



**OVERSIGHT OF PUBLIC PROCUREMENT,  
PRINCIPLES AND COUNTRY  
EXPERIENCE  
CASE OF SENEGAL**

IBRA GUEYE



---

GENERAL CONTEXT OF INDEPENDENT REVIEWS OF PUBLIC PROCUREMENT  
PROCEDURES

2007 - 2007 YEAR 1 of the Reform of the National Public Procurement System in Senegal

Country Financial Accountability Assessment (CFAA)

Country Procurement Assessment Report (CPAR).

The objectives were respectively to assess the effectiveness of national public financial management systems and private sector accounting practices, and to evaluate the effectiveness of the national procurement system, with a view to driving the reforms needed to bring these systems up to the level of international best practice.

Transposition into national regulations of WAEMU directives N°4 and N°5, with the aim of bringing Senegal's public procurement management system up to the level of international best practice.

- The system is now based on the separation of the functions of:
  - **Management of public procurement entrusted to the Contracting Authorities**
  - **Prior control and advisory support** entrusted to a body in charge of prior control of public procurement
  - **Regulation, a posteriori control and dispute settlement** assigned to the body in charge of Public Procurement Regulation.

**A priori control** of public procurement procedures is ensured

by the Direction Centrale de Marchés Publics (DCMP) Central Directorate of Public Procurement/, an administrative structure attached to the Ministry of Finance,

DCMP issues **notices**:

- **on DACs** before launching acquisition procedures concerning

- fractional contracts of any value (purchase orders, customer contracts, contracts with firm and conditional tranches)

- contracts which the contracting authorities wish to award by restricted invitation to tender

-

- contracts whose estimated value exceeds the threshold of a priori control defined by order of the Minister in charge of finance (Order MFB no. 7122 of 23 March 2023 made pursuant to section 142. a) CPM); different thresholds according to the type of contract and the structure concerned

**- on the evaluation reports of tenders or proposals and on the minutes of award of contracts.**

**DCMP carries out a legal and technical review prior to approval::**

- - the draft contracts for the above-mentioned contracts and the draft contracts for contracts awarded by direct agreement and those for which it has indicated that it wishes to carry out such a review when examining the relevant request for exemption,
- - amendments to the above-mentioned contracts or which have the effect of raising the amount above the threshold set by MFB Order No. 7122 for a priori controls

Internal and Post-audit of Public Procurement.

**Article 144 of the PPC** provides that within each contracting authority, the internal audit body must ensure on a permanent basis that the legal and regulatory provisions applicable to public procurement are strictly observed.

**Art. 145.** - Each procurement unit draws up, for the attention of the authority to which it reports, the body responsible for regulating public procurement and the body responsible for monitoring public procurement, a quarterly report, no later than the 15th of the month following the end of the quarter, and, before March 31st of each year, an annual report on all public procurement contracts awarded in the previous year. Among other information, this report provides a list of defaulting companies, specifies the nature of the breaches observed, verifies compliance with social and environmental obligations by contractors, and gives a detailed account of contracts awarded by direct agreement.

This report should also include the results achieved in implementing sustainable public procurement. This report should, finally, contain a list of all Enquiries and Simple Prizes and Restricted Competitions made during the year, specifying the list of companies consulted, the name of the successful tenderer and the nature and amount of the contract. The list must also be transmitted in electronic form.



**Art. 146.** - In addition to its advisory role, the body responsible for regulating public procurement carries out a posteriori control of compliance with national and Community rules relating to the award and performance of public procurement contracts. To this end, the body responsible for regulating public procurement :

- Orders at the end of each fiscal year, **AN INDEPENDENT AUDIT** at random on a sample of contracts;

- may initiate and carry out at any time **WITH ITS OWN MEANS** or by other means, external audits or investigations into the transparency and legality of procedures for drawing up and awarding public contracts, as well as the conditions under which they are performed, and compliance with social and environmental standards;
  
- reports to the contracting authority concerned, to the Minister for the sector concerned and to the Minister of Finance, on the procedure followed during checks and investigations, on any anomalies found and, where appropriate, suggests improvements

- notifies the competent authorities at national or Community level of any infringements or irregularities discovered in the course of its investigations and controls;
- keeps and publishes a list of natural and legal persons excluded from procurement procedures;
- reports on the checks carried out in an annual report to the President of the Republic, the Speaker of the National Assembly, the Prime Minister, the Minister for Finance and the First President of the Court of Auditors. The report is then published.

- Since the implementation of the reform of the national public procurement system, the Republic's Public Procurement Regulatory Authority (Autorité de Régulation des Marchés Publics) and its successor, the Public Procurement Regulatory Authority (Autorité de Régulation de la Commande Publique), created by article 30 of law 2022-07 of April 19, 2022, amending law 65-51 of July 19, 1965 (Code des Obligations de l'Administration/Code of administrative obligations), as amended, have commissioned fourteen (14) **missions to independently review the compliance of contracting authorities' public procurement procedures.**

For fourteen (14) missions (from 2008 to 2023), **1,364 Contracting Authorities have been or will be audited** (the mission for 2023 management is about to start), making an average of more than ninety-seven (97) Contracting Authorities audited per financial year. It should be noted that the 2013 and 2014 audits were grouped together to make up for the slight delay in the production of audit reports; ARCOP (Public Procurement Regulatory Authority) **makes it a point of honor to produce and publish reports on time.**

- **Sixty-one (61) contracts** were awarded for the performance of these independent review missions to ensure that public procurement procedures are in conformity.
- Following **independent reviews** of public procurement compliance, the **Investigations and Inspections Unit of the Public Procurement Regulatory Authority** takes over from the External Auditors, if necessary, for **in-depth missions**. the External Auditors to carry out in-depth investigations and inspections and inspections in order to elucidate anomalies identified in the course of external audits, in particular in the case of contracts containing indications of of fraud and embezzlement.
- To this end, independent auditors are required, the preparation of a memorandum listing the **markets for which further investigation by the Investigations and Inspections Unit of the Public Procurement Regulatory Authority** is deemed necessary.

As part of the mission of the Independent Review of Procurement Compliance for the 2022 management, **the internal auditors of the PPRA were integrated into the teams of External Auditors** in order to put them in a practical situation with the aim of enhancing their skills through on-the-field training. This is intended to enable PPRA to carry out its missions as defined by **Article 146, paragraph b)**, which states that the body in charge of public procurement can initiate and carry out external controls or investigations at any time, **using its own resources** or other means... These internal auditors are housed in the **Public Procurement Management Control and Audit Unit**.

---

## GENERAL OBJECTIVES OF PROCUREMENT AUDIT MISSIONS



---

## GENERAL OBJECTIVES OF PROCUREMENT AUDIT MISSIONS

- ❖ Verify the processes for contracting and executing contracts entered into under a given budget management.
- ❖ Measure the degree of compliance with the provisions and procedures laid down by the contract code and its implementing texts.
  - .
- ❖ Assess the suitability of procurement procedures and contract management methods in relation to the provisions of the PPC (Public Procurement Code) (decree 2022-2295 of December 28, 2022) and its application texts (**MFB orders N° 007115 to N° 007122 of March 23, 2023**).

---

## SPECIFIC OBJECTIVES OF PUBLIC PROCUREMENT AUDIT MISSIONS

---

METHODOLOGICAL APPROACH TO COMPLIANCE REVIEWS OF PUBLIC PROCUREMENT  
PROCEDURES



## SUMMARY OF METHODOLOGICAL APPROACH



# METHODOLOGICAL APPROACH TO PUBLIC PROCUREMENT REVIEW

PHASE 1

REVIEW OF REFERENCE TEXTS

PHASE 2

SAMPLE OF MARKETS TO BE EXAMINED

PHASE 3

ANALYSIS OF THE ORGANIZATION OF THE PROCUREMENT ENVIRONMENT

PHASE 4

CHECKING THE VARIOUS STAGES OF THE CONTRACT AWARD PROCESS

MODULE 1  
AUDIT OF  
PROCUREMENT  
PREPARATION

MODULE 2  
AWARD  
MANAGEMENT AUDIT

MODULE 3  
EXECUTION  
MANAGEMENT  
AUDIT

MODULE 4  
REVIEW OF THE  
ARCHIVING SYSTEM

PHASE 5

FORMULATION OF RECOMMENDATIONS FOR IMPROVING MARKET MANAGEMENT

PHASE 6

RESULTS FEEDBACK



---

FINDINGS CONCERNING THE INSTITUTIONAL ARRANGEMENT, ORGANIZATION  
AND THE PROCUREMENT ENVIRONMENT

---

## FINDINGS CONCERNING THE INSTITUTIONAL ARRANGEMENT, ORGANIZATION AND THE PROCUREMENT ENVIRONMENT

- Delay in the appointment of representatives of the Ministries of Supervision and Financial Control of the Presidency of the Republic (Holders and Alternates) in the Contracts Committees of certain Contracting Authorities. The latter are therefore not always named *intuitu personae* in the appointment orders sent to the DCMP and the ARMP.
- Inappropriate participation of coordinators or members of Procurement Units in bid evaluation operations, in certain procurement procedures in disregard of the provisions of the Public Procurement Code.
- Performing incompatible functions at the level of certain local authorities that are understaffed or lack competent personnel.

---

## FINDINGS CONCERNING THE INSTITUTIONAL ARRANGEMENT, ORGANIZATION AND THE PROCUREMENT ENVIRONMENT

- References to outdated regulatory provisions in the orders establishing and/ or appointing members of the bodies of the Public Procurement or in documents such as notices allocation.
- Cumulative functions of the DAGE who are Presidents of the Commission des Marchés (Procurement Commission), Presidents of Receiving Committees and who, as Administrators of the Credits and Ordinators' of the Expenses, liquidate and certify the invoices
- Lack of traceability of a priori controls implemented by Procurement Units de
- Inadequate formalization of the support and advisory role played by Contract Award Units les



---

## COMMON NON-CONFORMITIES IN PROCUREMENT PROCEDURES

- Inappropriate participation of coordinators or members of Procurement Units in bid evaluation operations, in certain procurement procedures in disregard of the provisions of the Public Procurement Code.
- Performing incompatible functions at the level of certain local authorities that are understaffed or lack qualified personnel.
- References to outdated regulations in decrees setting up and/or appointing members of public procurement bodies or in documents such as award notices.
- Recurring failure to comply with the advertising formalities (problem of calculating time limits for preparing tenders).
- Lack of evidence of effective transmission of notices to members of the Contract Award Commission.
- Postponement of opening sessions without formal notice to candidates.

---

## COMMON NON-CONFORMITIES IN PROCUREMENT PROCEDURES

- Non-traceability of interactions between CAs and bidders during the bid preparation period (quantities differing from those in the EQD but identical from one bid to another, leading to a lack of transparency in the transmission of modifying information).
- Non-compliance with the waiting period between the invitation to attend and the contract award committee meetings.
- PVO, PVA or RAPEV signature pages with risk of inappropriate use,
- Lack of evidence of PVO transmission.
- No evidence of letters of information (give a certain date for all contract documents).

---

## COMMON NON-CONFORMITIES IN PROCUREMENT PROCEDURES

- Late issuance of GS release letters.
- Non-respect des délais d’approbation des PVA par les PRM, Non-compliance with the deadlines for approving PVA by the PRM.
- Postponement of opening sessions without formal notice to candidates.
- Awarding of several contracts beyond the regulatory deadline (necessary formulation of requests for extensions and responses within the validation period as required). The issue of updating was raised.

---

## NON-COMPLIANCES SPECIFIC TO CONTRACTS AWARDED THROUGH OPEN TENDERS

- Insufficient formalization of the control of technical conformity of tenders with the technical specifications of the specification. The mention “CONSISTENT” must be corroborated by an analysis of the technical data sheets for the supplies, in order to compare each requirement with the characteristics of each bidder's offer, in order to support the decision of the Technical Evaluation Committee and in compliance with the provisions of article 59.1 of the Public Procurement Code and Non-compliance with the waiting period between the invitation to attend and the meetings of the Procurement Committee.
- Premature check of qualification criteria at the preliminary examination stage,
- Inappropriate decision to evaluate the bid of a consortium, one of whose members is also taking part in the selection procedure on an individual basis (the Contracts Committee does not have to decide which bid to accept).

-

---

## NON-COMPLIANCES SPECIFIC TO CONTRACTS AWARDED THROUGH OPEN TENDERS

- Non-compliance with the principle of inviolability of bid evaluation or contract award criteria.
- Incorrect coordination of notification dates for SDOs for works contracts and Strategic Development Orientations for related control and supervision contracts
- Underestimation of financial qualification criteria in relation to estimated cost and duration of execution of works contracts

-

---

## NON-COMPLIANCES SPECIFIC TO CONTRACTS AWARDED THROUGH OPEN TENDERS

- Assignment of a contract following the absorption of the original holder not documented by a tripartite transfer between the transferor (initial holder), the transferee (new holder) and the transferee (contracting authority).
- Conclusion of an amendment, changing the settlement conditions of the CCAP part of the DAO, with the effect of a substantial modification of the initial conditions of competition (failure to respect the principles of transparency and equal treatment of candidates).

-

---

## NON-COMPLIANCES SPECIFIC TO CONTRACTS AWARDED THROUGH OPEN TENDERS

- Evidence of the publication of specific procurement notices in the public procurement portal, are not systematically classified in the contract files submitted to the auditors (the difficult access to SYGMAP often invoked does not justify all failures).
- Failure to comply with the time limits for awarding contracts
- Lack of evidence that information letters were sent to unsuccessful bidders
- CPTs do not always transmit copies of contracts already submitted for registration.
- 
-

---

## NON-CONFORMITIES SPECIFIC TO DIRECT AGREEMENT CONTRACTS

- A multiplicity of derogatory texts for specific acquisitions, in disregard of the requirements of article 25 of the COA, which states: “...No regulation or procedure specific to a public purchaser, a category of purchasers or a category of supplies, services or works may derogate from the rules laid down by the Public Procurement Code, or adopted in application of this code”.
- Budgetary coverage for contracts provided partly in the Amending Finance Law and partly in the Initial Finance Law, in violation of the requirements of Article 9 of the Public Procurement Code (PPC).
- Cost price control never carried out, even though the relevant clause is systematically required by the DCMP during the legal and technical review of contracts.



---

## NON-CONFORMITIES SPECIFIC TO AMENDMENTS

- Administrative amendments not subject to the formality of registration
- Partial release of the performance guarantee (GBE), not issued to the contractor after the conclusion of an amendment reducing the contract amount
-

---

## NON-CONFORMITIES SPECIFIC TO INTELLECTUAL SERVICE CONTRACTS

- The examination of several minutes of the opening of financial bids reveals that the scores awarded to bidders, following the evaluation of their technical proposals, are not systematically recalled and recorded in the preamble of the aforementioned minutes of the opening of financial bids. This is a transparency requirement that must be adhered to. Partial release of the performance guarantee (GBE), not held by the contractor, after the conclusion of an amendment that reduced the contract amount.
- The complexity of the scoring grid included in the call for expressions of interest is contrary to article 83 of the PPC. Furthermore, in the section on technical and managerial organization, information on methodology is requested prematurely.

---

## NON-CONFORMITIES SPECIFIC TO INTELLECTUAL SERVICE CONTRACTS

- The examination of several minutes of the opening of financial bids reveals that the scores awarded to bidders, following the evaluation of their technical proposals, are not systematically recalled and recorded in the preamble of the aforementioned minutes of the opening of financial bids. This is a transparency requirement that must be adhered to. Partial release of the performance guarantee (GBE), not held by the contractor, after the conclusion of an amendment that reduced the contract amount.
- The complexity of the scoring grid included in the call for expressions of interest is contrary to article 83 of the PPC. Furthermore, in the section on technical and managerial organization, information on methodology is requested prematurely. **The methodology should only be requested and described in the technical proposal and not at the expression of interest stage.**

---

## NON-CONFORMITIES SPECIFIC TO INTELLECTUAL SERVICE CONTRACTS

- The documents supporting the transmission of the technical ratings and the invitation to qualified bidders to attend the opening of financial tenders are not systematically classified. **The communication of the marks awarded to the tenderers, at the end of the evaluation of the technical proposals and the invitation of those of them, who have obtained the Minimum Technical Score required in the DPAO, to attend the opening of financial offers is a requirement of transparency, to which it must be complied with. The traceability of the implementation of this formality must be documented.**
- Individual rating sheets duly signed by the evaluators are not annexed to the evaluation report. The same applies to the summary table of grades, which should show the grades awarded by each of the evaluators. **Attach to the evaluation reports, individual rating sheets duly signed by each of the evaluators, for the verification of the selection of the successful tenderer who must obtain the highest weighted average.**

---

## NON-CONFORMITIES SPECIFIC TO INTELLECTUAL SERVICE CONTRACTS

- Imprecise definition of criteria for assessing consultants' qualifications and skills.
- Individual rating sheets duly signed by the evaluators are not annexed to the evaluation report. The same applies to the summary table of grades, which should show the grades awarded by each of the evaluators. **Attach to the evaluation reports, individual rating sheets duly signed by each of the evaluators, for the verification of the selection of the successful tenderer who must obtain the highest weighted average.**

- In several consultant selection procedures, one or two (2) proposals were received by the submission deadline. This lack of real competition was further evident as, after the evaluation of the two technical proposals received, only one offer achieved the minimum required technical score for the opening of financial bids.

**The Contracting Authority must carry out the required due diligence by ensuring, prior to the formation of the shortlist, that the consultants considered for inclusion are interested in the procedure and have the necessary capabilities to carry out the intended mission.**

**In our opinion, the rules applicable to Restricted Tenders should have been applied and the procedure relaunched after this observation.**

---

## NON-CONFORMITIES SPECIFIC TO INTELLECTUAL SERVICE CONTRACTS

- In several consultant selection procedures, one or two (2) proposals were received by the submission deadline. This lack of real competition was further evident as, after the evaluation of the two technical proposals received, only one offer achieved the minimum required technical score for the opening of financial bids.

**The Contracting Authority must carry out the required due diligence by ensuring, prior to the formation of the shortlist, that the consultants considered for inclusion are interested in the procedure and have the necessary capabilities to carry out the intended mission.**

**In our opinion, the rules applicable to Restricted Tenders should have been applied and the procedure relaunched after this observation.**

---

## NON-CONFORMITIES SPECIFIC TO INTELLECTUAL SERVICE CONTRACTS

- Confusion between the qualifications of the Firm Consultant and the qualifications of the individual Experts.
- Negotiation of contracts for intellectual services diverted from its intended purpose (to fit within the budget).
- Undue modification of the initial conditions of competition when the contract was finalized,
- Uncertainties about the application methods of the technical proposal evaluation grid
- Information recorded in the evaluation report does not correspond to the content of the bids (examine tenderers' bids on a sample basis).



---

## NON-CONFORMITIES SPECIFIC TO INTELLECTUAL SERVICE CONTRACTS

- Payment of 50% of the fees upon signing and the remaining 50% after the submission of the three reports. The lump sum payment of 50% upon signing, moreover, not covered by an advance repayment guarantee, is a breach of the requirements of Article 97 of the Public Procurement Code (CMP).
- Putting individual consultants in competition with firm consultants; this is a failure to comply with the rules of competitive bidding in the selection of consultants.
- Improper adjustment of fees for a contract paid on a lump sum basis by eliminating an expert proposed by the bidder but not required in the Request for Proposals (RFP). The bidder is entitled to include any expertise they deem useful for the completion of the mission, as long as they have complied with the RFP requirements regarding the composition of the key team. Financial proposals for lump-sum contracts should not be adjusted.

---

## NON-CONFORMITIES SPECIFIC TO INTELLECTUAL SERVICE CONTRACTS

- A contract paid on a lump sum basis has been concluded with the Consultant, whereas the Request for Proposals indicates that the contract is remunerated on time. This change in the nature of the price, changes the initial conditions for competition in violation of the principle of transparency.

---

## NON-COMPLIANCES SPECIFIC TO DRP-CR

- Instances of market splitting practices have been identified, notably in the rehabilitation work contracts for buildings housing a ministerial department. These resulted in the conclusion of three DRP-CR contracts, with a cumulative amount exceeding the threshold for contracts awarded by DRP-CO. The same observation was made for another contracting authority regarding the beautification works of the ministry and the parking lot development works, carried out during the same period. **These are construction operations implemented within the same time frame and geographical area; the contracting authority should group them together and award a contract in accordance with the threshold for open procedure procurement.**
- Several purchase orders, acting as contracts, are not subject to the registration formality; this is a failure to comply with the CGI.
- Signs of collusion recurring in DRP-CR.

---

## NON-COMPLIANCES SPECIFIC TO DRP-CR

- Pre-purchase adjustment indices (Offers dated ex-post, with the same date, no quotation framework and yet similarities in quantities on which candidates based their bids) and other practices that are considered to be collusion, were noted in the context of the review of contract files, The Commission has also made a number of proposals for the creation of a single competition.

**Comply with the provisions of article 44 of the COA, which prohibits the use of regularization to bring non-regulatory procedures into line with anticipated purchases.**



**MONITORING THE PHYSICAL AND FINANCIAL  
PERFORMANCE OF CONTRACTS**



---

## MONITORING THE PHYSICAL AND FINANCIAL PERFORMANCE OF CONTRACTS

- Recurring shortcomings were noted in the filing of supporting documents for monitoring the physical and financial execution of contracts, and also in the handling of disputes and claims arising from contract execution. These findings raise questions about the scope of intervention of the Contract Award Units, and whether they should be more closely involved in monitoring contract performance.

---

THANKS FOR YOUR ATTENTION



... À VOS QUESTIONS