

ASSESSMENT OF PUBLIC PROCUREMENT SYSTEMS OF THE GOVERNMENT OF INDIA

COUNTRY EXECUTIVE SUMMARY REPORT

MAY 2022



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¹ GASAB = Government Accounting Standards Advisory Board.

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ACRONYMS

ADB	Asian Development Bank
AIIB	Asian Infrastructure Investment Bank
APP	Annual Procurement Plan
CAG	Comptroller and Auditor General
CBI	Central Bureau of Investigation
CII	Confederation of Indian Industries
CMSS	Central Medical Services Society
CoPP	Committee on Public Procurement
CPA	Central Procurement Agency
CPAR	Country Procurement Assessment Report
CPPP	Central Public Procurement Portal
CPSE	Central Public Sector Enterprise
CPWD	Central Public Works Department
CSO	Civil Society Organization
CVC	Central Vigilance Commission
CVO	Chief Vigilance Officer
DFPR	Delegation of Financial Powers and Rules
DGS&D	Directorate General of Supplies and Disposal
DIPP	Department of Industrial Policy and Promotion
DMA	Disaster Management Act
DRB	Dispute Resolution Board
DRC	Dispute Resolution Committee
DSPE	Delhi Special Police Establishment
DyCAG	Deputy Comptroller and Auditor General
e-GP	Electronic Government Procurement
EMD	Earnest Money Deposit (Bid Security)
EPC	Engineering, Procurement, and Construction
ERP	Enterprise Resource Planning (Software)
FA&CAO	Financial Advisers and Chief Accounts Officer
FD	Finance Department
FEMA	Foreign Exchange Management Act
FICCI	Federation of Indian Chambers of Commerce and Industry
FRBM	Fiscal Responsibility and Budget Management
GASAB	Government Accounting Standards Advisory Board
GCC	General Conditions of Contract
GDP	Gross Domestic Product
GeM	Government e-Marketplace
GePNIC	Government e-Procurement System of NIC
GFRs	General Financial Rules
Gol	Government of India
GST	Goods and Services Tax
HAM	Hybrid Annuity Model
IEM	Independent External Monitor
IFMS	Integrated Financial Management System
IIM	Indian Institute of Management

IMF	International Monetary Fund
IT	Information Technology
JICA	Japan International Cooperation Agency
KPI	Key Performance Indicator
MAPS	Methodology for Assessing Procurement Systems
MCA	Model Concession Agreement
MoF	Ministry of Finance
MoR	Ministry of Railways
MoRTH	Ministry of Road Transport and Highways
MoU	Memorandum of Understanding
MSMED	Micro, Small, and Medium Enterprises Development
MSMEs	Micro, Small, and Medium Enterprises
NDB	New Development Bank
NDMA	National Disaster Management Act
NGO	Nongovernmental Organization
NHAI	National Highways Authority of India
NIC	National Informatics Centre
NIFM	National Institute of Financial Management now renamed Arun Jaitley NIFM
NITI	National Institution for Transforming India
PE	Procuring Entity
PFC	Procurement Facilitation Cell
PFM	Public Financial Management
PGCIL	Power Grid Corporation of India Limited
PMIS	Procurement Management Information System
PPD	Procurement Policy Division
PPP	Public-Private Partnership
PPR	Public Procurement Rules
PSU	Public Sector Undertaking
RTI	Right to Information
SAI	Supreme Audit Institution
SBD	Standard Bidding Document
SC	Scheduled Caste
SDG	Sustainable Development Goal
SLPE	State-level Public Enterprise
SOE	State-Owned Enterprise
SPP	Sustainable Public Procurement
SPV	Special Purpose Vehicle
ST	Scheduled Tribe
TAG	Technical Advisory Group
TNA	Training Needs Assessment
TTL	Task Team Leader
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UT	Union Territory
VfM	Value for Money

A. BACKGROUND

1. **Public procurement is a crucial component of public financial management (PFM), good governance, and sustainable economies with inclusive growth.** Public procurement accounts for a significant level of public expenditure and hence strengthening public procurement systems is central to achieve concrete and sustainable results, build effective institutions, and gain substantial savings in the use of scarce public resources. Public procurement has a strategic function as a mechanism for supporting economic development, conserving and making optimum use of resources through application of sustainable criteria, and increasing job creation and private sector growth including enhanced participation of small and medium enterprises in a country. Government expenditure through public procurement has long been used as a means of stimulating growth at all levels (national, regional, and local), including accomplishing the government's vision and mission.

2. The Government of India (GoI) has progressively undertaken various initiatives in reforming its public procurement system during the past many years, including setting up a functional Procurement Policy Division (PPD) at the Department of Expenditure, GoI, revising the General Financial Rules (GFRs), preparing procurement category-wise manuals, adopting the electronic government procurement (e-GP) platform, and setting up the Government Electronic Marketplace (GeM), among many initiatives. States have updated their procurement rules; six have enacted procurement laws and all have adopted e-procurement systems.

3. The PPD, Department of Expenditure, through the Department of Economic Affairs, Ministry of Finance (MoF), GoI, proposed that the World Bank carries out an assessment of its public procurement systems using the second version of the Methodology for Assessing Procurement Systems (MAPS II). The government proposal was received by the World Bank on June 5, 2018. The PPD identified six central agencies:² Ministry of Railways (MoR); Ministry of Road Transport and Highway (MoRTH), National Highways Authority of India (NHAI), Power Grid Corporation of India Limited (PGCIL), Central Medical Services Society (CMSS), and Central Public Works Department (CPWD). In addition, as public procurement is a subject in the concurrent list of the Indian Constitution and procurement implementation is decentralized, the PPD requested an expression of interest from states to participate in the assessment. Assam, Bihar, Himachal Pradesh, Odisha, and Rajasthan expressed interest and were included in the assessment.

4. The selected six central agencies and five states are considered representative of India. The six federal agencies collectively procure approximately US\$70 billion per year, representing approximately 12 percent of the total volume of procurement and covering all categories of procurement—goods, works, and services. The five states collectively constitute 5 percent of India gross domestic product (GDP). The states represent varying development status, size, and development of their procurement framework with two states of Assam and Rajasthan recently having enacted public procurement laws. These are also the five states that expressed interest to participate in the assignment.

² The MoR procures a large volume of goods and large infrastructure, the MoRTH is mostly responsible for transport sector construction, the PGCIL is a state-owned enterprise (SOE) and undertakes mostly supply and installation type of procurements, the NHAI is an autonomous corporate body under a ministry, the CMSS is a fully autonomous central procurement agency (CPA) for specialist medical procurement, and the CPWD is a principal engineering organization of the GoI for construction and maintenance of works.

5. The assessment was carried out by the World Bank team in close collaboration with the PPD of the MoF and selected states. The World Bank team comprised a multidisciplinary team of experts (World Bank staff and consultants) with extensive experience in conducting similar assessments. The MAPS Steering Committee was established in October 2018 and chaired by the Joint Secretary, Department of Expenditure, MoF. The MAPS Steering Committee included representation of all states and central agencies assessed. At agency and state levels, further committees were formed with representation of stakeholders at those levels. As part of the stakeholder consultation,³ technical inputs of oversight bodies (Comptroller and Auditor General [CAG] and Central Vigilance Commission [CVC]), the private sector, industry associations, and other development partners (Asian Development Bank [ADB], Japan International Cooperation Agency [JICA], New Development Bank [NDB], Asian Infrastructure Investment Bank [AIIB]) were collected. In addition, other important stakeholders like civil society and training institutions were also consulted. Input from the private sector was also sought through face-to-face meetings/workshops and online bidder surveys with participation of nearly 2,250 private sector officials. The Steering Committee met regularly to assess progress and guide the assessment. The assessment was carried out between **October 2018 and February 2020**.

6. This **country executive summary report** combines the reports covering the federal government (six procuring entities [PEs]) and the five states in the form of a comprehensive summary to present a total picture of public procurement systems in the country, their strengths and weaknesses, and the recommendations for improvement and modernization. Separate reports have been prepared and submitted to the federal government, the six participating federal agencies, and five states.

7. **Objective of the assessment.** The main objective of the assessment was to determine the strengths and weaknesses of the system guided by the principles of value for money (VfM), transparency, fairness, and good governance and benchmark them against international good practices and standards. The specific objectives of the assessment were to (a) take stock of the reform initiatives to date, including the most recent amendments to the regulatory framework to establish a shared understanding of the current state of the public procurement system; (b) conduct a gap analysis to identify strengths and weaknesses of the overall public procurement system to inform and support the GoI to implement changes for improvement of the relevant regulatory frameworks; and (c) assist the government in developing a strategy to achieve a modern and harmonized procurement system—enhancement of e-Procurement system, contract management, sustainable procurement, and so on. The results will lay down the reform initiatives for a modern, efficient, sustainable, well-governed public procurement system that helps meet policy objectives, increase public trust, enhance well-being, and build more prosperous and inclusive society. It will also provide the information to monitor future performance of the country's system and evaluate the success of the reform initiatives in improving performance.

8. **Methodology of the assessment.** MAPS II was used for this assessment. MAPS II is a holistic, universal tool which has been used in over 20 countries. The assessment was guided by four pillars of the MAPS II analytical framework: Pillar I: Legal, Regulatory, and Policy Framework; Pillar II: Institutional Framework and Management Capacity; Pillar III: Procurement Operations and Market Practices; and Pillar IV: Accountability, Integrity, and Transparency. The assessment was carried out for 14 indicators, 55 sub-indicators, and 210 assessment criteria under these four pillars following the three-step analytic approach:

³ National Highway Builders Federation; All India Management Association; Confederation of Indian Industry (CII); Federation of Indian Chambers of Commerce and Industry (FICCI); Competition Commission of India; National Institution for Transforming India (NITI) Aayog; Arun Jaitley National Institute of Financial Management; Administrative Staff College of India; GeM; National Informatics Centre (NIC); Associated Chambers of Commerce and Industry of India; Indian Institute of Management (IIM), Lucknow; Institute of Supply Management; Indian Railways Institute of Logistics and Materials Management; Transparency International; and CUTS International.

(a) qualitative analysis (actual situation versus assessment criteria); (b) quantitative analysis (analyzing at least the minimum set of quantitative indicators defined); and (c) gap analysis (determination of substantive or material gaps). As each of the states and the federal PEs has developed its own unique procurement framework (though the fundamental principles are similar), the assessment team conducted the above with respect to all the states and federal agencies.

9. To eliminate bias and subjectivity, data and information were collected and triangulated from five different channels: desk review of relevant documents, review of quantitative data from PEs and e-procurement, study of sample of procurement files, stakeholder interactions, and bidders' survey. Besides target PEs, there are diverse internal and external stakeholders whose inputs are important for public procurement assessment in MAPS II. During the inception phase of the assessment, analysis of stakeholders was done jointly with respective PEs to identify stakeholders who were to be interacted with. Internal stakeholders identified included executives from PEs (users, finance, procurement, and so on); regulatory and normative bodies of public procurement; and the e-procurement portal. External stakeholders identified were audit bodies (CAG); vigilance organizations at federal (CVC) and state levels; training institutions; industry associations; nongovernmental organizations (NGOs); and so on. Face-to-face meetings were held with stakeholders. In addition, external stakeholder interaction at the federal level was conducted independently from the six federal entities. Assessment involved structured interviews and questionnaires with these stakeholders. The responses from the stakeholders were collated and compiled and triangulated with information obtained from other channels. The private sector was separately engaged through online surveys. The assessment team shared detailed criteria-wise validation of the data before preparation of the report. The team further conducted complementary studies on competition in civil works contracts and e-Procurement system assessments. A workshop on the future of e-procurement in India was conducted in February 2020 and recommendations from the workshop have also been included in the overall assessment report. A virtual face-to-face validation of the report was held on August 27, 2020 and attended by public and private stakeholders.

10. **Data collection challenges in the federal agencies and state agencies.** Measurement of quantified performance data is crucial for defining baselines, setting targets and measuring progress of reforms in public procurement over time. Quantitative analysis in MAPS II requires collection of 15 mandatory quantified (performance) data and 35 recommended optional data. There are substantial gaps in availability of quantified data for public procurement in all the federal and state agencies, though in varying degrees. Generally, procurement and contract management are largely decentralized, and most processes remain outside information technology (IT) and e-procurement systems. Tender award, contract implementation, grievance redress data, and payments data are not readily available. Manual collection of information and data from PEs proved difficult. There were significant challenges in obtaining all the records of the sample cases (procurement files).

11. **Volume of public procurement in government expenditure.** Public procurement in India is a systemwide activity across a multitude of PEs at multiple levels in the federal and state governments, their autonomous and statutory bodies, and public sector undertakings (PSUs)/SOEs, with a wide variety of sector/institution-specific requirements. E-procurement is mandatory only for procurement above thresholds defined by each state/entity. Hence, it is difficult to arrive at an accurate estimate of the volume of the public procurement in India.

12. The volume of procurement published through various e-procurement systems aggregated through the Central Public Procurement Portal (CPPP) for FY17/18 was INR 19,587 billion (equivalent to US\$279 billion). The CPPP captures procurement carried out through competitive tenders and does not

include direct contracting and other methods. Various states and entities have different thresholds for using e-procurement systems, ranging from INR 500,000 (equivalent to US\$7,100) to INR 5,000,000 (equivalent to US\$71,000). Most of the tenders published through e-procurement systems relate to works and goods. Procurement through the GeM portal is estimated at US\$5 billion. Various studies⁴ have estimated the value of public procurement between US\$450 billion and US\$550 billion. Considering the various studies, that public works constitutes the largest portion of public procurement and based on the actual figures realized on the CPPP, the assessment estimates that about 50 percent of procurement is done outside the e-procurement systems. The value of public procurement in India is therefore estimated at around US\$550 billion.

13. India became the world's fifth largest economy, according to data from the October 2019 World Economic Outlook by the International Monetary Fund (IMF). **According to the IMF World Economic Outlook (April 2019),⁵ GDP (nominal) of India in 2019 at current prices was projected at US\$2.972 trillion. Therefore, the percentage of public procurement relative to GDP is estimated at around 18–20 percent of the GDP.**

⁴ A study by the Center for Public Impact, a BCG foundation, has indicated the volume as GBP 340 billion (equivalent to US\$450 billion) (<https://www.centreforpublicimpact.org/case-study/indian-governments-e-marketplace-gem/>). The Peterson Institute for International Economics (PIIE) indicated that it is 20 percent of GDP for India (<https://www.piie.com/blogs/realtime-economic-issues-watch/how-large-public-procurement-developing-countries>). The European Union's International Public Procurement Initiative - India.

⁵ <http://statisticstimes.com/economy/gdp-of-india.php>.

B. COUNTRY CONTEXT

Government and Procurement

14. India is a sovereign, socialist, secular, democratic republic with a parliamentary system of government based on the principle of universal adult franchise. The federal structure of India comprises the central (federal) level, 28 states, and nine union territories (UTs).

15. The Constitution of India⁶ delineates separation of powers among three branches of government: legislature, executive, and judiciary. The country follows the common law system and has an independent judiciary. The Constitution⁷ provides for an independent audit authority under the CAG of India (supreme audit institution) which audits all receipts and expenditure of the GoI and the state governments, including those of bodies and authorities substantially financed by the government and reports findings directly to the Parliament and state legislatures.

16. The government at the central level (union) comprises ministries, departments, and their (so designated) subordinate and attached offices. As on February 3, 2020, the union government comprises 51 ministries and two independent departments (Department of Atomic Energy and Department of Space) and their subordinate and attached offices. Similarly, states and UTs have administrative departments which in turn have departments and subordinate or attached offices under it.

17. The center, states, and UTs have incorporated many SOEs or state-level public enterprises (SLPEs) in states/UTs where the government is either the sole owner or a major investor. In the official list published by the Department of Public Enterprises in the Ministry of Heavy Industry and Public Enterprises, there are such 331 central public sector enterprises (CPSEs) and approximately 605 SLPEs as per last report.

18. There are also other institutions constituting the GoI, that is, legislature, judiciary, constitutional or statutory bodies, academic institutions, autonomous bodies, and commissions which have been created under the Constitution of India or under specific legislations of federal or state governments. These institutions enjoy substantial autonomy in their functioning, including public procurement.

19. In summary, all the above-mentioned entities covering the entire geographic area of India carry out public procurement and act as PEs at multiple levels. As per the dashboard of the CPPP, there are 23,520 participating PEs.⁸ But many PEs use other platforms of their own and are not linked to the CPPP portal.

⁶ https://www.india.gov.in/sites/upload_files/npi/files/coi_part_full.pdf.

⁷ Article 148 of the Constitution.

⁸ Data as of May 9, 2020.

Public Finances

20. Over the past decade, India has been one of the fastest growing emerging market economies, but GDP growth has slowed in the past three years. The current slowdown is due to the combined effects of (a) unresolved domestic issues (impaired balance sheet issues in the banking and corporate sectors, compounded by stress in the nonbanking segment of the financial sector) and (b) significant additional headwinds following the COVID-19 outbreak. These have not only prevented a sustainable revival in private investment but also affected private consumption in FY19/20. As a result, growth is expected to reach 5 percent in FY19/20. Given the nationwide lockdown and major disruptions to economic activity in the first quarters of FY20/21, growth is expected to slow again significantly in the current fiscal year, before recovering gradually from FY21/22 onward. On the fiscal side, the general government deficit is expected to widen to about 7.5 percent of GDP in FY19/20, owing to tax cuts and weak economic activity, and further still in FY20/21 as a result of slow domestic activity and fiscal support to households and firms. However, the current account balance is expected to improve over FY19/20–FY20/21, reflecting mostly a sizeable contraction in imports and a large decline in oil prices. Given this, in spite of recent portfolio capital outflows, India’s foreign exchange reserves are expected to remain comfortable (equivalent to over 10 months of imports).

21. The size of the expenditure budget of states has increased over the years owing to revenue augmentation by the states as well as increased devolution from the center. In 2019–20, states are expected to spend 64 percent more than the central government, a significant change from 46 percent in 2014–15. Hence, **states are assuming greater responsibility in governmental spending in the country.** States primarily rely on three sources for financing this expenditure: (a) own resources (approximately 44 percent), (b) transfers from the central government (approximately 35 percent), and (c) borrowings (approximately 21 percent). Own resources of states have undergone a major shift since 2017 with the implementation of the Goods and Services Tax (GST), under which states transferred a major part of their taxation powers to the GST Council.

22. The Finance Commission is a constitutionally mandated body that is at the center of fiscal federalism. Set up under Article 280 of the Constitution, its core responsibility is to evaluate the state of finances of the union and state governments, recommend the sharing of taxes between them, and lay down the principles determining the distribution of these taxes among states. With 2019–20 being the last year of the 14th Finance Commission period, the terms of reference of the 15th Finance Commission and its recommendations will direct a major share of states’ revenue (35 percent during 2015–20) during the six-year period of 2020–26. States borrow to maintain their expenditure and supplement revenue from the center and own revenue. These limits on borrowings combined with revenue shortfall and expenditure programs are leading to states cutting their planned expenditure. The gap between a government’s expenditure and receipts is funded through borrowings which is subject to limits under the Fiscal Responsibility and Budget Management (FRBM) framework.

23. Since the 2000s, India has made remarkable progress in reducing absolute poverty. Between FY11/12 and 2015, poverty declined from 21.6 percent to an estimated 13.4 percent at the international poverty line (US\$1.90 per person per day in 2011 purchasing power parity [PPP], continuing the earlier trend of rapid poverty reduction. Owing to robust economic growth, more than 90 million people escaped extreme poverty and improved their living standards during this period. Despite this success, poverty remains widespread. In 2015, 176 million Indians were living in extreme poverty, while 659 million—half the population—were below the higher poverty line commonly used for lower-middle-income countries

(US\$3.20 per person per day in 2011 PPP). With the recent growth slowdown, the pace of poverty reduction may have moderated.

24. The World Bank released the Doing Business report titled 'Doing Business 2020' on October 24, 2019.⁹ India jumped 14 places on the Ease of Doing Business Index to rank 63 (score 71), up from 77 the previous year. In the World Economic Forum's 'Global Competitiveness Index 2018',¹⁰ India is ranked 58 out of 140 (gained by 5 ranks—largest jump among the G-20 economies).

25. India scored 41 (same as in 2018 and against 40 in 2017 and is ranked 80 out of 180 countries) on the Corruption Perception Index 2019¹¹ of Transparency International. The Organization for Economic Co-operation and Development (OECD) released the Government at a Glance 2017 report,¹² which presents an index of countries that trust their governments the most. At 73 percent, India is ranked firmly at the top, followed by Canada in second position at 62 percent of its people.

26. To deliver on its aspirations of a growing band of young and working population,¹³ however, India needs to address emerging challenges and overcome certain persistent constraints: (a) recent moderation in growth due to decelerations in growth of investments, services, and agriculture; (b) rapidly evolving, competitive global economy and accompanying technological shifts; (c) external headwinds: re-escalating trade tensions and elevated oil prices; (d) unequal growth; (e) challenges to long-term sustainability of growth: low levels of private investment and exports; (f) human development challenges; (g) increasing trade deficit; and (h) sluggish and low-quality job creation.

Public Procurement System and Its Links with the Public Finance Management and Public Governance Systems

27. **Constitution of India.**¹⁴ This is the supreme law of India adopted on November 26, 1949. The document lays down the framework demarcating fundamental political code, structure, procedures, powers, and duties of government institutions and sets out fundamental rights, directive principles, and the duties of citizens. Article 53 of Constitution of India vests the executive powers of the Union of India with the President of India.

28. Article 77, Clause (3) of the Constitution states that "the President shall make rules for the more convenient transaction of the business of the Government of India, and for the allocation among Ministers of the said business." The President by his order, and issuance of allocation rules of the GoI, vested the financial powers of the Indian government with the MoF. There are many pertinent articles which have a link to procurement such as Article 246 (subject matter of law made by the Parliament), Article 254 (inconsistency between laws made by the Parliament and states), Article 288 (taxes), Article 283 (monies), and Article 300 (Union of India can be sued).

29. The two articles directly related to procurement are 298 and 299. Article 298 of the Constitution stipulates that executive power of the union and each state shall extend to any trade or business activities and to the acquisition, holding, and disposal of property as well as the conclusion of contracts for any given

⁹ https://www.doingbusiness.org/content/dam/doingBusiness/media/Annual-Reports/English/DB2019-report_web-version.pdf

¹⁰ <http://reports.weforum.org/global-competitiveness-report-2018/country-economy-profiles/#economy=IND>

¹¹ <https://www.transparency.org/country/IND>

¹² https://read.oecd-ilibrary.org/governance/government-at-a-glance-2017_gov_glance-2017-en#page217 and <http://www.oecd.org/gov/government-at-a-glance-2017-database.htm>

¹³ According to the Indian Census 2011, the population of India is 1.210 billion and 1.326 billion (July 2020 estimate) and age-wise percentage of population 0–24 years: 43.82 percent and 25–54 years: 41.56 percent.

¹⁴ https://www.india.gov.in/sites/upload_files/npi/files/coi_part_full.pdf.

purpose, and Article 299 stipulates entering of contracts. Article 299 authorizes the central and the state governments to contract for works, goods, and services and requires the executive to protect the fundamental rights enshrined in the Constitution (particularly Article 14 - Right to equality before law and Article 19(1)(g) - Right to carry on a profession) which have implications for public procurement. The Constitution allocates some subjects to the Federal government, some to the states, and some concurrently to both. Procurement falls under the concurrent list.¹⁵

30. Public procurement has important links with PFM processes. GFRs at the federal and state levels define procedures relating to budget planning, execution, and accounting, and procurement is part of these rules. Work planning needs assessment and procurement planning are linked to upstream processes in PFM, for example, strategic budgeting (multiyear forecasting, strategic planning, investment planning, and debt planning); annual budget process; and appropriation of funds from budgets for identified requirements. These upstream PFM processes play a large part in facilitating achievement of final outcomes and VfM, since needs assessment and procurement planning are drivers of these metrics. Contract management in public procurement is dependent on downstream PFM processes like cash outflow management and payment of invoices. Such PFM processes therefore are strong drivers for timely execution and supplier relationship management. All public procurement processes including bidding and award processes are subject to the PFM oversight processes like internal control and monitoring, internal audit, accounting and reporting, external audit, and legislative analysis of audit reports. These PFM processes determine the point of balance between compliance and effectiveness in public procurement and the confidence of procuring executives in taking appropriate decisions.

31. The Union Budget of India, referred to as the annual financial statement in Article 112 of the Constitution of India, is the annual budget of the Republic of India, presented each year on the first working day of February by the Finance Minister of India in Parliament. The budget must be passed by the House before it can come into effect on April 1, the start of India's financial year. India is a fiscal federal country with the federal level and each state preparing its own development plans and budgets. States generate around 44 percent of their funding requirements and 35 percent of the remaining financing comes from the central government. The gap between government expenditure and receipts is financed through borrowing, which is subject to limits under the FRBM framework. Normally, the budget-making process starts in the third quarter of the financial year. Budget is made through a consultative process involving the MoF, NITI Aayog, and spending ministries. The MoF issues guidelines for spending based on which ministries present their demands. The Budget Division of the Department of Economic Affairs in the MoF is the nodal body responsible for producing the budget. Budgeting thus remains strictly annual without a multiyear perspective relating to expenditure commitments of various sectors. However, while the Medium Term Expenditure Framework (METF) mandates presentation of three-year rolling targets relating to major fiscal indicators such as revenue deficit, fiscal deficit, tax revenue, and outstanding liabilities as percentage of GDP, a detailed medium-term expenditure framework for various sectors is not worked out by projecting expenditure implications of programs undertaken for outward years.

32. Budget preparation and implementations are organized around budget heads. A bottom-up approach is used to prepare budgets within defined guidelines provided by the MoF at the federal level and the Finance Department (FD) at the state level. Each budget head prepares its budget and work plans estimating revenues, expenditures, and interest obligation for the following year and presenting actual expenditures of the past. Budget and work plans for each budget head consider existing contractual

¹⁵ Covered in Sr 7 'Contracts including...' in List III - Concurrent List, Seventh Schedule of the Constitution of India, though public procurement is not explicitly mentioned.

commitments not discharged. Federal and some states have public investment management guidelines to define investment priorities and which projects can be implemented within the fiscal envelope. For planning of works contracts, CPWD and state Public Works Departments (PWDs) have developed the PWD code which defines procedures for costing, accounting, and management of works. Once budget is approved, powers to implement budget are contained in the Delegation of Financial Powers and Rules (DFPR) at both federal and state levels. These powers are further redelegated to the operational level within the PE. Federal GFRs require budget heads to prepare and publish annual procurement plans (APPs) at the start of each year. States with laws have similar requirement to prepare procurement plans but older state GFRs which have not been updated do not have such requirements. The federal level has integrated a financial management information system that consolidates all budget heads and the situation is similar at the state level. PSUs and autonomous bodies have their own financial management information systems. Financial management information systems are presently not integrated and independent of e-procurement and contract management systems.

33. The budget is managed on a cash basis and there are effective commitment controls. There is a general government fiscal deficit which is expected to widen to about 7.5 percent of GDP in FY19/20, and further still in FY20/21 as a result of slow growth. The current account balance is expected to improve over FY19/20–FY20/21, reflecting mostly a sizeable contraction in imports and a large decline in oil prices.

34. There is no central or state legislation on public procurement, except for six states (Assam, Andhra Pradesh, Karnataka, Punjab, Rajasthan, and Tamil Nadu), which have enacted acts on ‘transparency in public procurement’.

35. The PPD, MoF, at the federal level and the FD at the state level have issued executive orders—policies, procedures, guidelines, and delegation of authority relating to procurement. Besides the MoF, other ministries such as the Ministry of Micro, Small, and Medium Enterprises, Ministry of Industry through Department of Industrial Policy and Promotion (DIPP), and Ministry of Communication and Information Technology; CPWD; and others such as the CVC also issue rules, procedures, directives, and orders. Accordingly, it may be said that the normative and regulatory functions of public procurement are fragmented and carried out by various bodies and agencies both at the federal and state levels.

36. The General Financial Rules 2017, developed by the MoF, govern public procurement at the federal level. These rules and orders are treated as executive instructions. The GFRs are a compendium of general provisions to be followed by offices when dealing with financial matters. The key principles in public procurement are efficiency, economy, transparency, fairness and equitable treatment of suppliers, and the promotion of competition. In principle, the GFRs only lay out the framework and principles of procurement to be adhered to; the procurement process is decentralized and the respective ministries, departments, and agencies are thus expected to expound the specifics of their individual processes in compliance with the general principles of the respective financial rules. The terms of any procurement contract will be governed by the provisions of the Indian Contract Act 1872; the Sale of Goods Act 1930 is applicable where the contract relates to the sale of goods which are applicable throughout the country.

37. The federal procurement framework incorporates two broad types of procurement purchase preferences. First is the ‘Make in India’ policy, which is a purchase preference for local suppliers who can demonstrate at least 50 percent local content (eligible supplier). Where the lowest evaluated bidder in a tender process is not an eligible supplier, an eligible supplier participating in the tender is given an opportunity to match the price of the lowest evaluated bidder provided his/her price is within a 20 percent margin of preference. The policy also provides a threshold (INR 2 billion) beyond which international (global)

procurement would normally be allowed. Global tenders would be allowed below the threshold with higher level approvals. The second type of preference is a purchase preference relating to micro, small, and medium enterprises (MSMEs), disadvantaged groups, and start-ups. 25% of the total procurement is reserved for MSMEs. This policy requires MSMEs to match the price of the lowest evaluated bidder provided they are within a defined margin of preference. MSMEs are also exempted from paying certain tender-related fees. In addition, 4% of the total procurement is reserved from the Micro and Small Enterprises (MSEs) led by Scheduled Caste and Scheduled Tribes. Further 3% of the total procurement is reserved from MSEs led by women entrepreneurs. Start-ups are also promoted through lowered qualification for certain types of tenders.

38. States have state GFRs which include procurement chapters to guide procurement and are mostly modelled in line with the federal GFRs. In some states, the GFRs were outdated and not inline with modern procurement practices. Six states—Assam, Andhra Pradesh, Karnataka, Punjab, Rajasthan, and Tamil Nadu—have enacted procurement laws. The key difference between states with and without laws is the institutional arrangements and tools available to carry out procurement. States with laws have established procurement facilitation cells (PFCs) to regulate procurement while for those without laws, regulation is done by the FD with no specific unit in charge. Similar to the federal level, organizations such as the PWD, DIPP, and State Vigilance Commissions also issue rules that have impact on procurement. States also have their own preference schemes modelled on the federal schemes, but some states adopt federal-level schemes as their own. While around 70 percent of states use the e-procurement system developed at the federal level, some states have their own e-procurement systems. In general, federal and state procurement systems are quite similar.

39. Use of e-procurement is mandated in federal and state rules. There are many e-procurement systems in use, but majority of federal agencies and states use the Government e-Procurement System of NIC (GePNIC), an e-procurement system provided by the Ministry of Electronics and Information Technology. PEs use e-procurement mainly for receipt of tenders and thereafter all processes are manual. However, all tender opportunities are advertised on the CPPP managed by the Ministry of Electronics and Information Technology and is a free access portal. Tenders published on various e-procurement systems are automatically published on the CPPP. The government has also developed GeM, an online catalogue for common goods and services. GeM is mandatory at the federal level and many states have also signed a memorandum of understanding (MoU) with the GeM special purpose vehicle (SPV) to use the platform for their own procurement.

40. In addition, there are a host of other acts and regulations¹⁶ that have an impact on public procurement which are applicable to both the federal level and the states.

41. **Public procurement during disasters.** Cataclysmic emergencies like earthquakes, cyclones, health pandemics, and so on highlight the pivotal role that public procurement plays in governance and service

¹⁶ Arbitration and Conciliation Act 1996 read with the Arbitration and Conciliation (Amendment) Act 2015 and 2019; Competition Act 2002 as amended with Competition (Amendment) Act 2007; the Information Technology Act 2000 (regarding e-procurement and e-auction, popularly called the Cyber Law); Right to Information (RTI) Act 2005 and amendment 2019; Central Vigilance Commission Act 2003; Delhi Special Police Establishment Act 1946 (Delhi Special Police Establishment [DSPE] Act - basis of the Central Bureau of Investigation [CBI]); Prevention of Corruption Act 1988 and amendment 2018; Code of Criminal Procedure, 1973 (Sections 195 (1) and 197 (1)); various labor laws applicable at the works' site; various building and safety acts, codes, and standards applicable in the context of the scope of work; various environmental and mining laws, codes, and standards applicable in the context of the scope of work; the Foreign Trade (Development and Regulation) Act 1992 and the Foreign Trade Policy (EXIM Policy) 2015; Foreign Exchange Management Act (FEMA) 1999; and FEMA (Current Account Transactions) Rules 2000. Procurement Policy for Micro and Small Enterprises 2012 has been notified by the government in exercise of the powers conferred in Section 11 of the Micro, Small, and Medium Enterprises Development (MSMED) Act 2006. Notifications issued by Department of Promotion of Industry and Internal Trade orders for Public Procurement (preference to Make in India) order 2017 - revised (25/09/2019) and so on.

delivery. It also highlights the need for special procurement guidelines for such times. There are enabling provisions (though not detailed coverage) for handling emergency procurements in the GFRs and state GFRs. Many initiatives have been taken under the provisions of the National Disaster Management Act (NDMA) 2005 and the Epidemic Diseases Act 1897. Many states have formed the State Disaster Management Authority (SDMA) in accordance with the Disaster Management Act (DMA) 2005. During the COVID-19 pandemic, both the center and states have issued orders and guidance related to public procurement. However, these orders have been fragmented and there is a need for the center and states to issue consolidated emergency procurement guidelines to cover dispensations from regular mandated procedure, increase in financial powers above the DFPR during emergency period, and monitoring and data sharing on prices and availability of supplies among the various key PEs. During COVID-19 Pandemic, when strict lockdown was imposed and manual procurement was not feasible, the Government leveraged GeM to procure personal protection equipment and other lifesaving goods and services.

Key Institutions and Their Roles in Operating the Procurement System, Including Its Controls

42. The public procurement institutional framework under which public procurement is carried out in India reflects the federal nature of the country and its complexity in terms of vastness of its territory and population.

43. **Normative and regulatory institutions for public procurement.** The PPD in the Department of Expenditure of the MoF is the normative and regulatory agency for public procurement at the central level. In states, the FD plays such a role. The state PWD is the controlling agency for preparation and regulating the state PWD code which regulates procurement of works. Governing boards in SOEs and other autonomous institutions perform normative and regulatory function but within the boundaries set by federal/state normative and regulatory bodies.

44. **Central Public Procurement Portal.** The Department of Expenditure has given the responsibility for setting up a CPPP to the NIC under the Ministry of Electronics and Information Technology. The CPPP is a single-point free-access portal for procurement made by various central public bodies that includes procurement information, tender opportunities, tender awards, and basic tender statistics. It is mandatory for all ministries/departments of the central government, CPSEs, and autonomous bodies to publish all their tender enquiries on the CPPP. Most of the states also use the CPPP for e-procurement (where they have a separate page), but a few have used other portals and some use both their own portal and the CPPP. E-procurement is mandatory in all states, but states have different thresholds above which publishing of tenders and use of e-procurement is mandatory.

45. **Government electronic marketplace.** The erstwhile Directorate General of Supplies and Disposal (DGS&D) was transformed into the digital e-commerce portal (GeM). Its purpose is to provide an end-to-end online e-marketplace for central and state governments' ministries and departments, central and state PSUs, autonomous institutions, and local bodies for procurement of common use goods and services. It provides tools for e-bidding, reverse e-auction, and demand aggregation to facilitate the government users to achieve the best value for their money. Many states have signed an MoU with GeM to use the platform for their own common use goods and services.

46. **Oversight institutions.** The following agencies act as oversight and enforcement agencies for public procurement as part of a much wider public procurement governance system:

- **Lokpal/Lokayukta - Anti-corruption ombudsman.** Lokpal and Lokayukta Act 2013 and its amendment in 2016 provide for Lokpal in the central (union) government and Lokayukta in the state governments as the statutory anti-corruption ombudsman to inquire into allegations of corruption against civil servants and for related matters. Lokpal may refer complaints for investigation by the CBI. For such cases, the CBI would work under the supervision of Lokpal. Lokayuktas have been appointed in 12 states and one UT.
- **Comptroller and Auditor General of India.** As provided by the Constitution, the CAG is an independent constitutional body for oversight of government accounts and utilization of government resources (at both the central level and state level) and submits its report annually to the Parliament or the concerned state legislature as appropriate. The Public Accounts Committee of the Parliament (and state legislature) conducts hearings and makes recommendations, including punishment to erring officials. The CAG conducts multiple types of audits, of which the performance audits are especially noted to cover procurement, but only with the perspective of identifying if any malpractice and frauds have occurred. Most of the SOEs are governed by the Companies Act, under which the audit is carried out by a commercial audit firm that certifies the accounts and balance sheet. CAG oversees the auditor and reviews audit report of SoE since they are majority owned by government.

Vigilance Institutions

47. **Central Vigilance Commission.** Under the Central Vigilance Commission Act 2003, the CVC is a statutory body headed by the Central Vigilance Commissioner and comprising not more than two commissioners. As far as procurement is concerned, there are two chief technical examiners (CTEs) dealing with civil works and other procurements. The CVC's jurisdiction is central (union) government entities. However, officers of central services, even if working in state governments, are also under its jurisdiction. Its roles include investigations of complaints; superintendence over the CBI relating to corruption cases; periodic reports to the Parliament; advice on quantum of punishments and sanction of prosecutions; and consultations in key appointments. All central (union) government entities appoint a chief vigilance officer (CVO) in consultation with the CVC.

48. **State Vigilance Bureau.** Most states have their own vigilance organizations, mostly as part of the police administration. These bureaus also carry out the police functions relating to corruption that are carried out by the CBI at the federal level.

49. **Central Bureau of Investigations.** Under the Delhi Special Police Establishment Act 1946, the CBI, a police organization under the Ministry of Home Affairs is the only oversight agency with police powers. It investigates and prosecutes corruption cases (including those related to public procurement) requiring arrest, seizure of properties, and enforcement of compliance from nongovernment agencies. Its jurisdiction is restricted to Delhi and UTs, but under sections 5 and 6 of the act, the central government can extend its powers and jurisdiction to a state with the consent of the government of that state, for investigation of specified offences (generally related to All India services or Members of Parliament). High Courts and Supreme Court can also order the CBI to investigate cases outside its normal jurisdiction for which no consent is required from the state.

Reforms at Central (Union) Government and State Levels

50. The World Bank carried out the Country Procurement Assessment from 2000 to 2002 covering the central government (and its agencies); three states (Tamil Nadu, Karnataka, and Uttar Pradesh, including state enterprises); and public sector enterprises (under the central government). It identified weaknesses in 13 areas of public procurement and made recommendation for improvements. While many recommendations have been substantially and partially implemented, few of the recommendations such as enactment of the procurement law, appeal mechanism, standard bidding documents (SBDs), training and capacity building, and maintenance of performance data remain to be fully addressed.

51. The central government formed a 'Committee on Public Procurement' (CoPP, popularly referred to as 'Dhall Committee', set up in 2011) to tackle corruption and improve transparency in public procurement. It recommended creation of a Department of Public Procurement in the MoF, establishment of the CPPP, and enactment of the 'Public Procurement Act'. As a result, the government created the Procurement Policy Division (instead of Department) and established the CPPP in 2012. The enactment of the Public Procurement Bill was taken up and an act was drafted in 2012 but could not be accomplished in 2012 and 2015, despite a lot of stakeholder consultations. Many of the inputs from such interactions have been incorporated in GFRs 2017. Procurement Manuals for Goods, Works, and Services (last issued in 2006) have been thoroughly revised in 2017 (Works Manual in 2019).

52. Each state has been carrying out procurement reforms over the years and vary from one state to the other. All the states have made it mandatory (above thresholds) to publish procurement notices and contract awards and procurement through the e-procurement portal. In the last five years, the states of Rajasthan, Assam, and Punjab have enacted respective state procurement acts and rules, based on the UNCITRAL model law.

53. As part of reforms, contracting models like engineering, procurement, and construction (EPC) and public-private partnership (PPP) are being encouraged and are used effectively by the federal level as well as states. In PPPs, Model Concession Agreements (MCAs) have been developed and amended to be more investor friendly at the federal level, and the same documents have been adopted and are being used by the states. Federal as well as state agencies are using the Hybrid Annuity Model (HAM) to reduce financial risk to the private concessionaires.

54. The government launched the GeM portal in 2016, to address the challenges of decentralized procurement of commonly used items and provide an end-to-end online e-marketplace for central and state governments' ministries and departments, central and state PSUs, autonomous institutions, and local bodies for procurement of common use goods and services.¹⁷ The procurement of goods and services by ministries or departments is mandatory for goods or services available on GeM.¹⁸ Many of the states have also signed MoUs and made it mandatory to use GeM for their own procurements.

55. Preferences and exemptions were introduced such as new policies supporting procurement from disadvantaged groups (scheduled castes/tribes [SC/ST] entrepreneurs) and MSMEs have been strengthened as part of the 2017 GFR revision. Following the outbreak of COVID-19, the 'Make in India' policy was further strengthened with the objective of achieving self-reliant India (Atmanirbhar Bharat) by introducing turnover criteria for classification of MSMEs and increasing the threshold for global (international tenders) to INR 2 billion (approximately US\$28 million), with provision of higher level approval for its use below the threshold.

¹⁷ <https://pib.gov.in/newsite/printrelease.aspx?relid=160965>

¹⁸ <https://tinyurl.com/urybovq>

Use of GeM, which was previously capped, was increased to allow the private sector to sell goods through GeM and for purchasers to procure other goods and services other than common use goods and services during COVID-19 pandemic. Policies relating to bid security, performance security, and payment terms have been issued to address financial stress faced by bidders as a result of the COVID-19 pandemic. In place of bid security, use of bid securing declaration was mandated and reduction in performance security from 10% to 3% of the contract was also mandated for the period up to 31st December 2021. A policy Sustainable (Green) Procurement' in Public Procurement is being developed in association with the United Nations Environment Programme (UNEP).

56. As a result of continued reforms in public procurement, the Benchmarking Public Procurement 2017 report ranked India around the middle of the table at 76 out of 180 countries, obtaining scores well above world average and neighborhood average. The government has improved the procurement framework after this 2017 report. No further benchmarking has been done.

C.REGULATION OF PUBLIC PROCUREMENT IN FEDERAL COUNTRIES

57. Five key recommendations made in the Country Procurement Assessment Report (CPAR) of 2002 and some included in the Dhall Committee report of 2011 have not been fully implemented. These were enactment of the procurement law, appeal mechanism, SBDs, training, and maintenance of performance data on procurement system. The assessment conducted a survey of how some of these aspects were regulated and managed in five other large federal countries. The survey findings show that each level of government (federal/state) has its own legal and regulatory framework independent of the other except in the Russian Federation, where the same law applies at all levels. Procurement laws/acts at federal and state levels with defined dedicated regulatory institutions at both levels were a common arrangement in the countries surveyed. Single-institution-regulated policies across various categories of procurement (goods, works, and services) were also a common arrangement. Some countries like Nigeria, federal level and states, have adopted similar legal framework based on the UNCITRAL model law and have similar staff qualification standard frameworks.

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Table 1: Legal and Regulatory Frameworks in Federal Countries

Regulatory Aspect	Countries				
	US	Australia	Russian Federation	Brazil	Nigeria
Federal law	✓	✓	✓	✓	✓
State law	✓	✓	✗	✓	✓
Dedicated federal regulatory body	✓	✓	✓	✓	✓
Dedicated state regulatory bodies	✓	✓	✗	✓	✓
Procurement as professional cadre/function and/or part of common qualification framework	✓	✓	✗	✗	✓

Note: ✗ = Predominantly not available; ✓ = Predominantly available.

59. Federal countries surveyed have instituted rules and institutional arrangements for complaints or appeals that are housed in regulatory or different bodies. In these countries, regulatory bodies are not involved in procurement management including decision-making. Some countries stipulate a standstill period for parties to complain before the award of contract. Complaints lodged and their determination are published in most countries. The arrangements in the five other countries surveyed are presented in Table 2.

Table 2: Complaint/Appeal Systems in Federal Countries

Complaint Level	Countries				
	US	Australia	Russian Federation	Brazil	Nigeria
Tier 1 - first level to complain or appeal	Contracting agency	Contracting authority	Contracting authority	Procurement Committee	Contracting authority
Second level to complain or appeal	Government accountability office	Accountable authorities different from contracting authority (Secretary of Department)	Antimonopoly authority	Procuring authority	Bureau of Procurement
Third level to complain or appeal	Courts - any time	Court - any time	Court - any time	Courts and supreme audit institution -any time	Court - any time

Note: a. Procuring entity and procuring authority are synonymous. Words are used as per the name in the respective legal framework.

60. Finally, with regard to recognition of procurement as a function and capacity development, the United States and Nigeria have recognized procurement and contracting as specialized functions and have defined a framework for qualification, recruitment, management, and authority of procurement/contracting officers. In Australia, a countrywide education standard for procurement and contracting officers has been adopted. Many countries reported that procuring entities/authorities have instituted procurement units or offices. However, in most countries, procurement is not recognized as a specialized function.

61. The assessment had a closer look at Australia, a federal country with common law jurisdiction like India. A summarized description of the system is presented in Box 1.

Box 1: Australia Procurement Management System

Australia is a federal common law system country with six states and two territories. Each state and territory have sovereignty over its public procurement. Six states and one territory have promulgated public procurement laws and instituted public procurement boards to oversee policy and implementation of procurement activities. Each state and territory has its own SBDs. At the commonwealth level, the FD is the procurement policy holder for commonwealth government departments and each state and territory has a dedicated central agency for procurement policy. States and territories have a mixed approach to implementation of procurement activities combining a centralized or center-led approach for common use items for whole of state government and a decentralized approach for other types of procurement activities. Each state and territory has established its own oversight arrangement including audits. The Government Procurement Judicial Review Act at the federal level governs the complaints/appeal systems and states and territories have similar arrangements. Complaints may first be made to the contracting entity and then to accountable authorities (Secretary of Department) who have standstill powers and to courts at any time in the process. There is an Australia-wide qualification framework education standard for procurement and contracting. A professional procurement cadre is under development.

D. NEED FOR STRENGTHENING PUBLIC PROCUREMENT SYSTEMS

62. India aims for a GDP of US\$7.5 trillion¹⁹ and poverty rate of 5 percent by FY2030 with an average growth of 8 percent. The overarching framework of the government implementation strategy to achieve its priorities is rationalization of public expenditure, improved fiscal management, and strengthening of enablers of growth. States have become important players in India's growth with their spending increasing from 45 percent to 60 percent from FY10/11 to FY16/17. The GoI supports competitive and cooperative federalism with states at the forefront of carrying out reforms; governance reforms focused on anticorruption, procurement, and regulation; and sector-specific reforms designed to enhance competition.

63. The World Bank Group Country Partnership Framework (2018–22) identified three main constraints to sustaining high growth rates and poverty reduction. Firstly, growth needs to be sustained in a more resource efficient manner, secondly growth needs to be inclusive, and thirdly the country will need to strengthen the effectiveness of the public sector, especially in delivering services and enabling the private sector to thrive and drive economic growth. With public procurement accounting for 18–20 percent of the GDP and state public expenditure rising to 60 percent overall, procurement is a critical lever in India's growth agenda at both the federal and state levels.

64. India rightfully aspires to remain among the world's fastest growing large economies in the coming decade and on a trajectory of fast poverty reduction and eventual eradication. Major progress has already been achieved, but there will be new challenges along the way, and public procurement will be central to meeting them.

- **India needs to invest more and better.** While consumption has sustained growth since the Global Financial Crisis, investment must rise to lift the production frontier in the economy. Specifically, public investment has a major role to play to create an enabling environment for the private sector and to crowd-in complementary private investment.
- **India needs to do more with less.** The COVID-19 shock has exacerbated pressures on fiscal resources. To make sure that the fiscal impulse remains strong, maximizing the value of each public rupee spent is critical. When citizens themselves feel the pinch, the social contract requires that public monies are handled with economy, efficiency, and transparency.
- **Capacity must rise at the state level.** Development expenditure now happens to a large extent at the subnational level. In India, states now account for over 50 percent of total public investment. Thus, it is imperative that public management capacity be upgraded not only at the federal level but at all other levels of government from states to municipalities.
- **Future growth must be sustainable.** Any sustainable growth scenario, by definition, will need to be green and resource efficient. New infrastructure needs to incorporate sustainability principles straight from the design stage through to procurement and contract execution.

65. **A strengthened public procurement system will be pivotal to stimulating economic growth and recovery, generating cost savings and creating synergies between innovation, market growth, inclusion, and protection of the environment.** This report lays out a vision and a plan for strengthening public procurement through building strong institutions and systems and skilled workforce, to enhance VfM and mitigate risks of waste and corruption.

¹⁹ India Country Partnership Framework FY18–22.

E. SYNTHESIS OF MAIN FINDINGS AND KEY RECOMMENDATIONS

66. As public procurement is a subject in the concurrent list of the Indian Constitution, the federal government and the states themselves have developed their own procurement framework and take follow-up action, independent of each other, though reforms at the federal level have an influence and are usually adopted by the states.

67. A federal-level report based on the federal-level framework has been prepared and submitted, taking results of federal-level procurement files and bidders' survey from six federal entities which have been collated and compiled in the federal indicator matrix and report. Also, the six identified federal agencies and the states that were evaluated as part of the assessment have developed their own procurement manuals suiting individual unique situations. Desk research, stakeholders' interaction, and data analysis have been carried out separately for six selected federal agencies and the states. Therefore, separate reports have been prepared and submitted to these six agencies and five states. Most findings at federal and state levels are common. Only the country executive summary report is being published

68. Overall, India has a moderately well-functioning public procurement system with islands of excellence and high standard of strategic procurement being achieved by individual entities at both the federal and state levels. Key strengths of the system(s) include (i) large volume of procurement of strategic importance (ii) presence of normative rules to guide procurement (iii) legal framework dealing with corruption, anti-competition, vigilance and MSMEs (iv) extensive use of information technology (e-gp systems) in conducting procurement (v) progressive reforms in contract delivery systems including use of PPPs (vi) central public procurement information repository portal with free public access and (vii) code of conduct for government officials among others. The performance of the CPSEs/specialized agencies is overall better, having more efficient, business-like, and sophisticated procedures and having quality and competent professionals handling procurement and contract management. However, there are potential areas for improvement in the system. Key gaps this study are relating to inadequacies in institutional framework and management capacity, professionalization of procurement function, implementing documentations, leveraging of e-procurement and technology, strategic approaches to procurement, contract management, balancing of internal controls in relation to speed and efficiency, supplier and market support, oversight functions, and sustainable procurement approaches.

69. Key findings and recommendations have been grouped by pillars as per the MAPS assessment framework. Lead agencies for implementation of these recommendations are the PPD at the federal level and the FD or PFCs, as the case may be, at the state level. These lead agencies will collaborate with other key agencies and stakeholders. These findings are further detailed in the following section.

Pillar I: Legal, Regulatory, and Policy Framework

A1 Legal, Regulatory, and Policy Framework

Findings

- GFRs/state GFRs are the fountainhead of regulatory and policy frameworks for public procurement. GFRs provide a framework within which federal/state organizations manage their businesses in a financially prudent manner without compromising their flexibility to deal with varied situations. The federal and state GFRs are a compendium of general provisions to be followed by officers and only lay out the framework and principles of procurement to be adhered to.
- GFRs are a mix of policy and procedures without clear distinction between the two. In addition to GFRs, 'Make in India' policies issued by DIPP and MSME procurement policies issued by the Ministry of Micro, Small, and Medium Enterprises provide preferential treatment policies relating to purchase of goods and works and MSMEs. States have formulated their own MSME preference frameworks.
- Federal and state agencies and departments are required to supplement GFRs with their own manuals. States/many PEs either do not have any comprehensive manuals or have outdated manuals. The different manuals prepared at the state/PE level often do not have reference to GFRs and there is no recorded hierarchy in the manuals in case of differences. Manuals at most federal agencies and states do not include provisions for selection of consultancy services. In practice, however, agencies assessed indicated that their procurements were carried out in line with the spirit of their respective GFRs.
- The focus of GFRs is public finances and they devote only few chapters to procurement, which does not do full justice to the large volume, complexity, and vast framework of public procurement. The procurement process is decentralized, and the respective ministries, departments, and agencies are thus expected to expound the specifics of their individual processes in compliance with the general principles of the respective financial rule, leading to multiplicity of rules, procedures, and directives/orders. Most central agencies and states assessed have prepared rules, but these were found to be outdated and incomplete. This situation leads to multiple frameworks governing public procurement at both federal and state levels.
- There is no public procurement law at the federal level in India. The World Bank's CPAR 2003 and Dhali Committee (CoPP 2011) and many other studies had recommended enactment of such a law. The GoI had conducted wide-ranging consultations to draft such a law in 2012 and 2015, and it was decided that a statute is not necessary and reforms would be done through rules.

Recommendations

- A1.1. Strengthen regulatory system of public procurement, considering the relative value of procurement to GDP and its critical importance to country development. Many recommendations in this report would also require strong governing framework for public procurement
- A1.2. Expand procurement portions of GFRs/state GFRs and separately issue as 'Public Procurement Rules' (PPR) as executive instructions, to accord it a status and authority like GFRs. This should include all amendments suggested in the respective reports. Stand-alone PPR should be accorded enough hierarchy to supersede manuals published at the sectoral and organization levels on matters relating to procurement policy and mandatory procedures. Sectoral- and organizational-level manuals should be limited to procurement-related technical matters, contract management, and standard operating procedures. This may be an enabling stage for further procurement reforms.
- A1.3. Update the available manuals to incorporate recommendations of this assessment.

A2. Procurement Documentation

Findings

- There are no standard/model bidding documents²⁰ for goods, works, services, and consultancy at the federal level nor at the state levels. As procurement is decentralized, most PEs use their own bidding documents with varying standards. This causes confusion and lack of uniformity, fragments the procurement markets, and adversely affects competition. Even at the PEs where there are some bidding documents, these need to be updated and made self-contained. SBDs for consultancy and services are rare.

Recommendations

- A2.1. Develop/update common family of self-contained SBDs (including General Conditions of Contract [GCC]) for all categories of procurement in conformity with the procurement framework. In addition, develop SBDs for innovative and new contracting models or standardize the ones developed by specialized agencies, as this would bring about a standardization across the governments. Make these bid documents e-procurement enabled (e-bidding documents) which may be prepared online through a set of predefined parameters and transmit all data entry by bidders to the form-based system. Consider preparing a common suite of SBDs for federal and state levels that may be customized at each level to suit a specific legal framework which would greatly enhance the level of understanding by the private sector.
- A2.2. Make mandatory the use of SBDs developed and issued by normative/regulatory body at the federal and state levels for all entities. Otherwise, there is a penchant to tailor the documents by each PE, which introduces ambiguities and contradictions and thereby destroys the purpose of the standardization.

A3. Registration

Findings

- While registration of contractors is a sine qua non (an essential condition) for participation in tenders, there is no federal or state registration or database on contractors. Registration has to be done with each PE separately, which is a serious impediment to 'ease of doing business'. Contractor credentials are not available online, leading to delays in verification. This requires a review since registration may take a long time (for example, six months).
- Registration done at each implementing agency has differing requirements and objectives, and there is no uniform identification of registrants that may be used to track their performance or implementation of horizontal objectives.

Recommendations

- A3.1 Amend GFRs/state GFRs and CPWD/PWD Code to clarify difference between registration, empanelment (maintaining a list of classified firms based on their experience usually required in case of limited tenders), and prequalification. Registration should only be done to establish genuine identification for e-procurement portals, preferential procurement, and so on. Empanelment should be done for rudimentary establishment of capability for limited tendering panels. Wherever the nature of requirement dictates competition among prequalified bidders, prequalification may be done with open bidding in the prequalification bidding stage. If there are frequent works of such nature, prequalification may be done through open process with extended validity of short list, for example, one or two years. Otherwise, in open bidding, there should be no restriction of prior registration. Entities may provide for registration after selection in unrestricted open bidding.
- A3.2 Develop a unified online registration database at the federal and state levels to minimize transaction costs for bidders and to promote integrity of bidder credentials. Mandate contract awards and completion certificates to be uploaded to update credentials of contractors. E-procurement systems should access such credentials automatically from such databases. Such databases may include identifiers for specific sector and interest groups such as MSMEs and enterprises owned by identified disadvantaged sections (SC/ST, women, and minorities) which would help monitor horizontal policies.

²⁰ Except for a few entities like Ministry of Railways and PSUs

A4. Sustainable Public Procurement

Findings

- Without an overarching sustainable public procurement (SPP) policy, procurement of sustainable products, works, and services cannot be institutionalized to meet various Sustainable Development Goals²¹ (SDGs).
- There is no in-depth assessment of the SPP policy nor are any systems or tools in place to facilitate, implement, and monitor the SPP in a balanced manner.
- SPP criteria, for example, life-cycle cost, and clauses on environmental, social, health, or safety aspects are not incorporated in most of the bid documents and contract documents.
- Award criteria are focused on price.

Recommendations

A 4.1 Develop the SPP policy or strategy (that is, economic, environmental, and social criteria) at national and state levels in line with broader national environmental and social objectives. The strategy shall include a National Action Plan for implementation of SPP. It shall include

- (a) Institutional mechanism: A nominated body to manage sustainability criteria for products and monitor implementation and performance of policy;
- (b) Technical aspects: A list of prioritized products and specifications/verification mechanism;
- (c) Procedural aspects: Threshold values and procedures for integration of sustainability at every stage of the procurement cycle; mandate for inclusion of sustainability and its evaluation criteria in SBDs;
- (d) Tools for implementation: Online tools for life-cycle costing methodologies; scoring/evaluation methodologies; scorecards for measuring performance of vendors and entities; and
- (e) Capacity building: Training and capacity building in SPP.

²¹ The 2030 Agenda for Sustainable Development adopted by all United Nations members in 2015. <https://sustainabledevelopment.un.org/?menu=1300>.

Pillar II: Institutional Framework and Management Capacity

B1. Institutional Framework - Normative/Regulatory Body and Its Role
Findings
<ul style="list-style-type: none"> Normative and regulatory functions of public procurement are fragmented and carried out by various bodies and agencies at both federal and state levels. Several bodies issue direction and procedural guidance related to public procurement. There is also no explicit mechanism to coordinate their activities or smoothen any overlapping activities toward a common goal. This results in multiplicity of instructions and guidance to public officials and uncoordinated efforts. This could lead to inconsistencies, higher transaction costs, and lack of uniform predictable authority. The PPD at the federal level and the state FD are the normative/ regulatory body for public procurement. However, few states have dedicated offices/units to regulate public procurement. The PPD/FD are mandated with management and interpretation of Financial Rules. The PPD/FD's scope and functionality as a normative and regulatory body in public procurement are limited. This limitation has cascading impact on overall efficacy of procurement framework and resulted in many substantive gaps found as part of the assessment. There is no explicit separation of regulatory and procurement operational functions. Policies relating to works are substantially left to the CPWD/state PWD. However, assignment of the works component of policies to the CPWD/state PWD is not explicitly stated in legal and regulatory framework. It was found that absence of explicit assignment of nodal functions is causing a disjointed approach in goods, works, and consultancy—with consultancy and services being neglected and to some extent goods in works- oriented PEs. The range of normative/regulatory functions expected of a good procurement system is not being carried out. Presently, the PPD/state FD, its internal organization, and staffing are not commensurate and adequate for the role of a normative and regulatory body. Implementation and monitoring of reforms and implementation are weak. This would require strong institutional mechanism to drive policies, monitor performance, and coordinate within states and with other external organizations and the private sector. The PPD and regulatory units at the state level are not adequately situated in terms of hierarchy and capacity to perform regulatory functions.
Recommendations
<p>B1.1. Assign to the PPD/create a unit akin to the PPD at the state level as a custodian of public procurement²² and carry out the exclusive role (mutadis mutandis in PEs) of a normative/regulatory body for public procurement and assign requisite functions (including those missing at present) and powers to ensure an integrated and coordinated legal, regulatory, and policy framework covering goods, works, consultancy, and services. All other agencies issuing orders/good practices and so on should be routed through the normative/regulatory body only. The PPD/state units should be the nodal agency coordinating activities and smoothen any overlapping efforts of such agencies toward a common goal. Explicitly apportion assignment of normative/regulatory functions for works between agencies with guiding rules for procurement of works being the responsibility of the normative body.</p> <p>B1.2. Recognize procurement as a strategic function, considering the large volume of procurement being undertaken and the substantial/large savings it could generate. For this, it is critical to create dedicated units headed by senior officials exclusively looking after only these functions and with matching supportive staff for them to discharge full normative/regulatory functions effectively.</p> <p>B1.3. To implement and monitor suggested reforms, the central government and states should consider establishing broad-based committee/forum to comprise key stakeholders within and outside the government to include oversight bodies and the private sector to spearhead implementation of procurement reforms.</p>

²² Recommended a normative/regulatory body with the following functions: (a) providing advice to procuring entities; (b) drafting procurement policies; (c) proposing changes/drafting amendments to the legal and regulatory framework; (d) monitoring public procurement; (e) providing procurement information; (f) managing statistical databases; (g) preparing reports on procurement to other parts of government; (h) developing and supporting implementation of initiatives for improvements of the public procurement system; (i) providing tools and documents, including integrity training programs, to support training and capacity development of the staff responsible for implementing procurement; (j) supporting the professionalization of the procurement function (for example, development of role descriptions, competency profiles, and accreditation and certification schemes for the profession); (k) designing and managing centralized online platforms and other e-procurement systems, as appropriate; and (l) coordinating with other federal/state organizations and external bodies on matters relating to procurement and harmonizing procurement policies, procedures, and documentation.

B2. Professionalizing Procurement Function and Training and Capacity Development

Findings

- Importance of procurement skills has received some and varying attention at the central/state levels. It is not yet recognized as a specialized function and very few PEs have a designated, specialized procurement function. There are no standards or qualification framework for one to perform procurement functions. Recognizing procurement as a specialized function and establishing a qualification framework are important for promotion of excellence, ethics, and capacity building.
- Indian Railways has an established stores service cadre for procurement of goods which has been a source of expertise within India and across the world. Indian Railways is undergoing reforms which will include merging of stores with other services to form an Indian Railways management services which will be responsible for procurement and contracting of goods, works, and services. This reform is expected to strengthen professionalization of procurement function
- Federal/states have their own training institutes, but training in public procurement for executives, external stakeholders, oversight agencies, and civil society is nonexistent/inadequate. Training in public procurement conducted is not adequate considering the variety of courses, coverage of target audience, methodology and delivery mechanism, and availability of trained faculty and training infrastructure. Training for sensitization about ethics and integrity in public procurement requires to be increased in frequency and coverage (including civil society and the private sector). Training for capacity building of the private sector to participate in public procurement needs to be increased.

Recommendations

- B2.1. Conduct a targeted systematic Training Needs Assessment (TNA) to develop a training strategy to plug the identified gaps in skills. Cover all executives, the private sector, external stakeholders, oversight agencies, and civil society in the training programs, including integrity sensitization training. Determine volume and variety of trainings required.
- B2.2. Develop a training strategy to meet the large requirements and satisfy the assessed training needs. Ascertain and arrange required training infrastructure and faculty based on this TNA. Since numbers involved are too large for face-to-face training, online delivery and e-learning should be used. Eventually, certain training and certification should be made mandatory for all staff involved in procurement.
- B2.3. As a significant portion of procurement relates to works, priority training needs to focus on works procurement and contract management.
- B2.4. In the short term, depending on the volume and criticality of procurements in a PE, designate specialized procurement function in high-procurement organizations, so that procurement skills may be developed and retained.
- B2.5. In the long term, designate procurement as a specialized function and establish a qualification framework for public procurement for professionalization of the procurement function (for example, development of role descriptions, competency profiles, and accreditation and certification schemes for the profession). Link competency and accreditation to specific levels of job requirements.
- B2.6. For the long term, PPD/state regulatory bodies should take the lead in discussions, coordinate with curriculum setting agencies/institutions/universities, include in curriculum topics on public procurement and contract management with credits in technical/management institutions/universities, and encourage research in public procurement through fellowships.

B3. Extending Coverage of IT	
Findings	
•	E-procurement is extensively used in public procurement and is mandated in federal/state GFRs. There is a central free portal for publication of procurement information from all federal, state, and other portals. A total of 49,059 firms were registered as bidders on the portal, of which 1,104 were registered as MSMEs in FY19/20.
•	Most of the e-procurement systems are limited to e-tendering by design and use with most of the processes carried out manually outside the systems. The scope of the e-procurement portal (CPPP) needs to be extended to include procurement plans, appeal lodged, and results, post award contract implementation (amendments, payments, dispute resolution). The e-procurement portal needs to be interfaced with other relevant stand-alone systems such as the Integrated Financial Management System (IFMS). The practice of requiring submission of hard copies of earnest money deposit (EMD) and so on manually when e-procurement was used was observed.
•	Provisions for publishing/uploading procurement plans, technical evaluation results, and award of contracts are the bedrock of transparency in procurement but are not being adequately complied with.
•	There is no Procurement Management Information System (PMIS) to electronically manage and monitor various procurement processes and decision-making, which are currently carried out offline ²³ .
•	Federal government established government e-market place (GeM) in 2016 for procurement of common goods and services. GeM provides an online catalogue system where buyers provide goods and services and purchasers may purchase through a variety of methods. GeM has also enabled government to track the participation of MSMEs and start-ups. During COVID-19 Pandemic, Government leveraged GeM to procure goods and services beyond common goods and services. Not all states have signed MoU with GeM and they do not have similar online whole of government approach to procurement of common use goods and services. In addition, the supplier base for GeM needs to be broadened to state level suppliers and a more formalized arrangement need to be established for states to have similar whole of state approach for common use goods and services
Recommendations	
B3.1.	Enforce uploading of the procurement plans, technical evaluation summary, and contract award summary by linking it with release of EMD (bid security) and funds in IFMS.
B3.2.	Amend GFRs to make it mandatory to use e-procurement beyond receipt of tenders to include procurement planning, online EMDs, bidding document preparation, bid preparation and submission (form based), bid evaluation and approval, electronic contract awarding and signing, contract management, and payment. Update e-procurement systems to eliminate manual submissions and to cater for these functions and enable online financial transactions by link with payment gateways, IFMS, and banks. All activities including direct contracting and shopping should be brought online
B3.3.	Develop a common PMIS interfaced with related electronic platforms like e-procurement and IFMS to manage and monitor various procurement processes and decision-making, which are presently carried out offline.
B3.4.	Broaden the supplier base on GeM to state level local suppliers and mandate use of GeM or similar arrangements for common use goods and services at state level.

²³ There have been some efforts in this direction e.g. in Power Grid, SRM portal of the ERP system is used in addition to the e-portal enabling online generation and management of contracts through ERP.

B4. Leveraging Databases for Efficiency	
Findings	
<ul style="list-style-type: none"> • Delays in execution, inspection, and quality control and payments were observed in review of procurement cases, bidders' survey, and discussions with stakeholders. Big data available in eProcurement is not being leveraged to <ul style="list-style-type: none"> (a) Measure and monitor procurement and contract execution processes. (b) Establish key performance indicators (KPIs) to measure procurement performance or any strategic plans, including results frameworks, to improve the system based on such KPIs; and (c) Identify risks associated with certain sectors and opportunities to influence sector markets and risk mitigation opportunities to influence participants of specific sectors . 	
<ul style="list-style-type: none"> • Information published on the e-procurement portal has limited amenability to big data analysis since it is neither fully machine readable nor is it classified/structured in the absence of taxonomy of subject matter on procurement. 	
Recommendations	
B4.1. Analyze and leverage big data available in e-procurement to:	
(a) Establish an online system of monitoring procurement performance including bid and award process, contract management, and payment to ensure timely award, execution, payments, contract amendments, quality assurance, and so on. Ensure funds availability by system of commitment control.	
(b) Develop KPIs to benchmark these performances. Commit with PEs a Result Framework Document (RFD) for improvement based on KPIs on procurement performance including contract management.	
(c) Through big data analytics, identify key sectors/categories/entities. This would enable <ul style="list-style-type: none"> • Monitoring procurement performance and identifying risk and mitigation measures for key sectors, for example, designing policy responses and • In key sectors where there is lack of bidders, developing new bidders in association with supply-side department—MSME and Industries and Commerce. 	
B4.2. Adopt a unified taxonomy (procurement vocabulary) of procurement requirements to enable big-data analysis.	

Pillar III: Procurement Operations and Market Practices

C1. Needs Assessment and Procurement Planning
Findings
<ul style="list-style-type: none"> • There is no strategic approach to procurement based on needs analysis, market research and procurement planning to maximize VfM, competition, and mitigating cartels. As a result, tender failures are high with many cancellations due to ‘nil’ bids. Training needs in this area have not been addressed. • Procurement planning is part of such a strategic approach in procurement. APPs are not usually prepared and disclosed/published though required in respective GFRs. Guidelines on multiyear procurement and budget planning are not adequate.
Recommendations
C1.1. Develop and implement a formal approach for strategizing procurement including needs assessment, market research, and procurement planning to identify optimal procurement strategies—alternative methods of satisfaction of requirements, slicing/packaging, VfM, competition, mitigating cartels, SPP approaches, and so on. Link these to administrative and financial approvals for initiating procurement and mandatory for large-value procurements.
C1.2. Ensure APPs are prepared and disclosed by the PEs. Make this online and integrate it with the eProcurement portal. Thereafter, enable multiyear plans as the rolling action plans and link with the budget execution, commitment control, and spend management. Align multiyear APPs with the strategic plans or the state development plans. Enforce publishing of procurement plans—link with funds release in IFMS.
C1.3. Build capacity of staff to develop and undertake such a strategic approach to procurement as well as in management of contracts.
C2. Improving Efficiency of Award Process and Contract Execution
Findings
<ul style="list-style-type: none"> • Based on the CPPP for FY15/16–FY19/20, average time from invitation to bid to award of contract was 100 days for open tenders and 132 days for single tenders. Average time for bidders to prepare their bids was less than 30 days. The time to award a contract has significantly reduced compared to 180 days reported in the 2002 CPAR. However, there is still scope for improvement as demonstrated by Ministry of Railways who take on average 64 days to award a contract. Multiple factors are responsible for delays in contract award including <ul style="list-style-type: none"> ○ Lack of competition with nil bids or single bids, with single bids taking longer to adjudicate. ○ Excessive use of two-envelope system as default in many entities. ○ 30 percent of tenders of procurements cancelled for various reasons and retendered. ○ 42 percent of award information of completed procurement presently being uploaded and published. ○ 60 percent of bid openings delayed by, on average, nine days, which has implications not only for efficiency but also for the integrity of the process: and ○ Considerably long time taken for evaluation and award. • Delays in contract execution: From the sample procurement file reviewed, it was noted that 73 percent of contracts had time overruns with average time of 306 days and problem of delays in execution is evident. • As seen from various procurement reviews, the internal control mechanism in many cases involves repeated approvals from the FD and higher officers, which ensures risk mitigation but does not ensure timely and efficient decision-making. • Delegation of financial powers are being reviewed periodically and updated in most PEs. Some PEs have delegated enough powers to the middle management level where most of the procurement decisions are taken. However, in other PEs, concentration of financial and administrative powers at senior levels not directly involved in procurement operations needs to be rationalized. This leads to recursive movement of files for repeated financial and technical approvals, overburdening of higher levels, and delays in and quality of scrutiny of procurement decisions. Decision-making authority requires to be further delegated to the operational levels consistent with risks assessment in various categories of procurement and various phases of the procurement cycle.

- **Delays in payments:** Government of India has stipulated payment of interest on the delayed payments in case of procurements from Government e-Marketplace (GeM); and MSME Development Act, 2006 has provision of interest on the delayed payments to Micro, Small & Medium Enterprises (MSMEs). Generally, the payment terms including the period were part of the contract documents except for a few exceptions where they were missing. From the sample procurement file review, it was noted that 82 percent of invoices were paid within the period indicated in the contracts. This may be a reflection of the prevailing practice of allowing invoices to be generated only when payments can be made. About 40 percent of bidders from the survey indicated that payments were not made on time.
- **Dispute resolution and enforcing contracts:** There are Dispute Resolution Committees (DRCs) or Dispute Resolution Boards (DRBs) in some contracts, but a large proportion of contracts end up in arbitration and legal resolution. Even arbitration is a dilatory process though specific data are not available. It takes on average 2,508 days (seven years) to resolve disputes through courts as per the NITI Aayog study in 2016. There is a large stock of disputes and claims in the road sector, which is unsustainable. As per the World Bank's Doing Business Report 2020, though India has a better ranking of 63 (in 190 countries), its score in 'Enforcing Contracts' is among the bottom at 163 with average days of 1,445 and cost of process being 31 percent of claim value. Thus, problem in dispute resolution and contract enforcement is evident. Recent amendments in Arbitration Act would take time to show results.

Recommendations

To tackle delays in award of contract process and contract execution

- C2.1. Assess risks related to each procurement process. Simplify and streamline internal control mechanisms and approvals in various procurement processes based on assessed risks. Ensure balance between risk mitigation and timely and efficient decision-making—without involving too many levels of hierarchy and too many stages of considerations. This may, among others, address situations, for example, abnormally low bids and lack of competition or single bid.
- C2.2. Review delegation of powers to operational levels consistent with risk assessment in various categories of procurement and various phases of the procurement cycle, to speed up the decision process by avoiding too many financial and technical approvals at the higher level—which take time.
- C2.3. Government of India has already stipulated payment of interest on the delayed payments in case of procurements from Government e-Marketplace (GeM). This is in addition to the provision of interest on the delayed payments to Micro, Small & Medium Enterprises (MSMEs) under MSME Development Act, 2006. For other cases, amend GFRs/state GFRs and update SBDs (and GCC) to lay down maximum timelines for payments, and provide for payment of interest if payments are delayed beyond contractual provisions. Develop guidance on timely payments for goods, works, and services. Develop a system to monitor and ensure that eligible payments are processed within the stipulated period provisioned in the contract agreement. Improving efficiency of procurement processes would ease this problem.
- C2.4. Amend GFRs/state GFRs, CPWD/PWD codes, and model SBDs to include dispute adjudication/resolution mechanism (mandatory for high-value contracts); introduce a provision of part payment of claim awarded by DRBs while appealing against the award. Set up control and monitoring mechanism to reduce unwarranted litigations and delays thereof.
- C2.5. Constitute project mode dispute resolution panels in the road sector at the central level to resolve outstanding claims and disputes. Promote the use of alternative dispute resolution systems in large-value civil works contracts.

C3. Encouraging Participation and Competition

Findings

- On average, around 200,000 tenders have been floated on the CPPP every year for the last three years. About 45 percent of tenders by numbers relate to goods and 40 percent to works. But by value, works account for around 60 percent. In some states, works contracts make up 80 percent of the value of tenders awarded annually. Competition is more than six bidders for goods and medium works contracts but for large-value works contracts competition is three bidders or less per tender.
- Due to the need for ensuring competition among only qualified bidders, in works, many organizations restrict participation in so-called open bidding to prior empaneled bidders (for example, up to INR 300 million). This requires a review since registration may take a long time (for example, six months).
- Besides engagement by supply-side ministries, industry is being engaged directly by PEs while taking up major policy decisions and introduction of new contracting models (for example, finalization of bid documents for new contracting models such as the EPC and HAM by the MoRTH and Ministry of Jal Shakti). In addition, industry associations like the CII and FICCI are given grants by the government to regularly conduct workshops with their members and provide feedback to the government. However, in the survey, bidders' perception of openness and effectiveness of engagement with the private sector was not overwhelming. A significant number of bidders responded that 'unethical practices are resorted to' in most PEs. There is no overwhelming favorable response in the bidder survey that anti-corruption measures are effective.
- High use of bid securities in tender submissions which holds up significant funds from bidders with multiple bid submissions and considering it takes 100 days to complete tender process and return the security. Use of paper bid securities requiring bidders to submit hard copies separately when e-procurement system is used, which brings inefficiencies and transparency concerns to online bid submission.

Recommendations

- C3.1 Institutionalize regular engagement with the private sector in procurement policy making. Involve supply-side ministries to address their concerns raised during such interactions. Campaign for bidder community's awareness and commitment to ethics and internal controls in this regard.
- C3.2 Rationalize the use of bid securities to high-value and international tenders and encourage use of non-monetary security instruments such as bid securing declaration (as available in GoI Manuals), which would eliminate the need for separate submission of paper securities when e-procurement is used. Engage with commercial banks linking them to the e-procurement system for issuance of electronic bid security, when required.
- C3.2 Institutionalize data analytics using e-procurement data to identify competition and supply risks in specific sectors.

Pillar IV: Accountability, Integrity, and Transparency

D1. Involvement of Civil Society and External Stakeholders

Findings

- There are some instances of participation of civil society in different phases of procurement. At the federal/state levels, there are citizen charters allowing feedback and queries. The RTI Act also gives an important window to civil society—this has been used to expose many instances of corruption in procurement. However, there is no explicit provision for involvement of external stakeholders or civil society in various phases of the procurement cycle. There is no explicit policy for access and use of online procurement data for civil society, for example, for research or academic purposes. These can play a supplementary but important role in ensuring procurement objectives—VfM, transparency, fairness, and good governance.

Recommendations

- D1.1. Institutionalize, where relevant, participation of external stakeholders and civil society for consultation, observation, and monitoring in various phases of public procurement (planning phase, bid/proposal opening, evaluation and contract award, contract implementation) and for research.
- D1.2. Provide guidance on the involvement of civil society and external stakeholders to mitigate possible risks.
- D1.3. Develop and/or update appropriate policies for access and use of online procurement data for research by academia and research organizations.

D2. Accountability and Oversight

Findings

- Function of the CAG is a broader mandate as a supreme audit institution, and its focus is not exclusively on specialized procurement audits or procurement performance audit. Procurement audits, among others, are incidental to a larger audit plan and are specially covered and get reflected in the reports of performance audit. Integrated Finance Departments and Financial Adviser and Chief Accounts Officers (FA&CAOs) in the GoI exercise concurrent and external audit functions—which include, among others, control and audit of procurement decisions. However, there is no system of specialized procurement audits and procurement performance audits by external or internal audit agencies.

Recommendations

- D2.1. Strengthen and augment internal audit mechanism to include specialized procurement audits as well as procurement performance audit and publish reports alongside financial audits.

D3. Appeal Mechanism

Findings

- While an appeal mechanism with first level of appeal to an authority higher than procuring officer within the PE is available in most PEs, a second-level independent appeal mechanism (for those complainants not satisfied with the results of the first-level appeal) is missing. A third layer of appeal to judicial/arbitration channel is already existing. Appeals and their results are not published. Bidders are of the opinion that the system of appeal is not trustworthy and agree that the appeals decisions are not consistent. Appeals mechanism is not embedded in bidding documents to be legally binding.

Recommendations

- D3.1. Amend GFRs and update SBDs to include a comprehensive appeal mechanism with first level of appeal to an authority higher than procuring officer within the PE. This could be on lines analogous to Independent External Monitor (IEM) appointments in the Integrity Pact. Appeals and decisions should be published on the CPPP/e-procurement portals.
- D3.2. Develop/create independent appeal authorities at federal and state levels with powers to halt procurement and provide enforceable relief.

D4. Data-driven Approach to Corruption Risks and Mitigation

Findings

- No specific procurement-related corruption data are maintained or published by vigilance departments or the PEs, to assess trends, risks, and mitigation in corruption in procurement at various stages of the procurement cycle. There is no formal mechanism of coordination among the oversight agencies to rationalize mandates/overlaps, share risk assessment, and reduce recursive reviews by different oversight agencies.
- Debarment/blacklisting is a dilatory process with each PE or department carrying out its own debarment/blacklisting. There is no public information on debarred/backlisted firms. Bidders blacklisted by one agency are still awarded contracts by other government agencies.

Recommendations

D4.1. Maintain and publish specific data related to corruption in public procurement, so that risks, mitigation, and trends in corruption in procurement could be identified for various stages of the procurement cycle. Institutionalize a mechanism for coordination among the various oversight agencies to rationalize mandates/overlaps, share risk assessment, and reduce recursive reviews by different oversight agencies.

D4.2. Publish a list of debarred firms, reasons for debarment, and period of debarment at one centralized repository at federal and state levels.

F. PRIORITIZATION OF KEY RECOMMENDATIONS

70. Prioritization of key recommendations was based on their perceived impacts on procurement objectives, complexity of the reform area, financial resources required, and time to carry out the proposed reforms. Based on the team assessment and discussion with the government, the various recommendations were prioritized as shown in Table 3.

Table 3. Recommendation Prioritization Matrix

MAPS II pillar-wise key recommendation(s) and their impact on efficacy of public procurement system						
Impact Level	Major	Substantial	Moderate	Nominal		
	4	3	2	1		
	Efficiency and effectiveness	Competition and VfM	Good governance	Horizontal objectives	Overall	Time frame
Pillar I: Legal, Regulatory, and Policy Framework					Average ²⁴	
A1. Prepare and issue stand-alone procurement rules	4	4	4	4	4	Short ²⁵
A2. Develop a unified online registration database of suppliers at federal and state levels	3	4	3	3	3	Long
A3. Develop universal pool of standard/ model procurement documents	4	4	3	3	4	Short
A4. Adopt sustainable public procurement	2	2	3	4	3	Long ²⁶
Pillar II: Institutional Framework and Management Capacity						
B1. Strengthen regulatory role of PPD/FDs	4	4	4	4	4	Short
B2. Professionalization and capacity development	4	4	4	3	4	Long
B3. Expand e-GP platform to complete procurement cycle	4	3	4	3	4	Short to Long
B3- Mandate and strengthen the use of GeM or similar arrangements at state level	4	4	3	4	4	Short
B4. Use procurement analytics for decision support	4	2	4	3	3	Short

²⁴ Rounded off to zero digit. Exact 0.5, rounded to next digit.

²⁵ Short-term (within 18 months).

²⁶ Long-term (beyond 18 months).

Impact Level	Major	Substantial	Moderate	Nominal	Overall	Time frame
	4	3	2	1		
	Efficiency and effectiveness	Competition and VfM	Good governance	Horizontal objectives		
Pillar III: Procurement Operations and Market Practices						
C1. Strategize need analysis and prepare procurement planning	4	3	4	4	4	Quick ²⁷
C2. Benchmark efficiency of procurement and contract management through KPIs	4	3	4	4	4	Quick
C3. Constructive engagement of the private sector	3	3	4	3	3	Long
Pillar IV: Accountability, Integrity, and Transparency						
D1. Constructive engagement of civil society	2	2	3	4	3	Long
D2. Audit includes review of full procurement cycle	2	2	4	3	3	Long
D3. Strengthen the complaint and appeal mechanism	3	4	4	2	3	Long
D4. Rationalize institutional mandate overlaps regarding fraud and corruption and publish data related to fraud and corruption (including debarred firms)	2	2	4	3	3	Short to Long

71. Based on the above prioritization, key areas requiring attention that would have the most impact on the objectives of the procurement systems would be as follows:

- (a) Establish a strong legal and regulatory framework that would provide unified policies and procedures at each jurisdiction (federal/state level).
- (b) Develop a universal suite of SBDs to embody the requirements of the laws/rules, facilitate preparation of tenders, mitigate risks of varying unfavorable contract conditions, and reduce the cost of doing business by suppliers. Federal and state levels may coordinate to prepare a set of documents that may be applicable at different levels with appropriate customization.
- (c) Upgrade the PPD to a department at the federal level and create similar bodies at the state level to drive reforms, monitor results and risks, and lead harmonization efforts in common areas between the federal level and states.
- (d) Expand and make it mandatory the use of e-procurement systems to include planning, evaluation and automatic award publication and create interface with works contract management systems (or other contract management systems) and financial management and payment systems. This would enhance commitment control and contract monitoring.

²⁷ Quick wins (within 6 months).

- (e) Recognize procurement as a specialized function, establish a qualification framework, and undertake massive capacity development for procurement and contract management at all levels with priority given to organizations implementing high- volume works contracts.
- (f) Institutionalize strategic procurement to include needs and market assessment and procurement planning and make it mandatory for high-value contracts.
- (g) Improve efficiency of award and contract execution through capacity development of staff, delegation of powers to operational level, and monitoring of procurement and contracts through regular publication of progress. Establish benchmarks and KPIs for procurement and contract management.
- (h) Mandate and strengthen the use of GeM or similar whole of government approach system for common use goods and services at state level.
- (i) Develop/introduce an independent complaint body and administrative complaint resolution mechanisms.

G. VALIDATION AND NEXT STEPS

- (a) The India Procurement Systems Assessment was a complex undertaking by the World Bank and GoI, involving many stakeholders. Process and reports were validated at various stages by the team. At the outset, the MAPS Steering Committee comprising the central government, assessed agencies, states, and the World Bank was formed in 2018. The committee met regularly to assess progress and provide guidance to various teams on approach, methodology, and data collection.
- (b) Each agency or state assessment had its own quality assurance and validation arrangements. The detailed assessment criteria and draft report were shared by each assessed agency or state for review after which agency/state-level validation workshops/meetings were held. Draft final agency/state reports incorporating stakeholder comments were shared with each agency and the PPD of the MoF for their final comments. In addition to reports prepared for each assessed agency at the central level, a consolidated federal report was prepared to provide the PPD a holistic view of the findings.
- (c) This country executive report is a synthesis of the federal and state reports. The draft report was shared for comments with multilateral development banks and bilateral partners (ADB, AIIB, NDB, and JICA), World Bank-wide MAPS Global Team, and Technical Advisory Group (TAG) of the Global Procurement Multi-Donor Trust Fund to provide their reviews before sharing with the government. The country executive summary report and all individual reports were shared with the PPD between June 8 and July 6, 2020. A virtual face-to-face validation workshop chaired by the Joint Secretary and Chairperson of the MAPS Steering Committee was held on August 27, 2020. The workshop was opened by the Country Director, World Bank India, and had 105 participants from public, private, and civil society sectors. Feedback from the validation workshop has been incorporated in the report.
- (d) Government comments were received on October 20, 2020. The World Bank Decision Meeting for the report was held on November 3, 2020, chaired by the Country Director. As a next practical step, as recommended in the report, the GoI and the states are expected to constitute broad-based committees or formalize MAPS Steering Committees as Reforms Committees to drive implementation of reforms. These committees will be responsible for preparing detailed action plans for implementation of recommendations including a mechanism to measure progress and arrange appropriate funding in consultation with development partners.