

Oversight and Monitoring in Public Procurement in the Republic of Serbia

Role and Significance of the Public Procurement Office



REPUBLIC OF SERBIA
PUBLIC PROCUREMENT OFFICE

CONTENTS

- Public Procurement Portal - tool for efficient oversight in public procurement
- Internal regulation and internal audit in public procurement
- Certification of public procurement officers
- Inter-institutional cooperation in relation with the supervision in public procurement
- Civil supervisor – civil supervision in supervising the public procurement

PUBLIC PROCUREMENT PORTAL - TOOL FOR EFFICIENT OVERSIGHT IN PUBLIC PROCUREMENT

PUBLIC PROCUREMENT PORTAL

Established in 2009,
upgraded in 2013.

Public procurement
procedures, protection
of right, opinions,
reports...

PUBLIC PROCUREMENT PORTAL – <http://portal.ujn.gov.rs>

▪ Portal is managed by the Public Procurement Office.

▪ Objectives:

- ✓ Cost-effectiveness
- ✓ Transparency
- ✓ Ensuring competition
- ✓ Curbing corruption



▪ Free of charge search of all contents in the Portal.

▪ Contracting authorities are registered and post their notices, bidders do not have to register.

Contents of Public Procurement Portal

- ✓ Notices on public procurement
- ✓ Tender documentation
- ✓ Opinions of the Public Procurement Office on justifiability of application of negotiated procedure without prior notice
- ✓ Reports on concluded public procurement contracts (Outcomes: contracts, suspensions: reasons for exemption of PPL...)
- ✓ Decisions of the Republic Commission for the Protection of Rights in Public Procurement Procedures
- ✓ List of negative references
- ✓ Standard templates for notices in public procurement

INTERNAL REGULATION AND INTERNAL AUDIT IN PUBLIC PROCUREMENT

✓What is internal audit?

Activities providing independent and objective assurance and advice by the auditor.

✓What is the purpose of internal audit?

❖Legality and efficiency of managerial and other processes in the company.



➤Internal audit process:

- I. planning the audit assignment
- II. checking
- III. reporting
- IV. monitoring activities in implementing issued recommendations

➤ Tasks of internal audit:

- 1) Identifying **risks**, risk assessment and risk management, by heads at all levels of beneficiaries of public funds;
- 2) **Compliance** with laws, internal regulations, and contracts;
- 3) **Reliability and completeness** of financial and other information;
- 4) **Efficiency, effectiveness and economy** in operation,
- 5) **Protection** of resources and information,
- 6) Execution of tasks and **achieving objectives**.

INTERNAL REGULATION AS THE BASIS OF INTERNAL AUDIT OF PUBLIC PROCUREMENT

What is internal regulation?

Legal act governing the public procurement procedures within contracting authority.

Who has to adopt its internal regulation?

All contracting authorities.

Contents of internal regulation?

The Public Procurement Office issued a bylaw prescribing the contents of internal regulation.

➤ Internal regulation defines the actions of contracting authority in all stages of public procurement, whereas internal audit determines whether contracting authority, and/or persons employed with contracting authority, act in compliance with powers from, and manner prescribed by, internal regulation.

INTERNAL REGULATION - PUBLIC PROCUREMENT PLANNING

Powers in planning procurement

**Process and timelines for drafting,
adopting, executing, and controlling the
procurement plan execution, and reporting**

Determining the manner of planning

DETERMINING THE MANNER OF PLANNING

1

Criteria for planning

2

Way of expressing **the needs**, verifying, and determining

3

Method of **identifying** the subjects of procurement and technical specifications

4

Rules and methods for **determining the estimated value**

5

Ways for examining and **researching** the market

6

Checking **the type of procedure**

7

Method of determining **duration of contracts**

8

Setting the **dynamics** for initiating procurement procedures

9

Verifying **the harmonization** between the procurement plan and the financial plan

INTERNAL REGULATION – OBJECTIVES OF PUBLIC PROCUREMENT

1	Appropriateness and justification of public procurement
2	Cost-effective and efficient spending of public funds – the principle “ value for money ”
3	Effectiveness – degree of achievement of the set objectives, the ration between the planned and the achieved impacts
4	Transparent spending of public funds
5	Ensuring competition and equal position of all bidders
6	Environment protection and ensuring energy efficiency
7	Timely and efficient conducting of the procedure, for the sake of smooth operation of contracting authority and the timely meeting of needs of other beneficiaries

INTERNAL REGULATION – MODES OF FULFILLING OBLIGATIONS IN PUBLIC PROCUREMENT PROCEDURE

Prior to decision
on initiating
procedure

When drafting
tender
documentation

During opening
of bids

At the stage of
expert evaluation
of bids

During
conclusion of
contract

INTERNAL REGULATION – POWERS, RESPONSIBILITIES, AND METHODS IN MONITORING THE IMPLEMENTATION OF CONTRACT



CERTIFICATION OF PUBLIC PROCUREMENT OFFICERS

✓ Who is a public procurement officer?
Person trained to perform tasks and duties in public procurement.

✓ Who has to have employed (at least one) public procurement officer?

Contracting authority whose total value of planned public procurement per annum exceeds \approx EUR 175,000.

✓ Does a public procurement officer have to be a mandatory member to the public procurement committee ?

Yes, where the estimated value of public procurement exceeds \approx EUR 7,500. Otherwise, a mandatory member to the public procurement committee may be either a public procurement officer or a graduate lawyer.



- ✓ How does one become a public procurement officer?
By means of certification – upon passing the written exam taken before the Examination Commission .
- ✓ What is the subject matter of this exam?
Theoretical and practical knowledge in public procurement and related areas.
- Public Procurement Office issued its Manual for taking exam for acquiring a public procurement officer certificate, and made it available to all interested parties free of charge, by posting it on its website.

- ✓ Exam is considered passed if a candidate correctly answers at least 75% of questions.
- ✓ Exam is held 4-6 times per month, for 200-250 candidates
- ✓ First certification period – pursuant to the previous Law, December 2010 – March 2013: 1,810 certified public procurement officers
- ✓ Second certification period – pursuant to the current Law, October 2014 – March 2015: 21 examinations held, 751 candidates, out of whom 420 passed the exam, with success rate 56%.

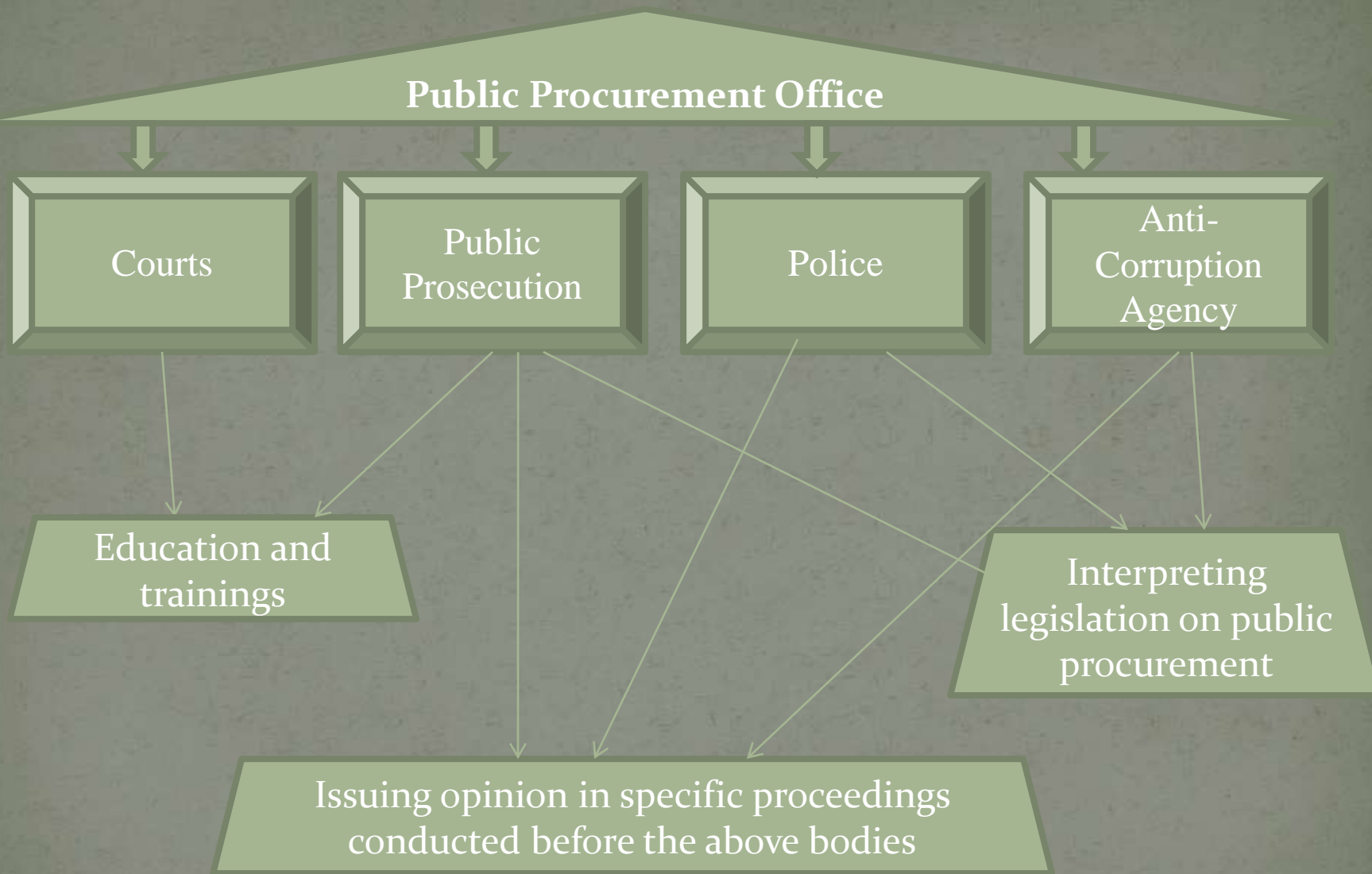
INTER-INSTITUTIONAL COOPERATION RELATED TO SUPERVISION IN PUBLIC PROCUREMENT

**Public Procurement
Office as an expert and
advisory body**

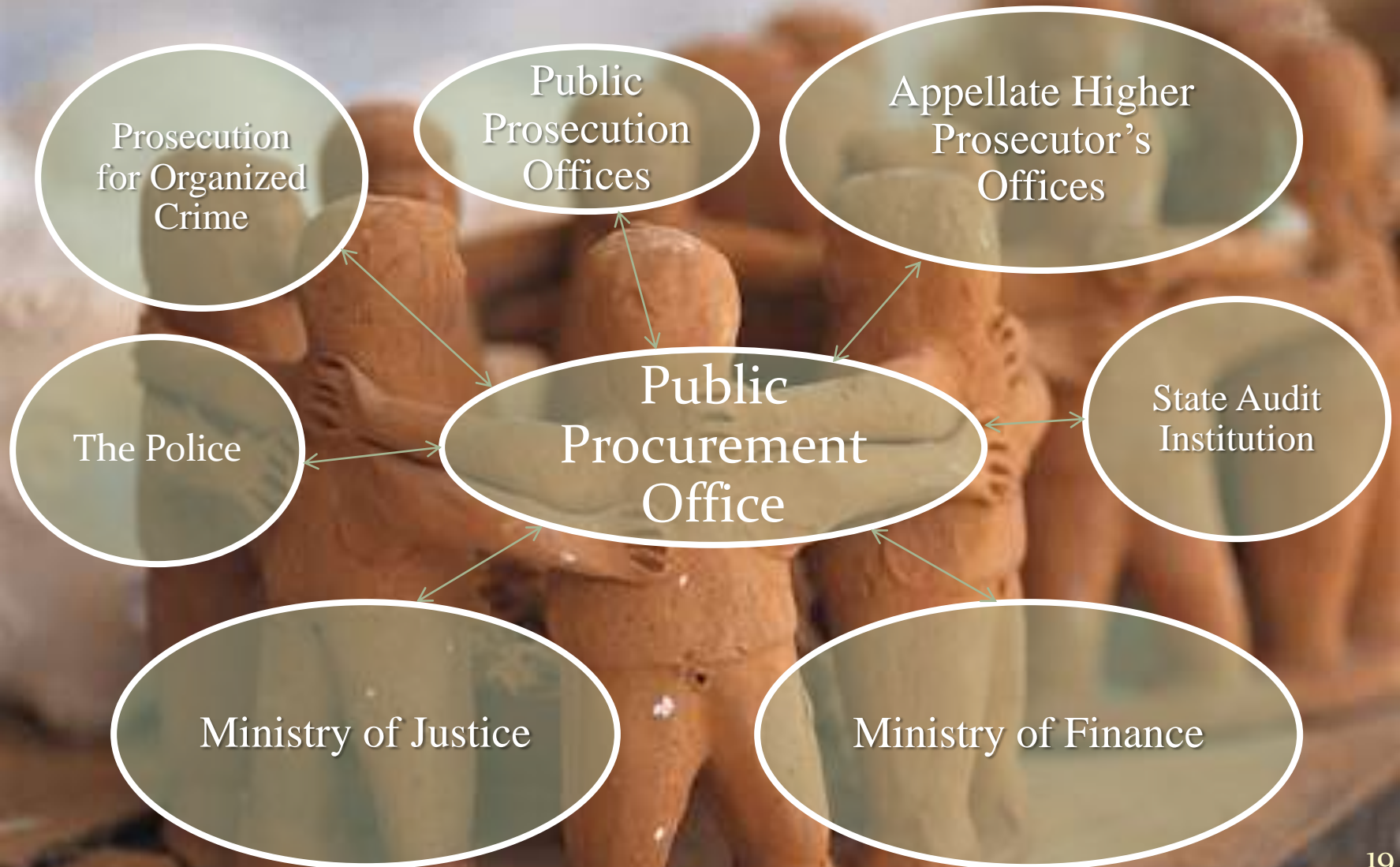
Joint investigating teams

Electronic database





JOINT INVESTIGATING TEAMS



❖ Objectives:

- Institution capacity building to work in the form of task forces and joint investigating teams
- Discussion on good practices
- Synergy of knowledge and skills



❖ Case studies

- Real-life and moot cases
- Case analysis
- Proposal of activities

Contents of electronic database

- ❑ Filed reports indicating presence of corruption
- ❑ Filed reports indicating presence of irregularities in public procurement
- ❑ Investigative proceedings considering the ongoing public procurement
- ❑ Filed requests to initiate misdemeanor proceedings
- ❑ Initiated criminal proceedings related to public procurement
- ❑ Initiated proceedings for determining annulment of public procurement contracts
- ❑ Annulled public procurement contracts

- Connection with the Public Procurement Portal:
 - ✓ Decisions of the Republic Commission for the Protection of Rights in Public Procurement Procedures
 - ✓ Opinions of the Public Procurement Office on justifiability of application of negotiated procedure without prior notice

Users of electronic database

I – Bodies with supervisory powers in relation with public procurement:

1. Public Procurement Office
2. Republic Commission for the Protection of Rights in Public Procurement Procedures
3. State Audit Institution
4. Ministry of Finance – Budgetary Inspection

II – Bodies in charge of combatting corruption:

1. Anti-Corruption Agency
2. Anti-Corruption Council

III – Repressive and judicial bodies:

1. Police
2. Public Prosecution Offices
3. Courts

IV– Other relevant bodies in the area of public procurement:

1. Ministry of Economy
2. Commission for the Protection of Competition

Importance of electronic database

- Efficiency and cost-effectiveness
- Streamlining of procedures
- Data concentration
- Information comprehensiveness
- Information on whether the procedure in given procurement has been initiated or completed (*'ne bis in idem'* rule)
- Monitoring the status of given procedure
- Exchanging information among the institutions

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CIVIL SUPERVISOR - CIVIL SUPERVISION IN PUBLIC PROCUREMENT

✓What is civil supervisor?

An institution of civil supervision in the conducting of individual public procurement procedures, especially in high-value ones.

□Institution of civil supervisor - unique form of civil control in public procurement in Europe.

✓When is it obligatory to appoint a civil supervisor?

In public procurements with estimated value exceeding ≈EUR 8,325,000).

✓Who appoints civil supervisors?

Public Procurement Office.



✓ Who may be appointed as civil supervisor?

- 1) Person from the ranks of prominent experts in public procurement or in areas related to the subject of public procurement
- 2) Association dealing with public procurement, combatting corruption or preventing conflicts of interests.

✓ Who may not be appointed as civil supervisor?

- 1) Person employed with or otherwise engaged by contracting authority and/or person(s) related with contracting authority
- 2) Member of a political organization.

How does the civil supervisor perform supervision?

- 1) By following and analyzing information posted on the Public Procurement Portal and/or contracting authorities' websites
- 2) By following and analyzing all contracting authority's legal acts issued: prior to initiating, during the course, and upon conclusion of public procurement procedure, up to the moment of the submission of report
- 3) By direct insight into actions taken by contracting authority in public procurement procedure
- 4) By direct insight into contracting authority's communication with stakeholders/bidders, contracting authority's internal communication, and contracting authority's communication with other bodies in relation with given public procurement
- 5) By obtaining additional requested information from contracting authority

➤ Civil supervisor's authorities:

❑ Acting upon reports on suspected corruption in the public procurement procedure under their supervision

❑ Taking measures in cases of reasonable doubt in terms of legality of public procurement procedure – notifying the relevant state bodies and the public.

❑ Alerting contracting authority to deficiencies and failures in conducting the procedure, and issuing orders, guidelines and instructions for remedying such deficiencies and failures

❑ Filing request for the protection of rights.

- ✓ Upon completed public procurement procedure, civil supervisor submits report on the conducted public procurement procedure to the national Assembly within 20 days from the day from the conclusion of contract, or from the decision to cancel the procedure.

- 48 appointed civil supervisors
(in 2013 – 8; in 2014 – 30; in 2015 - 10)

- So far - 7 civil society organizations were appointed as civil supervisors

- Action of civil supervisor – adoption of the general legal position of the Republic Commission for the Protection of Rights in Public Procurement Procedures (*cassa sconto* as an unauthorized element of the criterion for awarding contract)

**THANK YOU
FOR YOUR ATTENTION**