

# Slovakia and Its Public Procurement

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## *Introduction1*

Generally the main principles of public procurement are:

- **economic efficiency** – it concerns especially prices for works, goods and services but it can also concern other criteria that influence economic benefit for a procurer, such as a price of procurement, performance and utility of service, etc.,
- **effectiveness** – it includes a system working within a given period with a minimum of bureaucracy and corresponding to needs of a final user of works, services and goods,
- **non-discrimination** means that no useless limitation of participation in public procurement in case of a particular order are applied. It does not prevent the procurer from insisting that the participation can be limited to qualified firms or to determine strict indicators with regard to quality of procured works, goods, services, etc.,
- **TRANSPARENCY** that is characterized by clear rules and means for control of observing these rules. The means for providing transparency are public announcements of public procurement methods, participation

**of applicants in opening of envelopes, following the set conditions and criteria and public announcements of results and winners. The means for control over transparency are protocols, which are available for public auditors and interested parties, such as unsuccessful applicants who want to know reasons for failure in a tender,**

- **responsibility** means that those who are entrusted by the state or other public bodies to perform procurement, must be bound on insist on set conditions and make responsibility – both disciplinary or also criminal – for failure in meeting their obligations.

### ***1. Transparency in public procurement***

Effective audit of public procurement processes by the public companies is, to a great extent, based on real transparency of processes that is still very low in Slovakia. In order to gradually remove the mentioned consequences of non-transparency in public procurement, it is necessary to search and identify **the sources of non-transparency** in public procurement, analyze them and look for ways to remove them. In general, main sources of non-transparency in public procurement are:

- 1.1 insufficient (noncomplex) advertisement of procurement,
- 1.2 insufficiently clear tender data,
- 1.3 discrimination of applicants,
- 1.4 bureaucracy in the procurement process and
- 1.5 non-observance of regulation about public procurement.

Together with an analysis of these sources it is necessary to look also for measures to increase public procurement process transparency.

NOTE 1 based on Vlach – Nemeč> Public procurement in relation to the corruption and transparency, CPHR – Transparency International Slovakia, 2001.

## 1.1 Processes of public Procurement Advertisement

If we have no information about something, we cannot compare, consider, and analyze it and we cannot speak about transparency either. In case of public procurement the crucial information step is an **advertisement of procurement**. It secures that potential actors of public procurement learn about a particular case of public procurement.

Public procurement can be advertised in various forms. A public procurer provides basic information to his/her potential interested parties in a form of a **preliminary announcement**. The procurer announces that in a following period (mostly in a following calendar year) he/she will procure certain goods, services and works in an assumed extent or quantity and during assumed terms.

The basic method of public procurement is a public tender (abroad it is called “an open tender”). The announcements about its advertisement is always public, determined to an unlimited circle of applicants who can submit their bids, namely directly or on the basis of a pre-qualification (in the last case Slovak law calls it “narrow tender” and enables to limit the number of interested parties, whom a procurer calls to submit bids). For an obligatory **announcement on advertisement of method** the Slovak law stipulates its form, differentiated for a public narrow tender.

In addition to announcement on advertisements of the public procurement method, an important source of informativeness, and thus also transparency of

**announcement on public procurement results** published in the Public Procurement Gazette in those cases when an announcement on method advertisement has been published in it.

A significant element of public procurement transparency in this part is **participation of applicants in opening of envelopes** with submitted bids, when data on names and addresses of applicants who submitted bids, when data on names and addresses of applicants who submitted bids with offered prices are declassified to those present.

Declassification of announcements on advertisement and results of public procurement will significantly contribute to public procurement transparency, not only in a form of the Public Procurement Journal, but also **in electronic form on the web site** of the Public Procurement Office.

**Electronic database** of public procurement can serve also to other needs of procurers and applicants, not only information about tenders. As an example we can mention the Czech database [www.centralni-adresa.cz](http://www.centralni-adresa.cz), or electronic database created and used for the field of public procurement in Mexico or Chile ([www.compraschile.cl](http://www.compraschile.cl)).

Important tool in Slovakia is Journal. According to Slovak Public Procurement Act the basic information that are available in the Journal issued by the Public Procurement Office are in particular:

- a) A preliminary notice, a notice of invitation to award of contracts, the outcome of public procurement;
- b) A list of non-national press media recommended for advertising of notifications concerning public procurement;
- c) A list of entrepreneurs and changes;

- d) A list of training institutions and data concerning professional training and training;
- e) Place and dates o examinations;
- f) Other information as decided by the PPO.

## 1.2. Tender Data

One of **the most important tools** of correct and successful procurement in a selective stage is **elaboration of clear and comprehensible tender data**. At the same time it is necessary to say it is the most demanding and the most difficult activity of a public procurer. The experiences of practitioners prove that elaboration of correct tender data often represents 90 percent of the whole work of a public procurer. The applied principle is expressed by a well-known slogan that “**tender data (especially specifications of the subject of procurement must be as exact and unambiguous so that all potential applicants can and must understand them the same way**, and so that based on them they can elaborate a qualified bid and calculate the offering price without extraordinary difficulties”.

If we want to make a list of parts of tender data according to priorities of their significance and importance for selection of the most advantageous bid, **specification of subject of public procurement, conditions of participation in public procurement and criteria for selection of the most advantageous bid** would undoubtedly occupy the first three places.

### **1.3 Discrimination of applicants**

Procurers sometimes want somebody from a group of applicants selected by them or a select applicant to win a tender. Discrimination of applicants indirectly reduces transparency, by inducing different possible interpretations of tender conditions and criteria.

The up-to-now statistics and analysis of objections against procurer's procedure (the introduction of which is a significant asset of the present Slovak Republic Procurement Act) for the first year of possible submission of objections, unequivocally shows that majority of objecting applicants consider themselves as discriminated and that the Office for Public Procurement agrees with many of them. In total, 508 objections against the procurers' procedure were submitted for 2000, out of which the Office for Public Procurement recognized thirty percent as justified. Out of four facts, towards which it is possible, under the Slovak law, submit objections, majority (306) concerned exactly exclusions from participation in a tender and a set order of applicants (185). However, in this connection it is necessary to say that more transparency should be introduced also into decision-making on objections.

## **2. What is actually done in Slovakia**

The issue of corruption in public procurement is not longer seen as a "taboo" in Slovakia and is widely discussed. Making it public issue is considered to be precondition for change to be made – change that requires political will. There

are two activities that focused among others on solving corruption-related problems in public procurement in more systematic way:

- Audit of Central State Administration
- National Anti-Corruption Program.

The above state activities are coming up with many recommendations that could help in process of making public procurement more transparent and efficient. Recommendations are focusing on:

- **simplification of the procurement**
- **informatisation<sup>2</sup>, transparency**
- **below-the limit ordering regulation**
- **centralization of procurement of some goods and services**
- **education, qualification improving**
- **ethics training**
- **active stakeholders (entrepreneurs, citizens, NGOS...)**

In the further text is deeper provided overlook on:

- **change of the public procurement system for below-the-limit ordering**

- **centralization of procurement of some goods and services (concept of Joint procurement of several procurers)**

NOTE 2 In the narrow sense availability of information in defined forms

### **1.2 Change of the Public Procurement System for Below-the Limit Ordering**

In current Public Procurement Law Limits Slovakia defined the obligation to use methods and procedures of public procurement if the sum of prices of the same product or services (not including value-added tax) is higher than 500,000 Slovak crowns.

Given this relatively high limit, a large part of goods or services are not failing under the public procurement law, which could lower the efficiency and transparency of the new system.

The public procurement law thus creates room for the majority of procurements with public funds (even from the viewpoint of volume of spend funds) to be executed outside legal limits. Therefore the amendment to currently valid law was prepared to regulate also the “below-the-threshold” procurement. This amendment is currently discussed in the Slovak Parliament defining simplified methods for this kind of procurement.

### **1.3 Centralization of Procurement of Some Goods and Services – concept of Joint Procurement of Several Procurers – SOVO**

Central authorities concentrated in the capital perform the procurement of various means (goods and services) necessary for their operation. Every central institution performs these purchases independently, often even separately within its various parts, although these procurements mostly represent (according to the law on public procurement) sublimity procurements not required to apply the provisions of the law. This **can lead to inefficiency and create room for corruption**.

The principle of the **joint procurement**, at least for some standardized goods of repeated use, is implement in various ways in different countries (Great Britain, France) and also Slovakia (public procurement for institutions of the Interior Ministry).

With regard to the procurement of some goods and services for central institution it is recommended:

- to allow **by law** the centralization of procurement (SOVO system) of some standardized goods and services on a contractual or commercial basis,
- to **standardize** the public procurement process for centralized procurement to simplify administration and achieve greater transparency,
- to simultaneously **simplify** the procurement, allowing individual procurement at lower prices.

The Slovak government approved concept of Joint procurement of several procurers. The pilot projects are started to be realized. In order to decrease corruption in this process we are also trying to introduce system of **Integrity Pact** to the concept of SOVO.