

2020

PUBLIC PROCUREMENT LANDSCAPE

*SOCIALLY RESPONSIBLE CONCEPT,
CONTENT AND PRACTICE*



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Introduction

The nature of the state is twofold in the field of public procurement. Thus, on the one hand, the state is a political institution that performs power functions, and on the other – it acts on an equal footing with other subjects of relations in the public procurement process. Meanwhile, the state regulation and control is carried out through the establishment of compliance of the procedures for procurement of goods, works and services for public funds in accordance with applicable legislation.

It is difficult to imagine the development of economic prosperity without proper functioning of the public procurement system, which is able to ensure uninterrupted interaction between all representatives of the economic system at the macroeconomic level. Successful implementation of its functions involves the solution of important strategic task: bringing the functions of the state in full compliance with its potential, which should be understood as the government's ability to effectively implement its policies and increase the capacity of state institutions. Since the fundamental function of the state is economic development, public procurement is an effective tool that can provide certain beneficial economic changes. In addition to creating a new, more open and transparent procedure, the shifting of procurement into electronic format can contribute to the emergence of a new powerful environment along with the procurement process, which continuously monitors and analyzes the effectiveness of procurement.

With the transition of the state economy to a market model of economic relations, the inability of the market to form ties and function effectively without special measures became apparent. The defining way to solve this problem in international practice has been the system of public procurement, which is regulated by specific regulations and which includes a number of joint institutions operating within the defined legal field and based on competitive and non-competitive procurement.

In order to establish a comprehensive and effective system of public procurement in the realities of the evolving environment nowadays, it is important to collect, study and analyze the best practices and international experiences within this sphere, and consider their application and/or adaption to the particular country contexts. There should be also a clear up-to-day understanding and guidance on the mechanism of public procurement process along with awareness about its stages, forms, principles, background, legal framework and other elements in order to ensure the establishment of the best-fit model benefiting and supporting socio-economic development.

Public Procurement in Nutshell - Concept, Essence and Basic Principles

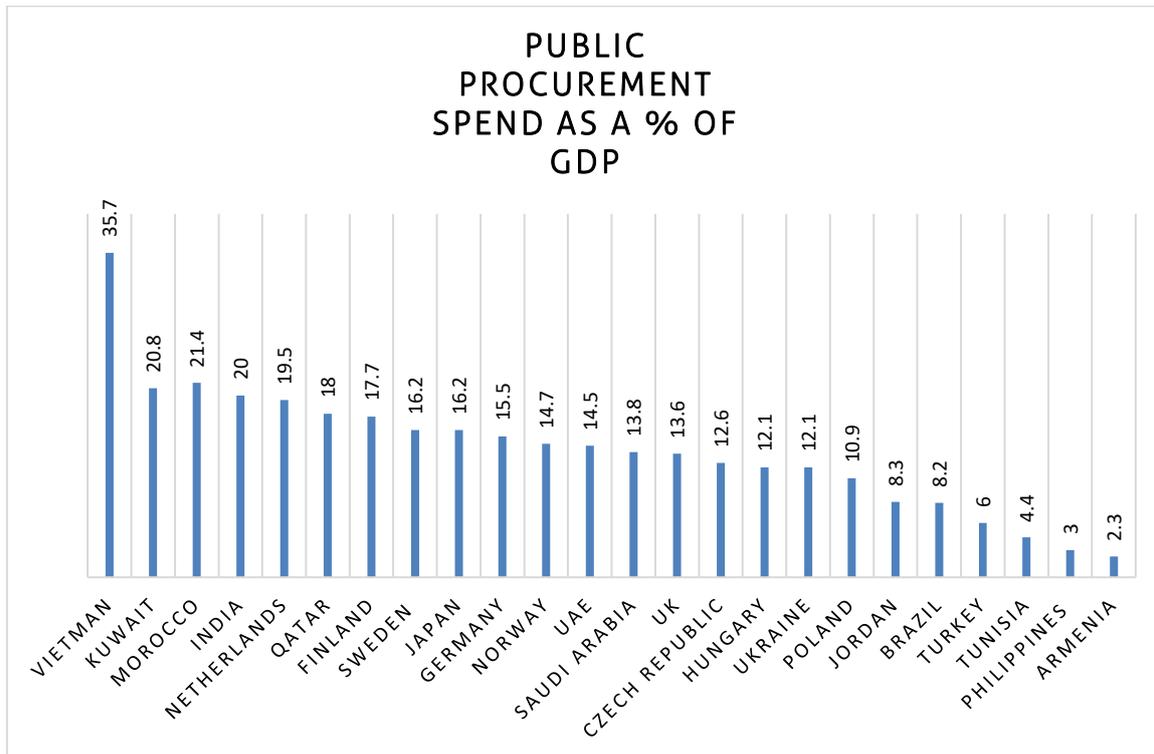
The activities of public sector institutions, organizations, and enterprises to ensure the functions of the state and the creation of public goods for the population require the purchase of goods, works or services, and procurement is a central part for this. Through the system of public procurement, the state materially ensures the functioning of bodies, the activities of which are financed mainly from the budget, implements measures aimed at solving national problems and the socio-economic development of the state.

Japan and United States of America have adopted the first legal frameworks regulating public procurement in 1947 and 1949 respectively. They were the pioneers in establishing legislation in this matter, as most of the countries started to develop such legislation in 1990s and 2000s, which was based on the procurement regulation model developed by United Nations Commission on International Trade Law in 1994.

World practice shows that public procurement accounts for a significant share of GDP in all countries, and accordingly it represents on average 13% to 20% of GDP, and global expenditure in procurement is estimated at approximately 9.5 trillion USD.¹

If to compare the size of public procurement share within GDP across countries with similar income level – they will be approximately the same. Hence, across 190 states analyzed it was estimated that countries with low-income economies has around 13 percent of GDP for procurements of services, goods and works, meanwhile middle- and high-income countries – 13.2 percent and 14 percent respectively.²

More examples can be found in the graph below, which is based on the data provided by Open Contracting Partnership and Spend Network:³

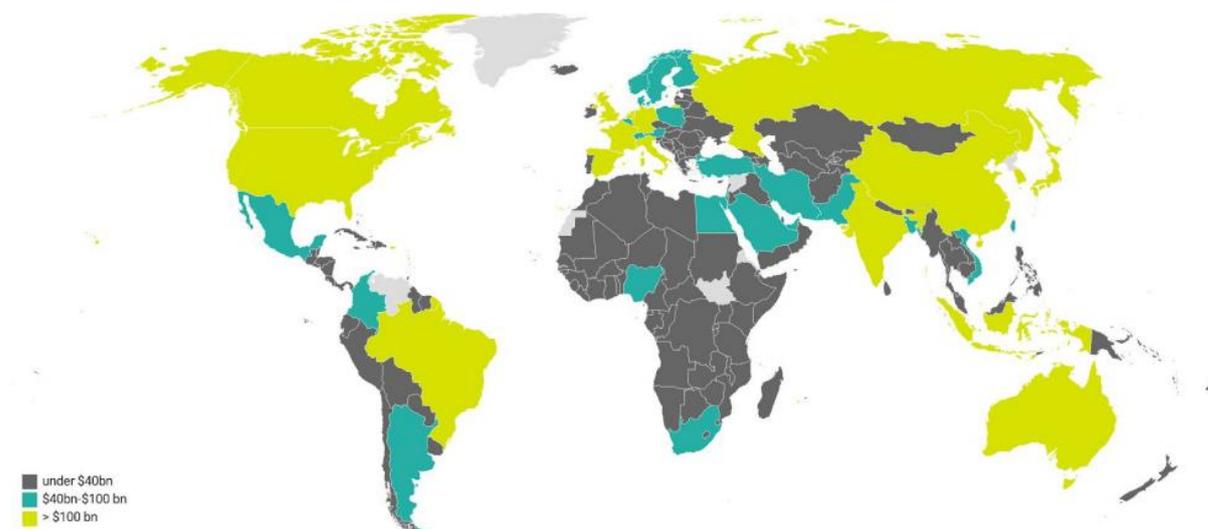


¹ World Bank, (2020). Global Public Procurement Database: Share, Compare, Improve. Retrieved from: <https://www.worldbank.org/en/news/feature/2020/03/23/global-public-procurement-database-share-compare-improve>.

² Bosio E., Djankov S., (2020). How large is public procurement? World Bank Blogs. Retrieved from: <https://blogs.worldbank.org/developmenttalk/how-large-public-procurement#:~:text=Public%20procurement%20%E2%80%94%20the%20process%20by,is%20sp ent%20following%20procurement%20regulation.>

³ Open Contracting Partnership, Spend Network, (2020). How Governments Spend: Opening up the Value of Global Public Procurement. Retrieved from: <https://www.open-contracting.org/wp-content/uploads/2020/08/OCP2020-Global-Public-Procurement-Spend.pdf>.

The following chart shows the approximate comparison on public procurement spending within the global level, mapping the states and dividing them into 3 categories: under 40 billion USD, 40-100 billion USD and more than 100 billion USD. Public procurement for each state was calculated by using and refining official reported values where available, and in cases where there was no official information or data, regression analysis was conducted by means of focusing on GDP and other national metrics, and grouping similarly sized countries: ⁴



Procurement is a competitive system of purchasing products in a market economy, based on the principles of publicity of bidding, fairness of trade, efficiency, effectiveness, transparency and accountability of exchange transactions, and the obligation to comply with contractual terms.

Being placed under budgetary pressure, governments are promoting reforms in the public procurement mechanisms and processes, by developing and applying new technologies and tools so to better manage the significant expenditures of public resources. It may include adopting strategies aiming at development of capacities, digitalizing the processes of public procurement, strategically accumulating needs, etc., resulting in support for governments in fulfilling their obligations and delivering mandates in order to provide civil society with public services. ⁵

In a narrow sense, the economic essence of public procurement can be defined as the performance of state functions and meeting public needs through the purchase of goods, works and services from public funds, while in a broad sense – it is a mechanism for redistribution of funds. Procurement is carried out at the expense of state or local budgets, as well as at the expense of state and municipal enterprises, and in fact – at the expense of taxpayers. Accumulated funds are returned to taxpayers in the form of goods, works and services that were purchased for budget funds. The importance of the role of public

⁴ Ibid.

⁵ OECD (2017), "Size of public procurement", in Government at a Glance 2017, OECD Publishing, Paris.

procurement is due not only to the significant amount of funds aimed at meeting the social needs of the state, they also contribute to such areas as: ⁶

- Creating new work places in the labor market;
- Creating demand for innovative goods, works and services;
- Efficient use of budget funds;
- Involvement of business in tenders;
- Regulation of market conditions;
- Environmental protection;
- Motivating the competitiveness of small and medium-sized businesses.

In general, tender (bidding) is a method of placing an order for the supply of goods, works, services, in which the customer or organizer of the tender in one way or another artificially creates conditions for competition between suppliers bidders in order to choose the best conditions for purchasing the necessary goods, works, or services. Tender bidding in general refers to the agreed competitive process between offers of various participants, or the competition, which is spent for the purpose of selection of the best offer, according to economic advantage.

It should be noted that mainly the analysis of procurement is reduced to the tender process. However, it is only one of many stages in the procurement process. All stages of procurement constitute a general procurement cycle consisting of:

- Preliminary identification of needs, according to which procurement will be conducted;
- Creating a procurement plan and estimate;
- Formation of an annual plan for the next year;
- Selection of the procedure by which the procurement process will be implemented;
- Determining the winner after the tender;
- Signing the contract between the customer and the winner of the tender;
- Implementation of the agreement, control of its implementation and publication of the report.

Based on the analysis of various literature and sources, it is also should be mentioned that there are a number of **procedural options for organizing the procurement process**, namely:

- Tender – a competition in which several companies compete for the right to supply goods, perform works or provide services. They can be in the form of open bidding, closed bidding, request for quotations, two-stage bidding, procurement from one participant (monopolist). The main method of procurement is an open tender, where any suppliers who have responded to the tender announcements can participate;
- Auction – a specialized event that is intended for the public purchase or sale of certain goods. Procurement at the auction is carried out in accordance with the established rules, which are notified in advance to each auction participant;
- Bidding – a competitive selection of bidders in order to determine the winner of the bidding in accordance with the procedures established by law. As tenders that are mentioned above, biddings also differ in the method of holding, because they can be:

⁶ Konashchuk N., (2010). Theoretical Principles of Effectuation of Public Procurement. Retrieved from: <https://ir.kneu.edu.ua/bitstream/handle/2010/24711/Konashchuk.pdf?sequence=1&isAllowed=y>

- ✓ Open bidding – those that do not have specific restrictions on who has the right to participate in them. Open bidding also includes limited bidding, which, although conducted in accordance with the procedure, is open to bidding, but under the terms of the bidding, and where the bidders will be persons engaged in a certain specific type of activity and able to fulfill a specific request;
- ✓ Closed bidding – conducted between pre-invited bidders working in specific areas;
- ✓ Two-stage bidding – for conducting scientific experiments, research, performance of certain works that require prior communication with participants;
- ✓ Procurement from a monopolist – in agreement with the body designated responsible for procurement processes at the national, regional, or local level.

In general, the whole process of public procurement comprises of multiple interrelated stages starting from preparation and planning and to contract closure. In order to ensure that this process is transparent and effective, there is a need to understand it “from inside” by focusing on particular steps and defining their key milestones. Although, there is no universally defined process that is used by everyone, however, the following table provides the general summed up within the procurement process:

1. Preparation and planning	2. Publication and transparency	3. Submission, opening and selection	4. Evaluation and award	5. Contract Implementation
<ul style="list-style-type: none"> ✓ Detect future needs ✓ Engage stakeholders ✓ Analyze market ✓ Define subject matter ✓ Choose procedure 	<ul style="list-style-type: none"> ✓ Draft specifications including criteria ✓ Prepare procurement documents ✓ Advertise the contract ✓ Provide clarifications 	<ul style="list-style-type: none"> ✓ Receipt and opening ✓ Apply exclusion grounds ✓ Select suitable tenderers 	<ul style="list-style-type: none"> ✓ Evaluate tenders ✓ Award and sign the contract ✓ Notify tenders and publish the award 	<ul style="list-style-type: none"> ✓ Manage and monitor the execution ✓ Issue payments ✓ If needed, deal with modification or termination of contract ✓ Close contract

The table is based on the information from Public Procurement Guidance for Practitioners.⁷

In the era of technologies and digitalization, there is a possibility to move the process to a new dimension – online-automated platforms – ensuring that the process become more transparent, fair, open to the public, faster, and most importantly – recorded and archived. Although there are a number of separate e-tendering systems, each system typically offers similar tools. The functional and technological aspects of functioning electronic tender systems are similar and try, in most cases, to reflect the legal requirements for the tender system. The main parties in the electronic tender system are the customers and bidders. The components of the system are the processes of pre-qualification or registration, public announcement of the tender and invitation of potential participants, submission of the tender, its completion, evaluation and conclusion of the tender.⁸

⁷ European Commission, (2018). Public Procurement Guidance for Practitioners: On Avoiding the Most Common Errors in Projects Funded by the European Structural and Investment Funds. ISBN 978-92-79-77536-9.

⁸ Betts M., Black P., Christensen, Sharon A., (2006). Towards Secure and Legal E-Tendering. Journal of Information Technology in Construction, Vol. 11

Any public procurement mechanism has the following **components**:

- Authorized electronic platform – an automated system that provides all procurement processes during procurement and operates on the basis of network access;
- Procurement web portal – an electronic web resource that is part of the electronic auction and provides publication of all statutory information regarding the tender and communication between bidders and customers;
- Procurement contract – a contract between the person, who announced the tender and the bidder, who won the auction, and signing of which confirms the intention to provide urgent services or goods specified in the tender;
- Electronic procurement system – an aggregate system consisting of an e-platform and a web portal;
- Procurement monitoring – an uninterrupted procedure that allows constant monitoring and analysis of all information regarding procurement at all stages of the procedure;
- Cloud computing system – a system that uses not the resources of personal computers of participants in the procurement process, but separate, networked Internet capacity;
- Centralized procurement agencies – legally defined and formalized organizations that, in accordance with their authorities and mandates, manage all procurement processes.

The use of electronic information networks allows increasing the efficiency of public procurement and improves the connection between bidders and contractors. In international practice, the overall assessment of **e-procurement** development systems depends mainly on the extent to which the procurement cycle process is automated, in accordance with the presence in the automated form of certain procurement stages, namely:

- E-notification – notification in electronic format, by means of which all subjects of the procurement process have an opportunity to get acquainted with all the information concerning the planned tender;
- E-access – ability to access the tender documents, which prescribe the conditions of future participation in the tender;
- E-submission of proposals – ability to submit proposals by electronic means in accordance with the announced tender, with a mandatory procedure for encrypting data for their security until the official disclosure of information;
- E-evaluation – automated processing and evaluation of proposals and further determination of the winner, provided that his proposal meets the specified requirements for procurement;
- E-order – implementation of agreements after signing the contract;
- E-invoicing – financial transactions related to the register, mailing or confirmation of accounts.

E-procurement is an effective way that gives many opportunities to the participants who have chosen it. The introduction of e-procurement in the field of public procurement is the latest method by which budgetary institutions and businesses are able to manage the electronic environment during all stages of the procurement cycle. This cycle includes both marketing research and procurement procedures, placing orders, deliveries and payments for them, budgeting and procurement planning (procurement budget formation and implementation).

The introduction of the e-procurement system helps to increase the transparency and efficiency of public funds, reduce the costs of potential suppliers to participate in the tender. It also provides information and analytical support to decision-making processes at all phases and stages of public procurement management, reduces the negative impact of bureaucracy, protectionism and subjectivity in the selection of tender winners, and increases competition in procurement along with ensuring equal conditions for all bidders.

The most popular today is the centralized model of public procurement, which provides for the concentration in one hand of all procurement functions. The centralized procurement model, in essence, involves the creation of a central purchasing body that generates and processes all procurement needs. A model law on the regulation of procurement of goods, works and services was developed by the United Nations Commission on International Trade Law (UNCITRAL) in 1993. This document was developed to be used as guide for different countries introducing procurement legal frameworks, or amending the available procurement systems within their contexts in order to enhance economies, achieve economic development and efficiency in public procurement, and eradicating corruption.⁹

World practice of **public procurement** defines the **basic principles** of its implementation: the principle of maximum economy and efficiency, openness and transparency at all stages of procurement, non-discrimination of participants, objective and impartial evaluation of tenders, prevention of corruption, etc.

Thus, for instance, principle of non-discrimination refers to no tolerance for discriminating on basis of nationality. It means that everyone should be treated equally, unless there is any justified objectivity, otherwise any kind of direct or indirect discrimination or preferences are allowed, and hence, contractors should remain unbiased and impartial to everyone.¹⁰

As for adherence to fair competition in public procurement – it implies that the procurement activities must be carried out according to pre-announced rules and criteria, openly and fairly, and provide equal opportunities for all suppliers participating in the tender. It is also a necessary condition that the whole procurement process is not only fair in nature, but also perceived as such by both the participants in the procedures and the public as a whole. The fairness of public procurement will boost the trust and respect between public customers and suppliers. This in turn increases the attractiveness of procurement undertaken by the state, and not only attract more participants, but also increases the level of competition for public procurement contracts as well as facilitates saving budget funds or ensuring their most efficient use.

The principle of maximum economy and efficiency aims to minimize the cost of purchasing certain goods, works and services, i.e. the ratio of price and quality in the procurement. In addition to price, the important criteria are the lowest cost during the life cycle of the product and potential additional costs.

⁹ United Nations Commission on International Trade Law (UNCITRAL), (1993). UNCITRAL Model Law on Procurement of Goods and Construction (1993).

¹⁰ USAID, (2007). Public Procurement Manual: Guidelines for Conducting Public Procurement Procedures. 1st Edition. Retrieved from: http://www.unpcdc.org/media/13504/public_procurement_manual_eng%5B1%5D.pdf

Meanwhile, the principle of openness and transparency at all stages of procurement refers to the full access to any information regarding the tender through the electronic procurement system, as well as the provision of information to interested parties. It also implies that public procurement is under considerable attention of regulatory authorities. Thus, in order to ensure the transparent and fair process, it is important to provide clear and accessible information in regards to legislative and regulatory frameworks, judicial decisions, procedures and policies as well as information on procurement opportunities and specifications, and criteria for selecting and awarding. However, at the same time it is important to ensure confidentiality of specific information (for instance, trade or technical secrets) and preserve requests for participation, and ensure that all details and descriptions of required goods, works or services are provided.

¹¹

United Nations also define best value for money as one of the principles of effective procurement system, which refers to selecting applications that combine factors of decent quality, cost of the life-cycle, social or other strategic objectives that meet end-user or grass-root needs, etc. Best value does not mean that the application with the lowest price should be selected, but rather the one that provides the best quality-cost ratio and best return of the investment, along with the appropriate solicitation documentation. ¹²

In public procurement, there are generally three **procurement categories**: goods, works and services, (and accordingly three types of contracts: public supply contracts, public works contracts and public services contracts):¹³

- Goods can be defined as physical products that are manufactured or purchased upon the request. Sometimes it can also include the element of services, when, for instance, the provided goods should be also installed or assembled. The common examples of goods include books, vehicles, office or IT equipment, furniture, medical supplies or any other commodities;
- Works are referred to constructing different types of structures, like highways, buildings, bridges, etc., or their renovations, repairs or extensions. In some states, this category also includes transportation, water, sanitation and electrical infrastructure, when others place them in separate category;
- Services could be divided into consulting and non-consulting ones:
 - ✓ Consulting – are services of intellectual nature, and are deemed as technical ones, or those, which are advisory and are related to projects. Common examples are project management or accounting services, feasibility studies, trainings, etc.;
 - ✓ Non-consulting – are usually services, which include using particular methodologies or equipment – utility management, maintenance services, surveys, field investigations, etc.

¹¹ Ibid.

¹² United Nations Framework Convention on Climate Change, (2017). What is Public Procurement? Retrieved from: https://unfccc.int/files/secretariat/procurement/application/pdf/unfccc_procurement_process_2017.pdf

¹³ Lynch J. Public Procurement Categories. Retrieved from: <https://procurementclassroom.com/public-procurement-categories/#:~:text=In%20Public%20Procurement%20there%20are,purchased%20or%20manufactured%20on%20request.>

Corruption in Public Procurement

Corruption is a complicated and multi-sided phenomenon with various causes and effects, as it acquires different forms and functions in variety of contexts. It poses a significant threat to democracy, the implementation of the rule of law, social progress, national security, and the formation of civil society.¹⁴ As it is manifested in various forms and within different levels, public procurement is not an exception. Along with the number of transactions and material benefits, risks related to corruption occurrence are higher due to the complexity of the process itself with all phases and intermediate stages, close interactions between state officials and private sector as well as variety of stakeholders. Different types of corrupt activities – undue influence and abuse of position, embezzlement and bribery, fraud, illicit enrichment conflict of interests – may use these vulnerabilities, for instance, to influence bidding evaluations, contracting obligations, needs assessment, or even resources allocation.¹⁵ Corruption is the result of a transaction between entities, when one party to the corruption agreement forms a proposal in cash or in in-kind, and another participant – forms a demand for this proposal. Corruption in the area of public procurement also affects and distorts the competition, limits the access to markets and demotivates businesses in addition to leading to public loses in funds by means of undue allocation and fluctuating the levels of actual costs and quality of goods, works and services, that affects the end prices and quality.

The following are examples of the main manifestations of corruption during public procurement:¹⁶

- Creating such a pool of bidders that avoids the use of bidding procedures outside certain restrictions, instead using simpler procedures, including direct contracting or procurement from a single contractor;
- Developing contracting arrangements with the clear intention of assisting a particular supplier;
- Manipulating the decision-making process within the work of the tender committee;
- Nomination of such criteria for evaluation of tender (price) proposals and offers that do not meet the requirements of the actual procurement and, of course, are discriminatory against certain suppliers;
- Acceptance for consideration from bidders of unreliable information or tender (price) proposal and offers, prepared in violation of the established requirements;
- Abuse of the procedures of “closed” tenders (for instance, bidding with limited participation, request for price proposals, quotation) or purchase from one executor);
- Development of technical conditions or technical tasks in order to facilitate the sale of a certain products or service, or to prevent potential bidders from participating in the bidding.

The following table provides a more detailed information on possible activities within different stages of public procurement process that leads to the receiving personal benefits, financial

¹⁴ Adamenko V., (2018). Corruption and Human Rights in Ukraine: Troubled Path to Reform (Master`s Thesis). School of Graduate Studies: University of Jordan.

¹⁵ OECD, (2016). Preventing Corruption in Public Procurement. Secretary-General of the OECD.

¹⁶ Altsyvanovych O., Tsymbalenko J., (2018). Theoretical and Categorical Analysis of the Concept of Public Procurement and Corruption Risks in Their Implementation in Ukraine. Aspects of Public Administration Journal. Volume No. 9. P. 92–103.

enrichment or any other non-material interests for those, who allow or conduct such illegal activities:^{17 18}

Public Procurement Stage	Typical Manifestations of Corruption
Identifying needs and planning public procurement	<ul style="list-style-type: none"> • Distortion of content and assessment of real needs in order to satisfy one's own ambitions for enrichment.
Providing information on the bidding and preparation of tender documents	<ul style="list-style-type: none"> • Establishment of the "necessary" qualification requirements for bidders in the tender documentation preparation of technical requirements for a particular bidder, or artificial narrowing of the subject of procurement indicating a set of such technical or other consumer characteristics of goods, services, or works, which meets only "right" manufacturer.
Determining the subject of procurement	<ul style="list-style-type: none"> • Intentional substitution of an object, overestimation of its oriented value, in particular, due to manipulation of additional agreements; • Overstatement of the volume of the subject of procurement; • Manipulation at the stage of formation of lots, i.e. groups of goods for the tender (i.e. intentional overstatement of the lot, a large list of items for the lot, inclusion in the lot of goods available from only one supplier, along with goods that can potentially be purchased from different suppliers).
Conducting sub-threshold procurement	<ul style="list-style-type: none"> • References to specific trademarks without indication of equivalent.
Bidding	<ul style="list-style-type: none"> • Disclosure to a particular bidder of information on the number and identity of bids received; • Admission to the evaluation of competitive bidding proposals of those participants who do not meet the requirements of the competitive bidding documentation; • Unjustified rejection of some bids; • Admission to bidding of participants who are fictitious (one-day) entities; • Providing incomplete, intentionally vague explanations on the subject and conditions of procurement in response to inquiries from interested parties; • Falsification of documentation on competitive bidding; • Illegal determination of the winner for procurement procedure.
Evaluation of proposals	<ul style="list-style-type: none"> • Manipulation during the assessment of compliance with the criteria, as well as technical requirements; • Approval of unnecessary, understated or overstated, low quality or too luxurious purchases; • Acceptance of a proposal for products that do not meet quality standards; • Approval of purchases of goods that can be delivered only when they are no longer needed; • Approval of purchases that are not really needed in the near future at all.
Contracting	<ul style="list-style-type: none"> • Conspiracy between a corrupt company and a corrupt official that leads to an increase in prices due to changes in the contract; • Attempts to negotiate the terms of the contract after the winner has been determined, but before it has been signed, exceptions apply only when the chosen procurement procedure allows for a dialogue

¹⁷ Altsyvanovych O., Tsymbalenko Y., (2018). Theoretical and Categorical Analysis of the Concept of Public Procurement and Corruption Risks in Their Implementation. Aspects of Public Administration. Vol. № 9. P. 92–103.

¹⁸ Benko I., Sysyuk S., (2019). Corruption in the Field of Public Procurement: Forms of Manifestation and Means of Counteraction. Black Sea Economic Studies. Vol. 38 (2). P. 84–87.

	between the customer and the tenderer – for instance, a negotiated procedure.
Payment and controlling contract implementation	<ul style="list-style-type: none"> • Deliberate delay in the performance of contracts by contractors and suppliers in order to prolong their service and increase its value; • Non-collection by contractors of fines and penalties from winners of tenders who do not perform or improperly perform the contract; • Payment for undelivered goods and services.

International Experience

Effective procurement process, free from biasness and corruption, benefit the social and economic spheres of civil societies can be established just under the efficient and adequate legislative framework. Although, such legislations should be designed taking into consideration national peculiarities and context of the states they are being adopted in, laws also should include the universal principles and general issues that should be covered by the regulations. Among them are clear regulations regarding the process of bidding including tender documentations, time limitations and qualifications of applicants; transparent regulations on the procurement methods and their basis as well as criteria for biddings evaluation. Legal framework should also regulate the issues related to complaints, sanctions for non-compliance, compensation mechanisms, mechanisms for monitoring contracts implementation, like for instance, overseeing role of civil society or disclosure rules. It also important to include within the laws ways to ensure the integrity of the process itself as well as between the officials involved in the process in addition to the support and protection of whistleblowers.¹⁹

Various international mechanisms have emphasized on the importance of the efficient and effective procurement process being put in place, and thus, for instance, the United Nations Convention against Corruption (UNCAC – Article 9) highlights the need for establishing the adequate system of public procurement that is based on the pillars of transparency, objectivity and competition. It states that the signatories should ensure that efficient distribution of information regarding the public procurement process stages, criteria and awards as well as guarantee the access to such an information. In addition, it also states the importance of the measures and instruments for ensuring the transparency and integrity of the process.²⁰

As the existence of an adequate legal framework is an essential part of an effective procurement system, the public procurement system should be formed in accordance with the law that should be viewed as a necessary structure to ensure quality activities in the field of public procurement. As it was mentioned earlier, different states do have their own peculiarities, however, their legislations are also include universal principles and consider best practices and recommendations issued by the international community. The following table highlights some country examples in regards to the legal framework regulating public procurement in particular contexts as well as financial thresholds and types of contracts stipulated by the law:

¹⁹ Transparency International, (2015). Public Procurement Law and Corruption. Anti-Corruption Helpdesk. Retrieved from: https://knowledgehub.transparency.org/assets/uploads/helpdesk/Public_procurement_law_and_corruption_2015.pdf

²⁰ UN General Assembly, United Nations Convention Against Corruption, 31 October 2003, A/58/422, available at: <https://www.refworld.org/docid/4374b9524.html>

Country	Legislation	Financial Thresholds	Contracts subjected to public procurement legislation
Austria	<ul style="list-style-type: none"> Federal Procurement Act of 2018; Federal Procurement Act on Concessions of 2018; Federal Procurement Act on Defense and Security of 2012, ("Regulations"). 	<ol style="list-style-type: none"> Public works contracts: <ul style="list-style-type: none"> EUR 5,350,000 for both public contracting authorities and sectoral contracting entities; and concessions; Public supply contracts and service contracts (public contracting authorities): <ul style="list-style-type: none"> EUR 139,000 (specific public contracting authorities: ministries and other contracting authorities expressly mentioned); EUR 750,000 (social and other specific services) EUR 214,000 Public supply contracts and service contracts (sectoral contracting entities): <ul style="list-style-type: none"> 1,000,000 (social and other specific services) EUR 428,000. Concessions: <ul style="list-style-type: none"> EUR 5,350,000 	<ul style="list-style-type: none"> Public works contracts; Public supply contracts; Public service contracts.
Italy	<ul style="list-style-type: none"> Public Contracts Code (Legislative Decree no. 50/2016, which has been amended by Legislative Decree no. 56/2017 (the "Corrective Decree"); Law No. 96/2017 and recently Law No. 55/2019 (the "Sblocca Cantieri Law"), (the "Code"); 14 Decrees to be issued by the Minister for Infrastructure and Transport; 15 Acts to be issued by the National Anti-Corruption Authority; 6 Decrees to be issued by the Prime Minister; 15 Decrees issued by other Ministers. 	<ul style="list-style-type: none"> EUR 5,548,000.00 for public work contracts and concessions; EUR 144,000.00 for supply and service contracts and public design contests awarded by contracting authorities listed as central government authorities; EUR 221,000.00 for supply and service contracts and public design contests awarded by sub-central contracting authorities; EUR 750,000.00 for social service contracts and other specific services. <p>The Code is also applicable to public contracts in utilities, whose value is equal/higher than:</p> <ul style="list-style-type: none"> EUR 5,548,000.00 for public work contracts; EUR 443,000.00 for supply and service contracts and public design; EUR 1,000,000.00 for social service contracts and other specific services. 	<ul style="list-style-type: none"> Public works contracts; Public service contracts; Public supply contracts; Public-private partnership.
Japan	<ul style="list-style-type: none"> Accounts Act (Act No.35 of 1947, as amended); Cabinet Order on Budget, Auditing and Accounting (Imperial Ordinance No.165 of 1947); National Property Act (Act No.73 of 1948); Contract Management Regulations (Ministry of Finance Ministerial Ordinance No.52 of 1962); Local Autonomy Act (Act No.67 of 1947) Local Autonomy Act 	<p>Depending on the sphere:</p> <ul style="list-style-type: none"> National Government Entities from ≈ USD 145.000 to ≈ USD 6.5 million; Local Government Entities from ≈ USD 290.000 to ≈ USD 22 million; Government-affiliated Organizations from ≈ USD 180.000 to ≈ USD 22 million 	<p>Contracts, which result in the transfer of any economic value (generally money) of public entities, and are entered into by public entities and private entities. Certain types of contracts, such as a build-operate-transfer contract and a public works</p>

	<p>Enforcement Ordinance (Government Ordinance No.16 of 1947);</p> <ul style="list-style-type: none"> • Act on Promotion of Private Finance Initiative (Act No.117 of July 30, 1999, as amended, "PFI Act"); • Act on Reform of Public Services by Introduction of Competitive Bidding (Act No.51 of 2006). 		<p>concession contract, are not clearly stated by law as contracts covered by public procurement rules, but practically they are treated as such.</p>
Belgium	<p>Royal Decree of 18 April 2017 on the award of public procurement contracts in the ordinary sectors;</p> <p>Royal Decree of 18 June 2017 on the award of public procurement contracts in the "special sectors" (i.e. water, energy, transport and postal services sectors);</p> <p>Royal Decree of 14 January 2013 determining the general rules of execution of public procurement contracts.</p>	<p>The Belgian publication of the announcement of the contract is required, even when the European threshold values are not met, unless the negotiated procedure without publication can be used. European publication is obligatory if the thresholds laid down by the European Commission are exceeded.</p>	<ul style="list-style-type: none"> • Public works contracts; • Public service contracts; • Public supply contracts.
Ukraine	<ul style="list-style-type: none"> • The Law of Ukraine of 19 October 2019 No. 114 – IX "On amendments to the Law of Ukraine "On public procurement" and some other legislative acts of Ukraine on improvement of public procurement"; • Resolution of the Cabinet of Ministers of Ukraine of 29 March 2020 No. 248 On amending the Resolution of the Cabinet of Ministers of Ukraine of 20 March 2020 No. 225; • The Resolution of the Cabinet of Ministers of Ukraine of 20 March 2020 No. 292 "On setting the amount of a filing fee and approving the Procedure for payment of a fee for filing a complaint to the Complaint Review Authority via an electronic procurement system and return thereof to the complainant"; • Indicative list of public procurement market access under the WTO GPA; • Law of Ukraine of March 16, 2016 No. 1029-VIII "On Accession to the Agreement on Public Procurement". 	<p>Depending on the sphere:</p> <ul style="list-style-type: none"> • Central Government Entities from ≈ USD 175.000 to ≈ USD 6.6 million; • Sub-central Government Entities from ≈ USD 260.000 to ≈ USD 6.6 million; • Other Entities from ≈ USD 520.000 to ≈ USD 6.6 million. 	<ul style="list-style-type: none"> • Public works contracts; • Public service contracts; • Public supply contracts.
Romania	<ul style="list-style-type: none"> • Law No. 98/2016 on public procurement (and 	<ul style="list-style-type: none"> • Supply or service contracts/framework agreements is equal or above of ≈ USD 	<ul style="list-style-type: none"> • Services, works or supply public

	<p>Government Decisions No. 395/2016 on the approval of its application norms);</p> <ul style="list-style-type: none"> • Law No. 99/2016 on utilities procurement (and Government Decisions No. 394/2016 on the approval of its application norms); • Law No. 100/2016 on works concession contracts and services concession contracts (and Government Decisions No. 867/2016 on the approval of its application norms); • Government Decision No. 1037/2011 on the approval of the Regulation on organization and functioning of the National Council for Solving Complaints; • Government Emergency Ordinance No. 13/2015 on the setting, organization and functioning of the National Agency for Public Procurement; • Government Decision No. 364/2015 on the organization and functioning of National Agency for Public Procurement. 	<p>160.000;</p> <ul style="list-style-type: none"> • contracts/framework agreements is equal or above of ≈ USD 250.000 for contracts awarded by the local/county council, Bucharest • General Council, as well as public institutions in their subordination; • Contracts/framework agreements is equal or above of ≈ USD 850.000 for social and other specific services; • Work contracts/framework agreements is equal or above of ≈ USD 6.2 million. 	<p>procurement contracts;</p> <ul style="list-style-type: none"> • Services, works or supply public utilities contracts; • Services or public works concession contracts.
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Rational and efficient procurement practices play a central role in the nowadays economies as they aim to reduce the number of wasteful activities and place in center efficient system for cost-effective procurement that stimulates the economic growth. Based on the analyzed international practices, achieving this can be done under the conditions that there is an effective legal framework put in place as well as adequate market structure and favorable political environment.

It is worth noting that the concept of public procurement was not accidental – world experience in procurement for the needs of state and municipal government shows that the most effective and least corrupt way of organizing procurement are public tenders, including tenders organized with the largest use of modern information and communication technologies.

International practice of public procurement management has accumulated sufficient experience in organizing this area of activity. The basis of the organization of public procurement is a competitive environment, transparency, availability of information, as well as double control over the results of public tenders. Public procurement management systems

usually use a combination of centralization and decentralization, including aimed at reducing corruption in public procurement.

Among the main measures aimed at reducing the level of corruption in public procurement with the international practice, administrative, regulatory and social measures are used. Measures of an administrative nature provide, first of all, for regular replacement of procurement officials. Regulatory measures consist not only of the criminal prosecution of corrupt officials and their counterparts, but also of the formation of blacklists, which include unscrupulous suppliers. In the future, such suppliers may not participate (neither independently nor through affiliates) in public procurement at any level. Meanwhile, regulatory measures are complemented by social measures, which consist in the fact that unreliable suppliers under public contracts through the mechanism of public censure lose their reputation, and this leads to the loss of business (the so-called market disqualification of a company).²¹

Conclusion

A procurement system is a specially structured functional activity, which includes several basic components like strategy, organizational structure, procurement process, interaction with suppliers, monitoring of procurement activities, etc., which, being in direct interaction, ensure the continuity and security of the material flow in accordance with the needs of functioning and development of an industrial enterprise, as well as balanced with financial and information flow. A developed procurement system is aimed at creating high added value in a product and creating additional value for end users of this product.

Based on the analyzed information, the following points are necessary for effective public procurement process:

- Determination of the key goals and functions of each segment of public procurement in accordance with the need to solve the problems of meeting public needs;
- Legislative regulation of the general unified principles of public procurement for all subjects of the system, like openness, transparency, competition, efficiency, innovation, professionalism, control and responsibility, while ensuring the possibility of variability of procurement methods corresponding to the peculiarities of the business processes in different segments;
- Modernization of the pricing system in public procurement, the introduction of regulatory models of contracts with flexible pricing, which create opportunities for market behavior of customers, adequate to the rapidly changing environment;
- Stimulation of technological, socially significant and environmental innovations, including the development of turnkey innovations according to customer specifications and the adaptation of proactive innovations offered by innovatively active suppliers, and the introduction into legislation of the right to pilot innovative projects in procurement;

²¹ Lin J., Jerry J., (2011). A Study on Supply Chain Value-added Logistics Based on the Great Chinese Market // International Journal of Electronic Business Management. Vol. No. 9. P. 58–69.

- Professionalization of customers, providing for greater freedom for procuring organizations (drawing up procurement specifications, choosing a procurement method, criteria for evaluating bids), while increasing personal responsibility for making financially significant procurement decisions by participants in the contract system (personal responsibility of managers, employees of contract services, etc.);
- Development of mechanisms for interaction with suppliers, which involves the establishment of long-term contractual relations based on the qualifications and business reputation of suppliers to prevent unfair competition and reduce the risks of non-performance (or poor quality) of contract performance.

Public expenditures, except of the functioning of government agencies, institutions, as well as subsidizing and various compensations, should be aimed at the implementation of certain socially important functions and to be allocated to certain socially important benefits, such as research, health care, education, etc. In this regard, the economic nature of the mechanism of public procurement depends on the accumulation of public funds by the state and their redistribution to ensure the functioning of the state and meet the needs of society. In other words, it should ensure the redistribution of funds in the form of endowing society with certain social or material benefits. Taxes and fees, which are received from the activities of economic entities and form the fund of public procurement financing, are returned to population in the form of payment for the placement of a state order for certain goods, works, or services. Hence, people receive in sufficient quantities for consumption those social and material goods, the obligation to provide which is imposed on the state.

However, in the new economic system, it is important to consider the mechanism of public procurement as a tool that allows the state to properly perform its functions, while influencing economic relations and creating favorable conditions for the development of certain sectors of the economy. At the same time, the social and economic component of the public procurement mechanism is significant, but not decisive, while ensuring the functioning of the state is a priority.

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