



Transparency

Purpose of the Checklist

- To guide and support public procurement practitioners in reviewing, developing and updating their procurement framework, according to the 12 principles of the Recommendation of the Council on Public Procurement.
- To encourage self-assessment and providing a starting-point for implementing the Recommendation.
- To provide more detailed information and guidance for each of the 12 principles as well as actions that can be taken to improve the strategic use of public procurement.

Public Procurement
Principle: **Transparency**

Procurement Stage:
All phases

Audience: **Policy Maker,
Procuring Entity, Private
Sector, Civil Society**

Description

Transparency can be strengthened by following proposed steps below, while also improving other closely-linked principles (please refer to the box below). Suggestions and comments on the content and format of the Checklist can be sent to: public.procurement@oecd.org.

Main linkages between transparency and other principles of the Recommendation

- Integrity: The public disclosure of information around public procurement processes contributes to identifying and decreasing cases of mismanagement, fraud and corruption.
- Access: Transparency contributes to fair and equitable treatment for potential suppliers.
- Participation: Transparency contributes to the provision of public procurement information to potential domestic and foreign suppliers, civil society and the general public. Inclusive processes when formulating changes to the public procurement system, including public consultations, increase transparency of the public procurement system. Direct involvement of relevant external stakeholders in the procurement system increases transparency.
- Efficiency: Transparency, in the flow of public funds for instance, can help policy makers to organise procurement strategically and improve its efficiency.
- E-procurement: E-procurement systems strengthen transparency by making information available on public procurement processes.
- Accountability: Transparency promotes accountability by giving account for public procurement processes and public spending.
- Integration: Ensuring the visibility of the flow of public funds, from the beginning of the budgeting process throughout the public procurement cycle, ensures transparency.

(A) Adequate and timely degree of transparency

Promote fair and equitable treatment for potential suppliers by providing an adequate and timely degree of transparency in each phase of the public procurement cycle, while taking into account the legitimate needs for protection of trade secrets and proprietary information and other privacy concerns, as well as the need to avoid information that can be used by interested suppliers to distort competition in the procurement process. Additionally, suppliers should be required to provide appropriate transparency in subcontracting relationships.

A.1 Adherents should have in place a legal and regulatory framework that requires public procuring entities to provide an adequate and timely degree of transparency in each phase of the public procurement cycle. In order to achieve this end, adherents could consider defining:

- Which documents should be published at each stage of the public procurement cycle, for instance:
 - Pre-tendering (including planning): procurement plan, prior information notice, public hearing notice, etc.
 - Tendering (including invitation and award): tender notice, bidding/tender documents, technical specifications, qualification criteria, evaluation criteria, clarifications to bidder's questions, award notice, evaluation reports, decisions on appeals, etc.
 - Post-award (including contract and implementation): contract notice, information on litigations, progress reports, audits, etc.
- Criteria that set the timeframe for publication of procurement of opportunities and submission of proposals to allow sufficient time to:
 - Prepare for the tender
 - Ask questions
- Disclosure of conditions that will enable potential suppliers to determine their participation.

A.2 Adherents should have a policy outlining the requirements or justifications to determine what information is publicly available or confidential. This policy could:

- Set clear criteria for outlining what information should be public or confidential,
- Establish guidelines for public procurement entities on handling submitted, documents to protect proprietary, commercial, personal or financial information of a confidential or sensitive nature,
- Prevent access to confidential information that allows detection of deviation from a possible collusive agreement and better coordinated collusion of future tenders,
- Establish security protocols to protect records (physical and/or electronic).

A.3 Adherents should require suppliers to provide appropriate transparency in subcontracting relationships and specify at which stage the information needs to be disclosed. This can include (but is not limited to):

- Identification of subcontractors (to be ideally included when submitting the bid or after the signature of the contract),
- Companies profile,
- Share of total contract subcontracted.

(B) Free access for all stakeholders to public procurement information

Allow free access, through an online portal, for all stakeholders, including potential domestic and foreign suppliers, civil society and the general public, to public procurement information notably related to the public procurement system (e.g. institutional frameworks, laws and regulations), the specific procurements (e.g. procurement forecasts, calls for tender, award announcements), and the performance of the public procurement system (e.g. benchmarks, monitoring results). Published data should be meaningful for stakeholder uses.

B.1 Adherents should make information on public procurement easily accessible for all interested parties, including potential domestic and foreign suppliers, civil society and the general public. In order to achieve this end, adherents could consider:

- Publishing information at least in a commonly available media such as newspaper of wide national circulation,
- Creating an integrated information system that provides up-to-date information for all interested parties,
- Presenting information in a user-friendly and easily comprehensible manner for all interested parties to understand the procurement processes,
- Using an open data format that publishes information in an open and structured machine-readable format, using identifiers and classifications,
- Using the same channels and timeframe for all interested parties,
- Publishing the public procurement information (see bullet B2) free of cost.

B.2 Adherents should publish meaningful public procurement information for all stakeholders to use. In order to achieve this end, adherents could consider publishing information on:

- Institutions, laws, rules and regulations of the public procurement system,
- Specific procurements (covering the pre-tendering, tendering and post-award stages; see bullet A1 for more information),
- The performance of the public procurement system, such as benchmarks, monitoring results, audit reports,

- The performance of public procurement contracts (e.g. supplier's performance, blacklisting of suppliers, contracts respecting terms and conditions, etc.),

(C) Visibility of the flow of public funds

Ensure visibility of the flow of public funds, from the beginning of the budgeting process throughout the public procurement cycle to allow (i) stakeholders to understand government priorities and spending, and (ii) policy makers to organise procurement strategically.

C.1 Adherents should ensure visibility of the flow of public funds, from the beginning of the budgeting process throughout the public procurement cycle to allow (1) stakeholders (for instance: the general public, registered suppliers, oversight bodies and contracting authorities) to understand government priorities and spending, and (2) policy makers to organise procurement strategically. In order to achieve this end, adherents could consider:

- Publishing statistics, records and documents that cover the entire budget execution cycle, including the procurement process,
- Enabling policy makers and external stakeholders to monitor results, outcomes and performance of the procurement processes.

C.2 Adherents should establish a comprehensive list of the procurement records and documents related to tendering procedures and contract management that must be kept and available for public inspection. This list can include following documents:

- Pre-tendering
 - Needs evaluation report
 - Unused preliminary reports
 - Local council deliberations
 - Public notices of procurement opportunities
 - Procurement method including justification
- Tendering
 - Call for tenders
 - Requirements and justification of changes to technical requirements
 - All administrative and technical documents supplied to bidders
 - Bid analysis reports
 - Evaluation reports including clarification sought and provide during evaluation process
 - Decisions of the awards commission and all the elements on which the decision was based
 - Award notices (if applicable)
 - Selection criteria that have been modified or added during the review of bids
- Post-award
 - Final signed contract documents and amendments

- Contract variations/modifications/changes
- Certificates and reports of inspection, quality control and acceptance
- Decisions and observations during contract performances
- Changes in needs
- Claims and dispute resolutions
- Payments
- Disbursement data (as required by the country's financial management system)
- Changes to performance deadlines
- Price changes in the course of performance
- Supplementary works or deliveries
- Any correspondence, meeting notes and minutes including contract negotiations (if applicable)