

## Annex 2: CPI assessment

The matrix below presents the complete assessment of all Compliance and Performance Indicators (CPIs) included in Malawi Procurement Capacity Assessment 2007. The CPIs have been developed by the assessment team to measure the compliance and performance of the procurement system in the areas corresponding to the BLI assessment. The CPIs are developed to match the corresponding BLIs while at the same time covering areas which to the assessment teams' knowledge may uncover findings particular to public procurement in Malawi. The scoring criteria against which this CPI assessment is assessed and scored are listed in italics in the left column of the matrix under the heading of each sub-indicator. The key to scores is listed at the end of the document.

CPI indicator	Score	Comment
<b>Pillar I – Legislative and Regulatory Framework</b>		
<b>Indicator 1: Public procurement legislative and regulatory framework achieves the agreed standards and complies with applicable obligations</b>		
Sub-indicator 1(a) - Scope of application and coverage of the legislative and regulatory framework  <ul style="list-style-type: none"> <li>• <i>Do procuring entities in practice have copies of the PPA and regulations?</i></li> </ul>	1	<ul style="list-style-type: none"> <li>• While the majority of PEs is in possession of copies of the PPA, and knows how to acquire a copy, most PEs claim not to have acquired copies of the Regulations and the Desk Instructions, although these have been sent out to all PEs free of charge. The problem is particularly common among local government PEs, where the legal documents are often not passed on to the procurement officers, who in many cases are not aware of the existence of the legal framework. Furthermore, distribution mechanisms are weak, as PPA and Regulations are available at the Government Printer in Lilongwe, Zomba and Mzuzu only. The ODPP has recently carried out outreaching programmes to enhance the level of awareness of the legal framework among PEs.</li> </ul>
Sub-indicator 1(b) - Procurement methods  <ul style="list-style-type: none"> <li>• <i>Is competitive tendering in practice the default method of public procurement in procuring entities?</i></li> </ul>	1	<ul style="list-style-type: none"> <li>• Competitive tendering is used as the default method of procurement in accordance with the PPA. This is in practice ensured by the prior review mechanism according to which PEs must seek permission at the ODPP to award tenders above a given threshold). It is, however, noted that many PEs adapt contracts to the thresholds hereby avoiding competitive tendering. Furthermore, PEs do face obstacles to applying the correct procurement method. First of all, procurement staff in many PEs still <i>lack knowledge</i> about the legal framework and the thresholds established by ODPP to be capable of making qualified decisions about procurement methods. Secondly, in a large number of PEs, the procurement method for procurements appears to be <i>based primarily on time available</i> and only secondarily on value, which often results in excessive use of quotations. Thirdly, a number of PEs report that <i>external interference</i> (e.g. from the political levels or donors) in the procurement process often has a role in the selection of procurement process. Political decisions are often followed by a demand to process procurements quickly to be able to display quick results in spite of legal requirements.</li> </ul>
Sub-indicator 1(c) - Advertising rules and time limits	2	<ul style="list-style-type: none"> <li>• Procurement officers are in most cases well versed in the rules of advertisement, and advertisement of open tenders generally takes place as required by the PPA.</li> </ul>

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<ul style="list-style-type: none"> <li>Are the existing rules of advertisement (including type of opportunities published, timeframe, source of publication, content) complied with?</li> </ul>		<p>One main challenge facing the PEs in relation to advertisement is, however, to comply with the timeframes established in the legal framework. Due to poor procurement planning resulting in time constraints in the procurement process, many PEs are thus incapable of complying with the set timeframes.</p>
<p>Sub-indicator 1(d) - Rules on participation and qualitative selection</p> <ul style="list-style-type: none"> <li>Do procuring entities comply with the established rules on domestic price preferential?</li> </ul>	-	<ul style="list-style-type: none"> <li>Very few PEs report to have experience applying domestic price preferential. This is closely related to the fact that few PEs apply ICB. As a result, it is not possible to assess this indicator based on PE practice.</li> </ul>
<p>Sub-indicator 1(e) - Tender documentation and technical specifications</p> <ul style="list-style-type: none"> <li>Do the technical specifications issued by procuring entities in practice comply with the requirements of the legal framework, including the established minimum content and use of neutral specifications?</li> </ul>	0	<ul style="list-style-type: none"> <li>The development of technical specifications is one of the major challenges in the PEs. The vast majority of the procurement officers or technical departments involved in developing technical specification in PEs are largely unable to create generic and neutral specifications. For example, use of brand names etc. often appears in the specifications. The problem of developing specifications is closely related to a general lack of understanding of the procurement system among staff at PE level. To minimise the negative effects of biased technical specifications, the ODPP requires that the Director of Buildings in the Ministry of Transport and Works is consulted throughout the procurement process for all works before submitted to IPC for decision. Similarly, development of specifications of ITC and vehicles must be assisted by the Government ICT Committee and the Plant and Vehicle Hire Organisation respectively. However, none of the advisors of these institutions are sufficiently trained in how to develop sound specifications. No training has yet been initiated to improve this situation.</li> </ul>
<p>Sub-indicator 1(f) - Tender evaluation and award criteria</p> <ul style="list-style-type: none"> <li>Are relevant evaluation criteria in practice specified in advance in the tender documents?</li> <li>Are decisions made solely based on the stated evaluation criteria?</li> </ul>	1	<ul style="list-style-type: none"> <li>Specification of relevant evaluation criteria is still a major issue in most PEs, while only those few PEs staffed with adequately trained procurement officers are consistently capable of developing relevant evaluation criteria. Main issues in the field include application of unclear evaluation criteria, criteria irrelevant to the evaluation in question, or, in some cases, no criteria at all. One PE thus reports that evaluation criteria are sometimes not at all specified in advance in the tender documents, as a means of reserving the right of the PE to choose the winning bid according to the criteria found convenient at the time of evaluation. No training has yet been initiated to improve this situation.</li> <li>Evaluation decisions made in PEs are reported to be characterised by frequent irregularities. In many cases, the evaluation criteria listed in the tender documents are not the ones used when carrying out the evaluation and making award decisions. Instances of bribery (e.g. procurement officers receiving percentages upon awarding a contract to the bribing bidder) are also reported as common.</li> </ul>

CPI indicator	Score	Comment
		Other malpractices include disqualification of bidders which does not appear on the tender document purchasing list for the tender in question.
<p>Sub-indicator 1(g) - Submission, receipt and opening of tenders</p> <ul style="list-style-type: none"> <li>Are tender openings carried out in accordance with the provisions of the legal framework?</li> <li>Are records of bid opening in practice retained and available for review?</li> <li>Is security and confidentiality of bids maintained prior to bid opening?</li> </ul>	2	<ul style="list-style-type: none"> <li>Tender openings are for the most part carried out in accordance with the PPA. This is checked systematically by the ODPP as part of their prior review procedure. Furthermore, the bidders serve as control mechanism by their presence at this stage.</li> <li>Records of bid openings are in practice retained and available for prior review by the ODPP.</li> <li>Practices related to the security and confidentiality of bids prior to bid opening vary, although most PEs make systematic use of sealed tender boxes and office storage depending on the type and size of procurement. Some PEs, however, yet have no clear system in place, thus leaving the choice of retention and security levels to the individual procurement officer.</li> </ul>
<p>Sub-indicator 1(h) – Complaints</p> <ul style="list-style-type: none"> <li>Are procuring entities aware of the procedure for review?</li> <li>Is the complaint review system in practice being used?</li> </ul>	0	<ul style="list-style-type: none"> <li>The awareness of the procedures to be followed when a complaint is received is very limited.</li> <li>The low awareness of review procedures at PE level mainly appear to be due to the fact that the vast majority of PEs receives no or very few written complaints and thus have very little or no experience handling complaints other than informally. Of the few written complaints received by the interviewed PEs, most have been handled by the PE in informal dialogue with the complainant in the same manner as formal complaints are commonly handled. Thus, the legal framework for review remains largely untested. The seemingly lack of written complaints is a result of a generally low awareness among bidders that they can complain, and that complaining can in fact make a difference, although this awareness is now increasing day by day due to a major sensitisation and awareness campaign carried out by the ODPP. In addition, the fear of being blacklisted for filing complaints is still prevalent among many bidders.</li> </ul>
<p>New sub-indicator 1(i) – Political interference in the procurement process</p> <ul style="list-style-type: none"> <li>Is the procurement process from needs identification to contract management in practice free from political interference?</li> </ul>	1	<ul style="list-style-type: none"> <li>Approx. 50% of the PEs visited during the assessment openly reported that political interference sometimes (reportedly from a few times per year to very often) takes place in the procurement process. The interference is mainly reported to take place at the stages of needs identification (where new procurements replace previously planned ones) and selection of procurement method (where open tendering is replaced by quotations or in some cases single sourcing). The typical scenario is when a new political initiative is taken and quick results need to be demonstrated. Some PEs also report that threats of being removed if not following orders have been seen in the past.</li> </ul>
<b>Indicator 2: Existence of Implementing Regulations and Documentation</b>		
Sub-indicator 2(a) - Implementing regulation that provides defined processes and procedures not included in higher-level legislation	-	N/A – compliance covered by corresponding BLI

CPI indicator	Score	Comment
<p>Sub-indicator 2(b) - Model tender documents for goods, works, and services</p> <ul style="list-style-type: none"> <li>• <i>Are the developed Standard Bidding Documents being used consistently by procuring entities?</i></li> <li>• <i>Do the SBDs have an adequate format, level of detail and content?</i></li> </ul>	0	<ul style="list-style-type: none"> <li>• Not many PEs use the Standard Bidding Documents (SBDs) issued by the ODPP. The PEs state that the main reason for this is that they find the SBDs too complex to use. In addition, the assessment team also noted that many PEs are reluctant to replace the less time consuming Request for Quotation process with more demanding tendering processes.</li> <li>• While the SBDs are broadly acknowledged to provide a sound framework for the development of tender documents, many PEs – particularly at local government level – point to the fact that the language and terminology used in the SBDs do not target small scale suppliers, and the level of detail provided in the documents often leads to misinterpretation of the essential requirements. In worst case, this may lead to exclusion of otherwise qualified bidders from the tendering process. To keep up the number of bids, some PEs have therefore taken on the task of revising the SBDs to the individual tenders. Furthermore, small scale bidders have difficulties obtaining the bid securities required by the SBDs. In some cases, the above described issues may also be due to a poor understanding among PEs of the SBDs issued, leading some PEs to employ the wrong set of SBDs for their procurements.</li> </ul>
<p>Sub-indicator 2(c) - Procedures for pre-qualification</p> <ul style="list-style-type: none"> <li>• <i>Are pre-qualification procedures being applied by procuring entities in accordance with the provisions in the legal framework?</i></li> </ul>	-	<p><i>Due to the high level of complexity, pre-qualification procedures (or so-called two-stage tendering) are very rarely used by PEs and can hence not be assessed.</i></p>
<p>Sub-indicator 2(d) - Procedures suitable for contracting for services or other requirements in which technical capacity is a key criterion</p> <ul style="list-style-type: none"> <li>• <i>Is quality adequately reflected in the selection procedures applied by procuring entities for contracting for services?</i></li> </ul>	-	<p><i>Not assessable based on the data collected.</i></p>
<p>Sub-indicator 2(e) - User's guide or manual for contracting entities</p>	-	<p><i>N/A – compliance covered by corresponding BLI</i></p>
<p>Sub-indicator 2(f) - General Conditions of Contracts (GCC) for public sector contracts covering goods, works and services consistent with national requirements and, when applicable, international requirements</p>	0	<ul style="list-style-type: none"> <li>• The General Conditions of Contract developed by the ODPP forms part of the Standard Bidding Documents and should hence be applied by the PEs along with these. As the SBDs are rarely used by the PEs, this is therefore also the case for the General Conditions of Contract. See also assessment of sub-indicator 2(b) above.</li> </ul>

CPI indicator	Score	Comment
<ul style="list-style-type: none"> <li>Are the General Conditions of Contract being used consistently by procuring entities?</li> </ul>		
<b>Pillar II – Institutional framework and management capacity</b>		
<b>Indicator 3: The public procurement system is mainstreamed and well integrated into the public sector governance system</b>		
Sub-indicator 3(a) - Procurement planning and data on costing are part of the budget formulation process and contribute to multiyear planning <ul style="list-style-type: none"> <li>Do procuring entities in practice have procurement plans?</li> <li>Are the procurements undertaken by procuring entities in accordance with the plan?</li> </ul>	1	<ul style="list-style-type: none"> <li>While a significant number of PEs do still not have a consolidated procurement plan, the number of PEs who do have a plan has gone up dramatically in the new financial year as a result of intensified ODPP efforts towards encouraging the preparation of procurement plans, e.g. through the organisation's dissemination of a compulsory procurement plan template. At the time of writing, it is not a requirement to include procurement plans when submitting budgets to the Treasury. Such an arrangement may further encourage procurement planning.</li> <li>The issue of undertaking procurements in accordance with the procurement plan remains a major challenge in most PEs, where poor planning skills, time constraints, and to some extent external interferences and unexpected procurements constitute major obstacles to following the plans.</li> </ul>
Sub-indicator 3(b) - Budget law and financial procedures support timely procurement, contract execution, and payment	-	<i>N/A – compliance covered by corresponding BLI</i>
Sub-indicator 3(c) - No initiation of procurement actions without existing budget appropriations	-	<i>N/A – compliance covered by corresponding BLI</i>
Sub-indicator 3(d) – Systematic completion reports are prepared for certification of budget execution and for reconciliation of delivery within budget programming <ul style="list-style-type: none"> <li>Are completion reports in practice made for major procurements?</li> </ul>	1	As a result of the lack of a feedback mechanism providing completion reports on the execution and completion of major contracts, the procedures related to preparation of completion reports appear to differ from procuring entity to procuring entity. While some entities report that completion reports are prepared, this process is reportedly often characterised by delays. Other entities do not at all prepare completion reports for major contracts.
<b>Indicator 4: The country has a functional normative/regulatory body</b>		
Sub-indicator 4(a) - The status and basis for the normative/regulatory body is covered in the legislative and regulatory framework.	-	<i>N/A – compliance covered by sub-indicator 4(c)</i>
Sub-indicator 4(b) - The body has a defined set of	2	<ul style="list-style-type: none"> <li>The ODPP substantially carries out all functions and responsibilities defined by the</li> </ul>

CPI indicator	Score	Comment
<p>responsibilities that include but are not limited to the following (see list in methodology)</p> <ul style="list-style-type: none"> <li><i>In practice, are the functions and responsibilities defined in the PPA carried out by the ODPP?</i></li> </ul>		<p>legal framework. To mention some of the key activities: (i) Regulations, Desk Instructions and SBDs have been developed; (ii) several initiatives are in progress in the field of professional development, including various sensitisation and training programmes, development of a professional association, establishing job descriptions, and developing a career path; (iii) institutional compliance at PE level is being monitored on an on-going basis; and (iv) information about the public procurement system to the various stakeholders to the system, including the public at large, is collected and disseminated. A main weakness is related to the systematic generation of data and statistics in a number of prescribed fields, such as economic studies on procurement; quantitative and qualitative assessments of procurement activities; and studies on the performance of procurement contracts. Furthermore, many of the activities initiated by the ODPP are characterised by slow progress due to the low number of staff currently available to the ODPP (see also sub-indicator 4(c)).</p>
<p>Sub-indicator 4(c) - The body's organisation, funding, staffing, and level of independence and authority (formal power) to exercise its duties should be sufficient and consistent with the responsibilities</p> <ul style="list-style-type: none"> <li><i>Is the ODPP's organisation, funding, staffing, level of independence and authority in practice sufficient to exercise its duties?</i></li> </ul>	1	<ul style="list-style-type: none"> <li>Since its inauguration in 2004, the ODPP has come a long way in the process towards establishing a sound framework for public procurement. Today, the organisation is broadly perceived as the key player in the area of procurement among government institutions and other stakeholders, who broadly recognise the authority and independence of the ODPP. The ODPP further wishes to strengthen its image as an independent institution by moving to new office facilities outside Capital Hill. This need will be strengthened if ODPP becomes fully staffed in the next years.</li> <li>The ODPP is funded from the government budget and in addition achieve substantial funds from the donor community. The funding provided by the government has been sufficient for the ODPP to exercise its duties. In fact, the ODPP has underspent in the past years, although this is likely to change as the staffing level increases.</li> <li>At the same time, however, the ODPP is also struggling with some issues constraining its capacity to exercise its duties. Most importantly, the ODPP is considerably understaffed. While an establishment has been created for the ODPP, a large number of positions remain vacant, mainly due to inadequate supply of qualified staff when the positions are advertised. In addition, the ODPP has received donor support for full-time Master's degrees for nine ODPP staff. This has in practice created a situation of extreme understaffing, which has proved a major constraint to the unfolding and progress of the organisation's activities in the past year.</li> </ul>
<p>Sub-indicator 4(d) - The responsibilities should also provide for separation and clarity so as to avoid conflict of interest and direct involvement in the execution of procurement transactions. (Due to the nature of this sub-indicator, scoring is</p>	-	<p><i>N/A – compliance covered by corresponding BLI</i></p>

CPI indicator	Score	Comment
either a 3 or a 0).		
<b>Indicator 5: Existence of institutional development capacity</b>		
Sub indicator 5(a) - The country has a system for collecting and disseminating procurement information, including tender invitations, requests for proposals, and contract award information.	-	<i>N/A – compliance covered by corresponding BLI</i>
Sub indicator 5(b) - The country has systems and procedures for collecting and monitoring national procurement statistics.	-	<i>N/A – compliance covered by corresponding BLI</i>
Sub-indicator 5(c) - A sustainable strategy and training capacity exists to provide training, advice and assistance to develop the capacity of government and private sector participants to understand the rules and regulations and how they should be implemented  <ul style="list-style-type: none"> <li>Are the training and capacity development activities provided for in the training strategy implemented according to plan?</li> </ul>	2	<ul style="list-style-type: none"> <li>The National Training Policy for Procurement developed for the ODPP in 2004 provides for a broad range of training initiatives, including a number of initiatives common to procurement officers as well as specialised training policies and strategies for the ODPP, the SPUs and the IPCs respectively. The content of the training policy is widely being adopted by the ODPP in their efforts to develop capacity in the procurement field, and the major initiatives of each part of the training strategy are at the time of writing in the process of being conducted.</li> </ul>
Sub-indicator 5(d) - Quality control standards are disseminated and used to evaluate staff performance and address capacity development issues.	-	<i>N/A – compliance covered by corresponding BLI</i>
<b>Pillar III – Procurement Operations and Market Practices</b>		
<b>Indicator 6: The country's procurement operations and practices are efficient</b>		
Sub-indicator 6(a) - The level of procurement competence among government officials within the entity is consistent with their procurement responsibilities  <ul style="list-style-type: none"> <li>Are the job descriptions for procurement jobs known to the procuring entities?</li> <li>Do the PEs make job descriptions available to</li> </ul>	0	<ul style="list-style-type: none"> <li>The job descriptions for procurement jobs developed by the ODPP are not known to the procurement functions in the PEs, as they have not yet been circulated to the PEs by the ODPP.</li> <li>As the job descriptions have not yet been circulated, this indicator cannot be assessed at the time of writing.</li> </ul>

CPI indicator	Score	Comment
<i>the individual procurement officers?</i>		
Sub-indicator 6(b) - The procurement training and information programmes for government officials and for private sector participants are consistent with demand.	-	<i>N/A – compliance covered by corresponding BLI</i>
Sub-indicator 6(c) - There are established norms for the safekeeping of records and documents related to the transactions and contract management <ul style="list-style-type: none"> <li>• <i>Do PE's comply with requirements of PPA with regard to which documents should be included in each procurement record?</i></li> <li>• <i>Are procurement files in PEs kept in a manner that makes them available for public inspection?</i></li> </ul>	0	<ul style="list-style-type: none"> <li>• Incomplete procurement records make up a vast problem in the PEs. With a few exceptions, no PEs are able to demonstrate procurement records complete with all documentation as required by the PPA and the Regulations.</li> <li>• The procurement files of different PEs are kept in a variety of fashions, the two most common being (a) records grouped according to document type (i.e. all minutes of tender opening kept together, etc.); or (b) records not structured according to any consistent system. In practice, this means that full procurement records (even when all documents exist) are very rarely readily available for public inspection. One explanation of the poor record keeping is the apparent unawareness of the advantages and disadvantages of different filing systems. In addition, complete procurement record keeping systems are often hindered by the record keeping procedures of other departments in the PE. For example, payment records are in many cases kept with the accountant, completion reports in the relevant department, etc.</li> </ul>
Sub-indicator 6(d) - There are provisions for delegating authority to others who have the capacity to exercise responsibilities. <ul style="list-style-type: none"> <li>• <i>Is delegation of procurement decision making authority in practice decentralised to the lowest competent levels consistent with the risks associated and the monetary sums involved?</i></li> </ul>	1	<ul style="list-style-type: none"> <li>• Delegation of procurement decision making authority is in practice largely decentralised to the level of IPCs and SPUs, although centralised procurement organisations such as the Central Government Stores (CGS), the Central Medical Stores (CMS) and the PVHO still remain. As addressed in detail in the CPAR 2004, the CGS have in the past years faced serious challenges in maintaining its role as mandatory provider of common supplies to all central government institutions, hereby gaining the advantages of scale. At the time of writing the CPAR 2004, most government entities did not follow this requirement due to a combination of factors, including lack of stock, bureaucracy and prolonged delivery. Today, the status of the CGS is not much different from 2004. The CGS concedes that it suffers from a number of capacity needs, together making the CGS unable to attract and provide supplies to government entities. The main capacity needs include lack of funds to purchase new stock (as a result of low profit levels from previously supplied items), lack of staff due to a freezing of recruitments since 2003/2004 (the staff of CGS has decreased from 360 in 2004 to 196 at the time of writing), and lack of support from government entities who have learnt from experience and carry out their own procurements of common items. At the time of writing, a new revitalisation strategy for CGS has been developed, which mainly consists of the upcoming approval of government financial support to CGS to buy new stocks and restart investments. Once the funding is achieved, the CGS anticipates a return to centralised purchasing among government entities.</li> </ul>

CPI indicator	Score	Comment
		<ul style="list-style-type: none"> <li>At the decentralised level, some challenges also persist with regard to the status and formal positioning of SPUs in the organisational structure of many procuring entities. For example, procurement units often refer to the controlling unit, hereby failing to draw attention to the importance of the procurement function and causing unnecessary red-tape. On another issue, many District Assemblies have – contrary to legal provisions and guidelines provided by the ODPP – established multiple procurement bodies (e.g. several IPCs) causing confusion among district level authorities. Finally, it should be noted that the ODPP prior reviews (see also Annex 2, sub-indicator 4(d)) constitute a serious barrier to full decentralisation.</li> </ul>
<b>Indicator 7: Functionality of the public procurement market</b>		
Sub-indicator 7(a) - There are effective mechanisms for partnerships between the public and private sector.	-	<i>N/A – compliance covered by corresponding BLI</i>
Sub-indicator 7(b) - Private sector institutions are well organised and able to facilitate access to the market.	-	<i>N/A – compliance covered by corresponding BLI</i>
Sub-indicator 7(c) - There are no major systemic constraints (e.g. inadequate access to credit, contracting practices, etc.) inhibiting the private sector's capacity to access the procurement market.	-	<i>N/A – compliance covered by corresponding BLI</i>
<b>Indicator 8: Existence of contract administration and dispute resolution provisions</b>		
Sub-indicator 8(a) - Procedures are clearly defined for undertaking contract administration responsibilities that include inspection and acceptance procedures, quality control procedures, and methods to review and issue contract amendments in a timely manner  <ul style="list-style-type: none"> <li><i>Do procuring entities in practice administer contracts in accordance with the requirements of the legal framework?</i></li> </ul>	1	<ul style="list-style-type: none"> <li>Most PEs do not carry out adequate follow-up on execution of contracts. Main issues in this regard include ensuring that execution is accordance with agreement, quality assurance, and progress monitoring. The main reason for the low compliance levels in this area appears to be the lack of adequate procurement staffing levels in the PEs, which lead many procurement officers to relax their least visible tasks.</li> </ul>
Sub-indicator 8(b) - Contracts include dispute resolution procedures that provide for an efficient and fair process to resolve disputes arising during	-	<i>N/A – compliance covered by corresponding BLI</i>

CPI indicator	Score	Comment
the performance of the contract.		
Sub-indicator 8(c) - Procedures exist to enforce the outcome of the dispute resolution process.	-	<i>N/A – compliance covered by corresponding BLI</i>
<b>Pillar IV – Integrity and Transparency of the Public Procurement System</b>		
<b>Indicator 9: The country has effective control and audit systems</b>		
<p>Sub-indicator 9(a) - A legal framework, organisation, policy, and procedures for internal and external control and audit of public procurement operations are in place to provide a functioning control framework</p> <ul style="list-style-type: none"> <li><i>Is the internal audit manual of the Internal Audit Unit (IAU) widely distributed and available for internal audit staff?</i></li> <li><i>Is the internal audit manual being used by internal audit staff?</i></li> <li><i>Are the internal audit committees established and operational in each PE?</i></li> </ul>	2	<ul style="list-style-type: none"> <li>According to the IAU, the internal audit manual has been widely distributed to all PEs.</li> <li>It is the observance of the IAU that the manual is generally used by internal audit staff.</li> <li>According to a circular issued by the Ministry of Finance, each PE is required to establish an internal audit committee. However, according to both the IAU and the NAO, only approx. 6-7 ministries have complied with this requirement. Also, according to the IAU, only the internal audit committee of the Ministry of Health is in fact functioning.</li> </ul>
<p>Sub-indicator 9(b) - Enforcement and follow-up on findings and recommendations of the control framework provide an environment that fosters compliance</p> <ul style="list-style-type: none"> <li><i>Does PE management respond to management letters and warning issued by the IAU and the NAO?</i></li> <li><i>Are controlling officers of PEs held accountable for lack of compliance with audit requirements as well as general public financial management requirements?</i></li> </ul>	1	<ul style="list-style-type: none"> <li>According to the NAO, the management of PEs most often does not respond to management letters and warnings issued by the NAO and other oversight bodies.</li> <li>According to the NAO and the IAU, controlling officers are generally not held accountable for non-compliance with audit requirements and public financial management requirements in general. It is observed that the option of issuing disciplinary sanctions against controlling officers on these grounds is not used. It is noted that the PFMA includes provisions to this extent. Thus, accountability and enforcement remain a problem.</li> </ul>
Sub-indicator 9(c) - The internal control system provides timely information on compliance to enable management action.	-	<i>N/A – compliance covered by corresponding BLI</i>
Sub-indicator 9(d) - The internal control systems	-	<i>N/A – compliance covered by corresponding BLI</i>

CPI indicator	Score	Comment
are sufficiently defined to allow performance audits to be conducted.		
<p>Sub-indicator 9(e) - Auditors are sufficiently informed about procurement requirements and control systems to conduct quality audits that contribute to compliance</p> <ul style="list-style-type: none"> <li>Do auditors in practice have the procurement knowledge required to conduct quality audits?</li> </ul>	0	<ul style="list-style-type: none"> <li>The vast majority of auditors carrying out procurement audits in the PEs lack the necessary procurement proficiency to carry out audits thoroughly and systematically. Many PEs thus have the impression that both internal and external audits are often based on limited or even irrelevant information often leaving the key issues unaddressed. Furthermore, some PEs note that although external audits are conducted on a regular basis, this is done superficially (e.g. by only checking payment vouchers) and often does not cover the procurement function in broader terms. Some smaller PEs also report only to be audited if specific data from procurement files is required in relation to other audits.</li> </ul>
<b>Indicator 10: Efficiency of appeals mechanism</b>		
Sub-indicator 10(a) - Decisions are deliberated on the basis of available information, and the final decision can be reviewed and ruled upon by a body (or authority) with enforcement capacity under the law.	-	<i>N/A – compliance covered by corresponding BLI</i>
<p>Sub-indicator 10(b) - The complaint review system has the capacity to handle complaints efficiently and a means to enforce the remedy imposed</p> <ul style="list-style-type: none"> <li>Are complaints processed within the time limits of the legal framework?</li> <li>Are the decisions taken enforced?</li> </ul>	-	<i>Since merely two cases have been processed since the establishment of the Review Committee, it is not possible to assess this indicator based on Committee practice.</i>
<p>Sub-indicator 10(c) - The system operates in a fair manner with outcomes of decisions balanced and justified on the basis of available information</p> <ul style="list-style-type: none"> <li>Does the complaint review system in practice operate in a fair manner, with outcomes of decisions balanced and justified on the basis of available information?</li> </ul>	-	<i>Since merely two cases have been processed since the establishment of the Review Committee, it is not possible to assess this indicator based on Committee practice.</i>
Sub-indicator 10(d) - Decisions are published and made available to all interested parties and to the public.	-	<i>N/A – compliance covered by corresponding BLI</i>

CPI indicator	Score	Comment
Sub-indicator 10(e) – The system ensures that the complaint review body has full authority and independence for resolution of complaints.	-	<i>N/A – compliance covered by corresponding BLI</i>
<b>Indicator 11: Degree of access to information</b>		
<p>Sub-indicator 11(a) - Information is published and distributed through available media with support from information technology when feasible.</p> <ul style="list-style-type: none"> <li><i>Are the stakeholders to the procurement system and the public in general well informed about the public procurement system and issues related to public procurement?</i></li> </ul>	1	<ul style="list-style-type: none"> <li>As a result of the extensive information efforts initiated by the ODPP, the public awareness of procurement-related issues is reported to have improved significantly. While procurement awareness was virtually non-existent a few years ago, both private sector associations and NGOs have increasingly become interested in gaining a better understanding of the field among their members. Awareness especially seems to have improved when it comes to knowledge of the ODPP and the overall importance of sound procurement. It should also be noted, however, that procurement is still a new and relatively untested discipline, and that continued awareness-raising and training efforts targeting the various stakeholders to the system are hence still vital to the functioning of the system. Access to procurement information (e.g. procurement plans, award notices, etc.) directly from procuring entities remains the single largest challenge to the procurement information flow. While professional organisations are largely able to penetrate the procuring entities and achieve access to the desired information (to the extent available), suppliers and common citizens are often unsuccessful in receiving desired information on request, partly due to lack of understanding of the need to facilitate public access to procurement information among PEs, and partly due to fear of being held accountable. As the ODPP website in practice does not yet serve as a forum for systematic communication of procurement information from PEs, this means that many stakeholders to the procurement system only have partial access to relevant procurement information.</li> </ul>
<b>Indicator 12: The country has ethics and anticorruption measures in place</b>		
Sub-indicator 12(a) - The legal and regulatory framework for procurement, including tender and contract documents, includes provisions addressing corruption, fraud, conflict of interest, and unethical behaviour and sets out (either directly or by reference to other laws) the actions that can be taken with regard to such behaviour.	-	<i>N/A – compliance covered by sub-indicator 12(c)</i>
Sub-indicator 12(b) - The legal system defines responsibilities, accountabilities, and penalties for individuals and firms found to have engaged in	1	<ul style="list-style-type: none"> <li>The establishment of the Anti-Corruption Bureau (ACB) in 1996 is broadly perceived as a major contribution to the fight against corruption in procurement. A Governance and Corruption Baseline Survey from 2006 concludes that the ACB is</li> </ul>

CPI indicator	Score	Comment
fraudulent or corrupt practices. <ul style="list-style-type: none"> <li>Does the Anti-Corruption Bureau have the capacity required to carry out the activities under its mandate?</li> </ul>		perceived by citizens and public officials as an institution of high integrity, and stakeholders broadly agree that political leadership exist in the field of anti-corruption. At the same time, the ACB seems to be suffering from a lack of capacity in a number of areas. First of all, some government entities point to the fact that many cases of corruption are not investigated, and that the investigations initiated take long. Moreover, convictions are rarely made, making many stakeholders hold that the organisation still needs to prove itself. Secondly, some stakeholders note that the still pending appointment of a permanent Director to the ACB represents a challenge to the leadership of the organisation and sends a wrong message to the public. It is also noted that cases of corruption raised have sometimes died down, which jeopardises the organisation's reputation as independent.
Sub-indicator 12(c) – Evidence of enforcement of rulings and penalties exists.	-	<i>N/A – compliance covered by corresponding BLI</i>
Sub-indicator 12(d) - Special measures exist to prevent and detect fraud and corruption in public procurement <ul style="list-style-type: none"> <li>Is the anti-corruption programme in place perceived as credible by public institutions, private sector, civil society, and the public?</li> <li>Is there any evidence that the anti-corruption programme in place contributes to shape and improve the integrity of public procurement?</li> <li>If a mechanism is in place to prevent and detect fraud and corruption is in place, is there any evidence of the impact of the mechanism?</li> </ul>	-	<i>Since the National Anti-Corruption Strategy is only in the making, it is yet too early to assess this indicator.</i>
Sub-indicator 12(e) - Stakeholders (private sector, civil society, and ultimate beneficiaries of procurement/end-users) support the creation of a procurement market known for its integrity and ethical behaviours.		<i>N/A – compliance covered by corresponding BLI</i>
Sub-indicator 12(f) - The country should have in place a secure mechanism for reporting fraudulent, corrupt, or unethical behaviour <ul style="list-style-type: none"> <li>Is the reporting mechanism in place being used to report fraudulent, corrupt, or unethical</li> </ul>	1	<ul style="list-style-type: none"> <li>The statistics available for corruption in procurement suggest that reporting of cases of corruption does take place, albeit to a rather limited extent. Between 1998 and 2007, the ACB Office in Lilongwe thus received 300 complaints related to corruption in procurement, while the same figure for the ACB Office in Mzuzu is 11. No data has been made available to the ACB Office in Blantyre, but ACB estimates that approx. 100 complaints have been received since the opening of the office.</li> </ul>

CPI indicator	Score	Comment
<i>behaviour?</i>		Evidence from previous studies suggests that this covers only a fraction of the fraudulent, corrupt, or unethical behaviour actually taking place. For example, a Governance and Corruption Baseline Survey carried out in 2006 revealed that corruption in public procurement is a serious problem and that 17% of all contacts with public procurement entities lead to a request for gratification from a public official working in the institution. According to the same survey, the gratification requested on average makes up 4% of the total contract value. Stakeholders suggest that typical reasons for not reporting instances of gratification or other malpractices include a fear of reprisal among employees, a belief that nothing would be done by reporting, and low awareness about the reporting mechanism in place.
<p>Sub-indicator 12(g) – Existence of Codes of Conduct/Codes of Ethics for participants that are involved in aspects of the public financial management systems that also provide for disclosure for those in decision making positions</p> <ul style="list-style-type: none"> <li>• <i>Do public officials involved in the procurement function have a copy of the Code of Conduct/Code of Ethics?</i></li> <li>• <i>Is there any evidence that the Codes of Conduct/Ethics influence the behaviour of those covered by it?</i></li> </ul>	0	<ul style="list-style-type: none"> <li>• Although the Standards of Ethics have been drafted, they have not yet been disseminated and are at the time of writing not available to the targeted stakeholders.</li> <li>• As the Standards of Ethics have not yet been disseminated, this indicator cannot be assessed.</li> </ul>

**Key to scores:**

- 0: No compliance/performance
- 1: Partial compliance/performance
- 2: Substantial compliance/performance
- 3: Full compliance/performance