



Collection of Cases and Practices of Regulation and Auditing of Public Procurement

2024

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EXECUTIVE SUMMARY

- **Public procurement is the process of acquiring goods, works and services by central government, national and municipal authorities, government-controlled enterprises and other entities, using state budget funds with a view to achieving their objectives and subject to relevant rules and regulations.** By its very nature it covers virtually all economic and social areas. This makes public procurement an important tool for achieving national development objectives, including economic, social, environmental and other aspects.
- **Public procurement objectives can only be achieved if the following key principles are observed:**
 - open participation and competition among suppliers;
 - fairness and equality;
 - integrity and transparency;
 - economy, efficiency and effectiveness of procurement;
 - fit for procurement purpose.
- **The total size of the public procurement sector is generally estimated at between 13% and 20% of global GDP.** At the same time, accurate assessment is difficult due to a number of factors:
 - large amount of data required for accounting and analyzing the sector;
 - small amount of published data in some countries;
 - sensitivity of information in some industries;
 - lack of uniformity in data presentation.
- **The public procurement sector is rapidly adapting to changes.** Such adaptation is facilitated by both technological, social, environmental and other factors as

well as the trends that affect the social development. At the same time, the introduction of new approaches and technologies allows not only to meet new and potential demands of the society, but also to ensure best value for money for goods, works and services, transparency and accountability in spending the taxpayers' money, as well as to use public procurement as a tool for strategic development.

- **The public procurement sector is regulated at both national and supranational levels.** Examples of such practices are the UNCITRAL¹ Model Law on Public Procurement, the WTO Agreement on Government Procurement, the OECD Council Recommendation on Public Procurement, the World Bank Procurement Framework, as well as the regulation of government procurement within integration blocks (European Union, Eurasian Economic Union, etc.).
- **Most countries face similar problems in organizing the procurement process.** Typically, these problems are boiled down to excessive and sometimes inadequate regulation in terms of achieving state goals and objectives, as well as difficulties related to precise and strict adherence to existing procedures; lack of information among potential suppliers; lack of personnel qualified in public procurement, problems related to preparing the relevant documentation and reporting. These problems may be solved, on the one hand, by simplifying the procurement process, which should be accompanied not only by the introduction of new technologies and solutions, but also by changing the approach to public procurement. The examples here rely on the successful practices, employed in the private sector, such as trading platforms (or marketplaces), the use of framework agreements and dynamic procurement systems.
- **Supreme Audit Institutions (SAIs) play an important role in evaluating the effectiveness of procurement and the compliance of procurement procedures with the legislation.** At the same time, not all SAIs conduct dedicated procurement audits. In a number of cases, procurement contracts are audited either as part of budget execution audits at various levels or as part of audits of industries and individual projects. Most commonly, SAIs audit national and

¹United Nations Commission on International Trade Law

subnational procurement in such areas as health care, education, infrastructure development and national defense.

- Where special procurement audits have been conducted by the SAIs, the results of the audit generally indicate a **lack of competence of procurement personnel, particularly in terms of knowledge of applicable laws and procedures**. However, even the availability of a large number of practical manuals, guides and other reference materials does not ensure that employees will understand and follow the procedures.
- **Additionally, SAIs pay special attention to the planning stage of procurement activities**. Planning is a key stage in procurement process, as it affects the ability to conduct all subsequent stages of procurement in accordance with the law, as well as to address potential deficiencies and errors. At the same time, proper procurement planning also requires relevant staff competencies, along with a clear and consistent audit strategy and goal setting.

INTRODUCTION

Public procurement is the process of acquiring goods, works (construction) and services by the state in order to achieve its objectives. The government, various national, regional and municipal authorities, government-controlled enterprises, as well as other entities using funds from budgets of various levels and subject to applicable rules and regulations in the field of public procurement may act as contracting entities (procuring entities²).

By its very nature public procurement covers virtually all areas of society – from education, science and health care, to the development of the transport system and other infrastructure, defense and law enforcement issues, urban development, etc. Given the importance of public procurement in achieving economic outcomes and good governance, governments use procurement as a strategic tool to achieve complementary policy objectives to address environmental, economic and social challenges, in line with national priorities. Thus, they are one of the most important public policy tools, in particular, for achieving national development goals, including the 2030 Agenda for Sustainable Development.³

The public procurement sector is linked to the broader subject of public-private partnerships (PPP). In its turn, PPP covers many more forms of interaction between the government and the private sector, however, most commonly, it covers issues related to the infrastructure development (transport and social infrastructure). In addition, one of the PPP main objectives is to develop medium- and long-term relationships between the public and commercial sectors, while the planning horizon for procurement activities is typically limited.

² In the terminology of the United Nations Commission on International Trade Law (UNCITRAL).

³ SDG 12: Responsible Consumption and Production (target 12.7 — Promote public procurement practices that are sustainable, in accordance with national policies and priorities).

Key Principles of Public Procurement

While there are differences in national approaches to public procurement systems (national contracting systems), they are all based on a similar set of principles. These principles were first outlined in the [1994 UNCITRAL Model Law on Procurement of Goods, Construction and Services](#), and were subsequently reiterated in the [2011 UNCITRAL Model Law on Public Procurement](#). Additionally, based on the experience of different procurement systems and best practices in international project implementation, a number of principles were further specified in the [World Bank Procurement Framework](#).

- **Open Participation and Competition.** This principle implies that all potential qualified suppliers should be allowed to participate in public procurement procedures, except in special, regulated and justified circumstances that allow for exceptions.
- **Fairness and Equality.** All interested/potential bidders should have access to and rely on clear, objective and complete information and criteria publicly disseminated by the contracting entity. Bidders also have the right to expect to be treated fairly and on equal conditions with other participants. In practice, the principle of fairness and equality in public procurement also includes:
 1. fair distribution of rights and responsibilities between the procuring party and suppliers, procurement participants, consultants and contractors;
 2. robust procurement-related processing of complaints and remedy mechanisms.
- **Integrity and Transparency.** Taxpayers and citizens in general have the right to expect that public procurement is conducted in good faith, solely in the public interest and in a transparent manner. The principle of integrity refers to the use of funds, resources, assets and authority in accordance with intended purposes and in a manner that is well-informed, in the public interest and broadly consistent with good

governance principles. Integrity also implies drafting, integrating and proactively applying anti-corruption principles, guidelines and other manuals.

Transparency means that the procuring entity and contractors shall ensure that stakeholders are able to properly analyze the procurement activity, which shall be supported by appropriate documentation and disclosure. Transparency also requires the following:

1. consistent and timely provision of relevant procurement information to all stakeholders through accessible and common sources at reasonable cost or free of charge;
2. proper reporting of procurement activities;
3. inclusion of confidentiality clauses in contracts only where justified.

- **3E Principle – Economy, Efficiency and Effectiveness.** The principle can also be described as best value for money (**Value for Money, VfM**) for goods, construction (works) or services. It also implies that these items are procured in the required quality, quantity and on time. In public procurement, some 3E parameters may include the following aspects:

1. **Economy.** The economy principle takes into account factors, such as sustainability, quality, nonprice factors and/or life cycle costs, that support value for money. It also ensures that economic, environmental and social aspects are included in the procurement requirements.
2. **Efficiency.** The government, represented by relevant bodies and other organizations, always has a limited set of resources to deliver on its obligations. Thus, the effectiveness of procurement is defined through the ability to provide the best result that meets the goals and objectives of public policy using the available resources.
3. **Effectiveness.** Procurement procedures tend to be time sensitive, while procuring entities seek to avoid delays. The principle of efficiency requires that procurement processes be adequate in terms of the cost and risks linked to the main project activity.

In addition, the World Bank [points out](#) that the price alone does not necessarily represent value for money. Thus, the principle of value for money, in addition to

assessing costs and benefits, requires an assessment of relevant risks as well as non-price parameters and/or life-cycle costs, as appropriate.

- **Fit for Purpose.** The principle applies to both procurement outcomes and procurement procedures in determining the most adequate approach to achieve project development objectives and results, taking into account socio-economic and other conditions, major risks, timing, cost and complexity of the procurement.

SIZE OF PUBLIC PROCUREMENT SECTOR

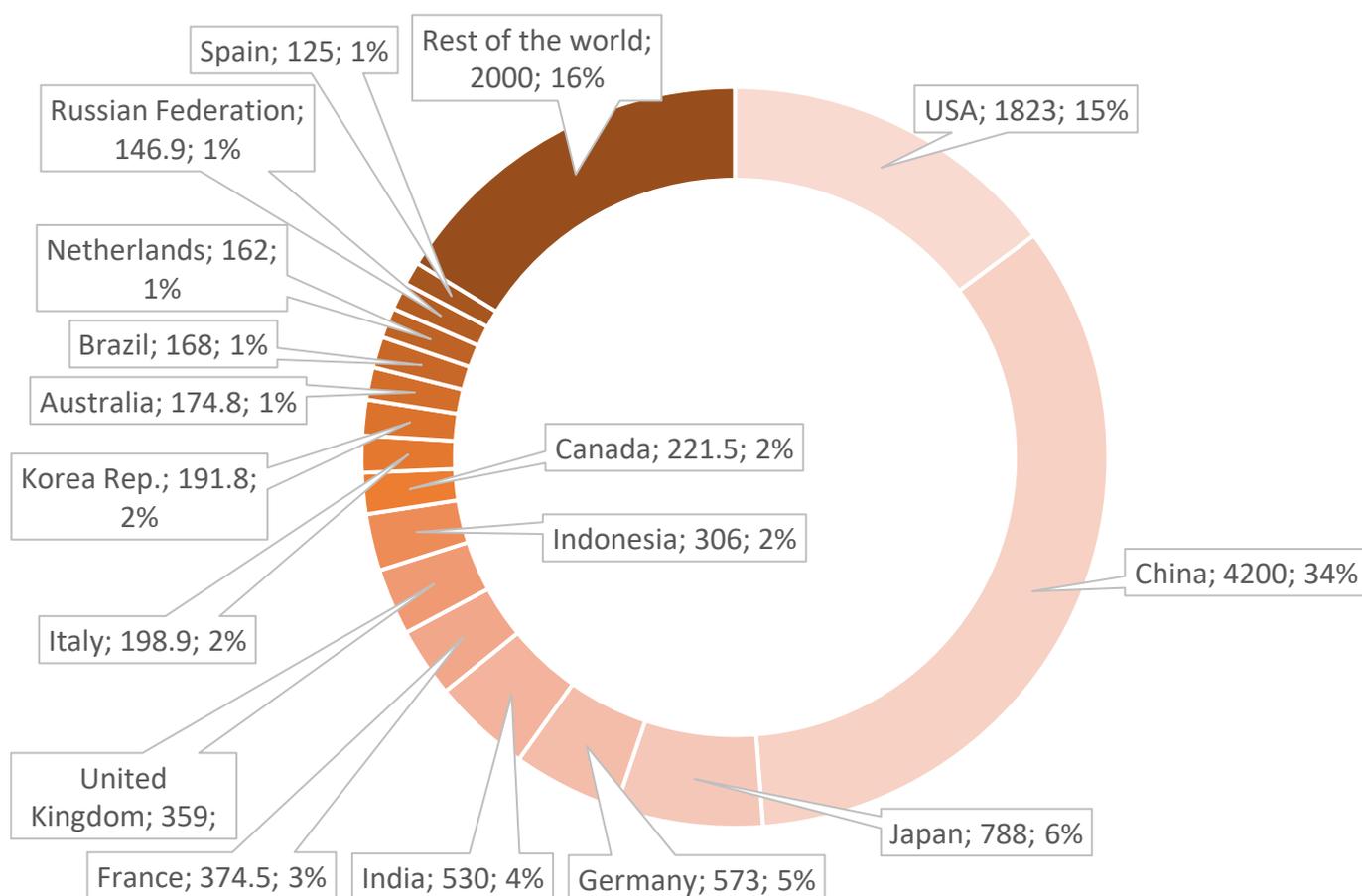
According to the World Bank, the total public procurement sector [represents](#) between 13% and 20% of global GDP or USD 9.5 trillion⁴. Such variation of data can be attributed primarily to a different share of public procurement and the public sector in general in different countries. An important [fact](#) is that the share of government procurement in GDP in developed countries is higher than in developing countries. Moreover, such heterogeneity is observed not only between developed and developing countries, but also within the groups countries. Specifically, within the Organization for Economic Cooperation and Development (OECD), the public procurement sector [averaged](#) 14.8% of GDP in 2021, with Mexico averaging about 5% of GDP and the Netherlands more than 20% of GDP.

One successful example of an independent assessment of the size of the global public procurement sector is the [study](#) by Open Contracting Partnership. It estimated that the public procurement sector was worth more than USD 13 trillion by 2020. However, open data from national sources covered contracts worth just over USD 362 billion. Of the total USD 13 trillion, more than USD 10 trillion was accounted for by 16 countries. Among them China (USD 4.2 trillion) and the United States (USD 1.8 trillion) account for the largest expenditures. In addition, the countries with the largest amount of spending on public procurement⁵ are Japan, Germany, India, France, the United Kingdom, Indonesia, Canada, Italy, the Republic of Korea, Australia, Brazil, the Netherlands, Russia and Spain. The remaining countries' public procurement spending as of 2020 amounted to just over USD 2 trillion.

⁴ Based on 2020 data.

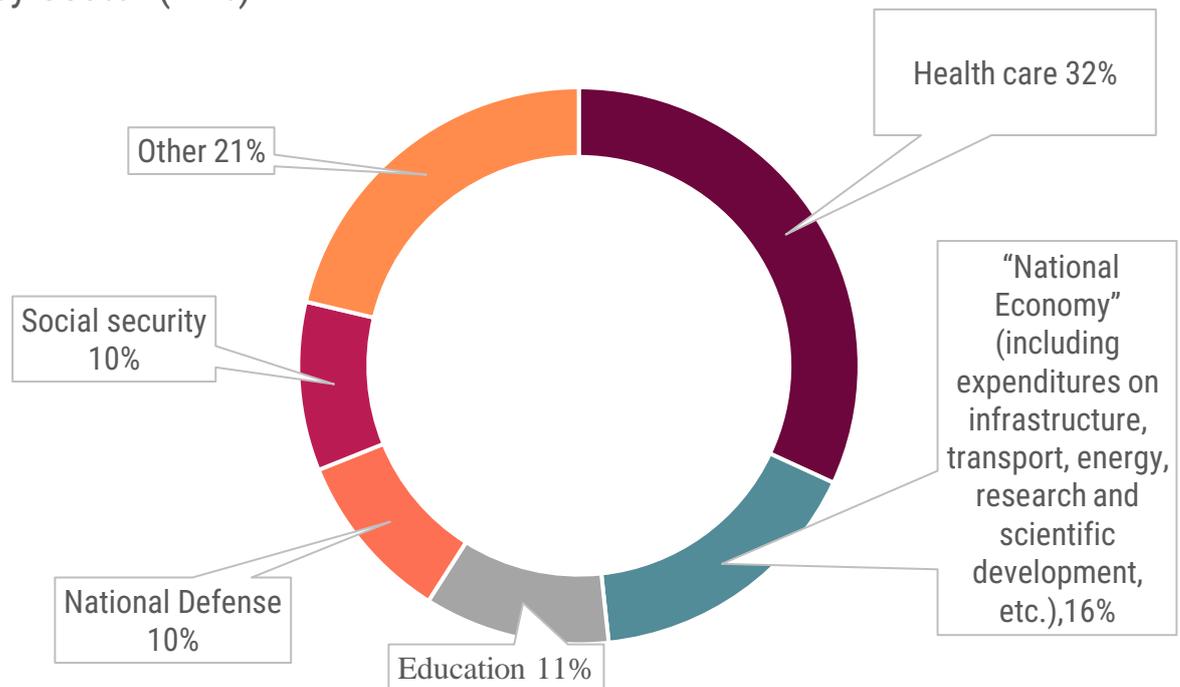
⁵ In descending order of government procurement market size.

Public Procurement Spend (in bln. USD)



The distribution of the volume of public procurement by sectors is also uneven. For instance, in 2023, the bulk of procurement in the member countries of the Organization for Economic Cooperation and Development (OECD) [was in](#) the health sector (31.9% of the total procurement volume). Also, a significant volume of procurement falls under the following categories: “National Economy” (16.4%, including expenditures on infrastructure, transport, energy, research and scientific development, etc.), “Education” (10.7%) and “National Defense” (9.9%). In a number of other countries, the distribution of expenditures by area may vary, however, the main categories remain the same.

Public Procurement in OECD Countries by Sector (in %)



Accurate estimation of government procurement volumes may be challenging due to several [factors](#).

- **Large amount of data required for accounting and analysis.** Given that public procurement includes both the procurement by a large number of national, regional and municipal authorities, as well as by state-owned companies and other authorized legal entities, collecting data on all contracts is a difficult task.
- **Small amount of published data.** This problem stems from the previously mentioned factor. In particular, the Open Contracting Partnership [estimates](#) that the amount of funds for open contracts in public procurement is less than 3% of the total. Meanwhile, the UK (just over 28% of the contract amount) and the US (up to 6.5% of the total contract amount) disclose the most data.
- **Information sensitivity.** For a number of areas, primarily related to national defense, security and law enforcement, as well as health care (especially since the COVID-19 pandemic), due to their specific nature, disclosure of information about facilities as well as procurement costs may violate state secrets.
- **Lack of structure and uniformity in data presentation.** Published procurement and contracting data are not always presented in a uniform manner. At the

same time, [according to several estimates](#), the format of data presentation may change annually, which makes it difficult to use open statistics to estimate the size of public procurement.

Key Trends in Public Procurement

The development of public procurement sector depends on many factors. However, currently the following trends are the most prominent.

- **The growth of public procurement sector, both in absolute and relative terms.** The most vivid [example](#) thereof is that of the OECD member countries, where the volume of public procurement grew steadily from 11.8% of GDP in 2007 to 12.9% in 2021. In many respects, the growth of the public procurement sector is due to measures to support economic sectors after the financial and economic crisis of 2008-2009 and the COVID-19 pandemic.

- **Second important trend is the centralization of public procurement.** Combining the capabilities of multiple government agencies and/or organizations [allows for](#) a more advantageous position when negotiating prices and procurement volumes, thereby improving overall value for money. In addition, according to recent [studies](#), even if an entity does not participate in centralized procurement, the cost of goods, construction and services for it also becomes lower.

- **Third, there is an increasing use of framework agreements as a tool for regulating the relationship between suppliers and procuring entities.** This type of agreement [reduces](#) the time required to evaluate and sign the necessary documents, as well as facilitates the participation of suppliers in subsequent procurement activities.

- **Digitalization of public procurement also plays an important role.** The creation and implementation of digital platforms [facilitates](#) the procurement process, provides more potential participants with access to procurement, reduces costs and increases the transparency of the procurement process. In addition, digitalization allows for the integration of the management systems of procuring entities and suppliers, simplifying document flow and subsequent reporting, including taxes and duties, as well as procurement audits.

- **Digitalization of procurement and the introduction of digital platforms is also** changing the approach **to procurement**. The [relationship](#) between government agencies and suppliers is becoming more and more similar to the relationship between participants of trading platforms (or marketplaces), allowing, on the one hand, to simplify the process of selecting and comparing suppliers, and on the other hand, to reduce the time needed for procurement.
- **Digitalization of public procurement is also associated with the trend towards the [adoption](#) of artificial intelligence (AI) and data analysis.** In particular, SpendNetwork [estimates](#) that integrating selected elements of AI can significantly reduce the cost and time of identifying potential suppliers and managing the contracting process. In turn, analyzing big data in public procurement will allow early identification of risks and possible violations.
- **Finally, another important trend is the introduction of a strategic approach to public procurement, including “green” or sustainable public procurement.** Within this trend, public procurement is seen as a [tool](#) to stimulate innovation and the introduction of environmental and resource-saving technologies, as well as to achieve the Sustainable Development Goals ([SDG 12](#): Responsible Consumption and Production, target 12.7).

INTERNATIONAL REGULATION AND APPROACHES TO THE EVALUATION OF PUBLIC PROCUREMENT

International regulation and evaluation of public procurement systems address the following objectives:

- **sharing best practices** and assistance in reforming and improving procurement systems in countries;
- **harmonization of legislation** and key requirements in public procurement to facilitate suppliers' access to new markets and consumers' access to a wider range of goods, works and services;
- **promotion** and introduction of rules under new approaches to public procurement, including digital platforms and “sustainable procurement”.

International practices in regulating public procurement may be classified into several categories:

- **standards** for regulating public procurement;
- supranational **regulation** in public procurement;
- **systems** of public procurement evaluation and audit.

STANDARDS



United Nations

A recognized example of public procurement standards is the [UNCITRAL Model Law on Public Procurement](#) prepared by the United Nations Commission on International Trade Law (UNCITRAL) and approved in 2011. It replaced the 1994 [UNCITRAL Model Law on Procurement of Goods, Construction and Services](#). The main difference between the documents is that the 1994 Model Law was designed to assist developing countries in reforming (establishing) procurement systems based on international best practices, while the 2011 Model Law can be applied in any jurisdiction. In addition, other important features of the new version of the Model Law include:

- **regulating** electronic procurement systems;
- **covering** new forms of procurement activities, especially framework agreements;
- **taking into account** provisions of the [UN Convention against Corruption](#).

Current Status

Based on the 2011 UNCITRAL Model Law, public procurement legislation has been developed and improved in [26 States](#). In addition, prior to the adoption of the 2011 UNCITRAL Model Law, [30 countries](#) used the 1994 Model Law as a basis for public procurement reforms. The provisions of the Law are also applied by a number of international organizations in the preparation of the legislation reform in public procurement in their countries of operation (Asian Development Bank, African Development Bank, World Bank, European Bank for Reconstruction and Development, Inter-American Development Bank, Organization for Economic Cooperation and Development).

In the future, the Model Law may be updated again to take into account certain trends in public procurement, namely integrating sustainability issues, reflecting current trends towards centralization, and the digitalization of procurement, including the development of artificial intelligence and data analysis technologies.

Objectives of the UNCITRAL Model Law:

1. **creating** a template for national regulation in public procurement based on the compilation and analysis of best practices in public procurement to assist in reforming the public procurement system, ensuring efficiency and transparency;
2. **helping** governments achieve national development objectives, including supporting small and medium-sized enterprises (SMEs) by increasing competition within access to public procurement;
3. **promoting** harmonization of national procurement legislation to facilitate international trade.

Highlights of the UNCITRAL Model Law:

The UNCITRAL Model Law provides procedures to enable implementation of the following:

- **standard** procurement;
- **urgent** and **emergency** procurement;
- **simple** and low-value procurement;
- procurement **for large and complex projects** (where the government can engage with a wide range of potential bidders and contractors to find the best solution to meet its needs).

A key feature of the UNCITRAL Model Law is the focus on transparency to promote competition and impartiality in the selection of suppliers. The Law provides for the possibility for potential suppliers to challenge decisions and measures taken by contracting entities in the course of procurement. While the procuring state actor has discretion in deciding what to buy and how to conduct the procurement, that discretion is subject to special provisions consistent with other international standards, especially those set out in the United Nations Convention against Corruption.

Although the UNCITRAL Model Law is positioned as a model legislation for countries and organizations undertaking reforms of public procurement systems, the document can be adapted to country-specific context. UNCITRAL also [allows](#) both the use of only certain provisions of the law and their adjustment as they are integrated into the national legislation in order to better adapt the provisions of the law to the national and cultural context of the country, as well as to specific areas subject to regulation under the public procurement system (for example, defense and security spending).

Additional Documents:

In addition to the text of the Model Law, UNCITRAL has also developed:

- [Guide](#) to Enactment of the UNCITRAL Model Law on Public Procurement (2012). The purpose of the Guide is to promote the effective use of the Model Law as a tool for modernization and reform of procurement systems, particularly where the

types of procurement procedures described in the Model Law are not well known. The Guide is a compilation of reference materials explaining both the objectives of the UNCITRAL Model Law and how to achieve them using the provisions of the law.

- **Guidance on procurement regulations** to be promulgated in accordance with Article 4 of the UNCITRAL Model Law on Public Procurement (2013). The purpose of the Guidance is to assist in the preparation and adoption by States of a complete set of rules and procedures necessary for the application of the Model Law.

- **Glossary of procurement-related terms** used in the UNCITRAL Model Law on Public Procurement. The Glossary includes a list of key terms and concepts used in the Model Law, their definitions, and other terms used in the same or similar sense in other international instruments regulating procurement.

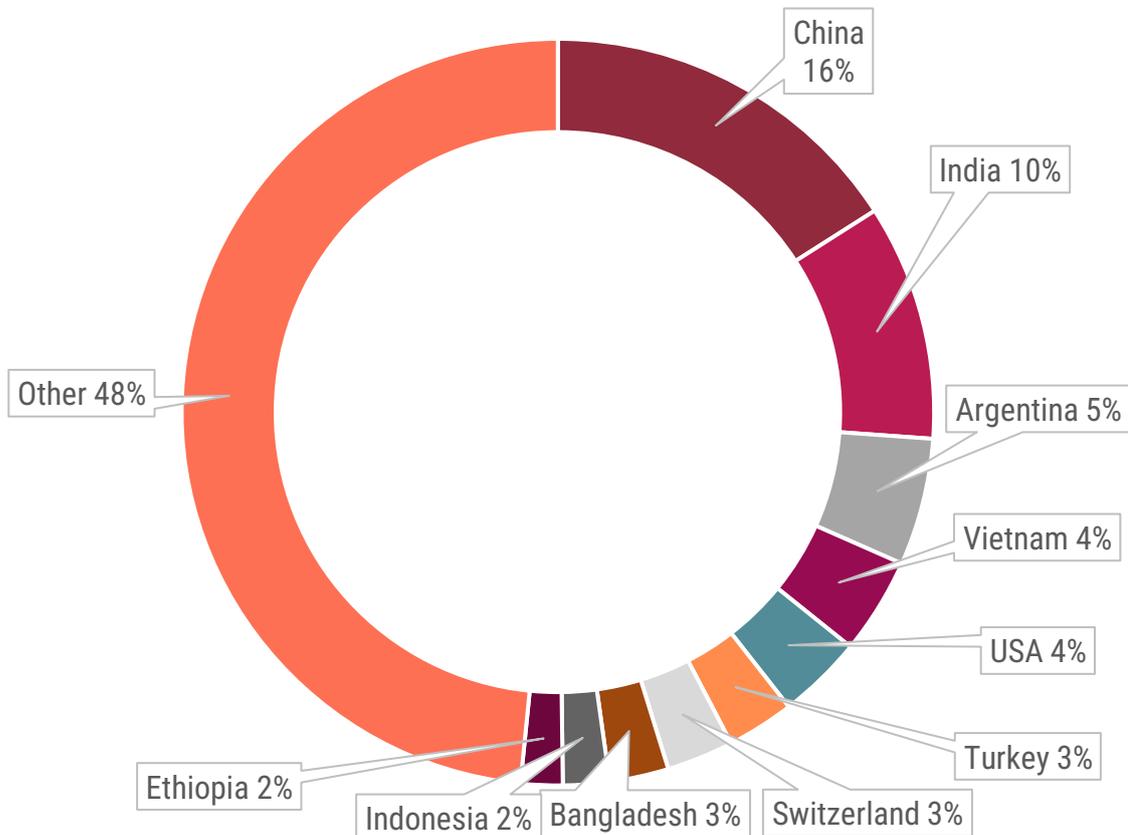
World Bank Group



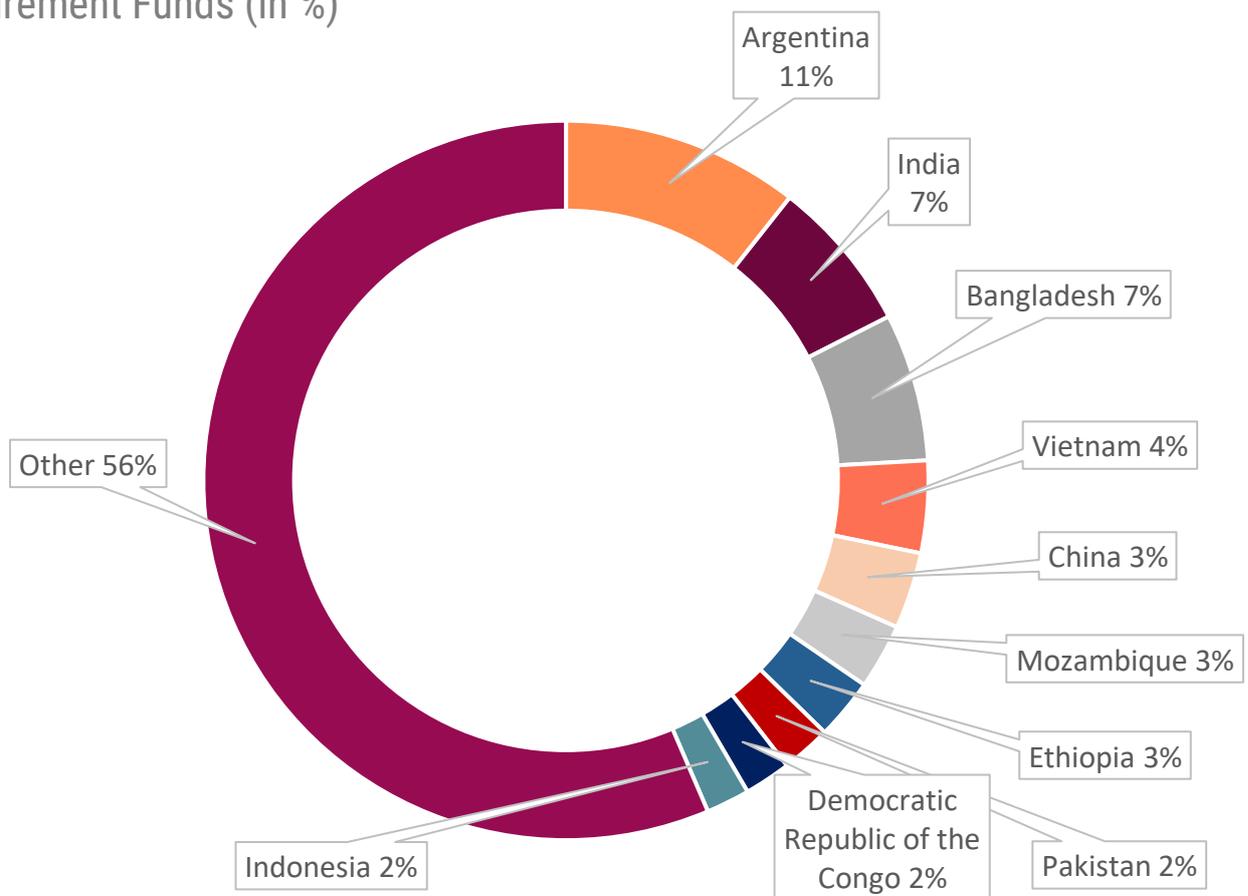
THE WORLD BANK

The [World Bank Group](#) is a leading international institution for financing development projects. The World Bank Group comprises 5 organizations, two of which – the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA) – work directly with governments. As of 2023, the World Bank Group's total project portfolio [stood at](#) USD 239 billion, spread across nearly 1,800 projects in 146 countries.

Main Contractors in World Bank-Financed Procurement (in %)



Principal Recipients of World Bank Procurement Funds (in %)



In 2016, the new [World Bank Procurement Framework](#) was adopted. It is a set of rules and procedures that must be followed when awarding contracts under investment projects financed in whole or in part with funds (grants and/or loans) of the World Bank.

Objectives of the World Bank Procurement Framework:

From the World Bank's perspective, the new procurement framework [is intended](#) to promote a strategic approach to public procurement by addressing the following objectives:

1. **assisting** states in investing in key development challenges, including education, health and infrastructure;
2. **modernizing** the public procurement systems of World Bank-assisted countries and adapting best procurement practices to national and other contexts;
3. providing possibility of **using** national procurement systems to achieve the Sustainable Development Goals (SDGs);

4. **improving** transparency and accountability of public procurement and public expenditure in general, using new tools (specifically, procurement through digital platforms);
5. **improving** the efficiency of utilization of World Bank funds as a leading international development bank.

In practice, the following tools are used to accomplish the mentioned objectives:

1. **reducing** the processing time of applications for project financing by the World Bank by streamlining the required documentation through the use of templates;
2. **using** an expanded set of procurement tools;
3. **assisting** countries in developing public procurement capacity;
4. **using** alternative procurement tools, including co-financing and project financing;
5. **assisting** control and supervision authorities in monitoring and auditing public procurement;
6. **supporting** national producers through access to financing from the World Bank and other development banks.

Structure of the World Bank Procurement Framework:

The most important feature of the World Bank Procurement Framework is the availability of a significant amount of material to assist countries with the paperwork required to obtain support for investment projects. The World Bank Procurement Framework includes the following documents.

1. **Procurement Regulations for IPF Borrowers.** The [Regulations](#) cover all stages of public procurement under projects financed in whole or in part by the World Bank. Key topics include procurement process management, preparation of a procurement plan, terms and conditions of procurement and tenders, and Bank-approved methods of selecting winning tenderers.

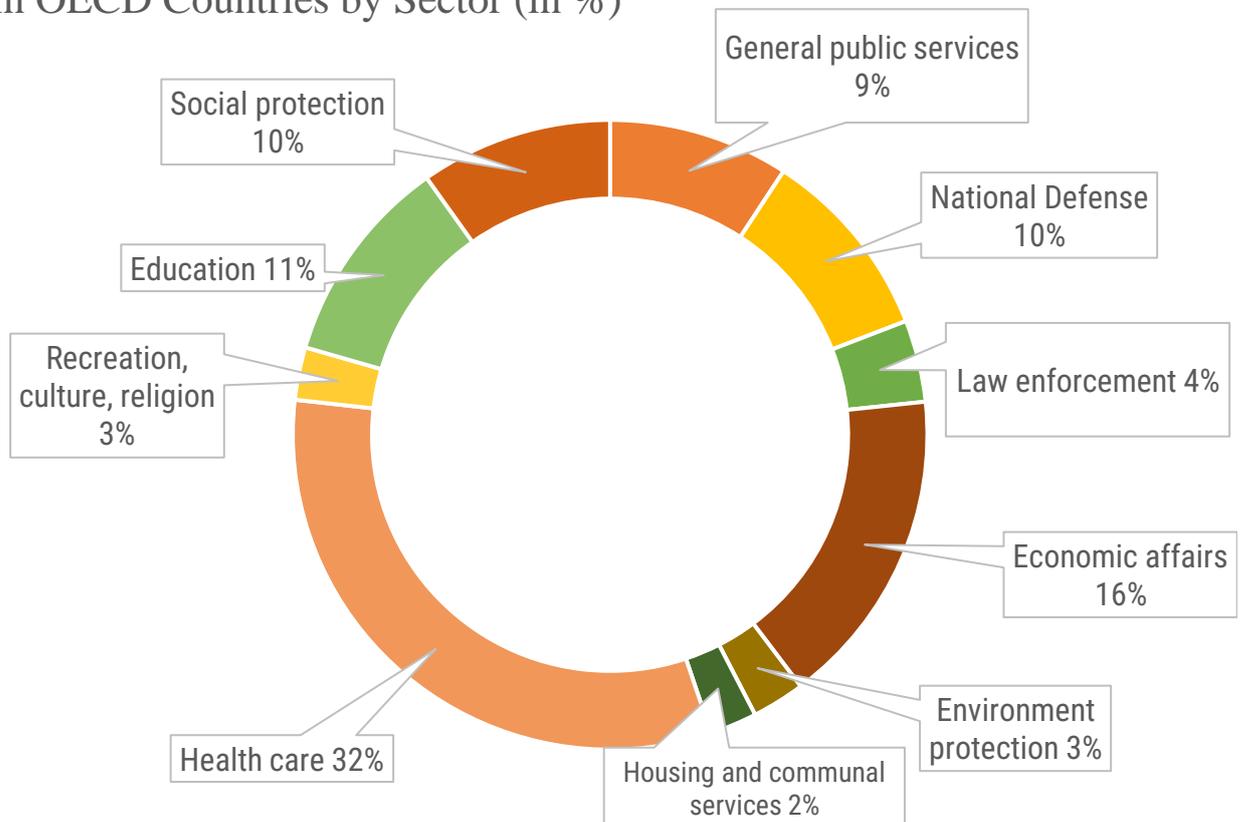
2. **User Support Material.** [Support Material](#) includes a set of handbooks and practical guides on various aspects of the procurement process, as well as templates of documents for recipients of Bank funds.
3. **Project Procurement Mobile App.** [The App](#) aims to assist procurement operators using World Bank funds. It allows to track data on current and past contracts in real time, as well as view incoming bids in open tenders.



Organization for Economic Cooperation and Development

Public procurement in Organization for Economic Cooperation and Development (OECD) countries provides a significant contribution to economic development. In particular, according to the estimates of the OECD Secretariat, the share of public procurement in the GDP of the member countries in 2021 [was](#) 12.9% (0.8% higher compared to 2007). For OECD countries that are members of the European Union (EU), the size of the public procurement sector is bigger and in 2021 averaged 14.8% of GDP (an increase compared to 2007 was 1.1%).

Public Procurement Spending in OECD Countries by Sector (in %)



The main volume of procurement [falls on](#) health care – 31.9% (for EU member states the indicator of health care expenditures can reach 39% of the total amount of funds allocated for procurement), economic affairs – over 16% (including expenditures on construction of infrastructure facilities), education (10.7%), national defense (9.9%), as well as social protection and security (9.8%).

Given the role of the public procurement sector in the economies of OECD member countries, the organization has developed a [significant](#) number of methodological, information, reference and other materials on procurement. The OECD's approach to public procurement regulation and reform is based on the [OECD Recommendation of the Council on Public Procurement](#), adopted in 2015. The Recommendation is a set of basic principles for organizing procurement activities, both in OECD member countries and in other countries.

Objectives of the OECD Recommendation of the Council

The OECD Recommendation of the Council on Public Procurement is intended to assist countries applying the principles set out in the document in order to:

1. efficiently allocate budget funds using the public procurement tool (public procurement as an element of strategic development);
2. improve the efficiency of public expenditures (including cost saving opportunities in public procurement);
3. reduce the risks of inefficient spending and corruption in procurement.

The OECD Recommendation of the Council covers the entire public procurement cycle and is seen as guidelines (along with the UNCITRAL Model Law, WTO Agreement on Public Procurement) for modernizing public procurement systems. Another important feature of the Recommendation is the division of public policy objectives in procurement into main and additional ones. The main objectives include the provision of goods, works and services that are necessary for the fulfillment of the main tasks of public authorities in a timely, cost-effective and efficient manner. At the same time, additional OECD objectives include the use of public procurement to promote sustainable development, the development of the small and medium-sized enterprise (SME) sector, as well as the development of specific sectors of the national economy, and responsible business standards.

Structure of the OECD Recommendation of the Council

The OECD Recommendation of the Council on Public Procurement [includes](#) a list of core principles on which public procurement systems for goods, works and services should be based, as well as their explanations. The Recommendation includes **12 core principles**:

1. **transparency** in public procurement (Transparency);
2. **integrity frameworks and codes of conduct** in public procurement (Integrity);
3. **promoting access** to procurement and supplier competition (Integrity);
4. **balancing secondary policy objectives** against the primary procurement objective (Balance);
5. **taking into account the opinions of all stakeholders**, including associations of suppliers, as well as potential end consumers of goods, works and services (Participation);
6. **improving the efficiency** of public procurement throughout the entire procurement cycle (Efficiency);
7. **using digital technologies**, including the development of electronic procurement (E-procurement);
8. **developing the capacity** of the procurement workforce (Capacity);
9. **regular analysis and monitoring** of the effectiveness of public procurement (Evaluation);
10. **integrating risk management strategies** and addressing main risks throughout the public procurement cycle (Risk);
11. **introducing oversight and accountability mechanisms** throughout the procurement cycle (Accountability);
12. **integration of public procurement into budgeting** (Integration).

In addition to the public procurement principles listed in the OECD Recommendation of the Council, the organization has also developed a set of tools and supplementary materials compiled in the [OECD Public Procurement Toolbox](#). The Toolbox provides the following materials:

- **Principles and Tools.** [This is](#) an interactive set of OECD public procurement principles, where each principle is accompanied by explanations, reference and methodological materials on their implementation, as well as country cases;

- **Country Cases.** The section [presents](#) contributions from OECD member countries as well as other states applying the OECD Recommendation of the Council or parts thereof. Materials include voluntary reviews and reports, best practices, etc.;
- **Assessment Tools and Indicators.** [This includes](#) inputs from evaluations of public procurement systems conducted in accordance with various methodologies and key efficiency indicators.

SUPRANATIONAL REGULATION

In some cases, public procurement is regulated not only by national law but also by international legal agreements and regimes. Such practice is typical for both international organizations and integration associations. At the same time, supranational regulatory regimes may have different approaches to participants, especially with regard to the application of certain rules and regulations.

By the number of countries with supranational regulation of public procurement, the most significant examples are the World Trade Organization (WTO) and the European Union (EU)⁶. Another interesting example is the use of supranational regulation within the Eurasian Economic Union (EAEU).

⁶ Note: Detailed information on regulation, procurement process and audits conducted by the European Court of Auditors is provided in the section of country cases.



World Trade Organization

Within the framework of the World Trade Organization (WTO), the main document regulating public procurement is the [WTO Agreement on Government Procurement](#) (GPA) adopted in March 2012. Participation in the agreement is not mandatory, it is also referred to as “plurilateral agreement within the framework of the WTO” in the documents of the organization.

The WTO Agreement on Government Procurement (WTO GPA) was the result of long work within the organization (and, before the establishment of the WTO, negotiations under the General Agreement on Tariffs and Trade, GATT). The first document aimed at harmonizing public procurement legislation was the [Tokyo Round Code on Government Procurement](#), which was signed in 1979 and entered into force in 1981⁷.

With the establishment of the WTO in 1994, the WTO Government Procurement Code was replaced by the 1994 WTO Agreement on Government Procurement, which entered into force in 1996. After amendments, the updated WTO GPA was adopted in 2012.

⁷The Code was amended in 1986 and came into force in 1988.

Current Status

As of 2023, 49 WTO member countries [are](#) parties to the GPA. Another 35 WTO member countries are observers and 10 of them are negotiating to sign the Agreement. The WTO [estimates](#) that the GPA covers a government procurement market of more than USD 1.7 trillion.

[Article XXII](#) of the Agreement stipulates the need for further work by the Parties to improve the provisions of the GPA. The main areas for further work are efforts to reduce barriers in the access to the public procurement market, as well as the expansion of areas, industries, groups of goods, work and services to which it applies.

Objectives of the WTO GPA

1. **Promoting** further liberalization of international trade in goods and services.
2. **Eliminating** discriminatory practices in public procurement.
3. **Facilitating** access of developing country suppliers to developed country public procurement markets.
4. **Ensuring** competition, transparency and accountability of the public procurement market.

Highlights of WTO GPA

As [noted](#) by the WTO, the Agreement on Government Procurement is one of the most successful formats for developing international trade and market access in government procurement. The most important feature of the GPA is voluntary participation, including in terms of the access to the public procurement market, including the possibility of excluding certain goods/commodity groups and/or services from the Agreement. In addition, the following highlights of the GPA are also noted:

- **guarantees** of national treatment and non-discrimination for suppliers of all parties to the Agreement with respect to procurement of goods, works and services, as set out in each party's "coverage schedule";

- **provisions** concerning the procedure for joining the Agreement and the existence of special and differential treatment for developing and least developed countries;
- detailed **procedural requirements** for the procurement process to ensure that procurement under the Agreement is conducted in a transparent and competitive manner that does not discriminate against other parties' goods, services or suppliers, avoids conflicts of interest and prevents corrupt practices;
- **additional requirements** for the transparency of procurement-related information (e.g., relevant laws and regulations);
- **provisions** regarding making changes and adjustments to the parties' insurance coverage obligations;
- **requirements for the existence** and specific parameters of internal procedures for the review of supplier claims, which must be established by all parties to the Agreement;
- **provisions** concerning the application of the WTO Agreement on dispute settlement in this field;
- ample **opportunity** to further develop the Agreement by expanding its scope and removing remaining barriers through negotiation.

Structure of the WTO GPA

The WTO Agreement on Government Procurement has two main parts.

1. **Text of the Agreement.** It [establishes](#) rules requiring open, fair and transparent competition in public procurement, defines the key principles of the Agreement, special and differential treatment (SDT) for developing countries, possible exemptions from the scope of the Agreement, and regulates procedural aspects of public procurement (tender documents, technical requirements, time limits for different tender stages, etc.). The GPA also covers the use of electronic platforms for tenders, transparency in public procurement and dispute resolution mechanisms.

2. **Coverage schedules.** The coverage schedules are an integral part of the WTO GPA and are contained in Appendix I to the Agreement. The coverage schedule of each party contains several annexes which define the concerned party's commitment with respect to four dimensions of coverage:

- the procuring entities covered by the Agreement;
- the goods, works and services covered by the Agreement;
- the threshold values above which procurement activities are covered by the Agreement (expressed in both local currency and International Monetary Fund Special Drawing Rights – IMF SDR);
- exceptions to the coverage.

The rules of the 2012 WTO GPA only apply to procurement activities carried out by an entity (which is covered) that purchases goods, services or construction services under a contract whose value exceeds the relevant threshold and which are not excluded in the notes to the lists.

[Threshold levels](#) of value for goods, works and services to which the rules of the Agreement apply differ not only for the countries participating in the Agreement, but also for different public procurement entities. As of 2023, the threshold levels applied by most parties to the Agreement [were](#) (in IMF SDR):

	Annex I (Central Government Entities)		Annex II (Sub-central Government Entities)		Annex III (Other Entities)	
	Goods and services	Construction services	Goods and services	Construction services	Goods and services	Construction services
Thresholds applied by most Parties (in IMF SDR)	130,000	5,000,000	200,000	5,000,000	400,000	5,000,000

Under the 2012 GPA, the coverage schedule for each country-party to the Agreement includes **seven annexes**:

1. **a list of central government entities** that carry out procurement under the Agreement;

2. **a list of sub-central government entities** that carry out procurement under the Agreement;
3. **other entities** whose procurement is subject to the WTO GPA;
4. **a list of goods** covered by the GPA. The same list separately reflects goods and commodity groups that are not subject to the GPA;
5. **a list of services** covered by the GPA, as well as services that are excluded from the GPA;
6. **lists of construction works and services** that are covered by the GPA and those that are not subject to the GPA;
7. **general notes** (general exemptions from the GPA).

Additional Materials:

- [Online portal](#) for access to government procurement markets of WTO GPA member countries (e-GPA WTO);
- [Recordings](#) of WTO webinars on GPA development;
- [Reviews](#) of trade policies of countries-parties to the WTO GPA (with a focus on public procurement);
- [Reviews](#) of the participation of WTO member countries in the Agreement on Government Procurement;
- [WTO publications](#) on public procurement, international trade and development;
- [Examples](#) of WTO trade dispute settlement in public procurement.



European Union

Principles of Public Procurement in the EU

On average, annual public procurement in the European Union (EU) [amounts to](#) 16% of the total GDP of EU member states (up to EUR 2.5 trillion). From the perspective of the European Commission (EC), public procurement is a [policy tool](#) that should be used to create more jobs, improve investment attractiveness and ultimately create an innovative, inclusive and energy efficient economy.

The EU's approach to public procurement is based on a policy of a single market and access for suppliers of the Union's member states both to procurement within all member states and to procurement for the needs of the entire association. EU procurement policy is based on the following [principles](#).

- **Transparency of procurement conditions, procedures and outcomes.** It includes the right of access to official documents of the EU institutions, as well as legislative drafts, minutes of meetings, etc.
- **Equal treatment** of suppliers, i.e. no direct or indirect discrimination on national, ethnic, gender, religious or other grounds.
- **Open competition.**
- **Mutual recognition**, which means that any product legally sold in one EU country can also be sold in another.
- **Sound procedural management.**

Main Procurement Mechanisms in the EU

Public procurement in the EU member states is conducted in accordance with national legislation. The application of European law in public procurement is mandatory if the following three conditions are met:

- **contracting authority** is the central public authority, regional public authorities, as well as other public authorities;
- **subject matter of the contract** is the procurement of goods, performance of works or provision of services;
- **contract value** exceeds the approved price threshold. Limit values depend on the subject matter of the procurement or the contracting authority and are reviewed on a regular basis.

Contract Thresholds

EU Directive 2009/81/ec on procurement in the defense and security sector

Price Thresholds:

- Works contracts – EUR 5,382,000.
- Contracts for the supply of goods and subsequent maintenance – EUR 431,000.

Directive 2014/23/eu on the award of concession contracts dated February 26, 2014

Price Thresholds:

- concession contracts for all goods and services – EUR 5,382,000.

Directive 2014/24/eu on public procurement dated February 26, 2014

Price thresholds for central contracting authorities:

- works contracts, subsidized works contracts – EUR 5,382,000;
- contracts for socially significant services (more details in Annex XIV) – EUR 750,000;
- contracts for subsidized services – EUR 215,000;
- other contracts for services – EUR 140,000;
- all supplies contracts awarded by contracting authorities not operating in the field of defense – EUR 140,000;
- supplies contracts awarded by contracting authorities operating in the field of defense (for goods from Annex III – EUR 140,000, for other

goods –
EUR 215,000).

Price thresholds for sub-central contracting authorities⁸:

- works contracts, subsidized works contracts – EUR 5,382,000;
- contracts for socially significant services (more details in Annex XIV) – EUR 750,000;
- all other contracts – EUR 215,000.

Price Thresholds:

- works contracts – EUR 5,382,000;
- contracts for socially significant services (more details in Annex XVII) – EUR 1,000,000;
- all other service and goods contracts – EUR 431,000.

Directive 2014/25/eu on procurement by entities operating in the water, energy, transport and postal services sectors dated February 26, 2014.

The EU Directives define methods for calculating the estimated value of a public contract and also establish requirements for the placement of information on public procurement. Types of notices include the following:

- **Prior Information Notice.** The purpose is to communicate the public body's intention to organize bids within 12 months, thereby shortening the timeframe for receipt of tenders once a competitive bid has been placed. The publication of a Prior Information Notice does not oblige the procuring entity to carry out the relevant public procurement.

⁸According to the EU Public Procurement Directive dated February 26, 2014, central authorities are public institutions designated in Annex I, sub-central authorities are all others.

- **Contract Notice.** The contracting authority shall publish information about the upcoming public procurement on the [TED](#) web portal in the approved form. The nature, scope, duration and value of the contract must be specified.
- **Contract Award Notice.** No later than 30 days after the award of the contract, the contracting authority shall send relevant information to the [Tenders Electronic Daily \(TED\)](#), including details of the value, duration of the contract and the successful tenderer.

Main Contract Award Procedures

The EU Directives provide for [six](#) main contract award procedures.

1. **Open Procedure** – all interested economic operators can submit a tender for the contract.
2. **Restricted Procedure** – only invited candidates (minimum of five) can submit a tender.
3. **Competitive Procedure with Negotiation** – all interested economic operators can submit a tender for the contract. After preliminary evaluation of bids, in order to limit the number of possible candidates and to clarify the terms of the contract, the contracting authority may invite the candidates (minimum of three) to negotiate.
4. **Competitive Dialogue Procedure** – the procedure is conducted in three stages: preliminary selection of candidates; negotiations with potential candidates to clarify the proposals of candidates and to form the final description of the procurement subject matter; evaluation of submitted final tenders.
5. **Innovation Partnership** is applied if a solution is not already available on the market. The procedure includes the following stages: submission of bids and selection of candidates; evaluation of the conformity of the proposals (bids) of candidates with the requirements of the procuring entity; negotiations to improve the initial bids, submission of final tenders and their evaluation.
6. **Negotiated Procedure without a Call for Competition** – public bodies may enter into contracts through a negotiated procedure without prior publication if no suitable bids have been received.

Development of Public Procurement in the EU

In order to improve the procurement process, the European Strategy for the Development of the Public Procurement System⁹ has been developed – [Making Public Procurement work in and for Europe](#). The 2017 document outlines six priority areas.

1. **Introducing the concept of innovative, environmentally friendly and socially oriented public procurement**¹⁰. The European Commission has produced methodological guidelines with recommendations on the use of innovative, environmental and social criteria in procurement:

- [2021 Guidance on Innovation Procurement](#),
- [2017 Public procurement for a circular economy](#),
- [2020 Buying for social impact. Good practice from around the EU](#),
- [Making socially responsible public procurement work. 71 good practice cases](#),
- [2021 Guide to taking account of social considerations in public procurement](#).

2. **Development of professional competencies in public procurement**. In 2017, the European Commission presented Recommendation on the professionalization of public procurement – [Building an architecture for the professionalization of public procurement](#). The document is accompanied by a [library](#) of best practices in organizing professional training programs in public procurement.

3. **Improving the quality of public procurement data**. Improving the reliability and accessibility of public procurement data is necessary to evaluate its effectiveness and further improve the contracting system. The European Commission favors the creation of publicly accessible registers in which data on concluded contracts and their amendments are published. Information on public procurement is published in the Supplement to the Official Journal of the EU. [Tenders Electronic Daily \(TED\)](#) is the online version of the Journal. The portal publishes 735,000 procurement announcements annually, including 258,000 tenders worth around EUR 670 billion.

⁹ The European Commission estimates that improving the efficiency of public procurement by 1% could save up to EUR 20 billion a year.

¹⁰ Despite the promotion of the concept, still in 55% of cases the lowest price is used as the sole criterion for evaluation of bids of procurement participants.

4. **Increasing access to public procurement.** SMEs¹¹ are the backbone of the European economy ([more than 60% of EU GDP](#)). In 2020, there [were](#) 23.4 million SMEs in the European Union (EU) non-financial sector with a total of 82 million employees and revenues of EUR 3.4 trillion. At the same time, according to a [study](#)¹² by the European Commission, only 51.5% of enterprises participated in public procurement, 16.8% of which were unsuccessful. Major issues included:

- low level of trust in government contracting entities as reliable partners;
- administrative barriers to participation in the competition;
- language barriers and lack of trust in SMEs from other EU countries;
- low level of digital literacy of SME employees / bad usability of national digital public procurement platforms;
- lack of clearly defined criteria for evaluating bids of public procurement participants.

To increase SME participation in public procurement, the European Commission recommends improving the functionality and usability of the TED web portal, launching government digital skills training programs for SME employees, holding regular public seminars to explain current public procurement rules, and developing flexible payment schemes and contract implementation deadlines.

To strengthen the legal protection of MSMEs in public procurement, an [EU network of first instance review bodies](#) was established in 2017. It is aimed to monitor the national implementation of the requirements of the EU Remedies Directives¹³, which, among other things, entitle procurement participants¹⁴ to apply to an authorized body to assess the compliance of public procurement procedures with the relevant rules.

¹¹ According to the [methodology](#) of the European Statistical Agency (EUROSTAT), SMEs are categorized into micro enterprises (less than 10 employees); small enterprises (10 to 49 employees); medium enterprises (50 to 249 employees); and large enterprises (250 or more employees).

¹² European Commission experts conducted a sociological survey on MSMEs participation in public procurement. The project was attended by representatives of 371 enterprises from five countries: Italy, the Netherlands, Poland, Romania and Sweden.

¹³ Directive on remedies for the public sector ([Directive 89/665/EEC](#)), Directive on remedies for the public utilities sector ([Directive 92/13/EEC](#)), Directive on enhancing the effectiveness of the review of the award of public contracts ([Directive 2007/66/EC](#)).

¹⁴ An individual or a legal entity supplying goods, performing works and/or rendering services on the market.

5. **Digital transformation of public procurement.** Innovative development of the contractual system is taking place within the framework of the [Digital Europe Program](#). The digital transformation of public procurement is not just about automating and streamlining certain processes, but also about improving the economic efficiency, quality and convenience of public procurement. The introduction of information technology reduces the administrative burden, increases the speed and transparency of procurement processes, and improves access for SMEs. The [EU Directive 2014/24/EU on public procurement](#) and the [EU Directive 2014/55/EU on electronic invoicing in public procurement](#) provided the necessary legal conditions for the conversion of public procurement to electronic format. Bids and procurement documents are mandatorily published on the [TED](#) web portal, and economic operators submit bids electronically, while procuring public bodies use [electronic invoicing](#). Successful digitalization projects of the EU include the creation of a single digital public procurement data space ([The Public Procurement Data Space, PPDS](#))¹⁵, approval of a new standard for publication of public procurement data in electronic format ([eForms](#))¹⁶, launch of an electronic system of self-declaration for bidders, which involves filling out a uniform document in electronic form ([European single procurement document](#)).

6. **Expanding cooperation in public procurement.** Only 11% of all public procurement in the EU [is conducted](#) jointly by several contracting entities. [Big Buyers Working Together](#) is a web platform for sharing experiences and fostering collaboration among large government contracting authorities. The project created ten target groups, each focused on the purchase of a specific product or service. The platform's secretariat ensures interaction with economic operators and industry business associations, organizes presentations of manufacturers and study visits to enterprises.

In 2021, the European Commission [evaluated](#) the effectiveness of the implementation of the new European public procurement rules¹⁷ at national level.

¹⁵ It combines European databases, including TED, and data available on national portals.

¹⁶ Was introduced by the [European Commission Implementing Regulation \(EU\) 2019/1780](#). [EForms.Policy implementation handbook](#) and [EForms.Governance and life-cycle management](#) have been developed to provide methodological support for the implementation and use of eForms at the national level.

¹⁷ On February 26, 2014, the European Commission adopted three Directives establishing new principles for regulating public procurement in the EU. Read more below.

Based on the analysis of the reports submitted by the EU member states, the following challenges were identified:

- **lack of awareness** of the European legislation requirements among the local public procurement experts;
- **shortage of human resources**;
- **corrupt practices**, including pressure from the political leadership to ensure a specific outcome of the procurement procedure;
- **no mechanism** for long-term planning of procurement activities;
- **no structural units** responsible for public procurement in most contracting entities.

The issues that caused the most practical difficulty were:

- **calculation** of procurement costs;
- **refusal** to award a contract to the winning tenderer;
- **development** of requirements for procurement participants and criteria for evaluation of bids.

The European Commission identified the following patterns in the implementation of procurement activities in EU countries.

- **Use of the price factor** as the main criterion for contract award, the “value for money” criterion is used in limited cases.
- **Lack of practice** of conducting preliminary market research.
- **Determination** of the shortest possible deadlines for submitting bids, as well as the deadlines for contract performance.
- **Use of as many selection criteria as possible** or, on the contrary, their complete absence.

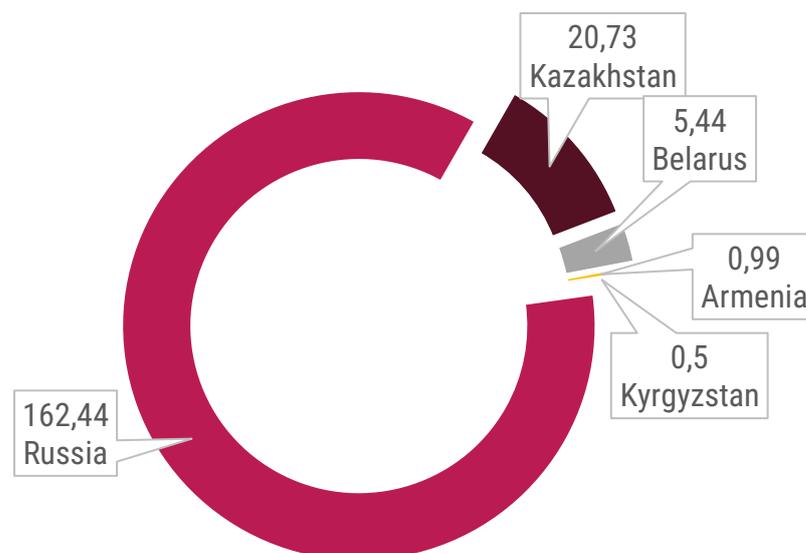
Eurasian Economic Union

Principles of Public Procurement in the EAEU

On average, the annual size of the public procurement sector within the EAEU [is](#) 7.4% of GDP (USD 190.1 billion). Compared to 2021, the growth was 22.4%. Within the EAEU, the public procurement sector is seen as an important aspect of integration and the development of a single market for goods, services and capital. At the same time, the share of mutual state and municipal procurement from suppliers¹⁸ of the EAEU member states in the total volume of public procurement is small and [amounts to](#) only 0.2% (as of 2022). At the same time, it is worth noting that, in comparison with 2021, a significant [increase](#) of 11.7% was registered in the value of reciprocal procurement contracts awarded.

The EAEU's approach to the regulation of public procurement within the association is based on the Treaty on the Eurasian Economic Union, which entered

Volume of Public Procurement in EAEU Member Countries in 2022 (in USD billion)



[According to](#) the Eurasian Economic Commission (EEC), 2023.

¹⁸ Also includes contractors and providers.

into force in 2015, namely Section XXII “State (Municipal) Procurement”, as well as Annex No. 25 to the Treaty (Protocol on the Procedure for Regulating Procurement). The EAEU procurement policy [takes into account](#) the following principles:

- **regulation** of relations in state and municipal procurement is based on the legislation of member states on procurement and international treaties of member states;
- **requirement** to ensure the optimal and efficient use of funds used for procurement in member states;
- **providing** member states with national procurement treatment. At the same time, a member state of the EAEU has the right to unilaterally establish, in exceptional cases, exceptions to the national treatment for a period not exceeding 2 years, in accordance with the national legislation on procurement;
- **inadmissibility** of treating third countries more favorably than member states in procurement;
- information **openness** and transparency of procurement;
- unimpeded **access** for potential suppliers and suppliers of member states to participate in procurement conducted in electronic format through mutual recognition of an electronic digital signature produced under the law of one member state by another member state;
- **existence** of authorized regulatory and supervisory procurement authorities in member states (these functions may be performed by one body);
- **establishing** liability for violations of member states' procurement laws;
- **development** of competition, as well as countering corruption and other abuses in procurement.

Main Contract Award Procedures

The EAEU procurement regulations, in particular the Protocol on the Procedure for Regulating Procurement in the EAEU provides for [six](#) main procedures for contracting in procurement:

- **open tender**. May include two-stage procedures and pre-qualification of bidders;

- **request for pricing** (request for quotations); To apply the method of request for pricing (request for quotations), the legislation of the member state on procurement determines the initial threshold (maximum) price of the agreement (contract) on procurement (approximate cost of procurement), including in the procurement of goods, works and services according to the lists provided for in Appendices [No. 2](#) and [No. 4](#) to the Protocol on the Procedure for Regulating Procurement. Potential supplier who offered the lowest price of the procurement contract shall be the winner of the request for pricing (request for quotations);
- **request for proposals**¹⁹. Procurement by means of request for proposals may be carried out in respect of goods, works and services stipulated in Appendix [No. 2](#) to the Protocol on the Procedure for Regulating Procurement. Potential supplier who offered the best procurement contract terms in accordance with the procurement legislation of the member state shall be recognized as the successful bidder;
- **open electronic auction** (the auction). The procedure provides for the reduction of the initial (maximum) price of the agreement (contract) on procurement (approximate cost of procurement) by means of a reversed auction. In this case, the procurement legislation of the member state may provide that if the price of the procurement agreement (contract) decreases to 0.5% of the initial (maximum) contract price of the procurement contract and below, the auction shall continue by increasing the price of the procurement contract to be paid, in this case, to the contracting entity by the supplier;
- **exchange trading**²⁰;
- **procurement from a single source or from a single supplier** (provider, contractor). It is carried out if there is a calculation and justification of the price of the procurement agreement (contract) in accordance with the list contained in Appendix [No. 3](#) to the Protocol on the Procedure for Regulating Procurement.

¹⁹ If provided for by the procurement laws of the member state.

²⁰ If provided for by the procurement laws of the member state.

An important feature of contracting procedures within the EAEU is the [obligation](#) to organize procedures, such as open tender and auction, in electronic format. A total of 86.5% of procurement procedures within the EAEU were conducted in electronic format [by the end of](#) 2022, which meets the goal of a complete transition to electronic format in all public procurement procedures.

EFFICIENCY ASSESSMENT METHODS

The main purpose of public procurement is to ensure the fulfillment of the basic functions of the state in full, through the acquisition of goods, works and services, in compliance with the key principles of public procurement. As a result, the efficiency of the public procurement system affects the efficiency of public administration as a whole. In turn, the efficiency of individual parts of the public procurement system, including the legal and regulatory framework, the internal processes of the major procuring entities, and the technical capacity and competencies of the staff responsible for procurement, also determines the efficiency of the procurement system.

Improving the efficiency of public procurement is impossible without taking into account social, economic, political, environmental, technological and other development factors and trends. Regular assessment of public procurement efficiency is required to take these factors into account in a timely manner. Such evaluations include both an analysis of the efficiency of the public procurement system as a whole and of its individual parts, and are aimed at improving the systems, their individual parts or processes, in order to achieve better results for citizens and other consumers of public services. At the same time, the efficiency assessment can be carried out either independently by the countries or with the involvement of independent experts.

Methodology for Assessing Procurement Systems (MAPS)

The Methodology for Assessing Procurement Systems (MAPS) [is](#) an internationally recognized tool for a comprehensive and complete assessment of public procurement systems. The Methodology was developed by the Organization for Economic Cooperation and Development (OECD).

It is aimed to help the country, with or without the support of external partners, to conduct an assessment of the national procurement system to identify its strengths and weaknesses.

The MAPS is open for use by everyone and can be applied by all countries, both independently and with the involvement of external partners (including international organizations, in particular the World Bank). To obtain a quality certificate, the assessment must be carried out in accordance with a set of rules and according to a quality standard validated by the [MAPS Secretariat](#).

MAPS is based on the following documents:

- [2015 OECD Recommendation on Public Procurement](#);
- [2011 UNCITRAL Model Law on Public Procurement](#);
- [2014 EU Directive on Public Procurement](#);
- **general procurement principles** used by multilateral development banks, countries and providers.

MAPS evaluates the following elements of the procurement system:

- **Value for Money**;
- **Transparency**;
- **Fairness**;

- **Good Governance.**

MAPS includes:

- a **user's guide** with instructions on how to conduct a MAPS assessment;
- **instructions** on how to analyze the country context;
- the indicator **framework** in four thematic pillars (each pillar includes indicators, sub-indicators – qualitative and quantitative – and assessment criteria);
- a **glossary**;
- a **suite** of supplementary modules that allow a focused analysis of specific areas: sustainability, professionalism, e-procurement, public-private partnerships, etc.;
- **support tools**, such as templates, that can provide support in conducting a MAPS assessment.

MAPS Thematic Pillars

MAPS evaluates public procurement systems across 4 major thematic pillars. Each pillar includes indicators and sub-indicators. In total, the methodology includes more than 200 indicators in the following pillars:

1. **Legislative and Regulatory Framework** aims to verify the compliance of existing national legislation with international standards;

2. **Institutional Framework and Management Capacity** assesses how effective the procurement system is in discharging the obligations prescribed in the law;

3. **Procurement Operations and Market Practices** assesses the efficiency of the public procurement system at the level of agencies and bodies directly involved in procurement;

4. **Integrity and Transparency of the Public Procurement System** covers the aspects of the procurement process control and also includes corruption prevention measures.

MAPS Assessment Procedure

Assessment of public procurement systems using MAPS usually [takes](#) from 4 to 18 months depending on the country context (completeness of the assessment, availability of information, budget, organization of the process, etc.). The assessment process involves [a number of steps](#), which can be divided into the following stages:

1. **preparatory stage** (includes submitting a request by the public authority of the country that intends to conduct the MAPS assessment to the MAPS Secretariat, establishment of an Organizational Bureau and a Technical Advisory Group to coordinate the assessment, selection of external experts and development of a project proposal);
2. **assessment stage** (this stage includes the assessment of the public procurement system using MAPS, as well as the assessment of the national context, drafting an assessment report, its approval by the MAPS Secretariat and its presentation);
3. **follow-up monitoring** (each report contains a list of comments, observations and suggestions for improving procurement systems).

A total of 24 countries have completed the assessment procedure [as of](#) the end of 2023. The assessment of procurement systems is ongoing in 13 countries, with assessments planned in 8 countries.

Public Procurement Efficiency

Assessment in the EU

Within the European Union, the assessment and comparison of national public procurement systems is carried out by the European Commission.

To this end, [12 efficiency indicators](#) were developed. Indicators depend on many factors that are specific to each country: for example, the structure of the economy or the different ways of bidding. In addition, some factors affecting the quality of public procurement can be assessed only partially, or using indirect methods. These factors include: level of corruption, administrative burden or competence of the procurement staff. As a result, the table of indicators contains information that gives only partial insight into the efficiency of public procurement systems in EU countries.

Overall Performance

Overall performance is the sum of the scores on all 12 individual indicators. By default, satisfactory performance on an individual indicator raises a country's overall score by one point, and unsatisfactory performance lowers it by one point.

The three most important indicators have triple weight:

- **single bidder;**
- **no calls for bids;**
- **publication rate.**

The European Commission explains that these indicators are linked to competition, transparency and access to markets, which are the fundamental principles of efficient public procurement. Indicators No. 7–12 account for 1/3 of the weight because they measure the same factors from different perspectives: small business participation (indicators No. 7–9) and data quality (indicators No. 10–12).

Assessment Indicators:

1. Single bidder. The indicator allows to measure the proportion of contracts awarded where there was just a single bidder. According to the European Commission, more bidders means more opportunities to get better value for money. The indicator reflects several aspects of procurement, including competition and bureaucracy.

2. No calls for bids. The indicator determines the proportion of procurement procedures negotiated with a supplier company without any call for bids. The European Commission believes that public procurement is carried out more efficiently if callings for tenders are announced before procurement negotiations begin. It makes the bidder selection process more transparent and increases competition. This leads to better value for money. The indicator reflects several aspects of procurement, including transparency and competition.

3. Publication rate. The indicator reflects the value of procurement advertised on TED (Tenders Electronic Daily) as a proportion of national GDP. The higher the indicator, the more companies can bid, bringing better value for money. It also means greater transparency, as more information is available to the public. This indicator reflects the value of national public procurement advertised to businesses, i.e. the accessibility and openness of public procurement markets.

4. Cooperative procurement. The indicator measures the proportion of procurement procedures with more than one public buyer. Although not all types of purchase are suitable for cooperative procurement, excessively low rates suggest lost opportunities: buying in bulk often leads to better prices and offers contracting authorities an opportunity to share knowledge.

5. Award criteria. The indicator measures the proportion of procedures awarded solely because the offer was the cheapest one available. While the choice of criteria depends on what is being purchased, over-reliance on price suggests better bid evaluation criteria could have been applied. The indicator reflects how public buyers choose the companies they award contracts to. Specifically, it shows whether they decide based on price alone, or whether they also consider quality.

6. Decision speed. The indicator reflects the mean decision-making period, i.e. the time between the deadline for receiving offers and the date the contract is awarded. Very lengthy procedures are bad because they are expensive and cause

uncertainty for both the public buyers and companies. This indicator reflects the speed of the public buyers' decision-making.

7. SME contractors. The indicator shows how many contractors are small and medium-sized enterprises (SMEs). For European countries, high percentages are desirable, as most companies in the EU fall into this category. Low percentages could indicate barriers preventing SMEs from participating in public procurement procedures (e.g. red tape or low capacity among SMEs to compete).

8. SME bids. This indicator measures the proportion of bids from SMEs. As in the previous paragraph, low percentages could indicate barriers preventing SMEs from participating in public procurement procedures.

9. Procedures divided into lots. This indicator measures the proportion of tenders divided into lots. Lots are beneficial, particularly for SMEs, making it easier for them to make an offer. Low percentages means that public buyers are missing the opportunities national SMEs can offer.

10. Missing calls for bids. This indicator measures the proportion of contracts awarded after a call for tender whose name and conditions were not clear. In the opinion of the European Commission, a lower score demonstrates a greater degree of openness of the supplier selection procedure. A higher score suggests that public buyers are failing to provide enough information about their procurement activities, and are therefore in breach of EU law.

11. Missing seller registration numbers. This indicator measures the proportion of procurement procedures that did not include the seller's registration number. A lower score is preferable, as the indication of registration numbers of participants in public procurement allows to ensure adequate transparency of procurement. A higher score suggests that public buyers are failing to provide enough information about the party selected, following a procurement procedure, to sell goods, works or services.

12. Missing buyer registration numbers. This indicator measures the proportion of procedures that did not include the buyer's registration number. Similar to the previous indicator, the European Commission believes that a lower score indicates a more efficient organization of the public procurement process.

The European Commission assesses the above 12 indicators based on:

- **qualitative policy judgment** on what constitutes good practice;
- **recent** (as of the date of analysis) **data** for individual EU countries.

For each indicator, an EU member country can receive the following scores:

- “satisfactory”;
- “unsatisfactory”.

	Indicator Name	Satisfactory	Unsatisfactory
1	Single bidder	≤ 10%	> 20%
2	No calls for bids	≤ 5%	≥ 10%
3	Publication rate	> 5%	< 2.5%
4	Cooperative procurement	≥ 10%	< 10%
5	Award criteria	≤ 80%	> 80%
6	Decision speed	≤ 120 days	> 120 days
7	SME contractors	> 60%	< 45%
8	SME bids	> 80%	< 60%
9	Procedures divided into lots	> 40%	< 25%
10	Missing calls for bids	≤ 3%	> 3%
11	Missing seller registration numbers	≤ 3%	> 3%
12	Missing buyer registration numbers	≤ 3%	> 3%

OECD Assessment of Public Procurement Efficiency

The OECD has accumulated considerable experience and a significant volume of methodological materials on assessing the efficiency of public procurement. The OECD public procurement performance assessment is based on the OECD Recommendation of the Council on Public Procurement. In order to develop a unified approach to assessing the performance of procurement systems across the OECD and to measure the level of implementation of the OECD Recommendation of the Council, in 2023 the OECD [presented](#) Public procurement performance: A framework for measuring efficiency, compliance and strategic goals.

Types of Indicators

The OECD Framework for Measuring includes 259 indicators. Of these, 83 are core indicators and 176 are aspirational indicators. In terms of the OECD procurement efficiency measurement system, it is worth noting the relationship of individual indicators to specific stages of the public procurement cycle, as well as to the different actors involved in the procurement process (national governments, procuring entities, major procuring units).

All indicators are categorized into 3 main categories:

1. **Compliance indicators (Compliance KPI).** This category of indicators is aimed to assess whether procurement processes and outcomes comply with national or any other applicable laws, including integrity and competition laws. Compliance indicators can be divided into various subcategories throughout the procurement cycle, such as:

- publication/transparency requirements,
- preliminary control/audit results,
- sanctions against unscrupulous suppliers,
- integrity and accountability,
- appeals/court proceedings;

- delayed payments.

2. **Efficiency indicators (Efficiency KPI).** Aimed at assessing whether procurement processes are achieving the best procurement outcomes and efficiencies, as well as best value for money. From an OECD perspective, efficiency is usually defined as the ratio of outputs to inputs, while effectiveness is the ratio of specific outputs to specific inputs and depends on the quality of the provision of goods, works and services. Specifically, efficiency indicators can assess:

- cost saving (in terms of money and time),
- degree of integration of market procedures into the public procurement process,
- duration of procurement processes (including the bid evaluation stage), etc.

Also, the category of efficiency indicators includes various subcategories, such as procurement planning, implementation of various efficiency tools such as framework agreements or Dynamic Purchasing Systems (DPS), contract modifications, development of professional competences and systems enabling payment for goods, works and services.

3. **Strategic indicators (Strategic KPI)** assess how public procurement processes and results contribute to the achievement of strategic national objectives set by governments, such as:

- climate change mitigation,
- promoting innovative development,
- job creation,
- social aspects of sustainability (human rights, including labor rights, gender mainstreaming or inclusion of vulnerable groups),
- SME development, etc.

As a result, this group of indicators may include a share of sustainable goods, works and services, a share of procurement provided by SMEs (in terms of quantity and volume), or a share of procurement of innovative goods, works and services. In addition, some evaluation frameworks may include indicators that assess the impact of a strategic approach to procurement, such as reductions in greenhouse gas emissions or energy consumption. Different subcategories of strategic indicators may

reflect different policy objectives. Finally, the OECD emphasizes that some strategic national objectives can have an impact that transcends national borders. Thus, the public procurement evaluation system should take into account the impact not only within the country, but also outside it. In particular, when it comes to the reduction of greenhouse gas emissions, the application of these indicators for the assessment of goods, works and services should be carried out along the entire value chain.

Each indicator is described using the following parameters:

1. sub-category of indicators (one of 3 types – compliance, efficiency or strategic indicators, as well as thematic clusters);
2. user (national procurement regulators, procuring entities, major procuring units);
3. indicator name;
4. list of sub-indicators (if any);
5. procurement stage (where the application of the indicator for evaluation has the most pronounced effect);
6. metric description (detailed description and numerical value of the indicator);
7. type of indicator (core or aspirational);
8. level of data (national, bid data, data from specific contracts);
9. formula for calculating the indicator (also includes data requirements);
10. units of measurement;
11. data availability (allows to determine the lack of data to calculate the indicator);
12. data source (an indicative list of key sources);
13. availability of data in digital format;
14. contribution to MAPS indicators.

INTOSAI Approaches to Public Procurement Audit

One of the indicators of the public procurement system efficiency is also the results of auditing the performance of individual contracts. The key role in this process is played by Supreme Audit Institutions (SAIs), as well as regional and municipal audit and accounts bodies. At the same time, different SAIs have different mandates and authorities, as well as different audit approaches. Many SAIs do not conduct special public procurement audits, addressing these issues in the context of broader control and expert-analytical engagements.

Despite differences in audit practices, most SAIs adhere to the principles and approaches of the International Organization of Supreme Audit Institutions ([INTOSAI](#)) as reflected in the 2016 [INTOSAI Framework of Professional Pronouncements](#) (IFPP). The Framework reflects the hierarchy and synergies of the organization's main documents and includes:

1. INTOSAI Principles (INTOSAI-P);
2. INTOSAI Standards (ISSAI);
3. INTOSAI Guidance (GUIDs).

Within the INTOSAI Framework of Professional Pronouncements, the main document to assist auditors in auditing public procurement is the [INTOSAI Guidance for Audits of Public Procurement \(GUID 5280\)](#) developed by the [INTOSAI Working Group on Public Procurement Audit \(WGPPA\)](#)²¹ and adopted during the XXIV INTOSAI Congress in Rio de Janeiro.

Objectives of the INTOSAI Guidance for Audits of Public Procurement

The main purpose of all INTOSAI Guidance is to assist auditors (inspectors) in applying the relevant INTOSAI standards when auditing relevant industries. [INTOSAI](#)

²¹ The Accounts Chamber of the Russian Federation is the Chair of the INTOSAI Working Group on Public Procurement Audit.

[Guidance for Audits of Public Procurement](#) covers two types of audits – performance audits and compliance audits. Thus, the purpose of the Guidance is to assist auditors in applying [ISSAI300](#) (performance audit) and [ISSAI400](#) (compliance audit) standards when auditing public procurement at all stages of the procurement process.

Highlights of INTOSAI Guidance for Audits of Public Procurement

Like most INTOSAI professional pronouncements, INTOSAI Guidance for Audits of Public Procurement has a number of distinctive features useful to auditors:

- applicability by all SAIs in any jurisdiction and legal environment (the experience of different SAIs in terms of their organizational structure, mandate and operating environment, as well as the experience and approaches of international organizations were used in the development of the Guidance);
- coverage of the entire audit cycle (the Guidance can be applied at different stages of the audit, from planning and execution to preparation of the audit report and follow-up);
- the possibility of applying the guidance to combined audits (the Guidance covers both performance and compliance audits);
- special attention is paid to the preparation of the audit report and the development of recommendations based on the audit results (with a focus on improving the efficiency of the procurement process);
- integrated approach to public procurement (public procurement is seen both as a tool for achieving strategic development goals and from the point of view of the process-based approach);
- taking into account the impact of new technologies, as well as the possibility of auditing public procurement in emergency situations;
- a large amount of additional materials (includes examples of audit questions at different stages of procurement, lists of risks, etc.).

CASES AND PRACTICES OF REGULATION AND AUDITING OF PUBLIC PROCUREMENT

This section provides an overview of national practices in regulating and auditing public procurement. Examples have been selected based on the availability and openness of materials on public procurement audits. One of the sample sources was materials from the [Public Audit Knowledge Repository](#), which was developed by the Accounts Chamber of the Russian Federation. The selection of cases was based on the principle of geographical representation.

Case structure includes the following:

1. **National regulation** in public procurement:
 - legal regulation of public procurement;
 - public authorities responsible for procurement and/or procurement regulation;
 - availability of digital platform(s) for public procurement;
 - a brief description of the public procurement process;
 - the key features of the public procurement system.
2. **Cases of audits** by Supreme Audit Institutions (SAIs).



ARGENTINA

National Regulation

Legal Regulation of Public Procurement

Under the federal system of government, the Argentine provinces and the autonomous city of Buenos Aires may establish their own public procurement rules (usually similar to the national rules).

The main legislative acts at the national level:

- Contracting Regime for the National Administration ([Executive Order No. 1023/2001](#));
- Rules of the Contracting Regime for the National Administration ([Executive Order No. 1030/2016](#));
- National Public Administration Contracting Procedures Handbook ([National Contracting Office's Disposition No. 62/2016](#));
- Contracting General Terms and Conditions ([National Contracting Office's Disposition No. 63/2016](#));
- Public Administration's Providers Database Registration Handbook ([National Contracting Office's Disposition No. 64/2016](#));
- National Administration Contracting Electronic System COMPR.AR ([National Contracting Office's Disposition No. 65/2016](#));
- National Administration Contracting Electronic System CONTRAT.AR ([Executive Order No. 1336/2016](#));
- Law on the Market Competition Protection ([Law No. 25.156](#))

The Argentine government also promotes import substitution and support for domestic producers ([Law No. 25,551](#)). The document applies to all public contracting procedures and obliges specific authorities and entities to give preference to

national goods and services under certain conditions, as well as to comply with disclosure obligations during contracting procedures. It establishes the priority of Argentine suppliers in public procurement, as well as possible sanctions for non-compliance with the regime.

Procurement Authority

National Contracting Office ([Oficina Nacional de Contrataciones, ONC](#)).

Availability of a Digital Procurement Platform

- The [Compr.Ar](#) platform is designed for organizing and conducting callings for tenders, selecting suppliers, and submitting bids for participation in tenders for the procurement of goods and services.
- The [Contrat.Ar](#) platform is designed for procurement of works (construction, etc.).

Description of Public Procurement Process

Stages of the procurement process:

1. Issue of an invitation to tender and choosing a selection procedure;
2. Approval of the bidding framework and terms;
3. Recognition/non-recognition of the tender as invalid or failed;
4. Pre-selection of participants in a multi-stage tender;
5. Application/non-application of penalties and sanctions to bidders or counterparties;
6. Approval of the selection and award procedure;
7. Selecting a candidate or cancelling the procedure;
8. Adoption or repeal of administrative acts on the contracting procedure;
9. Performance or non-performance of the contract;
10. Completion / suspension, termination, cancellation, repayment or declaration of default of the contract

The public procurement regime establishes general restrictions on contracting with public authorities for individuals and legal entities that:

- have any penalties arising from contractual relations with public authorities;
- are officials or agents of the public administration;
- were convicted of fraud;

Characteristics of Public Procurement System

- are under judicial investigation for corruption or offenses against the National Administration, national property or public trust;
 - violated their tax obligations;
 - violated the terms and conditions of public funds or subsidies;
 - are included in the National Registry of Labor Offenses ([REPSAL](#)).
-
- Significant amount of reference materials on the preparation and organization of procurement;
 - A convenient digital system for organizing tenders and selecting suppliers.



Audit of the National Procurement Directorate at the Secretariat for Public Innovation of the Office of the Head of the Cabinet of Ministers

1

SAI Argentina audited the management of the COMPR.AR electronic public procurement system (hereinafter referred to as the System) from the point of view of information security and data quality.

The System was launched in 2016, and its main objectives include promoting transparent and efficient practices in public procurement in line with national policy priorities related to SDG 12.7.

This objective aims to promote three dimensions of sustainable development: economic, social and environmental.

Audit Objectives

- To verify the development of sustainable public procurement practices in line with national policies and priorities.
- To evaluate information systems and the National Administration's e-procurement system (COMPR.AR) in terms of information security and quality of data.

Audit Criteria

- Environmental sustainability in procurement.
- Adherence to ethical standards in procurement.
- Socio-economic sustainability in procurement.
- Development and implementation of electronic procurement systems.

Types of Audits

- Requesting National Administration's internal documentation on tenders conducted and contracts awarded and analyzing it.
- Analyzing the COMPR.AR operation.

Main Findings

During the audited period (September 1, 2017 – September 30, 2019), the National Administration agencies used two different platforms for the procurement of goods and

services, contrary to the provisions of Executive Order No. 1030/2016, which requires to implement a single window system to simplify and streamline procurement processes.

Moreover, it does not allow stakeholders, civil society organizations and monitoring bodies to have insight into the effectiveness of the procurement process.

From a review of the Administration's regulatory framework, it appears that sustainability criteria in procurement activities are recommended (rather than required).

The National Contracting Office of the Administration lacks an Information Security Policy, does not adequately manage COMPR.AR users and does not monitor potentially risky activities or those that could jeopardize information security.

It was noted that the COMPR.AR system did not cover the entire procurement life cycle; the process search did not automatically provide information on the total amounts, quantities and volumes of goods purchased or suppliers.

As a result of the audit, the SAI noted that there is a need to update current regulatory framework to improve management of the System.

Recommendations

1. To establish a system for backing up contract data.
 2. To draft and approve internal documents (regulations and “policies”) on data handling.
-



AUSTRALIA

National Regulation

Legal Regulation of Public Procurement

International agreements:

WTO Agreement on Government Procurement ([GPA](#))

National law:

[Commonwealth Procurement Rules](#)

[Public Governance, Performance and Accountability Act of 2013](#)

Procurement Authority

[Department of Finance](#). Responsible for national public procurement policy.

Availability of a Digital Procurement Platform

[AusTender](#) is the main digital platform for bids and tenders. All contracts above USD 10,000 must be placed on the platform.

Description of Public Procurement Process

1. Procurement planning based on the identified need

2. Determining procurement volume

3. Determining procurement method

- Open tender
- Limited tender

4. Preparing for approaching the market:

If applicable, ensure that the procurement process includes:

- [consideration of relevant regulations and/or frameworks;](#)
- [application and verification of standards;](#)
- [consideration of broader domestic economic benefits in procurement.](#)
- requiring bidders to disclose the country of tax residency of their ultimate parent company when submitting bids for contracts worth more than **USD**

200,000 (including VAT) (see the [website of the Ministry of Finance](#))

5. Approaching the market

6. Evaluation of bids and completing the tendering process

Contracts worth USD 10,000 (including VAT) and above must be posted on the AusTender platform on a mandatory basis.

7. Contract management

**Characteristics of
Public Procurement
System**

- Digital platform priority for any bids and proposals (for any contract amounts);
- Easy to navigate legislation and bylaws on the website of the Ministry of Finance;
- Mandatory consideration of the entire life cycle cost when calculating the contract price.



Planning and Governance of COVID-19 Procurements to Increase the National Medical Stockpile

1

The Australian National Audit Office (ANAO) conducted the performance audit of COVID-19 planning and procurement management to increase the National Medical Stockpile (NMS) as part of the first phase of ANAO's multi-year strategy to ensure the effective, efficient, economical and ethical delivery of the Australian Government's response to the COVID-19 pandemic.

Audit Objectives To examine whether the COVID-19 NMS procurement requirement was met through effective planning and governance arrangements.

Audit Criteria

- Was pre-pandemic procurement planning for the NMS effective?
- As part of the Australian Government's COVID-19 response, was the planning and governance of the NMS procurements effective?
- Was the COVID-19 NMS procurement requirement for personal protective equipment (PPE) and medical equipment met?

Main Findings

1. The NMS procurement requirement for PPE and medical equipment related to COVID-19 was met or exceeded. Elements of the Department of Health's procurement planning for the NMS could be improved.

2. Department of Health's pre-pandemic procurement planning for the NMS was partially effective and partially risk-based. Agreement with states and territories about stockpiling responsibilities was not documented and stockpile information was not adequately shared. There were no protocols for emergency procurements.

3. Department of Health's and Department of Industry, Science and Resources' NMS procurement planning and governance arrangements in response to the COVID-19 pandemic were effective. Both entities had elements of a plan for meeting the requirement, established fit for purpose governance arrangements and considered risks.

4. The COVID-19 NMS procurement requirement was not clearly specified for PPE, swabs and COVID-19 tests. Procured quantities for the NMS were approximately aligned with overall national health system demand estimates for all items where demand modelling was undertaken, suggesting the procurement requirement was met or exceeded.

Recommendations

Fit for purpose governance and planning arrangements can mitigate risks to the proper use of public resources created by a challenging procurement environment.

1. Department of Health's business as usual procurement planning for the NMS should be based on an analysis of strategic risks and threats.

2. Department of Health should establish a mechanism for regular sharing of information between jurisdictions about stockpile inventories, etc., that will function in both business as usual and emergency conditions.

3. Department of Health should put in place a strategic procurement, management and distribution plan for the NMS that includes protocols for emergency procurements.



Procurement by the National Capital Authority

2

Procurement is the core business of the National Capital Authority (NCA). The Australian National Audit Office (ANAO) conducted this audit to provide assurance to the Parliament over the effectiveness of the NCA's procurement activities.

Audit Objectives

The objective of the audit was to examine whether the NCA's procurement activities are complying with the Commonwealth Procurement Rules (CPRs) and demonstrating the achievement of value for money.

Audit Criteria

- Have open and competitive procurement processes been employed?
- Has decision-making been accountable and transparent?

Main Findings

1. The NCA's insufficient use of open and competitive procurement processes, non-compliance with the Commonwealth Procurement Rules (CPRs) and poor transparency and record keeping means it cannot demonstrate value for money across its procurement activities.
2. The NCA makes insufficient use of open and competitive procurement processes. Where open tenders were conducted, it was common for request documentation to limit the extent of effective competition. Where suppliers were directly approached, the pool of potential tenderers was often limited to those previously engaged by the NCA, or described by the NCA as being known to the NCA or its advisers. With respect to the assessment processes undertaken, just over half of the contracts were awarded to the candidate where documentation demonstrated that it offered the best value for money. The conduct of procurements was also not to a consistent ethical standard.
3. Procurement decision-making has not been sufficiently accountable and transparent. Approval had been obtained by an appropriate delegate in most of the contracts examined. It was common for there to be gaps in the records of the planning and conduct of procurements. The NCA's reporting of contracts and amendments on AusTender was largely non-compliant with the requirements under the Commonwealth Procurement Rules (CPRs).

Recommendations

Generally, the more competitive the procurement process, the better placed an entity is to demonstrate that it has achieved value for money. Competition encourages respondents to submit more efficient, effective and economical proposals. It also ensures that the purchasing entity can compare the price and quality of goods, works and services from different suppliers. Openness in procurement involves giving suppliers fair and equitable access to opportunities to compete for work while maintaining transparency and integrity of process.

1. The Department of Finance should develop and issue guidance on applying the definition of “construction services” when relevant entities are considering which procurement threshold to use for the purposes of the Commonwealth Procurement Rules (CPRs).
2. The National Capital Authority (NCA) should:
 - increase the extent to which it employs open competitive procurement processes;
 - improve the accuracy of its AusTender reporting on how contracts were authorized.
3. The National Capital Authority (NCA) should improve its controls over the making of appropriate records of the justification for using limited tender procurement approaches and outlining how value for money was achieved.
4. The National Capital Authority’s (NCA) Audit Committee should monitor and provide assurance that the NCA employs open, fair and non-discriminatory approaches when undertaking procurements.
5. The National Capital Authority (NCA) should strengthen its procurement controls to ensure that procurement request documentation includes a complete description of the evaluation criteria that will be applied.
6. Where a probity adviser has been appointed, the National Capital Authority should actively engage and manage the adviser to ensure services are delivered as agreed and that probity has been maintained during the procurement process.
7. The National Capital Authority (NCA) should implement a monitoring and assurance framework over its compliance with the Commonwealth Procurement Rules (CPRs), including AusTender reporting.
8. The National Capital Authority (NCA) should place greater emphasis on timely and accurate reporting of its procurement activities, and making and retaining appropriate records of those activities.

**Legal Regulation of
Public Procurement****European Union (EU) Law**

- [Directive 2014/23/EU on the award of concession contracts dated February 26, 2014;](#)
- [Directive 2014/24/EU on public procurement dated February 26, 2014;](#)
- [Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors dated February 26, 2014;](#)
- [Directive 2014/55/EU on electronic invoicing in public procurement dated April 16, 2014;](#)
- [Directive 2009/81/EC on procurement in the defense and security sector dated July 13, 2009;](#)
- [Regulation EU 2016/7 dated January 5, 2016](#) establishing the standard form for the [European Single Procurement Document \(ESPD\)](#)²².

International agreements:

- WTO Agreement on Government Procurement ([GPA](#))

National law

- Federal Procurement Act of 2018. ([Bundesvergabegesetz 2018](#))
- Ministry of Finance of Austria ([Bundesministerium für Finanzen, BFF](#)). Responsible for general public procurement policy making.
- Federal Procurement Agency ([Bundesbeschaffung GmbH, BBG](#)). It is not a public body, but a company 100% owned by Austria, represented by the Ministry of Finance.

Procurement Authority

²² Declarations to participate in the public procurement process.

Availability of a Digital Procurement Platform

- [BBG Portal](#). Registration for suppliers and procuring entities allows online tracking of active tenders and requesting support. Integration of BBG and purchasing entities' websites is also possible.
- The [E-shop App](#) allows government agencies and businesses to procure any goods, works and services.
- [e-Travel](#) – online booking service – allows hotel reservations, transportation tickets and car rentals to be booked as part of government procurement.
- [E-Invoicing](#) – invoice management service – enables entities that make bulk purchases or are suppliers under a large number of contracts to integrate their ERP systems with the service and centrally manage the process of generating and receiving payment for invoices under government contracts.

Description of Procurement Process

Procurement stages [include](#) the following:

- determination of the type of procedure (open tender, procurement from a single supplier, dynamic procurement, procurement under a framework agreement, etc.);
- publishing a call for tenders, conducting the tendering process and selecting a supplier;
- awarding a contract to the successful bidder (if procured outside the framework agreement);
- contract management.

Main Characteristics of Public Procurement

- It is the company, not the government agency, that coordinates procurement activities.
- High degree of digitalization (possibility to use mobile apps and digital signature).
- Possibility to quickly integrate an electronic procurement system with vendor systems for contract management.



ACA (Austrian Court of Audit) Report on COVID-19 Vaccine Procurement

1

The Austrian Court of Audit audited the public procurement of the COVID-19 vaccine. The audit examined Austria's vaccine procurement on a pan-European and national level. The SAI found irregularities in the procurement process as well as significant over-procurement. This, according to the auditors, was caused by the Ministry of Health's incorrect assessment of the population's need for the vaccine.

Audit Objectives

- To evaluate the management and coordination of vaccine procurement and the timing and volume of deliveries.
- To analyze the financial terms and consequences of not using procured COVID-19 vaccines.
- To evaluate the effectiveness of using COVID-19 vaccines.
- To analyze contractual documents and Austria's role in vaccine procurement negotiations at the European Union (EU) level.

Main Findings

The audit identified weaknesses and strengths in the COVID-19 vaccine procurement procedure.

Strengths include:

1. the effectiveness of joint pan-European procurement of COVID-19 vaccines;
2. sufficient vaccines as of June 2021;
3. diversified production and technology base of vaccine suppliers.

Weaknesses include:

1. lack of detailed calculations at the start of vaccine procurement (June 2020);
2. insufficient reserve to provide funding for the project through spring 2021;
3. multiple calculations of need without documented and data-driven expertise.

Recommendations

1. Procurement and logistics responsibilities for COVID-19 vaccines should be clearly regulated.
2. Future projects should prepare a plan in a timely manner to make the policy decisions necessary for procurement. In particular, it requires approval of an overall justified cost structure that specifies all products and services required.
3. Vaccine procurement projects should be based on documented and financially sound estimates.
4. Members of the National Vaccination Committee should regularly solicit and publish statements of possible conflicts of interest related to vaccination.
5. Disposal of COVID-19 vaccines should be avoided and measures should be taken to prioritize the use of vaccines with expiring shelf lives.



Procurement Planning of the Austrian Armed Forces

2

The Austrian Court of Audit audited the impact of procurement planning on the operational readiness of the Austrian Armed Forces between March and July 2021 at the Federal Ministry of Defense. Auditors focused on reviewing procurement planning in key technology and infrastructure areas.

Audit Objectives

- To introduce the strategic procurement objectives and their implementation.
- To assess the impact of strategic public procurement processes on the operational readiness of the Austrian Armed Forces.
- To evaluate investment decisions when funding is limited.
- To analyze the impact of the Austrian government's investment in military infrastructure on the operational readiness of selected Austrian Armed Forces units.

Main Findings

The Court of Auditors failed to conclude on the impact of the procurement on the operational readiness of the Austrian Armed Forces because the Ministry of Defense did not provide for procedures to monitor and systematically review the implementation of the planned procurement, nor was it able to prepare the relevant assessments for the SAI within a reasonable timeframe.

Recommendations

1. To consider the need to evaluate the National Security Strategy as it relates to national defense.
2. To determine long-term budgetary requirements to be able to allocate sufficient resources to accomplish tasks in the short term.
3. To develop quality assurance measures for the Federal Military Plan.
4. To establish planning and monitoring processes to ensure that procurements are in line with the plans.



BRAZIL

National Regulation

Legal Regulation of Public Procurement

The main legislative acts at the national level:

- Federal Law on Bidding and Administrative Contracts No. [14,133](#) dated April 1, 2021;
- Law on Rules for Tenders and Contracts [No. 8,666](#) dated June 21, 1993;
- State-Owned Enterprises Accountability Law [No. 13,303](#) dated June 30, 2016;
- Law on Auction Procedures for Procurement of Public Goods and Services [No. 10,520](#) dated July 17, 2002;
- Government Decree on Electronic Public Procurement [No. 5,450](#) dated May 31, 2005;
- Law [No. 12,349](#) dated December 15, 2010. Law on Rules for Tenders and Contracts ([No. 8,666](#)) was amended in order to promote the development of national industry (in particular, the possibility of giving preference to national goods and services in public procurement was prescribed).
- Law on Auction Procedures for Procurement of Public Goods and Services [No. 10,520](#) and State-Owned Enterprises Accountability Law [No. 13,303](#) establish a reverse auction procedure for electronic procurement (Pregão). One of its main features is the inversion of the bidding procedure stages: bidding is carried out before the qualification documents are analyzed, which will be analyzed only for the company that submitted the best offer.

Procurement Authority	Ministry of Planning and Budget (Ministério do Planejamento e do Orçamento)
Availability of a Digital Procurement Platform	National Public Procurement Portal (Portal de Compras do Governo Federal)
Description of Public Procurement Process	<p>The Law on Rules for Tenders and Contracts (No. 8,666) provides for three main public procurement procedures: open tender, price survey and invitation to tender (except for state-owned companies).</p> <p>Anyone may participate in an open tender if they are able to submit all qualification documents as required in the tender documents prior to the bidding procedure. Potential bidders may be disqualified if they fail to submit the documentation required in the request for proposal or do not comply with its rules.</p> <p>In a price survey, bidding is conducted with pre-registered competitors, which eliminates pre-bid qualification assessments.</p> <p>Invitation to tender is a procedure in which the public administration invites companies to bid.</p> <p>Under the Law, there are three types of rules under which a contract may be awarded: lowest price; best technology; lowest price combined with best technology.</p> <ul style="list-style-type: none"> • Contracts for leasing of equipment and use of software are limited to a maximum term of 48 months. • Contracts related to national security, procurement of materials for the Brazilian Armed Forces and national defense can last up to 120 months. • Some R&D contracts may also last up to 120 months. <p>Contracts for the continued provision of services may be extended for a maximum of 60 months (5 years), after which a new procurement procedure must be conducted to award a contract to a company that will continue to provide such services.</p>

The Law also provides that in case of total or partial non-performance of the contract, the government may impose on the private party a temporary suspension from participation in public tenders and a hiring ban for a period not exceeding 2 years. In the case of administrative insolvency sanctions imposed by the courts or sanctions imposed by the Brazilian SAI, the period of such suspension may be up to 5 years. In these cases, the law does not establish procedures for suspending a decision to ban an activity.

Characteristics of Public Procurement System

- In e-procurement, supplier qualification is verified only for companies submitting the best offer.
- For foreign companies bidding, a local partner company is mandatory, but registration of a local representative office is allowed after the end of the bidding process.



Monitoring of the Implementation of the National Public Procurement Portal

1

The monitoring commenced in December 2021 to assess the progress of the project to launch the National Public Procurement Portal by the Federal Government. Federal Court of Accounts of Brazil monitored the operation of the Portal launched under the new version of Federal Law on Bidding and Administrative Contracts [No. 14,133](#) dated April 1, 2021.

Audit Objectives	To verify the efficiency of the Portal, availability of criteria and regulatory documents to ensure compliance with public procurement legislation; availability of resources to finance the modernization of the Portal.
Audit Criteria	Availability of a schedule for launching the Portal, stages and objectives of its operation, compliance with federal legislation on public procurement.
Types of Audits	Analyzing the digital infrastructure of the Portal; financial criteria and indicators; availability of sufficient reports to generate statistics.

Main Findings

The monitoring revealed a number of shortcomings in the Portal's operation:

- lack of a detailed schedule for launching individual platforms and features of the Portal in accordance with the previously adopted Strategy;
- lack of regulatory documents to ensure full compliance with legislation (primarily the Federal Law on Bidding and Administrative Contracts);
- lack of modules and systems necessary for full compliance of the Portal features with statutory provisions;
- failure to implement controls designed to ensure effective correlation between the data disclosed on the Portal.

Recommendations

In the auditors' opinion, the project is being implemented successfully, given limited financing and human resources.

SAI Brazil instructed the Steering Committee of the National Public Procurement Network to send, by December 30, 2023, a consolidated report on all developments implemented on the Portal, as well as to submit a complete and substantiated planning document outlining a strategy, timetable, implementation stages, responsible persons, objectives and actions necessary for the full implementation and operation of the Portal.

SAI Brazil ordered the relevant ministry to address the shortcomings within 2 months.



National Regulation

Legal Regulation of Public Procurement

International agreements:

- WTO Agreement on Government Procurement ([GPA](#))

National law:

- [Government Contracts Regulations](#)

Regional law:

- Quebec: [Act respecting contracting by public bodies](#);
- Nova Scotia: [Public Procurement Act](#);
- New Brunswick: [Procurement Act](#);
- Newfoundland and Labrador: [Act respecting contracting by public bodies](#);
- Ontario: [The Broader Public Sector Procurement Directive](#);
- Saskatchewan: [The Purchasing Regulations](#).

Procurement Authority

[Public Services and Procurement Canada \(Services publics et Approvisionnement Canada\)](#)

Availability of a Digital Procurement Platform

As of 2023, [CanadaBuys](#) digital platform has become the primary method of tendering. For certain tenders and contracts (in case of additional procurement), mailing of documents may be required. Additional terms and conditions for submitting bids are outlined in the announcement.

Description of Procurement Process

Procurement stages [include](#) the following:

- procurement planning;
- conducting a tender and selecting a supplier;
- contract management and follow-up (audit).

Main Characteristics of Public Procurement

- Transition to a fully digitalized procurement process.
- The existence of a [Procurement Ombudsman](#) to resolve procurement disputes and conflicts up to a certain value threshold (up to USD 30,300 for goods and USD 121,200 for services).



Supplying the Canadian Armed Forces – National Defense

1

Office of the Auditor General of Canada (OAG) has audited public procurement by the Department of National Defense of Canada. The audit examined the timeliness of deliveries of necessary equipment and materiel to the Canadian Armed Forces. It verified that the requested materiel (tools, spare parts, uniforms, specialized clothing and rations) was delivered in a timely manner while avoiding needless transportation costs. The supply of ammunition and military equipment was excluded from the audit.

Audit Objectives

The objective of this audit was to determine whether, for selected materiel, the Ministry of National Defense delivered in a timely manner the materiel items requested by Canadian Armed Forces personnel and whether the materiel supply chain from ordering to delivery to the Armed Forces was well established.

Main Findings

1. The Ministry of National Defense did not stock the right quantities of materiel at the right locations. This required additional steps to procure materiel or to transfer it between locations, which slowed deliveries. Poor stock management also resulted in increased use of commercial transportation, which often costs more than other options. In addition, the Ministry of National Defense did not develop adequate performance indicators on stock availability.
2. The Ministry of National Defense did not rigorously prioritize requests for military supplies; a large portion of high-priority requests were flagged as high priority without justification.
3. For materiel movements within Canada, the Ministry of National Defense did not have the right controls to determine the most appropriate transportation methods to fill requests and to oversee transportation costs.

Recommendations

The procurement and delivery of particularly important materiel, in particular that required to maintain the security of the state, should be based on three pillars: timeliness, minimized transportation costs, and increased efficiency.

1. The Ministry of National Defense should review its materiel forecasting and positioning to ensure that sufficient stocks are maintained at the right locations. It should also review its materiel availability measures at the warehouse and national levels and use these measures to monitor whether stock levels are met.
2. The Ministry of National Defense should improve its oversight of high-priority requests to ensure that such requests are used only when necessary.
3. The Ministry of National Defense should communicate the costs of all available transportation methods to the government and provide clear guidance on how to select the mode of transportation to ensure that decisions are founded on a full understanding of costs.



Alberta Infrastructure's Procurement Processes

2

The Office of the Auditor General of Alberta audited the Alberta Infrastructure's public procurement to ensure procurement processes are effective in delivering value for money and reducing the risk of costly legal challenges. The Alberta Infrastructure's procurement processes were examined to ensure fair and competitive procurement of construction tenders.

Audit Objectives

To assess the effectiveness of the processes for ensuring fair and competitive procurement of construction tenders in Alberta Infrastructure.

Audit Criteria

Under existing regulations, Alberta Infrastructure should:

- ensure the solicitation method is appropriate and ensure solicitation documents are posted for the required time and contain required information;
- ensure it has adequate controls to receive proponent responses;
- ensure it has adequate controls to protect the confidentiality of information received;
- ensure its procurement evaluation and contract award processes are clear, consistent, and impartial;
- prepare and retain appropriate procurement records and information;
- ensure all pre- and post-award communication to proponents is complete and transparent.

Main Findings

The audit found that Alberta Infrastructure has processes to conduct procurements of its construction tenders fairly and competitively, but not all these processes are effective, and improvements can be made.

Alberta Infrastructure competitively procured its construction contracts, included the necessary information in solicitation documents and followed its evaluation process. However, Alberta Infrastructure's processes did not always result in procurements that

were compliant with the trade agreements. Moreover, it did not always follow its process for receiving submissions and ensuring only submissions received on or before the procurement close were considered for evaluation. Alberta Infrastructure had weaknesses in its procurement information system access controls and it did not always evaluate proponent submissions consistently.

Recommendations

Fair and competitive procurement processes are needed to ensure Albertans get good value from the significant dollars their government spends on construction projects. Fair and competitive processes provide market participants with an equal opportunity to bid and help ensure capital projects are delivered within the scope, on budget and on schedule.

1. Alberta Infrastructure should improve controls for receiving submissions and posting of solicitation documents.
 2. Alberta Infrastructure should ensure its controls for verifying that it receives electronic submissions on or before the procurement close are operating appropriately.
 3. Alberta Infrastructure should improve its access controls for its procurement information systems.
 4. Alberta Infrastructure should improve its controls for:
 - verifying compliance with request for proposal requirements;
 - identifying potential conflicts of interest;
 - ensuring evaluation comments are adequately documented.
-



Audit of Mid-Size Capital Procurement in Post-Secondary Institutions

3

The Office of the Auditor General of British Columbia audited the prioritization, planning, implementation and evaluation of capital projects at the Ministry of Advanced Education. The audit focused on whether procurement of major construction projects in the Ministry of Advanced Education is in keeping with government policy.

Audit Objectives

The audit was conducted to determine whether capital procurement in the Ministry of Advanced Education is in keeping with the government's Capital Asset Management Framework and the Ministry of Advanced Education's Capital Asset Reference Guide.

Audit Criteria

The Ministry of Advanced Education was required to ensure that:

- Post-secondary institution capital planning processes include prioritizing projects to determine where the greatest capital asset needs exist.
- The capital procurement planning and risk management activities carried out are in line with government's framework and guide.
- Capital procurement is being accomplished in a competitive and transparent manner, demonstrating value for money.
- Results of capital procurement processes are monitored and reported on to regulatory agencies and made available to the public.

Main Findings

The Ministry of Advanced Education's planning processes, at the time the projects were planned (2005-2009), for capital procurement were not meeting all of the related requirements of government's Capital Asset Management Framework or the Ministry's Capital Asset Reference Guide for the completed projects. However, upon re-examination of their recent practices, it was confirmed that the Ministry is now compliant.

Recommendations

Using a standardized approach helps decision-makers understand the pros and cons of the choices they have to make, especially when needs exceed the money available.

It was recommended that Treasury Board staff:

1. define the key capital project documents that must be retained, where they should be kept, who should retain them, and for how long.

It was recommended that the Ministry of Advanced Education:

1. Use its improved understanding of the condition of its facilities to prioritize significant maintenance and new construction projects, and to inform its capital planning goals and priorities.
2. Follow its documentation processes to ensure capital submissions are complete.
3. Require post-secondary institutions to report on their compliance with the conflict-of-interest principles in the Capital Asset Management Framework for major projects, as part of the post-awarding communication to the Ministry.
4. Create a risk-based audit plan to ensure that periodic, independent procurement or financial audits (or both) are completed for significant, provincial government-funded capital projects.
5. Improve its knowledge management practices by requiring project managers to review lessons learned on significant projects, and share and discuss project successes and challenges with Ministry staff.
6. Require post-secondary institutions, after they complete a capital project, to assess and report back on their progress against the original business case objectives.



EUROPEAN UNION

Regulation

Legal Regulation of Public Procurement

To create a level playing field for all businesses, EU law establishes a set of harmonized public procurement rules. The regulatory framework contains information on the principles of implementation and models of procurement organization, control and review²³.

Sources of legal regulation:

- The [Treaty on the Functioning of the European Union](#), which was adopted in 2007 and entered into force in 2009, does not contain separate regulations on public procurement. At the same time, the Treaty establishes several fundamental principles that ensure the functioning of the EU market. The most relevant in terms of public procurement are the prohibition of discrimination on the basis of nationality, the free movement of goods, services and funds, and the freedom of establishment.
- General principles of EU law are [provisions](#) of a more general nature, developed in case-law, determining the content and tenor of EU law norms. Used in a *non liquet* situation (in the absence of applicable law).

EU Directives²⁴

- [Directive 2014/23/EU on the award of concession contracts dated February 26, 2014](#);

²³ EU law is a complex system of legal rules. [The main sources](#) of law are the principles of EU law, acts of primary and secondary law. The principles of EU law are the most universal provisions, which are divided into functional (direct effect and primacy of EU law) and general legal principles. Primary law acts include the constituent treaties of the European Union, which are international treaties and have supreme legal force. Secondary law acts are documents issued by the EU institutions. They are divided into legally binding (regulations, directives) and non-binding (recommendations).

²⁴ In December 2011, the European Commission [issued](#) a statement on the need to reform supranational regulation of public procurement to make it more user-friendly, transparent and cost-effective. The Directives adopted on February 26 and April 16, 2014 retained the main provisions of [Directive 89/665 dated December 21, 1989](#), [Directive 92/13 dated February 25, 1992](#), [Directive 2007/66 dated December 11, 2007](#).

- [Directive 2014/24/EU on public procurement dated February 26, 2014;](#)
- [Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors dated February 26, 2014;](#)
- [Directive 2014/55/EU on electronic invoicing in public procurement dated April 16, 2014;](#)
- [Directive 2009/81/EC on procurement in the defense and security sector dated July 13, 2009;](#)

The 2014 Directives [changed](#) and streamlined the procurement process in four main ways:

1. accelerated the transition to an electronic system of public procurement by securing the possibility of electronic declaration for bidders;
2. facilitated SME participation through “splitting in public procurement” (splitting one contract into smaller ones);
3. simplified administrative procedures of submitting documents, publishing notifications, and revising the contracts that have already been signed;
4. contributed to addressing social and environmental challenges through the use of new criteria for evaluating the bids of public procurement participants.

Procurement Authority

European Commission (development of a common policy on public procurement)

Availability of a Digital Procurement Platform

- Tenders Electronic Daily ([TED](#)) is an online portal that publishes around 520,000 public procurement announcements worth more than EUR 420 billion annually. It is the main aggregator and platform for public procurement at the EU level.
- [Public Procurement Data Space](#) (PPDS). PPDS aims to integrate TED and national procurement databases to form a single procurement market. PPDS is also intended to enable the rapid tracking of contracts regardless of price level, the evaluation of procurement performance and the adjustment of EU policies.

- The [European Single Procurement Document](#) (ESPD) is a self-declaration form used in public procurement procedures. Prior to the introduction of the ESPD, companies had to submit various documents to prove that they could participate in the procurement procedure (e.g. tax certificate, certificate of good conduct). With the ESPD, companies can do it using a single form. Only the successful bidder must submit a complete package of documents. The list of documents can be found on eCertis.
- [eInvoicing](#). Represents an invoice issued, sent and received in a structured data format that allows for automatic and electronic processing as defined in the eInvoicing Directive. The European Commission introduced this standard in 2017 to harmonize the electronic invoice formats used in the EU and to promote simplification and significant cost savings for all stakeholders.

Description of Public Procurement Process

The EU directives provide for **two different stages in the evaluation of public procurement participants**. The Selection Stage is the stage of selection of candidates who have expressed interest in participating in the competition for the contract. Regardless of the procurement procedure, there are a number of requirements for candidates. If a bidder fails to meet the requirements, it shall be excluded from the procurement. To ensure equal opportunities for all procurement participants, the list of requirements is set out in [Directive 2014/24/EC](#).

The conditions of tender participation that the contracting authority may establish, and non-compliance with which is a ground for exclusion from the competitive procedure, can be divided into three groups.

1. Personal standing. Candidates must be excluded from the process if they have been convicted within the last five years of an offence relating to: participation in a criminal organization, corruption, financial fraud, terrorism, human trafficking. Other grounds for exclusion include non-compliance with EU environmental regulations, withholding of personal data, conflict of

interest and failure to fulfill obligations under a previous contract.

2. Economic and financial standing. The contracting authority may set minimum requirements in terms of annual turnover, credit rating, insurance.
3. Technical and/or professional ability. The contracting authority may establish minimum requirements with respect to the level of professional competence of employees, technological equipment and technical documentation, compliance with quality standards and production safety.

Tender Stage is the stage where a winning tenderer is determined²⁵. The Directives stipulate that the selection criteria should be objective, transparent and equal for all, thus ensuring the conditions for effective competition. In determining the winner, the contracting authority, guided by the Most Economically Advantageous Tender (MEAT) principle, uses a number of criteria of both price and non-price nature.

In this case, according to Article 67(2) of [Directive 2014/24/EC](#), the contracting authority may employ two approaches:

- Cost effectiveness approach. The contract shall be concluded with the tenderer who offered the lowest contract price.
- Best Price-Quality Ratio (BPQR). In addition to price, a number of other criteria are taken into account: quality of the product or service, date and terms of delivery, follow-up service, etc.

²⁵ The process of determining the winner of the procurement is governed by the provisions of Article 67-69 of [Directive 2014/24/EC](#).



EU COVID-19 Vaccine Procurement

1

In June 2020, in response to the rapid increase in COVID-19 incidence, the European Union (EU) launched a regional coronavirus vaccine procurement strategy. By the end of 2021, it had signed EUR 71 billion contracts securing up to 4.6 billion doses. Most of these contracts were [Advance Purchase Agreements](#), in which the Commission shares the development risk of a vaccine with the vaccine manufacturers and supports the preparation of at-scale production capacity through upfront payments from the EU budget. The EU experienced some supply shortfalls in the first half of 2021, but by the end of that year, nearly 952 million vaccine doses had been delivered to EU Member States and 80 % of the EU's adult population had been fully vaccinated.

Audit Objectives

The European Court of Auditors (ECA) examined whether the European Vaccine Procurement Strategy 2020–2021 was implemented effectively. As part of the expert-analytical engagement, the auditors analyzed the following:

1. preparations for the procurement;
2. achievement of the procurement objectives outlined in the contracts;
3. issues impacting the supply of vaccines.

Main Findings

The European Court of Auditors (ECA) found that the EU ensured a diversified vaccine portfolio for its member states despite the fact that it started procurement later than the UK and the US. The contracts signed in 2021 have stronger provisions on key issues than those signed in 2020. We found that the Commission had limited leverage to overcome supply challenges, while its impact on the ramp-up of vaccine production was unclear. In addition, the responsible agencies did not effectively evaluate the performance of procurement programs.

Recommendations

The ECA recommended that the European Commission review vaccine procurement procedures and run exercises to test its updated pandemic procurement framework.



National Regulation

Legal Regulation of Public Procurement

European Union (EU) Law:

- [Directive 2014/23/EU on the award of concession contracts dated February 26, 2014;](#)
- [Directive 2014/24/EU on public procurement dated February 26, 2014;](#)
- [Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors dated February 26, 2014;](#)
- [Directive 2014/55/EU on electronic invoicing in public procurement dated April 16, 2014;](#)
- [Directive 2009/81/EC on procurement in the defense and security sector dated July 13, 2009;](#)
- [Regulation EU 2016/7 dated January 5, 2016](#) establishing the standard form for the [European Single Procurement Document \(ESPD\)](#)²⁶.

International agreements:

- WTO Agreement on Government Procurement ([GPA](#))

National law:

- The Public Procurement Code ([LeCode de la commande publique](#)) is a codified legislative act regulating public procurement relations (taking into account the differences between public contracts, concession agreements and public-private partnerships). Effective since April 1, 2019, it consolidated the provisions of more than 30 regulations. It consists of two parts: the first is legislative (la partie législative)

²⁶ Declarations to participate in the public procurement process.

and the second is regulatory (la partie réglementaire)²⁷. With a structure that follows the chronology of the contract, it contains information on the rules of supplier selection, contract awarding/ amendment/ termination and requirements for the performance of contract obligations. The initial version included 1,747 articles, with the latest changes effective 1 January 2023.²⁸

- Regional Code ([Le Code général des collectivités territoriales](#))²⁹ (concerning the interaction between tender commissions and regional authorities).
- Code of Administrative Justice ([Le code de la justice administrative](#)) (regarding judicial procedures on appeals against the outcome of competitive tendering procedures).
- Criminal Code ([Le code pénal](#)) (for offences relating to the violation of the principles of free and equal access to public procurement – favoritism³⁰). The [Sapin II](#) Law dated December 9, 2016 “On Transparency, Combating Corruption and Modernization of Economic Life” sets the penalty for favoritism at two years' imprisonment and a fine of EUR 200,000. Examples of favoritism include disclosure of insider information, artificial splitting of contracts (le saucissonnage) in order to avoid a formal tender procedure. Illegal profit making³¹ (la prise illégale d'intérêt), corruption³² (la corruption), influence peddling³³ (le trafic d'influence), bribery³⁴ (la concussion) are the most common offences in public procurement.
- Notices and orders that are annexes to the [Public Procurement Code](#) (21 annexes in the current version of the document).
- Compendium of General Administrative Rules ([Les cahiers des clauses administratives générales, CCAG](#)) contains

²⁷ The legislative part includes normative instruments adopted by Parliament (National Assembly and Senate) or by referendum. The regulatory part contains decrees, i.e. acts prepared by the executive or presidential administration.

²⁸ Decree No 2022-1683 dated December 28, 2022 ([Décret n° 2022-1683 du 28 décembre 2022](#)), Order dated December 29, 2022 ([Arrêté du 29 décembre 2022](#)).

²⁹ It brings together normative instruments governing the activities of local authorities.

³⁰ Law 91-3 dated January 3, 1991 ([Loi n° 91-3 du 3 janvier 1991](#)) introduced the concept of the crime of favoritism (délit de favoritisme), i.e. the granting of unjustified advantages in the award of public contracts. The “crime of favoritism” is enshrined in section 432-14 of the Penal Code.

³¹ [Art. 432-12](#) and [Art. 432-13](#) of the Penal Code. The penalty is up to 5 years' imprisonment and a fine of EUR 500,000.

³² [Art. 432-11](#) of the Penal Code. The penalty is up to 10 years' imprisonment and a fine of EUR 1 million.

³³ [Art. 432-11](#) of the Penal Code. The penalty is up to 10 years' imprisonment and a fine of EUR 2 million.

³⁴ [Art. 432-10](#) of the Penal Code. The penalty is up to 5 years' imprisonment and a fine of EUR 75,000.

provisions applicable to a certain category of contracts. They are non-binding. They apply only to government contracts that specifically mention them³⁵. The Legal Department of the Ministry of Economics, Finance, Industry and Digital Sovereignty has developed a [Practical Guide](#) on the application of the relevant administrative rules.

- The Compendium of General Technical Regulations ([Les cahiers des clauses techniques générales](#)) establishes technical regulations for [construction](#) and [civil engineering](#).

- **Normative instruments aimed at making public procurement “green”³⁶:**

1. Law No. 2021-1104 dated August 22, 2021 “On Combating Climate Change and Building Resilience” ([Loi N° 2021-1104 du 22 août 2021](#)) – Art. 35–39;
2. Decree No. 2022-767 dated May 2, 2022 ([Décret n° 2022-767 du 2 mai 2022](#)).

- **Normative instruments that incentivize the development of a circular economy:**

1. Law No. 2020-105 dated February 10, 2020 “On Combating Waste and the Circular Economy” ([Loi N° 2020-105 du 10 février 2020](#)) – Art. 58.
2. Decree No. 2021-254 dated March 9, 2021 ([Décret n° 2021-254 du 9 mars 2021](#)) establishes the obligation to purchase, through public procurement, goods produced by reuse or recycling.
3. The Order dated December 3, 2021 ([Arrêté du 3 décembre 2021](#)) establishes rules for the declaration of expenses related to the acquisition of goods made from recycled materials.

- Public procurement contracts and concession contracts entered into before April 1, 2019 are subject to the provisions of normative instruments in force before that date. A list of normative instruments is available [at the link](#).

³⁵ There are currently 6 compendia of administrative rules in force: Contracts for goods and services ([CCAG FCS](#)), Contracts for intellectual services ([CCAG PI](#)), Contracts for communication services ([CCAG TIC](#)), Contracts for public works ([CCAG travaux](#)), Industrial contracts ([CCAG industriels](#)), Contracts for the management of public projects ([CCAG de maîtrise d'œuvre](#)).

³⁶ Introducing environmental criteria into the public procurement process.

<p>Procurement Authority</p>	<ul style="list-style-type: none"> • Ministry of Economics and Finance (Ministère de l'Économie et des Finances). It is responsible for general coordination of issues related to the development of the public procurement system. • The General Directorate³⁷ of Competition, Consumption & Repression of Frauds (Direction générale de la concurrence, de la consommation et de la répression des fraudes) monitors the transparency of the public procurement process and detects unfair non-competitive practices. • The Competition Authority (L'Autorité de la concurrence) is an independent administrative body in charge of detecting anti-competitive practices, analyzing markets and regulating monopolies. <p>The distribution of powers between the directorates is set out in Law No. 2008-776 dated August 4, 2008 (La loi n° 2008-776 du 4 août 2008).</p> <ul style="list-style-type: none"> • Union of Public Purchasing Groups (Union des groupements d'achats publics, UGAP). It acts as a single “point of entry” for organizations wishing to participate in public procurement.
<p>Availability of a Digital Procurement Platform</p>	<p>In accordance with the Digital Transformation Plan for Public Procurement 2017–2022 (Le plan de transformation numérique de la commande publique 2017-2022) the following projects have been implemented³⁸:</p> <ul style="list-style-type: none"> • Digital Public Procurement Platform (La plateforme des achats de l'État, PLACE): publication of information on orders for the supply of goods, works and services; • APProch digital platform: publication of public procurement projects before official procedures; • Chorus Pro platform: e-invoicing; • DUME (Le Document unique de marché européen): filling in the standard European public procurement application form.
<p>Description of Public</p>	<p><u>General description</u></p>

³⁷ Ministry of Economics, Finance, Industry and Digital Sovereignty.

³⁸ To read more about other digital projects and services, [follow the link](#).

Procurement Process

The Public Procurement Code ([LeCode de la commande publique](#)) distinguishes **two types of contracts** under the public contracting system:

- **government contract** (Le marché public) is a contract entered into by one or more purchasers with one or more economic operators for works, goods or services in exchange for a cash consideration or any equivalent. The purchasers (Les acheteurs) are contracting authorities³⁹ (les pouvoirs adjudicateurs) and contracting entities⁴⁰ (les entités adjudicatrices). An economic operator (opérateur économique) is an individual or a legal entity, public or private (or a group of persons, with or without the participation of a legal entity), who makes a market offer to perform work, supply products or provide services. Government contracts include the following types:
 1. **public-private partnerships, PPP** (marché de partenariat) are public contracts, the subject matter of which is the construction, transformation, reconstruction, dismantling or demolition of facilities, equipment or intangible goods necessary for the provision of public services or the fulfilment of public functions. Funding is wholly or partially provided by the economic operator. The contract holder is responsible for project management. Under PPP, any public organization may act as a contracting entity, except for those specified in Art. [L2211-1](#) of the Code.
 2. **public defense and security contracts** (Le marché de défense ou de sécurité). More details in Art. [L1113-1](#) of the Code.
- **concession agreement** (Le contrat de concession) is a contract, under which the concession grantor (the contracting entity specified in the Code) entrusts the performance of work or services to one or more economic operators (the

³⁹ According to Article 1211-1 of the Code, contracting authorities are public legal entities (the state, collectivities, public institutions) and private legal entities purposefully established to meet public needs, which are not engaged in industrial or commercial activities (the activities of private legal entities are financed and controlled by the state; their management consists of members, more than half of whom are appointed by the state).

⁴⁰ According to Articles 1212-3 and 1212-4 of the Code, contracting entities are public enterprises acting as a “network operator” (des activités d'opérateur de réseaux), providing public utility services in the fields of production, transport, electricity and water supply, postal communications and integrated land development (including mining).

cessionnaire) in exchange for the right to use the subject matter of the concession agreement or for a fee. The differences between concession agreements and government contracts lie in the subject matter of the contract and the “existence of a risk transfer” ([l'existence d'un transfert de risque](#)).

Public Procurement Stages

1. Publication of a public procurement announcement. Bidders prepare tender documentation.

2. Selection stage. The procedure varies depending on the type of contract and its value.

- In the case of a **contract for fulfillment of an order**, where the contractor has been identified, the procurement shall be carried out without prior negotiation.
- In the case of a **framework agreement**, there are two possible cases:
 - if the contracting entity has selected a single contractor, the contracting entity requests a quotation (if necessary), following the review of which the contract is awarded;
 - if the contracting entity has selected several contractors, a tender is organized, following which the contract is awarded to one of these contractors.
- In case of a **“regular” or “fixed” contract**, different options are possible (depending on the subject matter of the contract and its value).

Characteristics of Public Procurement System

- Procurement of services and works is prioritized.
- Single procurement organization (UGAP) with a long history of operation.
- Taking into account the life cycle costs of goods, work and services in procurement.



Use of Consulting Services by Government Agencies

1

At the end of 2021, public procurement of consultancy services from private organizations amounted to EUR 890 million. More than 75% falls on the services related to development of software solutions, and 25% represent scientific research, development and expert support of implementation of state projects.

In 2015, at the request of the Finance Committee of the French Senate, SAI France conducted a [value for money audit](#) of public spending on consulting services. Among the key findings of the report is the lack of a well-regulated process for procuring consulting services.

On January 19, 2022, the French Prime Minister published a [policy paper](#) with proposals to improve the public procurement process for consulting services, including a 15% budget cut.

Audit Objectives

1. To analyze the implementation of the 2015 audit recommendations.
2. To assess the development of the public procurement system in terms of consulting services procurement in accordance with the tasks outlined by the Prime Minister in 2022.

Main Findings

- Lack of accurate data on the level and pattern of expenditure on consultancy services, mainly due to the lack of efficient accounting and monitoring tools.
- The SAI notes that there are cases where services are procured to do tasks that are the direct responsibility of public authorities. The SAI calls for clear rules for projects that are outsourced.

The analysis of the main stages of awarding and performance of more than 100 government contracts for consulting services awarded from 2019 to 2022 revealed the following problems: non-compliance with formal procedures established by the Public Procurement Code, exceeding financial limits or contract deadlines.

Recommendations

1. To establish a common definition of “consulting services provided by private entities”.
 2. To implement consultancy-related data monitoring and management systems in all government agencies. To develop clear rules for budget allocation for consulting services and update accounting tools and standards for accounting of relevant expenditures.
 3. To develop practical guidance for public institutions to approach external private entities for consulting services.
 4. To ensure unified management of the procurement process of consulting services at the interdepartmental level by clarifying and formalizing the responsibilities of the Public Procurement Department.
 5. To include all external consultancy costs incurred under framework agreements in the budgets of the relevant ministries.
 6. To optimize external consulting costs. To the extent possible, to accomplish tasks using internal resources, without outsourcing.
 7. To implement a system of internal control of consulting expenses, risk assessment and quality of contract performance.
-



Adapted Companies

2

According to [Art. L.5213-13-1](#) of the Labor Code, adapted companies are companies that contribute to the development of territories and the creation of an inclusive economic environment favorable to people with disabilities. The Ministry of Labor provides additional subsidies to support these types of businesses.

Audit Objectives

1. To evaluate the effectiveness of the state program for the development of disability-friendly enterprises.
2. To analyze the mechanism of public procurement as a tool for the development of disability-friendly enterprises.

Main Findings

- Public procurement represents a small but important source of financing for adapted companies. DAE estimates that the volume of relevant public procurement in 2022 amounted to 285 contracts worth EUR 7.43 million (total value of public contracts in 2020 amounted to EUR 15 billion).
- Social criterion is one of the priority criteria in the selection process of competitive bids. A target quantitative indicator has been developed to promote socially responsible public procurement (25% of the total volume), but there is no special indicator for enterprises working with people with disabilities. As DAE experts note, despite efforts to develop social public procurement, growth remains limited (up from 4.4% in 2016 to 6.1% in 2020). In comparison, the green procurement market grew from 18% to 30% in the same period.
- The SAI estimates that the public procurement tool is not able to significantly improve the financial performance of disability-friendly enterprises without reducing the costs of other social employment support programs.

Recommendations

Recommendations (regarding public procurement):

to amend Article [L.2113-14](#) of the Public Procurement Code to avoid competition between adapted companies and other state programs supporting social employment.



National Regulation

Legal Regulation of Public Procurement

International agreements:

- WTO Agreement on Government Procurement ([GPA](#));
- Trans-Pacific Partnership ([Chapter 15, Government Procurement](#)).

National law:

- [Public Accounting Act](#) No. 35 of 1947
- Public Property Act No. 73 of 1948
- [Cabinet Order on Budgets, the Settlement of Accounts, and Accounting](#) No. 165 of 1947
- Ministry of Finance Ordinance No. 52 of 1962 on Contract Management Regulations

Local law:

- Local Autonomy Act No. 67 of 1967
- Enforcement Decree of the Local Autonomy Act

General procedural regulation:

- Antimonopoly Act No. 54 of 1947
- Act on Prevention of Delay in Payment under Government Contracts No. 256 of 1949
- Act on Access to Information Held by Administrative Organs No. 42 of 1999
- Act for Promoting Public Tendering and Contracting for Public Works No. 127 of 2000
- Regulations on Public Procurement in Japan.
- [Act on Promotion of Procurement of Eco-Friendly Goods and Services by the State and Other Entities](#) No. 100 of 2000.

Procurement Authority

Procurement policy is regulated by the [Ministry of Finance of Japan](#).

Availability of a Digital Procurement Platform

The JETRO ([Japan External Trade Organization](#)) Digital Platform is a unified information system for obtaining information on the status, info and actions of the procurement actors. JETRO includes a unified classification of goods, works and services by catalogues.

Description of Public Procurement Process

Two-tier public procurement system:

1. Public procurement by the national government (Cabinet of Ministers of Japan), ministries and agencies;
2. Public procurement by regional public authorities.

Public Procurement Stages:

1. Compulsory qualification of suppliers (assessment of a potential contractor's compliance with the procuring entity's criteria and regulatory requirements based on proprietary models).
2. Public authorities announce the start of applications on the official website of the Kanpo Newspaper, which is a national mass media outlet.
3. Ensuring participation of foreign suppliers and contractors in procurement activities by informing them of upcoming procurement (relevant information is posted on the websites of the Ministry of Foreign Affairs of Japan and the Japan External Trade Organization).
4. Receiving and selecting bids, holding tenders, awarding contracts.

Tender procedures:

1. open tender (any provider can apply for participation in the tender);
2. selective tender (the procuring authority selects suppliers and approves their bids for further participation in competitive procedures following the evaluation of bids based on certain criteria);
3. limited tender, or single tender (the contract is awarded to a single supplier).

Characteristics of Public Procurement System

- One of the largest public procurement markets.
- Detailed vendor evaluation methodology and rating system.
- Priority of catalogs of goods, work and services.
- For many tenders there are no restrictions (preferences) on participation for large companies and SMEs.
- Government contract prices are generally higher than market prices.



Audit Report 2022 of the [Board of Audit of Japan](#)

1

The Basic Policy on Audit for 2023 was issued in 2023 and outlines the results of the 2023 audit. The main objective is to ensure audit efficiency and accuracy, in keeping with social and economic trends.

Audit Objectives

Audit is aimed at monitoring public expenditure and revenue, ensuring the adequacy of financial management, detecting and correcting deficiencies, and validating public accounts on the basis of audit findings.

Audit Criteria

Audits are conducted from the following perspectives:

- Accuracy: whether the final accounts accurately reflect the financial status such as the execution of the budgets.
- Regularity: whether the financial management is properly conducted in conformity with the approved budgets, laws and regulations.
- Economy: whether the implementation of projects and programs or budget execution is administered with the minimum cost.
- Efficiency: whether the projects and programs gain the maximum results with the given cost or have the best cost-efficient outcome.
- Effectiveness: whether the projects and programs achieve the intended results and produce the expected effects.

Types of Audits

- Audits of social security, education, science and technology, public works, defense, economic cooperation, small and medium enterprises, digitalization.
- Audits of COVID-19 countermeasures.
- Evaluating the necessity of specific operational systems.

Main Findings

The [Basic Policy on Audit for 2023](#) does not contain specific audit findings because the document is a general audit policy and methodology, not a report of specific audit findings for a particular year. It defines the approaches, directions and criteria used in audits.

The impact of the audit results is to increase transparency and accountability of public administration and finance, and to improve project implementation. Audit contributes to the optimization of budget expenditures and management, which is essential for improving public finances and ensure the efficiency of public expenditures.



Execution Status of Budget, Etc., Regarding Measures for COVID-19

2

The document is an audit report for fiscal year 2021 conducted by the Japan Board of Audit. It covers various areas of public expenditure and projects, providing analysis and evaluation of their effectiveness and legality.

Audit Objectives To analyze the transparency and accountability of the use of public funds.

Audit Criteria The main audit criteria were legality of expenditures, compliance with budgets and policy frameworks, and assessment of performance and value for money and included the inspections of:

- Accuracy: whether the final accounts accurately reflect the financial status such as the execution of the budgets.
- Regularity: whether the financial management is properly conducted in conformity with the approved budgets, laws and regulations.
- Economy: whether the implementation of projects and programs or budget execution is administered with the minimum cost.
- Efficiency: whether the projects and programs gain the maximum results with the given cost or have the best cost-efficient outcome.
- Effectiveness: whether the projects and programs achieve the intended results and produce the expected effects.

Main Findings

The audit identified key problems in the management of public resources and suggested steps to address them. The main emphasis is on the need to improve planning, control and accountability in public agencies to ensure more efficient and cost-effective use of public funds. These measures imply greater accountability and transparency in public procurement and financial management processes.

The results of the audit emphasize the need:

- to improve the public procurement system;
 - to strengthen control and transparency of spending;
 - to streamline state programs to improve their efficiency.
-

Recommendations

1. Data management in emergencies

- **Problem:** poor storage conditions and obsolescence of electronic data necessary for the emergency priority work.
- **Solution:** regular update and storage of electronic data, distribution of mobile routers and assignment of email accounts for disaster recovery system.

2. Effectiveness of Contracts in Research Projects

- **Problem:** the National Institute for Environmental Studies conducted biochemical tests through contractors with underperforming contracts.
 - **Solution:** establishing specific measures to enable an economical payment that appropriately reflects actual performance of the contract and employee training.
-



KAZAKHSTAN

National Regulation

Legal Regulation of Public Procurement

Supranational regulation

- Treaty on the Eurasian Economic Union ([Annex No. 25](#): Protocol on the Procedure for Regulating Procurement)

National law

- Law of the Republic of Kazakhstan No. 434-V KP3 dated December 4, 2015 "[On Public Procurement](#)";
- Order of the Minister of Finance of the Republic of Kazakhstan No. 648 dated December 11, 2015 "[On Approval of the Rules for Public Procurement](#)";
- [Joint Decree](#) of the Internal Public Audit Committee of the Ministry of Finance of the Republic of Kazakhstan No. 217 dated August 22, 2022 and the State Revenue Committee of the Ministry of Finance of the Republic of Kazakhstan No. 569 dated August 23, 2022 "On Approval of the Composition and Plan of Joint Actions of the Working Group from among Officials of the Committee of Internal Public Audit of the Ministry of Finance of the Republic of Kazakhstan and the State Revenue Committee of the Ministry of Finance of the Republic of Kazakhstan on Management of Participants in the Budgetary Process"

Procurement Authority

- Ministry of Finance of the Republic of Kazakhstan (public procurement policy development and coordination)
- Internal Public Audit Committee of the Ministry of Finance of the Republic of Kazakhstan (internal audit and control of public procurement)

Availability of a Digital Procurement Platform

- Goszakup.gov.kz is a single web portal based on the automated Electronic Public Procurement System.

Contains information on current and planned purchases, supplier registers, electronic catalogues, etc.

- Goszakup.gov.kz App
- The [Omarket](#) e-shop is designed for public procurement of goods from electronic catalogues. Public procurement from the electronic shop is carried out for similar goods, the total value of which does not exceed the amount of 4,000 units of the [monthly calculation index](#) (MCI)⁴¹ established for the relevant financial year by the law on the national budget.
- The [Eurasian e-Portal](#) is designed for online procurement. Holding companies, national companies and large commercial organizations conduct procurement using the portal.

Description of Public Procurement Process

Procurement stages include the following:

- Determination of the type of procedure (tender, auction, request for quotations, e-shop, commodity exchanges)
- Publishing a call for tenders, conducting the tendering process and selecting the supplier
- Awarding a contract to the winning tenderer
- Contract management
- Follow-up

⁴¹ The Monthly Calculation Index (MCI) is an indicator used in Kazakhstan to calculate pensions, benefits and other allowances, as well as to apply penalties, calculate taxes and other payments. The MCI amount is calculated when planning the budget based on the expected inflation rate in the coming year.



Interim Assessment of the Implementation of the State Program “Digital Kazakhstan” and the Efficiency of the Use of State Assets in the Field of Informatization

1

For more than 20 years, Kazakhstan has been implementing the state policy aimed to create the Common Information Space to reduce budgetary spending on the establishment and maintenance of public authorities information resources, as well as on the development of a unified communication environment. Kazakhstan's transition to a digital economy is following a “catch-up” development model, which is based on the procurement of the off-the-shelf software and the predominant use of the services provided by third-party companies and experts in the field of information and communication technologies. Official statistics confirm the dependence of Kazakhstan's digital industry on foreign IT developments and experts. The Supreme Audit Chamber of the Republic of Kazakhstan (SAI Kazakhstan) audited the implementation of the program intended to facilitate public administration digitalization, including the procurement of equipment, other goods and services.

Audit Objectives

To assess the effectiveness of the digitalization state policy and the efficiency of the state assets use in the field of informatization (including procurement of goods and services).

Main Findings

Conclusions regarding public procurement:

1. The audit found that artificial competition was created, while the procurement (tender) procedures were treated as a mere formality, which does not meet the principles of optimal and efficient spending.
2. Inefficient spending on procurement of equipment rental services was partially attributed to the constantly changing needs of the government agencies.
3. When conducting procurement (tender) procedures to select suppliers, unreasonable qualification requirements were set for suppliers in terms of work experience.
4. In a number of cases, specific types of works to be performed within the framework of warranty maintenance and support of the informatization object were not defined.



Public Audit of the Efficiency of the Use of Public Funds and State Assets Allocated to Kyzylorda Region

2

The Supreme Audit Chamber of Kazakhstan (SAI Kazakhstan) conducted an audit of the efficiency of the use of public funds and state assets allocated from the national budget to support the socio-economic development of the region. The SAI underlines the high dependence of regional budget revenues on national subventions and transfers (from 88.6% to 94%).

Audit Objectives To assess the efficiency of the use of public funds and state assets allocated to Kyzylorda Region

Main Findings

Conclusions regarding public procurement:

4. Overestimation of the cost of design and estimate documentation; fraudulent supporting documents or lack thereof, which was often caused by the lack of monitoring and proper control by some managers of the budget programs when planning and using the budgetary funds.
 5. A systemic problem, typical for all public procurement organizers in construction, was that potential suppliers (or its employees) often provide procuring entities or public procurement organizers with expert, consulting and other services or services related to the preparation of public procurement, participate as a procuring entity, general designer or sub-designer in the development of feasibility studies and/or design (design and estimate) documentation.
-



National Regulation

Legal Regulation of Public Procurement

- Constitution of Mexico, [Art. 134](#).
- Law on Procurement of Goods, Leasing and Other Services in the Public Sector ([Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público](#)), 2000, last amended in 2021.
- Law on Public Works and Related Services ([Ley de Obras Públicas y Servicios Relacionados con las Mismas](#)), 2000, last amended in 2021.
- Law for the Development of Competitiveness of Micro, Small and Medium Enterprises ([Ley para el Desarrollo de la Competitividad de la Micro, Pequeña y Mediana Empresa](#)), 2002, last amended in 2023.
- Agreements on the Creation of the Interdepartmental Commission of the Federal Public Administration for Procurement and Works of Micro, Small and Medium Enterprises ([Acuerdo por el que se crea con carácter permanente la Comisión Intersecretarial de Compras y Obras de la Administración Pública Federal a la Micro, Pequeña y Mediana Empresa](#)), 2009.
- Law on Public-Private Partnership ([Ley de Asociaciones Público Privadas](#)), 2012, last amended in 2018.
- Law on Hydrocarbons ([Ley de Hidrocarburos](#)), 2014, last amended in 2018.
- Law on Electrical Industry ([Ley de la Industria Eléctrica](#)), 2014, last amended in 2022.
- [USMCA](#), 2020, Chapter 13 (Government Procurement).

At the state level, there are local regulations governing the procurement process.

Procurement Authority

Secretariat of Finance and Public Credit of Mexico ([Secretaría de Hacienda y Crédito Público](#))

Availability of a Digital

[CompraNet](#) electronic procurement system

Procurement Platform

Description of Public Procurement Process

According to [Article 134](#) of the Constitution and the [Law on Procurement of Goods, Leasing and Other Services in the Public Sector](#), contracts for the purchase, lease and sale of all types of goods, services and works are concluded based on the results of public tenders. In exceptional cases, closed tendering process involving at least three suppliers and direct award of the contract to a specific supplier may be possible (see Single-Supplier Procurement).

Public works may be carried out on the basis of contracts (Art. 27 of the [Law on Public Works and Related Services](#)) or from own resources (Art. 26).

Public Procurement Stages

1. Drafting of the TOR, selection of the procurement method according to the terms and conditions (tender, competitive bidding with at least three suppliers, single-source procurement), posting and distributing notices in [CompraNet](#) and in the Federation Newsletter ([Diario Oficial de la Federación](#)).
2. Registration of participants, receipt of quotations from potential suppliers, opening of bids, review of bids and their evaluation. The requirements for setting deadlines for submission of bids and criteria for their evaluation are set out in Articles 29, 32 and 36 of the [Law on Procurement of Goods, Leasing and Other Services in the Public Sector](#); Articles 31 and 33 of the [Law on Public Works and Related Services](#).
3. Awarding a contract to the selected vendor.
4. Contract management.

Complaints relating to bidding and closed tenders are handled by Mexican Secretariat of Civil Service ([Secretaría de la Función Pública](#)) (Art. 65 of the [Law on Procurement of Goods, Leasing and Other Services in the Public Sector](#)).

Characteristics of Public Procurement System

- A scoring rating system for suppliers (for re-procurement, priority is given to the suppliers with a higher rating)



General Issues Related to Public Works and Related Services, 2011-2016

1

In 2012, SAI Mexico presented the results of an audit of 80 major infrastructure projects implemented from 1999 to 2010. For all projects, government contracts have been amended several times, resulting in a significant increase in the final investment amount and in the timeframe for their implementation.

To identify the status of the problem after five years, SAI Mexico re-audited the infrastructure projects:

- Ninety-two projects were selected, each with a contract value over USD 5.5 million and contract changes that resulted in project costs increasing by 30% or more.
- Two categories were analyzed: the causes and the frequency of their occurrence.

Audit Objectives

To identify the reasons for the increase in the cost and timing of infrastructure projects, compared to the initial terms specified in the government contract.

Main Findings

The following reasons for the increase in the time and cost of implementing infrastructure projects were identified:

- incorrect estimation of the scope of projects, their profitability and sources of financing;
 - selection of inappropriate contractors, underqualified technical staff to prepare draft tenders and evaluate bids;
 - inadequate design and study of geological conditions for erection of structures, unclear technical standards, the contractors not having the required licenses;
 - failure to take into account the complexity of work, to meet deadlines at all stages of project implementation (including test operation), absence of controls;
 - extended terms of transfer of budgetary funds between state programs, reduced budgeting during contract performance, unpredictability of the global problems impact in the capital goods market, which affect the cost and terms of delivery.
-

National Regulation

Legal Regulation of Public Procurement

of European Union Law

- [Directive 2014/23/EU on the award of concession contracts dated February 26, 2014;](#)
- [Directive 2014/24/EU on public procurement dated February 26, 2014;](#)
- [Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors dated February 26, 2014;](#)
- [Directive 2014/55/EU on electronic invoicing in public procurement dated April 16, 2014;](#)
- [Directive 2009/81/EC on procurement in the defense and security sector dated July 13, 2009;](#)
- [Regulation EU 2016/7 dated January 5, 2016](#) establishing the standard form for the [European Single Procurement Document \(ESPD\)](#)⁴².

International agreements

- WTO Agreement on Government Procurement ([GPA](#))

National law

- Public Contracts Code ([Decreto-Lei n.º 18/2008 Código dos Contratos Publico](#)), 2008, last amended in 2022.
- Code ([Decreto-Lei n.º 4/2015 Código do Procedimento Administrativo](#))
- Law No. 37/2007 establishing the National Public Procurement Agency ([Decreto-Lei n.º 37/2007, de 19 de fevereiro](#)), 2007.
- Regulation No. 772/2008 defining the categories of goods and services whose acquisition is regulated by

⁴² Declarations to participate in the public procurement process.

the National Public Procurement Agency ([Portaria n.º 772/2008](#)), 2008.

- Order No. 8293/2009 determining the centralization of procurement procedures for certain categories of goods and services in the Portuguese Ministry of Justice ([Despacho n.º 8293/2009](#)), 2009.
- Regulation No. 330/2009 regulating the National Public Procurement System ([Regulamento n.º 330/2009, de 30 de julho](#)), 2009.
- Law No. 96/2015 regulating the use of electronic platforms for public procurement ([Lei n.º 96/2015](#))
- Law No. 30/2021 approving special procedures for the award of contracts financed or co-financed by European funds ([Lei n.º 30/2021](#))

Procurement Authority

National Public Procurement Agency ([Agência Nacional de Compras Públicas](#))

Availability of a Digital Procurement Platform

There are two main platforms (their use is regulated by [Law No. 96/2015](#)):

1. [ESPAP](#) (Entidade de Serviços Partilhados da Administração Pública) electronic platform, which includes:

- [National Catalog](#) of Public Procurement (Catálogo Nacional de Compras Públicas, CNCP). The Catalog lists products and services under framework agreements concluded through ESPAP;
- [anoGov](#) (Plataforma Eletrónica de Compras) electronic trading platform, which allows management of all public procurement processes in the context of framework agreements concluded through ESPAP, including invoicing.

2. The [Portal BASE](#) is a public registry of contracts managed by the [Institute of Public Markets, Real Estate and Construction](#) (Instituto dos Mercados Públicos, do Imobiliário e da Construção, IMPIC).

According to Article 4 of the [Public Contracts Code](#), Portal BASE is for:

Description of Public Procurement Process

- publishing contracts, including annexes and supplements thereto, excluding commercial and industrial secrets, as well as personal data;
- providing information on tenders and subsequent notifications, sanctions.

Public procurement in Portugal is conducted in accordance with national legislation. The application of European law in public procurement is mandatory if the following three conditions are met:

- [contracting authority](#) is a central public authority, a regional public authority or any other public authority;
- subject matter of the contract is the procurement of goods, works or services;
- contract value exceeds the approved price threshold. Limit values depend on the subject matter of the procurement or the contracting authority and are reviewed on a regular basis.

[Law No. 30/2021](#) establishes special rules for the selection of suppliers for contracts financed or co-financed by European funds. In these cases, grant awardees may apply:

- simplified open tender and simplified limited procedure with pre-qualification when the contract value is below the thresholds mentioned above;
- simplified prior consultation with the invitation of at least five entities if the value of the contract is below the thresholds mentioned above and, in any case, below EUR 750,000;
- simplified direct purchase when the contract value is equal to or lower than EUR 15,000.

Characteristics of Public Procurement System

- Portugal is one of the leading EU member states in terms of public procurement digitalization ([contracting through electronic systems was made compulsory in 2009](#)).
- Portugal is one of the first countries to integrate the new EU public procurement acquis into national legislation.
- Advanced system of public procurement control, evaluation and audit.



Public Works

1

In 2009 and 2015 Portugal's Court of Auditors conducted audits of public works overspending. The audits revealed that significant financial overruns and deviations from contract implementation deadlines were a widespread practice. Among the reasons given were:

- poor public works planning;
- absence of designated persons responsible for public works;
- lack of control and analysis of costs associated with the project life cycle.

Given the inadequate implementation of recommendations from past audits, the Portuguese Court of Auditors decided to conduct a re-audit.

Audit Objectives

To verify whether corrective actions have been taken by the Government as well as by the direct implementers – [Infrastructure Portugal](#) (Infraestruturas de Portugal, IP) and [Lisbon Metro](#) (Metropolitano de Lisboa, ML).

Main Findings

Deficiencies in carrying out public works affecting time and cost overruns have been corrected.



Audit of Risks Identified by Analysis of Appeals Related to Local Authorities' Public Procurement Received by the Court of Auditors. São Domingos de Benfica District

2

The analysis of complaints, appeals and revelations received by the Court of Auditors (PEQD, Art. 3.5 of [Report No. 6/2023](#)) identified seven local authorities, in which cases attesting to illegal practices in public procurement were detected.

Audit Objectives

- To evaluate the compliance of pre-contractual procedures for the acquisition of goods and services with the [Public Contracts Code](#) and relevant laws.
- To verify the legality of selection of service providers for the implementation of public contracts, including through direct procurement.

Main Findings

- Lack of qualified personnel in local authorities to implement the agency's activities (large number of procured services by profile).
 - The internal control system is imperfect, as controls and procedures have not been established to guarantee the legality and monitoring of public procurement processes and accounting information.
 - Contracts for procurement of goods and services were concluded and implemented with irregularities, especially in the field of school education.
-



Acquisition of Computers and Their Connection – Phase 1

3

The Portuguese Ministry of Education has authorized the purchase of 1.05 million computers and communication services for primary and secondary schools in three phases:

Phase 0 (100k units), Phase 1 (350k units) and Phase 2 (600k units).

The Portuguese Court of Auditors audited the contracts for the purchase of 350,000 computers and connectivity tools in Phase 1, totaling EUR 126.8 million, signed by the [General Secretariat for Education and Science](#) (SGEC) in 2020 and 2021, to verify the legality of the contracts and their performance.

Audit Objectives

To identify the legality of the contracts concluded for the purchase of computers and their subsequent connection in the first phase of the acquisition of equipment for primary and secondary schools in Portugal.

Main Findings

The audit found no non-compliances with applicable legal regulations. The performance of computer contracts reached 100% (EUR 104.4 million), and less than 65% (EUR 14.6 million) for connectivity contracts.

An assessment of monitoring, management and control systems identified weaknesses related to the hardware and quality of computers and the effectiveness of operating systems and other software.



Portugal followed the centralized European vaccine procurement procedure, which was crucial to ensure access to effective and safe vaccines in sufficient quantities, at affordable prices and in the shortest possible time.

Audit Objectives

Audit of the COVID-19 vaccination program implemented in Portugal by public authorities was conducted to assess its effectiveness and efficiency, taking into account the objectives set, the resources used and the results achieved.

Main Findings

The implementation of the program was in line with international recommendations. A logistical system for vaccine storage and distribution ensured timely and proportional distribution of vaccines to vaccination sites. Nevertheless, at the end of 2022, the vaccine dose loss rate was 11.2%, corresponding to 3.5 million unused vaccine doses (equivalent to around EUR 54.5 million), partly as a result of the over-acquisition promoted in the EU to avoid the risk of shortages.

The Court of Auditors provided several recommendations regarding the identification and adoption of strategies to manage the effects and impact of COVID-19 on the public health system and ensure its resilience, as well as planning to respond to future public health emergencies.



Audit of Green Public Procurement

5

The Court of Auditors of the Portuguese Republic audited the implementation of public procurement in accordance with the 2020 National Strategy for Green Public Procurement ([ENCPE 2020 - Estratégia Nacional de Compras Públicas](#)⁴³).

Audit Objectives

To identify the effectiveness of the implementation of the 2020 National Strategy for Green Public Procurement.

Main Findings

The audit revealed that:

- environmental criteria have not been developed by the Government or adapted to the context of the Portuguese Republic;
- there is no established assessment of the inclusion of environmental criteria in public procurement;
- program implementation is not monitored.

⁴³ The [2030 National Strategy for Green Public Procurement](#) is currently relevant, which was adopted in 2023.



Legal Regulation of Public Procurement

International agreements:

- WTO Agreement on Government Procurement ([GPA](#));

National law:

- [1997 Constitution of the Republic of South Africa, Article 217](#)
- [1999 Public Finance Management Act \(PFMA\)](#), Article 51
- 2000 [Preferential Procurement Policy Framework Act \(PPPFA\)](#)⁴⁴
- [2017 Preferential Procurement Regulations](#)
- [2000 Municipal Systems Act 32](#)
- [2003 Municipal Finance Management Act 56 \(MFMA\)](#)
- [2014 Broad-Based Black Economic Empowerment Act \(B-BBEE Act\)](#)⁴⁵
- [2000 Administrative Justice Act \(PAJA\)](#)⁴⁶

On June 30, 2023, the National Treasury drafted and tabled the [Public Procurement Bill 2023](#) in the National Assembly (the lower house of the South African Parliament). The project is aimed to codify and harmonize current public procurement legislation. From the point of view of the [authors](#) of the document, the adoption of the bill will increase the transparency and efficiency of the public procurement system and will contribute to socio-economic and technological development.

Procurement Authority

In 2013, the [Office of the Chief Procurement Officer \(OCPO\)](#) was established within the National Treasury. The main task of the Office is to [monitor](#) and evaluate the efficiency of the

⁴⁴ Under the PPPFA, a public authority may enter into a public contract on preferential terms with persons or categories of persons historically disadvantaged by discrimination on the grounds of race, sex or disability.

⁴⁵ Under the Act, the Department of Trade and Industry issues codes of best practices for black economic empowerment, which may include “qualifying criteria” in government procurement.

⁴⁶ Establishes grounds for initiating legal proceedings to challenge the results of a public procurement tender.

Availability of a Digital Procurement Platform

public procurement system, prepare proposals to improve its efficiency and transparency.

- [Central Supplier Database \(CSD\)](#). All companies wishing to participate in the tender must register on the portal.
- In April 2015, the Unified Electronic Trading Platform (www.etenders.gov.za) was launched. The project's goal is to improve accessibility, standardization and automation of the procurement process. The platform is moderated by the [Office of the Chief Procurement Officer \(OCPO\)](#) of the National Treasury. Technical support of the portal is provided by the [State Information Technology Agency \(SITA\)](#). The portal contains announcements on available tenders and government contracts, including tender documentation and terms of reference.
- Procurement of goods and services as well as procurement management are centralized through the [gCommerce](#) portal.

Description of Public Procurement Process

Public Procurement Stages:

There are [five](#) stages in the public procurement process:

1. Planning: needs assessment, budgeting, developing technical specifications and selecting the most appropriate procurement strategy.
2. Initiation of a procurement process: request for bids/invitations to tender, publication of project documents.
3. Awarding the contract to the winning bidder. Evaluation of bids and decision making is carried out by a special Committee established within the procuring entity. The evaluation takes place in two stages: first is technical evaluation (evaluation of the possibility to fulfil the order in accordance with the established criteria), second is evaluation of the price offer.
4. Contracting the supplier. Contracts contain a detailed description of the obligations of the supplier and the procuring entity. After the contract is signed, information about the contractor, company name, results of the tender evaluation are published on [eTenders](#).

5. Implementing the contract.

Characteristics of Public Procurement Process

- National or provincial [thresholds](#) are used to determine the appropriate type of procurement procedure:
 1. For contracts up to R2,000 (USD 105.2), procuring authorities may procure in cash (without competitive bidding).
 2. For contracts worth more than R2,000 but not more than R1,000,000 (USD 53,125), oral or written quotations (quotes) are requested. The contract is awarded to the supplier offering the lowest price.
 3. Contracts over R1,000,000 are subject to competitive bidding.
- The procuring entity shall ensure that procurement thresholds are strictly adhered to.

Read more about the public procurement process in Supply Chain Management. A [Guide](#) for Accounting Officers/Authorities.

Characteristics of Public Procurement System

- High potential for improvement in public procurement.
- The procurement regulatory framework applies to public contracts for goods or services, as well as in the case of the sale or lease of public assets or the conclusion of a public-private partnership (PPP) agreements.
- Significant decentralization of the procurement process.



National and Provincial Audit Outcomes in South Africa

1

SAI South Africa has published a consolidated performance assessment report for national and regional government and state-owned companies for the 2021-2022 financial year (April 1, 2021 to March 31, 2022).

Audit Objectives To assess the quality of financial management and analyze the achievement of targets.

Main Findings

- The SAI noted a gradual improvement in the performance of public authorities. Based on the completed audits of 160 departments, 47 departments had improved and 12 had regressed. Similarly, of the 238 public entities with completed audits, 67 had improved and 34 had regressed.
 - The audit found poor planning, insufficient intergovernmental coordination, lack of monitoring and accountability, inadequate financial management and non-compliance with legislation, as well as significant deterioration of infrastructure.
 - Special attention was paid to analyzing the public procurement system. According to experts, the level of non-compliance with legal requirements remains high: violations were recorded in 44% of audited entities, which reduces the efficiency of the procurement process. Unplanned expenditure totaled R51.22 billion (USD 2.7 billion) in 2021–2022 and R136.67 billion (USD 7.1 billion) in 2020–2021.
 - The SAI made the following general recommendations: improve human resources policies, implement continuous performance monitoring, and improve the financial management culture.
-

National Regulation

Legal Regulation of Public Procurement

International agreements:

- WTO Agreement on Government Procurement ([GPA](#));
- [Agreement between the European Community and the Swiss Confederation on Certain Aspects of Government Procurement](#)

National law:

- Federal Act on Public Procurement of 2019 ([Bundesgesetz über das öffentliche Beschaffungswesen, BÖB](#));
- Ordinance on Public Procurement ([Verordnung über das öffentliche Beschaffungswesen, VÖB](#));
- Agreement on Public Procurement between Cantons ([Interkantonale Vereinbarung vom 25. November 1994/15. März 2001 über das öffentliche Beschaffungswesen, IVÖB](#)).

Procurement Authority

The Swiss Federal Department of Finance ([Eidgenössisches Finanzdepartement, EFD](#)) plays the main coordinating role in public procurement.

Certain issues related to public procurement are regulated by the following agencies:

- Federal Procurement Conference ([Beschaffungskonferenz des Bundes, BKB](#)). It coordinates general public procurement issues and the use and development of digital procurement platforms.
- Coordination Conference for Public Sector Construction and Property Services ([Koordinationskonferenz der Bau- und Liegenschaftsorgane der öffentlichen Bauherren, KBOB](#)). Deals with public procurement in construction,

including materials, work, services, maintenance, purchase and sale of real property.

- Coordination Conference of Construction, Planning, and Environmental Authorities ([Bau-, Planungs- und Umweltdirektoren-Konferenz, BPUK](#)). Responsible for coordinating construction policy and procurement of goods, works and services between the federal government and the cantons.

Availability of a Digital Procurement Platform

Current tenders, winners and procurement references are published on the [SIMAP](#) portal (Système d'information sur les marchés publics en Suisse).

Description of Procurement Process

Procurement stages [include](#) the following:

- procurement planning;
- procurement preparation (clarifying the needs, analyzing the market and having consultations with market participants and industry experts);
- selecting a procurement procedure;
- selecting a procurement tool;
- preparation of a tender and tender documents;
- conducting a tender, awarding contracts to suppliers;
- contract management and follow-up.

Main Characteristics of Public Procurement

- Special attention is paid to increasing procurement sustainability (sustainable development, environmental protection, as well as resilience to crisis situations).
- Coordination of procurement between the federal and regional levels in order to organize joint purchases and improve value for money.
- Special attention in procurement is paid to interaction with market participants and consultations with industry experts.
- A well-developed system of guides and practical manuals for all procurement participants.



Use of Consulting Services by Government Agencies

1

Swiss Federal Audit Office examined procurement efficiency as well as the use of services based on the selection of procurement sources in the service sector.

Audit Objectives To examine the efficiency of the procurement process and the use of services based on the selection of third-party companies.

Audit Criteria Based on 15 services procurements (expert contracts and other services) with a funding of CHF 9.5 million. The sampling frame was based on the Agency's 2018-2021 contracting report.

Main Findings

1. The SAI identified potential to improve the procurement centralization in certain Agency departments.
2. The Agency's annual planning and targeted use of human and financial resources is carried out effectively.
3. Decentralized distribution of responsibilities in procurement leads to uncoordinated work of separate divisions of the Agency and reduced procurement efficiency.
4. No cases of inefficient or inappropriate use of resources in procurement were found in the 15 examples reviewed.

Recommendations

1. The SAI recommends that the procurement requirements be supplemented with specific provisions for market analysis and mandatory reference books, especially for large contractors.
2. The SAI also recommends that consideration be given to centralizing certain procurement competencies and tasks under the Agency Organizational Development project. The measure calls for a reassignment of responsibilities without expanding the Agency's staff.
3. Annual planning, analysis of the work performed, as well as the Agency's targeted use of human and financial resources are reflected in monthly progress [reports](#) submitted by the Agency's Directorate. From the SAI's perspective, the reports prepared allow the Agency to be fully informed about the current state of operations, as well as on government procurement performance targets.

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4. Centralization of the procurement procedure has the following advantages:
- providing support through new procurement approaches for those who need it;
 - increasing the efficiency of task performance through centralization of employees;
 - identifying pooling opportunities through centralized contract monitoring.
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The Swiss Federal Audit Office audited the activities of the Federal Statistical Office (hereinafter referred to as the Office). As part of the audit, the basic procurement documentation was evaluated.

Audit Objectives To evaluate the Office's procurements on a sample test basis for cost effectiveness.

Main Findings

- Declarations of impartiality were missing in all procurements audited⁴⁷.
- The SAI positively assesses the alignment between procurement outcomes and user needs.
- The effectiveness of the services provided by the Office is not systematically verified by quantitative methods.
- The Swiss Federal Audit Office recommends that the Federal Statistical Office fully take over procurement management in the future with the GEVER – e-enterprise management system – in order to reduce the number of leaks to the media.

Recommendations

- The SAI recommended that the Office should henceforth pay attention to the composition of evaluation teams and require declarations of impartiality from all those involved in the preparation of tender documents and evaluations.
- Following the audit, the Office revised its procurement processes and produced guidance accordingly. The Office uses GEVER, which ensures automation and continuity of business processes.
- The Swiss Federal Audit Office recommends that the Office check whether the Planned Control Reporting (PCR) mechanism can also be used for procurement planning.

⁴⁷ Federal Administration employees who participate in procurements must routinely declare that they have no ties to contractors. A declaration of impartiality can be either general or related to a specific project.



Audit of Individual Procurements. Federal Office for Defense Procurement

3

The Swiss Federal Audit Office examined whether the Federal Office for Defense Procurement (hereinafter referred to as the Office) complied with the requirements aimed at preventing corruption. In addition, the SAI reviewed the implementation of the three external audit recommendations aimed at improving procurement at the Federal Department of Defense, Civil Protection and Sport.

Audit Objectives To assess the effectiveness of the Federal Office for Defense Procurement's procurement management system.

Audit Criteria Test questions are examined based on interviews, document analysis, and practical examples. The Swiss Federal Audit Office reviewed each of the three procurement projects using procurement arbitration procedures in the areas of ground systems competencies, aviation systems, and command and control and intelligence systems.

Main Findings

- Due to the use of HERMES⁴⁸, which is an established project management methodology, the procurement process is unified, which helps to systematically counter corruption.
- The Office has the tools necessary to prevent corruption. In addition to HERMES, these include the Four Eyes Principle⁴⁹ and the distribution of functions between departments.
- The SAI recommends that the Office regularly and mandatorily brief its staff involved in the procurement process on compliance and corruption prevention practices.
- The SAI recommends that the Office verify the completeness of information provided by internal and external staff to avoid any self-interest and adverse events.

⁴⁸ A Swiss methodology created in 1975 for projects typically related to information technology. HERMES provides template "scenarios" indicating responsible persons and a step-by-step breakdown, which greatly increases the speed of planning.

⁴⁹ A rule under which a legally or financially significant document shall be signed by more than one manager.



UNITED KINGDOM

National Regulation

Legal Regulation of Public Procurement

International agreements:

- WTO Agreement on Government Procurement ([GPA](#)).

Until October 24, 2024, current public procurement legislation as well as EU regulations are in force.

European Union (EU) Law

- [Directive 2014/23/EU on the award of concession contracts dated February 26, 2014](#);
- [Directive 2014/24/EU on public procurement dated February 26, 2014](#);
- [Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors dated February 26, 2014](#);
- [Directive 2014/55/EU on electronic invoicing in public procurement dated April 16, 2014](#);
- [Directive 2009/81/EC on procurement in the defense and security sector dated July 13, 2009](#);
- [Regulation EU 2016/7 dated January 5, 2016](#) establishing the standard form for the [European Single Procurement Document \(ESPD\)](#)⁵⁰.

National law

- [The Public Contracts Regulations of 2015](#).
- [The Utilities Contracts Regulations of 2016](#).
- [Concession Contracts Regulations of 2016](#).

After October 24, 2024, new legislation comes into force:

- [Procurement Act of 2023](#).

Procurement Authority

[Crown Commercial Service](#) (CCS) is the overall coordinator of public procurement policy and processes.

⁵⁰ Declarations to participate in the public procurement process.

Availability of a Digital Procurement Platform

The [List of Central Government Authorities](#) authorized to carry out procurement is approved separately.

There is no single e-procurement platform. Electronic procurement is conducted through CCS by means of [2 key mechanisms](#).

1. Catalogues of goods and services:

- [Purchasing Platform](#). Used for the purchase of technology goods, primarily computer hardware and related products.
- [Digital Marketplace](#). Used for procurement of software, storage and transmission services.
- [eMarketplace](#). Enables data technology procurement, including cloud computing, transport, and construction materials, works and services.

2. Framework agreements:

- [eAuctions](#). For bulk purchase of goods, works and services.
- [eSourcing Tool](#). The tool allows e-procurement from approved (qualified) suppliers.
- [Dynamic Purchasing System](#). For procurement of goods, works and services in the social and technological spheres, as well as infrastructure development.

Description of Procurement Process

Procurement stages [include](#) the following:

- publication of a tender announcement;
- consultation with market participants;
- consideration of purchasing in multiple stages/lots;
- publishing a call for tenders, conducting the tendering process and selecting a supplier;
- awarding a contract to the successful bidder (if procured outside the framework agreement);
- contract management.

Main Characteristics of Public Procurement

- Procurement is regulated by a separate agency affiliated to the government.
- A large number of electronic platforms and the absence of a single aggregator.
- Priority in procurement is given to framework agreements with suppliers.



Investigation into Government Procurement during the COVID-19 Pandemic

1

The UK National Audit Office (NAO) has audited public procurement during the COVID-19 pandemic, covering the period up to July 31, 2020, in response to the concerns about the risks to the public money that could arise from greater use of direct awards to suppliers during the pandemic.

Audit Objectives

The audit was designed to examine the following issues:

1. the need to procure goods, services and works quickly, the regulations that apply to this, as well as roles and responsibilities;
2. procurement during the pandemic;
3. management of procurement risks.

Main Findings

1. By July 31, 2020, over 8,600 contracts related to the government's response to the pandemic had been awarded, with a value of GBP 18.0 billion.
2. Most of these contracts (86%) were awarded by the Department of Health & Social Care.
3. The Department of Health & Social Care, supported by the Government Commercial Function, mobilized staff from across government to support its procurement of personal protective equipment (PPE).
4. PPE accounted for 80% of the number of contracts awarded, and 68% of the total value of contracts awarded.
5. Government used a range of procurement routes to obtain goods and services during the pandemic.
6. The widespread use of direct awards to procure goods, services and works may increase the chances that some procurement risks materialize if not correctly mitigated.
7. In March 2020, the Cabinet Office issued technical guidance to support procurement by public bodies during the pandemic.

8. Some Cabinet Office spending controls were not applied to PPE procurements, because separate assurance processes were put in place.
9. The procurement processes established by the cross-government PPE team enabled PPE to be purchased quickly, but some procurements were carried out before all key controls were put in place.
10. The cross-government PPE team established a high-priority lane to assess and process potential PPE leads from government officials, ministers' offices, MPs and members of the House of Lords, senior NHS staff and other health professionals.
11. Inadequate documentation was found in a number of cases on how the risks of procuring suppliers without competition had been mitigated.
12. Some contracts were awarded retrospectively after some work had already been carried out.
13. There was not always a clear audit trail to support key procurement decisions.
14. Many of the contracts awarded over this period have not been published in a timely manner.

Recommendations

Efficient public procurement in times of complicated and unforeseen circumstances is possible if three elements are combined: transparency in awarding contracts, lawful action and providing feedback to suitable suppliers.

Key Recommendations:

1. Awarding bodies should publish basic information on contracts in a reasonable time, in line with the recommendation to publish within 90 days of award.
2. The Cabinet Office should issue further guidance on specific procurement risks arising from greater use of emergency procurement regulation.
3. Awarding bodies should provide clear documentation for establishing and using procedures that may result in unequal treatment of suppliers.
4. When procuring directly from suppliers, awarding bodies need to provide clear documentation on how they have considered and managed potential conflicts of interest or bias in the procurement process.

The Cabinet Office should review whether requirements for disclosure and management of relevant interests are sufficient in cases where public office-holders hold cross-government responsibilities for awarding contracts or procurement.



Improving Value for Money in Non-Competitive Procurement of Defense Equipment

2

The UK's National Audit Office (NAO) has conducted an audit of government procurement of defense equipment to assess whether the Ministry of Defense is providing the best value for money for the taxpayer in non-competitive procurement.

Audit Objectives

This audit examines how the UK Ministry of Defense addresses the challenge of ensuring value for money in non-competitive procurement. Specifically, it considered the following:

4. when the Ministry applies non-competitive procurement;
5. how the Ministry seeks to secure value for money when using this approach;
6. how independent regulation ensures value for money from non-competitive procurement.

Audit Criteria

The UK National Audit Office (NAO) used four main criteria to assess how the UK Ministry of Defense delivers value for money in non-competitive procurement.

1. Has effective tools and processes been put in place to protect value for money?
2. Does the Ministry have sufficient numbers of skilled commercial staff to meet demands?
3. Do the Ministry's contracting approaches provide incentives for suppliers to deliver, and decision-makers to push back against, business cases that do not offer value for money?
4. Does the Ministry have sufficient data on its commercial activities to allow it to monitor whether it is achieving value for money?

Main Findings

1. The Ministry currently lacks good quality data on its portfolio of non-competitive contracts.
2. The Ministry is committed to using competition wherever possible but it cannot show currently that it is doing so in a systematic way.

3. Most suppliers now accept the need to work within the Single Source Contract Regulations (SSCR), but some are resisting them and their interpretation by the Ministry and Single Source Regulations Office (SSRO).
4. The application of the Regulations (SSCR) has been hindered by staff shortages and lack of experience in dealing with single suppliers.
5. The SSRO's interpretation of its remit has created additional friction, in part because it is seeking changes to its powers.
6. Realization of potential savings identified from application of the Regulations (SSCR) will depend on good contract management.
7. SSRO has recommended changes to the baseline contract profit rate and is seeking to improve how it measures the impact of its decisions on suppliers.
8. The effectiveness of the Regulations could be undermined by gaps among key commercial and cost assurance staff.

Recommendations

1. The Ministry should fully implement its plans to increase the capacity and capability of its commercial and cost analysis teams to ensure they are adequately resourced to handle the volume of contracts.
2. The Ministry should be more consistent in requiring formal justification for non-competitive procurement, and be able to demonstrate it is applying credible pressure for competition.
3. SSRO and the Ministry should work together to monitor the impact of procurement decisions on the defense industry.
4. The Ministry and the SSRO should be clear on their respective roles, and how they will work together to ensure the Regulations are implemented effectively.
5. The Ministry should ensure that the Regulations (SSCR) are applied as intended by the legislation.

Additionally

The most effective route to securing value for money in defense procurement is normally through competition. However, because such competition is frequently absent on the largest defense contracts, the Department introduced the Single Source Contract Regulations to balance a fair return for industry with the need for better value for money for the taxpayer. Four opportunities received the most attention:

1. The ability to require full transparency of costs within suppliers' prices provides greater assurance on value for money.
 2. The regime provides statutory backing for efforts to negotiate down prices.
 3. Transparency of costs incurred during the contract allows identification of "excess profits".
 4. Building a knowledge base on costs informs future budgeting and contracting processes.
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