

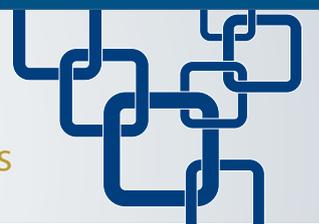


# Public Procurement in Western Balkans

## Synthesis Report on the Parallel Performance Audit conducted by the Supreme Audit Institutions of

Albania  
Bosnia-Herzegovina  
the former Yugoslav Republic of Macedonia  
Kosovo\*  
Montenegro  
Serbia

Luxembourg/Stockholm, January 2018



Joint Working Group  
on Audit Activities



*\* This designation is without prejudice on status and is in line with UNSCR 1244 and the International Court of Justice opinion on the Kosovo declaration of independence. This note refers to the entire text of the Synthesis Report, and the asterisk is therefore always used with the name of Kosovo.*

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### **Contributing Editors**

**Jussi Bright**, Principal Auditor, Head of Task for PPA, European Court of Auditors (ECA)

**Horst Fischer**, Principal Auditor, European Court of Auditors (ECA)

### **Chief Editor**

**Hazim Sabanovic**, Liaison Officer for Western Balkans, Swedish National Audit Office (SNAO)

### **Project Manager**

**Isabelle Berglund**, Swedish National Audit Office's representative as JWGAA Co-chair

### **Audit Process Facilitators and Performance Audit Trainers**

**Tony Angleryd**, Senior Advisor for Performance Audit, Swedish National Audit Office (SNAO)

**John Sweeney**, Principal Manager, European Court of Auditors (ECA)

**Jussi Bright**, Principal Auditor, Head of Task for PPA, European Court of Auditors (ECA)

**Horst Fischer**, Principal Auditor, European Court of Auditors (ECA)

**Maria Ljunggren**, Audit Director, Swedish National Audit Office (SNAO)

**Jenny Öhman Persson**, Audit Director, Swedish National Audit Office (SNAO)

**Hazim Sabanovic**, Liaison Officer for Western Balkans, Swedish National Audit Office (SNAO)

**Isabelle Berglund**, Senior International Advisor, Swedish National Audit Office (SNAO)

*Individual audit teams from participating SAIs are signed on their audit report summaries.*





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# Foreword

*Experientia mutua omnibus prodest* ("The exchange of experience benefits all") is the motto of INTOSAI, and parallel audits like this project prove that this motto is much more than empty words. This synthesis report, published under the auspices of the Joint Working Group on Audit Activities (JWGAA), is the outcome of a parallel performance audit conducted by six supreme audit institutions (SAIs) in the Western Balkans – the largest project of that kind ever conducted in this region.

We, the Swedish National Audit Office (as co-chair of the JWGAA and project leader) and the European Court of Auditors, have successfully facilitated this project and find it highly encouraging that so many participants decided to dedicate time and resources to follow it through and ensure its successful outcome.

The synthesis report includes the key findings and observations, as well as the main conclusions of the national audit reports on the topic of public procurement from the six participating SAIs in the Western Balkans. We believe that the main conclusions from this project will be of interest to stakeholders in the Western Balkans and in the EU. After fair competition contracts should indeed be awarded to the best bidders. This is in the citizen's interest.

The parallel audit has contributed to improvements in the way public procurement is audited and has enhanced the participants' professional knowledge of performance auditing. But even more important is that it has created a regional network amongst SAIs, which is valued by its participants. This network will last longer than the project. Its success derives from the willingness of SAIs to share their experience, to learn from each other and to mutually support their development.

**Helena Lindberg**

Auditor General, Sweden



**Klaus-Heiner Lehne**

President, European Court of Auditors







# Executive Summary

The Public Procurement area is generally susceptible to fraud and corruption, and as such, it is often the focus of attention from the general public. Initial problem indicators from research by the media and others often emphasise an increased risk of corruption, pointing to frequent tender cancellations, project delays, and other problems caused by the malfunctioning of procurement procedures. The authorities are generally inclined towards direct negotiation procedures rather than open tenders, which are inherently less transparent and less cost-effective.

Under the leadership of the Swedish National Audit Office and the European Court of Auditors, the six participating Western Balkans SAIs have conducted a project involving parallel performance audits of public procurement, focusing on the issues highlighted above.

The audit environment of the six SAIs is characterised by a common historical heritage and a similar bureaucratic culture, a transition process, and ongoing reforms on the way to EU integration. Altogether, this represents a very fruitful ground for cooperation in this area.

This report is a synthesis of general findings and conclusions from the parallel audit. The main findings of the study point to major deficiencies in the procurement planning process, mainly involving the following issues:

- Authorities often fail to conduct proper preliminary market research based on a systematic assessment of their needs. Due to this, tenders are not always well prepared, often lacking proper technical specifications and other requirements.
- In a chain of consecutive procurement process steps, these initial deficiencies often cause delays and other irregularities later in the process, which sometimes lead to tender cancellations and problems in project implementation, which in turn jeopardize the functioning of institutions and the availability of services they are responsible for providing. In their efforts to avoid these negative consequences, authorities often undertake direct negotiation procedures.

The audit also found that the monitoring and control systems do not always provide a good basis for the timely correction of errors. Similarly, the follow-up systems do not provide a good basis for lessons learned and making use of previous experiences to gradually improve procedures.

It is important to note that not all deficiencies in public procurement are traceable only to the issues identified above. A general conclusion is that improvements in these two pivotal points – improved planning and improved monitoring and follow-up – could create the basis for a more efficient and cost effective public procurement process overall.

Public procurement represents quite a significant share of economic life, and could be an important tool to help governments achieve social and macroeconomic goals. This is why the EU puts such great emphasis on the importance of transparent, effective and efficient public procurement in future Member States as part of the process of EU integration. This means that the area of public procurement is very important, especially in countries seeking accession. It is hoped that this project will contribute to increased understanding of the problems in the area, promote cross-border cooperation on the way to EU integration, and support public institutions in their future transition.





## List of abbreviations

<b>BiH</b>	Bosnia and Herzegovina
<b>CALIMS</b>	Agency for Medicines and Medical Devices
<b>CCS</b>	Clinical Center of Serbia
<b>CHC</b>	Clinical Hospital Center
<b>ECA</b>	European Court of Auditors
<b>EMAB</b>	Economically Most Advantageous Bid
<b>EU</b>	European Union
<b>EC</b>	European Commission
<b>GDP</b>	Gross Domestic Product
<b>HIF</b>	Health Insurance Fund
<b>INTOSAI</b>	International Organization of Supreme Audit Institutions
<b>ISSAIs</b>	International Standards of Supreme Audit Institutions
<b>JWGAA</b>	Joint Working Group on Audit Activities
<b>MCYS</b>	Ministry of Culture, Youth and Sports
<b>MH</b>	Ministry of Health
<b>MPA</b>	Ministry of Public Administration
<b>NAO</b>	National Audit Office
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>PA</b>	Performance Audit
<b>PHI</b>	Public Health Institutions
<b>PP</b>	Public Procurements
<b>PPA</b>	Parallel Performance Audit
<b>PPC</b>	Public Procurements Council
<b>PPO</b>	Public Procurements Office
<b>SAI</b>	Supreme Audit Institution
<b>SNAO</b>	Swedish National Audit Office
<b>TAT</b>	Town Agency for Transportation
<b>UNSCR</b>	United Nations Security Council Resolution
<b>VAT</b>	Value Added Tax
<b>WS</b>	Workshop





# Background and introduction

Cooperation between the Supreme Audit Institutions (SAIs) of the European Union and the European Court of Auditors (ECA) principally takes place within the framework of the Contact Committee structure. This structure consists of the Contact Committee itself, which is composed of the Heads of the EU SAIs and the ECA, as well as working groups, networks and task forces on specific audit topics. The Contact Committee promotes and facilitates cooperation between candidate and potential candidate countries to the EU and EU Member States' SAIs by means of several initiatives, most of them within the framework of the Network of SAIs of candidate and potential candidate countries and the ECA. Besides the participation of the heads of those SAIs in the Contact Committee meetings as observers, the Joint Working Group on Audit Activities (JWGAA) promotes small-scale, practical, hands-on cooperation.

## About the JWGAA parallel performance audit project

The Joint Working Group on Audit Activities (JWGAA) was established in 2002 with a mandate to contribute to maintaining the working links and cooperation between the SAIs in the Contact Committee and the Presidents' Network (candidate and potential candidate countries). The main goal of the group's activities is to facilitate cooperation between the current and future member SAIs, to provide support and to help exchange experience in the process of institutional development, transition and negotiation on EU accession Chapter 32 (the ability to assume the obligations of membership in the area of financial control). Activities of the JWGAA mainly include joint workshops and seminars hosted by different member SAIs.

The Parallel Performance Audit (PPA) project under the umbrella of the JWGAA was initiated in 2014 (as PPA 1), when the member SAIs received training and coaching on performance audit practice. Some performance reports were published but the project did not produce a synthesis report. Based on experiences from this pilot project, a PPA 2 project was launched in February 2016 during a conference hosted by the ECA in Luxembourg. Within this project, from April 2016 to September 2017, the SAIs of Albania, Bosnia & Herzegovina, the former Yugoslav Republic of Macedonia, Kosovo\*, Montenegro and Serbia conducted a PPA of Public Procurement, supported by the ECA and the Swedish National Audit Office (SNAO), which co-chairs the JWGAA. All of the participating SAIs carried out a Performance Audit (PA) on procurement, and produced a report which they presented to their respective Parliaments in autumn of 2017.

The PPA project is the largest such project of its kind ever carried out in the Western Balkan region. All six participating SAIs worked together to achieve the same goal – identifying system problems related to public procurement, and suggesting possible ways in which these problems can be tackled by their respective governments. In this process, the audit teams benefited from working with each other and sharing their experiences in their audit environments which share a similar bureaucratic and historical heritage. This has created a strong professional network, one that functions well outside the project, where colleagues ask for each other's advice or meet socially.



The PPA process, in all its characteristics, was done in accordance with the definition of Parallel Audit according to the standards of the International Organisation of Supreme Audit Institutions (INTOSAI). The main difference between parallel audit and joint or coordinated audits is that there is no joint audit report, but instead, every participating SAI publishes its own report. The audit process is managed separately by the management of each of the SAIs, while the audit subject, audit objective and audit scope are similar (or almost identical). According to INTOSAI (2016), there are three groups of cooperative audit, where the degree of cooperation varies from parallel audits to joint audits as presented in the following table.

**Table 1: Characteristics of Cooperative Audits**

	Parallel Audit	Coordinated Audit	Joint Audit
Team	National audit teams	National audit teams	Joint audit team
Objective	Similar or partly identical	Similar or partly identical	Identical
Scope	Similar	Similar or partly identical	Identical
Methodology	Similar	Similar or partly identical	Identical
Conducting	Nearly simultaneous	Simultaneous	Simultaneous
Report	National audit reports	National audit reports	Joint audit report
Evaluation	National audit teams	National audit teams	Joint audit team

The PPA process followed a typical performance audit process structure, with characteristics set out in the first column titled "Parallel Audit". Six joint workshops (WS) were conducted, each devoted to a specific project milestone, with the full and active participation of all the PA teams. A conclusive seventh workshop on "lessons learned" was conducted individually with each SAI. The sequence and timeline of the PPA workshop process was as follows:

- WS1 Podgorica                      April 2016                      Introduction and preliminary project planning
- WS2 Pristina                        June 2016                      Audit Planning
- WS3 Stockholm                    September 2016              Designing the pre-study
- WS4 Tirana                            December 2016              Audit questions, Audit Criteria, Data collection
- WS5 Skopje                            March 2017                    Main Study, Communication with auditees
- WS6 Belgrade                        June 2017                      Finalizing the first draft reports and quality check
- WS7 (individually)                Autumn 2017                    PPA conclusions and lessons learned

Structurally, the workshops (lasting typically three to four days) consisted of peer-to-peer comments between the teams on draft audit materials with the support of the ECA and SNAO facilitators. This gave all the teams the opportunity to be directly involved in all six audits that were being conducted in parallel. The peer-to-peer commenting led to healthy competition between the participants, as no one wanted to deliver drafts of low quality or get negative feedback at a workshop.

The facilitators provided training sessions on issues specific to each phase of the audit process. This included training on defining the audit problem, setting up the audit questions and developing audit criteria, presentation of data and findings, etc. Delivering training to a group of SAIs is also more cost effective than in bilateral projects. The workshops, as well as the periods between them, were used for direct coaching of the PA teams and for providing support on any issues that required specific attention. All the draft texts, training materials and manuals that were produced in the process were exchanged via email and via a joint online data folder that was fully accessible to all the teams.



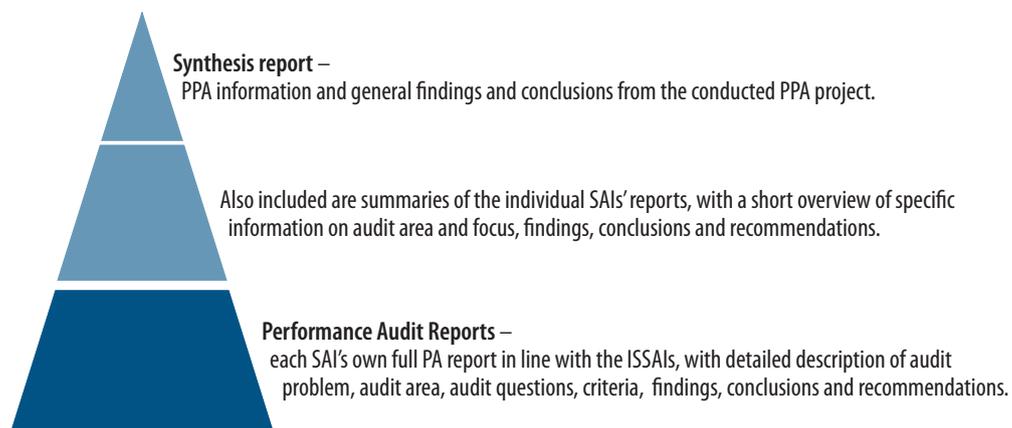
# About the PPA Synthesis Report

This publication is not an audit report, but rather a general synthesis of the main findings and observations from the parallel performance audit on the topic of public procurement in the Western Balkans. The report is entirely based on the six PA reports published by the participating SAIs, and does not contain anything that has not been published within the framework of the six individual audit reports (except for general references to other publicly available data).

All the facts presented herein arise from the reports produced by the audit teams who worked on this PPA project. In producing this synthesis report, its editors have relied solely on the inputs from the individual audit reports and have not presented any additional facts or included their own interpretations of their meanings. The editors did not conduct any fact-checking exercises and are not responsible for the accuracy of the audit evidence. This quality control procedure was left to the individual SAIs. The editors organised the information and report summaries according to an agreed harmonised report structure, in order to ensure clarity and reader friendliness. While shortening and proofreading the reports the editors have endeavoured to protect the “voice” of the original audit reports. The SAIs were given an opportunity to comment on the draft Synthesis Report, with a special focus on their respective summaries.

According to the ISSAIs, an audit report should contain a “red thread” from audit questions, to audit findings, through to audit recommendations, which are addressed to the relevant authorities for corrective action. This was achieved within the six published reports, which contain all the detailed information related to the audit area and concrete evidence related to audit findings. The structure of this synthesis report is represented by the two top parts of the pyramid in Figure 1:

**Figure 1: Report structure**



The purpose of the PPA Synthesis Report is to further facilitate the exchange of knowledge and experience between the participating SAIs, as well as to promote the concept of regional cooperation on issues of general public interest. It is also the aim that readers of the report will appreciate the big picture and gain an understanding of general problems observed regarding public procurement in the public sector throughout the whole region. Cross border cooperation is of crucial importance in the EU integration process, and requires a transformation from traditional bureaucratic administration into a modern one – more innovative and more open to citizens and public scrutiny. It is hoped that the PPA project has contributed to these positive changes, at the level both of SAIs and of their stakeholders, and that this report will serve the purpose of promoting open communication and cooperation.

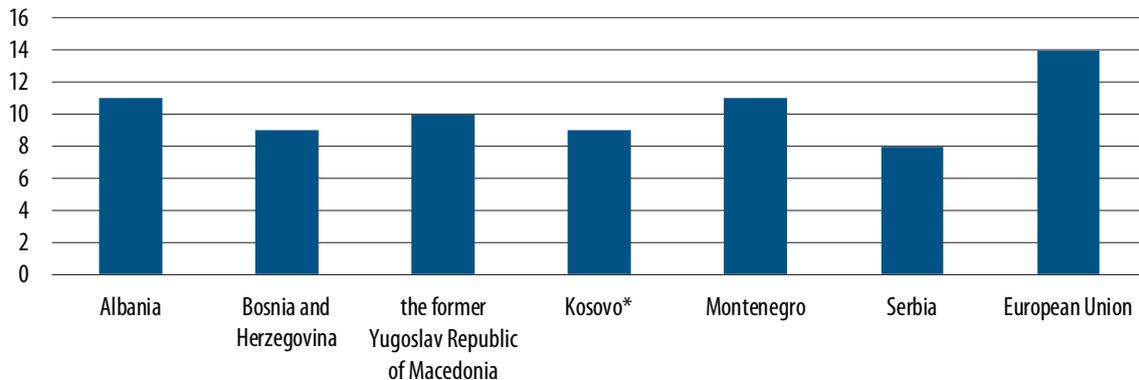


# Why audit public procurement?

The topic of public procurement is very often the focus of discussion in many parts of the world. According to the OECD (2016), procurement spending averages between 12 per cent and 29 per cent of general government expenditure in OECD countries, and at a sub-national and local level, this figure is as high as 63 per cent. According to the European Commission (2017), public procurement represents about 14 per cent of EU gross domestic product (around 2000 billion euro per year). On such a large scale, even some minor cost-effectiveness gains may yield significant savings of tax payers' money. Given the level of economic activity involved, the public procurement process represents a very important tool for achieving governments' macroeconomic and social goals. Performed correctly, public procurement can contribute to achieving smart, sustainable and inclusive economic growth (as mentioned in the Europe 2020 strategy) by increasing the efficiency of public spending, facilitating the participation of small and medium sized enterprises, and enabling purchasers to make better use of procurement in support of common societal goals.

The importance of public procurement in the Western Balkans represents between 8 and 11 per cent of gross domestic product, and in absolute values this amounts to a total of 7.3 billion euro. This is presented in Graph 1.

**Graph 1: Public procurement share of GDP in Western Balkans**



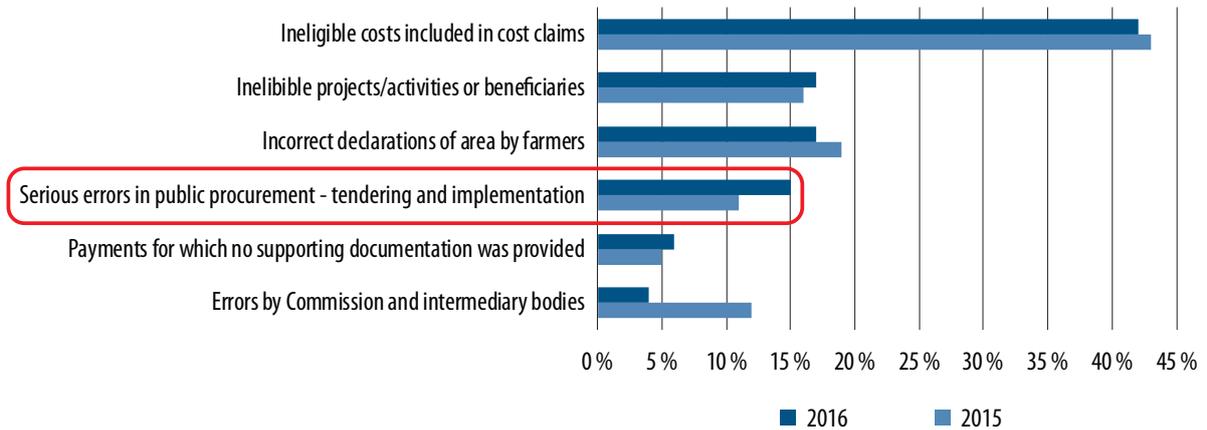
Source: The national Supreme Audit Offices, Statistical Agencies and Public Procurement Agencies.

The high proportion of public spending involved in public procurement means that it is important to have an efficient and cost-effective public procurement system. This is further emphasised by the fact that the region is still in a late transitional period, and presents common weaknesses in the public sectors.

Serious public procurement errors relating to EU funds have been, and remain, one of the most common errors that the ECA reports every year in its annual report. The following chart is a general overview of various errors identified by the ECA in 2015 and 2016, where errors related to public procurement are highlighted by a red line.



**Graph 2: Contribution to overall estimated error on EU funds in Member States by type**



Source: European Court of Auditors.

This is why the structural reforms that are strictly required on the way to EU integration include public procurement (Chapter 5), and all the candidate countries are obliged to harmonise their legislation with the requirements of EU law - including EU public procurement law. The outcome of this process should be a clear and transparent public procurement system, with the benefits of modern purchasing techniques, efficient and independent enforcement and remedy systems, competent contracting authorities and competitive bidders.



# Initial problem indicators related to public procurement

Observed from the perspective of these long term objectives, much progress remains to be made on the current situation in the area of public procurement in the Western Balkan region. Many reports by researchers, the media and the non-governmental sector often emphasise fraud and corruption as the main cause of inherent problems in this area, which result in problems in fulfilling those public sector functions that depend on procurement. In their audit reports, the SAIs mention the following general problems most frequently observed in public procurement systems:

- Untimeliness and unpreparedness; these are common weaknesses that relate to general delays in various procurement process steps. They can sometimes jeopardize the functioning of public sector institutions and their ability to complete their tasks, either in the short-term, affecting the delivery of services to the citizens, or in the long-term – such as delays in the completion of capital investments. In short, the key message is: fail to prepare, prepare to fail;
- The use of direct negotiations procedures; this very often applies in situations where delays occur and authorities are forced to initiate “emergency procedures” in order to keep the work going. Such procedures are characterised by a lack of transparency and are generally less cost-effective and of lower quality;
- Annulment of tenders; this arises when complaints are raised by the bidders who did not win, and the authorities are forced to annul tenders due to procedural errors. This weakness has the same effect as issues described in the bullets above, but may specifically indicate a lack of transparency in the process and a failure of the system to provide equal opportunities for all potential bidders;
- Cost/quality ratio is not always achieved; this is one typical effect of an inefficient procurement system, and has unwanted consequences on the budgets of institutions that are already struggling to balance the revenue and expenditure sides. In areas involving direct services to citizens – such as healthcare, this can cause failures in meeting citizens’ needs, create long waiting lists, etc.

This is a general overview of the most frequent observations set out in the six audit reports, and also discussed at various workshops during the PPA process. These issues are rather common and acknowledged in many procurement reports and evaluations.

One could argue that no perfect procurement system exists that would be completely immune to these problems – even with all the EU directives on procurement and remedies. However, the installation of modern mechanisms and tools can certainly help prevent errors and reduce the consequences of those errors. A simple copy-paste of legislation from one environment to another does not mean an immediate and completely effective solution to a problem. Improvements take time and occur through a gradual process. Even at EU level, this is an ongoing process with periodic changes in legislation incorporating for example, recent case-law, environmental directives, and expanding e-procurement.

Based on these arguments, the SAIs of the Western Balkan region decided to select public procurement as the subject of their first parallel audit project at regional level. The aim of this endeavour is to analyse the above issues in greater depth – to find out what the actual causes and roots of the problem are, and to shed some light on possible solutions. The regional perspective adds special value by providing the big picture and addressing the same issues from different aspects – each one seen from the point of view of every participating SAI. The expected outcome is that the legislators and other stakeholders involved in the public administration reform process will receive more informed inputs with a wider view of the issues involved.



# Description of the audit area and audit focus

The first step in performance audit is usually to distinguish between causes and their consequences. In the case of the issues mentioned in the section above, one can say that these are all consequences of procedural and system problems. Taking a higher perspective, at a social level the consequences are that citizens do not receive the services to be financed from collected taxes, and this is why it is crucial that SAIs undertake the audit. At the governmental level, the consequences are inefficient management of public funds, which again affects citizens at the end of the day. Going deeper, one arrives at the actual audit problem which is the subject of the current audit – the process of public procurement.

A procurement process can be broken down into several main consecutive steps conducted by the bodies concerned. Each step may include sub-processes, may require preconditions to be fulfilled, and may include specific conditions required by the subject of the procurement. However, these main steps are common to every procurement process, in every country (Table 2).

**Table 2: Procurement process steps**

Phase	Step	Description
<b>PREPARATION AND PLANNING</b>	Strategic procurement plan	<i>Based on its operations and activities, estimates are made of future needs for different goods and services, and their priorities.</i>
	Market research	<i>Based on estimated needs for goods and services, the market is researched in order to map availability and assess cost, etc.</i>
	Long-term and short-term planning	<i>Long term and short term procurement plans are drafted, with an estimated budget and timeline, lifetime costs, etc. Risk assessment is included.</i>
	Selecting the procurement approach	<i>Selecting the most appropriate procurement method (bids, tender, direct, etc.), considering efficiency, cost-effectiveness and quality.</i>
	Tender specification drafting	<i>A clear specification of goods and services, minimum quality standards, requirements for potential bidders, etc.</i>
<b>PROCUREMENT PROCESS</b>	Invitation to bid or direct negotiation	<i>Publication of tenders or invitation to negotiations. Every potential bidder must have an equal opportunity to apply and win.</i>
	Opening the bids	<i>All bids are opened at the same time, publicly, making it possible for all bidders to get an insight into the contents of all bids.</i>
	Assessment of bids	<i>All bids are assessed regarding bidders' qualifications and the quality of goods or services as defined in the tender specification.</i>
	Period for complaints	<i>After selection of a winning bid, a certain period is left for other bidders to submit any complaints.</i>
	Finalization of the agreement/contract	<i>The body in charge of procurement finalises and signs the agreement with the winning bidder.</i>
<b>USING</b>	Managing the agreement	<i>Goods and services are supplied by the winning bidder, and subsequently paid for by the procurement body, in line with the agreement.</i>
	Monitoring, follow-up and lessons learned	<i>The body in charge of the procurement process has documented the entire process, to be used as reference for future procurements.</i>



Each of the aforementioned steps has its own purpose, and failure to properly conduct it can affect the outcome of the whole process. The word “properly” in this case actually represents a criterion of good or best practice which secures a successful overall outcome. Deviations from these criteria may eventually lead to different scenarios of problems. The same principle applies to the issues set out as main problems in the six audits of this PPA.

These procedural steps were defined during the initial audit planning stage and in the pre-study phase of the PPA. During this initial problem analysis, all six SAIs conducted two main procedural steps of crucial importance to the overall outcome of the whole procurement process – the planning phase, and the monitoring/follow-up phase of the process - making this a true parallel audit. However, due to national differences and different priorities and expectations on the part of SAI stakeholders, each participating team also performed other steps according to the scope of their different audits. In terms of time, all the audits covered the period 2015 and 2016 (Table 3).

**Table 3: Audit focus of the PPA participating SAIs**

		Albania	Bosnia & Herzegovina	the former Yugoslav Republic of Macedonia	Kosovo*	Montenegro	Serbia
Audit focus/scope:		Central government	Central government	Local governments	Central and local governments	Healthcare	Central government
PREPARATIONS AND PLANNING	Strategic procurement plan			√	√	√	√
	Market research		√	√		√	√
	Long-term and short term planning	√	√	√	√	√	√
	Selecting the procurement approach	√	√				√
	Tender specification drafting		√	√	√	√	√
PROCUREMENT PROCESS	Invitation to bid / Direct negotiation	√	√				√
	Opening the bids						
	Assessment of bids						√
	Period for complaints						
USING	Finalisation of the agreement				√		√
	Managing the agreement				√		
	Monitoring, follow-up and lessons learned	√	√	√	√	√	√



The idea behind this approach is to focus audit resources on those issues that may have the greatest impact on the overall outcome of the procurement process. Procedural issues – such as leaving a proper time for the submission of complaints – can also have an impact on the overall outcome. However, the issue of proper preparation and planning is one on which all the other steps depend. Hence, this has a much greater influence on the overall outcome. By auditing this step, all the other steps are also tackled. Likewise, effective follow-up and monitoring can have a great auto-corrective impact on the level of the system, and auditing it can have a long-term system benefit.



# Audit Criteria

The overall audit criteria applied in the PPA are based on the main general principles and goals of the public procurement system. More detailed audit criteria are further developed by each SAI and include specific national circumstances. Each of the process steps described in Table 3 above serves this same purpose:

- Equal opportunities for all bidders means that there is no discrimination other than on the basis of cost and the quality of goods, works or services provided. Everyone has the same chance of winning the bid, based on their tender and fair competition. This further implies that the process has to be completely transparent, fair and open;
- Quality is at a satisfactory level, which means that the government should be able to get the required goods, works and services, which are of a good quality and satisfy their needs at an optimum level;
- Cost-effectiveness means that the lowest possible price should be achieved, but without sacrificing optimum quality;
- Time-efficiency means that the procurement process should be concluded in optimum time and without delays, so that the agencies get the required work resources in time to conduct their business without any interruptions;
- Process cost should be held at a minimum, i.e. agencies in charge of procurement should not devote too much of their own resources to conducting the procurement.

All these aspects can be dealt with from a compliance, financial and performance perspective. Compliance auditing would examine whether laws and regulations (including detailed administrative requirements) are complied with, and whether there is evidence of fraud and corruption. Financial auditing would examine whether the accounts are in order, and whether the internal control system is operating as it should among other things.

The aim of the performance audit approach of the PPA project was to examine whether the principles of economy, efficiency and effectiveness were met, and if not, find out why not. In short, it is not enough to comply with laws; one must also achieve the intentions behind the laws and regulations governing the process. If poor performance is hindered by regulation, organisational structure, etc., then performance auditing aims to explain this and recommend a review of current obstacles to improve performance.

Detailed process steps, requirements and conditions laid out in legislation are all intended to achieve the above main principles. However, very often, they are merely concerned with the completion of all steps, rather than ensuring their effectiveness and their positive impact on outcomes.

In this context, the purpose of proper planning is to ensure that the business needs of institutions are properly assessed and that the market is researched to identify available supplies of the necessary goods and services, based on which a budget and timeline are drafted. Only when initial information has been properly collected and triangulated can all the later steps be properly planned and conducted. The entire process must be documented with all the relevant information. An internal (or external) evaluator needs to diagnose the possible root causes of problems which have occurred and to create grounds for corrective measures to prevent the same errors from being repeated.



## Key general findings: the “big picture”

Essentially, performance audit findings identify deviations from established criteria. As a consequence, such deviations have a negative impact on the overall outcome - in this case, the outcome of the public procurement process. All the SAIs carried out thorough analyses of deviations and problems in their own environments, and presented the findings in their respective audit reports. Therefore, the audit scope was different from one participating SAI to another. The individual audit reports highlight the different roles and responsibilities of the entities, how different government institutions performed different steps, and how the authorities responsible tackled the problems.

Generally speaking, however, one can say that all the problems identified and described in the six audit reports are rather common and can, to a greater or lesser extent, be found in the whole region covered by the PPA. This fact is a finding in itself and represents an important added value of conducting this parallel audit project. It also creates the opportunity for further research into this field.

The two main areas of audit focus – planning and follow-up – and findings related to them, can be presented as follows:

- o **Overall planning of public procurement is not properly conducted.**
  - Future needs are not estimated in a timely and comprehensive manner. Due to this, institutions lack the major items of input to prepare properly and initiate timely procurement of the goods and services they need for their work;
  - Market research is not systematically conducted and documented. This is an important input for all other subsequent procurement steps, and failure to do this means that there are no proper inputs for risk analysis, selection of the right procurement approach, budget estimates, timeline planning, etc.
  - Problems with preparing tender specification include improper definition of the characteristics of the procurement subject– such as the minimum technical requirements, details of conditions on the proposed building sites, expected lifetime costs, etc. Due to this, it is difficult to obtain the goods, works and services that meet the necessary requirements, and this can often result in tenders being repeated, budgets breached, contract annexes being added, etc.;
- o **The monitoring/control and follow-up system is ineffective.**
  - The monitoring and control system for the procurement process is an important function that can serve as a tool for timely corrective measures and to prevent deficiencies in overall outcomes. This function is often undeveloped;
  - The follow-up system is not developed, so institutions are unable to benefit from the experiences and lessons learned from completed procedures in order to take timely corrective action in new ones.

Some of the audit teams also particularly emphasised that the root of the problems lay in an overall underdevelopment of the legislation, procedures and institutional framework. This resulted in a lack of precise definitions of roles and responsibilities which hindered institutions in properly fulfilling their roles.



## Key general conclusion of the PPA project

The key general conclusion of this PPA project is that overall problems in public procurement in the Western Balkans can be traced back to poor planning and poor preparation of the procurement process. The audit has shown that a failure to estimate future needs properly and in good time, accompanied by a failure to conduct proper market research and prepare clear tender specifications, is at the root of many problems that occur at a later stage. These often cause delays, incorrect deliveries, inappropriate supplies of goods, works and services, tender annulments, and an inability to effectively implement contracts with suppliers, etc.

Delays in the process often result in a request to start emergency procurement procedures in order to avoid any further delays. However, such procedures inherently lack transparency and are not fully cost-effective. Bidders who do not get an opportunity to participate in such tenders may file complaints and, due to this, the authorities may be forced to annul the tender procedure and start a new one. This causes further delays. The chain of cause and consequences is connected and widespread, with the final effect of jeopardizing the functioning of institutions and their timely and satisfactory provision of services to citizens.

Furthermore, a failure to properly follow-up and monitor the procurement means that no basis is created for gradual improvement. The same mistakes are repeated from year to year. Lessons learned are not documented and disseminated between peers. Hence, government organisations do not have the opportunity to develop by learning from their own mistakes or from those of other parts of the public administration.

However, we have to emphasize that not all deficiencies in public procurement are traceable only to these two major issues. There are other problems beyond the scope of this audit, and there are other ways and mechanisms to improve the system and remedy inherent problems, observed both from this PPA audit and from other research. It is, however, a general conclusion that improvements in these two pivotal points – improved planning and improved monitoring and follow-up – could create a basis for a more efficient and cost-effective public procurement process.

One could argue that there is a need to directly address the issue of corruption often discussed in the media and the non-governmental sector in the region. It should be clear, however, that the main role of performance audit is not to track down individual corruption cases, but to identify and suggest possible system improvements that would make improper behaviour more difficult. The participating SAIs strongly believe that audit findings, conclusions and individual recommendations at national level all contribute to this overall goal.

# Summaries of individual SAIs' reports

Each of the six summaries  
has the following structure:

1. Introduction
2. What did we audit?
3. What were our audit scope and objectives?
4. What did we find?
5. What can we conclude?
6. What do we recommend?

# Albania

*High State Control  
Department of Performance Audit*

## Overuse of negotiated public procurement procedures without prior publication of a contract notice

*Audit Team:*

**Rinald Muça**, Head of the Department, supervisor of the team

**Alfred Zylfi**, Senior Auditor, team member

**Elfrida Agolli**, First Auditor, team member



## Introduction

An effective public procurement system contributes to the proper management of public funds. It can be a strategic mechanism that helps achieve economic and social objectives.

According to Albanian law, the main objectives of public procurement are competitiveness, equal access, non-discrimination and transparency. The aim is to guarantee the optimal delivery of public goods, services and works at the best price and quality. The audit identified a number of challenges concerning the proper functioning of public procurement:

- 1) Frequent changes in the law on public procurement;
- 2) Different interpretations of the law by civil servants;
- 3) Procedures are not harmonised within the institutions and/or for similar goods;
- 4) Problems in deciding the upper spending limit;
- 5) Lack of expertise in managing the tendering procedures (high staff turnover, lack of training and experience (e.g. with technical criteria), use of the electronic public procurement system).

Over the period 2010 to 2016 about 30 % of all public procurement procedures in Albania were done using the negotiated procedure. These procedures were used to procure medicine (28%), security items (14%), fuel (12%) and food (10%). These strategic goods required for the basic functioning of the state of Albania amounted to 64% of all negotiated procedures.

Hence, the proper use and operation of the negotiated procedure is crucial for the budget of Albania, which is facing high deficits. It is in the interest of the Albanian people to ensure effective and efficient procurement of goods, works and services as this directly impacts on the availability and prices of strategic goods and services such as medicine, food and roads.

To be efficient and effective, the procurement of goods, works and services needs good coordination between the four main pillars of this system:

- 1) the legal framework accompanied by detailed regulations;
- 2) the institutional framework;
- 3) the operational phase and tender management;
- 4) the control, monitoring, and integrity system.

The Albanian public procurement system involves three bodies. The legislation on public procurement is implemented by the Public Procurement Agency (PPA), which is the central body which coordinates the public procurement system in Albania, and supports the implementation of procurement procedures. The Public Procurement Committee is the authority which deals with complaints against procurement procedures, during the procurement procedure. The Contracting Authority is responsible for carrying out the procedures.



## What did we audit? What were our audit scope and objectives?

The public procurement procedure “Negotiation without prior publication of a contract notice” (short: “negotiated procedure”) is - due to its specific nature - one of the less transparent types of procurement procedure where competition is limited. In Albania about 30 % of all public procurement is done using this procedure, thus increasing the risk that the national budget is not used in the most transparent way. We therefore focused the audit on this type of public procurement procedure.

The main objective of this audit was therefore to assess whether the negotiated procedure is transparent, non-discriminatory and ensures equal treatment of private operators. Our audit criteria were derived from laws and legal regulations (mainly public procurement law), guidelines, implementing rules, instructions and established best practices.

In order to analyse this we audited a number of institutions such as the Public Procurement Agency; the Albanian Road Authority and Regional Directorates; the General Directorate of the “Mother Teresa” Hospital Center Tirana; Regional hospitals (Shkodra, Kukës, Debar, Berat, Saranda); the municipalities with the largest funds procured.

The methods used to collect evidence were mainly reviews of documentation and physical evidence, interviews with managerial staff and employees, qualitative and quantitative analysis, evaluation of the public procurement system and comparison with national standards or other best practices.

## What did we find?

We structured our findings around the above-mentioned four pillars of the procurement system.

- 1) the legal framework accompanied by detailed regulations:
  - Albanian legislation in the field of procurement is not yet fully in line with the European Union acquis in this area. The Public Procurement Agency (PPA) does not have data on the degree of compliance of existing law with the acquis;
  - the law on public procurement procedures is not aligned with the financial management legislation. This increases the possibility of unnecessary use of the negotiated procedure, which is less transparent by its very nature;
  - public procurement legislation allows the use of negotiated procedures in cases which are defined as emergencies. The legislation allows 12 different possible arguments for defining a case as an emergency. For example, one of these is that the procurement is needed at the beginning of the year, especially for essential, urgent goods such as foodstuffs and medicine. As the normal procurement procedures can only be started after the relevant budget has been transferred to the contracting authority (not normally before March) negotiated procedures are used extensively instead.
- 2) the institutional framework:
  - the set-up of the institutional framework with the Contracting authority, the Public Procurement Agency, and the Public Procurement Commission is appropriate while there are deficiencies in the frameworks operation;



- operational phase and tender management;
  - our analysis showed that when selecting the successful bids, the current system does not fully reflect the principles of non-discrimination and equal treatment, transparency in public procurement procedures and equal treatment of the demands and responsibilities of applicants;
  - the electronic system is not always used for the negotiated procedure even in cases when this would be possible and appropriate. This reduces the transparency of the procurement procedure.
- 3) control, monitoring, and integrity system:
- we identified cases involving varying interpretations of the legislation on public procurement procedures, and in particular the negotiation procedure, at the level of the PPA, the administration and the judiciary;
  - monitoring is carried out, but without guidelines. Effectiveness of the monitoring is hampered by the reduced use of the electronic system available.

## What can we conclude?

Based on our examination, we conclude overall that the negotiated procedure is used extensively, with around 30 % of all public procurement using this procedure. This is mainly due to the following issues:

- 1) the negotiated procedure is often used by stretching the argument that a case is an emergency;
- 2) the electronic system is frequently unused for negotiated procedures even in cases where this would be possible and appropriate. The PPA did not monitor this issue effectively;
- 3) the law on public procurement procedures is not fully harmonised with the financial management legislation;
- 4) No specific or detailed guidance exists on the steps, deadlines and actions the Contracting Authorities should apply when using the negotiated procedure;
- 5) there are no guidelines for the monitoring of public procurement procedures.

## What do we recommend?

In order to make the negotiated procedure more efficient and effective, including a more targeted use, we recommend that the PPA:

- 1) address the problems related to the definition of cases as emergencies by economic operators and lobby for legal changes to minimise the number of these cases and the related problems;
- 2) harmonise the law on public procurement procedures and financial management legislation in cooperation with the Ministry of Finance;
- 3) promote the use of the electronic public procurement system for negotiated procedures in order to increase transparency;



- 4) develop specific guidance for the use of negotiated procedures, detailing the steps, deadlines, evidence of standards and technical specifications;
- 5) draw up guidelines in cooperation with the relevant ministries for the monitoring of public procurement procedures.

# **Bosnia and Herzegovina**

*Audit Office of the Institutions of Bosnia and Herzegovina*

## **Timeliness of the public procurement procedures in institutions of Bosnia and Herzegovina**

*Audit Team:*

**Jasmina Okanović**, Auditor - Team Leader

**Milan Milović**, Auditor

**Hrvoje Tvrtković**, Head of the PA Department



### Introduction

The value of public procurement by the institutions of Bosnia and Herzegovina (BiH) in the last three years was more than 220 million euro (this does not include the local level and entity governments). On average, the annual value of public procurement by BiH institutions amounts to about 15% of their annual budget. The ultimate objective of the public procurement system is to ensure that goods, works and services are procured under the most favourable conditions with a satisfactory level of quality. However, in BiH, numerous problems in this area are reported by the nongovernmental organizations and the media, as well as by financial audit bodies. Most often, these problems are related to timeliness in procuring the necessary goods, services and works.

The importance of timely public procurement was best seen in recent months when citizens of BiH were unable to obtain passports on time. There were also delays in the realisation of a fuel supply contract for the Ministry of Defence, where experts said that the readiness of the BiH Armed Forces was vulnerable, especially where it was needed to assist the civilian population in cases of forest fires and floods. Untimeliness in conducting public procurement directly affects the efficiency of budget management, and in most cases there are also negative effects for citizens, who have paid institutions for an efficient and timely service.

After the pre-study research, the performance audit team found that there were problems and weaknesses in terms of timely public procurement. For this reason, and having in mind the importance of public procurement for the smooth functioning of the institutions - which directly or indirectly affects the citizens - the audit team decided to examine to what extent this problem exists, and what are the causes for such a situation. The intention is to offer appropriate recommendations with the aim of eliminating weaknesses and achieving better timeliness.

### What did we audit? What were our audit scope and objectives?

The subject of the audit is public procurement in BiH institutions, focusing on the measures and activities undertaken during the planning and performance of the procedures to promote timely implementation.

The audit was carried out in a number of BiH institutions, covering a three-year period from 2014 to 2016 and, in some cases, the period before and after this. The audit did not deal with the justification of approved funds for procurement or other problems that exist in public procurement, given that the focus of this study is on timeliness in preparing, planning and conducting public procurement.

In order to examine the reasons for the delays in public procurement, we analysed 77 public procurement procedures that were delayed in the nine BiH institutions chosen for the sample.

The audit objective was to point out the main causes of the untimely implementation of public procurement procedures in BiH institutions, to highlight some economic and other consequences of delays and, based on the audit findings, to provide recommendations that could lead to reducing the delays.



## What did we find?

The findings presented here are related to the causes of untimeliness and delays, as well as the consequences of these delays. The findings are presented as deviations from the established audit criteria for the timely planning and implementation of public procurement, as defined by the Audit Office, based on the audit teams' assessment, regulation and expert literature.

There are six main causes of delays related to the preparation and implementation stages of the procurement process. These are presented in the following table, based on total of 77 audited procurements in nine institutions:

**Table 1: Common causes of untimeliness in public procurement**

<i>Deficiencies in planning</i>	<i>No proper market research</i>	<i>Delays in starting the procedure</i>	<i>Delays in starting the activities after Decision on PP has been made</i>	<i>Deficiencies in tender documentation</i>	<i>No evaluation or activities on improvement</i>
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Common causes of untimely public procurement observed during the audit were the result of deviations from the established audit criteria. These causes were observed in all institutions from the sample to a lesser or greater extent. In most cases, the final delay is the result of the cumulative effect of the above-mentioned reasons.

According to the results of the analysis of internal documents from the institutions in the sample, the planning process is not comprehensively required from the institutions. Only three out of the nine institutions in the sample had a detailed required procurement process and some segregation of duties in planning. None of the institutions had identified their priorities when drawing up public procurement plans.

The procurement plans are not developed into action plans with holders of activities and deadlines for all the steps. There is no database indicating the expiry of existing contracts and the deadlines leading up to the start of the new contract procurement.

None of the institutions from the audit sample could document the process of planning and drawing up a public procurement plan which included a risk analysis and identified possible procurement risks.

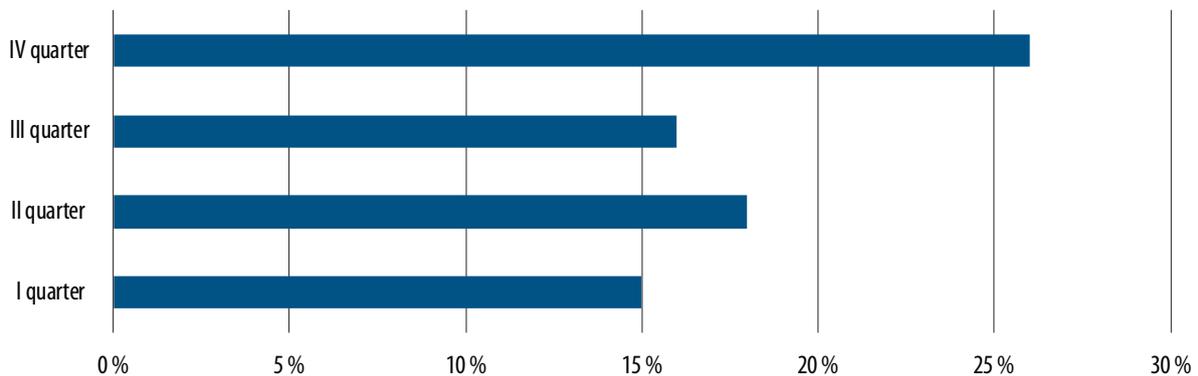
There is no comprehensive approach to market analysis, and the institutions do not pay enough attention to all the specifics of procurement and the availability of various options for the needs defined. Lack of proper market analysis has been one of the main reasons for the delays in 22 % of procurements in the implementation phase.

There are sometimes significant differences between the goods and services actually procured, and those that were originally planned. In all institutions from the sample, it was found that some items procured were not included in the plan at all.



It was found that 89 % of procurement was not completed in accordance with the planned completion deadline, which points to planning weaknesses and raises questions on the purpose of planning.

**Chart 1: Late start of procurement procedures**



As can be seen from the chart, the majority of procurement from the sample was started in the last quarter of the year, which made it virtually impossible to complete it by the end of the budget year. There is a wide range of timescales within the phase of conducting public procurement, from the moment of adopting an initial decision, until the date the contract is concluded.

In 11 cases, tender documentation was the direct reason for the annulment of procurement and the contracting authority had to repeat the entire procedure, which meant changing and re-drafting the tender documentation.

BiH institutions taking the role of contracting authorities did not sufficiently analyse plans from previous years in order to mitigate the risk of repeating the same mistakes, nor did they sufficiently analyse currently running contracts in order to develop a realistic and objective procurement plan for the following year.

### What can we conclude?

The audit showed that there are significant delays in procurement and it was identified that BiH institutions contribute significantly to the untimeliness of public procurement. The main conclusion is that BiH institutions do not take all the appropriate action for timely planning and implementation of public procurement, and this may be rooted in the following causes:

- During the planning process, the BiH institutions do not take into account all the possible risks that may arise in the procurement process;



- The time necessary for public procurement is not properly assessed and is not based on realistic indicators;
- Lack of adequate market analysis contributes greatly to the untimeliness of public procurement;
- Public procurement planning in the BiH institutions does not take into account the purpose of planning, but simply represents the superficial fulfilment of a legal obligation that does not secure an effective procurement process. In support of this, the collected data shows that more than 60 % of procurement procedures from the sample were launched after the planned deadlines, which is one of the first reasons for their delay. Almost 90% of the procedures were not completed within the deadlines set in the procurement plans;
- The audit showed that institutions do not always take timely action in the part of the process where they make decisions on procurement activities independently;
- Over 35 % of all procedures reviewed were initiated in the last quarter of the budget year, and 55 % were initiated in the second half of the year. It was also found that there is a wide range of timescales within the public procurement process implementation phase (from the moment of adopting an initial decision until the date the contract is concluded);
- This is particularly evident in the case of continuous public procurement. These procedures were initiated immediately before or after the expiry of the contract with the existing supplier, and the procurement was carried out without a new contract with the existing supplier, or by extending the validity of the existing contract. It was noticed that in some capital procurement cases a late start caused a loss of the approved budget funds;
- In 14 % of the procurements reviewed, tender documentation was a direct reason for the annulment of the procurement and the contract authority had to repeat the entire procedure;
- The absence of an appropriate system of monitoring and evaluation of public procurement plans represents a significant weakness in the system of public procurement in BiH.

Delays and inadequate execution of public procurement have significant social and economic consequences. The social consequences are reflected in institutional goals not being met and this results in inefficiency and ineffectiveness. Untimely procurement jeopardises the healthcare system because of delays in the provision of safe, high quality and cheap drugs. The safety of citizens is also compromised due to omissions in border controls. Military security and assistance to civilians in emergency situations such as floods and fires may be compromised as well. The economic consequences can be expressed through unjustified costs resulting from delays in conducting public procurement or by the costs of not using approved funds that could be spent on other projects of importance to BiH.

### What do we recommend?

The Council of Ministers of BiH ought to:

- Establish mechanisms that will provide reliable, accurate and complete information on planned and implemented public procurement procedures at the level of BiH institutions, and which will be a basis for analysing the timeliness of the institutions in planning and conducting the procurement procedures;



- With the aim of strengthening the responsibility of BiH institutions, establish a system of reporting on planned and implemented public procurement, containing information on reasons for non-implementation or delays.

The institutions in BiH ought to improve the public procurement planning and implementation process by paying special attention to the following steps in the process:

- Draft and/or update internal regulations containing a detailed description of the public procurement process, including the process of planning and preparation to be carried out at the time of budget planning;
- Conduct and document proper market research and analyse potential risks for every procurement procedure before drafting a procurement plan;
- Ensure that public procurement plans take account of the timeliness of public procurement. This means determining realistic deadlines to start and finish procurement procedures, and thus create preconditions for timely completion of procedures;
- Make a proper dynamic internal action plan, with allocated responsibilities and deadlines for every step and activity and thus create preconditions for control of the process and increasing responsibility;
- Create a workflow/timeline and deadlines to track public procurement documentation within the institution;
- Follow-up and lessons learned - periodically analyse the dynamics of the implementation of procurement processes in order to eliminate any possible problems in the forthcoming cycle;
- Carry out a final end-of-year analysis of the performance of the public procurement plan in order to eliminate problems that affect timeliness and to avoid repeating them in future.
- Report on the realisation of procurement plans, with a special focus on planned and implemented deadlines, delays and unimplemented procurement processes with relevant explanations.

The Parliament of BiH ought to consider the possibility of holding the management of BiH institutions to greater account for long-term unsuccessful procurement which is of great value and importance to BiH.

# the former Yugoslav Republic of Macedonia

*State Audit Office*

Lack of staff and established  
procedures make public  
procurement less effective  
at local level

*Audit Team:*

**Cveta Ristovska**, M.Sc., Assistant to the Auditor General

**Katica Nikolovska**, Principal Auditor & Team Leader

**Katerina Caloska – Aleksovska**, Senior Auditor

**Elena Dogazanska**, Junior Auditor



## Introduction

The municipal authorities' main objective is to meet the needs of their residents and to improve their quality of life. They perform activities in the public interest by using the financial and human resources available. The municipal authorities accomplish their planned goals by following their annual plans and procuring services, supplies and works contracts. Usually, 50-60 % of the annual budgets of the municipal authorities are channelled through public procurement procedures.

**Table 1: Number of published notifications, signed contracts and value**

Category of Contracting authority	Number of published notes for PP	Number of signed contracts	Value of signed contracts (million euro)	Number of signed contracts as % of total	Value of signed contracts as % of total
State institutions	2 458	1 172	245	11 %	36 %
Municipalities	3 614	1 353	119	13 %	18 %
Legal entities established to meet the needs of public interest	10 016	6 621	182	63 %	27 %
Associations established by one or more contracting authorities	35	4	74	0 %	0 %
Public companies, joint stock comp. and limited liability comp.	2 260	1 276	114	12 %	17 %
Other contracting authorities	86	21	14	0 %	2 %
<b>Total:</b>	<b>18 469</b>	<b>10 447</b>	<b>674</b>	<b>100 %</b>	<b>100 %</b>

Source: Annual report 2015 from the Public Procurement Bureau.

These procedures should ensure transparency and integrity. The citizens expect public funds to be used in a rational and efficient way to guarantee competition, equal treatment and non-discrimination against economic operators.

According to the annual reports prepared by the Public Procurement Bureau (PPB), in certain municipalities the number of annulment procedures is up to 33 % of the total announcements of published notices. This figure does not include procedures where only part of the procedure fails (a percentage likely to be higher than one third).

Although the staff of the municipalities are suitably trained and for most procurement the necessary consents are provided, the number of cancelled procurements is still high. This indicates that there are other reasons and risks which lead to procurements being cancelled and which also influence the effective realisation of the annual procurement plan.

This information acted as an indicator to direct our audit to the municipal authorities, and to analyse whether the measures and activities adopted could improve the efficiency of the annual procurement planning process and the implementation of the annual procurement plan.



## What did we audit? What were the audit scope and objectives?

We examined whether the public procurement procedures in the municipalities were well managed.

We audited the manner in which the municipal authorities established selection and implementation activities in different public procurement projects in relation to their annual work programmes. The audit covered the activities of the municipalities in the period 2014-2016.

The audit was carried out in all 81 municipalities of the former Yugoslav Republic of Macedonia. Ten municipalities were audited in depth based on evidence gathered using methods such as on-the-spot visits, organisational and budgetary analysis, and file reviews of successful and cancelled tenders. Interviews were held with the mayors of municipalities, heads of departments responsible for planning public procurement needs, and employees in public procurement units. The remaining municipalities were covered by analysing the replies to questionnaires.

Our selection from the sample of ten municipalities was based on several criteria in order to be representative of small, medium sized and large municipalities throughout the country. Total revenues for these ten municipalities represented 59 % of the total revenues for all the 81 municipalities in 2015 and 51 % of the public procurement expenditure for all the municipalities.

The main objective of our audit was to assess the effectiveness of the measures, policies and activities undertaken by the management.

## What did we find?

Our main observations are the following:

- a) **Staffing level below requirements:** In all municipalities the number of persons engaged in public procurement does not comply with the procedural rules of the municipality. The staff are qualified but the fact that almost 10 % of the annulled procedures were cancelled because of significant violations of the law (Graph 1) suggests that current training is insufficient. Furthermore, there is no established practice of engaging external experts even when conducting complex procurement projects.
- b) **Lack of established operational procedures and undefined project priorities:** The organisation of practical work based on rules and procedures is weak, especially in medium-sized and small municipal areas. Whereas 75 % of large municipalities have procedures in place, two thirds of medium-sized and small ones have no established rules or guidelines. Therefore in these municipalities project goals are reached to a large degree on the basis of established practice. In principle the need for a proposed procurement project is based on three criteria: (i) the recurrent nature of the work (such as changing street light lamps, renovating roads), (ii) to meet the needs of a large group of citizens (building new access roads or sewerage systems) or (iii) general importance (building schools and kindergartens). Problems arise when decisions have to be made about which projects should be included in annual operating plans and the annual public procurement plan. The audit found that not one single municipality had pre-defined criteria when selecting projects. The fact that the need for projects always exceeds the resources for financing them creates a risk of subjective decision-making by the mayor or municipal council.



- c) **Unclear project definitions in half of the municipalities:** In 50 % of the municipalities audited the subject and scope of purchasing is not defined precisely enough. Without specific data for subject, location and value, annual planning becomes difficult, it discourages bidders from making offers (see Graph 1- this is the most frequent reason for cancelling a tender) and even if a project materialises, it will be challenging to monitor. Small municipalities are always faced with imprecise plans, in particular with regard to the value of procurements, because they depend largely on financial decisions by state institutions and donors.
- d) **Procurement plans not adapted to real expenditure levels and no lessons-learned:** Almost all municipalities have to make budgetary adjustments to their budgets during the year, i.e. decreased expenditure because of decreased revenues. However, our analysis shows that despite budget rebalances, municipalities did not reduce their procurement plans. Therefore, on average the municipalities only executed around 60 % of their plans (there is a large variation from 30 to 70 % depending on the municipality). In addition, the unrealistic planning practices of previous years were not taken in account when planning for the following year.
- e) **Large municipalities perform better:** In large municipalities, where procurement procedures are adopted, staff are aware of how procedures are applied. Since June 2016, a rulebook has been published which contains the forms and content of the standard tender documents and technical specifications. This has significantly improved the situation for the procurement of some goods. The municipalities that use the rulebook have saved time and are using fewer human resources to finalise the procurement cycle. Some weaknesses still remain such as: (i) lack of communication between departments during the needs assessment phase, (ii) not enough attention paid to market research because it is not precisely regulated by law, (iii) the reasons for failed procedures are frequently not reported to the management.
- f) **In general, one quarter of procedures are cancelled:** During the 2014-2016 period, municipalities published 2 741 procurement notices. Of those, 662 procedures (or 24 %) were annulled. Graph 1 shows the reasons behind these cancellations:

Chart 1: Late start of procurement procedures





Examples of weaknesses found in public procurement procedures:

- i. Wrong type of procurement or inaccurate determination of what the municipality wants to buy. For example, street lighting and horticultural items are 80 % goods-related procedures and only 20 % work-related. The audit found that the same objects are procured using different procedures. Some municipalities procure them as works contracts while others procure them as goods;
  - ii. Weak market research and market analysis results with sub-optimal competition and lack of bids because questionnaires are usually sent to economic operators with whom the municipality has established long term business relations;
  - iii. Supply tender not divided into lots, resulting in a lack of bids;
  - iv. Unrealistic criteria, an incomplete and imprecise technical specification. For example, usually in construction procurement the economic operators (i.e. companies) are required to meet a number of financial, technical and staffing criteria which are set at such a high level that only a very small number of companies (usually large companies) can comply with them. The lack of competition results in uneconomical and expensive contracts.
- g) “The lowest price is the only award criterion”: Since May 2014, for some procurements, the contracting authorities must obtain the consent of the Public Procurement Council (PPC) before the publication of a tender to ensure that there are a sufficient number of economic operators in the market and the criteria are not discriminatory. In order to shorten the procedure time and avoid additional cost to the PPC, municipalities often only apply the price criteria instead of also requesting the necessary quality. On the other hand, given the relatively small size of the national economy and the limited production capacity, market research does not always help to promote competition. By using price as the only award criterion there is a risk that the expected quality of goods, services or works is not sufficiently taken into consideration.
- h) Lack of formal monitoring processes: According to the questionnaire, only 22 % of municipalities (17) confirmed that they have written procedures to monitor the implementation of procurement during the year. Subsequently, during on-the-spot visits to 10 of the 81 municipalities, none had any written procedures on monitoring. There might be oral feedback informing the mayors about the tender procedures but we did not find any practice where authorities prepared or submitted management reports.

## What can we conclude?

Based on our analysis, we concluded that:

- a) Most of municipalities are understaffed, especially in the area of public procurement;
- b) only 13 municipalities out of 81 (16 %) have established practice to regulate their operations through prescribed procedures;
- c) the adopted procedures are sub-optimal because they do not include criteria for project selection in order to prioritise them in the annual plans or programmes;
- d) the need for public procurement is not always precisely stipulated in the sectoral operating programmes or in annual public procurement plans;



- e) the plans (operating and public procurement) largely exceed the real possibilities of what the municipality can procure during the year;
- f) the manner in which municipalities conduct public procurement procedures contributes to the high level of annulment of procedures (24 %);
- g) the monitoring of implementation is incomplete and hinders efforts to improve the effectiveness of public procurement procedures in the future.

The municipal regulations on internal organisation and procedures by which municipalities determine organisational units represent a solid base for effective organisation of employees involved in the public procurement process. However, the lack of staff in some municipalities negatively affects the planning process and the effectiveness of public procurement. There are problems with insufficiently precise definition of objects for procurement in annual operating programmes and procurement plans that have a disproportionately large set of criteria, to the detriment of competition. Furthermore, there are cases where not all the required procurements are completed and there is a lack of efficient market research. All these reasons have a negative impact on the overall effectiveness of public procurement procedures at local level.

### What do we recommend?

In order to increase the effectiveness of the planning and implementation of public procurement and to better meet the needs and expectations of the citizens, we recommend that municipalities adopt the following measures and activities:

- a) strengthen staff numbers in public procurement units, and conduct continuous training of people involved in public procurement processes;
- b) prescribe and adopt internal procedures to set priorities for project selection in annual programmes;
- c) adopt public procurement plans based on more realistic revenue plans;
- d) regularly monitor contracting rates, report the results to the municipality management and update plans accordingly;
- e) improve the quality of tender documentation by including all the necessary data including the expected quality.

Also, we recommend that the Public Procurement Bureau undertake activities to review and improve laws and bylaws, in order to benefit parts of the public procurement process, and make them more efficient and effective.

**Kosovo\***

*National Audit Office*

# Delays and cost overruns in construction contracts

*Audit Team:*

**Mirlinda Ahmeti**, Audit Director

**Arben Selimi**, Team Leader

**Fexhrie Thaqi**, Team Member



## Introduction

One of the ways the Government tries to improve the standard of living of its citizens is by investing in infrastructure; for example in educational and recreational facilities. Annually, the Government Authorities spend an average of 57 million euro on construction contracts which represents more than 4% of the yearly national budget.

Construction works in this area are often delayed. The planned date and the actual date of implementation are in some cases, years apart. According to local experts we interviewed, most of these problems are caused by poor planning: for example, the needs of users are not clearly defined, sufficient funding is not secured, and physical studies (geo-mechanical) of the conditions at the site are not sufficiently extensive. As a result, contract amendments are made, additional funds are required and the implementation of the contract is prolonged.

The Ministry of Public Administration (MPA) and the Ministry of Culture Youth and Sports (MCYS) alone have spent 58 million euro on construction facilities in the last four years (2013-2016). The purpose of this investment was to improve infrastructure in public administration and increase the standard of living of citizens.

Our earlier financial audits identified several cases where the MPA and MCYS faced problems during the implementation of construction contracts. Some of the issues that were mentioned were, for example, variations between the work contracted and the work implemented in terms of quantity, delays in implementation that ranged from several months up to several years, and payment for work that was not done.

The objective of this audit was to examine if the construction contracts were appropriately planned. By identifying flaws in the planning process, the audit would improve the planning process and contribute to sound financial procurement practice.

## What did we audit? What were our audit scope and objectives?

The National Audit Office examined the planning of construction contracts to assess if it was appropriate and whether there was room for improvement. The audit focused on examining whether the construction plans from the requesting entities were based on appropriate information and whether the key steps in the planning process at the Ministry responsible were properly conducted.

We audited eleven projects from a total of 41 projects; six in the Ministry of Public Administration and five in the Ministry of Culture Youth and Sports. All the projects were over 100 000 euro in value and were implemented between 2013 and 2016. The projects selected represent about 30 % of the total costs spent on construction contracts.



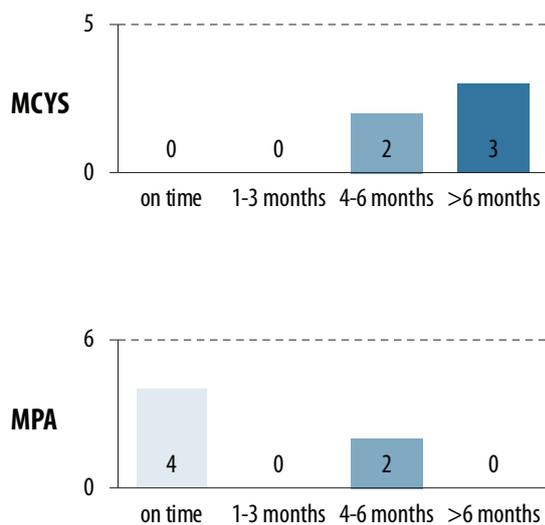
## What did we find?

Based on our examination, we concluded that the authorities responsible have difficulty in managing the planning of construction contracts effectively. Despite the improvements in these areas, the intended purpose was not always achieved. The majority of projects had problems related to defining the needs of the user. Of eleven projects examined, we found that only one had a detailed needs description (managed by MPA) – such as the number of users or number of rooms. Other projects did not have this type of information either (e.g. all five projects managed by MCYS), and there was a clear connection between this deficiency and the cost overruns and delays.

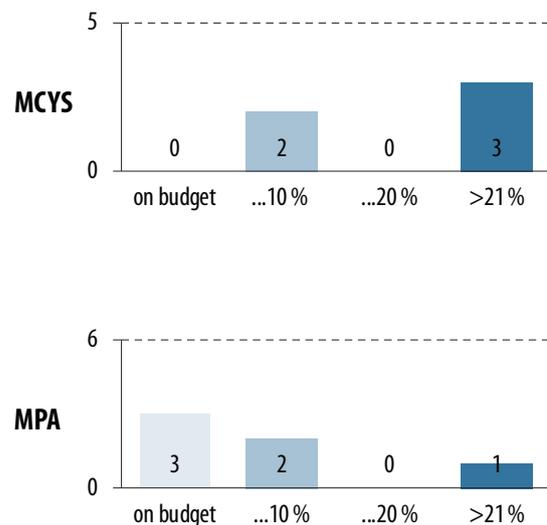
Furthermore, the physical conditions had been poorly examined; such as the kind of terrain on which the construction was going to take place, whether the location was easily accessible and whether there were any obstacles that needed to be considered before construction began. Five of the eleven projects<sup>1</sup> contained no geo-mechanical or geodesic studies. However, with the exception of one case, the projects were free from ownership disputes.

We also identified problems concerning funding and determining whether the technical specification fully corresponded with the reality. As result, the construction projects took longer to complete than expected (Graph 1) or led to cost overruns (Graph 2) in the Ministries.

**Graph 1: Project completion delays**



**Graph 2: Project cost overruns**



Regarding implementation delays, there were performance differences between the two Ministries audited. All of the MCYS projects were delayed by four months or more, while four out of the six MPA projects were on time. In total, more than two thirds of projects were delayed by four months or more. Project size was not a contributing factor in these delays.

<sup>1</sup> Three of the MCYS projects audited were at the second stage of construction therefore the requirement to have a geo-mechanical study applied only to eight of the audited projects.



Regarding cost overruns, all of the MCYS projects and half of the MPA projects had overrun. In total, more than one third of the projects had severe cost overruns (of over 20%). Most of the cost overruns occurred because of poor assessment of site conditions.

## What can we conclude?

Based on our examination, we conclude that the authorities responsible have difficulty in managing the planning of construction contracts effectively.

In most projects examined, we found problems not only when it came to defining the needs of the users and examining the physical conditions of the locations, but also because most of the information required at the planning stage, which should have been provided by the requesting entity, was not available.

The Ministries did not check if the contract documents corresponded with the user's needs and terrain specifics. This is partly because the Law on Construction does not require such action to be taken beforehand, and partly because the Ministries lack the human resources to do so. Because the initial technical specification prepared by the authorities did not fully correspond with the reality, the costs of the construction projects overran and it took longer to complete them than was expected or necessary.

The National Audit Office finds it reasonable to assume that these problems are not unique to the projects examined. With that assumption, we conclude that the current management problem has cost consequences for society and the state budget, not only in terms of capital costs (due to delays). If action is not promptly taken, over a longer period, the cost overruns and delays will have significant economic consequences both for the state budget and for citizens.

Just to illustrate: an unnecessary delay of, on average, four months for the 58 million euro annual spending on building contracts, would, at an interest rate of 6%, mean an extra cost of over one million euro just in capital cost. Furthermore, this means that citizens are not getting the services they need on time.

## What do we recommend?

To achieve the objectives of public investment, the institutions responsible should plan their work in detail: who will do what, how, when, and how much it will cost. In this respect, close cooperation is needed with the Ministry of Finance to ensure that the budget is planned in accordance with the priorities set by the government, to achieve the needs of the citizens. Furthermore, the Ministries and the requesting entities should also strengthen their cooperation at the planning stage to ensure that public investments are made in accordance with citizens' needs and within the scheduled timeframe.



We recommend that the Minister of Public Administration and Minister of Culture, Youth and Sports:

- a) Ensure that a strategy is drafted on which the Ministries should base their future public investments, laying out the investment criteria, identifying mechanisms for coordination with the Ministry of Finance and requesting units, and monitoring the strategy's implementation. This document should be followed by the Action Plan which should include the roadmap on objectives and sequential steps;
- b) Cooperate closely with the Minister of Finance to ensure that credible budget planning is done for capital projects which can be fully realized through detailed and concrete arguments with regard to institutional needs; and
- c) Ensure staff capacity building by providing sufficient training in the planning process for capital projects.

We recommend that the staff of the Ministries and requesting units:

- a) Strengthen cooperation between them by establishing a procedure that describes the roles and responsibilities of both parties. They should, in particular, define the flow of information from the requesting entities to the Ministry with the aim of getting information right when it comes to needs of the requesting unit;
- b) Establish an operating procedure describing all the necessary steps to be taken in the planning phase of construction contracts and check that this operating procedure is applied throughout the department; and
- c) Exercise control over their projects in order to monitor the intended results and the actual outcome and determine the reason for any variations.

# Montenegro

*State Audit Institution*

## Planning the public procurement of medical equipment

*Audit Team:*

**Branislav Radulović**, PhD, Member of the Senate – Head of the Auditing Board

**Nikola N. Kovačević**, Member of the Senate – Member of the Auditing Board

**Blažo Savković**, Head of Sector

**Jadranka Delibašić**, PA Auditor, Team Leader

**Radenko Davidović**, PA Auditor



## Introduction

The right to health care is enshrined in the Constitution of Montenegro as a fundamental human right. There is a lack of medical equipment in the Montenegro public health system. Patient waiting lists are long because of the system's inability to meet all the needs of the population. In 2016, approximately 235 million euro was spent on healthcare, which is about 11 % of total budget expenditure. There is a natural gap between financial availability on the one side, and limited budgetary allocations on the other, for medical services related to modern technology, diagnostics and therapeutic procedures. Because of the limited availability of funds, procurement plans need to be prepared carefully. In this way it is possible to achieve significant savings that could then be diverted to improving care quality. The public procurement system in healthcare poses a particular risk, due to the complexity of the procurement system which involves a large number of economic operators. Other risks include a complex legal framework and large payments.

Current estimates of the need for new medical equipment stand at almost 17 million euro, while the Health insurance fund has made available around 0.8 million euro per year. In other words, current available financial resources meet only 5 % of the total need for new medical equipment. The inadequacy of available funds means that procurement must be prioritised and rationalised, and information shared on the most cost-effective solutions in terms of value for money.

## What did we audit? What were our audit scope and objectives?

The procurement process has four phases: the planning phase, the conducting phase, award phase and execution of the procurement contract with the selected bidders and, at the end, evaluation of the effects of the procurement to serve as a basis for planning future procurements. Because the planning stage and subsequent monitoring are vital for overall procurement efficiency we defined the main audit question as follows: Is the planning of public procurement of medical equipment successful? The audit focused specifically on strategic and operational planning, and whether the results and effects of the procurements were followed up to improve future procedures.

The audit covers the period from 2013 to 2016. The auditees were: the Ministry of Health (MH), the Health Insurance Fund (HIF), the Montenegrin Clinical Hospital Centre (CHC), Public health institutions (PHI) and the Agency for medicines and medical devices (CALIMS). The activities of these organisations have a direct impact on all processes to procure medical equipment. In addition we used a sample of seven healthcare centres and hospitals. They are directly involved in the public procurement processes and together they covered more than 57 % of all insured people and 62 % of the health care budget in Montenegro.

The purpose of this audit was to identify weaknesses in the procurement process in Montenegro as a basic prerequisite for their effective implementation. Based on the conclusions, the audit recommends how to overcome the deficiencies identified.



## What did we find?

The phases of the procurement process laid out above are divided into individual steps with relevant criteria for their proper fulfilment. These are laid out in the following table, with every step of the process and a criterion for its proper fulfilment. The first step in the planning process is the development of a strategy based on the relevant needs of citizens and priorities. The Ministry of Health is responsible for the strategy, which is then implemented through action plans with set deadlines. Relevant institutions such as health care centres are given specific tasks.

**Table 1: Strategic action plan**

Criteria	Done	Mostly	Partly	Not done
The Ministry of Health has adopted the Procurement Strategy				√
The Procurement Strategy reflects the needs of the population on the basis of the previous analysis				√
The Strategy takes into account the quantity and quality of existing medical equipment				√
The needs of the regional healthcare institutes have been taken into account		√		
An Action Plan is made for implementing the Strategy				√
There are clearly defined roles and responsibilities for individual institutions		√		
Implementation deadlines are clearly defined				√
The long-term Procurement Plan is in line with the Strategy and Plan				√
The short-term Procurement Plan is in line with the strategy and long-term plan				√
The annual Procurement Plan is in line with the financial plan		√		
The Public Procurement Plan reflects defined priorities and needs		√		
Health institutes have adopted internal procedures for the procurement procedure				√
Adequate organization of the internal functions in charge of issuing the Procurement Plan			√	
Conducting market research on medical equipment			√	
Internal / external experts are used for specific procurements		√		
Adequately documented market research has been conducted			√	
The surveys conducted included maintenance costs				√
Research results were taken into account when planning				√
The medical equipment supplied was entered in the CALIMS register		√		



Our analysis shows that the activities to ensure successful planning for the public procurement of medical equipment were not fully implemented. The Ministry of Health did not develop the Medical Equipment Procurement Strategy and did not take all the measures to secure the procurement of medical equipment required by the healthcare system.

Failure to properly conduct all the procurement steps caused numerous deficiencies later in the process. The expected outcome of public procurements was not achieved. As a consequence, there were large price differences between the medical equipment procured and their advertised market prices. Here are a couple of interesting examples as an illustration:

- 1) Bar Health Centre paid almost 20 000 euro for a video gastroscope. However, on the supplier’s website, the suggested retail price was half of that;
- 2) Podgorica Health Centre paid almost 35 000 euro for an analogue mammograph, although the retail price on the market is only 22 000 euro.

The relevant institutions do not monitor the process. The audited entities do not identify risks in the planning and implementation of public procurements, nor do they take remedial measures. Sharing knowledge and valuable lessons learned from public procurement assignments would have allowed the organization to evolve and improve their activities. The procurement teams did not systematically carry out an internal “lessons-learned feedback session” at the end of every procurement assignment to reflect on all aspects of their tasks to identify good practices that could be generalised and how best to deal with challenging issues.

**Table 2: Strategic action plan**

Criteria	Done	Mostly	Partly	Not done
Adequate analysis is carried out of all steps in the public procurement process				√
Suggestions by external experts are used				√
The steps in public procurement are systematically tracked and tested by different suppliers				√
The trend of spending on financial resources is systematically monitored		√		
A risk assessment is carried out on some steps of the procurement process				√
All analyses are systematically used as inputs for the next procurement cycle				√
Corrective measures are taken				√

A good public procurement system is a chain of actions. Taking into account the fact that the public procurement planning of medical equipment is not conducted in an efficient manner, the public health institutions are not able to meet the overall needs of the citizens. As a consequence, citizens are often forced to seek services outside the public healthcare centres, while such expenses still have to be covered by the Healthcare Insurance Fund. In 2013-2015, these expenses amounted to in excess of 43 million euro. Investing a part of that money in the purchasing of medical equipment could create significant savings in the entire healthcare system, especially since the plan for 2017 only provided for 0.8 million EUR investment in new equipment.



## What can we conclude?

Healthcare institutions in Montenegro do not conduct proper planning for public procurement of medical equipment. Problems were already noted in the first step, i.e. from strategic procurement planning. No strategy or action plan was drawn up for the procurement of medical equipment, which led to the failure to establish a system of functional linkages between all institutions and to inefficiencies in the whole subsequent process. This causes unclear distribution of responsibility in the medical equipment procurement process. The lack of joint consultation and coordination between the Ministry of Health, Health Insurance Fund and health institutions generates problems in the medical equipment procurement process.

The impact of inadequate planning of procurement of medical equipment (lack of short-term and long-term plans) means that the health care needs of the citizens are not adequately met. Priorities for purchasing essential equipment are not specified and funding sources are not linked to specific priorities. On the basis of the audit carried out, it has been found that no analysis was made of the procedures conducted. Good practices that would lead to corrective measures are not identified and shortcomings are not removed.

## What do we recommend?

We recommend that the Ministry of Health:

- 1) develop a Public Procurement Medical Equipment Strategy and Action Plan based on the actual needs of the citizens and public health institutions;
- 2) define clear criteria for determining priorities when procuring medical equipment;
- 3) define medical equipment needs in the healthcare system, taking into account the use of existing equipment.

We recommend that the Healthcare Fund:

- 1) harmonise the Decision on distribution of healthcare funds with the Budget Law in order to provide conditions for timely public procurement planning;
- 2) analyse and assess alternative solutions, in cooperation with the Ministry of Health, with regard to whether it is more cost-effective to perform procurement of equipment or to conclude a contract with private health institutions for the provision of services to patients.

We recommend that health institutions:

- 1) make long term and short term plans in line with established criteria and create the procurement plan in line with the financial plan and available funds;
- 2) define procedures with properly divided responsibilities in the public procurement planning process, including market research methods;
- 3) consider the possibility of applying the criterion of the most economically favourable bid (including future maintenance costs);



- 4) conduct appropriate analyses of implemented public procurement procedures in order to identify weaknesses and take appropriate corrective measures;
- 5) keep appropriate evidence of the use of medical equipment for its optimal allocation within the healthcare system and public procurement planning;
- 6) consider the possibility of tendering procurement of both equipment and consumable medical material in order to prevent monopolies on the procurement of related medical material.

# Serbia

*State Audit Institution*

## Efficiency and economy of the negotiated procedure without invitation to bid

*Audit Team:*

**Svetlana Toma Anokić**, Supreme State Auditor, Head of Sector

**Nada Tošić**, Senior advisor

**Goran Mandić**, Senior advisor

*Members of Audit Team in Performance audit sector in Serbia:*

**Goranka Jovanović**, State Auditor

**Goran Čabarkapa**, Senior advisor

**Svetlana Milanović Vrcelj**, Senior advisor

## Introduction

A negotiated procedure is a procedure in which a contracting authority directly negotiates with one or more bidders about the elements of a public procurement contract.

In 2015, a total of 105 million euro was allocated for public procurement by negotiated procedure in Serbia. By selecting this least competitive procedure, without prior adequate analysis of the market and costs related to the subject of the public procurement, or adequate supervision, contracting authorities do not always apply the optimal solution from the point of view of the required price/quality ratio. By favouring a certain bidder, contracting authorities do not ensure competitiveness, which is a precondition for complying with the “value for money” principle and budget savings. Accordingly they violate the basic principles of the Public Procurement Law, for example competitiveness, equality of bidders and cost-effectiveness.

## What did we audit? What were our audit scope and objectives?

The objective of this audit was to find out whether contracting authorities ensure efficiency and economy of public procurement in negotiated procedures. In order to fulfil the objective, our audit questions covered the full procurement procedure cycle from planning and conducting it, to controlling and evaluating the results of public procurement processes.

In 2015, out of the total number of contracts awarded by negotiated procedure without invitation to bid, 97% were awarded after procedures conducted in line with three points (out of eight in total) of Article 36 of the public procurement law (PPL):

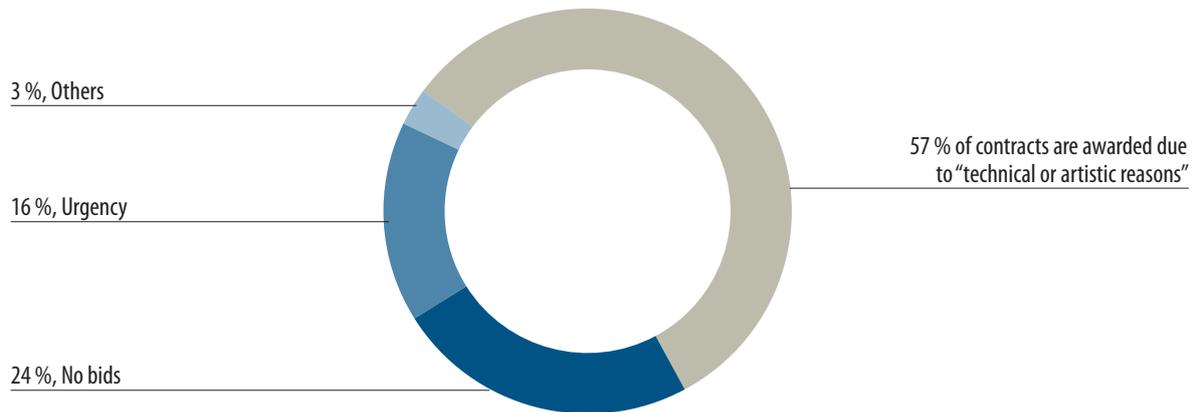
Article 36 of the PPL stipulates, among other things, that a contracting authority may conduct negotiated procedures without invitation to bid if the following occurs:	1) when in an open or restrictive procedure it did not get any bids or applications, or all bids received were inadequate;
	2) if, due to technical or artistic reasons relating to the subject of public procurement or for reasons connected with the protection of exclusive rights, procurement can only be performed by a certain bidder;
	3) if due to extreme urgency caused by extraordinary circumstances or unforeseen events, whose occurrence does not in any way depend on the will of the contracting authority.

According to the Public Procurement Office (PPO), the total of 2939 contracts in 2015 were awarded through negotiated procedures, with a total contracted value of 105 million euro. This is 3.6% of the total value of public procurements in Serbia.

The highest number of these contracts (a total of 1680 or 57%) were awarded due to “technical or artistic reasons” (as defined in the Article 36.1.2 above). The following chart shows the distribution of these contracts per reasons:



**Chart 1: More than half of the contracts were awarded in line with items of Article 36 due to technical or artistic reasons**



Data: Share of the contracts awarded in line with items of Article 36 of the PPL.

On the basis of the analyses and qualitative and quantitative criteria, the following auditees were selected for further analyses (all of which have to comply with public procurement law):

- 1) Clinical Center of Serbia (CCS);
- 2) Town Agency for Transportation d.o.o. Kragujevac (TAT);
- 3) Public Enterprise "Srbijašume";
- 4) Public Utility Company "Infostan tehnologije";
- 5) Health-care Institution "Pharmacy Loznica".

## What did we find?

Our main observations are the following:

**1) Market research is conducted inadequately, results are not documented and there is no consideration of life cycle cost:** In order to be able to successfully conduct procurement, it is necessary to do a comprehensive analysis. This implies identifying the interest and availability of suppliers, contractors or service providers, their technical capacities, financial capacities and pricing. In our audit we emphasised market research but we also analysed whether public procurement was subject to life cycle cost analysis.

All auditees state that they do some basic market research (via internet or based on past experience). More sophisticated approaches (e.g. surveys or questionnaires) are rarely or never used.

For example the representative of the Pharmacy Loznica states that they always analyse data on bidders from previous periods and they evaluate bidders. Previous bidders are evaluated on the basis of four conditions (commercial area, quality, delivery time limit, stock). The representative of the TAT Kragujevac stated that they do market research by visits on the ground for the procurement of transportation services.

However, some enterprises complain that the Serbian market is underdeveloped, with only a few potential bidders. For example in public enterprise “Srbijašume” even if there was a higher number of bidders in the market for certain types of procurement (procurement of tools and machinery) the invitation was sent to only one bidder in the local market. Knowledge of the market from previous years was not used to increase the number of potential bidders.

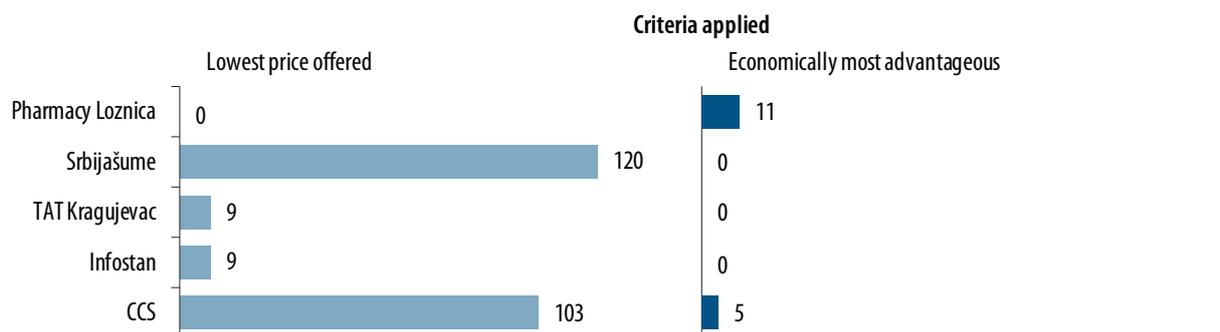
Market research, part of the planning stage, is a comprehensive process which needs to be documented. Internal review of market research results should provide information that may save effort in the future. Even though the auditees claim that they did some market research in 2015, they failed to produce any proof of the market research results.

Life cycle cost assessment is particularly important for procurement subjects used for a longer period of time. However, through interviews and documentation analysis, we found that the auditees did not dedicate sufficient attention to life cycle cost.

**2) Not everything is done to ensure the best price/quality ratio:** One of the objectives of this audit was to determine whether contracting authorities took adequate measures to achieve the best price/quality ratio. More specifically, we wanted to know whether price was the only awarding criterion and whether the contracting authority efficiently ensured value for money through negotiation with one or more bidders.

The PPL stipulates two types of criteria for evaluation of bids: (i) the lowest price or (ii) economically most advantageous bid (EMAB). Elements of EMAB can include discount to the price list, date of delivery, qualitative aspects, environmental advantages, after-sales service or warranty period. These elements must be weighted.

**Graph 1: Procurement is mostly done based on lowest price**



It can be seen from Table 1 that 94% of the total number of contracts the auditees awarded by negotiated procedure in 2015 applied the criterion of the lowest price offered. Several exceptions (16 contracts) are contracts awarded by the CCS (5 contracts) and Pharmacy Loznica (11 contracts) which applied the criterion of the economically most advantageous bid.

The Public Procurement Office published a guideline on how to use the EMAB method, to encourage companies to use it more.

Competition is key to achieving a good price/quality ratio. Auditees ensured this by sending the invitations to several addresses. However, in most cases (85%), only one bid was received. In these kinds of situations, the probability of getting best value for money is not high.

A price/quality ratio can also be improved by negotiation. A precondition for efficient negotiation is the presence of bidders. However, we found that a significant number of contracts were awarded upon the initial bid, because bidders failed to attend the negotiation. The auditees awarded 21% of contracts in the negotiated procedure to the initial bid, which was accepted without negotiation.

In the course of the audit we found that the presence of more bidders during the negotiations gave better results. For instance, Pharmacy Loznica managed to reduce the price when several bidders participated in the negotiations. Better prices were obtained when four bidders were present, compared to the price obtained where there were three (around one percentage less).

**3) Effective coordination was not established between the auditees and the competent authorities, nor was full control and evaluation of the procedure:** Efficient coordination implies timely decision-making by all participants in the procedure so as to conduct the negotiated procedure in an efficient fashion. The auditees sometimes conducted the negotiated procedure without a positive opinion of the PPO.

Out of five auditees, only TAT Kragujevac had harmonised data with the PPO's data. The data on the values of the contracts awarded after the negotiated procedures (submitted to us by the PPO) are understated by 150 000 euro compared to the data the auditees submitted to us.

One of the audit objectives was to establish whether controls were implemented continuously and systematically, and whether their efficacy was assessed. We found that two of the five auditees did not regulate the public procurement control by an internal enactment, that is they did not nominate a person to perform the control or the manner of the control. Although compliance controls were sometimes performed, this was not performed on a continuous and systematic basis. If controls were sometimes done, they were compliance controls. None of the auditees reviewed the effectiveness, efficiency and economy of the conducted negotiated procedures.

Furthermore, the evaluation of the overall cycle of negotiated procedures does not work effectively. The contracting authorities did not prepare the necessary documentation fully, and the PPO repeatedly requested supplementary information in almost 30% of cases.

## What can we conclude?

Based on the analysis of data, documentation submitted by the auditees and 32 interviews, we have drawn the following conclusions:

*1. Auditees, before initiating negotiated procedures without an invitation to bid, partially do market research, but never document the research results or consider life cycle costs.*



Although they claimed to conduct market research, only one of the five auditees reviewed (who concluded 257 contracts in 2015 after implementing negotiated procedures) had evidence that any such analysis had been conducted. Furthermore, auditees do not conduct analysis of life cycle costs (procurement cost, usage and maintenance costs), which is largely due to the lack of procedures and good practice. Therefore, there is a risk that public procurement conducted in the negotiated procedure will be uneconomical and inefficient.

*2. Auditees do not fully undertake appropriate measures to reach the best price/quality ratio.*

Our analysis shows that 94% of the contracts were awarded according to the criterion of the lowest price offered, and 6% of the contracts were awarded according to the criterion of the “economically most advantageous bid” (EMAB). And even with EMAB, the greatest importance is given to the price, and considerably less to other qualitative elements of the criteria. Therefore, there is a risk that insufficient consideration of contract award criteria and inadequate negotiation means that the best price/quality ratio is not always ensured.

*3. Insufficiently effective coordination by the auditees with the competent authorities, incomplete control, and inefficient evaluation, result in the application of the negotiated procedure as the least competitive procedure.*

This results in a lack of harmonization of the data of the auditees and the Public Procurement Office on the negotiated procedures conducted. Ineffective coordination is also indicated by the fact that certain negotiated procedures were conducted contrary to the PPO’s opinion on the justification for applying this procedure. The auditees do not have fully established objectives for these procedures or systematic control of all stages of the procedure. No auditee assesses the appropriateness or performance of these procedures. Also, public procurement is not evaluated consistently and systematically, in order to improve future procedures and procurement planning, which is why there is a risk of inefficient future planning. This increases the risk that the negotiated procedure without invitation to bid is not efficient and economic.

## What do we recommend?

Following this audit, the State Audit Institution provides the following recommendations to auditees. They should:

- 1) Before initiating a negotiated procedure without invitation to bid, fully conduct market research, consider the life cycle costs of the public procurement subject and document all of the aforesaid;
- 2) Consider in detail the criteria for awarding the contract, and the parameters to be negotiated, in order to fully secure the best price/quality ratio;
- 3) Conduct and document control of all the stages of the negotiated procedure without invitation to bid and the soundness of the public procurement.



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This synthesis report, published under the auspices of the Joint Working Group on Audit Activities (JWGAA), is the outcome of a parallel performance audit conducted by six supreme audit institutions (SAIs) in the Western Balkans.

The synthesis report includes the key findings and observations, as well as the main conclusions of the national audit reports on the topic of public procurement from the six participating SAIs.

In short, public procurement in the Western Balkan region is characterized by deficiencies in planning and tender preparation, and inefficient follow-up and monitoring. Changes in these areas would have a positive effect on public procurement and lead to improvements in many public sector functions. If executed on a fair and transparent basis, public procurement can also be an important engine for economic life of private businesses and employment.