

Transparent Public Procurement Rating

Sector Assessment Questionnaire

ROADS SECTOR IN BELARUS (2018)

Quantitative Questions

- Amount of public funds spent in target sector in 2018.
The expenditures of the consolidated budget of the Republic of Belarus in 2018 for road facilities amounted to 1,005.2 million rubles, of which 422.8 million rubles were spent on road maintenance¹.
- Breakdown of procurement spending in the target sector by source of funding.
The given data on the road sector is extracted from the single official portal of public procurement icetrade.by and selected by the NCEA code (CPV code):

| By announcement to participate in the public procurement procedure | |
|--|------------------------|
| State Trust Budget Fund | 51 958 BYN |
| Other sources | 61 930 BYN |
| Local Budgets | 281 680 182 BYN |
| Central Budget | 8 824 839 BYN |
| Own funds | 13 317 552 BYN |
| Total | 303 936 461 BYN |

Data on the results of the procurement procedures are published only in 33 cases per 209 announcements, which means that the data are incomplete due to the violation of the current legislation by procurement entities.

- Share of public procurement in target sector in the total volume of procurement in 2018.
The share of procurement in the road sector in the total expenditures of the consolidated budget of the Republic of Belarus in 2018 for road facilities according to public announcements is 29%
- Target sector share in GDP of the country.
According to preliminary estimates by the Belarusian Statistical Committee, Belarus's GDP in 2018 was 121.6 billion rubles, thus share of public spending's on road sector in GDP is 0.83%

¹ http://www.minfin.gov.by/upload/bp/bulletin_cons/2018/2018.pdf

- Ratio of direct procurement to tender (competitive procedures) in target sector in 2018.
There is no official aggregated data or access to open data on direct procurement in road sector, since this information is not subject to mandatory publication.
- Share of contracts in the target sector that are won by state-owned enterprises.
N/A. Data on the results of the procurement procedures are published only in 33 cases per 209 announcements, which means that the data is incomplete due to the violation of the current legislation by procurement entities
- Average number of bidders in target sector.
N/A. Data on the results of the procurement procedures are published only in 33 cases per 209 announcements, which means that the data is incomplete due to the violation of the current legislation by procurement entities
- Percentage of failed tenders in the total number of procurements in target sector.
Data on the results of the procurement procedures are published only in 33 cases per 209 announcements, which means that the data is incomplete due to the violation of the current legislation by procurement entities. Among the published results of the procurement procedures, 19 out of 32 ended in cancellation or the procedure did not take place, which is 59% of the total number of procedures
- Top 5 contracting authorities in the target sector and their primary contractors (top 3 for each) – highlight any suspicious trends – for example : recurrent tender participants on same tenders, unusually high share of one or two companies winning most contracts, winners of direct contracts etc.
 1. State Enterprise "Gordorstroy" (contracting authority). Winners:
 - a. JSC "Trust №15" Spetsstroy" – 50504914 BYN
 - b. CUE "UDMSiB Minsk City Executive Committee" – 49053084 BYN
 2. GPO "Gorremavtodor Minsk City Executive Committee" - JSC "Strojtrest №7" (winner) 2886759 BYN
 3. Grodno city housing and communal services – SOE "Trust Grodnogorstroy" (winner) 1477243 BYN
 4. Unitary enterprise "UKS of Baranavichy" Winners:
 - a. JSC "DST №4, Brest" - 996045 BYN
 - b. JSC Stroytrest №25 – 307362 BYN
 5. UE "DZERZHINSKOE Utilities" - LLC "Krisnastroy" (winner) 257978BYN

Narrative Questions

- Do any unreasonable legal exemptions apply to the target sector?

Building and construction industry (and Road sector as a part of it) excluded from the scope of the Public Procurement Law in accordance with the Decree of the President of the Republic of Belarus "On procurement of goods (works, services) in the construction" (Art. 1.1). However, all exemptions are clearly indicated.

Legal acts: "On procurement of goods (works, services) in the construction" (The decree became invalid from January 1, 2019 due to the expiration) <http://bit.ly/2SQrGal>

- Does access to procurement documentation meet the requirements of the national legislation?

Access to procurement documentation in the road sector is regulated by Resolution of the Council of Ministers of the Republic of Belarus No. 88, Chapter 4 "On the organization and conduct of procurement procedures for goods (works, services) and payments between the customer and the contractor in the construction of facilities" <http://bit.ly/2smyktL>. Procurement documentation is published on the same official portals and in the same form as the procurement documentation for an open tender, so access to procurement documentation meet the requirements of the national legislation

- How do the above data points compare to the country's overall results indicated in the TPPR Questionnaire on PP Performance.

The share (% in terms of procurement value) of government spending is conducted through competitive public procurement procedures in 2018 was about 19% and it is close to the same indicator in the road sector, which is 29%. However, a direct comparison would be incorrect, since the first indicator is calculated based on the results of the procurement procedures, and the second indicator is calculated by dividing all the expenses of the consolidated budget to the road sector to the amounts of the announced procurement procedures.

- Have there been any prominent cases that illustrate existing challenges (inefficiency, corruption or other forms of misspending) in recent years?

According to official statistics², in 2018, 1,005 persons were convicted of crimes of a corruption nature — 44.8% more than in 2017 (694 persons). However, one should not perceive such a significant increase in detected corruption crimes as an indicator of the growth of corruption in Belarus. However, one should not associate such a significant increase in detected corruption crimes with an increase in real corruption in Belarus, since this growth was ensured by a more active anti-corruption work of law enforcement agencies in 2017-2018.

An example of an active fight against corruption can be the "medical case" in 2018, when the KGB was able to identify a corrupt network of health ministry officials and head

² <http://www.court.gov.by/ru/statistika1/6ed5eb4b3f9f44b8.html>

physicians of hospitals who received bribes from suppliers of medicine and medical equipment, including during public procurement procedures. A total of 95 criminal cases were instituted against health care workers of the Republic of Belarus as part of this high-profile corruption scandal.

In early 2019, the chief architect of Minsk Luchinovich was detained; he is suspected of committing corruption crimes. The department that headed Luchinovich, coordinated the work and government expenses associated with the construction and reconstruction of roads in Minsk.

- Is there any indication that suppliers fail to fulfill contractual obligations? Any prominent cases in recent years?

There is no information in the public domain that suppliers do not fulfill their contractual obligations. This is primarily due to the fact that the majority of customers and contractors in the road sector are government organizations and state-owned enterprises that are interested in hiding problems from the public. Although there are aggregated data that demonstrates the failure to achieve a number of target indicators of the state program for the development and maintenance of roads in the Republic of Belarus for 2017–2020³. Thus, within the framework of the Republican roads subprogram, the following targets were not achieved:

- Overhaul of roads
- Overhaul of bridges and overpasses
- Construction and reconstruction of roads

Within the framework of the Local roads subprogram, the following targets were not achieved

- Maintenance of bridges and overpasses
- Overhaul of roads
- Overhaul of bridges and overpasses

- What are the major strengths and weaknesses of public procurement in the target sector? (minimum of 2 each; personal deliberation of the author)

Strengths:

1. Low corruption risks due to the fact that the majority of clients and contractors in the road sector are government organizations and state-owned enterprises
2. Procurement procedures in Road sector are regulated by special legal act, although all procurements in construction industry are excluded from the law on public procurement

³ <https://www.economy.gov.by/uploads/files/gos-progr-2016-2020/broschyra-nov-22.09.2019.pdf>

Weaknesses:

1. A large number of intentional and unintentional mistakes and violations in public procurement documentation due to poor oversight and control
2. The vast majority of contractors are state-owned enterprises, which reduces competition and increases the number of procurements from a single source.

Conclusion

Public procurement in the road sector reflects all the characteristics of the overall public procurement system in Belarus. First, it is a high proportion of non-competitive public procurement procedures, including single source procurements. The share (% in terms of procurement value) of public spending conducted through competitive public procurement procedures in 2018 was about 19% and it is close to the same indicator in the road sector, which is 29% according to our calculations.

Second, a large number of intentional and unintentional mistakes and violations in documentation on public procurement due to poor oversight and control, as well as the outdated functionality of a single official portal for public procurement. Official ETPs function as electronic bulletin boards and serve as a single point of access to official documents, but do not have the full functionality of trading platforms. Due to the poor functionality of the official portal, unscrupulous bidders may hide, publish incomplete or partially inaccurate information about public procurement procedures. The lack of such necessary features as electronic document management, API, integration with the treasury payment system, the dispute resolution system in the official ETP does not allow to fully implement the potential of conducting public procurement with electronic means, and also reduces the efficiency, transparency and competition in public procurement system.

However, the road sector in Belarus has its own characteristics. First, the majority of customers and contractors in the road sector are government organizations and state-owned enterprises. The market is actually monopolized by the state, which reduces corruption risks, but at the same time reduces competition, which leads to inflated construction prices and poor road quality.

Second, the road sector being a part of the construction sector is excluded from the action of the law "On public procurement", nevertheless has its own regulation enshrined in the legislation. As part of the special regulation of public procurement in construction there are also open public procurement procedures which are called contractor bids, but the threshold for applying this procurement procedure is two times higher than in public procurement in accordance with the law "On public procurement".

Recommendations:

1. In the PPL to introduce the requirement of public justification of the need to apply the single source procurement and publish information on such procurements
2. Reduce the list of cases when the procurement procedure from one source is eligible
3. Exclude from legislation the eligibility of the single source procurement procedure when the open procurement procedure was declared invalid
4. Develop and implement a new official ETP. In order to save budgetary funds for the development of modern ETP, the authorities should analyze the possibility of introducing ready-made open source projects. A good example would be the software package "Open Procurement", on which the Ukrainian procurement system "ProZorro" is based, which has proven its efficiency, transparency and usability.
5. Undertake reforms of demonopolization and privatization in the road construction sector
6. Strengthen supervision and control from both outside law enforcement agencies and civil society by disclosing information on public procurement in a machine-readable form