



MAPS

Methodology for Assessing
Procurement Systems

Montserrat

Assessment of the Public Procurement system

August 2019

Final Revisions June 2022

Table of Contents

Table of Contents	2
Acronyms	3
Executive summary	4
1. Introduction	7
2. Analysis of Country Context	8
2.1. Political, economic and geostrategic situation of the country.....	8
2.2. The Public Procurement System and its links with the public finance management and public governance systems	10
2.3. National policy objectives and sustainable development goals.....	11
2.4. Public Procurement Reform	12
3. Assessment	13
3.1. Pillar I – Legal, Regulatory and Policy Framework.....	13
Indicator 1. The public procurement legal framework achieves the agreed principles and complies with applicable obligations.	15
Indicator 2. Implementing regulations and tools support the legal framework.	18
Indicator 3. The legal and policy frameworks support the sustainable development of the country and the implementation of international obligations.	20
3.2. Pillar II – Institutional Framework and Management Capacity	20
Indicator 4. The public procurement system is mainstreamed and well integrated with the public financial management system.	20
Indicator 5. The country has an institution in charge of the normative/regulatory function.	22
Indicator 6. Procuring entities and their mandates are clearly defined.	23
Indicator 7. Public procurement is embedded in an effective information system.	25
Indicator 8. The public procurement system has a strong capacity to develop and improve.	26
3.3. Pillar III - Public Procurement Operations and Market Practices	28
Indicator 9. Public procurement practices achieve stated objectives.....	28
Indicator 10. The public procurement market is fully functional.....	31
3.4. Pillar IV - Accountability, Integrity and Transparency of the Public Procurement System	32
Indicator 11. Transparency and civil society engagement strengthen integrity in public procurement.....	33
Indicator 12. The country has effective control and audit systems	34
Indicator 13. Procurement appeals mechanisms are effective and efficient	36
Indicator 14. The country has ethics and anti-corruption measures in place.....	37
4. Consolidated Recommendations	40
5. Information regarding Validation	44
Annex	45

Acronyms

CARICOM: Caribbean Community

CDB: Caribbean Development Bank

CFWU: Counter Fraud and Whistleblowing Unit

COMES 5: Council of Ministers of Environmental Sustainability

DFID: Department for International Development

ECCB: Eastern Caribbean Central Bank

ECCU: Eastern Caribbean Currency Union

ECD: Early Childhood Development

EDF: European Development Fund

EU: European Union

FCO: Foreign & Commonwealth Office

ICT: Information and Communication Technology

MCAP: Movement for Change and Prosperity

MDC: Montserrat Development Corporation

OCTs: Overseas Countries and Territories

ODA: Official Development Assistance

OECS: Organization of Eastern Caribbean States

OTs: Overseas Territories

PDM: People's Democratic Movement

RMPF: Royal Montserrat Police Force

SAI: Supreme Audit Institution

SDGs: Sustainable Development Goals

UNICEF: United Nations Children's Fund

XCD: Eastern Caribbean Dollars

Executive summary

Overall, Montserrat has a relatively well-developed public procurement system that largely achieves value for money for its citizens, notably taking into account the state's context and in comparison with similar states in the region. Montserrat is the only state in this joint assessment of five Eastern-Caribbean states that uses e-procurement. Challenges relate to more advanced aspects of strategic public procurement and the accountability system. As Montserrat is a self-governing British Overseas Territory, all procurement implementation and legislation is under Montserrat's own purview.

Pillar I

Montserrat's legal and regulatory framework for public procurement is relatively complete regarding specifications for the majority of the MAPS requirements. Gaps relate to details of the public procurement process that remain without regulation; most importantly, contract administration and electronic procurement. Supporting tools, such as templates, standard contract condition and model documents are used but not publicly available. In its current state, the legal and regulatory framework does not make consideration of PPPs, concessions and sustainable procurement.

Pillar II

Overall, procurement institutions in Montserrat are clearly defined and structured. Montserrat has undertaken the first steps towards implementing e-procurement, using a set of basic functionalities along the procurement cycle. Montserrat is the most advanced state among this joint MAPS assessment of five jurisdictions covered as part of this assessment in the region. Procurement officers in Montserrat have participated in CIPS training.

A major gap relates to the absence of a clear link between financial management and the procurement process. Some aspects of the institutional framework for public procurement could be revised in order to strengthen checks and balances. In addition, structured data management and performance monitoring could provide benefits.

Pillar III

The largest and most complex procurement processes in Montserrat are carried out by the Public Procurement Board. These are carried out with documents that are in general well integrated and clearly specify evaluation criteria, requirements and intended outcomes. Some of these are carried out in the myTenders e-procurement platform, although bids are also accepted in paper. Procurement done under the Procurement Unit generally achieves its objectives. Some gaps were identified related to planning, participation of external stakeholders and contract management, but none constitute red flags.

Keeping in mind its characteristics and challenges as a small island (both population- and demand-wise), Montserrat's procurement market is functional, especially in regard to the suppliers' perception of and access to the public procurement market. Gaps persist because of the lack of dialogue mechanisms with the private sector, the fact that there are no programmes to build capacities among suppliers, and the absence of strategies for key sectors.

Pillar IV

Publically available information about procurement processes is scarce, except for processes carried out in the myTenders platform. The small population of Montserrat allows for direct interaction between citizens and officials; however, actual engagement of citizens with the public procurement system remains generally low. Montserrat has functioning control and audit systems and an administrative and a judicial appeals mechanism. There are also provisions on prohibited practices in its procurement documents.

Gaps in the control and audit system relate to follow-up mechanisms, written audit procedures, and the legal implementation of the audit and risk committee. Gaps in the appeals mechanisms relate to

timeframes for decisions and the way members are appointed to the Complaints Commission. Suppliers perceive the administrative mechanism as biased. Gaps were identified for several areas of the anti-corruption framework, including a lack of a complete anti-corruption framework and the absence of mechanisms for reporting prohibited practices. In addition, the Integrity Commission is not operating.

Overview of compliance with MAPS indicators

Substantial gaps identified Gaps identified Overall compliance

* Red flag raised

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

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

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

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

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

1. Introduction

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

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

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

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

2. Analysis of Country Context

2.1. Political, economic and geostrategic situation of the country

Montserrat is a United Kingdom Overseas Territory (OT) in the Caribbean. It is a volcanic island with an area of 102km² and a population of 5,204 inhabitants based on the latest United Nations estimates.¹

Between 1995 and 2013, Montserrat suffered volcanic eruptions from the Soufrière Hills volcano. For this reason, part of the island – known as the “Exclusion Zone”- has become uninhabitable and its population has declined because of the evacuations including the voluntary programme introduced in 1997. Those eruptions devastated the south of the island and buried the capital, Plymouth. Thus, the largest city and its *de facto* capital is Brades Estate (usually called Brades) and the new capital, located in Little Bay Town, which is being built with the support of the British government and the European Union.

The main economic activities used to be tourism and agriculture. However, the damage caused by hurricane Hugo (1989) and the continued volcanic activity affected the economy and caused Montserrat to become dependent on international aid, especially British and Canadian. The greatest sources of employment are construction and public services such as healthcare, education and administration. In fact, the government of Montserrat employs about 40% of the workforce directly.²

The currency of Montserrat is the Eastern Caribbean dollar (XCD), issued by the Eastern Caribbean Central Bank (ECCB). There are few internal suppliers, and most of the goods have to be imported including machinery and transportation equipment, food, and manufactured goods. The island's operating budget is by the most part financed by the Department for International Development (DFID) of the United Kingdom and the total budget allocation for the fiscal year 2018-19 is XCD 164.8 million.³ One of the most important government projects is the Port Development Project, with the objective of providing a safe harbour with broad access to all users, such as cargo vessels, ferries, cruise ships, yachts and fishing boats, among others. This project is supported by the Caribbean Development Bank (CDB), under the UK Caribbean Infrastructure Partnership Fund. Correspondingly, the largest budget categories are Economic Infrastructure development (XCD16.52 million, 49.14% of the total), and Social Infrastructure development (XCD14.65 million, 43.58%).⁴

The political system of Montserrat is a parliamentary democracy, a constitutional monarchy and a self-governing OT of the United Kingdom. Its new constitution was adopted in 2011. The Governor represents Her Majesty the Queen as Head of State (His Excellency Andrew John Pearce) and the local government is headed by a Premier (Hon. Donaldson Romeo) chosen from nine locally elected legislators. Also, the executive branch is composed by a Cabinet of four ministers (Finance, Economic Development, Tourism & Culture; Communications, Works, & Labour; Education, Health, Community

¹ <http://www.worldometers.info/world-population/montserrat-population/>

² Government of Montserrat, Caribbean Development Bank, Halcrow Group Limited (2012). Final Report. Montserrat survey of living conditions. http://www.caribank.org/uploads/2012/05/Montserrat-2009-vol-1_v7.pdf

³ Department for International Development <https://www.gov.uk/government/organisations/department-for-international-development> (accessed 23 July 2018)

⁴ Budget Statement 2018-2019. Honourable Premier Donaldson Romeo. 23 April 2018

Services, Sports & Youth; and Agriculture, Lands, Housing, Environment & Ecclesiastical Affairs) led by the Premier and presided by the Governor.⁵

The legislative branch is composed of a unicameral body represented by the Legislative Council composed of eleven seats: nine members popularly elected to serve five-years terms, the attorney general and the financial secretary as ex officio members. The elections are carried out every five years. The last one was held on 11 September 2014 and the winning parties were the People's Democratic Movement (PDM) with seven chairs and the Movement for Change and Prosperity (MCAP) with two chairs.⁶

Montserrat's judicial branch is administered by one domestic court, named the Magistrates Court, which has jurisdiction over minor criminal and civil cases; and the High Court and the Court of Appeal of the Eastern Caribbean Supreme Court of Justice. There is a final right of appeal to the Privy Council in the United Kingdom.

Montserrat does not suffer from the security threats faced by other countries in the region, such as human trafficking, arms trafficking, gun crime or money laundering. It is considered as one of the most secure places in the region and crime and violence have historically been low. Although the last annual report available in the Royal Montserrat Police Force (RMPF) web page is from 2012, the main crimes committed were assault, domestic violence, theft and burglary. The RMPF has a good reputation and the main concern is the operational capacity of the force. According to the latest Strategic Plan (2011-2014), the RMPF requires modernization and reforms to address deficiencies in its operational capacity, although the number of policemen is sufficient to meet the current demand, inter-institutional cooperation should be sought to improve and reduce crime on the island. In addition, there are plans to use CCTV technology to monitor entry and exit points in the exclusion zone.⁷

Regarding corruption, media sources reported problems with the DFID resources used to rebuild the island because of possible misuse of funds by the Montserrat Development Corporation (MDC)⁸. After reports received by its whistleblowing department, DFID sent an auditor and its conclusions led to the suspension of financial support for the MDC due to poor financial governance⁹. Finally, in April 2015 the government of Montserrat decided to close the MDC. In 2016, DFID and the Government of Montserrat, led by the Ministry of Finance, committed to ensuring that the funds received are used only for the purposes intended and are that they not lost through fraud and corruption. Moreover, all suspicions of fraud or corruption must be reported to DFID's Counter Fraud and Whistleblowing Unit (CFWU).

The Government of Montserrat has the objective of increasing access to Early Childhood Development (ECD) opportunities and improving the quality of education. According to UNICEF, there been

⁵ Government of Montserrat, website: <http://www.gov.ms/ministries-and-departments/> (accessed 23 July 2018)

⁶ Caribbean Elections, website: http://www.caribbeanelections.com/elections/ms_elections.asp (accessed 23 July 2018)

⁷ Royal Montserrat Police Force, website: <http://police.gov.ms/> (accessed 23 July 2018)

⁸ MDC was organisation created to promote economic development in Montserrat in the areas of infrastructure and trade & investment.

⁹ "£400m foreign aid fiasco in paradise: Bribery, kickbacks, YOUR tax money siphoned into pet projects on a tiny Caribbean island - this British worker blew the whistle and paid a devastating price" (2015) website: <http://www.dailymail.co.uk/news/article-3084557/400m-foreign-aid-fiasco-paradise-Bribery-kickbacks-tax-money-siphoned-pet-projects-tiny-Caribbean-island-British-worker-blew-whistle-paid-devastating-price.htm> (accessed 23 July 2018)

considerable advancement of girls in education, such that they now outperform boys in primary and secondary exams and young women dominate postsecondary education.¹⁰

Montserrat is member of the Organisation of Eastern Caribbean States (OECS), the Caribbean Community (CARICOM), the Eastern Caribbean Currency Union (ECCU) and the CDB. It is not a member of international organisations such as the WTO. This also implies that Montserrat does not ratify international treaties, but a convention can be extended if it is requested.¹¹ For example, Montserrat is bound by UN human rights treaties such as International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; Convention on the Rights of the Child; Convention against Torture and Convention on the Elimination of Racial Discrimination. In addition, the European Convention on Human Rights applies to Montserrat and individuals can take cases to the European Court of Human Rights if there is no other remedy in Montserrat. Montserrat has also been included in the United Kingdom's ratification of international agreements like the Convention on the Protection of World Cultural and Natural Heritage; Convention on the Conservation of Migratory Species of Wild Animals and Convention on International Trade in Endangered Species of Wild Fauna and Flora.¹²

Finally, there is an important relationship with the European Union (EU) in terms of economic cooperation. According to Article 198 of the Treaty on the Functioning of the EU, the purpose of the association between the EU and the Overseas Countries and Territories (OCTs) is “to promote the economic and social development of the countries and territories and to establish close economic relations between them and the Union as a whole”. Under the 11th European Development Fund (EDF) Montserrat receives €18.4 million for cooperation in the period 2014-2020. The government and the EU have agreed the focus of this cooperation, with the most relevant areas being energy, accessibility, tourism and information and communication technologies (ICT).¹³

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

The Ministry of Finance and Economic Management (MoFEM) oversees the procurement system. The Procurement Department is part of the MoFEM. The department head, the Head of Procurement, is responsible for strategic decisions and operational procurement across government.

The Public Procurement Board (PPB), established by the procurement regulations, is responsible for acquisitions over XCD 50 000 000. The PPB determines the procurement documents, maintains records, recommends amendments to the regulation and suspends and debar suppliers. There are Departmental Tender Committees appointed by the Public Procurement Board to oversee the administration of procurement by the procuring entities for contracts below XCD50 000 000. The Deputy Financial Secretary is the chairperson of the Procurement Board;

¹⁰ UNICEF, website: https://www.unicef.org/easterncaribbean/Montserrat_SitAN_2016_WEB.pdf (accessed 23 July 2018)

¹¹ Foreign and Commonwealth Office (2012), “The Overseas Territories”, www.official-documents.gov.uk Website: <https://www.gov.uk/government/news/uk-stands-by-caribbean-and-overseas-territories> (accessed 23 July 2018)

¹² United Nations Treaty Collections, website: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-14&chapter=18&clang=en (accessed 23 July 2018)

¹³ European Union, website: https://ec.europa.eu/europeaid/regions/overseas-countries-and-territories-ocots/programmes_en (accessed 23 July 2018)

The Chamber of Commerce of Montserrat is a key institution in the public procurement system. While there is no formal dialogue system in place, the Chamber of Commerce does represent the private sector and interacts with the public procurement institutions.

DFID is a key player in the public procurement system at Montserrat. Projects funded by DFID are ruled by DFID regulations.

The current availability and quality of government statistics does not allow for the calculation of what share which public procurement represent as a part of GDP and as a part of total government expenditures.

2.3. National policy objectives and sustainable development goals

Montserrat is one of three¹⁴ OTs that receives Official Development Assistance (ODA) from the British Government, which is responsible, under the United Nations Charter, for promoting the development and wellbeing of the inhabitants of its OTs. This responsibility includes efforts promoted by DFID to achieve Sustainable Development (SDGs).¹⁵

UK Financial Aid to Montserrat is intended to support the government's self-sufficiency and reduce its financial dependence on aid from the United Kingdom. DFID aid for fiscal year 2018/2019 represents XCD 78.4 million. In addition, it has the goal of promoting better policies and financial management in Montserrat.¹⁶

DFID seeks to support Montserrat to achieve sustainable economic growth and greater financial independence. For instance, the Geothermal Energy Development Project seeks to support the development of geothermal energy in Montserrat, by drilling and exploratory testing of three geothermal wells. This project is in line with the seventh SDG (Affordable and clean energy).¹⁷

Related to the 13th (Climate action) and 14th SDGs (Life below water), Montserrat has an Environmental Management Strategy (NEMS), and a regulatory framework for environmental management that includes the Conservation and Environment Management Act (2014) and the active participation of the Council of Ministers of Environmental Sustainability (COMES). The fifth meeting of COMES took place recently in Montserrat and had as the main topic "Building Resilience on the Frontlines of Climate Change".¹⁸ Correspondingly, DFID has been establishing a data collecting and reporting system for Montserrat to help create long-term sustainable fisheries.

It is worth saying that Montserrat does not have a SDGs report to show its progress, but the ministries monitor those related to education and health. For example, with regard to the 3rd goal (Good health and well-being), the island has had good results in reducing infant mortality, improving maternal health and fighting against HIV/AIDS.

¹⁴ The others are St Helena and Pitcairn.

¹⁵ Department for International Development, website: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/723278/DFID-Overseas-Territories-Profile-July-2018.pdf (accessed 23 July 2018)

¹⁶ Department for International Development, website: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/723278/DFID-Overseas-Territories-Profile-July-2018.pdf (accessed 23 July 2018)

¹⁷ Government of Montserrat, website: <http://www.gov.ms/wp-content/uploads/2017/11/Montserrat-Geothermal-Private-Sector-Involvement-Early-Market-Engagement.pdf> (accessed 23 July 2018)

¹⁸ OECS, website: <https://pressroom.oecs.org/montserrat-still-here-still-home-still-nice> (accessed 23 July 2018)

Lastly, Montserrat has a Sustainable Development Plan 2008 - 2020 whose strategic goals are the following:

- “1. Economic Management - An environment that fosters prudent economic management, sustained growth, a diversified economy and the generation of employment opportunities.
2. Human Development - Enhanced human development and improved quality of life of all people on Montserrat.
3. Environmental Management and Disaster Mitigation - Montserrat’s natural resources conserved within a system of environmentally sustainable development and appropriate strategies for disaster mitigation.
4. Governance –An efficient, responsive and accountable system of governance and public service.
5. Population – A sustainable population.”¹⁹

2.4. Public Procurement Reform

Montserrat is part of the regional movement to further public procurement reform, which several neighbouring OECS Caribbean states have already embarked on. In Montserrat, the objective is to follow international, accepted principles of transparency, integrity, value for money, openness, fairness, competition and accountability. In 2012, the “Public Finance (Management and Accountability) (Procurement) Regulations” was issued and is currently in place.²⁰

The latest budget statement (“2017-2018 Budget Statement & Estimates of Revenue & Expenditure and Development Fund”²¹) contains two important references to procurement: (i) staffing resources for public procurement and (ii) strategies and indicators related with procurement. The number of procurement staff might appear low (four staff), but the fact that it is referenced in the budget statement shows that the Ministry of Finance is aware of the strategic importance of the procurement function. In addition, the document includes the revision of the procurement regulations as one of the key strategies. Goals are to identify and remove obstacles for doing business with the government, to enhance capacity of stakeholders to understand regulations and to use procurement tools through training and the production of a user guide and a procurement handbook. The performance indicators are the preparation of a procurement handbook and the number of training sessions on procurement held.

In May 2017, the Government of Montserrat proposed some amendments to the 2012 Regulations. The proposed changes aim at ensuring that the international good practices and principles of public procurement are satisfied. The Government of Montserrat reported that they carried out a public consultation of the proposed reform to the legal framework. The consultations were carried out online and through public forums, involving stakeholders from civil society and the private sector. Open discussion of the proposed reform helps to build momentum, gain support for the reform and supports consensual decision making in relation to the approval and implementation of the new legal framework. This proposal has not to date been submitted for approval.

¹⁹ Montserrat Sustainable Development Plan 2008 – 2020. Ministry of Economic Development and Trade Government of Montserrat (2010)

²⁰ Government of Montserrat, website: <http://www.gov.ms/wp-content/uploads/2017/03/SRO-No-11-of-2012-Public-Finance-Management-and-Accountability-Procurement-Regulations.pdf>

²¹ Government of Montserrat, website: <http://finance.gov.ms/wp-content/uploads/2013/06/Budget-2017-20.pdf>

Montserrat is a Small Island Developing State sharing geographical characteristics, legal background, history, and of the market with the Antilles. The different jurisdictions have exchanged experiences in the area of public procurement as part of the Inter-American network on Government Procurement, for example (Montserrat is an observer.) In addition, the Caribbean islands have taken advantage of their similarities to facilitate public procurement following the experience of the OECS Pharmaceutical Procurement Agency.

Another regional initiative to reform public procurement has been taking place on the initiative of CARICOM. The initiative includes a draft procurement protocol and a draft model bill, which – once agreed and implemented – could provide an opportunity to streamline public procurement rules and practices across the region. Specific guidance and tools have been developed to support countries in the region in improving public procurement practices. Representatives of Montserrat have actively participated in capacity building initiatives (such as training) and the negotiations of the draft protocol. A National Advertising Portal was developed for Montserrat. These activities were funded by the Tenth European Development Fund project on the Development and Implementation of the Infrastructure and Instruments for an Integrated CSME Procurement Market.

3. Assessment

Overview of compliance with MAPS indicators

Substantial gaps identified Gaps identified Overall compliance

* Red flag raised

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

PILLAR II	
4. The public procurement system is mainstreamed and well integrated into the public financial management system.	4(a) – Procurement planning and the budget cycle*
	4(b) – Financial procedures and the procurement cycle*
5. The country has an institution in charge of the normative/regulatory function.	5(a) – Status and legal basis of the normative/regulatory institution function
	5(b) – Responsibilities of the normative/regulatory function*
	5(c) – Organisation, funding, staffing, and level of independence and authority
	5(d) – Avoiding conflict of interest*
6. Procuring entities and their mandates are clearly defined.	6(a) – Definition, responsibilities and formal powers of procuring entities*
	6(b) – Centralized procurement body*
7. Public procurement is embedded in an effective information system.	7(a) – Publication of public procurement information supported by information technology
	7(b) – Use of e-procurement
	7(c) – Strategies to manage procurement data
8. The public procurement system has a strong capacity to develop and improve.	8(a) – Training, advice and assistance*
	8(b) – Recognition of procurement as a profession
	8(c) – Monitoring performance to improve the system

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

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

	14(e) – Stakeholder support to strengthen integrity in procurement*
	14(f) – Secure mechanism for reporting prohibited practices or unethical behavior*
	14(g) – Codes of conduct/codes of ethics and financial disclosure rules*

Note that in a number of areas, including the use of e-procurement, the value and number of contracts, the selection and award system, and the publishing of procurement information, no data was provided to assess the quantitative assessment criteria. This suggests that further efforts to collect, manage and publish quantitative procurement data may be warranted to promote transparency and support analysis of the performance of the public procurement system in Montserrat.

3.1. Pillar I – Legal, Regulatory and Policy Framework

This Pillar assesses the existing legal, regulatory and policy framework for public procurement. It identifies the formal rules and procedures governing public procurement and evaluates how they compare to international standards.

This Pillar includes three indicators focused on (i) the legal framework, including its scope and completeness, addressing the existence of rules regulating the most important requirements and stages of the procurement process; (ii) the existence of regulations to support the higher levels of the legal framework, as well as tools (guides, manuals) to support its application; and (iii) the existence and development of a sustainable procurement agenda.

Montserrat’s legal and regulatory framework for public procurement covers the essential elements and assigns responsibilities for most tasks. However, gaps relate to details of the public procurement process that remain without regulation; most importantly, contract administration is not regulated and specifications regarding electronic procurement are missing. Supporting tools, such as templates, standard contract condition and model documents are not publicly available, and no information was found indicating that the legal and regulatory framework makes consideration of how to include principles of sustainable public procurement in public procurement processes.

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

The indicator covers the different legal and regulatory instruments established at varying levels, from the highest level (national law, act, regulation, decree, etc.) to detailed regulation, procedures and bidding documents formally in use. It assesses the completeness of the legal framework and how different matters are covered, for example procurement methods, rules of procedure and systems that support procurement process.

The legal framework of Montserrat is relatively complete regarding specifications for the majority of the requirements. Some improvements are called for with regards to details of the procurement cycle, as well as in the area of systems and tools to support procurement. Montserrat’s procurement legal framework does not cover rules for contract management and specific regulations for specialized procurement as PPP’s, concessions and sustainable procurement.

Findings

The legal framework of Montserrat is hierarchically organised and covers most of the requirements in this indicator. The main elements of the legal and regulatory framework for public procurement are

the Public Finance Act of 2008 and the Procurement Regulations of 2012. The 2012 Regulations specify procurement methods and cover goods, services and works.

There is no clear reference to PPP's and concessions. While the specific need for regulating concessions in Montserrat needs to be evaluated, concession contracts provide a useful tool to public authorities. Concessions are used to deliver services or construct infrastructure involving a contractual arrangement between a public authority and an economic operator who provides services or carries out works and is remunerated by being permitted to exploit the work or service. While the feasibility of concessions has to be evaluated in each country context and degrees of use vary, concessions can be an attractive way of carrying out projects in the public interest when state or local authorities need to mobilise private capital and know-how to supplement scarce public resources.

The regulated procurement methods include a range of both competitive and non-competitive situations and in every case; the applicable standards for its use are well specified.

Rules to perform the procurement procedures under every method are clear and cover advertising, participation, submission of proposals, and the content of the procurement methods and awarding criteria. Fractioning of contracts to limit competition is expressly prohibited by section 13(b) of the Procurement Regulations of 2012. The evaluation criteria include a combination of quality and price and there is an effort to include life cycle cost.

The procurement rules require publication and state the conditions for publishing procurement opportunities. There are fair rules on participation and eligibility criteria, and no barriers to participation. SOEs are not subject to the general public procurement regulation. However, the Public Procurement Board has to approve the rules and regulations for SOEs. In case of a material conflict between the 2012 Regulations and the SOEs regulations, the 2012 Regulations shall prevail²².

Procurement documentation and specifications are satisfactorily covered by the legal and regulatory framework, as are rules for evaluation and award criteria, as well as rules for submission, receipt and opening of tenders.

Appeals and dispute resolution procedures during contract administration are satisfactorily established. The Government of Montserrat stated that there has never been any appeal. Therefore, there is no public data in connection with appeals procedures.

Responsibilities for contract management are not clearly assigned, and there are no rules for contract amendments within the regulations. Rules for contract variations are set in the tender documents or in the contract, according to feedback from the stakeholders.

Rules for safekeeping of records, documents and electronic data exist, but there are no security protocols.

The legal and regulatory framework lacks rules regarding:

- E-procurement
- PPPs and coverage of the procurement principles by specialised legislation

The web page of the government of Montserrat has an access point for tenders in which procurement documents for specific tenders and requests for proposals can be accessed by the public. Documents also include addenda, clarifications, notices, etc. myTenders is a platform that allows Montserrat to (i) publish notices with attached documents; (ii) receive submissions online; (iii) receive and answer questions online; (iv) conduct two stage procurement exercises; (iv) conduct requests for quotations. MyTenders allows to collate data for statistics; however, the assessors did not have access to any

²² Section 19 of 2012 Regulations.

information regarding the number of procurement proceedings undertaken online through myTenders and the ones undertaken on paper (see indicator 7.)

The assessors did not identify any reference in the legal and regulatory framework that would establish any requirement to use myTenders for any specific procedures. Documents available on myTenders included varying procedures, such as tender submission electronically in one case and submission in paper using the tender box in another case. The assessors were unable to ascertain the actual coverage of myTenders both with regards to the procurement cycle as well in terms of the share of all procurement procedures.

Although this e-procurement system exists, there is no clarity in the current regulations on who is responsible to plan and manage e-procurement tools in the legal and regulatory framework. This would be important to continue improving the system and overcome difficulties on records, accessibility, and submission of electronic tenders, among others.

Substantive gaps

Substantive gaps were identified at three different levels: first, related to the scope of the legal framework; secondly, in some procedural specifications; and third, at the contract management level.

A substantive gap regarding the scope of the legal framework is the absence of a specific regulation for PPP's, concessions and other forms of acquisition, other than the procurement methods specified in the general legal and regulatory framework. In addition, the scope of the general public procurement laws and regulations, and most notably the procurement principles, do not extend to specialized matters.

Regarding procedural rules, substantive gaps were identified with regards to:

- the absence of a specific rule to set a minimum time frame between call for and submission of proposals;
- the lack of procedures and mechanisms to ensure safety and confidentiality of the proposals: since there are no standards for their treatment once they are submitted by the tenderer, those standards are not defined for electronic records either;
- in terms of dispute resolution, the absence of a clear right to demand judicial review over decisions of the administrative appeals body;
- absence of rules regarding SOE participation in the procurement process.

These gaps were classified as medium or high risk. Red flags were raised as a number of these gaps could significantly impede the main goals of public procurement.

Finally, a major gap was identified in the rules for contract management. The legal framework does not include procedures and responsibilities to follow up on contract performance. This implies a risk of non-performance or under-performance of the contracts, which ultimately represents a failure of the process. The lack of general rules on contract amendments or renegotiations is a major gap because ex-post contract renegotiations are a major corruption risk. This gap was classified as high risk and a red flag was raised.

The procurement regulations are currently being revised to address some of the above-mentioned issues. The proposed amendments are (i) to review and simplify the thresholds; (ii) change the process for opening and announcing bids; (iii) improve procedures to guarantee equal treatment; (iv) publish a spreadsheet with all awarded contracts at the web page of the Government of Montserrat; (v) Procurement Board composition; (vi) abolish the Departmental Bid Committee because bearing in mind the size of Montserrat the Procurement Board can be in charge of such duties; (vi) emphasis in e-procurement; (vii) contract management; (viii) appeal process.

Recommendations

Once in place, the revised regulations will solve many of the gaps highlighted above; therefore, the recommendation is to continue the process to update the regulations and take advantage of the MAPS exercise by incorporating the recommendations from this assessment.

One of the points to be addressed is to develop necessary provisions in the legal and regulatory framework to regulate the use of e-procurement in Montserrat. While e-procurement is de facto used, there is a lack of rules about this use. In developing these rules, Montserrat should evaluate what scope is in fact needed for these rules, as for all legal and regulatory updates. In conducting such an evaluation, examples of such regulations in other jurisdictions (in the region and beyond) should be evaluated.

Montserrat could consider conducting a review on the needs to regulate PPP's and concessions. In addition, the government could evaluate how rules for specialised cases of procurement, such as procurement by statutory bodies, could be clarified in the legal and regulatory framework. Two approaches are followed by many countries: specialised procurement is either covered through pieces of specialized regulation that need to be aligned with the principles of public procurement, or by bringing such procurement under the coverage of the wider public procurement legal and regulatory framework.

In terms of rules of procedure, two kinds of actions could be completed: (i) legal and regulatory changes, and (ii) needs assessment and system development planning.

The legal and regulatory framework could be updated to include a rule to establish the minimum time frame between the call for proposals and bid submission. This rule could set the lowest standard and allow a longer time frame in particular cases, but it will guarantee the basis for equal treatment in all cases. Other regulatory changes could include the design of security procedures in procurement, both at a physical and electronic level to protect from hacking, phishing or any other security challenge.

With regards to the latter, needs assessments and system development planning, an analysis could identify the changes that can support the more systematic approach to determine the best solution for the context of Montserrat.

Finally, it would be very important to regulate contract management responsibilities, procedures to follow up on contract performance and rules for contract amendments. The current legal framework does not include clear mandates regarding this very important phase of procurement, so regulations should be developed and implemented to ensure value for money throughout the entire procurement cycle, including in contract management.

In addressing these topics, Montserrat could draw on existing guidance that has been developed in the region, for example as developed by CARICOM as part of the 10th European Development Fund project on public procurement. Relevant elements include the National Advertising Portal and manual and could serve as starting point or input for developing specific tools for Montserrat.

Indicator 2. Implementing regulations and tools support the legal framework

This indicator verifies the existence, availability and quality of implementing regulations, operational procedures, handbooks, model procurement documentation and standard conditions of contract. This indicator is divided into 4 sub-indicators that address the existence of regulations that implement the legal framework and the development of support tools as manuals, guides and standard contracts.

In Montserrat, implementing regulations complement the legal framework, but supporting tools are not publically available.

Findings

Regulations are clearly defined and do not contradict the rules specified in the law. Most of the applicable rules are defined at a regulatory level. Responsibility for maintenance is clearly established, but regulations are not consolidated and accessible publically in one place.

The regulations at section 16(1)(d) state that the Procurement Board, with support from the Procurement Unit in the Ministry of Finance, is tasked with developing documents for procurement, including templates, procurement manuals, guidelines and procedures. That means in practice that the Procurement Unit is responsible to develop such tools. The Government of Montserrat stated that there are some model procurement documents for goods, works and services and standard contract conditions. The documents are not publicly available on the web page of the MoFEM.

There is no evidence of the existence of a user's guide or procurement manual. However, according to the government, Procurement Operating Procedures (POP) are currently being developed that further specify the procedures to be followed.

Substantive gaps

Three substantive gaps were identified: First, the lack of easy access to regulations creates uncertainty about the proper process for public procurement and prevents the establishment of a level playing field. There is a legislation point at the MoFEM web page but it does not have the 2012 Regulations. According to MAPS indicator framework, easy access means that the rules governing public procurement are available to the public in a single accessible place, structured or searchable so that users can easily identify the entire set of rules that are currently in force. This gap was classified as medium risk.

The assessors had access to (i) general conditions of a public works contract, (ii) a "typical" contract for services that has been used as a template, and (iii) a form to declare conflict of interest as well as procurement documents for previous cases (invitation to tender for the tourism strategy for Montserrat; request for proposals for the installation, operation and maintenance of the Montserrat submarine fibre optic cable project.) The assessors were unable to verify the existence of other standard documents, templates and forms. Regulations define that the Procurement Board is responsible to develop standard bidding documents, prequalification documents, procurement contracts, anti-collusion statements, evaluation forms, procurement manuals, guidelines and procedures. Standard operating procedures are currently under preparation.

The absence of these documents results in large discretion and therefore uncertainty in the public procurement process. In addition, the repeated creation of procurement documents and contracts requires time and creates inefficiencies. This gap was classified as high risk and a red flag was raised.

The third gap relates to the absence of a procurement manual to guide and support procurers' work. This gap was classified as high risk and a red flag was raised.

Recommendations

Montserrat could consider publishing the entire legal and regulatory framework in an easily accessible web portal, allowing interested parties to access and review it at their leisure. To facilitate access, such a portal could be linked to and from myTenders.

The Procurement Board should draft all the documents listed in section 16.1.(d) of 2012 Regulations to support the work of procurement officers, including the procurement manual. In addressing these topics, Montserrat could draw on existing guidance that has been developed in the region, for example as developed by CARICOM as part of the 10th European Development Fund project on public procurement. Relevant elements that could serve as an input include standard bidding documents and procurement standard operating procedures.

In addition, the Procurement Board could publish the existing templates and draft a procurement manual. The development of these documents should be based on a needs assessment and a plan to

prioritise the development of the different documents. In addition, these documents should be published and kept up to date.

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

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

Findings

Section 33.7 of 2012 Regulations states that in determining the lowest evaluated tender, the Public Procurement Board shall bear in mind, to the extent that it is practical, the countertrade arrangements offered by suppliers. Montserrat's Sustainable Development Plan 2008-2020 mentions procurement skills as one necessary skill that is required for successful implementation. No other mentions of procurement in the development plan were found.

Substantive gaps

No reference to a Sustainable Procurement Policy or to the obligations derived from international agreements related to the Montserrat Procurement System was found, which represents a substantive gap. Such obligations relate to equal treatment, non-discrimination and participation of suppliers under equal conditions. These risks were classified as high risk and red flags were raised.

Recommendations

Montserrat is recommended to develop a sustainable procurement policy and include a reference to SPP in the legal framework.

3.2. Pillar II – Institutional Framework and Management Capacity

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

Overall, procurement institutions in Montserrat are clearly defined and structured, with some gaps related to their independence. Substantive gaps were found in this pillar. A major gap relates to the absence of a clear link between financial management and the procurement process. Appropriation and certification of expenses is not necessary in accordance with the legal and regulatory framework and there is no requirement to compile procurement plans. While Montserrat has undertaken the first steps towards implementing e-procurement, functionalities remain limited and the implementation of structured data management could provide benefits. There is limited capacity of the public procurement system to develop and improve itself. As stated in the 2017-2018 Budget Statement, resources for procurement staffing are not sufficient. There are no statistics and indicators on this matter to support improvements.

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

This indicator focuses on how well integrated the procurement system is with the public financial management system. The sub-indicators assess the direct interaction between the procurement

system and the financial management system, including budget and planning, treasury and contract performance, payments and fulfilment of contract obligations.

Montserrat's financial management and procurement planning, as described by Montserrat's rules, are not well integrated. Both matters are regulated, but no specific rules, different than the general rules applicable for the financial management, are in place to regulate procurement. As a consequence, there are no financial procedures defined in the procurement process, for example, no procurement plan needs to be prepared by the procuring entities and there is no clear appropriation process for acquisitions.

Findings

There are no specific rules for financial planning and budgetary expenses related to public procurement. Expenditure is regulated by general rules that do not consider the particular stages and requirements of a procurement process. In the context of MAPS, a procurement plan is considered an annually prepared document, which defines the goods, works and services that a procurement entity will purchase from external suppliers during a given year, when and where it will procure and the procurement method to be used. The procurement plan shall be aligned with the approved budget and the available cash flow and can be revised and edited with new projects or needs or excluding planned acquisitions. The procurement plans are published and made available to the public in light of fairness and transparency.

The assessment team received a template of a procurement plan as well as an example of how the Ministry of Education used this template to plan procurement. This procurement plan was not published, and it did not contain specific budgets.

At the level of the procurement process, there are no clear financial requirements either. There is no specific provision that would require preparing procurement plans. The Public Finance Management and Accountability Act (2008) contains an obligation to prepare annual expense estimates, but there is no requirement for a detailed procurement plan.

In addition, there is no specific provision for expenditure appropriation related to procurement processes. The Public Finance Management and Accountability Act 2008 determines that expenditure must be in accordance with planning and authorizations to pay, but it contains no details regarding procurement processes.

There is no specific obligation to certificate the availability of funds before starting the procurement process.

There is no specific procedure for processing procurement invoices nor for the authorisation of payments in the procurement process.

Substantive gaps

The substantive gaps identified in this indicator are related to the absence of procurement planning and financial management procedures in the procurement process. In the first place, there are no general rules relating procurement activity to financial planning of the Government of Montserrat; in addition, procurement planning is not conducted on an annual basis. The procurement procedures do not include financial procedures or principles. These gaps were classified as high risk and red flags were raised as they impede the main goals of public procurement and cannot be mitigated directly or indirectly.

No information was available to assess the quantitative assessment criterion (invoices paid on time.)

Recommendations

The main recommendation in this indicator is to define procedures to harmonise the procurement rules and the budget and expenditure regulations. This is important to ensure that budget and cash flows exist to honour procurement obligations in accordance with the terms of every procurement

document – before these obligations are entered into. Other procedures could be developed, for example a yearly procurement plan and tools to report its execution.

The existence of general accounting rules is not enough to integrate the financial management system and the procurement system. The indicator requires an integration of resources with identified needs, as well as integrating financial analysis with the costs and opportunities to satisfy such needs. It is also important to analyse what implications procurements have on budgets, cash flows and the government’s overall financial obligations, and how this interaction impacts risks of delays in payments and delivery.

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

This indicator refers to the normative/regulatory function in the public sector and its proper discharge and co-ordination. The assessment of the indicator focuses on the existence, independence and effectiveness of these functions and the degree of co-ordination between responsible organisations.

Montserrat has an organisational structure to address the normative and regulatory function for public procurement. Most of the responsibilities that are subject to assessment according to the second sub-indicator are covered by the functions of the procurement entity and the Departmental Procurement Board. However, gaps were found in relation to responsibilities to maintain an information system and undertake data analysis.

Findings

The Procurement Board, supported by the Procurement Unit, is the entity responsible for normative and regulatory function for public procurement in Montserrat; the Governor’s Council is entitled to adopt regulations. The Procurement Board is chaired by the Deputy Financial Secretary, and has the following additional members, according to the government:

- Two non-government members
- One legal representative
- One technical expert
- Observer: donor agency, non-voting

The Procurement Board was created by the 2012 Regulations and its functions are included in these regulations. Most responsibilities are clearly assigned to the Procurement Board, such as the responsibility for adopting measures to carry out the provisions of the 2012 Regulations, recommending amendments to the 2012 Regulations to improve the effectiveness of the procurement process, reporting periodically, reviewing decisions of procuring entities upon request and determining forms, tools and instruments.

According to the government, the division of labour between the Procurement Board and the Procurement Unit are as follows:

Procurement Board	Procurement Unit
<ul style="list-style-type: none"> • Administers tenders valued above XCD 100,000 • Sets guidelines and agrees standard bidding documents • Responsible for tender evaluations 	<ul style="list-style-type: none"> • Develops and approves tender documentation with the procuring entity • Manages the tender process • Maintains standard documentation • Monitors procurement processes across the government

--	--

The Procurement Board is sufficiently staffed and has a high standing in government. Several gaps relate to the absence of attribution of certain responsibilities in the law and a system to manage conflict of interest.

Substantive gaps

A substantive gap relates to the existence of an *institutional* conflict of interests of the Procurement Board: The Procurement Board has responsibilities to both oversee tenders and to prepare regulations, which means that it might ultimately regulate itself. Without adequate measures to hedge for a conflict of interest materialising, this arrangement is problematic. In addition, the financing of the Procurement Board is not specified in the legislation. According to stakeholders, members of the Procurement Board sign a declaration to confirm the absence of a conflict of interest. This declaration pertains to personal conflict of interest and cannot be considered adequate to address the conflict of interest in an institutional sense that arises from the governance structure in which the Procurement Board is embedded. The responsibilities and powers of the procurement regulator should be separate from the operational management of procurements, including the associated reporting structure. This gap was assessed as high risk and a red flag was raised.

In addition, gaps relate to the specification of responsibilities that a complete normative and regulatory function should have according to the assessment criteria. The following responsibilities are not defined:

- Providing advice to procuring entities
- Development of an information and analysis system for procurement, including e-procurement tools.

These gaps were classified as medium risk and a red flag was raised as they cannot be directly or indirectly mitigated from within the sphere of public procurement.

Recommendations

In general, as mentioned also in indicator 6 below, Montserrat might wish to re-evaluate the institutional set-up with regards to public procurement, working towards a clear definition and separation of responsibilities, while being mindful of the resource implications that such an institutional separation would require.

Montserrat could consider separating the operative from the regulatory functions of the Procurement Board to reduce conflicts of interest. Two separate units within the Board could be tasked with purchasing and the regulatory and normative function, respectively. In separating these functions, attention should be paid to the particular challenges with regards to resources and capacity in Montserrat. An assessment of the current distribution of responsibilities and potential avenues for avoiding a conflict of interest might inform the reforms.

Additional responsibilities that are currently not defined should be attributed, possibly as part of the process to review an institutional conflict of interest between operational functions and the normative and regulatory functions.

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.

Procuring entities are defined, especially the Procurement Board that has procuring responsibilities (in addition to the normative and regulatory function specified above). In terms of the existence of a centralised procurement body, there is no evidence of demand aggregation.

Findings

The legal and regulatory framework clearly defines what kind of entities can conduct procurement activities, and applicable procedures. The Procurement Board (also entrusted with the majority of normative and regulatory functions, see indicator 5) is tasked with supervising public procurement above a threshold of XCD 100,000, with operational support from the Procurement Unit. The Procurement Unit handles most of the procurement process, such as documentation and management. However, the evaluation is responsibility of the Procurement Board.

Contracting entities in other government institutions are tasked with conducting procurement below the threshold and can establish Public Procurement Commissions in case necessary.

Substantive gaps

While the Procurement Board to a certain extent represents a procurement function in the central government, it is only authorised to conduct high value procurement processes on behalf of other institutions, without any aggregation. There was no indication that any consideration with regards to aggregation of demand was made, and none of the aspects of a centralised procurement body as defined by sub-indicator 6(b) have been enshrined in the legal or regulatory framework. As a result, this gap was classified as high risk and a red flag was raised. In addition, a gap was identified and a red flag was raised as the Accountability of the Tenders Board is not clearly defined in the legal framework.

There is no information about the number of procuring entities in Montserrat.

Recommendations

Overall, recommendations centre on the need for a re-evaluation of the basic institutional structures tasked with responsibilities related to public procurement, ensuring a clear attribution and division of responsibilities:

Montserrat could institutionalise a centralised procurement system for goods, works and services to aggregate demand among Montserrat's procuring entities. Aggregating demand can translate into savings for all government entities. Higher purchasing volumes can facilitate realisation of economies of scale. Priority could be given to items that are easy to standardise and are procured repeatedly by several procuring entities. This process towards centralisation could also take into account the above-mentioned institutional conflict of interest and emphasising the operational tasks vis-a-vis the regulatory and normative tasks. A policy clarifying rules and procedures for any centralised and aggregated purchasing, as well as institutional requirements should be clarified.

In addition, the Government of Montserrat could define an accountability policy for procuring entities, and particularly the Procurement Board. In doing so, consideration has to be given to the relatively small government of Montserrat, and measures should be practical and not establishing overly large burden in comparison with the risk. At the same time, clear accountability procedures can strengthen the confidence of citizens and suppliers in Montserrat's public institutions and can ensure that value for money is guaranteed. Adopting these changes could be part of a process to define the normative / regulatory function and the operative function in the area of public procurement.

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

The objective of this indicator is to assess the extent to which the country or entity has systems to publish procurement information, to support the different stages of the public procurement process efficiently through application of digital technologies, and to manage data that allows for analysis of trends and performance of the entire public procurement system.

This indicator considers the existing functionalities that are available to conduct procurement electronically. Montserrat uses some elements of information technology to support procurement in the form of the myTenders portal. Montserrat is the most advanced state among this joint MAPS assessment of five jurisdictions in the region. However, there is no data management beyond the initial functionalities of myTenders (for example indicators related to the use of each method of procurement, value variations, number of proposals, new suppliers, type of goods, works and services procured, average of time per method, among others).

Findings

Montserrat uses the e-procurement portal myTenders. The website contains procurement opportunities and notices about awards, but beyond basic elements of the procurement process, the overall e-procurement system used in Montserrat remains limited when compared to the e-procurement functionalities outlined in this MAPS indicator. While MyTenders has the potential to collect some data related to tenders, this data is not used in a structured information system or analysed to inform future procurement decisions. The portal does not provide complete information related to the procurement process and the procurement cycle is not completely covered by the functionalities offered in myTenders.

The assessors did not identify any provision in the legal and regulatory framework determining which tenders are mandatory to be conducted through myTenders, as well as what elements of the procurement cycle (see indicator 1). In practice, according to stakeholder interviews, myTenders is used for procurements that have a market beyond Montserrat; for tenders with a local reach, the website of the Government of Montserrat is used.

MyTenders functionalities include bid submission and receipt, as well as a platform to manage clarifications. Actual use of myTenders functionalities seems to vary from tender to tender. For example, an invitation to tender for the procurement of security services for Glendon Hospital offers the option of using myTenders or email for questions and clarifications and the submissions can be through myTenders and in hard copies. This is the case of most of the procurement documents publicly available, for tenders and for request for proposals. In contrast, an invitation to tender for the renovations of the Dive Shop at Little Bay states that the tender is to be placed in the Tender Box at the Office of the Premier.

In 2018, 35 notices (prior information notices and calls for tender) were published through myTenders. Some of these seem to be repeated notices for the same project. The assessors did not identify any information beyond the notice text as well as limited exchanges with suppliers. The latter related to notification about the outcome of a tender. The most recent exchange was dated in the summer of 2017.

Regarding data or information analysis, the legal framework includes an obligation to gather some data about the procurement process, but does not define clear procedures to analyse that information.

Substantive gaps

While Montserrat is one of the first countries in the region to use an e-procurement system, some features of e-procurement outlined by the MAPS have not been introduced.

The documents available online do not cover the entire cycle of the procurement process, and cannot be easily linked to each other, for example the outcome of an individual invitation to bid, what kind of clarifications to a specific tender have been provided, etc. There is no information published about the progression of a procurement process along the procurement cycle. This gap was assessed as high risk.

In addition, it is a substantive gap that there is no defined, responsible agent in charge of developing the information system and responsible for gathering, managing and using procurement data to improve the performance of the procurement system. No strategy has been developed to ensure that the development of the e-procurement system efficiently and effectively meets the needs of contracting authorities in Montserrat. This gap was assessed as medium risk.

A considerable gap relates to the procurement information or procurement data gathered by the e-procurement system, and how it is used to inform procurement processes overall. No evidence was found that the information in the e-procurement system is gathered in a structured way and systematically analysed to inform future procurement processes. This gap was classified as high risk.

Assessors did not have access to information to assess the mandatory quantitative assessment criteria in this indicator, including:

- procurement plans published (in % of total number of required procurement plans)
- key procurement information published along the procurement cycle (in % of total number of contracts)
- invitation to bid (in % of total number of contracts)
- contract awards (purpose, supplier, value, variations/amendments)
- details related to contract implementation (milestones, completion and payment)
- annual procurement statistics
- appeals decisions posted within the time frames specified in the law (in %).

Recommendations

In the context of procurement systems with limited capacity and resources, as is the case in Montserrat, electronic procurement offers great potential to increase the efficiency and effectiveness of the procurement system, without straining available resources. The main recommendation is to define a responsible entity to plan the development of the information system for the procurement process. This should include expanding the functionalities of the system, and most importantly to make the information gathered in the procurement process usable for analysis. This could include an open procurement policy to gather, use and publish information about procurement procedures. The strategy should also consider how procurement data can be analysed, and identify how this analysis can contribute to increased value for money, as well as the more efficient and effective management of public procurement in Montserrat. In addressing this aspect, Montserrat could draw on the functionalities made available through CARICOM's National Advertising Portal, including supplier registration or e-learning module.

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

This indicator focuses on the strategies and ability of the public procurement systems to develop and improve. It evaluates the existence of strategies and programs for development and the professionalization of the activity. The indicator is divided in three sub-indicators. Findings in this indicator relate to the entire public procurement workforce, i.e. all public employees that conduct procurement.

Procurement officers in Montserrat have participated in CIPS training. Several elements proposed in this indicator are absent in Montserrat: public procurement is not considered a profession, and no system to monitor performance in the area of public procurement.

Findings

Several procurement officers have participated in CIPS level 4 training through virtual class room at the University of Jamaica. These activities were funded by CDB. In addition, the Procurement Unit conducts ad hoc training for procurers across government that cover the general needs in the context, using own training material as well as existing material, for example guides for the e-procurement system. In addition, individual performance is evaluated according to general systems in the public sector. Job descriptions outline the profiles of staff in the Procurement Unit. Montserrat does not have a specific training program for procurement officers. The Strategic Plan of the MoFEM does not include performance indicators of the public procurement system. However, analysis is undertaken adhoc at the level of the Procurement Unit.

Substantive gaps

The three main aspects of this indicator are largely absent in Montserrat: There is no structured training programme based on needs, and no system-wide performance monitoring system evaluating the procurement processes. Finally, there is no professionalization of the procurement function, i.e. specific provisions to recognise the procurement activity as specific function are absent, as are evaluation mechanisms for individual officials, a career path focusing on procurement or role descriptions for those conducting procurement. These gaps were classified as high risk and a red flag was raised.

In the context of this indicator, MAPS refers to a training programme that is linked with a professionalization system and a career path for procurement officers in the different contracting authorities, as well as the systems that are in place to evaluate performance and take appropriate measures to adapt to new challenges.

Montserrat, as a small territory, has an administrative body that is relatively small overall. Any measures to evaluate performance and increase procurement professionalization have to be appropriate to the limited capacity in the country. However, there is a need to ensure that those conducting procurement throughout the administration do so in a professional manner. The assessors did not find evidence of efforts in this respect, and the gap was classified as high risk.

Recommendations

Montserrat could consider what would constitute a meaningful approach to professionalization and performance monitoring. Any measures should take into account the main needs of the public procurement workforce, and take into account the context, i.e., the relatively small size of the public procurement workforce, and the limited capacity of the central procurement operations. However, performance monitoring, training and professionalization do offer benefits even in a small island context: where human and financial resources are scarce, it matters all the more how these are deployed. Additional opportunities for increasing capacity exist in the regional context, for example through procurement networks in the regional institutions such as OECS.

A needs assessment could be the beginning of a more strategic approach in this area. Elements of a capacity building strategy could include measures such as:

- Using the Procurement Board as a multiplier of procurement knowledge, i.e. seeking training abroad and passing it on to the procurers in the individual contracting authorities on a regular basis
- Providing supporting documents, a contact point and similar measures, based on internationally available standards.

- Gathering, analysing and disseminating data related to first, tenders conducted by the Procurement Board, and later related to that of other contracting authorities to learn about procurement performance.

3.3. Pillar III - Public Procurement Operations and Market Practices

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

The largest and most complex procurement processes in Montserrat are carried out by the Public Procurement Board. These are carried out with documents that are in general well integrated and clearly specify evaluation criteria, requirements and intended outcomes. Some of these are carried out in the myTenders e-procurement platform, although bids are also accepted in paper.

Involvement of external stakeholders in the procurement cycle is low, and happens only during the planning stage. Some suppliers were consulted about the draft of the 2017 proposals to reform the public procurement system further, but there is no formal consultation process on the island. Bearing in mind the particularities of an island with a population of 5,000 persons, the private sector is fairly competitive and organised, and willing to participate in the public procurement market. Some gaps persist related to the absence of programmes to build capacity among suppliers and the lack of a supplier register.

Indicator 9. Public procurement practices achieve stated objectives

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

Procurement done under the Procurement Unit generally achieves its objectives. However, some gaps were identified for the three sub-indicators of this indicator, related to planning, participation of external stakeholders and contract management, but none constitute red flags.

Findings

The assessors had access to the physical files of four procurement processes and found four additional processes carried out in the e-procurement myTenders platform. In addition, a recent request for proposal and invitation to tender was received. The physical files corresponded to the following processes: ferry services, verge cutting, drain cleaning, expansion of ICT in primary schools, and social housing. The four processes analysed from myTenders were the following: An early market engagement for a geothermal PPP, a consultancy for air and sea access strategy, ferry services, and a terrestrial fibre optic project. The invitation to tender related to the development of a tourism strategy, and the request for proposals to a submarine fibre optic cable. The two latter cases did not include any files beyond the invitation / request itself.

According to the Procurement Unit, depending on the contract, market research is conducted by asking for expressions of interest, especially for large contracts. The tender documents that were analysed by the assessors did not include conclusions of market engagement or documentation of any

other planning aspects. An estimation of budget is made with historical data and quotes from usual suppliers. In interviews, stakeholders mentioned that these estimates were consistently too low when compared to the eventual value of projects when the award was made, especially in those cases where local knowledge is scarce, such as the airport control tower.

The Public Finance Regulations allow the requiring entities to conduct pre-qualification, without involvement of the Procurement Board.

There are clear thresholds and cases for using the procurement methods. The persons interviewed during the fact-finding mission did not report any concerns about splitting contracts or inadequate choice of procurement methods, and thus this does not seem to be a problem in Montserrat.

The tender documents analysed clearly define the needs and state the requirements and desired outcomes of the goods or services to be provided. The documents are integrated and easy to understand. A similar layout is used, and for the processes that are carried out in the e-procurement platform there is in general a common pattern.

The documents specify clear evaluation criteria and scoring rules that leave no ambiguity and guide both bidders and evaluators to determine the total score of each bid. The evaluation criteria in the analysed documents consider price and non-price factors, but no sustainability criteria.

Procedures for bid submission and receipt are clear. The use of an e-procurement system provides guarantees for suppliers in relation to a timely and transparent bid opening procedure. Nevertheless, bids are also accepted in paper and there is no clear procedure for bid opening established in the tender documents in relation to the opening of this type of bids.

Confidentiality is enshrined in the Public Finance Regulations and further ensured by the use of an e-procurement platform, for the bids presented through the myTenders portal. The interviewed stakeholders did not report any possible breaches of confidentiality, and no evidence to suggest breaches were otherwise encountered. According to the persons interviewed, the selection and award process is carried out effectively, efficiently and in a transparent way.

The interviewed persons consider that contracts are implemented within days after the process is awarded. They see a clear benefit in disclosing the contract along with the tender documents, so that no negotiation of contract clauses takes place after bids are submitted.

Although not being implemented in all contracts, some of them including the port or the ferry services contain considerations in line with international conventions for the protection of environment, such as the International Convention for the Prevention of Pollution from Ships.

According to the interviewed persons, the Procurement Unit is not involved in supervising the delivery of the goods or services, nor in any activity related to contract management. The accountant officer at the requiring entity is responsible for monitoring but this procedure is not standardised, and thus prone to subjectivity. Although some agencies such as the Department of Public Works state that they send quarterly reports to the Finance Secretary about contract implementation, this is by no means a regular practice among procuring entities. In line with this fact, the proposed reform to the Public Finance Regulations confirms that contract management is poor in the public sector and propose a new section with key principles of good contract management.

Representatives from the private sector who were interviewed during the fact-finding mission affirmed that payments are processed in a timely manner. In relation to contract amendments, contracting agencies and suppliers stated that these happen on very few occasions.

The involvement of external stakeholders in public procurement processes generally takes place only during the planning stage. This is especially the case for the procurement of public works, where citizens sometimes ask questions about the place of a new construction, or other relevant aspects. In case procurement is carried out using funds from CDB's Basic Needs Trust Fund, extensive community liaison is undertaken to ensure feedback from citizens is received and considered.

Finally, although there is some implementation of e-procurement, files are not kept in an orderly and complete manner, despite regulations requesting otherwise.

Substantive gaps

Except for large projects, market research is limited to asking for quotations. In a number of processes, the estimated budget is too low with respect to what the market offers, especially in those areas where local knowledge is scarce. Furthermore, no documentation of the planning stage is kept in the procurement files.

While some documents and procedures share similarities across procurement cases, more standardisation of the tender documents is possible. There is currently no consideration of sustainability criteria.

There are gaps related to the procedures for bid opening. As bids are accepted in paper, there is no clear procedure outlined in the tender documents about bid opening. Furthermore, the Public Finance Regulations do not explicitly allow external stakeholders other than suppliers and their representatives to attend bid openings.

The supervision of contracts is the responsibility of each procuring entity, and there are no common guidelines or procedures for performing that task. Contract clauses do not provide incentives for exceeding defined performance levels.

Except for community meetings during the planning stage, there is no evidence that external stakeholders are involved with the procurement process. This is in part due to the limited public information that is available for procurement processes. For example, contract awards below the thresholds specified in the regulation are not being announced.

Except for major contracts handled by the Procurement Unit, procuring entities are not sharing information about the pre-tender stage nor contract implementation with the Procurement Unit, impeding the calculation of statistics about the whole procurement cycle. Thus, the Procurement Unit does not have complete and accurate information of the procurement processes.

These gaps were classified as medium risk.

Recommendations

Montserrat could consider strengthening the planning stage of the procurement process. Training and guidelines are a means of explaining the importance of carrying out sound market studies and establishing common procedures to do so. An emphasis should be put to documenting the planning process and keeping this information in the procurement records for review by external stakeholders and future consultation, including when needed during judicial processes.

Tender documents could be further standardised. For this, the use of the myTenders portal could be expanded to all the processes carried out on the island, or at least those that are handled by the Procurement Unit. These standard documents could include sustainability criteria. In addition, the Government of Montserrat could study the possibility of expanding the use of the e-procurement system to include contract implementation, so that requiring entities are allowed to use the platform to upload the signed contract, amendments, payment information and implementation reports. This would in turn enable the Procurement Unit to have all the information in a single and orderly file and provide the necessary information for the calculation of statistics to improve the public procurement system.

Involvement of external stakeholders could be boosted by disclosing more contract information including for contracts below the threshold specified in the regulation and allowing their participation in bid openings and other stages of the process, such as contract implementation. For the latter, guidelines for implementing entities could be drafted by the Procurement Unit to provide common procedures for managing the contract and supervising its quality and execution.

Indicator 10. The public procurement market is fully functional

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

Keeping in mind its characteristics and challenges as a small island (both population- and demand-wise), Montserrat's procurement market is functional, especially in regard to the suppliers' perception of and access to the public procurement market. Gaps persist because of the lack of dialogue mechanisms with the private sector, the fact that there are no programmes to build capacities among suppliers, and the absence of strategies for key sectors.

Findings

Exchanges between public institutions and the private sector are characterised by the small island context, where exchanges between both groups happen adhoc and informally. According to the procurement unit, meetings with specific suppliers have been organised to share information about the procurement system and how to participate in the tenders, with good turnout. Suppliers have been consulted when adjusting tender documents. The draft of the public procurement reform was published online.²³ Some public hearings were carried out to explain the proposed reforms. The interviewed suppliers stated that they feared being excluded from future opportunities if they openly expressed their disagreement with the proposed changes. Other did send comments but did not receive any feedback from the Procurement Unit.

The competitiveness and organisation of the private sector has to be considered in the context of a small island inhabited by 5,000 persons. Keeping this in mind, the private sector is fairly well organised and there are associations such as the Chamber of Commerce, and suppliers who are willing to participate and compete for government contracts. In any case, many goods and services are being sourced from abroad, due to the lack of industrial, manufacturing and service suppliers for many products.

Local suppliers feel that they have the necessary means of getting to know about new opportunities to participate in the public market. Information is available for those interested in a specific procurement process, and there are in general few constraints to participate. Suppliers also reported that they are satisfied with the timeliness of payments. Montserrat does not have a register of suppliers.

Suppliers interviewed stated that they would find it better to work with a central purchasing unit which could organise procurement for most standardised goods, because they would be able to bid for a rather complex process once instead of answering to multiple tenders for the same products carried out by different procuring entities.

The main sectors identified during the interviews were public works, vehicles and consultancy services. No proper document or formal identification has been drafted, nor specific strategies for these sectors developed.

Substantive gaps

²³ Available at: <http://www.gov.ms/wp-content/uploads/2017/03/Proposed-changes-to-Procurement-Regulations-consultation.pdf>

Although the Government of Montserrat is disclosing drafts of reforms, most of the suppliers interviewed during a visit in the state perceive that it is not carrying out a fully consultative process with the private sector when formulating changes to the public procurement system, and that no feedback is given to comments sent by suppliers.

There are no structured programmes in place to train suppliers, provide financing or build capacity to engage with the public market. In particular, there are no structured or recurring training sessions nor guidelines provided for suppliers on how to answer tenders, understand contract clauses or use the myTenders portal. In fact, the assessors noted for the procurement processes they reviewed which were carried out on the e-procurement platform that no requests for clarifications were sought during the tender process by interested parties, although some of the processes were related to fairly complex operations.

The Procurement Unit does not have a complete register of suppliers, which impedes carrying out better market and identifying risks and opportunities in specific sectors. Furthermore, key sectors have not been identified in a formal document to set up procurement strategies targeted specifically to each of these.

These gaps were classified as medium risk.

Recommendations

Montserrat could consider engaging more with suppliers through the existing associations to encourage an open dialogue especially regarding procurement reform. Regular spaces for discussion could be fostered to understand the needs and requests of the private sector and to give feedback on the comments made by suppliers. This strategy could be further developed by understanding the supplier ecosystem, for which a register of suppliers would be very important. Deploying the e-procurement system to the whole of government procurement processes would facilitate this task, as suppliers need to register to download the tender documents and bid online. The information of this register would also serve to segment suppliers by sector, to better understand specific important sectors, assess risks and opportunities, and finally develop complete strategies for them. In addition, competition could also be boosted by publishing notices of tender across the CARICOM as the proposed reform suggests, at least for those contracts above the regional threshold.

One of the main recommendations related to the engagement with the private sector is offering suppliers training and guidelines on the issues that are most important for them, such as how to properly draft bidding documents, use of the myTenders portal and understand contract provisions. Emphasis should also be made on using the e-procurement platform to maintain a clear and open dialogue, asking questions and exchanging messages with the Government of Montserrat.

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

Pillar IV includes four indicators that are considered necessary for a system to operate with integrity, including appropriate controls, and appropriate measures to address the potential for corruption in the system. The pillar also covers important aspects of the procurement system, which includes 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.

Publicly available information about procurement processes is scarce, except for those processes carried out in the myTenders platform. Engagement of citizens with the public procurement system remains generally low, although in the context of a small island persons may contact directly officials of all levels in public gatherings or by the phone.

Stakeholders interviewed affirmed that the audit function has improved recently. Some challenges persist, especially regarding response and documentation of findings, follow-up, training of auditors and a lack of written procedures for internal controls.

Although an administrative review procedure exists, the suppliers interviewed during the fact-finding mission prefer the judicial procedure, as it is deemed to be fairer and unbiased, and they may obtain financial compensation. Neither of the procedures in place result in remedies.

In relation to anti-corruption measures in the public procurement system, a general anti framework exists, specifying the basic rules and procedures, including a Code of Conduct, asset disclosure for high level officials, and a debarment procedure. An Integrity Commission is called for by legislation, but currently not operating.

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 fair, 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.

The small population of Montserrat allows for direct interaction between citizens and officials. However, gaps were identified for this indicator because this direct interaction is not being utilised extensively in the context of procurement; there are no formal dialogue mechanisms between government and civil society; and open information is limited and not enough to audit and monitor procurements.

Findings

For particular procurements, stakeholders generally learn about new processes through the myTenders portal, local newspapers and radio. For public works, billboards with basic information are displayed next to the construction site. Information in general is very limited for those processes, which are not carried out through the e-procurement platform, and overall, only a small proportion of the procurement procedures seem to be carried out via myTenders. Tender documents in myTenders are available for download for free.

Although there are no prohibitions, the Public Finance Regulations do not allow explicitly permit the participation of citizens at any stage of the procurement process. Most citizen participation occurs at the planning stage. The small population allows for direct participation where individuals call or directly ask those government officials involved in a certain procurement or talk to them in public places or gatherings. For public works, when the process is conducted under international procedures, such as through the Basic Needs Trust Fund of the Caribbean Development Bank, there is a special emphasis in community liaison to ensure feedback is given and considered. Engagement with the community is not documented in the records kept by the Procurement Unit.

As was mentioned in the findings of Indicator 10, the draft of the public procurement reform was published online, but civil society did not provide any comments.

Substantive gaps

Although the Government of Montserrat is disclosing drafts of reforms, interviewed stakeholders deem that it is not carrying out a fully consultative process with civil society when formulating changes to the public procurement system, where comments of citizens are heard and action is taken upon them and feedback is provided. There is no evidence that the Government of Montserrat is

considering input from civil society when reforming the public procurement system. In addition, no programmes are in place to build the capacity of citizens to understand and monitor public procurement.

Information is limited and there are only the few processes carried out in the myTenders portal have documents easily available for consultation.

The current regulatory framework does not have provisions allowing citizens to participate in any stage of the procurement process. Except for the meetings held during the planning stage of processes, especially public works, there is no evidence of citizens participating directly in other stages of the procurement process. Involvement during the planning stage is not documented in the records of the processes.

These gaps were classified as medium risk.

Recommendations

Montserrat could offer the necessary spaces for dialogue with citizens when reforming the public procurement system, and also make sure that reforms are explained, comments are received, and feedback is given.

To improve external stakeholder engagement during the procurement process, guidelines and training could be developed to explain specific aspects of the procurement cycle to citizens. Special attention should be given to the use of the e-procurement portal. This would coincide well with an expansion of e-procurement for all procurement, as this would boost the information available to monitor procurements.

The next reform to the public procurement system's legislation and regulation could include explicit provisions to allow citizens to participate throughout the procurement cycle. Related provisions should be also included in the tender documents and recorded for future consultation in the procurement records.

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.

Montserrat has functioning control and audit systems. There are nevertheless gaps identified in all the sub-indicators of this indicator, related to follow-up mechanisms, written audit procedures, and the legal implementation of the audit and risk committee.

Findings

The Supreme Audit Institution of Montserrat is the National Audit Office headed by the Auditor General. The Auditor General has the necessary powers to audit any public entity (including statutory bodies) and must annually submit to the Legislative Assembly a report of the accounts audited.

According to stakeholders, audit and internal control has recently improved dramatically, compared to the situation that was flagged in the PEFA 2010 report. UK's Department for International Development (DFID) has been very involved in supporting the reform.

According to stakeholders, the Auditor General carries out external audit and checks for the existence of tender documents, to determine whether they meet standards set out in the procurement

regulation. Its office has never conducted particular procurement audits but regularly checks procurement processes of departments and also those carried out with the intervention of the Public Procurement Board. The annual audit reports carried out by the Auditor General are available online at <http://oag.gov.ms/publications>. These are presented to the Publics Accounts Committee, which according to the Financial Secretary is operating well, and carry out the necessary meetings to revise these reports. Reporting rules are in place in case irregularities are discovered.

According to stakeholders, internal audit comprises a desk review of regulation and comparison with best practices, along with a transactional review of the processes. For the latter, a random sample of tenders is selected to perform a compliance check that all the necessary documentation is included in the file. The auditors mostly check physical files, but also documents in myTenders. According to stakeholders, audits are carried out at least annually for all ministries. In addition, the Public Procurement Board is audited annually internally. The legislation does not establish a specific timeframe for implementing recommendations.

The persons interviewed stated that there are no written procedures stating internal controls. To ensure balance and proper risk mitigation, an internal government audit and risk committee has been set up. Nevertheless, there have been issues identified with the legality of this committee, and an ordinance must be passed for it to be fully operational.

Stakeholders mentioned that an audit manual based on the International Professional Practices Framework (IPPF) of the Institute of Internal Auditors of North America (IIA) had been developed for Montserrat, but assessors did not receive a copy. Supposedly, this manual does not have any special provisions related to procurement.

According to the auditor interviewed, training for auditors is provided two times per year. The SAI of Jamaica provided training for external audit and carried out practical exercise using an ICT project as an example. The auditors have also received training by the International Development initiative (IDI) of the International Organisation of Supreme Audit Institutions (INTOSAI). Only some of the auditors have been trained in how to carry out procurement audits.

Auditors are selected through a competitive process that starts with the vacancy being advertised. An Interview is then conducted, and the selected person undergoes training to start his job. The process is fully independent.

Substantive gaps

According to interviews, the audit performed includes compliance checks, but no complete effectiveness nor efficiency reports. There are no clear mechanisms for follow-up on findings, and recommendations are in general only checked when the next audit is carried out. There is no evidence that recommendations are responded to and implemented on a timely manner and the legislation does not establish a specific timeframe for implementing recommendations.

There are no written procedures that state requirements for internal controls and the assessors were unable to check the audit manual.

The new audit and risk committee, which should hold government officials liable to recommendations, is not operational because the ordinance that is necessary to provide it with the legal basis has not been yet passed.

These gaps in the coordination of controls and audits and the enforcement and follow-up on findings and recommendations were classified as high risk.

Although there are programmes established to train auditors, few auditors have undergone training in procurement audits. According to stakeholders, the knowledge of procurement is not a means of appointing auditors to carry out specific audits. This gap was classified as medium risk.

Recommendations

The improvements made to the audit in Montserrat could be further developed if efficiency and effectiveness reports were included, and follow-up mechanisms were created to check that recommendations are responded to and implemented on time. These improvements should be incorporated in the audit manual.

To ensure that procuring entities carry out sound procurement processes that consider possible risks, a written manual could be drafted to explain how to implement internal controls and provide examples of best practices.

The audit scheme could be consolidated with the necessary legal provisions to guarantee the legality of the newly created audit and risk committee, as well as define timeframes for implementing audit recommendations.

In relation with training of auditors, a clearer emphasis on procurement should be given, to ensure that all auditors have the capacities to carry out procurement audits.

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.

Montserrat has administrative and judicial appeals mechanisms with gaps related to the timeframes for decisions and the way members are appointed to the Complaints Commission. A red flag is raised because suppliers perceive the administrative mechanism as biased, and this cannot be mitigated.

Findings

The Public Procurement Board is the first administrative review body. For contracts under the threshold, the review is done directly by the procuring entity. Decisions may be appealed to the Finance Secretary and finally go to the Complaints Commission, members of which are appointed by the Governor.

Although rules for the Complaints Commission are satisfactorily stated, the interviewed complainants prefer to go directly to court. Suppliers interviewed do not trust the administrative review procedure, as they feel it is biased and prefer to go to court, which solves the case with judges from outside of Montserrat and allow them to receive financial compensation.

According to the rules, the Complaints Commission issues final and immediately binding decisions. These decisions are confidential and not published. The Complaints Commission does not charge fees.

A supplier has right to send a request for review within 7 business days of the decision to award. The first review body has 14 days to come to a decision. Finally, appeals can be submitted to the Complaints Commission within 14 days of the supplier's receipt of the decision. There are no provisions for suspending the procurement process while a decision is made. Laws have established times to decide on complaints and appeals in the administrative system, but no cases were found to determine whether decisions are made within the time frame specified.

The judicial appeal procedure operates first with the Court of Appeal of the Eastern Caribbean Supreme Court and final appeals are handled by the Judicial Committee of the Privy Council (JCPC) located in London. There were no cases found that had gone to this final appeals stage. Decisions of the judiciary are binding for all parties, published online and rendered based on available evidence submitted by the parties and the courts are not involved in the procurement process. The courts appear to be functioning and adequately staffed, and the procedure appears to be balanced and unbiased.

The timeframes in the judicial complaints procedure make it impossible to have a decision before the award of a contract. Thus, the judiciary cannot impose remedies. The fees payable in respect of Court proceedings are established, and not seem to restrict access to the complaints procedure for suppliers.

Substantive gaps

Despite the existence of an administrative review and appeals procedure, there are gaps identified. No provisions are in place for suspending the procurement process while a decision is made by the administrative instances, and the timeframes in the judicial complaints procedure make it impossible to have a decision before the award of a contract. This results in appeals being decided after the contract is awarded and no remedies can be imposed in practice. This gap was classified as medium risk.

The interviewed suppliers stated during a visit in country that they would not trust the administrative review procedure and thus do not use it. They stated that although they have to pay fees in the judicial procedure, the judicial procedure would promise for a potential financial compensation if the appealing suppliers would win the case. Therefore, suppliers stated, they would prefer the judicial procedure. In addition, suppliers admitted that they preferred the judicial procedure because it is usually carried out by judges, which are from outside Montserrat and are therefore not linked to the public officials involved in the procurement process. As a result, these judges are considered by the suppliers as unbiased. This gap was classified as high risk and a red flag must be raised as the interviewed suppliers stated that they would always perceive decisions of the commission as biased. Suppliers stated that in the context of a small island, the members of the commission would probably be somehow related to the procurement officials.

Other gaps identified related to the administrative procedure are the confidentiality of the decisions that the Complaints Commission would make, and the fact that there is no clear procedure for appointing the members of this appeals body. Both aspects weaken the accountability and independence of the appeals body and were classified as high risk.

Recommendations

The administrative procedure could be improved with provisions that might be included in the proposed reform to the public procurement regulation and legislation. Remedies should be clearly defined and Montserrat could consider suspending the procurement process while the review and appeals bodies come to a decision, to guarantee that the rights of the interested parties are respected.

The decisions of the Complaints Commission should be published and made available online. The members of this commission should be completely independent from the procurement transactions. This would build trust among the suppliers to use it the challenge procedure.

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.

Montserrat has provisions on prohibited practices in its procurement documents. Gaps were identified for the rest of the sub-indicators, and red flags were raised because of the lack of civil society organisations capable of monitoring procurement, the lack of a complete anti-corruption framework, the absence of mechanisms for reporting prohibited practices and the fact that the Integrity Commission is not operating.

Findings

International treaties ratified by the United Kingdom are not automatically transferred to British Overseas Territories. This is the case for the United Nations Convention against Corruption. On the other hand, the UK Bribery Act 2010, which includes comprehensive definitions related to bribery, applies to British citizens including in the Territories.

Anti-corruption provisions are found in Montserrat's Integrity in Public Office Act, which defines bribery, gifts, advantages and other related aspects related to corruption. Contracts and procurement are considered expressively. Consequences and penalties for government officials and individuals found guilty of bribery or other related offences are established (monetary fines and imprisonment.)

The Integrity in Public Office Act includes a Code of Conduct, including provisions on conflicts of interest and a cooling-off period. Both provisions have some shortcomings: The latter has an undefined timeframe, applies to the whole of Government and not only to the institution where the official served, and can be bypassed if the official discloses the situation and the value of the contract is less than 50,000 XCD. Furthermore, the Code of Conduct only applies mandatorily to high-level officials which are included in the First Schedule of the act, and breaches to it result in criminal penalties.

The Integrity in Public Office Act creates the obligation for high-level officials listed under the First Schedule of the act to provide declarations of income, assets and liabilities. Possession of properties or resources that are not accounted for are deemed as illegitimate.

Procuring entities are allowed to disqualify a supplier from a procurement process if it knowingly submits false information. If a supplier does this twice, the entity may, with the approval of the Public Procurement Board, suspend the supplier from contracting with that entity, or debar the supplier of some or all procurement processes.

Montserrat does not have a complete anti-corruption framework in place. The Integrity in Public Office Act creates the Integrity Commission, but only grants it power related to the declaration of income, assets and liabilities, and to investigate complaints and allegations related to bribery, corruption and other prohibited practices under the act. Prevention and detection tasks are not assigned to any institution. Furthermore, as stated in the interviews, the Integrity Commission is not currently operating and some of the interviewed persons stated that laws related to integrity are not being enforced. In addition, there are no civil society organisations present to monitor and audit procurement.

Substantive gaps

There are substantive gaps related to this indicator. The Code of Conduct included in the Integrity in Public Office Act, which regulates conflicts of interest, only applies to high-level government officials. Other public officials including those that may be involved in certain procurement processes are not included under its scope. In addition, the provision related to cooling-off periods for former public officials is ambiguous and not bound in time and may be bypassed if a disclosure of information is made. This gap was classified as medium risk.

There is no evidence that procuring entities are required to report allegations of fraud, corruption or other prohibited practices to law enforcement authorities. Furthermore, there is no procedure to do this. There is also no evidence of reports of prohibited practices nor follow-up thereof. Suppliers interviewed during the visit in country stated that they would not denounce fraudulent or corrupt acts because they fear being blacklisted from new invitations to restricted tenders. While this statement reflects the experience of individual suppliers, the opinion of the suppliers is in line with the fact that there is no evidence that the laws on prohibited practices are being enforced by the application of penalties.

The debarment system does not include a specific procedure for due process, nor the possibility for the supplier to appeal the decision. The consequence for submitting false information is not clear and prone to subjectivity. Other prohibited practices do not lead to debarment.

The anti-corruption framework lacks institutions devoted to preventing and detecting corruption in government, and the Integrity Commission established in the Integrity in Public Office Act is not operating. In addition, there is no evidence of other mechanisms for identifying and mitigating corruption risks other than the declarations of income, assets and liabilities, which are only mandatory for high-level officials and in any case this is not serving its purpose because of the lack of operation of the Integrity Commission. Furthermore, statistics on these matters are not being collected or published.

There is no evidence of secure and confidential channels for reporting cases of prohibited practices and following-up allegations and it is not clear to whom any concerns should be reported. There are also no provisions to protect whistle-blowers.

Training programmes related to integrity or mechanisms to disclose interests such as the income declarations are not being provided to public officials.

As there are no organisations present in Montserrat in charge of social audit or control and monitoring of government contracts, civil society is not contributing to the integrity of the public procurement system. From the private sector perspective, internal control mechanisms are not being used.

These gaps were classified as high risk and red flags must be raised for this indicator, especially because of the lack of evidence of application of penalties, the absence of a framework for preventing and detecting corruption, the fact that the Integrity Commission is not operating and that there are no civil society organisations carrying out social audit and contract monitoring, and the lack of secure mechanisms for reporting prohibited practices. All these gaps hinder achievement of basic public procurement principles.

Recommendations

Solving several of the gaps identified would require a change in the legal provisions currently in place in Montserrat. While this is carried out, the Government of Montserrat could analyse establishing related provisions in guidelines or other soft law mechanisms. The Integrity in Public Office Act should apply to officials involved in procurement transactions, and not only to high-level ones. The cooling-off period should be bound in time and enforced even if a disclosure of interest is made by the involved public official.

Montserrat should consider establishing obligations for the procuring entities to report allegations of fraud and other prohibited practices directly to law enforcement authorities, and clearly define a procedure to do this. This means that if procuring officers detect any suspicious activity during the management of a procurement procedure, it is clear to whom they should report this suspicion and how. This could be complemented with other provisions to provide confidential and secure channels for reporting cases of prohibited practices, including whistle-blower protection.

In relation to debarment, the list of possible prohibited practices that result in this penalty could be broadened to include corruption and collusion, and a clear due process should be established, granting the affected supplier the right to appeal a debarment decision.

One of the most important recommendations is to make the necessary arrangements to have the Integrity Commission operating. Montserrat could consider assigning to this commission tasks related to preventing and detecting corruption and keeping track of associated indicators and statistics to complete an anti-corruption framework in the island. The Integrity Commission could also undertake the task of providing regular training for officials on the mechanisms in place, such as the declarations of income, assets and liabilities, and other integrity topics.

Finally, as was mentioned in other indicators, training and spaces for dialogue that should be created with the private sector and civil society could include considerations about integrity and how these stakeholders can support the Government of Montserrat achieve a better and more transparent public procurement system.

4. Consolidated Recommendations

Pillar I				
Regulate PPPs and concessions.	Regulate contract management.	Include in the legal and regulatory framework references to sustainability and to the obligations arising from international agreements.		
Pillar II				
Harmonise budgetary and expenditure rules with procurement rules.	Review the institutional arrangements to avoid an institutional conflict of interest (separate operations and regulation?)	Design and develop a plan to professionalise procurement.	Expand the use of e-procurement.	Design and develop a plan to expand the information system towards analytical capabilities and expanded e-procurement functionalities.
Pillar III				
Train procurement officials on market engagement and analysis.	Engage suppliers in a dialogue with government and provide them with training and capacity building programs.			
Pillar IV				

Raise awareness of the general public on basic aspects of procurement.	Draft internal control procedures.	Improve the administrative challenge procedure to enable remedies and the suspension of the procurement process while a decision is made.	Put the Audit & Risk Committee and Integrity Commission to operation, and train officials on integrity topics.
--	------------------------------------	---	--

The main recommendation centres on the adoption of the revised procurement regulations, which are currently being discussed. Once in place, the revised regulations will address many of the gaps highlighted in the assessment. Therefore, Montserrat could continue the process to update the regulations and take advantage of the MAPS exercise by incorporating the recommendations from this assessment.

Pillar I

In the medium term, the legal and regulatory framework could be updated to include a rule to establish the minimum time frame between the call for proposals and bid submission. Other regulatory changes could include the design of security procedures in procurement, both at a physical and electronic level to protect from hacking, phishing or any other security challenge. In addition, Montserrat could regulate contract management responsibilities, procedures to follow up on contract performance and rules for contract amendments.

Montserrat could consider to review whether there is a need to regulate PPP's and concessions, as well as rules for specialised cases of procurement, such as procurement by statutory bodies. The Government of Montserrat could also evaluate the need to include a reference to sustainable public procurement and / or sustainable development in the public procurement legal framework. Such an analysis could include centralisation initiatives. In addition, the government could identify obligations derived from international instruments that have a bearing on public procurement.

Several indicators highlighted the need for increased transparency in the public procurement system. Montserrat could consider publishing the entire legal and regulatory framework, including guidance material and templates, in an easily accessible web portal.

Aside from legal changes, Montserrat could consider improvements to tools and guidance material. Available support tools could be expanded, the Procurement Board should draft all the documents listed in section 16.1.(d) of 2012 Regulations to support the work of procurement officers, including the procurement manual.

Pillar II

Montserrat might wish to re-evaluate the institutional set-up with regards to public procurement, working towards a clear definition and separation of responsibilities, while being mindful of the resource implications that such an institutional separation would require. Montserrat could consider separating the operative from the regulatory functions of the Procurement Board to reduce conflicts of interest. Two separate units within the Board could be tasked with purchasing and the regulatory and normative function, respectively. Additional responsibilities that are currently not defined should be attributed, possibly as part of the process to review an institutional conflict of interest between operational functions and the normative and regulatory functions.

In updating procedures, Montserrat could also make an effort to harmonise the procurement rules and the budget and expenditure regulations. Other procedures could be developed, for example a yearly procurement plan and tools to report its execution.

Beyond changes to the legal, regulatory and institutional framework Montserrat could focus on improving procurement performance through additional means. In the context of procurement systems with limited capacity and resources, as is the case in Montserrat, electronic procurement offers great potential to increase the efficiency and effectiveness of the procurement system, without straining available resources. The main recommendation is to define a responsible entity to plan the further development of the information system for the procurement process. This should include expanding the functionalities of the system, and most importantly to make the information gathered in the procurement process usable for analysis. This could include an open procurement policy to gather, use and publish information about procurement procedures. The strategy should also consider how procurement data can be analysed, and identify how this analysis can contribute to increased value for money, as well as the more efficient and effective management of public procurement in Montserrat. Tender documents could be further standardised. For this, the use of the myTenders portal could be expanded to all the processes carried out on the island, or at least those that are handled by the Procurement Unit. In addition, the Government of Montserrat could study the possibility of expanding the use of the e-procurement system to include contract implementation, so that requiring entities are allowed to use the platform to upload the signed contract, amendments, payment information and implementation reports. This would in turn enable the Procurement Unit to have all the information in a single and orderly file and provide the necessary information for the calculation of statistics to improve the public procurement system.

Montserrat could institutionalise a centralised procurement system for goods, works and services to aggregate demand among Montserrat's procuring entities. Priority could be given to items that are easy to standardise and are procured repeatedly by several procuring entities. This process towards centralisation could also take into account the above-mentioned institutional conflict of interest and emphasising the operational tasks vis-a-vis the regulatory and normative tasks. A policy clarifying rules, procedures and accountability for all procurements, including centralised and aggregated purchasing, as well as institutional requirements should be clarified.

Pillar III

With regards to the planning stage of the procurement process, Montserrat could provide training and guidelines as a means of explaining the importance of carrying out sound market studies and establishing common procedures to do so. An emphasis should be put to documenting the planning process and keeping this information in the procurement records for review by external stakeholders and future consultation, including when needed during judicial processes. Offering suppliers training and guidelines is another important step to improve procurement performance. Guidance and training could focus on those issues that are most important for suppliers, such as how to properly draft bidding documents, use of the myTenders portal and understanding contract provisions. Emphasis should also be made on using the e-procurement platform to maintain a clear and open dialogue, asking questions and exchanging messages with the Government of Montserrat.

Involvement of external stakeholders could be boosted by disclosing more contract information including for contracts below the threshold specified in the regulation and allowing their participation in bid openings and other stages of the process, such as contract implementation. For the latter, guidelines for implementing entities could be drafted by the Procurement Unit to provide common procedures for managing the contract and supervising its quality and execution.

Montserrat could offer the necessary spaces for dialogue with citizens when conducting follow-up reforms to the public procurement system, and also make sure that reforms are explained, comments are received, and feedback is given.

Montserrat could consider engaging more with suppliers through the existing associations to encourage an open dialogue especially regarding procurement reform. Regular spaces for discussion could be fostered to understand the needs and requests of the private sector and to give feedback on the comments made by suppliers. This strategy could be further developed by understanding the supplier ecosystem, for which a register of suppliers would be very important. Deploying the e-procurement system to the whole of government procurement processes would facilitate this task, as suppliers need to register to download the tender documents and bid online. The information of this register would also serve to segment suppliers by sector, to better understand specific important sectors, assess risks and opportunities, and finally develop complete strategies for them. In addition, competition could also be boosted by publishing notices of tender across the CARICOM as the proposed reform suggests, at least for those contracts above the regional threshold.

Pillar IV

The improvements made to the audit procedures in Montserrat could be further developed if efficiency and effectiveness reports were included, and follow-up mechanisms were created to check that recommendations are responded to and implemented on time. These improvements should be incorporated in the audit manual. The audit scheme could be consolidated with the necessary legal provisions to guarantee the legality of the newly created audit and risk committee, as well as define timeframes for implementing audit recommendations. In relation with training of auditors, a clearer emphasis on procurement should be given, to ensure that all auditors have the capacities to carry out procurement audits.

To ensure that procuring entities carry out sound procurement processes that consider possible risks, a written manual could be drafted to explain how to implement internal controls and provide examples of best practices.

The administrative procedure could be improved with provisions that might be included in the proposed reform to the public procurement regulation and legislation. Remedies should be clearly defined and Montserrat could consider suspending the procurement process while the review and appeals bodies come to a decision, to guarantee that the rights of the interested parties are respected.

The decisions of the Complaints Commission should be published and made available online. The members of this commission should be completely independent from the procurement transactions. This would build trust among the suppliers to use the challenge procedure.

In the area of integrity and anti-corruption, several gaps would require legal changes beyond the public procurement system. One of the most important recommendations is to make the necessary arrangements to have the Integrity Commission operating. Montserrat could consider assigning to this commission tasks related to preventing and detecting corruption and keeping track of associated indicators and statistics to complete an anti-corruption framework in the island. The Integrity Commission could also undertake the task of providing regular training for officials on the mechanisms in place, such as the declarations of income, assets and liabilities, and other integrity topics.

The Government of Montserrat could analyse establishing related provisions in guidelines or other soft law mechanisms. The Integrity in Public Office Act should apply to officials involved in procurement transactions, and not only to high-level ones. The cooling-off period should be bound in time and enforced even if a disclosure of interest is made by the involved public official.

Montserrat should consider establishing obligations for procuring entities to report allegations of fraud and other prohibited practices directly to law enforcement authorities, and clearly define a procedure to do this. This could be complemented with other provisions to provide confidential and secure channels for reporting cases of prohibited practices, including whistle-blower protection.

In relation to debarment, the list of possible prohibited practices that result in this penalty could be broadened to include corruption and collusion, and a clear due process should be established, granting the affected supplier the right to appeal a debarment decision.

Finally, as was mentioned in other indicators, training and spaces for dialogue that should be created with the private sector and civil society could include considerations about integrity and how these stakeholders can support the Government of Montserrat achieve a better and more transparent public procurement system.

5. Information regarding Validation

The first draft of the report was shared with the assessment focal points in all five states in September 2018. A workshop, both individually with the countries and as a group, was held in September 2018 in Washington, DC, in the margins of the annual meeting of the Inter-American Network on Government Procurement. This workshop served to discuss findings in advance of the formal submission of written comments. A second draft, incorporating comments from the countries, was shared with the countries in December 2018.

This assessment was conducted by a MAPS assessment team coordinated by the OECD with the leadership and support from the Ministry of Finance and Economic Management in Montserrat, CDB, and academic procurement experts. From Montserrat, the main focal point was Harjinder Jutle. At CDB, Douglas Fraser and Johanna Pelaez were tasked with overseeing the assessment. Public procurement experts Maria Margarita Zuleta and Nicolás Penagos conducted background research and compiled the assessment. Paulo Magina and Lena Diesing, from the OECD, coordinated and finalised the overall assessment. In addition, various individuals in Montserrat – members of the administration, civil society, private sector and media were open and frank interview partners that made this assessment possible in the first place.

Annex

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

The documents analysed for this assessment were:

1. Public Finance (Management and Accountability) Act 2008
2. Public Finance (Management and Accountability) Regulations 2012
3. Audit Act 2002
4. Integrity in Public Office Act 2013
5. PEFA report 2010
6. Constitution of Montserrat
7. Proposed changes to the procurement regulations 2018
8. Sustainable Development Plan 2008 – 2020
9. Strategic plan 2019/2020
10. General Terms and Conditions of Contract for Public Works
11. Templates and forms for requests, declaration of conflict of interest, annual plan, procurement tracker
12. Training presentation
13. HR documents
14. Draft of the new procurement regulations (2018)
15. Procurement plan for the Ministry of Education (2018)
16. myTenders Buyers and Suppliers Guides



Methodology for Assessing Procurement Systems (MAPS)

Indicator Matrix

May 2019

Final Revisions June 2022

Presentation Notes:

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

Pillar I. Legal, Regulatory, and Policy Framework

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

1(a) Scope of application and coverage of the legal and regulatory framework

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

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Is adequately recorded and organised hierarchically (laws, decrees, regulations, procedures), and precedence is clearly established.	Assessment criteria met Yes, the Legal Framework is organised and hierarchically developed. At the highest level, the Public Finance Act 2008 granted the Governor in Council powers to make Procurement regulations. As a consequence, in 2012, Procurement regulations were enacted, creating a Public Procurement Board with regulation functions.				
(b) It covers goods, works and services, including consulting services for all procurement using public funds.	Assessment criteria met According to section 3, the 2012 Regulations apply to all procurement by a procuring entity.				
(c) PPPs, including concessions, are regulated.	Assessment criteria not met The Legal Framework does not include provisions for PPP's and concessions.		There are no regulations for PPP's, including concessions	Yes	To review the actual need of regulating PPP's and concessions
(d) Current laws, regulations and policies are published and easily accessible to the public at no cost	Assessment criteria partially met The Law and the 2012 Regulations are available online. However, there is no centralised point to access all parts of the legal and regulatory framework. There is a legislation section at the MoFEM web page, but it does not include the 2012 Regulations.		Regulations are not easily accessible online.	No	To consolidate and publish the entire procurement legal and regulatory framework on the same webpage and in the same part thereof.

1(b) Procurement methods

The legal framework meets the following conditions:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Procurement methods are established unambiguously at an appropriate hierarchical level, along with the associated conditions under which each method may be used.	Assessment criteria met The Public Finance Procurement Regulations 2012 clearly establishes four procurement methods that are available: (i) open tendering; (ii) restricted tendering; (iii) request for quotations and (iv) single-source procurement.				
(b) The procurement methods prescribed include competitive and less competitive procurement procedures and provide an appropriate range of options that ensure value for money, fairness, transparency, proportionality and integrity.	Assessment criteria met Procurement methods range from totally competitive, as open tendering, to direct acquisitions. Regulations establish the criteria to be used in every case.				
(c) Fractioning of contracts to limit competition is prohibited.	Assessment criteria met Section 13 of 2012 Regulations restricts contract fractionation as a means to avoiding the application of any provision of the regulations.				
(d) Appropriate standards for competitive procedures are specified.	Assessment criteria met				

	The Regulations define conditions to select the procurement method, the qualification standards, the procedures to follow in order to perform a tender, among others.			
--	---	--	--	--

1(c) Advertising rules and time limits

The legal framework meets the following conditions:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) The legal framework requires that procurement opportunities are publicly advertised, unless the restriction of procurement opportunities is explicitly justified (refer to indicator 1(b)).	Assessment criteria met According to regulation 24, all notices to tender must be published. In less competitive methods, publication is also mandatory. For example, regulation 21 (4) requires for a notice of restricted tender to be published.				
(b) Publication of opportunities provides sufficient time, consistent with the method, nature and complexity of procurement, for potential bidders to obtain documents and respond to the advertisement. The minimum time frames for submission of bids/proposals are defined for each procurement method, and these time frames are extended when international competition is solicited.	Assessment criteria partially met Regulations establish the need to provide sufficient time to prepare tenders in different cases. However, there are no minimum timeframes defined in the regulations.		There are no minimum time frames established in the legal framework. Deadlines are defined case by case.	Yes	To define minimum time frames between the call for proposals and its submission.
(c) Publication of open tenders is mandated in at least a newspaper of wide national circulation or on a unique Internet official site where all public procurement opportunities are posted. This should be easily accessible at no cost and should not involve other barriers (e.g. technological barriers).	Assessment criteria met Contracts with value exceeding XCD 5,000 shall be published within 10 days of awarding the contract. According to section 52 of 2012 Regulations, publications must be made in a procurement web portal, or at least in a nationwide newspaper or radio station. Montserrat Government use a system called Mytenders. The web page of the Ministry of Finance contains data on procurement process. http://finance.gov.ms/?page_id=758				
(d) The content published includes enough information to allow potential bidders to determine whether they are able to submit a bid and are interested in submitting one.	Assessment criteria met Section 24.2 of 2012 Regulations establishes the minimum content of a tender notice. It is mandatory to include the criteria and procedures to be used to evaluate suppliers.				

1(d) Rules on participation

The legal framework meets the following conditions:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) It establishes that participation of interested parties is fair and based on qualification and in accordance with rules on eligibility and exclusions.	Assessment criteria met Section 4 of 2012 Regulations establishes that qualification is based on criteria and it sets eligibility and exclusion rules. It is also an obligation of every procurement entity to define clearly the criteria applicable for every procedure with reference to the Regulations.				
(b) It ensures that there are no barriers to participation in the public procurement market.	Assessment criteria met Section 12.1 of 2012 Regulations regulates obstacles to the participation of suppliers. It restricts the possibility to use technical requirement and other conditions that may limit the competition.				
(c) It details the eligibility requirements and provides for exclusions for criminal or corrupt activities, and for administrative debarment under the	Assessment criteria met				

law, subject to due process or prohibition of commercial relations.	Section 4.1 of 2012 Regulations includes those detailed restrictions. According to subsections (c), (d), (e) and (f), suppliers cannot participate if involved in the defined criminal or administrative procedures.				
(d) It establishes rules for the participation of state-owned enterprises that promote fair competition.	Assessment criteria partially met Section 19 of 2012 Regulations determines rules for the procurement of SOE, but it does not include any provision for when they participate as a bidder.		SOE are not regulated when they participate as suppliers and that might represent an unfair advantage and a distortion to the market.	No	To evaluate the need to regulate the participation of SOE as suppliers in the procurement process.
(e) It details the procedures that can be used to determine a bidder's eligibility and ability to perform a specific contract.	Assessment criteria met The 2012 Regulations do not detail the procedures to assess and determine the eligibility of bidders. Regulations include general provision to identify the eligibility of bidders. For example, the main qualification standards (section 4.1(a)), the obligation to use weighted criteria (regulation 26.3 (e)), and specific rules for the procurement of consulting services (Part 6 of 2012 Regulations).				

1(e) Procurement documentation and specifications

The legal framework meets the following conditions:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) It establishes the minimum content of the procurement documents and requires that content is relevant and sufficient for suppliers to respond to the requirement.	Assessment criteria met Section 26.1 of the 2012 Regulations details the specific requirements for the tender documents. Those requirements are relevant and sufficient to understand the procurement process.				
(b) It requires the use of neutral specifications, citing international norms when possible, and provides for the use of functional specifications where appropriate.	Assessment criteria met Section 12.5 of the 2012 Regulations requires that standardized features, requirements, symbols and terminology relating to technical and quality characteristics of the goods, services, or construction to be procured shall be used, where available, in formulating any specifications, plans, drawings and designs to be included in the tender documents. However, there is no specific mention of the use of international standards.				To evaluate the inclusion of international norms and standards into the legal and regulatory framework.
(c) It requires recognition of standards that are equivalent, when neutral specifications are not available.	Assessment criteria met Section 12.5 of the 2012 Regulations requires that standardized features, requirements, symbols and terminology relating to technical and quality characteristics of the goods, services, or construction to be procured shall be used, where available, in formulating any specifications, plans, drawings and designs to be included in the tender documents.				To evaluate the need to clarify in the legal framework provisions on the recognition of standards when neutral specifications are not available.
(d) Potential bidders are allowed to request a clarification of the procurement document, and the procuring entity is required to respond in a timely fashion and communicate the clarification to all potential bidders (in writing)	Assessment criteria met Section 27.1 of the 2012 Regulations establishes the possibility to request clarifications of the tender documents, and the procurement entity is required to respond in a reasonable time. Before evaluation, names of the tenderers are not disclosed, and questions are answered anonymously.				

1(f) Evaluation and award criteria

The legal framework mandates that:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) The evaluation criteria are objective, relevant to the subject matter of the contract, and precisely specified in advance in the procurement documents, so that the award decision is made solely on the basis of the criteria stipulated in the documents,	Assessment criteria met The 2012 Regulations include guidance to determine evaluation criteria at different levels. Regulation 40(1) for example, details the specific matters to address is consulting services evaluation. It is also mandatory to include the evaluation criteria and its weight in the procurement documents.				

(b) The use of price and non-price attributes and/or the consideration of life cycle cost is permitted as appropriate to ensure objective and value-for-money decisions.	Assessment criteria met Section 33.7 of the 2012 Regulations includes criteria, other than price, to select suppliers. Time for delivery, costs of maintenance and operation, guarantees and other aspects are considered in close relation to value-for-money decisions.				
(c) Quality is a major consideration in evaluating proposals for consulting services, and clear procedures and methodologies for assessment of technical capacity are defined.	Assessment criteria met Section 40.1 of the 2012 Regulations includes quality as a method of selection of consulting services.				
(d) The way evaluation criteria are combined and their relative weight determined should be clearly defined in the procurement documents.	Assessment criteria met It is mandatory according to section 26.3(e) of the 2012 Regulations.				
(e) During the period of the evaluation, information on the examination, clarification and evaluation of bids/proposals is not disclosed to participants or to others not officially involved in the evaluation process.	Assessment criteria met Under section 49.1 of the 2012 Regulations, information is confidential in every step of the process and section 9.4(b) of the 2012 Regulations prohibits procuring entities from disclosing information relating to the examination or evaluation of tender proposals.				

1(g) Submission, receipt, and opening of tenders
 The legal framework provides for the following provisions:

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Opening of tenders in a defined and regulated proceeding, immediately following the closing date for bid submission.	Assessment criteria met Opening is regulated in Regulation 32. It is clearly established that opening is to be performed at the deadline for submissions in a public ceremony that can be attended by the suppliers who submitted proposals.				
(b) Records of proceedings for bid openings are retained and available for review.	Assessment criteria met Regulation 32 also determines mandatory registration and there is a 5-year retention policy.				
(c) Security and confidentiality of bids is maintained prior to bid opening and until after the award of contracts.	Assessment criteria partially met There are rules for submission of tenders and confidentiality of information. However, Montserrat uses Tender Boxes and bids are submitted through the portal, there are no specific security procedures to be followed to keep the bids secure and confidential prior to the opening and until the contract is awarded.		Procedures to keep safety and confidentiality of proposals are not clearly defined.	No	To define specific measures in the legal framework in order to protect the safety and confidentiality of proposals.
d) The disclosure of specific sensitive information is prohibited, as regulated in the legal framework.	Assessment criteria met Section 9.4 of the 2012 Regulations restricts the disclosure of information that could cause potential harm to the supplier. The right to protect confidential information is also covered in regulation 4 (4).				
(e) The modality of submitting tenders and receipt by the government is well defined, to avoid unnecessary rejection of tenders.	Assessment criteria met. Section 28 of the 2012 Regulations defines that tenders must be submitted in written originals. However, other methods might be acceptable if it is possible to keep a record of the information sent. The procurement entity is forced to provide the supplier with a receipt of its proposal.				

1(h) Right to challenge and appeal
 The legal framework provides for the following:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Participants in procurement proceedings have the right to challenge decisions or actions taken by the procuring entity.	Assessment criteria met. Section 46.1 of the 2012 Regulations determines the right to challenge a decision taken by the procurement entity.				
(b) Provisions make it possible to respond to a challenge with administrative review by another body, independent of the procuring entity that has the authority to suspend the award decision and grant remedies, and also establish the right for judicial review.	Assessment criteria met. There is a possibility to appeal in accordance with section 47.1 of the 2012 Regulations. The Complaints Commission is responsible for the appeal.				
(c) Rules establish the matters that are subject to review.	Assessment criteria met. There is no limitation of matters to be reviewed by the Complaints Commission. Section 46 of the 2012 Resolutions states that a supplier may claim when suffers any loss or injury due to a breach to the Regulations by a procuring entity. The matters that are not subject to review are: (i) the method of procurement selected; (ii) a decision to reject all tenders; and (iii) an omission of a mention to the 2012 Resolutions within the procurement documents. The authority having capacity to receive and decide on the complaint is the head of the procuring entity when the contract has not entered into force. Once the contract as entered into force, the Public Procurement Board receives and decides on complaints.				
(d) Rules establish time frames for the submission of challenges and appeals and for issuance of decisions by the institution in charge of the review and the independent appeals body.	Assessment criteria met Under section 48.2 of the 2012 Regulations, decisions on challenges should be made within 14 days.				
(e) Applications for appeal and decisions are published in easily accessible places and within specified time frames, in line with legislation protecting sensitive information.	Assessment criteria not met There are no specific rules to publish these decisions. The planned revisions to the regulation are expected to address this matter.		There are no rules about publication of decisions by dispute resolution bodies.	Yes	To include provisions in the legal and regulatory framework that require that the decisions of the Procurement Board, the Financial Secretary and the Complaints Commission be made available to the public.
(f) Decisions by the independent appeals body can be subject to higher-level review (judicial review).	Assessment criteria not met The regulations do not specify the judicial review possibility. Complaints Commission decisions are considered final but it is not clear if it is just in administrative terms.		There is no clarity on the right to judicial review of decisions made by dispute resolution bodies.	Yes	To clarify the possibility to request a judicial review of the decisions made by dispute resolution bodies in the legal and regulatory framework.

1(i) Contract management

The legal framework provides for the following:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Functions for undertaking contract management are defined and responsibilities are clearly assigned,	Assessment criteria not met The 2012 Regulations are concentrated on the selection methods and its procedures. There are no specific mentions therein of contract management.		Contract management responsibilities are not clearly regulated.	Yes	To regulate contract management, including procedures and responsibilities to set guidelines and guide the work of the procurement entities.
(b) Conditions for contract amendments are defined, ensure economy and do not arbitrarily limit competition.	Assessment criteria not met The legal framework does not include rules for contract amendments.		There are no rules for contract amendments.	Yes	To specify rules for contract amendments in the legal and regulatory framework.

(c) There are efficient and fair processes to resolve disputes promptly during the performance of the contract.	Assessment criteria met According to Section 46.5(b) of the 2012 Regulations, the Financial Secretary can review complaints during the performance of the contract.				
(d) The final outcome of a dispute resolution process is enforceable.	Assessment criteria met The decisions can be appealed to the Complaints Commission and their decision is final. Under section 48.3 of the 2012 Regulations, decisions of the Complaints Commission are binding on the procuring entity and the Public Procurement Board.				

1(j) Electronic Procurement (e-procurement)
The legal framework provides for the following:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) The legal framework allows or mandates e-procurement solutions covering the public procurement cycle, whether entirely or partially.	Assessment criteria not met The legal framework does not refer to e-procurement solutions. However, section 7.1(a) of the 2012 Regulations makes reference to notifications that provides record of its content, form, electronic or otherwise. There are no mandates for the use of electronic tools in the procurement process beyond this mentioning. However, Montserrat uses an e-procurement system called MyTenders in many procurement proceedings but not in all of them. Furthermore, in accordance with procurement documentation reviewed, proposals may be lodged in hard copies or through myTenders.		The legal framework does not contain guidelines regarding the use of e-procurement. The current use of electronic platforms depends on the decision of the relevant procuring entity.	No	Develop necessary provisions in the legal and regulatory framework to regulate the use of e-procurement.
(b) The legal framework ensures the use of tools and standards that provide unrestricted and full access to the system, taking into consideration privacy, security of data and authentication.	Assessment criteria not met The legal framework does not ensure that records can be kept in electronic forms. There is a plan to amend the regulations to cover the use of electronic platforms throughout the procurement cycle, providing access by the public, while also safeguarding data privacy and security.		The legal framework does not ensure that records can be kept in electronic forms.	No	It is important to have a document explaining the security system of myTenders available to suppliers and to the public in general. The web page of MoFEM or myTenders should provide aggregated information available to the public regarding the different phases of the procurement proceedings.
(c) The legal framework requires that interested parties be informed which parts of the processes will be managed electronically.	Assessment criteria not met The legal framework does not mandate for the use of electronic tools in the procurement process, it is regulated by the procurement documents of each proceeding.		The legal and regulatory framework does not contain of the any provisions on the usage of electronic tools to support the public procurement process.	No	To define a plan to use, where applicable, electronic tools to support public procurement. This can be in accordance with the currently proposed reforms.

1(k) Norms for safekeeping of records, documents and electronic data
The legal framework provides for the following:

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) A comprehensive list is established of the procurement records and documents related to transactions including contract management. This should be kept at the operational level. It should outline what is available for public inspection including conditions for access.	Assessment criteria met Regulation 9 defines a comprehensive list of information that must be kept for at least 5 years. The rule is also clear on what records can be consulted by the public.				
(b) There is a document retention policy that is both compatible with the statute of limitations in the country for	Assessment criteria met The retention policy requires keeping records for at least 5 years.				

investigating and prosecuting cases of fraud and corruption and compatible with the audit cycles.					
(c) There are established security protocols to protect records (physical and/or electronic).	Assessment criteria not met There are obligations related to confidentiality in the document retention policy. However, no clear protocols are in order to protect the information.		There is an absence of protocols to secure the information.	Yes	To evaluate needs for security information needs and to define protocols in that matter in the legal and regulatory framework.

1(l) Public procurement principles in specialized legislation

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

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Public procurement principles and/or the legal framework apply in any specialised legislation that governs procurement by entities operating in specific sectors, as appropriate.	Assessment criteria not met There is no specific reference to legislation in other sectors. According to a 2018 draft, the question of procurement principles will be covered by the revised regulation, once issued.		There are no clear references to other pieces of regulation relevant to public procurement.	Yes	To evaluate the need to regulate or include public procurement principles in other pieces of regulation.
(b) Public procurement principles and/or laws apply to the selection and contracting of public private partnerships (PPP), including concessions as appropriate.	Assessment criteria not met PPP's and other forms of procurement are not regulated. However, the assessors received copies of case files related to an initiative of a PPP related with a geothermal plant. According to stakeholders, PPPs will be covered by the revised regulation, once issued. The draft received by the assessment team (dated 2018) did not make any reference to PPPs.		Since there are no regulations for other forms of procurement such as PPP's or concessions, there is no reference to them in the public procurement framework.	Yes	To evaluate the need to regulate PPP's and concessions.
(c) Responsibilities for developing policies and supporting the implementation of PPPs, including concessions, are clearly assigned.	Assessment criteria not met There is no specific responsibility assigned to develop policies for PPP's. According to stakeholders, PPPs will be covered by the revised regulation, once issued. The draft received by the assessment team (dated 2018) did not make any reference to PPPs.		There are no regulations or defined responsibilities to develop policies in PPP's and concessions.	Yes	To determine, through the legal and regulatory framework, a responsible entity or instance to review policy development.

2. Implementing regulations and tools support the legal framework.

2(a) Implementing regulations to define processes and procedures

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) There are regulations that supplement and detail the provisions of the procurement law, and do not contradict the law.	Assessment criteria met Regulations are contained in the Public Finance Procurement Regulations of 2012. Those were enacted under the mandate of the Law. The Regulations granted powers to the Procurement Board to adopt further regulation.				
(b) The regulations are clear, comprehensive and consolidated as a set of regulations readily available in a single accessible place.	Assessment criteria not met SRO (Statutory Rules and Orders) are a single normative body and are available online. While there is a legislation website as part of the MoFEM web pages; however, this website does not include the 2012 Regulations. The regulations of the Procurement Boards are not available online.		There is no consolidated web access point to retrieve documentation for the entire legal and regulatory framework.	No	To consolidate and publish the regulations adopted by the Procurement Board in a publically available space, e.g. online.
(c) Responsibility for maintenance of the regulations is clearly established, and the regulations are updated regularly.	Assessment criteria met The Governor in Council and the Procurement Board are responsible for adopting the regulations.				

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

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) There are model procurement documents provided for use for a wide range of goods, works and services, including consulting services procured by public entities.	Assessment criteria not met According to Section 16.1(d) of 2012 Regulations, the Procurement Board must determine the forms of documents for procurement comprising: standard bidding documents; prequalification documents; procurement contracts; anti-collusion statements to be signed by suppliers; evaluation forms; and procurement manuals, guidelines and procedures. The assessors received		The responsibility is established in the Law, however no evidence of the existence of procurement documents was found.	No	To prepare and publish standard procurement documents for specific goods, works and services.

	copies of standard contracting conditions for public works, a typical contract for services that has been used as template and a form to declare conflict of interest. Beyond these, no model procurement documents were received or identified in public sources. In addition, the assessors received an invitation to a tender and a copy of a request for proposals for specific procurement cases.				
(b) At a minimum, there is a standard and mandatory set of clauses or templates that reflect the legal framework. These clauses can be used in documents prepared for competitive tendering/bidding.	Assessment criteria not met According to Section 16.1(d) of 2012 Regulations, the Procurement Board must determine the forms of documents for procurement comprising, including templates of the contracts. However, no evidence of the existence of these documents was found.		The responsibility is established in the Law, however no evidence on the existence of templates was found.	No	To prepare and publish standard documents.
(c) The documents are kept up to date, with responsibility for preparation and updating clearly assigned.	Assessment criteria not met According to Section 16.1(d) of 2012 Regulations, the Procurement Board must determine the forms of documents for procurement. However, no evidence of the existence of these documents was found.		The responsibility is established in the Law, however no evidence on the existence of templates was found.	No	To prepare, publish and maintain standard documents.

2 (c) Standard contract conditions

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) There are standard contract conditions for the most common types of contracts, and their use is mandatory.	Assessment criteria not met According to Section 16.1(d) of 2012 Regulations, the Procurement Board must determine the forms of documents for procurement. In the opinion of the assessors such documents shall include standard contract conditions for the most common types of contracts. The Government of Montserrat informed the assessors about the use of standard contracts. Assessors received general conditions of contract for public works and a “typical” contract for services that is used as a template. Beyond these documents, the assessors were unable to verify the existence of standard contract conditions (i.e., other forms of contract beyond public works). The use of the existing standards is not clearly mandatory.		No evidence on the existence of standard contract conditions for the most common types of contracts was found. There is no clarity whether there is the obligation to use the standard contracts.	Yes	The Procurement Board shall develop standard contracts for goods and services. The authorities shall mandate the use of the standard contracts.
(b) The content of the standard contract conditions is generally consistent with internationally accepted practice.	Assessment criteria partially met The assessors had access to standard contract conditions for public works, and these are generally consistent with internationally accepted practice. The assessors did not have access to the standard contracts for the most common types of contracts; the assessors cannot make any statement on contract contents general. However, the terms and conditions of contract reviewed by the assessors with samples of bids are consistent with international accepted practice. I		The assessors did not have access to standard contract conditions for the most common types of contracts to evaluate their content.	Yes	The Procurement Board shall develop standard contracts for goods and services and make sure that the standard contract is consistent with international accepted practice.
(c) Standard contract conditions are an integral part of the procurement documents and made available to participants in procurement proceedings.	Assessment criteria partially met The procurement documents reviewed by the assessors included the conditions of the contract. However, the assessors did not have access to standard contract conditions for most types of contracts, except for those for public works.		The assessors did not have access to standard contract conditions for the most common types of contracts.	No	The Procurement Board shall develop standard documents for goods, and services and make sure that the standard contract conditions are integral part thereof.

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

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) There is (a) comprehensive procurement manual(s) detailing all procedures for the correct implementation of procurement regulations and laws.	Assessment criteria not met There is no evidence of the existence of a procurement manual. There is a reference to a manual in the legal framework, but it could not be found online or made accessible. Plans to update the procurement regulations include plans to implement a procurement operating procedure.		There is no procurement manual.	Yes	To adopt and publish a procurement manual.

(b) Responsibility for maintenance of the manual is clearly established, and the manual is updated regularly.	Assessment criteria partially met The Public Procurement Board is responsible for drafting the procurement manual but there is no reference to the obligation to keep it updated. Since there is no procurement manual available, there is no updated version thereof.		There is no procurement manual to be updated regularly.	Yes	To adopt and publish a procurement manual and specify the conditions and obligations to update it regularly.
---	--	--	---	-----	--

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

3(a) Sustainable Public Procurement (SPP)

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) The country has a policy/strategy in place to implement SPP in support of broader national policy objectives.	Assessment criteria not met There is no procurement policy that specifically addresses SPP guidelines. However, there are proposed changes to the Procurement Legal Framework that includes the regional obligations of Montserrat that may include obligations related to sustainability. Montserrat's Sustainable Development Plan 2008-2020 mentions procurement skills as one necessary skill that is required for successful implementation. No other mentions of procurement in the development plan were found.		There is no mention of sustainability considerations in the public procurement legal and regulatory framework.	Yes	To evaluate the need to include a SPP Policy in the legal framework, especially by identifying obligations derived from international instruments. This may include the enactment of the proposed changes.
(b) The SPP implementation plan is based on an in-depth assessment; systems and tools are in place to operationalise, facilitate and monitor the application of SPP.	Assessment criteria not met No. Since there is no policy in this matter, no implementation plan has been adopted. However, there are proposed changes to the Procurement Legal Framework that includes the regional obligations of Montserrat that may include obligations related to sustainability.		There is no mention of sustainability considerations in the public procurement legal and regulatory framework.	Yes	To consider the need to develop an implementation plan in this matter as a first step to include the SPP agenda in the legal framework. This may include the enactment of the proposed changes.
(c) The legal and regulatory frameworks allow for sustainability (i.e. economic, environmental and social criteria) to be incorporated at all stages of the procurement cycle.	Assessment criteria not met The legal framework does not include provisions in this matter. However, there are proposed changes to the Procurement Legal Framework that includes the regional obligations of Montserrat that may include obligations related to sustainability.		There is no mention of sustainability considerations in the public procurement legal and regulatory framework.	Yes	To evaluate the need to include a provisions related to SPP in the legal framework at all stages of the procurement process. This may include the enactment of the proposed changes.
(d) The legal provisions require a well-balanced application of sustainability criteria to ensure value for money.	Assessment criteria not met The legal framework does not include provisions in this matter. However, there are proposed changes to the Procurement Legal Framework that includes the regional obligations of Montserrat that may include obligations related to sustainability.		There is no mention of sustainability considerations in the public procurement legal and regulatory framework.	Yes	To evaluate the need to include a SPP Policy in the Legal Framework, especially by identifying obligations derived from international instruments. This may include the enactment of the proposed changes.

3(b) Obligations deriving from international agreements

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

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) clearly established	Assessment criteria not met. Section 33.7 of 2012 Regulations states that in determining the lowest evaluated tender, the Public Procurement Board shall bear in mind, to the extent that it is practical, the countertrade arrangements offered by suppliers. The legal framework refers to procurement rules of the international development agencies and foreign governments. However, the envisioned update to the procurement regulation considers the regional obligations of Montserrat, according to the latest draft received by the assessors.		There is no policy to implement or integrate obligations derived from international agreements.	Yes	To evaluate the need to include in the legal framework and policies obligations derived from international agreements. This may include the enactment of the proposed changes.
(b) consistently adopted in laws and regulations and reflected in procurement policies.	Assessment criteria not met. There is no policy to adopt obligations derived from international agreements except for the consideration referred in 3(b)(b) above. However, the envisioned update to the procurement regulation considers the regional obligations of Montserrat, according to stakeholders.		There is no policy to implement or integrate obligations derived from international agreements.	Yes	To evaluate the need to include in the legal framework and policies obligations derived from international agreements. This may include the enactment of the proposed changes.

MAPS assessment in: Montserrat
Name/organisation: OECD
Date: May 2019

Pillar II. Institutional Framework and Management Capacity

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

4(a) Procurement planning and the budget cycle

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

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Annual or multi-annual procurement plans are prepared, to facilitate the budget planning and formulation process and to contribute to multi-year planning.	Assessment criteria not met There is no specific provision to prepare procurement plans. The 2008 Public Finance Management and Accountability Act sets the obligation to prepare annual expense estimates. However, the requirements of the Act are not as detailed as a procurement plan. The Procurement Unit has provided templates for procurement plans to contracting authorities, but visibility about the use of these templates remains limited. The assessors had access to a procurement plan by the Ministry of Education.		There is no specific provision to prepare procurement plans.	Yes	To define the obligation and procedures to adopt a Public Procurement Plan.
(b) Budget funds are committed or appropriated in a timely manner and cover the full amount of the contract (or at least the amount necessary to cover the portion of the contract performed within the budget period).	Assessment criteria not met There is no specific provision for expenditure appropriation in the procurement process. The 2008 Public Finance Management and Accountability Act determines that expenditure must be in accordance with planning and authorizations to pay, but the Act provides no details regarding the procurement process.		There is no specific provision in the 2012 Regulations for expenditure appropriation in the procurement process.	Yes	To define procedures to harmonise the procurement rules to budget and expenditure regulation to assure before entering into any obligation the existence of budget and cash flows to honour procurement obligations in accordance with the term of the procurement documents.
(c) A feedback mechanism reporting on budget execution is in place, in particular regarding the completion of major contracts.	Assessment criteria not met There is no specific provision for expenditure appropriation and reporting in the procurement process. The Public Finance Management and Accountability Act 2008 determines that expenditure must be in accordance with planning and authorizations to pay but it has no detail regarding procurement process.		There is no mechanism in place within the procurement system to report budget execution arising from major contract performance.	Yes	To define a mechanism to report budget execution in procurement for major contracts performance which with time should be applicable to all contracts.

4(b) Financial procedures and the procurement cycle

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

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) No solicitation of tenders/proposals takes place without certification of the availability of funds.	Assessment criteria not met There is no specific obligation to certificate the availability of funds to start the procurement process.		There is no budgetary procedure associated to the procurement process to certify in advance availability of funds for each procurement process.	Yes	To define a mechanism to certify availability of funds within the budget for each procurement process.
(b) The national regulations/procedures for processing of invoices and authorisation of payments are followed, publicly available and clear to potential bidders.*	Assessment criteria not met There is no specific procedure for processing invoices and authorising payments in the procurement process.		There is no general financial procedure for processing invoices and payments arising from the procurement process.	Yes	To define the obligation and procedures to adopt a Public Procurement Plan and budgetary procedures.
// Minimum indicator // * Quantitative indicator to substantiate assessment of sub-indicator 4(b) Assessment criterion (b): - invoices for procurement of goods, works and services paid on time (in % of total number of invoices). Source: PFM systems.		No information was provided to the assessors to calculate quantitative indicators.			

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

5(a) Status and legal basis of the normative/regulatory institution function

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

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) The legal and regulatory framework specifies the normative/regulatory function and assigns appropriate authorities formal powers to enable the institution to function effectively, or the normative/regulatory functions are clearly assigned to various units within the government.	Assessment criteria met The Procurement Board is the entity responsible for normative and regulatory function for public procurement. The Procurement Board was created by the 2012 Regulations and its functions are included in these regulations. Most responsibilities are clearly assigned to the Procurement Board, such as the responsibility for adopting measures to carry out the provisions of the 2012 Regulations, recommending amendments to the 2012 Regulations to improve the effectiveness of the procurement process, reporting periodically, reviewing decisions of procuring entities upon request and determining forms, tools and instruments.				

5(b) Responsibilities of the normative/regulatory function

The following functions are clearly assigned to one or several agencies without creating gaps or overlaps in responsibility:

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) providing advice to procuring entities	Assessment criteria not met The assessors were unable to identify a definition of specific responsibility to provide advice to procuring entities in the 2012 Regulations and the Act. According to stakeholders, the Head of Procurement and the Public Procurement Board fulfil this responsibility. However, it is not included in Section 16 of the 2012 Regulations.		There is no specific responsibility to advice procuring entities	Yes	To designate a responsible entity to advice procuring entities in the legal and regulatory framework.
(b) drafting procurement policies	Assessment criteria met Section 16 of 2012 Regulations states that the Procurement Board is responsible for making rules. De facto, according to stakeholders, the Head of Procurement and the Public Procurement Board fulfil the responsibility to draft policy.				
(c) proposing changes/drafting amendments to the legal and regulatory framework	Assessment criteria met According to section 16.1 (c) of the 2012 Regulations, the Procurement Board is responsible for making rules to carry out the regulations.				
(d) monitoring public procurement	Assessment criteria met According to section 16.1(b) of the 2012 Regulations, the Procurement Board is responsible for maintaining efficient record keeping.				
(e) providing procurement information	Assessment criteria met According to section 16.1(f) of the 2012 Regulations, the Procurement Board is responsible for reporting to the Finance Ministry on the Procurement Process.				
(f) managing statistical databases	Assessment criteria not met The assessors were unable to identify a definition of specific responsibility to manage statistical databases in any official document. De facto, according to stakeholders, the Head of Procurement fulfils this responsibility.		There is no specific responsibility to manage statistical databases.	Yes	To designate a responsible entity to manage statistical databases in the legal and regulatory framework.
(g) preparing reports on procurement to other parts of government	Assessment criteria met According to section 16. 1 (f) of the 2012 Regulations, the Procurement Board is responsible for reporting to the Finance Ministry on the Procurement Process.				
(h) developing and supporting implementation of initiatives for improvements of the public procurement system	Assessment criteria met According to section 16. 1 (e) of the 2012 Regulations, the Procurement Board is responsible for training.				
(i) providing tools and documents, including integrity training programmes, to support training and capacity development of the staff responsible for implementing procurement	Assessment criteria met According to section 16.1(e) of the 2012 Regulations the Procurement Board is responsible for training.				

(j) supporting the professionalisation of the procurement function (e.g. development of role descriptions, competency profiles and accreditation and certification schemes for the profession)	Assessment criteria met According to regulation 16 (1) (e), the Procurement Board is responsible for training. However, it is not clear if that function includes the special activities under this criterion.				
(k) designing and managing centralised online platforms and other e-procurement systems, as appropriate	Assessment criteria not met The assessors were unable to identify a definition of a specific responsibility to develop e-procurement platforms. De facto, according to stakeholders, the Procurement Unit fulfils this responsibility. However, the proposed changes to regulation do mention this responsibility.		There is no specific responsibility to develop e-procurement tools.	Yes	To designate a responsible entity to develop e-procurement tools in the legal and regulatory framework.

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

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) The normative/regulatory function (or the institutions entrusted with responsibilities for the regulatory function if there is not a single institution) and the head of the institution have a high-level and authoritative standing in government.	Assessment criteria met The Public Procurement Board is created under the authority of the Law; its members are clearly defined and include representatives from the Finance Ministry.				
(b) Financing is secured by the legal/regulatory framework, to ensure the function's independence and proper staffing.	Assessment criteria not met There is no specific mention about the funding of the Procurement Board in the legal and regulatory framework. De facto, according to stakeholders, the Cabinet approves funding for the normative / regulatory function in charge of public procurement.		There is no specific mention about the funding of the Procurement Board.	Yes	To evaluate the financing needs of the Board and ensure its funding.
(c) The institution's internal organisation, authority and staffing are sufficient and consistent with its responsibilities.	Assessment criteria met The Public Procurement Board is created under the authority of the Law; its members are clearly defined and include representatives from the Finance Ministry. According to regulation 33 (3) technical committees can be formed to assist in the activities of the Boards.				

5(d) Avoiding conflict of interest

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) The normative/regulatory institution has a system in place to avoid conflicts of interest.* * Recommended quantitative indicator to substantiate assessment of sub-indicator 5(d) Assessment criterion (a): - Perception that the normative/regulatory institution is free from conflicts of interest (in % of responses). Source: Survey.	Assessment criteria not met. The Procurement Board has normative and operational responsibilities. It is in charge of some tender procedures. The fact that both types of responsibilities are handled by the same unit might cause conflicts of interest.	No information was provided to the assessors to calculate quantitative indicators.	There is no clear separation between regulatory and operational responsibilities in the Procurement Board	Yes	To evaluate the need to separate regulatory and procedural responsibilities in the Procurement Board, and creating for instance two different groups among the 5 members.

6. Procuring entities and their mandates are clearly defined

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

The legal framework provides for the following:

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

(a) Procuring entities are clearly defined.	Assessment criteria met Regulations determine that procurement can be performed by the entities of the Government or the Procurement Board in the case of tenders over the threshold defined. In the case of the entities, regulation 18 establishes that a Departmental Tender Committee can be appointed.				
(b) Responsibilities and competencies of procuring entities are clearly defined.	Assessment criteria met Regulations establish the procedures that every procuring entity must comply with, and the thresholds that apply for each case.				
(c) Procuring entities are required to establish a designated, specialised procurement function with the necessary management structure, capacity and capability.* // Minimum indicator // * Quantitative indicator to substantiate assessment of sub-indicator 6(a) Assessment criterion (c): - procuring entities with a designated, specialised procurement function (in % of total number of procuring entities). Source: Normative/regulatory function.	Assessment criteria met Regulation 18 establishes that a Departmental Tender Committee can be appointed in procuring entities. In the case of the Procurement Board, technical groups can be formed to support tendering procedures.	No information was provided to the assessors to calculate quantitative indicators.			
(d) Decision-making authority is delegated to the lowest competent levels consistent with the risks associated and the monetary sums involved.	Assessment criteria met. Decision-making is divided according to the types of procurement procedures. In the case of high value tenders, the responsibility is of the Tenders Board.				
(e) Accountability for decisions is precisely defined.	Assessment criteria not met. The legal and regulatory framework specifies some fines for breach of obligations, but there is no clear accountability regime for the procurement officers.		Accountability of the Tenders Board is not clearly defined.	Yes	To evaluate the need to establish a more detailed accountability regime for the Public Procurement Board and the Departmental Tender Committees.

6(b) Centralized procurement body

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) The country has considered the benefits of establishing a centralised procurement function in charge of consolidated procurement, framework agreements or specialised procurement.	Assessment criteria not met. The Public Procurement Board is responsible for centralised tendering in some cases, but it does not aggregate procurement of certain goods or services.		The centralised model is used in some cases but it is not widely developed to centralise procurement needs and obtain benefits from it. There is no benefit analysis of the cases of centralised procurement	Yes	To evaluate the possibility to institutionalise a system to aggregate the demand for goods, works and services that are easy to standardise and are procured in repeated occasions by several procuring entities
(b) In case a centralised procurement body exists, the legal and regulatory framework provides for the following: • Legal status, funding, responsibilities and decision-making powers are clearly defined. • Accountability for decisions is precisely defined. • The body and the head of the body have a high-level and authoritative standing in government.	Assessment criteria not met. The Public Procurement is responsible for centralised tendering in some cases, but it does not aggregate procurement of certain goods or services. While the Procurement Board to a certain extent represents a procurement function in the central government, it is only authorised to conduct high value procurement processes on behalf of other institutions, without any aggregation. The legal framework does not consider a centralised procurement body and therefore, there is no legal status, accountability system, nor head of the body.		There is no centralised procurement body	Yes	To define a policy on aggregation of demand, including the institutional requirement thereof.

(c) The centralised procurement body's internal organisation and staffing are sufficient and consistent with its responsibilities.	<p>Assessment criteria not met.</p> <p>The Public Procurement Board is responsible for centralised tendering in some cases, but it does not aggregate procurement of certain goods or services. While the Procurement Board to a certain extent represents a procurement function in the central government, it is only authorised to conduct high value procurement processes on behalf of other institutions, without any aggregation.</p> <p>The legal framework does consider a centralised procurement body; however, the government created the Procurement Unit. At times, this unit has been understaffed, according to the 2017-2018 Budget Statement.</p>		There is no centralised procurement body	Yes	To organise within the existing institutional framework the centralised procurement function; assess staffing requirements and the workflow, with a view to gather evidence of the benefit to improve the procurement capacity of GoM.
--	--	--	--	-----	--

7. Public procurement is embedded in an effective information system

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

The country has a system that meets the following requirements:

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Information on procurement is easily accessible in media of wide circulation and availability. Information is relevant, timely and complete and helpful to interested parties to understand the procurement processes and requirements and to monitor outcomes, results and performance.	<p>Assessment criteria met</p> <p>Publication of procurement documents is mandatory and a special web portal exists. However, the data is not organised to support public consultation. Suppliers may register in myTenders to consult and participate in public procurement opportunities.</p>				
(b) There is an integrated information system (centralised online portal) that provides up-to-date information and is easily accessible to all interested parties at no cost.	<p>Assessment criteria not met</p> <p>The existing system contains invitations, tenders, contract and addenda. However, it is not an integrated procurement information system.</p>		There is not an information system in place.	Yes	To evaluate the possibility of developing a centralised online portal for procurement and structure procurement data
<p>(c) The information system provides for the publication of: *</p> <ul style="list-style-type: none"> • procurement plans • information related to specific procurements, at a minimum, advertisements or notices of procurement opportunities, procurement method, contract awards and contract implementation, including amendments, payments and appeals decisions • linkages to rules and regulations and other information relevant for promoting competition and transparency. <p>// Minimum indicator // Quantitative indicators to substantiate assessment of sub-indicator 7(a) Assessment criterion (c):</p> <ul style="list-style-type: none"> • procurement plans published (in % of total number of required procurement plans) • key procurement information published along the procurement cycle (in % of total number of contracts) : • invitation to bid (in % of total number of contracts) 	<p>Assessment criteria not met</p> <p>Procurement plans are not published. Published information does not cover the entire cycle of the procurement process.</p> <p>In 2018, 35 notices (prior information notices and calls for tender) were published through myTenders. Some of these seem to be repeated notices for the same project.</p>	No information was provided to the assessors to calculate quantitative indicators.	Information is not complete or centralised and it does not have an clear system to identify and link documents related to the same procurement process.	Yes	See recommendation in (b) above.

<ul style="list-style-type: none"> • contract awards (purpose, supplier, value, variations/amendments) • details related to contract implementation (milestones, completion and payment) • annual procurement statistics • appeals decisions posted within the time frames specified in the law (in %). <p>Source: Centralised online portal.</p>					
<p>(d) In support of the concept of open contracting, more comprehensive information is published on the online portal in each phase of the procurement process, including the full set of bidding documents, evaluation reports, full contract documents including technical specification and implementation details (in accordance with legal and regulatory framework).</p>	<p>Assessment criteria not met</p> <p>The documents published online do not cover the entire public procurement cycle. Those parts that are published cannot be easily linked to each other (invitation/bid with rejection or award, clarifications – bid). According to stakeholders, the government’s IT department is currently considering how to implement open contracting considerations.</p> <p>myTenders collects and organises data, but it is not accessible to the general public.</p>		<p>There is no open contracting policy or guidelines.</p>	<p>Yes</p>	<p>To evaluate and develop a plan towards opening procurement data in a manner and timeframe appropriate to the context.</p>
<p>(e) Information is published in an open and structured machine-readable format, using identifiers and classifications (open data format).*</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 7(a) Assessment criterion (e): - Share of procurement information and data published in open data formats (in %). Source: Centralised online portal.</p>	<p>Assessment criteria not met</p> <p>The web page of the Government of Montserrat does include general publication with limited functionality in terms of an information system.</p> <p>The procurement data published on the web page of the Government of Montserrat is not structured.</p>	<p>No information was provided to the assessors to calculate quantitative indicators.</p>	<p>Procurement data on the official web page is not structured so it is not machine readable</p>	<p>Yes</p>	<p>To structure procurement data as part of an effort to make it more transparent.</p>
<p>(f) Responsibility for the management and operation of the system is clearly defined.</p>	<p>Assessment criteria not met</p> <p>The legal and regulatory framework does not specify a responsible entity for the information system, as this aspect of the public procurement system is not covered by the legal and regulatory framework. According to stakeholders, the Head of Procurement holds the de-facto responsibility for the information system.</p>		<p>The responsibility to manage and operate the procurement information system is not clearly defined</p>	<p>Yes</p>	<p>To assign responsibilities for management and operation the system when developing the project to open procurement data</p>

7(b) Use of e-procurement

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
<p>(a) E-procurement is widely used or progressively implemented in the country at all levels of government.*</p> <p>// Minimum indicator // * Quantitative indicators to substantiate assessment of sub-indicator 7(b) Assessment criterion (a): uptake of e-procurement - number of e-procurement procedures in % of total number of procedures - value of e-procurement procedures in % of total value of procedures Source: e-procurement system.</p>	<p>Assessment criteria partially met</p> <p>E-procurement refers to the use of information technology in the different phases of procurement cycle making available the data to all stakeholders in a comprehensive and user-friendly form to be able to find procurement opportunities,</p> <p>The e-procurement portal myTenders has been used for parts of the procurement cycle, as evidenced by invitations to tender and requests for proposals available to the public online. According to stakeholders, myTenders is used for the majority of procedures handled by the Procurement Unit; the uptake by other contracting authorities remained unclear. In practice, according to stakeholder interviews, myTenders is used for procurements that have a market beyond Montserrat; for tenders with a local reach, the website of the Government of Montserrat is used. The assessors did not identify any information beyond the notice text as well as limited exchanges with suppliers. The latter related to notification about the outcome of a tender. The most recent exchange was dated in the summer of 2017.</p>	<p>No information was provided to the assessors to calculate qualitative indicators.</p>	<p>There is no visibility on the extent of the actual e-procurement use.</p>	<p>Yes</p>	<p>To develop an e-procurement strategy and its action plan detailing how the use of e-procurement could be expanded at all levels of government and across the procurement cycle.</p>

	The extent to which e-procurement is used widely across all levels of government remained unclear. E-procurement is considered in the draft of the updated public procurement regulation.				
(b) Government officials have the capacity to plan, develop and manage e-procurement systems.	Assessment criteria partially met myTenders has been recently put into place by the government of Montserrat and evidences a certain capacity to plan, develop and manage e-procurement systems. However, there is no strategic consideration of this issue.			No	To develop an e-procurement strategy and its action plan, which could include aspects to expand e-procurement, change management and knowledge management.
(c) Procurement staff is adequately skilled to reliably and efficiently use e-procurement systems.	Assessment criteria met As mentioned in other indicators, e-procurement is used in parts, but the extent to which it is used (i.e., the share of all procedures that are conducted electronically) remained unclear. That said, procurement staff seems to be able to use the available electronic systems, assessors were unable to identify any constraints.				To assess the skills of the procurement officers to use e-procurement solutions, as part of the e-procurement strategy to design the training program in accordance with such skills.
(d) Suppliers (including micro, small and medium-sized enterprises) participate in a public procurement market increasingly dominated by digital technology.* * Recommended quantitative indicators to substantiate assessment of sub-indicator 7(b) Assessment criterion (d): - bids submitted online (in %) - bids submitted online by micro, small and medium-sized enterprises (in %) Source: e-procurement system.	Assessment criteria partially met There is no data available regarding the level of participation and competition in tenders, participation of small and medium enterprises. However, generally bidders seem to use the electronic systems. The assessors identified exchanges with suppliers on myTenders. The latter related to notification about the outcome of a tender. The most recent exchange was dated in the summer of 2017. There is no e-procurement strategy in the Government of Montserrat..	No information was provided to the assessors to calculate qualitative indicators.	Smaller suppliers prefer to complete submissions by hand and often do not have access to the internet or a computer.	No	To include suppliers that are currently not using the electronic system in the action plan of the e-procurement strategy.
(e) If e-procurement has not yet been introduced, the government has adopted an e-procurement roadmap based on an e-procurement readiness assessment.	Assessment criteria not met There is no e-procurement strategy in the Government of Montserrat. The existing plans require more details.		There is no e-procurement strategy or plan.	No	To develop an e-procurement strategy and its action plan to expand coverage and use of e-procurement.

7(c) Strategies to manage procurement data

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) A system is in operation for collecting data on the procurement of goods, works and services, including consulting services, supported by e-procurement or other information technology.	Assessment criteria met Montserrat uses the e-procurement portal myTenders, which has the potential to collect some data related to tenders. The legal framework includes an obligation to gather some data about the procurement process (e.g. Section 9.1 of the 2012 regulations).				
(b) The system manages data for the entire procurement process and allows for analysis of trends, levels of participation, efficiency and economy of procurement and compliance with requirements.	Assessment criteria not met There is no evidence that the gathered information is organised in a system or on platforms to allow analysis of the procurement records, measure performance indicators and use data analytic tools for knowledge management.		There is no evidence that the gathered information is stored in a system or platforms with that kind of functionality.	Yes	To develop procedures to systematise the data gathered.
(c) The reliability of the information is high (verified by audits).	Assessment criteria not met There is no evidence of initiatives to control the quality of the procurement information gathered.		There is no evidence of control on the existent information.	Yes	To preform quality control exercises on procurement information gathered.
(d) Analysis of information is routinely carried out, published and fed back into the system. * // Minimum indicator // * Quantitative indicators to substantiate assessment	Assessment criteria not met There is no evidence that the information gathered is periodically evaluated.	No information was provided to the assessors to calculate quantitative indicators.	There is no evidence of information analysis.	Yes	To preform information analysis on the data gathered.

<p>of sub-indicator 7(c) Assessment criterion (d):</p> <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 the most recent fiscal year. <p>Source: Normative/regulatory function/e-procurement system.</p>				
---	--	--	--	--

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

8(a) Training, advice and assistance

There are systems in place that provide for:

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) substantive permanent training programmes of suitable quality and content for the needs of the system.	<p>Assessment criteria partially met</p> <p>The Public Procurement Board is entrusted with the responsibility of providing training. Trainings have been provided ad hoc.</p> <p>Montserrat does not have a specific training program for procurement officers. However, CDB is funding CIPS level 4 training through virtual class room at the University of Jamaica. In addition, the Procurement Unit conducts ad hoc training for procurers across government that cover the general needs in the context, using own training material as well as existing material, for example guides for the e-procurement system.</p>		Montserrat does not have a specific training program for procurement officers.	No	To develop a training program based on an evaluation of the needs of Montserrat and its procurement officers.
(b) routine evaluation and periodic adjustment of training programmes based on feedback and need.	<p>Assessment criteria not met</p> <p>There is no evidence of routine evaluation of the training received by the procurement officers within Montserrat or abroad.</p>		There is no an evaluation system for the training received by officers from time to time.	Yes	To develop a training program, including an evaluation system of the program as well as of the performance of the procurement officers.
(c) advisory service or help desk function to resolve questions by procuring entities, suppliers and the public.	<p>Assessment criteria not met</p> <p>There is no evidence of a help desk system.</p>		There is no help desk system to assist procurement entities, suppliers and the publics	Yes	To design an agile Q&A system that can evolve to a help desk system.
(d) a strategy well-integrated with other measures for developing the capacity of key actors involved in public procurement.	<p>Assessment criteria not met</p> <p>There is no evidence of that kind of strategy.</p>		The training programs are not articulated with the indicators of the procurement system and with the career of procurement officers as civil servants.	Yes	To develop a training program integrated with the public servant career system and performance indicators of the public procurement system.

8(b) Recognition of procurement as a profession

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

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Procurement is recognised as a specific function, with procurement positions defined at different professional levels, and job descriptions and the requisite qualifications and competencies specified.	<p>Assessment criteria partially met</p> <p>There is no recognition of procurement as specific function and no clear career track. However, specific job descriptions exist and outline the considerations of profiles and competencies needed for the procurement function. The Head of Procurement informed that there is a clear commitment to develop a career path and delivered to the assessors' job descriptions.</p>		There is no clear evidence on the professionalization of the procurement function. However, the small procurement workforce and limited needs for procurement positions across government poses specific challenges to professionalization.	No	To incorporate in the regulation the career path of the procurement officer, identifying the existing positions and its requirements and the job description across government.
(b) Appointments and promotion are competitive and based on qualifications and professional certification.	<p>Assessment criteria partially met</p>		There is no a competitive system to be a procurement officer or to be promoted therein.	No	To incorporate in the regulation mentioned above a competitive system based on merits to apply

	There is no evidence of the existence of this criterion to appoint and promote procurement personnel. However, the stakeholders informed that the general merit process for public service applies for procurement officers				for procurement positions covering the promotions, commensurate to the needs of the relatively small procurement workforce.
(c) Staff performance is evaluated on a regular and consistent basis, and staff development and adequate training is provided.	Assessment criteria partially met According to stakeholders, staff performance is evaluated on individual basis.		There is no structured performance evaluation system for procurement officers	No	To adopt an evaluation system for the performance of procurement officers and linked the results to the career path of such officers, commensurate to the needs of the relatively small procurement workforce.

8(c) Monitoring performance to improve the system

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) The country has established and consistently applies a performance measurement system that focuses on both quantitative and qualitative aspects.	Assessment criteria not met The public procurement system does not have a performance measure system in place. However, according to Section 16.1(f) of 2012 Regulations, the Procurement Board must report on the effectiveness of the procurement process.		There are no monitoring activities to assess the performance of the procurement system.	Yes	To define a policy for monitoring the procurement system, covering quality and quantitative indicators.
(b) The information is used to support strategic policy making on procurement.	Assessment criteria not met There is no evidence of use of data to formulate procurement policy.		The information is not used for policy, implementation and evaluation purposes	Yes	To link the results of the performance measurement system with policy development.
(c) Strategic plans, including results frameworks, are in place and used to improve the system.	Assessment criteria partially met The Government of Montserrat developed a procurement vision, outlining priorities and missions. However, this vision is not linked to results frameworks, and there is no strategic plan developed to structure reform initiatives related to public procurement in place in conjunction with analytics of procurement performance. A Strategic Plan developed by the MoFEM includes output indicators related to the number of procurement procedures conducted competitively and on the e-procurement system. There is limited consideration of procurement and no performance indicators illustrating the performance of the public procurement system.		Performance indicators should be the basis of interventions to improve the procurement system	Yes	To link the results of the performance measurement system with opportunities to improve the system.
(d) Responsibilities are clearly defined.	Assessment criteria not met The public procurement system does not have a performance measure system in place. Therefore, there are not responsibilities defined for monitoring and improving the procurement system.		There are no monitoring activities.	Yes	To define a policy for monitoring the procurement system covering quality and quantitative indicators establishing the responsible authority for each activity.

Pillar III. Public Procurement Operations and Market Practices

9. Public procurement practices achieve stated objectives

9(a) Planning

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Needs analysis and market research guide a proactive identification of optimal procurement strategies.	Assessment criteria partially met. During the fact-finding mission, the Procurement Unit provided the physical files of four procurement processes they were managing: ferry services, verge cutting and draining cleaning, expansion of ICT in primary schools, social housing, development of a tourism strategy. In addition to this, the assessor registered on the Mytenders website to have access to opportunities published there by the GoM, where he was able to see 4 available processes: one published in 2017 and the rest in 2018. These include an Early Market Engagement for a Geothermal PPP, a consultancy for air and sea access strategy, ferry services, the terrestrial fibre optic project and the submarine fibre optic cable. According to the Procurement Unit, depending on the contract there is a market research conducted by asking for expressions of interest. Prior information notices are issued. This is especially the case for big contracts such as the port and the fibre optic project. Nevertheless, no documentation of this process was kept in the files checked, especially about the market research conclusions to guide optimal procurement strategies. The budget estimation for some big projects is consistently underestimated when compared with the real value of projects, especially in those areas where local knowledge is scarce, such as the airport control tower. Needs are clearly defined in the tender documents.		Except for large projects, market research is limited to asking for quotations. In a considerable number of processes, the estimated budget is too low with respect to what the market offers, especially in those areas where local knowledge is scarce. No documentation of the planning stage is kept.	No	Train procurement officials on market engagement and analysis.
(b) The requirements and desired outcomes of contracts are clearly defined.	Assessment criteria met. All the documents checked state clearly the requirements and desired outcomes of the goods or services to be provided.				
(c) Sustainability criteria, if any, are used in a balanced manner and in accordance with national priorities, to ensure value for money.	Assessment criteria not met. None of the tender documents analysed by the assessors included sustainability criteria. The Procurement Unit reported that sustainability considerations were made in some cases, for example when sourcing timber or procuring bio-degradable containers and cups in meals services, but did not provide any documents to verify this.		Based on sample cases analysed by the assessors, no sustainability criteria seem to be used.	No	Standard documents could include sustainability criteria.

9(b) Selection and contracting

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Multi-stage procedures are used in complex procurements to ensure that only qualified and eligible participants are included in the competitive process.	Assessment criteria met. The Public Finance Regulations allow for pre-qualification by the requiring entities. The Public Procurement Board is not involved in the pre-qualification procedure.				
(b) Clear and integrated procurement documents, standardised where possible and proportionate to the need, are used to encourage broad participation from potential competitors.	Assessment criteria met. The documents checked are clear, integrated and easy to understand. A similar layout is used, and the processes that are carried out in the e-procurement platform have in general a common pattern.		More standardisation of the tender documents is possible.		
(c) Procurement methods are chosen, documented and justified in accordance with the purpose and in compliance with the legal framework.	Assessment criteria met. There are clear thresholds and cases for using the procurement methods. The persons interviewed during the fact-finding interviews did not report any concerns about splitting contracts or inadequate choice of procurement methods, and thus this does not seem to be a problem in Montserrat.				
(d) Procedures for bid submission, receipt and opening are clearly described in the procurement documents and complied with. This	Assessment criteria partially met. Procedures for bid submission and receipt are clear. The use of an e-procurement system provides guarantees for suppliers in relation to a timely and transparent bid opening procedure.		In the sample analysed by the assessors, there was no clear procedure for bid opening outlined in the tender documents.	No	Ensure there is a clear procedure for bid opening outlined in the tender documents.

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.	Nevertheless, there is no clear procedure for bid opening established in the tender documents in relation to the opening of this type of bids. It is worth noting that Section 32 of the Public Finance Regulations allows for suppliers and their representatives to attend bid openings but does not state explicitly that other external stakeholders are allowed.		Section 32 of the Public Finance Regulations does not explicitly allow external stakeholders other than suppliers and their representatives to attend bid openings.		
(e) Throughout the bid evaluation and award process, confidentiality is ensured.	Assessment criteria met. Confidentiality is enshrined in the Public Finance Regulations and further ensured by the use of an e-procurement platform, for the bids presented through the Mytenders portal. The assessors did not find any evidence or complaints by the interviewed stakeholders about possible breaches of confidentiality.				
(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.	Assessment criteria met. The tender documents specify clear evaluation criteria and scoring rules that leave no ambiguity and guide both bidders and evaluators to determine the total score of each bid. The evaluation criteria consider price and non-price factors.				
(g) Contract awards are announced as prescribed.	Assessment criteria met. The Public Finance Regulations state that notices of awards are to be published for contracts that exceed XCD 10 000 for the procurement of services, and XCD 20 000 for other procurement.		Contract awards below the thresholds specified in the regulation are not being announced.		
(h) Contract clauses include sustainability considerations, where appropriate.	Assessment criteria met. Although not being implemented in all contracts, some contracts, like the ones for the port or the ferry services, include in the contract considerations in line with international conventions for the protection of environment, such as the International Convention for the Prevention of Pollution from Ships. The Procurement Unit reported that sustainability considerations were made in some cases, for example when sourcing timber or procuring bio-degradable containers and cups in meals services, but did not provide any documents to verify this.				
(i) Contract clauses provide incentives for exceeding defined performance levels and disincentives for poor performance.	Assessment criteria partially met. Addendum No. 1 to Section 7 of the Standard Terms and Conditions of Contract for Services of the Ferry Services contracting process includes in section 7.14 disincentives for poor performance.		The contract clauses in the sample analysed by assessors did not provide incentives for exceeding defined performance levels.	No	Include incentives for exceeding defined performance levels.
(j) The selection and award process is carried out effectively, efficiently and in a transparent way. * *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 time frames) Source for all: Sample of procurement cases.	Assessment criteria met. According to the persons interviewed, the selection and award process is carried out effectively, efficiently and in a transparent way.	No information was provided to the assessors to calculate quantitative indicators.			

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Contracts are implemented in a timely manner.* Recommended quantitative indicator to substantiate assessment criterion (a): time overruns (in %; and average delay in days)	Assessment criteria met. The interviewed persons stated that contracts are implemented within days after the process is awarded. They see a clear benefit in disclosing the contract along with the tender documents, so that no negotiation of contract clauses takes place after bids are submitted.	No information was provided to the assessors to calculate quantitative indicators.			
(b) Inspection, quality control, supervision of work and final acceptance of products is carried out.* Recommended quantitative indicator to substantiate assessment criterion (b): quality-control measures and final acceptance are carried out as stipulated in the contract (in %)	Assessment criteria not met. The Procurement Unit stated that performance proformas are shared with suppliers to be clear what their performance will be measured against, and the outputs and objectives form part of the service requirements. Nevertheless, the assessors did not have access to these proformas. According to the interviewed persons, the Procurement Unit is not involved in supervising the delivery of the goods or services, nor in any activity related to contract management. The Accounting officer at the requiring entity is responsible for monitoring and this procedure is not standardised, and thus prone to subjectivity. Although some agencies such as the Department of Public Works state that they send quarterly reports to the Finance Secretary about contract implementation, this is by no means a regular practice among procuring entities. The proposed reform to the Public Finance Regulations confirms that contract management is poor in the public sector and propose a new section with key principles of good contract management.	No information was provided to the assessors to calculate quantitative indicators.	The supervision of contracts is the responsibility of each procuring entity, and there are no common guidelines or procedures for performing that task. Procuring entities are not sharing information about contract implementation with the Procuring Unit, impeding the calculation of statistics thereof.	No	Study the possibility of expanding the use of the e-procurement system to include contract implementation, so that requiring entities are allowed to use the platform to upload the signed contract, amendments, payment information and implementation reports.
(c) Invoices are examined, time limits for payments comply with good international practices, and payments are processed as stipulated in the contract. Recommended quantitative indicator to substantiate assessment criterion (c): invoices for procurement of goods, works and services are paid on time (in % of total number of invoices).	Assessment criteria met. Representatives from the private sector who were interviewed during the fact-finding mission affirmed that payments are processed on a timely manner.	No information was provided to the assessors to calculate quantitative indicators.			
(d) Contract amendments are reviewed, issued and published in a timely manner.* Recommended quantitative indicator to substantiate assessment criterion (d): contract amendments (in % of total number of contracts; average increase of contract value in %)	Assessment criteria met. Contracting agencies say that contract amendments happen on very few occasions. This was confirmed by the suppliers who were interviewed. The persons interviewed see no issues related to contract amendments.	No information was provided to the assessors to calculate quantitative indicators.			
(e) Procurement statistics are available and a system is in place to measure and improve procurement practices.	Assessment criteria not met. Procurement statistics are not being calculated, mainly because there is no central repository of information and records. Even for the processes that are carried out by the Procurement Unit, the contract documents and information about contract implementation are not being shared by the procuring entities.		Procurement statistics are not being calculated, mainly because there is no central repository of information and records. Even for the processes that are carried out by the Procurement Unit, the contract documents and information about contract implementation are not being shared by the procuring entities.	No	Study the possibility of expanding the use of the e-procurement system as a central repository of information and records providing the necessary information for the calculation of statistics to improve the public procurement system.
(f) Opportunities for direct involvement of relevant external stakeholders in public procurement are utilised.*	Assessment criteria partially met. The involvement of external stakeholders in public procurement processes generally takes place only during the planning stage by means of prior information notices and early market engagement strategies. This is especially the case for the procurement of public works, where citizens sometimes ask questions about the place of a new construction, or other relevant aspects.	No information was provided to the assessors to calculate quantitative indicators.	Except for the planning stage, there is no evidence that external stakeholders are getting involved with the procurement process.	No	Involvement of external stakeholders could be boosted by allowing their participation in bid openings and other stages of

Recommended quantitative indicator to substantiate assessment criterion (f): percentage of contracts with direct involvement of civil society: planning phase; bid/proposal opening; evaluation and contract award, as permitted; contract implementation) Source for all: Sample of procurement cases.	In procurement carried out through the CDB's Basic Needs Trust Fund, heavy community liaison is undertaken to ensure feedback from citizens is received and considered.				the process, such as contract implementation.
(g) The records are complete and accurate, and easily accessible in a single file.* // Minimum indicator // * Quantitative indicators to substantiate assessment of sub-indicator 9(c) Assessment criterion (g): - share of contracts with complete and accurate records and databases (in %) Source: Sample of procurement cases*	Assessment criteria not met. Although there is some implementation of e-procurement, files are not kept in an orderly and complete manner. According to the Public Finance Regulations, the procuring entities must keep the records of procurement processes for five years, but the Procurement Unit does not have any information of planning nor contract implementation.	None of the processes analysed, including those carried out in the Mytenders platform, had complete and easily accessible files.	The Procurement Unit does not have complete and accurate files of the procurement processes. Information about the planning and contract signature and implementation are kept by each procuring entity and not shared on a regular and timely basis.	No	Study the possibility of expanding the use of the e-procurement system to include contract implementation, so that requiring entities are allowed to use the platform to upload the signed contract, amendments, payment information and implementation reports.

10. The public procurement market is fully functional

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

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) The government encourages open dialogue with the private sector. Several established and formal mechanisms are available for open dialogue through associations or other means, including a transparent and consultative process when formulating changes to the public procurement system. The dialogue follows the applicable ethics and integrity rules of the government.* * 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.	Assessment criteria partially met. The draft of the public procurement reform was published online and is available at http://www.gov.ms/wp-content/uploads/2017/03/Proposed-changes-to-Procurement-Regulations-consultation.pdf . Some suppliers sent comments but did not receive any feedback. Although consultation is possible, some suppliers feel that the number of public hearings about the reform of public procurement are too few for such an important topic, while others express some fear of being excluded from future opportunities if they openly express their disagreement with the proposed changes.	No list of suppliers was provided to the assessors to conduct surveys.	Although the GoM is disclosing drafts of reforms, it is not carrying out a fully consultative process when formulating changes to the public procurement system. It is not giving feedback of the comments received, nor encouraging a trustworthy dialogue with the private sector.	No	Montserrat could offer the necessary spaces for dialogue with citizens when conducting follow-up reforms to the public procurement system, and also make sure that reforms are explained, comments are received, and feedback is given.
(b) The government has programmes to help build capacity among private companies, including for small businesses and training to help new entries into the public procurement marketplace.	Assessment criteria not met. There is no programme to build capacity among suppliers. However, according to stakeholders, some ad hoc activities aiming at increasing capacity in the local private sector have been conducted, such as workshops with suppliers and procuring entities in ministries. The nature of the local procurement market results in suppliers seeking direct exchange with the public procurement function on their own initiative.		There are no programmes in place to train suppliers, provide financing or build capacity to engage with the public market. In particular, there is no training or guidelines provided for suppliers on how to respond to tenders, understand contract clauses or use the Mytenders portal.	No	Offer suppliers training and guidelines on the issues that are most important for them, such as how to properly draft bidding documents, use of the myTenders portal and understand contract provisions.

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

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) The private sector is competitive, well-organised, willing and able to participate in the competition for public procurement contracts.*	Assessment criteria partially met. The competitiveness and organisation of the private sector has to be studied in light of the country's context, and the fact that the total population is approximately 5 000 persons. With this	No information was provided to the assessors to calculate quantitative indicators.	The procurement processes that are being carried out in Mytenders and that were analysed by the assessors did not have any supplier request for clarification of tender	No	Engage suppliers in a dialogue with government and provide them with training and capacity building programs.

<p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 10(b) Assessment criterion (a):</p> <ul style="list-style-type: none"> • number of registered suppliers as a share of total number of suppliers in the country (in %) • share of registered suppliers that are participants and awarded contracts (in % of total number of registered suppliers) • total number and value of contracts awarded to domestic/foreign firms (and in % of total) <p>Source: E-procurement system/Supplier Database.</p>	<p>in mind, the private sector is fairly well organised and there are associations such as the Chamber of Commerce, and suppliers who are willing to participate and compete for government contracts.</p> <p>In any case, suppliers affirm that many goods and services are being sourced from abroad. This coincides with the fact that being such a small state, there is a lack of industrial, manufacturing and service suppliers for many products.</p> <p>There is no register of suppliers.</p>		<p>documents, even though they were important and fairly complex projects.</p> <p>The Procurement Unit does not have a complete register of suppliers.</p>		
<p>(b) There are no major systemic constraints inhibiting private sector access to the public procurement market.</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 10(b) Assessment criterion (b):</p> <p>- perception of firms on the appropriateness of conditions in the public procurement market (in % of responses).</p> <p>Source: Survey.</p>	<p>Assessment criteria partially met.</p> <p>Local suppliers feel that they have the necessary means of getting to know about new opportunities to participate in the public market. Information is available for those interested in a specific procurement process, and there are in general few constraints to participation.</p> <p>Suppliers also reported that they are satisfied with the timeliness of payments.</p> <p>Although the use of Mytenders is welcome, some suppliers say that scaling this tool for all procurement would constrain certain small businesses from participating, as some see the portal as overly complex, and no regular training is conducted for suppliers. This perception also refers to contracts, which have clauses that are not understood by average suppliers. Furthermore, some suppliers referred to connectivity issues and lack of proper access to IT for small suppliers.</p> <p>Suppliers would want to have feedback at the end of each procurement process to understand why they were not awarded for a specific contract.</p> <p>Suppliers interviewed stated that they would find it better to work with a central purchasing unit which could organise procurement for most standardised goods, because they would be able to bid for a rather complex process once instead of answering to multiple tenders for the same products carried out by different procuring entities.</p>	<p>No list of suppliers was provided to the assessors to conduct surveys.</p>	<p>There is no training or guidelines provided for suppliers on how to answer tenders, understand contract clauses or use the Mytenders portal.</p>	<p>No</p>	<p>Offer suppliers training and guidelines on the issues that are most important for them, such as how to properly draft bidding documents, use of the myTenders portal and understand contract provisions.</p>

10(c) Key sectors and sector strategies

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
<p>(a) Key sectors associated with the public procurement market are identified by the government.</p>	<p>Assessment criteria not met.</p> <p>The main sectors identified during the interviews were public works, vehicles and consultancy services. While each ministry has a supplier list and information about suppliers is available in the "Smartstream" system, no structured document or formal identification of sectors has been conducted, nor have specific strategies for these sectors been developed.</p>		<p>Key sectors have not been identified in a formal document to set up procurement strategies targeted specifically to each of these.</p>	<p>No</p>	<p>Consider developing a complete register of suppliers, which would serve to segment suppliers by sector, to better understand specific important sectors.</p>
<p>(b) Risks associated with certain sectors and opportunities to influence sector markets are assessed by the government, and sector market participants are engaged in support of procurement policy objectives.</p>	<p>Assessment criteria not met.</p> <p>According the Procurement Unit, analyses of market responses are carried out to identify market leaders. This has increased awareness of weak markets or targets for encouraging market growth. However, there does not seem to be a more systematic or structured approach to identifying risks and opportunities associated with certain sectors, and no reports or other evidence of such analysis was available to the assessors.</p>		<p>While market responses are analysed, the assessors did not identify any structured approach to identifying risks or opportunities, or any engagement related to specific sectors.</p>	<p>No</p>	<p>Consider developing a register of suppliers, which would serve to segment suppliers by sector, to better assess risks and opportunities and develop complete strategies.</p>

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

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

11(a) Enabling environment for public consultation and monitoring

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) A transparent and consultative process is followed when formulating changes to the public procurement system.	Assessment criteria not met. The draft of the public procurement reform was published online as part of a consultation process, but according to stakeholders interviewed, civil society did not provide any comments. Due to the relatively small population in Montserrat, feedback was shared directly with ministers, according to the government, but no documentation of this was shared with the assessors.		Although the GoM is disclosing drafts of reforms, it is not carrying out a fully consultative process when formulating changes to the public procurement system.	No	To improve external stakeholder engagement during the procurement process, guidelines and training could be developed to explain specific aspects of the procurement cycle to citizens.
(b) Programmes are in place to build the capacity of relevant stakeholders to understand, monitor and improve public procurement.	Assessment criteria not met. No programmes are in place to build the capacity of civil society to understand and monitor public procurement.		No programmes are in place to build the capacity of civil society to understand and monitor public procurement.	No	Establish programmes to build the capacity of civil society to understand and monitor public procurement.
(c) There is ample evidence that the government takes into account the input, comments and feedback received from civil society.	Assessment criteria not met. There is no evidence that the GoM is taking into account input from civil society when reforming the public procurement system.		There is no evidence that the GoM is taking into account input from civil society when reforming the public procurement system.	No	Take into account input from civil society when reforming the public procurement system.

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

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Requirements in combination with actual practices ensure that all stakeholders have adequate and timely access to information as a precondition for effective participation.	Assessment criteria not met. Information is very limited for those processes, which are carried out outside of the e-procurement platform. Stakeholders generally get to know about a new procurement process through the Mytenders portal, newspapers and radio. For public works, billboards are put next to the construction site with basic information. The proposed reform to the public procurement system includes a provision to advertise every tender notice above the CARICOM threshold across the CARICOM.		Information is limited and there are only a few processes carried out in the Mytenders portal where more documents are disclosed.	No	Emphasis should be made on using the e-procurement platform to maintain a clear and open dialogue, asking questions and exchanging messages with the Government of Montserrat.

11(c) Direct engagement of civil society

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) The legal/regulatory and policy framework allows citizens to participate in the following phases of a procurement process, as appropriate: <ul style="list-style-type: none"> • the planning phase (consultation) • bid/proposal opening (observation) • evaluation and contract award (observation), when appropriate, according to local law • contract management and completion (monitoring). 	Assessment criteria not met. Although there are no explicit prohibitions, the Public Finance Regulations do not explicitly allow the participation of citizens in any stage of the procurement process.		The regulatory framework does not have provisions for general citizen participation in any stage of the procurement process.	No	The next reform to the public procurement system's legislation and regulation could include explicit provisions to allow citizens to participate throughout the procurement cycle.
(b) There is ample evidence for direct participation of citizens in procurement processes through consultation, observation and monitoring.	Assessment criteria not met. Most citizen participation comes at the planning stage, where citizens ask questions. As the population is so small, direct participation is the norm and persons would call or ask directly for the government officials involved in a certain procurement. For public works, when the process is conducted under international procedures, such as through the Basic Needs Trust Fund of the Caribbean Development Bank, there is a special emphasis in community liaison to ensure feedback is given and taken into account. Engagement with community is not documented in the records kept by the Procurement Unit.		Except for the meetings held during the planning stage of processes, especially public works, there is no evidence of citizens participating directly in other stages of the procurement process. Involvement during the planning stage is not documented in the records of the processes.	No	Disclose more contract information including for contracts below the threshold specified in the regulation and allowing their participation in bid openings and other stages of the process, such as contract implementation.

12. The country has effective control audit systems

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

The system in the country provides for:

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) laws and regulations that establish a comprehensive control framework, including internal controls, internal audits, external audits and oversight by legal bodies	Assessment criteria met. The Constitution of Montserrat (General Orders of 2010) creates the National Audit Office headed by the Auditor General, which is the Supreme Audit Institution of the country. The Auditor General has the necessary powers to audit any public entity (including statutory bodies) and must submit to the Legislative Assembly annually a report of the accounts audited by him or her. In addition, there is an Audit Act of 2010, which further develops the duties of the Auditor General, including the advisory role to the Public Accounts Committee. Finally, the Public Finance Act of 2008 states that accounting officers shall ensure that “effective systems of internal control and internal audit are in place in respect of all transactions and resources under his control”; and includes provisions about internal audit.				
(b) internal control/audit mechanisms and functions that ensure appropriate oversight of procurement, including reporting to management on compliance, effectiveness and efficiency of procurement operations	Assessment criteria partially met. According to the Financial Secretary, audit and internal control has recently improved dramatically, compared to the situation that was flagged in the PEFA 2010 report. Internal audit is done with a desk review of regulation and comparison with best practices and a transactional review of the actual processes. For the latter, a random sample of tenders is selected to check that all the necessary documentation is included in the file. The auditors mostly check physical files, but also documents in Mytenders. DFID is strongly involved and pushes for audit to be made on time.		According to the Financial Secretary, the audit performed includes compliance checks, but no complete effectiveness nor efficiency reports.	No	Consider completing effectiveness and efficiency reports.
(c) internal control mechanisms that ensure a proper balance between timely and efficient decision-making and adequate risk mitigation	Assessment criteria partially met. To ensure balance and proper risk mitigation, an internal government audit and risk committee has been set up. Nevertheless, there have been issues identified with the legality of this committee, and an ordinance must be passed for it to be fully operational.		The new audit and risk committee is not operational because the ordinance that is necessary to provide it with the legal basis has not been yet passed.	No	Operationalise the audit and risk committee.
(d) independent external audits provided by the country’s Supreme Audit Institution (SAI) that ensure appropriate oversight of the procurement function based on periodic risk assessments and controls tailored to risk management	Assessment criteria met. According to the auditor interviewed, the Auditor General carries out external audit and checks for the existence of tender documents, to determine whether they meet standards set out in the procurement regulation. Its office has never conducted particular procurement audits but regularly checks procurement processes of departments and also those carried out with intervention of the Public Procurement Board. The annual audit reports carried out by the Auditor General are available online at http://oag.gov.ms/publications .				
(e) review of audit reports provided by the SAI and determination of appropriate actions by the legislature (or other body responsible for public finance governance)	Assessment criteria met. External audit reports are presented to the Publics Accounts Committee, which according to the Financial Secretary is operating and had a meeting some weeks before the fact-finding mission.				
(f) clear mechanisms to ensure that there is follow-up on the respective findings.	Assessment criteria not met.		There are no clear mechanisms to follow-up on findings, and recommendations are in general only checked with the next audit. The audit committee should hold people of government liable to recommendations, but a legal provision is necessary to do that.	No	Establish clear mechanisms to follow-up on findings.

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

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) There are written procedures that state requirements for internal controls, ideally in an internal control manual.	Assessment criteria not met. The persons interviewed stated that there are no written procedures stating internal controls.		There are no written procedures that state requirements for internal controls.	No	Draft internal control procedures.
(b) There are written standards and procedures (e.g. a manual) for conducting procurement audits (both on compliance and performance) to facilitate co-ordinated and mutually reinforcing auditing.	Assessment criteria not met. The auditor interviewed commented on the existence of an audit manual based on the International Professional Practices Framework (IPPF) of the Institute of Internal Auditors of North America (IIA). This manual does not have any special provisions related to procurement. The assessors did not receive a copy of this manual to verify this statement.		The assessors were unable to review the audit manual.	No	Ensure that there are written standards and procedures for conducting procurement audits.

<p>(c) There is evidence that internal or external audits are carried out at least annually and that other established written standards are complied with.*</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 12(b) Assessment criterion (c):</p> <ul style="list-style-type: none"> - number of specialised procurement audits carried out compared to total number of audits (in %). - share of procurement performance audits carried out (in % of total number of procurement audits). <p>Source: Ministry of Finance/Supreme Audit Institution.</p>	<p>Assessment criteria met. According to the auditor interviewed, audits are carried out at least annually for all ministries. In addition, the Public Procurement Board is audited annually internally.</p>	<p>No quantitative indicators were shared with the assessors.</p>		
<p>(d) Clear and reliable reporting lines to relevant oversight bodies exist.</p>	<p>Assessment criteria met. Section 14 of the Audit Act specifies that if the Auditor General detects irregularities while performing the audit, he or she must inform the Financial Secretary and Attorney General. The manual says report to supervisor, Financial Secretary, and they would then report to police and authorities.</p>			

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

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
<p>(a) Recommendations are responded to and implemented within the time frames established in the law.*</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 12(c) Assessment criterion (a):</p> <ul style="list-style-type: none"> - Share of internal and external audit recommendations implemented within the time frames established in the law (in %). <p>Source: Ministry of Finance/Supreme Audit Institution.</p>	<p>Assessment criteria not met. The legislation does not establish a specific timeframe for implementing recommendations.</p>	<p>No quantitative indicators were shared with the assessors.</p>	<p>There is no evidence that Recommendations are responded to and implemented on a timely manner. The legislation does not establish a specific timeframe for implementing recommendations.</p>	<p>No</p>	<p>Create follow-up mechanisms to check that recommendations are responded to and implemented on time.</p>
<p>(b) There are systems in place to follow up on the implementation/enforcement of the audit recommendations.</p>	<p>Assessment criteria not met. There is no evidence of systems to follow up on the implementation of audit recommendations.</p>		<p>There is no evidence of systems to follow up on the implementation of audit recommendations.</p>	<p>No</p>	<p>Create follow-up mechanisms to check that recommendations are responded to and implemented on time.</p>

12(d) Qualification and training to conduct procurement audits

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
<p>(a) There is an established programme to train internal and external auditors to ensure that they are qualified to conduct high-quality procurement audits, including performance audits.*</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 12(d) Assessment criterion (a):</p> <ul style="list-style-type: none"> - number of training courses 	<p>Assessment criteria partially met. According to the auditor interviewed, training for auditors is provided two times per year. The SAI of Jamaica provided training for external audit and carried out practical exercise using an ICT project as an example.</p> <p>The auditors have also received training by the International Development initiative (IDI) of the International Organisation of Supreme Audit Institutions (INTOSAI).</p> <p>Only some of the auditors have been trained in how to carry out procurement audits in training provided by the public procurement department.</p>	<p>During the interviews the following indicators were obtained:</p> <ul style="list-style-type: none"> - Number of training courses about procurement: 1. - Share of internal auditors trained in procurement audits: 0%. - Share of external auditors trained in procurement audits: 17% (2 out of 12). 	<p>Although there are programmes established to train auditors, few auditors have undergone training in procurement audits.</p>	<p>No</p>	<p>A clearer emphasis on procurement should be given, to ensure that all auditors have the capacities to carry out procurement audits.</p>

<p>conducted to train internal and external auditors in public procurement audits. Source: Ministry of Finance/Supreme Audit Institution.</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 12(d) Assessment criterion (a): - share of auditors trained in public procurement (as % of total number of auditors). Source: Ministry of Finance/Supreme Audit Institution.</p>					
<p>(b) The selection of auditors requires that they have adequate knowledge of the subject as a condition for carrying out procurement audits; if auditors lack procurement knowledge, they are routinely supported by procurement specialists or consultants.</p>	<p>Assessment criteria not met. According to the auditor interviewed, the knowledge of procurement is not a means of appointing auditors to carry out specific audits.</p>		<p>According to the auditor interviewed, the knowledge of procurement is not a means of appointing auditors to carry out specific audits.</p>	No	<p>A clearer emphasis on procurement should be given, to ensure that all auditors have the capacities to carry out procurement audits.</p>
<p>(c) Auditors are selected in a fair and transparent way and are fully independent.</p>	<p>Assessment criteria met. Auditors are selected through a competitive process that starts with the vacancy being advertised. An Interview is then conducted, and the selected person undergoes training to start his job. The process is fully independent.</p>				

13. Procurement appeals mechanisms are effective and efficient

13(a) Process for challenges and appeals

Assessment criteria	Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria)	Step 2: <u>Quantitative analysis</u>	Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
<p>(a) Decisions are rendered on the basis of available evidence submitted by the parties.</p>	<p>Assessment criteria met. The Public Procurement Board is the first administrative review body. Decisions may be appealed to the Finance Secretary and finally go to the Complaints Commission, which is appointed by the Governor.</p> <p>For contracts under the threshold, the review is asked directly to the procuring entity.</p> <p>Decisions of the judiciary are rendered based on available evidence submitted by the parties. For example, in the case Emmanuel Galloway, Adrian Galloway, Clayton Weeks Trading as the Galloway Group v. The Minister of Communications Works and Labour, the Attorney General and The Public Procurement Board (MNIHCV2013/0015), the High Court of Justice analysed the Claimants arguments and their evidence.</p>				
<p>(b) The first review of the evidence is carried out by the entity specified in the law.</p>	<p>Assessment criteria met. According to Part 7 of the Public Finance Regulations, a supplier has right to review. Reviews must be submitted to “(a) the Chairperson of the Public Procurement Board, if the procurement contract has not entered into force; or (b) the Financial Secretary, if the procurement contract has entered into force” (section 46).</p> <p>In the judiciary case mentioned above, the claimants decided to approach the judiciary directly.</p>				
<p>(c) The body or authority (appeals body) in charge of reviewing decisions of the specified first review body issues final, enforceable decisions. *</p> <p>// Minimum indicator // * Quantitative indicator to substantiate assessment of sub-indicator 13(a) Assessment criterion (c):</p>	<p>Assessment criteria met. The Complaints Commission is established in section 105 of Montserrat’s Constitution and its composition, functions, operation and procedure are prescribed under the Complaints Commission Act.</p> <p>According to section 48.3 of the Public Finance Regulations, the Complaints Commission issues final and immediately binding decisions.</p>	<p>Number of appeals: 0</p>			

<p>- number of appeals. Source: Appeals body.</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 13(a) Assessment criterion (c): number (and percentage) of enforced decisions. Source: Appeals body.</p>	<p>The judicial appeal procedure operates first with the Court of Appeal of the Eastern Caribbean Supreme Court and final appeals are dealt by the Judicial Committee of the Privy Council (JCPC) located in London. There were no cases found that had gone to this final appeals stage, as the only case referenced in the High Court was won by the claimant and no further appeals were made.</p>			
<p>(d) The time frames specified for the submission and review of challenges and for appeals and issuing of decisions do not unduly delay the procurement process or make an appeal unrealistic.</p>	<p>Assessment criteria partially met. According to Part 7 of the Public Finance Regulations, a supplier has right to send a request for review within 7 business days of the decision to award. The first review body has 14 days to come to a decision. Finally, appeals can be submitted to the Complaints Commission within 14 days of the supplier's receipt of the decision. There are no provisions for suspending the procurement process while a decision is made. The timeframes in the judicial complaints procedure make it impossible to have a decision before the award of a contract.</p>		<p>There are no provisions for suspending the procurement process while a decision is made. The timeframes in the judicial complaints procedure make it impossible to have a decision before the award of a contract.</p>	<p>No</p> <p>Montserrat could consider suspending the procurement process while the review and appeals bodies come to a decision, to guarantee that the rights of the interested parties are respected.</p>

13(b) Independence and capacity of the appeals body

The appeals body:

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
<p>(a) is not involved in any capacity in procurement transactions or in the process leading to contract award decisions</p>	<p>Assessment criteria not met. The Complaints Commission Act does not have explicit rules about appointing a person as one of its members. The judiciary is not involved in the procurement process.</p>		<p>There is no guarantee that its members are not involved in the procurement process.</p>	<p>No</p>	<p>The members of this commission should be completely independent from the procurement transactions.</p>
<p>(b) does not charge fees that inhibit access by concerned parties</p>	<p>Assessment criteria partially met. The Complaints Commission charges no fees, according to section 26 of the Complaints Commission Act. On the other hand, for judiciary cases the Eastern Caribbean Supreme Court (Court Proceedings Fees) Rules, 2018 consolidate the fees payable in respect of Court proceedings, including fees payable in the Court of Appeal in respect of civil and criminal proceedings. The Judicial Committee of the Privy Council (JCPC), as Court of the final appeal, has its own fees (Appendix to the Judicial Committee Rules 2009), but no cases have been found that have reached that instance.</p>		<p>The judicial process is not free.</p>	<p>Yes</p>	<p>The fees of the Eastern Caribbean Supreme Court and Judicial Committee of the Privy Council lie outside the sphere of public procurement.</p>
<p>(c) follows procedures for submission and resolution of complaints that are clearly defined and publicly available</p> <p>// Minimum indicator // * Quantitative indicator to substantiate assessment of sub-indicator 13(b) Assessment criterion (c): - appeals resolved within the time frame specified in the law/exceeding this time frame/unresolved (Total number and in %). Source: Appeals body.</p>	<p>Assessment criteria met. The legislation establishes clear procedures for submitting complaints.</p>	<p>No quantitative indicators were shared with the assessors.</p>			
<p>(d) exercises its legal authority to suspend procurement proceedings and impose remedies</p>	<p>Assessment criteria partially met. The Complaints Commission may impose remedies, but it is not operating, because complainants prefer to go directly to court. The judiciary cannot impose remedies.</p>		<p>The judiciary cannot impose remedies.</p>	<p>No</p>	<p>The decisions of the Complaints Commission should be published and made available online and members should be completely independent from the procurement transactions.</p>

(e) issues decisions within the time frame specified in the law/regulations*	Laws have established times to make decisions, but no cases have reached the appeals bodies and thus this criterion cannot be assessed.				
(f) issues decisions that are binding on all parties	No cases were found to analyse this criterion.				
(g) is adequately resourced and staffed to fulfil its functions.	Assessment criteria partially met. There is no information about the resources or staff of the Complaints Commission. The court appears to be functioning and adequately staffed.			No	Ensure that the Complaints Commission is adequately resourced and staffed.

13(c) Decisions of the appeals body

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

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) based on information relevant to the case.	There have been no administrative nor judicial appeals.				
(b) balanced and unbiased in consideration of the relevant information.* <i>Recommended quantitative indicator to substantiate assessment of sub-indicator 13(c) Assessment criterion (b): - share of suppliers that perceive the challenge and appeals system as trustworthy (in % of responses). Source: Survey. - share of suppliers that perceive appeals decisions as consistent (in % of responses).Source: Survey.</i>	Assessment criteria not met. The suppliers that were interviewed as part of the in-country visit to gather information do not trust the administrative review procedure, as they feel it is biased and prefer to go to court, which solves the case with judges from outside of Montserrat. The JCPC procedure appears balanced and unbiased.	No list of suppliers was provided to the assessors to conduct surveys.	Based on interviews with suppliers during a visit in the country, suppliers do not seem to trust the administrative review procedure. These suppliers stated that they prefer the judicial procedure because it is carried out by judges, which do not know the people from the island and thus deem it as unbiased.	No	The decisions of the Complaints Commission should be published and made available online and members should be completely independent from the procurement transactions.
(c) result in remedies, if required, that are necessary to correcting the implementation of the process or procedures.* <i>* Recommended quantitative indicator to substantiate assessment of sub-indicator 13(c) Assessment criterion (c): - outcome of appeals (dismissed; decision in favour of procuring entity; decision in favour of applicant) (in %).Source: Appeals body.</i>	Assessment criteria partially met. The Complaints Commission may impose remedies, but it is not operating, because complainants prefer to go directly to court. The judiciary cannot impose remedies.	No quantitative indicators were shared with the assessors. The assessors did not find any appeals carried out neither in the administrative nor in the judicial procedure.	Complainants prefer to go directly to court. The judiciary cannot impose remedies.	No	The decisions of the Complaints Commission should be published and made available online and members should be completely independent from the procurement transactions.
(d) decisions are published on the centralised government online portal within specified timelines and as stipulated in the law.* <i>// Minimum indicator // *Quantitative indicator to substantiate assessment of sub-indicator 13(c) Assessment criterion (d): - share of appeals decisions posted on a central online platform within timelines specified in the law (in %).Source: Centralised online portal.*</i>	Assessment criteria partially met. Cases that go to the Court of Appeal or the JCPC, the decisions are published online. There is no evidence of specified timelines stipulated in a law. No cases were found to have reached the appeals stage. For the administrative procedure, the decisions are confidential.	No quantitative indicators were shared with the assessors.	For the administrative procedure, the decisions are confidential.	No	The decisions of the Complaints Commission should be published and made available online

14. The country has ethics and anticorruption measures in place

14(a) Legal definition of prohibited practices, conflict of interest, and associated responsibilities, accountabilities, and penalties:
The legal/regulatory framework provides for the following:

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) definitions of fraud, corruption and other prohibited practices in procurement, consistent with obligations deriving from legally binding international anti-corruption agreements.	Assessment criteria met. International treaties ratified by the United Kingdom are not automatically transferred to British Overseas Territories ¹ . This is the case for the United Nations Convention against Corruption. The UK Bribery Act 2010, which includes comprehensive definitions related to bribery, applies to British citizens including in the Territories ² . The Integrity in Public Office Act includes definitions of bribery, gifts, advantages and other related to corruption. Specifically, section 39 relates to bribery in regard to contracts and section 45 specifies the presumption of corruption linked to procurement.				
(b) definitions of the individual responsibilities, accountability and penalties for government employees and private firms or individuals found guilty of fraud, corruption or other prohibited practices in procurement, without prejudice of other provisions in the criminal law.	Assessment criteria met. Part 6 of the Integrity in Public Office Act defines the consequences and penalties for government officials and individuals found guilty of bribery or other offences defined in that part. These include monetary fines and imprisonment.				
(c) definitions and provisions concerning conflict of interest, including a cooling-off period for former public officials.	Assessment criteria partially met. The Code of Conduct included as Second Schedule of the Integrity in Public Office Act includes in subsection 1.d provisions related to conflicts of interest, and in subsection 1.h the prohibition to a public official to “acquire or become a partner or shareholder in, or director or manager of, a firm or company which has or had a contract with the government or with the public body of which that person is or was a member or employee, during the tenure of his office”. The provision has no clear time frame, applies to the whole of Government and not only to the institution where the official served, and can be bypassed if the official discloses the situation and the value of the contract is less than XCD 50 000. Furthermore, the Act only applies to high-level officials, which are included in the First Schedule of the act.		The Code of Conduct included in the Integrity in Public Office Act, which regulates conflicts of interest, only applies to high-level government officials. Other public officials including those that may be involved in certain procurement processes are not included under the scope of this act. The cooling-off period for former public officials is established in the law but the provision is ambiguous and not bound in time.	No	Consider expanding the scope of the Integrity in Public Office Act.

14(b) Provisions on prohibited practices in procurement documents

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) The legal/regulatory framework specifies this mandatory requirement and gives precise instructions on how to incorporate the matter in procurement and contract documents.	Assessment criteria met. The Public Finance Regulations establish that invitations to tender must include a copy of the anti-collusion statement prescribed by the Public Procurement Board. This statement includes provisions related to collusion, bribery and disclosure of possible conflicts of interest.				
(b) Procurement and contract documents include provisions on fraud, corruption and other prohibited practices, as specified in the legal/regulatory framework.	Assessment criteria met. The anti-collusion statement is included in the tender invitations checked by the assessors.				

14(c) Effective sanctions and enforcement systems

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) Procuring entities are required to report allegations of fraud, corruption and other prohibited practices to law enforcement authorities, and there is a clear procedure in place for doing this.	Assessment criteria not met. There is no evidence that procuring entities are required to report allegations of fraud, corruption or other prohibited practices to law enforcement authorities. Furthermore, there is no procedure to do this.		There is no evidence that procuring entities are required to report allegations of fraud, corruption or other prohibited practices to law enforcement authorities. Furthermore, there is no procedure to do this.	No	Consider establishing obligations for procuring entities to report allegations of fraud and other prohibited practices directly to law enforcement authorities,

¹ <https://www.gov.uk/government/publications/guidelines-on-extension-of-treaties-to-overseas-territories>

² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/14929/ot-wp-0612.pdf

					and clearly define a procedure to do this.
(b) There is evidence that this system is systematically applied and reports are consistently followed up by law enforcement authorities.	Assessment criteria not met.		There is no evidence of reports of prohibited practices nor follow-up thereof. Suppliers stated that they would not denounce fraudulent or corrupt acts because they fear being blacklisted from new invitations to restricted tenders.	Yes	Provide confidential and secure channels for reporting cases of prohibited practices, including whistle-blower protection.
(c) There is a system for suspension/debarment that ensures due process and is consistently applied.	Assessment criteria partially met. Section 5 of the Public Finance Regulations includes a provision, which allows a procuring entity to disqualify from a procedure a supplier that knowingly submits false information. If a supplier does this twice, the entity may, with the approval of the Public Procurement Board, suspend the supplier from contracting with that entity, or debar the supplier of some or all procurement processes.		The debarment system does not include a specific procedure for due process, nor the possibility for the supplier to appeal the decision. The consequence for submitting false information is not clear and prone to subjectivity. Other prohibited practices do not lead to debarment.	No	The list of possible prohibited practices that result in this penalty could be broadened to include corruption and collusion, and a clear due process should be established, granting the affected supplier the right to appeal a debarment decision.
(d) There is evidence that the laws on fraud, corruption and other prohibited practices are being enforced in the country by application of stated penalties.* * Recommended quantitative indicator to substantiate assessment of sub-indicator 14(c) Assessment criterion (d): - Firms/individuals found guilty of fraud and corruption in procurement: number of firms/individuals prosecuted/convicted; prohibited from participation in future procurements (suspended/debarred). Source: Normative/regulatory function/anti-corruption body. - Government officials found guilty of fraud and corruption in public procurement: number of officials prosecuted/convicted. Source: Normative/regulatory function/anti-corruption body. - Gifts to secure public contracts: number of firms admitting to unethical practices, including making gifts in (in %). Source: Survey.	Assessment criteria not met. Suppliers interviewed during the visit in Montserrat to gather information stated that laws related to integrity are not being enforced.	No list of suppliers was provided to the assessors to conduct surveys.	There is no evidence that the laws on prohibited practices are being enforced, for example through recently awarded fines. .	Yes	Operationalise the Integrity Commission and consider assigning prevention and detection tasks to a specific institution.

14(d) Anti-corruption framework and integrity training

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) The country has in place a comprehensive anti-corruption framework to prevent, detect and penalise corruption in government that involves the appropriate agencies of government with a level of responsibility and capacity to enable its responsibilities to be carried out.* *Recommended quantitative indicator to substantiate assessment of sub-	Assessment criteria not met. Montserrat does not have a complete anti-corruption framework in place. The Integrity in Public Office Act creates the Integrity Commission, but only grants it power related to the declaration of income, assets and liabilities, and investigate complaints and allegations related to bribery, corruption and other prohibited practices under the act. The prevention and detection are not assigned to any institution. Furthermore, as stated in the interviews carried out, the Integrity Commission is not currently operating. The Procurement Unit stated that a new Anti-Corruption Policy has been submitted to Cabinet for approval. The assessors had no access to this policy.	No list of suppliers was provided to the assessors to conduct surveys.	The anti-corruption framework lacks institutions devoted to preventing and detecting corruption in government. In addition, the Integrity Commission established in the Integrity in Public Office Act is not operating.	Yes	Operationalise the Integrity Commission.

<i>indicator 14(d) Assessment criterion (a): - percentage of favourable opinions by the public on the effectiveness of anti-corruption measures (in % of responses). Source: Survey.</i>					
(b) As part of the anti-corruption framework, a mechanism is in place and is used for systematically identifying corruption risks and for mitigating these risks in the public procurement cycle.	Assessment criteria partially met. The Integrity in Public Office Act creates the obligation for high-level officials listed under the First Schedule of the act to fill and hand in declarations of income, assets and liabilities. Possession of properties or resources that are not accounted for are deemed as illegitimate.		There is no evidence of other mechanisms for identifying and mitigating corruption risks other than the declarations of income, assets and liabilities. These are only mandatory for high-level officials. Furthermore, as the Integrity Commission is not operating, the provisions related to this mechanism are not working.	No	Operationalise the Integrity Commission.
(c) As part of the anti-corruption framework, statistics on corruption-related legal proceedings and convictions are compiled and reports are published annually.	Assessment criteria not met. Statistics on these matters are not being collected or published.		Statistics on these matters are not being collected or published.	No	Operationalise the Integrity Commission and consider assigning to this Commission tasks related to preventing and detecting corruption and keeping track of associated indicators and statistics
(d) Special measures are in place for the detection and prevention of corruption associated with procurement.	Assessment criteria not met. There are no special measures in place for the detection and prevention of corruption linked with procurement.		There are no special measures in place for the detection and prevention of corruption linked with procurement.	Yes	Operationalise the Integrity Commission.
(e) Special integrity training programmes are offered and the procurement workforce regularly participates in this training.	Assessment criteria not met. There are no integrity training programmes in place.		There are no integrity training programmes in place.	No	Once operationalised, the Integrity Commission could undertake the task of providing regular training for officials on the mechanisms in place, such as the declarations of income, assets and liabilities, and other integrity topics.

14(e) Stakeholder support to strengthen integrity in procurement

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) There are strong and credible civil society organisations that exercise social audit and control.	Assessment criteria not met. According to the stakeholders interviewed, the only civil organisations that are active in the island are charity ones.		No organisation is in charge of social audit or control and monitoring of government contracts.	Yes	Training and spaces for dialogue could be created with civil society, including considerations about integrity.
(b) There is an enabling environment for civil society organisations to have a meaningful role as third-party monitors, including clear channels for engagement and feedback that are promoted by the government.	Assessment criteria not met. There are no civil society organisations nor dialogue mechanisms with the government to promote the role of third-party monitors of procurement.		There are no civil society organisations nor dialogue mechanisms with the government to promote the role of third-party monitors of procurement.	Yes	Training and spaces for dialogue could be created with civil society, including considerations about integrity.
(c) There is evidence that civil society contributes to shape and improve integrity of public procurement.* <i>* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(e) Assessment criterion (c): - number of domestic civil service organisations (CSOs), including national offices of international CSOs) actively providing oversight and social control in public procurement. Source: Survey/interviews.</i>	Assessment criteria not met. There is no evidence that civil society contributes to shaping and improving integrity in public procurement.	From the interviews conducted, there are no CSOs carrying out oversight and social control of public procurement.	There is no evidence that civil society contributes to shaping and improving integrity in public procurement.	Yes	Training and spaces for dialogue could be created with civil society, including considerations about integrity.

<p>(d) Suppliers and business associations actively support integrity and ethical behaviour in public procurement, e.g. through internal compliance measures.*</p> <p><i>* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(e) Assessment criterion (d): - number of suppliers that have internal compliance measures in place (in %). Source: Supplier database.</i></p>	<p>Assessment criteria not met. There is no evidence that suppliers support integrity through internal control mechanisms.</p>	<p>No quantitative indicators were shared with the assessors.</p>	<p>There is no evidence that suppliers support integrity through internal control mechanisms.</p>	<p>No</p>	<p>Training and spaces for dialogue could be created with the private sector, including considerations about integrity.</p>
--	---	---	---	-----------	---

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

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
(a) There are secure, accessible and confidential channels for reporting cases of fraud, corruption or other prohibited practices or unethical behaviour.	<p>Assessment criteria not met. There is no evidence of secure and confidential channels for reporting cases of prohibited practices.</p>		<p>There is no evidence of secure and confidential channels for reporting cases of prohibited practices.</p>	<p>Yes</p>	<p>Provide confidential and secure channels for reporting cases of prohibited practices.</p>
(b) There are legal provisions to protect whistle-blowers, and these are considered effective.	<p>Assessment criteria not met. There are no provisions to protect whistle-blowers.</p>		<p>There are no provisions to protect whistle-blowers.</p>	<p>Yes</p>	<p>Ensure that channels for reporting cases of prohibited practices include whistle-blower protection.</p>
(c) There is a functioning system that serves to follow up on disclosures.	<p>Assessment criteria not met. There is no system to follow up on disclosures related to prohibited practices.</p>		<p>There is no system to follow up on disclosures related to prohibited practices.</p>	<p>No</p>	<p>Establish a system to follow up on disclosures related to prohibited practices.</p>

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

Assessment criteria	Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria)	Step 2: Quantitative analysis	Step 3: Gap analysis / conclusions (describing any substantial gaps)	Potential red-flag?	Initial input for recommendations
<p>(a) There is a code of conduct or ethics for government officials, with particular provisions for those involved in public financial management, including procurement.*</p> <p><i>* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(g) Assessment criterion (a): - share of procurement entities that have a mandatory code of conduct or ethics, with particular provisions for those involved in public financial management, including procurement (in % of total number of procuring entities). Source: Normative/regulatory function.</i></p>	<p>Assessment criteria not met. The Integrity in Public Office Act establishes a Code of Conduct for high-level officials, but has no provisions for officials involved in procurement.</p>	<p>No quantitative indicators were shared with the assessors.</p>	<p>The Code of Conduct does not cover government officials involved in public procurement.</p>	<p>Yes</p>	<p>Consider expanding the scope of the Integrity in Public Office Act.</p>
<p>(b) The code defines accountability for decision making, and subjects decision makers to specific financial disclosure requirements.*</p>	<p>Assessment criteria not met. The Integrity in Public Office Act establishes a declaration of income, assets and liabilities for high-level officials, but has no provisions for officials regularly involved in procurement.</p>	<p>No quantitative indicators were shared with the assessors.</p>	<p>The public officials involved in procurement are not subject to the declaration of income, assets and liabilities established in the Integrity in Public Office Act.</p>	<p>Yes</p>	<p>Consider expanding the scope of the Integrity in Public Office Act.</p>

MAPS assessment in: Montserrat
 Name/organisation: OECD
 Date: May 2019

<p><i>* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(g) Assessment criterion (b): - officials involved in public procurement that have filed financial disclosure forms (in % of total required by law). Source: Normative/regulatory function.</i></p>				
<p>(c) The code is of mandatory, and the consequences of any failure to comply are administrative or criminal.</p>	<p>Assessment criteria partially met. The Code of Conduct is mandatory and consequences of breaching it are criminal.</p>		<p>The Code of Conduct only applies to high-level officials.</p>	<p>No Consider expanding the scope of the Integrity in Public Office Act.</p>
<p>(d) Regular training programmes are offered to ensure sustained awareness and implementation of measures.</p>	<p>Assessment criteria not met. There are no training programmes related to these measures.</p>		<p>There are no training programmes related to these measures.</p>	<p>No Provide regular training for officials on the mechanisms in place, such as the declarations of income, assets and liabilities, and other integrity topics.</p>
<p>(e) Conflict of interest statements, financial disclosure forms and information on beneficial ownership are systematically filed, accessible and utilised by decision makers to prevent corruption risks throughout the public procurement cycle.</p>	<p>Assessment criteria not met. According to the Procurement Unit, public servants fill in forms to declare any conflict of interest and comply with the legal requirements in this regard. However, there is no use of these forms after they have been filled in.</p>		<p>While according to the Procurement Unit public servants are complying with the obligation to fill declarations of conflict of interest forms as established by the law, there is limited impact thereof. The Integrity Commission is not operating, which means that filing, access and utilisation by decision makers of these forms is not done.</p>	<p>Yes Operationalise the Integrity Commission.</p>

MAPS assessment in: Montserrat
Name/organisation: OECD
Date: May 2019

Additional findings for country context

Montserrat is a small island with a population of under 5000 people and is still in the recovery stage post volcanic crisis and hurricanes.
The Procurement department has worked tirelessly over the past 2 years to strengthen the procurement function throughout the Government. Raising the profile of procurement and embedding its functions in practises and processes.
The procurements range from small one off purchases to large complex projects.
We are continuously reviewing our systems and processes to ensure that we promote best practise within procurement.
We are committed to support growth and economic development in line with the Governments vision for Montserrat.
We are entering exciting times ahead with major infrastructure projects coming into fruition. The Submarine Cable Project, Solar power 250-watt project, Trants Quarry project and the development of Little Bay Port Project.
Procurement is at the heart of these programmes supporting them at each stage.
We are proud of the transformational journey we have been on for a small island and we are excited to continue building and going from strength to strength.