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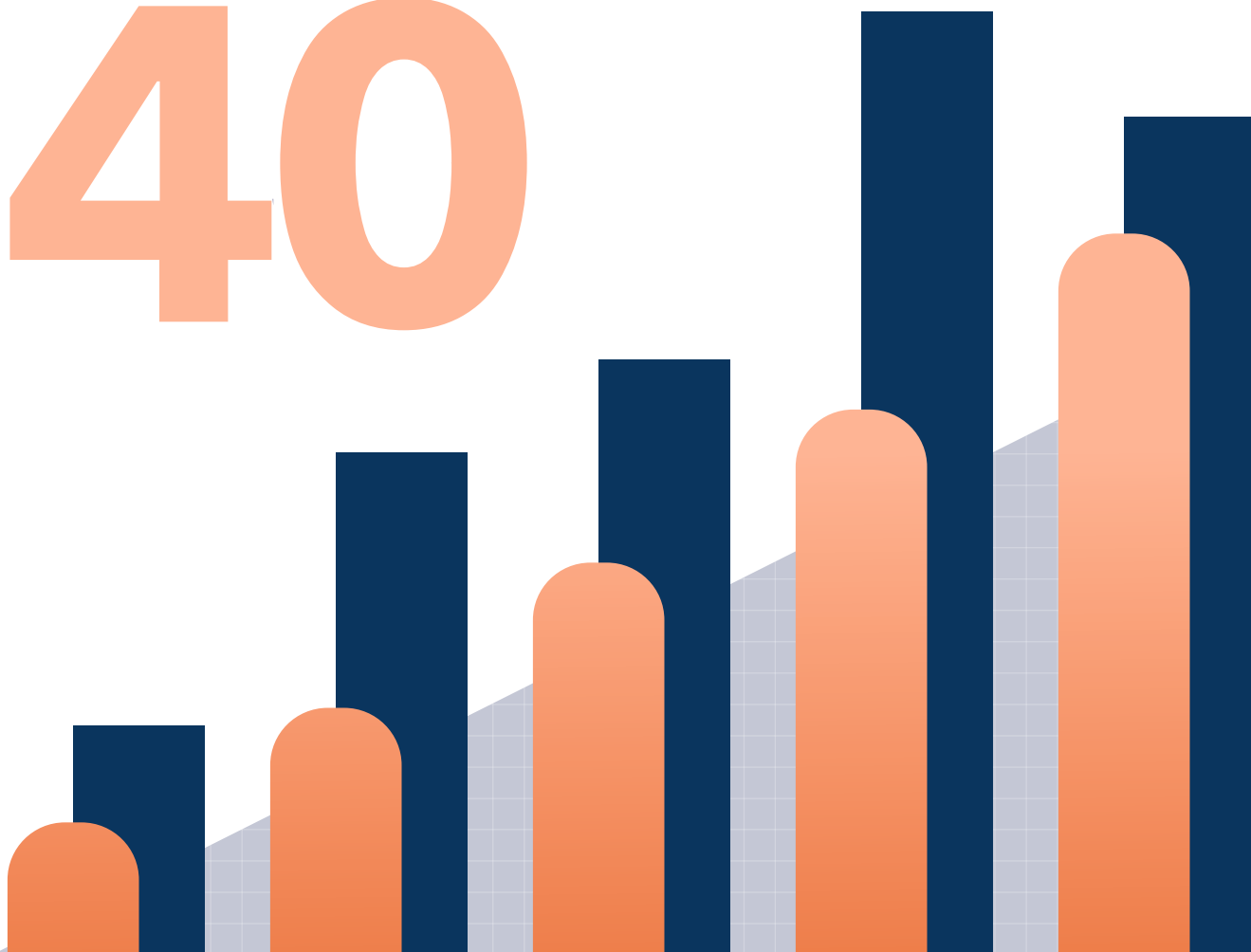
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MONITORING

OF PUBLIC PROCUREMENTS

(July - December 2023)

40



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2023

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Report no. 40
(July – December 2023)

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Goals and methodology

The Center for Civil Communications (CCC) regularly monitors and analyses implementation of public procurements in the country, starting from 2008 when the first legislation on public procurement drafted in compliance with the European Commission's Directives entered into effect. The overall goal of this endeavour is to assess whether and to what extent state institutions comply with underlying principles of public spending, as stipulated in the law: competition among companies, equal treatment and non-discrimination of companies, transparency and integrity in implementation of public procurement, cost-effective and efficient public spending.

Subject of this monitoring effort are public procurements implemented by all state institutions in the country, both at central and local level of government. Selection of the monitoring sample is made at the time when procurement notices are published in the Electronic Public Procurement System (EPPS).

Monitoring activities include collection of primary and secondary data by means of CCC monitors attending the public opening of bids, discussions with bidders, browsing and researching data available in EPPS, browsing information on appeals lodged before and decisions taken by the State Commission on Public Procurement Appeals (SCPPA) available on its official website and submitting requests under the instrument for free access to public information inquiring about data that are otherwise unavailable. Questionnaires and other templates used for monitoring purposes are structured in a manner that facilitates the most effective method for monitoring the implementation of public procurement in terms of compliance with the relevant legislation in effect and the fundamental principles that govern public procurement.

Implementation of public procurement is analysed on the basis of all information and data collected, previously structured and inputted into a specially-designed matrix, in terms of compliance with above-enlisted principles and efforts to obtain the most advantageous bid, including accountability for public funds spent.



Data analyses serve as baseline for development of reports that outline key findings from public procurement monitoring, recommendations to address problems and weaknesses identified in the system of public procurement, and detailed elaboration of observed state-of-affairs.

This report is developed on the basis of monitoring and analysis of a selected sample comprised of 60 public procurement procedures implemented by institutions at central and local level of government, in the period from 1 July to 31 December 2023.



Analysis from monitoring of public procurements

- » In 2023, public procurement reached record high value and record low competition over the last 10 years. The value of public procurement contracts awarded in 2023 amounted to 92 billion MKD, i.e. around 1.5 billion EUR, representing an increase by 35% compared to the previous year. Increased value of public procurement was accompanied by deteriorated competition in tender procedures. The average number of bids per tender procedure accounted for 2.7 bids. One third of all tender procedures were presented with only one bid each. Absence of competition is a consequence of favouring tender documents and loss of trust in fair competition among businesses. This increases the risk for tender procedures not to obtain the best value for the money spent.
- » The number of tender procedures presented with only one bid whose price is identical with the procurement's estimated value is also increased. Such overlap in value raises concerns as the estimated value of these tender procedures was not published in advance and was enlisted only in public procurement decisions, which are not publicly available documents.
- » Every fourth tender procedure covered by this monitoring had not enlisted the procurement's quantity. Such course of action is a source of serious manipulations and allows an easy path to tender rigging. This approach has a discouraging effect for potential bidders and most tender procedures without indicated quantity were presented with only one bid. Failure to enlist the procurement subject's quantity is contrary to the law-stipulated principles of rational, efficient and effective spending of public funds, allowing the contract to be awarded under prices higher than the actual market price.
- » In 2023 and for the third consecutive year, high 94% of tender procedures used 'lowest price' as criterion for selection of the most advantageous bid. On the other hand, tender procedures that use the selection criterion defined as 'the best price/quality ratio' often apply inadequate bid-evaluation elements for quality.



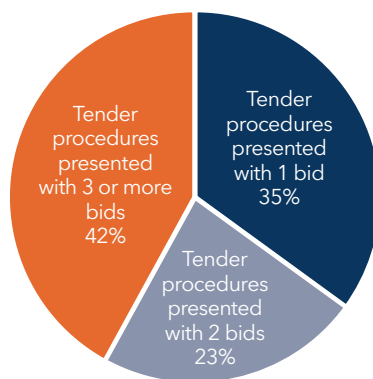
- » Organization of electronic auctions continues its downward trajectory. In 2023, e-auctions were organized in 62% of tender procedures compared to 73% in 2022 and 89% in 2021.
- » 27% of all tender procedures organized in 2023 have been annulled. This represents a mild drop compared to 2022 when their share accounted for 31%.
- » For a second consecutive year, the value of contracts awarded under negotiating procedure without previously announced procurement notice is decreasing. In 2023, the value of such contracts amounted to 23 million EUR, accounting for a value decrease by 28% compared to 2022. In most cases, negotiations have taken place with only one company. As was the case in the past, at the level of individual institutions, the highest-value contracts awarded without announced procurement notice are observed with JSC Power Plants.
- » In 2023, a total of 371 tender procedures were subject of administrative control conducted by the Bureau of Public Procurement, representing an increase compared to 2022 when administrative controls were performed in 270 cases. Higher number of irregularities have been found in tender procedures subject to control on the basis of risk assessment for violation of provisions under the Law on Public Procurement compared to tender procedures subject to control on the basis of their high value. In 2023, the Bureau of Public Procurement has found corruption suspicion in 4 cases and informed the competent authorities thereof. In the same year, the State Commission on Public Procurement Appeals has not learned about or found any suspicion about corruption in public procurements.
- » ***In 2023, public procurement has reached record-high value and record-low competition over the last 10 years. The value of public procurement contracts awarded in 2023 amounted to 92 billion MKD, i.e. around 1.5 billion EUR, representing an increase by 35% compared to the previous year. Increased value of public procurement was accompanied by deteriorated competition in tender procedures. The average number of bids per tender procedure accounted for 2.7 bids. One third of all tender procedures were presented with only one bid each. Absence of competition is a consequence of favouring tender documents and loss of trust in fair competition among businesses. This increases the risk for tender procedures not to obtain the best value for the money spent.***



In 2023, 29,719 public procurement contracts were awarded, in total value of 92,052,193,967 MKD (1,496,783,642 EUR). The number of contracts is by 4.46% higher than the number of contracts awarded in 2022 and they account for a value increase by 35.29%.

This major jump in the value of public procurement was accompanied by decreased competition. As many as 35% of tender procedures implemented in 2023 were presented with only one bid each. Their share in the previous year accounted for 33%. In 2023, the share of tender procedures presented with 2 bids accounted for 23% and was at the same level with the previous year. Desired level of competition that implies 3 or more bids per tender procedure was achieved in 42% of tender procedures organized in 2023.

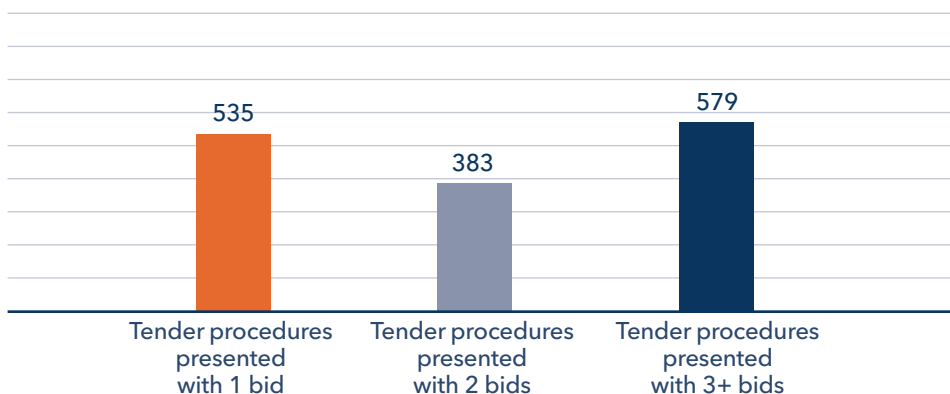
Competition in 2023 tender procedures



Absence of competition is indicative of serious weaknesses in the system of public procurement and prevents competition among bidders, which is the only guarantee that tender procedures would result in obtaining the best value for the money spent. In 2023, the total number of contracts awarded under tender procedures presented with 1 bid accounted for 10,354 and their cumulative value reached 33 billion MKD (535 million EUR). 6,915 contracts were awarded in tender procedures presented with 2 bids, in cumulative value of 24 billion MKD (383 million EUR). Competitive tender procedures with 3 or more bids resulted in award of 12,440 contracts in total value of 36 billion MKD (579 million EUR).



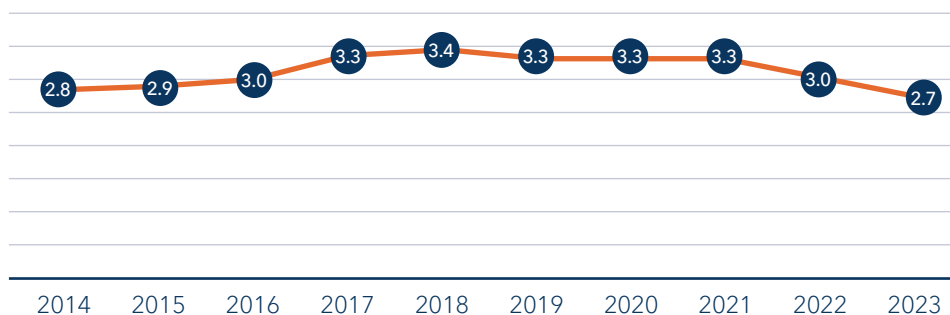
Overview of 2023 public procurement contracts according to number of bids received (in million EUR)



As a result of these processes, the average number of bids per tender procedures in 2023 accounted for 2.7 bids, which is the lowest level recorded in the last 10 years. Hence, it could be inferred that, in 2023, contracts awarded under tender procedures with solid level of competition accounted for only 39% of the total value of public procurement, unlike the situation observed in 2022 when their share was 44%.

The rise of public procurement procedures presented with only one bid was negatively reflected on the average number of bids per tender procedure. In 2023, this number reached a record-low level calculated at 2.7 bids per tender procedure.

Average number of bids per tender procedure





As was the case in the first half of the year, the biggest contract in the second half of 2023 was awarded under tender procedure marked by participation of only one company and its subject is related to healthcare. It is a matter of contract for procurement of vaccines intended for regular immunization of the population in the Republic of North Macedonia according to epidemiological indications for the period from January 2024 to December 2026. The highest-value contract under this tender procedure amounted to 530 million MKD (8.6 million EUR) and was awarded to Alkaloid KONS Skopje.

Low level of competition leads to high value concentration of tenders with small number of companies. Among the total value of all public procurement contracts in 2023, as high as 338 million EUR, i.e. 23% of the total value of public procurements, were awarded to only 10 economic operators. Last year, the value share of the top 10 companies accounted for 20%.

The lead position on the list of top 10 companies with high value share in public procurement is held by Markovski Company Borche LLC Skopje, which provides excavation services for JSC Power Plants and has risen to the top from the third-ranking position in 2022. As shown in the table below, in 2023, Markovski Company was awarded 20 contracts in total value of 3.2 billion MKD, i.e. 52 million EUR. All contracts of this company were awarded by JSC Power Plants and concern engagement of machinery and qualified labour for the needs of MEC Bitola. Over a period of one year, Markovski Company has managed to double the value of its public procurements from 25 million EUR in 2022 to 52 million EUR in 2023.

Second-ranked in terms of high-value contracts is JSC D-r Panovski Skopje, which was awarded 279 contracts in cumulative value of around 2.8 billion MKD, i.e. 45 million EUR. The value of contracts awarded to D-r Panovski in 2023 is by 241% higher compared to 2022 when they amounted to 13 million EUR.

The third position on this list is held by another pharmaceutical company, Alkaloid KONS, with 290 contracts in cumulative value of 2.4 billion MKD, i.e. around 40 million EUR, representing an increase by 131% compared to 2022 when the value of this company's contracts amounted to 17 million EUR.

Fourth-ranked in Stenton Gradba Bitola, which was not featured on the 2022 list of companies with high-value contracts. Its high share in public procurement was achieved on the account of the high-value contract signed with the Directorate for Technology and Industry Development Zones for "construction of buildings for temporary accommodation, emergency ambulance, kindergartens and storage with amenities (parking lot) within TIDZ Skopje 1 and TIDZ Skopje 2, and buildings for temporary accommodation, kindergartens and storage with amenities (parking lot) in TIDZ Shtip and TIDZ Prilep according to the "turnkey" principle", in total value of 1,781,800,000 MKD, i.e. around 29 million EUR.



Fifth position is held by a company that has not been featured on this list before, Spektartermo Skopje, whose high-value contracts were signed with JSC Power Plants and EVN Macedonia.

Top 10 companies with highest value of public procurement contracts in 2023

Company	Number of contracts	Total value of contracts (in MKD)	Total value of contracts (in EUR)	Share in total value of all public procurement in the country
Markovski Company Borche LLC, Bitola	20	3,201,348,992	52,054,455	3.48%
JSC D-r Panovski, Skopje	279	2,777,645,263	45,164,964	3.02%
Alkaloid KONS LLC, Skopje	290	2,440,250,399	39,678,868	2.65%
Stenton Gradba, Bitola	29	2,071,680,277	33,685,858	2.25%
Spektartermo Skopje	37	2,061,736,941	33,524,178	2.24%
Energy Delivery Solutions Skopje	209	2,034,801,340	33,086,201	2.21%
IRD ENGINEERING Srl	1	1,621,678,807	26,368,761	1.76%
Granit JSC Skopje	3	1,608,673,212	26,157,288	1.75%
AITONIX Skopje	3	1,550,315,083	25,208,375	1.68%
Pucko Petro LLC, v. Plasnica	395	1,400,223,600	22,767,863	1.52%
TOTAL	1,266	20,768,353,914	337,696,812	22.56%

Recommendation:

The institutions must work on encouraging competition because it is the only guarantee for cost-effective spending of public funds. It is of key importance to work on thorough market research both, in terms of setting adequate eligibility criteria for bidding companies and in terms of defining requirements under technical specifications. Otherwise, public procurement procedures would lose any reason and purpose and would be reduced to formal publication of procurement notices, without actual search for more bidders.

- » ***The number of tender procedures presented with only one bid whose price is identical with the procurement's estimated value is also increased. Such overlap in value raises concerns as the estimated value of these tender procedures was not published in advance and was enlisted only in public procurement decisions, which are not publicly available documents.***



Overlap between the value of the single bid received and the procurement's estimated value was noted in every fourth tender procedure. In that, these procedures were organized for procurement of different items such as: desktop computers and laptops; audio and video equipment; passenger vehicles; thermal cameras for firefighters; instruments for paediatric flexible endoscopy; allergy tests; printing and book-binding services; pellets; etc. These tender procedures raise doubts about use of tender documents to limit competition, but also about price-rigging practices. Several examples from this monitoring sample are elaborated below.

The monitored procedure for procurement of instruments for paediatric flexible endoscopy required 8 types of instruments, each of different quantity and total sum of 98 units. The contracting authority was presented with one bid in the value of 2,199,330 MKD, VAT excluded. The bid's price was by 670 MKD, i.e. by 0,03% lower than the procurement's estimated value in the amount of 2,200,000 MKD, which was not enlisted in the procurement notice.

Another symptomatic overlap between the institution's estimated value and the bid price was observed in the procurement procedure for passenger vehicle for business purposes organized by a university. The estimated value of the vehicle, described in great details, was set in the amount of 1,690,000 MKD, VAT excluded. The tender procedure was presented with one bid priced at 1,689,280 MKD, which is by 720 MKD (0.04%) lower than the estimated value. Such ideal overlap casts doubt on the tender procedure, especially knowing that the estimated value was not published in advance.

Another example concerns procurement of transport and unloading of 60,000 kilograms of pallets for heating purposes at a state institution. According to the public procurement decision, the tender's value was estimated in the amount of 2,000,000 MKD, but this piece of information was not disclosed in the procurement notice. The contracting authority was presented with one bid at the price of 33.33 MKD per kilogram of pellets, whereby the total contract value reached 1,999,800 MKD, which is by 200 MKD less than the estimated value. If the only bidder had increased the price at the second decimal and had offered a price of 33.34 MKD instead of 33.33 MKD, the bid's total value would have exceeded the estimated value by 400 MKD.

Bid prices that match the procurement's estimated value were also noted in tender procedures presented with 2 bids. One such example is the monitored tender procedure for procurement of 96 units of lottery terminals and lottery equipment in estimated value of 12,000,000 MKD, VAT excluded. The procurement notice for this procedure did not include the estimated value. The contracting authority was presented with 2 bids, one in the value of 13,499,500 MKD and another in the value of 11,998,500 MKD, VAT excluded. The higher-priced bid was rejected and the contract was awarded to the lower-priced bid. However, a dilemma is raised about the actual odds for the institution procuring and the bidder selling the equipment in question to



have arrived at matching projections that differ in price-setting by only 1,500 MKD, i.e. 0.01%.

All these examples are indicative of potential risks for unlawful arrangements between the institutions and bidding companies. Such cases objectively bring under question the actual value of procurement contracts, i.e. they imply an increased risk for prices at which contracts are signed to be higher than actual market prices.

Recommendation:

The list of red flags used by the Bureau of Public procurement should also include overlap between the winning bid's price and the procurement's estimated value that has not been published in advance.

- » ***Every fourth tender procedure covered by this monitoring had not enlisted the procurement's quantity. Such course of action is a source of serious manipulations and allows an easy path to tender-rigging. This approach has a discouraging effect on potential bidders and most tender procedures without indicated quantity were presented with only one bid. Failure to enlist the procurement subject's quantity is contrary to the law-stipulated principles of rational, effective and efficient spending of public funds, allowing the contract to be awarded under prices higher than actual market prices.***

The most evident example of malpractices pursued by means of procurement quantity is observed in the monitored tender procedure for procurement of fresh meat. This tender procedure sought to procure five types of meat, as follows: boneless veil leg, minced beef, pork bone leg, boneless veil loin and pork bone loin. Tender documents did not indicate the planned quantity of different meats. The bid's value was established on the basis of prices per 1 kilogram for all five types of meat. The contracting authority was presented with one bid, wherein 1 kg of boneless veil leg, minced beef and pork bone leg implied above-average prices, while 1 kg of boneless veil loin was priced at 42 MKD and 1 kg of pork bone loin was priced at 32 MKD. These prices are multiple times lower than actual market prices. The public procurement committee had not requested an explanation for such uncommonly low prices. The bid was accepted. However, the "game played" here is the fact that, under circumstances when the quantity of required products is not indicated, unrealistically low prices allow for decreased average price for all five different types of meat and make the bidder more competitive without having to face any competitors.



Most likely, unreasonably low prices for which no explanation is requested serve as cover for some form of arrangement between the contracting authority and the supplier whereby the meat priced at 32 MKD and 42 MKD per kilogram are not ordered at all after the contract is signed. The manipulation in this case is evident because the procurement subject concerns foodstuffs that could be purchased at any market. To make matters worse, such manipulations are pursued with even greater ease in tender procedures whose procurement subject does not imply goods or services that are used by regular citizens, but require specific knowledge in particular areas for which citizens cannot ascertain whether they have been procured at market prices or at unrealistically low prices, i.e. manipulated prices.

Failure to enlist the procurement subject's quantity is contrary to the law-stipulated principle of rationality, efficiency and effectiveness. Notably, failure to enlist, at least, indicative quantities results in absence of baseline against which prices can be assessed in terms of their actuality, i.e. whether they are market-based, which is further complicated in tender procedures presented with only one bid.

The monitoring sample included a tender procedure organized for "collection, transport and treatment of medical waste for a period of 2 years", wherein the financial bid should include service price per 1 kilogram of waste, with an indication that the contracting authority generates around 20,000 kg waste annually, i.e. 40.000 kg over the two-year period, from performance of its educational, healthcare and scientific activity. It remains unclear why these indicative quantities are not featured in the template for submission of financial bids.

Recommendation:

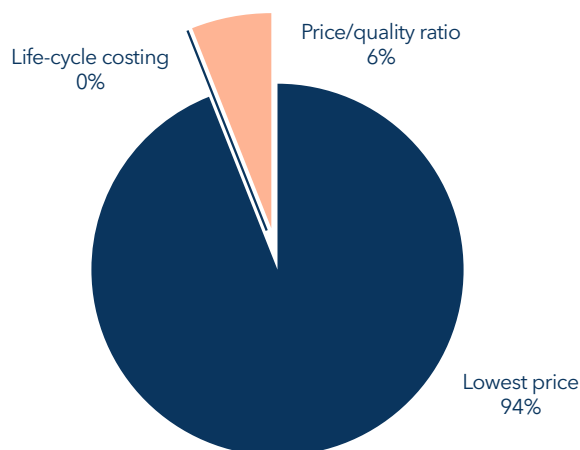
New amendments to the Law on Public Procurement should anticipate an obligation for mandatory enlistment of, at least, the procurement subject's indicative quantity in relevant tender documents.

- » ***In 2023 and for the third consecutive year, high 94% of tender procedures used 'lowest price' as criterion for selection of the most advantageous bid. On the other hand, tender procedures that use the selection criterion defined as 'the best price-quality ratio' often apply inadequate bid-evaluation elements for quality.***

Among the total of 24,005 procurement notices published in 2023, 'lowest price' was used as criterion for selection of the most advantageous bid in 22,661 tender procedures, i.e. 94% of all tender procedures. Selection of the most advantageous bid on the basis of 'the best price/quality ratio' was observed in 1,336 tender procedures, while 8 procurement procedures used the selection criterion defined as 'life-cycle costing'.



Criteria used in 2023 for selection of the most advantageous bid



The advantage from using 'lowest price' as selection criterion allows speed and simplicity in bid-evaluation, but also implies serious limitations in respect to undermined quality of procurements, post-sale services, technical support, servicing, life-cycle costing, etc. The concept of 'best value for the money spent' relies on the assumption that goods, services and works are not homogenous and differ in terms of quality, endurance, expiration period, costs generated by use and therefore contracting authorities should take these considerations into account when selecting the most advantageous bid.

Use of 'lowest price' as criterion for selection of the most advantageous bid is not in line with EU Directives on Public Procurement, which provided the baseline for drafting the current Law on Public Procurement.

Tender procedures that use 'the best price/quality ratio' as selection criterion often apply inadequate bid-evaluation elements for quality.

Hence, for example, the monitored procedure for procurement of representation goods used the criterion 'the best price/quality ratio' whereby price was assigned 55 points and quality was assigned 45 points. Details included in tender documents implied that goods that fully match requirements from technical specifications would be evaluated on the scale from 1 to 45 points; good that partially match requirements from technical specifications would be evaluated on the scale from 1 to 30 points; goods that match the minimum requirements from technical specifications would be evaluated on the scale from 1 to 10 points, while those not matching requirements from technical specifications would be assigned 0 points and these



bids would be considered technically unacceptable. This approach is not in compliance with the Law on Public Procurement according to which subject of evaluation are only goods and services that fully match details given in technical specifications.

The monitored procedure for translation services applied an erroneous approach to bid-evaluation in terms of quality by assigning points in proportion to the number of certificates on quality and timely performed services in the last three years. This method evaluates the bidder's quality, but not qualifications and experience of staff members engaged to perform this contract.

Recommendation:

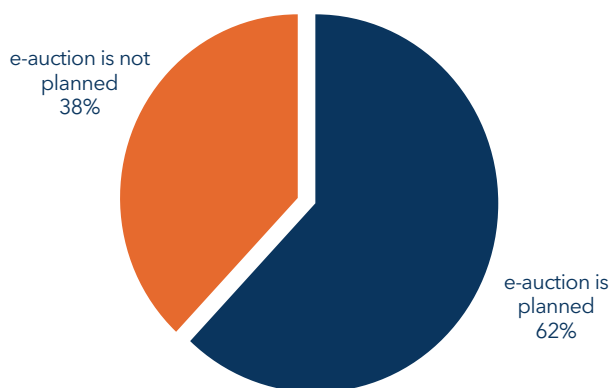
Awareness-raising efforts are needed at the institutions about the consequences from widespread use of 'lowest price' as criterion for selection of the most advantageous bid. At the same time, capacity-building should also take place at the institutions in respect to adequate use of other criteria for selection of the most advantageous bid.

- » **Organization of electronic auctions continues its downward trajectory. In 2023, e-auctions were organized in 62% of tender procedures compared to 73% in 2022 and 89% in 2021.**

As regards electronic auctions (e-auctions), the monitoring observed a drop by 11 percentile points in organization of downward bidding among companies compared to 2022. From the total number of tender procedures implemented in 2023, e-auctions were organized in 14,850 (62%) tender procedures compared to 2022 when their share accounted for 73%. This refers to increased compliance with recommendations issued by competent institutions and the civil society aimed at reduced use of e-auctions to avoid negative effects and malpractices encouraged by this instrument.



Organization of electronic auctions in 2023



On the other hand, tender procedures anticipating organization of e-auction continue to be plagued by unfavourable processes. In more than half of tender procedures that anticipated downward bidding (57% of the monitoring sample), e-auctions did not take place. This situation is highly unfavourable because, at the time when e-auction was planned, bidders often submit initial prices that are higher than actual market prices. In 2022, planned e-auctions did not take place in 48% of monitored tender procedures. Increasing failure to organize previously planned e-auctions is a consequence of the increased number of tender procedures presented with only one bid, as well as elimination of bidders during the bid-evaluation process.

Recommendation:

Organization of e-auctions should be an exception rather than a rule in implementation of public procurement. In that respect, contracting authorities should follow the logic whereby e-auctions are organized only for goods of known and standard quality and for those marked by actual market competition. The Bureau of Public Procurement should take measures aimed at enhanced pressure on contracting authorities to reduce organization of e-auctions whose negative consequences are more than evident. At the same time, contracting authorities should behave responsibly in terms of public funds and ensure that public spending is in line with the principles of rationality, efficiency and effectiveness. Systemic actions are needed to ensure less frequent use of 'lowest price' as criterion for selection of the most advantageous bid.



- » **27% of tender procedures organized in 2023 have been annulled. This represents a mild drop compared to 2022 when their share accounted for 31%.**

Among the total of 24,005 public procurements organized in 2023, 6,465 tender procedures were annulled. The share of annulled tender procedures in all public procurements accounts for 27%, representing a decrease by 4 percentile points compared to 2022.

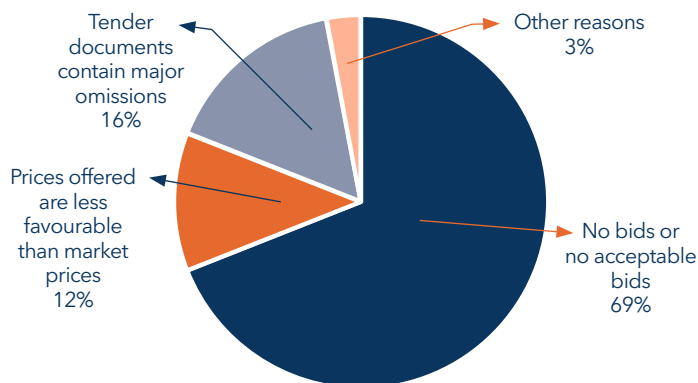
Annulment of tender procedures

Year	Number of procurement notices	Number of decisions on tender annulment	Share of annulled tender procedures
2019	22,538	5,985	27%
2020	20,159	6,727	33%
2021	22,816	6,571	29%
2022	22,901	7,048	31%
2023	24,005	6,465	27%

Commonly, the most frequently indicated reason for tender annulment implies that no bids were received or no acceptable bids were received, which was the case in 69% of annulled tender procedures, representing an increase by 4 percentile points compared to 2022. Most certainly, this is a negative trend and an indicator of serious weaknesses in implementation of public procurement in the country. The third most frequently used reason for tender annulment concerns the elaboration that prices bided are less favourable than market prices, which accounted for 12% of annulled tender procedures.



Breakdown of reasons for tender annulment in 2023*



* The breakdown of reasons for tender annulment is made by processing all notifications on tender annulment submitted to EPPS for tender procedures implemented in 2023

Recommendation:

Any institution facing a high number of annulled tender procedures should take adequate measures to detect reasons thereof and to address identified problems.

- » **For a second consecutive year, the value of contracts awarded under negotiating procedure without previously announced procurement notice is decreasing. In 2023, the value of such contracts amounted to 23 million EUR, accounting for a value decrease by 28% compared to 2022. In most cases, negotiations have taken place with one company. As was the case in the past, at the level of individual institutions, the highest-value contracts awarded without previously announced procurement notice are observed with JSC Power Plants.**

For a second consecutive year, the value of contracts awarded under negotiating procedure without previously announced procurement notice is decreasing. In 2023, a total of 259 contracts were awarded in this manner accounting for cumulative value of 1,437,224,430 MKD, i.e. 23 million EUR. Compared to 2022, the value of contracts awarded under negotiating procedure without previously announced procurement notice is by 9 million EUR lower in amount.



Value of contracts awarded under negotiating procedure without previously announced procurement notice

Year	Number of contracts awarded	Value of contracts (in million EUR)	Annual change in value
2019	367	16	-52%
2020	378	30	+87%
2021	300	46	+53%
2022	333	32	-30%
2023	259	23	-28%

Analysis of data on this type of contracts provides the conclusion that in 86% of these cases the negotiations have taken place with only one company.

At the level of individual institutions, JSC Power Plants appears at the top of the 2023 list of state institutions with high-value contracts awarded without previously announced procurement notice, which as was the case in previous years. Traditionally, this group of contracting authorities also includes the Ministry of Interior and the Ministry of Education and Science.

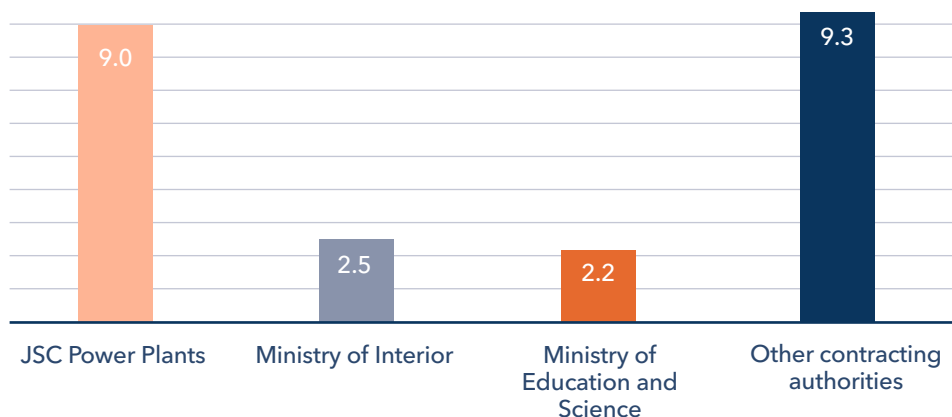
In 2023, JSC Power Plants awarded 8 contracts in total value of 551 million MKD, i.e. 9 million EUR. Compared to 2022, this represents a significant decrease in organization of non-transparent procurement procedures by this state-owned enterprise, when it had awarded 23 contracts in total value of 21 million EUR.

Second-ranked in 2023 is the Ministry of Interior with 30 contracts awarded under negotiating procedure without previously announced procurement notice, in total value of 2.5 million EUR, which is almost double the amount compared to 2022 when this ministry had awarded 10 contracts in total value of 1.4 million EUR.

Ministry of Education and Science is the third-ranked institution on the list, with 11 contracts in total value of 2.2 million EUR, representing a decrease compared to 2022 when it had awarded 16 contracts in cumulative value of 3.2 million EUR.



Contracting authorities with highest value contracts awarded without previously announced procurement notice in 2023 (in million EUR)



The three highest-value contracts awarded under negotiating procedure without previously announced procurement notice belong to JSC Power Plants and all three were awarded to the one and the same company. It is a matter of the company SPEKTARTERMO LLP Skopje and the contract concern "modernization of heating generation installations at the cogeneration plant to increase its efficiency, including SCR for treatment of exhaust gases and for reducing pollution", "procurement, delivery, installation and putting into operation of one (1) gas engine" and "servicing and regular periodic inspections of gas engines (Energetika)".

Top 10 highest-value contracts awarded under negotiating procedure without previously announced procurement notice in 2023

Contracting authority	Economic operator	Subject of the contract	Value of the contract (in EUR)
JSC POWER PLANTS	SPEKTARTERMO LLP SKOPJE	Modernization of heating generation installation at the cogeneration plants to increase its efficiency, including installation of SCR for treatment of exhaust gases and reducing pollution	3,451,340
JSC POWER PLANTS	SPEKTARTERMO LLP Skopje	Procurement, delivery, installation and putting into operation of one (1) gas engine	2,841,221



JSC POWER PLANTS	SPEKTARTERMO LLP Skopje	Servicing and regular periodic inspections of gas engines (Energetika)	1,822,764
JSC Water Economy of RNM	RAPID BUILD LLP Kumanovo	Reparation of siphon Makarija at HMS Tikvesh	1,276,320
Agency for Electronic Communications	TCI International Inc.	Maintenance of meter monitoring equipment for control and monitoring of the radiofrequency spectrum	905,587
Ministry of Education and Science	PROSVETNO DELO Skopje	Bulk purchase of secondary education textbooks for the school year 2023/2024	794,163
PE Isar – Shtip	EVN Macedonia	ELECTRICITY	767,480
Government of RNM – General Secretariat	NEXTSENSE LLP Skopje	Preventive and adaptive maintenance of the multiplatform collaboration system for e-sessions	649,162
Ministry of Education and Science	ARBERIA DESIGN LLC Tetovo	Bulk purchase and distribution of primary education textbook for the school year 2023/2024	607,040
PTE SKOPJE	EVN Macedonia	Procurement of electricity	575,610

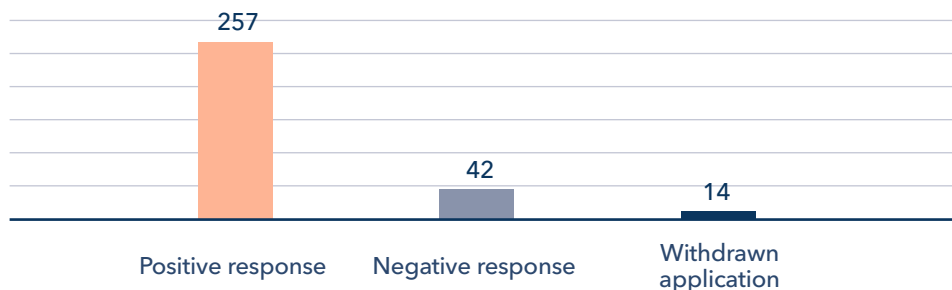
According to the Law on Public Procurement, the Bureau of Public Procurement issues an opinion on fulfilment of conditions for use of negotiating procedure without previously announced procurement notice in cases of urgency caused by events that contracting authorities could not have anticipated and events that cannot be attributed to them as omissions, for the purpose of protecting exclusive rights and when, due to artistic and or technical reasons, the contract could be awarded only to a specific economic operator.

In 2023, the number of applications submitted to the Bureau of Public Procurement to obtain approval for organization of negotiating procedure without procurement notice was dramatically decreased and accounted for 299 applications, which is by 31% less compared to 2022 when the Bureau was presented with 432 applications.

As shown on the diagram below, high share of applications (86%) received positive response, i.e. were approved.



BPP's response to application for use of negotiating procedure (January - December 2023)



Recommendation:

Given the non-transparent character of negotiating procedures without previously announced procurement notice, the institutions should use this type of procurement procedure only in exceptional circumstances. At the same time, in order to increase insight into contracts awarded under such procedure, notifications on contracts signed should be accompanied with publication of relevant tender documents and these notifications should also include information on all companies that participated in such negotiations, not only the name of the company that was awarded the contract.

- » ***In 2023, a total of 371 tender procedures were subject of administrative control conducted by the Bureau of Public Procurement, representing an increase compared to 2022 when administrative controls were performed in 270 cases. Higher number of irregularities have been found in tender procedures subject to control on the basis of risk assessment for violation of provisions under the Law on Public Procurement compared to tender procedures subject to control on the basis of their high value. In 2023, the Bureau of Public Procurement has found corruption suspicion in 4 cases and informed the competent authorities thereof. In the same year, the State Commission on Public Procurement Appeals has not learned or found any suspicion of corruption in public procurement.***

The Bureau of Public Procurement conducted administrative control over 371 tender procedures from the total of 24,005 public procurements implemented in 2023, accounting for a share of 1.55%. Of these, 308 tender procedures were controlled pursuant to Article 172, paragraph 3 of LPP, which means their estimated value exceeds 500,000 EUR for procurement of



goods and services and 2 million EUR for procurement of works, while 63 tender procedures were controlled pursuant to Article 172, paragraph 4 of LPP, i.e. on the basis of risk assessment for violation of law provisions and random sampling.

Administrative controls conducted by the Bureau of Public Procurement

Period	Number of tenders subject to control	Number of controlled tenders in which irregularities were found	Share of controlled tenders in all tender procedures implemented in the country
2019	141	23	0.66%
2020	205	46	1.01%
2021	247	50	1.08%
2022	270	52	1.18%
2023	371	66	1.55%

Among the total number of administrative controls (371) conducted by the Bureau in 2023, irregularities were found in 66 tender procedures, accounting for a share of 18%. In that, it should be stressed that higher number of irregularities have been found in tender procedures subject to control on the basis of risk assessment for violation of law provisions and random sampling. More specifically, BPP has found irregularities in 14% of tender procedures controlled on the account of their high value. On the other hand, irregularities have been found in 38% of tender procedures subject to control on the basis of risk assessment for violation of law provisions.

In 2023, the Bureau of Public Procurement informed the competent authorities about 4 cases marked by possible violation of public procurement provisions. Nevertheless, the number of cases presented to the competent authorities is double compared to 2022 when the institutions were alarmed about 2 such cases. On the contrary, in 2023, the State Commission on Public Procurement Appeals has not learned or found any information relating to suspicion about corruption in public procurement.

Recommendation:

In order to feel the actual effects of administrative control in terms of reduced abuses and corruption, in compliance with the Law on Public Procurement, the Bureau of Public Procurement



ment should significantly increase the scope of such controls on the basis of risk assessment and random sampling. At the same time, greater efforts are needed to strengthen human and technical capacity at the Bureau's Department on Administrative Control.



Survey among public procurement officers at the institutions about implementation of public procurements

- » Only 18% of surveyed public procurement officers reported they conduct market research to determine the procurement's estimated value.
- » 45% of institutions occasionally monitor implementation of their public procurement plans. As many as 40% of institutions do not have an internal system, i.e. procedure in place for this purpose.
- » Only 12% of institutions conduct market research to collect necessary information for development of technical specifications.
- » Every third public procurement officer believes that companies are subjected to greater discrimination when participating in tender procedures where the procurement subject is defined in great detail. On the other hand, 25% of them indicated that companies are discriminated even in cases when the procurement subject is not defined in great detail.
- » High 57% of respondents indicated they organize electronic auctions to make sure that tender procedures result in attainment of the most favourable price.
- » Dominant share of public procurement officers believe that companies engage in previous arrangements before the start of electronic auctions. According to 46% of them such arrangements are a frequent occurrence, while 44% indicated that although arrangement among companies exist, they are rare.



- » Contrary to their opinion on arrangements among companies, in the last five years, not a single contracting authority from the survey sample has presented the Commission for Protection of Competition with complaints for unlawful arrangements among companies participating in their tender procedures.
- » Most contracting authorities, i.e. 40% believe that companies do not participate in tender procedures because they do not trust in objective selection of the winning bid. However, 36% believe there are insufficient number of companies present on the market for their procurement subjects.
- » The biggest problem faced by institutions is development of technical specifications for public procurements. This was indicated as the number one problem by one third of surveyed representatives.
- » 41% of public procurement officers believe that corruption is often present in public procurements. On the other hand, 43% of them acknowledge that corruption is present, but rarely, while 2% indicated that corruption is always present, and 14% of surveyed representatives reported that corruption is never present in public procurements.
- » Majority of public procurement officers, i.e. 34% believe that political interests are the most common form of corruption, while 25% indicated kickbacks as the most common form of corruption in public procurements.
- » Dominant share of surveyed public procurement officers (56%) believe that companies are greater generators of corruption in public procurements, unlike institutions or their employees.
- » High 57% of public procurement officers acknowledge their institution has never conducted a risk analysis for corruption in public procurements to identify, analyse and prioritize corruption risks.
- » Dominant share of institutions, i.e. 51% do not have an integrity plan or anticorruption program that also covers public procurements.
- » The average score assigned by public procurement officers from central and local institutions to the process of public procurement in the country stands at 2.2 on the scale from 1 to 5.



The survey among public procurement officers at institutions (contracting authorities) inquiring about implementation of public procurements was conducted in March 2024.

The survey targeted 154 public procurement officers, 60% of which work at central institutions and 40% work at local institutions.

The research was conducted by means of a survey based on previously designed structured questionnaire comprised of 30 questions.

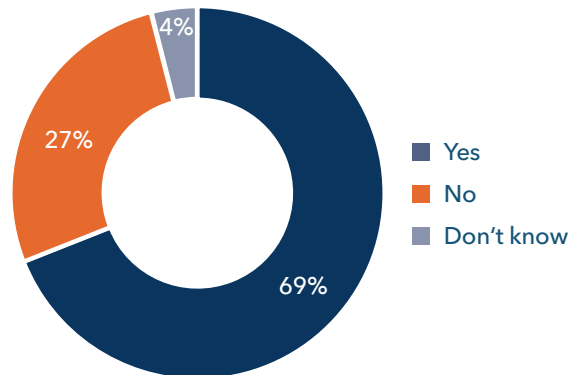
The questions are organized into several groups aimed at soliciting opinions on the most common problems faced by public procurement officers, their thoughts on electronic auction, appeals procedure, corruption and other challenges that plague public procurements.

Moreover, the survey questionnaire allows representatives from contracting authorities to independently enlist problems they are facing and propose measure aimed at improving the system of public procurement.

Survey Findings

Dominant share of institutions, i.e. 69% have adopted an internal act that governs implementation of public procurements.

Has the contracting authority adopted an internal act that regulates implementation of public procurements?

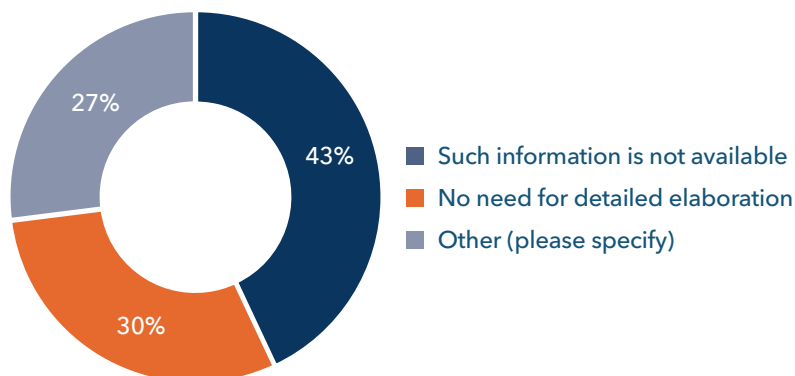


As many as 43% of respondents acknowledge lack of information as the reason behind failure to develop detailed elaboration of the public procurement need. At the same time, there is low awareness among contracting authorities about the importance for decisions on public procurement implementation to feature detailed justification of the need for such public procurement. Hence, as many as 30% of public procurement officers responded



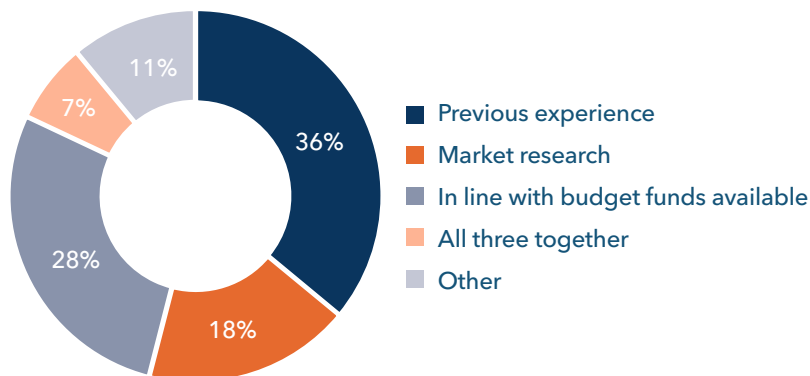
there is no need for such detailed elaboration. Responses provided by 27% of them are dominated by the opinion that the need for public procurement is indeed elaborated.

What are the reasons behind the failure to develop detailed elaboration of the public procurement needs as part of decisions on public procurement implementation?



Only 18% of surveyed representatives from contracting authorities reported that, when implementing public procurements, they conduct market research to set realistic estimated value for the procurement in question. Dominant share of responses (36%) imply that estimated values are set on the basis of previous experience, while 28% indicated that estimated values are set according to funds available in the institution's budget.

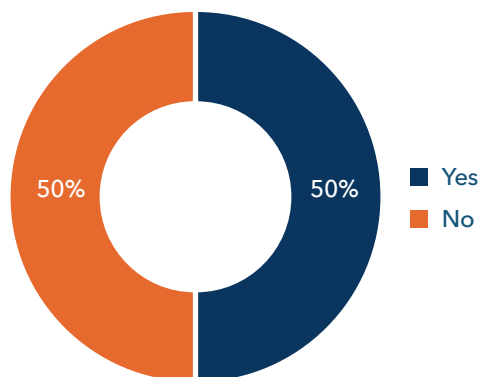
What is the basis for setting estimated values of public procurements implemented by the institution?



As regards the issue of whether estimated values should be published together with procurement notices, the institutions are literary divided 50% : 50% in their response.

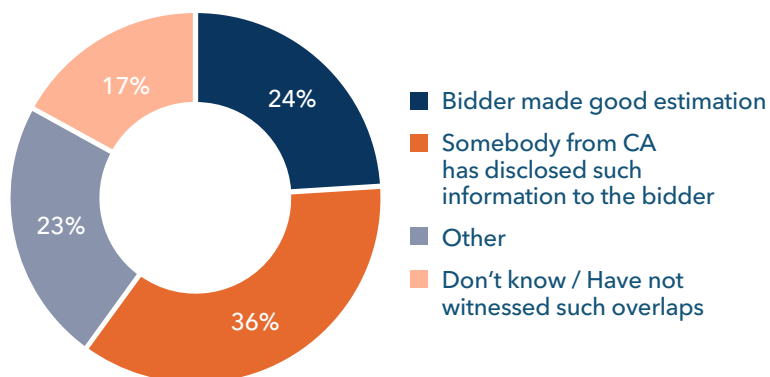


Do you believe that estimated values should be published as part of procurement notices?



One third of surveyed representatives (36%) indicated that price offered by some bidder overlap with the non-disclosed estimated value because the institution has leaked such information to the bidder in question. Every fourth respondent believes that such overlap in value has occurred because the bidder has made a good estimation.

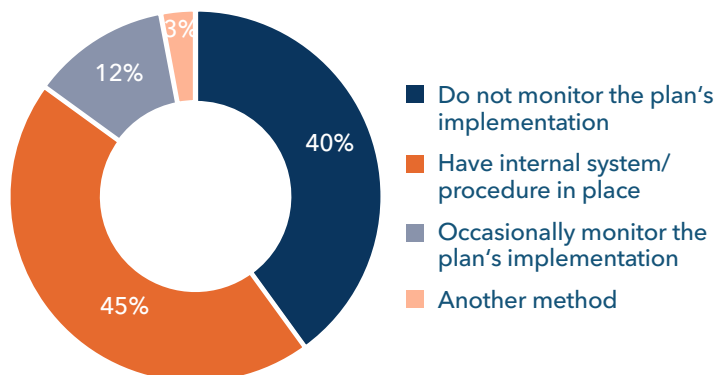
In your opinion, what is the reason for frequent overlaps between the estimated value that had not been published and the price offered as part of some bids?



Large part of institutions, i.e. 45% only occasionally monitor implementation of their public procurement plan. 40% of institutions have an internal system, i.e. procedure in place for that purpose.

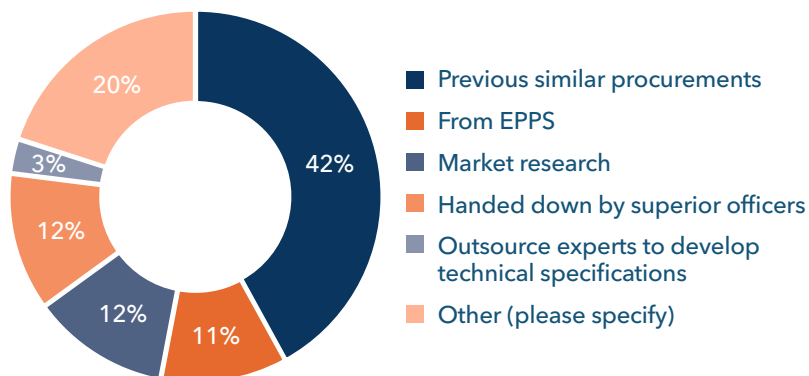


How do you monitor implementation of the public procurement plan?



Only 12% of institutions reported they conduct market research to collect data necessary for development of technical specifications (description of goods, services or works that are subject of procurement). Dominant share of institutions, i.e. 42% reported they conduct market research based on previously implemented similar procurements, 12% reported that specifications are provided by their superior officers, while 11% indicated they take such information from the Electronic Public Procurement System. Respondents who indicated other (20%) most often elaborated that they apply a combined approach, whereby sometimes they take technical specification from previously implemented tender procedures or from EPPS and sometimes they conduct market research.

On what basis do you develop the technical specifications?

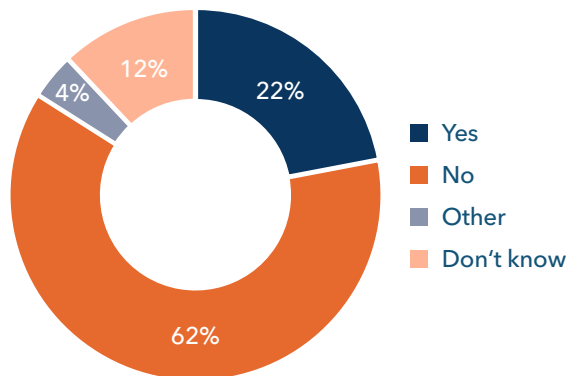


Having in mind responses obtained on the previous question, it does not surprise that 62%



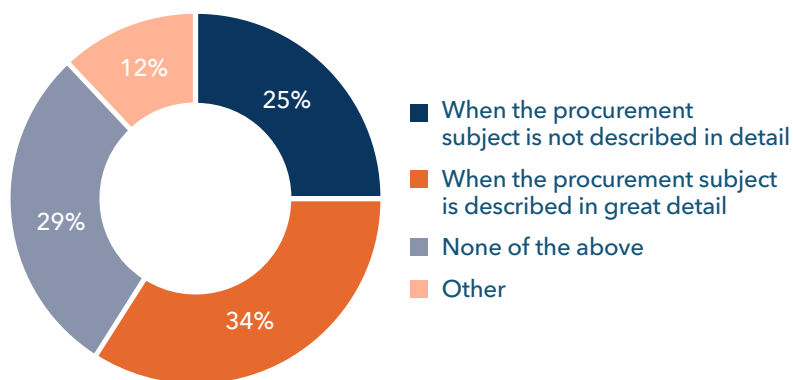
of institutions do not have internal rules in place for development of technical specifications. Only 22% of surveyed institutions have adopted internal rules for that purpose.

Has the contracting authority adopted detailed internal rules for development of technical specifications?



Every third respondent believes that companies are subjected to greater discrimination in tender procedures where the procurement subject is described in great detail. On the other hand, 25% are of the opinion that discrimination is also present in cases where the procurement subject is not described in detail.

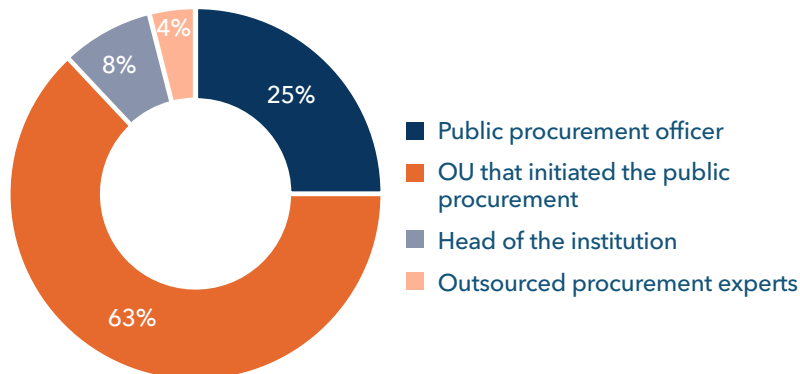
In your opinion, when are companies subjected to greater discrimination in tender participation?



At most institutions, i.e. 63% eligibility criteria for tender participation are defined by the organizational unit that initiated the public procurement in question.

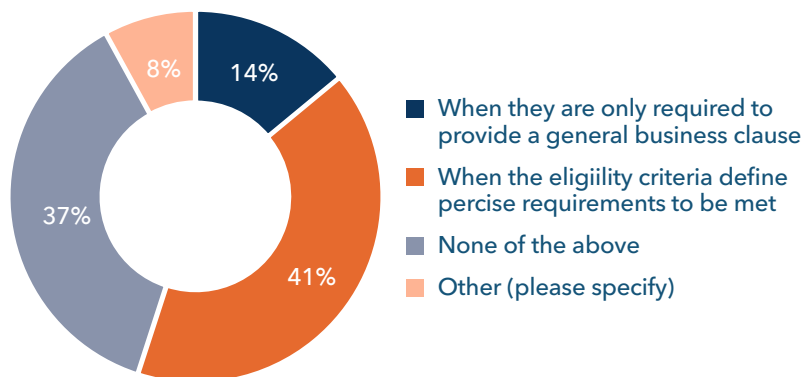


Who determines the eligibility criteria for bidders?



Respondents are of divided opinion on the question inquiring when are companies subjected to greater discrimination by means of defined eligibility criteria. According to 41% of them, discrimination is greater when the eligibility criteria include precisely defined requirements that need to be met, while 37% of them are of the opinion that discrimination against bidders is greater when they are only required to provide a general business clause.

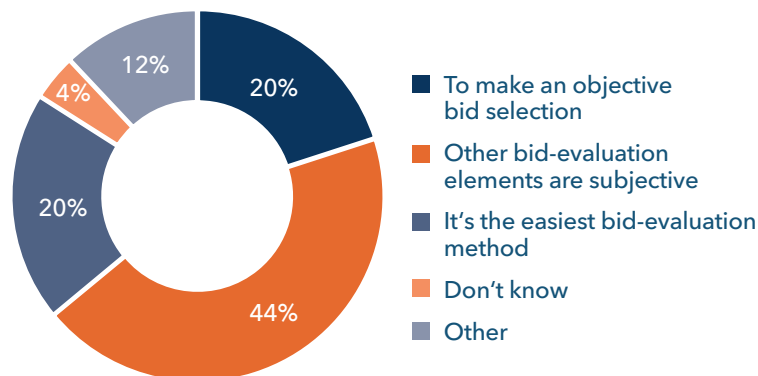
In your opinion, when are companies subjected to greater discrimination in terms of eligibility criteria for tender participation?



Belief that use of other elements, in addition to price, to select the most advantageous bid does not allow objective assessment is widespread among contracting authorities. As many as 44% of them believe that other elements are subjective. Hence, 20% indicated that bid-selection based on lowest price is objective, but other 20% reported that such bid-evaluation is the easiest selection method.

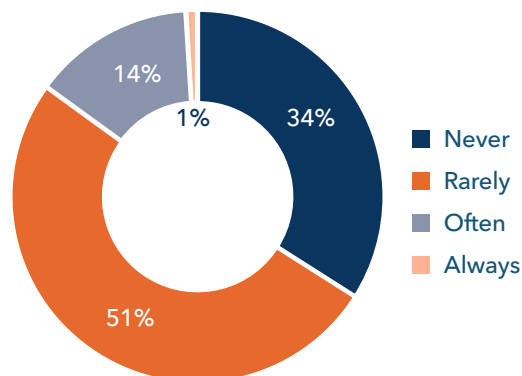


In your opinion, why does 'lowest price' continue to be the most often used selection criterion for the most advantageous bid?



Only 14% of respondents indicated that, in cases when 'lowest price' is used as selection criterion for the most advantageous bid, tender specifications are mandatorily developed with sufficient detail to guarantee the procurement's quality. Most of them (51%) believe this is often the case in public procurements.

Do you think that, in cases when 'lowest price' is used as selection criterion for the most advantageous bid, tender documents are developed with sufficient detail to guarantee the procurement's quality?

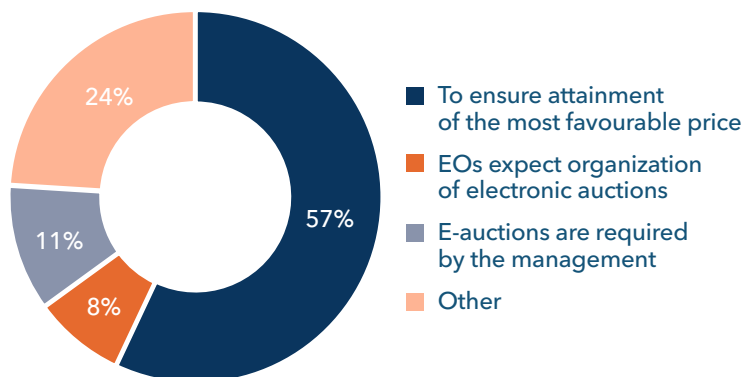


High 57% of surveyed representatives from contracting authorities reported they organize electronic auctions to ensure attainment of the most favourable price. Additional 11% said that electronic auctions are required by the management. On the other hand, 24% of respondents indicated the response under d) other, elaborating that public procurements organized



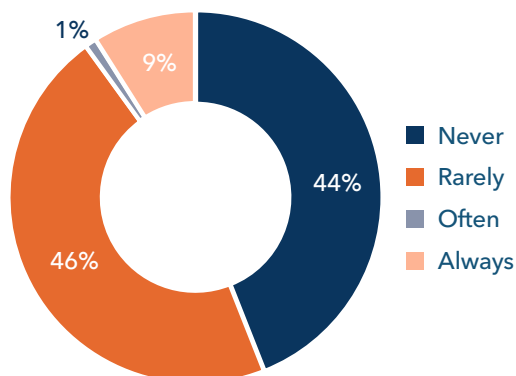
by their institutions are no longer dominated by organization of downward bidding.

Why does organization of electronic auction still dominate implementation of public procurements?



According to 46% of respondents, previous arrangements among bidders are a frequent occurrence, while 44% believe that such arrangements do happen, but rarely. 9% of respondents are of the opinion that companies never engage in previous arrangements when participating in tender procedures.

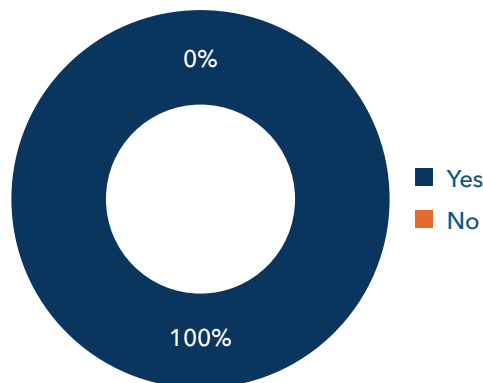
In your opinion, do companies enter previous arrangements before the start of electronic auctions?



In the last five years, not a single contracting authority from the survey sample presented the Commission for Protection of Competition with complaints about unlawful bid-rigging by companies that have participated in their tender procedures.

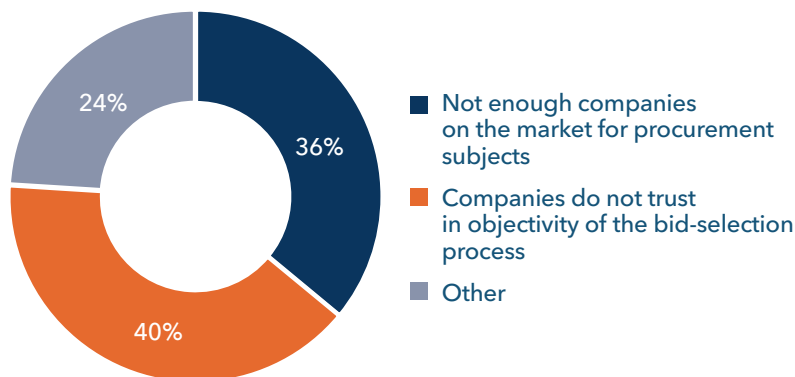


In the last five years, has the contracting authority presented the Commission for Protection of Competition with complaints related to unlawful bid-rigging by companies participating in public procurements?



Large share of contracting authorities, i.e. 40% believe that companies do not participate in public procurements because they do not trust in objective selection of the winning bid. However, 36% of them believe there are not enough companies on the market for their procurement subjects.

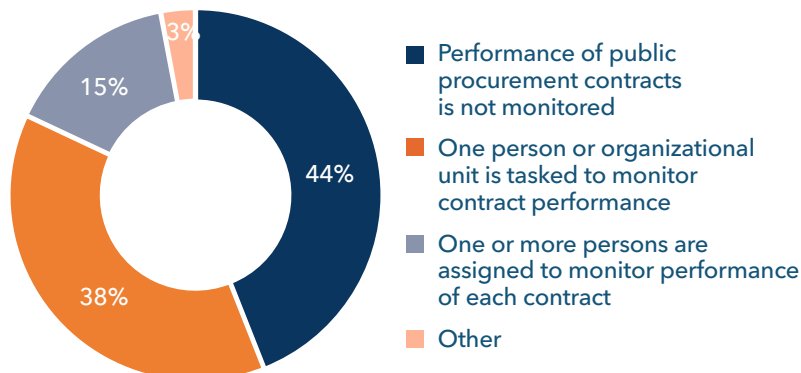
In your opinion, why is competition in tender procedures so low?



Based on responses obtained on the next question, it could be inferred that the model of one person or organizational unit tasked with monitoring performance of awarded public procurement contracts is the most dominant one among contracting authorities (44%) unlike the practice whereby one or more persons are assigned to monitor each contract (38%). Survey results show that 15% of institutions apply some form of hybrid solution depending on the procurement's subject.

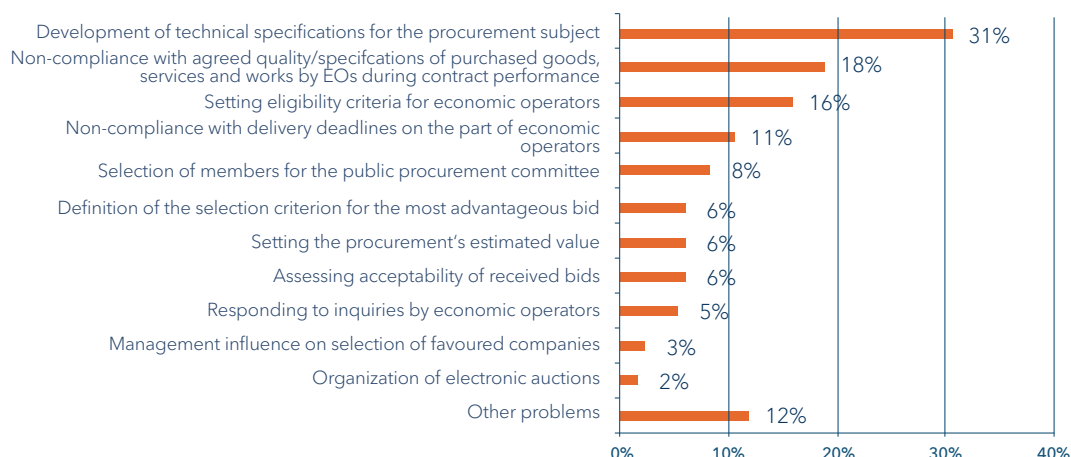


How do you monitor performance of awarded public procurement contracts (not only in financial terms, but also in terms of compliance with technical specifications and quantity)?



The biggest problem faced by institutions concerns development of technical specifications for their procurement subjects, which was indicated as the number one problem by one third of surveyed contracting authorities. Second-ranked problem, as indicated by 18% of respondents, concerns non-compliance with agreed quality/specifications of procured goods, services and works on the part of economic operators during contract performance. The third biggest problem faced by institutions relates to setting eligibility criteria for companies to participate in tender procedures.

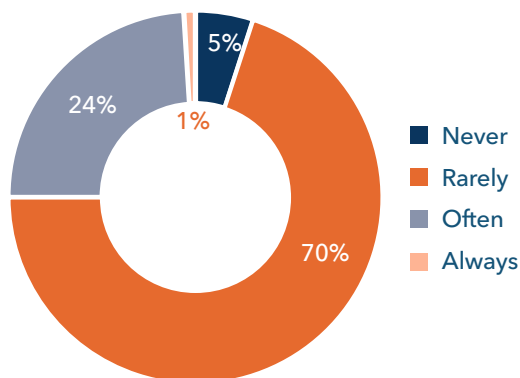
Biggest problems in implementation of public procurement procedures (multiple answers are allowed):





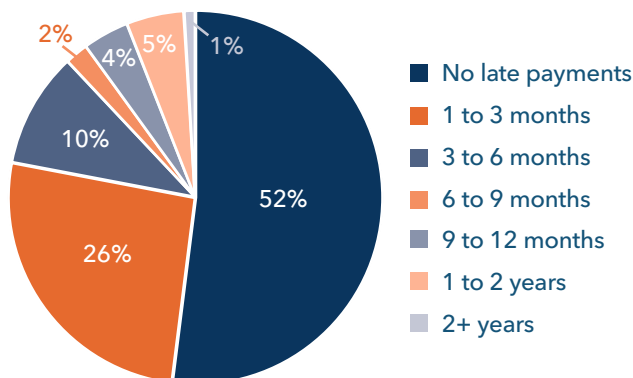
Vast majority of respondents (70%) reported they did not need to solicit an opinion from the Bureau of Public Procurement. On the other hand, 24% indicated they often needed such opinion when implementing public procurements.

How often did you need to solicit an opinion from the Bureau of Public Procurement related to enforcement of the Law on Public Procurements?



Dominant share of respondents, i.e. 52% reported that contracting authorities are not late in payment of matured arrears. Next, 26% of them indicated late payment of arrears by 1 to 3 months, while 10% indicated late payment by 3 to 6 months, etc.

On average, how late does the contracting authority make payment of matured invoices for public procurement contracts?

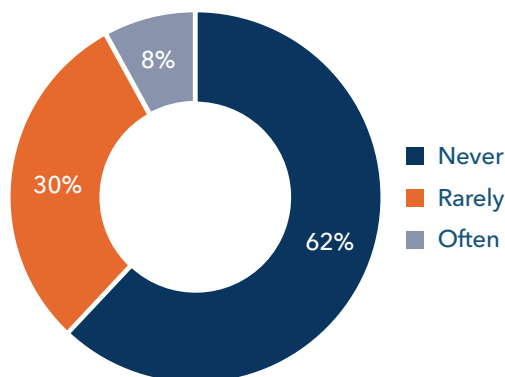


Dominant share of public procurement officers at institutions, i.e. 62% believe that, when selecting the most advantageous bid, public procurement committees are not pressured by



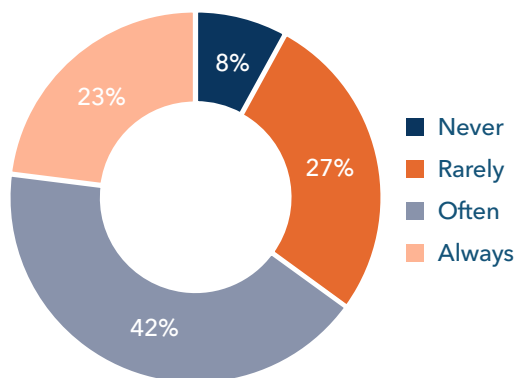
the management in making their proposed decision on selection of the most advantageous bid. 30% of them indicated that such pressures are rarely present.

Do you believe that, when selecting the most advantageous bid, public procurement committees are pressured by the management in making their proposed decision on selection of the most advantageous bid?



Most respondents (42%) believe that the State Commission on Public Procurement Appeals (SCPPA) often takes objective decisions. 27% indicated that SCPPA decisions are rarely objective, while 8% indicated that the State Commission never takes objective decisions.

Do you think that the State Commission on Public Procurement Appeals takes objective decisions?

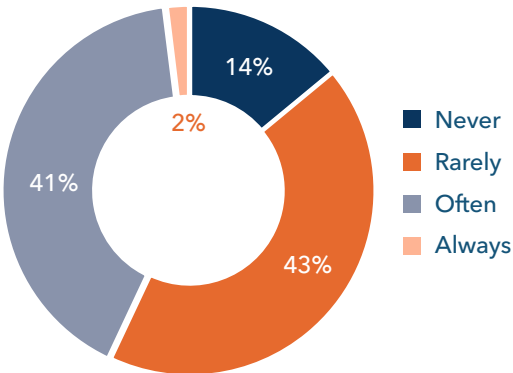


41% of public procurement officers believe that corruption is often present in tender procedures. Moreover, 43% of them acknowledge corruption is present, but rarely, while 2%



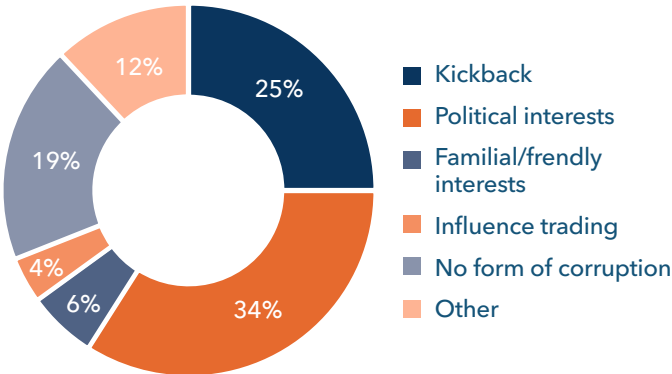
reported corruption is always present in public procurements. On the other hand, 14% of respondents indicated there is no corruption in tender procedures.

Do you think corruption is present in public procurements?



Most public procurement officers, i.e. 34% believe that political interests are the most common form of corruption present in public procurements, followed by 25% of responses indicating kickbacks as the most common form of corruption. Corruption attributed to familial and friendly connections was indicated by 6% of respondents.

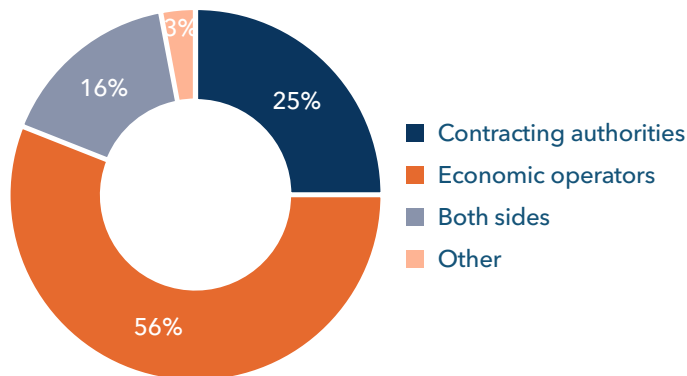
In your opinion, what is the most common form of corruption?



Most public procurement officers from surveyed institutions (56%) believe that companies are greater generators of corruption in public procurements. However, every fourth respondents attributed corruption actions to the institutions, while 16% indicated that both sides are generators of corruption.

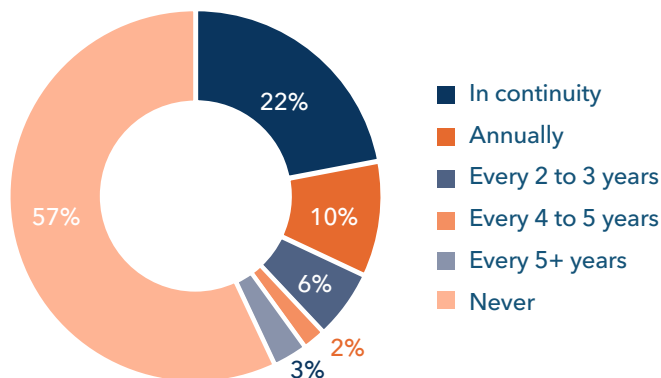


In your opinion, who are the greater generators of corruption in public procurements?



As many as 57% of public procurement officers acknowledge their institution has never conducted a risk assessment for corruption in public procurements to identify, analyse and prioritize corruption risks. Only 22% of surveyed institutions reported that such risk assessments are conducted in continuity.

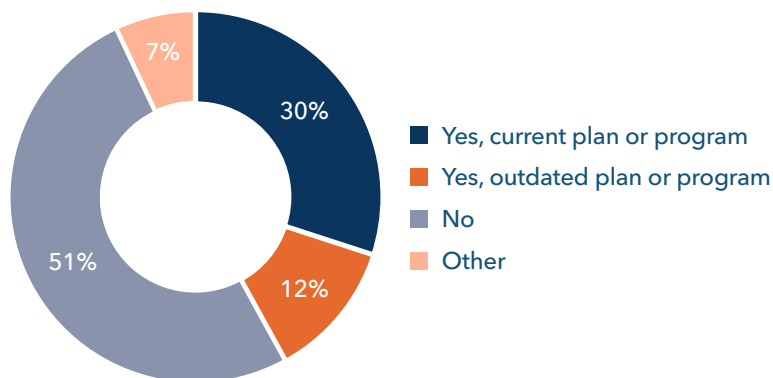
How often does the contracting authority conduct risk assessment for corruption in public procurements to identify, analyse and prioritize corruption risks?



Dominant share of institutions, i.e. 51% do not have an integrity plan or anticorruption program that also covers public procurements. According to survey results, 30% of institutions have an integrity plan or anticorruption program in place.

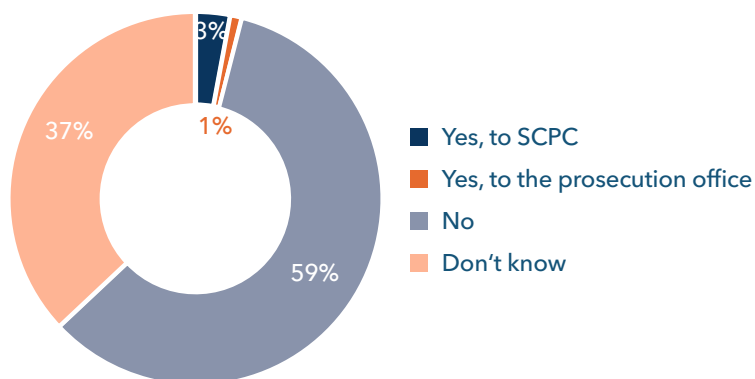


Does the contracting authority have an integrity plan or anticorruption program that also covers public procurements?



In the last several years, officials (public procurement officers, managers or other employees) at only 4% of institutions have reported knowledge about corruption actions in public procurements to competent authorities, i.e. 3% of them reported such knowledge to the State Commission for Prevention of Corruption and 1% made such reports to the prosecution office.

In your knowledge, have any officials from the contracting authority (public procurement officers, managers or other employees) reported knowledge about corruption actions in public procurements to competent institutions in the last several years?

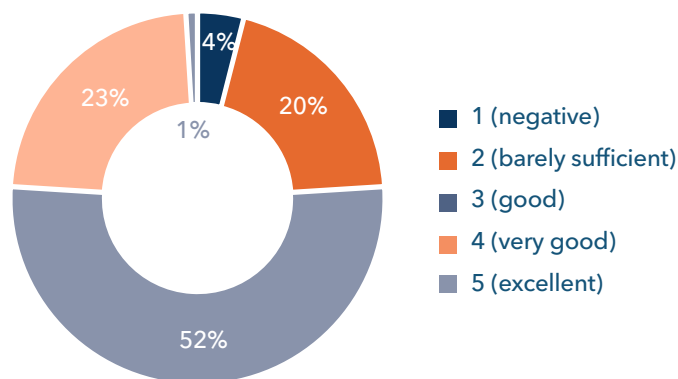


The average score assigned by public procurement officers at central or local institutions to the process of public procurement in the country stands at 2.99 on the scale from 1 to 5.



Majority of respondents (52%) have assigned a score of 3 (good) to the process of public procurement, while 23% assigned a score of 4 (very good), and 20% believe that this process deserves a score of 2 (barely sufficient). A score of 1 (negative) was indicated by 4% of respondents, while the share of responses indicating the highest score of 5 (excellent) accounts for only 1%.

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



Proposals to improve state-of-affairs in the field of public procurements provided by public procurement officers

Most proposals concern salary increase for public procurement officers, justified by complexity of their workload and the need for this profile of officers to be better paid compared to others. It was proposed for public procurement officers to be awarded a separate salary benefit based on workload complexity coefficient that would be regulated under the collective agreement or similar legal act. At the same time, another proposal implied monetary compensation for members of public procurement committees for their participation in the committee's work.

As regards other proposals put forward by survey respondents, below is a verbatim selection of responses that deserve to be mention (with due care to avoid repetition):

- » to further specify certain provisions under the Law on Public Procurement to avoid different interpretation thereof by the Bureau of Public Procurement and by the State Commission on Public Procurement Appeals;



- » amendments to the Law on Public Procurement aimed at ensuring selection/appointment of public procurement officers by their immediate superiors and eliminating selection/appointment according to political affiliation;
- » all institutions to form separate public procurement department, instead of appointing one public procurement officer; to provide lectures and training for public procurement officers;
- » better equipped organizational units at contracting authorities that work on implementation of public procurements and greater protections for officers working on implementation of public procurements;
- » to define, by law, the minimum number of staff members that would exclusively work on public procurements depending on the contracting authority's size, and to establish a separate external state expert body for public procurement consultations, guidance, etc.;
- » continuous practical training for public procurement officers, tailored to the needs of individual sectors;
- » to have more officers with authorized access to EPPS in order to avoid assignment of responsibility with only one person;
- » greater flexibility of the Law on Public Procurement for the purpose of obtaining better and qualitative bids from economic operators;
- » revocation of electronic auctions as the second stage in tender procedures;
- » to work on enhancing integrity of officers involved in the process of public procurements;
- » to strengthen criminal liability of the responsible officers under the Criminal Code because they are setting technical specifications and eligibility criteria to accommodate contract award to companies close to them;
- » to change the method for taking the public procurement exam and to adjust the number and scope of exam questions depending on the fact whether the person takes the exam for certification or re-certification purposes;
- » to allow regular participation in training that would reconsider actual problems from day-to-day work on implementation of public procurements;
- » as regards the expert exam for public procurement officers, the training program and exam should be available in languages spoken by minority communities in the Republic of North Macedonia;



- » mandatory annual training on public procurement also for members of public procurement committees, heads of contracting authorities, as well as officers tasked with implementation of public procurements;
- » centralization of public procurements on behalf of institutions that lack sufficient staff;
- » more frequent use of competitive dialogue which, depending on the procurement subject, would allow detection of weaknesses;
- » public procurement officers to take independent decisions, not follow orders issued by the management;
- » introduction of efficient control system not only in terms of enforcing the Law on Public Procurement, but rather multidimensional control (for example, is the procurement really necessary, has the economic operator delivered what was actually procured under the contract, and the like);
- » increasing the threshold for organization of public procurements without enforcement of provisions under the Law on Public Procurement;
- » to reduce the use of framework agreements and lowest price as selection criterion to the detriment of quality and lifecycle costs;
- » to simplify the method of sending notifications to economic operators that accompany the bid selection decision;
- » to introduce automated controls and risks assessments, to enter goods and quantity on browsable EPPS forms, to mandate establishment of links between treasury payments, public procurement number and contract number;
- » enhanced controls, especially when the procurement subject concerns services that are difficult in terms of setting the procurement's estimated value;
- » to restore final price and eliminate electronic auctions;
- » reduced organization of electronic auctions;
- » greater presence of the quality criterion in implementation of public procurements;
- » formation of public procurement units (as external resource) that would implement public procurements on behalf of several contracting authorities that perform the same type of activity, have same procurement needs and types of public procurements; for example, group "clinics", group "general hospitals", group "healthcare centres", group "public health centres", etc.; the groups of contracting authorities to form



a joint public procurement committee that would develop technical specifications and perform bid-evaluation under supervision, control and advice by the external resource;

- » less influence from external factors on work of public procurement committees and departments;
- » to organize a campaign for attracting more economic operators to join the system of public procurement system; experts employed at the Bureau of Public Procurement or civil society organizations conducting monitoring of public procurements to hold at least two meetings annually with public procurement officers from institutions and members of public procurement committees to identify problems, provide the best guidance possible for resolution thereof and to organize training at regional or municipal level;
- » the optional module in EPPS for registration of officers tasked with implementing and monitoring contract performance to be mandatory for contracting authorities;
- » questions addresses to the Bureau of Public Procurement to be answered in greater detail and with better elaborations, instead of referencing law provisions;
- » introduction of public procurement inspectorate as field control mechanism at local and central level;



Survey among companies about their experience from participation in public procurements

- » According to 55% of companies, 'lowest price' used as selection criterion is the most frequent problem they are facing in public procurements.
- » 92% of companies believe that electronic auctions result in attainment of unrealistic prices and undermine the quality of procurements.
- » 50% of companies acknowledge there are mutual agreements among them when participating in tender procedures.
- » 51% of companies believe corruption is present in public procurements, while 23% have personally faced corruption in tender procedures.
- » Companies have assigned an average score of 2.8 (on the scale from 1 to 5) to the process of public procurement in the country, which is identical to the last year's average score.



This research is conducted as regular annual survey among companies, which the Center for Civil Communications is implementing as part of its effort on monitoring public procurements since 2009.

This year's survey was conducted in March 2024 and covered a total of 336 companies from all major towns across the country. It is based on a previously designed and structured questionnaire comprised of 20 questions.

The questions are organized into several groups and inquire about the companies' views and opinions on the most common problems they encounter when participating in tender procedures, as well as their thoughts on electronic auction, appeal procedure, corruption and other challenges that plague public procurements. The questionnaire is structured in such manner that allows interviewed representatives of companies to individually enlist problems they are facing and propose measures aimed at improving the system of public procurement.

This analysis covers results from the last survey conducted among companies, as well as certain comparisons with results from previous surveys in an attempt to gain perspective not only of current state-of-play, but also trends in public procurements.

As was the case before, the survey first inquired about the companies' experience related to participation in tender procedures. Hence, on average, surveyed companies participate in nine public procurement procedures annually.

Problems in public procurement

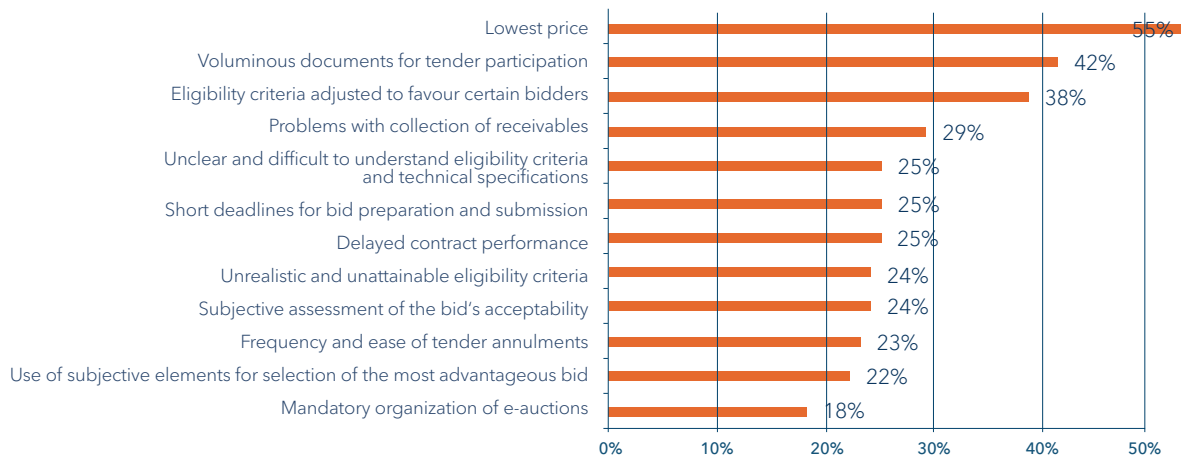
There are no changes to the top three problems faced by companies in tender procedures. As noted in previous editions of the survey, the number one problem faced by companies under this year's survey is 'lowest price' used as selection criterion for the most advantageous bid. Again, more than half of surveyed companies (55%) reported this problem.

This is the third consecutive survey under which voluminous documents required for tender participation is reported as the second biggest problem, indicated by 42% of companies.

The third-ranked problem concerns the old and longstanding issue of eligibility criteria for tender participation being adjusted to favour certain bidders, accounting for 38% of responses.

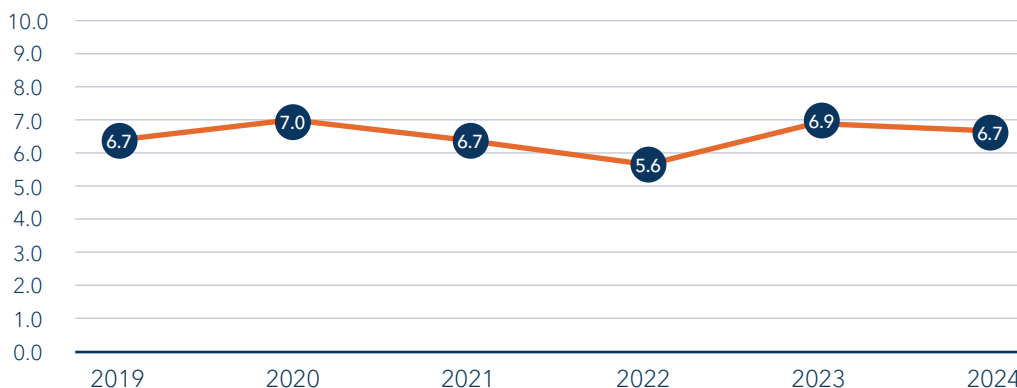


Main problems faced by companies in public procurements (multiple answers are allowed)



As was the case last year, the fourth-ranked problem faced by 38% of companies concerns late payment for contract performance. According to their responses, on average, the companies wait 6 months and 21 days to collect receivables from contract performance, while last year this period was calculated at 6 months and 27 days.

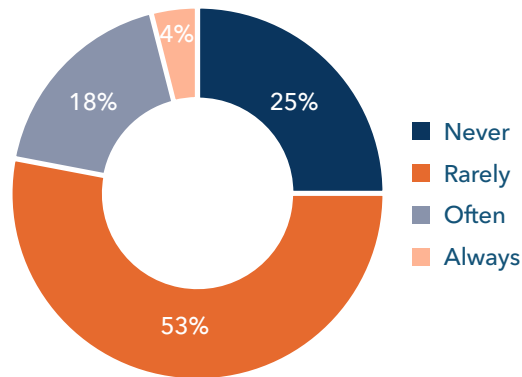
Average waiting time (in months) for collection of receivables from contract performance





When 'lower price' is used as selection criterion, technical specifications do not guarantee the quality of the procurement subject. Dominant share of companies (78%) believe that technical specifications rarely (53%) or never (25%) include details that allow precise definition of the procurement's quality. Hence, technical specifications cannot serve as guarantee for obtaining certain quality of the procurement subject under circumstances when, almost all tender procedures, use 'lowest price' as the selection criterion.

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

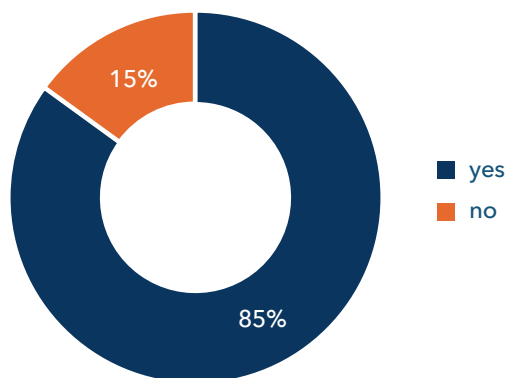


Small share of companies (22%) believe that contracting authorities often (18%) or always (4%) precisely define the quality of the procurement subject whereby use of 'lowest price' would make sense and would not lead to procurement of goods, services and works of poor quality.

Increasing share of companies are in "favour" of estimated values being published in advance. 85% of surveyed companies (last year their share was 78%) believe that contracting authorities should publish the estimated value of their public procurements. Namely, the Law on Public Procurement stipulates that contracting authorities have the discretionary right whether to publish the procurement's estimated value or not which, in practice, has become one of the main issues of content. Although the estimated value was not published in advance, many tender procedures have been presented with bids that match their estimated value. On the contrary, for the procurement's estimated value to be published it should be well calculated, which is not often the case and leads to other problems in the further course of tender procedures.

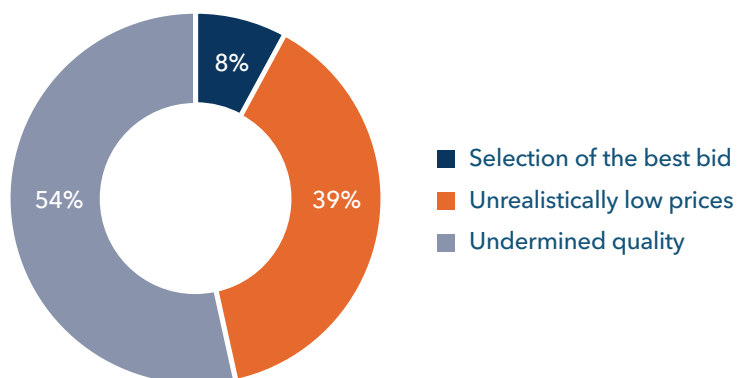


Do you think that the procurement's estimated value should be published in advance?



Together with use of 'lowest price', organization of e-auctions undermine the quality of public procurements. Only 8% of surveyed companies believe that the main characteristic of e-auctions is the fact that they result in selection of the best bid. Among the remaining companies, 39% indicated that e-auctions result in attainment of unrealistically low prices, while 54% said that e-auctions undermine the quality on the account of the procurement's price. Responses provided to this question show a minor deterioration compared to last year's survey results.

What is the best characterization of e-auctions?

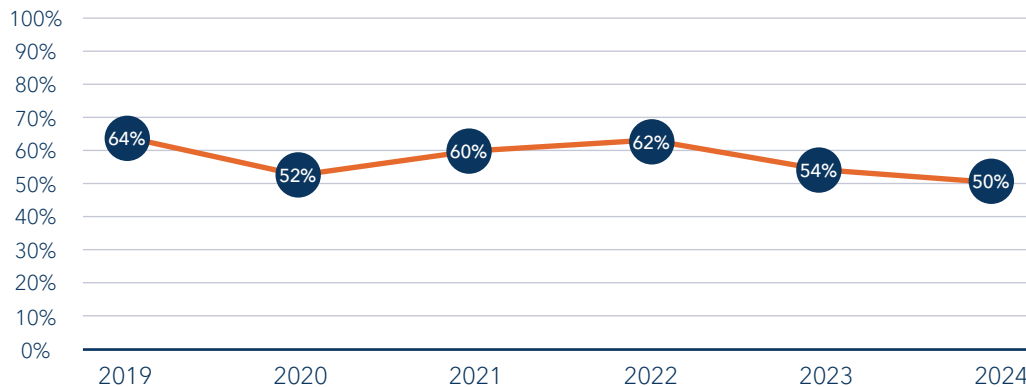




16% of companies believe their bid had been unjustifiably disqualified from the bid-evaluation process. Last year, the share of such responses accounted for 18%. Unlike these companies, other responses show that 37% of companies have never and 47% have rarely been in a situation where their bid had been unjustifiably disqualified from further evaluation.

Half of companies acknowledge existence of previous arrangements. 50% of companies said that, before the start of e-auctions, prior arrangements among companies are in place and concern their behaviour during the downward bidding. However, the share of such responses is lower compared to results under all previous editions of the survey.

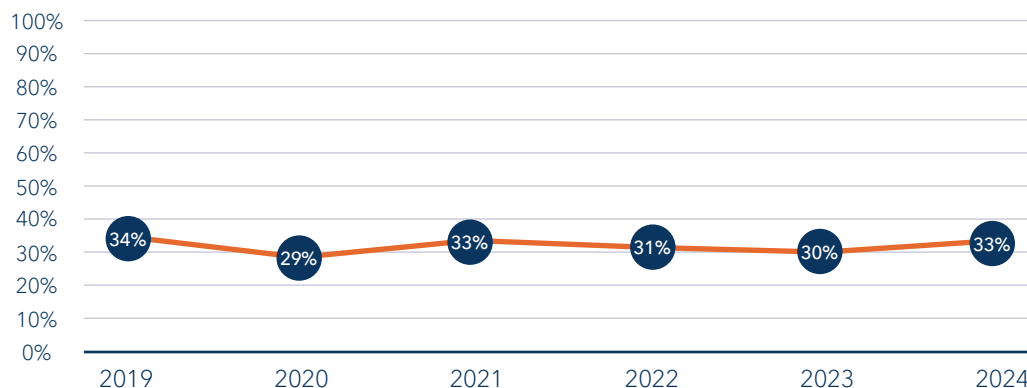
Share of companies that believe there are previous arrangements among bidders before the start of e-auctions



Only one third of companies are satisfied with communication on the part of contracting authorities in relation to public procurements. Only 33% of companies assessed communications with representatives from contracting authorities in whose tender procedures they participate as being timely and of good quality. The remaining respondents assessed such communications as being of partial quality (55%) or late and of poor quality (12%). These results show a minor improvement compared to the state-of-affairs reported last year.

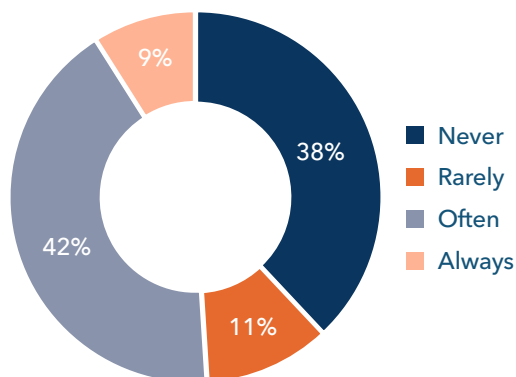


Share of companies that reported satisfaction with communications pursued by contracting authorities relating to public procurement procedures in which they have participated



Half of companies believe corruption is present in public procurements. 51% of surveyed companies believe that corruption is present in public procurements (last year their share was 46%). Among them, 42% indicated that corruption is often and 9% indicated that corruption is always present.

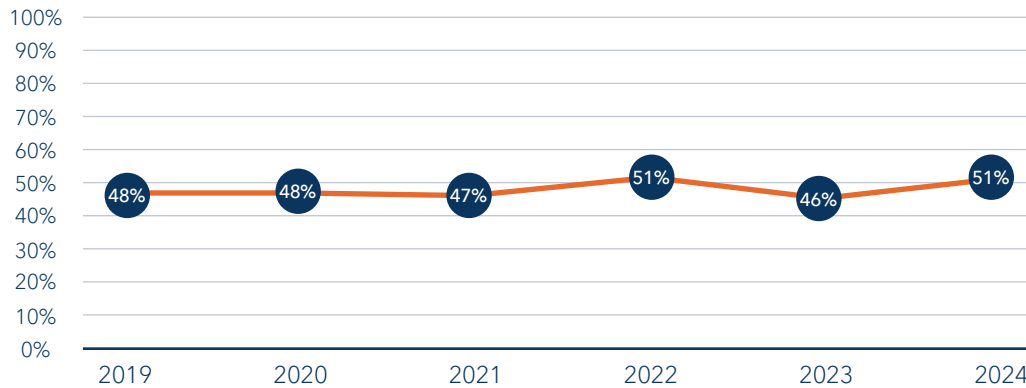
Do you think that corruption is present in public procurements?



38% of surveyed companies assessed that corruption is rarely present in public procurements, while 11% are of the opinion that there is no corruption.



Share of companies that believe corruption is present in public procurements



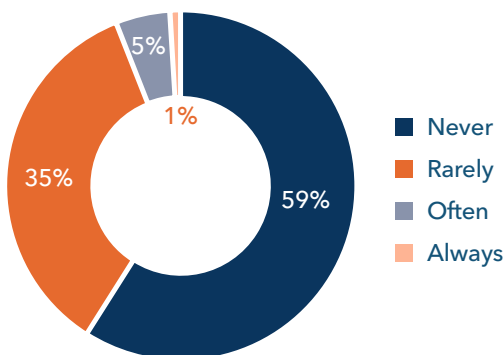
Among all companies surveyed, high 23% reported they have personally faced corruption when participating in tender procedures. Last year, 18% of companies reported personal experience with corruption in public procurements.

Asked to enlist the most common form of corruption, high share of companies gave this primacy to political and partisan connections (52%), followed by kickbacks (43%), and familiar connections (33%).

Dominant 94% of companies do not lodge appeals to contest tender procedures. Only 6% of companies reported they always (1%) or often (5%) lodge appeals before the State Commission on Public Procurement Appeals in cases when they are dissatisfied with actions on the part of contracting authorities in tender procedures where they appear as bidders. The remaining 94% of companies said they never (59%) or rarely (35%) lodge appeals before the State Commission.



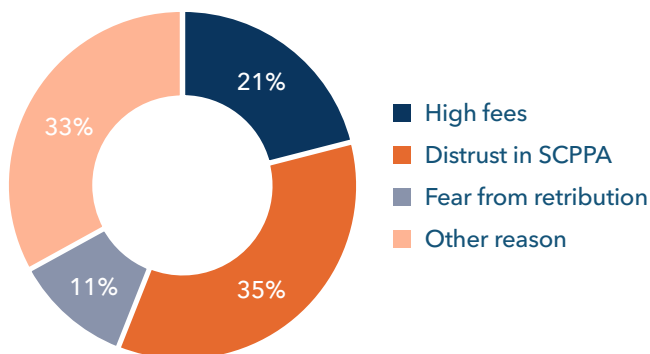
Have you lodged an appeal before SCPPA when dissatisfied with implementation of public procurements?



The most frequently indicated reasons why companies rarely or never lodge appeals continues to be distrust in the State Commission on Public Procurement Appeals, although the share of companies indicating this response is decreased from 39% last year to 35% this year.

The next reason concerns the fee for initiation of appeal procedures charged to companies lodging such appeal. Last year, this was a problem for 15% of companies, while this year their share accounts for 21%. The third reason why companies do not lodge appeals is fear from retribution by contracting authorities targeted with appeals, as reported by 14% last year and 11% this year.

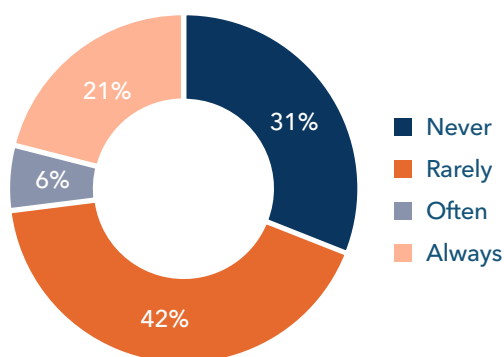
What is the reason for never or rarely lodging appeals before SCPPA against tender procedures?





Dissatisfaction with SCPPA decisions is prevalent. Dominant 73% of companies are never or rarely satisfied with decisions taken by SCPPA upon their appeals. The remaining 27% of companies reported they are often or always satisfied with SCPPA decisions. In this segment, there is a minor improvement compared to last year's survey results when 82% of companies that have lodged appeals indicated dissatisfaction with SCPPA decisions.

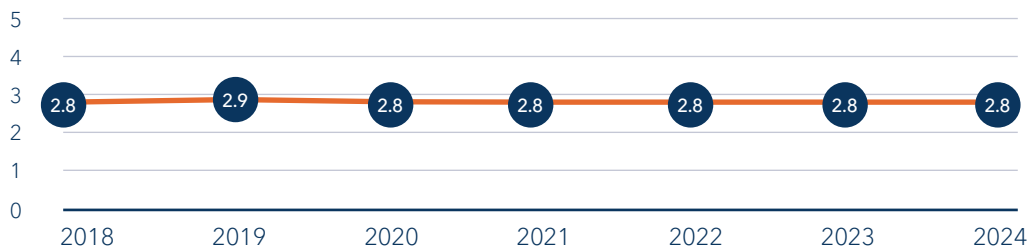
In the cases when you lodged an appeal, were you satisfied with the decision taken by SCPPA?



The average score companies have assigned to public procurements remains unchanged. Asked to assess the overall process of public procurement in the country on the scale from 1 (negative) to 5 (excellent), the companies assigned an average score of 2.8, which is identical to the score calculated last year.

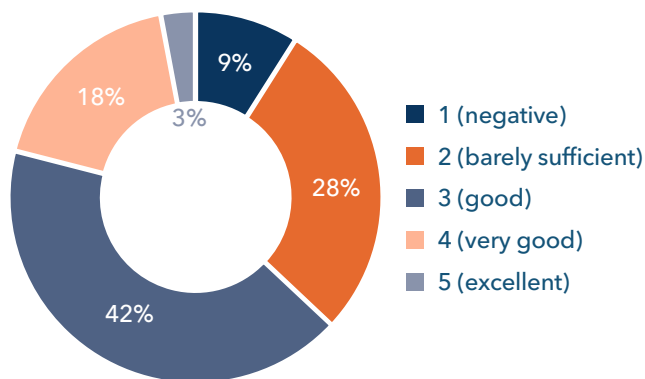


Variations under the average score assigned by companies to the process of public procurement



Accordingly, high share of companies indicated a score of 3 (42%). Smaller share of them (9%) assessed the system of public procurement with a score of 1 and only 3% indicated the highest score of 5.

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





Analysis of procedures led before the state commission on public procurement appeals in 2023

- » The number of appeals contesting public procurement procedures and lodged before the State Commission on Public Procurement Appeals (SCPPA) is increased. In 2023, bidding companies lodged a total of 981 appeals, representing an increase by 23.4% compared to the previous year. Nevertheless, the increased number of appeals is accompanied by decreased number of SCPPA decisions on approving appeals. The share of approved appeals is the lowest one recorded in the last ten years and for the first time since the start of this monitoring is below 40%, standing at 36.3% .

Among the total of 24,005 tender procedures organized in 2023, the State Commission on Public Procurement Appeals was presented with 981 appeals from companies (4.1%). As shown in the table below, the number of tender procedures is by 4.6% higher than the previous year, but the number of appeals is increased by almost one quarter (23.4%).



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

Year	Number of tender procedures	Change (%)	Number of appeals lodged before SCPPA	Change (%)
2019	22,538	+5.3%	845	+21.6%
2020	20,159	-10.6 %	983	+16.3%
2021	22,816	+13.2%	1,008	+2.5%
2022	22,901	+0.4%	751	-34.2%
2023	24,005	+4.6%	981	+23.4%

**Calculations are based on processing data published in EPPS.*

In 2023, the State Commission took decisions upon 981 appeals contesting public procurements. Analysis of the structure of SCPPA decisions shows that the State Commission has approved 310 appeals, and additional 46 public procurements were annulled by SCPPA on the account of major violations to the Law on Public Procurements, bringing the total number of approved appeals to 356, which accounts for 36.3% of all decisions taken. 392 appeals have been rejected as ungrounded, accounting for a share of 40%. On the account of untimely or incomplete submission, failure to settle the fee for initiation of appeal procedure or absence of competences, SCPPA has denied 104 appeals, accounting for a share of 10.6%. On the other hand, the number of appeals withdrawn by companies that have lodged them or appeals for which proceedings were discontinued because the contracting authority has accepted appeal allegation before SCPPA issued its opinion stands at 129 and accounts for 13.1% of all decisions.

Structure of decisions taken by SCPPA in 2023 *

Structure of appeals according to SCPPA decision	Number of appeals	Share (%)
Approved appeals	356	36.3%
Rejected appeals	392	40%
Denied appeals	104	10.6%
Terminated/discontinued appeal proceedings	129	13.1%
Total	981	100.0%

**Calculations are based on processing data published on SCPPA's official website.*



Analysed at annual level, the share of approved appeals is decreased by 4 percentile points compared to the previous year, coupled with an increase of rejected appeals (by 1.1 percentile points), denied appeals (by 2.5 percentile points) and discontinued or terminated appeal proceedings (by 0.4 percentile points).

Compared to previous years, the share of approved appeals is the lowest one recorded in the last ten years and stands below 40%, which is most certainly an unfavourable development for companies. On the other hand, the share of rejected appeals (40% in 2023) is equally high, although it falls slightly short of reaching the record level attained in 2021 when rejected appeals accounted for 40.1% of all appeals lodged.

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

Type of decision	2019	2020	2021	2022	2023
Approved appeals	58.3%	53.3%	42.6%	40.3%	36.3%
Rejected appeals	27.6%	31.9%	40.1%	38.9%	40.0%
Denied appeals	9.2%	7.1%	7.7%	8.1%	10.6%
Terminated/discontinued appeal proceedings	4.9%	7.7%	9.6%	12.7%	13.1%
Total	100%	100%	100%	100%	100%

**Calculations are based on processing data published on SCPPA's official website.*

Below is the structure of reasons for lodging appeals, based on the sample analysis for 2023:

- » 78% of appeals lodged by economic operators contest the decision on contract award, of which three quarters account for cases when another economic operator's bid was selected as the most advantageous and one quarter accounts for cases when the bid made by the economic operator lodging the appeal was rejected as unacceptable;
- » 17% of appeals contest the content of tender documents;
- » 3% of appeals contest the decision on tender annulment; and
- » 2% of appeals account for other reasons.

At the level of individual institutions, the highest number of appeals (72) were lodged against JSC Power Plants, followed by the Ministry of Defence, ESM Heath Distribution LLC Skopje and the Public Enterprise "State Roads", each targeted with 16 appeals.



Among economic operators, the highest number of appeals were lodged by SMART ENGINEERING PLUS LLC Veles (31), which participates in tender procedures for procurement of heating wood. Second-ranked, with 19 appeals lodged, is MEKS METERING AND CONTROL EQUIPMENT LLC Skopje, which participates in tender procedures for procurement of universal metering instruments (MEC Bitola). The third position with 15 appeals lodged is shared by RIKI JUNIOR LLC import-export Skopje, which participates in tender procedures for procurement of hygiene products, and the Company for Manufacture, Trade and Services KAZ GROUP import-export LLC Ilinden, which participates in tender procedures for procurement of spare parts needed for maintenance of water economy facilities for irrigation and drainage.

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