Transparent Public Procurement Rating

Sector Assessment Questionnaire

ROADS SECTOR IN MOLDOVA (2018)

Quantitative Questions

- **Amount of public funds spent in target sector in 2018.**

For the road sector there was planned 4230,1 mil. MDL in the National Public Budget (consolidated budget), or circa 251,7 mil. USD at current exchange rate.

- **Breakdown of procurement spending in the target sector by source of funding.**

The total amount of 4230,1 mil. MDL of consolidated budget destined to road sector was distributed through following budgetary components:

a) **Road Fund** (is a separate component of State Budget) – 972,5 mil. MDL or 57,9 mil. USD;
b) **State Budget** – 2514,2 mil. MDL or 149,6 mil. USD;
c) **Local Budgets** (through special transfers from State Budget) – 743,4 mil. MDL or 44,2 mil. USD.

- **Share of procurement in target sector in the total volume of procurement in 2018.**

Currently, in the Republic of Moldova it cannot thoroughly be estimated the share of procurement in road sector in the total volume of procurement. First of all, the total volume of procurement is not known due to the fact that Public Procurement Agency compiles and publishes only statistics on procurement, which excludes small value contracts.[1]Secondly, there are no disaggregated up to the level of road work procurement. There are only data on procurement on overall construction work procurement in the country in the reports of the Agency.[2] Single source of raw data, with some details on type of contracts, is the database of attributed contracts.

Thus, taking into account the above mentioned constraints it can be approximately estimated the share of procurement related to road infrastructure (maintenance, construction, building etc.) in total procurement, excluding the small value contracts. The share of procurement for road sector in total volume of procurement (excluding small value) in 2018 was 21%.

- **Target sector share in GDP of the country.**

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[1] https://www.expert-grup.org/ro/biblioteca/item/1595-achizi%C8%9Biile-publice-la-punct-care-este-costul-%C8%99i-impactul-corup%C8%9Biei-%C3%AEn-achizi%C8%9Biile-publice?

[2] https://tender.gov.md/sites/default/files/document/attachments/raport_anual_2017.pdf

Estimated share of public expenditures on road infrastructure in 2018 GDP is 2,6%.

- **Ratio of direct procurement to tender (competitive procedures) in target sector in 2018.**

The estimated share of direct procurement in total volume of competitive procurement in road sector was approximately 3,7% in 2018.

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

There is no such disaggregated information.

- **Average number of bidders in target sector.**

Average number of bidders in 2018 per procedure was 3.

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

The estimated percentage of failed tenders in the total number of procurements in the road sector was 14,3% in 2018.

- **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.**

About 70% of all procurements in the road sector in 2018 were implemented by the state owned enterprise "The State Road Administration". The remaining procurements were implemented by various contracting authorities at local level. In 2018 in the framework of procurements implemented by "The State Road Administration" there was a high concentration of winning companies. Only 3 such companies won about 30% of all procurement budget of this institution – "Nouconst", "Rutador SRL" and "SC Irinda Prim SRL". The company with the largest share of procurement budget (13% of overall procurement implemented by "The State Road Administration") was won by "Nouconst", which had tight political links.[3]

- **Top 5 winning economic operators in the target sector and the share of total contracts won by them.**
  1. Nouconst – 11.5% of overall procurement budget, except small value contracts;
  2. Rutador SRL – 7.4% of overall procurement budget, except small value contracts;
  3. Drumuri – Criuleni SA – 6.6% of overall procurement budget, except small value contracts;
  4. SC Irinda Prim SRL – 6.1% of overall procurement budget, except small value contracts;

[3] https://www.zdg.md/editia-print/investigatii/drumul-ministrului-chirinciuc-spre-inchisoare/comment-page-1

5. Drumuri – Soroca SA – 5.7% of overall procurement budget, except small value contracts.

Top 5 companies have won 37.4% of overall procurement in the road sector, except small value contracts.

Narrative Questions

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

There are no significant or unreasonable exemptions in the public procurement law for the works in road sector.

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

There are no legal exceptions concerning the access to procurement documentation for the sector of road infrastructure works. All contracting authorities should comply and give access to documentation specified in the public procurement legislation.

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

As in other sectors of public procurement one of the major drawbacks remains the limited transparency of tendering documentation. The legal aspect of these drawbacks is still unfinished adjustment of national legislation to the best practices of transparency in the field as was indicated in the TPPT Questionnaire on PP performance. There was made a major step in this direction in 2018 by launching the implementation process of electronic procurement system Mtender, but this one is still in its infancy and not the whole legal framework was developed. Lingering implementation of Mtender gives rise to old practice in not publishing all information about the procurement and giving discretionary access to tendering documentation. This state of affairs should presumable change with the full implementation of Mtender in 2019, which will make transparent and machine readable the documentation from all procurement cycle.

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

There are a lot of evidence that procurement in road infrastructure is plagued by corruption and inefficiency. For example, almost all road procurements implemented in the Chisinau municipality of 2012 – 2016 were implemented clear signs of corruption. One of the prominent cases was one of the biggest tender for central streets reconstruction of Chisinau municipality, which was financed by EBRD. In the framework of this tender the winner was chosen a company with tight relationships to political circles in Romania and Moldova, by unreasonably disqualifying the more competitive offers.[4]

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

There is strong evidence that the quality of works is rather poor or is procrastination of works. For example, one of the main transport arteries of Chisinau municipality (boulevard A. Russo) began to significantly deteriorate only several years after being capitally rebuilt. Another example can serve the procrastination of works for several years and significant amplification of initial budget for a road from a suburb of Chisinau (to the village Humulesti). In this latter case the budget was increased by 15% and the duration of works extended from initial 9 months to 3 years.[5]

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

There are no specific strengths of procurement in road sector, except the fact that there are no exemptions for this sector in the public procurement legislation. Due to this fact procurement procedures in the sector are implemented in rather transparent way and tendering documentation can be requested from contracting authorities.

One of the main weaknesses is the same as for the other sectors – low level of transparency and discretionary access to tendering documentation. As for all procurement procedures in other sectors, the tendering documentation is mostly paper – based.

The second weakness is the high influence of political factor in attributing the public procurement contracts. Since the investments in road infrastructure represent a significant part of national budget, they represent an interest for political actors to capture these sources of financing. Many monitoring reports proved that the most valuable contracts were gained by companies tightly linked political actors.

Conclusion

- **Overview of the main findings of the assessment**

The procurement in the road sector represents a significant part of overall budget destined for public procurement in the Republic of Moldova (21% of overall procurement, excluding small value contracts). These investments are used extremely inefficient, since public procurement in this sector is susceptible to corruption risks and poor-judged selection of the projects. The magnitude of inefficiency and corruption in the sector are enhanced by low level of transparency of public procurement in the Republic of Moldova. A significant

[4] https://www.expert-grup.org/ro/biblioteca/item/1359-achizitiile-publice-in-domeniul-lucrarilor-de-reabilitare-a-infrastructurii-rutiere&category=7
[5] Ibid

step in improving current situation with transparency will be implementation of electronic procurement system Mtender. The implementation of this system is plagued by different legal and technical problems though.

Recommendations of the author

A major step diminishing corruption risks would be the higher level of transparency, which can be obtained by implementing the Mtender. Thus, the rapid implementation of the electronic procurement system should be a priority for relevant public authorities.