implementing the prescribed legal requirement.

The report through IFMIS does not show budget utilization data disaggregated on contract basis.

Risk of Solicitation of tenders/proposals without certification on availability of funds / foreign

currency: In practice, endorsing committee of public bodies in the sector confirm availability of budget prior to authorizing solicitation of tender. However, due to absence of provision that prevent solicitation of tender without certification of the availability of funds, there is risk of solicitation of tender without certification of the availability of foreign currency portion of the contract amount.

Substantive gaps

Delays in payment to suppliers, contractors, and consultant: Payment is usually delayed due to the delay by MOF in releasing the fund, which caused non-compliance to the payment provision stipulated in the



public procurement directive and in the conditions of the contract. To address the inconsistency, the MOF has issued CIRCULAR on 25/1/2014 E.C, for effecting payment for works contract within a maximum of 45 days from the date requested by the contractor which deviates from the timeline provided in the PPD and SBDs and not available publicly.

There is a delay of 2 to 3 months in releasing budget at the beginning of the year and allocation of insufficient budget for the year and a high shortage of budget for foreign portion of the contract amount, which is causing dispute between contractors and the sector entity.

On an average out of 220 reviewed invoices in 2 PEs, 56% were paid on time. One of the two PEs paid only 25% of the invoices on time. Payment delays up to 686% were recorded in the reviewed invoices.

Contradiction between the PPD, SBDs and MoF's circular on timeline to effect payment: The procedure followed by procuring entities in getting budget funds from Ministry of Finance is not clearly known by potential bidder. Due to the inconsistency between the SBDs resulting to contract agreement and MOF's circular on the timeline to effect payment and general delay in payment led to additional cost of paying interest for the delayed payment and in some cases, to contract termination.

Shortage of necessary budget to cover portions of contract performed in the budget period and other constraints: Though there is mechanism to manage budget deficit to some extent through budget transfer among programs, PEs face budget shortfall to cover the portion of the contract performed within the budget period. The budget for foreign portion of the contract amount is usually released after a delay of 1 to 2 years, due to serious shortage of foreign currency. The budget allocation doesn't consider inflation which is rampant in the construction sector. It is raised as "Red Flag" because the availability of budget and foreign currency is dependent on the overall performance of the economy and its fiscal management which is beyond procurement system.

Processing and authorization of payment: The procedure followed by procuring entities in getting budget funds from Ministry of Finance is not clearly known by potential bidder.

Recommendations

To address minor gap

Facilitate enforcement of provisions in the project Administration and management proclamation number 12120/2020, that require project implementing bodies to prepare a project implementation plan, as appraised and confirmed to be viable, prioritized and selected for budgeting.

Planning and Development Commission to ensure inclusion of formal procurement plan as part of project implementation plans, submitted by project implementing bodies, in relation to projects prioritized and selected for budgeting; so that the procurement plan will be used as an input in the process of planning and budget formulation.

Lack of implementation of feedback mechanism on budget execution: Enforce provisions of the project administration and management proclamation in relation to implementing feedback mechanism through reporting on budget execution, including report on completion of major contracts.

Adjust and enter contracts in IFMIS to get budget utilization for all major contracts in the sector, than, being reported on an aggregate basis for all contracts as a cumulative



Ensure consistency of provisions in the project administration and management proclamation with provisions of the public procurement directive, that deal with getting approval of variation works that result with amount within and beyond the limit allowed by law.

Delays in payment to suppliers, contractors and consultant: (i) Publish all payment procedures, so that it will be clearly known by potential bidders; (ii) Ministry of Finance to devise robust mechanism of effecting payments (both local and foreign portion) within the contractually agreed period; and (iii) Correct the contradiction between the public procurement directive and the General Conditions of the contract in stipulating number of days required for verification of payment by the Engineer and for effecting the payment by the employer. This gap is described, and recommendation is provided under indicator 9.

Summary of substantive gaps and recommendations of Indicator 4

Substantive gap	Risk classification and red flags	Recommendations
4(a) Procurement Planning and budget Cycle in the sector		
Shortage of necessary budget to cover portions of contract performed in the budget period and other constraints:	High Risk, Red Flag	MOF to devise mechanism for early release of budget. Government should allocate foreign currency portion of the contract amount as part of the contracts' budget prior to solicitation of tender. The budget allocation should consider an amount for possible price adjustment payment that will result from increase of price on construction inputs, as provided in the contract
4(b) Financial procedures and procurement cycle in the sector		
The procedure followed by procuring entities in getting budget funds from Ministry of Finance is not clearly known by potential bidder.	Medium Risk	Streamline and publicize payment procedure to be known by potential bidders and the public.

SLA-Indicator 5. The sector has an institution in charge of technical normative function

This assessment covers the development function and or validation of technical standards applicable to the sector. The purpose of this indicator is the assessment of the existence, independence, and effectiveness of the normative functions, in the sector, which may be entrusted to different procuring entities, and the degree of coordination between these responsible organizations. As a general consideration, the normative functions in the sector, should be clearly assigned without gaps and overlaps.

Synthesis of the indicator



Related to institution(s) responsible for development and validation of technical standards, there are multiple institutions. Ethiopian Construction Authority, which is an autonomous federal government body accountable to Ministry of Urban Infrastructure, is responsible for (through proclamation No. 1263/2021) for normative functions for development and validation of Standards related to road classification, construction specification and Design.

Through the same Proclamation, among power and duties of Ministry of Labor and Skill are required to establish a system to prevent occupational accidents and occupational diseases and issue occupational health and safety standards.

For environmental standards, the Proclamation, Environmental Protection Agency accountable to the Ministry of Planning and Development Is in charge of the normative function for development and validation of environmental standards in all sectors including the road (and water) sectors.

The technical norms (such as specifications, design standards, and, classification manuals, route selection manuals, etc) developed by Ethiopian Roads Administration (ERA) are not used country wide, hence it cannot be considered as technical standard of the sector. The standards are applicable on road contracts of ERA.

Findings

There are multiple agencies responsible for development and validation of technical norms as stated above at Federal Level. For City Administration, Article 40 of Proclamation for “The Addis Ababa City Government Executive Organs Re-Establishment” Proclamation No. 64/2019, provides the following among the powers of the Roads Administration are: (i) Prepare laws for road networks, roads construction, utilization and maintenance of roads; implement same upon approval; and (ii) Issue and improve standards for designs of roads and bridges; issue maintenance standard; issue directives for the categorization of roads and standards; follow-up and control the implementation of same; Accordingly, ACRA has issued a Design Manual long time back in 2004, which is not updated

The full application of the adopted standards is sometimes challenged in road contracts managed by ERA. Some regions are reluctant to accept the road width standard established by ERA demanding the road passing through their city/town to comply with the width of road reflected in the master plan of the city/town. This usually cause variation from the initially agreed design and lead to contract price and the requested change is commonly accepted after several correspondences between the regional government or relevant entity of the region and ERA, which result with delay in the execution of the project and extension of the initial contract period.

It is also common in most regional government and the general public to **reject the Double Bituminous Surface Treatment (DBST Asphalt Road standard)** which is considered as inferior quality. Hence ERA is forced to avoid DBST standard in the design of new projects and replace it by Asphalt Concrete standard even in roads with low volume of estimated traffic.

The design standards developed by Addis Ababa City Road Authority (AACRA) are obsolete and need revision. The geometric design manual of AACRA lacks consideration for Urban Street design specifically lacks consideration of the needs of the city street users. The geometric design manual is more suitable for highway design rather than street design. Moreover, the City Administration has not yet developed the following necessary standards; (i) Cobblestone design standard/manual; (ii) Road and bridge maintenance manuals/standards; and (iii) Quality assurance/management manual.



The use of technical norms impact competition. For example, the first amendment of the public procurement directive, which was issued on Tahsas 1/2008 E.C stipulate that experience in Double/triple Surface Treatment (DBST) asphalt road as a mandatory requirement for a bidder to be eligible in bids for Asphalt Concrete (AC) road construction projects. However, the DBST standard is currently abandoned for the reasons discussed in the above criteria and most new contractors and those working in gravel road projects do not qualify in the bids floated for the construction of Asphalt Concrete Roads limiting competition in road construction contracts.

Gaps

Substantive gaps

Multiple Agencies for normative function of development and validation of technical standards in the sector: The mandate for establishment of normative function is given to multiple entities creating duplication of efforts and inconsistencies. For example: Issuing specifications and manuals for federal road works is given for both Ethiopian Construction Authority and Ethiopian Road Administration, as shown in the respective regulation. Ministry of Urban and Infrastructure has powers and duties to follow-up procurement in any sector which creates duplication with functions of Authority.

Technical norms to meet the needs of the country: The existing norms/technical standards developed by ERA do not fully address the needs of the country, as the standards/norms are not applicable to the road sector in the regional government. Moreover, the existing standard is challenged by regional cities/towns in relation to road width in addition to the quality complain of the general public specific to DBST standard.

Effect of technical norms on competition and transparency: The use of DBST standard is currently abandoned most new contractors and those working in gravel road projects are not getting the chance to be eligible in the bids floated for the construction of Asphalt Concrete Roads, which require experience on DBST as a prerequisite. Hence the use of DBST standard as part of the qualification criteria has affected competition.

It is recognizable that the relevant authorities resumed discussion to resolve the above two gaps at the time of the assessment.

Summary of substantive gaps and recommendations of Indicator 5

Substantive gap	Risk classification and red flags	Recommendations
5(a) – Status and legal basis for the normative functions entrusted to the sector agencies		
Multiple Agencies for normative function of development and validation of technical standards in the sector. Discussion is ongoing to resolve this gap.	Medium Risk	Suggestion is given for both entities to take corrective action prior to approval of the regulations by Council of Ministers. The entities with duplication of responsibilities



		should discuss and delineate their role in relation to achieving their common objective
Technical norms to meet the needs of the country: Discussion has been ongoing to resolve this gap at the time of the assessment.	Medium Risk	Introduce mechanism in which the standards developed by ERA will be reviewed and approved by Ethiopian Construction Authority, so that the standard will be applicable throughout the country (including regional states).
Effect of technical norms on competition and transparency: Discussion has been ongoing to resolve this gap at the time of the assessment	Low Risk	ERA to discuss with Authority and avoid the DBST criteria from being prerequisite for participating in bids floated for procurement of Asphalt Concrete.

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.

Synthesis of the indicator

Legal and Regulatory framework as applicable to the Road Sector clearly defines responsibilities and competency of procuring entities. However, the legal framework does not require for establishment of specialized procurement function, it simply require establishing an adequately staffed procurement unit. Decision making is delegated to lowest competent level based on risks and defined thresholds. Accountability provision is limited to few actors and doesn't include all actors that are directly or indirectly involved in procurement.

The country has established a centralized procurement function both at federal and in AACA in charge of consolidated procurement through framework agreements though the staffing of central procurement bodies is insufficient.

Findings

The legal framework clearly defines responsibilities and competencies of procuring entities. The Responsibilities of the Heads of Public Bodies are listed at PPL A.8. PPL A.9 stipulates that the head is responsible to establish procurement unit whereas the duties and Responsibilities of the Procurement and Property Administration Unit and Procurement Endorsing Committee are listed in the PPL A.9, and PPL A.10 respectively.



PPL A.11 specifies that heads of public bodies, heads and staff of procurement administration units and endorsing committees are accountable for their actions. Similar, provision is available in the public procurement proclamation of the Addis Ababa City Administration.

In practice sector entities has established a specialized procurement units for goods and engineering procurement function. Both entities covered in the assessment established specialized procurement function. However centralized procurement function in charge of specialized procurement for the sector is not established.

Decision making authority is delegated to the lowest competent levels consistent with the risks associated and the monetary sums involved. As stated in the CORE MAPS, The PPL A 10 provides the authority to approve procurement decisions to the Bid Endorsing Committee on all procurements above the specified threshold in the directive. According PPD A 24/2 (amended) the public body requires the approval of the bid endorsing committee for procurement of Works Birr 500,000, Goods Birr 200,000, Consultancy Birr 120,000 and Services Birr 150,000. The threshold is consistent with the threshold for use of National Competitive Bidding.

Gaps

Minor gap

Accountability: Accountability for the Heads of public bodies is defined in the laws/Regulations establishing these public bodies. Other actors involved in procurement decision are not covered in the accountability provision.

Centralized procurement body: Though there is adequate structure with in the PPDS which is the centralized procurement body, there were procurement positions that were not filled as per the approved staff plan in the procurement directorate.

Establishment of specialized procurement unit The PPL did bestow the public bodies to establish an adequately staffed procurement unit under A.8(a). Though the PPL gives such power to the public bodies in the sector, the qualification, experience, number including the procurement structure is decided by the civil service commission that conflicts with the PPD A.5(1) which could be a constraint in the establishment of a specialized procurement function. In practice, ERA established an engineering procurement department with adequate staff that deal with the procurement of the sector in addition to the regular procurement unit that manages common user or standard items.

Recommendations

To address minor gaps

Accountability: Consider expanding accountability provisions to include all actors that are directly or indirectly involved in procurement decisions.

Expedite the hiring of the procurement professionals and fill all the vacant positions in the procurement directorate. Ensure that the centralized procurement body maintains adequate structure and staffing commensurate with the volume of work. **Specialized procurement function:** Ensure that procuring entities has absolute authority to decide on the structure and staffing of the procurement unit. The Civil service commission should provide overall guidance.

SLA- Indicator 7. Public procurement is embedded in an effective information system for the sector



The objective of this indicator is to assess the actual use of e-procurement systems, namely the extent to which the sector 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.

Even though such a system may be embedded at the country level, there may be weaknesses at the specific sector level that would affect sector procurement performance. This SLA indicator captures the availability, accessibility, integration and reliability of public procurement information systems in the sector. It also examines the extent to which the system works in practice by determining the share of public procurement information published and by measuring the uptake of e-Procurement and the availability of statistical information in the sector. The system can be a stand-alone one for the sector or be part of the national procurement information system.

Synthesis of the indicator

Most of the sub-indicators as assessed for the sector fall under the conclusion of substantive gap, due to lack of availability, accessibility, integration and reliability of public procurement information system in the sector. However, the assessment recognized the good progress shown in introducing and implementing the e-GP system which responds to most of the gaps when it is fully rolled out with utilization of all of the eGP features.

Findings

Information on procurement, in the sector, is not easily accessible in media of wide circulation and availability. Some information such as procurement plan, notice for invitation to bid and contract award of sector entities under Federal Government are published through the e-GP platform. However, the e-GP system is not fully functioning to provide procurement information on contract implementation such as payment, variation, contract amendments, trend analysis etc. Moreover, sector entities under Regional Government didn't yet develop and implemented e-GP.

The E-GP website is a portal that is used by sector entities under Federal Government. So far 143 procuring entities have uploaded their procurement plan for the year 2015 E.C (2022/2023 GC) and procurement plan of the previous year (2014 E.C) (2021/22 GC), information on procurement opportunities (Invitation to Bid) is also uploaded in a timely manner. The information is easily accessible to all interested parties at no cost. However, the E-GP system is new, and compilation and dissemination of information on implementation of projects not yet started.

Besides, Authority has developed web- based information system to be used by entities under the Federal Government. The system provides information on procurement opportunities (invitation to bid) and it also provides some information related to implementation stage of construction projects procured by the budget of the Federal Government only. However, many procuring entities do not upload their project information in a complete and timely manner. As a result, the information in Authority portal is incomplete and obsolete.

ERA has developed information system (ERA-MS) that contain information on the entire procurement process. However, the system is not used for analyzing procurement information and improve procurement practices.

In Addis Ababa City Administration, there is no information system that provide up to date information to interested parties and to sector entities. The quantitative assessment has shown that only 1 of the 2

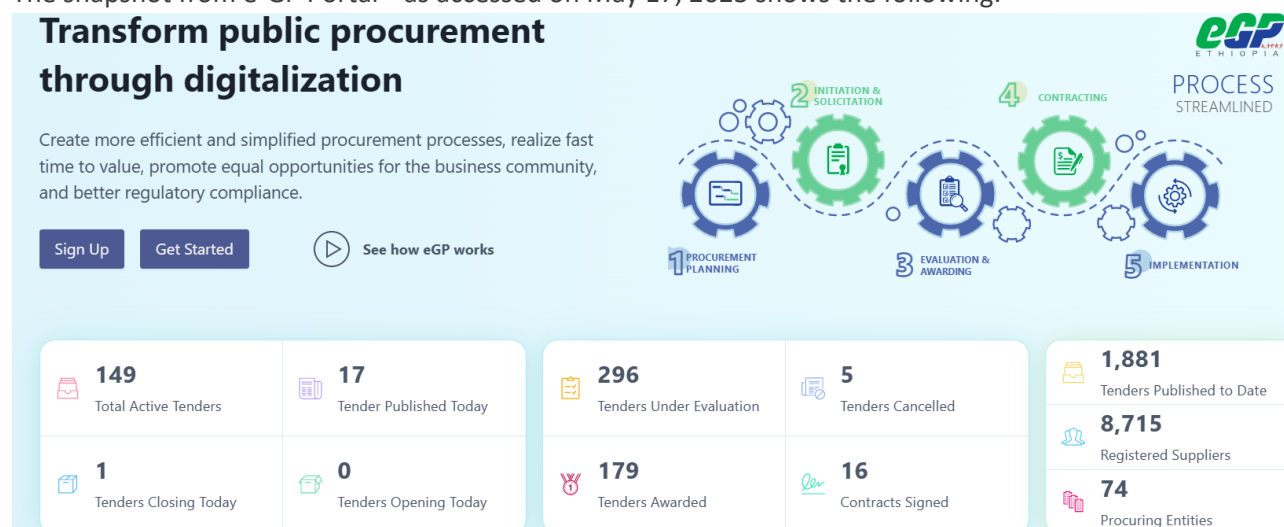


PEs assessed publish procurement plans in their websites¹⁸. In terms of contracts, it is only 6% of the reviewed contracts carried out through ICN and NCB procedures, were supported with a procurement plan that was published. All of procurement opportunities under reviewed contracts were published (in a national newspaper or PE's website).

At the time of the assessment, 7 bid announcements that belong to one PE were posted in PPA's website. The status of the old bid announcement was not updated and all bid announcements including those advertised years back show that they were under "Evaluation" stage. This shows that even for IFB, PPA's website is not complete and up to date. The below link opens the page for bid announcement in PPA's website. <http://www.ppa.gov.et/index.php>

In none of the PEs visited or PPA, there is a practice of publishing complete key procurement information along the procurement cycle such as contract award, contract implementation information, appeals decisions. No annual procurement statistics are published.

The snapshot from e-GP Portal¹⁹ as accessed on May 17, 2023 shows the following:



The information system (e-GP) of Authority provides for publication of Information related to specific procurements, such as: Advertisements or notices of procurement opportunities, contract awards including procurement method and amendments, information on contract implementation. The information system didn't include payments and appeals decisions. There is also a linkage to the public procurement proclamation, directive, manuals and standard bid documents.

The information system (e-GP) of Authority²⁰ provides for publication of Information related to specific procurements, such as: Advertisements or notices of procurement opportunities, contract awards including procurement method and amendments, information on contract implementation. No

¹⁸ Publication of Procurement Plans is not required.

¹⁹ [Electronic Government Procurement \(ppa.gov.et\)](http://www.ppa.gov.et)

²⁰ <https://egp.ppa.gov.et/egp/home> (Snapshot as accessed on May 17, 2023 given above)



procurement information is published in open data format. The information system didn't include payments and appeals decisions.

There is no system to publish sector information. In relation to management of the e-GP system, in the case of information uploaded on e-GP, Authority and sector entities website the responsibility for the management and operation of the information is assigned to the respective IT-UNIT of the entities. Moreover, Ministry of science and Technology is responsible for maintaining cyber security on the e-GP system.

Implementation of E-procurement is started in sector entities of the Federal Government. However international procurement of works through e-GP is not widely used or progressively implemented for the reason that the e-GP system is not configured to entertain the FIDIC General Conditions of contract, which is used by procuring entities for procurement of works through ICB. E-procurement system is not yet rolled out and implemented in sector entities of regional governments and city administrations.

Of the two PEs assessed one is selected for Pilot e-GP system. At the time of assessment only 20 tenders were floated using the e-GP system since April 2022. Only two of these are Works Contracts. The remaining 18 are Goods and Non-consulting services contracts. The other entity has no experience of using e-procurement.

Planning, developing and managing the e-procurement system is the role of Authority, which has the capacity to do so. Officials of the sector entities, under Federal Government, has taken training for practicing and implementing the E-procurement system. Therefore, sector officials have the capacity for practicing and implementing the E-procurement system at Federal level, while the sector officials in regional governments and city administrations are not yet capacitated to practice and implement the E-procurement system.

Procurement staffs of the sector entities, under Federal Government, has taken training on the E-procurement system. Procurement staff in sector entities of Federal government are, therefore, considered to acquire adequate skill to use e-Procurement systems reliably and efficiently.

Suppliers in the sector, at Federal Government, participate in a public procurement market increasingly dominated by digital technology. Currently only one PE in the road sector is selected for piloting e-GP. Out of the 20 bids floated on e-GP by one of the PEs, 3 are cancelled and 17 are submitted online. There is no experience of e-procurement or submitting bids online by micro, small and medium-sized enterprises in the sector.

Gaps

Minor gaps.

Lack of capacity of sector official to plan, develop and manage e-Procurement at regional level: Sector officials in regional governments and city administrations are not capacitated to practice and implement the E-procurement system. The e-GP system is not rolled out to sector entities under Regional Governments and City Administrations.

E-GP system doesn't provide complete information on contract award and amendments: The contract award information published on the e-GP system is incomplete. Besides, there is no published information on contract amendments, information on contract implementation including payments, appeals decisions.



E-GP Roadmap: Sector entities under regional government are in the process of adopting e-Procurement roadmap based on an e-Procurement readiness assessment.

Substantive Gaps:

Absence or insufficiency of procurement information: Absence of Information on procurement, in the sector, that is easily accessible in media of wide circulation. Insufficiency of procurement information published on the e-GP system.

No possibility of utilization of information system in the sector: e-GP did not start to generate procurement information at the time of assessment and hence information on procurement in the sector has not been easily accessible and utilized. The full rollout of e-GP system and its effective use will help address this gap, hopefully soon.

Open contracting and use of open data format: Though the e-GP provides for publication of information as specified, there is no publication of comprehensive information, in support of open contracting and use of open data format is not applicable. A comprehensive information on each phase of the procurement process for previous contracts completed before the introduction of e-GP cannot be available in the system making it difficult to access procurement information of those contracts implemented before introduction of e-GP.

Lack of information on procurement statistics and contract implementation: The e-GP system is not yet providing information on contract implementation and procurement statistics as it is at early stage of implementation. Information provided on PPA's website is incomplete and obsolete.

Lack of information on contract award and amendments: The contract award information published on the e-GP system is incomplete. There is no published information on contract amendments, information on contract implementation including payments, appeals decisions.

E- Procurement not used widely at Federal or Regional Level: The E- procurement is not rolled out to regional governments and city administrations. E-GP system at Federal level do not support the General Conditions of contract used by sector entities, in relation to procurement of works through ICB, such as FIDIC Conditions of contract for Design-Build contracts, World bank harmonized General Conditions of Contract, etc. As a result, the E-procurement of works through ICB is not widely practiced in sector entities of Federal government.

Lack of capacity of procurement staff to use e-Procurement: Procurement staff in the sector entities under regional governments and city administrations do not have the skill to use the e-procurement system reliably and efficiently.

Lack of capacity of MSMEs to participate in public procurement market: Micro, small and medium-sized enterprises didn't have the participation in the e-procurement system, as procuring entities in the sector are not using e-procurement system in relation to bids that suite for participation of micro, small and medium-sized enterprises. Supplies for regional governments and city administrations do not have the opportunity to participate in a public procurement market dominated by digital technology, as e-GP system is not rolled out to sector entities of regional governments and city administrations.



Reliability of Internet connection: There is a gap in reliable internet connection and full-fledged IT facility.

System not in operation for collecting data for goods, works and services: The system didn't yet start generation of report on analysis of trends, levels of participation, efficiency and economy of procurement and compliance with requirements, as it is at early stage of implementation. No report on total volume of contracts awarded through competitive and other methods is found for the sector.

Recommendations

To address minor gaps

Lack of capacity of sector official to plan, develop and manage e-Procurement at regional level: Rollout implementation of the e-GP system in to sector entities under Regional Governments and City Administrations. Provide training, on practicing and implementing the E-procurement system, for officials of sector entities under Regional Governments and City Administrations.

Ensure completeness of the information provide through the e-GP system: Consider to improving the template of contract award on the e-GP system and publish a complete information on contract award.

Expedite the ongoing preparation of roadmap based on readiness assessment and rollout e-GP to regional governments.

Summary of substantive gaps and recommendations of Indicator 7

Substantive gap	Risk classification and red flags	Recommendations
7(a) – Publication of public procurement information in the sector is supported by information technology		
Absence or insufficiency of procurement information and inadequate coverage of e-GP	Medium Risk	Expedite rollout of the e-GP system for providing sufficient information on procurement, in the sector. Expedite rollout of the e-GP system for implementing in the regional governments
Open contracting and use of open data format	Low Risk	Consider the publishing of comprehensive procurement information, in support of open contracting, on the centralized online portal, in each phase of the procurement process including the full set of procurement documents, evaluation reports, full contract documents including technical specification and implementation details
No possibility of utilization of information system in the sector:	Medium Risk	



Substantive gap	Risk classification and red flags	Recommendations
Lack of information on procurement statistics and contract implementation. The full rollout of e-GP system and its effective use will help address both of the above two gaps, hopefully in the near future	Medium Risk	Expedite the rollout of e-GP system to all Federal agencies and to regional governments. Enhance the functionality of PPA website to capture latest procurement information Ministry of Planning and development to establish National Database required by Proclamation Number 1210/2020.
Lack of information on contract award and amendments:	Medium Risk	Consider to improve the template of contract award on the e-GP system and publish a complete information on contract award. Expedite implementation of the e-GP system to provide complete information across the cycle of procurement, including information on contract implementation, trend analysis etc
7(b) Use of e-Procurement in the sector		
E- Procurement not used widely at Federal or Regional Level:	Low Risk	Configure the EGP system in a way to allow the public body for attaching standard conditions of contract, other than the one issued by FPPA, so that the E-procurement of works will be practiced widely in sector entities of Federal government Expedite rollout of the e-GP system so that it will be implemented widely and progressively in sector entities of regional governments and city administrations.
Lack of capacity of procurement staff to use e-Procurement	Medium Risk	Rollout implementation of the e-GP system into sector entities under Regional Governments And City Administrations



Substantive gap	Risk classification and red flags	Recommendations
		Provide training for Procurement staff in the sector entities of Regional Governments and City Administrations, so that they will have the skill to use the e-GP reliably and efficiently. Improve reliability of internet connection.
Lack of capacity of MSMEs to participate in public procurement market	Medium Risk	Encourage procuring entities to use e-procurement system in relation to bids that suite for participation of micro, small and medium-sized enterprises. Provide adequate training that enable micro, small and medium-sized enterprises to participate. Expand the e-GP System to rollout to sector entities of regional governments and city administrations.
7 (c) Strategies to manage procurement data in the sector		
System not in operation for collecting data for goods, works and services for trends and data analytics	Medium Risk	Expedite implementation of procurement through e-GP and benefit from the full feature of the EGP system, including generation of data for the entire procurement process and analysis of trends, levels of participation, efficiency and economy of procurement and compliance with requirements.

SLA-Indicator 8. The sector public procurement system has a strong capacity to develop and improve

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



Synthesis of the indicator

SLA guidance requires measuring the extent to which sector provides services to build competencies in the sector through consistent application of knowledge and desired practices at individual and organizational level in an enabling environment.

The areas for building competencies for the procurement in the sector is very specific that requires deeper knowledge of the project in the road sector requiring specialized knowledge on complex contracts like FIDIC, innovative contracting arrangements based on international practices and contracts management. However, as per core MAPS findings, competency framework is generic. The Civil Service Commission has a standard for each grade for procurement defined in terms of years of experience and educational background and job descriptions are not skill based. Therefore, in response to requests from government agencies the commission assigns grades based on its own standards, so any person can be promoted from any function into procurement. Permanent professionalization training conducted by Authority is not yet recognized by the civil service commission and it is not contributing for appointment of staffs in different procurement position, requiring specialized skills.

Findings

As stated in the CORE MAPS, Authority had established a procurement training program that certifies trainees at three levels: Essential, Basic, and Advanced. The program also covers the **Specialized level** which is not yet supported with training modules. The professionalization training is dependent on the resources from donor-supported projects and the sustainability of the program is not guaranteed.

The permanent professionalization training is not yet recognized by the civil service commission, and it is used in decision for appointment of staffs in different procurement position. The permanent professionalization training has been started in September 2016; however, it has been first discontinued due to COVID-19 and it is not resumed after COVID-19 the source for financing of the professionalization training program ceased. The training program has lasted from SEPTEMBER 2016 to DECEMBER 2019. During this period the training has been conducted in 6 rounds. So far 1,176 professionals have been trained in procurement and property administration professionalization training, out of which 397 has been trained in Basic level Procurement & Property, 255 in Essential level procurement, 153 in Essential level Property, 226 Advance level in procurement and 124 Advanced Level in Property.

There are no permanent procurement training programs in the City Administration. There is only ad hoc need based trainings provided for Procurement staffs, bid committee and technical committee members. The training is conducted by Bureau of Finance, and it covers topics on basic procurement rules and concepts covering the procurement proclamation, directives, and SBDs.

Contents of the permanent professionalization training program is updated in each round of the training based on the feedback of trainees collected in each round. Authority has evaluated effectiveness of the permanent training program, through consultant, and has identified that the training materials are inadequate and needs updating.

New staffs in ERA used to receive on job training for about 8 months. The on-job training includes all procurement activities such as preparing Expressions of Interest (EOI) notice, evaluation of EOI submitted by consultants, preparation of bid document, evaluation of bids, preparation of contract documents etc.



The new staff member is allowed to work independently after getting training on different procurement activities and after working under supervision of senior staff.

Authority provides advisory service and resolve questions from procuring entities. Authority is not currently providing advisory service to suppliers due to its mandate which is limited to the Federal Government and providing technical assistance to the regional governments and city administration.

In some cases, according to severity of the problem, Authority provide advice for the private sector, especially when the issue is brought to Authority through associations. But Authority is not serving as a dedicated help desk to resolve questions raised by suppliers. Sector entities suggest for Authority to include engineering units in its structure so that effective advisory service will be provided on sector specific issues.

Addis Ababa City Administration's BoF provide advisory/support service to sector entities under the city administration. However, sector entities have indicated that the advisory service is inadequate and lacks technical depth to help them resolve real time issues. The BoF also provides advisory service to the Suppliers when requested.

Authority, as part of its function, used to provide two short term trainings per year with the aim of building capacity of procuring entities, suppliers, and SMEs. The training for each group of key actors is prepared separately.

However, as stated in the CORE MAPS, there was no strategy in place to improve the capacity of the private sector as key players in public procurement, despite the challenges PEs face because of limited capacity of the private sector, particularly the small-scale suppliers and contractors.

The capacity building activities of Authority were not integrated with strategy, as preparation of capacity development strategy was completed very recently. Currently, Authority has developed capacity building strategy, at the end of 2014 E.C (AUGUST 2022 G.C), through finance provided by African Development Bank (ADB).

Gaps

Minor gaps

Sustainability of the procurement professionalization Training Program is at risk due to shortage of budget. The professionalization training program is supported by funding from projects supported by the World Bank. In the absence of this funding, the sustainability of the program is at risk.

Specialized level procurement training not yet started: Despite the inclusion of the specialized training level in the procurement professionalization training program competency framework prepared in 2015.

FPPA has not started providing training on the specialized level which is relevant for procurement in the road sector. Besides, the professionalization training is not yet recognized by the civil service commission and not considered in the appointment and promotion of staffs.

Limited advisory service to respond to questions raised by suppliers/contractors. Though there is a practice of providing limited advisory service to the private sector, it is not supported by legal provision. As a result, the advisory work to the private sector is limited. There is also lack of competence in FPPA to respond to technical questions related to engineering procurement.



Implementation of capacity development strategy: The capacity development strategy of Authority is developed in August 2022, and it is not yet implemented.

Quality of KPI at Federal Level and lack of progress on integrating KPI system with e- GP at regional level in the sector: The e-GP Portal is established at Federal government level, and it is integrated with the KPI system to collect real time data from Procuring Entities that implement the e-GP system. However, the system has not yet started generating report on performance measurement as it is at an early stage of implementation.

The excel based KPI system, that was developed by FPPA, is not rolled out successfully. It is not a comprehensive tool in measuring performance in qualitative and quantitative terms. It is important to enhance the KPI system and integrate it with the procurement system to allow real-time data collection, analysis and reporting both on qualitative and quantitative terms.

Quality of information to support strategic policy making through integration with e-GP: The integration of KPI system with the e-GP portal is an important milestone as the e-GP system will provide reliable KPI data that will be used to support strategic policy making on procurement in the sector. The e-GP website is at early stage of implementation, and it doesn't start generation of information that will be used to support strategic policy making on procurement in the sector.

No e-GP system at regional level: As explained above, there is no e-GP or other electronic system for collection and analysis of procurement data.

Help Desk function to resolve questions by procuring entities, suppliers: The PPL do not have provision stipulating need to provide advice and technical assistance to suppliers as part of the Agency's (Authority) function. Thus, there is no dedicated help desk to resolve questions raised by suppliers. Authority has no engineering units that can provide advisory service on sector specific issues.

Substantive gaps

The procurement performance monitoring system using excel based KPI system is not rolled out successfully and not integrated with the e-GP system. Besides, the KPI system focuses only on quantitative aspect and measurement through qualitative aspects is missing. Hence, comprehensive performance measurement system is not consistently applied and used to support strategic policy making on procurement in the sector.

Recommendations

To address minor gaps

Ensure sustainability of the professionalization training: In addition to allocating budget, the professionalization training should generate resources in the form of fee collection, advisory work etc to sustain the program.

Initiate the specialized training level: Prepare training module and initiate the specialized level training based on road sector needs.

Improve advisory support in FPPA: To provide adequate service to the private sector and also in all aspects of procurement including engineering procurement.



Implementation of capacity development strategy: Expedite implementation of Authority's capacity development strategy and consider integration of the strategy with other measures aimed at developing the capacities of key actors involved in public procurement, in the sector.

Quality of KPI at Federal Level and lack of progress on integrating KPI system with e- GP at regional level in the sector: Expedite implementation of procurement through e-GP and benefit from the full feature of the e-GP system, including generation of report on performance measurement. Roll out implementation of the e-GP system to regional governments and city administrations and ensure integration of KPI with the e-GP System.

Quality of information to support strategic policy making through integration with e-GP: Expediting implementation of the e-GP system and starting generation of report is, therefore, a priority issue to benefit the maximum from the system; including the use of relevant information for supporting strategic policy making.

Strategic Plan in sector at regional level: Roll out the e-GP system to City Administration and Regions and start strategic planning to improve the system performance like introduction of e-PMIS (Procurement Management information System), as done at Federal level.

Introduce provision requiring Authority to provide advice to the bidding community and other stakeholders.

Summary of substantive gaps and recommendations of Indicator 8

Substantive gap	Risk classification and red flags	Recommendations
8 (b) Monitoring performance to improve sector outputs and outcomes		
Absence of comprehensive procurement performance measurement system and application for procurement strategic policy making on procurement in the sector	Medium	Expedite implementation of the e-GP system and start generation of information that will be used to support strategic policy making on procurement in the sector.

3.3. Pillar III - Public Procurement Operations and Market Practices

The objective of this Pillar is to examine the functioning and performance of the public procurement system in the sector as it relates to the way procuring entities in the sector plan, award and execute contracts This Pillar looks at the operational efficiency, transparency, and effectiveness of the procurement system at the level of the implementing agency in the sector, 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.

SLA-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, in the sector.



The indicator focuses on procurement-related results that in turn influence development outcomes, such as value for money, improved service delivery, trust in government and achievement of horizontal policy objectives.

Synthesis of the indicator

There is a need for conducting market research to resolve the issue of mismatch between demand and supply of qualified local and foreign contractors to execute the contracts based on the needs and priorities of the road sector. Despite an enabling provision in PPL, the use of sustainability criteria in selection, like non-price attributes, social and environmental consideration, life-cycle-costing, rated criteria is rare, which does not deliver the outcome of “lowest evaluated bid offering better economic advantages” and Value-for-Money as intended in PPL. Rather the practice is to use lowest price as prime consideration in selection of contractor leading to non-performance and delays in contract implementation.

In practice, based on sampled contracts there are significant delays in contract implementation (for example, time overrun of 22 to 83% in Works Contract). There are delays in payment of invoices as root cause is shortage of funds /foreign exchange. This will have consequences as delays, disputes, contract failure and speculative bids, loss of competition in future bids all to the detriment of the government and public money. However, it is recognizable that the performance of the sector has been affected by the recent crisis including COVID 19 and disruptions due to conflict local and global.

Findings

Need analysis and market research is conducted every year by ERA and it usually identify the gap between numbers of contractors that are capable to handle ERA’s project. The annual assessment conducted by ERA since 2009 E.C (20016/17 GC) shows that there is a mismatch of bidders that meet qualification criteria for available number of projects to be floated.

The cause for the mismatch or for lower number of eligible bidders include: (i) Failure to meet performance requirement of the contract, i.e delay in progress of work at hand as compared to approved work plan. ERA publishes in its website the monthly performance of all contracts that currently undertakes contract with ERA; and (ii) Difficulty to meet the turnover requirement and similar experience requirement in relation to value of contract the bidder executed in the last five years. This requirement has become difficult to be attained by bidders for contracts of similar size due to the inflated cost as a result of inflation. There are cases where a bidder has met the qualification criteria of a cancelled bid but failed to meet to the requirement when the project is retendered as the estimated value of the project at the time of retendering has increased due to the inflation.

ERA uses result of the need assessment for defining size and value of projects to be floated in a way to enhance competitiveness. Recently ERA has asked PPPA for relaxation of the qualification criteria as the number of capable local and foreign contractors are very few as compared to the number of projects planned to be tendered in the current year.

There is no practice of conducting need analysis and market research in case of Addis Ababa Roads Authority

The requirement and desired outcomes of contracts in the road sector are defined in the technical specification as part of the bidding document in the solicitation of any tender. Sector entities use a



comprehensive standard technical specification, which is prepared by ERA, that defines requirements related to quality of work, environmental protection, health and safety etc. The standard technical specification is in line with international standards such as AASHTO. Other documents that are used to define requirement and desired outcome contracts include Bill of Quantity, Design, and Employer's requirement in case of Design-Build Contract.

Related to sustainability criteria, PPL stipulates that: if the public body has so stipulated in the bidding documents, the bid offering better economic advantage ascertained on the basis of factors that, to the extent practicable, be objective and quantifiable, shall be given a relative weight in the evaluation procedure or be expressed in monetary terms wherever practicable. PPD allow public bodies to determine the functional or economic value of the procurement and the relative weight to be ascribed to each criterion and selecting the bidder with the highest cumulative result by conducting evaluation based on these criteria. These stipulation enables use of non-price attributes, social and environmental consideration, use of life -cycle costing, rated criteria as per current international practices. Similar provision is stipulated under the public procurement proclamation, directive and SBD of the Addis Ababa City Administration, but not applied in practice.

Sector procuring entities do not use sustainable requirements as a qualification criterion and the method of selection in all of its bids is least evaluated method. However, s procuring entities in the sector require bidders to comply with environment, social as well as health and safety standards during implementation of the contract. The bidding documents specify qualification and experience of environmentalist and safety engineers required to be deployed during contract implementation.

In addition, the procuring entities normally engage consultant for conducting Environmental Impact Assessment that identify the risk and mitigation measures in protecting the environment. The output of the EIA is considered in design of the project, and it is also included in the works contract, so that the contractor will comply with the recommended mitigation measure, and it is usually complied with. All the works contracts reviewed in the two entities have provisions for protection of environment. And in bigger contracts Contractor is required to prepare Environmental Management plan and submit for Employer's approval.

ERA has established performance assessment framework for local and foreign contractors by which it evaluates their monthly performance and publish, in its website, by describing status of each contractor as PASS or FAIL. Those contractors who PASSED the evaluation at the time of bid are eligible for the specific works procurement. The performance evaluation criteria for local contractors have a lower requirement than the one for foreign contractors.

The performance evaluation framework further defines additional criteria in cases where a contractor has 3 or more projects at hand. in order to manage the risk of inefficiency due to increase in number of projects, the framework suggest raising the expected performance threshold of the contractor with 3 or more contracts, by a certain percentage.

ERA use standard bidding documents (SBD) developed by the federal PPA for procurement of works through NCB and for procurement of maintenance. AACRA uses the SBD developed by Authority in relation to procurement of both NCB & ICB contracts.



ERA also uses the standard bidding documents (SBD) developed by the Federal PPA for procurement of works, however it replaces section 7 & 8 (the General and Special Conditions of Contract) with internationally recognized conditions such as FIDIC Red Book, FIDIC for Design & Build, FIDIC Harmonized by World Bank etc.

Related to procurement methods and associated thresholds, the CORE MAPS noted the need to revisit threshold limit in case of construction sector to accommodate local contractors' capacity and recommended to consider updating procurement methods thresholds to reflect the capacity of the local market.

Ministry of Finance has issued a circular on 25/01/2014 EC (October 2, 2021) to upgrade the threshold, which is currently applicable. The same circular is adapted by Addis Ababa City Administration on 21/07/2014 EC (March 28, 2021). The circular(s) define the threshold for procurement works, consultancy service and goods through NCB in relation open bids, restricted bids and proforma. The NCB threshold for procurement of works is upgraded to 600 million Birr, for Goods 200 million Birr and for consultancy service 30 million Birr, which is about 4 times the previous threshold.

However, the increase threshold is still not aligned with the size and capacity of the local market in road sector and the increasing in cost of construction. As a result, FPPA issued exceptional clearance for ERA to process procurement with estimated cost of Birr 1.5 billion (about US \$30 million) through NCB procedure which is 250% of the newly revised NCB threshold.

Procedures for bid submission, receipt and opening are clearly described in the procurement documents and complied with. There is also good practice of issuing receipts as a confirmation of bidders who submitted proposal. The bid opening is conducted with the presence of bidders and staff from communication directorate and internal audit. Any other interested person such as journalists and civil society representatives can participate in the bid opening, though not yet practiced.

Contract clauses of FIDIC as well as the standard bid document of Authority, incorporate sustainability consideration, such as environmental, Health and safety provision, in the General Conditions of Contract. Sustainability criteria such as environmental friendliness, health & safety, Pollution prevention and aspects that require measures to address HIV Aids risks and other STDs during construction are included in the special conditions of contract and specification of the road.

There are significant issues in selection, award and contract management process including on processing of invoices and issue of contract amendment as explained in detail under gaps.

The general conditions of contract include provisions that mandate the Engineer/the consultant to conduct inspection, quality control, supervision of work and it is complied. Provisional and final acceptance is also conducted after conducting inspection and confirming quality of the product against requirements of the specification.

ERA has a system called ERA-MS that contain information on the entire procurement process. Though the ERA-MS system is capable of providing analysis of trends, levels of participation, efficiency and economy of procurement and compliance with requirements; ERA didn't practice such analysis using the system and the system is not in place to measure and improve procurement practices. AACRA has no system that capture and analyze procurement statistics.



The e-GP system in the federal Government has a system that integrate the KPI system, however the system is at early stage of implementation, and it doesn't start generation of key performance indicators. The e-GP system is not yet rolled out to sector entities under regional governments and city administrations.

Gaps

Minor gaps

Bid opening procedure: There is no practice of attending the bid opening ceremony by civil societies. Issuing of receipt for bidders who submit their proposal is not commonly practiced in procuring entities under Addis Ababa City Administration.

Confidentiality in evaluation and award process in City Administration: At the Federal level, confidentiality is ensured throughout the bid evaluation and award process. Procuring entities of the sector at Federal level ensure confidentiality through requiring evaluators to sign code of ethics and confidentiality. However, the procuring entities of the sector under Addis Ababa city Administration has no practice of requiring evaluators to sign code of ethics and confidentiality.

Opportunities for involvement of external stakeholder in procurement process: Opportunities for direct involvement of relevant external stakeholders in public procurement are not available even though project information are published. Civil societies are not strong enough to demand enforcement of provision in proclamation on access to information and freedom of mass media that help the general public to seek information on procurement process.

Lack of application of tool to attain socio-economic development objectives: There was no contract that was awarded through applying margin of preference. However, the legal framework allows 7.5% price preference in Construction and Consultancy services tenders. Applying margin of preference for local contractors is not much relevant as the price quoted by domestic contractors do not usually exceed the one quoted by foreign contractors. The challenge of local contractors is more in meeting technical qualification requirements such as turnover, experience on similar value of contracts etc

Fiduciary risk associated with execution of measures for protection of environment: One of the risks identified in execution of measures for protection of the environment is the unavailability of sufficient environmentalist in the sector. ERA recognized the shortage of qualified environmentalist in the market accepted the same environmentalists proposed in two bids. The other challenge is that EIA mitigation measures are not tied with bill items and enforcing the measures is not easy.

In relation to ensuring competition, it is noted that environmental requirements are not defined as qualification criteria. It is also noted that history of non-compliance in the implementation of environmental mitigation measures are not considered in evaluating eligibility of bidders.

Lack of use of internationally recognized conditions of contract conditions: Though in practice, the public bodies in Road sector use FIDIC conditions of contract and national SBDs modified as per the General and Special Conditions of contract recognized internationally, the General and Special Conditions of contract issued by FPPA, 2011 is not consistent with internationally recognized conditions of contract



Delays in selection and award process: The selection and award process of procurements undertaken by sector entities is carried out in transparent way. However, efficiency of the selection and award process is not satisfactory as there are delays observed on the contracts covered in the sample.

Average time to procure per procurement method:

Method	Average time in days	Range
ICB + NCB+LIB+DC	218	57 – 389
ICB	278	222- 385
NCB	214	92 - 389
LIB	57	57(one sample)
DC	258	72-444(2 samples)

Category	Average time in days	Range
Goods-NCB	194	92-264
Works-NCB	239	144 - 389
Works-ICB	279	222-385
Consultancy NCB	186	107-287

Responsiveness of Bids:

Category- Method	Bids submitted	Responsive Bids
Works-NCB	7	5
Goods- NCB	4	2
Consultancy- NCB	5	4

The average percentage of the contracts that are fully in compliance with publication requirement are only 42%. The level of compliance again is quite different in different PEs with a range that varies from 0% to 100% of compliance. Percentage of successful process: 92.5%.

The above data shows that the selection and award process is not always completed within the initially defined bid validity period. There are issues on competitiveness on procurement of goods where average number of responsive bids is 2. There are issues across PEs on full compliance of publication requirements.

Threshold for National Competitive Bidding and other methods: The measures to increase threshold for procurement through NCB is done for resolving problems associated to inflation of Ethiopian Birr. However, the problem cannot be solved by one time upgrading of threshold as the loss in value of Ethiopian Birr is continual (1 USD was about 35 Birr in June 2020 compared to about 55 Birr now in May 2023).

Delays in processing contract amendments due to multiple layers for approval: The contract amendments process does not follow the established procurement decision approval procedures, which



includes review and approval by the Bid Endorsing Committee. Approval of variation work in sector entities under Federal Government used to take 3 to 7 months depending on the nature of variation and amount of variation. The approval process of variation in sector entities under Addis Ababa City Administration involve approval of the City Planning Commission which creates delays. Regarding publication, there is no practice of publishing contract amendments in all sector entities of both Federal Government and the Addis Ababa City Administration. There is no practice of publishing contract amendments.

Lack of incentive for performance exceeding defined performance levels: Contract clauses do not provide incentives for exceeding defined performance levels. However, a penalty of liquidated damage is included as disincentive for delayed performance. Clause 75 of the General Condition of Contract for Works (Section 7 of SBD for WORKS issued by Authority) stipulates that the contractor will be paid for accelerated performance if the ACCELERATION is made in response to the public body's request. But such provision should be part of contract conditions.

Substantive gaps

Mismatch between demand and supply of qualified local and foreign contractors in the sector: The annual assessment conducted by ERA since 2009 E.C shows that there is a mismatch of bidders that meet qualification criteria for available number of projects to be floated. ERA has recently requested permission of Authority for relaxation of the qualification criteria as the number of capable local and foreign contractors are very few as compared to the number of projects planned to be tendered in the current year. It is raised as "red flag" because the increasing the number of local and international contractors in the market is related to the business and investment environment in the construction sector which is out of the control of the procurement system.

Lack of application of sustainability and "Best Economic Advantage" criteria in bidding document: Despite enabling provision in PPL and PPD use of non-price attributes, social and environmental consideration, use of life -cycle costing, rated criteria is not applied in practice. The use of functional or economic value criteria in a balanced manner with price criteria is compromised as the criteria in the SBD that are stipulated to ensure Best Economic Advantage have failed to meet the requirement of the PPD. Therefore, it is unlikely that Value-for-Money can be achieved.

Accurate records and easy accessibility in a single file: Records are not kept in a single file as Procurement records are managed by procurement directorate while the records generated after contract signing are kept by contract management directorates. Moreover, the records for completed contracts are not easily accessible. There is no systematic data base management system and records are kept in different units (Procurement, Contract management, Finance) in the entities. There was no single contract with complete and accurate record and database in the entities assessed.

Lack of clarity in Bidding Documents in Design-Build/Design-Bid-Build contracts: in case of Design Build contracts, where only control points (on which route of the road pass) are indicated in the contract, local administration demand a change in the route of the road to pass through towns/villages that are not defined as control point. In case of DBB contracts, local administrations do usually raise issues (during progress of the construction) to increase length of town sections, increase width of road in towns beyond



the designed standard and on type/specification of surface material, which leads to disputes, delay and claims.

Significant delays in contract implementation: Contracts are not implemented in a timely manner. Average delay in contract completion of sample contracts is in days 566 and 88.21 in percentage for works. Similarly, 371 days (89%) and 60.6 days (65.4%) delay are recorded for consultancy and goods respectively.

Delays in payment of invoices: Though Invoices are examined, and payments are processed by the Engineer as stipulated in the contract, procuring entities under Federal Government usually delays effecting of the payment certified by the Engineer due to shortage of budget. The delay is significant for the foreign portion of the payment due to serious shortage/unavailability of foreign currency.

Delay in contract implementation and payment of invoices are identified as “red flag” because they are impacted by shortage of foreign currency that can only be resolved by improving the overall performance of the economy and fiscal management which is outside of the control of the procurement system.

The effecting of payment is usually delayed due to the delay by MOF in releasing the fund, which caused non-compliance to the number of days stipulated in the public procurement directive and in the conditions of the contract. As a result, the MOF has issued CIRCULAR on 25/1/2014 E.C, which states that, considering the time required to verify payment by the consulting engineer & the time necessary for the procuring entities to get fund, for certified payments, from MOF the period for effecting payment for works contract is decided to be a maximum of 45 days from the date requested by the contractor.

Delay of effecting payment within the period defined in the contract, that result with paying interest and in some cases, it has caused termination that result with huge amount of claim. And there are failures to comply even the 45 days period that was issued through circular, as root cause is shortage of funds /foreign exchange.

Lack of procurement statistics and system to measure and improve performance: There is no Procurement statistics to measure and improve procurement practices The E-GP system, which could potentially provide data on procurement statistics, is at early stage of implementation at Federal Government level and it doesn't start generation of report. The e-GP system is not yet rolled out to sector entities under regional governments and city administrations.

Absence of public scrutiny: There is lack of opportunities for direct involvement of relevant stakeholders. There are no Civil societies working on the procurement and hence, public scrutiny of public contracts is weak.

Recommendations

To address minor gaps

Lack of clarity in Bidding Documents in Design-Build / Design-Bid- Build (DBB) contracts: Conduct thorough consultation with residents living along route of the road at project design stage Involve law enforcement agencies in cases where argument and suspension of progress is encountered on cases that are agreed through consultation.

Bid opening procedure: Procuring entities should be encouraged to invite representatives from civil societies for attending the bid opening ceremony and demonstrate transparency of the bid opening



process. Procuring entities under Addis Ababa City Administration are recommended to practice Issuing of receipt for bidders to confirm submission of proposal by the respective bidders.

Revise SBDs issued by FPPA: The General and Special Conditions of Contract issued by FPPA should be revised by adapting an internationally recognized conditions of contract, such as FIDIC Red Book, FIDIC for Design & Build, FIDIC Harmonized by World Bank that it will comply with requirements stipulated in the public procurement proclamation and attract qualified local and international contractor to bid for large and complex contracts.

Enhance efficiency in selection and Award process: Review the procurement process of procuring entities to enhance efficiency that ensure completion of the selection and award process within the initially defined bid validity period. Need to introduce monitoring through electronic Procurement Monitoring means as part of the e- Procurement process.

Confidentiality in evaluation and award process in City Administration: Procuring entities of the sector under Addis Ababa city Administration are recommended to require evaluators to sign code of ethics and confidentiality as a tool of upholding confidentiality throughout the bid process.

Opportunities for involvement of external stakeholder in procurement process: Enforce provisions related to publication and access to project information to include procurement process. Raise awareness of the public and strengthen civil societies on accessing and utilizing project information. Create conducive environment participation of external stakeholders, such as civil societies, in the procurement process of procuring entities that include in planning phase; bid/proposal opening; evaluation and contract award and contract implementation, by bringing enabling provision in Procurement Directives

Accurate records and easy accessibility in a single file: Devise mechanism that enable procuring entities to keep procurement records in a single file and with easy accessibility.

Lack of application of tool to attain socio-economic development objectives: Introduce tools for attaining socio-economic development objectives and mechanism.

Fiduciary risk associated with execution of measures for protection of environment: Procuring entities are recommended to tie Environmental Impact Assessment (EIA) mitigation measures with bill items and for easy enforcement of the mitigation measures. Introduce provision that consider history of breach in the implementation of environmental mitigation measures as an eligibility criterion of bidders.

Summary of substantive gaps and recommendations of Indicator 9

Substantive gap	Risk classification and red flags	Recommendations
9(a) Planning in the sector		
The mismatch between demand and supply of qualified local and foreign contractors in the sector has limited the capacity of ERA in designing optimal procurement approach	High Risk, Red Flag	Address systemic challenges that are limiting entry to and survival in the sector. Study needed to solve the issue of mismatch between demand and supply of qualified local and foreign contractors to participate to meet the needs of the sector



Substantive gap	Risk classification and red flags	Recommendations
Lack of application of sustainability and “Best Economic Advantage” criteria in bidding document:	Medium Risk	<p>Introduce procurement provision that require public bodies to set sustainability requirements as qualification criteria.</p> <p>Develop qualification criteria that used to evaluate bidders’ capability on complying for sustainability requirements.</p> <p>Encourage use of non-price attributes, social and environmental consideration, use of life -cycle costing, rated criteria as per current international practices</p>
9 (c) Contract management practice in the sector		
Significant delays in contract implementation	High Risk, Red Flag	<p>Address systemic challengers associated with availability of foreign currency. The Contract administration process under procuring entities and under the consulting firms should be strengthened in a way to ensure timely completion of contracts.</p> <p>Ensure that the e-GP contract management module accommodates workflow and permission / authorization trails, and all information transactions in any part of the procurement process including contract management, contract planning, and interactions between stakeholders.</p>
Delays in payment of invoices	High Risk, Red Flag	<p>Foreign currency requirement of ongoing projects should be released on priority basis to avert delays, disputes contract failure.</p>



Substantive gap	Risk classification and red flags	Recommendations
		Ministry of Finance to resolve the issue of shortage of funds devise robust mechanism of effecting payments (both local and foreign portion) within the contractually agreed period or not to solicit bid and award contract if funds are not available.
Accuracy and accessibility of records: Records are not kept in a single file and are not easily accessible.	Medium	Devise mechanism that enables procuring entities to keep procurement records in a single file and with easy accessibility.
Lack of procurement statistics and system to measure and improve performance. Expected to improve with full rollout and effective use of the eGP system.	Medium Risk	Authority is recommended to expedite implementation of the e-GP system and get the benefit from full feature of the EGP system. Roll out of the e-GP system to sector entities under regional governments and city administrations should be facilitated
There is lack of opportunities for direct involvement of relevant stakeholders. There are no Civil societies working on the procurement and hence, public scrutiny of public contracts is weak.	Medium Risk	<ul style="list-style-type: none"> • Enforce provisions related to publication and access to project information • Raise awareness of the public and strengthen civil societies on accessing and utilizing project information • Create conducive environment participation of external stakeholders, such as civil societies, in the procurement process of procuring entities that include in planning phase; bid/proposal opening; evaluation and contract award and contract implementation

SLA-Indicator 10. The public procurement market is fully functional and competitive at sector level

This objective of this indicator is to assess the level of competition in the procurement of goods, works, and services including consulting services, in the sector. The indicator assesses the sector market's response to the sectorial procurement needs in the country. The market's response is influenced by the



general economic climate, policies to support the private sector, the business environment, financial institutions, the trust in the public procurement system, and the kind of goods and services being procured.

Synthesis of the indicator

There are several substantive gaps under this indicator, which relate to insufficient dialogue with the private sector, major systemic constraints inhibiting access to public procurement market, lack of training to new entrants.

Findings

ERA, as one of the public bodies in the sector encourages open dialogue with the private sector. Consultative meeting is conducted with contractors and consultants at least twice in a year. In each consultative meeting major problems that require change on the procurement legislations, systemic problems and problems related to contract implementation is discussed. ERA has been taking action for resolving problems that could be addressed in its capacity or authority level and it forward problems beyond its mandate to the concerned government bodies.

Authority has also mentioned that it has a practice of conducting consultative meetings with the private sector and it uses the input for formulating changes in the procurement system. For example, a recent action of lifting the 20% price adjustment ceiling from road contracts is taken based on the feedback from procuring entities and the private sector.

The BoF of Addis Ababa City Administration organizes annual forum in collaboration with the City's chamber of commerce. In the forum, representatives from the private sector, public bodies, and the oversight authorities (the Finance Standing Committee of the City Council) participate. The focus of the forum is to discuss all relevant procurement issues that affect the procurement performance and propose possible solutions. The BoF uses the opportunity to orient the procurement rules of the city and highlight the expectations from the public bodies and the suppliers/contracts/SMEs. However, the assessment team has not been presented with evidence showing the proceedings of the forum.

Authority used to provide two short term trainings per year with the aim of building capacity of procuring entities, suppliers, and SMEs. The training for each group of key actors is prepared separately. The training organized by Authority is not sector specific, but it is provided for key actors. However, the training is generic which is given to provide general awareness on the procurement legislation, and it is not tailor made in a way to help new entries into the public procurement marketplace.

The private sector is competitive and well organized in the procurement of new works, however contractors competing for maintenance works and for small value of new works lacks organized documentation in submission of bid proposals.

Out of 48 contracts sampled from the two entities (26 works, 15 Consultancy services and 7 Goods) 12 contracts are awarded to foreign firms.

	Total sampled contracts	Awarded to Local Bidders	Awarded to Foreign bidders
In Number	48	36	12
In Value (ETB)	14,442,117,600.57	6,887,947,703.23	7,554,169,897.34



		48%	52%
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The assessment team has not been able to come across a database that shows on the number of registered suppliers as well as total number of suppliers in the country. This might be resolved when the e-GP system is fully rolled out with all its features.

National and international contractors meet requirements in terms of turnover, equipment and personnel. However about 50% of the national and international contractors, which were having contracts with ERA at the time of the assessment were not able to meet the performance requirements as shown in the monthly performance evaluation report published through ERA's website. The poor performance of contractors in relation to existing contracts they signed with the procuring entity has led to a diminished market causing barrier for effective competition in the sector.

SPP objectives are not converted in to bid evaluation criteria. The only available provision in relation to SPP objective is the 7.5% margin of preference for local contractors. It is also noted, as part of social sustainability, ERA uses lower qualification criteria of performance requirement for local contractors as discussed under indicator 9 (b) (a).

There is a road sector study conducted by ERA that identified unavailability of foreign currency as a major systemic obstacle for international companies to access the procurement market. Such problems are beyond the authority limit of procuring entities and it need to be addressed by Ministry of Finance.

Related to the procurement of Goods and consultants, it appears that the national and international market is adequate and allows for effective competition.

As indicated in other indicators, SPP objectives are not converted into bid evaluation criteria.

Gaps

Minor gap

Lack of training to contractors for small value works to prepare bids: Contractors competing for maintenance works and for small value of new works lack organized documentation in submission of bid proposals.

Absence of price adjustment provisions in consultancy contracts: Absence of price adjustment during the original contract period of consultancy service, even for contract periods above 18 months.

Insufficient and ad-hoc dialogue with the private sector: The dialogue with private sector is conducted in an ad-hoc manner and the private sector has a view that output of the dialogue is not fully used in formulating changes in the procurement system. Based on the private sector survey conducted by the Assessment Team, in response to a question on perception of openness and effectiveness in engaging with private sector, based on 42 responses, 43% responded unfavorable, 33% favorable, with remaining responding neither favorable or unfavorable.

Lack of focus on building sector specific capacity for new entrants: The training provided for the private sector, by Authority, is generic which is given to provide general awareness on the procurement legislation, and it is not tailor made in a way to help new entries into the public procurement marketplace.



Substantive gap

Major systemic constraints inhibiting private sector access to sector procurement market: There are major systemic constraints in the procurement system, which include: (i) Difficulty in getting foreign currency; (ii) Delay in opening Letter of Credit; (iii) Delay in getting payments after being certified by the Engineer; and (iv) right of way problems that result with disruption of progress and causing idleness of machineries and manpower. (v) National contractors are forced to quote only in Ethiopian Birr, even for inputs of construction work that are not available in Ethiopia, while foreign contractors are allowed to quote in foreign currency for certain percentage of the work. This malpractice has been observed even after Authority issued circular that clarify the need to allow domestic contractors for quoting in foreign currency in relation to inputs to be imported from abroad.

Based on private sector survey conducted by the Assessment Team out of 40 responses, The survey result shows 70% of respondents indicate that conditions in the public procurement market is unfavorable while only 30% of respondents perceive conditions in the public procurement market as favorable. It is identified as “red flag” because it is associated with the performance of the overall economy of the country that requires measures beyond procurement.

Insufficient number of qualified national and international contractors:

As per the annual assessment carried out by ERA, the number of qualified national and international contractors operating in the sector are not sufficient for effective competition. National and international contractors meet requirements in terms of turnover, equipment, and personnel. However about 50% of the national and international contractors, which were having contracts with ERA at the time of the assessment were not able to meet the performance requirements as shown in the monthly performance evaluation report published through ERA’s website. The poor performance of contractors in relation to existing contracts they signed with the procuring entity has led to a diminished market causing barrier for effective competition in the sector. This is identified as “Red Flag” because entry to the sector is largely dependent on the overall investment climate, security and other factors which are difficult to address shortly and are beyond the control of procurement.

SPP objectives not converted as bid evaluation criteria also to facilitate equal treatment: As indicated in sub-indicator 9(b), the performance evaluation criteria for local and international contractors is different which tells that it is discriminatory. The performance of contractors is evaluated against existing road contracts signed with ERA, this doesn’t ensure on whether contractors’ performance on contracts signed with other procuring entities is acceptable, which in turn couldn’t show appropriateness of the contractors to qualify for performing the work floated for bid.

Lack of official reference price: There is no official reference price published in the sector for evaluating competitiveness of unit price in the bids for construction works. absence of official reference price is critical in meeting public procurement objective and mitigating this risk require involvement of government entities outside the procurement sphere, such as The Ethiopian Statistical Service

Recommendations

To address minor gaps



Lack of training to contractors for small value works to prepare bids: Provide tailored training for contractors competing for maintenance works and for small value of new works so that they will have a capacity of submitting organized documentation in submission of bid proposals.

Absence of price adjustment provisions in consultancy contracts: Revise provision of the public procurement directive in a way to allow adjustment of the contract price based on predefined parameters. The adjustment should be allowed at least on annual basis, in time-based contract.

Summary of substantive gaps and recommendations of Indicator 10

Substantive gap	Risk classification and red flags	Recommendations
10(a) Dialogue and partnership between public and private sector		
10(b) Private sector's organization and access to the public procurement market		
Major systemic constraints inhibiting private sector access to sector procurement market related to shortage of foreign currency, delay in opening Letter of Credit, delay in processing payment, right of way issue, Security, inflation, and its impact on the qualification of contractors, the provision that prohibit payment in foreign currency to local contractors for goods and services imported from abroad:	High Risk, Red Flag	Consider the systemic challenges during design, preparation of bidding documents, evaluation and contract implementation. Ministry of Finance to discuss with relevant stakeholders and devise mechanisms that alleviate systemic problems related to difficulties in getting foreign currency: Delays in opening Letter of Credit, getting payments after being certified by the Engineer. Procuring entities to clear right of way problems prior to commencement of work, introduce mechanism to consider fully the impact of inflation while setting qualification criteria in newly advertised tenders, allow payment of foreign currency to local contractors for Goods and services imported from abroad for purpose of the contract.
Insufficient number of qualified national and international contractors	High Risk, Red Flag	Devise mechanism to enhance performance of contractors in relation to existing contracts they signed with the procuring entity so that they will be enabled to participate in bids and ensure



Substantive gap	Risk classification and red flags	Recommendations
		effective competition. Address systemic issues inhibiting participation.
SPP objectives not converted as bid evaluation criteria also to facilitate equal treatment	High Risk,	Convert SPP objectives in to bid evaluation criteria that facilitate equity in the treatment of bidders and that ensure predictability and transparency in the bidding process.
Lack of official reference price (Price indices) :	Medium Risk	The Ethiopian Statistical Service should begin issuing official reference price (price indices) for construction inputs in the road sector which be used for price adjustment for locally sourced inputs and as reference during evaluation of bids.
10 (c), 10 (d), 10 (e) Functionality and the level of competition in works contract awarded in the sector (also goods and consultancy)		
Major Systemic obstacle limiting access of international private contractors for works, goods and consultancy	High Risk: Red Flag	Foreign currency requirement of ongoing projects shall be quantified, and the MOF shall negotiate with the contractor on the schedule of releasing the foreign currency portion of the respective contracts. Hold dialogue between the private sector and the concerned government bodies for resolving systemic problems including enhancing local manufacturing capacity engaged on import substitution.

3.4. Pillar IV - Accountability, Integrity and Transparency of the Public Procurement System (based on Core MAPS 2021)

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.

Based on the results of Core MAPS, a summary has been provided in this section with sector specific findings as available during the course of Sector Level Assessment related to the four Indicators

This section covers limited areas where “Red Flags” were identified in the Core MAPS and considered relevant for improving the practices in the sector related accountability, integrity and transparency.

Rest of the findings as in Core MAPS remain valid, but requires follow-up to improve performance at sector level. The complete Core MAPS Report (Ethiopia) can be accessed at <https://www.mapsinitiative.org/assessments/ET-MAPS-volume-I.pdf>

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.

Summary of substantive gaps and recommendations of Indicator 11 (Based on Core MAPS 2021). These recommendations are considered applicable at Sector Level

Overview of gaps, with risks and recommendations:

Substantive Gap / (Red Flag)	Risk	Recommendation
Sub-indicator 11(a)—Enabling environment for public consultation and monitoring		
The government has only recently adopted a new proclamation that requires that public bodies consult with stakeholders and the public before directives are issued. Therefore, how this requirement operates in practice is not yet known.	Low	The regulatory bodies should ensure that a transparent consultative process is followed when any public body formulates changes to the public procurement system.
Sub-indicator 11(b)—Adequate and timely access to information by the public		
The legal requirement does not provide for publication of key information for effective participation in the procurement process by the public.	High	Add a provision to require that key procurement information be published in an easily accessible manner. Improve the functionality of AuthorityA’s website.
Sub-indicator 11(c)—Direct engagement of civil society		
Although it does not prohibit participation of CSOs in the procurement process, the legal framework does not explicitly state that it is allowed. The new Organizations of Civil Societies Proclamation 1113/2019	Medium	Encourage and support participation of civil society organizations and their watchdog function, as well as citizen participation in procurement.



is designed to create an enabling environment to enhance the role of civil society organizations in the development. Its effect is yet to be seen.		
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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 should 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.

Based on Core MAPS (2021)- only Red Flag Substantive Gaps are covered here, which are applicable at sector level

Substantive Gap / (Red Flag)	Risk	Recommendation
Sub-indicator 12(a)—Legal framework, organization, and procedures of the control system		
The regulatory bodies are given the functions of auditing and monitoring. Although auditing would normally feed into a monitoring function, the latter encompasses a much broader need for system measurement and analysis. The AuthorityA’s audit manual requires that INTOSAI auditing standards be followed for procurement audits that public bodies perform. It also says that the AuthorityA may consider forwarding their audit reports to the OFAG or ORAG, which are independent bodies that audit all public bodies every year using the INTOSAI auditing standards. Their regularity audit includes procurement. In addition to duplication of functions, this creates uncertainty in the precedence of the audit reports and follow-up actions by the public bodies.	Medium	Provide a clear division of responsibilities between the regulatory bodies, OFAG, and ORAG to avoid duplication and ensure efficiency and complementarity in the conduct of audit functions. In the long term, the regulatory bodies may prioritize the monitoring function, which will also require new approaches, greater capacity, and possibly tailored software to allow for data to be collected and analyzed and system reports to be produced. This type of procurement review should be differentiated from the audits that OFAG and ORAG conduct and should be coordinated with OFAG or ORAG for consistency.
There is no requirement to submit a procurement audit report to a higher organ within the government that has supervisory authority over all the procuring entities at the federal level. As a result, there is no clarity of its impact in	Medium	Ensure that the public bodies enforce actions and address audit findings



Substantive Gap / (Red Flag)	Risk	Recommendation
enhancing accountability within the procurement system.		
Sub-indicator 12(c)— Enforcement and follow-up on findings and recommendations		
Audit recommendations are not implemented in a timely manner.	Medium	Ensure that the public bodies enforce actions and address audit findings
Sub-indicator 12(d)—Qualification and training to conduct procurement audits		
Procurement experience and knowledge are not requirements in selecting auditors. Even auditors in procurement regulatory bodies who are fully engaged in auditing procurement contracts and processes are not required to have procurement knowledge. Most auditors join the regulatory bodies directly from university, with no work experience in procurement.	Medium	Revise the job specification to require procurement knowledge and introduce a competitive scheme to attract qualified, experienced staff.

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.

There are no red flags identified in Core MAPS 2021 under Indicator 13, however one substantive gap listed below, which requires follow-up, as **Procurement complaints**: are not resolved within the time-frame (15 days) stipulated within the legal framework (for example, in three-year period out of 390 appeals with Complaint Review Board only 6 appeals were resolved within the time frame, which arises due to inadequate resource and staffing as per finding in Core MAPS 2021

Substantive Gap / (Red Flag)	Risk	Recommendation
Sub-indicator 13(b)—Independence and capacity of the appeals body		
The CRB is not adequately resourced and staffed. Except for the secretariat service that the agency provides, which is considered to be a conflicting role on the side of the agency, the CRB has no dedicated resources or staff to meet its responsibilities. Coupled with the perception that the CRB is not independent, the capacity limitation has damaged its credibility in addressing complaints of the private sector.	Medium	Reestablish the CRB with a structure that avoids conflicts of interest and with adequate resources to meet its responsibilities in a timely manner.



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.

Only Red Flag items with “Substantive Gaps” are covered here as extracted from Core MAPS for further follow-up at sector level

Substantive Gap / (Red Flag)	Risk	Recommendation
Sub-indicator 14(a)—Legal definition of prohibited practices; conflicts of interest; and associated responsibilities, accountabilities, and penalties		
There appears to be no alignment between the public procurement legal framework, anticorruption law, and criminal law, which define fraud and corruption in different ways and set corresponding criminal and civil punishments inconsistently.	High	Ensure consistency of public procurement legislation and other laws.
Sub-indicator 14(c)—Effective sanctions and enforcement systems		
The reporting structure on fraud, corruption, and other illegal practices has not been clearly established or communicated to all parties, including staff in procuring entities. The language in the directive, the proclamation, and other documents, including the SBDs, must be consistent and comprehensive to avoid misconception or misinterpretation.	High	Ensure clarity and consistency within the public procurement legal framework and with other laws. Establish a clear reporting structure on malpractice and ensure clarity and consistency within the public procurement legal framework and with other laws. Provide training and guidance to staff on how to report cases of corruption and other malpractice anonymously.
There is no evidence that the laws on fraud, corruption, and other prohibited practices are being enforced.	High	Ensure availability of and access to evidence that the laws on fraud, corruption, and other prohibited practices are being enforced.
Sub-indicator 14(d)—Anticorruption framework and integrity training		
Although Ethiopia has a comprehensive anticorruption framework to prevent, detect, and penalize corruption in government that involves the agencies with the appropriate level of responsibility	Medium	Review factors that help prevent corruption and improve them in the legal framework and in practice. Improve reporting to allow to ensure availability of data on specific categories of offenses.



Substantive Gap / (Red Flag)	Risk	Recommendation
and capacity to fulfill its responsibilities, the legal framework lacks transparency.		
Statistics on corruption-related legal proceedings and convictions related to procurement are not compiled, and reports are not published regularly.	High	Ensure that statistics on corruption-related legal proceedings and other information are compiled and published and that information related to procurement is accessible.
No special measures are in place to detect or prevent corruption associated with procurement.	Medium	Develop an integrated anticorruption strategy and use modern technologies to detect corruption, some of which can be embedded in the e-government procurement system.
Sub-indicator 14(e)—Stakeholder support to strengthen integrity in procurement		
There is no evidence that suppliers and business associations in general have internal compliance measures to support integrity and ethical behavior in public procurement.	Medium	The Authority should work with business associations to ensure that private firms adopt internal compliance measures to support integrity and ethical behavior in public procurement.
Sub-indicator 14(g)—Codes of conduct and ethics and financial disclosure rule		
There is no regular training program related to the code of ethics, and the commissions at the federal and regional level mention budget and technical as constraints in providing regular trainings.	Low	Provide regular training on the code of ethics as part of the public financial management training program or in a standalone program

Note: Authority, Public Procurement and Property Administration Agency; SBD, standard bidding document

4. Consolidated Recommendations, emerging cross-cutting issues between Road and Water Sector and key actions

The consolidated recommendations are given at the end of each SLA Indicators and covered in Executive Summary as indicator wise summary. These recommendations are based on the results of assessment for each of the Road and Water Sectors. However, there are cross-cutting issues and similarities between the two sectors and certain common key actions are needed to address such substantive gaps as summarized below:

Key Actions (applies to both Road and Water Sector)

- **Adopt an action plan to identify** and address the inconsistencies, or misalignment that exists between the various documents in the legal framework.
- **Ensure consistency of all levels of legislation** with the principle of non-discrimination by identifying and removing any requirements that create barriers for bidder's participation or differentiate the qualification criteria based on the bidder's nationality.



- **To add provisions to legal framework on conditions for participation of state-owned enterprises** as bidders to create a level playing field.
- **To undertake a study to review the issues and challenges with the current contract conditions** to understand if they are fit for purpose.
- **Develop the SPP Strategy/Policy** as well as a supporting plan to implement SPP.
- **Review the roles and responsibilities** of the various institutions in charge of technical normative functions, also avoid duplication of responsibilities.
- **To devise mechanism for early release of budget funds** including allocation of foreign currency portion amount and price adjustment payment
- **Customize the international standards and prepare a fit for purpose national standard** for the sector context in particular and country in general.
- **Expedite the rollout of e-GP system** to all Federal agencies and to regional governments. **Ensure that the e-GP contract management module accommodates workflow** and permission / authorization trails, and all information transactions in any part of the procurement process including contract management, contract planning, and interactions between stakeholders.
- **Support the professionalization training by sustainable budget and recognition of training:** To resolve resource issue. Prepare training module and initiate the specialized level training based on sector needs. The permanent professionalization training should be upgraded and recognized by the civil service commission. Ensure financial sustainability of the program through collection of fees from trainees and by providing related services.
- **Enforce the use of the KPI for all entities in the sectors and use of e-GP system information** to be used as an input for policy making. Expedite implementation of the e-GP system and start generation of information that will be used to support strategic policy making on procurement in the sector.
- **Prepare SPP strategy and practice the sustainability element included in the existing legal provision: Consider preparing SPP strategy and in the meantime, encourage use of non-price attributes, social and environmental consideration, use of life cycle costing also use of and “Best Economic Advantage” criteria in bidding document:**
- **Use Price Adjustment Provisions as per international norms:** Due to inflationary situation in the country provide for price adjustment in contracts where completion period is less than 18 months and use internationally accepted formula. Ensure that the appropriate agency (Central Statistics Agency) issues price indices regularly for construction inputs sourced from the local market.
- **Carry out regular amendment of public procurement directive, in relation to threshold limit of NCB contracts,** to accommodate changes due to inflation,
- **Reassess Role of SOE as a market participant to deliver Value-for-Money (in Particular large contracts for Water Sector by Direct Procurement):** Need to conduct detailed market analysis and not solely on the basis that private sector has no capacity- find ways to build capacity of private sector **Discuss with relevant stakeholders and devise mechanisms that alleviate systemic problems related to:** (i) Difficulty in getting foreign currency; (II) Delay to open Letter of Credit (III) Delay in getting



payments after being certified by the Engineer; (IV) Procuring entities are also recommended to clear right of way problems prior to commencement of the construction work. (v) inflation and the associated impact on qualification of bidders and completion of contracts (VI) Security



5. Suggested Priorities for Strategic Planning Process

Based on the recommendations of this assessment in general and the priority areas for improvement in particular, GoE and the Authority could prepare a detailed action plan. It is expected that the findings and recommendations of the assessment shall inform the strategic planning process for future procurement reforms or system development by the GoE.

However, setting the sequencing to implement the recommended improvement activities to address substantive gaps would be left to the discretion of the GoE. It is expected that the findings of this assessment would offer the opportunity for the GoE and participating development partners to explore possible ways and means to support the recommended actions plan.

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

Key Recommendations	Timeline	Priority	Responsibility
Legislative, Regulatory, and Policy Framework			
<i>The MoF, Authority and Regional BoFs to identify and address the inconsistencies, or misalignment that exists between the various documents in the legal framework.</i>	ST	1	MoF/BoF/ Authority
Consider combining all revisions into a single comprehensive document to ensure precision and clarity on the wording and application of amended provisions	ST	1	
Avoid discriminatory and prohibitive qualification requirements.	ST	1	
Revise the national SBDs to ensure consistency with the legal documents and international practice especially on price adjustment, dispute resolution mechanisms, and Rate of progress & Contract termination.	ST	2	MoF/BoF Authority and sector ministries including ERA
Issue suitable SBDs covering different delivery modalities suitable for the sector	MT	1	



Key Recommendations	Timeline	Priority	Responsibility
<i>Institutional Framework and Management Capacity</i>			
Discuss and avoid duplication of work between the two institutions that are mandated to issue standard in the road sector (Ethiopian Roads Administration and Ethiopian Construction Authority).	ST	2	Ethiopian Road Administration and Ethiopian Construction Authority
Consult with relevant authorities and introduce a mechanism to prepare and agree on road standards applicable nationwide.	MT	2	Ethiopian Road Administration and Ethiopian Construction Authority
Carry out adequate consultation with the relevant parties before embarking on construction of roads that cut across regions.	ST	1	PEs
Upgrade the e-GP system to accommodate conditions of contract used in ICB procurement	MT	1	Authority
Implement e-GP in the sector at both federal and regional level.	ST-MT	1	MoF/Authority/PEs and regional BoFs
Start generating and utilizing procurement performance reports from the information system to continually improve procurement performance in the sector.	ST- MT	1	Authority and PEs
Prepare specialized training program for the sector in collaboration among the sector, Authority and training institutes.	MT	2	Authority and PEs in the sector
Design a mechanism to ensure financial sustainability of the training program including through collection of fees from trainees	LT	1	MoF/Authority
<i>Public Procurement Operations and Market Practices</i>			
Study and adopt transparent and fair mechanisms to enhance access of the local contractors to the procurement market consistent with international practice and including other procurement (like allowing payment in foreign currency for local contractors) and non-procurement supports.	MT – LT	1	MoF/Authority



Key Recommendations	Timeline	Priority	Responsibility
Avoid practice that create delay in evaluation of bids. In case, verification of documents required for due diligence, carry out verification on suspected cases only and keep data base to avoid verification of the same documents in different tenders.	ST	1	PEs in the sector
Introduce provision that allows employers to reject ALB when unsatisfied by the explanation from the concerned bidder.	MT	1	Authority/PEs in the sector
Introduce mechanism to consider the impact of inflation when setting qualification requirements	ST	1	Authority/PEs in the sector
Utilize the existing provisions in the PPL and SBDs to introduce SPP criteria in bidding documents, evaluation and contract documents.	ST	1	PEs in the sector
Develop SPP strategy and appropriate tools for implementation in the sector.	MT-LT	1	MoF/Authority
Consider the systemic challenges during design, preparation of bidding documents, evaluation and contract implementation.	ST	1	PEs in the sector
Finalize preparation and start implementing roadprojects in the pipeline through PPP modality, where feasible.	ST-MT	1	MoF/ERA
Adopt PPP arrangement including legal framework, structure and capacity in the sector at regional and city administration level, as appropriate and where feasible.	LT	1	BoFs
Accountability, Integrity, and Transparency of Public Procurement System			
To follow-up substantial gaps which are identified as Red Flag in Core MAPS 2021 at sector level	LT	2	Refer Core MAPS

As next practical step, MAPS Steering Committee (MASC) to advise as ‘Sector Procurement Reform Group’ to be co-hosted by the Authority as secretariat with support from key sector public bodies/procuring entities to implement the reform agenda including recommendations from the Core MAPS (2021) which are relevant at sector level to improve its performance.



6. Validation

Chapter 1 of the Report provides a chronology on all consultations and validation until May 25, 2023, when a stakeholder validation workshop was organized. Before the stakeholder validation workshop, several consultations were held with the Stakeholders and the Assessment Steering Committee. The Assessment Team presented the findings to key stakeholders on May 25, 2023, and their feedback obtained and incorporated into the draft assessment report and sent for peer -review and to the Authority/GoE.

The validation workshop has broadly validated the results of assessment, substantive gaps and recommendations to address remaining challenges for the improvement of the quality and performance of public procurement system at sector level. The report has also benefited from review and written comments from ERA and also peer -review and approval process in the World Bank. All the details on consultations are covered in **Appendix in Volume PART III** of the Assessment Report. Following table provides the summary:

#	Description	Planned/ Actual date
1	MAPS Assessment Team Mission to Addis Ababa to discuss with key stakeholders	October 10-20, 2023
2	Initiating Workshop with all stakeholders (in person in Addis Ababa)	October 18, 2022
3	Consultations with the private sector	Oct 19, 2022
4	Multiple consultations with sector procurement entity and other stakeholders by the members of the Assessment Team	Nov 2022 to May 2023
5	Stakeholder Validation Workshop in Addis Aba Ababa on the results of assessment with virtual participation by some team members	May 25, 2023
6	Draft Assessment Report sent to peer-reviewers and to the Authority and Stakeholders	June 05, 2023
7	Comments from Peer-reviewers and the Authority/GoE	June 13, 2023
8	Decision Review Meeting of the World Bank Management	June 14, 2023
9	Additional written comment from ERA	June 22, 2023
10	Revised draft Assessment Report (All Volumes) completed	
11	Final Revised Draft MAPS Report to MAPS Secretariate/ Assessment's Technical Advisory Group(ATAG)	
12	Review completed by ATAG/MAPS Secretariat	
13	Certification by MAPS Secretariat	
14	Dissemination/ Publication of Final MAPS Report	





MAPS

Methodology for Assessing
Procurement Systems

Indicator Matrix – Road Sector Level Assessment

JUNE 6, 2023

MATRIX REPORT

(FROM INDICATORS 1-10)

Indicator Matrix - Sector Level Assessment (SLA) - Road Sector

Explanations for the Matrix:

- Procuring entity (PE) = public body (PB)
- Core MAPS report/assessment – MAPS Assessment Report for Ethiopia (Federal, Addis Ababa City and Regional level) completed in 2021. Published report is [here](#).
- In accordance with the “ Guidance: Gap identification, risk assessment and red flags” (January 2023, link [here](#)), the following terms carry the following meaning:
 - a. Minor gap: Only minor gaps are identified for the criterion.
 - b. No gaps: No gaps are identified for the criterion.
 - c. Substantive gap: At least one substantive gap is identified for the criterion.
 - d. “Red flags” are assigned to **substantive gaps** that will probably obstruct efforts to improve the public procurement system, either by making these efforts less likely to happen or by preventing them from achieving their intended result. A red flag is always related to a substantive gap that ranks high on the impact dimension and usually also high in the likelihood dimension (or cannot be mitigated if it materializes).
- According to the MAPS SLA Module (see [here](#)), the SLA's overarching goal is to provide an understanding of the overall functioning and performance of public procurement as well as the general business climate in the Road sector. The Ethiopian Roads Administration (ERA) at the federal level, and the Addis Ababa City Road Authority (AACRA)) for the Ababa City Administration, have been selected as Road sector representatives for purposes of SLA. Any mention of these entities and/or their practices in this SLA does not imply an assessment of the aforementioned entities.
- Moreover, the SLA is based on the Ethiopia Core MAPS report/assessment, which was completed in 2021 for both the federal and Addis Ababa levels. In some cases, the gaps and recommendations may have been already addressed. In others, the gaps and recommendations have remained either unsolved or relevant for the Road sector SLA; hence a different rating may be found.
- To avoid repetitions and/or inconsistencies, the SLA makes general reference to the gaps and/or recommendations for the respective criteria under Core MAPS, highlighting only those of relevance to the sector and adding the new gaps and recommendations resulting from the SLA.
- The SLA team has used, to the extent possible, the names of the Federal Ministries and other entities/public bodies in accordance with the Proclamation No. 1263/2021 of 25 January 2022.
- The years belonging to the legislation are generally expressed in Gregorian Calendar mode (G.C.) unless otherwise marked as Ethiopian Calendar (E.C.).

Pillar I. Legal, Regulatory, and Policy Framework

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

Sub-indicator 1(a) Coverage of the sector
The legal and regulatory body of norms applicable to the sector complies with the following conditions:
Assessment criterion 1(a)(a): Is adequately recorded and organized hierarchically (laws, decrees, regulations, procedures) and precedence is clearly established.
Conclusion: Substantive gap
Red flag: No
Qualitative analysis Federal Level: Road Sector Framework The procurement procedures in the Road sector adhere to the same legal framework applicable to the Federal government and the Addis Ababa City Administration. In this regard, the Federal Public Procurement Proclamation – for federal agencies, and the Addis Ababa Procurement Proclamation for regional level entities constitute the primary procurement legislation that apply to Road sector. A more detailed overview of the legal framework for each level of government is as follows: Federal Level: Ethiopia’s legal and regulatory framework is adequately recorded and is organized hierarchically with precedence well established. The Constitution ¹ (1995) is the country’s supreme law. Any law including state law, customary practice, or decision of an organ of state or a public official which contravenes the Constitution shall have no effect (Constitution A.9(1)). The legislation consists of the primary legislation, Proclamations, and secondary legislation, which includes Regulations issued by the Council of Ministers of the Federal government, and Directives issued by the Federal Ministries. At federal level, all international agreements ratified by Ethiopia are an integral part of the law of the land (1995 Constitution A.9(4)). Their precedence with respect to procurement is recognized by PPL A.6 which confirms that to the extent that the PPL conflicts with an obligation of the Federal Government under or arising out of an international agreement with one or more states or with international organizations, the provisions of that agreement shall prevail. The key primary legislation on federal public procurement is currently the Ethiopian Government Procurement and Property Administration Proclamation No. 649/2009 (“PPL”) which came into force on 9 September 2009 ² . This is supported by a comprehensive procurement Directive, the Federal Public Procurement Directive, issued by the Ministry of Finance in June 2010 (“PPD”) ³ . The PPD has been amended with respect to specific provisions through four (4) amendments issued in (1) July 2014; (2) January 2016, (3) December 2016, (4) July 2019 and through several circulars issued on 04/03/2021, 12/07/2021, 05/10/2021, 21/04/2022 & 06/06/2022 G.C. Some of the circulars are issued for clarifying how the provisions in the PPD should be implemented while others have effects of amending stipulations in specific articles of the PPD. For example, the circular issued on 05/10/2021 has updated the maximum threshold for NCB which has the effect of amending A.17.2 of the PPD, though the circular didn’t cite the specific article of the directive. The same circular has also defined a 45-day limit for making payment under works contract, from the date the contractor has submitted payment request for the Engineer which has an effect of amending A.28.5(d) and (e) of the PPD, which the circular does not specifically cite. Despite all these amendments, the original PPD document remains the same as issued in 2010. Circulars are legislative instruments that are frequently issued by Ministry of Finance or/and the Public Procurement and Property Authority ⁴ (“Authority”). Their purpose is to provide clarifications on specific articles of the PPD or the standard bidding documents that are reported by public bodies and/or private sector parties as being ambiguous. For example, a letter providing that certain procurement can be done through restricted bidding if they are manufactured by more than one manufacturer in Ethiopia, and through direct procurement if the above-mentioned items are manufactured by one supplier only. Examples include circulars by Ministry of Finance on 25/06/2013 and 05/11/2013 E.C, in relation to price adjustment provision in works contracts; another example is the circular issued by the Authority on 13/08/2014 E.C, to correct an error in the price adjustment formula that is included in Clause 62.12 of the General Conditions of Contract for Works. In general, the Ministry of Finance issues circulars ⁵ . But in practice, other Ministries and other public bodies (e.g. National Bank of Ethiopia, Pharmaceutical Fund and Supply Agency, Ministry of Urban and Infrastructure; Ethiopian National Bank issued a Foreign Exchange Directive limiting the period for opening a Letter of Credit (L/C) to 5 months) also issue Circulars, letters or similar advisory documents concerning public procurement issues or having a direct impact on public procurement system in general or for the issuing public body itself. In this respect, the position of circulars in the hierarchy of laws is not clear. They can modify a directive or standard bidding documents depending on the specific purpose they are issued for, though such purpose is not always clearly stated in the circular itself. The PPL, PPD, circulars, advisory letters, etc. issued by Ministry of Finance and the Authority are applicable to all sectors including the Road sector. A new procurement proclamation is in advanced stage of preparation. It is endorsed by the Council of Ministers and is currently tabled for review and approval by Parliament. Addis Ababa: Addis Ababa is constituted by way of Charter and the City Government is a component part of the Federal Government. The City Government has the power to make laws specifically conferred on it by this Charter as well as executive powers and functions over matters that have not specifically been included in the details of the powers and functions of the executive organs of the Federal Government. The City Charter does not refer to the negotiation and conclusion of international agreements. This falls within the jurisdiction of the Federal Government under the Federal Constitution (A.9(1)). The key primary legislation on public procurement in Addis Ababa is currently: Proclamation No. 17/2009 The Addis Ababa City Government Procurement and Property Administration Proclamation which came into force on 9 November 2009. This is supported by a comprehensive Procurement Directive: the Addis Ababa City Administration Procurement Directive No. 3/22 and subsequently amended on 14 February 2016 and through the circular dated 21/07/2014 E.C (30/03/2022 G.C). There is also a procurement manual. Precedence is clearly established. However, these documents are not organized and available in one single place or portal/website. The Bureau is given the task of publishing Standard Bidding Documents (SBDs) and other forms and supporting documents as

¹ <http://www.ethiobar.net/constitution>

² Available in English from AUTHORITY Website: http://www.Authority.gov.et/index.php?option=com_joomdoc&view=documents&path=legislation%5Cproclamations&Itemid=157

³ Available in English from AUTHORITY Website: http://www.ppa.gov.et/index.php?option=com_joomdoc&view=documents&path=Proc_Directives&Itemid=263

⁴ Formerly known under Core MAPS report as Federal Public Procurement and Property Administration Agency. The name was changed through the Proclamation No. 1263/2021.

⁵ Proclamation No. 1263/2021 A Proclamation to provide for the definition of the powers and duties of the executive organs [sic.] [organs] of the Federal Democratic Republic of Ethiopia. https://www.lawethiopia.com/images/federal_proclamation/proclamations_by_number/Definition%20of%20Powers%20and%20Duties%20of%20the%20Executive%20Organs%20Proclamation.pdf

This provides (1) for the Ministry of Finance to establish the procurement and property management system of the Federal Government and supervise the implementation of the same (A.26(d)).

well as any e-GP strategy. No SBDs have been issued yet and reliance is placed on the Federal SBDs as per the letter from Finance Bureau to Addis Ababa City Administration, Roads Authority on of 22 February 2017 instructing the use of Federal SBDs.

There is also federal legislation of particular importance to the procurement in the road sector, namely: Registration Directive No. 648/2021⁶ issued by the Ministry of Urban and Infrastructure (Registration Directive). The firms can apply for certification or registration based on firm’s manpower, equipment and annual turnover requirements. In addition to the requirements for Levels 2 to 7 certification for all subcontractors , Directive requires that the manager of the company must have a practicing competency certificate. The manager of the company may be an employee or an owner. If the person is not the owner of the company, he or she must have a 20% share in the company, which is restrictive. The PPD has mentioned that professionals required for any contract can be permanent or temporary. However, the Registration Directive has listed a number of different professionals that are permanently required for each grade and category of contractors. Directive also restricts the registration of foreign bidders to grade 1 activities only.

Quantitative analysis

Not applicable.

Gap analysis.

The gaps identified in the Core MAPS report for Federal and Addis Ababa completed in 2021 under sub-indicator 1(a)(a) remain valid.

The main issue continues to be inconsistency between circulars, directives, or similar advisory documents and primary legislation. In many cases, the lower-level documents alter the higher legislation. For example, the circular issued by Ministry of Finance on 4 March 2021 G.C. allowing contract price adjustment (due to high inflation) even for contracts that did not include a price adjustment clause goes against the provisions of the PPD (A.16.14.3) which states that price adjustment are allowed in respect of works contracts after 12 months from the effective date of such contracts, where it is confirmed that in respect of works contract, the performance of the contract requires more than 18 months. In other cases, the circulars deviate from the PPL. For example, a letter providing that certain procurement can be done through restricted bidding if they are manufactured by more than one manufacturer in Ethiopia, and through direct procurement if the above-mentioned items are manufactured by one supplier only. In some cases, the circulars de facto amend the PPD provisions, making their position in the legal hierarchy unclear. They have the de-facto authority (not authorized by any law) to modify a directive or standard bidding documents based on the specific purpose for which they are issued, though this purpose is not always clearly stated in the circular itself.

The Federal Government issued Administrative Procedure Proclamation No 1183/2020, which requires (A.16) that all directives (and amendments) issued by federal, Dire Dawa, and Addis Ababa administrative organs be registered at the Attorney General's Office before they become effective. The Office has begun to make registered instructions available online. Currently, the PPL and amendments to PPD (which have been numbered as directives) are published⁷ in the Attorney General’s website. They are in Amharic language only.

Another Federal legislation with potential impact on procurement is the Construction Joint Venture Directive no. 879/2022 issued by the Ministry of Urban and Infrastructure. However, its implementation has been currently⁸ halted/suspended due to internal inconsistencies, contradictions with PPL, civil code and that it did not follow the procedure set out in the Administrative Procedure proclamation. This is an example of how different federal ministries issue directives or legal acts that impact procurement without any coordination or consultation with the Authority.

Recommendation

The recommendations made in the Core MAPS report under sub-indicator 1(a)(a) for both the Federal and Addis Ababa in 2021 remain valid.

- Conduct a thorough review of all existing directives, circulars, or other advisory documents issued by the Ministry of Finance, Authority, as well as documents issued by other Ministries/public bodies with an impact on procurement. Identify and fix any differences with the primary legislation PPL and PPD.
- Consider adding an Authority function to check all circulars, letters, and similar advisory papers from all sources to verify consistency and alignment with primary legislation. This should be accompanied with a requirement for issuing bodies to submit such documents to the Authority for review.
- The new circulars, or other advisory papers should include explicit references to the PPL and PPD provisions, as is the case, that are being clarified, amended, interpreted, or replaced keeping in mind that circulars should not be used to change higher level laws.

Assessment criterion 1(a)(b):

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

Conclusion: Minor gap

Red flag: No

Qualitative analysis

Road Sector: The applicable legal procurement framework in the Road sector consists of the same legal framework enacted by the Federal Government and Addis Ababa City Administration. The legal framework in both cases covers goods, works, services and consulting services without restriction on scope, type, size and value. Such legal framework provides the following:

Federal: The legal and regulatory framework covers the procurement of goods, works and services including consulting services, for procurement using public funds. Defense and security procurement is generally excluded from the coverage of the PPL (PPL A.3(3)(a)), as are contracts between public bodies (PPL A.3(3)(b)). PPL A.2 Definitions defines “**procurement**” as “obtaining goods, works, consultancy or other services through purchasing, hiring or obtaining by any other contractual means”. The terms “**goods**”, “**works**”, “**services**” and “**consultancy services**” are defined. “**Public procurement**” is defined as “procurement by a public body using public fund”. “**Public fund**” is quite broadly drafted to mean “any monetary resource appropriated to a public body from the Federal Government treasury”, as well as aid grants and credit from foreign donors through the Federal government or internal revenue of the public body.

One of the exceptions from the scope of PPL (A.3.3(b)) covers contracts between public bodies for the provision of goods, works, consultancy or other services at cost. It is not clear whether SOEs and public enterprises hired by public bodies fall under this exception given the ambiguity on whether public body definition includes these entities. Furthermore, the legal framework does not specify under what circumstances the contracting between public bodies can happen leaving the door open for misuse and practices which can affect market competition.

Addis Ababa: The Core MAPS report (2021) for Addis Ababa revealed similar findings as for the Federal level. The legal and regulatory framework covers the procurement of goods, works and services including consulting services, for procurement using public funds. PPL A.2 (on Definitions): defines “procurement” as “obtaining goods, works, consultancy or other services through purchasing, hiring or obtaining by any other contractual means”. The terms “goods”, “works”,

⁶See the link from the website of Ministry of Urban and Infrastructure [here](#).

⁷ Web access to Attorney General’s office was checked on May 26, 2023 and PPL and amendments to PPD were found [here](#). Access to the website is not always possible and reliable.

⁸ Discussions of SLA Team members with Ethiopian Construction Agency on May 17, 2023.

“services” and “consultancy services” are defined. “**Public fund**” is quite broadly drafted to mean any monetary resource appropriated to a public body from the City Government treasury, or aid, grants and credits put at the disposal of public bodies by foreign donors through the Government or the internal revenue of the public body. It is not clear whether the second use of the word Government refers to the Federal or City Government. Given the wording of PPL A.6.1, it is more likely to refer to the City Government. PPL A.3(1) states that the PPL applies to “all Addis Ababa City Government procurement and property administration.” Public enterprises, state owned enterprises (owned by the City) and other enterprises or organizations in which the City has a significant interest or influence are not expressly included or excluded from coverage of the PPL, though from the definition of “public body”, any public enterprises using public funds should be subject to the PPL. However, the general perception and feedback from stakeholders in Ethiopia is that regional public enterprises are also excluded from the scope of the PPL.

Gap analysis

Conditions for public-to-public contracting arrangements are not specified in the legal framework.

Recommendation

Consider developing guidance about the circumstances and implementation arrangements for the public-to-public-contracting. It may be advisable to consider more detailed provisions. One possibility is requiring public arrangements to be subject to the PPL, save in specified circumstances. Examples of such excluded circumstances could include genuine co-operation between public bodies to deliver public services/tasks at cost; direct award of contracts between public bodies; or assignment of tasks/functions where the direct award or assignment of tasks/functions and participating bodies are designated by specific laws. Similarly, it may be appropriate to consider clear provisions dealing with the situation where an entity is wholly owned by a public body, carries out public tasks and is not active on the market.

Assessment criterion 1(a)(c):

It is applicable to all public bodies and sub-national governments and entities, in the sector, that use public funds

Conclusion: Substantive gap

Red flag: No

Qualitative analysis

Roads sector: all federal entities in the Road sector apply Federal legal procurement framework.

Federal: The PPL (A.2) includes a definition of “**Public Body**” (procuring entity) as “*any public body, which is partly or wholly financed by the Federal Government budget, higher education institutions and public institutions of like nature*”. Public enterprises, state owned enterprises⁹ and other enterprises or organizations in which the government has a significant interest or influence are not expressly included or excluded from coverage of the PPL, though, from the definition of “Public Body”, the public enterprises using public funds should be subject to the PPL. However, the prevailing view in the Government is that public enterprises are excluded from the scope of the PPL¹⁰ as they are not funded by public funds. The Core MAPS report (2021) identified that although state owned/public enterprises are generally not financed from the public funds, they may occasionally receive budget allocations.

Each state-owned entity or public enterprise has its own procurement manual, although the manuals appear to incorporate some principles of the PPL.

Addis Ababa: Public body (procuring entity) is defined by PPL A.2 as “any public body, which is partly or wholly financed by the City Government budget, higher education institutions and public institutions of like nature.” Public enterprises, state owned enterprises (owned by the City) and other enterprises or organizations in which the City has a significant interest or influence are not expressly included or excluded from coverage of the PPL, though from the definition of “public body”, any public enterprises using public funds should be subject to the PPL. However, the general perception and feedback from stakeholders in Ethiopia is that public enterprises are excluded from the scope of the PPL.

Gap analysis

The gaps identified in the Core MAPS report under sub-indicator 1(a)(b) for both Federal and Addis Ababa in 2021 continue to be valid.

There is a general lack of clarity, as well as significant doubt, surrounding the scope of the PPL in terms of which bodies are expected to be covered by it. The definition of “Public Body” does not clarify the specific entities subject to the PPL. Public enterprises, state owned enterprises (SOEs), other organizations in which the government has a substantial interest or influence are not expressly included or excluded from coverage of the PPL.

Recommendation

The recommendations in the Core MAPS Core report under sub-indicator 1(a)(b) for both the Federal and Addis Ababa completed in 2021 remain valid. The PPL should define the types of public bodies covered. In addition, for transparency and certainty, the Authority should compile a list of designated public entities, state companies, and other bodies subject to PPL and post it on the Authority's website. Furthermore, within the scope of the PPL, the definition of public body should specifically include SOEs/public enterprises with significant influence and interest by the state.

Assessment criterion 1(a)(d):

Sector related PPPs, including concessions, are regulated

Conclusion: No gap

Red flag: No

Qualitative analysis

Road sector

Road sector PPPs will follow the Federal PPP legislation for procurement by federal public bodies. In this respect:

Federal: PPL A.2(25) defines “Public Private Partnerships”. PPL A.34 provides that the Minister may issue a Directive prescribing the rules governing the formation of PPP and modes for implementation of PPP. A (new) Proclamation 1076/2018 on Public Private Partnership (“PPP Proclamation”) was issued in 2018¹¹. A PPP Directive No. 55/2010/2018 (“PPP Directive”) was issued and entered into force on July 19, 2018¹². The PPP Proclamation applies (A.67) to PPP projects of public bodies and public enterprises from 22 February 2018. It applies to PPP, which is a defined term. The PPP definition is not the same as in the PPL, and the specific term “Concession” is not used. However, the definition of “Public Private Partnership” in the PPP Proclamation A.2 (12) sets out the elements commonly used to define a PPP concession type arrangement: provision of a public services activity, benefit by way of compensation from the contracting entity (public body or state enterprise) or third-party sources or a combination, plus assumption of performance risk or use risk. The following activities are expressly excluded from coverage by the PPP Proclamation: oil, mines, minerals, rights of air space; and privatization or divestiture of public infrastructure or public enterprises.

⁹ State owned enterprises are administered under the Public Enterprise Proclamation No. 25/1991.

¹⁰ The explanation for this seems to be that public enterprises are established with authorized capital provided by Government but with managerial autonomy and the expectation that they will operate on market principles. See: Public Procurement Regulation in Africa, Eds. Quinot & Arrowsmith, Cambridge University Press 2013, Country Study on Ethiopia, Tecle Hagos Bahta and further explanation by the same author at paragraph II.2, Framework Procurement Contracts in the Ethiopian Public Procurement Law, PPLR 2016 No.2 pp35-50.

¹¹ https://www.mofed.gov.et/media/filer_public/58/bf/58bfbdf4-662f-4f55-b12e-dcf3a6cd5ef6/proclamation-no-1076-2018-public-private-partnership-proclamation.pdf

¹² https://www.mofed.gov.et/media/filer_public/cd/22/cd22a081-6bde-4d98-b612-c6006eed73ec/ppp_directive_2010_english.pdf

<p>The PPP Proclamation defines forms of PPPs and establishes a PPP Board with, amongst other things, powers of approval of PPP projects. It also establishes the roles and responsibilities of (i) PPP Directorate General within the Ministry of Finance who has an oversight and technical support role and is required to develop manuals on the implementation of PPPs (PPP Directive A.8). The PPP Proclamation sets out the duties and responsibilities of contracting authorities (see also PPP Directive A.9) as well as the approvals and procurement processes to be followed (also covered in the PPP Directive). In principle, the Federal PPP Proclamation would apply to PPPs in the Road sector. But no PPPs have been organized and awarded in the Road sector as of the time of the assessment.</p> <p>Addis Ababa: The PPL under Chapter 3-article 26 states the Bureau may issue rules and modes of implementation with regard to PPP. But no such legislation has been enacted. Though AA has not adopted dedicated PPP legislation, PPPs are covered in the general legal framework for procurement.</p>
Gap analysis
Recommendation
<p>Assessment criterion 1(a)(e): Current laws, regulations, and policies are published and easily accessible to the public at no cost</p> <p>Conclusion: Minor gap</p>
Red flag: No
<p>Qualitative analysis Federal: Public procurement Proclamation, Directive and Regulations are published on the website of the Authority. The Authority’s website is free to access on-line portal. There is a dedicated tab on the Authority homepage providing a link to “Legislation”. There are also tabs providing links to Standard Bidding Documents and Manuals. There is a link to e-GP system. There is a link on the home page to Circulars, addressed to public bodies and issued by the Authority. These are not all published on the Authority website. The primary and secondary legislation is available for download in PDF searchable format (in Amharic). The website is active, but not fully updated. There are no links to other directives issued by other Federal ministries that have impact on procurement.</p> <p>Addis Ababa: There is no central portal or website that is used for publication of the procurement documents. The key procurement documents including the proclamations are not electronically accessible. Legislation has been published in the City Gazette, but the assessment team has not been able to identify a website for the Bureau which provides access to procurement legislation.</p>
<p>Gap analysis The gaps identified in the Core MAPS report under sub-indicator 1(a)(d) for both the Federal and Addis Ababa completed in 2021 are still valid. The Authority's website does not provide comprehensive, up-to-date information. To ensure transparency, clarity, and legal certainty, all documents forming the legal and advisory framework for public procurement must be published on a single, central, and easily accessible repository. This is also significant given the practice of Ministries and other public bodies issuing directives, circulars, or other documents that have an impact on procurement. It is difficult for stakeholders to have a complete picture of Ethiopian public procurement.</p> <p>Regarding Addis Ababa, there is no central portal or website that is used for publication of the procurement documents. The key procurement documents including the proclamations are not electronically accessible. Legislation has been published in the City Gazette, but the Bureau does not have a website that allows access to procurement legislation.</p>
<p>Recommendation The recommendations identified in the Core MAPS report under sub-indicator 1(a)(d) for both the Federal and Addis Ababa completed in 2021 remain valid. These recommendations would benefit the road sector if implemented at the federal and municipal levels. The Authority should consider revamping its website to become the single free-access repository for all procurement legal documents and information, as well as improving the coverage and functionality of the PPA website and maintaining its up-to-date contents.</p> <p>It is critical to provide a readily accessible website for procurement documents in Addis Ababa. Consider publishing the procurement documents on a centralized portal (at the very least, on the federal Authority's website as a short-term solution).</p>
<p style="text-align: center;">Sub-indicator 1(b) Rules on participation deriving from sustainability (social, economic and environmental) goals The legal framework applicable to the sector meets the following conditions:</p>
<p>Assessment criterion 1(b)(a): Establishes that participation of interested parties is fair and based on qualification and in accordance with rules on eligibility and exclusions. In this context, the term “supplier” encompasses all service providers including contractors, consulting firms, etc.</p>
Conclusion: Substantive gap
Red flag: Yes
<p>Qualitative analysis Federal: The legal framework requires candidates to satisfy the eligibility and qualification requirements set out in the bidding documents. A non-exhaustive list of qualification criteria is set out in the PPL A.28. The principles of non-discrimination, transparency and fairness are underlying requirements. PPL A.5(2) refers to the principle of “non-discrimination among candidates on grounds of nationality or any other criteria not having to do with their qualification, except in case of preference specifically provided for [in the PPL]”. In the English language version of the PPL both “candidate” and “bidders” are defined terms. A candidate is a “natural or juridical person invited to take part in public procurement or seeking to be so invited”. A “bidder” is a “natural or juridical person submitting a bid”. The use of these defined terms within the PPL is not always complete or correct. PPL A.2(9) includes a definition of “supplier”. It is “<i>a natural or juridical person under contract with a public body to supply goods, works or services.</i>” The term does not include “consultants” to cover firms and individuals providing consulting services.</p> <p>Eligibility criteria PPL A.28 “Qualification of Candidates” sets out a mix of bidder qualifications and eligibility criteria. Eligibility requirements for bidders include legal capacity to enter a contract, registration in suppliers’ lists, are not under bankruptcy, have valid trade license and have paid taxes according to Ethiopian tax laws. Grounds for exclusion from eligibility include debarment. PPD A.16.21 Disqualification of bidders lists additional grounds for disqualification of bidders (though it does not refer to “candidates” but only “bidders”). The list covers: where the supply is of goods originating in a country in respect of which the Federal Government of Ethiopia has imposed a trade ban, countries under UN trade embargo, where the bidder violates a provision of the PPL and PPD, where a bidder is debarred for breach of obligation under a previous contract, where bidder is proven to have offered an inducement or bribe, and where the bidder has committed an act of embezzlement, fraud or connivance.</p>

One of the requirements for participation of bidders in public procurement is registration in the Suppliers List (PPD A.33). The PPD further lists the conditions the bidder should meet to be included in the Suppliers List (A.33.2). One of the documents required to be submitted is the certificate of professional competency from the appropriate body, if a consultant, and a contractors’ certificate issued by the Ministry of Urban and Infrastructure indicating the level of such contractor/consultant.

Registration of contractors, consultants, general contractors is based on Registration Directive No. 648/2021¹³ issued on 5 January 2021 by the Ministry of Urban and Infrastructure (Registration Directive). The firms can apply for certification or enrollment based on firm’s manpower, equipment and annual turnover requirements. A.25.1 of the Registration Directive stipulates that it is possible to apply for certification or registration in one of the grades based on manpower, equipment and annual turnover requirements. One requirement (A.27.3) is that the manager of the company must have a practicing competency certificate, and if not 100% owner of the company, it should own at least 20% of the shares in the company. If the contractor is a woman or a person with a disability, requirements for annual turnover for each level will be reduced by 15%. The Directive lists the number of construction machineries to be owned by different grade and category of contractor (though PPD allows bidders to demonstrate they can hire or lease the machineries required for the specific project under bid). The Directive includes some requirements that in practice are perceived by private sector as restrictive. For example, highway and bridge consultants must have a design or supervision experience for completing 50 km asphalt road or bridge to have grade 1 license (which is the highest grade). The maximum construction price limit set for Grade 2, that consultants must meet, is 850 million Birr. The estimated cost per kilometer of asphalt road in 2021 was about 27 million Birr, which when multiplied for the 50 km of road required to be eligible for grade 1, is 1.39 billion birr which is 1.59 times the maximum construction price limit of Grade 2. Since Grade 2 highway consultants can participate for processes of construction price limit of 850 million Birr, it means it is going be very difficult for Grade 2 consultants to be upgraded for Grade 1 license. In other words, the Directive may have the effect of keeping contractors locked in a certain grade, limiting the pool of qualified consultants and therefore limiting competition. Directive also requires that foreign contractors can be registered only for grade 1 certificate of competency. However, the number of machineries required by foreign contractors to be registered as grade 1 General is 3 times the one defined for domestic contractors for the same grade.

Qualification Requirements

PPL A.24 refers to the principle of non-discrimination, providing that candidates shall not be discriminated against “on the basis of nationality, race or any other criterion not having to do with their qualifications”. This is subject to price preference provisions in PPL A.25. PPLA.28 provides that, in order to participate in public procurement, candidates must meet criteria listed in PPL A.28 “and such other criteria, as the public body considers appropriate under the circumstances”. The criteria listed in PPL A.28(1) require candidates to have relevant professional and technical qualifications and competence, financial resources, equipment and other facilities, capability, experience, reputation and personnel. However, as noted earlier, the PPD provides a completely different list for the disqualification of bidders.

Amendment No.2 of the PPD of December 15, 2016, sets forth different qualification criteria for domestic and foreign bidders as follows. The same are not reflected in the SBDs issued by Authority. But the public bodies prepare section 3 of the bidding document based on the criteria defined in the amendment no. 2 of the PPD.

No	CRITERIA	REQUIREMENT	
		LOCAL CONTRACTOR	FOREIGN CONTRACTOR
1	General Experience (Years)	Bidders shall have a minimum of 2 years experience under construction contract in the role of contractor, Joint Venture partner or subcontractor.	Bidders shall have a minimum of 5 years experience under construction contract in the role of contractor, Joint Venture partner or subcontractor.
2	Specific Experience (Years)	Bidders, shall successfully and substantially completed at least one similar project within the last 10 years with a value of at least 70% of the estimated Value of the intended contract or; If a bidder do not have experience with the above required value, he shall have experience on two projects each with a value of at least 50% of the required value (in cases where the . the estimated Value of the intended contract is below 1 Billion Birr) or , Experience on three projects each with a value of at least 1/3 rd of the required value (in cases where the . the estimated Value of the intended contract is 1 Billion Birr and above)	Foreign bidders shall successfully and substantially complete at least two similar projects within the last 10 years each with a value of at least the estimated Value of the intended contract.
	Note: For contracts under which the Bidder participated as a sub-contractor or a joint venture member, only the Bidder’s share, by value, will be considered as specific experience.		
3	Annual Turnover	The annual turnover for domestic contractors shall be the peak annual construction turnover from the last 5 years, calculated as total certified payments, after adjusting for inflation of Birr, received for contracts in progress or completed. The amount of peak annual construction turnover shall be equal to or more than:- $AT(Peak) = \frac{Engineer's\ Estimate * F}{Contract\ period\ in\ yrs}$ $F = 0.8$	The annual turnover for foreign contractors shall be the average annual construction turnover of the last 5 years, calculated as total certified payments received for contracts in progress or completed. The amount of average annual construction turnover shall be equal to or more than:- $AT(Average) = \frac{Engineer's\ Estimate * F}{Contract\ period\ in\ yrs}$ $F = 2$

Addis Ababa: Overall, the currently existing procedures and requirement do not offer full fairness with respect to the participation of bidders. The obligations on foreign bidders in terms of qualification requirements is not expressly provided for. PPL A.20 provides that public bodies may use additional qualification criteria “as they consider appropriate under the circumstances.” The general principles in PPL A.5 should apply to the setting of additional qualification criteria. PPL A.20 does, however, provide a potentially wide margin of discretion to public bodies and, if not carefully monitored, it raises the possibility of inappropriate, disproportionate, or discriminatory qualification criteria, which cannot be challenged anyway through the complaints review mechanism. The grounds for eligibility and disqualification of the bidders in the PPL and PPD are very different, creating confusion as to which list applies and or all requirements should be

¹³See the link from the website of Ministry of Urban and Infrastructure [here](#).

cumulatively met. However, the Annex 7 of the Directive which stipulates how to determine the qualification requirement for works contracts, gives two separate requirements one for the foreign firms and another for the locals on Annual Construction Turnover and Experience requirements.

Under General Experience Requirement

Local Firms: have two years’ experience as a contractor, joint venture or sub-contractor

Foreign Firms: five years’ experience as a contractor, joint venture or sub-contractor

Under Specific Experience Requirement

Local Firms: one similar project over the last ten years, or two/three projects each with a minimum size of half/third of the project tendered as a contractor, joint venture or sub-contractor

Foreign Firms: two similar projects over the last ten years as a contractor, joint venture or sub-contractor

Under Annual Construction Turnover Requirement

Foreign Firms: required to have twice the amount required for local firms. In addition, for foreign firms, that amount of annual turnover is calculated as an average annual turnover over the last five years, while for domestic bidders it is the highest annual turnover in one of last five years.

Gaps Analysis

The gaps that were identified in the Core MAPS report under sub-indicator 1(d)(a) both for Federal and Addis Ababa completed in 2021 remain valid. The registration directive requirements are burdensome and onerous and restrictive to registration of foreign bidders. Requirements related to the cost of construction, machinery and personnel are not included in the PPL or PPD. There are inconsistencies between PPD and Registration Directive in that the PPD allows that professional staff required for any contract can be permanent or temporary, contrary to the provisions of the Registration Directive which requires permanent staff. The differing qualification criteria for domestic and foreign bidders provided through amendment 2 to PPD, does not ensure equal treatment of the bidders. The underlying reason is reported to be support for domestic contractors. However, such lowered criteria for domestic contractors, may compromise the quality of the contractor increasing performance risks during contract execution.

The feedback from private sector is that the requirements of the Registration Directive are onerous and provide little value. Contractors are compelled to comply with the regulations, but this has apparently led to practices in which professionals lend their competency certifications while falsely claiming to be employees of the contractor. Every year, contractors hunt for specialists who can ‘rent’ them a competency certificate and sign as if they are an employee of the contractor.

PPL A.28 provides that public bodies may use additional qualification criteria “as they consider appropriate under the circumstances” which in practice has been applied to require qualification criteria that are too onerous and discriminatory, and most importantly are not directly related with the scope of subject matter of procurement¹⁴. PPL A.28 provides a wide margin of discretion to public bodies and, if not carefully monitored, it raises the possibility of inappropriate, disproportionate, or discriminatory qualification criteria, which cannot be challenged anyway through the complaints review mechanism. The general principles in PPL A.5 should apply to the setting of additional qualification criteria. In addition, the grounds for eligibility and disqualification of the bidders in the PPL and PPD are different, creating confusion as to which list applies and or if all requirements should be cumulatively met.

There are no provisions in the PPL referring specifically to exclusion from participation in a public procurement process on the grounds that a firm or individuals have been the subject of a conviction by final judgment for: participation in a criminal organization; terrorist offences or offences linked to terrorist activities, or inciting or aiding or abetting or attempting to commit such an offence; money laundering or terrorist financing; child labor; and all forms of trafficking in human beings, or the equivalent of those offences.

Recommendation

The recommendations identified in the Core MAPS report under indicator 1(d)(a) for both Federal and Addis Ababa in 2021 remain valid. In particular, there is a need to ensure that all levels of legislation are consistent with the PPL's requirement that public procurement adhere to the principle of non-discrimination and to eliminate provisions that differentiate qualification criteria based on the bidder's nationality. Qualification should not be denied for reasons unrelated to the bidder's or candidate's ability and resources to successfully complete the contract. The qualification requirements should be defined as skills, experience, and resources necessary to perform the contract. Qualification standards should be the same for all bidders, regardless of nationality. The legal framework should allow for exclusion for participation in a criminal organization; terrorist offenses or offenses related to terrorist activities, or inciting, aiding, abetting, or attempting to commit such an offense; money laundering or terrorist financing; child labor; and all forms of human trafficking, or the equivalent of those offenses.

The authorized entity¹⁵ in charge of registration should assess current registration practices with the goal of streamlining and adjusting requirements to ensure efficiency and objectivity and no barriers to any group of eligible and qualified contractors.

Assessment criterion 1(b)(b):

Ensures that there are no barriers to participation in the public procurement market

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis

Federal: PPL A.28.1(f) – qualification - requires candidates to demonstrate that they have renewed trade licenses and fulfilled their obligations to pay taxes according to Ethiopian tax laws. PPD A.16.4 confirms these requirements and requires domestic bidders to present tax and registration certificates. It provides at 16.4.2(b)that foreign bidders may submit registration certificates or trade license issued by the country of establishment. PPD 16.4.2(b) clarifies that in the case of foreign bidders they must submit business organization registration certificate or trade license issued by the country of establishment. For more details, please see assessment under criterion 1(b)(a). **Suppliers list:** Bidders must also be registered on the suppliers list (A.28.1(d)).

Addis Ababa: The legal framework requires candidates to satisfy qualification requirements set out in the bidding documents. A non-exhaustive list of qualification criteria is set out in the PPL. The principles of non-discrimination, transparency and fairness are underlying requirements. Same main elements as in the case of federal legal framework set out under sub-indicator 1(b)(a). The obligations on foreign bidders in terms of qualification requirements is not expressly provided for. Chapter 3 Article 16 of the PPL states that candidates shall not be discriminated on the basis of nationality, race or other criterion which has nothing to do with their qualification. However, the Annex 7 of the Directive which stipulates how to determine the qualification requirement for works contracts, gives two separate requirements one for the foreign firms and another for the locals on Annual Construction Turnover and Experience requirements.

¹⁴ For example, discussions with CCAE revealed they have encountered procurement process for construction of a building where bidders were required to provide evidence that they own ambulance and have employed a full-time medical doctor. Similarly, they have encountered a procurement process where bidders are required to provide evidence that they have a ‘fire brigade’. Such criteria discriminate most bidders and lead to rejection of many bids. Requiring such criteria will lead to limiting the pool of qualified bidders or give rise to practices which force bidders to associate with Fire Protection Companies for the sake of passing the criteria. Such practices are against the provisions of the PPL Article 5.

¹⁵ Under proclamation 1097/2018 (A.22(1)(u)) the Ministry of Urban and Infrastructure (formerly the Ministry of Transport) was mandated to register and issue certificate of competence to contractors/consultants. However, the Proclamation No. 1263/2021 which repeals the proclamation 1097/2018 does not include such function any longer for the Ministry of Urban and Infrastructure. Proclamation No. 524/2022 on Ethiopian Construction Authority assigns the role of registration and issuance of competence certificate to contractors and consultants, to ECA (A.5(12)).

<p>Gap analysis</p> <p>Please see the gaps explained under the sub-indicator 1(b)(a) above.</p>
<p>Recommendation</p> <p>Please see recommendations under sub-indicator 1(b)(a) above.</p>
<p>Assessment criterion 1(b)(c):</p> <p>Where environmental, social and economic policies apply in the sector, ensure that these policies are clearly defined in the legal and regulatory framework and are motivated by the environmental, social and economic aspirations of the country</p>
<p>Conclusion: Substantive gap</p>
<p>Red flag: Yes</p>
<p>Qualitative analysis</p> <p>Federal: There is no procurement sustainability policy/strategy in place to support broader national policy objectives. However, some elements of sustainability are reflected in the PPL (A.25) by providing opportunities for small and micro enterprises (SMEs) by preferential schemes. The legal provisions address “life-time approach” (life-cycle cost) (A.65). PPD A.9(1)(f) requires a public body, when identifying its procurement needs, to take into account that “the procurement need is environmentally friendly”. PPL A.25 provides that where evaluation of bids results in the award of equal percentage points for bidders offering similar price and quality, preference shall be given to local goods (at least 35% from Ethiopia), services, or companies. PPD A.16.20 goes into further detail. It provides the various margin of preference applied for different categories¹⁶ of procurement. Additional price preference for small and micro enterprises is 3% where such enterprises compete with local suppliers in national competitive bidding. This additional price preference does not apply to international competitive bidding where local contractors are awarded a price preference of 7.5%. Small and micro enterprises may submit a letter of guarantee in lieu of bid security, performance security or advance payment guarantee. The small and micro enterprises shall be entitled to obtain bidding documents free of charge.</p> <p>PPD A.16.20 also sets out details on conditions which must be satisfied, such as on the calculation of the 35% of value added in Ethiopia, and how local companies engaged in construction or consultancy services qualify for preference. The following conditions must be satisfied for local companies engaged in Construction or Consultancy Services to qualify for preference:</p> <p>a) The company has to be incorporated in Ethiopia.</p> <p>b) more than fifty per cent of the company’s capital stock has to be held by Ethiopian natural or juridical persons.</p> <p>c) more than fifty per cent of members of the board of the company have to be Ethiopian nationals.</p> <p>d) At least fifty per cent of the key staff of the company must be Ethiopian Nationals.</p> <p>Addis Ababa:</p> <p>There is no evidence of a policy/strategy in place to implement SPP in support of broader national policy objectives. There is, however, in place an incentive scheme for the benefit of SMEs. The legal provisions address life cycle cost and environmentally friendly procurement only at a high level. There is also an incentive to use locally manufactured goods/ local contractors etc. According to PPL A.17.4, locally manufactured goods are those that have 35% value addition in Ethiopia.</p> <p>PPD A.15.2 provides preferences to goods manufactured locally, local contractors, Consultants and SMEs as follows: procurement of drugs and medical equipment 25% price preference; other procurement of goods 15%; 7.5% for domestic contractors and consultants. In addition, 3% is added to the preference in respect to SMEs.</p> <p>Road sector: the same sustainability measures included in the Federal and Addis Ababa legal frameworks, apply to procurement in Road sector.</p>
<p>Gap analysis</p> <p>Though there is no specific SPP policy/strategy, the few environmental, social and economic factors that are permitted, originate from the legal procurement framework. There are no established targets for contract awards to SMEs or other contracting groupings. There is little information on the consistency of compliance with or application of sustainability considerations.</p> <p>Currently, standard conditions of contract incorporate only a few labor and employment aspects.</p>
<p>Recommendation</p> <ul style="list-style-type: none"> - Develop an SPP policy/strategy that is in line with the country's Transformation and Growth Agenda. - Use existing enabling provisions in the legal framework to implement specific SPP elements. Preference for SMEs, for example, preferential treatment, promotion of environmentally friendly goods through the development of environmentally/climate friendly specifications, use of life cycle costing in bid evaluation, use of rated criteria related to SPP aspects, introduction of contractual terms that elaborate on environmental and social aspects, employment and labor standards, health and safety, gender-based violence obligations, subcontracting arrangements. - The Authority could develop guidelines, toolkits, standard bidding documents, and other tools to help public bodies incorporate environmental, social, and economic factors throughout the procurement cycle. Countries around the world have devised a variety of techniques to incorporating sustainability into public procurement. A study of existing practices around the world would be beneficial to the Authority. The Bank team can assist you with this.
<p>Assessment criterion 1(b)(d):</p> <p>Details the eligibility requirements and provides for exclusions for breach of environmental, social laws, criminal or corrupt activities, administrative debarment under the law subject to due process or prohibition of commercial relations</p>
<p>Conclusion: Substantive gap</p>
<p>Red flag: Yes</p>
<p>Qualitative analysis</p> <p>Federal: PPL A.28 sets out a mix of bidder qualifications and eligibility criteria. Eligibility requirements for bidders include legal capacity to enter a contract, registration in suppliers’ lists, are not under bankruptcy, have valid trade license and have paid taxes according to Ethiopian tax laws. One of the ineligibility grounds is debarment (PPL A.28(1)(e)). PPD A.16.21 lists additional grounds for disqualification of bidders. The list covers: where the supply is of goods originating in a country in respect of which the Federal Government of Ethiopia has imposed a trade ban, countries under UN trade embargo, where the bidder</p>

¹⁶ 25% for drugs, pharmaceutical products; medical equipment (provided for in the Directive, and not in the PPL); 15% for other products; 7.5% for construction and for consultancy services.

<p>violates provision of the PPL and PPD, where a bidder is debarred for breach of obligation under a previous contract, where bidder is proven to have offered an inducement or bribe, and where the bidder has committed an act of embezzlement, fraud or connivance.</p> <p>PPL A.30 provides that public bodies may reject bids, proposals or quotations where there is proof of concerted practices, collusion [connivance] and the bidding is not sufficiently competitive as a result.</p> <p>PPL A.76 Review by the Authority establishes a process which may lead to a decision by the Authority to suspend (administratively debar) a supplier from participation in public procurement for a definite or indefinite period (debarment). The process is triggered when the Authority receives a notification from a public body of alleged misconduct by bidders or suppliers. The circumstances of misconduct include violation of the procurement law, refusal to sign a contract, fraud, falsifying documents, collusion [connivance], corruption and damage due to failure in contract delivery. The Authority must send a written notice of the complaint to the supplier and it may require the person concerned to appear in person and give evidence or to seek professional assistance. The Authority is required to review and make a decision within 15 working days of receipt of such complaint. The complaint may result in debarment, but also a written warning. PPD A.50 sets out a right of appeal against a debarment decision to the competent court.</p> <p>PPD Part A.48 sets out in more detail the grounds for debarment, which includes bidder’s refusal to sign a contract, bidder has committed fraud or falsified documents, has committed an act of connivance or corruption, or public body has sustained damage on account of failure by a supplier to perform his/its obligation under a contract. PPD also sets out process for review by the Authority. PPD details the penalties, including periods of debarment which range from 6 months to 2 years (A.48.5.1), depending on the nature and gravity of the default/offence committed. There is the potential in some cases, including fraud, corruption, collusion [connivance], for permanent debarment. Notice of debarment is posted on the Authority website.</p> <p>Addis Ababa: PPL provides that, in order to participate in public procurement, candidates must meet criteria listed in PPL A.20 “and such other criteria, as the public body considers appropriate under the circumstances.” The criteria listed in PPL A.28(1) require candidates to have relevant professional and technical qualifications and competence, financial resources, equipment and other facilities, capability, experience, reputation and personnel. Candidates must have legal capacity to tender the contract, have a bank account and not be insolvent or bankrupt or in analogous situations. They must not be subject to a suspension from participation in public procurement and must have the relevant trade license and have paid taxes according to Ethiopian tax laws. They must have a bank account. However, the PDA.15.21 provides a list for disqualification of the bidders, which is not contained in the PPL and includes the following grounds: when the bidder supplies goods, works or services originating from a country with which Ethiopia has a trade embargo; bidder provides goods, works or services originating from a country that is in the UN Security Council list of sanctions; bidder commits an act violating the provisions of the PPL and PPD; bidder suspended (debarred) due to previous contractual default; bidder has offered bribe to an official or procurement staff to influence the public body’s decision; bidder has engaged in fraudulent activities or colluded with other bidders.</p> <p>Road sector: follows the legal frameworks at federal and Addis Ababa level.</p>
<p>Gap analysis</p> <p>The gaps identified in the Core MAPS report under sub-indicator 1(d)(c) for both Federal and Addis Ababa in 2021 are still relevant.</p> <p>There are no provisions in the PPL that directly allude to disqualification from participating in a public procurement process because a corporation or persons have violated environmental, social, or criminal or corrupt acts. Such provisions do not exist in other statutes.</p> <p>Power to refer debarment to Authority: According to the PPL, the trigger for an investigation leading to probable suspension/debarment is limited to when a public body notifies the Authority. Other stakeholders do not have the power to recommend. While public bodies are generally in the best position to uncover any misconduct, the right to referral in the PPL should be expanded to include additional stakeholders such as auditors, regulatory bodies, the private sector, and civil society.</p>
<p>Recommendation</p> <p>Include provisions in the PPL that specifically relate to disqualification from participation in a public procurement process because a firm or individual has violated environmental, social, or criminal or corrupt activities. Include provisions in the PPL that specifically relate to disqualification from participation in a public procurement process because a corporation or persons have violated environmental, social, or criminal or corrupt activities. Extend the ability to refer for debarment to stakeholders and parties other than governmental bodies.</p>
<p>Assessment criterion 1(b)(e): Establishes rules for the participation of state-owned enterprises that promote fair competition</p>
<p>Conclusion: Substantive gap</p>
<p>Red flag: Yes</p>
<p>Qualitative analysis</p> <p>Federal: The legal framework does not establish rules for participation of state-owned enterprises (SOEs) in public procurement. Various federal and regional SOEs exist in the road sector but their participation in the same procurement process as the private sector is not regulated in the legal framework. Neither the PPL nor the PPD provide for conditions for participation of SOEs. The Standard Procurement Documents (SPDs) for works stipulate the eligibility requirements of SOEs/public enterprises under ITB 4.4 “Government-owned enterprises shall be eligible if they can establish that they are legally and financially autonomous and operate under commercial law and that they are not a dependent Authority of the Public Body.” RFP for consultants includes a similar provision.</p> <p>Addis Ababa: The legal framework does not establish rules for participation of state-owned enterprises in public procurement.</p>
<p>Gap analysis</p> <p>The legal framework does not establish rules for participation of SOEs in public procurement. Due to this, the SOEs compete with the private sector in a way that affects equal competition with private sector. Also, lack of criteria for SOE participation gives rise to unlevel playing field with private sector and creates conflict of interest when the SOE is related to the public body.</p>
<p>Recommendation</p> <p>The recommendations identified in the Core MAPS report both for Federal and Addis Ababa carried out in 2021 remain valid.</p> <ul style="list-style-type: none"> - Amend the PPL and PPD to establish clear provisions on rules for participation of state-owned enterprises in public procurement to create a level playing field and ensure that the process of selection/bidding and contract implementation is free of any conflict of interest.
<p>Assessment criterion 1(b)(f): Details the procedures that can be used to determine a bidder’s eligibility and ability to perform a specific contract</p>
<p>Conclusion: No gap</p>
<p>Red flag: No</p>
<p>Qualitative analysis</p>

<p>Federal: The legal framework details procedures used to determine eligibility and ability to perform a specific contract. The assessment as to eligibility and ability may be combined with the procurement documents as part of the specific procurement or, in specified cases, be initiated as a separate exercise that is conducted before full offers are requested. Multistage procedures are permitted for specified types of contracts and circumstances for use are defined. In general, bidders are required to submit qualification information with their bids. Bidders must also be registered on the suppliers list A.28(1)(d). The Standard Bidding Documents (SBD) published by the Authority include Instructions to Bidders setting out requirements concerning eligibility and section/s with a form/forms for completion by bidders and the provision of specified information which is used for the purposes of assessing suitability/qualification. For more complex procurements, Prequalification proceedings may be used, with an initial evaluation stage focused on evaluation of a bidder's suitability to ability to perform a specific contract (PPD A.20). In this case, only prequalified bidders are invited to submit a tender. PPD A.20(2) provides that prequalification proceedings may be used for procurement of high value or complex works, turnkey contract for works, acquisition of machinery or information technology; supply and installation of goods or equipment of considerable importance and where the cost of drawing up bidding documents is so high that only pre-qualified bidders should participate in the bid.</p>
<p>Addis Ababa: The legal framework details procedures used to determine eligibility and ability to perform a specific contract. The assessment as to eligibility and ability may be combined with the procurement documents as part of the specific procurement or, in specified cases, be initiated as a separate exercise that is conducted before full offers are requested. Multi-stage procedures are permitted for specified types of contracts and circumstances for use are defined. In general, bidders are required to submit qualification information with their bids. The Federal Standard Bidding Documents (SBD), which are used by the City, provide a section for bidders to demonstrate their qualification against the requirement specified in the bidding document. For more complex procurements, Prequalification proceedings may be used, with an initial evaluation stage focused on evaluation of a bidder's suitability and ability to perform a specific contract (PPD A.19). In this case, only prequalified bidders are invited to submit a tender. PPD A.19(2) provides that prequalification proceedings may be used for procurement of high value or complex works, turnkey contract for works, acquisition of machinery or information technology; supply and installation of goods or equipment of considerable importance and where the cost of drawing up bidding documents is so high that only pre-qualified bidders should participate in the bid.</p>
<p>Gap analysis</p>
<p>Recommendation</p>
<p style="text-align: center;">Sub-indicator 1(c) Electronic Procurement (e-Procurement) in the sector The legal framework applicable to the sector meets the following conditions:</p>
<p>Assessment criterion 1(c)(a): The legal framework allows or mandates e-Procurement solutions, in the sector, covering the public procurement cycle, whether entirely or partially</p>
<p>Conclusion: Minor gap</p>
<p>Red flag: No</p>
<p>Qualitative analysis Federal: PPL A.26(1) allows for the Minister to issue a Directive to determine the extent to which communication by electronic means may be used in addition to or instead of writing. PPL A.31 confirms that the Ministry may authorize the use of electronic means as a method of procurement. In order to implement this, the PPL provides for the Agency to conduct a study and submit proposals, ensure that public bodies, suppliers and supervising entities have capacity to implement, to authorize the implementation of an electronic system in all or certain procurements.</p> <p>Pursuant to the PPL, the Ministry of Finance issued Directive no. 814/ 2021 which entered into force on 27 August 2021 on “Federal Electronic Government Procurement and Sale of Disposable Property” (e-GP Directive). The e-GP Directive (A.5) applies to public procurement and sale of disposable property of public bodies selected for the pilot implementation of the electronic system. It requires that bidders are registered annually in the system. Also, the e-GP stipulates that all communications pertaining to public procurement like Procurement Plan, Invitation to bid, sale of bidding document, bid clarification and amendments, pre bid meetings, bid opening ceremonies, bid evaluation and notification of results, lodging complaints and response thereto, as well as communication during Contract Administrations and other related activities shall be carried out using the electronic system (A.6.2). Any document shall be deemed accurate and legally binding as long as it is submitted in accordance with the electronic system (A.6.3). The e-GP Directive lays out the roles and responsibilities of involved public bodies and assigns the Agency as the overall owner and administrator of the electronic system.</p> <p>It is an end-to-end system applicable to all stages of procurement cycle, procurement planning, advertisement, bid submission, evaluation, award, bid complaints, and contract management. The Agency has started the roll-out of the system in 74 federal agencies; Ethiopian Roads Administration (ERA) is one of the entities that is required to use e-GP system.</p> <p>Addis Ababa: PPL A.23 allows the Bureau to authorize the use of electronic means as a method of procurement. In order to implement this, the PPL provides for the Bureau to conduct a study and submit proposals; ensure that public bodies, suppliers and supervising entities have capacity to implement, and authorize the implementation of an electronic system in all or certain procurements. PPD A.23.9 provides that public bodies may employ electronic exchange of information while processing procurement by means of the RFQ method (as defined in the PPL), subject to satisfying the specified conditions. Bidders who are not capable of submitting a quotation through the electronic system are provided with an alternative mechanism to submit quotations. Thus far the City Bureau has started communication and discussion with the Federal Agency on e-procurement.</p>
<p>Gap analysis The e-GP Directive applies to public bodies which were designated as pilots by the Ministry of Finance. Now that the e-GP system has started to be rolled out more widely to many public bodies, the Directive may require some revisions to reflect the new status of rolling out the e-GP system. Ideally, the primary legislation should specify that when ready, the system shall be mandatory for use by all public bodies.</p> <p>The e-GP Directive does not specify the conditions when the public bodies are exempt from the use of e-GP system. E-GP Directive (A.33) states that in the event of problems with e-GP system, the public bodies may require an exemption/authorization from the Agency. But it is not clear what kind of problems would justify the exemption. For example, ERA has been exempted from the application of the e-GP for contracts above the NCB threshold since FIDIC conditions of contract, which are most commonly used by ERA for such contracts, are not part of the SBDs. The e-GP system does not allow the use of standard bidding documents that are not available in the database.</p>
<p>Recommendation e-GP Directive may require amendment to expand its application to all entities that the Government has determined should use the electronic system, beyond those selected for the pilot phase.</p> <p>Future amendments of PPL/PPD (and the new draft proclamation on procurement) could include provisions to recognize the existence of the new e-GP system and require that its use is mandatory for all public bodies and when the system permits and as authorized by the Authority.</p>
<p>Assessment criterion 1(c)(b):</p>

The legal framework ensures the use of tools and standards, in the sector, that provide unrestricted and full access to the system, taking into consideration privacy, security of data and authentication
Conclusion: No gap
Red flag: No
Qualitative analysis The newly rolled out e-GP system provides unrestricted and full access to the system, taking into consideration privacy, security of data and authentication. The e-GP Directives provides that a fee (fixed by MoF) may be charged for using the system. Also, the bidding document shall be made available to bidders through the electronic system against payment of the prescribed fee effected using the electronic system or free of charge as necessary. In relation to the use of standards, the e-GP Directive (A.24.1(A)) stipulates that “for the purpose of preparing Bidding Document for electronic procurement and sale of disposable property, Public Bodies shall use the Standard Bid documents and templates available in the database of the electronic system.” The e-GP system does not allow the use of standard bidding documents that are not available in the database. The e-GP system has incorporated the forms and templates prepared by the Agency (procurement notices, Procurement Plan, bid security, letter of award, contract award notice). Road sector: ERA is one of 74 organizations selected to use the e-GP system. The e-GP Directive A.24.1(A) states that "for the purpose of preparing Bidding Documents for electronic procurement and sale of disposable property, Public Bodies shall use the Standard Bid documents and templates available in the electronic system's database." The e-GP system does not permit the use of standard bidding documents that are not in the database. This has made it difficult for the Ethiopian Roads Administration (ERA) to process procurement processes subject to ICB through the e-GP system. For ICB contracts, ERA uses FIDIC Conditions of Contract and not the Agency's standard conditions of contract. The Agency has given ERA permission to process ICB procurement process manually and on paper. As a result, ERA has only conducted two NCB processes, using standard contract terms, through e-GP so far.
Gap analysis
Recommendation
Assessment criterion 1(c)(c):
The legal framework requires that interested parties be informed which parts of the processes will be managed electronically, in the sector
Conclusion: No gap
Red flag: No
Qualitative analysis Federal: The e-GP Directive does not specifically include a requirement about informing bidders which parts of the processes will be managed electronically, but it requires that when e-GP system is used, the system provides applies to all stages of procurement cycle. According to the e-GP Directive, the electronic system is designed to be used for all procurement methods under the PPL. It is an end-to-end process and is applicable to all stages of procurement cycle, like: procurement planning, advertisement, bid submission, evaluation, award, bid complaints, and contract management; procurement methods which may be conducted using e-procurement system; requirement for a full and unrestricted access, roles and responsibilities of each party in the procurement process; maintaining records when conducting procurement electronically. Addis Ababa: PPD A.23.9 provides that public bodies may, by permission of the Agency, employ electronic means to send RFQs and receive quotations subject to satisfaction of specified conditions.
Gap analysis
Recommendation
<p style="text-align: center;">Sub-indicator 1(d) Public procurement principles in specialised legislation governing public entities in the sector The legal and regulatory body of norms covering the sector complies with the following conditions:</p>
Assessment criterion 1(d)(a):
Public procurement principles and/or the legal framework apply across specialised legislation governing the procurement by entities operating in the sector as appropriate
Conclusion: No gap
Red flag: No
Qualitative analysis Federal: The Federal legal framework applies to entities in all sectors under the Federal government. The regional governments have their own procurement legislation that is applicable to entities under the respective regional governments, including entities in the road sector. Addis Ababa: There is no specialized procurement legislation that governs procurement by entities operating in specific sectors, and the legal framework applies to procurement carried out by all public bodies.
Gap analysis
Recommendation
Assessment criterion 1(d)(b):
Public procurement principles and/or laws apply to the selection and contracting of public private partnerships (PPP) in the sector including concessions, as appropriate
Conclusion: No gap
Red flag: No

<p>Qualitative analysis</p> <p>Federal: Proclamation 1076/2018 on Public Private Partnership applies to PPP projects of all public bodies and public enterprises with effect from 22 February 2018 (PPP Proclamation A.67). Oil, mines, minerals, rights of air space and privatization or divestiture of public infrastructure or public enterprises are expressly excluded from coverage by the PPP Proclamation. The PPP Proclamation defines forms of PPPs and establishes a PPP Board with, amongst other things, powers of approval of PPP projects. It also establishes a PPP Directorate General within the Ministry of Finance whose role is to ensure that PPPs are carried out in accordance with the PPP Proclamation. PPP Procedure: The PPP Proclamation generally requires a competitive procurement procedure for the award of a PPP using an open bidding process with pre-qualification (A.19). Other procurement processes are permitted, including competitive dialogue. Direct Negotiation is permitted, where specified conditions are met (A.39-A.40). There are provisions covering unsolicited proposals (A.41-A.43). Contract opportunities arising from unsolicited proposals must be awarded using a competitive procurement procedure unless the conditions for direct negotiation are met. The PPP Proclamation goes on to cover the content and implementation of PPPs. A.64 PPP Proclamation provides that the complaints and review mechanisms provided for in the PPL are applicable to PPPs and allows for the possibility of Directives to be issued to adapt the relevant articles for application to PPPs.</p> <p>Addis Ababa: Though AA has not adopted dedicated PPP legislation, PPPs are covered in the general legal framework for procurement.</p>
Gap analysis
Recommendation
<p>Assessment criterion 1(d)(c):</p> <p>Responsibilities for developing policies and supporting the implementation of PPPs in the sector including concessions are clearly assigned</p> <p>Conclusion: No gap</p>
Red flag: No
<p>Qualitative analysis</p> <p>Federal: The PPP Proclamation defines forms of PPPs and establishes a PPP Board with, amongst other things, powers of approval of PPP projects. It also establishes a PPP Directorate General within the Ministry of Finance (A.10) whose role is to ensure that PPPs are carried out in accordance with the PPP Proclamation. For example, the PPP Directive requires the PPP Directorate to provide technical support to the contracting authorities (PPP Proclamation A.12(2)) and requires it to develop manuals on the implementation of guidance (PPP Directive A.8). The PPP Proclamation sets out the duties and responsibilities of contracting authorities (see also PPP Directive A.9) as well as the approvals and procurement processes to be followed (also covered in the PPP Directive).</p> <p>Addis Ababa: No PPP legislation exists at the level of City.</p>
Gap analysis
Recommendation

SLA-Indicator 2. Implementing regulations and tools support the legal framework at the sector level

Sub-indicator 2(a) Implementing Regulations to define processes and procedures in the sector	
<p>Assessment criterion 2(a)(a):</p> <p>There are regulations applicable to the sector that supplement and detail the provision of the procurement law, and do not contradict the law</p>	
Conclusion: Substantive gap	
Red flag: No	
<p>Qualitative analysis</p> <p>Federal: The Federal legal framework applies to Federal agencies in all sectors, including the road sector. There are no road sector-specific regulations in addition to the Federal legal procurement framework.</p> <p>‘Regulation’ is a legislative document issued by Council of Ministers for implementation of the PPL. The only such procurement-related instrument issued is Regulation No 184/2010, which establishes the Central Body (Public Procurement and Property Disposal Service) for Large Value Procurement as required by A.60.1 of the PPL. The PPL is supplemented and further elaborated by a comprehensive directive (PPD) issued by the Ministry of Finance in June 2010, as amended (on specific provisions in (1) July 2014 (registered as public procurement directive amendment number 256/2013), (2) issued in January 2016 (registered as public procurement directive amendment number 258/2013), (3) issued in December 2016 (registered as public procurement directive amendment number 260/2013), (4) issued in July 2019 (registered as public procurement directive amendment number 264/2013) and through circulars issued on 04/03/2021, 12/07/2021, 05/10/2021, 21/04/2022 & 06/06/2022 G.C.).</p> <p>PPD is available to download from the Authority’s website¹⁷ but the amendments and circulars are not all found in the website. There are no specific implementing regulations dedicated to Road sector. The PPD is generally clear, however, there is not always full alignment between the PPL and the PPD (see indicator 1(a)(a)). Similarly, other Federal ministries/public bodies have issued directives/circulars with impact on procurement.</p> <p>Circulars are legislative instruments that are frequently issued by Ministry of Finance or/and the Authority, for providing clarifications on specific articles of the PPD or the standard bidding documents that are reported by public bodies and/or private sector parties as being ambiguous. In general, the Ministry of Finance issues circulars on public procurement¹⁸. But in practice, other Ministries and other public bodies also issue circulars, letters or similar advisory documents concerning public procurement issues or having a direct impact on public procurement system in general or for the issuing public body itself. In this respect, the position of circulars in the hierarchy of laws is not clear. They can modify a directive or standard bidding documents depending on the specific purpose they are issued for, though such purpose is not always clearly stated in the circular itself. This practice of de-facto amending a higher-level rule like the PPD, makes the place of circulars in the hierarchy of laws unclear. The Federal legal procurement framework, including the PPD, apply to procurement procedures in road sector.</p>	

¹⁷ http://www.ppa.gov.et/index.php?option=com_joomdoc&view=documents&path=procdirectives%2Fpublicprocurementdirectiveenglishpdf&Itemid=263

Addis Ababa: Same as for federal. No specific regulations for the Road sector are issued.
Gap analysis The Federal PPD that applies to the road sector contradicts the PPL in different areas (see also analysis under indicator 1(a)(a)). The main issue continues to be inconsistency between circulars, directives, or similar advisory documents and primary legislation. In many cases, the lower-level documents alter the higher legislation. For example, the circular issued by Ministry of Finance on 4 March 2021 G.C. allowing contract price adjustment (due to high inflation) even for contracts that did not include a price adjustment clause goes against the provisions of the PPD (A.16.14.3) which states that price adjustment are allowed in respect of works contracts after 12 months from the effective date of such contracts, where it is confirmed that in respect of works contract, the performance of the contract requires more than 18 months. In other cases, the circulars deviate from the PPL. For example, a letter providing that certain procurement can be done through restricted bidding if they are manufactured by more than one manufacturer in Ethiopia, and through direct procurement if the above-mentioned items are manufactured by one supplier only. In some cases, the circulars de facto amend the PPD provisions, making their position in the legal hierarchy unclear. They have the de-facto authority (not authorized by any law) to modify a directive or standard bidding documents based on the specific purpose for which they are issued, though this purpose is not always clearly stated in the circular itself.
Recommendation Identify and remove the inconsistencies between the PPL and PPD. Circulars should not be used to amend the PPD. All amendments to PPD should be named and numbered as such and preferably be consolidated in one document.
Assessment criterion 2(a)(b): The regulations are clear, comprehensive and consolidated as a set of regulations readily available in a single accessible place
Conclusion: Substantive gap
Red flag: No
Qualitative analysis Federal: PPD is generally clear, however, there is not always full alignment between the PPL and the PPD (see indicator 1(a)(a)). PPD can be amended through formal amendments or circulars issued by the Authority, which do not cross refer to a specific PPD provision. For example, the Authority has issued four (4) circulars ¹⁹ about price adjustment which is regulated in the PPD. Some of these circulars introduce changes to the PPD provisions on price adjustment. The Federal PPD applies to Road sector. Addis Ababa: The Directive is a document in two parts with the main section and annexes found in separate documents. The annexes provide different templates including reporting templates, bid security etc. It also provides table on bid floating times, a list of common user items, etc. It lacks provisions on participation of SOEs, abnormally low bids, unbalanced bid, eligibility and exclusion grounds. The legal procurement documents including the Directive are not accessible electronically.
Gap analysis Amendments and circulars with effect of amending the PPD are not incorporated into the PPD document leaving it intact as was issued in 2010.
Recommendation Consider combining all PPD revisions through amendments, circular or other letters into a single comprehensive document to ensure precision and clarity on the wording and application of amended provisions and thus, facilitate practical understanding of stakeholders. Any future PPD amendments should be referred to as such and not be made through circulars.
Assessment criterion 2(a)(c): Responsibility for maintenance of the regulations is clearly established, and the regulations are updated regularly
Conclusion: Minor gap
Red flag: No
Qualitative analysis Federal: PPL A.78(1) provides that the Council of Ministers may, where necessary, issue regulations for the implementation of the PPL. PPL A.78(2) provides that the Minister (of Finance) may issue directives implementing the provisions of the PPL. The PPD was issued in 2010 and has been amended time to time through amendments or circulars leaving the old version of the PPD intact. The responsibility for maintaining the PPD is assigned to the Ministry of Finance. Addis Ababa: PPL A.67(1) provides that the Addis Ababa City Government Cabinet may, where necessary, issue regulations for the implementation of the PPL. PPL A.67(2) provides that the Bureau may issue directives implementing the provisions of the PPL.
Gap analysis The present updating process for the PPD is more reactive, addressing specific topics of importance to public bodies. There has been no frequent updating of PPD as a whole.
Recommendation Consider combining all PPD revisions through amendments, circular or other letters into a single comprehensive document to ensure precision and clarity on the wording and application of amended provisions and thus, facilitate practical understanding of stakeholders. Develop a framework for soliciting and receiving continual feedback from all stakeholders across all sectors, which will feed into PPD revisions.
Sub-indicator 2(b) Model procurement documents for goods, works and services for the sector
Assessment criterion 2(b)(a): There are model procurement documents provided for use for a wide range of goods, works and services including consulting services procured by public entities in the sector
Conclusion: Substantive gap
Red flag: No
Qualitative analysis

¹⁹ (1) Circular on price adjustment on construction inputs issued on 25/06/2013 E.C (04/03/2021 G.C) with reference number 7/ኢ/1/53/32. (2) Second Circular on Price Adjustment on Contract Administration of Works Contract (Clarification on the first circular) issued on 05/11/2013 E.C (12/07/2021 G.C)) with reference number 7/ኢ/1/53/49. (3) Circular on correcting the price adjustment formula included in clause 62.12 of the GCC, issued on 13/08/2014 E.C (21/04/2022 G.C) with reference number ሙግጎ/ሙ-1/1/342, and (4) Circular on notifying price of inputs to be used in price adjustment formula, issued on 06/06/2022 G.C

<p>Federal: PPL A.15 authorizes the Authority to issue standard bidding documents (SBDs) and approve any deviations to those. In this respect the Authority has issued SBDs for a wide range of goods, works and services including consulting services. They date back to 2011, and they can be found in the Authority’s website²⁰. For each procurement category, there are separate SBDs for international competitive bids (ICB) and national competitive bids (NCB). There are also ICB and NCB SBDs for the procurement of goods under framework agreements and for procurement of Information Systems, Textbooks and Health Sector Goods.</p> <p>In the Road sector, public bodies typically use SBDs on a Design-Bid-Build and admeasurement contract basis. Other types of contracts such as Design-Build or payments terms such as lump sum, cost plus, target cost, do not exist. The Ethiopian Roads Administration (ERA) does often modify the above SBDs for works in a way that suits the sector needs using contracts documents and contracts modeled after FIDIC conditions of contract (often the old FIDIC versions).</p> <p>Addis Ababa: The procuring entities/bodies in the City Administration use the Federal SBDs for goods, works, consulting services and non-consulting services. The use is authorized by the City Administration through the letter of 22 February 2017.</p> <p>Road sector: Same federal SBDs are used by all entities in all sectors both at federal and City levels, including in the Road Sector.</p>
<p>Gap analysis</p> <p>The current suite of SBDs does not appear to be enough to meet the needs of the Road sector. Current SBDs are best suited for traditional project delivery method Design-Bid-Build (DBB) and paid upon admeasurement (unit price). But it has limitations in terms of application for other project delivery methods Design Build, Design-Build-Operate (e.g., in case of private financing/PPPs) and payment type which would require a diverse range of contract modalities such as lump sum, cost plus, target cost etc. Life cycle costing (LCC), value engineering, or other elements that are critical to ensure value-for-money are missing from the SBDs.</p>
<p>Recommendation</p> <ul style="list-style-type: none"> - The 2011 SBDs must be evaluated and revised as needed to reflect current practices, market conditions, and changes in the sector and laws. - Create new or customized model procurement contracts that may be utilized for various project delivery methods and payment conditions (cost plus, lump sum target cost, etc.) appropriate for the Road sector, such as Design-Build and Output-Performance-Based Contracts (OPRC). - Create new or modified Request for Proposals (RFPs) for design and supervision consultancy services for both time-based and lump payment contracts.
<p>Assessment criterion 2(b)(b): At a minimum, there is a standard and mandatory set of clauses or templates, for the sector, that reflect the legal framework. These clauses can be used in documents prepared for competitive tendering/bidding</p> <p>Conclusion: Substantive gap</p>
<p>Red flag: No</p>
<p>Qualitative analysis</p> <p>Federal: PPL A.37 sets out the mandatory content of the bidding documents. PPD A.16 provides that public bodies must use the standard bidding documents prepared by the Authority, though ultimately, they must ensure that the bidding documents incorporate the contents set out in PPD. The contents listed in the PPD are detailed. The SBDs include Instructions to Bidders with information on the bidding process including evaluation and award, Statement of Requirements, General and Special Conditions of Contract and Bidding/Contract Forms including the bid submission sheet. The Instructions to Bidders and General Conditions of contract should remain unchanged, with bid data sheet and special conditions of contract reflecting the characteristics of the bidding in question. In addition, there are standard templates covering invitation to bid, bid opening and evaluation; including a bid opening checklist, minutes of bid opening, report on bid submissions and bid evaluation report. There is also a sample letter of notification of award. These are included in the Manual at Appendix 8. The general conditions of contract for NCB and ICB are the same, with the difference of foreign currency which is allowed under ICB. Standard bidding documents and contract conditions are mandatory for use in road sector contracts. They apply in under NCB and ICB.</p> <p>Addis Ababa: PPL A.29 sets out the mandatory content of the Bidding Documents. PPD A.15.3.2 provides that public bodies must use the standard bidding documents prepared by the Bureau without making any changes in the Instruction to Bidders and General Condition of Contract section of the SBDs (as already stated, reliance is placed on Federal SBDs). Changes to the procurement schedule (equivalent of data sheet) and special conditions of contract are permitted to suit the context. The Bureau has not issued any documents to be applied at City level. However, Finance Bureau has issued letter of 22 February 2017 GC instructing the use of the Federal SBDs, which is the current practice.</p>
<p>Gap analysis</p> <p>The standard conditions do not always reflect the legal framework. In some instances, e.g., ICB works, the standard conditions of contract are not compatible with the PPL and/or PPD. Below are some examples that illustrate the said discrepancies.</p> <ol style="list-style-type: none"> The SBDs for ICB works specify under ITB 14 that <i>for those inputs to the Works which the Bidder expects to provide from within Ethiopia, the prices shall be quoted in the Ethiopian Birr. For those inputs to the Works which the Bidder expects to provide from outside Ethiopia, the prices shall be quoted in a freely convertible currency. If the Bidder wishes to be paid in a combination of amounts in different currencies, it may quote its price accordingly but use no more than three currencies different from Ethiopian Birr.</i> The general conditions do not differentiate between local bidders and foreign bidders. However, the PPD at 17.4 (e & f) allows quotation of bid price in foreign currency with reference only to foreign bidders, though no explicit prevention is made on local bidders. In practice, local bidders are not allowed to quote in foreign currency the portion of contract for inputs originating from abroad. Generally, contractors including foreign contractors, face significant challenges to get paid on time especially the portion of contract in foreign currency. Payment to contractors. The PPD (A.28.5) provides for review by engineer of payment requests within 7 days and payment by public body within 14 days (21 days in total). Whereas the GC 64.5 of the ICB works contract states that the engineer has 30 days to approve the request and the public body has 90 days to pay the contractor which can be extended should the public body determine that the payment is ineligible. PPD (A.28.5.a) requires the retention money to be deducted from interim payments, but the general conditions do not specify how that deduction should happen. Also, there are inconsistencies between conditions for release of retention money and substituting it with an unconditional bank guarantee between the PPD and standard conditions of contract.
<p>Recommendation</p> <p>A review of the existing contract terms should be conducted to identify and eliminate any inconsistency with the legal framework.</p>
<p>Assessment criterion 2(b)(c): The documents are kept up to date, with responsibility for preparation and updating clearly assigned</p>

²⁰ http://www.ppa.gov.et/index.php?option=com_joomdoc&view=documents&path=SBDs&Itemid=257 (website was visited on April 13, 2023)

Conclusion: Substantive gap
Red flag: No
<p>Qualitative analysis</p> <p>Federal: PPL A.15(4) ‘Functions of the Authority’ provides that the Authority is responsible for preparing, updating, and issuing authorized versions of the Standard Bidding Documents, procedural forms and other attendant documents. The SBDs have not been updated since 2011 when they were first issued.</p> <p>Addis Ababa: PPL A.12(4) Functions of the Bureau: provides that the Bureau is responsible for preparing, updating and issuing authorized versions of the SBDs, procedural forms and other attendant documents. The Bureau has not issued SBDs nor official authorization to use the federal SBDs.</p> <p>Gap analysis</p> <p>The gaps identified in the Core MAPS report both for Federal and Addis Ababa carried out in 2021 remain relevant. The most recent available SBDs were issued in 2011, over a decade ago, and there is no practice of regular updating. In lieu of regular revision/update, the Authority issues circulars to provide temporary solutions to the challenges that procuring entities face in the Road Sector, such as the price adjustment circular, which directs public bodies on the correct formula to use instead of the formula provided in the SBDs for works. Issuing circulars to handle ad hoc demands from procuring entities or to revise SBDs is not sustainable and produces layers of legislation that are not adequately recorded in a single document.</p> <p>Recommendation</p> <p>The recommendations identified in the Core MAPS report both for Federal and Addis Ababa carried out in 2021 remain applicable. The Authority should update the SBDs by establishing a mechanism for requesting ongoing feedback from public bodies, the private sector, and other stakeholders, particularly those in highly specialized sectors such as the road sector, which should subsequently be considered and reflected in SBD revisions.</p>
<p style="text-align: center;">Sub-indicator 2(c) Standard contract conditions used in the sector</p>
<p>Assessment criterion 2(c)(a): There are standard contract conditions for the most common types of contracts and their use is mandatory in the sector</p>
Conclusion: Substantive gap
Red flag: No
<p>Qualitative analysis</p> <p>Federal: The SBDs include standard contract conditions for works, goods, consultancy services and non-consultancy services contracts. There are both general conditions of contract and special conditions of contract. PPL A.37 Bidding Documents requires the bidding documents used by public bodies to include the general and specific conditions of contract. PPD 16.3.1 requires the use of SBDs issued by Authority, and at a minimum it requires that bidding documents incorporate the content listed in the PPD. PPD 16.3.2 provides that public bodies must include the general conditions of contract [prepared by the Authority] in bidding documents without making any changes. The general conditions of contract are identified for NCB and ICB, but they are identical with exception of foreign currency provisions that are included in ICB SBDs.</p> <p>Addis Ababa: The Federal SBDs include standard contract conditions for works, goods, consultancy services and non-consultancy services contracts. There are both general conditions of contract and special conditions of contract. PPL A.27 Bidding Documents requires the bidding documents used by public bodies to include the general and specific conditions of contract. PPD 18.7.2 provides that public bodies must include the general conditions of contract in bidding documents without making any changes. In practice, the entities at City Administration level are instructed to use the Federal SBDs.</p> <p>Road Sector: The Federal SBDs, including standard conditions of contract, are mandatory for use in the Road sector. The public bodies are required to use the SBDs and RFP developed and issued by the Authority. However, given the nature of the procurement activities in the sector, there is a need for fit for purpose and customized contract terms and conditions that are aligned with the international models and norms, such as FIDIC Red Book (construction based on admeasurement unit) and Yellow Book (Design-Build and Plant), Output-based Performance Contracts (OPRC), etc. The public bodies in the Road sector are often forced to modify the contract provisions to their needs.</p> <p>Gap analysis</p> <p>The Authority has not issued contract conditions that can be applied for road works procured through Output and performance Based Road Contracts (OPRC) and Design-Build project delivery method. Often Ethiopian Roads Administration (ERA) has to modify the standard documents to suit their needs. With approval by Authority, ERA uses the national standard contract conditions for maintenance works; FIDIC conditions of contract (Red Book), the 1987 (reprinted 1992); the FIDIC Plant, Design and Build, 1995 edition (Orange Book), and the OPRC (Output based Performance Road Contracts) of the World Bank.</p> <p>Recommendation</p> <ul style="list-style-type: none"> - Consider development of Road sector specific standard conditions suitable for the different types of Road sector contracts.
<p>Assessment criterion 2 (c)(b): The content of the standard contract conditions used in the sector is generally consistent with internationally accepted practice</p>
Conclusion: Substantive gap
Red flag: No
<p>Qualitative analysis</p> <p>Federal: Provisions of the PPL (A.59.3) and PPD (A.17.4.g) have stipulated that public bodies should use an internationally recognized general and special conditions of contract for projects procured for use in open international bidding, to the extent that such terms and conditions are not in conflict with the Proclamation, these Directive and other documents governing public procurement. In this respect, the standard contract conditions contain provisions that are commonly found in international contracts.</p> <p>Addis Ababa: same comment as the Federal SBDs, as the City applies the federal SBDs and has not issued its own conditions of contract.</p> <p>Gap analysis</p> <p>The existing conditions of contract are not always suitable for all types of contracts in the Road sector. The federal SBDs which include the standard conditions of contract for works are based on a conventional Design-Bid-Build (D/B/B) concept and payments are made on completed inputs by the contractor (otherwise known as an admeasurement/unit contract). They have no provisions/conditions related to Design-Build, or Output-Based-Performance Contracts (OPRC) which are common for road maintenance. Despite the requirements of provisions of the PPL and PPD instructing that “public bodies should use an internationally recognized general and special conditions of contract for projects procured for use in open international bidding, to the extent that such terms and conditions are not in conflict with the</p>

Proclamation, these Directive and other documents governing public procurement”, some of the existing provisions of the standard conditions of contract are not fully in line with international good practices. Examples include the following:
<ul style="list-style-type: none"> - Price adjustment: There are contradictions between the PPD, standard bidding documents, and several circulars on this subject. Price adjustments are permitted after twelve (12) months from the effective date of the Contract if the fulfillment of the contract needs more than 18 months, according to the PPD and standard bidding documents. The application of price adjustment only after 12 months is restrictive and inconsistent with international good practices, which allow for price adjustment to be applied at any point in time, for example, using the period of 28 days prior to bid closing date with actual payment in relevant currency based on indices 49 days prior to applicable payment certificate date as the base date. Moreover, according to one of the Ministry of Finance circulars dated 4 March 2021 G.C., a public body can adopt a price adjustment Ministry of Finance on 4 March 2021 G.C. allowing contract price adjustment (due to high inflation) even for contracts that did not include a price adjustment clause. According to international norms, this practice of introducing price adjustment after inviting bids on a fixed priced basis would be unfair to bidders. - The price adjustment provision in the standard conditions also omits to include currency conversion factor Zo/Zn, in cases where currency of index is different from currency of payment. - Settlement of disputes: The contracts for ICB have no provision on alternative dispute resolution, such as, dispute adjudication board or dispute review board to settle disputes between parties, rather the require the parties to resolve the disputes amicably, and as a next step to appeal for judicial review in accordance with Ethiopian law as seen in the GCC A(67) for ICB SBD (works). This may be appropriate for domestic bidders but would likely create difficulty for foreign bidders who may prefer a more independent and objective forum for example of more technical and international character. - Rate of Progress and Termination: Contract lacks provisions for monitoring rate of work progress. There is no provision that enables the Engineer to issue notice in cases where the contractor’s rate of progress does not ensure completion of the work within the agreed duration. In the case of the international practice such as FIDIC Red Book, there is provision that entitles the Engineer to issue notice requesting the contractor to make the necessary arrangements for improving rate of progress. For example, in case of FIDIC Red Book, failure of the contractor to take measures as per the Engineer’s notice is also considered as a default that entitles the employer to terminate the contract. Under the Federal SBDs, the employer is entitled to terminate the contract after elapse of the contract time as indicated in the contract and after the maximum amount of liquidated damages is reached.
Recommendation <ul style="list-style-type: none"> - Consider expanding the suite of existing SBDs and contract conditions to allow for other suitable contract conditions, like Design-Build, OPRC (road maintenance), etc., as per international good practices. - Conduct a review of the existing contract conditions for ICB to check whether they incorporate the good international practices for contracts in road sector. - Regarding the price adjustment provisions, the following recommendations can be considered: <ul style="list-style-type: none"> o As a general rule, all long-term contracts, such as those lasting more than 18 months, should include a price adjustment clause that can be invoked at any time when costs need to be altered. o Allow for possibility of applying price adjustment provisions including for shorter duration contract due to inflationary situation and future local inflation, when expected to be high. o Any future circular, directive, advisory letter, clarification to be issued by the Authority in relation to price adjustment, should also specify the validity of previous documents on price adjustment. It would be most appropriate for the Authority to issue to public bodies a dedicated guidance note, or as part of the Manual, on application of Price Adjustment for Works Contract and withdraw all current letters, circulars, etc.
Assessment criterion 2(c)(c): Standard contract conditions are an integral part of the procurement documents and made available to participants in procurement proceedings
Conclusion: No gap
Red flag: No
Qualitative analysis Federal: The general and special conditions of contract are an integral part of the SBDs (PPL A.37, PPD A.16.3.2, PPD 16.7). They are mandatory to be included in the bidding documents. General conditions of contract should not be modified. If any modification is needed, it should be made through the special conditions of contract depending on the type and nature of the procurement with reference to the provisions of the general conditions of contract. Addis Ababa: no provisions in the legal framework about this, but since they follow the Federal SBDs, same practices apply here.
Gap analysis
Recommendation
Assessment criterion 2(c)(d): Public entities in the sector use the national standard contract conditions, if applicable, or standard contract conditions that surpass the quality of the nationally provided standard documents.
Conclusion: No gap
Red flag: No
Qualitative Analysis Federal: The Road sector public bodies utilize the standard contract conditions issued by the Authority. As noted under sub-indicators 2(c)(a) and 2(c)(b), the national standard conditions of contracts are not always suitable and adequate for all contract types and project delivery methods in Road sector. With approval by Authority, ERA has used the national standard contract conditions for maintenance works; FIDIC conditions of contract (Red Book), the 1987 (reprinted 1992); the FIDIC Plant, Design and Build, 1995 edition (Orange Book), and the OPRC (Output based Performance Road Contracts) of the World Bank.
Gap Analysis
Recommendation
Sub-indicator 2(d) User’s guide or manual for procuring entities in the sector
Assessment criterion 2(d)(a): There is a comprehensive procurement manual detailing all procedures for the correct implementation of procurement regulations and laws in the sector
Conclusion: Substantive gap
Red flag: No
Qualitative analysis

<p>Federal: The Authority publishes Manuals, including the Public Procurement Manual (December 2011), Manual on Public Procurement Complaint Procedure (April 2011) and Manual on the use of Framework Agreements (May 2011). The Public Procurement Manual is quite comprehensive. The manual guides the users how to prepare a procurement plan including packaging, open/close bids, evaluate bids, etc. However, there is no manual providing specific guidance on road sector projects.</p> <p>Addis Ababa: Addis Ababa City Administration published a procurement manual (2011), which is comprehensive.</p> <p>Road Sector: The procurement manuals issued by Federal Government and Addis Ababa City Administration apply to road sector procurement at both levels. No sector specific procurement manual exists.</p> <p>Gap analysis The gaps identified in the Core MAPS report under sub-indicator 2(d) both for Federal and Addis Ababa carried out in 2021 remain valid. The Federal-level Manual elaborates on the procurement procedures process but in some cases, it expands upon provisions in the PPL or PPD or introduces provisions which are more properly placed in primary or secondary legislation. The Manual is very generic. Procedure on price adjustment is not detailed, inter alia how the price indices and various parameters in the price adjustment formula can be managed to arrive at a reasonable outcome.</p>
<p>Recommendation</p> <ul style="list-style-type: none"> - The Manual should be aligned with the PPL and the PPD. - The Authority, in collaboration with normative technical bodies, will determine whether a road sector-specific manual would be helpful in providing guidance to public bodies in the sector.
<p>Assessment criterion 2(d)(b): Responsibility for maintenance of the manual is clearly established, for the sector, and the manual is updated regularly</p>
<p>Conclusion: Substantive gap</p>
<p>Red flag: No</p>
<p>Qualitative analysis Federal: The responsibility for maintenance of the Manual is clearly established. PPL A.78(3) provides that the Authority shall issue manuals. The Public Procurement Manual has not been updated since 2011. Addis Ababa: PPL A.12.4 assigns the responsibility to issue SBDs, procedural formats, and any other attendant documents to the Bureau. There has been no updating of the manual since 2011.</p>
<p>Gap analysis The Manual has not been updated since its issuance in 2011. The Manual appears to elaborate on the provisions to expand on the PPL and PPD.</p>
<p>Recommendation</p> <ul style="list-style-type: none"> - The Manual should be aligned with the PPL and the PPD and it should be updated regularly. - Consider establishing a feedback loop system through which the Authority can timely update the procurement manuals to reflect the market conditions, provide clarity and guidance on issues identified during monitoring and oversight. - The Authority together with normative technical bodies to assess whether road sector specific manual would be helpful to provide guidance to public bodies in the sector. In the alternative, any future revisions of the procurement manual could also include a dedicated chapter on the road sector's specific procurement requirements.
<p>Assessment criterion 2(d)(c): A sector specific user's guide or manual, if any, is consistent with the user's guide or manuals provided within the procurement framework of the country</p>
<p>Conclusion: No gap</p>
<p>Red flag: No</p>
<p>Qualitative analysis There is no sector specific user's guide or manual for road sector. The Federal-level Manual issued by the Authority is applicable to all procurement procedures in Road sector by federal agencies. The procurement manual issued by the City applies to Road sector procurement procedures carried out by the City entities.</p>
<p>Gap analysis</p>
<p>Recommendation</p>

SLA-Indicator 3. The legal framework applicable to the sector reflects the country's horizontal policy objectives and international, including regional and sub-regional obligations

Sub-indicator 3(a)
Existence of sectorial policies and strategies that are clear and well-articulated to facilitate the determination of sector procurement needs
<p>Assessment criterion 3(a)(a): The sector has a clear and well-articulated sectorial development strategy accompanied by the related operational documents, for the medium and long term</p>
<p>Conclusion: Minor gap</p>
<p>Red flag: No</p>
<p>Qualitative analysis Federal: The Government of Ethiopia has well recognized that limited road network coverage and poor condition of the existing road network has been an impediment to economic recovery and economic growth. To address the problems in the road sector, the Government has launched a strategy called the Road Sector Development Program (RSDP) in 1997. Since then, four phases of RSDP were implemented over the period of 1997 – 2015 and the fifth phase; RSDP V has been implemented since July 2015 though planned to be completed in 2020. The assessment team is informed that the planned activities under Fifth Phase of RSDP which is also known as GTP II (The second Growth and Transformation Plan) are not fully implemented within the planned period due to shortage of budget. The RSDP is implemented by dividing plan of each RSDP for 5 years and it is accompanied by operational document for implementing each phase of the RSDP. Moreover, ERA has prepared a 10 year- development plan for the year (2021 to 2030) which is aligned with the 10 years development plan of the country.</p>

<p>ERA has various working manuals²¹ being used in operationalizing the different aspects of the work specified in the strategy document and work plans. In addition, ERA uses the national Standard Bidding Document and FIDIC Conditions of contracts which are relevant for operationalizing the strategy document. There are also quality manuals (Feasibility study and Design, Environmental and Social management, construction management etc.).</p> <p>Addis Ababa: There is Addis Ababa Transport Policy ²²issued in 2019 by Addis Ababa Transport Bureau, which however is only found in draft version. There is also Addis Ababa Non-Motorized Transport Strategy (NMTS)(2019-2028) prepared by Transport Programs Management Office which gives due attention to pedestrians, bicycle greenery, public transport, intersection improvements, parking management and roadside vendor management. NMTS plan is taken in to account in preparing the Transport policy. AACRA has also prepared a 10-year Strategic Plan (2019-2028). Yearly plans are prepared from this10-year plan ACRA has also prepared Standard Design documents and different manuals being used in operationalizing the strategic plan.</p>
<p>Gap analysis The 10-year plan of ERA is not officially approved yet, as ERA is still implementing the unaccomplished activities planned in RSDP V.</p>
<p>Recommendation ERA needs to get an official approval of the strategic plan and start implementation</p>
<p>Assessment criterion 3(a)(b): The principal types of public procurement as well as their technical requirements or characteristics, are identified in the sectorial strategy or in the applicable sector operational documents</p>
<p>Conclusion: Minor gap</p>
<p>Red flag: No</p>
<p>Qualitative analysis The 10 years road sector strategic plan has identified the 10 years procurement need of the sector and has articulated its plan for medium and long term. The plan is classified in the following periods:-</p> <ul style="list-style-type: none"> • 2021 to 2025 to construct and maintain roads with total length of 131,879 km road • 2026 to 2030 to construct and maintain roads with total length of 193,506 km <p>The type of works planned in each of the five years plan includes upgrading of road standards, construction of new expressway roads ,construction of new roads, heavy and regular maintenances of existing roads, construction of bridges, conducting feasibility study and Environmental impact assessment and capacity building of stakeholders in the road sector.</p> <p>The RSDP also identifies the type of project delivery methods to be used in implementing the projects. In addition to the commonly practiced Design-Bid-Build and Design-Build project delivery methods, the RSDP V has included to procure some projects through Design-Build-Maintain (DBM) method.</p> <p>The National Road Policy mentions use of alternative project delivery methods including PPP as means for achieving financial and economic sustainability in road sector investment.</p> <p>Addis Ababa: The 10-year Strategic Plan has indicated PPP modality as one of the implementation modalities. The different contracting strategies like DB, DBO, BOT, BTO, DBFO, BBT are presented as options in implementing PPP. In a section of the 10-year plan, target is set to build there (3 roads) in PPP modality. The principal procurement types are identified in the 10- and 5-year strategic plan (2015-2024 GC). The Strategic plan along with ACRA 10-year plan (2015-2024 GC) identifies the procurements to be executed in the plan period.</p>
<p>Gap analysis: Road sector is one of the two sectors (with Energy) selected to start delivery of projects through PPP mechanism at the federal government level. Unlike the energy and other sectors (Health, Housing) which have finalized feasibility studies and embarked on procurement, no project in the road sector has yet crossed preparation stage and entered bidding stage. Besides, PPP is not yet adopted in Addis Ababa City Administration and in other regional states.</p>
<p>Recommendation Finalize preparation and start implementing road projects in the pipeline through PPP modality, where feasible. Adopt PPP arrangement including legal framework, structure and capacity in the sector at regional and city administration level, as appropriate and where feasible.</p>
<p style="text-align: center;">Sub-indicator 3(b) Sustainable Public Procurement (SPP) in the sector</p>
<p>Assessment criterion 3(b)(a): The country has a policy/strategy in place to implement SPP in support of broader national policy</p>
<p>Conclusion: Substantive gap</p>
<p>Red flag: Yes</p>
<p>Qualitative analysis Federal: Some elements of sustainability (economic, social and environment) are reflected in the PPL (A.25) by providing opportunities for small and micro enterprises by preferential schemes and price preference for domestic goods and domestic contractors/consultants. The legal provisions address “life-time approach” (life-cycle costing) (A.65). PPD A.9(1)(f) requires a public body, when identifying its procurement needs, to take into account that “the procurement need is environmentally friendly”. PPL A.25 provides that where evaluation of bids results in the award of equal percentage points for bidders offering similar price and quality, preference shall be given to local goods (at least 35% from Ethiopia), services, or companies. PPD A.16.20 goes into further detail. It provides the various margin of preference applied for different categories²³ of procurement. Additional price preference for small and micro enterprises is 3% where such enterprises compete with local suppliers in national competitive bidding. This additional price preference does not apply to international competitive bidding where local contractors are awarded a price preference of 7.5%. Small and micro enterprises may submit a letter of guarantee in lieu of bid security, performance security or advance payment guarantee. The small and micro enterprises shall be entitled to obtain bidding documents free of charge.</p> <p>The 10 year-strategic plan of the road sector has included a section to enhance participation of local contractors and consultants in implementing the sector’s plan which is considered essential for job creation and local economic development. During the assessment period, two individual consultants were hired by PPPA with support from the World Bank to study the opportunities and challenges to implement SPP which, as per the information from PPPA, will be used as input to develop SPP strategy/policy. However, the country has not yet developed comprehensive sustainable public procurement strategy/policy in support of broader national policy objectives.</p>

²¹ https://www.era.gov.et/en_US/web/guest/design-manual

²² SLA Team has copies of all these policy documents, but electronic copies are not found online.

²³ 25% for drugs, pharmaceutical products; medical equipment (provided for in the Directive, and not in the PPL); 15% for other products; 7.5% for construction and for consultancy services.

<p>Also of relevance to sustainability in the Road sector is ‘Ethiopia Climate Resilient Transport Sector Strategy” approved in January 2015 which is an overarching document about the country’s transport sector. The strategy has identified in relevant parts, the emission reduction opportunities as follows:</p> <ol style="list-style-type: none"> 1. Reduction of operational emissions by updating road and rail construction processes by Ethiopian Roads Administration and Ethiopian Railway Construction; and <p>Introduction of high albedo²⁴ pavement blends to road construction and resurfacing schedules by Ethiopian Roads Administration.</p> <p>Addis Ababa:</p> <p>There is no evidence of a policy/strategy in place to implement SPP in support of broader national policy objectives. There is, however, in place an incentive scheme for the benefit of SMEs. The legal provisions address “lifetime approach” and environmentally friendly procurement only at a high level. There is also an incentive to use locally manufactured goods/ local contractors etc. and SMEs, which is intended to provide jobs to young graduates. According to PPL A.17.4, locally manufactured goods are those that have 35% value addition in Ethiopia. PPD A.15.2 provides preferences to goods manufactured locally, local contractors, Consultants and SMES as follows: procurement of drugs and medical equipment 25% price preference; other procurement of goods 15%; on works procurement and consultancy services 7.5%. In addition, 3% is added to the preference in respect to SMEs.</p> <p>Gap analysis</p> <p>There is currently no comprehensive sustainable public procurement policy/strategy in place to implement sustainable public procurement (SPP) in support of broader national policy objectives and thus no implementation plan or systems and tools to operationalize, facilitate and monitor the application of SPP. The few environmental, social and economic factors now permitted, originate from the legislation and are mainly in the form of price preference during evaluation. There are no established targets for contract awards to SMEs or other groupings. There is little information on the consistency with which the existing measures are applied.</p> <p>Recommendation</p> <p>Develop a comprehensive SPP Strategy/Policy as well as a supporting plan to implement SPP (economic, environmental (including climate considerations) and social (including gender equality and responsiveness) in support of broader national policy objectives and reflecting national priorities. Revise the legal framework to provide for sustainability among the core procurement principles and objectives. Also, put in place mechanisms for implementation of the environmental, social and economic dimensions of SPP throughout the procurement cycle, starting from identification of procurement needs, to planning, drafting of technical specifications, evaluation and contract execution.</p> <p>Assessment criterion 3(b)(b): The SPP implementation plan is based on an in-depth assessment of appropriate tools and systems that are in place to operationalize, facilitate and monitor the application of SPP</p> <p>Conclusion: Substantive gap</p> <p>Red flag: No</p> <p>Qualitative analysis</p> <p>There is no SPP implementation plan in place because there is no SPP policy adopted yet. The few existing sustainability measures are mainly in the form of price preferences during bid evaluation.</p> <p>Gap analysis</p> <p>SPP implementation plan does not exist.</p> <p>Recommendation</p> <ul style="list-style-type: none"> - See recommendations under 3(b)(a) above regarding adoption of a national and comprehensive SPP policy/strategy and an implementation plan. <p>Assessment criterion 3(b)(c): The legal and regulatory framework allows for sustainability (i.e. economic, environmental, and social criteria) to be incorporated at all stages of the procurement cycle</p> <p>Conclusion: Substantive gap</p> <p>Red flag: Yes</p> <p>Qualitative analysis</p> <p>Federal: There is no policy/strategy in place to implement SPP in support of broader national policy objectives. However, some elements of sustainability (economic, social and environment) are permitted by the PPL and PPD. Some of those provisions address “life-time approach” (life-cycle costing) (A.65), price preferences to SMEs, domestically produced goods, domestic contractors and consultants. Furthermore, the PPD A.9(1)(f) requires a public body, when identifying its procurement needs, to take into account that “the procurement need is environmentally friendly”. PPL A.25 provides that where evaluation of bids results in the award of equal percentage points for bidders offering similar price and quality, preference shall be given to local goods (at least 35% from Ethiopia), services, or companies. PPD A.16.20 goes into further detail. It provides the various margin of preference applied for different categories²⁵ of procurement. Additional price preference for small and micro enterprises is 3% where such enterprises compete with local suppliers in national competitive bidding. This additional price preference does not apply to international competitive bidding where local contractors are awarded a price preference of 7.5%. SMEs may submit a letter of guarantee in lieu of bid security, performance security or advance payment guarantee. The SMEs shall be entitled to obtain bidding documents free of charge.</p> <p>PPD A.16.20 also sets out details on conditions which must be satisfied, such as on the calculation of the 35% of value added in Ethiopia, and how local companies engaged in construction or consultancy services qualify for preference. The following conditions must be satisfied for local companies engaged in Construction or Consultancy Services to qualify for preference:</p> <ol style="list-style-type: none"> a) The company has to be incorporated in Ethiopia. b) more than fifty per cent of the company’s capital stock has to be held by Ethiopian natural or juridical persons. c) more than fifty per cent of members of the board of the company have to be Ethiopian nationals. d) At least fifty per cent of the key staff of the company must be Ethiopian Nationals.

²⁴ High-albedo concrete is a special type of pavement that reflects more light than dark-colored materials due to its lighter color, which helps to maintain a lower surface temperature. The strategy has included various measures in protecting the environment during construction of road infrastructures.

²⁵ 25% for drugs, pharmaceutical products; medical equipment (provided for in the Directive, and not in the PPL); 15% for other products; 7.5% for construction and for consultancy services.

Currently, standard conditions of contract incorporate only a few labor and employment aspects.
Addis Ababa: PPD A.9(1)(f) requires a public body, when identifying its procurement needs, to take into account that “the procurement need is environmentally friendly”. There is also an incentive to use locally manufactured goods, local contractors/consultants and SMEs.
Gap analysis The gaps identified in the MAPS Core methodology assessment under indicator 3(a) both for Federal and Addis Ababa carried out in 2021 remain valid. See the gaps identified under indicators 1(d)(c) and 3(b)(a).
Recommendation The recommendations identified in the MAPS Core methodology assessment both for Federal and Addis Ababa carried out in 2021 remain valid. <ul style="list-style-type: none"> - Revise the legal framework to provide for sustainability among the core procurement principles and objectives. Also, put in place mechanisms for implementation of the environmental, social and economic dimensions of SPP throughout the procurement cycle, starting from identification of procurement needs, to planning, drafting of technical specifications, evaluation and contract execution. - Use existing enabling provisions in the legal framework to implement specific SPP elements. Preference for small and micro enterprises, for example, price preferences, promotion of environmentally friendly goods through the development of environmentally/climate friendly specifications, use of life cycle costing in bid evaluation, use of rated criteria related to SPP aspects, application of Economically Most Advantageous Tender (EMAT) as contract award criteria for all procurement, introduction of contractual terms that elaborate on environmental and social aspects, employment and labor standards, health and safety, gender-based violence obligations, subcontracting arrangements. - The Authority could develop guidelines, toolkits, standard bidding documents, and other tools to help public bodies incorporate environmental, social, and economic factors throughout the procurement cycle. It is advisable to share experience from other countries and international institutions on the priorities, modalities and tools for implementing SPP.
Assessment criterion 3(b)(d): The legal provisions require a well-balanced application of sustainability criteria to ensure value for money
Conclusion: Substantive gap
Red flag: No
Qualitative analysis Federal: The legal provisions address life cycle costing and environmentally friendly procurement only at a high level. There is no guidance how to operationalize these provisions at the procurement activity level. The PPL includes ensuring of value for money as a procurement principle. The PPD also stipulates Economically Most Advantageous Tender (EMAT) as one of contract award criteria though that is limited to consulting services. There is no guidance when and how to apply EMAT when using sustainability and other non-price criteria for goods, works or non-consulting services. Some requirements that are linked to environmental standards are to be applied during the construction stage, but the impact on environment as externality is not stipulated as a criterion for bid evaluation. <p>Addis Ababa: There are no specific provisions in the legal framework relating to sustainability. However, there is incentive for SMEs. PPD (A.15.20.5) gives a 3% price preference to SMEs during national competitive bids, as well as requirements for bid security is relaxed for SMEs.</p>
Gap analysis The legal provisions address the few sustainability considerations only at a high level and do not address the issue of well-balanced application of sustainability criteria to ensure value for money.
Recommendation <ul style="list-style-type: none"> - The Authority could develop guidelines, toolkits, standard bidding documents, and other tools to help public bodies incorporate environmental, social, and economic factors throughout the procurement cycle and how to balance them with value for money principles. Countries around the world have devised a variety of techniques to incorporating sustainability into public procurement.
<p style="text-align: center;">Sub-indicator 3(c) Environmental and Socio-economic development aspirations</p>
Assessment criterion 3(c)(a): The country has a policy/strategy in place to implement its socio-economic development aspirations, as defined herein, in support of broader national policy objectives
Conclusion: No gap
Red flag: No
Qualitative analysis Federal: A ten- year development plan from 2021 to 2030 was prepared by the Ministry of Planning and Development. The development plan clearly articulates the past economic performance and its major challenges and propose a home-grown economic reform (HGER) in a bid to implement the economic development aspirations of the country. Moreover, one of the main targets in the development plan, inter alia, is to increase socio-economic development and resilience capacity from 50% to 90%. The ten-year development plan has properly identified past development deficiencies and challenges and set clear plan for future sustainable development goals in all forms – economic, social, environmental, administrative, and institutional. <p>The gender and social inclusion section of the development plan has the objective of empowering various sections of the society and enabling them to benefit from economic development through skills development, capacity building and equitable participation.</p> <p>Additionally, the plan includes various main targets set to achieve the ten-year road resource development plan and transport sector development plan which also includes the road development with the aim of enhancing the socio-economic development aspirations of the country.</p> <p>The ten-year Perspective Development Plan of the country identifies transport as one of the enabling sectors and states the objectives in this regard to be</p> <ul style="list-style-type: none"> • Ensure equitable access to transport infrastructure and services • Improve transport safety • Make logistics services fast and reliable • Build transport infrastructure and service that is resilient to climate change <p>The National Road Policy in support of these objectives has indicated mechanisms and implementation directions for Financial and economic sustainability of road investment, sustainability in environmental and climate resilience, social sustainability and implementation capacity building.</p>

Gap analysis
Recommendation
Assessment criterion 3(c)(b): The implementation plan for the socio-economic initiatives is based on an in-depth assessment and appropriate tools and systems, clearly defined, are in place to operationalize, facilitate and monitor their application
Conclusion: Minor gap
Red flag: No
Qualitative analysis The 10 year-plan of the road sector is prepared after conducting an in depth assessment on performance of the sector in implementing the previous Road sector development plans, Strength, Weakness, Opportunity and Threat (SWOT) analysis of the sector, lesson learnt in implementing the previous Road Sector Development Plans and stakeholders analysis. The plan has clearly defined what is to be achieved in the 10 years plan. The targets are identified by time frame and it has defined monitoring & evaluation system. The governance system for monitoring and evaluation is devised in three tiers that include monitoring at zone and wereda level (level 1), monitoring at regional government level (level 2) and monitoring at Federal Government Level (level 3). Participants to involve in each level of monitoring and their role is identified in the plan.
Gap analysis The 10 years plan specified above not yet approved during the assessment, and implementation not started. In addition, the assessment team has not been able to locate and review tools and systems developed to operationalize and monitor application.
Recommendation Approve the 10 year’s plan and also develop necessary tools and systems to operationalize and monitor the implementation of the plan.
Assessment criterion 3(c)(c): The legal and regulatory framework permits the consideration of sustainability criteria in public procurement
Conclusion: Minor gap
Red flag: No
Qualitative analysis To the extent this relates to SPP, the criteria is repetitive of criteria under sub-indicators 1(d)(c) and 3(b)(c). Please see analysis under sub-indicators 1(d)(c) and 3(b)(c).
Gap analysis To the extent this relates to SPP, see input under sub-indicators 1(d)(c) and 3(b)(c).
Recommendation To the extent this relates to SPP, see input under sub-indicators 1(d)(c) and 3(b)(c)
Assessment criterion 3(c)(d): The legal provisions are consistent with primary objectives of public procurement and ensure value for money
Conclusion: Minor gap
Red flag: No
Qualitative analysis To the extent this relates to SPP, see input under sub-indicator 3(b)(d).
Gap analysis See input under sub-indicator 3(b)(d).
Recommendation See input under sub-indicator 3(b)(d).
<div>Sub-indicator 3(d)</div> <div>Obligations deriving from international, regional/sub-regional agreements applicable in the sector</div> <div>Public procurement-related obligations deriving from binding international, regional and sub regional agreements relating to the sector are:</div>
Assessment criterion 3(d)(a): clearly established
Conclusion: No gap
Red flag: No
Qualitative analysis According to article 9(4) of the Constitution of Ethiopia 1994 all international agreements ratified by Ethiopia are an integral part of the law of the land. International agreements and treaties are adopted and ratified as proclamations.
Gap analysis
Recommendation
Assessment criterion 3(d)(b): consistently adopted in laws and regulations and reflected in procurement policies
Conclusion: Minor gap
Red flag: No

<p>Qualitative analysis</p> <p>The assessment did not identify agreements that included procurement related obligations. Legal procurement framework does not make mention to any international agreement or obligations arising from such agreements.</p> <p>Procurement framework does not make mention to any international agreement or obligations arising from such agreements. Similarly, it is not clear from where the thresholds for international competitive bidding are coming.</p> <p>Ethiopia is a member to the Agreement Establishing the African Continental Free Trade Area (AfCFTA). Member States of AfCFTA are working on harmonization of public procurement policies. Accordingly, a continental procurement policy is planned to be developed to ensure that procurement policies are in harmony. AfCFTA will develop a model law that can be adopted by member states.</p> <p>Ethiopia signed the United Nation Convention against Corruption (UNCAC) on 10 December 2003, and through Proclamation no 544/2007 on 26 November 2007. UNCAC calls for:</p> <ul style="list-style-type: none"> • Article 9 (1) (a) of UNCAC, calls for the “public distribution of information relating to procurement procedures and contracts, including information on invitations to tender and relevant pertinent information on the award of contracts, allowing potential tenderers sufficient time to prepare and submit their tenders”. • Article 9 (1) (b) of UNCAC, calls for the “establishment, in advance, of conditions for participation, including selection and award criteria and tendering rules, and their publication”. <p>The African Union Convention on Preventing and Combating Corruption is another international agreement with impact on procurement. Member states of this Convention undertake to adopt legislative measures to create, maintain and strengthen their procurement system and management of public goods and services. The UN Convention for Anti-Corruption provides that parties undertake to establish appropriate systems of procurement based on transparency, competition, and objective criteria to prevent corruption.</p> <p>In addition, Ethiopia is also a member state of the African Union whose headquarters are hosted by Ethiopia in Addis Ababa. As its member. Ethiopia can benefit from the AU’s work, for example of the New Partnership for Africa’s Development (NEPAD) Authority, which is the implementing arm for the AU’s Agenda 2063 development strategy. NEPAD’s structure includes several committees that are complemented by various panels, such as procurement and recruitment as well as directorate and division level quality assurance task teams.</p>
<p>Gap analysis</p> <p>International agreements and conventions are ratified through proclamation, however obligations that emanate from the agreements and convention are not consistently adopted to the public procurement legislations</p>
<p>Recommendation</p> <p>Consider adoption of obligations that emanate from the agreements and convention in to public procurement laws and regulations</p>

Pillar II. Institutional Framework and Management Capacity

SLA-Indicator 4. The public procurement system is mainstreamed and well-integrated with the public financial management system at the sector level

Sub-indicator 4(a) Procurement planning and the budget cycle in the sector The legal and regulatory framework, financial procedures, and systems for the sector, provide for the following:
<p>Assessment criterion 4(a)(a): Annual or multi-annual procurement plans are prepared for the sector, to facilitate the budget planning and formulation process and to contribute to multi-year planning</p>
<p>Conclusion: Minor gap</p>
<p>Red flag: No</p>
<p>Qualitative analysis:</p> <p>Procuring entities in the road sector prepare formal procurement plan after getting the approved budget, which is proclaimed through Federal Negarit Gazetta. Though the formal procurement plan is prepared after getting the approved budget, estimates of works, services and goods are used as an input for budget planning.</p> <p>MoF issued a five year Macroeconomic and Fiscal Framework (MEFF) from 2022/23 to 2026/27 dated March 2022 that provides an estimate on the budget for the period of five years for major areas of expenditure such as capital and recurrent, among others. The MEFF is prepared to use the government resources based on the current macro-economic condition and capacity of the public bodies comprises a rolling plan for the period from 2022/23 to 2026/27. The Federal Financial Administration Proclamation No 648/2009 under A.19 states the MEFF shall cover three consecutive years and contain, inter alia: estimates of all revenue, estimates of capital and recurrent expenditure.</p> <p>The current practice of budget planning and formulation is conducted based on the Federal Government Budget Administration Directive number 2/2003, Article 7; which require public bodies to prepare the following and use it as input to develop their budget and submit the upcoming year budget need until Tir (January) 30 of the corresponding current year: -</p> <ul style="list-style-type: none"> • Preparing estimated expense necessary to develop budget • Conduct evaluation on the public bodies Half year performance or budget utilization • Prepare work plan and related activities <p>Procuring entities in the road sector conduct the budget planning and formulation as per the procedure laid in the Budget Administration Directive, i.e through preparing estimated expenses (including necessary estimate of the capital budget for procurement of new contracts and payment to be effected for contracts under implementation).</p>

As stated in the CORE MAPS the project Administration and management proclamation number 1210/2020 (which was draft proclamation at the time of conducting the CORE MAPS) is proclaimed, which enter in to force as of July 29/2020. The Proclamation has introduced public projects Administration and management System in which project identification, developing project concept notes, preliminary screening, preparation of pre-feasibility and feasibility studies, appraisal of feasibility studies, prioritization, selection, budgeting, implementation and ex-post evaluation of public projects as well as identifying and determining the duties and responsibilities of different project implementing bodies is managed;

Article 17(7) of the proclamation require project implementing bodies to prepare a project implementation plan, based on their feasibility study, for projects which have been selected and prioritized, and submit the same to the Planning and Development Commission for recommendation;

Project Implementation Plan is a physical and financial implementation plan required to be prepared by project implementing bodies for a project which has been appraised and confirmed to be viable, prioritized and selected for budgeting, in order to make sure that the necessary preconditions have been met for implementation before budgeting;

Article 19(3) of the proclamation has stated the following among powers and duties of the Ministry of Finance: “Based on the project prioritization, recommendation and the implementation plan submitted by the Planning and Development Commission, ensuring that new projects are included in the budget, and monitoring their approval at different levels”;

Furthermore Article 17 (9) of the proclamation require project implementing bodies to prioritize Government Projects which have been included in annual budget or revise the implementation plan submitted upon their inclusion in annual budget and submit the final implementation plan to the Ministry of Finance and the Planning and Development Commission within one month of the commencement of the budget year;

Therefore, the legal framework requires annual or multi-annual procurement plans (as part of Implementation plan) to be prepared for facilitating the budget planning and formulation process and to contribute to multi-year planning,

The planning and development commission has so far received feasibility study of 250 projects from different project implementing bodies. The budget for this projects will be allocated, if found feasible, for the 2016 E.C Budget Year. Hence the use of procurement plan (as part of the implementation plan) will be used as an input for the budget planning and formulation process, as of the 2016 E.C Budget Year.

Note:

Proclamation 1263/2021 has established Ministry of Planning and Development is established as one of the Ministries. The powers and duties entrusted to the Planning and Development Commission under other laws (which includes the powers and duties entrusted by Proclamation 12120/2020) that are currently in force are vested in the Ministry of Planning and Development established, as stipulated under Article 28(2) of proclamation number 1263/2021). The rights and obligations of Planning and Development Commission are transferred to Ministry of Planning and Development, pursuant to Article 106 (8) of proclamation number 1263/2021).

Gap analysis

- Annual or multi-annual plans are prepared for the sector, to facilitate the budget planning and formulation process but the annual plans are not prepared using typical procurement plan template and misses important information like proposed procurement method and time frame for milestone activities.
- The CORE MAPS has identified absence of legal requirement to submit a feasibility study as Gap, however currently the legal requirement to submit feasibility study is included in the project Administration and management proclamation number 12120/2020, though it is not practiced for the budget formulation so far. Hence the gap in this regard is lack of enforcing the legal requirement.
- lack of enforcing the legal requirement: though formal procurement plan is not used to feed the budget formulation, the criteria is considered as partially met as Public bodies used to prepare estimated expense necessary to develop budget, which is in line with requirements of the Federal Government Budget Administration Directive number 2/2003. Moreover enforcing the already enacted project Administration and management proclamation number 12120/2020 will help to include formal procurement plan as part of implementation plan, as indicted in the below recommendation.

Recommendation

- Facilitate enforcement of provisions in the project Administration and management proclamation number 12120/2020, that require project implementing bodies to prepare a project implementation plan, which is a physical and financial implementation plan of a project which has been appraised and confirmed to be viable, prioritized and selected for budgeting, in order to make sure that the necessary preconditions have been met for implementation before budgeting.
- Ministry of Planning and Development to ensure inclusion of formal procurement plan as part of project implementation plans, submitted by project implementing bodies, in relation to projects prioritized and selected for budgeting; so that the procurement plan will be used as an input in the process of planning and budget formulation.

Assessment criterion 4(a)(b):

Budget funds for the sector are committed or appropriated in a timely manner and cover the full amount of the contract (or at least the amount necessary to cover the portion of the contract performed within the budget period)

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis:

Budget funds for the sector are committed through proclamation that enter into force as of 8th July of every year. For example the budget fund for the Ethiopian Fiscal Year 2015 (2022/2023) is proclaimed and published on the website of MOF, <https://www.mofed.gov.et/resources/budget/>.

Accordingly, the Government of Ethiopia has allocated a total amount of 786.61 Billion Birr to meet its commitments and provide services to the citizens for EFY 2015 (2022/23). Out of which 563.23 Billion Birr is allocated for the Federal Government. 11.76% of the Federal Government Budget is allocated for the road sector, which is the highest share next to the 14.91% share of the Defense Sector.

Though, budget funds are theoretically expected to be released as of July 9 of every fiscal year, as indicated in the budget proclamation; In practice procuring entities do not get budget fund for the first 2 to 3 months of the fiscal year.

Road works have long contract implementation period, as a result budget funds are committed to cover the amount estimated to be spend in the fiscal year, as per the stipulation of Article 32 (3) of the proclamation 648 which reads as:- “ Notwithstanding the provisions of sub-article (2)of this Article, in the case of concluding a long-term contract relating to a project lasting for more than one fiscal year, the ascertainment of budget appropriation for the first fiscal year of the project shall be sufficient.”

However, in cases where there is a deficit of the budget fund allocated for the specific contract the procuring entities are empowered to transfer the budget from unutilized accounts. Article 4 (2) of the Budget proclamation enacted for EFY 2015 states that: “Request for budget transfer between programs administered by public bodies shall be made by the head of the public body and presented to the Ministry of Finance for approval.”

On the other hand, Article 4(3) of the Budget proclamation enacted for EFY 2015 stipulates that:” Budget transfer under program within sub programs, projects or main activities shall be made upon approval by the head of the public body. The public body shall notify such transfer to the Ministry of Finance before payment is effected.”

While the above mechanism to manage budget deficit is in place, it is common to face shortage of the necessary budget to cover the portion of the contract performed within the budget period. The budget for foreign portion of the contract amount is usually released after a delay of 1 to 2 years, due to series shortage of foreign currency, which resulted with delay in effecting contractors’ payment. Moreover the budget allocation do not consider the amount for possible price adjustment payment that will result from increase of price on construction inputs.

<p>Gap analysis</p> <p>Shortage of necessary budget to cover portions of contract performed in the budget period and other constraints, which is demonstrated through:</p> <ul style="list-style-type: none"> ➤ Delay of 2 to 3 months in releasing budget at the beginning of the year and allocation of insufficient budget for the year ➤ High shortage of budget for foreign portion of the contract amount, which is causing dispute between contractors and the sector entity. ➤ Budget allocation that do not consider the amount for possible price adjustment payment that will result from increase of price on construction inputs.
<p>Recommendation</p> <ul style="list-style-type: none"> ▪ MOF to devise mechanism for early release of budget. ▪ Government should allocate foreign currency portion of the contract amount as part of the contracts’ budget prior to solicitation of tender. ▪ The budget allocation should consider an amount for possible price adjustment payment that will result from increase of price on construction inputs.
<p>Assessment criterion 4(a)(c):</p> <p>A feedback mechanism reporting on budget execution is in place, especially regarding the completion of major contracts in the sector</p>
<p>Conclusion: Minor gap</p>
<p>Red flag: No</p>
<p>Qualitative analysis:</p> <p>As stated in the CORE MAPS each Procuring entity that utilize the Federal Government budget complies with the requirement stipulated in Article 6(4) of the Budget Administration Directive; as a result, procuring entities in the road sector provide quarterly reports within 15 days after each quarter and annual consolidated report before July 30 of the next budget year. After closing of the financial year, the Minister of Finance reports on the budget execution to the Parliament on all budget lines. Similarly, procuring entities under the road sector of Addis Ababa City Administration submit quarter and annual physical and financial execution reports to Bureau of Finance pursuant to the requirement stipulated in the respective Finance administration proclamation.</p> <p>Moreover, there is also a system called IFMIS (Integrated Financial Management Information System), which is in place to plan, follow and report the budget execution. Whenever there is a requirement to adjust the allocated budget, there is a means to re-adjust and enter the adjusted budget. However, IFMIS will report the aggregate (not on contract basis) the budget utilization on quarterly basis.</p> <p>While the general feedback mechanism for reporting on budget execution of public bodies is in place, as stated above. The feedback mechanism/reporting on budget execution upon completion of major contracts in the sector is included in the project administration and management proclamation number 12120/2020, as explained below: -</p> <p>1) PRINCIPLE</p> <p>The project administration and management proclamation number 12120/2020 has laid the following principles</p> <ul style="list-style-type: none"> • Article 12 (2): In addition to the regular project monitoring, based on its progress, any project shall mainly be evaluated up on 50% completion or midterm and upon completion and handover. • Article 12 (5): Where a project requires a cost increase beyond the amount which is allowed for revision under the Ethiopian Government Procurement and Property Administration Proclamation No.649/2009, such project shall be reformulated and reappraised again in order to be revised. • Article 12 (6): Any project for which a request for revision is submitted and has been appraised and accepted again as per Sub- article (5) of this Article shall be submitted to the appropriate decision-making bodies for approval. <p>2) ROLE OF PROJECT IMPLEMENTING BODIES</p> <p>In line with the above principles the proclamation has stipulated the following duties on project implementing bodies: -</p> <ul style="list-style-type: none"> • Article 17(4): With regard to approved revisions of projects the amounts of which are within the limit set under the law, carryout the necessary revision and submit the same to the Ministry of Finance for Approval; • Article 17(5): With regard to requests for project revision which are beyond the limit set under the law, prepare a request for revision and submit such request to the Planning and Development Commission for reviewing and approval; • Article 17(10): Carry out regular monitoring and evaluation of projects which are being implemented under it; submit the project progress report to the Ministry of Finance and the Planning and Development Commission; • Article 17 (11): With regard to large and medium projects, carryout project implementation evaluations at major implementation phases by engaging the appropriate bodies; • Article 17(12): Upon completion of any project under it or bodies accountable to it, prepare a project completion report and submit the same to the Planning and Development Commission and to the Ministry of Finance; <p>3) ROLE OF PLANNING AND DEVELOPMENT COMMISSION</p> <p>Article 18(6) stipulates the following whenever planning and development commission receives a request of implementing bodies that involve revision of budget beyond the limit set under the law: -</p> <ul style="list-style-type: none"> • Where the revision of a medium or large project would result in changes in the project budget which are beyond the limit set under the law, carrying out project appraisal and submitting a recommendation to the Ministry of Finance; <p>4) ROLE OF MINISTRY OF FINANCE</p> <p>Following request of project implementation bodies and/or evaluation of planning and development commission, Ministry of Finance will take the following actions as stipulated in the indicated Articles of the proclamation: -</p> <ul style="list-style-type: none"> • Article 19(6): Approving project revisions submitted by Executive Organ within the amount allowed under the law; • Article 19(7): Implementing the recommendations of the Planning and Development Commission with regard to project revisions beyond the amount allowed under the law submitted by Executive Organ for medium or large projects; <p>Though the Legal Framework provides the above mechanism for reporting budget execution upon completion of major contracts, the procuring entities in the sector didn’t yet start implementing the prescribed legal requirement. Procuring entities used to request the Public Procurement and Property Authority for getting special permission of proceeding in the execution of contracts, where they encounter a change or variation that require additional budget above 30% of the contract value. On the other hand, procuring entities proceed execution of contracts for variation works in case the additional budget requirement do not exceed 30% of the contract value, as per the stipulation in Article 25 (3) (b) of the Federal Public Procurement Directive.</p> <p>Note: Powers, duties, rights and obligations of Planning and Development Commission is transferred to Ministry of planning and Development, through proclamation number 1263/2021.</p>
<p>Gap analysis</p> <ul style="list-style-type: none"> ➤ Lack of enforcement of feedback mechanism on budget execution: The Legal Framework provides a feedback mechanism through reporting on budget execution, including report on completion of major contracts. However, enforcing the established feedback mechanism is identified as a gap as procuring entities in the sector, at the time of assessment, didn’t start sharing the report as prescribed in the legal document. . ➤ The public procurement directive didn’t require public bodies to get permission if they encounter variation work within the limit allowed by law, however Article 17 (4) of the project administration proclamation require public bodies to get approval of Ministry of Finance for revisions of projects that could result with amounts within the limit set under the law

➤ The report from IFMIS did not show the budget utilization on contract basis, Hence, the budget execution for major contracts cannot be identified from IFMIS (integrated Financial Management and Information System).
Recommendation <ul style="list-style-type: none"> ▪ Enforce provisions of the project administration and management proclamation in relation to implementing feedback mechanism through reporting on budget execution, including report on completion of major contracts. ▪ Adjust and enter contracts in IFMIS to get budget utilization for all major contracts in the sector, than being reported on an aggregate basis for all contracts as a cumulative ▪ Ensure consistency of provisions in the project administration and management proclamation with provisions of the public procurement directive, that deal with getting approval of variation works that result with amount within and beyond the limit allowed by law.
Sub-indicator 4(b) Financial procedures and the procurement cycle in the sector The legal and regulatory framework, financial procedures, and systems applicable to the sector ensure that:
Assessment criterion 4(b)(a): No solicitation of tenders/proposals takes place in the sector without certification of the availability of funds
Conclusion: Minor gap
Red flag: No
Qualitative analysis: As stated in the CORE MAPS Article 32 (2) of proclamation no 648/2009, stipulated that: - “No contract or other arrangement requiring payment shall be entered into by any public body unless there is a sufficient unencumbered balance from the budget to discharge any debt that will be incurred during the fiscal year in which the contract or other arrangement is made.” There is also similar legislation in the regional government, for example the Addis Ababa City Administration has stipulated this requirement in Article 33 of its Financial Administration Proclamation 16/2009. The provision prevents public bodies not to enter into a contract without certification of the availability of funds, however, there is no requirement that prevent solicitation of tender without certification of the availability of funds. In practice, endorsing committee of public bodies under the sector confirm availability of budget prior to authorizing solicitation of tender.
Gap analysis <ul style="list-style-type: none"> ➤ Though budget availability before solicitation is confirmed in practice, there is no provision that prevent solicitation of tender without certification of the availability of fund.
Recommendation <ul style="list-style-type: none"> • Introduce provision that prevent solicitation of tender without certification of the availability of funds

<p>Assessment criterion 4(b)(b): The national regulations/procedures for processing of invoices and authorization of payments are followed in the sector, are publicly available and clear to potential bidders</p>
<p>Conclusion: Substantive gap</p>
<p>Red flag: No</p>
<p>Qualitative analysis:</p> <p>The payment procedure is clearly indicated in the bid document which is also be part of the contract. The overall procedure and timing of payment is also stipulated in the public procurement directive in addition to the contract; As the public procurement directive is publicly available legislation potential bidders have the opportunity to know the procedure for processing of invoice and authorization of payment.</p> <p>The Federal as well as the Addis Ababa City Administration public procurement directives require Public Bodies to effect the payment within 14 working days of receipt of the payment certificate verified by the consulting engineer is required to complete verification of the payment certificate prepared and submitted by the contractor within seven days of its receipt. However contrary to stipulations of the directive, the SBD Article 59 of the SBD-Works (ICB) – provides 30 days for the consultant and 90 days to the public body to effect payment in works contract.</p> <p>While the above procedures are clearly known to any potential bidders, the internal Federal Government Payment Procedure Directive No 4/2003(E.C that requires public bodies to request for funding for each payment certificate is unknown to potential bidders. Similarly the procedure to be followed by procuring entities under the Addis Ababa City Administration is laid in the City’s disbursement directive no. 5/2003 Article 9, which provides detailed descriptions including required documentary evidence in processing payment is unknown to potential bidders or not reflected in the procurement documents.</p> <p>Due to the additional formalities, payment is usually delayed due to the delay by MOF in releasing the fund, which caused non-compliance to the number of days stipulated in the public procurement directive and in the conditions of the contract. Considering the additional layers for approving payment, the MOF as issued CIRCULAR on 25/1/2014 E.C, stating payment for works contract should be effected within a maximum of 45 days from the date requested by the contractor.</p>
<p>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 % if total number of invoices).</p>
<p>Quantitative Analysis</p> <ul style="list-style-type: none"> On Average out of 220 reviewed invoices in 2 PEs, 56% were paid on time. Of the two PEs one paid 63% of invoices in time. Only 25% of the invoices reviewed were paid on time on the second PE. Payment delays up to 686% were recorded in the reviewed invoices, which in days was 206 days
<p>Gap analysis</p> <ul style="list-style-type: none"> ➤ The procedure followed by procuring entities in getting budget funds from Ministry of Finance is not clearly known by potential bidder ➤ Delay of effecting payment within the period defined in the contract and Failure to comply even the 45 days’ period that was issued through circular, that result with additional cost of paying interest for the delayed payment and in some cases it has caused termination that result with huge amount of claim. Hence the payment procedure is not followed by procuring entities. ➤ There is also Contradiction between the public procurement directive and the General Conditions of the contract in stipulating number of days required for verification of payment by the Engineer and for effecting the payment by the employer.
<p>Recommendation</p> <ul style="list-style-type: none"> publish all payment procedures includinmng the procedure for release of budget from the MoF, so that it will be clearly known by potential bidders Ministry of Finance shall devise robust mechanism of effecting payments (both local and foreign portion) within the contractually agreed period. Correct the contradiction between the public procurement directive and the General Conditions of the contract in stipulating number of days required for verification of payment by the Engineer and for effecting the payment by the employer.

SLA-Indicator 5. The sector has an institution in charge of technical normative functions

Sub-indicator 5(a) Status and legal basis for the normative functions entrusted to the sector agencies
Assessment criterion 5(a)(a): The legal and regulatory framework specifies the normative function of development and validation of technical standards in the sector
Conclusion: Minor gap
Red flag: No
Qualitative analysis: Proclamation no 1263/2021 that was issued for “Definition of Powers and Duties of the Executive Organs”. This proclamation has specified the following provisions in relation to normative function of development and validation of technical standards in the road sector: - 1) ROAD CLASSIFICATION, SPECIFICATION AND DESIGN STANDARDS The normative functions for development and validation of Standards related to road classification, construction specification and Design is specified in the following legal provisions: - <ul style="list-style-type: none">Article 65 (1) of the Proclamation No 1263/2021 has established the Ethiopian Construction Authority as an autonomous federal government body having its own legal personality;Article 92 (2) of the Proclamation No 1263/2021 indicate that Ethiopian Construction Authority shall be accountable to the Ministry of Urban and Infrastructure;Part Three of the Proclamation No 1263/2021 has provided Nomenclature of Executive Organs and Article 11 has stated Nomenclature of Authority as an institution that:<ol style="list-style-type: none">Perform regulatory function; issue standards and ensure their compliance with same;Is accountable to a Ministry or, where there is a potential conflict with the activities of an institution to which it is accountable, to the Prime Minister or other Government organ;Issue standards when required mainly in its sector and based on the standards perform regulatory functions; or implement standards issued by the concerned organ;Accordingly, the draft Regulation of the Ethiopian Construction Authority, which is table for approval to Council of Ministers, has stipulated the following, among its power and functions: - Article 5 (8): For public road projects:-<ol style="list-style-type: none">It shall prepare a construction working specification and manual;It shall prepare classification, designate the national road network and standards and also determine design standards for roads;Article 31 (1) (r) of Proclamation No 1263/2021 provides that The Ministry of Urban and Infrastructure shall have the powers and duties to follow-up that necessary control is carried out on regulation of construction works and procurement in any sector; follow up construction work standards are issued and that they are complied with;Article 31 (1) (q) of Proclamation No 1263/2021 provides that The Ministry of Urban and Infrastructure shall have the powers and duties to establish a system which ensures transparent and accountable system for the management of design, bidding and contract contents; and follow up implementation of the same; 2) HEALTY AND SAFETY STANDARDS The normative functions for development and validation of Health and Safety standards of the sector is specified in the following legal provisions: - <ul style="list-style-type: none">Article 25 (1) (i) of Proclamation No 1263/2021 provides the following among power and duties of Ministry of Labour and Skill: - “ establish a system to prevent occupational accidents and occupational diseases; issue occupational health and safety standards and supervise their implementation;”Article 25 (2) of Proclamation No 1263/2021 further provides that “The powers and duties entrusted to the Ministry of labor and social affairs with regard to labor relation; under other laws that are currently in force are hereby vested in the Ministry of Labor and Skills established under this Proclamation.”The power of Ministry of labor and social affairs that is transferred to the Ministry of Labor and Skills include the provision under Article 171 (1) of Labour Proclamation No. 1156/2019 which provides power to issue directives necessary for the implementation of this Proclamation, in particular, with respect to:<ol style="list-style-type: none">Occupational safety, health and the protection of working environment;Standards for working conditions;Determination of hazardous jobs; 3) ENVIRONMENTAL STANDARDS The normative functions for development and validation of Environmental standards of the sector is specified in the following legal provisions: - <ul style="list-style-type: none">Article 59 (1) of the Proclamation No 1263/2021 has established the Environmental Protection Agency as an autonomous federal government body having its own legal personality;Hence it is in charge of carrying out its regulatory function stated under Article 11 of Proclamation No 1263/2021.Article 89(3) of the Proclamation No 1263/2021 indicate that the Environmental Protection Agency shall be accountable to the Ministry of Planning and DevelopmentHence proclamation No 1263/2021 provides that Ministry of Planning and development and Environmental Protection Authority are in charge of the normative function for development and validation of environmental standards in all sectors including the road and water sector. On the other hand, the Addis Ababa City Administration has the following legal framework in relation to normative function of development and validation of technical standards in the road sector <ul style="list-style-type: none">Article 40 of Proclamation for “The Addis Ababa City Government Executive Organs Re-Establishment” Proclamation No. 64/2019, provides the following among the powers of the Roads Authority are: -<ol style="list-style-type: none">Prepare laws for road networks, roads construction, utilization and maintenance of roads; implement same upon approval;Issue and improve standards for designs of roads and bridges; issue maintenance standard; issue directives for the categorization of roads and standards; follow-up and control the implementation of same; Accordingly, ACRA has issued a Design Manual in 2004. Which however is not updated then after.
Gap analysis The normative function of development and validation of technical standards in the sector is given for multiple entities that may create possible duplication of effort. For example: - <ul style="list-style-type: none">➤ Issuing specifications and manuals for federal road works is given for both Ethiopian Construction Authority and Ethiopian road administration, as shown in the respective draft regulation developed for their establishment.

➤ Ministry of Urban and Infrastructure has powers and duties to follow-up that necessary control is carried out on regulation of construction works and procurement in any sector ; this is a duplication with functions of FPPPAA provided in the PPL. It is also noted Proclamation No 1263/2021 didn't give this power for FPPPAA.
Recommendation <ul style="list-style-type: none"> The entities with duplication of responsibilities should discuss and delineate their role in relation to achieving their common objective. Preferably providing role delineation by amending the relevant articles of proclamation No 1263/2021 would be helpful.
Assessment criterion 5(a)(b): The technical norms respond to the needs of the country
Conclusion: Substantive gap
Red flag: No
Qualitative analysis: The technical norms (such as specifications, design standards, and, classification manuals, route selection manuals, etc) developed by Ethiopian Roads Authority (ERA) are not used country wide, hence it cannot be considered as technical standard of the sector. The standards are applicable on road contracts of ERA. The full application of these standards is sometimes challenged in road contracts of ERA. For example, some regions, refuse the road width standard of ERA and require the road passing through their city/town to comply with the width of road reflected in the master plan of the city/town. This usually cause variation from the initially agreed contract price and the requested change is commonly accepted after several correspondences between the regional government or relevant entity of the region and ERA; which result with delay in the execution of the project and extension of the initial contract period. It is also common in most regional government and the general public to reject the Double Surface Treatment (DBST Asphalt road standard) for it is considered as inferior quality. Hence ERA is forced to avoid DBST standard in the design of new projects and replace it by Asphalt Concrete standard, though the traffic volume is low. Therefore, the existing norms/technical standards developed by ERA do not meet the needs of the country as the standards/norms are not applicable to the road sector of the country and as it is challenged by regional cities/towns in relation to road width in addition to the quality complain of the general public specific to DBST standard. On the other hand, the design standards developed by Addis Ababa City Road Authority (AACRA) are obsolete and need revision. The geometric design manual of AACRA lacks consideration for Urban street design. The geometric design is not based on urban street concept, which it should have been to accommodate the needs of the city street users. The geometric design manual is more suitable for highway design rather than street design. Moreover the City Administration has not yet developed the following necessary standards: - <ul style="list-style-type: none"> Coble stone design standard/manual Road and bridge maintenance manuals/standards, Quality assurance/management manual
Gap analysis <ul style="list-style-type: none"> ➤ The existing norms/technical standards developed by ERA do not fully address the needs of the country, as the standards/norms are not applicable to the road sector in the regional government. ➤ Moreover, the existing standard is challenged by regional cities/towns in relation to road width in addition to the quality complain of the general public specific to DBST standard.
Recommendation <ul style="list-style-type: none"> Introduce mechanism in which the standards developed by ERA will be reviewed and approved by Ethiopian Construction Authority, so that the standard will be applicable throughout the country (including regional states). Carry out adequate consultation and awareness creation with the relevant regional government and public representatives before embarking on construction of roads that cut across regions. There shall be guideline for implementation mechanism of Article 24 of project administration and management system proclamation no 1210/2020. The provision require federal and regional government bodies to work in collaboration for addressing disputes in implementation of Federal government public projects
Assessment criterion 5(a)(c): The use of the technical norms does not affect competitiveness and transparency
Conclusion: Substantive gap
Red flag: No
Qualitative analysis: The use of technical norms has an effect on competition in the sector. For example the first amendment of the public procurement directive, which was issued on Tahsas 1/2008 E.C stipulates that experience in Double/triple Surface Treatment (DBST) asphalt road is a mandatory requirement for a bidder to be eligible in bids for Asphalt Concrete (AC) road construction projects. However, the DBST standard is currently abandoned for the reasons discussed in the above criteria and most new contractors and those working in gravel road projects are not getting the chance to be eligible in the bids floated for the construction of Asphalt Concrete Roads. Hence the use of DBST standard as part of the qualification criteria has affected competition. However, no effect on competition is observed, except the above mentioned, in relation to using technical norms. Similarly use of the technical norms does not affect Transparency.
Gap analysis <ul style="list-style-type: none"> ➤ The use of DBST standard is currently abandoned most new contractors and those working in gravel road projects are not getting the chance to be eligible in the bids floated for the construction of Asphalt Concrete Roads, which require experience on DBST as a prerequisite. Hence the use of DBST standard as part of the qualification criteria has affected competition.
Recommendation <ul style="list-style-type: none"> ERA shall discuss with FPPPAA and avoid the DBST criteria from being prerequisite for participating in bids floated for procurement of Asphalt Concrete.

SLA-Indicator 6. Definition, responsibilities, and formal powers of procuring entities in the sector

Sub-indicator 6(a) Definition, responsibilities, and formal powers of procuring entities in the sector The legal framework applicable to the sector provides for the following:
Assessment criterion 6(a)(a): Procuring entities are clearly defined
Conclusion: No gap
Red flag: No
Qualitative analysis: As stated in the CORE MAPS, Article 2 of the PPL Defines a “public body” (procuring entity) as “any public body, which is partly or wholly financed by the Federal Government budget, higher education institutions and public institutions of like nature”. Similarly, Article 2 of the AA city administration Proclamation No, 64/2019 defines “public body” (procuring entity) as “any public body, which is partly or wholly financed by the City Government budget, higher education institutions and public institutions of like nature”.
Gap analysis
Recommendation
Assessment criterion 6(a)(b): Responsibilities and competencies of procuring entities are clearly defined
Conclusion: No gap
Red flag: No
Qualitative analysis: The legal framework clearly defines responsibilities and competencies of procuring entities. The Responsibilities of the Heads of Public Bodies are listed at PPL A.8. PPL A.9 stipulates one of the responsibilities of procurement department in a public body is to execute public procurement in a perfectly ethical and skillful manner; The Duties and Responsibilities of the Procurement and Property Administration Unit within the public body are listed at PPL A.9, the Procurement Endorsing Committee at PPL A.10. PPL A.11 Accountability: confirms that heads of public bodies, heads and staff of procurement administration units and endorsing committees are accountable for their actions. Similar provision is stipulated under the public procurement proclamation of the Addis Ababa City Administration.
Gap analysis
Recommendation
Assessment criterion 6(a)(c): Procuring entities are required to establish a designated, specialized procurement function with the necessary management structure, capacity, and capability
Conclusion: Minor gap
Red flag: No
Qualitative analysis: Procuring entities are required to establish a designated, procurement function with the necessary management structure, capacity, and capability, as shown in the below provisions of the PPL: - (1) PPL 8 (a) stipulates that one of the responsibilities of the heads of public bodies is to establish an adequately staffed unit for procurement and property administration; (2) a Procurement and Property Administration Unit whose duties and responsibilities are listed at PPL A.9. (3) One of the responsibilities of procurement department in a public body is to execute public procurement in a perfectly ethical and skillful manner, PPL 9 (a); (4) a Procurement Endorsing Committee (PEC) whose duties and responsibilities are listed at PPL A.10. Similar provision is stipulated under the public procurement proclamation of the Addis Ababa City Administration. However, establishment of specialized procurement unit is not specified in the legal framework and it is left for discretion of the head of the public body. In practice sector entities has established a designated procurement unit specialized for goods and engineering procurement function.
Quantitative indicator to substantiate assessment of sub-indicator 6(a) Assessment criterion (c): <ul style="list-style-type: none">Procuring entities, in the sector, with a designated, specialized procurement function (in % of total number of procuring entities in the sector). Source: Normative/regulatory function/statute of sector agencies.
Quantitative analysis <ul style="list-style-type: none">100% of Road sector procuring entities under Federal Government and under Addis Ababa City Administration have designated specialized procurement function.
Gap analysis Though the PPL gives public bodies authority to establish adequately staffed procurement unit, final decision on the qualification, experience, number including the procurement structure is decided by the civil service commission which is in conflict with the PPD A.5(1) and limit the authority of public bodies in establishing a specialized procurement function.
Recommendation Consider including provision that require Procuring entities to establish a specialized procurement function with the necessary management structure, capacity, and capability. Involvement of the procurement regulatory bodies such as FPPPA and Addis Ababa BoF in deciding the management structure,

manpower, experience, qualification and job grade of the procurement positions for the public bodies in the sector (as for procurement process the public body is responsible and accountable and not the Civil Service Commission).

Assessment criterion 6(a)(d): Decision making authority is delegated to the lowest competent levels consistent with the risks associated and the monetary sums involved
Conclusion: No gap
Red flag: No
Qualitative analysis: Yes, decision making authority is delegated to the lowest competent levels consistent with the risks associated and the monetary sums involved. As stated in the CORE MAPS, The PPL A 10 provides the authority to approve procurement decisions to the Bid Endorsing Committee on all procurements above the specified threshold in the directive. According PPD A 24/2 (amended) the public body requires the approval of the bid endorsing committee for procurement of Works Birr 500,000, Goods Birr 200,000, Consultancy Birr 120,000 and Services Birr 150,000. The threshold is consistent with the threshold for use of National Competitive Bidding. PPD Article 5(13) of the Public Procurement Directive has stipulated the following as part of the duties and responsibilities of the head of a Public Body in relation to procurements of small value which do not need the approval of the Procurement Endorsing Committee: - a) Delegate authority of approval of such procurements to the procurement unit or b) Delegate authority of approval to the head that has direct relation to the procurement. c) The delegation of procurement authority by the head of the Public Body may be given to persons with various levels of responsibility with specified limits of procurement value. Similar provision is stipulated under the public procurement proclamation of the Addis Ababa City Administration. Moreover the lower level units have procurement delegation at wereda level.
Gap analysis
Recommendation
Assessment criterion 6(a)(e): Accountability for decisions is precisely defined
Conclusion: Minor gap
Red flag: No
Qualitative analysis: Article 5 (4) of the PPL stipulates accountability for decisions made and measures taken with regard to public procurement and property administration, as one of Public procurement and property administration principles to be complied with. Article 11 of the PPL states “Procurement and property administration staff or heads of procurement and property administration units and members of the Procurement endorsing committee in public bodies shall be accountable for their actions in accordance with this Proclamation and the directives to be issued by the Minister.” Accountability for the Heads of public bodies is defined in the laws/Regulations establishing these public bodies. Other actors are not covered in the accountability provision.
Gap analysis Accountability for the Heads of public bodies is defined in the laws/Regulations establishing these public bodies. Other actors are not covered in the accountability provision.
Recommendation Consider expanding accountability provisions to include all actors that are directly or indirectly involved in procurement decisions.
Sub-indicator 6(b) Centralized procurement body
Assessment criterion 6(b)(a): The country/sector has considered the benefits of establishing a centralized procurement function in charge of consolidated procurement, framework agreements, or specialized procurement for the sector
Conclusion: Minor gap
Red flag: No
Qualitative analysis: The country has considered the benefits of establishing a centralized procurement function in charge of consolidated procurement, framework agreements. A.60(1) of the PPL provides that a central body shall be established, by Regulation of the Council of Ministers, to be in charge of large value procurements having national significance, and of procurement of supplies for which a demand is shown by more than one public body. Accordingly, the centralized procurement body is established by Council of Ministers regulation no 184/2010. Similarly, the Addis Ababa City Administration PPL has also stipulated the following under Article 52.1: “ <i>there shall be established a central body in charge of the execution of large value procurements having city wide significances procurements of supplies for which a demand is shown by more than one public body..... by a regulation to be issued by the city government Cabinet</i> ”. Accordingly, Regulation 55/2013 for the establishment of the Public Procurement and Property Disposal Agency of the Addis Ababa City Government established the Public Procurement and Property Disposal Agency (PPPSA) to carry out procurement of common user items, goods and services which have national strategic significance. However, centralized procurement function in charge of specialized procurement for the sector is not established.
Gap analysis Though there is centralized procurement system to establish framework agreement for common user items required in the sector and beyond, there is no centralized procurement function to consolidate and procure sector specific requirements centrally.
Recommendation Consider to establish centralized procurement function in charge of procuring sector specific requirements centrally. For example, sector entities with need to procure construction machineries, spare parts and other items related to the road sector could benefit if centralized procurement function in charge of

specialized procurement for the sector is established. This could be carried out through delegation of the existing procurement units at federal level or in regional states based on ability and comparative advantage to process such procurements competently.
Assessment criterion 6(b)(b): In case a centralized procurement body exists, the legal and regulatory framework provides for the following: <ul style="list-style-type: none"> • Legal status, funding, responsibilities, and decision-making powers are clearly defined. • Accountability for decisions is precisely defined. • The body and the head of the body have a high level and authoritative standing in government
Conclusion: No gap
Red flag: No
Qualitative analysis: The centralized procurement body is established by council of minister’s regulation no 184/2010. The established body is referred as Public Procurement and Property Disposal Service (PPDS). The established body is funded by budget allocated from government, as indicated on article 12 of the regulation. Article 7 of the regulation has enacted organization of PPDS to have i) Management Board ii) a director General and two Deputy Director Generals. Accordingly, PPDS is organized with one Director General, two Deputy Director Generals and 15 Directorates. Similar provision is stipulated under Regulation 55/2013 of the Addis Ababa City Administration.
Gap analysis
Recommendation
Assessment criterion 6(b)(c): The centralized procurement body’s internal organization and staffing are sufficient and consistent with its responsibilities
Conclusion: Minor gap
Red flag: No
Qualitative analysis: As stated in the CORE MAPS, The Centralized procurement body has adequate organizational structure commensurate with its responsibilities. It is managed by the Director General and two Deputy Directors General, one focusing on the management of Procurement and Contract Administration, and the other one focusing on Property Administration functions. Procurement activities of PPDS is carried out by the procurement lead executive. At the time of the assessment, there were only 15 staff members out of the required 40 staffs required by the structure for the procurement directorate. The available workload is too much to be handled by the available staffs of the directorate. Similarly, The Public Procurement and Property Disposal Service of Addis Ababa City Administration is led by the General Manager who directly reports to the Head of the BoF. There are five main units under the General Manager: Procurement & Contract Administration, Finance, Human Resources, Planning and Budget and Property Disposal units.
Gap analysis Inadequate staffing of Centralized Procurement Bodies: there were vacant positions to the one required as per the approved staff plan in the procurement directorate. The assessment team was informed that recruitment to fill up the vacant position is started.
Recommendation Expedite the hiring of the procurement professionals and fill all the vacant positions in the procurement directorate. Ensure that the centralized procurement body maintains adequate structure and staffing commensurate with the volume of work.

SLA-Indicator 7. Publication of public procurement information in the sector supported by information technology

Sub-indicator 7(a) Definition, responsibilities, and formal powers of procuring entities in the sector The sector uses an information system that meets the following requirements:
Assessment criterion 7(a)(a): Information on procurement, in the sector, is easily accessible in media of wide circulation and availability. Information is relevant, timely and complete and helpful to interested parties to understand the procurement processes and requirements and to monitor outcomes, results and performance
Conclusion: Substantive gap
Red flag: No
Qualitative analysis: Information on procurement, in the sector, is not easily accessible in media of wide circulation and availability. Some information such as procurement plan, notice for invitation to bid and contract award of sector entities under Federal Government are published in the website of e-GP. However, the e-GP system is not fully functioning to provide procurement information on contract implementation such as payment, variation, contract amendments, trend analysis etc. Moreover, sector entities under Regional Government didn’t yet develop their e-GP system and they are not using the system developed for the Federal Government.
Gap analysis Absence or insufficiency of procurement information: <ul style="list-style-type: none"> ➤ Absence of Information on procurement, in the sector, that is easily accessible in media of wide circulation. ➤ Insufficiency of procurement information published on the e-GP system.
Recommendation <ul style="list-style-type: none"> • Expedite rollout of the e-GP system for providing sufficient information on procurement, in the sector. • Expedite rollout of the e-GP system for implementing in the regional governments.
Assessment criterion 7(a)(b): The country’s (or sector’s) information system is fully utilized by sector entities, provides up-to-date information and is easily accessible to all interested parties at no cost

Conclusion: Substantive gap
Red flag: No
<p>Qualitative analysis: The E-GP website is a portal that is used by sector entities under Federal Government. So far 143 procuring entities have uploaded their procurement plan for the year 2015 E.C and procurement plan of the previous year (2014 E.C), information on procurement opportunities (Invitation to Bid) is also uploaded in a timely manner. The information is easily accessible to all interested parties at no cost. However, the E-GP system is new and it doesn't start compilation and dissemination of information on implementation of projects.</p> <p>On the other hand, it has been noted that there is no any information system under Addis Ababa City Administration that provide up to date information to interested parties and to sector entities. The E-GP system is implemented only for Federal government and it is not yet rolled out to Regional Governments and City Administrations.</p> <p>Gap analysis No possibility of utilization of information system in the sector as: -</p> <ul style="list-style-type: none"> ➤ The e-GP system is not providing information on contract implementation. ➤ The e-GP system is not yet rolled out to sector entities under Regional Governments and City Administrations. <p>Recommendation</p> <ul style="list-style-type: none"> • Expedite implementation of the e-GP system to provide complete information across the cycle of procurement, including information on contract implementation, trend analysis etc • Expedite rollout of the e-GP system to sector entities under Regional Governments and City Administrations.
<p>Assessment criterion 7(a)(c): There is an integrated information system (centralized online portal) that provides up-to-date information and is easily accessible to all interested parties at no cost</p>
Conclusion: Substantive gap
Red flag: No
<p>Qualitative analysis: Responsibility of developing, approving and monitoring the implementation of a central database system, and the content thereof, for organizing, compiling and disseminating project related information is given to Ministry of Planning and Development; as stipulated in Article 18 (9) of Project Administration and management proclamation number 1210/2020. Public bodies (project implementing bodies) are also required to submit project implementation information to the Ministry of Planning and Development so that projects can be included in a comprehensive national database (Article 17 (16) of the proclamation number 1210/2020). However, the Ministry didn't so far establish the required national database.</p> <p>The e-GP system developed by FPPPAA is serving as an integrated information system (centralized online portal), for entities under Federal Government, that provides up-to-date information and is easily accessible to all interested parties at no cost. The e-GP system has published procurement plans of sector entities under Federal Government and it also provides information on invitation to bid and list of awarded contracts. However, the system is not yet providing information on contract implementation and procurement statistics as the system is at early stage of implementation.</p> <p>On the other hand, FPPPAA has developed web based information system to be used by entities under the Federal Government. The system provides information on procurement opportunities (invitation to bid) and it also provides some information related to implementation stage of construction projects procured by the budget of the Federal Government only. However, many procuring entities do not upload their project information in a complete and timely manner. As a result, the information in FPPPAA portal is incomplete and obsolete.</p>
<p>Quantitative indicators to substantiate assessment of sub-indicator 7(a) Assessment criterion (c):</p> <ul style="list-style-type: none"> • Sector procurement plans published (in % of total number of required procurement plans) • Key procurement information published along the procurement cycle (in % of total number of contracts) : <ul style="list-style-type: none"> o Invitation to bid/Request for proposal (in % of total number of contracts); o Contract awards (purpose, supplier, value, variations/amendments); o Details related to contract implementation (milestones, completion, and payment); o Annual procurement statistics. • Appeals decisions related to the sector posted within the timeframes specified in the law (in %). <p>Source: Centralized online portal.</p>
<p>Quantitative analysis</p> <ul style="list-style-type: none"> • The quantitative assessment has shown that none of the PEs assessed publish procurement plans in their website²⁶s. • All of procurement opportunities under reviewed contracts were published (in a national newspaper or PE's website). The sampled contracts were ICB and NCB open bidding. • At the time of the assessment, 7 bid announcements that belong to one PE were posted in PPA's website. The status of the old bid announcement was not updated and all bid announcements including those advertised years back show that they were under "Evaluation" stage. This shows that even for IFB, PPA's website is not complete and up to date. The below link opens the page for bid announcement in PPA's website. http://www.ppa.gov.et/index.php • In none of the PEs visited or PPA, there is a practice of publishing complete key procurement information along the procurement cycle such as contract award, contract implementation information, appeals decisions. No annual procurement statistics are published. <p>Gap analysis</p> <ul style="list-style-type: none"> ➤ Absence of the National Database System that is required to be established by Ministry of Planning and Development ➤ Lack of information on procurement statistics and contract implementation as: <ul style="list-style-type: none"> - The e-GP system is not yet providing information on contract implementation and procurement statistics as it is at early stage of implementation. - Information provided on PPA's website is incomplete and obsolete

²⁶ Publication of Procurement Plans is not required.

Recommendation <ul style="list-style-type: none"> Ministry of Planning and development to establish National Database required by Proclamation Number 1210/2020. Expedite rollout of e-GP system to all federal agencies and to regional governments Enhance the functionality of PPA to capture latest procurement information
Assessment criterion 7(a)(d): The information system provides for the publication of: <ul style="list-style-type: none"> Procurement plans; Information related to specific procurements, as a minimum: Advertisements or notices of procurement opportunities, contract awards including procurement method and amendments, information on contract implementation including payments, appeals decisions; Linkages to rules and regulations and other information that is relevant to promote competition and transparency
Conclusion: Minor gap
Red flag: No
Qualitative analysis: The information system of FPPAA provides for publication of Information related to specific procurements, such as: Advertisements or notices of procurement opportunities, contract awards including procurement method and amendments, information on contract implementation. However, the information system didn't include payments and appeals decisions. There is also a linkage to the public procurement proclamation, directive, manuals and standard bid documents. Procurement plan of sector entities under Federal government is published in the e-GP website of PPPAA (https://egp.ppa.gov.et/egp/home). Though sector entities are not fully utilizing the e-GP system, the e-GP website includes the following information that include: - <ul style="list-style-type: none"> Total Active Tenders Tenders Published Today Tenders Under Evaluation Tenders cancelled Tenders Closed Today Tenders Published to date Tenders Opening Today Tenders Awarded Contract signed Registered Suppliers and Procuring Entities The e-GP portal contains the following information that are accessible only for bidders registered to participate in the specific bid: - <ul style="list-style-type: none"> full set of procurement documents, tender opening minutes, evaluation reports, full contract documents including technical specification and implementation details
Gap analysis Lack of complete information on contract award and amendments: <ul style="list-style-type: none"> ➤ The contract award information published on the e-GP system is incomplete. ➤ There is no published information on contract amendments, information on contract implementation including payments, appeals decisions
Recommendation <ul style="list-style-type: none"> Consider improving the template of contract award on the e-GP system and publish a complete information on contract award. Consider Open Contracting Data Standard in the system for generation of open data, integration of automatic red-flag identification module and standardized technical specification including sustainability criteria, as applicable. Expedite implementation of the e-GP system to provide complete information across the cycle of procurement, including information on contract implementation, trend analysis etc
Assessment criterion 7(a)(e): In support of the concept of open contracting, in the sector, more comprehensive information is published on the centralized online portal, in each phase of the procurement process including the full set of procurement documents, evaluation reports, full contract documents including technical specification and implementation details (in accordance with legal and regulatory framework)
Conclusion: Substantive gap
Red flag: No
Qualitative analysis: <i>There is no practice of using of open data format:</i> tthough, the e-GP website provides for publication of information listed under criteria 7 (a) (d), there is no publication of comprehensive information, in support of contracting, through open data format. The e-GP website is serving as a centralized online portal for sector entities under the Federal Government as most of the entities are handling their procurement through e-GP, however the e-GP system is not yet rolled out to sector entities under the regional governments. Ministry of planning and Development is expected to establish Central Database
Recommended quantitative indicator to substantiate assessment of sub-indicator 7(a) Assessment criterion (e): <ul style="list-style-type: none"> Share of procurement information and data published in open data formats (in %). Source: Centralized online portal.
Quantitative analysis <ul style="list-style-type: none"> No procurement information is published in open data format.
Gap analysis There is no publication of comprehensive information, in support of open contracting.
Recommendation Ministry of Planning and Development to develop and implement the national database (centralized online portal) and monitor publication of comprehensive project information required by proclamation no.1210/2020 Consider the publishing of comprehensive procurement information, in support of open contracting, on the e-GP website, in each phase of the procurement process including the full set of procurement documents, evaluation reports, full contract documents including technical specification and implementation details
Assessment criterion 7(a)(f): Information, from the sector, is published in an open and structured machine-readable format, using identifiers and classifications (open data format).

Conclusion: Substantive gap
Red flag: No
Qualitative analysis: There is no system that publish information through an open and structured machine-readable format, using identifiers and classifications (open data format).
Gap analysis There is no system for publishing comprehensive procurement information in open data format.
Recommendation Consider the publishing of information in the sector through open data format.
Assessment criterion 7(a)(g): Responsibility for the management and operation of the sector information system is clearly defined
Conclusion: No gap
Red flag: No
Qualitative analysis: There is no any system used to publish sector information. However, in the case of information uploaded on E-GP, FPPPAA and sector entities website the responsibility for the management and operation of the information is assigned to the respective IT-UNIT of the entities. Moreover, Ministry of science and Technology is responsible for maintaining cyber security on the e-GP system.
Gap analysis
Recommendation
Sub-indicator 7(b) Use of e-Procurement in the sector
Assessment criterion 7(b)(a): E-procurement is widely used or progressively implemented in the sector at all levels of government
Conclusion: Substantive gap
Red flag: No
Qualitative analysis: Implementation of E-procurement is started in sector entities of the Federal Government in relation to procurement of Goods, Services and Works procured through NCB. However international procurement of works through e-GP is not widely used or progressively implemented for the reason that the e-GP system is not configured to entertain the FIDIC General Conditions of contract, which is used by procuring entities for procurement of works through ICB On the other hand, the E-procurement system is not yet rolled out and implemented in sector entities of regional governments and city administrations.
Quantitative indicators to substantiate assessment of sub-indicator 7(b) Assessment criterion (a): Uptake of e-Procurement in the sector: <ul style="list-style-type: none"> Number of e-Procurement procedures in % of total number of procedures in the sector; Value of e-Procurement procedures in % of total value of procedures in the sector. Source: e-Procurement system.
Quantitative analysis <ul style="list-style-type: none"> Of the two PEs assessed one is selected for Pilot e-GP system. At the time of assessment only 20 tenders were floated using the e-GP system since April 2022. Only two of these are Works Contracts. The remaining 18 are Goods and Non-consulting services contracts. The other entity has no experience of using e-procurement.
Gap analysis E- Procurement not used widely at Federal or Regional Level as: - <ul style="list-style-type: none"> The E-GP system do not support the General Conditions of contract used by sector entities, in relation to procurement of works through ICB, such as FIDIC Conditions of contract for Design-Build contracts, World bank harmonized General Conditions of Contract, etc. As a result, the E-procurement of works through ICB is not widely practiced in sector entities of Federal government The E- procurement is not rolled out to regional governments and city administrations.
Recommendation <ul style="list-style-type: none"> Configure the EGP system in a way to allow the public body for attaching standard conditions of contract, other than the one issued by FPPA, so that the E-procurement of works will be practiced widely in sector entities of Federal government Expedite rollout of the e-GP system so that it will be implemented widely and progressively in sector entities of regional governments and city administrations.
Assessment criterion 7(b)(b): Sector officials have the capacity to plan, develop and manage e-Procurement systems, as required (e.g., by a national road map or general framework)
Conclusion: Minor gap
Red flag: No
Qualitative analysis: Planning, developing and managing the e-procurement system is the role of FPPPAA, which has the capacity to do so. Officials of the sector entities, under Federal Government, has taken training for practicing and implementing the E-procurement system. Therefore, sector officials have the capacity for practicing and implementing the E-procurement system at Federal level, while the sector officials in regional governments and city administrations are not yet capacitated to practice and implement the E-procurement system.
Gap analysis <ul style="list-style-type: none"> Sector officials in regional governments and city administrations are not capacitated to practice and implement the E-procurement system.

➤ The e-GP system is not rolled out to sector entities under Regional Governments and City Administrations
Recommendation <ul style="list-style-type: none"> Rollout implementation of the e-GP system in to sector entities under Regional Governments and City Administrations Provide training, on practicing and implementing the E-procurement system, for officials of sector entities under Regional Governments And City Administrations.
Assessment criterion 7(b)(c): Procurement staff in the sector is adequately skilled and equipped to reliably and efficiently use e-Procurement systems
Conclusion: Substantive gap
Red flag: No
Qualitative analysis: Procurement staffs of the sector entities, under Federal Government, has taken training for practicing and implementing the E-procurement system. Procurement staff in sector entities of Federal government are, therefore, adequately skilled and equipped to reliably and efficiently use e-Procurement systems. On the other hand, Procurement staff in the sector entities under regional governments and city administrations do not have the skill to reliably and efficiently use e-Procurement systems, for the reason that the e-GP System is not yet rolled out to regional governments and city administrations.
Gap analysis Lack of capacity of procurement staff to use e-Procurement: Procurement staff in the sector entities under regional governments and city administrations do not have the skill to reliably and efficiently use e-Procurement systems; as the system is not yet rolled out to respective procuring entities
Recommendation <ul style="list-style-type: none"> Rollout implementation of the e-GP system in to sector entities under Regional Governments and City Administrations Provide training for Procurement staff in the sector entities of Regional Governments and City Administrations, so that they will have the skill to reliably and efficiently use e-Procurement systems.
Assessment criterion 7(b)(d): Suppliers in the sector (including micro, small and medium-sized enterprises) participate in a public procurement market increasingly dominated by digital technology
Conclusion: Substantive gap
Red flag: No
Qualitative analysis Suppliers in the sector, at Federal Government, participate in a public procurement market increasingly dominated by digital technology. However micro, small and medium-sized enterprises, are not participating in a public procurement market increasingly dominated by digital technology, as the sector entities are not practicing their procurement through e-GP system. On the other hand, suppliers for regional governments and city administrations do not have the opportunity to participate in a public procurement market dominated by digital technology, as e-GP system is not rolled out to sector entities of regional governments and city administrations.
Recommended quantitative indicators to substantiate assessment of sub-indicator 7(b) Assessment criterion (d): <ul style="list-style-type: none"> Bids submitted online in the sector (in %); Bids submitted online by micro, small and medium-sized enterprises in the sector (in %). Source: e-Procurement system.
Quantitative analysis <ul style="list-style-type: none"> Currently only one PE in the road sector is selected for piloting e-GP. Out of the 20 bids floated on e-GP by one of the PEs, 3 are cancelled and 17 are submitted online. There is no experience of e-procurement or submitting bids online by micro, small and medium-sized enterprises in the sector.
Gap analysis Lack of capacity of MSMEs to participate in public procurement market: <ul style="list-style-type: none"> ➤ Micro, small and medium-sized enterprises didn't have the participation in the e-procurement system, as procuring entities in the sector are not using e-procurement system in relation to bids that suite for participation of micro, small and medium-sized enterprises. ➤ Suppliers for regional governments and city administrations do not have the opportunity to participate in a public procurement market dominated by digital technology, as e-GP system is not rolled out to sector entities of regional governments and city administrations.
Recommendation <ul style="list-style-type: none"> Encourage procuring entities to use e-procurement system in relation to bids that suite for participation of micro, small and medium-sized enterprises. Provide adequate training that enable micro, small and medium-sized enterprises to participate in a public procurement market increasingly dominated by digital technology. Expand the e-GP System to rollout to sector entities of regional governments and city administrations.
Assessment criterion 7(b)(e): If e-Procurement has not yet been introduced, the sector has adopted an e-Procurement roadmap based on an e-Procurement readiness assessment
Conclusion: Minor gap
Red flag: No
Qualitative analysis Sector entities of Federal Government are implementing e-Procurement. However, entities under the regional states and city administrations didn't yet introduce the system. The Addis Ababa City Administration has communicated with FPPPAA for adopting the e-GP system implemented in the Federal Government. PPPA has prepared an e-GP rollout strategy document. The strategy envisages a two-phase approach to roll out the system nationally where the first phase targets all federal institutions, and the second phase targets regional administrations. Change management, training, support, and maintenance activities are ongoing.
Gap analysis Sector entities under regional government are in the process of adopting e-Procurement roadmap based on an e-Procurement readiness assessment
Recommendation Expedite the ongoing preparation of roadmap based on readiness assessment and rollout e-GP to regional governments.

Sub-indicator 7(c) Strategies to manage procurement data in the sector
Assessment criterion 7(c)(a): A system is in operation in the sector for collecting data on the procurement of goods, works and services including consulting services supported by e-Procurement or other information technology.
Conclusion: Minor gap
Red flag: No
Qualitative analysis The E-GP Portal has capability to integrate the KPI system and to collect data, on the procurement of goods, works and services, from Procuring Entities that implement the E-GP system.
Gap analysis KPI system is not working as e-Procurement system is not yet fully rolled out and functional
Recommendation To expedite roll-out of e-GP System at all levels of government to collect data
Assessment criterion 7(c)(b): The system manages data for the entire procurement process, in the sector, and allows for analysis of trends, levels of participation, efficiency and economy of procurement and compliance with requirements
Conclusion: Minor gap
Red flag: No
Qualitative analysis The E-GP system is designed to manage data for the entire procurement system and the system has features that allow analysis of trends and levels of participation. However the system is at early stage of implementation and it has not started generating reports
Gap analysis System not in stage of generation of report and analysing trends: The E-GP system manages data for the entire procurement process, however the system didn't yet start generation of report on analysis of trends, levels of participation, efficiency and economy of procurement and compliance with requirements, as it is at early stage of implementation.
Recommendation Expedite implementation of procurement through e-GP and benefit from the full feature of the EGP system, including generation of data for the entire procurement process and analysis of trends, levels of participation, efficiency and economy of procurement and compliance with requirements
Assessment criterion 7(c)(c): The reliability of the information is high (verified by audits)
Conclusion: Substantive gap
Red flag: No
Qualitative analysis At the time of assessment, the e-GP did not start generating data as it is at the early stage of implementation, moreover there is also no audit conducted in relation to evidencing the reliability of the data from the system. Hence, reliability of the system is not yet verified by audit.
Gap analysis The system is at early stage and no audit is conducted so far.
Recommendation FPPPAA shall monitor reliability of the information generated by the e-GP system through audit, as the system progressed in generating information.
Assessment criterion 7(c)(d): Analysis of information is routinely carried out, in the sector, published and fed back into the system
Conclusion: Substantive gap
Red flag: No
Qualitative analysis Analysis of information in the sector, publishing and providing feed back into the EGP system is not yet started as the system is at early stage of implementation. Moreover as the e-GP system is not rolled out to regional governments and city administrations, The e-GP system at Federal level cannot provide analysis of sector level information.
Quantitative analysis Quantitative indicators to substantiate assessment of sub-indicator 7(c): - Assessment criterion (d): <ul style="list-style-type: none"> 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 most recent fiscal year. Source: Normative/regulatory function/E-Procurement system.
Gap analysis <ul style="list-style-type: none"> ➤ Analysis of information in the sector, publishing and providing feed back into the EGP system is not yet started as the system is at early stage of implementation. ➤ Moreover as the e-GP system is not rolled out to regional governments and city administrations, The e-GP system at Federal level cannot provide analysis of sector level information.
Recommendation <ul style="list-style-type: none"> Expedite implementation of procurement through e-GP System at Federal Level and start Analysis of the necessary information. Expand the e-GP System to rollout to sector entities of regional governments and city administrations.

SLA-Indicator 8. The sector public procurement system has a strong capacity to develop and improve

Sub-indicator 8(a) Training, advice and assistance in the sector There are systems in place, in the sector, that provide for:
Assessment criterion 8(a)(a): Substantive permanent training programs of suitable quality and content for the needs of the procurement staff in the sector
Conclusion: Minor gap
Red flag: No
Qualitative analysis As stated in the CORE MAPS, FPPPAA had established a procurement training program that certifies trainees at three levels: Essential, Basic, and Advanced. The program also covers the Specialized level which is not yet supported with training modules. The professionalization training is dependent on the resources from donor-supported projects and the sustainability of the program is not guaranteed. Moreover, the permanent professionalization training is not yet recognized by the civil service commission and it is not contributing for appointment of staffs in different procurement position The permanent professionalization training has been started in September 2016, however it has been first discontinued due to COVID-19 and it is not resumed after COVID-19 as PFM has ceased financing of the professionalization training program. Therefore, the training program has lasted from SEPTEMBER 2016 to DECEMBER 2019. During this period the training has been conducted in 6 rounds. So far 1,176 professionals have been trained in procurement and property administration professionalization training, out of which 397 has been trained in Basic level Procurement & Property, 255 in Essential level procurement, 153 in Essential level Property, 226 Advance level in procurement and 124 Advanced Level in Property. On the other hand, There are no permanent procurement training programs in the City Administration. There is only ad hoc need based trainings provided for Procurement staffs, bid committee and technical committee members. The training is conducted by Bureau of Finance and it covers topics on basic procurement rules and concepts covering the procurement proclamation, directives and SBDs
Gap analysis <ul style="list-style-type: none"> ➤ The sustainability of the procurement professionalization training programs is at risk due to lack of budget resource. ➤ No training module for specialized level training which is very essential for the sector staffs, hence training module shall be developed for this level and start providing the training for engineering staffs. ➤ The permanent professionalization training is not recognized in the procurement career structure.
Recommendation <ul style="list-style-type: none"> • The professionalization training should be supported by sustainable budget resource so that it will not be discontinued due to lack of resource from donors. Therefore, FPPPAA should look for budget source so that the professionalization training will resume. Introduce mechanism to ensure financial sustainability of the program through collection of training fees and providing associated advisory services which should lead to a diminishing trend on government budget. Collaboration with the private sector and other stakeholders contractors' association would be useful in this regard. • Prepare training module and initiate the specialized level training as it is very important for sector entities. The delivery and training logistics should be the responsibility of the training institution. • Ensure the quality of the procurement professionalization training and recognize in the career structure.
Assessment criterion 8(a)(b): Routine evaluation and periodic adjustment of training programs based on feedback and need
Conclusion: No gap
Red flag: No
Qualitative analysis Contents of the permanent professionalization training program is updated in each round of the training based on the feedback of trainees collected in each round. Moreover, FPPPAA has evaluated effectiveness of the permanent training program, through consultant, and has identified that the training materials are inadequate as there is no any manual/module for trainees. The training has been provided only using power point slide. As a result FPPPAA has now prepared training manual for trainees corresponding to each training module provided in each of the three competency levels.
Gap analysis
Recommendation
Assessment criterion 8(a)(c): Advisory service or help desk function to resolve questions by procuring entities, suppliers, and the public
Conclusion: Minor gap
Red flag: No
Qualitative analysis FPPPAA provides advisory service and resolve questions from procuring entities, pursuant to Article 15(1) of the public procurement proclamation no 649/2009. FPPPAA has also been providing advisory service to suppliers whenever requested, however it has now stopped its previous practice of responding queries from suppliers after being aware that function of FPPAA as per Article 15 (1) of the proclamation is limited to providing advice for the Federal Government and providing technical assistance to the regional governments and city administration. However, in some cases, according to severity of the problem, FPPPAA provide advice for the private sector, especially when the issue is brought to FPPPAA through associations. Therefore, FPPPAA is not serving as a dedicated help desk to resolve questions raised by suppliers. Moreover, sector entities suggest for FPPPAA to include engineering units in its structure so that effective advisory service will be provided for sector specific issues. Similarly, Addis Ababa City Administration's BoF provide advisory/support service to sector entities under the city administration. However, sector entities have indicated that the advisory service is inadequate and lacks technical depth to help them resolve real time issues. The BoF also provides advisory service to the Suppliers when requested.
Gap analysis Absence of help Desk function to resolve questions by suppliers: <ul style="list-style-type: none"> ➤ Limited support provided o the private sector through the Help Desk established in the FPPPAA.

➤ Absence of engineering units in the structure of FPPPAA that will help to provide advisory service in relation to sector specific issues.
Recommendation <ul style="list-style-type: none"> Introduce provision that enable FPPPAA to provide Advisory service to all involved in public procurement including private sector. Introduce engineering units in the structure of FPPPAA so that effective advisory service will be provided for sector specific issues
Assessment criterion 8(a)(d): A capacity development strategy that is well integrated with other measures aimed at developing the capacities of key actors involved in public procurement, in the sector
Conclusion: Minor gap
Red flag: No
Qualitative analysis FPPPAA, as part of its function, used to provide two short term trainings per year with the aim of building capacity of procuring entities, suppliers and SMEs. The training for each group of key actors is prepared separately. However, as stated in the CORE MAPS, there was no strategy in place to improve the capacity of the private sector as key players in public procurement, despite the challenges PEs face as a result of limited capacity of the private sector, particularly the small-scale suppliers and contractors. The capacity building activities of FPPPAA were not integrated with strategy, as preparation of capacity development strategy was completed very recently. Currently, FPPPAA has developed capacity building strategy, at the end of 2014 E.C (AUGUST 2022 G.C), through finance provided by African Development Bank (ADB).
Gap analysis Implementation of capacity development strategy: the capacity development strategy of FPPPAA is developed in August 2022 and it is not yet implemented.
Recommendation Expedite implementation of FPPPAA’s capacity development strategy and consider integration of the strategy with other measures aimed at developing the capacities of key actors involved in public procurement, in the sector.
Assessment criterion 8(a)(e): The environment surrounding individuals and organizations that supports the sound practices and behaviors learned
Conclusion: No gap
Red flag: No
Qualitative analysis The environment surrounding individuals in sector entities is suitable. For example, new staffs in sector entities of Federal Government used to take on job training for about 8 months. The on job training includes all procurement activities such as preparing Expressions of Interest (EOI) notice, evaluation of EOI submitted by consultants, preparation of bid document, evaluation of bids, preparation of contract documents etc. The new staff member is allowed to work independently after getting training on different procurement activities and after working under supervision of senior staff. Therefore, the environment surrounding individuals (staffs) and the organization is supportive for practicing what trainees have learnt in the training program.
Gap analysis
Recommendation
<div> <div>Sub-indicator 8(b)</div> <div>Monitoring performance to improve sector outputs and outcomes</div> </div>
Assessment criterion 8(b)(a): The sector has established and consistently applies a performance measurement system that focuses on both quantitative and qualitative aspects
Conclusion: Substantive gap
Red flag: No
Qualitative analysis As stated in the CORE MAPS, there is no workable and consistently applicable performance measurement system that focuses on both qualitative and quantitative aspects. However, PPA introduced performance measurement system based on identified Key Procurement Performance Indicators (KPI). The system uses an Excel format to collect, analyze, and report procurement performance against the indicators. The system is based on an Excel format and intended to support PBs in collecting procurement data, analyzing and reporting for purpose of improving procurement performance. The following nine indicators were adopted: <i>improvement in procurement cycle time, reduction in number of cancelled bidding processes, increase in the use of competitive procurement methods, increase in average number of bids, improvement in realism of procurement plans, increase in number of complaints resolved within the standard time, reduction in contract cost overrun, reduction in contract time overrun, and reduction in poor quality of contract deliverables.</i> The performance measurement through KPI was started in 2009 E.C. All entities (including road sector entities), 5 sectors from each of the regional governments, i.e. Road, Health, Agriculture, water and education sector are included in the performance measurement system and they submit annual report, to FPPPAA, through an Excel format prepared for the purpose of measuring progress of entities against the defined KPI. Sector entities do not submit the KPI report in a timely manner. Currently the E-GP Portal is integrated the KPI system and it is designed in a way to collects real time data, on the procurement of goods, works and services, from Procuring Entities that implement the E-GP system. However, the E-GP website is at early stage of implementation and it doesn’t start generation of report on measurement of performance that focuses on both quantitative and qualitative aspects. On the other hand, the e-GP system is not yet rolled out to sector entities under regional governments and City Administration.
Gap analysis <ul style="list-style-type: none"> ➤ Quality of KPI at Federal Level and lack of progress on integrating KPI system with e- GP at regional level in the sector: ➤ The E-GP Portal is established at Federal government level, and it is integrated with the KPI system to collect real time data from Procuring Entities that implement the E-GP system, however the system didn’t yet start generating report on performance measurement as it is at an early stage of implementation. ➤ Moreover, sector entities under regional governments and city administrations didn’t yet establish a performance measurement system on both quantitative and qualitative aspects, as the e-GP system is not rolled out to regional governments and city administrations.

➤ The excel based KPI system, that was developed by FPPA, is not rolled out successfully. Moreover, It is not a comprehensive tool in measuring performance in qualitative and quantitative terms. It is important to enhance the KPI system and integrate it with the procurement system to allow real-time data collection, analysis and reporting both on qualitative and quantitative terms..
Recommendation <ul style="list-style-type: none"> Expedite implementation of procurement through e-GP and benefit from the full feature of the EGP system, including generation of report on performance measurement Roll out implementation of the e-GP system to regional governments and city administrations and ensure integration of KPI with the e-GP System.
Assessment criterion 8(b)(b): The information is used to support strategic policy making on procurement in the sector
Conclusion: Substantive gap
Red flag: No
Qualitative analysis FPPAA claims that it uses the KPI report of sector entities as an input in developing capacity building program and devising policy issues. However, as stated in the CORE MAPS, there was no system allowing for collection and analysis of data to support strategic policy making on procurement. The information collected through the KPI system was not complete and accurate to be used as reliable data source for procurement policy making. Currently the E-GP Portal is integrated the KPI system and it is designed in a way to collects real time data, on the procurement of goods, works and services, from Procuring Entities that implement the E-GP system. However, the E-GP website is at early stage of implementation and it doesn't start generation of report. The integration of KPI system with the E-GP portal is an important milestone as the E-GP system will provide reliable KPI data that will be used to support strategic policy making on procurement in the sector. Expediting implementation of the E-GP system and starting generation of report is, therefore, a priority issue to benefit the maximum from the system; including the use of relevant information for supporting strategic policy making.
Gap analysis Quality of information to support strategic policy making through integration with e-GP: The E-GP website is at early stage of implementation, and it doesn't start generation of information that will be used to support strategic policy making on procurement in the sector.
Recommendation Expedite implementation of the e-GP system and start generation of information that will be used to support strategic policy making on procurement in the sector.
Assessment criterion 8(b)(c): Strategic plans, including results framework, are in place and used to improve sector system performance
Conclusion: No gap
Red flag: No
Qualitative analysis FPPAA has developed, in 2018, strategy and action plan for e-GP. The strategy was developed by Dr. Rajesh Kumar Shakya, who is an e-GP specialist consultant. The e-GP strategy document requires for development of e-PMIS (Procurement Management information System). The e-PMIS is required to include workflow and permission / authorization trails, and all information transactions in any part of the procurement process including contract management, contract planning, and interactions between stakeholders. All important events and data are required to be linked to the Audit log module and e-PMIS for analyses, reporting and performance assessments. The strategy document indicates that the analysis from e-PMIS provide the basis for the implementation business case and a list of baseline measures from which Key Performance Indicators (KPI) shall be developed. Areas of such analysis should be flexible by the user but shall be guided by the FPPA and could include: <ul style="list-style-type: none"> Analysis of attainment of e-Procurement Strategic objectives by a set of well- defined performance indicators. Procurement Performance of procuring entities through a set of indicators classified to cover all areas of core principles of good governance in public procurement (Efficiency, accountability, value for money, Equity, Fraud and Corruption Control, compliance, etc.) Therefore, strategic plan and result framework are currently in place and intended for the use of improving procurement performance of the sector as well as the country.
Gap analysis
Recommendation
Assessment criterion 8(b)(d): Responsibilities for performance measurement in the sector are clearly defined
Conclusion: No gap
Red flag: No
Qualitative analysis Yes, Responsibilities for performance measurement in the sector are clearly defined. As stated in the CORE MAPS, the procurement Proclamation 649/2009 Article 15 (2) mandates PPA to monitor and report on procurement performance. Therefore, performance measurement of sector entities under Federal Government is responsibility of FPPAA. On the other hand, as stated in the CORE MAPS, the procurement proclamation of the Addis Ababa City Administration has stipulated under Article 12 that 'one of the functions of the BoF is to monitor and report to the Mayor's office on the performance of the public procurement and property administration systems in the City Government and initiate amendments on laws and implementation system improvements'. Hence BOF is responsible for performance measurement of sector entities under the City Administration.
Gap analysis
Recommendation

Pillar III. Public Procurement Operations and Market Practices

SLA-Indicator 9. Public procurement practices achieve stated objectives in the sector

Sub-indicator 9(a) Planning in the sector
Assessment criterion 9(a)(a): Needs analysis and market research guide a proactive identification of optimal procurement strategies in the sector
Conclusion: Substantive gap
Red flag: Yes
Qualitative analysis Need analysis and market research is conducted every year by ERA and it usually identify the gap between numbers of contractors that are capable to handle ERA’s project. The annual assessment conducted by ERA since 2009 E.C shows that there is a mismatch of bidders that meet qualification criteria for available number of projects to be floated. The cause for the mismatch or for lower number of eligible bidders include: - <ul style="list-style-type: none">• Failure to meet performance requirement of the contract, i.e. delay in progress of work at hand as compared to approved work plan. ERA publishes in its website the monthly performance of all contracts that currently undertakes contract with ERA.• Difficulty to meet the turnover requirement and similar experience requirement in relation to value of contract the bidder executed in the last five years. This requirement has become difficult to be attained by bidders for the reason that estimated value of a project to be floated for bid has become very high due to the current hyperinflation and due to the fact that the government has ceased subsidizing of fuel cost. There are cases where a bidder has met the qualification criteria of a cancelled bid but failed to meet to the requirement when the project is retendered as the estimated value of the project at the time of retendering has increased due to the inflation. ERA uses result of the need assessment for defining size and value of projects to be floated in a way to enhance competitiveness. Recently ERA has asked FPPPAA for relaxation of the qualification criteria as the number of capable local and foreign contractors are very few as compared to the number of projects planned to be tendered in the current year. On the other hand, there is no practice of conducting need analysis and market research in case of Addis Ababa Roads Authority.
Gap analysis The mismatch between demand and supply of qualified local and foreign contractors in the sector has limited the capacity of ERA to define optimal procurement strategy
Recommendation <ul style="list-style-type: none">▪ Address systemic challenges shown in the relevant sub indicator in this matrix and facilitate entry to the sector.
Assessment criterion 9(a)(b): The requirements and desired outcomes of contracts, in the sector, are clearly defined
Conclusion: Minor gap
Red flag: No
Qualitative analysis The requirement and desired outcomes of contracts in the road sector are defined in the technical specification. The specification that define the requirement and desired outcome is documented as part of the bid document in the solicitation of any tender. Sector entities use a comprehensive standard technical specification, which is prepared by ERA, that define requirements related to quality of work, environmental protection, health and safety etc. the standard technical specification is in line with international standards such as AASHTO. Other documents that are used to define requirement and desired outcome contracts include Bill of Quantity, Design, and Employer’s requirement in case of Design-Build Contract.
Gap analysis <ul style="list-style-type: none">➤ The requirements and desired outcomes of contracts are clearly defined in the contract document (which include specification, drawings, bill of quantity, conditions of the contract etc). However, in case of Design Build contracts, where only control points (on which route of the road pass) are indicated in the contract, local administration used to raise argument with the contractor and with the procuring entity to change route of the road for passing through towns/villages that are not defined as control point.➤ In case of DBB contracts, local administrations usually raise issues (during progress of the construction) to increase length of town sections, on type/specification of surface material and to increase width of road in towns as per master plan of the town, which is beyond the designed standard
Recommendation <ul style="list-style-type: none">• Conduct thorough consultation with residents living along route of the road• Procuring entities to consult local administration in relation road width in the master plan of the town and discuss on how to harmonize with the road width in the design standard• Involve law enforcement agencies in cases where argument and suspension of progress is encountered on cases that are agreed through consultation
Assessment criterion 9(a)(c): Sustainability criteria, if any, are used in a balanced manner, in the sector, and in accordance with national priorities, to ensure value for money
Conclusion: Substantive gap
Red flag: No
Qualitative analysis Sustainable criteria is a basis for promoting sustainable Public Procurement (SPP) through integration of the three pillars of sustainable development: economic development, social development and environmental protection. Article 43 (8) of the PPL stipulates the following in addition to the least evaluated method of selection: - “if the public body has so stipulated in the bidding documents, the bid offering better economic advantage ascertained on the basis of factors affecting the economic value of the bid which have been specified in the bidding documents, which factors shall, to the extent practicable, be objective and quantifiable, and shall be given a relative weight in the evaluation procedure or be expressed in monetary terms wherever practicable;”.

Moreover, the public procurement directive, Article 16.8.2 (b), allow public bodies *to determine the functional or economic value of the procurement and the relative weight to be ascribed to each criterion and selecting the bidder with the highest cumulative result by conducting evaluation based on these criteria.*

Furthermore, Article 16.8.3 of the PPD states that the criteria selected for conducting evaluation as described in article 16.8.2 shall be objective and that can, as far as possible, be expressed in monetary terms in respect of achieving maximum value for money.

However, Section 3 of the SBD document, issued by FPPPAA, which included a sub section with title “Determining the Bid Offering Better Economic Advantage” is not drafted as per the requirements stipulated on Article 16.8.2 & Article 16.8.3 of the PPD. The criteria in the SBD stipulated for Determining the Lowest Evaluated Bid (the bid offering better economic advantage) are the same as the technical requirements stipulated as a ‘must meet criteria’ in the method of selection through the lowest price. The criteria indicated in the SBD for determining the bid that offer better economic advantage are not designed in a way to be expressed in monetary terms or other sustainability criteria (such as environmental protection and social development) that ensure value for money.

The following” Must meet criteria” are used to determine, technical qualification of bidders: -

1. Adequacy of Technical Proposal
2. Specific experience of the Bidder
3. Qualifications and competence of the key professional staff

Qualifications and competence of the key professional staff

Hence, the use of functional or economic value criteria in a balanced manner with price criteria is compromised as the criteria in the SBD that are alleged to ensure Better Economic Advantage have failed to meet the requirement stated in Article 16.8.2 & 16.8.3 of the PPD criteria.

Similar provision is stipulated under the public procurement proclamation, directive and SBD of the Addis Ababa City Administration.

While the pitfalls of the legal provisions is as described above, sector entities do not use sustainable requirements as a qualification criteria and the method of selection in all of its bids is the lowest price method. On the other hand, sector entities require bidders to comply with environment, social as well as health and safety standards during implementation of the contract, as a result sector entities include in their bidding document qualification and experience of environmentalist and safety engineers required to be deployed during contract implementation.

Gap analysis

- Criteria stipulated in the SBD in relation to determining the Bid Offering Better Economic Advantage are ineffective
- While contracts of the road sector include environmental and social requirements and require compliance of the requirements during implementation; sustainability requirements are not defined as qualification criteria, instead bidders are required to deploy professionals necessary for implementing environmental requirements

Recommendation

- Revise the criteria used in the SBD for determining bid offering better economic advantage. Provide verification protocols, monitoring KPIs and contract management mechanism for the sustainability and non-price attributes. While social and environmental considerations have been recommended, the government should be defining the SPP specific targets in social and environmental category, based on which the SPP criteria should be provided in bidding documents.
- Introduce procurement provision that require public bodies to set sustainability requirements as qualification criteria.
- Develop qualification criteria that used to evaluate bidders’ capability on complying for sustainability requirement

Sub-indicator 9(b) Selection and contracting in the sector Analysis of a sample of contracts in the sector shows that:																				
Assessment criterion 9(b)(a): Multi-stage procedures are used in complex procurements to ensure that only qualified and eligible participants are included in the competitive process																				
Conclusion: No gap																				
Red flag: No																				
Qualitative analysis Both Federal Procuring Entities such as ERA and Procuring Entities in Addis Ababa Administration City such as AACRA uses two envelope procedure in which qualification/technical bid and financial bid are sealed in separate envelopes and submitted at the same time. First the envelope with qualification and technical bid is opened and then the qualified bidders will be invited for a financial bid opening. However, in the case of ERA it applies evaluation of contractors’ performance on existing contracts as additional procedure used to ensure that only qualified and eligible participants are included in the competitive process for procurement of works. The process of identifying eligible bidders is done every month through evaluating the contractor’s performance in relation to contracts of existing projects at hand. ERA has established performance assessment framework for local and foreign contractors by which it evaluates their monthly performance and publish, in its website, by describing status of each contractor as PASS or FAIL. Those contractors who PASSED the evaluation at the time of bid are eligible for the specific works procurement. The performance evaluation criteria for local contractors has a lower requirement than the one for foreign contractors, as shown below: - 1. Performance Evaluation Formula for Local Contractors The total contract duration is divided into three equal periods in such a way that: <ul style="list-style-type: none">At the end of the first one third period, the minimum expected progress is 9%.At the end of the second one third period, the minimum expected progress is 38%At the end of the last one third period or at the end of the contract period, the minimum expected progress is 70% andBeyond contract period but only up to a period of one fourth of the contract period, the project is expected to be completed 100%.Contractors, who fail to complete projects after elapse of one fourth period of the contract duration, will be disqualified.For the intermediate months, the evaluation is conducted using formulae that iterate the above parameters. 2. Performance Evaluation Formula for Foreign Contractors The total contract duration is divided into three equal periods in such a way that: <ul style="list-style-type: none">At the end of the first one third period, the minimum expected progress is 11%.At the end of the second one third period, the minimum expected progress is 42%At the end of the last one third period or at the end of the contract period, the minimum expected progress is 80% andBeyond contract period but only up to a period of one ninth of the contract period, the project is expected to be completed 100%.Contractors, who fail to complete projects after elapse of one ninth period of the contract duration, will be disqualified.For the intermediate months, the evaluation will be conducted using formulae that iterate the above parameters.For the intermediate months, the evaluation is conducted using formulae that iterate the above parameters. The performance evaluation framework further defines additional criteria in cases where a contractor has 3 or more projects at hand. in order to manage the risk of inefficiency due to increase in number of projects, the framework suggest to raise the expected performance of a given contractor by a certain percentage. The following formula and table is applied in case the contractor has three or more contracts at his hand: - <table><tr><td>No of projects</td><td>3</td><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td><td>9</td><td>10</td><td>n</td></tr><tr><td>Percentage increase</td><td>2</td><td>3</td><td>4.5</td><td>6.8</td><td>10.1</td><td>15.2</td><td>22.8</td><td>34.2</td><td>$2 * (1.5)^{n-3}$</td></tr></table> Therefore, ERA uses the above procedures, in complex procurements to ensure that only qualified and eligible participants are included in the competitive process. Once contractors have satisfactory performance as per the evaluation criteria laid in the performance evaluation framework, then bidders will participate in the bid. On the other hand, Multistage procedure is used for consultancy service procurement through expression of interest, if the value of the procurement is above the threshold specified in the amended public procurement directive. However, FPPPAA didn’t develop standardized evaluation criteria for selection of firms through expression of interest.	No of projects	3	4	5	6	7	8	9	10	n	Percentage increase	2	3	4.5	6.8	10.1	15.2	22.8	34.2	$2 * (1.5)^{n-3}$
No of projects	3	4	5	6	7	8	9	10	n											
Percentage increase	2	3	4.5	6.8	10.1	15.2	22.8	34.2	$2 * (1.5)^{n-3}$											
Gap analysis ➤																				
Recommendation • .																				
Assessment criterion 9(b)(b): Clear and integrated procurement documents, standardized where possible and proportionate to the need, are used to encourage broad participation from potential competitors																				
Conclusion: Minor gap																				
Red flag: No																				
Qualitative analysis In the Road sector, public bodies typically use SBDs on a Design-Bid-Build and admeasurement contract basis. Other types of contracts such as Design-Build or payments terms such as lump sum, cost plus, target cost, do not exist. The Ethiopian Roads Administration (ERA) does often modify the above SBDs for works in a way that suits the sector needs using contracts documents and contracts modeled after FIDIC conditions of contract (often the old FIDIC versions). ERA also use standard bidding documents (SBD) developed by the federal PPA for procurement of works through NCB and for procurement of maintenance. On the other hand, AACRA uses the SBD developed by FPPPAA in relation to procurement of both NCB & ICB contracts. ERA also uses the standard bidding documents (SBD) developed by the Federal PPA for procurement of works, however it replaces section 7 & 8 (the General and Special Conditions of Contract) with internationally recognized conditions such as FIDIC Red Book, FIDIC for Design & Build, FIDIC Harmonized by World Bank etc																				
Gap analysis Though in practice, the public bodies in Road sector use FIDIC conditions of contract and national SBDs modified as per the General and Special Conditions of contract recognized internationally, the General and Special Conditions of contract issued by FPPA, 2011 is not consistent with an internationally recognized conditions of contract.																				

Recommendation The General and Special Conditions of Contract issued by FPPA shall be revised by adapting an internationally recognized conditions of contract, such as FIDIC Red Book, FIDIC for Design & Build, FIDIC Harmonized by World Bank etc.; so that it will comply with requirements stipulated in Article 59 (3) of the public procurement proclamation 649/2009 and attract qualified local and international contractor to bid for large and complex contracts			
Assessment criterion 9(b)(c): Procurement methods are chosen, documented, and justified in accordance with the purpose and in compliance with the legal framework			
Conclusion: Minor gap			
Red flag: No			
Qualitative analysis The CORE MAPS has noted the need to revisit threshold limit in case of construction sector to accommodate local contractors’ capacity. it has identified the following as a gap:” the construction sector may need different thresholds, commensurate with the local capacity in the sector.” and it has recommended “consider updating procurement methods thresholds to reflect the capacity of the local market.” Accordingly, the Ministry of Finance has recently issued a circular though letter dated on 25/1/2014 E.C with reference number 7/ኢ/1/53/86. The circular has upgraded the threshold, which is currently applicable. The same circular is adapted by Addis Ababa City Administration, and it is circulated for all public bodies through the circular issued, on 21/07/2014 E.C with reference number ፋ/ቢ -25/64/3222, by Addis Ababa Bureau of Finance. The circular defines the threshold for procurement works, consultancy service and goods through NCB in relation open bids, restricted bids and proforma. The NCB threshold for procurement of works is upgraded to 600 Million Birr, for Goods 200 Million Birr and for consultancy service 30 Million Birr, as shown in the below table: -			
PROCUREMENT METHOD	TYPE OF PROCUREMENT	EXISTING THRESHOLD IN BIRR	IMPROVED/UPGRADED THRESHOLD IN BIRR
OPEN BID THROUGH NCB	WORKS	150,000,000	600,000,000
	GOODS	50,000,00	200,000,000
	CONSULTANCY SERVICE	7,500,000	30,000,000
	NON CONSULTANCY SERVICE	21,000,000	84,000,000
RESTRICTED BID			
	WORKS	6,000,000	15,000,000
	GOODS	1,500,000	3,750,000
	CONSULTANCY SERVICE	900,000	2,250,000
PROFORMA	NON CONSULTANCY SERVICE	1,200,000	3,000,000
	WORKS	500,000	1,000,000
	GOODS	200,000	400,000
	CONSULTANCY SERVICE	120,000	240,000
	NON CONSULTANCY SERVICE	150,000	300,000
However, the upgraded threshold didn’t solve the challenge of local contractors working on road projects as the value of most new road contracts is above 1.5 billion Birr due to inflation of the Birr currency. Currently the value of contracts with estimated value below 1.5 Billion Birr are that of maintenance works. As a result, ERA has requested FPPAA for upgrading the threshold for procurement of works contract through NCB and got permission of FPPAA to procure works with a value of up to 1.5 billion Birr through NCB. On the other hand AACRA is using the threshold upgraded through the circular issued, by Addis Ababa Bureau of Finance, on 21/07/2014 E.C with reference number ፋ/ቢ -25/64/3222.			
Gap analysis Threshold for National Competitive Bidding and other methods: the action of upgrading threshold for procurement through NCB is done for resolving problems associated to inflation of Ethiopian Birr. However, the problem cannot be solved by one time upgrading of threshold as the loss in value of Ethiopian Birr is continual (1 USD was about 35 Birr in June 2020 compared to about 55 Birr now in May 2023) In fact ERA, was not using the threshold (as per the Core MAPS) and select methods based on annual assessment of the market and capacity			
Recommendation Design a mechanism to proactively increase the threshold for NCB procedure according to the market and cost of construction.			
Assessment criterion 9(b)(d): Procedures for bid submission, receipt and opening are clearly described in the procurement documents and complied with. This means, for instance, allowing bidders or their representatives to attend bid openings, and allowing civil society to monitor bid submission, receipt and opening, as prescribed			
Conclusion: Minor gap			
Red flag: No			
Qualitative analysis Procedures for bid submission, receipt and opening are clearly described in the procurement documents and complied with. There is also good practice of issuing receipts for confirmation of bidders who submitted their proposal. The bid opening is conducted with the presence of bidders staffs from communication directorate and internal audit. Any other interested person such as journalists and civil society representatives can participate in the bid opening, however such case has not encountered so far.			
Gap analysis Bid opening procedure: <ul style="list-style-type: none"> ➤ There is no practice of attending the bid opening ceremony by civil societies. ➤ Issuing of receipt for bidders who submit their proposal is not commonly practiced in procuring entities under Addis Ababa City Administration. 			
Recommendation <ul style="list-style-type: none"> • Procuring entities should be encouraged to invite representatives from civil societies for attending the bid opening ceremony and demonstrate transparency of the bid process. 			

<ul style="list-style-type: none"> Procuring entities under Addis Ababa City Administration are recommended to practice Issuing of receipt for bidders to confirm submission of proposal by the respective bidders.
Assessment criterion 9(b)(e): Throughout the bid evaluation and award process, confidentiality is ensured
Conclusion: Minor gap
Red flag: No
Qualitative analysis Confidentiality is ensured throughout the bid evaluation and award process. Procuring entities of the sector at Federal level ensure confidentiality through requiring evaluators to sign code of ethics and confidentiality.
Gap analysis Confidentiality in evaluation and award process in City Administration: The Addis Ababa PPL para 24 (Rule of Ethics in Public Procurement and Property Administration) requires personnel engaged in public procurement and property administration to maintain confidentiality throughout the procurement process. Same is true with the federal PPL para 32. The assessment didn't come across cases of breach of confidentiality. However, specific measures within the procurement system in support of confidentiality like requiring evaluators to sign a declaration to uphold confidentiality in the sector, enhances the enforceability of the code.
Recommendation Procuring entities of the sector under Addis Ababa city Administration are recommended to require evaluators to sign code of ethics and confidentiality as a tool of upholding confidentiality throughout the bid process.
Assessment criterion 9(b)(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
Conclusion: Minor gap
Red flag: No
Qualitative analysis The public bodies in the sector apply preferential treatment to locally registered contractors/consultants and also MSEs However, other socio economic and environment aspects are not yet considered in bidding documents and evaluation of bids.
Gap analysis Despite the fact that the public procurement legislations allow the use of non-price bid evaluation criteria that ensure value for money, there is no any guidance issued by FPPAA in order to apply non price bid evaluation criteria that ensure value for money.
Recommendation FPPAA is recommended to prepare guidance on the use of non-price evaluation criteria that ensure value for money.
Assessment criterion 9(b)(g): Contract awards are announced as prescribed
Conclusion: No gap
Red flag: No
Qualitative analysis Procuring entities of the sector under Federal Government and under Addis Ababa city Administration comply with Article 46 of the public Proclamation by notifying the contract award decision both to the successful and unsuccessful bidders including the reason why the unsuccessful bidders are not considered.
Gap analysis
Recommendation
Assessment criterion 9(b)(h): Contract clauses include sustainability considerations, where appropriate
Conclusion: No gap
Red flag: No
Qualitative analysis Contract clauses of FIDIC as well as the standard bid document of FPPAA, incorporate sustainability consideration, such as environmental, Health and safety provision, in the General Conditions of Contract. Moreover, Sustainability criteria such as environmental friendliness, health & safety, Pollution prevention and aspects that require measures to address HIV Aids risks and other STDs during construction are included in the special conditions of contract and specification of the road.
Gap analysis
Recommendation
Assessment criterion 9(b)(i): Contract clauses provide incentives for exceeding defined performance levels and disincentives for poor performance wherever appropriate

Conclusion: Minor gap
Red flag: No
Qualitative analysis Contract clauses do not provide incentives for exceeding defined performance levels. However, a penalty of liquidated damage is included as disincentive for delayed performance. On the other hand, Clause 75 of the General Condition of Contract for Works (Section 7 of SBD for WORKS issued by PPPAA) stipulates that the contractor will be paid for accelerated performance if the ACCELERATION is made in response to the public body’s request
Gap analysis Absence of provision in contract clauses that provide incentives for contractors who exceeding defined performance levels.
Recommendation Revise the general conditions of contract issued by FPPAA for introducing provisions that provide incentives for contractors who exceeding defined performance levels.
Assessment criterion 9(b)(j): The selection and award process is carried out effectively, efficiently and in a transparent way
Conclusion: Minor gap
Red flag: No
Qualitative analysis The selection and award process of procurements undertaken by sector entities is carried out in transparent way. However, efficiency of the selection and award process is not satisfactory as there is delays in evaluation process. There are challenges in effectively carrying out the selection process, which include: <ul style="list-style-type: none"> - i) Challenge on admissibility of audit report <ul style="list-style-type: none"> • Effectiveness of the selection process is challenged by admissibility of audit reports submitted by bidders. The financial soundness and turnover information submitted by bidders is required to be verified by data from Ministry of Revenue, however the Ministry is reluctant to provide the confirmation required by procuring entities such as ERA. • ERA is then forced to engage Addis Ababa Chamber of Commerce for authenticating contractor’s audit report and it is using the audit report authenticated by the chamber as a basis in evaluating admissibility of audit reports submitted by contractors. • On the other hand, the Addis Ababa City Bureau of Financed has good practice in providing full information for AACRA ii) Challenge on Abnormally Low Tender (ALT) prices <ul style="list-style-type: none"> • ERA has indicated that there is practice of submitting ALT price on bids for design and supervision service. • There are cases where a consultant has quoted monthly fee of key professionals, (highway engineer, claim expert, environmentalist, hydraulic engineer and road safety auditor), that range from 2000 to 4000 Birr. • Awarding a contract for bidder who submit, which results with failure of consultants to timely deliver the design output and poor quality of design. • There are also cases where a bidder offers 55% of the Engineer’s estimate for works contract (Kibremengist-shakiso road project). • The issue of abnormally low tender price is addressed in the instruction to bidder of Standard Bidding document, so that procuring entities can ask justification of the winning bidder for justifying its price, however the major legislations (PPL and PPD) has no provision similar to the ITB. • Moreover, the stipulation in the ITB do not mandate the procuring entity to reject the Abnormally Low Tender Price. iii) Challenges on joint venture <ul style="list-style-type: none"> • Article 272 (1) of Commercial code of Ethiopia stipulates that a joint venture is not made known to third parties • Article 272 (3) of Commercial code of Ethiopia stipulates that a joint venture do not have legal personality. • Article 276 (1) of Commercial code of Ethiopia stipulates that the manager is known to third parties. He shall be fully responsible for the liabilities of the joint venture. Furthermore, Article 276 (2) states that partners who are not managers shall meet liabilities only to the extent fixed in the memorandum of association. • The above stipulations are challenges for procuring entities to sign a contract with bidders who win a bid as joint venture, as the JV is not a legal entity to sign a contract and as it cannot disclose itself to a third party. Moreover, the full liability of the JV is required by the commercial code to rest on the manager. • Provisions of PPA’S SBD are contrary to stipulations of the commercial code, as PPA’S provision <ul style="list-style-type: none"> ➤ Allow the joint venture to make known itself to the procuring entity which is a third party, ➤ It also allows to sign a contract in the name of the JV through signatory represented by partners of the JV ➤ It indicates that members of the JV are liable equally and severally • The practice exercised by ERA and AACRA is in line with the provisions of the SBD issued by FPPAA, which may require a call for amending provisions of the Commercial Code iv) Challenges on using specific experience on similar project value as qualification criteria <ul style="list-style-type: none"> • The qualification criteria issued, by Ministry of Finance, as an amendment of the procurement directive contain criteria related to general experience, specific experience on similar project type & value and turnover. • Experience on value of previously carried out projects and bidder’s turnover is required to be corrected for changes on exchange rate between USD and ETB. The amendment do not have provision regarding correction of values for accommodating changes due to inflation. • Requesting experience on similar project value has become a challenge on selection of bidders as estimated value of a project floated for bid is currently very exaggerated due to inflation of the construction inputs price. Due to these bidders who are bidding for a project exactly identical to the one they execute in previous years are not able to participate in the bid for the reason that they couldn’t meet the project value requirement of the bid. • The inflation has also become barrier for bidders to meet the turnover requirement that is computed based on the exaggerated estimate of the project under bid. v) Challenges on using work load and performance as qualification criteria <ul style="list-style-type: none"> • ERA uses workload and performance of contractors on projects at hand as qualification criteria. However, such criteria is not included in the amendment of the directive issued to circulate qualification criteria for procurement of works, which may require a call for PPA to consider it

Recommended quantitative indicators to substantiate assessment of sub-indicator 9(b) Assessment criterion (j):

- Average time to procure goods, works, and services;
- Number of days between advertisement/solicitation and contract signature (for each procurement method used);
- Average number (and %) of bids that are responsive (for each procurement method used);
- Share of processes that have been conducted in full compliance with publication requirements (in %);
- Number (and %) of successful processes; (successfully awarded; failed; cancelled; awarded within defined timeframes)

Source for all: Sample of procurement cases.

Quantitative analysis ²⁷

Average time to procure per procurement method:

Method	Average time in days	Range
ICB + NCB+LIB+DC	218	57 – 389
ICB	278	222- 385
NCB	214	92 - 389
LIB	57	57(one sample)
DC	258	72-444(2 samples)

Category	Average time in days	Range
Goods-NCB	194	92-264
Works-NCB	239	144 - 389
Works-ICB	279	222-385
Consultancy NCB	186	107-287

- On average In Works, 5 responsive bids were obtained in procurements conducted by NCB.
- In case of goods, 2 responsive bids are obtained on average on NCB.
- In consultancy services average responsive proposals is 4 on NCB.
- On average in Works, 7 submissions bids were obtained in procurements conducted by NCB procedures.
- In case of goods, 4 bids are submitted on average. In consultancy services average submission is 5. This shows that there is quite adequate competition in Works and Consultancy services under CB and NCB methods.
- The PEs are fully in compliance with publication requirements.

Gap analysis

The selection and award process are not always completed within the initially defined bid validity period.

- i) **Challenge on admissibility of audit report**
- Effectiveness of the selection process is challenged by **admissibility of audit reports** submitted by bidders. The financial soundness and turnover information submitted by bidders is required to be verified by data from Ministry of Revenue, however the Ministry is reluctant to provide the confirmation required by procuring entities such as ERA.
 - ERA is then forced to engage Addis Ababa Chamber of Commerce for authenticating contractor’s audit report and it is using the audit report authenticated by the chamber as a basis in evaluating admissibility of audit reports submitted by contractors.
 - On the other hand, the Addis Ababa City Bureau of Financed has good practice in providing full information for AACRA
- ii) **Challenge on Abnormally Low Tender (ALT) prices**
- ERA has indicated that there is practice of submitting ALT price on bids for design and supervision service.
 - There are cases where a consultant has quoted monthly fee of key professionals, (highway engineer, claim expert, environmentalist, hydraulic engineer and road safety auditor), that range from 2000 to 4000 Birr.
 - Awarding a contract for bidder who submit, which results with failure of consultants to timely deliver the design output and poor quality of design.
 - There are also cases where a bidder offers 55% of the Engineer’s estimate for works contract (Kibremengist-shakiso road project).
 - The issue of abnormally low tender price is addressed in the instruction to bidder of Standard Bidding document, so that procuring entities can ask justification of the winning bidder for justifying its price, however the major legislations (PPL and PPD) has no provision similar to the ITB.
 - Moreove,r the stipulation in the ITB do not mandate the procuring entity to reject the Abnormally Low Tender Price.
- iii) **Challenges on joint venture**
- Article 272 (1) of Commercial code of Ethiopia stipulates that a joint venture is not made known to third parties
 - Article 272 (3) of Commercial code of Ethiopia stipulates that a joint venture do not have legal personality.
 - Article 276 (1) of Commercial code of Ethiopia stipulates that the manager is known to third parties. He shall be fully responsible for the liabilities of the joint venture. Furthermore, Article 276 (2) states that partners who are not managers shall meet liabilities only to the extent fixed in the memorandum of association.
 - The above stipulations are challenges for procuring entities to sign a contract with bidders who win a bid as joint venture, as the JV is not a legal entity to sign a contract and as it cannot disclose itself to a third party. Moreover, the full liability of the JV is required by the commercial code to rest on the manager.
 - Provisions of PPA’S SBD are contrary to stipulations of the commercial code, as PPA’S provision
 - Allow the joint venture to make known itself to the procuring entity, which is a third party,
 - It also allows to sign a contract in the name of the JV through signatory represented by partners of the JV
 - It indicates that members of the JV are liable equally and severally
 - The practice exercised by ERA and AACRA is in line with the provisions of the SBD issued by FPPPAA, which may require a call for amending provisions of the Commercial Code
- iv) **Challenges on using specific experience on similar project value as qualification criteria**
- The qualification criteria issued, by Ministry of Finance, as an amendment of the procurement directive contain criteria related to general experience, specific experience on similar project type & value and turnover.
 - Experience on value of previously carried out projects and bidders’ turnover is required to be corrected for changes on exchange rate between USD and ETB. The amendment does not have provision regarding correction of values for accommodating changes due to inflation.
 - Requesting experience on similar project value has become a challenge on selection of bidders as estimated value of a project floated for bid is currently very exaggerated due to inflation of the construction inputs price. Due to these bidders who are bidding for a project exactly identical

²⁷ 61% of the sampled contracts were implemented and completed during the COVID 19 and the subsequent crisis (national and international) that have significantly disrupted the economy especially the construction sector.

	<p>to the one they execute in previous years are not able to participate in the bid for the reason that they couldn't meet the project value requirement of the bid.</p> <ul style="list-style-type: none"> • The inflation has also become barrier for bidders to meet the turnover requirement that is computed based on the exaggerated estimate of the project under bid.
v)	<p>Challenges on using workload and performance as qualification criteria</p> <ul style="list-style-type: none"> • ERA uses workload and performance of contractors on projects at hand as qualification criteria. However, such criteria is not included in the amendment of the directive issued to circulate qualification criteria for procurement of works, which may require a call for PPA to consider it
<p>Recommendation</p> <ul style="list-style-type: none"> • Review the procurement process of procuring entities to enhance efficiency that ensure completion of the selection and award process within the initially defined bid validity period. Need to introduce monitoring through electronic Procurement Monitoring means and part of e- Procurement process. • Getting confirmation from Ministry of Revenue regarding content of the audit report is still necessary as the chamber is not providing confirmation on accuracy of the audit report's content. The only confirmation provided by the chamber is on whether the audit report is prepared by the licensed auditor/auditing firm whose name is indicated in the audit report. • MoF Finance should be engaged to identify on why Ministry of Revenue (MoR) is not willing to provide the requested audit report and resolve the matter. (Note: MoR is said to resist providing financial information of suppliers to the EGP system) • Provide ALT stipulation in the main legislation of procurement. The ALT provision shall give mandate for Procuring Entities to reject the bidder in case of unjustifiable price • The practice exercised by ERA and AACRA is in line with the provisions of the SBD issued by FPPPAA, which may require a call for amending provisions of the Commercial Code • Amend the qualification criteria related to experience on value of previously carried out projects and bidders' turnover in a way to respond for effect of inflation. • This can be done by applying correction factor through ratio of inflation data from Statistics Authority. • FPPPAA to review the performance and workload requirement used by ERA and look for mechanisms to include in the appropriate part of the procurement legislations. 	

Sub-indicator 9(c)

Contract management practice in the sector

Examination of contract management practices based on a sample of contracts in the sector shows that:

Assessment criterion 9(c)(a):

Contracts are implemented in a timely manner

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis

Contracts are not implemented in a timely manner. Time overrun in the reviewed sample of contracts was significant.

Quantitative analysis

Among sampled contracts, contract completion delays up to 1666 days and in percentage 502% in Works, up to 904 days (257.5%) in consultancy and 247 days (312%) in goods were noted. Average delay in contract completion of sample contracts is in days 566 and 88.21in percentage for works. Similarly, 371days (89%) and 60.6 days (65.4%) delay is recorded for consultancy and goods respectively.

	Average delay		Maximum Delay		No. Contracts
	%	Days	%	Day	Sampled
Works	88.21	566	502	1666	21
Goods	65.4	60.6	312	247	5
Consultancy	89	371	257.5	940	4

Gap analysis

➤ Contracts are not implemented in a timely manner. Time overrun in the reviewed sample of contracts was significant.

➤ The common causes that delay implementation of contract includes: -

Poor project management of local consultants and contractors,

Poor design quality,

Low capacity of professionals in the sector

Continual increase of unit cost per kilo meter

Shortage of budget that result in delay of payment

Unavailability/shortage of foreign currency

Delay/difficulty in clearing right of way obstructions

Recommendation

The Contract administration process under procuring entities and under the consulting firms should be strengthened in a way to ensure timely completion of contracts.

Assessment criterion 9(c)(b):

Inspection, quality control, supervision of work and final acceptance of products is carried out

Conclusion: No gap

Red flag: Choose an item.

Qualitative analysis

The general conditions of contract include provisions that mandate the Engineer/the consultant to conduct inspection, quality control, supervision of work and it is compiled. Provisional and final acceptance is also conducted after conducting inspection and confirming quality of the product against requirements of the specification.

Gap analysis

Recommendation

Assessment criterion 9(c)(c):

Invoices are examined, and payments are processed as stipulated in the contract

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis

Invoices are examined, and payments are processed by the Engineer as stipulated in the contract. However, procuring entities under Federal Government usually delays effecting of the payment certified by the Engineer due to shortage of budget. The delay is significant for the foreign portion of the payment due to serious shortage/unavailability of foreign currency.

The effecting of payment is usually delayed due to the delay by MOF in releasing the fund, which caused non-compliance to the number of days stipulated in the public procurement directive and in the conditions of the contract. As a result, the MOF has issued CIRCULAR on 25/1/2014 E.C, which states that, considering the time required to verify payment by the consulting engineer & the time necessary for the procuring entities to get fund, for certified payments, from MOF the period for effecting payment for works contract is decided to be a maximum of 45 days from the date requested by the contractor. As per the same amendment of the directive issued by MOF, Payments for material on site are considered only for 50% of the material delivered on site and it require to produce receipt for processing the payment. However, most of the materials on site in relation to road contracts are selected materials, stone, gravel and sand which are produced on quarry. Hence it is not possible for contractors to avail receipt for such materials, as a result contractors are not getting material on site payment due to the requirement stipulated in the amendment of the directive.

Gap analysis

Delays in payment of invoices:

➤ Delay of effecting payment within the period defined in the contract, that result with paying interest and in some cases it has caused termination that result with huge amount of claim

➤ Failure to comply even the 45 days period that was issued through circular

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<ul style="list-style-type: none"> ➤ As per amendment of the directive issued by MOF, Payments for material on site are considered only for 50% of the material delivered on site and it require to produce receipt for processing the payment. However most of the materials on site in relation to road contracts are selected materials, stone, gravel and sand which are produced on quarry. Hence it is not possible for contractors to avail receipt for such materials, as a result contractors are not getting material on site payment due to the requirement stipulated in the amendment of the directive.
Recommendation <ul style="list-style-type: none"> • Foreign currency requirement of ongoing projects shall be quantified and the MOF shall negotiate with the contractor on the schedule of releasing the foreign portion. • Ministry of Finance shall devise robust mechanism of effecting payments (both local and foreign portion) within the contractually agreed period or not to solicit bid and award contract if funds are not available. • Increase percentage material on site amount to 80% • Introduce provision that exempt request of receipt for materials produced on site or local materials that are found naturally or transported from quarry, such as stone, sand, gravel, selected material
Assessment criterion 9(c)(d): Contract amendments are reviewed, issued and published in a timely manner
Conclusion: Minor gap
Red flag: No
Qualitative analysis The contract amendments process does not follow the established procurement decision approval procedures, which includes review and approval by the Bid Endorsing Committee. Approval of variation work in sector entities under Federal Government used to take 3 to 7 months depending on the nature of variation and amount of variation. The approval process of variation in sector entities under Addis Ababa City Administration involve approval of the City Planning Commission which creates delays. Regarding publication, there is no practice of publishing contract amendments in all sector entities of both Federal Government and the Addis Ababa City Administration. Approval of contract amendment will face more delay in future, as procuring entities are required to get approval of the Ministry of Planning & Development prior to issuing contract amendment pursuant the stipulations under Article 17 (5) of the project administration and management proclamation number 12120/2020. Moreover, Article 18(6) of the proclamation require the commission to conduct project appraisal and submit for approval of the MOF.
Quantitative Analysis <ul style="list-style-type: none"> • On average there is 16% contract Amendment. For Works it is 11.8% and for consultancy it is 32%
Gap analysis Delays in processing contract amendments due to multiple layers for approval: <ul style="list-style-type: none"> ➤ There is delay in processing and approving contract amendments. ➤ The delay in approving the contract amendment could significantly affect object of the procurement. Moreover, mitigation of the delay would not be resolved by improving the procurement system, unless the requirements under Article 17 (5) and 18 (6) of project administration and management proclamation number 1210/2020 are improved in a way to avoid delay in approving contract amendments. ➤ There is no practice of publishing contract amendments.
Recommendation <ul style="list-style-type: none"> • Devise an effective mechanism of processing and approving contract amendments. • Introduce practice of publishing contract amendments.
Assessment criterion 9(c)(e): Procurement statistics are available, and a system is in place to measure and improve procurement practices
Conclusion: Substantive gap
Red flag: No
Qualitative analysis ERA has a system called ERA-MS that contain information on the entire procurement process. Though the ERA-MS system is capable of providing analysis of trends, levels of participation, efficiency and economy of procurement and compliance with requirements; ERA didn't practice such analysis using the system and the system is not in place to measure and improve procurement practices. On the other hand, AACRA has no any system that contain procurement statistics. The e-GP system in the federal Government has a system that integrate the KPI system, however the system is at early stage of implementation and it doesn't start generation of key performance indicators. On the other hand the e=GP system is not yet rolled out to sector entities under regional governments and city administrations
Gap analysis Lack of procurement statistics and system to measure and improve performance: <ul style="list-style-type: none"> ➤ There is no Procurement statistics in AACRA to measure and improve procurement practices ➤ The E-GP system, which could potentially provide data on procurement statistics, is at early stage of implementation at Federal Government level and it doesn't start generation of report. ➤ The e-GP system is not yet rolled out to sector entities under regional governments and city administrations
Recommendation <ul style="list-style-type: none"> • FPPPA is recommended to expedite implementation of the e-GP system and get the benefit from full feature of the EGP system. • Roll out of the e-GP system to sector entities under regional governments and city administrations should be facilitated
Assessment criterion 9(c)(f): Opportunities for direct involvement of relevant external stakeholders in public procurement are utilized
Conclusion: Substantive gap
Red flag: No
Qualitative analysis Article 13 (3) (c) of proclamation no. 590/2008 (Proclamation on access to information and freedom of mass media), stipulates that “ Any public body shall before initiating any project publish, on the principle of transparency and accountably or communicate to the public generally or the persons affected or likely to be affected by the project in particular, the relevant facts available to it or to which it has reasonable access.” Article 18 (10) of Proclamation 1210/2020 also require Ministry of Planning and Development to “Publicize the main projects information on widespread channels including the webpages;”.

<p>The above provisions provide opportunity relevant external stakeholders to access information and directly involve in public procurement. However, such opportunity is not utilized as the provisions are not enforced as public bodies do not publish project information as required by the proclamation. Civil societies are also not strong enough to demand access to information on feasibility, bidding and implementation of projects, which will be the basis for their direct involvement.</p> <p>As a result, there is no practice of involving relevant external holders on different stages of public procurement. However local administrations in the area where the road passes by are involved in managing right of way issues as part of contract management at contract implementation stage.</p>
<p>Gap analysis</p> <p>There is lack of enforcement of the provisions granting opportunities for direct involvement of relevant external stakeholders in public procurement. Civil societies are not strong enough to demand enforcement of provision in proclamation on access to information and freedom of mass media that help the general public to seek information on procurement process.</p>
<p>Recommendation</p> <ul style="list-style-type: none"> Enforce provisions related to publication and access to project information Raise awareness of the public and strengthen civil societies on accessing and utilizing project information Create conducive environment participation of external stakeholders, such as civil societies, in the procurement process of procuring entities that include in planning phase; bid/proposal opening; evaluation and contract award and contract implementation.
<p>Assessment criterion 9(c)(g):</p> <p>The records are complete and accurate, and easily accessible in a single file</p>
<p>Conclusion: Substantive gap</p>
<p>Red flag: No</p>
<p>Qualitative analysis</p> <p>Records are not kept in a single file as Procurement records are managed by procurement directorate while the records generated after contract signing are kept by contract management directorates. Moreover, the records for completed contracts are not easily accessible.</p>
<p>Quantitative indicators to substantiate assessment of sub-indicator 9(c) Assessment criterion (g):</p> <ul style="list-style-type: none"> Share of contracts with complete and accurate records and databases (in %). <p>Source: Sample of procurement cases.</p>
<p>Quantitative analysis</p> <ul style="list-style-type: none"> There is no systematic data base management system and records are kept in different units (Procurement, Contract management, Finance) in the entities. There was no single contract with complete and accurate record and database in the entities assessed.
<p>Gap analysis</p> <p>Records are complete but not kept in a single file and they are not easily accessible.</p>
<p>Recommendation</p> <p>Devise mechanism that enable procuring entities to keep procurement records in a single file and with easy accessibility.</p>
<p>Sub-indicator 9(d)</p> <p>Efficiency of application of tools that support achievement of socio-economic development aspirations relative to the sector</p>
<p>Assessment criterion 9(d)(a):</p> <p>Efficiency of application of the tools for attaining socio-economic development objectives</p>
<p>Conclusion: Minor gap</p>
<p>Red flag: No</p>
<p>Qualitative analysis</p> <p>There was no contract that was awarded through applying margin of preference. However, the legal framework allows 7.5% price preference in Construction and Consultancy services tenders.</p>
<p>Recommended quantitative indicators to substantiate assessment of sub-indicator 8(b) assessment criterion (a):</p> <ul style="list-style-type: none"> Number of contracts awarded, applying the tools meant to achieve socio-economic objectives such as the margin of preference, as a proportion of the total number of contracts (in %). Number of contract awarded, applying the tools meant to achieve socio-economic objectives such as the margin of preference that were the object of complaints by bidders in relation to the application of this margin of preference (in %,) as a proportion of the total number of contracts.
<p>Quantitative analysis</p> <ul style="list-style-type: none"> Out of the sampled Contracts non has been awarded applying the margin of preference. Accordingly, no compliant is received in this regard.
<p>Gap analysis</p> <p>Lack of application of tool to attain socio-economic development objectives:</p> <p>Applying margin of preference for local contractors is not much relevant as the price quoted by domestic contractors do not usually exceed the one quoted by foreign contractors. The challenge of local contractors is more in meeting technical qualification requirements such as turnover, experience on similar value of contracts etc</p>
<p>Recommendation</p> <p>Introduce tools for attaining socio-economic development objectives and mechanism that enhance local content development, for example through introducing provision that reserve contracts below certain threshold for local contractors, allowing public bodies to use slicing,</p>
<p>Assessment criterion 9(d)(b):</p> <p>The fiduciary risks associated with application of socio-economic development tools are identified and mitigated by measures that ensure the principles of transparency, competition and value for money</p>
<p>Conclusion: No gap</p>
<p>Red flag: No</p>
<p>Qualitative analysis</p> <p>There is no identified fiduciary risks associated with application of socio-economic development tools.</p>
<p>Recommended quantitative indicators to substantiate assessment of sub-indicator 8(b) assessment criterion (b):</p> <ul style="list-style-type: none"> Number of mitigation measures which are applied with success, in proportion to the total number of identified risks. <p>Source: Electronic procurement system / data base of national regulatory and control institutions</p>

Quantitative analysis
<ul style="list-style-type: none"> The team was not able to obtain information on this regard.
Gap analysis
The legal framework does not have stipulation that address possible fiduciary risks associated with application of socio-economic development tools that ensure the principles of transparency, competition and value for money.
Recommendation
Introduce provision that address possible fiduciary risks associated with application of socio-economic development tools that ensure the principles of transparency, competition and value for money.
Sub-indicator 9(e)
Protection of the environment in the sector
Assessment criterion 9(e)(a):
Level of efforts in the sector for protection of the environment
Conclusion: No gap
Red flag: No
Qualitative analysis
The effort for protection of environment starts in the pre design stage as the public body engage a consultant for conducting Environmental Impact Assessment that identify the risk and mitigation measures in protecting the environment. The output of the EIA is considered in design of the project and it is also included in the works contract, so that the contractor will comply with the recommended mitigation measure and it is usually complied with.
Recommended quantitative indicators to substantiate assessment of sub-indicator 9(e) assessment criterion (a):
<ul style="list-style-type: none"> Number of contracts awarded, containing measures for protection of the environment as a proportion of the total number of contracts (in %)
Quantitative analysis
All the works contracts reviewed in the two entities have provisions for protection of environment. And in bigger contracts Contractor is required to prepare Environmental Management plan and submit for Employer’s approval.
Gap analysis
Recommendation
Assessment criterion 9(e)(b):
The fiduciary risks associated with execution of measures for protection of the environment are identified and mitigated in a way that ensures transparency, competition and value for money (VfM)
Conclusion: Minor gap
Red flag: No
Qualitative analysis
One of the risk identified in execution of measures for protection of the environment is the unavailability of sufficient environmentalist in the sector. ERA has noted effect of the problem in competition and allowed the environmentalists to provide their CV for up to 2 consultants and contractors that participate in a single bid. Professionals are also required to sign declaration on their availability during implementation of a contract on which their CV is considered during bid. The other challenges is that EIA mitigation measures are not tied with bill items and enforcing the measures is not easy. In relation to ensuring competition, it is noted that environmental requirements are not defined as qualification criteria.
Recommended quantitative indicators to substantiate assessment of sub-indicator 9(e) assessment criterion (b):
<ul style="list-style-type: none"> Number of risks that are mitigated with success, in proportion to the total number of identified risks.
Source: Electronic procurement system / data base of national regulatory and control institutions
Quantitative analysis
<ul style="list-style-type: none"> The team was not able to obtain information on this regard.
Gap analysis
<ul style="list-style-type: none"> ➤ Environmental Impact Assessment (EIA) mitigation measures are not tied with bill items and enforcing the measures is not easy. ➤ History of breach in implementation of environmental mitigation measures, included in the contract, are not considered in evaluating eligibility of bidders.
Recommendation
<ul style="list-style-type: none"> Procuring entities are recommended to tie Environmental Impact Assessment (EIA) mitigation measures with bill items and for easy enforcement of the mitigation measures. Introduce provision that consider history of breach in implementation of environmental mitigation measures as an eligibility criteria of bidders

SLA-Indicator 10. The public procurement market is fully functional and competitive at the sector level

Sub-indicator 10(a)
Dialogue and partnership between public and private sector
Assessment criterion 10(a)(a):
The sector encourages open dialogue with the private sector. Several established and formal mechanisms are available for open dialogue through associations or other means, including a transparent and consultative process when formulating changes to the sector procurement system. The dialogue follows the applicable ethics and integrity rules of the government
Conclusion: Minor gap
Red flag: No

Qualitative analysis

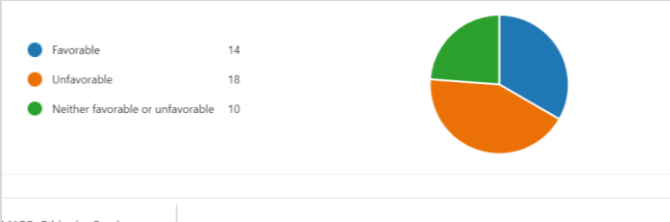
ERA, as one of the public bodies in the sector encourages open dialogue with the private sector. Consultative meeting is conducted with contractors and consultants at least twice in a year. In each consultative meeting major problems that require change on the procurement legislations, systemic problems and problems related to contract implementation is discussed. ERA has been taking action for resolving problems that could be addressed in its capacity or authority level and it forward problems beyond its mandate to the concerned government bodies. FPPPAA has also mentioned that it has a practice of conducting consultative meeting with the private sector and it uses the input for formulating changes in the procurement system. For example, a recent action of lifting the 20% price adjustment ceiling from road contracts is taken based on the feedback from procuring entities and the private sector that indicated the existing inflation that affected performance of the contract was not foreseen by experienced contractors. The BoF of Addis Ababa City Administration organizes annual forum in collaboration with the City’s chamber of commerce. In the forum, representatives from the private sector, public bodies, and the oversight authorities (the Finance Standing Committee of the City Council) participate. The main focus of the forum is to discuss all relevant procurement issues that affect the procurement performance and propose possible solutions. The BoF uses the opportunity to orient the procurement rules of the city, and highlight the expectations from the public bodies and the suppliers/contracts/SMEs. However, the assessment team has not been presented with evidence showing the proceedings of the forum.

Recommended quantitative indicator to substantiate assessment of sub-indicator 10(a) Assessment criterion (a):

- Perception of openness and effectiveness in engaging with the private sector (in % of responses).

Source: Survey.

Quantitative analysis



As per the survey conducted 43% responded perception of openness as unfavorable while 33 responded to be favorable

Gap analysis

- **Insufficient and ad-hoc dialogue with the private sector:** the dialogue with private sector is conducted in ad hoc manner and the private sector has a view that output of the dialogue is not fully used in formulating changes in the procurement system. Perception of the 43 % of respondents in the private sector survey shows that openness and effectiveness in engaging with the private sector is not favorable.

Recommendation

- The dialogue with private sector shall be conducted in organized manner so that output of the dialogue is fully utilized in formulating changes in the procurement system.

Assessment criterion 10(a)(b):

The sector has programs to help build capacity among private companies, including for small businesses and training to help new entries into the public procurement marketplace

Conclusion: Minor gap

Red flag: No

Qualitative analysis

FPPPAA used to provide two short term trainings per year with the aim of building capacity of procuring entities, suppliers and SMEs. The training for each group of key actors is prepared separately. The training organized by FPPPAA is not sector specific, but it is provided for key actors. However, the training is generic which is given to provide general awareness on the procurement legislation, and it is not tailor made in a way to help new entries into the public procurement marketplace.

Gap analysis

Lack of focus on building sector specific capacity for new entrants: the training provided for the private sector, by FPPPAA, is generic which is given to provide general awareness on the procurement legislation and it is not tailor made in a way to help new entries into the public procurement marketplace.

Recommendation

The training provided for the private sector, by FPPPAA, is recommended to be tailor made in a way to help new entries into the public procurement marketplace.

Sub-indicator 10(b)
Private sector’s organization and access to the public procurement market

Assessment criterion 10(b)(a):

The private sector is competitive, well organized, willing and able to participate in the competition for public procurement contracts in the sector

Conclusion: Minor gap

Red flag: No

Qualitative analysis

The private sector is competitive and well organized in the procurement of new works, however contractors competing for maintenance works and for small value of new works lacks organized documentation in submission of bid proposals.

Recommended quantitative indicator to substantiate assessment of sub-indicator 10(b) Assessment criterion (a):


- Number of registered suppliers as share of total number of suppliers in the country (in %)
- Share of registered suppliers that are participants and awarded contracts (in % of total number of registered suppliers)
- Total number and value of contracts awarded to domestic/foreign firms (and in % of total)

Source: E-Procurement system/Supplier Database.

Quantitative analysis

Out of 40 contracts sampled from the three entities (27 works, 6 Consultancy services and 7 Goods) only one contract (works) is awarded to a foreign firm.

	Total sampled contracts	Awarded to Local	Awarded to Foreign
In Number	48	36	12
In Value (ETB)	14,442,117,600.57	6,887,947,703.23	7,554,169,897.34
		48%%	52%%

It was not possible to find data on total no. of registered suppliers as well as total number of suppliers in the country.	
Gap analysis Lack of training to contractors for small value works to prepare bids: Contractors competing for maintenance works and for small value of new works lack organized documentation in submission of bid proposals	
Recommendation Provide tailored training for contractors competing for maintenance works and for small value of new works so that they will have a capacity of submitting organized documentation in submission of bid proposals	
Assessment criterion 10(b)(b): There are no major systemic constraints inhibiting private sector access to the sector procurement market	
Conclusion: Substantive gap	
Red flag: Yes	
Qualitative analysis ERA has conducted sector level assessment and identified the inflation as a barrier for effective application of the qualification requirements issued by FPPPAA. The inflation has become a barrier to national private sector by causing a higher requirement on similar experience of project values and turnover requirement. The procuring entity has communicated the matter for FPPPAA and requested for lowering qualification requirements as a solution. The major systemic constraints inhibit private sector access to the sector procurement market includes: - <ul style="list-style-type: none">➤ Malpractice of procuring entities for discriminating national contractors by not allowing payment in foreign currency, in relation to inputs imported from outside the country. National contractors are forced to quote only in Ethiopian Birr, even for inputs of construction work that are not available in Ethiopia, while foreign contractors are allowed to quote in foreign currency for certain percentage of the work. This malpractice has been observed even after FPPPAA issued circular that clarify the need to allow domestic contractors for quoting in foreign currency in relation to inputs to be imported from abroad.➤ Experience on value of previously carried out projects and bidders’ turnover have become unachievable qualification criteria for local contractors, as the value of previously completed work and the contractors’ turnover is not corrected for changes due to inflation. This has prevented national contractors from participating on works, for which they have sufficient execution capacity.➤ Estimate of contract values are increasing with the inflation rate of Ethiopian Birr, while the threshold for NCB contract is not dynamically adjusted with the inflation rate to ensure availability of sufficient work for local contractors who do not have the capacity to compete with international contractors, in ICB contracts.	
Recommended quantitative indicator to substantiate assessment of sub-indicator 10(b) Assessment criterion (b): <ul style="list-style-type: none">• Perception of firms on the appropriateness of conditions in the public procurement market (in % of responses). Source: Survey	
Quantitative analysis <div><div><div><div><div></div><div>Favorable</div><div>12</div></div><div><div></div><div>Unfavorable</div><div>28</div></div></div><div></div></div><p>The survey result shows 70% of respondents indicate that conditions in the public procurement market is unfavorable while only 30% of respondents perceive conditions in the public procurement market as favorable.</p></div>	
Gap analysis Major systemic constraints inhibiting private sector access to sector procurement market: there are major systemic constraints in the procurement system, which include: - <ul style="list-style-type: none">➤ Shortage of foreign currency and the associated delay in opening Letter of Credit and effecting payment.➤ Challenges associated with right of way issues, inflation and its impact on the qualification of bidders.➤ Experience on value of previously carried out projects and bidders’ turnover is not corrected for changes due to inflation, which prevent national contractors from participating on works, for which they have sufficient execution capacity.➤ Discrimination of national contractors for quoting in foreign currency, for inputs to be imported from abroad.	
Recommendation <ul style="list-style-type: none">• Consider the systemic challenges during design, preparation of bidding documents, evaluation and contract implementation. Though it is related to the overall performance of the economy, it is appropriate to define mechanism of apportioning foreign currency for priority projects and availing within the appropriate time frame. Unless availability of foreign currency is granted, avoid signing of contracts that involves payment in foreign currency. Provide necessary support for local industries and manufacturers that are engaged on production of goods and services that substitute imports.• The amendment of public procurement directive, issued in relation to qualification criteria, do not have provision regarding correction of values for accommodating changes due to inflation. The qualification requirement shall, therefore, be reviewed in a way to allow correction of bidders’ experience on value of previously carried out projects and bidders’ turnover for changes due to inflation.• There shall be follow up mechanism that ensure national contractors are not prevented from quoting in foreign currency, for inputs to be imported from abroad. For example, it can be entertained through the complaint mechanism.	
Sub-indicator 10(c) Functionality and the level of competition in works contracts awarded in the sector	
Assessment criterion 10(c)(a): Existing data allows determination, and categorization if applicable, of the principal contractors in the sector, in a manner that is sufficiently precise	
Conclusion: No gap	
Red flag: No	
Qualitative analysis The existing data organized by Ethiopian Construction Authority allows categorization of contractors in the area of specialization as well as in their grade. For example, by listing road contractors that have competency certificate for grade 1, 2, 3 etc	

Gap analysis
Recommendation
Assessment criterion 10(c)(b): National and international contractors qualify, in sufficient numbers, in terms of turnover, equipment and personnel, to ensure effective competition and the best value for money to meet the needs of procurement of works in the sector
Conclusion: Substantive gap
Red flag: Yes
Qualitative analysis National and international contractors meet requirements in terms of turnover, equipment and personnel, however about 50% of the national and international contractors, which have existing contracts with ERA, used to fail in meeting performance requirements as shown in the monthly performance evaluation report published in ERA’s website. The poor performance of contractors in relation to existing contracts they signed with the procuring entity results with few number of contractors, which is a barrier to ensure effective competition and the best value for money to meet the needs of procurement of works in the sector.
Gap analysis s. In addition, though national and international contractors meet requirements in terms of turnover, equipment and personnel, about 50% of the national and international contractors, which have existing contracts with ERA, used to fail in meeting performance requirements as shown in the monthly performance evaluation report published in ERA’s website.
Recommendation Devise mechanism to enhance performance of contractors in relation to existing contracts they signed with the procuring entity so that they will be enabled to participate in bids and ensure effective competition.
Assessment criterion 10(c)(c): Horizontal SPP objectives are converted into bid evaluation criteria that facilitate equity in the treatment of bidders and that ensure predictability and transparency in the bidding process
Conclusion: Substantive gap
Red flag: No
Qualitative analysis SPP objectives are not converted in to bid evaluation criteria. The only available provision in relation to SPP objective is the 7.5% margin of preference for local contractors. It is also noted, as part of social sustainability, ERA uses lower qualification criteria of performance requirement for local contractors as discussed under indicator 9 (b) (a).
Gap analysis SPP objectives not converted as bid evaluation criteria also to facilitate equal treatment: As indicated in sub-indicator 9(b), <ul style="list-style-type: none"> ➤ The performance evaluation criteria for local and international contractors is different which tells that it is discriminatory. ➤ The performance of contractors is evaluated against existing road contracts signed with ERA, this doesn’t ensure on whether contractors’ performance on contracts signed with other procuring entities is acceptable, which in turn couldn’t show appropriateness of the contractors to qualify for performing the work floated for bid.
Recommendation <ul style="list-style-type: none"> • Convert SPP objectives in to bid evaluation criteria that facilitate equity in the treatment of bidders and that ensure predictability and transparency in the bidding process • The performance evaluation criteria for local and international contractors should be the same and it shall not be discriminatory. • While evaluating performance of contractors in relation to existing contracts at hand of the contractors is good practice, the evaluation should be applied on all contracts at hand of the contractors and it should not be limited to contracts signed with ERA.
Assessment criterion 10(c)(d): Unit prices in the bids for construction works conform to the official reference prices published by the appropriate competent national agencies and are in line with the objectives defined in horizontal procurement policies
Conclusion: Substantive gap
Red flag: Yes
Qualitative analysis There is no any official reference price published in the sector for evaluating competitiveness of unit price in the bids for construction works.
Gap analysis Lack of official reference price: There is no official reference price published in the sector for evaluating competitiveness of unit price in the bids for construction works. absence of official reference price is critical in meeting public procurement objective and mitigating this risk require involvement of government entities outside the procurement sphere, such as The Ethiopian Statistical Service
Recommendation The Ethiopian Statistical Service is recommended to publish official reference price in the sector that will be used for evaluating competitiveness of unit price in the bids for construction works.
Assessment criterion 10(c)(e): Major systemic obstacles limiting access of the national private sector to construction works contracts are identified and appropriate measures are defined to remove them
Conclusion: Substantive gap
Red flag: Yes
Qualitative analysis The common systemic obstacles that limit access of the national private sector to construction works contracts include

<div><div><div>✓</div><div>Unavailability of foreign currency or difficulty in getting foreign currency</div></div><div><div>✓</div><div>Delay to open Letter of Credit</div></div><div><div>✓</div><div>Delay in getting payments after being certified by the Engineer</div></div><div><div>✓</div><div>Right of way problem</div></div></div> <div>In addition to issues on delays in opening Letter of Credit and effect of loss of value of Ethiopian Birr as pointed out earlier, procuring entities discriminate national contractors by not allowing payment in foreign currency, in relation to inputs imported from outside the country.</div>
<div><div>Gap analysis</div><div><div>➤</div><div>Unavailability of foreign currency or difficulty in getting foreign currency</div></div><div><div>➤</div><div>Delay to open Letter of Credit</div></div><div><div>➤</div><div>Delay in getting payments after being certified by the Engineer</div></div><div><div>➤</div><div>Right of way problems that result with disruption of progress and causing idleness of machineries and manpower</div></div></div>
<div><div>Recommendation</div><div><div><div>•</div><div>Ministry of Finance to discuss with relevant stakeholders and devise mechanisms that alleviate systemic problems related to: -</div><div><div>➤</div><div>Difficulty in getting foreign currency</div></div><div><div>➤</div><div>Delay to open Letter of Credit</div></div><div><div>➤</div><div>Delay in getting payments after being certified by the Engineer</div></div></div><div><div>•</div><div>Procuring entities are also recommended to clear right of way problems prior to commencement of the construction work, so that the delay in clearing right of way obstacles do not result with disruption of progress and cause claim related to idle machineries and manpower</div></div></div></div>

Assessment criterion 10(c)(f): Major systemic obstacles limiting access of international private sector to construction works contracts are identified and appropriate measures are defined to remove them
Conclusion: Substantive gap
Red flag: Yes
Qualitative analysis There is a road sector study conducted by ERA that identified unavailability of foreign currency as a major systemic obstacle for international companies to access the procurement market. Such problems are beyond the authority limit of procuring entities and it need to be addressed by Ministry of Finance.
Gap analysis <ul style="list-style-type: none"> ➤ Unavailability of foreign currency is identified as a major systemic obstacle for international companies to access the procurement market. ➤ The gap is classified as red flag, as it could not be immediately mitigated through actions in public procurement system and mitigation of the gap require coordination of different government institutions outside the procurement system
Recommendation <ul style="list-style-type: none"> ▪ Foreign currency requirement of ongoing projects shall be quantified, and the MOF shall negotiate with the contractor on the schedule of releasing the foreign portion. ▪ Hold dialogue between the private sector and the concerned government bodies for resolving systemic problems
Sub-indicator 10(d) Functionality and the level of competition in goods contracts awarded in the sector
Assessment criterion 10(d)(a): Existing data allows determination of the principal national suppliers operating in the sector, in a manner that is sufficiently precise
Conclusion: Minor gap
Red flag: No
Qualitative analysis The existing data in relation to suppliers of goods is the suppliers’ registration list in the e-GP website of FPPPAA, however the list shows those suppliers who registered themselves on the website. Hence, it is likely that the list is expected to include all principal national suppliers even if it doesn’t include all supplies.
Gap analysis Though it is not mandatory for all suppliers to register in the e—GP system, the e_GP system is likely to have the list of all principal national suppliers but may not be all the suppliers in the sector.
Recommendation Expand use of the e-GP system to enable capture national suppliers operating in the sector, in a manner that is sufficiently precise
Assessment criterion 10(d)(b): National and international suppliers qualify, in sufficient numbers, in terms of turnover, equipment and personnel, to ensure effective competition and the best value for money to meet the needs of procurement of goods in the sector
Conclusion: No gap
Red flag: No
Qualitative analysis Yes, National and international suppliers qualify, in sufficient numbers to ensure effective competition and the best value for money to meet the needs of procurement of goods in the sector
Gap analysis
Recommendation
Assessment criterion 10(d)(c): Horizontal SPP objectives are converted into bid evaluation criteria that facilitate equity in the treatment of bidders and that ensure predictability and transparency in the bidding process
Conclusion: Substantive gap
Red flag: Yes
Qualitative analysis SPP objectives are not converted in to bid evaluation criteria.
Gap analysis SPP objectives are not converted in to bid evaluation criteria.
Recommendation Introduce guidance for converting SPP objectives in to bid evaluation criteria.
Assessment criterion 10(d)(d): Bid prices for goods conform to the official reference prices published by the appropriate competent national agencies and are in line with the objectives defined in secondary procurement policies
Conclusion: Substantive gap
Red flag: Yes
Qualitative analysis There is no official reference of price published for evaluating competitiveness of unit prices offered by suppliers.
Gap analysis Absence of official reference of price published for evaluating competitiveness of unit prices offered by suppliers.

Recommendation Ethiopian Statistical Service is recommended to publish official reference price that will be used for evaluating competitiveness of unit prices offered by suppliers.
Assessment criterion 10(d)(e): Major systemic obstacles limiting access of the national and international private sector to the goods supply market are identified and appropriate measures are defined to stop them
Conclusion: Substantive gap
Red flag: Yes
Qualitative analysis Inflation of market price coupled with delay in opening LC and unavailability of foreign currency are the major systemic problem that limit access of the national and international private sector to the goods supply market
Gap analysis Inflation of market price coupled with delay in opening LC and unavailability of foreign currency are the major systemic problem that limit access of the national and international private sector to the goods supply market
Recommendation Hold dialogue between the private sector and the concerned government bodies for resolving systemic problems related to inflation, delay in opening LC and unavailability of foreign currency
<div> <div>Sub-indicator 10(e)</div> <div>Functionality and level of competition in the consulting services contracts awarded in the sector</div> </div>
Assessment criterion 10(e)(a): Existing data allows determination of the national consultants operating in the sector, in a manner that is sufficiently precise
Conclusion: No gap
Red flag: No
Qualitative analysis The existing data organized by Ethiopian Construction Authority allows categorization of consultants in the area of specialization as well as in their grade. For example by listing road consultants that has competency certificate for grade 1, 2, 3 etc
Gap analysis
Recommendation
Assessment criterion 10(e)(b): National and International consultants with the requisite qualifications (personnel with experience and expertise), are in sufficient numbers, to guarantee effective competition and the best (VfM) to meet the needs for consulting services in the sector
Conclusion: No gap
Red flag: No
Qualitative analysis Sufficient number of National and International Consultants qualify in terms of experience and personnel.
Gap analysis
Recommendation
Assessment criterion 10(e)(c): Horizontal SPP objectives are converted into evaluation criteria for offers that facilitate equity in the treatment of candidates and that ensure predictability and transparency in the consultants’ recruitment process
Conclusion: Substantive gap
Red flag: Yes
Qualitative analysis SPP objectives are not converted in to bid evaluation criteria, except the 7.5% margin of preference applied for domestic firms
Gap analysis SPP objectives are not converted in to bid evaluation criteria.
Recommendation Introduce guidance for converting SPP objectives in to bid evaluation criteria.
Assessment criterion 10(e)(d): Consultants’ recruitment rates conform to cost estimates and are in line with the objectives defined in horizontal procurement policies
Conclusion: Substantive gap
Red flag: Yes
Qualitative analysis There is no practice of estimating the value of consultancy service.
Gap analysis There is no practice of estimating the value of consultancy service.
Recommendation <ul style="list-style-type: none"> Introduce provision that require procuring entities not to solicit bid without estimating value of the consultancy service. Consider publication of consultants’ recruitment rate by Ethiopian Statistical Service
Assessment criterion 10(e)(e):

Major systemic obstacles limiting access of the national and international private sector to the consulting services market are identified and appropriate measures have been defined to stop them
Conclusion: Minor gap
Red flag: No
Qualitative analysis Absence of price adjustment during the original contract period of consultancy service, even for contract periods above 18 months.
Gap analysis Absence of price adjustment during the original contract period of consultancy service, even for contract periods above 18 months.
Recommendation Revise provision of the public procurement directive in a way to allow adjustment of the contract price based on predefined parameters. The adjustment should be allowed at least on annual basis.