

Transparent Public Procurement Rating

Sector Assessment Questionnaire

ROADS SECTOR IN POLAND (2017) (CPV - 45233000)

Quantitative Questions

Amount of public funds spent in target sector in 2017.

78.8 bilions PLN

Breakdown of procurement spending in the target sector by source of funding (i.e. state budget, EU, donor funds, etc.).

No data

Share of procurement in target sector in the total volume of procurement in 2017.

44%

Target sector share in GDP of the country.

3.96%

Ratio of direct procurement to tender (competitive procedures) in target sector in 2017.

No specific data but according to estimations it would be around 90%

Share of contracts in the target sector that are won by state-owned enterprises.

No data

Average number of bidders in target sector.

2,92 below EU threshold and 3,63 above EU threshold

Percentage of failed tenders in the total number of procurements in target sector.

No data. We only have data on refusals of accepting a bid.
- on average 1.65 offers in 2017 (in 2016 - 2.00, in 2015 - 1.93, in 2014 - 1.86),

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.

No data, however we know that 47% of construction works were contracted by self-governments.

Top 5 winning economic operators in the target sector and the share of total contracts won by them.

Data below EU thresholds		
	No. of contracts	Value (mln PLN)
Strabag	245	538,1
Przedsiębiorstwo Budowy Dróg i Mostów	204	239,6
Eurovia Polska	193	393,1
Skanska	128	445,9
Przedsiębiorstwo Handlowo-Usługowe LARIX	112	133

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

The main problem discovered during sectoral analysis is lack of accessibility of data regarding specific CPV code. Although the data on the specific tender are available it is impossible to analyze whole sector. It is also not possible from the side of the Public Procurement Office to deliver data as was admitted in the email sent to the researcher.

Narrative Questions

1. Do any unreasonable legal exemptions apply to the road construction sector?

No.

2. Does access to procurement documentation in the road construction sector meet the requirements of the national legislation?

Yes. Especially in the context of cooperation between general contractors and subcontractors. This was a problem till 2016 when the general contractors received obligation to report all subcontractors working on construction sites and submit to the investor for acceptance of contracts with companies to whom they subcontract works. There are also regulations that indicate the content of the contract and what should not be absolutely there (so-called golden and prohibited clauses).

The issues related to the payment of remuneration to subcontractors are also regulated. The general contractor, in order to receive remuneration for the work he has

subcontracted, must provide a statement that the subcontractor has been financially satisfied by him.

All documents are accessible under FOI request.

3. In recent years, have there been any prominent cases that illustrate existing challenges (inefficiency, corruption or other forms of misspending) in the road construction sector?

There incidents of cases connected with the actual execution of the contract. It is worth to mention them in the first place as this phase lacks proper control.

In 2017, officers from the Central Anticorruption Bureau (from the Lublin delegation) stopped in Ostróda (Warmian-Masurian Province), two people in connection with bribes for accepting electric power works at express road construction. One of them is the supervision inspector of one of large electricity distributors, and the other one who runs a design and consultancy office issuing invoices for fictitious works that allowed for the "legalization" of property benefits to be granted.

The CBA investigation concerns over 16 thousands PLN bribe for the inspector for issuing opinions on the construction of the S-51 Olsztyn - Olsztynek expressway. The main investor is the General Directorate of National Roads and Motorways, which has a contract with the general contractor who also employed subcontractors.

The CBA officials from Lublin have determined that the supervision inspector for his positive opinions confirming that the power grid is properly constructed and suitable for exploitation demanded bribes. Lack of such opinion would result in the failure to remove some of the investments, contractual penalties and even the breaking of the contract. The subcontractor could stay with nothing, no money for the work already done. This dependency was used by the supervision inspector from Ostróda, detained by the Central Anticorruption Bureau.

A similar situation took place in Nysa in 2016 where, the main thread of the proceedings was the suspicion of accepting from the entrepreneurs benefits by the director of the Poviats Roads Authority in Nysa. According to the investigative findings, the man was supposed to accept money in exchange for approval of the construction works involving the reconstruction of sections of poviats roads and failure to perform control activities by subordinate employees of the poviats headquarters.

4. Is there any indication that suppliers fail to fulfill contractual obligations in the road construction sector? Any prominent cases in recent years?

See above.

Conclusion

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

- The decreasing number of offers submitted - from 4-5 in 2013-2016 to just 2-3 in 2018 - is a bad symptom for the ordering parties.
- A significant number of tenders appearing on the market, as well as rising performance prices and the lack of their actual revalorisation, tend to encourage contractors to resign from participation in tenders, even those won. Recently, the construction industry was electrified by the withdrawal of the Astaldi concern from a PLN 700 million worth tender for the construction of a road tunnel in Świnoujście. However, the withdrawal from the contract by the Italians is not the first event of this type in 2018. Similar market movements have already been performed, among others Impresa Pizzarotti (route S61 on the section Łomża-Kolno), Budimex (S3 Kamienna Góra-Lubawka and S61 Szczuczyn-Ełk Południe) or Polaqua (S7 Widoma-Kraków)
- Lack of possibility to perform effective data analysis using CPV by external parties, as well as lack of tools enabling to perform such analysis quickly by the Public Procurement Office
- Limited control of the execution of contract

Recommendations of the author

- Introducing structured data to enable complex analysis of the specific sector in short time
- Increase the transparency of documents following the contract as well as introduce the obligation to publish them in open standard
- Introduce the feedback mechanism to inform Contracting Authority on any irregularities connected with project performance.
- Limit the time needed to award the contract by increasing the number of competitive procedures – data shows that these procedures are generally shorter than noncompetitive ones