

Assessing Public Procurement Practice in Bolivia - 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.

Comment:

In Bolivia, there's a centralized procurement system which lays out the basic principles and general framework of the procurement process, makes it operational and indicates how the law must be applied to specific circumstances and it applies to every single public entity. However, there's no separate state body directly responsible for managing public procurement; rather, the function is assigned to a public servant within each public entity, directly designated as such by the maximum executive authority (MAE). It is referenced by the norms as Person Responsible for the Licitación Process (Responsable del Proceso de Contratación de Licitación Pública – RPC). It is important to note, though, that the law also determines that the Ministry of Economy and Public Finances is the Governing Body in charge of the system and the information it generates. While this means the Ministry is ultimately responsible for the good functioning of the system, the responsibility of the individual process remains in the public entity.

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.

Comment:

All tender processes are published electronically in the SICOES system. The electronic publication goes a long way facilitating public control over the procurement system, especially on the local levels. Once it is published, then the process is paper-based and handled within each public entity. There is full compliance with the pre-tendering requirement of publishing the process in the SICOES web page, as well as the publication of the results of the process.

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.

Comment:

There is one single centralized website: www.sicoes.gob.bo and its use is mandatory.

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?

Comment:

There is a centralized registry of suppliers to the State called RUPE (Registro Único de Proveedores del Estado). The registry, accreditation and update of information from suppliers is done entirely online. According to the data published in the SICOES page, this is the number of suppliers by type, registered in the system:

STATE SUPPLIERS (BOLIVIA)		
COUNTRY OF ORIGIN	TYPE OF SUPPLIER	AMOUNT
Bolivia	Natural person - Foreign	43
	Natural Person - National	100906
	Legal Person - Foreign Company	7
	Legal Person - Company	43684
	Legal Person - Cooperative	79
	Legal Person - Economic and Peasant Organization	55
	Legal Person - Non-profit Civil Association	390
	Legal Entity - Small Producer Association Urban	89
	Legal Person - Entity / Public Company	134
	Accidental Association	5245

Source: SICOES (12/11/2018)

STATE SUPPLIERS (FOREIGN)					
COUNTRY	AMOUNT	COUNTRY	AMOUNT	COUNTRY	AMOUNT
Corea	5	Dinamarca	5	Perú	67

Argentina	113	Ecuador	22	Polonia	4
Chile	49	El Salvador	1	Portugal	5
Brasil	58	Finlandia	2	Rumania	1
Afganistan	2	Francia	17	Rusia	2
Albania	3	Alemania	13	España	112
Angola	1	Guatemala	2	Suecia	3
Austria	4	Honduras	2	Estados Unidos	36
Barbados	1	Iran	1	Uruguay	11
Bélgica	8	Israel	1	Venezuela	11
Bulgaria	1	Italia	30	Suiza	6
Canadá	11	Japon	14	Inglaterra	11
China	22	Mexico	31	Cabo Verde	3
Colombia	40	Holanda	5	Reino Unido	3
Costa Rica	4	Noruega	4	Islandia	1
Croacia	1	Panamá	3	Emiratos Árabes Unidos	2
Cuba	28	Paraguay	10	Singapur	1

Source: SICOES (12/11/2018)

X. What is the total number of competitive procedures?

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

Comment:

The total number of public Licitations since the beginning of the system in 2001 at the moment of review (12/11/2018) was 864.249.

If we consider the previous years (2014 to 2017) this is the total amount per year:

- 2014: 94.150
- 2015: 74.895
- 2016: 81.984
- 2017: 86.887

The data does not show a definitive tendency towards an increase of tenders, but it is important to note there may be many factors surrounding the low numbers in 2015. It would be important to further research to draw any kind of conclusions.

X. What is share of public procurement in the country's GDP?

Comment:

At this point, it is not possible to obtain that information.

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

The Supreme Decree Nº181 (June 2009) establishes the monetary thresholds for the system as follows:

- Minor tender from Bs.1 to Bs. 50.000
- National Support to Production and Employment from Bs. 50.000 to Bs. 1.000.000
- Major public tender over Bs. 1.000.000
- Exception tender without limit
- Tender in case of disaster and/or emergency without limit
- Direct tender without limit

Is the monetary threshold acceptable? Why or why not?

Comment:

The thresholds themselves are not particularly problematic, nor are they the main weakness of the system. The norms establish different procedures depending on the kind of tender. It is a useful mechanism to force large amounts of public money to be put through a competitive process, because in case of a minor tender, public entities including local governments can do a direct procurement without competitive tender, which can lead to more discretionary uses of public spending. On the other hand, the limit is ample enough to allow spending efficiency not requiring a complex tendering process for every spending.

Public Procurement Scope and Spending Breakdown

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

At this point, it is not possible to obtain that information.

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:

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

At this point, it is not possible to obtain that information. According to experts consulted for this project, this information does not exist.

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).

Comment:

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

At this point, it is not possible to obtain that information.

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

Comment:

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: ____

At this point, it is not possible to obtain that information.

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:

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: _____

At this point, it is not possible to obtain that information.

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:

Between 1990 and 2005, 1480 million Bolivianos were spent as "reserved expenses" (gastos reservados), which were discretionary funds used by the high central government. Since April 2006, with the approval of the Supreme Decree 28686, theoretically there are no more reserved expenses and the public funds destined to State security should be "handled transparently and opened to social control, exercised by each citizen". However, there has never been an actual mechanism to openly and transparently have access to the data on this kind of government spending. Moreover, even though there are no more reserved expenses, there have been 2 government programs since 2006 that operated outside the system; the first one was "Bolivia Cambia, Evo Cumple", which between 2006 and 2012, was funded with around 440 million US\$. The money was distributed discretionally

mainly the president in diverse regions of the country. The second was the "Fondo Indígena", meant to be an investment fund for indigenous communities. Between 2010 and 2014, 1100 projects were approved for around Bs. 730 million according to data published by the senate. Members of Parliament have questioned the program for a discretionary use of at least Bs. 545 million according to the study presented by senator Oscar Ortiz. The government has indeed investigated several members of the own branch, including the ex Minister of Productive Development, currently imprisoned because of this case.

These two cases show that while there is a system that works in many ways, it is still very possible to operate outside of it in a discretionary way, with no accountability.

Note: There are plenty of studies and diverse sources to consult on the mentioned cases.

Competitiveness

X. What is the average number of bidders? _____

It is not possible to obtain this information since the system does not produce it. Each public entity could have the answer for their own processes, but it is very likely the data hasn't been collected yet.

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:

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

At this point, it is not possible to obtain that information.

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

Comment:

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

At this point, it is not possible to obtain that information.

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:

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

At this point, it is not possible to obtain that information.

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:

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

At this point, it is not possible to obtain that information.

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

Comment:

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

At this point, it is not possible to obtain that information.

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

Comment:

Efficiency

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

The following chart shows the data for the period 2014 - 2017:

Evolution of Tender Processes 2014 - 2017										
Status	AÑOS									
	2014	%	2015	%	2016	%	2017	%	TOTAL	%
Not informed	438,0	0,5	1.591,0	2,1	1.706,0	2,1	1.744,0	2,0	5.479,0	1,6
Suspended	33,0	0,0	21,0	0,0	59,0	0,1	10,0	0,0	123,0	0,0
Deserted	12.458,0	13,2	7.368,0	9,8	6.444,0	7,9	5.504,0	6,3	31.774,0	9,4
Hired	76.177,0	80,9	61.551,0	82,2	69.895,0	85,3	75.968,0	87,4	283.591,0	83,9
Canceled	800,0	0,8	662,0	0,9	549,0	0,7	612,0	0,7	2.623,0	0,8
On going	7,0	0,0	5,0	0,0	4,0	0,0	14,0	0,0	30,0	0,0
Canceled since the announcement	4.211,0	4,5	3.427,0	4,6	3.171,0	3,9	2.931,0	3,4	13.740,0	4,1
Awarded	26,0	0,0	269,0	0,4	153,0	0,2	103,0	0,1	551,0	0,2
Partially deserted	0,0	0,0	1,0	0,0	2,0	0,0	1,0	0,0	4,0	0,0
Partially suspended	0,0	0,0	0,0	0,0	1,0	0,0	0,0	0,0	1,0	0,0
	94.150,0	100,0	74.895,0	100,0	81.984,0	100,0	86.887,0	100,0	337.916,0	100,0

Source: SICOES (12/11/2018)

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:

Not all the information is possible to obtain at this point, but the available information shows the system tends to work. Clearly, the main percentage of tenders were hired (83.9% of all the processes observed in the selected period).

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

At this point, it is not possible to obtain that information. Most likely, this information does not exist.

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

Comment:

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? ____

At this point, it is not possible to obtain that information.

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

X. What is the share (%) of non-executed contracts in the total number of contracts? **1.4%**

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:

The following chart shows the data for the period 2014 - 2017:

CONTRACTS RESOLVED WITH CONTRACTS CARRIED OUT ON THE TENDERS IN BOLIVIA										
CONTRATOS	2014	%	2015	%	2016	%	2017	%	TOTAL	%
Contratos realizados	76177	80,9	61551	82,2	69895	85,3	75968	87,4	283591	83,9
Contratos resueltos	1282	1,36	1332	1,8	1080	1,3	957	1,1	4651	1,4

Source: SICOES (12/11/2018)

As can be observed, the amount of no executed contracts is very low.

The following chart shows the causes for the termination of contracts in the same period:

Evolution of non executed contracts period 2014 - 2017										
Contracts resolved for causes attributable to:	2014	%	2015	%	2016	%	2017	%	TOTAL	%
The company or person hired	617	0,66	617	0,8	498	0,6	455	0,5	2187	0,6
The contracting entity	216	0,23	145	0,2	106	0,1	79	0,1	546	0,2
Force majeure or unforeseeable circumstances	449	0,48	570	0,8	476	0,6	423	0,5	1918	0,6
TOTALS PER YEAR	1282	1,36	1332	1,8	1080	1,3	957	1,1	4651	1,4

Source: SICOES (12/11/2018)

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:

The Supreme Decree Nº 181, in its 87th article, determines that each contract must include a controversy resolution mechanism. The mechanism itself, however, is not explicitly stated, but other norms like the Law Nº708 define arbitration, mediation and conciliation as valid controversy resolution procedures.

The major problems have to do with the weakness of the public institutions themselves and the general distrust in the justice system. Most people or companies would most likely either give up in case of controversy or try more "informal" and off the record approaches given the fact that corruption is extended within state institutions (most of them, but not all. There is, as an example, very little access to the tax office).

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

There is no such body in the Bolivian public procurement system.

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

Comment:

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

This informations does not exist.

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

Comment:

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

This information does not exist.

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

Comment:

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

This information does not exist.

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

Comment:

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? ____

At this point, it is not possible to obtain that information.

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

Comment:

The industrial and private sector in Bolivia is relatively small compared to other countries. In the last

12 years (the tenure of the current government) the main influence and support came from political allies abroad (for example Venezuela in the first years of the "Bolivia Cambia, Evo Cumple" program) but through alternative mechanisms like that program itself.

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? ____

At this point, it is not possible to obtain that information.

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:
(same answer as previous question)

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?

Not at the moment. The public entities, especially decentralized ones, provide their information in pdf format adding difficulty to the possibilities of getting information for research and analysis.

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

Even though there's a link in the page to "statistics" and it is clearly stated that the objective of the SICOES system is to provide information, the link is broken so it's not possible to retrieve any kind of information. The information that was retrievable for this research, was done through sort of a "back channel". The advanced search function was used, selecting specific periods and trying different variables and then aggregating the data. Obviously, this is a very costly and difficult way of retrieving information. Nothing can be downloaded currently and in many cases, it is only possible to obtain information in the preview of pdf documents, making it almost impossible to conduct bigger research. No control mechanisms seem to be in place.

There is a private initiative called InfoSICOES (<https://www.infosicoes.com/>) which provide information about the system, including statistics and training courses for small companies and start ups that wish to use the system and become state suppliers.

In the process of this project, the company was contacted to obtain information for this questionnaire and any other relevant information. The request was denied with no further explanation.

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	No	Yes	No	Yes	Php
Annual public procurement plans	Yes	Not all	No	Some	No	Yes	It depends on the entity
Notices of intended procurement	Yes	Yes	No	Some	No	Yes	It depends on the entity
Amendments to tender documentation	Yes	Yes	No	Yes	No	Yes	php
Tender candidate applications	Yes	Yes	No	Yes	No	Yes	Php
Bids	Yes	Yes	No	Yes	No	Yes	Php
Tender commission decisions	Yes	Yes	No	Yes	No	Yes	Php
Information on subcontractors	Yes	N/A	No	No	No	N/A	N/A
Procurement contracts	Yes	Yes	No	Yes	No	Yes	Php
Contract amendments	Yes	Yes	No	Yes	No	Yes	Php
Contract	*Only in the	Yes	No	Yes*	No	Yes	Php

performance information	case of termination						
Payment receipts	No	No	No	No	No	No	N/A
Inspection and quality control reports	No	No	No	No	No	No	N/A
Complaints	No	No	No	No	No	No	N/A
Dispute resolutions	*Only the data collected by the system	Yes	No	*Yes	No	Yes	Php
Internal and external audit reports	No	No	No	No	No	No	N/A

* 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:
 Even though there's a link in the page to "statistics" and it is clearly stated that the objective of the SICOES system is to provide information, the link is broken so it's not possible to retrieve any kind of information. The information that was retrievable for this research, was done through sort of a "back channel". The advanced search function was used, selecting specific periods and trying different variables and then aggregating the data. Obviously, this is a very costly and difficult way of retrieving information. Nothing can be downloaded currently and in many cases, it is only possible to obtain information in the preview of pdf documents, making it almost impossible to conduct bigger research. No control mechanisms seem to be in place.
 While it is possible some of this information exists, at the time of this research, it is not possible to get it.

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?)

The data base seems to be complete since its beginning in 2001. However, the page itself has issues

and it is not possible to get the information the way it should be retrieved.

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: The system itself is coherent, well structured and powerful in its control mechanisms, but as presented in this document, it is still possible to "bypass" it simply by creating government spending programs outside the system.

Recommendation: It is important to find ways to force governments to use the system and not to bypass it, forcing therefore the control mechanisms in public spending

2.

Gap: Controversy resolution is left without a responsible body

Recommendation: It would be positive to analyze other experiences in the region and maybe rethink this part, because it is a gap that leaves suppliers alone in front of sometimes corrupt or very inefficient institutions.

3.

Gap: The system has very strong control mechanisms, but it does not have a knowledge management system which would allow the governing body (the Ministry) to generate critical and analytical information in order to evaluate and improve the system and find the gaps and loopholes.

Recommendation: It would be interesting to look at the system in a more integral and systemic way from its general approach. The law that created it was approved in 1990. The approach for a more efficient public management has since then improved and changed dramatically with the introduction of technology.

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: The public procurement system is supposed to make its information public in an accessible format. At the moment, the information published is not accessible.

Recommendation: Elaboration of web formats for the different forms, so that the information is accessible from the moment it is generated and the population is able to see it and consult it.

2.

Challenge: The public procurement system should include statistics: amounts and percentages by type of tender, amount and percentages by exception, etc.

Recommendation: The norms should include the necessity and create the mechanisms to publish and control the quality of the information and make it available to the public. This is a basic step towards accountability in the public sector.

3.

Challenge: It might be important to question the system's design in terms of the inexistence of a ruling body, given the fact that most public entities are institutionally weak and corruption is very high.

Recommendation: The system must have better evaluation tools and processes to be able to improve itself systematically.

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.

The SICOES is online, can be accessed by anyone and it goes a very long way in transparency of public spending just by forcing the public sector to make their procurement public every step of the process.

2.

According to information provided by the Ministry of Economy and Public Finances, by 2009 98% of the tenders were already online. There is no updated information, but this is a major step towards accountability.

3.

The system is backed by robust anti corruption legislation. Even though corruption is still a major issue in the public sector, this legislation is a deterrent to