



2018

MONITORING OF PUBLIC PROCUREMENTS

Report no. 31
(July – December 2018)

Skopje, March 2019



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KEY FINDINGS

- » Monitoring activities observed frequent practices on non-dividing tender procedures of large scope into lots, which prevents competition among companies and consequently brings under question cost-effective and efficient use of public funds.
- » Competition in public procurements in the second half of 2018 is marked by deterioration compared to the first half of the year. At annual level, as many as 32% of monitored tender procedures were presented with only one bid, which is indicative of declining competition in public procurements.
- » Use of non-transparent negotiation procedure without prior announcement of call for bids has increased. In 2018, a total of 596 contracts were signed without previous announcement of call for bids, in cumulative value of 33 million euros, representing an increase by 4 million euros compared to 2017. Dominant reason indicated for use of this non-transparent procedure concerns “urgent needs”.
- » The number of annulled tender procedures continues to increase. In 2018, 27% of all public procurement procedures were fully or partially annulled, representing an increase by 3 percentile points compared to the previous year.
- » Monitoring of local tender procedures shows that implementation of public procurements is still characterized by same problems that have been noted for years in a row: low competition, high number of tender procedures presented with one bid, high share of annulled tender procedures and perpetuation of poor practices from the past.
- » In 2018, companies lodged a total of 695 appeals before the State Commission on Public Procurement Appeals, representing an increase by 37% compared to the previous year.
- » The most recent survey conducted among companies shows that:
 - The most frequent problem faced by companies in public procurements implies use of “lowest price” as single criterion;
 - Late payment for contract performance has dropped from second ranked problem last year to eight ranked under this survey, although the average waiting time for collection of receivables is calculated in duration of 6 months and 12 days;
 - 48% of companies believe that corruption is “always” or “often” present in public procurements;
 - Average score assigned by companies to the public procurement process in the county is calculated at 2.87, implying insignificant increase compared to last year when it was 2.85.

GOALS AND METHODOLOGY

The Center for Civil Communication (CCC) regularly monitors and analyses implementation of public procurements in the country since 2008, i.e. when the Law on Public Procurements drafted in compliance with the European Commission's Directives entered in effect. The overall purpose of this endeavour is to assess whether to what extent do state institutions comply with underlying principles in public spending stipulated in the law, as follows: competition, equal treatment and non-discrimination of companies; transparency and integrity in implementation of public procurements, as well as cost-effective and efficient public spending.

Subject of CCC's monitoring activities are procedures organized and implemented by all state institutions in the country, both at central and local level of government. Selection of the monitoring sample is made upon publication of public procurements in the Electronic Public Procurement System and the "Official Gazette of the Republic of North Macedonia".

Monitoring activities include collection of primary and secondary data by means of attendance by CCC monitors at public opening of bids, discussions with bidding companies, browsing and researching data available in EPPS, browsing information on appeals lodged and decisions taken by the State Commission on Public Procurement Appeals available on its official website, as well as submission of information requests under the instrument for free access to public information in respect to information that are not otherwise available. Questionnaires and other templates used as part of this monitoring are structured in such manner that facilitates the most effective method to monitor implementation of public procurements in terms of their compliance with relevant legislation in effect and the fundamental principles that govern public procurements.

Implementation of public procurements is analysed on the basis of all information and dataset obtained, previously structured and inputted in specially designed matrix and compared against indicators on compliance with above-enlisted principles and efforts to obtain the most favourable bid, including accountability for funds spent.

Data analysis provides basis for development of reports that outline key findings from monitoring and analysis of public procurements, as well as recommendations to address problems and weaknesses identified in the system of public procurements and detailed elaboration of observed state-of-affairs.

This report is developed for the monitoring sample comprised of 60 public procurement procedures implemented by central and local institutions in the period 1st July - 31st December 2018.

* * *

The Center for Civil Communications (CCC) was established in April 2005 as non-governmental, non-profit and non-partisan association of citizens.

It monitors, analyses and strengthens societal processes in the country and the region in the field of anticorruption and good governance, media and economic development.

Thus far, CCC focuses its work on two groups of interrelated activities, as follows: (1) monitoring of state institutions and recommending measures and policies aimed to promote their performance and to narrow space for corruptive practices; and (2) capacity building for journalists and special role played by the media and non-governmental organizations in fight against corruption.

In that regard, thus far CCC has developed and proposed several hundred specific recommendations for measures aimed to promote legislation and practices in order to ensure more transparent, accountable and responsible operation on the part of central and local authorities, has trained more than five hundred journalists from national and local media outlets and civil society representatives, and has published more than hundred analyses, research studies and manuals.

ANALYSIS OF MONITORED PUBLIC PROCUREMENTS AT CENTRAL LEVEL

» *Monitoring activities observed frequent practices on non-dividing tender procedures of large scope into lots, which prevents competition among companies and consequently brings under question cost-effective and efficient use of public funds. Contrary to these practices, organization of tender procedure into several lots has gained in frequency among public procurements of smaller scope and value.*

Implementation of tender procedures that are not divided into lots, either according to procurement subject or territorial coverage/distribution, allows contracting authorities to define high eligibility criteria for tender participation that could be fulfilled only by small number of companies. Hence, tender procedures including this type of eligibility requirements are often marked by participation of one company and even when contracting authorities are presented with bids from two companies it seems that, according to some unwritten rule, the second company faces problems in terms of demonstrating its ability and capacity.

This conclusion is valid for several tender procedures that were subject of monitoring in this period. The most formidable among them is the tender procedure organized for procurement of bitumen 50/70, in the value of 5.4 million euros. Among others, bidding companies were required to demonstrate revenue generated in the last three years from performance of same procurements (bitumen) in total value of 4 million euros. This tender procedure was presented with two bids. The first bid was rejected on the grounds that the company demonstrated revenue higher than the requested amount, but not generated from trade in bitumen. Moreover, eligibility of this bidding company was challenged also in regard to fulfilment of technical specifications related to the certificate that the bitumen complies with the standard EN 12591:20012 or equivalent. Here, it should be noted that relevant records in the Electronic Public Procurement show that the bidding company whose certificate was challenged in this tender procedure has been awarded a procurement contract under another tender procedure that also required compliance certificate for the bitumen according to the standard EN 12591:20012 or equivalent.

Nevertheless, in the monitored tender procedure, after this company was excluded from bid-evaluation, the procurement contract was awarded to the other bidding company, which was assessed to have fulfilled all tender requirements. Otherwise, it is a matter of company that has been awarded contracts on procurement of bitumen for fourth consecutive years. The only difference observed in the monitored tender procedure concerns increased quantity

and value of the procurement contract. In that, the quantity was increased by 45%, while the value was increased by 78% compared to the contract signed in the previous year. Based on the above elaborated, it is evident that indivisibility of this tender procedure served as factor for limiting competition and raises the question why this procurement was not divided into lots according to geographical regions or branch offices of the public enterprise, as the principle which the same contracting authority applies in other public procurements.

Procurement indivisibility was one of key problems in the annulled tender procedure for tests and reagents for biochemical, immunology, haematology, coagulation and gas analyses and implied free use of relevant equipment (laboratory analysers) for the needs of public health institutions in the country, in the value of 36 million euros, VAT excluded. On the account of its scope, this tender procedure caused major interest in the public, was appealed by interested companies and was finally annulled by the State Commission on Public Procurement Appeals (SCPPA) on the grounds of its indivisibility. The first three appeals lodged before SCPPA were motioned after receipt of relevant minutes from the technical dialogue conducted whereby pharmaceutical companies claimed that, during the technical dialogue, they have presented proposals that were not accepted, resulting in development of tender documents that are in violation of the law and that limit competition. As part of the technical dialogue, interested companies proposed this procurement to be divided into lots according to type of analyses, including separate lots for laboratory IT system and transport of blood samples. SCPPA has assessed these appeals as ungrounded, indicating that the technical dialogue was conducted in compliance with the Law on Public Procurements. Acting in ex officio capacity pursuant to Article 211 of the Law on Public Procurements, SCPPA had not found any important law violation, in spite of the fact that Article 210, paragraph 1, item 3 of LPP stipulates that cases in which tender documents are not drafted in compliance with the law and have led or could have led to discrimination of economic operators or limitation of market competition amount to significant violation of the law. After these appeals were rejected as ungrounded, the tender procedure continued its implementation. After the public opening of bids, pharmaceutical companies lodged new appeals challenging tender documents and including allegations which, in essence, concerned same arguments as those enlisted in their previous appeals. This time around, however, SCPPA approved the appeal allegations and adopted decision to annul the tender procedure. In that, arguments presented in support to its decision for tender annulment included a citation of Article 210, paragraph 1, item 3 of the Law on Public Procurements. Such approach is indicative of non-adherent practices in decision-making by the State Commission on Public Procurement Appeals.

The group of tender procedures that limited competition due to their scope (indivisible procurement according to type of services or smaller time periods) include the procurement organized for consultative expert analyses and opinions for project design, construction and maintenance of state roads, expert consultations during preparations for development of

technical documents, revision of technical documents, f consultative expert opinions and analyses during works for construction, maintenance and rehabilitation of roads and objects along the roads and, when needed, performance of control tests related to geo-mechanical, asphalt laying and concrete laying works in duration of three years.

This tender procedure was indivisible although, according to relevant tender documents, it concerns three groups of services and covers a total of eight areas of works (roadbed, geo-technical works, concrete works and buildings, hydro-technical works, environmental works, geodesy works, traffic signalization, and equipment and electrics). It required services of 16 experts with relevant licenses in their respective fields, as well as evidence for disposal with or guaranteed access to five testing laboratories in the fields of: geotechnics, concrete, asphalt, geodesy and hydro-technics. The contracting authority was presented with only one bid from the Faculty of Civil Engineering at the University “Ss. Cyril and Methodius” in Skopje. All experts come from the ranks of teaching staff and the faculty provided evidence on disposing with required types of laboratories. The contract in the value of 940 thousand euros was signed with the single bidder.

This outcome raises two key questions. First, at times when all construction activities are accompanied by organization of tender procedures for development of project documents, tender procedures for performance of construction works and tender procedures for supervision of construction works, it is unclear why this type of services were considered necessary to be outsourced. Second, if state enterprises and institutions need this type of services the question is raised whether they should announce them in such scope and engage significant number of the team employed at the state university. Namely, an engagement of this scope raises the issue about primary activity of teaching staff: to educate students and advance science or to provide consultative services, especially having in mind that they are already remunerated by the state to performing the first activity.

The list of monitored tender procedures that should have made due consideration of dividing their procurement subjects into lots includes a procedure organized for construction, construction-craftsman, craftsman, installation and other services for ongoing and investment maintenance of residential and business premises and other buildings managed by the contracting authority. This procurement procedure was estimated in the value of 580 thousand euros and was intended for the needs of 12 branch offices and 6 types of services, as follows: 1) earthworks, brickworks, concrete and reinforced concrete works; 2) carpentry, flooring, glassing, ceramic works and tiling, wall painting and insulation works; 3) tinsmith works, roofing and locksmith works; 4) water supply, sewage and bath accessories; 5) electrical works; and 6) district heating installations and repairs. Concentration of this type of procurements prevents greater participation on the part of small companies and favours bigger companies, especially in areas of works that are more common for small businesses. Depending on the market situation, this tender procedure could have been divided into pro-

curement lots at the level of different types of services/works.

Indivisibility of these tender procedures comes into prominence when reconsidered against the long-standing trend for division of tender procedures into lots, especially among those of lower value. Below we elaborate several examples from the monitoring sample.

The procurement procedure organized for work uniforms and shoes in total value of around 5 thousand euros, VAT excluded, was divided into three lots, as follows: work clogs, work uniforms, and shoes, intended for staff performing technical activities. In that, one company bid for only one lot and another submitted bids for all three lots. After organization of electronic auction, the lot for work uniforms was awarded to one company, while the second and the third lot were awarded to the other company.

Furthermore, the procurement procedure organized for tonner and magnetic media in estimated value of 81 thousand euros, VAT excluded, was divided into three lots (procurement of tonner, procurement of original OEM tonners, and procurement of magnetic media). Six companies participated in this tender procedure, two of which bid for all three lots, and four companies bid for only one lot each. The contracts for the three procurement lots were signed with two companies (one of them was awarded contracts for two lots).

Division of tender procedures according to territorial coverage was observed in the monitored procurement procedure organized for wood (metering stations in Shtip and Pozarane). Two contracts were signed with two different companies in total value of 7 thousand euros.

The procurement procedure for foodstuff (rice and beans) was also divided into lots, which allowed the contracting authority insight into individual prices and resulted in decision to award the procurement contract for rice, but annul the lot for procurement of beans on the grounds that the bid received was more unfavourable than actual market prices (procurement of 10,000 kilograms of beans for 18 thousand euros).

It seems that, although obliged by the law, some employees responsible for public procurements demonstrate greater interest in value and quality of what is being procured than others, which inevitably has demotivation effect and creates unfavourable ambiance for organization and implementation of tender procedures.

Recommendation: Division of public procurements into lots should be viewed as mechanism for stimulating greater competition and as guarantee that procurement procedures obtain the best bids. Actually, it is not by accident that division of tender procedures into lots is also envisaged under new EU Directives, and thereby in the new Law on Public Procurements.

» *Competition in public procurements in the second half of 2018 is marked by deterioration*

compared to the first half of the year. At annual level, as many as 32% of monitored tender procedures were presented with only one bid, which is indicative of declining competition in public procurements. In 2018, the average number of bidding companies per tender procedure is 3.02 compared to 3.33 in 2017.

In the second half of 2018, satisfactory level of competition in public procurements (3 or more bidders) was observed in 48% of monitored tender procedures and is at the same level with the competition level observed last year. However, the share of tender procedures presented with only one bid has increased to 37% and is the highest share observed in the last five years.

Competition in tender procedures, on semi-annual level*

Period	No bidders	1 bidder	2 bidders	3 and more bidders
July-December 2014	2%	30%	20%	48%
July-December 2015	2%	26%	20%	52%
July-December 2016	4%	22%	16%	58%
July-December 2017	8%	17%	28%	47%
July-December 2018	2%	37%	14%	47%

**Calculations are based on monitoring samples for the relevant periods.*

Analysed at annual level, almost every third tender procedure in the monitoring sample was presented with only one bid. Given the high share of tender procedures presented with one bid (32%), it can be concluded that the situation observed in 2018 has significantly deteriorated compared to 2017 when the share of these tender procedures accounted for 21%.

Competition in tender procedures, on annual level*

Year	No bidders	1 bidder	2 bidders	3 and more bidders
2014	3%	29%	15%	52%
2015	3%	26%	20%	51%
2016	4%	31%	17%	48%
2017	6%	21%	25%	48%
2018	5%	32%	15%	48%

**Calculations are based on monitoring samples for the relevant periods.*

This situation is especially worrying because low competition is considered one of the main indicators for serious weaknesses in the system of public procurements. Namely, low competition could be a result of different factors, most dominant among them being tender documents and technical specifications that limit competition and non-adherent application of the principle of non-discrimination and equal treatment.

Most prominent examples of discriminating eligibility criteria for tender participation include the monitored procurement procedures for reconstruction of amphitheatre and promotion of accreditation system, as well as procurement of software on interconnecting institutions.

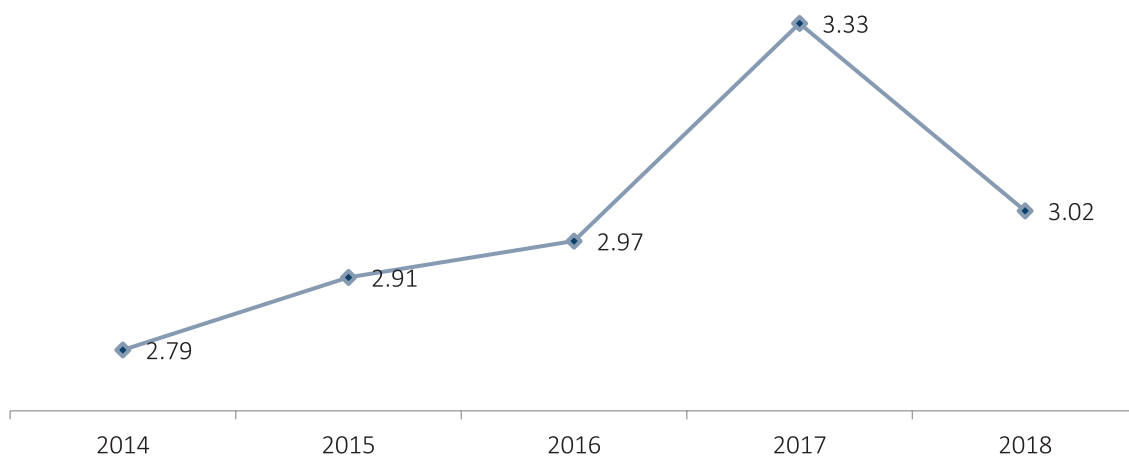
The tender procedure organized for reconstruction of amphitheatre was estimated in the value of 9,756 euros (VAT excluded) and required bidding companies to demonstrate minimum revenue for the last three years in the amount of at least 488 thousand euros, minimum 5 full-time employees and 1 civil engineer with certificate for building construction.

Definition of disproportionally high eligibility criteria related to economic and financial performance of companies is best represented by the fact that new EU Directives and the new Law on Public Procurements, which will enter into effect on 1st April this year, both stipulate that bidding companies cannot be required to demonstrate twice as high revenue compared to the procurement's value. The analysed tender procedure required revenue that is 50 times higher than procurement's estimated value. Hence, as it could have been expected, the tender procedure for reconstruction of amphitheatre was presented with one bid and the contract was signed with this bidder in the maximum amount, i.e. estimated value, given that there were no conditions for organization of electronic auction.

Another tender procedure for procurement of services related to promotion of accreditation system in estimated value of 13 thousand euros (VAT excluded) required companies to demonstrate annual turnover that is 17.5 times higher, i.e. around 228 thousand euros. At the same time, concerns are raised with the fact that public opening of bids was planned for 26th October, while the tender documents indicated that all hardcopy materials required under the tender procedure should be developed and delivered by 26th November 2018 the latest. In that, procurement obligations for the contractor included rent of hall with adequate equipment for organization of conference event, design of event logo, presentations, certificates, folders, newsletter, banner, development and printing of 3 thematic brochures, etc. This tender procedure was presented with one bid. The contract was signed with the single bidder on 6th November. Hence, in addition to definition of high eligibility criteria for tender participation, the question is raised about quality of promotional materials for an event with 200 participants and organization of design and printing of different materials within a period of only 13 working days.

Aside from the fact that one of the two bidding companies lodged an appeal to SCPPA alleging that tender specifications are favouring the other bidder, the monitored tender procedure for procurement of software on interconnecting institutions required companies to demonstrate positive financial balance in the last three years. This eligibility criterion related to companies' ability and capacity cannot be directly linked to quality performance of the contract. Hence, it does not come as surprise that, the number of bidding companies per tender procedure in 2018 calculated on the basis of the monitoring sample accounts for 3.02 and is lower compared to 2017 when it stood at 3.33 bidders per tender procedure.

Average number of bidding companies per tender procedure*



**For the year 2018 the calculation is based on monitored tender procedures. In the previous years, the calculation was based on data from annual reports published by the Bureau of Public Procurements.*

Analysed in terms of sectors, high competition is observed in tender procedures for procurement of computer equipment, construction works, office supplies, printing services, food-stuff, etc. Unlike these competitive sectors, significant portion of tender procedures were marked by very small number of bidding companies, which prevents organization of planned electronic auctions. Lack of competition brings under question cost-effective and efficient public spending, especially in systems like the one in our country where electronic auctions are mandatory. Namely, in the second half of 2018, although mandatory, electronic auctions were not organized in as many as 42% of tender procedures, which is indicative of serious risk for contracts signed under these procedures to include prices higher than market prices. At annual level, electronic auctions were not organized in 33% of procurement procedures.

Recommendation: Tender documents and technical specifications should stimulate competition, instead of being abused to favour certain companies. Proper enforcement of new competences assigned to the Bureau of Public Procurements and related to supervision and control over the entire process of public procurements in order to prevent improper and illegal public spending, ensure implementation of public procurements in compliance with the Law on Public Procurements and performance of public procurements according to contracts signed, could have significant role in creation of ambiance that encourages representatives of the business community to be more active on the market of public procurements.

- » ***Use of non-transparent negotiation procedure without prior announcement of call for bids has increased. In 2018, a total of 596 contracts were signed without previous announcement of call for bids, in cumulative value of 33 million euros, representing an increase by 4 million euros compared to 2017. Dominant reason indicated for use of this non-transparent procedure concerns “urgent needs”, which is indicative of poor planning and management of public procurements. Around 20 million euros or almost 60% of the total value of these contracts were awarded by only three institutions, those being: Ministry of Education and Science, JSC Power Plants of Macedonia (ELEM) and Public Enterprise for State Roads.***

The number and value of public procurement contracts awarded under negotiation procedures without previously announced call for bids have increased in 2018 compared to the last year. In that, the number of these contracts (596) has increased by 20% compared to 2017, while their total value of 33 million euros is by 14% higher compared to

2017. Nevertheless, having in mind the drop in total value of public procurements organized in 2017, the share of non-transparent procedures in the total value of public procurements has increased from 3.6% in 2016 to 4.6% in 2017. As was the case in 2017, at the level of individual institutions the highest amount of funds disbursed under these non-transparent procedure is observed with the Ministry of Education and Science (7.5 million euros), which has signed direct contract for purchase of textbooks. Second on this list is JSC ELEM, which has signed 25 contracts in total value of 6.9 million euros, while the Public Enterprise for State Roads is on third place with 17 contracts in total value of 5.1 million euros.

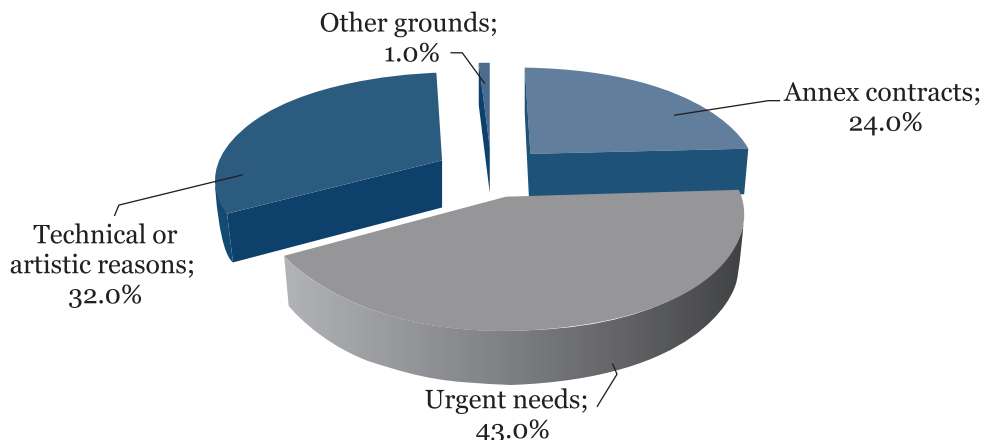
Overview of the value of contracts signed under negotiation procedure without prior announcement of call for bids, per year

Year	Number of contracts signed	Value of contracts signed (in million euros)	Change in annual value
2013	1,491	97	+34%
2014	834	56	-42%
2015	951	29	-49%
2016	605	35	+20%
2017	496	29	-17%
2018	596	33	+14%

Most dominant reasons indicated for use of this procurement procedure include “urgent needs”, followed by “exclusive rights” for particular goods or services held by certain companies, and “annex contracts”.

The value of contracts signed on the grounds of “urgent needs” amounts to around 14 million euros, those signed due to “exclusive rights” account for 10.7 million euros, while annex contracts were signed in total value of 8.2 million euros.

Overview of contracts awarded under negotiation procedure without prior announcement of call for bids (January – December 2018)



Recommendation: An obligation should be introduced for the Bureau of Public Procurements to develop and publish, at least on annual level, analysis of contracts awarded under negotiation procedure without prior announcement of call for bids, including the names of economic operators that were awarded such contracts. This is deemed necessary in the light of the fact that, according to the new Law on Public Procurements, BPP will issue opinions about this type of public procurements prior to contract awarding.

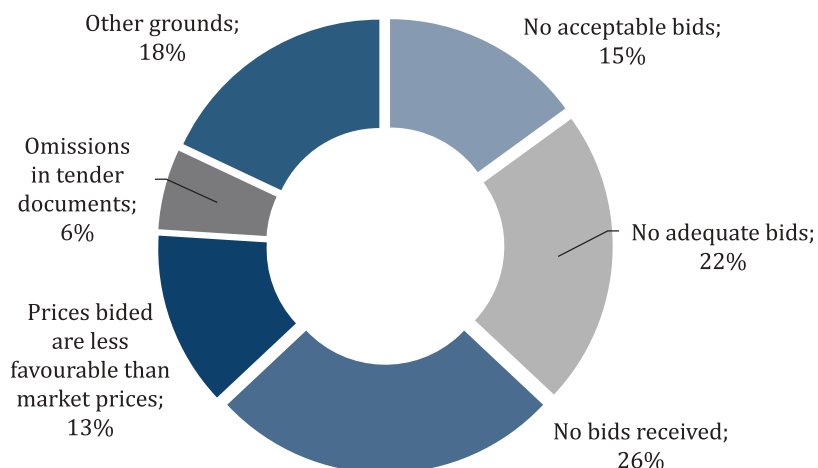
- » *The number of annulled tender procedures continues to increase. In 2018, 27% of all public procurement procedures were fully or partially annulled, representing an increase by 3 percentile points compared to the previous year.*

For the entire 2018, a total of 5,883 tender procedures were fully or partially annulled, representing a share of 27% in total number of procurement notices announced. In that, 3,126 tender procedures were annulled in the second half and 2,707 were annulled in the first of the year.

Overview of annulled tender procedures, per year

Year	Number of procurement notices	Number of decisions on tender annulment	Share of annulled tender procedures
2013	18,787	3,478	19%
2014	15,746	3,625	23%
2015	18,469	3,673	20%
2016	18,444	4,230	23%
2017	17,227	4,210	24%
2018	21,406	5,833	27%

Analysed in terms of reasons indicated for inability to complete tender procedures with contract signing, it seems that every fourth annulled tender procedure or part thereof was not presented with any bids (26%). Other more frequently indicated reasons include the fact that submitted bids are inadequate (22%) meaning that their value exceeds the procurement's estimated value, and the fact that no acceptable bids were received (15%) meaning that bids did not fulfil conditions defined in relevant tender documents.

Overview of reasons indicated for tender annulments in 2018*

*The overview of reasons indicated for tender annulments is based on data from notifications on tender annulments submitted to EPPS for public procurements organized in 2018.

The monitoring sample included tender procedures that were annulled on different grounds, ranging from assessments that tender documents contain significant omissions or shortcomings, bids received are incomparable or unacceptable, to tender procedures annulled by the State Commission on Public Procurement Appeals.

A specific example from the monitoring sample concerns the tender procedure organized for procurement of machines for maintenance and cleaning of riverbeds and irrigation/drainage systems in estimated value of around 1.2 million euros, VAT excluded. Namely, this tender procedure was annulled on the grounds of contracting authority's unforeseen and objective change of circumstances and needs. The annulment decision does include any specific information about changed needs at this public enterprise. Therefore, having in mind that the tender procedure lasted for more than 6 months, starting with technical dialogue for tender documents and ending with electronic auction, serious doubts are raised in terms of this tender procedure as a whole and reasons indicated for annulment thereof.

Recommendation: Indicators used by the Bureau of Public Procurements to perform control over implementation of public procurements should include tender annulment as possible risk for tender rigging and method to avoid awarding contracts to non-favoured companies, irrespective of the fact that the company in question submitted the best bid. At the same time, the Bureau of Public Procurements is recommended to develop and publish annual analysis of annulled tender procedures. Findings from these analyses would serve as baseline for implementation of specific measures by the Bureau of Public Procurements and for improving systemic solutions in public procurements.

» ***Use of bank guarantees for bids is increasing, while use of bank guarantees for quality performance of contracts is decreasing.***

In the second half of 2018, bank guarantees for bids were requested in 22.5% of monitored tender procedures, while bank guarantees for quality performance of contracts were requested in 65% of them.

At annual level, bank guarantees for bids were requested in 17% of monitored public procurements, representing an increase by 10 percentile points compared to 2017. On the contrary, bank guarantees for quality performance of contracts were requested in 52% of monitored tender procedures in 2018, representing a decrease by 8 percentile points compared to the previous year. This trend is unfavourable given the fact bank guarantees for bids imply financial burden for potential bidding companies, while bank guarantee for quality performance of contracts could be viewed as safeguard measures for institutions and, therefore, for public funds, against low quality performance of contracts.

Recommendation: In the future, contracting authorities should refrain from requesting bidding companies to provide bank guarantees for their bids, and instead use the statement of serious intent. As regards bank guarantees for quality performance of contracts, they should be requested only when value and nature of concerned procurements require such guarantee, in order to avoid the risk of turning them into financial barrier for bidding companies.

- » *The number of negative references issued in the second half of 2018 was 41 and is twice as high compared to the same period last year when only 20 negative references were issued.*

Most negative references or 66% of them were issued to companies in the course of contract performance and after collection of bank guarantees for quality performance of contracts. Second in frequency are negative references (15%) issued in cases when selected bidding companies did not provide relevant documents in order to demonstrate their legal status. Other reasons, accounting for shares of 9.5% each, concern cases in which bidding companies declined to sign public procurement contracts and when bidding companies did not provide bank guarantees for quality performance of contracts as anticipated in relevant tender documents.

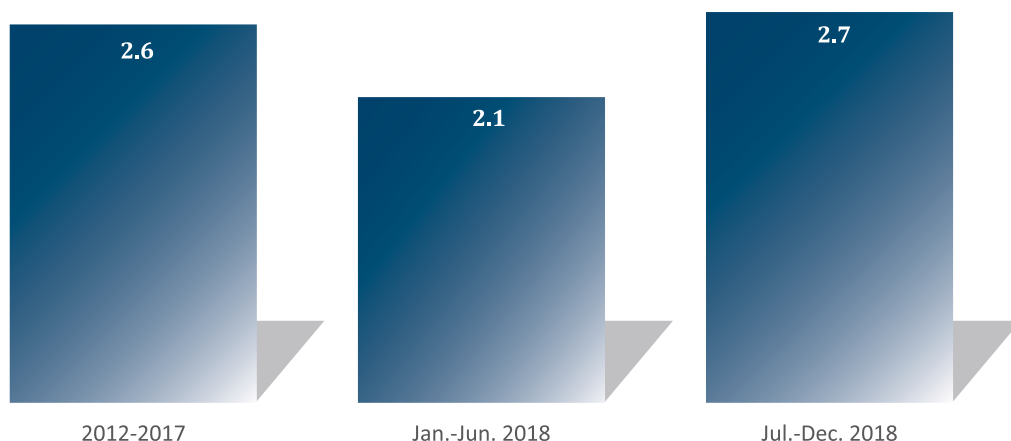
Recommendation: The law-stipulated possibility for institutions to issue negative references, i.e. to prohibit companies from participation in all tender procedures in the country, is not in compliance with EU legal regulations. Nevertheless, issuance of negative references is allowed also under the new Law on Public Procurements, albeit with shorter period of sanctions. The business community should enhance its pressure for the law to exclude possibilities for negative references that prohibit participation in the overall market of public procurements, but to be applied only as concept for prohibited participation in tender procedures organized by the relevant contracting authority.

ANALYSIS OF MONITORED PUBLIC PROCUREMENTS AT LOCAL LEVEL

- » *Although marked by certain improvement compared to the first half of the year, implementation of public procurements by local institutions in the second half of 2018 is still characterized by same problems that have been noted for years in a row: low competition, high number of tender procedures presented with one bid, high share of annulled tender procedures and perpetuation of poor practices from the past. In particular, they include technical specifications that do not indicate required quantity of goods/services, brass mistakes on the part of contracting authorities in respect to legal provisions, exaggerated reduction of prices in the course of electronic auctions, as well as untimely or even failure to respond to information requests inquiring about tender procedures.*

In the second half of 2018, low competition in local tender procedures remains one of key problems. In average, tender procedures are marked by competition level of 2.7 bidding companies, which is higher compared to the previous six-month period (when it was 2.1 bidding companies per tender procedure and was the lowest competition level observed in the last several years), but is still within the five-year average of 2.6 bids per tender procedure.

Competition in monitored local tender procedures: average number of bidders per tender procedure

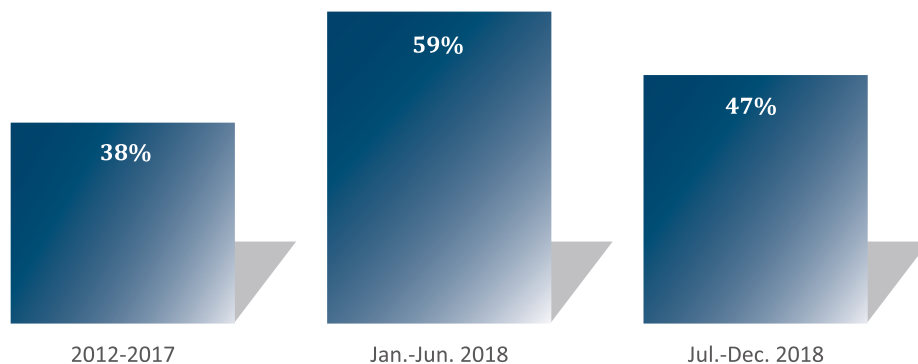


A number of factors contribute to low competition in local public procurements. Some of them, as indicated by companies, include “lowest price” used as single criterion for selection of the most favourable bid, mandatory organization of electronic actions that implies competition among companies participating in tender procedures in downward bidding from initial prices offered, “rigged” tender procedures and distrust they create among companies, irregular payment for contract performance that is exceptionally unfavourable for smaller companies, etc.

The monitoring sample of local tender procedures includes an example that is regularly observed in public procurements and concerns participation of one company even in cases of tender procedures organized for procurement of goods that are marked by high competition on the market. In the monitoring sample, tender procedures of this type included procurement of air-conditioners, foodstuffs, construction materials, office supplies, vehicles, fuel, etc.

47% of tender procedures, i.e. almost half of them, were presented with only one bid. This, most certainly, narrows the choice for contracting authorities, reduces possibilities to obtain better quality and excludes possibilities for attainment of lower prices, given that electronic auctions for downward bidding cannot be organized in tender procedures presented with only one bid. In such cases, the bidding company is asked to submit new, lower, so-called final price. Commonly, bidding companies decline this opportunity to submit lower prices or their final prices are only symbolically reduced. Examples were noted in which bidding companies reduced their prices to the level of procurement’s estimated value, although initially their prices were higher.

Competition in monitored local tender procedures: share of tender procedures presented with one bid or not presented with any bids



An example thereof is identified in the procedure for procurement of passenger vehicle organized by one municipality. Although the estimated value, i.e. funds disposed by the municipality for procurement of said vehicle, amounted to 35,700 euros, the contracting authority was presented with one bid, which was selected as the most favourable. In the light of the fact that only one bid was received, the electronic auction did not take place, but the bidding company submitted so-called final price that was reduced by 414 MKD, i.e. 6.7 EUR.

Eligibility criteria for companies to participate in this tender procedure included: operation without financial losses in the last three years, established cooperation with moto services and relevant experience from participation in public procurements in the last three years. Nevertheless, documents which companies had to present as evidence on fulfilment of the criterion related to previously established cooperation with moto services concerned submission of information about the distance of moto services from the contracting authority in kilometres.

The tender procedure organized by another municipality for procurement of 11 new air-conditioners, including servicing of existing air-conditioners, in spite of the fact that relevant tender documents did not define any eligibility criteria, was presented with one bid for procurement of new air-conditions and no bids for the lot related to servicing of existing air-conditioners. In this case, the municipality disclosed requested tender documents beyond the law-stipulated deadlines, thereby acting in violation of the Law on Free Access to Public Information.

One bid was submitted also in the tender procedure organized by local utility enterprise for procurement of construction materials, cement, iron, plasterboards, etc. Although it is a matter of common materials used in construction works, such as bags of cement, nails, steel reinforcing bars and meshes, pinewood timber, bricks and plasterboards, the contracting authority received only one bid. In this case, the problem could be identified in the fact that each of 31 product items described in technical specifications was not accompanied by requested quantities, whereby bidding companies were asked to bid unit prices.

Companies need and it represents good practice for contracting authorities to indicate required quantities so they could rationalize their price calculations. On the contrary, lack of knowledge about procurement quantities could result in companies offering rounded prices. Suspicions are raised that in cases like this companies rely on insider information from institutions about planned quantities which they take into consideration when developing their bids and which gives them comparative advantage before their competitors.

Contrary to procurements marked by participation of one bidding company, this monitoring sample also includes tender procedures presented with more bids, dominant share of which concerned procurement of small-scale construction works.

Mandatory organization of e-auctions has deferring effect, although it is envisaged as com-

petition among companies (that have fulfilled eligibility criteria for participation in tender procedures) in downward bidding, i.e. reduction of initially offered prices. Downward bidding at auctions starts from the lowest price offered.

While companies reduce their prices in the course of e-auctions, this monitoring sample included examples of excessive price reductions that bring under question performance of procurement contracts both in terms of quantity and quality of goods and services.

Numerous examples of such practices were noted in this monitoring sample, but the procurement procedure that is closest to daily consumption concerns the electronic auction for procurement of eggs organized by one municipality for the needs of local kindergarten. This tender procedure was comprised of 8 procurement lots, one of which for eggs. Except for procurement of eggs, all other lots were presented with only one bid. Hence, the electronic auction was organized for procurement of eggs. The starting price was 11,900 MKD for 1,700 eggs (i.e. 7 MKD per egg), and was reduced to 6,670 MKD, whereby the contractor would have to deliver one egg at the price of 3.9 MKD.

Another procurement procedure organized by kindergarten and related to accounting and financial services was presented with two bids. The electronic auction resulted in price reduction from 106,800 MKD to 70,488 MKD. In that, the kindergarten has allocated 156,000 MKD for this purpose. Ultimately, this procurement was annulled because the kindergarten believed that the price attained is more unfavourable than actual market prices. In response to the information request, documents disclosed by this institution did not include the bidding company's justification for offering such low price. Also, it should be noted that the kindergarten disclosed requested documents only after appeal was lodged before the Commission for Protection of the Right to Free Access to Public Information. Moreover, the repeated tender procedure was again presented with bids from same companies, the kindergarten set the estimated value in the same amount of 156,000 MKD, but the company that offered the lowest price in the first annulled procedure in the amount of 70,488 MKD now submitted a bid in the value of 80,334 MKD, which was accepted by the kindergarten, whereby the tender procedure was successfully completed and the contract was signed. Such practices raise the question about effectiveness of public procurement procedures, i.e. whether it was necessary to waste time and money for organization of new tender procedure, especially knowing that the second procedure did not achieve anything more significant compared to the first, annulled tender procedure.

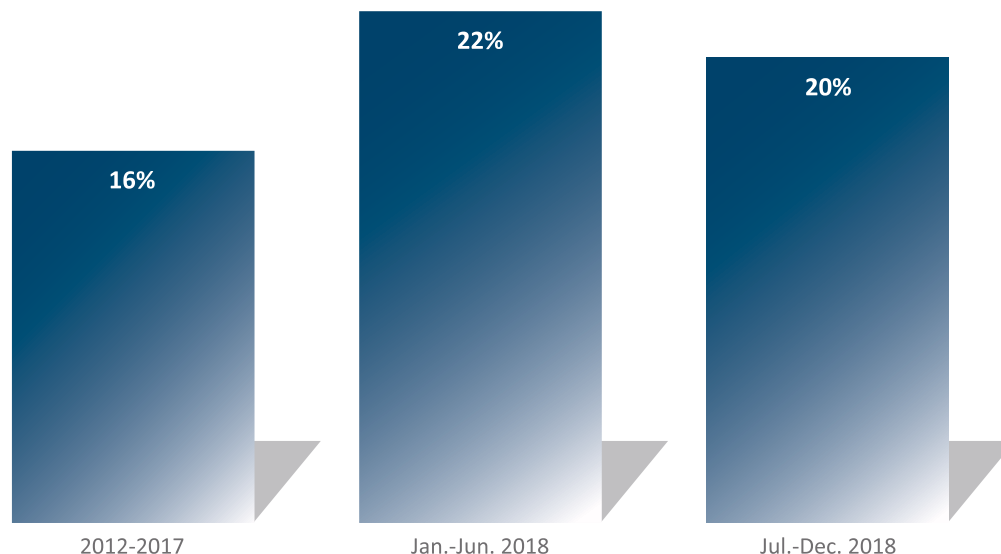
In a similar tender procedure organized for procurement of toner cartridges, starting price at the electronic auction was significantly reduced from 149,000 MKD to 79,000 MKD. Hence, for total amount of 79,000 MKD, the contractor has to deliver 262 toner cartridges which should be "original or compatible (non-repaired or manufacture ready)". For comparison purposes, the average price per toner cartridge obtained under this tender procedure amounts

to 301.5 MKD. Nevertheless, this was not a problem for the contracting authority (municipality), which did not question reality of the price offered and moved to sign the procurement contract.

Different practices applied by contracting authorities, i.e. different actions and behaviour they demonstrated in two similar cases, are a result of uneven level of integrity of persons responsible for public procurements. In these cases they are required to follow reasonable logics and act in the same manner they would if the procurement is organized for their households.

In the case of local tender procedures, the long-standing problem related to tender annulment is not only maintained, but is also marked by further deterioration. As many as 20% of monitored tender procedures were annulled, which is lower compared to the previous six-month period, but is still significantly higher than the five-year average. Reason indicated for annulment of half of tender procedures implied low prices, while the other half of tender procedures were not presented with any bids.

Share of annulled local tender procedures from the monitoring sample



The next example elaborated here concerns tender annulment and repetitive practices of contracting authorities, especially local institutions, that concern omissions that are in violation of the Law on Public Procurements. In particular, it is a matter of Skopje-based munic-

ipality that is experienced in organization and implementation of tender procedures in that range of up to 60 public procurements annually.

The example concerns the annulled procurement was organized for printing materials in estimated value of 400,000 MKD, including invitations, brochures, leaflets, calendars, diplomas, etc. The contracting authority received three bids in the range from 765,000 MKD to 1,941,500 MKD. At the electronic auction, the lowest price was insignificantly reduced to 762,705 MKD. Due to insufficient funds available for this procurement given that it was estimated in the amount of 400,000 MKD, the municipality annulled this tender procedure assessing that prices offered are real and reflect actual market prices, but it needs to secure additional funds to procure planned quantities and announce new tender procedure. Although commonly indicated reason for tender annulment in cases like this concerns “no adequate bids were received”, the municipality actually indicated that the reason for tender annulment concerned “unforeseen changes in the contracting authority’s budget”. This reason is indicated when such changes occur in the course of implementing the tender procedure and refer to expected reallocation of funds or budget adjustment. In addition, given that this is a matter of specific case, contracting authorities are recommended to document changes that have occurred in their respective budgets in relevant tender documents, which would facilitate verification of this fact in later stages. Due to the fact that the institution’s website is inaccessible, the monitoring team was unable to verify whether in the period of 19 days between tender annulment on 27th July and announcement of the new tender procedure on 14th August the contracting authority actually adopted a budget adjustment or has merely indicated inadequate and erroneous reason for the first annulled procedure.

The procurement procedure for heating wood for the needs of primary school in vicinity of Skopje is another example that should be analysed in this context. Namely, the procurement notice indicated quantity of 45m³ heating wood, while tender documents enlisted that it is matter of procurement of 50 m³ beech wood for heating. The repeated tender procedure, announced only ten days after the first procurement procedure, indicated that the procurement quantity is 30 m³ of same heating wood. No other details are available for this tender procedure because the contracting authority did not only fail to disclose relevant documents in response to the information request submitted under the instrument for free access to public information, but has also failed to publish law-mandated data in the Electronic Public Procurement System.

Finally, in regard to transparency of local institutions in this monitoring period, summary data show that 75 of them responded to and disclosed requested information within the law-stipulated deadline of 30 days (although some of them have purposefully or accidentally omitted some documents). 15% of institutions responded to relevant information requests only after appeal was lodged before the competent commission, while 10% of them have still not disclosed any information or documents several months after

relevant appeals were lodged. This represents further backslide compared to the previous period when cases in which institutions did not respond to information requests submitted under the instrument for free access to public information were extremely rare and far apart.

Recommendations: Based on the above presented analysis, summary recommendations for contracting authorities, but also for companies participating in local tender procedures, are as follows:

- Tender documents must indicate required/planned quantities of goods/services being purchased in order for companies to be able to rationalize quantities and submit better bids and to avoid illegal use of insider information from contracting authorities for that purpose;
- Although, pursuant to the new Law on Public Procurements that will enter in effect from 1st April 2019, organization of e-auctions is not mandatory, contracting authorities are urged to use this possibility for reduction of prices only in cases of standard goods with previously defined and predictable quality;
- Institutions must adherently enforce legal provisions on transparency and accountability in public procurements that have been further sharpened under the new law;
- Institutions must respond to submitted requests under the instrument for free access to public information within the law-stipulated deadline (which was shortened from 30 to 20 days under the new proposed law pending adoption in the Parliament), because in many cases disclosed documents are the only way to verify and inform the public about the manner in which public funds are spent;
- Staff members involved in public procurements, both at contracting authorities and companies, are required to improve their personal integrity, i.e. to make maximum efforts for public funds to be spent in rational, economic, efficient and effective manner, even in situations that are not anticipated or stipulated by law.

ANALYSIS OF PROCEDURES LED BEFORE THE STATE COMMISSION ON PUBLIC PROCUREMENT APPEALS IN THE PERIOD JANUARY-DECEMBER 2018

» *In 2018, companies lodged a total of 695 appeals before the State Commission on Public Procurement Appeals, representing an increase by 37% compared to the previous year. SCPPA adopted decisions upon 717 appeals (some of which concern appeals lodged in late 2017), and majority of them were approved.*

The total of 21,406 public procurements announced in 2018 were challenged by 695 appeals lodged by companies (accounting for 3.25% of all tender procedures), which is significantly more compared to 2017 when their number was 507. Nevertheless, the increased number of appeals (37%) has taken place in parallel with growing number of procurement procedures organized (24%).

Overview of the ratio between the number of public procurements announced and the number of appeals lodged by companies before SCPPA

Year	Number of tender procedure	% of change	Number of appeals lodged before SCPPA	% of change
2015	18,469	+17.35%	523	+3.98%
2016	18,444	-0.14%	557	+6.50%
2017	17,227	-6.60%	507	-8.98%
2018	21,406	+23.97%	695	+37.08%

Calculations are based on processing data related to appeals lodged before SCPPA and published on its official website.

In 2018, SCPPA adopted decisions upon 717 motions for appeals. In that, the State Commission approved 341 appeals, accounting for 47.6% of all appeals. A total of 226 decisions were rejected as ungrounded, accounting for 31.5% of all appeals. The share of denied appeals accounts for 12.8% and these are appeals that have not been reconsidered by SCPPA on the grounds of being lodged beyond the law-stipulated deadlines or companies have failed to settle relevant appeal fees. The share of appeals for which relevant procedures were discontinued because contracting authorities accepted the appeal allegations prior to SCPPA took its decision account for 8.1%.

*Structure of decisions taken by SCPPA in 2018**

Structures of appeals according to SCPPA decision	Number of appeals	Share (in %)
Approved appeals	341	47.6%
Rejected appeals	226	31.5%
Denied appeals	92	12.8%
Discontinued/terminated appeal procedures	58	8.1%
Total	717	100%

*Calculations are based on processing data related to decision taken by SCPPA and published on its official website.

Compared against the situation observed in previous years, the share of approved appeals has increased, while the share of rejected appeals has decreased. However, in spite of this positive trend, the share of appeals that were not reconsidered has increased, which means that companies still lack solid knowledge of law-stipulated deadlines and obligations in cases when they seek protection of their rights before SCPPA.

Comparison data on the structure of decisions taken in appeal procedure*

Type of decisions	2015	2016	2017	2018
Approved appeals	43.6%	47.6%	45.8%	47.6%
Rejected appeals	37.3%	32.4%	37.5%	31.5%
Denied appeals	11.5%	7.6%	10.2 %	12.8%
Discontinued/terminated appeal procedures	7.6%	12.4%	6.5%	8.1%
Total	100%	100%	100%	100%

*Calculations are based on processing data related to decisions taken by SCPPA and published on its official website.

SCPPA's decisions on tender annulment have a dominant share (61%) in the total number of approved appeals, contrary to decisions on revoking selection of the best bid and returning the procedure for repeated bid-evaluation, which account for (39%).

This information shows increase of SCPPA decisions establishing crucial violations to the Law on Public Procurements, given that this commission takes decisions to annul tender procedures when illegal actions taken in the course of public procurements cannot be corrected by means of changed selection decision, but the entire tender procedure must be annulled and organized anew.

SURVEY AMONG COMPANIES RELATED TO THEIR EXPERIENCE FROM PARTICIPATION IN PUBLIC PROCUREMENT PROCEDURES

- » *The most common problem faced by companies in public procurements concerns the use of “lowest price” as single criterion. Late payment for contract performance has dropped from second ranked problem last year to eight ranked this year, although in average waiting time for collection of receivables is calculated in duration of 6 months and 12 days. 48% of companies believe that corruption is “always” or “often” present in public procurements. The average score assigned by companies to the process of public procurements in the country was 2.87 and is insignificantly higher compared to last year when it was 2.85.*

Every year, the Center for Civil Communications conducts a survey among companies inquiring about their experience from participation in public procurement procedures. This is the ninth regular survey among companies related to public procurements organized and conducted as part of monitoring activities since 2009.

This year, the survey was conducted in February 2019. It covered 182 companies from all major towns across the country and was conducted both in person and electronically on the basis of previously developed structured questionnaire comprised of 20 questions in total.

Questions were structured into several groups and inquired about companies' views and opinions about most frequent problems they face when participating in public procurements, their thoughts on e-auctions, appeal procedure, corruption and other challenges in public procurements. In that, the survey questionnaire allowed space for company representatives to enlist own problems they face and to propose measures aimed to improve public procurements.

This analysis includes results from the last survey conducted, as well as comparisons against results obtained under previous surveys, in order to provide overview of current state-of-affairs, but also about trends throughout the years.

As was the case before, the survey first inquired about companies' experience related to

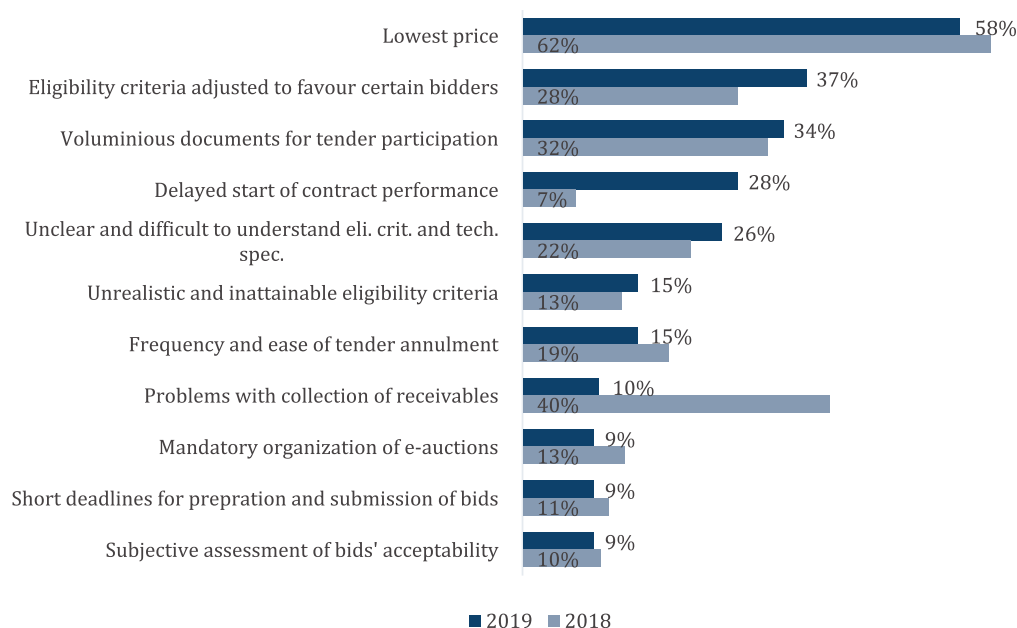
participation in public procurements. The highest share of surveyed companies or 46% participate in up to five public procurements annually. Next in frequency are companies that participate in more than 24 procurement procedures annually (22%), those that participate in 6 to 12 procurement procedures annually (21%) and, finally, companies that participate in 13 to 24 tender procedures annually (11%). The average weighted participation of surveyed companies is calculated at 11 public procurements annually.

PROBLEMS IN PUBLIC PROCUREMENTS

This year as well, the highest ranked problem in public procurements faced by more than half of companies concerns “lowest price” used as single criterion for selection of the most favourable bid.

The next two most frequently indicated problems include adjustment of eligibility criteria for tender participation to favour certain companies (37%) and voluminous documents required for tender participation (34%). They are followed by the problem related to postponement of contract performance (28%), unclear and difficult to understand eligibility criteria and technical specifications (26%), frequency and ease of tender annulment (15%) and, finally, unrealistic and unattainable eligibility criteria (15%).

Main problems faced by companies in public procurement procedures (multiple answers are allowed)



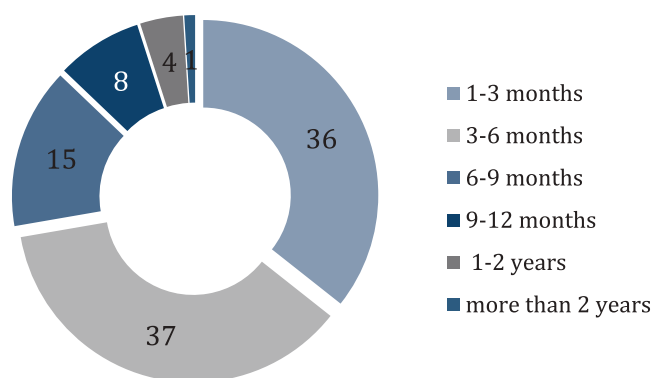
It should be noted that, according to companies, the problem related to late payment for contract performance has dropped from second ranked last year (40%) to eight ranked this year (10%). On the contrary, the highest jump upwards from bottom ranked last year (7%) to the fourth ranking position this year was observed with the problem concerning delayed contract performance on the part of contracting authorities (28%).

LATE PAYMENT IS NOT AMONG MOST ACUTE PROBLEMS

Although companies do not perceive late payment of contract performance as acute problem, the average time for collection of receivables for performed public procurements is not greatly shortened.

According to responses provided by companies, in average, they wait for 6 months and 12 days to collect receivables for contracts performed. Last year, this waiting period was calculated in duration of 6 months and 21 days, and the year before it stood at 8 months.

How much do you wait to collect receivables from public procurements?

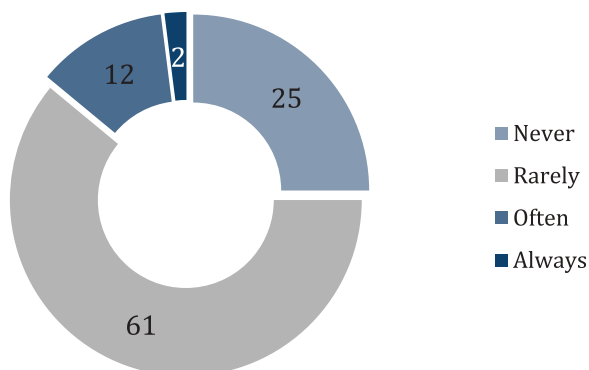


TECHNICAL SPECIFICATIONS DO NOT PLAY THEIR ROLE ON GUARANTEEING QUALITY

Under conditions when “lowest price” is used as single criterion for selection of the most favourable bid, technical specifications that provide description of what is being procured should serve as guarantees for certain quality of procurements. However, in the opinion of companies, these specifications are not developed with sufficient details in order to play their intended role.

As many as 86% of companies believe that technical specifications rarely (61%) or never (25%) contain details that precisely determine quality of procurements.

Do you think that technical specifications include sufficient details to guarantee quality of public procurements?

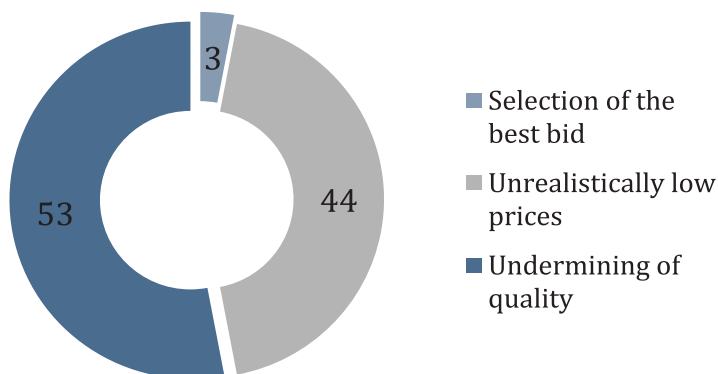


Only small share of companies (14%) believe that contracting authorities often (12%) or always (2%) provide precise definition of quality they intent to procure, whereby use of “lowest price” would make sense and would not result in procurement of poor quality goods, services and works.

E-AUCTIONS DO NOT NECESSARILY RESULT IN SELECTION OF THE BEST BID

This was confirmed by answers obtained on the next question, which inquired about the purpose of electronic auctions that are mandatory for all tender procedures marked by participation of more than one bidding company. Almost half of surveyed companies believe that mandatory nature of e-auctions undermines quality of goods/service procured to the benefit of low price (53%) and the other half responded that e-auctions result in attainment of unrealistically low prices (44%).

In your opinion, what depicts e-auctions the best?

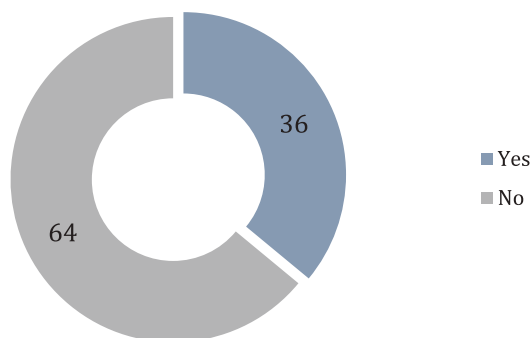


Very small share of surveyed companies (3%) believe that electronic auctions are conducive to selection of the best bid.

PRICE ARRANGEMENTS AMONG COMPANIES BEFORE E-AUCTIONS

Increased share of companies (64%) believe that there are no previous arrangements among them prior to organization of e-auctions so that prices would not be reduced as result of downward bidding. Nevertheless, 36% of them indicated that such arrangements are in place.

In your opinion, do you think there are previous arrangements among bidding companies before the start of e-auctions in cases when they do not result in price reduction?



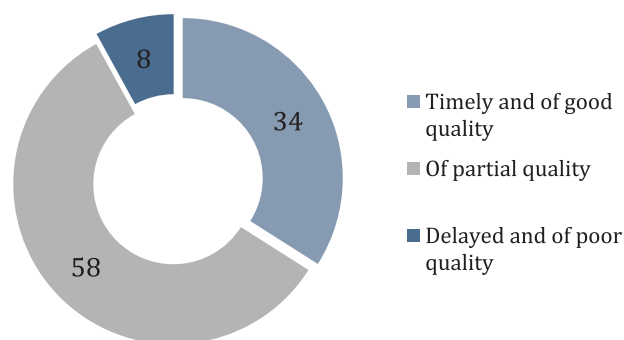
Last year, higher number of companies (44%) stated that previous arrangements have taken place in tender procedures where bidding companies did not reduce their initial prices.

QUALITY COMMUNICATION WITH CONTRACTING AUTHORITIES

Satisfaction of companies participating in tender procedures and related to communication with representatives from contracting authorities has declined.

Unlike last year, when companies predominantly (59%) assessed these communications as timely and of quality, under this year's survey dominant share of companies (58%) assess these communications as being of "partial quality".

How do you assess communications with contracting authorities in public procurement procedures in which you have participated?

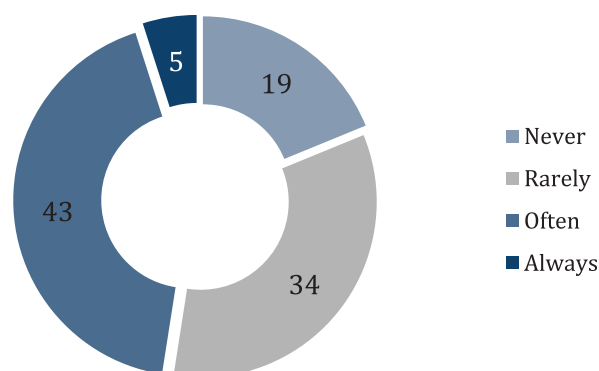


Only 8% of companies assessed these communications as delayed and of poor quality (later year their share accounted for 11%).

CORRUPTION IN PUBLIC PROCUREMENTS, POLITICAL CONNECTIONS ARE DOMINANTS

48% of surveyed companies believe that corruption is present in public procurements. Among them, 43% indicated that corruption is often present in public procurements, while 5% reported that corruption is always present.

In your opinion, is corruption present in public procurements?



34% of surveyed companies assessed that corruption is rarely present in public procurements, while 19% believe there is no corruption in this field.

Asked to freely enlist the type of corruption they believe is most common, the highest share of them (47%) that answered this question ranked political connections at the top of this list, followed by classical kick-backs (19%), and family relations (14%). Remaining companies (20%) believe that all above-indicated forms of corruption are present.

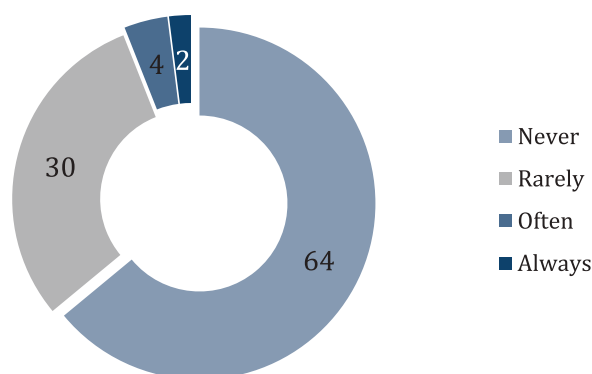
On the other hand, asked about the number of tender procedures, in which they have participated, implied non-compliance with the Law on Public Procurements, dominant share of companies (83%) responded that non-compliance is rarely (49%) or never (34%) present. On the contrary, 17% of surveyed companies indicated that violations of the law are always or often present.

VERY FEW COMPANIES LODGE APPEALS AGAINST TENDER PROCEDURES

Only 6% of companies indicated that they always (2%) or often (4%) lodge appeals before the State Commission on Public Procurement Appeals when dissatisfied with actions taken by contracting authorities in tender procedures in which they have participated.

Dominant 94% of surveyed companies indicated that they never (64%) or rarely (30%) lodge appeals before the State Commission.

Have you lodged appeals before SCPPA when dissatisfied with the manner in which public procurements are implemented?



Last year, 96% of companies indicated that they never or rarely lodge appeals, while only 4% stated that they use appeals as protection instrument in cases when they are dissatisfied with actions taken by contracting authorities.

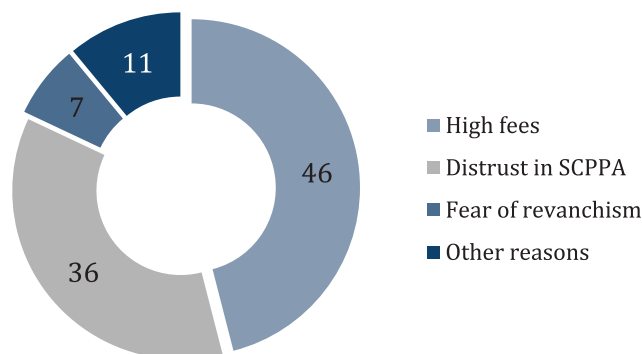
HIGH FEE FOR LODGING APPEALS

Compared to answers obtained under the last year's survey, there are almost no changes in terms of reasons indicated by companies for their reluctance to lodge appeals.

Most frequently indicated reason (accounting for 46% this year and 45% last year) concerns high fees for initiation of appeal procedure that falls on the burden of companies wishing to

lodge appeals. The second reason (accounting for 36% of answers this year and 41% last year) is distrust in the State Commission on Public Procurement Appeals. Third ranked in terms of frequency of answers (7% this year and 5% last year) is fear from retaliation on the part of contracting authorities targeted with appeals.

What are the reasons for never or rarely appealing tender procedures before SCPPA?

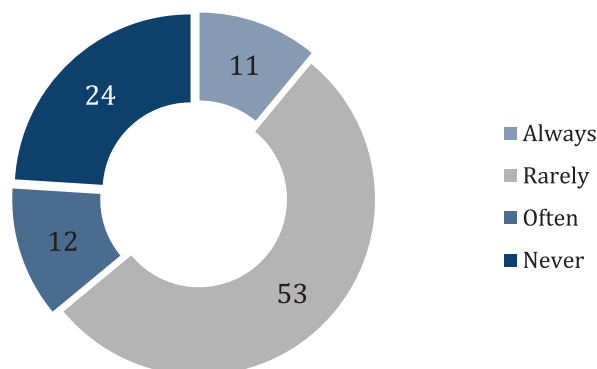


COMPANIES ARE RARELY SATISFIED WITH DECISIONS TAKEN BY SCPPA

Answers provided by companies on the question inquiring about their satisfaction with decisions taken by the State Commission on Public Procurement Appeals in cases when they lodged appeals are similar to those obtained last year.

High 77% of companies are never or rarely satisfied with SCPPA's decision (last year their share accounted for 78%), while 23% of them are always or often satisfied (last year their share was 22%).

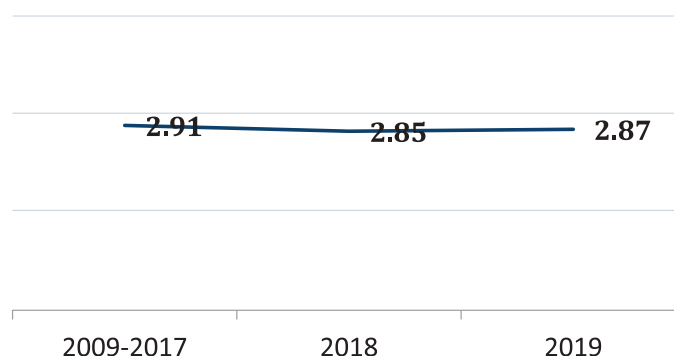
In cases you have lodged appeals, how satisfied are you with SCPPA's decision?



COMPANIES' AVERAGE SCORE ASSIGNED TO PUBLIC PROCUREMENTS IS SLIGHTLY LOWER THAN "GOOD"

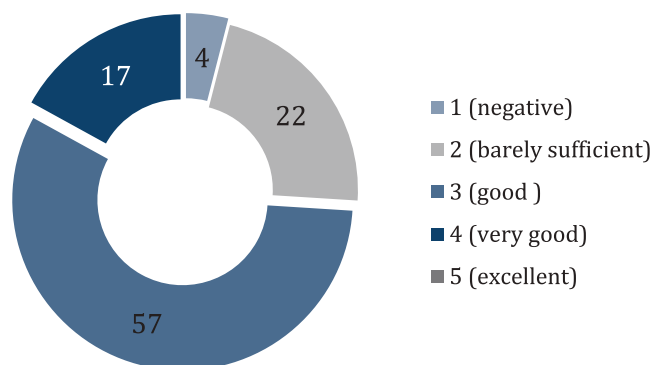
Finally, companies were asked to assess the overall process of public procurements in the country on the scale from 1 (negative) to 5 (excellent). In 2019, the average score is 2.87 and is by modest 0.02 points higher than the average score of 2.85 obtained under the survey conducted in 2018. The seven-year average calculated for the period 2009 -2017 stands at 2.91.

Variation of companies' average score assigned to the process of public procurements



In line with the average score calculated, the highest share of surveyed companies indicated the score of 3. Very small share of them (4%) assessed the system of public procurements with the score of 1, while there were no companies that assigned the score of 5.

How do you assess the overall process of public procurements in the country?



COMPANIES ARE UNAWARE OF CHANGES TO THE LAW ON PUBLIC PROCUREMENTS

Only small share of surveyed companies (26%) are informed about changes made under the new Law on Public Procurements adopted in January 2019, which will enter into effect in April 2019.

Among them, dominant share (66%) indicated that the most important novelty concerns non-binding nature of “lowest price” as single selection criterion, i.e. introduction of “economically most favourable bid” as criterion for selection of the best bid.

According to 13% of companies, the most significant change concerns definition of higher financial thresholds, while 11% of companies believe that the most significant novelty is cancellation of mandatory organization of e-auctions.

