

Assessing Public Procurement Practice in Belarus - 2017

General Description of the Public Procurement System

X. Management of the Public Procurement System

Please provide a brief description of how the public procurement system is managed in your country by answering the following questions:

Is there a single state body responsible for managing the public procurement system, or is this function distributed among more than one state body? What is its/their authority and responsibilities and are legal requirements met in practice in this regard? What is the level of independence of this body/ies and are legal requirements met in practice? Is there duplication of authority?

Please provide the answer in a maximum of 5-10 sentences.

Ministry of Antimonopoly Regulation and Trade (MART) is a single state body responsible for managing the public procurement system in Republic of Belarus.

MART authority:

- within its competence, coordinates the activities of state bodies and other state organizations in the field of public procurement;
- provides methodological assistance, consults and develops recommendations in the field of public procurement;
- gives explanations on issues related to the application of legislation on public procurement;
- monitors the practice of public procurement;
- considers complaints on actions (inaction) and (or) decisions of the customer (organizer), the commission and (or) its members, the commodity exchange, the operator of the electronic trading platform, the operator of the official site and takes decisions on the results of their consideration;
- develops measures to improve the implementation of public procurement;
- approves sample forms of documents on public procurement procedures;
- establishes the procedure for the formation and maintenance of a list of suppliers (contractors, executors) temporarily not allowed to participate in public procurement procedures, determines the cases of their early removal from such a list, and also forms and maintains such a list;
- cooperates in the field of public procurement with foreign and international legal entities (organizations that are not legal entities);
- exercises other powers in accordance with acts of legislation on public procurement.

MART has enough power to implement public policy in the field of public procurement, although it is not completely independent since it does not have independent sources of its own funding, and it also reports directly to the Council of Ministers

X. Are tenders electronic or paper based? In cases when tenders are solely electronic, are there cases of paper-based tendering? Is there insufficient enforcement of PPL?

Please provide the answer in a maximum of 3-4 sentences.

The PPL specifies that the main type of public procurement procedure in Belarus is an open competition. Although the PPL provides for the publication in electronic form of all the most important documents accompanying the bidding, the competition itself is not electronic at the same time. This is because the preparation of tender documents, as well as the procedure for opening and reviewing tender proposals within the framework of this competition is conducted internally and using paper carriers.

Thus, the official site in this case fulfills the function of the electronic bulletin board and the place of publication of official documents, while not being a full-fledged trading platform. This significantly reduces the effectiveness of public procurement, since the customer and bidders are forced not only to meet face to face, but also to conduct a double document circulation on paper and on the official website.

X. Is public procurement conducted through a centralized, single website or are there multiple websites for conducting public procurement? Is its/their use mandatory or voluntary?

Please provide the answer in a maximum of 3-4 sentences.

Transparency and openness of public procurement is ensured by publishing information on official portals on the Internet. In order to publish information on public procurement, as well as to create a single point of access to PPL, an official Internet portal "icetrade.by" was developed. Another specialized Internet portal "goszakupki.by" was created to conduct the procedures of electronic auctions.

X. If there is a register of suppliers, what is the number of registered suppliers in it?

If possible, please provide a comparison with several (at least 5) previous years?

On the official portal "Icetrade.by" are published "[Register of unscrupulous suppliers](#)" and "[Catalog of enterprises](#)." However, the most complete register of suppliers is published on the site of [goszakupki.by](#), where there is information on **23710** legal entities accredited on the electronic auction site.

X. What is the total number of competitive procedures?

If possible, please provide a comparison with several (at least 5) previous years.

	Number of PP procedures	Number of competitive PP procedures	Share of competitive PP procedures
2013	380667	41877	11,0%
2014	444279	33086	7,4%
2017	390757	161150	41,2%

2018 (half-year)	233816	108532	46,4%	
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X. What is share of public procurement in the country's GDP?

	Share of GDP
2013	6,9%
2014	5,7%
2017	6,2%
2018 (half-year)	2,8%

X. What are the monetary thresholds for single source procurement (works, goods, services)? _____

Is the monetary threshold acceptable? Why or why not?

The customer (organizer) of public procurement at the threshold value of the estimated cost of the annual purchase of goods (works, services) up to 300 basic units (about 3000 euros), as well as in other cases provided for in the annex to the Law of the Republic of Belarus "On Public Procurement of Goods (works, services) ", applies the procurement procedure from a single source.

Public Procurement Scope and Spending Breakdown

X. What share (% in terms of procurement value) of government spending is conducted through competitive public procurement procedures? ____

Please provide a brief analysis of this data point. If possible, provide a comparison with several (at least 5) previous years and possible explanations for the resulting trend.

	Share in terms of procurement value of competitive PPP
2013	45,4%
2014	32,4%
2017	21,7%
2018 (half-year)	34,8%

X. What share (% in terms of procurement value) of total public procurement spending is conducted through single source procurement? _____

Please provide a brief analysis of this data point. If possible, provide a comparison with several (at least 5) previous years and possible explanations for the resulting trend. If possible, provide a breakdown of this data point by the list of legal exemptions considered acceptable or unnecessary by the TPPR Methodology (Pre-tendering phase, Indicator 9).

	Share in terms of procurement value of Single Source PPP
2013	54,6%
2014	67,6%
2017	78,3%
2018 (half-year)	65,2%

X. What is the share (% in terms of procurement value) of below threshold single source procurement in total public procurement spending? _____

Please provide an analysis of this data point in 2-3 sentences (if possible, provide data from previous 5 years).

Comment: DNA (Data not available)

X. If your country has any unreasonable exemptions to the Public Procurement Legislation (e.g. contingency funds, utilities, certain procuring entities or sectors of the economy), provide your estimate of the volume spent in this way and the share (% in terms of value) these exemptions would constitute in total procurement spending? Volume : ____ share: ____

Please provide a brief analysis of this data point. If possible, provide a comparison with several (at least 5) previous years and possible explanations for the resulting trend.

Comment: Building and construction industry is 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). In addition, legislation provides certain special regulations for public procurement in the field of Medicine (Order of the Ministry of health "On some issues of public procurement of medical equipment and medical products") and ICT (Decree of the President of the Republic of Belarus "On public procurement in the field of ICT"). However, all exemptions are clearly indicated.
There is no available data with breakdown by industry

X. What is the volume of secret government procurement? What is the share (value in %) of secret government procurement in total public procurement expenditures? Volume: _____ share: _____

Please provide a brief analysis of this data point. If possible, provide a comparison with several (at least 5) previous years and possible explanations for the resulting trend.

Comment: In accordance with the law, secret government procurements can take place both by the request for quotation and by the procedure of a closed tender. As the statistics for the request for quotation are published in aggregated form, it is not possible to single out the volume of purchases that make up state secrets.

Competitiveness

X. What is the average number of bidders? _____

If possible, provide a comparison with several (at least 5) previous years and possible explanations for the resulting trend. If possible, provide a breakdown of this data point by goods, works and services.

Comment:

	Number of PP bidders
2013	525568
2014	663314
2017	528278
2018 (half-year)	311846

X. What is the share (% in terms of procurement value) of competitive procedures with single bidders in total competitive spending? _____

If possible, please provide information on the share (number) of competitive contracts won by single bidders in the total number of competitive procedures.

Comment: DNA

X. What is the share (% in terms of procurement value) of competitive procedures with five or more bidders in total competitive spending? _____

If possible, please provide information on the share (number) of competitive contracts with three or more bidders in the total number of competitive procedures.

Comment: DNA

X. What share (% in terms of procurement value) of public procurement contracts is won by commercial state-owned enterprises (above 50% ownership)? ____

Provide an analysis of this data point. If applicable, provide a comparison with several previous years. If possible, provide a breakdown of this data point by type of procedure, i.e. competitive procedures vs. direct procurement. Is there any reason to believe that state owned companies are getting preferential treatment?

Comment: DNA

X. What share (% in terms of procurement volume) of public procurement contracts is won by foreign enterprises? ____

If possible, provide a comparison with several (at least 5) previous years and possible explanations for the resulting trend.

	The share of PP contracts won by foreign enterprises
2013	DNA
2014	DNA
2017	0,9%
2018 (half-year)	0,7%

X. What is the share (%) of procuring entities which only used single source procurement in the total number of procuring entities? ____

If possible, provide a comparison with several (at least 5) previous years and possible explanations for the resulting trend.

Comment: DNA

Efficiency

X. What is the share (%) of failed tenders in the total number of tenders? ____

If possible, provide a comparison with several (at least 5) previous years and possible explanations for the resulting trend. If possible, provide a breakdown of this data point by tenders with no bidders, cancelled tenders or unsuccessful tenders where no relevant competitor was found.

Comment: Obviously, since 2017, the methodology for counting failed tenders has changed

	Share of competitive PP procedures
2013	11,0%
2014	7,4%
2017	41,2%
2018 (half-year)	46,4%

X. What share (%) of planned public procurement expenditure was saved as a result of competitive procedures? ____

If possible, provide a comparison with several (at least 5) previous years and possible explanations for the resulting trend.

Comment: Obviously, since 2017, methods for data collection and analysis has changed

	Share of planned public procurement expenditure was saved as a result of competitive procedures
2013	20,8%
2014	5,1%
2017	DNA
2018 (half-year)	DNA

X. What is the share (% in terms of procurement value) of tenders where price is the only criterion compared to competitive procedures where other criteria are also used? ____

If possible, provide a comparison with several (at least 5) previous years, as well as a brief analysis of this data point.

DNA

X. What is the share (%) of non-executed contracts in the total number of contracts? ____

If relevant, provide a comparison with several (at least 5) previous years. If possible, provide a breakdown of this data point by type of procedure, i.e. competitive procedures vs. direct procurement. If possible, indicate the share (%) of non-executed contracts awarded through competitive procedures, as well as single source procurement.

Comment: Obviously, since 2017, methods for data collection and analysis has changed

	The share of non-executed contracts
2013	0,6%
2014	0,3%
2017	DNA
2018 (half-year)	DNA

Accountability

X. Describe the dispute settlement mechanism in public procurement, its composition, authority, level of independence, and decision-making procedures. What are the major strengths and problems in law and practice:

Comment: Dispute settlement mechanism in public procurement is provided for in Chapter 8 of the Law of the Republic of Belarus "On Public Procurement" <https://goo.gl/mur0Mx>

If the actions (inaction) and / or decisions of the customer (organizer), the commission and (or) its members, the commodity exchange, the operator of the electronic trading platform, the operator of the official site violate the rights and legitimate interests of the participant or other legal or natural person, including of an individual entrepreneur, such a person has the right to apply to the customer (organizer), commodity exchange, electronic trading platform operator, operator of the official site, with a request to terminate such actions (inaction) and devices their results and (or) on the cancellation of decisions.

The participant has the right to apply with such a request in case if the contract is not concluded or an appeal has been initiated in the authorized state body for state purchases in accordance with the procedure established by Articles 53-56 of the PP Law. A legal entity or an individual, including an individual entrepreneur who is not a participant, has the right to apply with such a request before the expiration of the period for the preparation and submission of proposals insofar as it relates to the invitation or documents submitted to the participant for the preparation of the proposal.

The customer (organizer), the commodity exchange, the operator of the electronic trading platform, the operator of the official site shall take a decision on the application of the participant or other legal or natural person, including an individual entrepreneur no later than seven working days after receiving such an application and make out it in writing. This decision should contain an indication of the basis for its adoption and, if necessary, provide for measures to be taken. The decision must be sent to the applicant within three working days after its adoption.

A participant or other legal or natural person, including an individual entrepreneur, has the right to file a complaint with the authorized state body on state purchases in the procedure established by 54-

56 of PP Law and (or) to the court for actions (inaction) and (or) the decision of the customer(organizer), the commission and (or) its members, the commodity exchange, the operator of the electronic trading platform, the operator of the official site in case of violation of their rights and legitimate interests.

A legal entity or an natural person, including an individual entrepreneur who is not a participant, has the right to file a complaint with the authorized state procurement authority only before the expiration of the period for the preparation and submission of proposals insofar as it relates to the invitation or documents submitted to the participant for the preparation of the proposal.

X. What is the number of complaints submitted to the dispute resolution board (or equivalent body)? ____

If possible, provide a comparison with several (at least 5) previous years and possible explanations for the resulting trend.

Comment:

	The number of complaints submitted to the dispute resolution board
2013	DNA
2014	399
2017	DNA
2018 (half-year)	DNA

X. What is the share (%) of disputed tenders in the total number of tenders? ____

If possible, please provide an analysis of this data point in 2-3 sentences.

Comment: DNA

X. What share (%) of disputes was won by the initiator in the Dispute Resolution Board (or equivalent body)? ____

If possible, please provide an analysis of this data point in 2-3 sentences.

Comment:

	The share (%) of disputes was won by the initiator
2013	DNA
2014	45,9%
2017	DNA
2018 (half-year)	DNA

X. What share of decisions of the Dispute Resolution Board have been taken to courts? ____

If possible, provide a comparison with several (at least 5) previous years and possible explanations for the resulting trend.

Comment: DNA

X. What share (%) of the total competitive procurement spending was received by companies that have donated (including private donations by their owners) to the current government? ____

If possible, please provide an analysis of this data point in 2-3 sentences.

Comment: DNA

X. What share (%) of the total single source procurement spending was received by companies that have donated (including private donations by their owners) to the current government? ____

If possible, please provide an analysis of this data point in 2-3 sentences. Have there been any high profile cases of politically affiliated companies receiving single source contracts?

Comment: DNA

Transparency

X. Can public procurement related data be downloaded in bulk? If yes, can data be downloaded in any of the following formats - CSV, JSON, or XML?

No

X. Are there any significant data quality issues? (Are any control mechanisms in place to ensure data quality is maintained?)

Data is not available, which is the main problem

X. Please fill the Data Transparency Table below by indicating either “Yes”, “No” or “N/A” in each empty slot:

Data Transparency Table - Access to Public Procurement Related Documents

Type of document	Is this information required to be public by law?	Is this information publicly available?	Is the database complete?	Electronic	Machine-readable *	Free of charge	Exact format
PPL documents	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Annual public procurement plans	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Notices of intended procurement	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Amendments to tender documentation	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Tender candidate applications	No	No	No	No	No	No	No
Bids	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Tender commission decisions	Yes	Yes	No	Yes	Yes	Yes	No
Information on subcontractors	No	No	No	No	No	No	No
Procurement contracts	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Contract amendments	No	No	No	No	No	No	No
Contract performance information	No	No	No	No	No	No	No
Payment receipts	No	No	No	No	No	No	No

Inspection and quality control reports	No	No	No	No	No	No	No
Complaints	No	No	No	No	No	No	No
Dispute resolutions	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Internal and external audit reports	No	No	No	No	No	No	No

* For the purposes of this questionnaire, machine-readable means: for quantitative data formats, such as: JSON, CSV, XML, and for text documents - document that are NOT uploaded in the form of a scanned photo or PDF file.

In the comment box below, please elaborate on any irregularities or important details related to the above table.

Comment: The PP Law specifies that the main type of public procurement procedure in Belarus is an open competition. Although the PPL provides for the publication in electronic form of all the most important documents accompanying the bidding, the competition itself is not electronic at the same time. This is because the preparation of tender documents, as well as the procedure for opening and reviewing tender proposals within the framework of this competition is conducted internally and in writing.

Thus, the official e-procurement website fulfills the function of the electronic bulletin board and the place of publication of official documents, while not being a full-fledged trading platform. This significantly reduces the effectiveness of public procurement, since the customer and bidders are forced not only to meet face to face, but also to conduct a double document circulation on paper and on the official website.

In addition, in real practice dishonest bidders have the opportunity to hide, publish incomplete or partially unreliable information about public procurement due to technical imperfection of the official e-procurement platform. Typical violations include the use of the brand in the description of the subject of procurement, the use of the letters of the Latin alphabet in the description of the subject of procurement, intentional grammatical errors, the absence of a report on the result of the procurement, the provision of incomplete information on bidders, etc. As mentioned above, 80% of public procurement is conducted with one or another type of violations.

X. In addition to what is listed in the Data Transparency Table above, are there any gaps in the public procurement database/s? (e.g. gaps in the completeness of data from specific procurers or specific time periods?)

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Major Strengths and Weaknesses

X. What are the 3 major gaps between the country's public procurement legislation requirements and their implementation in practice? (e.g. ignored provisions, legal loophole, etc.) What are your recommendations for how to align the practice with the legislation? Please provide a brief description of each in a maximum of 4-5 sentences.

1.

Gap:

A common violation of PPL is a failure to publish a contract award notice or the publication of incomplete information on the results of public procurement

Recommendation:

1. Tighten control by law enforcement agencies for the timely publication of complete and reliable information on public procurement procedures
2. Develop and implement additional functionality for the e-trading platform, which would minimize the possibility of publishing untimely, incomplete or unreliable information about the tender

2.

Gap: Misuse of PPL, which allows customers (organizers) to conduct a single source procurement procedure, if an open competition has failed. Customers (organizers) tailor the specification in order to fail open competition, and then conduct a single source procurement procedure.

Recommendation: Return the institution of approval of a single source procurement procedure with MART

3.

Gap: Failure of the winner to comply with tender requirements or contract terms

Recommendation: to publish information on contract amendments and subcontractors, contract performance information and payment receipts

X. What are the 3 major weaknesses / challenges of the country's public procurement system as a whole? And what are your recommendations for overcoming them? Please provide a brief description of each in a maximum of 4-5 sentences.

1.

Challenge: Enormous share of a single source public procurements

Recommendation: Reduce the number of conditions for use a single source public procurement procedures. The share of the single source public procurements must not exceed 15%

2.

Challenge: Technical imperfection of the official e-procurement platform. The official e-procurement website fulfills the function of the electronic bulletin board and the place of publication of official documents, while not being a full-fledged trading platform

Recommendation: Develop a brand new system for e-procurement

3.

Challenge: Low professional level of procurement officers especially in small organizations and local governments

Recommendation: Develop and implement a training and certification system for the procurement officers

X. What are the 3 major strengths / successes of the country's public procurement system as a whole?
Please provide a brief description of each in a maximum of 4-5 sentences.

1.

There is a single state body responsible for managing the public procurement system

2.

Strict internal control and audit of public procurements by the State Control Committee

3.

There is a Law on Public procurement, which is regularly amended with best practices