



Republika e Kosovës/Republika Kosova/Republic of Kosovo  
Komisioni Rregullativ i Prokurimit Publik  
Regulatorna Komisija Javne Nabavke  
Public Procurement Regulatory Commission



*Designing a public procurement compliance  
and performance monitoring system in Kosovo*

***WB Project Kosovo - IDF Grant No. TF013655***  
*Enhancing the Implementation of Public Procurement Project*

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*May 2014*  
*Istanbul – Turkey*

# *World Bank Assistance on Public Procurement System in Kosovo*

- *Since the introduction of the public procurement system in Kosovo in 1999, World Bank is one of the biggest donors so far.*
- *World Bank has so far supported public procurement system in Kosovo with 6 projects:*
  1. *Operational Procurement Review - Kosovo (2004);*
  2. *Opportunity for Public Procurement - Quick Gains ( 2008 );*
  3. *Implementation of Centralized Procurement Procedures based on Quick Gains Diagnostic Report - (2013-2014);*
  4. *Development of e-procurement system, including ICT infrastructure and contract management information system (2013-2015);*
  5. *An IDF Grant:*
    - (i) *Preparation of a unit prices manual for works, goods and services in Kosovo (2013-2015);*
    - (ii) *Designing a public procurement compliance and performance monitoring system in Kosovo (2013-2015);*
    - (iii) *Capacity Building in investigation of Fraud and Corruption in procurement with ACA;*
    - (iv) *Capacity Building in auditing of procurement with Kosovo Auditor General.*

# *Measuring of Performance in Public Procurement System in Kosovo*

- *Project for Measuring of Performance in Public Procurement System in Kosovo financed by WB, started November 2013 and will extend 24 months, until October 2015.*
- *One international consultant and two local consultants hired for designing a public procurement compliance and performance monitoring system in Kosovo.*
- *Until now project experts have prepared:*
  - *Manual;*
  - *Work Plan with methodology;*
  - *Key Indicators and Sub Indicators;*
  - *Procurement case questionnaire;*
- *During April and May, they have started visits to contracting authorities for gathering data by completing the questionnaires.*
- *Experts are now processing the gathered data in these contracting authorities;*

# Manual

*Based on Manual, performance measurement will be oriented on three aspects:*

- *Measuring the performance of compliance in terms of the implementation of public procurement legislation in Kosovo;*
- *Measuring performance in terms of achieving efficiency and effectiveness in carrying out procurement activities;*
- *Measurement of performance in terms of increasing transparency, and improving governance;*

*Measuring performance in public procurement will use:*

- *Key performance indicators developed for Kosovo;*

*The manual describes these indicators and provide:*

- *Indicator objective;*
- *How to measure each indicator;*
- *Data to be collected;*
- *Forms for the required data collection;*
- *How to analyze and present the data;*
- *Setting benchmark for each indicator in details;*

# *Work Plan*

*The Work Plan is part of the manual and it describes in a detailed way the implementation of Measuring Performance in Public Procurement System in Kosovo, according to the manual prepared.*

*This work plan contains:*

- *The methodology of data collection for Procurement Performance Measurement System;*
- *Reporting on findings;*

*The Methodology will be tested during the first year, and will be revised as needed based on experience from the first year.*

# *Methodology*

- *The designed system includes establishing a set of indicators suitable for Kosovo that would be measured at all contracting authorities (CAs);*
- *As a first step, a list of CAs has been established for data collection for all types of contracts (with the exception of minimal value contracts) for procurement activities approximately by 10-15 cases;*
- *CAs to be monitored closely will be selected in order to select the CAs from all levels such: Central level, local authorities, public utilities, independent agencies or government organizations, regional hospitals etc. Procurement activities to be monitored will be selected from all categories such: goods, services and works.*

# Methodology

- *For data collection a Procurement Case Questionnaire was prepared.*
- *One questionnaire to be completed per procurement case reviewed.*
- *Some data that may not be collected using the Procurement Case Questionnaire will be collected from relevant reports prepared by PPRC, PRB, CPA, KIPA, CAs or other relevant authorities.*
- *Some relevant data will be collected through surveys or interviews of interest, such as: professional associations, civil society representatives, independent newspapers or well recognized and respected investigative journalists etc.*
- *For the gathering of data for monitored procurement cases will be created a Measuring of Performance in Public Procurement System - **Baseline Survey Inventory Form**. (general gathering database data processed data collected from all forms mentioned).*
- *A form will be completed for each monitor CAs including in each individual monitored procurement case*

# *Reporting*

- *Progress achieved in the phase of data collection will be reported on a quarterly basis by teams which will include: the data collected by CA with the number of individual cases monitoring procurement and other authorities or interest groups, with findings.*
- *The project teams will prepare an annual report describing the data collected, analysis of the monitored data and the recommendations for improvement.*

*The report shall be structured around the following headings:*

- *Executive summary*
- *Methodology*
- *Key Findings*
- *Conclusion and Recommendations*



## *Coverage of Performance Monitoring*

*Monitoring of Performance of public procurement will cover the following three phases:*

- *Pre-tender phase: the phase before the formal initiation of a contract notice;*
- *Contract award procedure: the phase from the formal initiation until the signature of the contract;*
- *Execution of the contract : the phase after signing the contract until final handing over the project;*

## *Key Indicators*

<i>No.</i>	<i>INDICATOR NAME`</i>
<i>1.</i>	<i>Value</i>
<i>2.</i>	<i>Quality</i>
<i>3.</i>	<i>Timeliness</i>
<i>4.</i>	<i>Economy</i>
<i>5.</i>	<i>Competitiveness</i>
<i>6.</i>	<i>Transparency</i>
<i>7.</i>	<i>Anticorruption Measures</i>
<i>8.</i>	<i>Staff training</i>

# Value

*Key elements relevant to the definition of the evaluation of the estimated value, the size of market considered by the CA;*

- *The value of a preliminary public procurement procedure upon which the evaluation of the estimated value was set;*
- *Determination of the estimated value in the contracting authority's records;*
- *Definition of a relevant market (as domestic market or the international market with cross-border effect);*
- *The contracting authority considers possible upgrade of services as a part of subject matter (lifetime consideration of subject matter);*
- *The use of a technical dialogue as a mechanism to define the realistic estimated value;*
- *The comparison of the estimated value of the contract and the final value paid;*
- *Period time considered in bringing estimated value (max 36 months);*
- *The contracting authorities prepare a preliminary procurement forecast;*
- *Preliminary procurement forecast is accessible to the potential tenderers;*
- *The contracting authorities may make an internal research of their needs before bringing the preliminary procurement forecast;*

# Value

<i>FORMULA</i>	<i>TARGET</i>
$\frac{\textit{Estimated Value}}{\textit{Average Market Price}} \times 100$	<i>Equal (=) to 100%</i>

- *For each item with a result greater than 100% => estimated value is higher than average market price;*  
Action: - Monitoring the prices;
- *For each item with a result less than 100% => the average market price is higher than the estimated value;*  
Action: - Investigate where changes can be made in procurement practices to define estimated value regarding (real) average market price;

# Quality

*Key elements relevant to the definition of the subject matter:*

- *Definition of the subject matter (services, goods or works).*
- *The contracting authority uses a technical dialogue as a mechanism of defining the subject matter.*
- *Division of the subject matter into lots if applicable.*
- *Definition of the subject matter is consistent with the quality standards (domestic, European, international).*
- *Services, goods or works as subject matter may depend on standards defined in different regulations with technical and/or practices standards.*
- *Standards or references on specific regulations should be included if applicable.*

# *The Standardisation of the Procurement Procedures*

- *Key elements relevant to the standardisation of the procurement procedure:*
- *Standard forms for public procurement procedures publicly available and coordinated from the public institution are obliged for reviewing the public procurement procedures.*
- *The contracting authorities should use the standard forms.*
- *Proposals and opinions of the competent public institution are publicly available.*
- *The training courses highlight the importance of the standardization procedure.*

<b><i>FORMULA</i></b>	<b><i>TARGET</i></b>
<b><i><u>Procurem.doc. – available</u>x100</i></b> <b><i>Total awarded tenders</i></b>	<b><i>Equal (=) to</i></b> <b><i>100%</i></b>

- *HOW TO USE THE RESULT ?*
- *For each item with a result less than 100% => efficiency and transparency are diminished*
  - Action: - Define the reason(s) why they were not available or do not exist

# *Competitiveness and Transparency (Type of the Procurement Procedure)*

*Key elements relevant for the definition of the type of the procurement procedure:*

- *The type of the procurement procedure chosen most frequently;*
- *The use of proper type of procurement procedure regarding the estimated value and characteristics of the subject matter;*
- *Consideration of the relevant market characteristics when selecting the proper type of procurement procedure;*
- *Proportion of value considering the type of the procedure;*
- *Estimated value of the contract and the prices of selected tender;*

# Type of the Procurement Procedure

<i>FORMULA</i>	<i>TARGET</i>
<i><math>\frac{\text{Open Procedure}}{\text{All Types of Procedure}} \times 100</math></i>	<i>More than (&gt;) or equal (=) to 70%</i>

- *For each item with a result less than 70% => competitiveness and transparency are diminished*

Action: - Define the reason(s) why the contracting authorities select the type of procurement procedure which is diminishing competitiveness and transparency

- *For results more than or equal to 70% => recommendable*

Action: - Promote and encourage the use the procedures that enable competitiveness (open & restricted procedures, etc.)



# *Negotiated Procedure without Prior Publication*

<b>FORMULA</b>	<b>TARGET</b>
<b><u><i>Negot.Proc. without Prior Publ. x 100</i></u> <b><i>All Types of Procedure</i></b></b>	<b><i>Less than (&lt;) or equal (=) to 7%</i></b>

## *HOW TO USE THE RESULT ?*

- *For each item with a result more than 7% => competitiveness and transparency are diminished;*  
Action: - Define the reason(s) why the contracting authorities select the type of procurement procedure which is diminishing competitiveness and transparency (need for restricted interpretation of reasons for selection of the negotiated procedure without prior publication);
- *For each item with a result less than or equal to 7% => the result is acceptable regarding the subject matter – recommendable tendency toward lesser proportion;*  
Action: - Analyse the reason(s) for justification of selected type of procurement procedure;

## *Contract Award Procedure*

*After the formal initiation until the execution of the contract, the Contracting Authority should:*

- *Ensure the transparency by public notice (Transparency);*
- *Execute the procurement procedure within the reasonable time-limit (Timeliness);*
- *Time-limit for the receipt of tenders (Competitiveness);*
- *Follow the estimated value when awarding the contract (Economy);*
- *Select the tenderer who meets the quality standards (Quality);*

# *Contract Award Procedure*

<i>FORMULA</i>	<i>TARGET</i>
<i><u>Proced. with the Public Notice</u> x 100 All Types of Procedure</i>	<i>More than (&gt;) or equal (=) to 93%</i>

## *HOW TO USE THE RESULT ?*

- *For each item with a result less than 93% => transparency and competitiveness are diminished;*

Action: - Define the reason that not all public procurement procedures are published in the indicative notice;

- *For each item with a result more than or equal to 93% => the result is acceptable ;*

Action: - Sustaining the proportion of public notices;

## Timeliness

- *Procedure must be executed within a reasonable time-limit;*

<b>FORMULA</b>	<b>TARGET</b>
$\frac{\textit{Actual time spent}}{\textit{Time Schedule as Set for proced.}} \times 100$	<i>Less (&gt;) or equal (=) to 100%</i>

### *HOW TO USE THE RESULT ?*

- *For each item with a result more than 100% => efficiency is diminished;*  
Action: - Define the reason why the actual time spent exceeded the time schedule as set for procurement procedure;
- *For each item with a result less than or equal to 100% => the result is acceptable;*  
Action: - Promote and encourage the public procurement procedure made in the time schedule, which include the time needed to the preparation of tender, selection of the right type of procedure regarding subject matter;

# Competitiveness

- *Contracting authorities must respect the legal restrictions of the time limit for the receipt of the tenderers;*
- *The reasons stated by contracting authorities when reducing time limits should be justified;*
- *The changes and amendments of the tender documentation must be taken into account to extend a time period;*

<b>FORMULA</b>	<b>TARGET</b>
$\frac{\text{Time limits – unreduced} \times 100}{\text{Legal Sets of Time limits}}$	<b>Equal (=) to 100%</b>

## *HOW TO USE THE RESULT ?*

*For each item with a result less than 100% => Tenderers do not have reasonable time period for submitting the tender;*

- *Tenderers do not have reasonable time period for submitting the tender;*  
Action: - Highlighting the need and importance for setting the reasonable time period for submitting the tenders with regard to the complexity of the subject matter and comprehensiveness of tender documentation;

# *Economy*

*(Indicator with the presumption that the estimated value is realistic and a reflect of relevant market situation)*

*Key elements relevant to economy:*

- *Estimated value of the contract and the prices of selected tenders;*
- *The value in preliminary procurement forecast in comparison with the awarded value;*
- *The value of past similar projects (technical capability-reference) is comparable with the awarded value?*
- *The difference between estimated value and abnormally low tenders;*
- *Frequency of abnormally low tender regarding the subject matter;*

# *Economy*

<b>FORMULA</b>	<b>TARGET</b>
$\frac{\text{Awarded Value} \times 100}{\text{Estimated Value}}$	<i>Equal (=) to 100 %</i>

## *HOW TO USE THE RESULT ?*

- *For each item with a result more than 100% => economy is diminished;*  
Action: - Define the reason why the awarded value is higher than the estimated value (presuming that the estimated value is realistic);
- *For each item with a result much less than 100% => possibility of abnormally low price;*  
Action: - Instructions how to reject the tender with abnormally low price;

# *Execution of the Contract - Value*

*Key elements relevant to the final value paid:*

- *Difference between the estimated value and the tender value;*
- *Difference between the tender value and the final paid value;*
- *Reasons to enter into an annex are justified;*
- *Upgrading or maintenance of the goods/services/works is needed and it was not complied with the award contract;*
- *Upgrading or maintenance is content of an annex;*



## *Execution of the Contract - Value*

<i>FORMULA</i>	<i>TARGET</i>
$\frac{\text{Final Value Paid} \times 100}{\text{Tender Value}}$	<i>Less (&lt;) or equal (=) to 100%</i>

### *HOW TO USE THE RESULT ?*

- *For each item with a result much more than 100% => economy and efficiency are diminished;*

Action: - Define the reason why the final value paid is higher than the tender value;

- *For each item with a result less than 100% = reducing the scope of contract;*

Action: - Define the reason why the contracting authority reduced the scope of contract;

# *Procurement Capacity Building*

## *Key elements of Procurement Staff Capacity Building*

- *Procurement personnel have to follow a Procurement Code of Ethics?*
- *Does the public procurement law determine mandatory education for the procurement officials?*
- *Lecturers should have a license for education;*
- *Content of the education programs is in compliance with PPL and legal practice.*
- *The procurement officer should cooperate in every public procurement procedure.*
- *A number of valid basic or advanced procurement professional certificates.*
- *Cooperation with the international professionals from the field of public procurement system.*
- *Procedural manuals and clear instructions for staff to follow are available.*
- *The applicable information is maintained and regularly updated.*
- *The formal training should be provided for new employees.*

## HOW TO USE THE RESULT ?

- There is not sufficient number of the certified procurement officers;

Action: - Enhance awareness and set the training courses by licensed lecturers;

# *Anticorruption Measures*

## *Key elements of anticorruption measures:*

- *The process for bidders to report bribes by others and solicitation/ extortion of bribes by procurement officials is regulated by law.*
- *Bidders should have access to administrative or judicial review/appeal.*
- *There measures to curb corruption (e.g., anticorruption statutes and/or bodies, whistleblower statutes, comprehensive reforms of the civil service/judiciary, regional initiatives, provisions in the criminal law, anti-bribery provisions, etc.) are clear and understandable.*
- *Considerable sums of public money are paid without following procurement procedure.*
- *Lack of audit and/or other supervision.*
- *The proportion of the negotiated procedures without publication and other types and the paid value based on procedures without publication of a contract notice are disproportionate.*

# *Anticorruption Measures*

<i>FORMULA</i>	<i>TARGET</i>
<i><u>Final Decisions on Corruption Acts in proc. proced. X_100</u></i> <i>All procurement procedures</i>	<i>Equal (=) to 0%</i>

## *HOW TO USE THE RESULT ?*

- *If the result is over 0% = tendency to corruption*

Action: - Enhance awareness about anti-corruption measures;

## *Appendix I : Form for Legal and Compliance Area*

<i>Question/indicator</i>	<i>Possible source of information</i>	<i>Answer</i>	<i>Considerations for assessment</i>
<i>A: Is public procurement system in accordance with the general principles and objectives?</i>			
<i>If the answer to the question A is negative:</i>			
<i>A1: Is a reason that the public procurement system is non-compliant with general principles because of the public procurement law?</i>			
<i>A2: Is a reason that the public procurement system is non-compliant with general principles because of the inappropriate implementation in practice?</i>			
<i>If the answer to the question A1 is positive:</i>			
<i>B1: What are the deficiencies of the PPL?</i>			
<i>B2: Does the public procurement law pursue the EU public procurement directives?</i>			
<i>If the answer to the question A2 is positive:</i>			
<i>C: Are general principles taken into consideration when executing public procurement procedures?</i>			
<i>If the answer to the question C is negative:</i>			
<i>D1: What are the most common mistakes made during an execution of proc. procedures?</i>			
<i>D2: In which phase(s) of public procurement procedure the mistakes are most commonly made?</i>			
<i>D3: What are the reasons for these mistakes?</i>			
<i>E: What and where the improvements and upgrading are necessary so that the public procurement system would reach the assessment of transparent, equal and competitive public procurement system?</i>			
<i>F: What is the adequacy of organization, funding, staffing, and level of independence and authority?</i>			
<i>G: Are responsibilities separated and clarified to avoid conflict of interest in the execution of procurement transactions?</i>			
<i>H: Are there training capacities for procurement?</i>			

## *Appendix II: Possible other Indicators in the pre-tender phase*

<i>Indicator</i>	<i>Possible source of information</i>	<i>Answer</i>	<i>Considerations for assessment</i>
<i>Evaluation of the Estimated Value</i>			
<i>Definition of the Subject Matter</i>			
<i>Type of the Procurement Procedure</i>			
<i>Preliminary Procurement Forecast</i>			
<i>Standardisation of the Proc. Procedure</i>			
<i>Formalisation of Proc. Procedure</i>			
<i>Training Courses</i>			

## *Appendix III: Possible other Indicators in the contract-award procedure*

<i>Indicator</i>	<i>Possible source of information</i>	<i>Answer</i>	<i>Considerations for assessment</i>
<i>Public Notice of the Public Proc.<u>Procedure</u></i>			
<i>Time Limit for the Receipt of Tenders</i>			
<i><u>Communication between CA and Tenderers</u></i>			
<i>Number of Tenderers Submitted/Rejected in Public Procurement Procedure</i>			
<i>Offer Value</i>			
<i>Duration of the Public Proc<u>ur.</u> Procedure</i>			

# PROCUREMENT CASE QUESTIONNAIRE

*(To be completed once for every one procurement case reviewed)*

<i>To be completed for all Procurement Cases</i>	<i>Yes</i>	<i>No</i>
<i>1. Does the reviewed case form part of the approved procurement plan for the corresponding Financial Year?</i>		
<i>2. Were the correct Standard Bidding Documents used?</i>		
<i>3. Does the reviewed case have complete files with required documentation?</i>		
<i>4. Was the final payment processed within the payment schedule specified in the contract?</i>		
<i>For competitive bidding (open bidding, restricted bidding, quotations and proposals cases only)</i>	<i>Yes</i>	<i>No</i>
<i>5. When was the Letter of Invitation issued? (please indicate <u>dd/mm/yyyy</u> of advertisement)</i>		
<i>6. When was the contract award issued? (please indicate <u>dd/mm/yyyy</u> of contract award)</i>		
<i>7. Does the documentation entail complete records of the evaluation process?</i>		
<i>8. Were the stipulated evaluation criteria clearly followed in the evaluation?</i>		
<i>For open bidding (domestic and international) only</i>	<i>Answer</i>	
<i>9. How many bids were received? (please indicate total number of bidders)</i>		
<i>10. How many bidders were rejected in the preliminary examination? (please indicate total number of bidders rejected)</i>		
<i>For major Works and Services Contracts</i>	<i>Yes</i>	<i>No</i>
<i>11. Is the documentation complete with all required contract management records</i>		



## *The purpose of measuring public procurement performance*

- *Ensuring how the law is implemented;*
- *Improving efficiency and effectiveness in public procurement;*
- *The discovery of corrupt and fraudulent practices;*
- *Measuring procurement performance compared with objectives;*
- *The possibility of lowering the costs for projects implemented;*
- *Improving the overall system on the basis of recommendations and suggestions;*

# *Performance monitoring*

*Will help the Government:*

- *To take appropriate decision for improvements in public procurement system;*
- *Defines the policies and objectives of public procurement;*
- *Measures to increase transparency, and accountability;*
- *Application of new measures to increase efficiency and effectiveness of public procurement;*

*Will help Contracting Authorities to understand:*

- *Whether planning and management in procurement is made effective?*
- *To identify strengths and weaknesses, and to take appropriate steps for positive change;*
- *How Terms of Reference - Technical Specifications are prepared ;*
- *Strategy and selected methods of procurement process;*
- *Qualifying criteria for award of the contract;*
- *Preparation of contract (general and special conditions)*

# References:

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*FALEMINDERIT!*