

Procurement Capacity Assessment

Project Number: SRI (50275-002)
August 2018

Sri Lanka: Science and Technology Human
Resource Development Project

CURRENCY EQUIVALENTS

(as of 1 August 2018)

Currency unit	–	Sri Lanka rupee/s (SLRe/SLRs)
SLRe1.00	=	\$0.0062637
\$1.00	=	SLRs159.65

ABBREVIATIONS

ADB	–	Asian Development Bank
AGD	–	Auditor General’s Department
CAPC	–	Cabinet Appointed Procurement Committee.
CIDA	–	Construction Industry Development Authority
DPC	–	Department Procurement Committee
ERD	–	External Resources Department
GOSL	–	Government of Sri Lanka
ICB	–	International Competitive Bidding
KU	–	University of Kelaniya
LNB	–	Limited National Bidding
MHECA	–	Ministry of Higher Education and Cultural Affairs
MOHE	–	Ministry of Higher Education
NCB	–	National Competitive Bidding
NPA	–	National Procurement Agency
NPC	–	National Procurement Commission
NS	–	National Shopping
PCA	–	Procurement Capacity Assessment
PPC	–	Project Procurement Committee
PwC	–	PricewaterhouseCoopers (Pvt.) Limited
RPC	–	Regional Procurement Committee
RUSL	–	Rajarata University of Sri Lanka
SBD	–	standard bidding documents
SJP	–	University of Sri Jayewardenepura
SUSL	–	Sabaragamuwa University of Sri Lanka
TA	–	technical assistance
TEC	–	Technical Evaluation Committee
UGC	–	University Grants Commission
USD	–	United States Dollar
VFM	–	Value for Money

NOTE

In this report, “\$” refers to United States dollars.

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**PROCUREMENT CAPACITY ASSESSMENT
(Assessment Report and Recommendations)**

**(Proposed Project for the Development of Science and Technology Human Resources in
the Higher Education Sector – Sri Lanka)**

Proposed Project Title: Science and Technology Human Resource Development Project (STHRDP)	Proposed Loan Amount: USD 145 million
Executing Agency: Ministry of Higher Education and Cultural Affairs (MHECA)	Source of Funding: Asian Development Bank (ADB) Government of Sri Lanka (GOSL)
Implementing Agencies: University of Sri Jayewardenepura (SJP) University of Kelaniya (KU) Rajarata University of Sri Lanka (RUSL) Sabaragamuwa University of Sri Lanka (SUSL)	
Prepared by: PwC – Sri Lanka/ ADB	Date: 10 May 2018

I. OVERVIEW

A. Introduction

1. The proposed Science and Technology Human Resource Development Project (STHRDP) in the higher education sector in Sri Lanka, with the funding and technical assistance from the Asian Development Bank (ADB), has earmarked four universities for support, namely University of Sri Jayewardenepura (SJP), University of Kelaniya (KU), Sabaragamuwa University of Sri Lanka (SUSL), and Rajarata University of Sri Lanka (RUSL). Main objective of the project has been announced as “development of new technology faculties to nurture a new breed of technology-oriented graduates equipped with market relevant skills and entrepreneurial spirit” (*Note: The University of Sri Jayewardenepura is being considered for supporting infrastructure facilities/ buildings for its newly established Engineering Faculty*). The development would involve civil works for faculty buildings, equipment and furniture for academic programs including laboratories, capacity development programs, and consulting and non-consulting services.

2. It is envisaged that the project would be implemented jointly by ADB, through a loan facility under the ‘project-based lending mode’ and the Government of Sri Lanka (GOSL), which would meet counterpart funding obligations.

3. As a prerequisite for the approval of loan facility and implementation of project, this Procurement Capacity Assessment (PCA) was commissioned by the ADB with the aim of:

- (a) evaluating the strengths and weaknesses of procurement related fiduciary systems and controls in existence at the executing agency, the Ministry of Higher Education and Cultural Affairs (MHECA) and the four university implementing agencies;
- (b) identifying any capacity gaps and associated risks; and

- (c) making recommendations for strengthening any weak systems and controls identified and measures for risk mitigation.

B. Legislative and Regulatory Framework

4. **Legal Status of Executing and Implementing Agencies.** The Ministry of Higher Education and Cultural Affairs, (up to May 2018 comprised Higher Education and Highways) is the top most government authority overseeing higher education sector in Sri Lanka which functions under a Cabinet Minister appointed by the President of the Democratic Socialist Republic of Sri Lanka, in terms of the constitution of Sri Lanka. All the state universities in Sri Lanka have been established under the 'Universities Act No. 16 of 1978' which specifies regulatory framework for the universities. The University Grants Commission (UGC) established under the same Act oversees the academic, admission, administrative and funding arrangements pertaining to respective universities.

5. **Governance.** Administrative and ethical aspects pertaining to the ministry and universities are exercised through the Establishment Code (also referred to as Administrative Regulations – AR) of the UGC (issued in 1984) and the GOSL. In addition, circulars issued by the line Ministry, Treasury and other Ministries are adhered to wherever relevant and applicable.

6. **Financial Control.** The Financial Regulations – FR (last updated in 1992) of GOSL specifies in detail the procedural framework for financial control in public entities, which the MHECA and all state universities are mandated to comply with. The universities are also required to conduct their fund management activities in accordance with the Finance Act No. 38 of 1971, which addresses areas such as investments and fund management.

7. **Procurement Guidelines and Fiduciary System.** The procurement function of GOSL entities and public enterprises is governed by the Procurement Guidelines (Works, Goods and Services) and Procurement Guidelines (Consultancy Services) issued by the National Procurement Agency (NPA) in 2006 and 2007 respectively. The Procurement Guidelines are supported with a procedure descriptive 'Procurement Manual' and 'Supplements' to the guidelines issued from time to time. These 'Supplements' have effectively amended prior guidelines/supplements, so as to reflect current market, economic and regulatory aspects and the last issued Supplement was in March 2017, titled 'Supplement No. 33'.

8. It has been established that these guidelines have the force and effect of law. The guidelines, manuals and supplements issued subsequently are relatively clear and comprehensive and are mandated compliance by all entities concerned. The national guidelines have provisions for International Competitive Bidding procedures. It is also stated in the guidelines that in case of conflict in the applicability of national provisions with that of development partners, the procedures of the development partners would be applicable and in force, depending on the agreement entered into between the parties concerned.

9. **National Procurement Commission.** The 'National Procurement Commission'¹ (NPC) established under the 19th amendment to the constitution of Sri Lanka in 2015, as an independent commission, has hitherto assumed overall regulatory and monitoring responsibilities of public sector (inclusive of public enterprises and semi government organizations) procurement function.

¹ www.nprocom.gov.lk

The NPC has effectively replaced the former NPA and oversight responsibilities performed by the Public Finance Department of the General Treasury.

10. The NPC has published a set of draft procurement manual and guidelines (titled 'Government Procurement Manual' and 'Procurement Guidelines', respectively) covering goods, services and consultancy services, early 2017. These manuals/ guidelines will come into force in the event being sanctioned by the Parliament of Sri Lanka and relevant gazette notifications issued.

11. **Process Control, Oversight and Appeal Procedures.** National Procurement Guidelines' promulgated by the NPA address ethical standards, general prohibitions on corrupt activities, conflict of interest, and the acceptance of gifts or inducements. Although the process is not being practiced consistently, these guidelines provide procedures for blacklisting.

12. The authority for carrying out external audit is the Auditor General's Department as mandated by the constitution of Sri Lanka. The Auditor General's recommendations are considered by two parliamentary oversight committees: The Committee on Public Enterprises and Committee on Public Accounts, which may issue directions to the entities concerned.

13. **Appeal Procedure.** The guidelines also provide terms for briefing for bidders and appeal procedures and to set up an Appeal Board. The appeal board is established under the President of Sri Lanka in relation to the recommendations made on large value contracts by the 'Standing Cabinet Appointed Procurement Committee' (SCAPC), 'Cabinet Appointed Procurement Committee' (CAPC) and 'Cabinet Appointed Negotiating Committee' (CANC). Those concerned may appeal in writing, against the recommendation of the said SCAPC, CAPC or CANC as the case may be, to the Procurement Appeal Board (PAB) against such recommendation. Observations and recommendations of the appeal board are forwarded to the Cabinet of Ministers for determination and the decision of the Cabinet of Ministers would be conveyed to the appellant by the Secretary to the Line Ministry. No specific appeal procedures have been stipulated in the NPA Procurement Guidelines for contracts determined at the Ministry level and below although any unsuccessful bidder is free to appeal to the Secretary to the Line Ministry.

14. **Dispute Resolution.** All disputes arising out of contract agreements should be dealt in accordance with the provisions of Arbitration Act No. 11, 1995 of Sri Lanka (unless otherwise required by a foreign funding agency where the successful bidder is a foreign national). A separate clause to this effect should be included in the bidding documents as well as in the contract agreement.

15. Subject to the provisions of the Arbitration Act, the Rules of Arbitration of the International Chamber of Commerce or the United Nations Commission on International Trade Law or any other set of acceptable rules is recommended for usage. The place of arbitration shall be decided in terms of Section 16(1) of the Arbitration Act.

C. Institutional Framework and Management Capacity

16. **Ministry of Higher Education and Cultural Affairs (MHECA).** Ministry of Higher Education (MOHE), under which eighteen (18) state universities function, is currently in charge of a single Cabinet Minister (for both Higher Education and Cultural Affairs sectors) and a Secretary since May 2018. In addition, a State Minister in charge of Higher Education is in office, who has been appointed to support the Cabinet Minister. MOHE has functioned from time to time in the

past as a standalone ministry under a subject specific minister. This arrangement had provided the MOHE with its own infrastructure facilities including permanent office premises, a pre-defined organization structure and a team of experienced staff, though they are subject to periodic transfers in line with government policy. Thus, in keeping with tradition, 'Higher Education' arm of the present ministry continues to function as a unit independent from 'Cultural Affairs'. Whilst, the Secretary to MHECA is in overall charge, an Additional Secretary has been assigned the task of administration and oversight of the 'Higher Education' arm of the MHECA. The MHECA is tipped to be the executing agency as well as key implementing agency under the proposed ADB funded STHRDP, under consideration.

17. **Organizational Structure of Procurement Function – MHECA.** Staff engaged in procurement operations are public officials, headed by a Director – Procurement. The Procurement Division of the ministry has a flat hierarchy with six (06) non-executive grade ('Non-staff Grade') Development Officers reporting directly to the Director. Due to the non-existence of a staff grade (executive) level position such as a Deputy/ Assistant Director in between the Director and Development Officers, administrative breakdowns are likely to take place, especially when the Director is away or on leave. Whilst the Development Officers attached to Procurement Division have accumulated relevant experience and knowledge, there exists the possibility of replacing well trained procurement personnel by novices due to the periodic staff transfer procedure taking place in the public sector (i.e. Government ministries and departments). This may affect the efficiency of procurement management at the Ministry level compelling fresh training initiatives for the new (and replacement) staff, experiencing protracted learning curves. Based on the present approved cadre levels, no gaps were observed in the deployment of staff in the Procurement Division.

18. **Universities.** All four Universities assessed have been in existence for over 20 years, of which both University of Sri Jayawadenepura and University of Kelaniya having been established in 1959 as formal Universities named 'Vidyodaya University' and 'Vidyalankara University' respectively. Their beginnings as 'Pirivena's' (institutions of higher learning) dates back to late 19th century. As per records available, all the four universities have achieved considerable and progressive development, in terms of physical infrastructure, capacity and academic pursuits, since their inception.

19. **Organization of Procurement Function – Universities.** Each of the four Universities assessed has three to four procurement units headed by Deputy/ Senior Assistant/ Assistant Bursar or Deputy/ Senior Assistant/ Assistant Registrar level officers. Across all four universities assessed, the procurement function is structured uniformly as below:

Procurement Activity	Designation of Unit Head
Capital (civil) works	Project Manager/Senior/ Assistant Registrar
Renovation/ Rehabilitation	Deputy/ Assistant Registrar
Services	Deputy/ Assistant Registrar
Goods (Supplies)	Deputy/ Assistant Bursar

20. Generally, the first three procurement activities are lined up under the Registrar while the last under the Bursar. Project Managers in-charge of capital works are usually engineers or those with technical background while all other officials are from either administration or finance.

21. Only the Universities of Sri Jayewardenepura and Kelaniya had Project Manager in service with civil engineering background whereas other two universities had with Registrars (administrative background) heading their capital works divisions but supported by qualified civil engineers.

22. To support the head of each procurement unit in universities, several non-executive (non-staff) grade personnel (finance/ management assistants) have been appointed, who report directly to the unit head. Similar to the MHECA, the organization structure at the University procurement units too are flat with no level/s in between the unit head and support staff.

23. **General Agency Resource Assessment.** Presently, all procurement units have been provided with necessary office facilities, equipment, computer and communication facilities, although bulk of the procurement process is manually performed, including the filing system. The procurement related issues observed at this PCA suggest that despite the facilitating and training of staff engaged in procurement management, the application of guidelines and good practices have been lacking in several areas, particularly in carrying out procurement processes in compliance with Procurement Guidelines and good practices.

24. **University Grants Commission (UGC).** UGC, established under the Universities Act No. 16 of 1978, functions under the MHECA and is vested with the responsibility of approval and recommendation of funding requirements of the universities, executing university admissions and all academic affairs pertaining to universities. It is however noteworthy that overall financing obligations and procurement activities (in line with thresholds recommended by the NPA) related to the universities rest with the MHECA and UGC may not play a major in the project under consideration. UGC is governed seven members, including the Chairman appointed by the President of the Democratic Socialist Republic of Sri Lanka.

D. Procurement Operations and Market Practices

25. **Procurement System.** As explained in Section 7 above, the National Procurement Guidelines supplemented by detailed manuals dealing with procedural aspects and standard bidding documents (SBDs) form part of the procurement system. Lately, the Construction Industry Development Authority (CIDA)—formerly Institute for Construction Training and Development—of Sri Lanka had issued more specific and multi-level (based on size/ value) SBDs for procurement of civil/ capital works, which are now widely being used by GOSL entities. These manuals and SBDs are improved and updated from time to time through various appropriate amendments. The amendments to NPA Procurement Guidelines (of the 33 Supplements issued thus far, some had been replaced by later versions). However, any initiatives are yet to be taken to consolidate these supplements (amendments) with the original set of guidelines/ manual, as a single volume, for the ease of application by the users and more clarity. It is envisaged that the draft procurement guidelines issued by newly formed 'National Procurement Commission' during 2017 would significantly fill any gaps existing in the current system, in the event of their adoption in future.

26. **Procurement Operations and Achievements.** The ministry and universities had procured capital works, goods and services having significant volume and value over a long period of time up to 2017. The major capital works contracts executed during past five years are as tabulated below. (Note: All procurements for the universities, above value thresholds stipulated have been made by the MHECA up to contract awarding stage. However, the responsibility for contract administration, supervision and performance monitoring are vested with respective universities.)

Major Civil Works Procurements (2012–2017)

Entity (executing agency/ implementing agency)	Description of procurement contract	Value – SLRe m
Ministry of Higher Education	Development of Faculty of Agriculture – U Peradeniya	930
	Building for Faculty of Science – University of Kelaniya	345
	Nine storied building for Fac. of Medical Sciences – University of Sri Jayewardenepura	874
	Four storied building library - Bandaranayake Bikshu University	363
	Lecture halls, reading rooms and auditorium - UoC	256
	7 storied building for the Faculty of Graduate Studies - UoC	253
	Building complex for the library, Trincomalee Campus - EUSL	326
	Pre-clinical building for Faculty of Medicine – Rajarata University of Sri Lanka	437
	Information Technology Centre, Trincomalee Campus – EUSL	304
	Building complex for the faculty of Applied Science – EUSL	410
	Total	4,498
University of Sri Jayewardenepura	Building Project for Faculty of Applied Science – Stages 1 to 3	272
	Construction of Building for Faculty Management Studies and Commerce – Phase 1 and 2	224
	Faculty of Medical Sciences Phase IV	1,588
	Lecture Hall for Faculty of Management Studies & Commerce	114
	Staff Quarters	126
	New Wimaladharm Hostel	156
	Faculty of Technology - building and Infrastructure (in progress)	2,673
	Total	5,153
University of Kelaniya	Hostel building for Faculty of Medicine	115
	Six storied building complex with lecture and examinations halls, Stage 2	246

Entity (executing agency/ implementing agency)	Description of procurement contract	Value – SLRe m
	Multi Storied building complex for the Faculty of Science	226
	Design & construction of multi-purpose building	64
	Building complex for the Information and Communication Technology Centre	158
	Building complex for the Dept. of Industrial Management, Fac. of Science.	430
	Third and fourth floors in Block "B" building complex for the Technology degree programme.	95
	Multipurpose building for Faculty of Medicine	276
	Six storied building complex with lecture and examinations halls, Stage 3	52
	New Lecture Theatre Complex of the Faculty of Science	390
	Total	2,052
Rajarata University of Sri Lanka	building complex for Faculty of Medicine & Allied Sciences (Stage 1,2 and 3)	1,284
	Building complex for Faculty of Management Studies.	215
	Deyata Kirula Projects - exam hall, sports and recreation centre, Agriculture auditorium and VC`s lodge	400
	Swimming Pool	168
	Building for Continuing and Distance Education Centre	169
	Staff Quarters - Registrar, Bursar and others	380
	Quarters for staff of Medical Faculty	50
	Social Sciences & Humanities building	167
	Hostel building for female students - Faculty of Agriculture	154
	Building complex for Faculty of Agriculture	143
	Building for Technological Studies. -Phase I	156
	Staff quarters at Department of Technological Studies	58
	Total	3,344
Sabaragamuwa University of Sri Lanka	Various constructions from SLRe 5m to 35m (2013 – 2014)	128
	Building for the Faculty of Geomatics Stage 2	152
	Housing Scheme for Staff -Stage 1	356

Entity (executing agency/ implementing agency)	Description of procurement contract	Value – SLRe m
	Projects in progress	1,066
	Total	1,702

27. **Procurement under Foreign Funded Projects.** The four Universities had been participants of the Higher Education for Twenty First Century project funded by the World Bank (IDA), which had been the only major foreign funded project for the past 6 years. This project, which had its focus mainly on the ‘enhancement of higher education system/ quality’ and ‘human resource development’, had commenced in 2011 and concluded in 2016. Although the project had not carried any major capital expenditure components, wherever, such expenditures were involved, the related procurement functions had been carried out in accordance with the NPA Procurement Guidelines of the GOSL.

28. A new project funded by the World Bank Accelerating Higher Education Expansion and Development Operation has been approved in May 2017. Objectives of this project are to increase enrollment in priority disciplines, improve the quality of degree programs, and promote research and innovation in the higher education sector.

29. **Project Procurement.** Procurements of the project under consideration are expected to be governed by the procurement guidelines issued by NPA, unless any other alternative procedures are specified by the ADB. As described before, the NPA issued guidelines would remain in force until such time any modified set of guidelines are adopted by the NPC.

30. **Method of Contract Execution/ Delivery.** Most of the major works of MHECA and the four Universities, have been awarded under ‘Design and Build’ (DB) basis in the recent past, as against the traditional ‘Design, Bid and Build’ (DBB) method which has extensively been followed for public procurement by many other GOSL agencies in Sri Lanka. Major ‘pros and cons’ entailing the two methods are tabulated below.

Process Outcomes/ Features	Method of Construction Execution/ Delivery	
	Design, Bid and Build	Design and Build
Cost	Construction costs initially unknown - cost certainty is achieved later. May result in lower total construction costs due to the wider-open filed bidding process.	Greater cost certainty. Construction cost realized and fixed from initial design phase.
Control	Owner retains control over design and construction. The owner has a significant amount of control over the end product, particularly since the facility’s features are fully determined and specified prior to selection of the contractor	Single point of responsibility for project owners - Requires less owner expertise and resources. The design is team direct responsibility to the construction team (not the client) may lead to internal bias.

Process Outcomes/ Features	Method of Construction Execution/ Delivery	
	Design, Bid and Build	Design and Build
Time	Design and construction are sequential, typically resulting in longer schedules. The overall project timelines may have to be extended in order to transform from project design to construction phase.	Fast-track, less project duration, faster delivery. Construction can overlap design completion, reducing project schedule.
Risk	Client retains the risk of consultant/contractor non-performance. Client should minimize the risk of any conflicts between the design and construction teams.	Diminished risk and liability with single, unified team.
Design	The designer may have limited ability to assess scheduling and cost ramifications as the design is developed, which can lead to a more costly final product. Owner has a significant amount of control over the end product, particularly since the facility's features are fully determined and specified prior to selection of the contractor.	Change orders would typically arise primarily from owner changes. Efficiencies can be achieved since the contractor and designer are working together throughout the entire process.
Communication	Owner acts as arbiter for the design and construction issues that occur.	Single point of contact throughout project
Quality	Quality concerns carry equal weight	
Value	Value engineering occurs when contractor awarded	Greater opportunity for value engineering. Value engineering occurs at outset of project

31. There exists a possibility of executing agency and implementing agencies opting for the award of civil works contracts relating to the proposed STHRDP under the 'Design and Build' method in line with their past practice for all major construction contracts.

32. **Compliance.** The guidelines and fiduciary aspects of the country system (i.e. NPA – Procurement Guidelines) have been ascertained to be robust and adequate to ensure Value for Money (VFM) on the procurement function in the public sector. However, strengthening and fine tuning of existing systems should be an ongoing process throughout the duration of project in line with pronouncements and updates to the current system, made by the National Procurement Commission (i.e. successor to former 'National Procurement Agency') in future. In addition, relevant 'Sri Lanka Public Sector Accounting Standards' (both existing and future

pronouncements) in relation to the recording and reporting aspects would have to be complied, with the view to strengthen overall project procurement fiduciary systems.

33. **Responsibility.** The responsibility of the procurement functions is shared between MHECA and four university implementing agencies. Therefore, this procurement assessment is based on a detailed review of procurement systems, capacities, and practices at the executing agency and four implementing agencies. As per prevailing NPA Procurement Guidelines, the state universities have been categorized as equivalent to GOSL departments and respective value threshold for locally and foreign funded projects stands at SLRe 100m and SLRe 300m respectively. This implies that all procurements over these thresholds would have to be carried out at the ministry level under the purview of Ministry Procurement Committee.

34. **Agency Procurement Process and Thresholds for Goods and Works.** National Procurement Guidelines supplemented by detailed manuals, subsequent amendments thereto (through a series of ‘Supplements’) and SBD are adopted for public procurement both at ministry and university levels. For construction contracts a separate set of SBDs have been introduced by the CIDA of Sri Lanka. Open competitive bidding procedures are mandatory for all procurements over threshold limits specified by the NPC from time to time, through ‘supplements’. Each of the procurement at Ministry, as well as University level, is evaluated initially by a Technical Evaluation Committee (TEC) comprising minimum three members, including at least one subject specialist and a representative from the line ministry concerned for minor contracts and minimum five members for major contracts. TEC’s evaluation report and recommendations are reviewed and approved by an appointed Procurement Committee in line with the delegation of powers. Appointing authorities, composition, and the thresholds for approval authority of procurement committees are well defined in the Procurement Manual, Guidelines and subsequently issued ‘Supplements’. Financial powers for various levels of procurement committees have been specified in the National Procurement Guidelines, as amended by ‘Supplement # 33’ issued in March 2017, as follows:

35. Contract Approval Authority and Thresholds

- (a) All procurements, other than consulting services, using ‘Competitive Bidding’, ‘Direct Contracting’ or ‘Repeat Order’ method.

Authority	GOSL Funded Projects – SLRe	Foreign Funded Projects – SLRe
Standing Cabinet Appointed Procurement Committee (SCAPC) Cabinet Appointed Procurement Committee (CAPC)	More than 250m	More than 600m
Ministry Procurement Committee	Up to 250m	Up to 600m
Department Procurement Committee (DPC)/ Project Procurement Committee (PPC)	Up to 100m	Up to 300m
Regional Procurement Committee (RPC)	Up to 10m	Up to 10m

- (b) All procurements, other than consulting services, using ‘Shopping’ method. (Appropriate ‘Competitive Bidding’ procedure to be followed where values are above upper limits specified below).

Approving Authority	Source of Funding	Applicable Upper Limits – SLRe		
		Works (Min. 5 Quotations)	Goods/ Services (Min. 5 Quotations)	Goods/ Services (Min. 3 Quotations)
Ministry Procurement Committee	Local	< 20m	< 12m	< 8m
	Foreign	< 20m	< 18m	< 8m
Department/ Project Proc. Committee (DPC/ PPC)	Local	< 10m	< 10m	< 5m
	Foreign	< 15m	< 15m	< 5m
Regional Procurement Committee (RPC)	Local	< 2m	< 1m	-
	Foreign	< 2m	< 1m	-

36. As revealed at this assessment, the four university implementing agencies possess the capacity to carry out procurement functions independently, subject to the value thresholds stipulated by NPA Procurement Guidelines, subject to continuous monitoring and oversight by the project management unit (PMU) established at the MHECA level.

37. **Consultancy Services Procurement Process and Thresholds.** The procedures for the recruitment of consulting services are laid out in the National Guidelines on Selection and Employment of Consultants issued in 2007. The terms of reference are prepared by the requesting department/ agency and approved by the Secretary, MHECA and Ministry Procurement Committee. In the case of recruitment of consultants, similar process as indicated for procurement are applicable except that the TEC and Procurement Committee review the proposal together and no tier review and approval process is required. The consultant selection process and methods should be in accordance with Chapters 3 and 4, of the 'Guidelines for Selection and Employment of Consultants - 2007', for firms and individuals respectively.

38. **Record Keeping.** As per government rules, national procurement guidelines, and treasury circulars, all procurement records are required to be kept for a minimum period of 5 years. In practice, all records are usually kept for over five years. The existing document management and retrieval systems in particular are completely manual processes and identified to be suboptimal. Migration to electronic document management system from the current manual system, complemented with adequate training of staff concerned would help further improve the efficiency, reliability and credibility of the procurement process.

E. Integrity and Transparency of the Public Procurement System

39. **International Standing.** Transparency International² ranked Sri Lanka 95 out of 176 countries on its 'Corruption Perception Index' in 2016. Although Sri Lanka performed significantly

² 'Transparency International', an organization based in Berlin, whose 'Corruption Perceptions Index' ranks countries based on how corrupt a country's public sector is perceived to be. Scores range from 0 (highly corrupt) to 100 (very clean).

better than most of its neighbors in South Asia and several countries in Southeast Asia, with a score of 36/100, anticorruption mechanisms clearly need to be strengthened. Through the anticorruption measures introduced by the GOSL in the recent past, such as establishment of several independent commissions as described in succeeding paragraphs, it is anticipated that rankings may improve further.

40. **Disclosures and Improved Complaint Handling to Enhance Transparency.** With the view to enhance transparency, the country system (NPA guidelines) demands that the contract bid notices/ invitations, award results and details, bidding documents and other related information be posted to the Procuring Agencies' (or National Procurement Agency's) web-site. In this respect, insufficient transparency of the procurement process was observed in relation to MHECA and the four universities assessed, as no specific link had been set up or relevant data not being posted regularly to respective web sites. Further, a dedicated easy access complaint handling system had not been introduced, preferably linked to the agency web site.

41. **Audit Internal.** Universities subjected this assessment and the MHECA have set up Internal Audit divisions/ units under the responsibility of an Internal Auditor and support staff. The internal audits are carried out in accordance with an Internal Audit Plan approved by the Council of the Universities, on recommendations of the Audit Committee and for the MHECA, by its Secretary. Internal Audit function in the universities and MHECA also covers any special investigations and pre-audit of contract payments. The Internal Auditors of the MHECA and universities are required to report to the Secretary and Vice Chancellor respectively, a situation which curtails independence of the Internal Auditor to a certain extent.

42. **Audit External.** The external mechanisms in place at the executing agency and implementing agency entities include the statutory external audits conducted by the Auditor General's Department (AGD) annually under the authority of the Auditor General. Powers to carry out the independent external audit of all public institutions has been vested in the Auditor General under Article 154(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka, read in conjunction with Sub Section 107(5) of the Universities Act No. 16 of 1978. The Universities Act also empowers Auditor General to appoint private audit firms to assist him in carrying out audits of universities, if it is deemed necessary.

43. The scope of annual external audits is determined by the AGD which may also include special investigative procedures on specific areas of interest and performance audits. The AGD reports are mandated to be tabled at Parliament of Sri Lanka where review and oversight functions are exercised by the Committee on Public Accounts and Committee on Public Enterprises. Further, the AGD is vested with powers by the universities Act No. 16 of 1978 to make surcharges from responsible individuals in state universities in Sri Lanka to recover any proven losses, through a special procedure.

44. **Anticorruption Measures.** The mechanisms currently in place to investigate and combat corruption in the public sector includes the independent commission established under the Constitution of Sri Lanka – Commission to Investigate Allegations of Bribery or Corruption and the special branch added to the Sri Lanka Police in 2015 – Financial Crimes Investigation Division. A special, restricted term 'Presidential Commission' with specific Terms of Reference, appointed to inquire into past allegations – 'Presidential Commission to Investigate and Inquire into Serious Acts of Fraud, Corruption and Abuse of Power, has been sitting since and its term has been extended up to August 2017.

45. **Impact of Anti-Corruption Measures.** It is expected that both internal and external mechanisms explained above would contribute towards curtailing incidence and incitement to corruption in the public sector, owing to their deterrent and investigative impact, although circumventions cannot be ruled out.

F. Summary of Observations on Compliance Tests (executing agency and implementing agencies)

46. The MHECA, which is the apex policy making body in the higher education sector, is mandated as per the guidelines to carry out procurement of capital projects having contract values over SLRe 100m and 300m, funded by local and foreign sources, respectively. As a practice, the MHECA had awarded university capital works having contract value over SLRe 100m (or SLRe 300m in case of foreign funded), on 'Design and Build' (Turnkey) basis whilst most of the works carried out by the universities have separate design and build components.

47. The compliance tests carried out on small samples of contracts demonstrated that the MHECA and four universities possess reasonable procurement capacity although not without issues, ranging from minor to major. Based on compliance tests, acceptance scores were assigned to MHECA and each university with regard to intensity/ magnitude of issues observed in respect of compliance, transparency and VFM aspects, on a scale of 1 – 100. Overall acceptance scores assigned to executing agency/implementing agencies are as tabulated below.

Executing Agency/ Implementing Agency	Acceptance Score (Scale 1 – 100)	Percentage of Deficiencies/ Issues
Ministry of Higher Education	66	34%
University of Sri Jayewardenepura	75	25%
University of Kelaniya	68	32%
Rajarata University of Sri Lanka	56	44%
Sabaragamuwa University of Sri Lanka	72	28%

48. Of the agencies assessed, Rajarata University of Sri Lanka scored lowest due to comparatively higher number of issues observed in the sample reviewed at the Assessment. Please refer Appendix 2 for an agency wise summary of issues observed.

49. Majority of the allocations for capital works in higher education sector in the recent past have been financed from GOSL sources. As reported, only 7% of the total allocations for capital works in universities had been funded through foreign sources in 2016.³ Public procurements in the sector had been processed by the MHECA or beneficiary universities, in accordance with value thresholds set by NPA from time to time. This implies that the institutions, particularly at the university level have had limited exposure to international best practices in procurement management and reporting. While the staff had gained hands on experience in procurement operations, their capacity and knowledge was assessed to be limited due to inadequate exposure, inadequate capacity building measures and weak compliance monitoring mechanisms. The procurement related knowledge base of staff providing support services (such as finance) were observed to be inadequate.

³ Progress Report 2016 – Ministry of Higher Education and Highways.

II. STRENGTHS

50. **Strong public procurement environment.** The National Procurement Guidelines, supported with manuals, Standard Bidding Documents and applicable to the sector and agencies concerned (MHECA and universities). These guidelines, which have been formulated to achieve economy, efficiency, effectiveness, transparency and ethical aspects, are required to be complied in all procurement operations.
51. **Competitive Bidding.** Application of Competitive Bidding procedures for high value contracts, which have been complied by all agencies with few exceptions.
52. **Scope for Competition.** The attempts made by agencies concerned to give wide publicity for opportunities available to suppliers, presently via national newspapers, to attract an array of responsive bids.
53. **Equal Opportunity.** Non-discriminatory procurement practices exercised by agencies with no preferences to any particular party/ sector, domestic or otherwise. Nonexistence of a scheme giving preferences to state owned enterprises is seen as a 'strength' in the system.
54. **Absence of Pre-Registration.** Pre-registration by contractors/ bidders has not been a mandatory requirement which promotes healthy competition.
55. **Procurement Planning.** All state sector procurements are required to be supported with procurement plans and corresponding budget allocations. No procurement could be executed unless availability of funds from relevant sources is confirmed. Procurement planning processes are formalized by relevant guidelines which the procuring agencies are mandated to follow.
56. **Oversight.** Oversight of sector/ agency procurement functions by the 'National Procurement Commission' which is an independent body directly responsible to the Parliament.
57. **Private Participation.** Existence of a well-organized private sector (as providers of goods, services, capital works and consultancies) with the ability to access sector market.
58. **Complaint Handling.** A well-defined complaint handling system through Appeal Boards for the high value contracts approved at Cabinet of Ministers level.
59. **Internal Audit.** All agencies having established internal audit function, whose scope includes pre-auditing of capital works contract payments. (However, the level of independence of the Internal Auditor is impaired to a certain extent due to existing reporting responsibilities to the head of the agency (i.e. Secretary to the Ministry/ Vice Chancellor).
60. **Internal Controls.** Adequate internal control systems, with room for further improvement, although several deviations from good practices were evident in some agencies/ processes.
61. **External Audit.** Mandatory annual external audit conducted by the Auditor General and the requirement to act upon findings/ recommendations with pre-specified time frames.
62. **Integrity.** Inclusion of a number provisions in the National Procurement Guidelines that requires the procuring agency and decision makers to uphold and maintain the integrity, strengthening the process.

III. WEAKNESSES

63. **Response to Bid Invitations.** Poor response from bidders to bid notices were evident under both 'Competitive Bidding' and 'Shopping' methods, from the lower number of bids received (less than 3) in several occasions, which curtailed competitiveness of the process and opportunity to optimize VFM.⁴

64. **Capacity of Procurement Staff.** Infrequent training initiatives in respect of the non-executive staff were observed in all the agencies assessed. Non-executive procurement staff at MHECA and Sri Jayewardenepura, Kelaniya, and Sabaragamuwa universities had not received any formal training, other than on the job exposure while Rajarata University of Sri Lanka had conducted occasional in-house programs aimed at finance/ accounting and administrative staff.

65. **Complaint Resolution.** Absence of well-organized and formal complaint/ dispute resolution process at the agency level. (SBDs specified the CIDA for capital works, however, include clauses pertaining to dispute resolution.)

66. **Performance Review.** Performance/ Value for Money audits were not evident in the sector/ agencies by the AGD or any independent third party.

67. **Transparency.** The level of the transparency in procurement processes has been far from satisfactory. Only the MHECA had posted bid invitations in its web site while universities had no links in their web sites to access procurement information. Bid award details and general SBDs too have not been accessible from the web sites of any of the agencies (N.B: CIDA's SBDs for capital works are available only to be purchased hence they are not accessible through web sites.) However, as a general rule, all agencies have advertised bid notices under 'Competitive Bidding' process, at least once in one national newspaper.

68. **Background Check.** No formal procedures or facilities were available to independently verify the bidder's legitimate existence, track records, financial capacity and capacity to complete the job.

69. **Contractor Performance Rating.** No sector-specific procedures are in place to rate performance and/or debar bidders, suppliers, contractors and consultants for ethical or integrity violations. Although, the NPA, in its web site publish the details available of any blacklisted contractors, in practice relevant details may not be reported to NPA by the agencies on a regular basis.

70. **Compliance with Guidelines and Good Practices.** Deviations from some of the key procurement guidelines were evident at the assessment of agencies, committed by the head of procurement unit, TEC and/ or Procurement Committee. Whilst some of these deviations were identified as willful, the rest was due to lack of knowledge/ understanding over the guidelines and proper procedure.

IV. PROCUREMENT RISK ASSESSMENT AND MANAGEMENT PLAN (P-RAMP)

⁴ This can be due to limited number of prospective bidders available in the market or the use of inappropriate procurement method (E.g. use of Limited Competitive Bidding – LCB, instead of NCB).

#	Key Risk/s	Level of Risk	Mitigation Measures/ Risk Management Plan
1.	Poor Response to Bid Invitations	Substantial	All agencies under the project should well publicize the bid invitations in their web sites in addition to national newspapers, as being done presently. It would also be appropriate to directly invite the parties with past good track record to bid.
2.	Inadequate Capacity of Procurement Staff	Moderate	Need based procurement capacity building training programmes should be arranged annually for staff directly involved and those provide support services e.g. Finance.
3.	Lack of well-established Complaint Resolution process	Moderate	A practical, complaint accepting and dispute resolution procedure need to be established at agency level. Provision should also be made in the agency's web site to lodge any complaints online, if necessary. The outcomes of such resolutions process should also be notified officially to the parties concerned, whilst keeping all records at the agency.
4.	Absence of Performance Review procedure.	Moderate	A process of independent Performance/ Value for Money audit should be considered for the agencies in consultation with the AGD. At university level, such procedure would be more feasible as there are provisions in the Universities Act to employ private auditors to carry out audits/ reviews, in consultation and approval of the AGD.
5.	Lack of Transparency in the procurement process.	High	In order to make the procurement process more transparent, all agencies need to make provisions for posting bid invitations, results of concluded procurement processes with details of successful bidder and accepted bid value, and relevant SBDs, in their web sites.
6.	Unavailability of procedure to check background of bidders.	Moderate	Facilitation to verify background of bidders, particularly those who have no past track record with the sector/ agency, should be introduced. A national level repository appears to be more effective in this regard.
7.	Absence of procedures for performance verification and debarment of contractors/ suppliers.	Moderate	Linked to the (6) above, a performance verification and debarment process should be considered, particularly at the national level. In both instances the 'National Procurement Commission' would be the most appropriate body to facilitate the process and hosting data base.
8.	Deviations from recommended procurement guidelines and procedures.	Moderate	It should be made mandatory for all agencies to comply with recommended procurement guidelines. Periodic procurement reviews by independent external party would be appropriate to verify adherence to the compliance aspect.

V. CONCLUSIONS

71. It was evident from the PCA carried out on the Ministry of Higher Education (Executing/ Implementing Agency) and the four universities, viz. Sri Jayewardenepura, Kelaniya, Rajarata, and Sabaragamuwa (implementing agencies), that they possess adequate capacity to successfully carryout the project under consideration, subject to enforcement of necessary fiduciary controls where they do not exist, or existing controls are ineffective/ inadequate, as described in this report.

72. Of the four universities, Rajarata and Sabaragamuwa universities have demonstrated less exposure to executing large scale construction projects in the past, which has resulted partly from their shorter existence and smaller size, compared to the other two older universities. It was also revealed that these two Universities operated with inadequate managerial and technical personnel, needed particularly for the administration of large capital works projects. Nevertheless, as evident from the Assessment, their procurement capability and administrative capacity could be strengthened, within the value thresholds stipulated by the National Procurement Guidelines, through technical support, additional oversight, continuous monitoring and routine internal audit reviews, that would address any gaps identified in the system.

73. The obligation vested upon all stake holders to carry out project related procurements aimed at optimizing VFM and compliance with existing laws, regulations, guidelines and procedures necessitates that effective and continuous oversight is maintained by the ADB, ERD, and MHECA/ PMU, throughout the duration of project implementation.

APPENDIX 1: PROCUREMENT ASSESSMENT TOOLS
SECTOR/ AGENCY PROCUREMENT ASSESSMENT TOOL
SUMMARY SHEET

Indicators/Questions		Initial Country Score	Verified Country Score	Sector/ Agency Scores ³	Comments ⁵
1.	Legislative and Regulatory Framework	<i>Average</i>	<i>Average</i>	<i>Average</i>	
1.1	Does the national public procurement law (including supporting regulations, standard bidding documents and operational manuals/guides) apply to the sector?			2.0	<i>Key features, strengths and weaknesses that distinguish the sector from the country assessment should be identified.</i>
1.2	Is the supply market for the sector sufficiently competitive to give full effect to the national procurement law and/or open competitive tendering?			1.7	
1.3	If there is a sector specific legal framework, does it support non-discriminatory participation transparent tender processes (including advertisement, tender documentation, tender evaluation, complaints mechanism)?			1.5	
1.4	Is the sector subjected to excessive regulation or government control such that competition is limited or non-existent?			2.7	
2.	Institutional Framework/ Management Capacity	<i>Average</i>	<i>Average</i>	<i>Average</i>	
2.1	Is the procurement cycle in the sector required to be tied to an annual budgeting cycle (<i>i.e.</i> can a procurement activity commence only when budget has been duly appropriated for it)?			2.0	
2.2	Does the system foster efficiency through the use of adequate planning?			3.0	
2.3	Does the procurement system in the sector feature an oversight/regulatory body?			3.0	
2.4	Is there a public procurement capacity development or professionalization program?			1.0	1
3.	Procurement Operations/ Market Practices	<i>Average</i>	<i>Average</i>	<i>Average</i>	
3.1	Is private sector competitive, well organized and able to access the sector market?			2.5	
3.2	Do measures exist in the sector to ensure the adequacy and accuracy of cost estimates before bidding, and to manage contract price variations?			2.0	
3.3	Is there a mechanism in the sector to receive and handle observations, complaints and protests?			1.0	

⁵ If the sector is fully consistent with the country procurement system on an issue, apply the score allocated to the corresponding question in the country assessment.

Indicators/Questions		Initial Country Score	Verified Country Score	Sector/ Agency Scores ³	Comments ⁵
4.	Integrity and Transparency of the Public Procurement System	<i>Average</i>	<i>Average</i>	<i>Average</i>	
4.1	Is there a formal internal control and audit framework in the sector?			1.8	
4.2	Is information pertaining to public procurement in the sector easy to find, comprehensive and relevant?			1.0	
4.3	Does the sector have ethics and anticorruption measures in place?			1.5	
	OVERALL SCORES	<i>Average</i>	<i>Average</i>	1.9	(= 26.7 /14)

APPENDIX 1: SECTOR/AGENCY PROCUREMENT ASSESSMENT QUESTIONNAIRE

Indicators/Questions	Sector/Agency Questions	Score	Narrative ⁶
1.	Legislative and Regulatory Framework		
1.1	Does the national public procurement law (including supporting regulations, standard bidding documents and operational manuals/ guides) apply to the sector?	<p>Is the sector exempted by legislation from being subject to the national public procurement law?</p> <p>Even if subject to the national public procurement law, does the sector tend to follow it?</p> <p>Do agencies in the sector use government-issued public procurement manuals or guidance?</p> <p>Have government-issued documents been tailored to meet sector requirements?</p> <p>In absence of government-issued documents, does the sector have its own standard bidding documents/ guidelines?</p>	<p>2</p> <p>2</p> <p>2</p> <p>2</p> <p>N/A</p> <p>The Sector is mandated to follow National Procurement Guidelines.</p> <p>The Guidelines, Explanatory Manuals and subsequent amendments through 'Supplements' should be complied with the executing agency and there University implementing agencies assessed.</p>
1.2	Is the supply market for the sector sufficiently, competitive to give full effect to the national procurement law and/or open competitive tendering?	<p>Is competitive bidding a common feature under the sector?</p> <p>Is there a core of suppliers in the sector who regularly submit responsive bids?</p> <p>What proportion, by %, of the sector's procurement is undertaken through open competitive bidding?</p> <p>What is the average number of bidders for publicly bid contracts?</p> <p>Do executing agencies tend to make sufficient efforts to attract bids (e.g. adequate advertising, bidding periods)?</p> <p>Is there availability and quality of suppliers, labour force and/ or related goods and services in the domestic market?</p>	<p>2</p> <p>2</p> <p>1</p> <p>1</p> <p>2</p> <p>2</p> <p>The sector applies Competitive Bidding when the recommended value thresholds require compliance.</p> <p>Several instances of deviation were observed at the executing agency (MHECA) before mid-2016, which had subsequently been addressed following a cabinet memorandum submitted by Ministry of Finance and Mass Media.</p>

⁶ Describe how the sector meets the guidance applicable to the score allocated, or other justification for the score.

Indicators/Questions		Sector/Agency Questions	Score	Narrative ⁶
1.3	If there is a sector specific legal framework, does it support non-discriminatory participation, transparent tender processes (including advertisement, tender documentation, tender evaluation, complaints mechanism)?	Has the sector adopted non-discriminator, transparent tender processes?	2	The tender process adopted for procurements qualify for Competitive Bidding procedure was satisfactory. However, issues relating to the transparency were observed over the selection of prospective bidders to call for quotations under 'Shopping Method'
		What is the average number of bidders for publicly bid contracts?	1	Occasionally, responses for certain bid invitations were poor.
1.4	Is the sector subjected to excessive regulation or government control such that competition is limited or non-existent?	Does the sector apply a domestic preference scheme?	3	No domestic preference scheme is in place at present.
		Does the sector require pre-registration of bidders?	2	Pre-registration is not mandatory.
		Are there acceptable provisions in the sector for the participation of State Owned Enterprises?	3	All bidders are equally treated.
2.	Institutional Framework and Management Capacity			
2.1	Is the procurement cycle in the sector required to be tied to an annual budgeting cycle (i.e. can a procurement activity commence only when budget has been duly appropriated for it)?	Are procurement plans in the sector prepared on as part of the budget planning and formulation process?	2	Procurement planning is carried out although deficiencies/ gaps were observed in the process.
		Do systems and processes in the sector or key agencies in the sector require certification of availability of funds before solicitation of tenders?	2	Although, allocations are contained in approved national budgets, disbursements may not take place fully. Therefore, availability of funds need to be confirmed for procurement of capital assets/ works.
2.2	Does the system foster efficiency through the use of adequate planning?	Does the sector, or key agencies in the sector, have a formalized procurement planning process(s)?	3	The process recommended by national guidelines needs to be complied with.
2.3	Does the procurement system in the sector feature an oversight/ regulatory body?	Does the sector fall under the remit of the national oversight/ regulatory body? If a national body does not exist, is there a sector-specific body that oversees/ regulates procurement?	3	The National Procurement Commission (statutory independent body) is vested with regulatory/ oversight aspects.

Indicators/Questions		Sector/Agency Questions	Score	Narrative ⁶
2.4	Is there a public procurement capacity development or professionalization program?	What proportion of procurement-related officers and staff in the sector have been trained under the national or sector capacity development program or participated in any formal procurement training program?	1	Mostly the executive staff engaged in procurement function has received formal training. The rest had received on the job training but knowledge gaps were evident.
3. Procurement Operations and Market Practices				
3.1	Is private sector competitive, well organized and able to access the sector market?	Is the private sector well organized and able to access the sector market? Do civil society organizations regard public procurement in the sector to be open and accessible to the market?	3 2	No evidence` of discriminatory practices against private sector. Whilst over 90% of goods and services suppliers are in the private sector their capital works share can be approximated between 80% - 90%.
3.2	Do measures exist in the sector to ensure the adequacy and accuracy of cost estimates before bidding, and to manage contract price variations?	What percentage of contracts are awarded for values less than the original cost estimates? What percentage of contract variations amount to a cumulative impact of more than 10% of the original contract price?	2 2	These outcomes are in accordance with compliance tests carried out for the executing agency and 3 implementing agencies. Several instances of contracting without cost estimates were observed at one of the implementing agencies, Rajarata University of Sri Lanka.
3.3	Is there a mechanism in the sector to receive and handle observations, complaints and protests?	Are there sector-specific procedures to receive and handle observations, complaints and protests? Are complaints and protests in the sector processed within the maximum time limit provided for in the law? Have bidders used the complaint and protests mechanisms?	2 1 0	An Appeal Board has been setup under country system for large value contracts. Those not falling into this category may appeal to the Secretary of line Ministry. However, no evidence was available about processing times of any complaints received and the extent of usage of available systems by bidders.
4. Integrity and Transparency of the Sector Public Procurement System				
4.1	Is there a formal internal control and	Do key agencies in the sector have an independent internal audit function?	2	Internal audit function is not fully independent due to reporting responsibilities to

Indicators/Questions		Sector/Agency Questions	Score	Narrative ⁶
	audit framework in the sector?	<p>Do key agencies in the sector have adequate internal control mechanisms to oversee the procurement function?</p> <p>Are key agencies in the sector subjected to regular performance or value for money audits?</p> <p>Are key agencies in the sector subjected to annual financial audits?</p> <p>Are internal or external audit findings/ recommendations acted on in a timely fashion?</p>	<p>2</p> <p>1</p> <p>2</p> <p>2</p>	<p>the head of agency (Ministry Secretary/ VC)</p> <p>Internal controls procedures need improvement.</p> <p>No regular performance/ VFM audits are carried out in the sector/ agencies.</p> <p>Mostly complied with timelines but exceptions were observed.</p>
4.2	Is information pertaining to public procurement in the sector easy to find, comprehensive and relevant?	<p>What percentage of bids is published in a medium that is easily and freely accessible?</p> <p>Can bidders easily and freely access bid information?</p> <p>What is the percentage of contract awards announced in medium that is easily and freely accessible?</p> <p>Are third party observers invited to attend public biddings?</p>	<p>2</p> <p>2</p> <p>0</p> <p>0</p>	<p>Bid notices are often published at least in two languages, including English. However, SBDs used are mostly in English language.</p> <p>Contract awards are not usually publicly announced other than to the successful bidder (in English language)</p>
4.3	Does the sector have ethics and anti-corruption measures in place?	<p>Are there sector-specific procedures to verify a bidder's legitimate existence, track records, financial capacity and capacity to complete the job?</p> <p>Are there sector-specific procedures to rate performance and/or debar bidders, supplier, contractors and consultants for ethical or integrity violations?</p> <p>Does the sector, or key agencies in the sector, maintain a register of debarred suppliers, contractors and consultants?</p> <p>Are there sector-specific integrity principles and guidelines?</p>	<p>1</p> <p>1</p> <p>2</p> <p>2</p>	<p>No mechanisms in place to address these issues effectively.</p>

APPENDIX 2: SUMMARY OF ISSUES OBSERVED AT PROCUREMENT CAPACITY ASSESSMENT

(N.B: Deficiencies/ issues highlighted below were detected at the compliance review on samples selected and they may relate to one or more contracts.)

Ministry of Higher Education and Cultural Affairs	University of Sri Jayewardenepura	University of Kelaniya	Rajarata University of Sri Lanka	Sabaragamuwa University of Sri Lanka
Sample Size: 4 Contracts Sample value: SLRe 1,851m)	Sample Size: 8 Contracts Sample value: SLRe 3,978m	Sample Size: 8 Contracts Sample value: SLRe 430m	Sample Size: 9 Contracts Sample value: SLRe 730m	Sample Size: 6 Contracts Sample value: SLRe 284m
<ol style="list-style-type: none"> 1. Without applying procedures recommended in guidelines on NCB/ LNB method (NPA 3.3), limited quotations had been called from five (5) bidders for high value contracts awarded. The basis of selecting 5 bidders was not clear. This inappropriate procedure had however been discontinued in mid-2016 according to a cabinet decision on a recommendation made by the Minister of Finance. 2. Detailed engineering estimate had not prepared for contracts awarded on 'Turn-Key' basis. (NPA 4.3.1 and FR 688) 3. NPA approved time schedule for evaluation of bids had been exceeded by TEC by 17 weeks, Permitted time 6 weeks (NPA 4.2.3). No justification for the extension provided. 4. Non acceptance by Ministry Procurement Committee of TEC recommendation to accept second lowest bid due to poor past performance of the lowest evaluated bidder. 	<ol style="list-style-type: none"> 1. Evaluation and qualification criteria had not been considered at the detailed evaluation stage (by TEC), not complying with clause 7.9.2 in NPA guidelines. 2. Procurement Time Schedules (PTS) had not been prepared for most of the Civil Works contracts reviewed. 3. Liquidated damages not recovered for a few procurements, as provided for in the contract agreement, despite late delivery of goods. 4. Construction of new Faculty of Technology building complex (contract value SLRe 2.7b) had been commenced with necessary budget allocations. However, the University has been compelled to pay interest to the contractor due non-payment of several bills (on Interim Payment Certificates – IPCs)) in time as required fund disbursements from the Treasury were not forthcoming. 5. Extension of time (EoT) granted to contractor (as long as 123 days, in one instance) 	<ol style="list-style-type: none"> 1. Engineering estimate had not been certified by the responsible officer (NPA 4.3.1) 2. Bid evaluation had not been done according to the evaluation criteria included in the bidding documents (NPA 7.7). 3. Procurement notice had not been advertised in newspapers and website as required for the NCB method (NPA 3.2.2) 4. Work had not been completed within the agreed time period. Liquidated damage had not been imposed as required by condition of contract clause 9. 5. Bid opening records are not available in the file (NPA 6.3.3) 6. Copy of the letter of appointment of TEC members are not available (NPA 2.8.4) 	<ol style="list-style-type: none"> 1. A formal contract agreement had not been signed by parties to the contract (NPA 8.9.3) 2. Although payment is made for material at site, evidence for valuation of material is not attached to the payment certificate. 3. Over payment of mobilization advance (NPA 5.4.4.) 4. Before obtaining the approval from DPC, letter of acceptance had been issued. 5. The report of the DPC/ approval was not available in file. 6. Only one responsive bidder had been considered for selection of lowest evaluated bidder. As a result, recommendations in NPA guidelines not met. (NPA 1.2.1 (a)) 7. BoQ prepared by the Consultant (CECB) was not realistic. This resulted in considerable variations. 8. Only 15 days had been allowed for submission of bids, 	<ol style="list-style-type: none"> 1. Minimum one external member had not been included in the DPC (NPA 2.7.5) 2. The timeframe for procurement process had been deviated (NPA 4.2.3) 3. Detailed bid evaluation had not been carried out by the TEC (NPA 7.9.1(b)) 4. Neither, Extension of Time (EoT) had been granted by the University nor Liquidated Damage claimed. (NPA 9.6.4) 5. University Works Engineer had been appointed as a member of TEC, who is also responsible for supervising and certification of Interim Payment Certificate (IPC). This arrangement had negatively impacted on transparency, giving rise to conflict of interest (Col) situation. 6. Cost estimate had not been prepared for awarding security service contract. TEC evaluation

Ministry of Higher Education and Cultural Affairs	University of Sri Jayewardenepura	University of Kelaniya	Rajarata University of Sri Lanka	Sabaragamuwa University of Sri Lanka
Sample Size: 4 Contracts Sample value: SLRe 1,851m)	Sample Size: 8 Contracts Sample value: SLRe 3,978m	Sample Size: 8 Contracts Sample value: SLRe 430m	Sample Size: 9 Contracts Sample value: SLRe 730m	Sample Size: 6 Contracts Sample value: SLRe 284m
<p>No justifications provided for the Ministry Procurement Committee decision to override TEC recommendation.</p> <p>5. Bid evaluation criteria published had not been used for the evaluation bids (NPA 7.9.1)</p> <p>6. Bid opening committee had not been appointed (NPA 6.3.3)</p> <p>7. Procurement related information, other than bid invitations have not been posted to Ministry's web site.</p>	<p>without evaluation and justification of reasons for the delay.</p> <p>6. Overpayment of mobilization advance (50% of contract sum, in contravention of NPA 5.4.4)</p> <p>7. Incomplete TEC and Procurement Committee reports.</p> <p>8. Conflict of Interest declaration not being available in the file.</p> <p>9. Following documents were not in file for some contract files reviewed: Bid opening minutes (including details of bids received, attendance lists of bidders); Procurement Committee (PC) report.</p> <p>10. Unavailability of Cost Estimate for some of the Goods procurements.</p> <p>11. Procurement through 'repeat orders' (Desktop computers) without adequate evaluation justification (for the repeat order).</p>	<p>7. Bid evaluation had not been done as per recommended procedures. (NPA 7.8)</p> <p>8. Past performance of bidders had not been considered as one of the evaluation criteria (SBD requirement).</p> <p>9. Further to the relevant NPA Guidelines, a cabinet memorandum had been submitted by Finance Minister, requiring to follow NCB method. However, limited quotations had been called from five (5) bidders. Basis of selection of prospective bidders too was not clear.</p> <p>10. Compliance with the specifications had not been checked by the TEC members, as required for goods supplied.</p> <p>11. Method of selection of bidders had not been declared. (National Shopping Procedures)</p> <p>12. The rates applied for the BoQs had not been certified.</p> <p>13. Procurement related information not posted to University's web site.</p>	<p>although minimum 21 days should have been allowed (NPA 6.2.2)</p> <p>9. Considering the bidder's quoting of unrealistic low rates, the TEC had not followed standing instructions in NPA 7.9.11 relating to selection of lowest evaluated bidder.</p> <p>10. Although TEC recommended to award contract to lowest evaluated bidder, the final award price had not been determined and certified by the TEC. (Bidder had not indicated unit price for one item, hence the bid was incomplete) (NPA 7.11.1)</p> <p>11. Rates and detail of works had not been included in the estimate (NPA 4.3)</p> <p>12. Extension of Time (EoT) had been granted without justification (NPA 8.14.1)</p> <p>13. Procurement related information not posted to University's web site.</p>	<p>had not been properly carried out (FR 6.8.8)</p> <p>7. As a result of unrealistic condition included in the bid specifications, only two (2) responsive bids had been received out 15 bidders. This prevented realizing the VFM optimization on the procurement.</p> <p>8. Although the second highest bidder had been selected by the TEC, justifications for selection not included in the TEC report.</p> <p>9. Although no provision was available to alter/ modify already approved design by TEC and PC, alterations to the structural drawings were observed.</p> <p>10. LNB procurement method is applicable only in exceptional circumstances. However, Ministry Procurement Committee called quotations from shortlisted five (5) bidders without adhering to the standing instructions. (NPA 3.3).</p>

Ministry of Higher Education and Cultural Affairs	University of Sri Jayewardenepura	University of Kelaniya	Rajarata University of Sri Lanka	Sabaragamuwa University of Sri Lanka
Sample Size: 4 Contracts Sample value: SLRe 1,851m)	Sample Size: 8 Contracts Sample value: SLRe 3,978m	Sample Size: 8 Contracts Sample value: SLRe 430m	Sample Size: 9 Contracts Sample value: SLRe 730m	Sample Size: 6 Contracts Sample value: SLRe 284m
				11. Procurement related information not posted to University's web site.