



USAID
ОД АМЕРИКАНСКИОТ НАРОД

 Center for Civil Communications
Центар за граѓански комуникации

MONITORING OF PUBLIC PROCUREMENTS

Report no. 35
(July – December 2020)

Skopje, June 2021

Publisher:

Center for Civil Communications

Translation:

Katerina Dimishkovska

Graphic Design:

DataPons Skopje

Print:

DataPons Skopje

Circulation:

250 copies

Free/non-commercial circulation

This report is developed by the Center for Civil Communications with support from the American people through the United States Agency for International Development (USAID). Opinions expressed in this report belong to the authors and do not represent the views of USAID or the United States Government.

TABLE OF CONTENT

KEY FINDINGS.....	4
GOALS AND METHODOLOGY.....	5
ANALYSIS OF MONITORED PUBLIC PROCUREMENTS AT CENTRAL LEVEL.....	7
ANALYSIS OF MONITORED PUBLIC PROCUREMENTS AT LOCAL LEVEL.....	22
ANALYSIS OF PROCEDURES LED BEFORE THE STATE COMMISSION ON PUBLIC PROCUREMENT APPEALS IN 2020.....	31
SURVEY AMONG COMPANIES RELATED TO THEIR PARTICIPATION IN PUBLIC PROCUREMENTS	33

KEY FINDINGS

From monitoring of public procurements:

- » Tender annulments have reached 33%, which is the highest share noted in the last several years. Tender procedures are mostly annulled on the grounds of no bids received or no acceptable bids.
- » Increase is noted with rejecting company bids in tender procedures due to problems with documents or procurement subjects bided.
- » Only 1% of all tender procedures in the country have been subject to administrative controls, with irregularities being found in 22% of them.
- » Competition in local tender procedures remains significantly lower compared to those organized by institutions at central level.
- » In appeal procedure, the share of approved appeals lodged by companies is decreasing, while the share of denied appeals is increasing.

From this year's survey among companies:

- » 'Lowest price' used as criterion for selection of the most favourable bid is the problem number one for 77% of companies.
- » 60% of surveyed companies believe that economic operators enter in previous arrangements when participating in tender procedures.
- » 47% of companies believe that corruption is present in public procurements.
- » 47% of companies do not lodge appeals in tender procedures due to distrust in the State Commission on Public Procurement Appeals.
- » Companies assess the process of public procurements in the country with an average score of 2.8 (on the scale from 1 to 5), which is the same as last year.
- » Dominant 60% of companies report that the corona-crisis had negative effect on their participation in tender procedures.

GOALS AND METHODOLOGY

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

Subject to monitoring performed by CCC are procedures organized and implemented by all state institutions in the country, both at central and local level of government. Selection of the monitoring sample is made upon publication of procurement notices in the Electronic Public Procurement System (EPPS) and the "Official Gazette of RNM".

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

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

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

This report is developed on the basis of monitoring and analysis of a selected sample comprised of 60 public procurement procedures implemented by central and local institutions in the period from 1 July to 31 December 2020.

* * *

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

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

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

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

ANALYSIS OF MONITORED PUBLIC PROCUREMENTS AT CENTRAL LEVEL

- » **In the second half of 2020, high 45% of monitored tender procedures featured exemptions of companies from bid-evaluation due to incomplete or invalid documents provided or due to submission of bids that do not comply with technical specifications. Such practice has prevented actual benefits from growing competition in tender procedures organized by state institutions to take effect.**

Exemption of companies from bid-evaluation gains in intensity instead of being reduced as a result of growing experience among participants on both sides (institutions organizing public procurements and companies participating in tender procedures).

Moreover, worrying is the high number of exemptions in monitored tender procedures at the level of individual public procurements. For example, the tender procedure organized for construction of addendum building within a primary school, in estimated value of 25 million MKD, VAT excluded, was presented with bids from 8 construction companies, but as many as 6 of them were exempted from bid-evaluation. The procurement procedure for UPS devices (uninterrupted power supply), in estimated value of 700,000 MKD, VAT excluded, was presented with bids from 4 companies, but after bid-evaluation, the committee has rejected as many as 3 bids on the grounds of being unacceptable. High number of exempted bids is also noted in the procurement procedure for medical supplies, i.e. personal protection gear, which was comprised of 11 lots and was estimated in the value of 4,500,000 MKD, VAT excluded. As many as 14 economic operators participated in this tender procedure, but 8 of them were exempted.

Furthermore, monitoring activities observed unequal treatment on the part of contracting authorities in respect to the right afforded to bidding companies to clarify or make additions to documents from their respective bids, unless it is a matter of significant deviations from required documents, as stipulated in Article 109, paragraph 2 of the Law on Public Procurements.

The Bureau of Public Procurements (BPP) also observed difference in behaviour demonstrated by institutions, whereby as part of its administrative control performed on tender procedure from our monitoring sample, the Bureau has found that the committee had asked some bidding companies to complement documents necessary to demonstrate their ability, while other bidding companies were exempted from further proceedings without being asked to provide additional documents that had been missing from their bid files and that would have allowed establishment of their eligibility for participation in tender procedures. In doing that, the contracting authority had put some economic operators in more favourable position compared to others, which amounts to inadequate enforcement of article 109, paragraph 2 of LPP.

Such trend of increasing exemptions from bid-evaluation should be noted and addressed because it has negative effect on competition in tender procedures, which is the only guarantee that contracts awarded ensure the best value for money spent. At the same time, frequent exemptions from bid-evaluation create business uncertainty for companies and could have a deferring effect for their future participation in tender procedures.

High frequency of such exemptions do not allow benefits from increased competition in tender procedures that was noted in 2020 to take effect.

Namely, the trend of increasing competition that was noted last year continues in the second half of 2020. More specifically, in this monitoring period, a solid level of competition among 3 and more companies is observed in 62% of monitored tender procedures, representing an increase by 7 percentile points compared to the second half of 2019.

Competition in tender procedures, on semi-annual level*

Period	No bidders	1 bidder	2 bidders	3 and more bidders
July – December 2016	4%	22%	16%	58%
July – December 2017	8%	17%	28%	47%
July – December 2018	2%	37%	14%	47%
July – December 2019	10%	11%	24%	55%
July – December 2020	5%	10%	23%	62%

*Calculations are made on the basis of the monitoring samples.

Increase of tender procedures with higher number of bids and decrease of those presented with only one bid is also visible at annual level. In 2020, based on the monitoring sample, 19% of tender procedures were presented with only one bid, while the share of tender procedures with solid competition comprised of 3 and more bidding companies accounts for 58% and is the highest share recorded in the last five years.

Competition in tender procedures, on annual level*

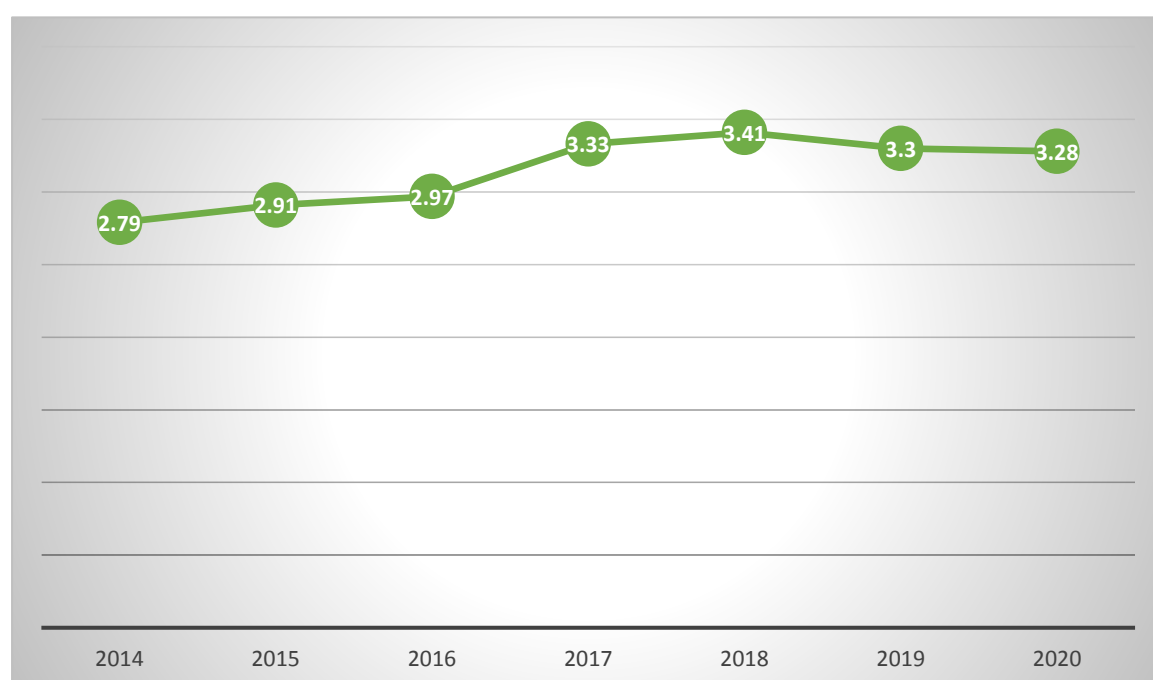
Year	No bidders	1 bidder	2 bidders	3 and more bidders
2016	4%	31%	17%	48%
2017	6%	21%	25%	48%
2018	5%	32%	15%	48%
2019	5%	24%	22%	49%
2020	5%	19%	18%	58%

*Calculations are made on the basis of the monitoring samples.

In the second half of 2020, the average number of bids per tender procedure is calculated at 3.58 compared to 2.98 bids in the first half of the year. On annual level, the average number of bids per tender procedure in 2020 accounts for 3.28 and is very close to the average number calculated last year when competition stood at 3.30 bids per tender procedure.

Here, it should be noted that calculations for 2020 are based on the monitoring sample, while data for previous years are taken from annual reports published by the Bureau of Public Procurements.

Average number of bids per tender procedure



Recommendation: Institutions must work on encouraging competition in tender procedures because that is the only guarantee for cost-effective spending of public funds. At the same time, due to the high number of exemptions from bid-evaluation, there is an emerging need of better education for both sides participating in public procurements, especially for companies. Clear guidelines need to be developed for enforcement of Article 109, paragraph 2 of the Law on Public Procurements in order to ensure equal treatment of all companies and prevent abuse of this legal provision for purposes of limiting competition and favouring particular bidders.

- » **The worrying trend of increased tender annulments continues and has reached the highest share of 33% in the last several years. Two-thirds of tender annulment decisions were adopted on the grounds of no bids received or no acceptable bids. This situation refers to absence of desired competition in tender procedures and reasons thereof must be sought in the manner in which public procurements are implemented and why they have a deferring effect on potential bidders.**

In the second half of 2020, as many as 4,112 tender procedures were fully or partially annulled, accounting for 39% of procurement notices announced in the same period. For comparison, 27% of tender procedures were annulled in the same period last year, which is by 12 percentile points less.

As a result of this negative trend, particularly prominent in the second half of the year, 2020 is marked by a new negative record in terms of tender annulments with total of 6,727 tender procedures annulled at annual level, accounting for 33% of the total number of public procurements announced.

Here, it should be stressed that slightly less than two-thirds of decisions (4,218) concerned full tender annulment, while just over one-third of such decisions (2,509) implied partial annulment of tender procedure in question.

Tender annulments per year

Year	Number of procurement notice announced	Number of tender annulment decisions	Share of annulled tender procedures
2015	18,469	3,673	20%
2016	18,444	4,230	23%
2017	17,227	4,210	24%
2018	21,406	5,833	27%
2019	22,538	5,985	27%
2020	20,159	6,727	33%

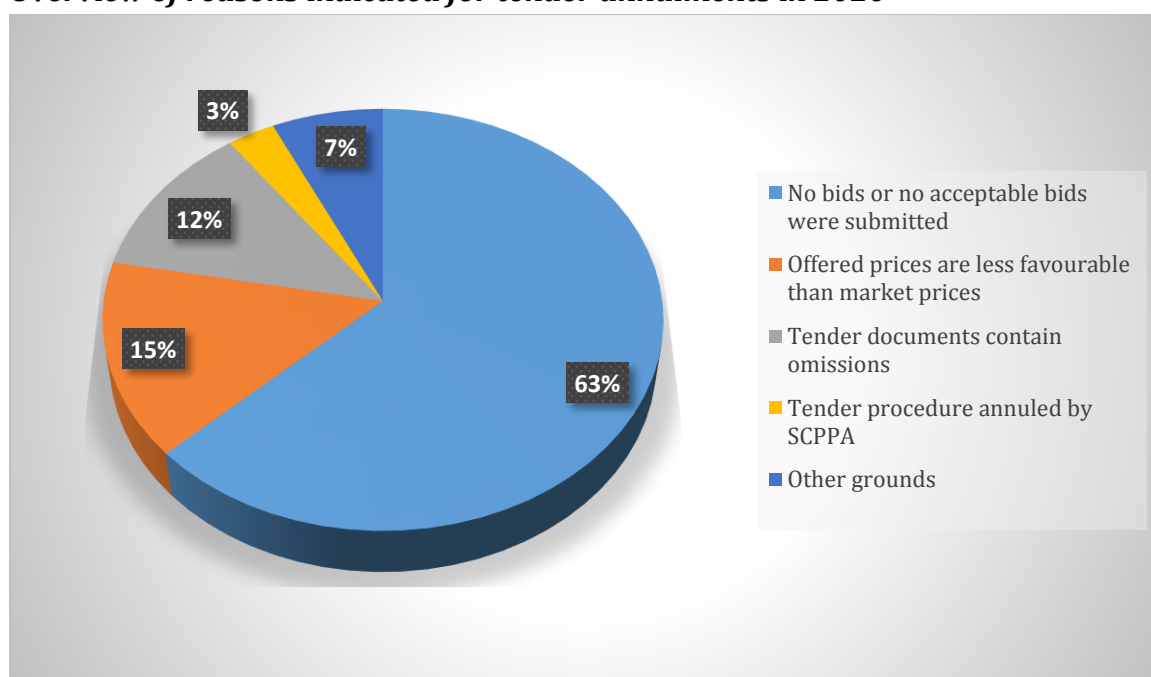
As shown on the chart below, reasons indicated for tender annulment in high 63% of such decisions concerned no bids received or no acceptable bids. This situation refers to absence of desired competition in tender procedures and reasons thereof should be sought in the manner in which public procurements are implemented and why they have a deferring effect on potential bidders.

Second most frequently indicated reason for tender annulment concerns the fact that prices offered are less favourable than market prices, as noted in 15% of public procurement procedures.

Third most frequently indicated reason implies major omissions in tender documents, accounting for 12% of tender annulment decisions.

The share of tender annulments upon decisions taken by the State Commission on Public Procurement Appeals (SCPPA) or upon administrative control performed by the Bureau of Public Procurement accounts for slightly more than 3%.

Overview of reasons indicated for tender annulments in 2020*



*Overview of reasons indicated for annulment of public procurement procedures is based on notifications on tender annulment submitted to EPPS for public procurements organized in 2020.

At the level of individual institutions, the highest number of annulled tender procedures is noted with JSC Power Plants (331), accounting for 59% of all procurement notices announced by this state-owned enterprise.

Second ranked is the Ministry of Defence, which has fully or partially annulled 67% of its tender procedures.

Third on the list is PHI City General Hospital “8th September” Skopje, which has submitted more notifications on tender annulment (174) than actual procurement notices announced (169). This difference shows that the institution in question has also annulled tender procedures announced in the previous year, not only those announced in 2020, which most certainly does not justify the negative trend that still raises concerns.

Institutions with the highest number of tender annulments in 2020

Contracting authority	Annulled tender procedures	Total tender procedures announced	Share
JSC Power Plants	331	562	59%
Ministry of Defence – Sector for Logistics	176	261	67%
PHI City General Hospital “8 th September” - Skopje	174	169	103%
Ministry of Interior	118	141	84%
PHI University Clinic of Gynaecology and Obstetrics - Skopje	107	141	76%
Municipality of Bitola	95	159	60%
Municipality of Veles	85	171	50%
FOD LLC – Novaci, JSC Power Plants of North Macedonia	73	97	75%
Public Transport Enterprise SKOPJE	70	120	58%
Faculty of Veterinary Medicine – Skopje	69	86	80%

Recommendation: In order to reduce tender annulments, institutions need to more frequently conduct market research through the so-called technical dialogue with companies, as stipulated in Article 76 of the Law on Public Procurements. This means that prior to announcement of procurement notices, insight into relevant tender documents on EPPS should be given to potential bidders so they could make adequate comments and remarks. Understandably, organization of technical dialogue makes sense only when institutions organizing such dialogue are prepared to truly listen to potential bidders and to implement their constrictive remarks and proposals. By doing that, institutions will ensure timely correction of certain omissions in their tender documents and will improve these documents in order to guarantee successful implementation of tender procedures.

- » **In 2020, a total of 205 tender procedures were subject of administrative control performed by the Bureau of Public Procurements, accounting for only 1% of all tender procedures implemented in the country. For a second year in a row, after having completed its controls the Bureau has not submitted any misdemeanour motions before competent authorities and has not notified the Public Prosecution Office of RNM about specific findings from administrative controls.**

In 2020, all 205 administrative controls of the Bureau of Public Procurements were conducted pursuant to article 172, paragraph 3 of LPP, i.e. controls were performed on tender procedures whose estimated value exceeds 500,000 euros for procurement of goods and services and 2 million euros for procurement of works. This year as well, the Bureau failed to start implementation of administrative controls based on risk assessment for violations to the Law on Public Procurements and on randomly selected sample, in compliance with article 172, paragraph 4 of LPP.

Among total of 205 administrative controls performed by the Bureau in 2020, irregularities have been found in 46 tender procedures, representing a share of 22%. In that, instructions for repeated bid-evaluation were issued for 27 tender procedures (13%) and were aimed at elimination of identified irregularities, while irregularities that affect procedure outcome and could not be eliminated in the stage of administration control were established in 19 tender procedures (9%), followed by guidelines for annulment of these tender procedures issued by the Bureau.

Administrative controls performed by BPP (01.01.2020 - 31.12.2020)

Period	Number of administrative controls	Number of tender procedures for which annulment instructions were issued
April – December 2019	141	23
January – December 2020	205	19

Frequency of administrative controls, on semi-annual level

Period	Number of administrative controls
April – June 2019	14
July – December 2019	127
January – June 2020	87
July – December 2020	118

Pursuant to Article 178, paragraph 3, item 2 of the Law on Public Procurements, in the period January – December 2020 the Bureau presented the State Commission on Public Procurement Appeals with six requests for decision-taking upon performed administrative controls. In that, decisions taken by SCPPA are broken down in the following manner: in five cases SCPPA took decisions confirming the Bureau of Public Procurements' findings not to accept additional justifications, and in one case SCPPA took decision to accept additional justification provide by the contracting authority whose procurement procedure was subject of administrative control.

Otherwise, not a single irregularity identified as part of administrative controls performed by the Bureau of Public Procurements in 2020 included an assessment that actions taken in relevant tender procedure bear characteristics of misdemeanour pursuant to the Law on Public Procurements or criminal offence. Hence, in 2020 the Bureau of Public Procurements has not submitted any misdemeanour motions to competent courts and has not notified the competent prosecution service about its findings.

Having in mind that all controls performed by the Bureau targeted tender procedures whose value exceeds half million euros for procurement of goods and services, i.e. 2 million euros for construction works, it could be established that all administrative controls were anticipated. This predictability means that institutions had made their best effort to implement tender procedures that are in compliance with the law. Hence, the fact that serious irregularities have been found in 22% of tender procedures subject to administrative controls and have led to the Bureau requesting their annulment is considered to be highly worrying. This situation suggests that the share of such tender procedures would be significantly higher among public procurements that would be selected for administrative control on the basis of risk assessment for violation of provisions from the Law on Public Procurements, i.e. among public procurements in which institutions do not known in advance that their tender procedure will be subject to administrative control.

Recommendation: In order to allow benefits from administrative controls to take effect in terms of reducing malpractices and corruption in tender procedures, in compliance with the Law on Public Procurements, the Bureau should expand the scope of its controls with a view to cover tender procedures on the basis of risk assessment or on randomly selected sample. Having in mind that the Bureau does not hold competences to assess whether certain irregularities are a result of unintentional errors or intentions to favour certain companies, it needs to timely inform competent prosecution services about relevant findings from its administrative controls.

- » **‘Lowest price’ was used as selection criterion for the most favourable bid in 96% of tender procedures implemented in 2020, thus maintaining the unfavourable trend from the previous year.**

The most favourable bids in tender procedures are still selected mainly on the basis of prices offered, thereby perpetuating the high risk for procurement of goods, services and works that are of inadequate quality.

In 2020, ‘lowest price’ was used as the main element of the selection criterion “economically most advantageous bid” in as many as 19,296 from the total of 20,149 tender procedures, while only 853 public procurements used the selection criterion defined as “best price-quality ratio”.

Use of selection criteria for the most favourable bid in 2020



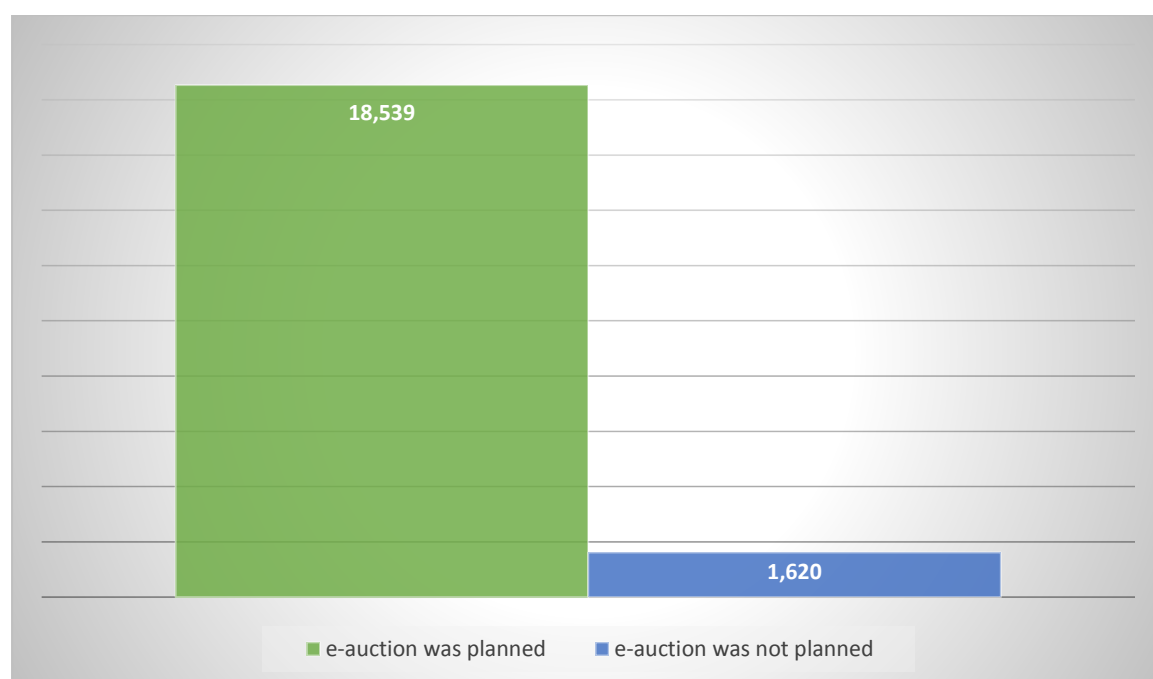
Hence, it could be established that price was the single parameter used to evaluate bids in high 96% of tender procedures in 2020. Other selection criteria were used in only 4% of tender procedures.

Such behaviour on the part of institutions is contrary to the principles of rational, effective and efficient public spending, as stipulated in article 4, paragraph 2 of LPP whereby: “contracting authorities shall implement public procurements by ensuring adequate quality of procurement subjects in respect to their purpose and value.”

According to data available in the Electronic Public Procurement System, e-auctions were anticipated in as many as 92% of tender procedures implemented in 2020.

Such behaviour on the part of institutions is contrary to the recommendations from the Bureau of Public Procurements for institutions not to force organization of electronic auctions (e-auctions) because of negative effects they generate, primarily the risk of awarding contracts under unrealistically low prices due to lack of competition and previous arrangements among companies that take place before e-auctions.

Overview of tender procedures in 2020, according to organization of e-auctions



Although planned, e-auctions were not organized in significant portion of tender procedures, posing an actual risk for contracts to be awarded under prices that are higher than actual market prices, because it is only logical for bidding companies to initially offer higher prices in expectation of downward bidding at e-auctions. At the level of the monitoring sample, e-auctions were organized in 64% of tender procedures in which such downward bidding was planned.

Recommendation: Contracting authorities should engage in responsible public spending pursuant to the principles of rationality, effectiveness and efficiency. Insistence on use of 'lowest price' as selection criterion for the most favourable bid might facilitate work of teams involved in public procurements at institutions, but it most certainly threatens the quality of procured goods and services, ultimately causing damages to the budgets of these institutions.

- » **In 2020, a total of 379 contracts were awarded under direct negotiations without previous announcement of call for bids, in cumulative value of 38 million euros. Compared to the previous year, the number of such contracts is increased, but the total value has decreased by 5%. The highest value contract awarded under direct negotiations is noted with Balkan Energy and concerns procurement of natural gas from TE-TO (13.3 million euros). At the level of individual institutions, the highest cumulative value of contracts awarded without previous announcement of call for bids is observed with JSC Power Plants, i.e. 22 contracts in cumulative value of 6.2 million euros.**

The dynamics of this type of contacts was more prominent in the second half of 2020, i.e. contrary to the first half of the year when they accounted for 11 million euros, in the second half of 2020 their value is calculated at 27 million euros. Hence, a total of 379 direct contracts were signed in 2020, which is by 11 contracts more than the previous year, but their cumulative value of 38 million euros represents a decrease by 5%.

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

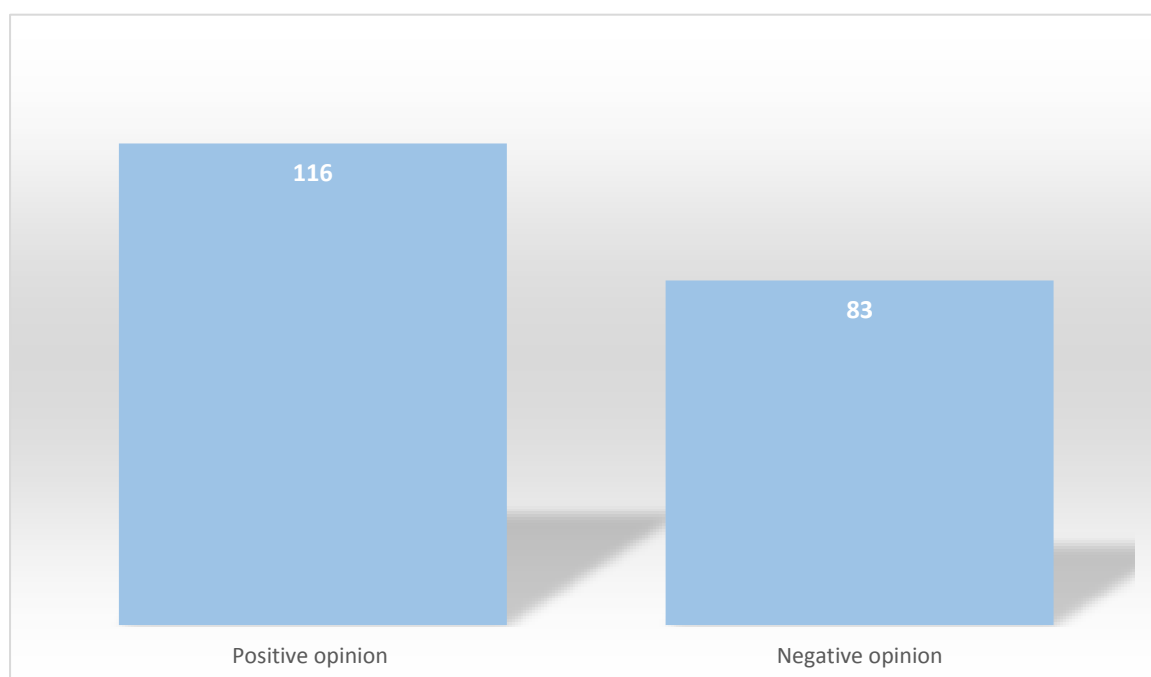
Year	Number of contracts awarded	Value of contacts (in million euros)	Annual change under cumulative value
2016	605	35	+20%
2017	496	29	-17%
2018	596	33	+14%
2019	368	40	+21%
2020	379	38	-5%

According to the Law on Public Procurements, the Bureau of Public Procurements issues opinion on fulfilment of terms and conditions for organization of negotiation procedures without previous announcement of call for bids for the purpose of protecting exclusive rights and when contacts can be awarded only to particular economic operators due to artistic and technical reasons, as well as in the case of urgency caused by events that could not have been anticipated by and cannot be attributed as omission to contracting authorities, i.e. when they are unable to enforce

deadlines for relevant types of procurement procedures with announcement of call for bids.

In the period January – December 2020, the Bureau of Public Procurements was presented with 199 applications for organization of negotiation procedure without previous announcement of call for bid. In that, positive opinions were issued for most cases (116 applications), while negative opinions were issued for 83 applications.

Opinion issued by BPP upon applications for organization of negotiation procedure (January – December 2020)



The highest value contract awarded under this procedure is noted with Balkan Energy Skopje, signed with the company for electricity and heating energy generation TE-TO JSC - Skopje, and it concerns procurement of natural gas in the value of 13.3 million euros.

The top 10 list of such contracts includes two public procurements awarded by the Ministry of Education and Science for bulk purchase of textbooks and accompanying didactic materials and workbooks for primary education in the school year 2020/2021, one signed with the company for graphic services and trade ARS LAMINA LLP Skopje in the value of 2.6 million euros, and another signed with the company for production, marketing, design, trade and services ARBERIA DESIGN LLC export-import Tetovo in the value of 1.9 million euros.

This list also features three contracts awarded by JSC Power Plants for engagement of auxiliary machinery for mining operations at PU Mines, two of which are signed with

the company for production, trade and services ZIMAK Streten LLC Bitola in the value of 2 million euros and 1.2 million euros respectively, and one with the company for trade, production and services MARKOVSKI COMPANY LLC import-export Bitola, in the value of 767 thousand euros.

Furthermore, the top 10 contracts include two public procurements of the Ministry of Interior, whereby the bigger contract concerns procurement of single-use surgical mask and is signed with the company for production, trade and services GIFTY TEKS import-export LLC Prilep in the value of 1.1 million euros, and the second contract concerns procurement of respiratory marks N95 or FFP2 with highest level of protection and single-use protective gloves, signed with the company for trade and service BIOTEK LLP export-import Skopje in the value of 657 thousand euros.

The top 10 highest value contracts include one public procurement awarded by the Agency for Electronic Communications for maintenance of sophisticated electronic metering equipment (integrated system for monitoring radio-frequencies) and signed with TCI International Inc. in the value of 742 thousand euros.

At the level of individual institutions, the highest cumulative value of contracts awarded without previously announced call for bids is noted with JSC Power Plants, with a total of 22 contracts in cumulative value of 6.2 million euros.

Institutions with highest cumulative value of contracts signed without previous announcement of call for bids in 2020

Contracting authority	Number of contracts	Value of contracts (in EUR)
JSC Power Plants	22	6,286,910
Ministry of Education and Science	23	5,532,220
Ministry of Interior	13	2,219,218
Agency for Electronic Communications	3	965,333
Ministry of Health	23	748,522
Government of RNM – General Secretariat	6	748,075
PHI Institute for Children Pulmonary Diseases – Kozle	38	742,054

Clinic of Traumatology	45	682,314
Public Health Centre – Skopje	16	659,786
Ministry of Foreign Affairs	6	629,155

Recommendation: Having in mind non-transparency that accompanies this type of procurement procedures, institutions need to organize them only in exceptional situations. Maximum efforts should be invested in finding possibilities for all contracts to be awarded under transparent and competitive process. This is particularly important given the fact that portion of contracts signed under this type of procurement procedures implied an exceptionally high value.

- » **Institutions continue to disrespect law-stipulated deadlines for taking decisions in procurement procedures, as well as for submission of notifications on contract signed and notifications on contract performance to the Electronic Public Procurement System.**

In one-third of tender procedures monitored in both semi-annual periods of 2020 contracting authorities have disrespected their legal obligation for adoption of selection or tender annulment decisions within a deadline not longer than the deadline for submission of bids (Article 112, paragraph 2 of the Law on Public Procurements). Moreover, the longest period of breached deadline in the monitoring sample for the first half of the year accounted for 103 days, while in the second half of the year, this period accounted for 60 days.

Violation of this law-stipulated deadline is liable to penalties pursuant to misdemeanour provisions from the Law on Public Procurements (article 181, paragraph 2, item 11), which anticipates fines in the amount of 1,000 to 2,000 euros in MKD counter value for responsible, i.e. authorized persons at the legal entity acting as contracting authority in the case when, contrary to the Law on Public Procurements, they have failed to take selection or annulment decision within the law-stipulated deadline.

Significant part of institutions do not comply with the law-stipulated deadline of 10 days for submission of notifications on contract signed to EPPS, while notifications on contract performance are rarely submitted.

Law on Public Procurements (article 181, paragraph 1, item 7) anticipates misdemeanour fines in the amount of 500 to 1,000 euros in MKD counter value for responsible, i.e. authorized persons at the legal entity acting as contracting authority in

the case when they have failed to submit notifications on contract signed and notifications on contract performance.

According to information obtained from institutions, BPP takes measures to block contracting authorities preventing them to publish new procurement notices if they have not complied with law-stipulated obligations on transparency. However, there are no information available that the Bureau has taken adequate measures that would allow competent institutions to issue misdemeanour fines.

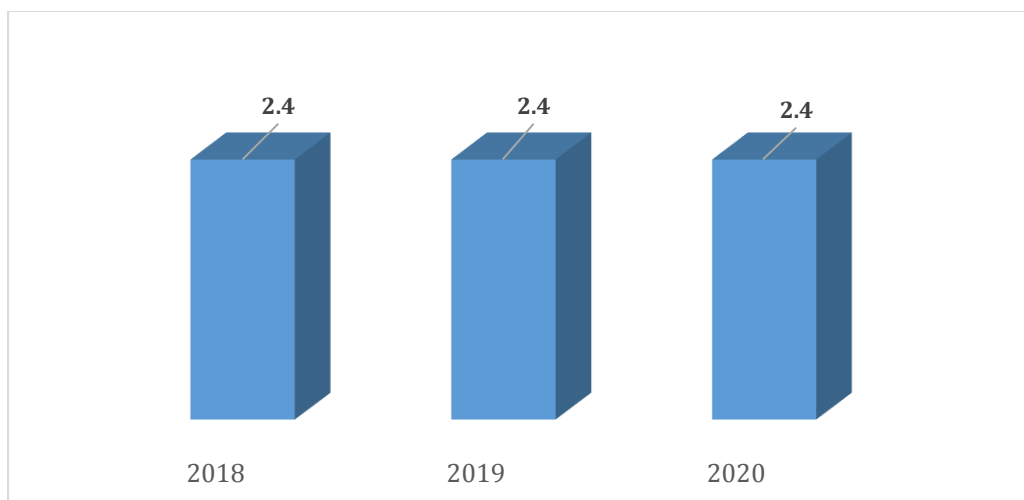
Recommendation: Contracting authorities must adherently enforce deadlines stipulated in the Law on Public Procurements, while the Bureau of Public Procurements should take all legal measures to initiate the process of sanctioning illegal activities on the part of contracting authorities. According to Article 45, paragraph 1, item 12 of the Law on Public Procurements, the Bureau of Public Procurements should immediately inform contracting authorities about established irregularities in notifications it has received and, when relevant, it should also inform competent authorities thereof.

ANALYSIS OF MONITORED PUBLIC PROCUREMENTS AT LOCAL LEVEL

- » **There are no improvements in terms of competition under tender procedures organized at local level. The average number of bids per tender procedure is the same for three consecutive years.**

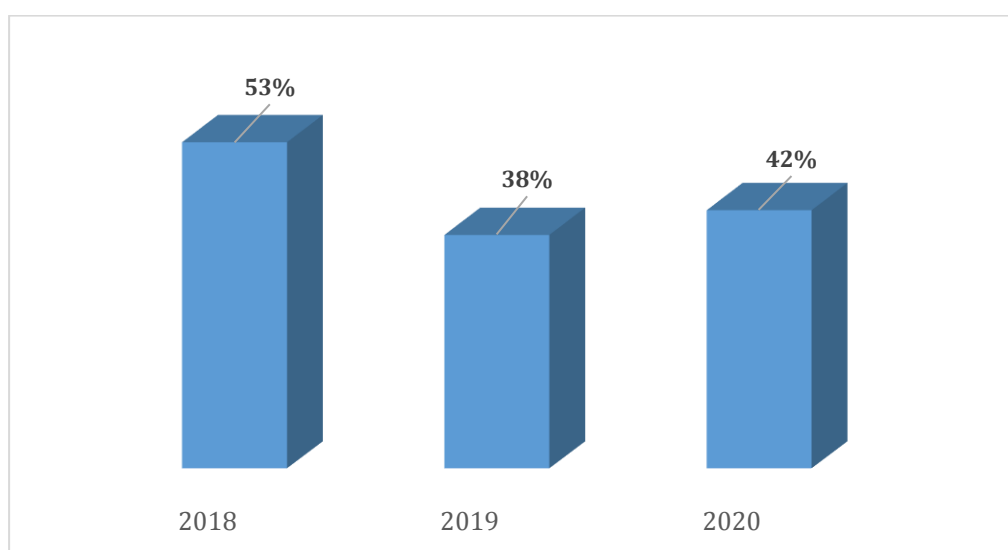
The average number of bids calculated for monitored tender procedures at local level stands at 2.4 and has not changed over the last several years. This means that local institutions have a worse average number of bids compared to the average calculated at national level in the range above 3 bids per tender procedure.

Competition in monitored tender procedures at local level: average number of bids per tender procedure



The low average number of bids per tender procedure at local level is mirrored in the next indicator about the level of competition in tender procedures, i.e. the share of tender procedures presented with one or no bids. This indicator is marked by deterioration in 2020, i.e. high 42% of monitored tender procedures were presented with one bid or they were not presented with any bids. Moreover, 15% of tender procedures were presented with two bids, while 43% of them are marked by competition among three or more bidding companies.

Share of tender procedures presented with one or no bids



Having in mind certain examples from the monitoring sample, low competition in tender procedures at local level should not come as surprise.

In this monitoring period, there are numerous examples of tender procedures in which contracting authorities have not enlisted required quantities and have requested companies to offer unit prices. First and foremost, this prevents interested bidding companies to economize their bids, i.e. to offer lower prices in cases of voluminous quantities and vice versa. Second, such practice could encourage corruptive behaviours, i.e. relying on insider information from the institution, favoured bidders could learn which products are procured in high quantities and which are procured in small quantities allowing them to offer much lower prices for those purchased in small quantity and unrealistically high prices for those purchased in high quantity. Hence, when unit prices are summed up, their bid accounts for the lowest price overall, but in reality the institution overpays certain products during contract performance. It is assumed that difference in prices from those paid by the institution could be used for corruption.

Moreover, some tender procedures appear to be only formally organized as it is known in advance what will be purchased and from which company. Namely, one municipality announced a tender procedure for procurement of two used vehicles, but comparison of characteristics required and the only bid received raises suspicion that the municipality might have known beforehand the exact vehicles and from which legal entity it would procure them. In the technical specifications that provide description of the procurement subject, the municipality requested the vehicles not to have been manufactured before the year 2000. Hence, vehicles indicated in the bid were manufactured in 2001 and 2000 respectively. Moreover, the technical specifications indicated that vehicles should have diesel engine, and both vehicles purchased are

diesel. Another requirement concerned engine capacity of at least 2600 cc, with both vehicles purchased having engine capacity of 2685 cc. Vehicles were required to have engine power of at least 110 KW, and both vehicles purchased have power of 115 KW, and so forth.

Similar situation is noted with tender procedures for winter maintenance of streets and roads, both of which - almost by some unwritten rule – were presented with only one bid from a company that has been awarded same procurements for many years. It should be noted that the monitoring sample included four local tender procedures for this type of services and all four were implemented in completely different manner.

In particular, one tender procedure requested bids to be presented per hour of snow ploughing with truck or bulldozer, per ton of industrial salt and per cubic meter of crushed stone, without indicating necessary quantities and without detailed description of cleaning services, industrial salt (e.g. packed in bags or sold in bulk, which would affect the price) or crushed stone (e.g. fraction, i.e. grain size, also affecting the price).

Another tender procedure requested 72 hours of snow ploughing and spreading of 15 tons of abrasive material, industrial salt or crushed stone, without indicating how much of these 15 tons should be industrial salt and how much should be crushed stone.

The third tender procedure indicated planned hours per road direction that should be ploughed and thereby requested bidding companies to offer price per road direction and per precisely enlisted hours of snow ploughing.

The fourth tender procedure enlisted necessary machinery and services, e.g. small machine, truck with spreader, manual ploughing and the like, and required bidding companies to offer prices per working hour, without indicating planned or required working hours.

Three of these tender procedures were presented with one bid each and in all cases these were companies that have been awarded same contracts in previous years, while one tender procedure was not presented with any bids, but the repeated procedure was presented with one bid from the same company that has performed such contracts in previous years.

» **Share of annulled tender procedures at local level remains high at 25%.**

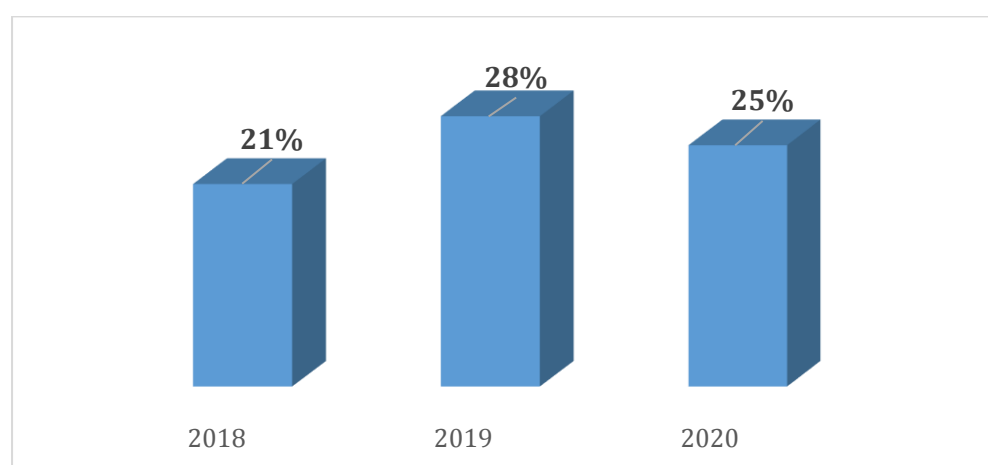
Every fourth tender procedure from the monitoring sample was annulled, which speaks volumes about insufficient efficiency in implementation of public procurements at local level.

Although annulment of tender procedures at local level is decreased compared to the previous period, the calculated share of 25% is still very high. Additional problem is

seen in the fact that the high share of annulled tender procedures persists for several years, but no significant measures have been taken at institutional or systemic level.

Aside from making public procurements highly uncertain both for those purchasing and for those selling goods and services, frequent tender annulments represent a safe haven for those implementing public procurements when something has not turned out as planned, be it from honest or dishonest intentions.

Share of annulled tender procedures in the monitoring sample



Reason indicated for annulment of high 60% of local tender procedures concerns the fact that contracting authorities were not presented with any bids or there were no acceptable bids after the evaluation process. Other 40% of tender procedures were annulled on the grounds that bidding companies have offered prices higher than the procurement's estimated value, whereby institutions were unable or unprepared to secure additional funds in order to accept the higher prices offered.

Unrealistic or imprecise estimate of the procurement's value is another frequent problem that plagues public procurements and affects the final outcome of tender procedures.

Example thereof is identified in tender procedure organized by a municipality for procurement of foodstuff and hygiene products, comprised of 61 individual items grouped into two lots: foodstuff and hygiene products. Both procurement lots were presented with three bids each, followed by fierce downward bidding. The electronic auction for the first lot included as many as 75 price reductions, with 56 price reductions made for the second lot. The procurement's estimated value was set in the amount of 200,000 MKD and was published in advance. The lowest initially bided price for the first lot accounted for 60,655 MKD and was decreased to 43,400 MKD during the auction, while the lowest initially bided price for the second lot accounted for 250,998

MKD and was decreased to 237,398 MKD. In spite of that, the total sum of both lots accounted for 280,798 MKD and was higher than the procurement's estimated value of 200,000 MKD, resulting in annulment of this tender procedure.

It is interesting to note that immediately after having taken an annulment decision the municipality announced new tender procedure for the same procurement under higher estimated value (320,000 MKD), which means it has secured more funds for this procurement in the meantime. No bids were submitted to the repeated tender procedure and the same was annulled.

Another, third tender procedure was announced in estimated value of 320,000 MKD, marked by participation of three bidding companies and resulting in contract award under the final price of 228,025 MKD.

Three and a half months have passed from the first attempt for this public procurement until completion of the third tender procedure. This is how much time, money and uncertainty the municipality had to pay for this public procurement, although the same could have been successful in the first attempt if the contracting authority had acknowledged the fact that it had poorly estimated the procurement's value and had immediately secured the difference in funds between the procurement's estimated value and the lowest price attained on the first tender procedure. Ultimately, the price attained was almost identical with the price attained on the first tender procedure, but the contracting authority lost money and time for organization of another two public procurement procedures.

On the contrary, the procurement procedure for advertising materials organized by another municipality, in estimated value of 300,000 MKD, was presented with one bid in the amount of 349,819 MKD. Planned electronic auction did not take place because there was only one bid and there was no further reduction of this price. However, instead of annulling this tender procedure, the contracting authority decided to secure necessary funds for this procurement and signed the contract with the single bidder. While it might not be necessarily true, the reason for such action on the part of the contracting authority could be the fact that this tender procedure was organized in late December and that the institution simply wanted this tender procedure to succeed.

- » **Local institutions do not comply with the legal obligation on justifying the need for each public procurement. Also, there is no awareness about the need, when possible, to divide tenders into procurement lots in order to facilitate participation of smaller companies.**

In this monitoring period as well, these two legal provisions are most frequently violated in implementation of local tender procedures. Both of them are novelties in the Law on Public Procurements.

The first provision arises from the need for public procurements to be viewed as cycle that starts with need for public procurement and ends with delivery of such need by using goods, services or works procured. Hence, it is of crucial importance to elaborate why certain procurement is needed in indicated type, quality, quantity and deadline. By doing so, money from taxpaying citizens and companies will be used to procure only what is necessary, cost-effective and purposeful to ensure normal operation of institutions and to promote living and working conditions.

According to the Law on Public Procurements, this should be a mandatory element of the decision on public procurement. However, none of monitored tender procedures included elaboration of the need for public procurement. Most decisions do not even refer to this aspect, while some of them include a single vague statement that the procurement is necessary for the institution's regular operation. It is ironic that large share of institutions have titled the document that represents initiation of the overall public procurement procedure as "decision on the need of public procurement", but the same does not include a single word about the procurement's need.

Concerns are also raised by the fact that attempts on the part of institutions to write a few words about the procurement need are indicative of complete misunderstanding of the essence behind this provision. Hence, in its tender procedure for procurement of laptops for the needs of three schools on its territory, one municipality elaborated the procurement need as follows: "based on the municipality's competences in respect to primary education and the need for organization of distance learning in the year 2020". Moreover, the municipality divided this procedure into three procurement lots, although they are the same, i.e. each lot concerns procurement of identical laptops, but are grouped according to the different school for which they are being purchased. Furthermore, relevant tender documents do not indicate the quantity of laptops needed, but requested bidding companies to submit unit price per laptop. Ultimately, this tender procedure was presented with one bid and the municipality purchased 9 laptops for the first school, 10 for the second school and 16 laptops for the third school, all laptops being of same model and make.

The second provision that is grossly disregarded is another novelty from the Law on Public Procurements. Notably, as anticipated under the EU Public Procurement Directive, state institutions should make efforts, when possible, to divide their procurements into several lots. In cases when that is not possible, the decision on public procurement should elaborate reasons why the procurement in question is not divided into lots. This is yet another measure that facilitates access to public procurements for small and micro enterprises. Accordingly, these companies will be able to compete only for individual procurement lots relative to their business activity and size. This is particularly important in terms of greater participation of small local companies in tender procedures, which ultimately sustains the local economy.

Therefore, confusing is the fact that local institutions approach all tender procedures are indivisible, although the law requires them to do the opposite, i.e. each tender procedure to be approach as divisible, and in the event it cannot be divided, to elaborate reasons thereof.

No local tender procedures from the monitoring sample included elaboration of reasons for the procurement's indivisibility, except for occasional references that the procurement cannot be divided into lots because of the nature of its subject.

- » **Local institutions continue the practice whereby, without any exceptions, 'lowest price' is used as single criterion for selection of the most favourable bids, disregarding quality of what they are procuring.**

By default, all local tender procedures in the monitoring sample used 'lowest price' as single criterion for selection of the most favourable bid and planned organization of electronic auction in spite of the fact that these are not mandatory in public procurements.

This practice is perpetuated in spite of the fact that the new law defines 'economically most advantageous bid' as the single criterion for selection of the most favourable bid in which price could and should be only one of selection elements used. The same is valid for electronic auctions, which are not mandatory and allow contracting authorities discretionary right to use this instrument only in cases when they organize procurement of subjects that are characterized by standard or known quality in which price could play a decisive role. The reality is different. State institutions continue to use lowest price and electronic auctions in their tender procedures, although both of them were heavily criticized as reasons for poor performance of public procurements in the period when their use was mandated by law.

It is believed that institutions resort to use of lowest price and electronic auction as the easiest way to select the most favourable bid without having to invest many efforts in evaluation of bids according to other elements that could also guarantee certain quality of implemented procurements.

Combined use of lowest price and electronic auction brings under question the underlying principles of public procurements, primarily the one concerning buying what is most cost-effective, i.e. obtaining the best value for the money spent.

However, lowest price as single selection criterion was used also in tender procedures where quality of relevant procurement subjects had not been described, which could result in procurement of goods, services and works of suspicious quality.

They include above elaborated examples in which contracting authorities requested industrial salt and winter maintenance of streets and roads, but have failed to provide

any description of these procurement subjects. In the case of industrial salt, the price is affected by its packaging, i.e. bag-packed salt is more expensive compared to salt sold in bulk, which is cheaper. Contracting authorities should be concerned by the fact whether salt will be delivered in bulk or packed in bags, because these two variations require different storage conditions. In the case of crushed stone, an important consideration is grain size, i.e. fraction, which also dictates the price.

For example, the tender procedure concerning foodstuff for the needs of one municipality implied procurement of “cow-milk white cheese” or “fruit juice from peaches” without indicating the fat percentage for white cheese or fruit percentage in the juice. Another example is the procurement of hygiene products which required “cleaning product for tiles” without providing any further description.

In all these cases ‘lowest price’ cannot guarantee adequate quality of products being procured. On the other hand, poor quality means that the procurement would not attain the purpose for which it was organized, implying irrational spending of public funds. Contracting authorities often complain about quality of procured goods, but it seems that sufficient efforts are not made to secure quality either through detailed description of procurement subjects or through use of other selection elements in addition to lowest price.

Recommendations: Based on weaknesses detected in implementation of public procurements, institutions at local level, and others, are recommended:

- › To adherently enforce provisions from the Law on Public Procurements by insisting on use of all possibilities and mechanisms allowed under the law for procurement of goods, services and works they actually need in indicated quantity, quality and delivery deadlines, following previously conducted needs assessment, market research and application of relevant elements for selection of the most favourable bid, i.e. obtaining the best value for public funds spent.
- › To adherently comply with all legal obligations and to avoid violations to the Law on Public Procurements, in spite of the absence of procedures for issuing sanctions.
- › All competent institutions, services and individuals that are in such position, but primarily the Bureau of Public Procurements, parties involved in tender procedures, internal auditors and others, to initiate misdemeanour procedure to sanction frequent violations to the Law on Public Procurements.
- › To organize electronic auctions only when procuring products of standard, known or well-defined quality where the price has a decisive role in selection of the most favourable bid.
- › To analyse annulled and unsuccessful tender procedures and to use such analyses as basis to improve future public procurement procedures.

- › Whenever possible, to divide the procurement into smaller lots that would allow participation of more and smaller companies, which will increase competition and will improve quality of procurements.
- › When institutions have decided not to divide the procurement into lots, to provide detailed justification of reasons thereof in the decision on public procurement.
- › To elaborate the procurement need in the decision on public procurement, i.e. why institutions need that specific procurement subject in indicated quantity and quality.
- › To reconsider separation from the decision on public procurement decisions made in respect to establishment of public procurement committees, elaboration of the procurement need and elaboration of reasons for the procurement's indivisibility.
- › To always publish planned quantity of public procurements, which can only result in obtaining bids of better quality and successful implementation of tender procedures.

ANALYSIS OF PROCEDURES LED BEFORE THE STATE COMMISSION ON PUBLIC PROCUREMENT APPEALS IN 2020

- » *The trend of increasing number of appeals lodged before the State Commission on Public Procurement Appeals continues. According to official data published on SCPPA's website, in 2020 this commission was presented with 983 appeals from companies, representing an increase by 16.3% compared to the previous year. In the same period, according to data on SCPPA's website, this commission has taken 1,044 decisions upon appeals. High share of these appeals (53.3%) were approved by the commission. Among approved appeals, 38.6% implied decision on full annulment of public procurement procedures.*

Among total of 20,159 tender procedures announced in EPPS over the course of 2020, companies have lodged 983 appeals (4.88%) before the State Commission on Public Procurement Appeals. As shown in the table below, the number of tender procedures is decreased compared to the previous year (-10.6%), while the number of appeals is increased (16.3%).

*Ratio of announced tender procedures and appeals lodged by companies before SCPPA **

Year	Number of tender procedures	Change (%)	Number of appeals lodged before SCPPA	Change (%)
2016	18,444	-0.1%	557	+6.5%
2017	17,227	-6.6%	507	-9.0%
2018	21,406	+24.0%	695	+37.1%
2019	22,538	+5.3%	845	+21.6%
2020	20,159	-10.6%	983	+16.3%

*Calculations are made by processing data available on the official websites of SCPPA and EPPS.

In 2020, the State Commission took decisions upon 1,044 appeals. In that, the commission approved 556 appeals, accounting for 53.3% of total decisions taken. Moreover, 333 appeals were rejected as ungrounded, representing a share of 31.9% of all decisions taken. Due to untimely or incomplete submission, failure to settle procedure fees or the fact that matters appealed are beyond competences of SCPPA, a total of 74 appeals were denied, accounting for 7.1%. On the other hand, the number of appeals withdrawn by companies or appeals for which procedure was discontinued because contracting authorities had acknowledged appeal allegations prior to decision making by SCPPA was 81, representing a share of 7.7% in total decisions taken.

Breakdown of decisions taken by SCPPA in 2020*

Structure of appeals according to type of decision	Number of appeals	Share (%)
Approved appeals	556	53.3%
Rejected appeals	333	31.9%
Denied appeals	74	7.1%
Discontinued/terminated appeal procedure	81	7.7%
Total	1,044	100.0%

*Calculations are made by processing data on decisions taken by SCPPA and published on its website.

Compared against previous years, the share of approved appeals is decreased by 9.4 percentile points compared to the previous year, while the share of rejected appeals is increased by 15.6 percentile points.

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

Type of decision	2016	2017	2018	2019	2020
Approved appeals	47.6%	45.8%	47.6%	58.3%	53.3%
Rejected appeals	32.4%	37.5%	31.5%	27.6%	31.9%
Denied appeals	7.6%	10.2%	12.8%	9.2%	7.1%
Discontinued/terminated appeal procedure	12.4%	6.5%	8.1%	4.9%	7.7%
Total	100%	100%	100%	100%	100%

*Calculations are made by processing data on decisions taken by SCPPA and published on its website.

Among total approved appeals (556), SCPPA took 246 decisions (44.2%) on annulling the public procurement procedure compared to 310 decisions (55.8%) on returning the procedure for repeated bid-evaluation.

Comparison data on the structure of decisions taken in approved appeals, per year*

Type of decision taken in approved appeal	Share of approved appeals				
	2016	2017	2018	2019	2020
Revoked selection decision	48%	58%	39%	36%	44%
Annulled procedure	52%	42%	61%	64%	56%
Total	100%	100%	100%	100%	100%

*Calculations are made by processing data on decisions taken by SCPPA and published on its website.

As regards reasons for lodging appeals, in 76.7% of cases the economic operators have appealed the decision on awarding public procurement contract. Of these, 61.3% of appeals were lodged in cases when the economic operator's bid had been rejected as unacceptable, while remaining 38.7% appeals concern cases in which another economic operator's bid was selected as the most favourable. 10% of appeals were lodged against decisions on tender annulment, 7.6% of appeals were lodged against contents of tender documents, 2.4% against the proposal for issuing temporary measure, 1.7% due to contracting authority's failure to respond to questions about its public procurement procedure and remaining 1.6% of appeals were lodged due to other reasons.

SURVEY AMONG COMPANIES RELATED TO THEIR PARTICIPATION IN PUBLIC PROCUREMENTS

- » **For high 77% of companies, 'lowest price' used as selection criterion is the most frequent problem they are facing in public procurements.**
- » **Only 9% of companies believe that electronic auctions make sense.**
- » **Majority of surveyed companies, i.e. 60% of them acknowledge there are mutual arrangements among them for participation in tender procedures.**
- » **47% of companies believe that corruption is present in public procurements.**
- » **47% of companies do not lodge appeals I tender procedure due to distrust in the State Commission on Public Procurement Appeals.**
- » **Companies assess the process of public procurements in the country with an average score of 2.83 (on the scale from 1 to 5), which is the same as last year.**
- » **Dominant 60% of companies report that the corona-crisis had negative effect on their participation in tender procedures.**

The survey among companies is organized as regular annual research by the Center for Civil Communications and is part of its public procurement monitoring efforts since 2009.

This year, the survey was conducted in February 2021. It covered 269 companies from all major towns across the country. The survey was conducted by means of direct interviews, on the basis of previously developed and structured questionnaire comprised of 20 questions.

Questions are structured into several groups and inquire about companies' views and opinions related to most frequent problems they have faced when participating in public procurements, their thoughts on e-auctions, appeal procedure, corruption and other challenges in public procurements. The questionnaire allows space for interviewed representatives from companies to enlist own problems they are facing and to propose measures aimed to improve the system of public procurements.

This analysis includes results from the last survey conducted among companies and comparisons with results from previous surveys, in order to provide insight not only into the current state-of-play, but also into trends.

As before, this survey first inquired about companies' experience with participation in public procurements. The highest share of them (48%) participate in maximum 5 public procurements annually. Next in frequency are companies that participate in 6 to 12 public procurements annually (27%), those that participate in more than 24 public procurements (15 %) and companies that participate in 13 to 24 public procurements

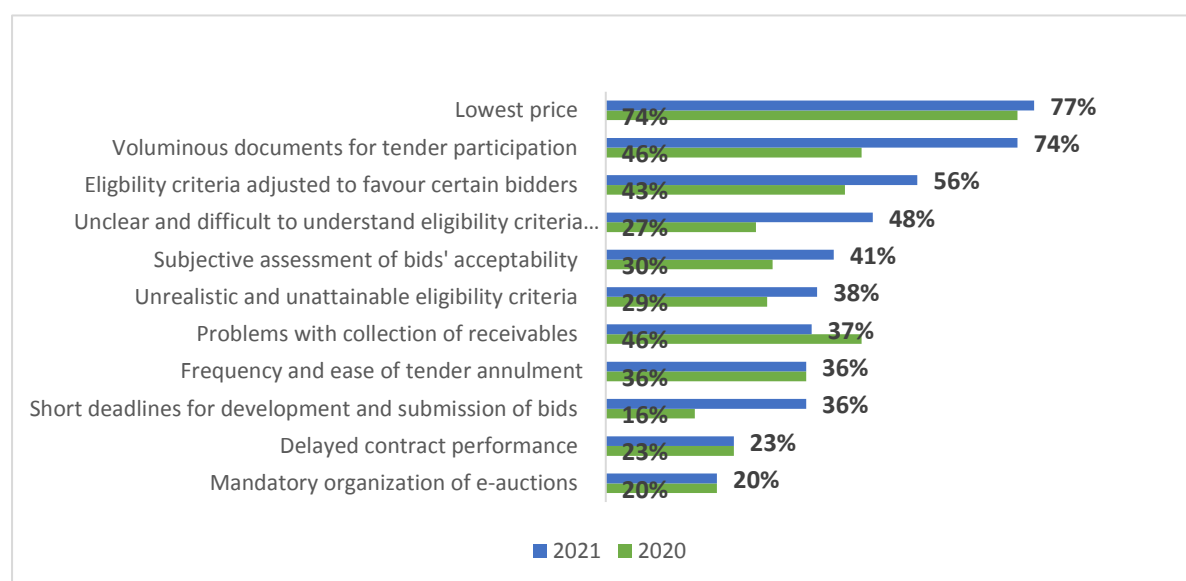
annually (10%). The average weighted participation in tender procedures among surveyed companies is calculated at 10 public procurements annually.

Problems in public procurements. There are no changes in terms of the first two problems most frequently faced by companies when participating in public procurements. Standardly, the problem number one this year is 'lowest price' used as criterion for selection of the most favourable bid. This problem was indicated by high 77% of surveyed companies, implying a deteriorated situation compared to last year's results when their share accounted for 74%. In particular, despite this view shared by companies that participate in tender procedures and amendments to the Law on Public Procurements whereby 'lowest price' is no longer defined as the selection criterion for the most favourable bid, i.e. it was replaced with 'economically most advantageous bid', state institutions continued to use 'lowest price' as single criterion in high 96% of tender procedures.

The second biggest problem is the same as the one indicated last year. Namely, according to two-thirds of companies (74%), in addition to 'lowest price', another major problem are voluminous documents required for participation in tender procedures. In that, the share of answers indicating this problem has increased from last year, when it was reported by 46% of companies.

Third on the list of major problems faced by companies is another long-standing issue related to adjustment of eligibility criteria for tender participation to favour certain bidders, as indicated by 56% of companies (last year, this problem was reported by 43% of them).

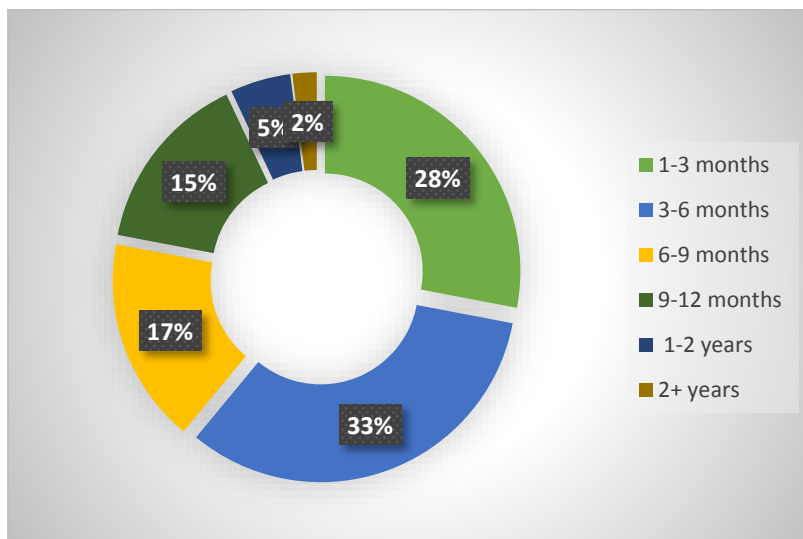
Main problems faced by companies in public procurements (multiple answers are allowed)



Late payment for contract performance has dropped to sixth place among the most acute problems. Although last year the problem related to late payment was ranked second among the most acute problem faced by companies, this year it dropped to sixth place. More specifically, this was indicated as the biggest problem by 37% of companies, unlike last year when late payment was among the most acute problems and was reported by 46% of companies that participate in tender procedures.

Adequately, the average period for collection of receivables from public procurement is reduced by one month compared to its duration last year. According to surveyed companies, on average, they wait for six months to collect receivables for contract performance, while last year this average was calculated in duration of seven months.

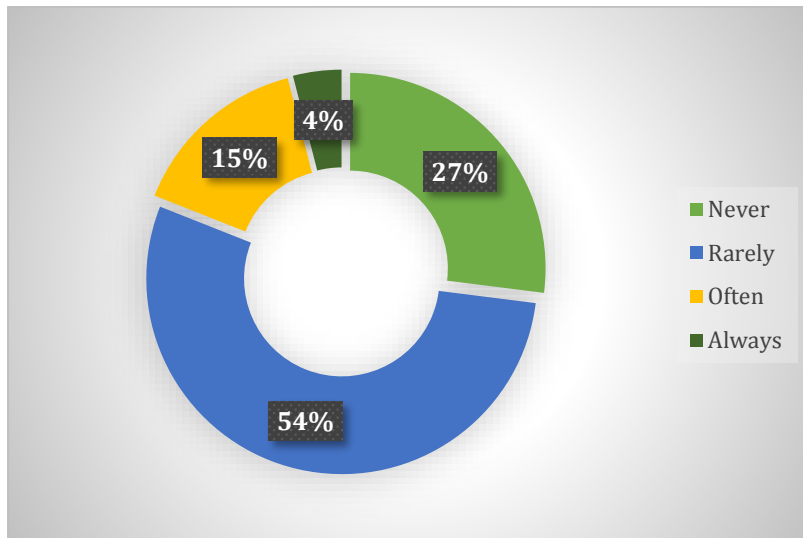
How much do you wait for collection of receivables from public procurements?



Technical specifications do not guarantee the quality of what is being procured. Companies have not changed their opinion from last year that technical specifications are not developed with sufficient details in order to serve as guarantee for certain quality of procurements under circumstances when lowest price is still the single criterion used in almost all tender procedures.

As many as 81% of companies believe that technical specifications rarely (54%) or never (27%) contain details that precisely define quality of public procurements. Last year, their share accounted for 82%.

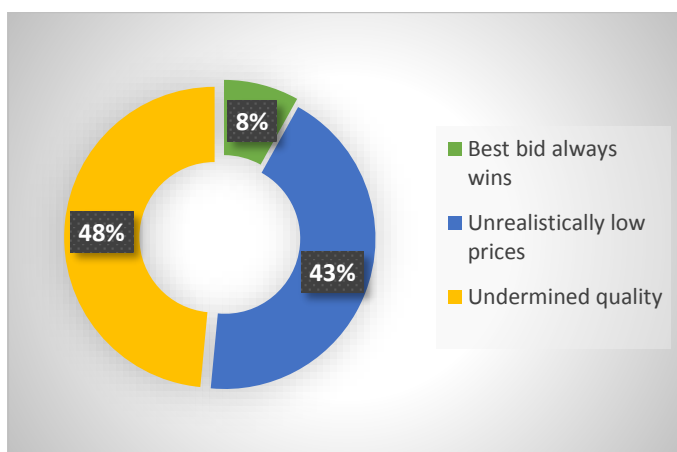
Do you think that technical specifications include sufficient details to guarantee quality of public procurements?



Only small share of companies (19%) believe that contracting authorities often (15%) or always (4%) provide sufficient and precise definition of quality, whereby use of 'lowest price' would make sense and would not lead to procurement of goods, services and works that are of poor quality.

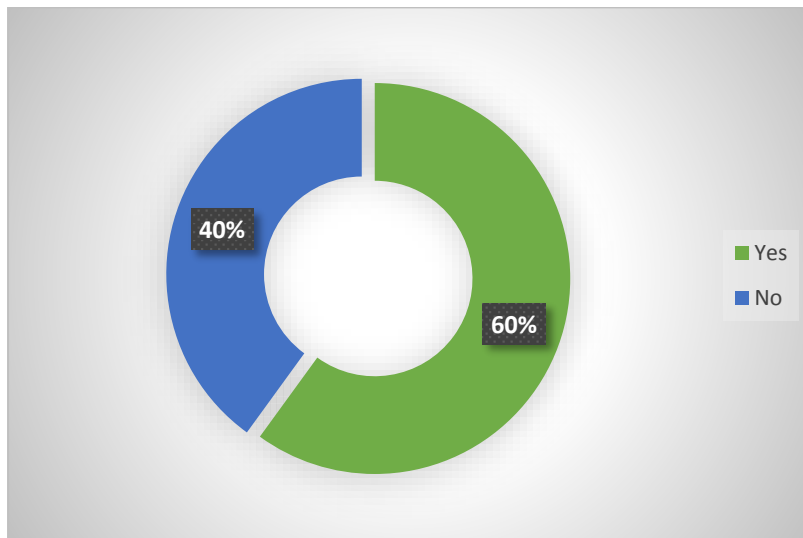
E-auctions do not result in selection of the best bid. High 91% of surveyed companies believe that e-auctions result in attainment of unrealistically low prices (43%) and undermine quality to the benefit of prices (48%). Modest 8% of companies believe that what characterizes e-auctions is the fact that the best bid is awarded the contract. There are almost no changes in respect to this question from responses obtained under the last year's survey.

What is the best characterization of e-auctions?



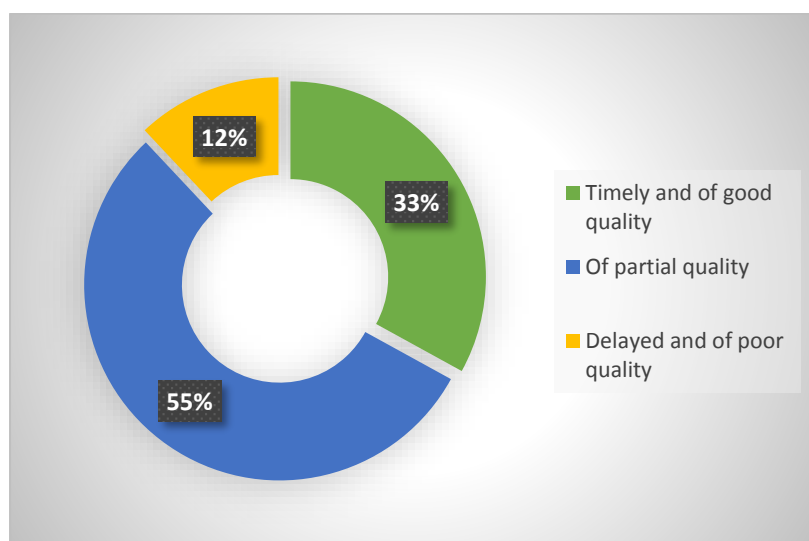
Majority of companies acknowledge existence of previous arrangements. Year after year, increasing number of companies indicate that there are previous arrangements before organization of e-auctions. This year, for the first time, high 60% of companies reported presence of such arrangements unlike the situation observed last year, when affirmative answers were provided by 48% of companies.

Do you think there are previous arrangements among companies before the start of e-auctions in cases when they have not resulted in price reduction?



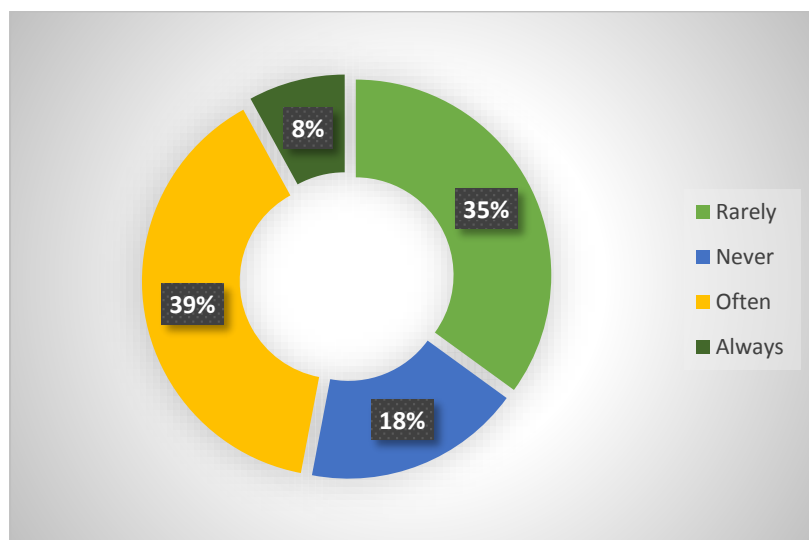
Continued dissatisfaction among companies from communication with contracting authorities. Satisfaction of bidding companies from communication with representatives of contracting authorities that organize public procurements in which they participate remains low. Only 33% of companies assessed such communication as timely and of good quality, while majority of companies (55%) qualified this communication as being of partial quality, and 12% of them indicated that communication is delayed and of poor quality. Similar distribution of answers was noted under the last year's survey.

How do you assess communication with contracting authorities in public procurements in which you have participated?



Same level of corruption in public procurements. Similar to the situation established last year (48%), 47% of companies covered under this year's survey believe that corruption is present in public procurements. Among them, 39% indicated that corruption is frequently present, while 8% indicated it is always present.

Do you think that corruption is present in public procurements?



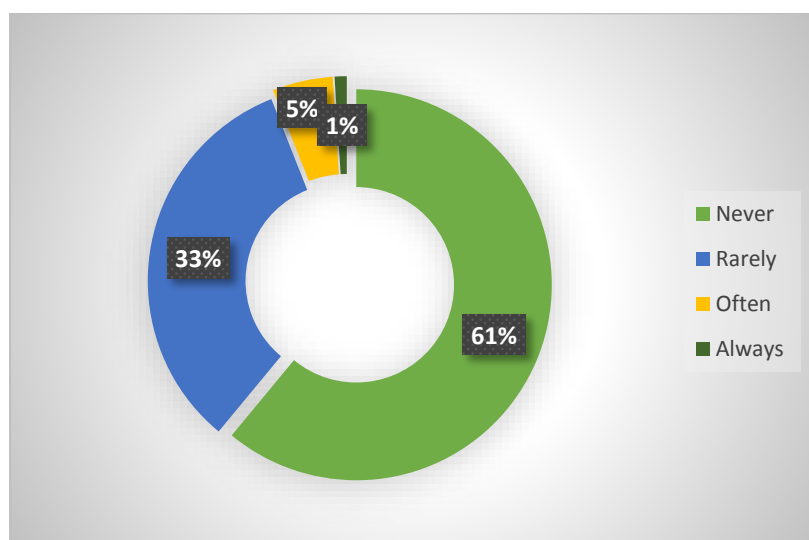
35% of surveyed companies indicated that corruption is rarely present in public procurements, while 18% are of the opinion that there is no corruption in this field. Last year, 13% of companies indicated there is no corruption in public procurements.

This year, asked to freely enlist the types of corruption they believe are most commonly present in public procurements, the highest share of companies ranked political and party connections at the top of this list (73%), followed by kick-backs on the second place (30%) and family and friend connections on the third place (20%).

Very few companies lodge appeals against 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 not satisfied with actions taken by contracting authorities in tender procedures in which they participate.

Dominant 96% of surveyed companies reported they never (61%) or rarely (33%) lodge appeals before this commission.

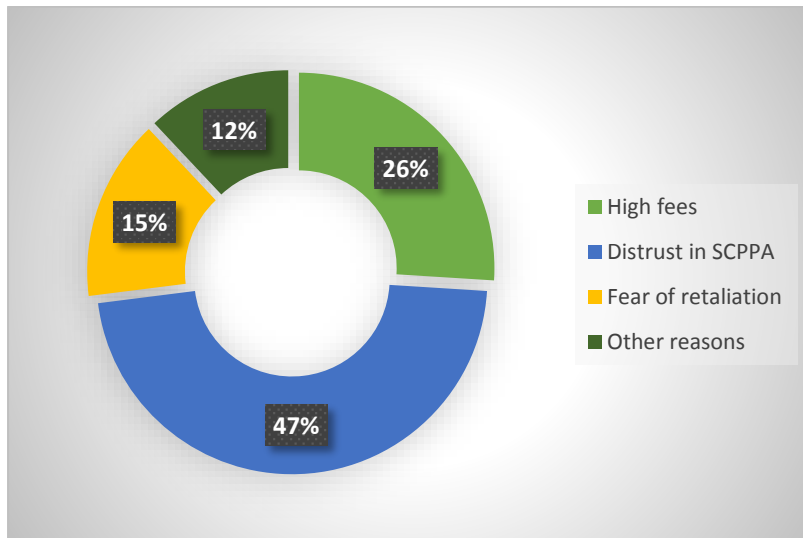
Have you lodged appeals before SCPPA when dissatisfied with the manner in which public procurements are implemented?



Growing distrust in the State Commission on Public Procurement Appeals. The two most frequently indicated reasons for companies' reluctance to lodge appeals continue to be distrust in the State Commission on Public Procurement Appeals and the amount of fees charged for initiation of appeal procedures that should be settled by companies.

High 47% of surveyed companies reported they do not lodge appeals because of distrust in the competent commission (last year their share accounted for 33%). Second most frequently indicated reason concerns the amount of procedure fees, as reported by 26% of companies (last year their share accounted for 29%). Fear of retaliation from contracting authorities targeted with such appeals comes on the third place with a share of 15% (last year this share accounted for 12%).

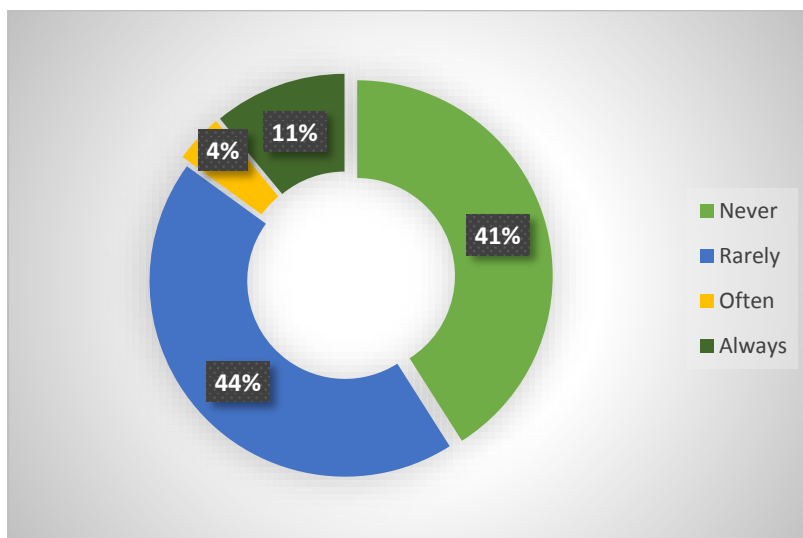
What are the reasons for never or rarely appealing tender procedures before SCPPA?



Decreasing satisfaction with decisions taken by SCPPA. In line with companies' growing distrust, dramatic decrease is noted in terms of their satisfaction with decisions taken by the state commission upon appeals they have lodged.

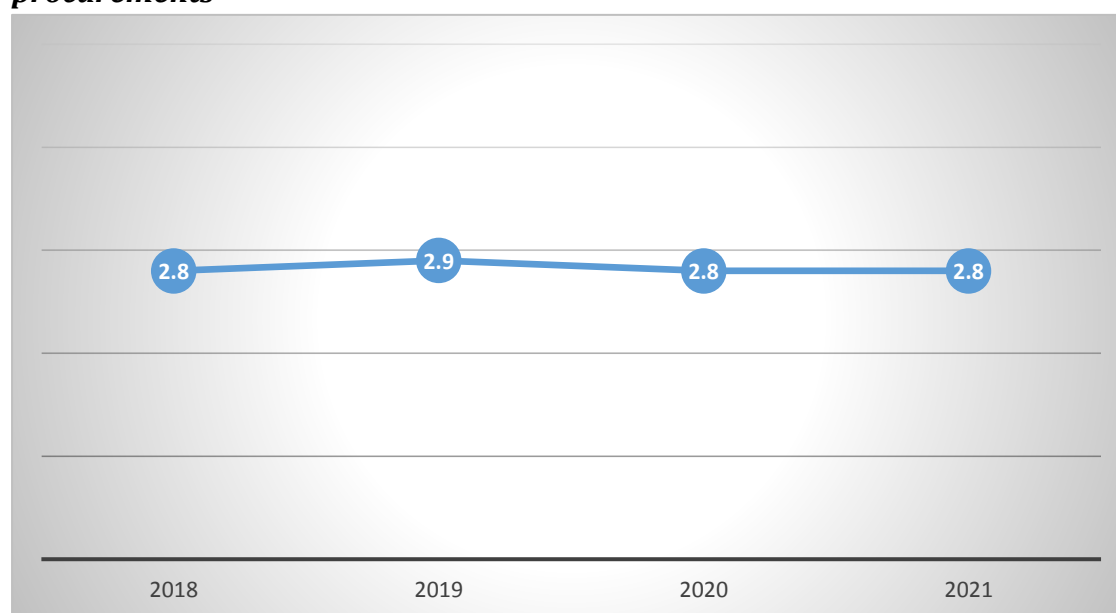
Unlike last year when their share accounted for 31%, under this year's survey only 15% of companies indicated they are often or always satisfied with SCPPA's decisions. Dominant 85% of companies are never or rarely satisfied with decisions taken by SCPPA.

In cases when you have lodged an appeal, how satisfied are you with decisions taken by SCPPA?



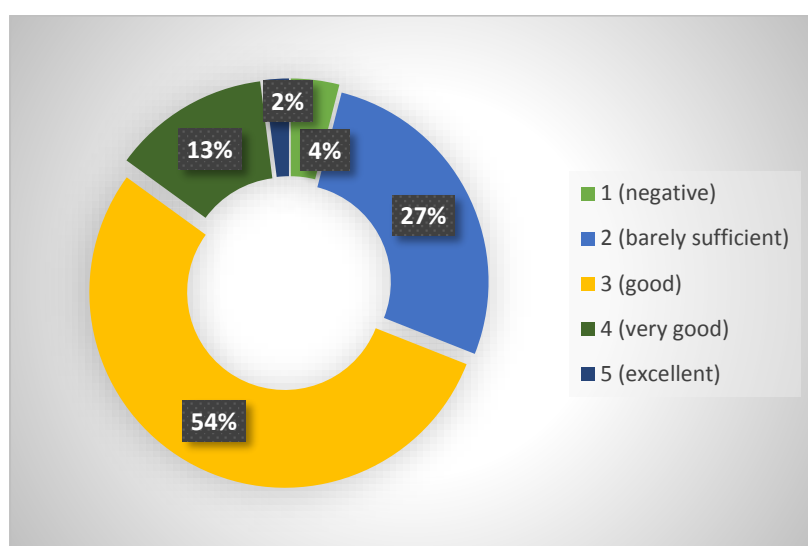
The average score assigned by companies to public procurements remains unchanged. Asked to assess the overall process of public procurements in the country on the scale from 1 (negative) to 5 (excellent), companies assigned an average score of 2.83, which is almost identical with last year's score of 2.82.

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



In line with the average score, the highest share of surveyed companies indicated a score of 3 (54%). Very small share of them (4%) assessed the system of public procurement with a score of 1, while only few of them (2%) indicated the highest score of 5.

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



Half of surveyed companies do not see changes in implementation of tender procedures under the new law. 57% of companies believe that implementation of tender procedures according to the new Law on Public Procurements which entered into effect in April 2019 remained the same. 38% of them believe that implementation of public procurements is improved under the new law, and only 5% reported worse implementation track record.

Impact of the corona-crisis on companies' participation in public procurements. Having in mind the coronavirus crisis in 2020, companies were asked about its impact on their participation in public procurements. Dominant 60% of companies reported that the crisis had negative effect on their participation in tender procedures, while 33% said the crisis had no effect. Only 1% of companies indicated that the crisis had a positive effect on their participation in public procurements, while remaining 6% did not answer this question. Reasons behind the crisis's negative impact on companies' participation in public procurements mainly concern reduced scope of tender procedures, absence of tender procedures organized for procurement subjects in sectors where surveyed companies operate, and problems within companies that affect their participation in tender procedures.