

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

The research among companies related to their experience from participation in public procurement procedures was conducted in the period November - December 2016. It targeted a total of 230 companies from all bigger towns across the country. It was pursued by means of survey (in person and electronically), on the basis of previously developed structured questionnaire comprised of 17 questions in total.

Questions were structured in several groups and inquired about companies' opinion about the most frequent problems they face when participating in public procurements, their attitude towards e-auctions, appeal procedures, corruption and other challenges in public procurements. The questionnaire allowed space for interviewed representatives from companies to freely indicate problems they are facing and propose measures aimed to improve the system of public procurements.

This research represents the seventh regular survey of companies in relation to public procurements conducted by the Center for Civil Communications as part of their monitoring of public procurements from 2009 onwards.

This analysis presents survey results, as well as comparison against results obtained on previous surveys, for the purpose of presenting the actual current state-of-affairs, but also trends in public procurements.

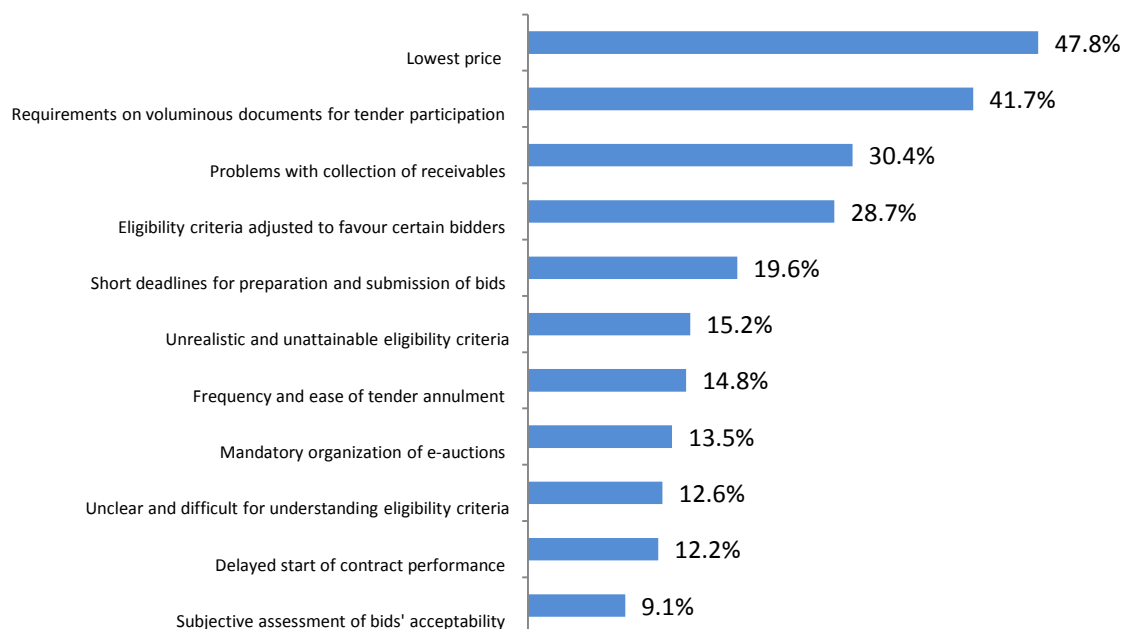
In this survey as well, we first inquired about companies' experience related to participation in public procurements. On annual level, majority of surveyed companies (47%) participated in up to 5 public procurements. Next in frequency are companies that have participated in 6 to 12 tender procedures (27%) and companies that have participated in more than 24 public procurements (15%), while last in frequencies are companies that, on average, have participated in 13 to 24 tender procedures (11%). Average weighted participation of surveyed companies is 9 public procurement procedures on annual level.

Problems in public procurements

- **Lowest price defined as single criterion on awarding public procurement contracts, requirements related to voluminous documents for tender participation and delayed payment for contract performance are the main problems in public procurements indicated by the companies.**

Problem no. 1 in public procurements, as faced by almost half of surveyed companies (47.8%) is lowest price defined as single criterion on awarding public procurement contracts. Next in frequency, as problem no. 2 faced by companies when participating in public procurements with a share of 41.7% of answers are requirements related to voluminous documents for tender participation, as they necessitate time and money in order to be secured.

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



Two more problems, accounting for similar shares of answers, are ranked as problems no. 3 and 4. Third in frequency is the problem related to collection of receivables for contract performance or so-called delayed payment (30.4%). Fourth

problem (28.7%) concerns adjustment of tender documents and technical specifications to favour certain bidding companies.

Other problems faced by companies when participating in tender procedures include another group of problems with similar shares of answers: short deadlines for preparation and submission of bids (19.6%); unrealistic and unattainable eligibility criteria related to economic operators' economic-financial status and technical capacity (15.2%); frequency and ease of tender annulment (14.8%) and mandatory organization of electronic auctions in all tender procedures (13.5%).

The last group of problems faced by companies includes: unclear and vague eligibility criteria and technical specifications (12.6%); postponed contract performance (12.2%) and subjective approach to assessment of bids' acceptability (9.1%).

Compared to the previous survey conducted one year earlier, no differences were observed in terms of problem no. 1 faced by companies in public procurements. Under both, the previous and the current survey, the most acute problem faced by companies is lowest price defined as single selection criterion.

Difference is recorded in terms of the second most frequently indicated problem. One year ago, it implied delayed payment for contract performance, but under this survey, problems no. 2 and no. 3 switched ranks. More specifically, the second most frequently indicated problem now concerns requirements for voluminous documents, and last year's problem no. 2 is now ranked third in frequency of answers. Unlike the situation established in 2014 and 2015 when delayed payment for contract performance was indicated by 39.3% and 39.4% of surveyed companies, respectively, now it was indicated by 30.4% of them.

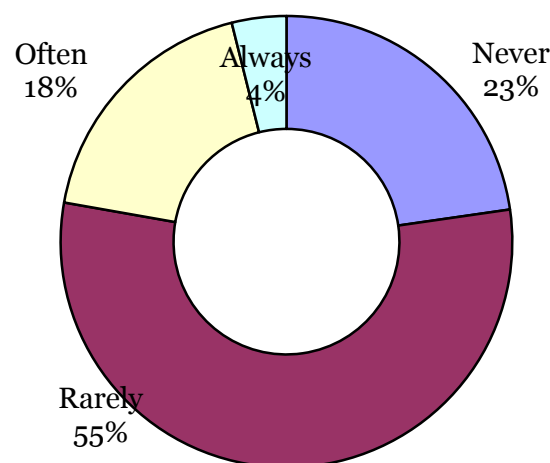
Adjustment of tender documents and technical specifications to favour certain companies maintained its rank position from last year (problem no. 4) and was indicated by 28.7% of companies. Last year, 32.7% of surveyed companies indicated this as one of their main problems in public procurements.

- **Technical specifications do not play their role as guarantor of quality under circumstances when lowest price is used as single selection criterion.**

When lowest price is used as the single criterion on awarding public procurement contracts, contracting authorities have no other option but to define quality of what they wish to purchase by means of detailed technical specifications.

However, as was the case under the previous survey, large share of surveyed companies believe that technical specifications are not developed with sufficient detail in order to guarantee quality of public procurements. As many as 78% of surveyed companies indicated that technical specifications rarely (55%) or never (23%) include details for more precise description of quality in public procurements. Relevant share of these answers in the previous research was similar and accounted for 81%.

Do you think that technical specifications are sufficiently detailed to guarantee quality of public procurements?



Only small share of surveyed companies (22%) believe that technical specifications are developed in such manner that they often (18%) or always (4%) include necessary details to guarantee quality of what is being procured.

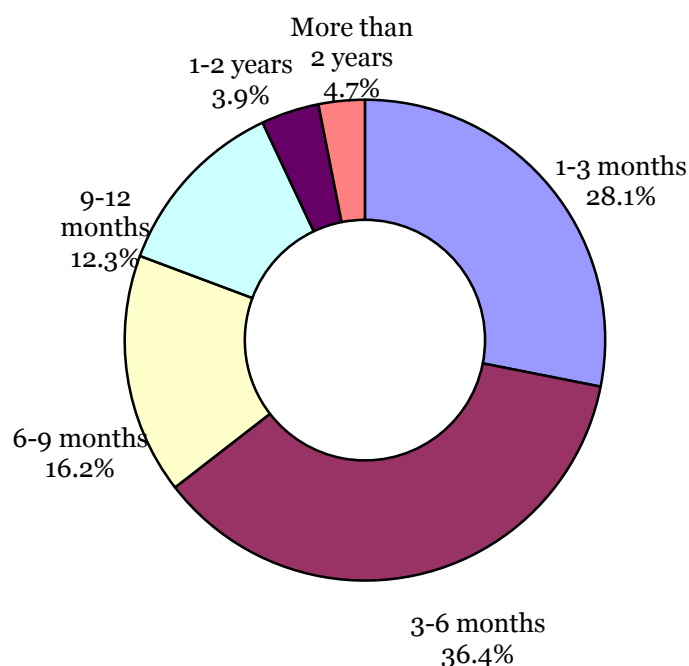
Problem of delayed payment in public procurements

- **Both last and this year, delayed payment for performed procurement contracts is among the three most acute problems**

faced by the companies. In average, companies wait 6 months for payment of contracts performed.

Having in mind the continued high rank of this problem, as indicated by companies, they were asked about average time of waiting until collection of receivables related to performed contracts.

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



In average, surveyed companies wait 6 months to receive payment for performance of public procurement contracts. This implies certain improvement compared to the previous year, when average duration for contract payment accounted for 8 months.

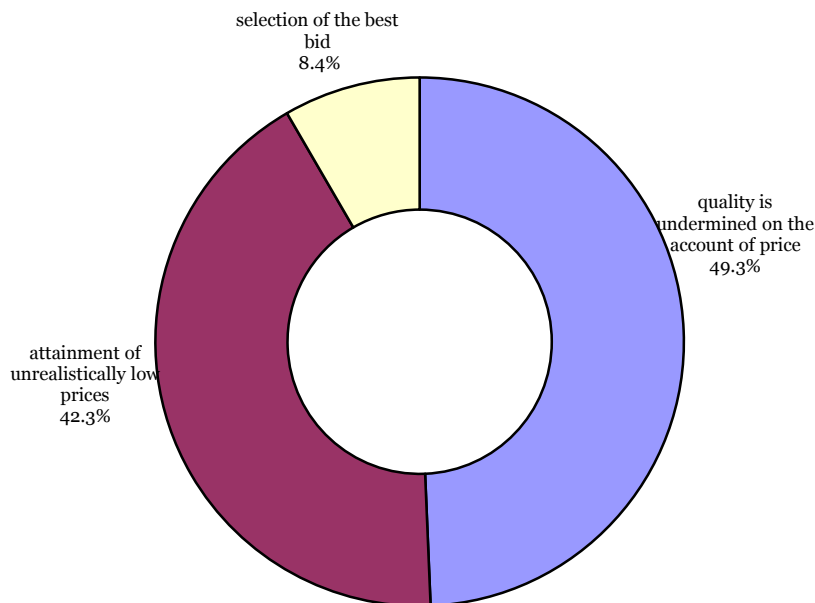
Hence, 36.4% of companies indicated period of 3 and 6 months for collection of receivables, 28.1% of them wait for 1 to 3 months, while 16.2% of them wait for 6 to 9 months. 12.3% of companies wait for 9 to 12 months, 3.9% of them wait from 1 to 2 years, and 4.7% stated that they have waited for more than 2 years to collect payment for contract performance.

E-auctions do not fulfil their main purpose

- **More than 90% of companies believe that e-auctions result in attainment of unrealistically low prices, thus undermining quality of procurements on the account of their price.**

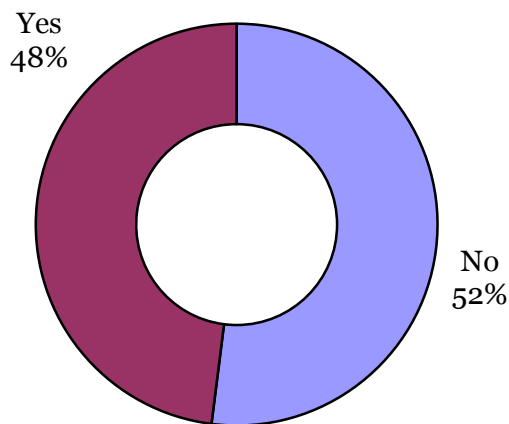
Asked about what best depicts e-auctions, only small share of surveyed companies (8.3%) indicated that e-auctions are characterized by selection of the best bid. Most companies believe that e-auctions undermine quality on the account of price (49.2%) and that e-auctions result in attainment of unrealistically low prices (42.2%). Identical shares of answers to this question were obtained under the research conducted last year.

In your opinion, what best depicts e-auctions?



Almost half of surveyed companies (48%) believe that prior to the start of electronic auctions there are arrangements among bidding companies, resulting in no reduction of initially bided prices. The other half of companies (52%) negates doubts that companies have agreed in advance not to reduce prices in tender procedures.

In case when e-auctions do not result in reduction of price, do you think there are prior agreements among companies in place?



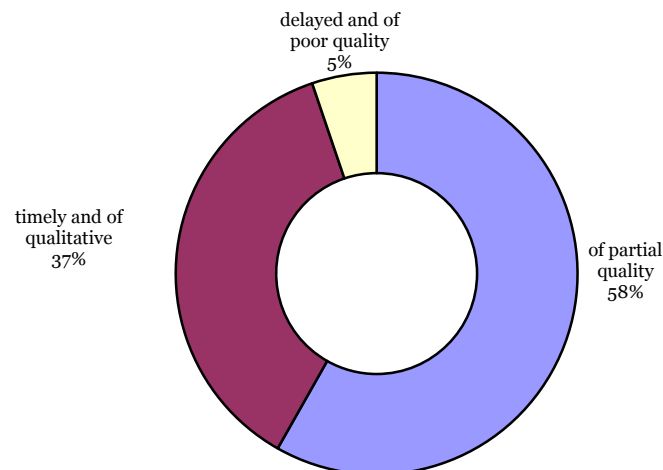
Similar shares of answers were obtained on this question under the previous survey.

Satisfaction from communications with contracting authorities

- **More than half of surveyed companies (58%) assessed communications with contracting authorities in the course of implementation of public procurements to be of partial quality.**

Complete satisfaction in terms of communications with contracting authorities in cases when they needed clarification for tender procedures in which they participated was expressed by 37% of surveyed companies, qualifying them as timely and qualitative. On the contrary, only 5% of companies indicated that communications in said cases had been delayed and of low quality. Remaining 58% of surveyed companies assessed communications with contracting authorities to be of partial quality.

How do you assess communications with contracting authorities in the course of public procedures in which you have participated?



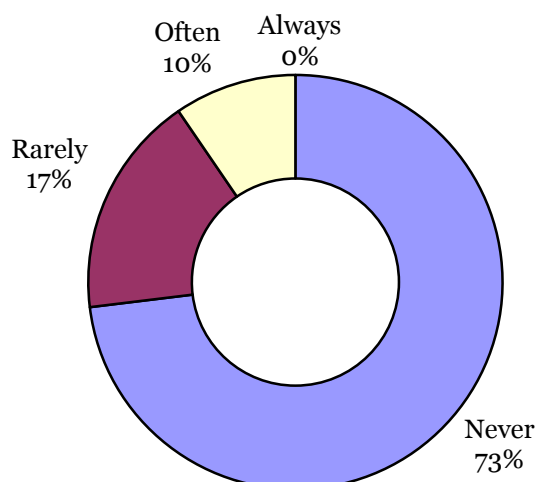
Compared to last year' survey results, satisfaction of surveyed companies in relation to communications with contracting authorities has increased. The number of companies indicating timely and qualitative communications has increased from 29% to 37%, and there is noticeable decrease of the number of companies assessing these communications as delayed and of poor quality (from 17% to 5%). The number of companies indicating that communications are of partial quality is similar (was 54% and now is 58%).

Dominant share of companies do not lodge appeals for tender procedures

- **As many as 90% of surveyed companies never or rarely lodged appeals contesting tender procedures in which they participated, mainly due to high fees and costs related to the appeal procedure and their distrust in SCPPA.**

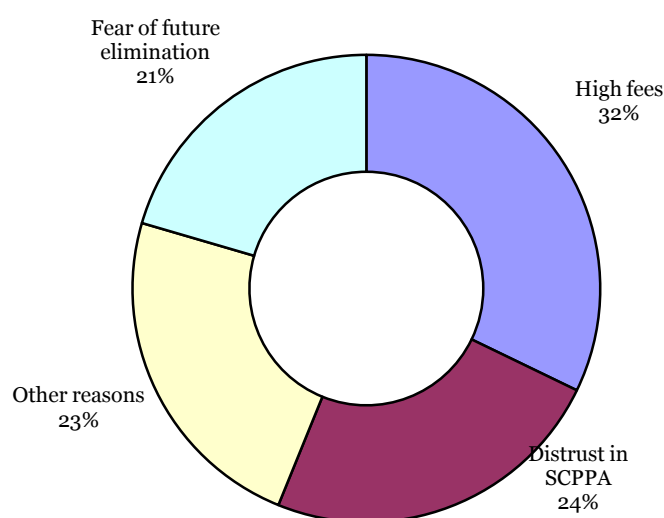
Only 10% of companies reported that they often lodge appeals in front of the State Commission on Public Procurement Appeals (SCPPA) in cases when they are dissatisfied with the manner in which public procurement procedures have been implemented. On the other hand, high share of companies indicated that they never (73%) or rarely (17%) lodge appeals in front of SCPPA when they are dissatisfied with public procurement procedures. These figures are almost identical to those observed under the research conducted one year ago.

When dissatisfied with the manner in which public procurements are implemented, have you lodged appeals in front of SCPPA?



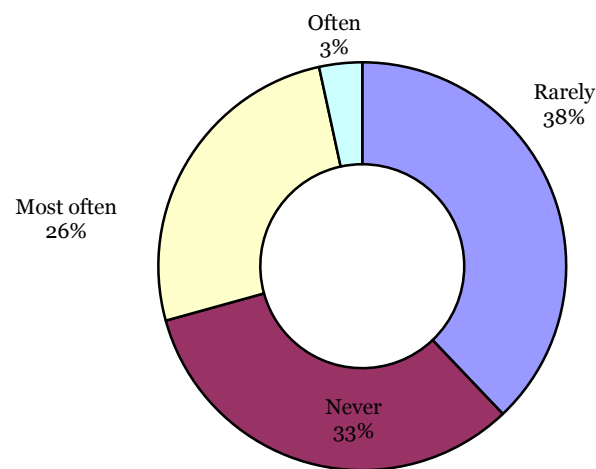
Asked about reasons why they rarely or never appeal public procurement procedures in front of SCPPA, 32% of surveyed companies indicated high fees related to the appeal procedure, while 24% of them indicated their distrust in SCPPA as reason thereof. 21% of companies do not appeal public procurement procedures due to fear of possible elimination in future procurements, while 23% enlisted other reasons for their reluctance to lodge appeals in front of SCPPA.

What are your reasons for never or rarely appealing tender procedures in front of SCPPA?



As regards satisfaction with SCPPA decisions, as many as 71% of surveyed companies are rarely (38%) or never (33%) satisfied with decisions taken by SCPPA. Unlike them, 29% of companies are always (26%) or often (3%) satisfied with SCPPA decisions.

In cases you have lodged appeals, how satisfied are you with decisions taken by SCPPA?



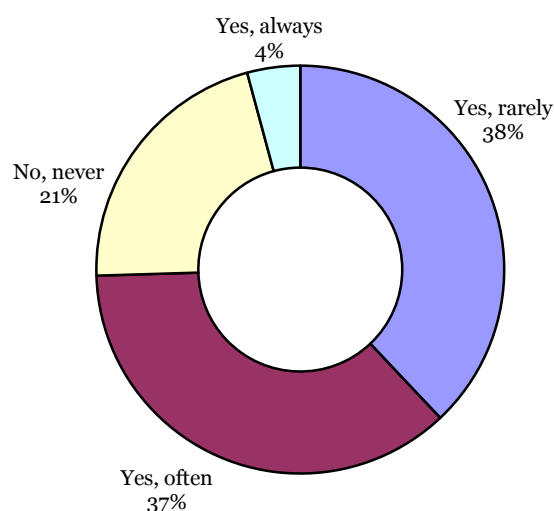
Similar results in terms of appeal procedure were observed under the previous survey.

Corruption in public procurements

- **79% of surveyed companies believe corruption is present in public procurements, but provided different assessments about its level and frequency.**

High share of companies (37%) believe that corruption is often present in public procurements, 4% of them indicated always, while 38% of surveyed companies indicated corruption is rare in public procurements. Only 21% of companies indicated that corruption is never present in public procurements.

Do you think corruption is present in public procurements?



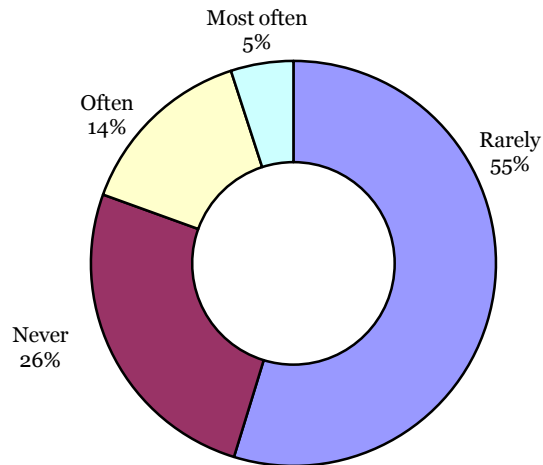
Identical results on this question were obtained under the previous survey conducted one year ago.

Non-compliance with the Law on Public Procurements

- **Dominant share of companies indicated that they are often or rarely witnessing non-compliance with the Law on Public Procurements in tender procedures in which they participated.**

As regards cases in which companies witnessed non-compliance with the Law on Public Procurements, 5% of surveyed companies reported that they often witnessed such cases. In the opinion of 14% of companies that happened often, while majority of companies (55%) indicated that such violations happened rarely. Answers that they have never witnessed non-compliance with the Law on Public Procurements in procedures in which they participated were indicated by 26% of surveyed companies.

How often did you have remarks concerning the non-compliance with the Law on Public Procurements in the procedures in which you participated?

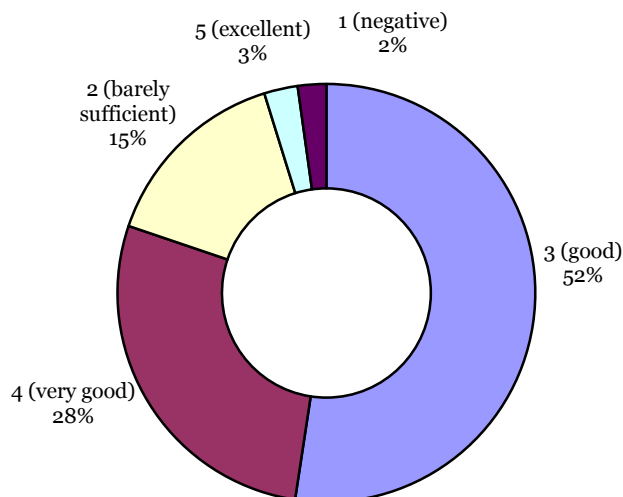


Overall assessment for the process of public procurements

- **On the scale from 1 (negative) to 5 (excellent), the companies assessed the overall process of public procurements in Republic of Macedonia with an assessment of 3.13.**

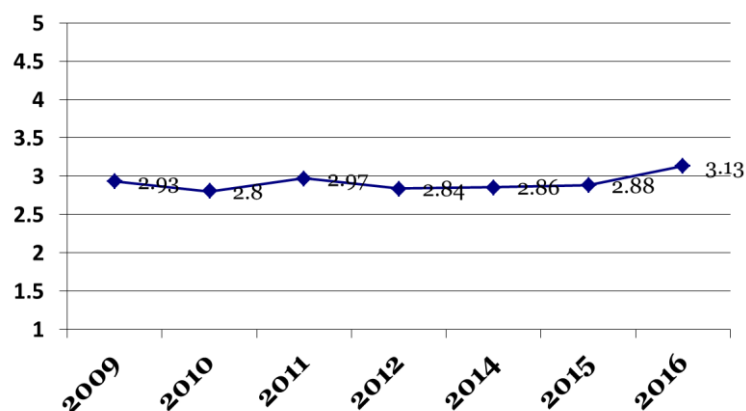
When asked to assess the overall process of public procurements in Republic of Macedonia, surveyed companies indicated an average assessment of 3.13, whereby assessments of 1 (negative) were indicated by 2% of them, assessments of 2 (barely sufficient) were indicated by 15%, assessments of 3 (good) were indicated by 52%, assessments of 4 (very good) were indicated by 28% and assessments of 5 (excellent) were indicated by 3% of surveyed companies for the overall process of public procurements.

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



Compared to results obtained under the previous survey, it can be concluded that there is improved satisfaction of companies that participated in tender procedures by 0.25 points, driving the average assessment above 3 for the first time.

Movement of companies' average assessment for the process of public procurements in Republic of Macedonia



Comparison of assessments given in previous years provides the conclusion that in the past the highest average assessment for the process of public procurements was noted in 2011 and accounted for 2.97.

Companies' proposal for changes to the law and the system of public procurements

Using the possibility to share their views, provide guidelines and specific proposals aimed at changing the legislation governing public procurements with a view to improve them, under this survey companies have once again offered around hundred suggestions.

Dominant share of proposals concern changes to current legal provisions according to which lowest price is the single selection criterion for the most favourable bid. In that regard, almost all economic operators suggesting law amendments referred to the need to have this legal provision changed. Significant share of surveyed companies requested quality to be taken into consideration in awarding public procurement contracts, justifying their request with the fact that lowest price undermines quality which, when made due consideration of, would allow participation of more companies in public procurements.

Next, most frequently enlisted group of proposals concerns the mandatory character of e-auctions. In that regard, proposals range from cancelling e-auctions, at least for small-scale procurements, through introduction of limits to price reduction, all the way to proposals for introduction of one round of reduction of initially bided prices.

Following are proposals related to streamlined documentation required for tender participation, finding ways to regulate payments, greater competences of public procurement committees, etc.

In summary, the number of proposals and guidelines correspond to the most frequently indicated problems faced by companies when participating in public procurements.

Below is selection of their proposals for law amendments, as expressed by companies:

- lowest price should not be the single criterion, but the selection criterion should be defined as economically most favourable bid;

- criteria on contract awarding should include quality, and not lowest price or other criterion, thus ensuring that more economic operators participate in tender procedures;
- if lowest price remains as single criterion defined by the law, then additional criteria should be introduced for the purpose of guaranteeing quality;
- lowest price should not be the single criterion, and a modality needs to be designed to guarantee quality;
- criterion on quality should be applied, not only the criterion on price, because tender procedures are won only with lowest price, but of poor quality, which could be indicated by the price itself. In near future, poor quality would lead to repeated procurement of the same procurement subject;
- under conditions when price is the single criterion, we do not have insight in what happens after and there is nobody in place to monitor contract performance. This is how we lose will to participate in public procurements;
- provisions related to costs and price-quality ratio;
- introduction of the criterion defined as economically most favourable bid, e-auction should not be mandatory for all tender procedures, external control should be introduced for procurement performance, implementation of local procurement procedures should be centralized;
- price vs. adequate quality and guaranteed payment;
- as regards electronic downward bidding, there should be only one round of bidding, followed by disclosure of prices and allowing participants to make their last reduced price 15 minutes later and finally, closing the auction; endless rounds of price reduction and bidding of unrealistically low prices should be discontinued;
- e-auctions should be revoked and the most favourable bid should be selected at the public opening, so bidders would offer more realistic prices. All that would avoid pre-arrangements among bidders in relation to prices, which is now possible with e-auctions, withholding from downward bidding which results in unrealistically high prices;
- e-auctions should not be mandatory for all procedures, and lowest price should not be the single criterion, while mechanism on quality control and control performance should be introduced;
- e-auctions should be avoided and bidders should stay with their initial bids;
- e-auctions should be revoked for small tenders and threshold for their organization should be set above 500 EUR;
- limits should be imposed on reduction of prices at e-auctions against initially bided prices;
- e-auctions should be cancelled because they result in unrealistic bids and unrealistic final prices, affecting the quality;
- electronic auctions should be cancelled;

- division of procurements into lots and enormous number of electronic auctions in procurement procedures organized in the field of health care should be revoked;
- the law should be changed completely; we need a law that is fully in line with the one in EU;
- thresholds for organization of public procurements should be increased;
- small advantage should be given to local companies in assessment of bids;
- greater protection of economic operators, for the purpose of exercising their rights;
- respect for contracts signed between contracting authority and economic operator should be practiced by both parties; most often economic operators cannot exercise their rights when contracting authorities do not respect the contract signed;
- tender documents should be more simplified so everybody could understand them;
- tender application documents should be simplified;
- attention should be paid to specific field of activity and more expert staff should be appointed to public procurement committees;
- faster processing of documents;
- cut down documents required and revoke costs for tender participation;
- greater protection of economic operators;
- to avoid setting criteria that favour participation of certain companies;
- companies working in compliance with quality standards are not competitive on the market as the single criterion in public procurements is the lowest price;
- to avoid increase of threshold for minimum technical and financial requirements because they favour bigger companies in terms of being awarded contracts;
- solutions should be identified for collection of payment;
- contract performance should be paid on monthly basis;
- to cancel public procurements intended for service/good provision to contracting authorities in the course of the year (successive procurements);
- bid guarantees should be cancelled;
- bid guarantees implying bank deposit should be cancelled;
- we need a completely new law;
- new law on public procurements;
- expert staff at the Council should have relevant competencies;
- great amount for participation and possibility for returning funds for tender participation;
- definition of longer deadlines for submission of bids;
- greater transparency.