

Procurement Monitoring Report Template
In view of the Member States' reporting process
under the Directives 2014/23/EU, 2014/24/EU and 2014/25/EU

Scope of reporting

Pursuant to the template, this report covers the period between 1 January 2018 and 31 December 2020. For quantitative data based on procurement notices, this means that the contract award notice have been posted during this period. Data sources for producing this report are the Tenders Electronic Daily (TED) database and datasets from private actors.

Since the previous reporting, on 1 July 2020, a new Law on Procurement Statistics¹ entered into force and on 1 January 2021 the Procurement Regulation was amended.² The aim is to produce better national statistics on procurement. The new law creates the conditions to make the statistics more accessible since it is published digitally and as open data. The new law and the legislative changes mean that procurements in Sweden should, as a rule, be advertised in registered advertising databases. The National Agency for Public Procurement (NAPP) has been appointed as the statistical authority in the procurement area and the Swedish Competition Authority (SCA) is the register authority for advertising databases. The SCA also provides the estimate of the value of the public procurement. Finally, and as before, the Swedish National Courts Administration provides statistics on appeal cases.

However, until the year 2020, Sweden has not had a national database for publishing of procurement notices or contract award notices. Instead, there have been several commercial databases that are operated by private companies. Thus, raw data on public procurements has been collected and owned by the private companies supplying e-notification and e-submission platforms (e-senders). This means that the publicly available data on public procurements until the year 2020 is limited.

Therefore, the NAPP and the SCA has bought access (but not the copyright) to data on public procurements from private companies. Since neither the NAPP nor the SCA own the copyrights of the raw data on public procurements, there are restrictions on how to use these datasets and they cannot be published as open data.

¹ Lagen (2019:668) om upphandlingsstatistik.

² Förordningen (2020:332) om upphandlingsstatistik.

The TED database is a valuable source of information. It allows for analysis at the level of individual lots, which is not yet possible when using datasets from private actors. However, for Sweden, the TED database suffers from data quality issues, mainly missing values, and is therefore not used for reporting purposes. Instead, the quantitative data in this report is based on datasets from private companies. In contrast to the TED database, the datasets from private companies have information, i.e., organizational identifiers, on all submitted tenders, not only the winning one. Furthermore, the national datasets cover procurements governed by the EU directives as well as procurements governed by national legislation.

All data based on procurement notices are collected from e-platforms. However, as the dates of contract awards are not available, all quantitative data on procurement notices are based on the dates of publication. Data based on annual accounts for the year 2020, used to produce statistics on the participation of SMEs in procurement, are not available in national business registers until autumn 2021. Therefore, the reporting on SMEs cover the year 2019 instead.

This report includes data on procurement governed by the EU directives as well as procurements governed by national legislation, although the latter are presented separately. *Above thresholds* refers to contracts falling within the EU procurement directives. These calculations are based on procurement procedures. Procurement notices include cancelled procedures, unless otherwise stated. In national datasets, there is generally no data available at the level of individual lots, only at the level of the tenders. Therefore, the number of awarded contracts, for example, refers to the number of winning bids at the level of the tenders. In general, procedures missing values are excluded from calculations. For approximately 20 percent of all procurements there is either no information or incomplete information on submitted tenders.

In general, there is limited quantitative data available that can be used to analyze green, social and innovative procurement at the national level. Due to the upcoming implementation of eForms, the access to such data will improve. Quantitative data on contract award notices are also limited. Therefore, the requested statistics on contract award notices is not available for 2018–2020.

The National Public Procurement Strategy – an overview

In 2016 the Swedish Government adopted the National Public Procurement Strategy. The objective for the policy area public procurement is that all public procurement shall be efficient, legally certain and take advantage of the competition on the market. It shall also promote innovative solutions and take environmental and social concerns into account.

The National Public Procurement Strategy³ has relevance for several subsections of this report. In order to avoid repeating the same information several times in the report, general information about the strategy has been compiled here. The report will then present the relevant parts of the strategy in greater detail under the respective subsections.

³ The Government of Sweden, Ministry of Finance, *The National Procurement Strategy*, November 2017.
<http://www.government.se/information-material/2017/11/national-public-procurement-strategy/> (2021-04-13, 08:22)

Based on its overarching objective, the Government has formulated seven policy objectives for its procurement strategy:

1. Public procurement as a strategic tool for doing good business.
2. Effective public purchasing.
3. A multiplicity of suppliers and well-functioning competition. See section IV Level of SMEs' participation in public procurement.
4. Legally certain public procurement. See section III.1 Qualitative reporting on fraud, corruption, conflict of interest etc.
5. Public procurement that drives innovation and promotes alternative solutions. See section V.3 Public procurement of innovation.
6. Public procurement that is environmentally responsible. See section V.1 Green procurement ('GPP').
7. Public procurement that contributes to a socially sustainable society. See section V.2 Socially responsible public procurement ('SRPP').

The procurement strategy is aimed primarily at representatives of the central government authorities. The Government also intends to work to ensure that representatives of municipalities and county councils as well as other contracting authorities and entities, adopt governing documents to put the policy objectives and the Government's aims for public procurement into practice within their activities.

For more information on the implementation of the National Procurement Strategy see the Ministry of Finance's webpage Nationella upphandlingsstrategin⁴ and the NAPP's webpage Nationella upphandlingsstrategin⁵ and the annual report Trendens nr 1 2017⁶.

⁴ <http://www.regeringen.se/regeringens-politik/nationella-upphandlingsstrategin/> (2021-04-13, 08:22)

⁵ <https://www.upphandlingsmyndigheten.se/forbered-organisationen/nationella-upphandlingsstrategin> (2021-04-13, 08:23)

⁶ The National Agency for Public Procurement, *Den sunda offentliga affären – och vägen dit*, Trendens nr 1, February 2017.
https://www.upphandlingsmyndigheten.se/globalassets/dokument/publikationer/trendens_nr1_feb_2017.pdf (2021-04-13, 08:23)

I. Key quantitative indicators

<p>I.1. The number of procurement procedures</p>	<p>Number of procurement procedures (i.e., the number of notices announcing a call for competition) pursuant to the EU directives in 2020: 8,535 (see Table 1).</p> <p>Number of awarded contracts pursuant to the EU directives in 2020: 13,500 (see Table 2).</p> <p>In general, in national datasets, there is no data available at the level of individual lots, only at the level of the tenders. The number of awarded contracts refers to the number of winning bids at the level of the tenders. For additional statistics on public procurement in Sweden, see <i>Statistics on Public Procurement 2020</i>⁷ and the NAPP's web page <i>Statistik om offentlig upphandling</i>⁸.</p> <p>The statistics for 2020 is preliminary. Data to produce the final statistics for 2020 will be available in September 2021.</p> <p>Table 1. Number of procurement procedures, 2018–2020</p> <table border="1"> <thead> <tr> <th></th> <th>2018</th> <th>2019</th> <th>2020</th> </tr> </thead> <tbody> <tr> <td>Below thresholds</td> <td>10,074</td> <td>9,715</td> <td>9,313</td> </tr> <tr> <td>Above thresholds</td> <td>8,387</td> <td>8,577</td> <td>8,535</td> </tr> <tr> <td>Total</td> <td>18,461</td> <td>18,292</td> <td>17,848</td> </tr> </tbody> </table> <p>Source: Merccell Commerce (data) and National Agency for Public Procurement (calculations)</p> <p>Table 2. Number of awarded contracts (winning bids), 2018–2020</p> <table border="1"> <thead> <tr> <th></th> <th>2018</th> <th>2019</th> <th>2020</th> </tr> </thead> <tbody> <tr> <td>Below thresholds</td> <td>12,339</td> <td>12,187</td> <td>11,516</td> </tr> <tr> <td>Above thresholds</td> <td>17,097</td> <td>17,318</td> <td>13,500</td> </tr> <tr> <td>Total</td> <td>29,436</td> <td>29,505</td> <td>25,016</td> </tr> </tbody> </table> <p>Source: Merccell Commerce (data) and National Agency for Public Procurement (calculations)</p>		2018	2019	2020	Below thresholds	10,074	9,715	9,313	Above thresholds	8,387	8,577	8,535	Total	18,461	18,292	17,848		2018	2019	2020	Below thresholds	12,339	12,187	11,516	Above thresholds	17,097	17,318	13,500	Total	29,436	29,505	25,016
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⁷ https://www.upphandlingsmyndigheten.se/globalassets/dokument/publikationer/uhm_statistikrapport_2020.pdf (2021-03-31, 10:36)

⁸ <https://www.upphandlingsmyndigheten.se/kunskapsbank-for-offentliga-affarer/statistik-som-utvecklar-den-offentliga-affaren/> (2021-03-31, 10:55)

<p>I.2. The total value of procurement</p>	<p>At present, data is not collected in Sweden in a manner that makes it possible to obtain a total value of procurements below the EU threshold. There are several reasons for this.</p> <p>First of all, in the national procurement legislation, a requirement on contract award notices for procurements not covered by EU directives was implemented as recently as on the 1st of January 2021. This means that there are no statistics available based on contract award notices below EU-thresholds for the period 2018–2020. In so far as there is data on values in the statistics available for national procurements conducted 2018–2020, these are values estimated in the procurement notices. These values may differ from the values of the awarded contracts. In addition, a relatively large proportion of the national procurement notices have missing values for the procurement value.</p> <p>Secondly, the scope which the Commission states in the template assumes that there is data on the value of each directly awarded contract. In the report pursuant to the 2004/18/EG and 2004/17/EG Directives of 2004⁹, the SCA and Statistics Sweden conducted a survey among contracting authorities and entities to collect data on the total value of directly awarded contracts. Experiences from those studies show that the methodology was resource- and time-consuming for the authority that collected the data, as well as the authorities and entities that provided the data. In addition, the results were unreliable, since the responses were often based on estimates. Therefore, the method is subject to both low reliability and low validity. Since there is a high risk that such a collection will be misleading, the assessment has been that it is not suitable to conduct such collection for this report.</p> <p>However, each year, the total value of all purchases subject to the procurement regulations is estimated. This thus encompasses the value of procurements conducted by Swedish contracting authorities and entities that should have been published if they had been above the national thresholds. This estimate is provided in this report. About the method for calculating the estimation, see Annex I. Due to the fact that national accounts and some other official statistics are published with some delay, the estimations are made with a few years' delay the most recent one refers to 2018. Also, if the report would have been due in the second half of the fiscal year instead of the 18th of April an estimate for 2019 could have been included.</p>
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⁹ Article 75 of the Directive 2004/18/EG, and Article 67 of the Directive 2004/17/EG.

Estimated value of purchases subject to the procurement regulations in 2014–2018

Every year, the total value of purchases covered by the procurement regulations in Sweden is estimated, i.e., the value of procurements conducted by Swedish contracting authorities and entities that should have been published if they had been above the national thresholds. These estimates are included in this report for the years 2014–2018, see Table 3. It is not possible to estimate how much of this total value is attributable to procurements above the EU thresholds. However, the value can be set in relation to fixed-price GDP, which makes it possible to see how public procurement has developed over time in relation to the economy in general. The method used for making the estimates is described in Annex 1.

Table 3. Estimated value of public procurements in Sweden, 2014–2018

	2014	2015	2016	2017	2018
Estimated value (SEK, billions)	647	664	705	731	782
Share of GDP at fixed price	18.2	17.5	18.0	17.8	18.3

Source: Statistics Sweden (data GDP at fixed price) and the Swedish Competition Authority (calculations).

II. Most frequent sources of wrong application or of legal uncertainty, including possible structural or recurring problems in the application of the rules

II.1. Qualitative reporting on application of public procurement rules	
Main sources of wrong application or of legal uncertainty	<p>Last year, the NAPP's Q&A-service¹⁰ provided guidance and answered almost 7000 questions from contracting authorities/entities and suppliers. During the year 2020 a majority of the posed questions concerned the following topics</p> <ul style="list-style-type: none"> • <i>Direct award and negotiated procedures without publication</i>: for example, during what circumstances are the exemptions of extreme urgency or technical reasons applicable. Additionally, when can the exemptions be applied in a direct award without violating the principles. • <i>Contract law</i>: whether a framework agreement must be complied or not. For example, is a framework agreement exclusive or may a contracting authority purchase goods or services from another vendor? Questions concerning contract interpretation are also common. • <i>The Swedish principle of transparency</i>: what documents in public procurements ought to be made public? If a document is made public when should documents or parts the document be covered by the obligation of secrecy. • <i>Sustainability criteria's</i>: How to use sustainability criteria in order to promote environmental and social sustainability without violating the principles and the public procurement rules. • <i>Uncertainty whether the procurement rules apply or not</i>: application of the provisions concerning cooperation with other public authorities, the scope of the rent and electronic communications exemptions and difficulties in assessing whether an organisation is a contracting authority or not. • <i>Questions regarding the provisions on framework agreements, modifications to contracts and framework agreements</i>. The interpretation of certain parts of the judgement of the European Court of Justice's ruling in C-216/17 <i>Coopservice</i> are also common and a source of legal uncertainty. <p>Every year, the SCA publishes a public procurement supervision report. These reports contain descriptions of the cases on violations of the Swedish Public Procurement Acts¹¹ that the SCA has handled during the</p>

¹⁰ The Q&A-service at NAPP is provided by public procurement lawyers and experts by phone, chat and through an online question forum and it may be used by anyone with questions regarding public procurement or state aid. Target audience is mainly contracting authorities, entities and suppliers.

¹¹ The Public Procurement Act (2016:1145), The Act on Procurement in the Utilities Sector (2016:1146) and The Act on Procurement of Concessions (2016:1147).

	<p>previous year and which problem areas that have been identified. The report for 2020¹² has identified the following:</p> <ul style="list-style-type: none"> • Shortcomings in the planning, management, and organization of contracting authorities' procurement work results in unauthorised direct awards. Most commonly through incorrect application of the extreme urgency exception. • Various forms of collaboration agreements and lease agreements so-called landlord procurements and an uncertainty regarding the scope of the rent exemption. • Following the European Court of Justice's ruling in C-216/17 Coopservice there is an uncertainty due to different interpretations of certain parts of the judgement. • In general, all the exemptions allowing direct awards are a source of legal uncertainty and in certain cases incorrect application. <p>For contracting authorities, the procurement year 2020 was marked by the corona pandemic. During March-May the NAPP's Q&A-service received a significantly increased number of questions regarding the application of the extreme urgency exception and the rules on modifications to contracts and framework agreements. However, the trend stalled during the summer and questions related to the pandemic are now rare.</p> <p>For the SCA the supervisory cases did not mainly concern the traces of the pandemic. However, according to experiences from the refugee crisis in 2015, there may be a certain delay before the issues arises in the SCA's supervision. Therefore, it is too early to assess whether the corona pandemic has led to, or will lead to, an overuse of direct awards in the same way as the refugee crisis did.</p> <p>Drawing conclusions about which contracting authorities and entities that more frequently violate the public procurement legislation from which ones that are subject to supervision is precarious. Most of the SCA's cases originate from tip-offs or external monitoring, mainly local media coverage of public procurements. Therefore, there is no information about which authorities/entities that make violations that are not noted.</p>
<p>Specific legal provisions (from EU or national law) which appear to raise significant problems of application</p>	<ul style="list-style-type: none"> • More often than not all the exemptions allowing for direct awards and negotiated procedures without publication raise problems of application. In particular, the scope of the rent exemption, the exemption for technical reasons and the extreme urgency exception.

¹² The Swedish Competition Authority, Report 2021:2, *Konkurrensverkets tillsynsverksamhet 2020*, April 2021.

	<ul style="list-style-type: none"> • How to calculate the value of a service concession. • The provisions on the ESPD. In Sweden the usage of ESPD is not mandatory. • When other EU regulations contain rules on public procurement which 1) uses similar but not identical concepts and wordings as the procurement directives and 2) limit or circumvent the possibilities for contracting authorities to use the entire toolbox that the procurement directives would otherwise have allowed. • The European Court of Justice's ruling in C-216/17 Coopservice. • The national rules on when to publish a contract award notice below the EU threshold. <p>All exceptions that allow for direct awards are subject to application difficulties. A guide concerning the scope and application of the exceptions produced by the Commissions could alleviate some of the legal difficulties.</p> <p>In order to give guidance to procuring agencies, and others who come in contact with the public procurement legislation, on matters where the legal situation is not completely clear the SCA have developed a form of guidance called “Position papers”. The position papers are not binding but a mean for the SCA, as the supervisory authority, to present its view on the matter at hand. The first position paper was published in December 2018 and dealt with procurement between different state authorities.¹³</p>
<p>An assessment of patterns and behaviours that are not illegal or non-compliant, but still indicate possible problems</p>	<p>All the choices that contracting authorities make in a procurement are not directly regulated by legislation. When the contracting authority uses its room for maneuver, competition in the procurement may be affected, for example the use of dialogue and the choice of standards, templates, requirements and compensation and evaluation models. Unfortunately, there is still a spread misconception among suppliers and the public that the evaluation ground ‘price’ equals less, or no, focus on quality in the procurement process.</p> <p>At the same time there are signs that all the tools contained in the EU procurement directives¹⁴ and the Swedish Public Procurement Acts are not utilized. It seems that contracting authorities use the methods etc. that they are familiar with instead of analyzing what is most suitable for the current procurement.</p>

¹³ Konkurrensverket, *Omfattas en statlig myndighets anskaffningar från en annan statlig myndighet av upphandlingsskyldighet? [Are the procurements of a state authority from another state authority covered by the procurement obligation?]*, Ställningstagande 2018:1, December 2018. https://www.konkurrensverket.se/globalassets/upphandling/stallningstagande/18-0514_stallningstagande_2018-1.pdf (2021-04-13, 08:24)

¹⁴ The Directives 2014/23/EU, 2014/24/EU and 2014/25/EU.

	<p>The limited use of dialogue and market analysis, as well as assessment of the contracting authorities needs, may explain the why the average bidder per procurement is low in Swedish public procurements. The year 2019 the average amount of bidders per procurement was 4,5.¹⁵ This results in a low competition in some Swedish public procurements.</p> <p>A common challenge for contracting authority's and entities is preparation for readiness in a crisis. The lack of planning or time for carrying out risk and vulnerability analysis may result in inadequate terms and conditions in a procurement which in a worst-case scenario can risk the security of the supply.¹⁶ Further on, there is an uncertainty regarding the scope and applications of CPV codes. This may likely lead to them being used in a manner which results in an incorrect use of CPV codes and procurements not being noticed by suppliers. As in the case of the scope of the exceptions, guidance from the Commission could clarify this. Finally, to increase the understanding of the importance of good competition in public procurement, and recognize signs of lack of competition, the SCA has produced a publication <i>Nyttja konkurrensen i offentliga upphandlingar</i>.¹⁷</p>
<p>II.2 Supporting documents</p>	
<p>Please provide any available evidence of the issues identified under section II.1.</p>	<p>The observations by NAPP are based on data from the Q&A-service, e.g. questions received in our online question forum.¹⁸ Questions are also answered by phone and chat. The following published reports are part of NAPP observations:</p> <ul style="list-style-type: none"> • The National procurement Agency annual report, Upphandlingsmyndighetens årsredovisning 2020, UHM-2021-0042, February 2021 • The National procurement Agency and The Swedish Competition Authority's statistic report, Statistik om offentlig upphandling 2020, December 2020. <p>The empirical observations by the Swedish Competition Authority are based on the following published report and other sources of information, when published all SCA's reports contain at least a summary in English:</p>

¹⁵ Upphandlingsmyndigheten, *Statistikrapport*, december 2020. https://www.upphandlingsmyndigheten.se/globalassets/dokument/publikationer/uhm_statistikrapport_2020.pdf

¹⁶ Upphandlingsmyndigheten, *Årsredovisning*, februari 2021. <https://www.upphandlingsmyndigheten.se/globalassets/dokument/arsredovisningar/UHM-arsredovisning-2020.pdf>

¹⁷ Konkurrensverket, *Nyttja konkurrensen i offentliga upphandlingar [Take advantage of competition in public procurement]*, November 2020.

<https://www.konkurrensverket.se/globalassets/publikationer/informationsmaterial/nyttja-konkurrensen-vid-offentliga-upphandlingar.pdf> (2021-04-13, 08:24).

¹⁸ <https://frageportalen.upphandlingsmyndigheten.se/org/upphandlingsmyndigheten/> (2021-04-13, 08:25).

	<ul style="list-style-type: none"> The Swedish Competition Authority's supervisory report, <i>Konkurrensverkets upphandlingsinsyn 2020</i>, rapport 2021:2 April 2021. The Swedish Competition Authority's online question forum <i>Konkurrensverkets frågeforum</i>.¹⁹ 																								
II.3. Quantitative indicators																									
Indicators about the national review system	<p>Number of first instance review decisions</p> <p>Table 4. Number of first instance review decisions, 2018–2020</p> <table border="1"> <thead> <tr> <th></th> <th>2018</th> <th>2019</th> <th>2020</th> </tr> </thead> <tbody> <tr> <td>Number of decisions</td> <td>2,862</td> <td>3,024</td> <td>3,616</td> </tr> <tr> <td>- <i>Upon a complaint</i></td> <td>2,862</td> <td>3,024</td> <td>3,616</td> </tr> <tr> <td>- <i>Ex officio</i></td> <td><i>Not applicable</i></td> <td><i>Not applicable</i></td> <td><i>Not applicable</i></td> </tr> <tr> <td>- <i>Complaint tried on the merits</i></td> <td>1,995</td> <td>867</td> <td>2,192</td> </tr> <tr> <td>- <i>Complaint not tried on the merits</i></td> <td>907</td> <td>2,157</td> <td>1,424</td> </tr> </tbody> </table> <p><i>Comments</i></p> <p>In Sweden, the number of first instance review decisions is not equivalent to the number of published procurements – those are two completely different quantities. First, if a Swedish administrative court receives two appeals for review from different bidders in a procurement, this will result in two decisions. This follows from the fact that the courts have to give a decision to each of the appeals, even though they relate to the same procurement under review. In 2019, there were in total 18,388 published procurements, above and below the thresholds. Of these 1,215 were reviewed, which corresponds to 7 percent, while the administrative courts made 3,024 decisions. That is, on average, there were 2.5 decisions per reviewed procurement. Also there can be cases when one supplier appeals several procurements by the same procuring agency and for the same reason, those cases can result in one decision even though it is more than one procurement</p>		2018	2019	2020	Number of decisions	2,862	3,024	3,616	- <i>Upon a complaint</i>	2,862	3,024	3,616	- <i>Ex officio</i>	<i>Not applicable</i>	<i>Not applicable</i>	<i>Not applicable</i>	- <i>Complaint tried on the merits</i>	1,995	867	2,192	- <i>Complaint not tried on the merits</i>	907	2,157	1,424
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¹⁹ [https://kundo.se/org/konkurrensverket/ \(2021-04-13, 08:25\)](https://kundo.se/org/konkurrensverket/ (2021-04-13, 08:25)).

Also, when reporting the number of decisions in the first instance, we cannot differentiate between above or below the threshold, nor whether the disputed procurement has been published or not.

For these reasons the indicators about the national review system based on the number of decisions cannot be put in relation to indicators based on contract notices (CN) and contract award notices (CAN).

If the purpose of collecting this data is to calculate the proportion of reviewed procurements, it is better from Sweden's perspective to use data linked to advertised procurements, even if these do not include review of contracts in cases where contracting authorities have made an illegal direct awards. Therefore, we also include this information. However, data on the number of published procurement that have been reviewed will not be available for 2020 until the second half of 2021.

Table 5. The number of published procurements and how many of them that have been reviewed, 2018–2020

	2018	2019	2020
Number of published procurements	18,537	18,388	17,937
- <i>Above EU thresholds</i>	8,387	8,577	8,535
- <i>Below EU thresholds</i>	10,074	9,715	9,313
Number of published procurements reviewed	1,247	1,215	Not available in April
- <i>Above thresholds</i>	675	730	“
- <i>Below thresholds</i>	456	474	“
Proportion of published procurements reviewed	6.1 %	6.6 %	“
- <i>Above thresholds</i>	8.1 %	8.5 %	“
- <i>Below thresholds</i>	4.5 %	4.9 %	“

Median length of first instance reviews in calendar days

Table 6. Median length of first instance reviews in calendar days, 2018–2020

	2018	2019	2020
Median length of the review	91	94	85
- <i>Upon a complaint</i>	91	94	85
- <i>Ex officio</i>	<i>Not applicable</i>	<i>Not applicable</i>	<i>Not applicable</i>
- <i>Complaint tried on the merits</i>	119	119	110
- <i>Complaint not tried on the merits</i>	30	30	49

Comments

The Swedish statistics on median length of review is in number of months with one decimal place. For this report, the number of days has therefore been estimated by multiplying the number of months by 365/12 for 2018 and 2019. For 2020, the number of months has been multiplied by 366/12.

Number of first instance review decisions that were appealed to the (next) judicial level and its results

Table 7. Number of first instance review decisions that were appealed to the (next) judicial level and its results, 2018–2020

	2018	2019	2020
Number of review decisions challenged	676	513	778
Number of decisions (primarily) upheld	654	481	697
Number of decisions (primarily) rejected	87	51	43
Number of decisions – other	1	4	2

Comments

There is no longitudinal statistics on the appeal cases. Therefore, these indicators have been estimated according to the following methods:

- The number of administrative court decisions that have been appealed is an estimate based on the number of cases received by the (next) judicial level each year.
- Number of appeals with an outcome according to the specifications has been estimated based on the outcome of the appeals decided by the (next) judicial level each year.

Number of decisions – upheld This includes the number of appeals tried on the merits where the outcome was not changed as well as appeals where the complaint has not been tried on the merits.

Number of decisions – rejected The number of appeals tried on the merits where the outcome was changed, including cases that were referred back to the first instance.

III. Prevention, detection and adequate reporting of cases of procurement fraud, corruption, conflict of interests and other serious irregularities

<p>III.1. Qualitative reporting on fraud, corruption, conflict of interests etc.</p>	
<p>Describe the actions undertaken and/or mechanisms put in place to ensure compliance with the new provisions on the prevention, detection and adequate reporting of public procurement irregularities including fraud and corruption and conflicts of interests.</p>	<p>The implementation of Article 57 (1 and 2) and Article 73 When implementing the 2014 procurement directives, Article 57 (1 and 2) of Directive 2014/24/EU and the corresponding articles of Directive 2014/23/EU and Directive 2014/25/EU, on the mandatory exclusion grounds for serious irregularities, were implemented through Chapter 13 Sections 1 and 2 of the Public Procurement Act²⁰ (and the corresponding sections of the Procurement in the Utilities Sectors Act²¹ and the Procurement of Concessions Act²²).</p> <p>In a formal notification 2019, the European Commission emphasized that Sweden had not implemented the obligation in Article 57 (7) of the Directive 2014/24/EU in the Public Procurement Act and Article 38 (10) of the Directive 2014/25/EU in the Act on Procurement in the Utilities Sector to specify the maximum permitted exclusion period.²³ To rectify this, the Ministry of Finance has put out a public referral on a proposal for the introduction of time limits for the application of exclusion of suppliers in accordance with the Public Procurement Act, the Procurement Utilities Act and the Concession Procurement Act. According to the referral this new regulation would enter into force on the 1st of January 2022.</p> <p>Article 73 of the Directive 2014/24/EU and the corresponding articles of the 2014/25/EU and 2014/23/EU Directives, on termination of contract, are implemented through Chapter 17 Section 17 of</p>

²⁰ The Public Procurement Act (2016:1145) An English translation of the Swedish Public Procurement Act in English can be downloaded here <http://www.konkurrensverket.se/globalassets/english/publications-and-decisions/swedish-public-procurement-act.pdf> (2021-04-13, 08:26).

²¹ Chapter 13 Section 1 and 2 of the Act on Procurement in the Utilities Sectors (2016:1146).

²² Chapter 11 Section 1 and 2 of the Act on Procurement of Concessions (2016:1147).

²³ European Commission, violation nr 2018/2279, 2019-01-25.

the Public Procurement Act and the corresponding sections of the Procurement in the Utilities Sectors Act²⁴ and the Procurement of Concessions Act²⁵.

A monitoring report on prevention, detection and adequate reporting of public procurement irregularities pursuant to Article 83 (3)

As mentioned in the section VI. *Information on monitoring and reporting bodies*, fraud, corruption and other serious irregularities are not mainly governed by the four Public Procurement Acts. Instead, such violations fall under the same legislation and are handled by the same authorities, whether they take place in public procurements or in other contexts. When implementing the 2014 Public Procurement Directives, no changes were made in that regard.

The Swedish Administrative Procedure Act²⁶ states that each government agency is to provide assistance to other agencies within the framework of its own activities. Thus, each agency has an important basis for cooperation with other agencies, as well as with contracting authorities and entities, as regards prevention, detection, and reporting of various, but occasionally interlinked, serious irregularities.

The National Public Procurement Strategy's policy objective number 4 *Legally certain public procurement* focuses on creating trust in the due functioning of legal certainty among both suppliers and citizens. The strategy emphasises among other things that contracting authorities and entities need to be aware of signs of corruption, bid rigging cartels and other signals of distorted competition. Also, it highlights the importance of effective contract follow-up to demonstrate to other tenderers compliance with the contracts concluded.²⁷

A broader concept of unfair competition in public procurement involves for example bid-rigging, corruption, fraud, tax evasion, and infringements on working environment rules. One assumption is that firms that circumvent competition rules to make profits are also likely to circumvent other kinds of regulation, and vice versa. If that is true, and different types of infringements tend to be interlinked, the SCA believes that agencies fighting different types of serious irregularities would have much to gain

²⁴ Chapter 16 section 17 of the Procurement in the Utilities Sectors Act (2016:1146).

²⁵ Chapter 14 section 17 of the Procurement of Concessions Act (2016:1147).

²⁶ Section 8 of the Administrative Procedure Act (förvaltningslagen [2017:900]).

²⁷ The Government of Sweden, Ministry of Finance, *National Public Procurement Strategy*, November 2017.

from working together on developing methods for detecting antitrust and bribery cases related to public procurement. Hence, the SCA cooperates with several other authorities concerning areas of common interest. One example is the cooperation with the National Anti-Corruption Unit regarding corruption and another is the cooperation with the Swedish Economic Crime Authority.

Corruption

Corruption is covered by Chapter 10 Sections 5 through 5e of the Penal Code, whether it takes place in public procurements or other situations. Contrary to what appears from EuroPAM there is, for example, a prohibition for civil servants to receive gifts from providers and others²⁸. It is equally illegal to give gifts to a civil servant²⁹. Trading influence³⁰ is also prohibited, regardless of what was gained in exchange. These conditions have not changed since the previous report.

Cases of suspected corruption are investigated by the National Anti-Corruption Police Unit (NACPU) at the Swedish Police and the National Anti-Corruption Unit at the Swedish Prosecution Authority. The work of investigating corruption violations is largely what is commonly called intelligence-based, i.e., based on information collected, processed and analysed. In Sweden, approximately 100–150 cases of corruption are investigated annually.³¹ The corruption cases that are investigated are mainly within municipalities and county councils. The motive is often to win a procurement or to influence decision-makers to make certain decisions in a desired direction.³²

As stated above regarding the *National Public Procurement Strategy*, each contracting authority and entity has a responsibility to prevent corruption in public procurements. The Government's objective is that all contracting authorities and entities should have internal guidelines on how they should prevent the occurrence of irregularities. With all contracting authorities and entities working actively to prevent corruption and conflicts of interest in their organisations, the goal of a legally certain and reassuring system of public procurement can be attained.³³

²⁸ *Tagande av muta och grovt tagande av muta*, Chapter 10 Sections 5a and 5c of the Penal Code (brottsbalken [1962:700]).

²⁹ *Givande av muta och grovt givande av muta*, Chapter 10 Sections 5b and 5c of the Penal Code (brottsbalken [1962:700]).

³⁰ *Handel med inflytande*, Chapter 10 Section 5d of the Penal Code (brottsbalken [1962:700]).

³¹ The Swedish Police's web page: [The National Anti-Corruption Police Unit.pdf](#), (2021-03-29 12:10)

³² The Swedish Police's web page: *Nationella korruptionsgruppen – polisens arbete*, <https://polisen.se/om-polisen/polisens-arbete/nationella-korruptionsgruppen/>, (2021-03-28 12:10).

³³ The Government of Sweden, Ministry of Finance, *National Public Procurement Strategy*, November 2017.

	<p>In December 2020 the Government of Sweden adopted a special <i>action plan against corruption</i>³⁴. The action plan describes an objective for the work against corruption. The action plan contains, among other things, recommendations for different working methods as well as a number of principles that should guide the administration's work against corruption. The content of the action plan is primarily aimed at the state administrative authorities, but also affects state-owned companies. The action plan can also be part of the work against corruption that is conducted in municipalities, regions and municipal companies.³⁵</p> <p>Both the National Anti-Corruption Police Unit (NACPU) at the Swedish Police and the National Anti-Corruption Unit at the Swedish Prosecution Authority work with crime prevention, for example, through advocacy, spreading knowledge, and informing authorities, municipalities and county councils about corruption. NACPU also assists with advice and support to authorities and organisations when drafting policy documents against corruption. The preventive work of both are targeted towards corruption in general and therefore include, among other situations, corruption in public procurement.</p> <p><i>The Swedish Agency for Public Management</i> is assigned the task of contributing to and coordinating the government agencies' work towards a sound administrative culture³⁶. In 2020, the Government has commissioned the agency to promote the work of state authorities against corruption, according to the special action plan against corruption in public administration mentioned above.³⁷ According to the assignment, the agency for public management will work to ensure that the action plan has an impact on the authorities, among other things by developing support for a structured approach to corruption. In addition, support for analysis of corruption risks must be developed.³⁸</p> <p>The NAPP offers guidance on anti-corruption measures at a strategic level and at different phases of the procurement process³⁹. In addition to the guidance the Agency offers an example for declaring possible Conflict of Interest⁴⁰. There is also a guidance paper "Corruption in public procurement: what is it and</p>
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³⁴ The Government of Sweden, *Ett utvecklat arbete mot korruption i den offentliga förvaltningen – Handlingsplan mot korruption 2021–2023*, December 2020.

³⁵ The Government of Sweden's web page: [Handlingsplan mot korruption i offentlig förvaltning - Regeringen.se](#), published 2020-12-10 (2021-03-29 12:30)

³⁶ The Swedish Agency for Public Management's webpage: [Förvaltningskultur \(forvaltningskultur.se\)](#), (2021-03-29 12:20)

³⁷ The Government of Sweden's web page: [Uppdrag till Statskontoret att främja arbetet mot korruption i offentlig förvaltning - Regeringen.se](#), published 2020-12-10 (2021-03-29 12:20)

³⁸ The Swedish Agency for Public Management's web page: [Handlingsplan mot korruption \(forvaltningskultur.se\)](#), (2021-03-29 12:40).

³⁹ The National Agency for Public Procurement's web page: *Strategiskt arbete för att förebygga korruption [Strategic work to prevent corruption]*, <https://www.upphandlingsmyndigheten.se/organisera/strategiskt-inkopsarbete/forebygga-korruption/>, (2018-04-09, 16:05).

⁴⁰ The National Agency for Public Procurement's web page: *Strategiskt arbete för att förebygga korruption [Strategic work to prevent corruption]*, <https://www.upphandlingsmyndigheten.se/organisera/strategiskt-inkopsarbete/forebygga-korruption/>, (2018-04-09, 16:05).

	<p>how can it be prevented?”⁴¹. The paper encompasses information on the legal framework surrounding corruption and conflicts of interest, as well as practical information on how to work with these issues on an organizational level and in the procurement process. The agency is also in process of updating training material for contracting authorities and entities to raise the awareness of the concept of corruption and conflict of interest, both in general and in public procurement specifically, as well as information on best practice.</p> <p>A new web-based risk analysis tool has recently been launched.⁴² The tool aims to help contracting authorities to identify and manage sustainability risks, including corruption risks, in the supply chain for some key products. The tool will be supplemented with more product groups in 2021. The Agency is also engaged in CEN/TC 461 “Integrity and accountability in Public Procurement” in developing a European standard to counteract corruption in public procurement.</p> <p>There are also a number of other actors who work to prevent corruption. For example, <i>The Swedish Association of Regions</i> offers general guidance to local authorities and regions on anti-corruption.⁴³ <i>The Swedish Anti-Corruption Institute</i>⁴⁴ has developed a code of conduct for economic operators: Code on Gifts, Rewards and other Benefits in Business⁴⁵.</p> <p>Cartels and corruption are different ways to manipulate the purchasing process and they have the ability to enable and strengthen each other, therefore they often occur together. For that reason, <i>the Swedish Competition Authority (SCA)</i> also work with the prevention of corruption. In 2019, the SCA submitted a proposal to the Government for an amendment to the authority's instructions, which would mean that the authority, in its supervisory activities, counteracts and pays attention to corruption and other misconduct.⁴⁶</p>
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⁴¹ The National Agency for Public Procurement, guidance No. 4(2017), *Corruption in public procurement: what is it and how can it be prevented?*, October 2017, https://www.upphandlingsmyndigheten.se/globalassets/dokument/publikationer/2017_4_korruption_webb.pdf, (2021-04-13, 08:30).

⁴² The National Agency for Public Procurement’s web page: *Strategiskt arbete för att förebygga korruption [Strategic work to prevent corruption]*, <https://www.upphandlingsmyndigheten.se/organisera/strategiskt-inkopsarbete/forebygga-korruption/>, (2018-04-09, 16:05).

⁴³ Swedish Association of Local Authorities and Regions’ web page: <https://skr.se/demokratiledningstyrning/politiskstyrningfortroendevalda/fuskoegentligheterkorruptioninternkontroll/motverkakorruption.1314.html> [*Counter corruption*], (2021-03-29 12:45)

⁴⁴ The Swedish Anti-Corruption Institute is a non-profit organisation. The principals of the Institute is the Stockholm Chamber of Commerce, the Federation of Swedish Enterprises and the Swedish Association of Local Authorities and Regions. <https://www.institutetmotmutor.se/en/about-us/> (2021-04-13, 08:38).

⁴⁵ The code can be downloaded in English or Swedish here: [Business Code - IMM : IMM \(institutetmotmutor.se\)](https://www.institutetmotmutor.se), (2021-03-29 12:45).

⁴⁶ The Authority’s work in this area is described in *Konkurrensverkets tillsynsverksamhet 2020*. The SCA’s report 2021:2, April 2021.

	<p>Conflict of interest</p> <p>When implementing the 2014 procurement directives, the Swedish Government made the assessment that Sweden already complied with the requirements laid down in the conflicts of interest clauses in Article 24 of the Directive 2014/24/EU, Article 42 of the 2014/25/EU Directive and Article 35 of the 2014/23/EU Directive. Therefore, it was considered neither necessary nor appropriate to include specific rules on conflicts of interest in the new Public Procurement Acts.⁴⁷</p> <p>The general rules regarding conflicts of interest are found in Sections 16–18 of the Administrative Procedure Act⁴⁸. However, for members of the municipal council or county council and other elected representatives in municipalities and county councils, the rules on conflicts of interest are found in Chapter 5, Sections 47–49, and Chapter 6, Sections 28–32, of the Local Government Act⁴⁹.</p> <p>The Swedish rules concerning conflicts of interest have a wider scope than Article 24 of the 2014/24/EU Directive (and corresponding articles in the other directives). Among other things they include personal involvement, conflicts of private interests, family ties, conflicts of organisational roles, and representative conflicts. Furthermore, the rules also include a general clause stating that those who, on behalf of an authority, are part of a proceeding in a manner that may affect the authority’s decision in a matter, have a conflict of interest if there is any other particular circumstance that makes his or her impartiality in the matter questionable.</p> <p>Anyone who is aware of a circumstance likely to constitute a conflict of interests for him or her shall immediately report it to the authority where the case is being handled or the decision is being made. The authority shall investigate if a conflict of interest is at hand as soon as possible, since a person having a conflict of interest may neither participate in the handling of the case nor attend when the matter is settled. Should anyone participate in a decision, despite having a conflict of interest, the subject of the decision may appeal the decision to the administrative courts.</p>
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⁴⁷The Public Procurement Act (2016:1145), The Act on Procurement in the Utilities Sector (2016:1146) and The Act on Procurement of Concessions (2016:1147).

⁴⁸Förvaltningslagen (2017:900),

⁴⁹Kommunallagen (2017:725),

	<p>Contrary to what appears from EuroPAM⁵⁰, in some cases, violations of conflicts of interest law may result in penalties. Under Sections 14–16 of the Public Employment Act⁵¹, an employee who intentionally or negligently violates his or her duties in employment may be subject to disciplinary action in the form of a warning or a salary deduction. Knowingly allowing conditions of conflict of interest to, in any respect, affect one’s actions may also be punishable under Chapter 20, Section 1, of the Penal Code⁵².</p> <p>On the 1st of July 2018 a new act on restrictions on ministers and state secretaries’ transition to other than state activities⁵³ entered into force. The purpose of the law's restrictions is to protect the state and individuals, in the event a minister or secretary of state has acquired such knowledge or information in his or her assignment that through other future employment there may be a risk of financial harm to the state, undue benefit to any individual or to damage public confidence in the state. It is possible to decide on a qualifying period (kvalificeringsperiod) or a topic restriction (ämnesrestriktion) of up to twelve months. Topic restriction means that the person may not work on certain issues for a period of time.</p>
<p>III.2. Supporting documents</p>	
<p>Please provide any available evidence on the actions/mechanisms and measures described under section III.1. above demonstrating compliance with the new provisions on the prevention, detection and adequate reporting of public procurement irregularities and conflicts of interests.</p>	<p>Reports and guidance</p> <ul style="list-style-type: none"> • The Government of Sweden, Ministry of Finance, National Public Procurement Strategy, November 2017, http://www.government.se/4aba88/contentassets/9ec42c71c00442a39d67169d3c25faed/national-public-procurement-strategy.pdf. • The Government of Sweden, <i>Ett utvecklat arbete mot korruption i den offentliga förvaltningen – Handlingsplan mot korruption 2021–2023 [A developed work against corruption in the public administration - Action plan against corruption 2021–2023]</i>, December 2020, https://www.forvaltningskultur.se/globalassets/skrifter-och-handbocker/pdf/handlingsplan-mot-korruption-20212023.pdf. • The Government of Sweden, <i>Om mutor och jäv - en vägledning för offentligt anställda [About bribes and conflict of interest – a guidance for civil servants]</i>, April 2015,

⁵⁰ EuroPAM, web page: http://europam.eu/?module=country-profile&country=Sweden#info_COI (2021-03-29, 13:15).

⁵¹ Lagen (1994:260) om offentlig anställning,

⁵² Brottsbalken (1962:700),.

⁵³ Lagen (2018:676) om restriktioner vid statsråds och statssekreterares övergång till annan än statlig verksamhet,

	<p>http://www.regeringen.se/informationsmaterial/2006/06/om-mutor-och-jav---en-vagledning-for-offentligt-anstallda/.</p> <ul style="list-style-type: none"> • The National Agency for Public Procurement, guidance No. 4 (2017), Corruption in public procurement: what is it and how can it be prevented?, October 2017, https://www.upphandlingsmyndigheten.se/globalassets/dokument/publikationer/2017_4_korraption_webb.pdf • The Swedish Agency for Public Management, <i>An Anti-Corruption Culture</i>, 2018 https://www.forvaltningskultur.se/globalassets/skrifter-och-handbocker/pdf/anti-corruption_culture.pdf • The Swedish Anti-Corruption Institute, Code of conduct for economic operators, Code on Gifts, Rewards and other Benefits in Business, November 2014, http://www.institutetmotmutor.se/en/publications/business-code/. • The Swedish Competition Authority, Konkurrensverkets rapportserie 2021:2, <i>Konkurrensverkets tillsynsverksamhet 2020</i>, April 2021. • The Swedish Competition Authority, <i>Vägledning – samarbete i upphandlingar [Guidance – cooperation in public procurements]</i>, October 2017, http://www.konkurrensverket.se/konkurrens/om-konkurrensreglerna/samarbete-som-begransar-konkurrensen/vagledning-for-samarbeten/vagledning--samarbete-i-upphandlingar/. • The Swedish Competition Authority, <i>Vägledning för branschorganisationer [Guidance for industry organisations]</i>, October 2017, http://www.konkurrensverket.se/konkurrens/om-konkurrensreglerna/samarbete-som-begransar-konkurrensen/vagledning-for-samarbeten/vagledning-for-branschorganisationer/. • The Swedish Competition Authority, <i>Ärlighet ska löna sig – så upptäcker och förebygger du anbudskarteller</i>, July 2015, https://www.konkurrensverket.se/globalassets/publikationer/informationsmaterial/anbudskarteller.pdf. <p>Webpages</p> <ul style="list-style-type: none"> • The Swedish Police’s web page <i>Nationella korruptionsgruppen – polisens arbete</i>, https://polisen.se/om-polisen/polisens-arbete/nationella-korruptionsgruppen/, (2021-03-29 12:10).
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- Swedish Association of Local Authorities and Regions' web page: *Motverka korruption [Counter corruption]*, <https://skl.se/demokratiledningstyrning/politiskstyrningfortroendevalda/fuskoegentligheterkorruptioninternkontroll/motverkakorruption.1314.html>, (2021-03-29 12:45).
- The Swedish Agency for Public Management's web page <https://www.forvaltningskultur.se/>
- The Swedish Competition Authority's web page: *Leniency – Immunity and Reduction of Fines*, <http://www.konkurrensverket.se/en/Competition/Aboutthecompetitionrules/Prohibitionagainstanti-competitivecooperation/LeniencyImmunityandReductionofFines/>, (2021-03-29, 13:45).
- The Swedish Competition Authority's web page: *Checklista – tecken på anbudskarteller*, <https://www.konkurrensverket.se/konkurrens/om-konkurrensreglerna/samarbete-som-begransar-konkurrensen/karteller/checklista---tecken-pa-anbudskarteller/>, (2021-04-07, 18:05).
- The Swedish Competition Authority's podcast: *Konkurrenten avsnitt 33 – Se upp för anbudskarteller!*, <https://www.konkurrensverket.se/omossmeny/om-oss/press--och-informationsmaterial/konkurrenten/33.-se-upp-for-anbudskarteller/>, (2021-04-07, 18:10).
- The Swedish Competition Authority's web page: *Konkurrensverkets frågeforum*, <https://kundo.se/org/konkurrensverket/>, (2021-03-29, 13:50).

Swedish laws

- The Public Procurement Act (lagen [2016:1145] om offentlig upphandling), An English translation can be downloaded here: <http://www.konkurrensverket.se/globalassets/english/publications-and-decisions/swedish-public-procurement-act.pdf>.
- The Procurement in the Utilities Sectors Act (lagen [2016:1146] om upphandling inom försörjningssektorerna), <http://rkrattsbaser.gov.se/sfst?bet=2016:1146>.
- The Procurement of Concessions Act (lagen [2016:1147] om upphandling av koncessioner), <http://rkrattsbaser.gov.se/sfst?bet=2016:1147>.
- The Administrative Procedure Act (förvaltningslagen [2017:900]), <http://rkrattsbaser.gov.se/sfst?bet=2017:900>.
- The Competition Act (konkurrenslagen [2008:579]), <http://rkrattsbaser.gov.se/sfst?bet=2008:579>.
- The Local Government Act (kommunallagen [2017:725]), <http://rkrattsbaser.gov.se/sfst?bet=2017:725>.

	<ul style="list-style-type: none"> • The Penal Code (brottsbalken [1962:700]) http://rkrattsbaser.gov.se/sfst?bet=1962:700. • The Tax Offences Act (skattebrottslagen [1971:69]). http://rkrattsbaser.gov.se/sfst?bet=1971:69. • The Public Employment Act (lagen [1994:260] om offentlig anställning), http://rkrattsbaser.gov.se/sfst?bet=1994:260. • The act on restrictions on ministers and state secretaries transition to other than state activities (lagen [2018:676] om restriktioner vid statsråds och statssekreterares övergång till annan än statlig verksamhet), http://rkrattsbaser.gov.se/sfst?bet=2018:676.
III.3. Quantitative indicators	
Quantitative assessment of collusion risks	<p>The data necessary for the calculation needed to make a quantitative assessment of collusion risks from public procurement data in accordance with the method given in the template is not available. This might change if a national statistical database on public procurement will be introduced.</p> <p>In December 2018 the SCA conducted a survey⁵⁴ among 660 procurement officers about their perception on corruption and unfair competition such as tender cartels and abnormally low tenders in public procurements. The main findings related to tender cartels was that more than four out of five said they're attentive to signs of tender cartels and three out of ten had noticed signs of tender cartels. Sixty-nine percent of those who responded to the survey stated that they needed more knowledge about how to detect signs of a tender cartel. Sixty two percent asked for more information and knowledge on how to prevent and inhibit tender cartels.</p> <p>The SCA has developed guidance for contracting authorities and entities on how to detect and prevent collusion in procurements. This guidance consists of</p> <ul style="list-style-type: none"> • <i>Checklista – tecken på anbudskarteller</i> [check-list – signs of tender cartels], https://www.konkurrensverket.se/konkurrens/om-konkurrensreglerna/samarbete-som-begransar-konkurrensen/karteller/checklista---tecken-pa-anbudskarteller/, • <i>Ärlighet ska löna sig – så upptäcker och förebygger du anbudskarteller</i> [Honesty should pay off – how to detect and prevent tender cartels],

⁵⁴ The Swedish Competition Authority, Korruption och osund konkurrens i offentlig upphandling, report 2020:1, March 2020, pages 67–73.

	<p>https://www.konkurrensverket.se/globalassets/publikationer/informationsmaterial/anbudskarteller.pdf</p> <ul style="list-style-type: none"> • A podcast; <i>Se upp för anbudskarteller!</i> [Watch out for tender cartels!], https://www.konkurrensverket.se/omossmeny/om-oss/press--och-informationsmaterial/konkurrenten/33.-se-upp-for-anbudskarteller/.
Risk of undiscovered conflict of interest	<p>In December 2018 the SCA conducted a survey⁵⁵ among 660 procurement officers about their perception on corruption and unfair competition such as tender cartels and abnormally low tenders in public procurements. The main findings related to conflicts of interest is that procurement officers are of the opinion that the risk of undue influence is largest when there are family or friendship ties between employees and tenderers (26 percent), and when using consultants to assist the contracting authority in a procurement (15 percent). Furthermore, the procurement officers are of the opinion that corruption is most common either during the planning phase and preparation of the procurement documents (12 percent) or after a procurement has been completed, at contractual negotiations (9 percent) or during the contract period through influencing calls within the contract (11 percent).</p> <p>The Swedish Companies Registration Offices has the assignment to keep the Swedish register of beneficial ownerships.⁵⁶At the same time, the NAPP and the SCA have access to a register on companies that have been awarded contracts in public procurements. However, it has not been possible to combine information from the registry of beneficial owners with the register on companies that have been awarded contracts in public procurements, in part due to personal data regulations. Thus, at present there is no information available on the percentage of contracts awarded to companies with concealed ownership structure.</p>

⁵⁵ The Swedish Competition Authority, *Korruption och osund konkurrens i offentlig upphandling*, report 2020:1, March 2020, pages 62–66.

⁵⁶ The Swedish Companies Registration Offices' web page: *Beneficial ownership register*, <http://bolagsverket.se/en/us/about/beneficial-ownership-register>, (2021-03-29, 13:55).

IV. Level of SMEs' participation in public procurement

IV.1. Qualitative reporting on SME participation	
New developments	<p>Several surveys have been conducted in recent years regarding SME's specifically as well as suppliers in general and what key challenges are experienced for participation in public procurement. The surveys show similar results and the main obstacles that are experienced are about too much focus on the lowest price and too little focus on quality, the formalities for public procurement are too bureaucratic and time-consuming and there are too many and irrelevant demands.⁵⁷</p> <p>The NAPP has developed various web-based support materials, both for contracting entities with the aim of promoting the participation of small and medium-sized companies in procurement⁵⁸ and for suppliers⁵⁹ who want or are considering submitting tenders in public procurement.</p>
IV.2. Quantitative indicators	
Please provide, when available, any quantitative data (statistics, etc.) regarding SMEs' participation in public procurement	<p>The NAPP and the SCA regularly publish statistics on the participation of small and medium-sized enterprises (SMEs) in public procurement. Tables 8–10 show that, above thresholds, 81 percent of all tenderers are SMEs pursuant to the EU definition. Above thresholds, 67 percent of tenders received are submitted by SMEs and 68 percent of contracts awarded are awarded to SMEs. There is no reliable data available that allows for an analysis based on values, only based on count.</p> <p>All calculations are based on information available in business registers, i.e., information from annual accounts in staff headcount, turnover, and balance sheet totals, and using organisational identifiers for suppliers, available in national procurement datasets. Thus, the calculations are not based on SME-specific fields in the standard forms. Importantly, no consideration is taken of partnerships or linkages between individual enterprises. For approximately 22 percent of all procurement procedures there is either no information or incomplete information in submitted tenders. For more information, see the report <i>Statistics in Public Procurement 2020</i>⁶⁰ and the NAPP's web page <i>Statistik om offentlig upphandling</i>⁶¹.</p>

⁵⁷ For example, see Almega's report "Så ser tjänsteföretagen på offentlig upphandling", March 2021, <https://www.almega.se/app/uploads/2021/03/offentlig-upphandling-2103.pdf>, (2021-04-13, 10:24)

⁵⁸ <https://www.upphandlingsmyndigheten.se/inkopsprocessen/forbered-upphandling/sma-och-medelstora-foretag> (2021-03-31, 15:52).

⁵⁹ <https://www.upphandlingsmyndigheten.se/gora-affarer-med-offentlig-sektor/lamna-anbud> (2021-03-31, 15:53).

⁶⁰ https://www.upphandlingsmyndigheten.se/globalassets/dokument/publikationer/uhm_statistikrapport_2020.pdf (2021-03-31, 10:36)

⁶¹ <https://www.upphandlingsmyndigheten.se/kunskapsbank-for-offentliga-affarer/statistik-som-utvecklar-den-offentliga-affaren/> (2021-03-31, 10:55)

Table 8. Number of tenderers (contractor/supplier/bidder) by company category, 2019

Company category	Below thresholds		Above thresholds		Total	
	<i>Number of enterprises</i>	<i>Percentage of enterprises</i>	<i>Number of enterprises</i>	<i>Percentage of enterprises</i>	<i>Number of enterprises</i>	<i>Percentage of enterprises</i>
Micro	3,534	34 %	3,497	33 %	5,488	37 %
Small	3,697	35 %	3,705	35 %	1,773	12 %
Medium-sized	1,240	12 %	1,493	14 %	5,878	39 %
Large	447	4 %	553	5 %	604	4 %
Unclassified	1,570	15 %	1,460	14 %	1,269	8 %
Total	10,488	100 %	10,708	100 %	15,012	100 %

Source: Visma Commerce (data) and National Agency for Public Procurement (calculations)

Table 9. Number of tenders submitted by company category, 2019

Company category	Below thresholds		Above thresholds		Total	
	<i>Number of tenders submitted</i>	<i>Percentage of tenders submitted</i>	<i>Number of tenders submitted</i>	<i>Percentage of tenders submitted</i>	<i>Number of tenders submitted</i>	<i>Percentage of tenders submitted</i>
Micro	5,898	19 %	5,956	17 %	11,854	18 %
Small	9,793	32 %	9,669	28 %	19,462	30 %
Medium-sized	5,519	18 %	7,482	22 %	13,001	20 %
Large	6,378	21 %	9,167	26 %	15,545	24 %
Unclassified	2,797	9 %	2,351	7 %	5,148	8 %
Total	30,385	100 %	34,625	100 %	65,010	100 %

Source: Visma Commerce (data) and National Agency for Public Procurement (calculations)

Table 10. Number of contracts awarded (winning bid) by company category, 2019

Company category	Below thresholds		Above thresholds		Total	
	<i>Number of awarded contracts</i>	<i>Percentage of awarded contracts</i>	<i>Number of awarded contracts</i>	<i>Percentage of awarded contracts</i>	<i>Number of awarded contracts</i>	<i>Percentage of awarded contracts</i>
Micro	2,447	21 %	2,865	17 %	5,312	19 %
Small	3,936	34 %	4,707	29 %	8,643	31 %
Medium-sized	2,147	18 %	3,494	21 %	5,641	20 %
Large	2,301	20 %	4,149	25 %	6,450	23 %
Unclassified	890	8 %	1,161	7 %	2,051	7 %
Total	11,721	100 %	16,376	100 %	28,097	100 %

Source: Visma Commerce (data) and National Agency for Public Procurement (calculations)

V. Information on the practical implementation of national strategic procurement

<p>V.1 Green procurement ('GPP')</p>	<p>Green Public Procurement ('GPP') is defined as "a process whereby public authorities seek to procure goods, services and works with a reduced environmental impact throughout their life cycle when compared to goods, services and works with the same primary function that would otherwise be procured."⁶² A voluntary target of 50 % GPP per Member State in number and value of relevant procedures was proposed by the Commission and welcomed by the Council in 2008.</p>
<p>V.1.1 Qualitative reporting</p>	
<p>Key challenges encountered</p>	<p>Key challenges encountered in using green public procurement</p> <ul style="list-style-type: none"> • Public procurement is not used as a strategic tool to reach environmental goals, for example to contribute to fossil-free development or circular economy. This includes, among other things, appropriate organization, that is decision-makers involved, cross-functional working methods, goals set according to the organization's needs/ conditions/overall goals, etcetera. • Lack of time, competence, and methods/tools for analysis of the environmental impact. • Lack of time and methods for follow-ups, measuring results and effects, including lack of data and statistics on environment and procurement. • Lack of courage and reliable methods for procuring renovation of existing building stock. Also, methods to handle split incentives. <p>Measures taken to overcome them</p> <ul style="list-style-type: none"> • Raising awareness and developing support for the importance of using public procurement as a strategic tool and applying a holistic perspective throughout the procurement process. • Development of web-based support on how to aim public procurement towards environmental goals and circular economy, including for example sustainable plastic procurement. Some examples of support are sustainability criteria, guidelines, models and templates, and tools for analysis. • More emphasis on measuring, monitoring, and follow-up.

⁶² Commission Communication (COM (2008) 400) "Public procurement for a better environment".

	<ul style="list-style-type: none"> Developing a model for procuring renovation project step by step. The model enhances systematic approach on energy efficiency in building stock with low efforts to start with for both the procuring entity and the entrepreneur. However, the entrepreneur must be able to leave a complete tender including competence on energy auditing and energy efficiency as well as the implementation. <p>Difficulties still existing in the Member State</p> <p>Even though there is a commitment among the stakeholders to work with sustainable procurement, it can be difficult to turn it into action to a sufficient extent. Reducing the effects of climate change requires extensive adjustment and it is difficult to reach in individual procurements. Switching to electric cars requires an electrical infrastructure and transmission capacity in the electricity grid.</p> <p>There may be conflicts between the various key areas such as the interpretation of the legislation on waste and recycling, for example circular building masses such as rocks and gravel.</p>
<p>V.1.2. Supporting documents</p>	
<p>Please report any available evidence or supporting document for point V.1, illustrating the measures, achievements or challenges faced, relating to the use of green public procurement.</p>	<p>The National Public Procurement Strategy⁶³</p> <p>Policy objective number 6, Environmentally responsible public procurement, includes measures, achievements and challenges relating to the promotion of green public procurement.</p> <p>The NAPP has on three occasions – 2016, 2018 and 2020 – sent out a survey to contracting authorities and suppliers to examine the development of fulfilment of the goals in the National Public Procurement Strategy. The results of the 2018 survey⁶⁴ show a slight increase in organisations using public procurement as a strategic tool.</p> <p>Information on performance and development of target 6 for the years 2016 and 2018⁶⁵ shows that the self-assessment results of the target are high (3.8 on a five-point scale). Despite this, there is still a lot to do. Contracting authorities and entities state that they do not, to a very high degree, (2.6) use a life cycle</p>

⁶³ <https://www.government.se/4aba88/contentassets/9ec42c71c00442a39d67169d3c25faed/national-public-procurement-strategy.pdf>, (2021-04-13, 08:41)

⁶⁴ https://www.upphandlingsmyndigheten.se/forbered-organisationen/nationella-upphandlingsstrategin#resultat_av_2018_%C3%A5rs_unders%C3%B6kning, (2021-04-13, 08:41)

⁶⁵ <https://www.upphandlingsmyndigheten.se/forbered-organisationen/nationella-upphandlingsstrategin/mal-6--en-miljomassigt-ansvarsfull-offentlig-upphandling/resultat-och-utveckling-av-mal-6-en-miljomassigt-ansvarsfull-offentlig-upphandling/>, (2021-04-13, 08:42).

perspective when setting environmental requirements. There is great potential here to increase and provide better conditions for reducing climate impact and contributing to a more circular economy.

The results from the 2020 survey are reported in the agency's annual report to the government⁶⁶. It includes an assessment of target index and indicators for the effect goal “Public procurement contributes to achieving the national environmental quality objectives”. The developments in GPP are measured based on the surveys that the authority has sent out to contracting authorities. Table 11 show the indicators that have been used to measure the development of GPP.

Table 11. Indicators used to measure the development of GPP, 2018 and 2020

Indicators	2018	2020
Carry out analyses of climate and environmental impact in connection with individual procurements	-	28 %
Use of life cycle costs	21 %	11 %
Sets environmental requirements	63 %	58 %
Follows up delivery deviations	-	53 %
Follows up contractual- and supplier loyalty	-	49 %
Analyses the environmental and climate impact of purchasing categories	-	20 %
Digital ordering process	43 %	44 %

Together, the contracting organizations together reach target index 38 for the effect goal. The assessment of the result is that a very large development of the procuring organisations’ purchasing work is needed to contribute to the achievement of the national environmental quality objectives.

Circular economy – Strategy for the transition in Sweden⁶⁷

The strategy states, among other things, that there is great potential in using public procurement to help reduce emissions and promote the supply of and demand for innovative, circular, and climate-smart solutions.

⁶⁶ <https://www.upphandlingsmyndigheten.se/globalassets/dokument/arsredovisningar/UHM-arsredovisning-2020.pdf>, (2021-04-13, 08:42).

⁶⁷ <https://www.government.se/press-releases/2020/11/swedish-strategy-for-circular-economy-accelerates-the-transition-to-sustainability/#:~:text=Swedish%20strategy%20for%20circular%20economy%20accelerates%20the%20transition,strategy%20for%20a%20circular%20economy%20earlier%20this%20year>, (2021-04-13, 08:43).

	<p>Sustainability criteria</p> <p>The NAPP provides a criteria service containing recommendations on environmental and social requirements to be used when purchasing goods, services and works. The criteria service contains approximately 600 criteria. The criteria are recommendations, and all criteria can be used freely There are three levels of environmental criteria: basic, advanced, and spearhead. Some of the product groups are inspired by the EU GPP criteria.</p> <p>The sustainability criteria for GPP are available on the NAPP's webpage⁶⁸ within the following product groups:</p> <ul style="list-style-type: none"> • IT and telecom • Building and property • Cleaning and chemicals • Vehicles and transport • Office and textiles • Food • Nursing and care • Toxic-free pre-school <p>Support on strategic procurement, circular economy, and sustainable plastic procurement</p> <p>The NAPP provides web-based support for procuring organisations on strategic procurement⁶⁹, procurement to support circular economy⁷⁰, and sustainable plastic procurement⁷¹.</p> <p>The Swedish Association of Local Authorities and Regions (SALAR) is an employers' organisation and an organisation that represents and advocates local government in Sweden. All of Sweden's municipalities and regions are members of SALAR. SALAR provides guidance regarding sustainable procurement: https://skr.se/skr/demokratiledningstyrning/upphandling/hallbarupphandling.28109.html</p>
<p>V.1.3. Quantitative indicators</p>	
<p>Please provide, when available, any quantitative data (statistics, etc.) illustrating the achievements and challenges identified</p>	<p>No quantitative targets have been developed for the number of green public procurements in Sweden.</p>

⁶⁸ <https://www.upphandlingsmyndigheten.se/en/criteria/>, (2021-04-13, 08:43).

⁶⁹ <https://www.upphandlingsmyndigheten.se/forbered-organisationen/>, (2021-04-13, 08:44).

⁷⁰ <https://www.upphandlingsmyndigheten.se/om-hallbar-upphandling/miljomassigt-hallbar-upphandling/upphandling-for-att-framja-cirkular-ekonomi/>, (2021-04-13, 08:44).

⁷¹ <https://www.upphandlingsmyndigheten.se/om-hallbar-upphandling/miljomassigt-hallbar-upphandling/upphandling-for-att-framja-cirkular-ekonomi/hallbar-plastupphandling>, (2021-04-13, 08:44).

<p>under section V.1.1 above. To the extent possible, these indicators should be further grouped by type of legal problem.</p>	
<p>V.2 Socially responsible public procurement ('SRPP')</p>	<p>Socially Responsible Public Procurement ('SRPP') is defined as procurement that takes into account one or several social considerations for advancing social objectives. SRPP covers a wide spectrum of social considerations, such as for example employment opportunities, decent work conditions, compliance with social and labour rights, social inclusion, equal opportunities and accessibility.</p>
<p>V.2.1 Qualitative reporting</p>	
<p>Key challenges encountered</p>	<p>Key challenges encountered in using socially responsible public procurement</p> <ul style="list-style-type: none"> • Public procurement is not used as a strategic tool to reach social goals, for example to contribute to reasonable conditions of employment or equal opportunities for women, men, and children. This includes, among other things, appropriate organization, that is decision-makers involved, cross-functional working methods, goals set according to the organization's needs/ conditions/overall goals, etcetera. • Lack of time, competence, and methods/tools for analysis of the social impact • Lack of time and methods for follow-ups, measuring results and effects, including lack of procurement data and statistics on social considerations and procurement. <p>Measures taken to overcome them</p> <ul style="list-style-type: none"> • Raising awareness and developing support for the importance of using public procurement as a strategic tool and applying a holistic perspective throughout the procurement process • Development of web-based support on how to aim public procurement towards social goals such as full participation in society for people with disabilities, or equal opportunities for women and men, including for example sustainability criteria, guidelines, models and templates, and tools for analysis. • More emphasis on measuring, monitoring, and follow-up. • Developing a national model promoting employment opportunities for disadvantaged groups, such as individuals experiencing difficulties in entering the labour market. <p>Difficulties still existing in the Member State</p> <ul style="list-style-type: none"> • Even though there is a commitment among the stakeholders to work with sustainable procurement, it can be difficult to turn it into action to a sufficient extent.

	<ul style="list-style-type: none"> • There is too little knowledge that the needs of all users, including accessibility for persons with disabilities, are mandatory requirements in all procurements above the thresholds. • More information and tools are needed to identify and handle risks in the supplier stage of the public procurement in terms, for example, of respect for human rights. • As far as social requirements are concerned, according to the ILO's core conventions⁷², it is difficult to obtain traceability when the product, such as oil, is purchased on a spot market.
<p>V.2.2. Supporting documents</p>	
<p>Please report any available evidence or supporting document for point V.2.1 illustrating the measures, achievements or challenges faced, relating to the promotion of SRPP.</p>	<p>The National Public Procurement Strategy Socially responsible procurement is included in goal 7: “Responsible public procurement that contributes to a socially sustainable society”. https://www.government.se/4aba88/contentassets/9ec42c71c00442a39d67169d3c25faed/national-public-procurement-strategy.pdf</p> <p>Information on performance and development of target 7 on the web for The NAPP: https://www.upphandlingsmyndigheten.se/forbered-organisationen/nationella-upphandlingsstrategin/mal-7--offentlig-upphandling-som-bidrar-till-ettmer-socialt-hallbart-samhalle/</p> <p>The annual report from the National Agency for Public Procurement The NAPP has on three occasions – 2016, 2018 and 2020 – sent out a survey to contracting authorities and suppliers to examine the development of fulfilment of the goals in the National Public Procurement Strategy.</p> <p>Goal number 7 in the National Public Procurement Strategy is in the survey from 2020 broken down into two qualitative impact goals:</p> <ul style="list-style-type: none"> • Working conditions in Sweden (in accordance with Swedish collective agreements) and outside of Sweden in global supply chains (in accordance with the ILO core conventions on human rights, environmental protection, and anti-corruption). • Employment opportunities through public procurement with the aim to increase the number of contracting authorities that use employment requirements in their procurement.

⁷² International Labour Organization (ILO) eight fundamental conventions: 138, 182, 29, 105, 100, 111, 87 and 98.

The results from the 2020 survey are reported in the agency's annual report to the government:
<https://www.upphandlingsmyndigheten.se/globalassets/dokument/arsredovisningar/UHM-arsredovisning-2020.pdf>

Capacity building support at the National Agency for Public Procurement:

- A national model promoting employment opportunities for disadvantaged groups, such as individuals experiencing difficulties in entering the labour market:
<https://www.upphandlingsmyndigheten.se/om-hallbar-upphandling/socialt-hallbar-upphandling/upphandling-med-mal-att-oka-sysselsattningen/>
- A digital tool for identifying and handling risks in working conditions outside of Sweden in global supply chains (in accordance with the ILO core conventions on human rights, labour rights and environmental protection, and anti-corruption):
<https://www.upphandlingsmyndigheten.se/riskanalyser/>
- Website with comprehensive support material on how to consider accessibility for persons with disabilities in public procurement:
<https://www.upphandlingsmyndigheten.se/om-hallbar-upphandling/socialt-hallbar-upphandling/upphandla-varor-och-tjanster-som-ar-tillgangliga-for-alla>

There are several government agencies that supports the procurement system in Sweden, for example Tillväxtverket: <https://tillvaxtverket.se/amnesomraden/affarsutveckling/socialt-foretagande/kunskapsbank-/samhallsnyttiga-affarer-och-upphandling.html>.

	<p>Sustainability criteria</p> <p>The NAPP provides a criteria service containing recommendations on environmental and social requirements to be used when purchasing goods, services and works. There are three levels of environmental criteria: basic, advanced, and spearhead.</p> <p>The sustainability criteria are available within the following groups:</p> <ul style="list-style-type: none"> • IT and telecom, • Building and property, • Cleaning and chemicals, • Vehicles and transport, • Office and textiles, • Food, • Nursing and care, and • Toxic-free pre-school • Labour law requirements <p>The criteria service contains approximately 600 criteria. The criteria are recommendations, and all criteria can be used freely. For more information see the NAPP's webpage <i>Sustainability criteria</i>: https://www.upphandlingsmyndigheten.se/en/criteria/</p> <p>Support on strategic procurement</p> <p>The NAPP provides web-based support for strategic procurement. https://www.upphandlingsmyndigheten.se/forbered-organisationen/</p>
<p>V.2.3. Quantitative indicators</p>	
<p>Please provide, when available, any quantitative data (statistics, etc.) illustrating the achievements and challenges identified under section V.2.1 above.</p>	<p>No quantitative targets have been developed for the number of socially responsible public procurements in Sweden.</p>
<p>V.3 Public procurement of innovation</p>	<p>An innovative solution is defined in article 2 (1.22) in the 2014/24/EU Directive as "a new or significantly improved product, service or process". This includes not only those solutions resulting from R&D but also those solutions resulting from activities, "including but not limited to production, building or construction processes, a new marketing method, or a new organisational method in business practices, workplace</p>

	organisation or external relations." Please report both dimensions of innovation procurement: procurement of R&D and procurement of innovative solutions.
V.3.1 Qualitative reporting	
Key challenges encountered	<p>Key challenges encountered in promoting innovation procurement</p> <ul style="list-style-type: none"> • Innovation procurements are complex processes that require a lot of resources and a collection of different competencies. It is an advantage if they can be run as projects with specially allocated resources. This is especially true for organisations that have not previously worked with innovation procurement. • No experience in the contracting agency of innovation procurement. To get started with innovation procurement, contracting authorities need to strengthen their basic innovation maturity and knowledge. • It is a challenge to make the management understand the challenges of working with innovation procurement. • It is important to create an understanding that process leading competence is needed to gather and conduct dialogue both internally and with potential suppliers. • Systematic work with risk minimisation is important for the organisation that is considering implementing an innovation procurement. • Other challenges are a pre-study that does not address all essential perspectives, too wide or too narrow approach in the project, and no realistic time and resource plan. <p>Measures taken to overcome challenges</p> <ul style="list-style-type: none"> • A solid preparatory work lays the foundation for a successful innovation procurement. • The organisation should analyse and ensure structures, processes and guidelines that support innovation procurement. Digital solutions that are covered by IT security regulations that prevent access to sensitive data are particularly important. • If there is strong political support for innovation procurement, it will be possible to mobilise resources and expertise from different parts of the organisation. • A cross-functional team that includes all key competencies is a success factor. In addition to competence in the area of activity to which the project relates, it is important to involve competence in law, procurement and purchasing as well as IT. • The organisational learning obtained by working with innovation procurement has led to more successful innovation projects being implemented in the organisation.

	<ul style="list-style-type: none"> • A clear problem formulation that can be solved creates the conditions for success with innovation procurement. Those who have clearly specified their requirements and needs receive solution proposals where it is easier to choose those who best meet the need. • There must be an understanding in the organisation that development takes time, resources, and money for the development of an innovative solution in procurement as well as access to a structure for implementing the solution. • Finally, support from the NAPP can be a help to overcome challenges. <p>Difficulties still existing</p> <ul style="list-style-type: none"> • There is a need for additional opportunities for Swedish funding for innovation procurement. • There is a lack of coordination and forums for knowledge exchange, especially based on the challenges and opportunities of specific organisations. • Moreover, there is generally too little knowledge about how innovation procurement works in different organisations, specifically concerning purchasing as an aspect of organisational development. • More information and tools are needed to demonstrate the societal and economic benefits of innovation procurement.
<p>V.3.2. Supporting documents</p>	
<p>Please report any available evidence or supporting document illustrating the measures, achievements or challenges faced, relating to the promotion and implementation of innovation procurement.</p>	<p>Evaluation of 10 projects in innovation procurement The report contains an evaluation of ten innovation procurement projects. The report identifies challenges and success factors in each of the ten projects. In summary, there is an account of success factors and challenges that are generic in order to be able to carry out an innovation procurement. https://www.upphandlingsmyndigheten.se/globalassets/dokument/upphandling/rapport-utvardering-10-projekt.pdf</p> <p>Ongoing evaluation of two initiatives to promote innovation procurement The report summarises lessons learned from an ongoing evaluation of two organisational initiatives to promote innovation procurement during 2018–2020. One initiative was carried out by three municipalities in collaboration (Skurup, Trelleborg and Ystad) and the other initiative was carried out by a region (Region Östergötland). The report examines how the efforts to promote innovation</p>

procurement works and why and how the NAPP can and should support innovation procurement support operations.

To promote innovation procurement through support in the form of procurement and innovation competence for buyers

The report contains an account of the opportunities and benefits that buyers networks can create, but also to clarify the concept of buyers networks and the conditions and challenges for the networks.

<https://www.upphandlingsmyndigheten.se/globalassets/dokument/flytt/uppdrag-att-framja-innovationsupphandling-190401.pdf>

Survey to contracting authorities and suppliers

The NAPP has on three occasions – 2016, 2018 and 2020 – sent out a survey to contracting authorities and suppliers in order to examine the development of fulfilment of the goals in the National Public Procurement Strategy: <https://www.upphandlingsmyndigheten.se/forbered-organisationen/national-procurement-strategy/>

The National Public Procurement Strategy

Innovation procurement is included in goal 5: A public procurement that promotes innovations and alternative solutions. Information on performance and development of target 5 for the years 2016 and 2018 on the web: <https://www.upphandlingsmyndigheten.se/forbered-organisationen/nationella-upphandlingsstrategin/mal-5--en-offentlig-upphandling-som-framjar-innovationer-och-alternativa-losningar/resultat-och-utveckling-av-mal-5-en-offentlig-upphandling-som-framjar-innovationer-och-alternativa-losningar/>

The annual report from the National Agency for Public Procurement

The results from the 2020 survey are reported in the agency's annual report to the government: <https://www.upphandlingsmyndigheten.se/globalassets/dokument/arsredovisningar/UHM-arsredovisning-2020.pdf>

- *National (or Regional) Action Plan and/or targets for innovation procurement and its stage of implementation. Information on how are they defined;*

The National Public Procurement Strategy

Goal number 5 in the National Public Procurement Strategy “A public procurement that promotes innovations and alternative solutions” is broken down into two qualitative impact goals:

- The market's innovation capacity is utilised when purchasing goods and services
- Public procurement is driving the market to develop new solutions to societal challenges

The developments in the area of innovation procurement are measured based on the surveys that the authority has sent out to contracting authorities. Below are the indicators that have been used to measure the development of innovation procurement.

Table 12. Indicators to measure development of innovation procurement, 2018 and 2020

Result indicators	2018	2020
Market analyses when planning individual procurements	-	51 %
Carry out a needs analysis when planning individual procurements	-	71 %
Dialogue with suppliers before procurement	42 %	41 %
Procurement of innovative solutions	9 %	17 %
Functional requirements in procurements	38 %	48 %
Follow-up of delivery deviations	-	53 %
Participation in buyers networks	-	54 %

No quantitative targets have been developed for the number of innovation procurements in Sweden.

Any additional provisions for innovation procurement in your national legislation that go beyond the provisions in the EU public procurement directives (e.g. more detailed definition of innovative solutions and/or R&D, specific provisions on innovation procurement Art 33 of 2014 EU State aid rules on R&D&I);

There are no additional provisions in national legislation for innovation procurement.

National (or Regional) guidelines on innovation procurement (e.g. on IPR handling, joint procurement to create demand pull for buying innovative solutions, on R&D procurement);

National guidelines at the National Agency for Public Procurement

- General guideline on how to do an innovation procurement
- General guideline on pre-commercial procurement
- Guideline on innovation partnership
- General guideline on how to work with buyers networks

National guidelines at Vinnova

- Handbook on pre-commercial procurement

Information on IPR Handling and procurement at the Swedish Intellectual Property Office (PRV)

- <https://www.prv.se/sv/foretagare/upphandling-och-immateriella-rattigheter/>

Information on innovation and procurement at the Swedish Association of Local Authorities and Regions

- <https://skr.se/skr/demokratiledningstyrning/upphandling/innovationsehurandragor.10274.html>

National (or Regional) activities on capacity-building on innovation procurement (institutionalised or ad-hoc training, helpdesks, etc.);

Capacity building support at the National Agency for Public Procurement

- Lectures, trainings, workshops, and seminars on innovation procurement
- Website with comprehensive support material on innovation procurement and buyers networks, such as instructions, guidance documents
- Information on funding and calls for innovation procurement
- Social media: LinkedIn Showcase on early dialogue and innovation and Twitter
- Q&A portal with a specific area for Innovation and dialogue
- Monitoring and evaluation
- Cooperation to promote innovation procurement
- The EU Project Procure2Innovate
 - Nordic co-operation

	<ul style="list-style-type: none"> ○ Government agencies: Vinnova, Swedish Energy Agency, Swedish Environmental Protection Agency, Swedish Transport Administration, Agency for Digital Government ○ Swedish Association of Local Authorities and Regions ○ A selection of regions and municipalities ○ Business organisations: Confederation of Swedish Enterprise, the Association of Swedish Engineering Industries, Employers' Organisation for the Swedish Service Sector <ul style="list-style-type: none"> ● <i>Information about outcomes e.g. impact on demand side (increase in quality and/or efficiency of public services), impact on the supply side (increase in sales/company growth, intensified investments in R&D/innovation and/or IPRs), wider market impacts (number/value of contracts awarded to SMEs, amount of contracts awarded to non-domestic providers);</i> <p>There is no available information about outcomes on demand side or supply side.</p> <p><i>Activity report on the follow-up and the evolution of the measures put in place.</i></p> <ul style="list-style-type: none"> ● The two evaluation reports: <ul style="list-style-type: none"> ○ Evaluation of 10 projects in innovation procurement ○ Ongoing evaluation of two initiatives to promote innovation procurement ● The surveys on the National Public Procurement Strategy ● The annual report from the National Agency for Public Procurement ● The statistics report from the National Agency for Public Procurement
<p>For purchases made under the EU thresholds, please report any information or document demonstrating that purchase of innovative solutions have been made (e.g.: innovation partnerships or the use of the innovation criterion).</p>	<p>There is no information available at the moment. This kind of information can be reported when eForms are implemented.</p>

Information on monitoring and reporting bodies

The entities in charge with the drafting of the report

This report is written by the National Agency for Public Procurement (NAPP) in consultation with the Swedish Competition Authority (SCA).

The NAPP is responsible for developing and supporting the procurements carried out by contracting authorities and entities in Sweden.⁷³ The Agency's mission is to work for effective and socially and environmentally sustainable public procurement to the benefit of society and the participants on the markets. The Agency provides general support to contracting authorities, entities, and suppliers on all aspects of public procurement, including environmentally and otherwise sustainable public procurement, promotes innovative procurement and contributes to strengthening public procurement of strategic importance for the public sector. Providing support regarding state aid and providing national statistics on public procurement also falls within the Agency's responsibilities.⁷⁴

A list of the body/bodies performing the public procurement monitoring activities required by the public procurement directives

The SCA is the supervisory body for public procurement in Sweden.⁷⁵ The Authority's task is to work for effective public procurement to the benefit of the general public and the market participants. The supervisory activities are therefore prioritized, with a focus on illegal direct awards of contracts, but also identifying infringements which are of major importance or of special interest⁷⁶. This includes detection and law enforcement of four Swedish public procurement acts⁷⁷, the act on system of choice in the public sector⁷⁸ and public procurements in accordance with Article 5 of Regulation (EC) no 1370/2007 of the European Parliament and of the Council⁷⁹. In addition, the SCA has the tasks of submitting proposals to the Government for amending the rules and proposing measures to eliminate obstacles to effective competition in the private and public sectors and to achieve more efficient public procurement. The SCA also has the tasks of stimulating research in the field of competition and public procurement and contributing to the development of qualitative and quantitative research through allocating funds for research projects and commissioned research.⁸⁰

Public procurements are reviewed by administrative courts. An application for a review can be made by a supplier that has been harmed or risks being harmed due to a violation of a provision in anyone of the Swedish Public Procurement Acts. The administrative courts may also order a contracting authority or entity to pay a procurement fine upon receiving an application from the SCA. An application for a fine may for instance be made if a contracting authority

⁷³ <https://www.upphandlingsmyndigheten.se/en/about-us/our-mission/>, (2021-04-13, 08:45).

⁷⁴ Förordning (2015:527) med instruktion för Upphandlingsmyndigheten.

⁷⁵ A description of the supervisory activities can be found in *The Swedish Competition Authority's supervision over public procurement*, June 2016, http://www.konkurrensverket.se/globalassets/english/procurement/konkurrensverkets-tillsynsverksamhet-for-upphandling_english.pdf.

⁷⁶ *The Swedish Competition Authority's Prioritisation Policy for Enforcement*, April 2016, http://www.konkurrensverket.se/globalassets/english/about-us/english_prioritisation_policy_for_enforcement.pdf.

⁷⁷ The Public Procurement Act (2016:1145), The Act on Procurement in the Utilities Sector (2016:1146), The Act on Procurement of Concessions (2016:1147) and the Defence and Security Procurement Act (2011:1029).

⁷⁸ Lagen (2008:962) om valfrihetssystem,.

⁷⁹ Chapter 4a of the Public Transport Act (lagen [2010:1065] om kollektivtrafik).

⁸⁰ Förordning (2007:1117) med instruktion för Konkurrensverket.

or entity has made an illegal direct award of a contract (i.e., awarded a contract without a prior contract notice). The procurement fine is a penalty that passes to the central government. The judgement by an administrative court can be appealed to an administrative court of appeal.

The Supreme Administrative Court is the supreme general administrative court and considers determinations on appeal from any of the four administrative courts of appeal in Sweden. Not all appeals will be considered by the Supreme Administrative Court, but only those where the Supreme Administrative Court grants leave to appeal. The main rule is that leave to appeal is only granted if the Supreme Administrative Court's determination may be of importance as a precedent, i.e., can provide guidance on how other similar cases should be considered. The fact that it may be considered that an administrative court of appeal has made an erroneous judgment is not normally sufficient for the Supreme Administrative Court to try the case.

Serious irregularities governed by the Swedish Public Procurement Acts

Many of the serious irregularities listed in the template are among the mandatory and voluntary grounds for exclusion that are governed by the four Swedish Procurement Acts. These correspond to the grounds for exclusion in the procurement directives. Tenderers that consider themselves unfairly excluded, e.g., a bidder who believes that a competitor should have been excluded, may apply to a general administrative court for a review.

An award decision in a public procurement can also be reviewed because of conflicts of interest. The application for a review can in these cases be based on the principles of equal treatment and non-discrimination in the Swedish Public Procurement Acts⁸¹. Alternatively, the application for review can be based on the rules against conflicts of interest in the Administrative Procedure Act (see below).

Other legislations and supervising bodies handling serious irregularities in public procurement

In Sweden, procurement fraud, corruption, conflicts of interest, and other serious irregularities in public procurements are mainly not governed by the Public Procurement Acts. All such violations fall under the same legislative acts, whether they take place in public procurements or in other areas. Therefore, the monitoring bodies for these infringements vary.

The Swedish Economic Crime Authority is a specialized authority within the public prosecution service that fight economic crime in Sweden (for example tax crimes, including the use of undeclared labour, false accounting, and embezzlement). This includes economic crimes that take place in connection with public procurement.

The task of working with prevention, detection, and prosecution of corruption is assigned to *the Swedish Police* and *the Swedish Prosecution Authority*. Both agencies have special units for investigating crimes involving corruption, namely the National Anti-Corruption Police Unit (NACPU) at the Swedish Police⁸²⁸³ and the National Anti-Corruption Unit at the Swedish Prosecution Authority. These units work with both prevention and law enforcement.

⁸¹ Chapter 4, Section 1 of the Public Procurement Act or corresponding sections of the other three procurement acts.

⁸² The Swedish Police webpage <https://polisen.se/om-polisen/polisens-arbete/nationella-anti-korruptionsgruppen/>, only in Swedish (2021-03-29, 11:00)

⁸³ Information about The National Anti-Corruption Police Unit (NACPU) in English.

<https://polisen.se/contentassets/98fb555d231749c8a4cfe0d7a8903470/the-national-anti-corruption-police-unit2.pdf/download> (2021-04-13, 10:02)

An overview of the rules about *conflicts of interest* can be found in section III.1. Each contracting authority and entity have the task of detecting and preventing situations where conflicts of interest can arise. In cases where a violation of the Penal Code is suspected, the matter is investigated by the Swedish Police.

The Swedish Competition Authority is the supervisory body regarding infringements of the Swedish Competition Act and of Articles 101 and 102 in the Treaty of the Functioning of the European Union (TFEU). In doing so the SCA places an emphasis on combating cartels and on intervening against private and public market participants that abuse their positions on the market. Therefore preventing, detecting, and combatting collusion in public procurements are among the Authority's tasks in this area.

Replicability

On 1 July 2020, a new Law on Procurement Statistics entered into force and on 1 January 2021 the Procurement Regulation was amended. The aim is to produce better national statistics on procurement. The new law creates the conditions to make the statistics more accessible because it is published digitally and as open data.

The new law and the legislative changes mean that procurements in Sweden should, as a rule, be advertised in registered advertising databases. The SCA is the register authority for advertising databases.

However, until the year 2020, Sweden has not had a national database for publishing of procurement notices or contract award notices. Instead, there have been several commercial databases that are operated by private companies. Thus, raw data on public procurements has been collected and owned by the private companies supplying e-notification and e-submission platforms (e-senders). This means that the publicly available data on public procurements until the year 2020 is limited.

Therefore, the SCA and the NAPP has bought access (but not the copyright) to data on public procurements from private companies. Since neither the SCA nor the NAPP own the copyrights of the raw data on public procurements, there are restrictions on how to use these datasets and they cannot be published as open data.

Data from the Swedish National Courts Administration on review cases in the administrative courts are not published as open data. However, some of the data are published on the SCA's web page *Överprövningsärenden i domstol*.⁸⁴

Annex 1 contains information on the method and data sources used to estimate the value of purchases subject to the Swedish procurement regulations in 2018.

⁸⁴ The Swedish Competition Authority's web page: *Överprövningsärenden i domstol* [Review cases in courts], <http://www.konkurrensverket.se/upphandling/statistik/overprovningssarenden-i-domstol/>, (2021-03-31, 14:17)

Annex I:

Methodology for estimating the value of procurement, which would have been covered by the directives if its value had exceeded the relevant thresholds and for the estimation of the aggregated total value of procurement above EU thresholds

As mentioned in section I.2 it is not possible to make an estimation based on values in contract award notices and it is not possible to report the value separately for above and below the EU-thresholds. Instead, an estimated value of purchases subject to the procurement regulations has been included in this report. The method for calculating this estimate is described below.

VI. Methodology for an estimated value of purchases subject to the Swedish procurement regulations in 2018

Every year the SCA makes an estimation of the total value of purchases subject to the procurement regulations. For 2018 this estimation amounted to approximately SEK 782 million. This section of the report describes the method used and assumptions made for the calculation. Since the calculations contain a number of assumptions and estimations, the total cost should be viewed as an estimation rather than as a definitive value. Several assumptions have been made regarding the demarcation of procurement obligations. These have been made purely in order to estimate the value of public procurements and should not be viewed as legal standpoints.

The calculation is based on one of the methods that Mats Bergman developed in the report *Offentlig upphandling och offentliga inköp – Omfattning och sammansättning*⁸⁵. This means that the calculations are based on the public purchases detailed in the national accounts. First, those public purchases that are not subject to procurement regulations are deducted from the public purchases according to the national accounts. Then, purchases that are subject to procurement regulations but which are not included in the national accounts are added. The calculation refers to 2018 since this is the latest year with complete statistical information.

Table a illustrates the composition of the calculation for 2014–2018 which is described above. When comparing individual expense items between years, account should be taken of the fact that the amounts are not inflation-adjusted. Therefore, comparisons between the years are best achieved by looking at the sums as percentages of the total public expenditure, since the nominal values are described using current prices⁸⁶.

⁸⁵ Bergman, M., *Offentlig upphandling och offentliga inköp – Omfattning och sammansättning* [Public procurement and public purchases – Scope and composition], Swedish Competition Authority uppdragsforskningsrapport 2008. http://www.konkurrensverket.se/globalassets/publikationer/uppdragsforskning/forsk_rap_offentliga_inkop.pdf, (2021-04-13, 08:46).

⁸⁶ Even comparisons of the percentages should be conducted with caution since certain public statistical information has changed, and because some assumptions used in the calculations have changed over the years.

Table a. Estimation of purchases subject to procurement regulations based on the national accounts (NA) for 2014–2018, SEK billions.

Purchases	2014	2015	2016	2017	2018
Public purchases according to NA excl. VAT	612	637	680	704	745
Public purchases not included in NA	59	61	66	68	71
Public purchases not subject to procurement regulations	-200	-196	-201	-208	-223
<i>Total of authorities' purchases subject to procurement regulations</i>	<i>470</i>	<i>503</i>	<i>545</i>	<i>565</i>	<i>593</i>
Public companies' purchases according to NA	288	270	271	280	309
Government-owned companies not subject to the procurement regulations	-88	-85	-85	-91	-96
Public companies' purchases not subject to procurement regulations	-38	-38	-40	-38	-40
<i>Total of publicly owned companies' purchases subject to procurement regulations</i>	<i>161</i>	<i>146</i>	<i>145</i>	<i>150</i>	<i>213</i>
<i>Private companies purchases under procurement laws</i>	<i>15</i>	<i>15</i>	<i>15</i>	<i>16</i>	<i>17</i>
Total purchases subject to procurement regulations	647	664	705	731	782
Total purchases subject to procurement regulations as percentage of GDP at base price	18.2%	17.5%	18.0%	17.8%	18.3%

Note: All sums are rounded to the nearest whole figure.

Sources of data: Separate sources for the various items and calculations by the SCA, see the description of the respective items below.

VII. 1. The authorities' purchases that are subject to procurement regulations

The total public purchases excluding VAT are estimated to SEK 745.2 billion in 2018.

Purchases made by authorities that were subject to procurement regulations has been arrived at by adding together public expenditure according to the national accounts for the cost items "intermediate goods", "investments" and "social non-cash benefits" for the government, municipalities and county councils. Consequently, expenditure that is not purchase-related is not included here. In 2018 the public purchases according to the national account amounted to SEK 745.2 billion, including VAT.

The values in the national accounts are calculated at market price, i.e. including VAT. Details of procurements are traditionally given exclusive of VAT. We therefore deduct VAT from the purchases, in accordance with the national accounts. The calculation of VAT is based on the same assumptions as in Bergman's 2008 calculation, i.e. that the average VAT is 14 percent for intermediate goods, 19 percent for investments and 2 percent for social non-cash benefits. On this basis, we estimate VAT to be SEK 110.7 billion (see Table b).

Table b. Public purchases based on the 2018 national accounts.

Public purchases	SEK billions
Social non-cash benefits	173.8
Fixed gross investments	447.1
Intermediate goods	235.1
Total public purchases according to the national account, including VAT	855.9
Deduction of VAT	-110.7
Total public purchases according to the national accounts, excluding VAT	745.2

Note: All amounts are rounded to one decimal place.

Calculations: the Swedish Competition Authority, 2020.

Source of Data: Statistics Sweden's Statistics database, Nationalräkenskaper, Sektorräkenskaper årsdata, *Inkomster och utgifter samt kapitaltransaktioner (ENS2010), efter institutionell sektor och tran-saktionspost, löpande priser år 1950-2018.*

1.1 Public purchases not included in the national accounts

To the public purchases detailed in accordance with the national accounts those public purchases not covered by the national accounts postings “intermediate goods”, “fixed gross investments” and “social non-cash benefits” must be added (see Table c). This involves, for example, purchases of activities conducted between public bodies, such as healthcare. Even things like purchases of public transport and waste management on the public’s behalf are not included in the national accounts and so they also need to be added. Altogether, these purchases, which were not included in the national accounts, amounted to SEK 70.9 billion.

Table c. Public purchases not included in the 2018 national accounts.

Public purchases	SEK billions
Public bodies’ internal purchases of activities	16.0
Costs for local and regional public transport in Sweden	48.8
Municipal purchases of educational activities from public suppliers	4.1
Purchases of waste management services from external parties	2.0
Total public purchases not included in the national accounts, excluding VAT	70.9

Note: All amounts are rounded to one decimal place.

Calculations: the Swedish Competition Authority, 2020.

Sources of Data: Statistics Sweden (SCB), *Kommunernas finanser – räkenskapsammandraget 2018*. Swedish Association of Local Authorities and Regions (SKR), *Statistik om hälso- och sjukvård samt regional utveckling, 2019* (table annex). Swedish Association of Local Authorities and Regions (SKR), *Köp av verksamhet 2019 – Kommuner, landsting och regioner 2006–2018*. Transport Analysis, Statistik 2017:20, *Regional linjetrafik 2018*, (table annex).

Because of the Teckal provisions, not all purchases should actually be included in “internal purchases”. Since we cannot distinguish purchases made in accordance with the Teckal provision in these statistics, we cannot make a deduction for this. There may also be a certain amount of overlapping between municipal purchases from county councils, and municipal purchases of educational activities from public suppliers. In other words, municipal purchases from county councils include a certain amount of educational activities.

1.2 Public purchases that are not subject to procurement regulations

Finally, purchases that are not subject to procurement regulations are not to be included under public purchases. Altogether, these add up to an estimated SEK 223.1 billion (see Table d).

Table d. Purchases not subject to procurement regulations in 2018.

Public purchases	SEK billions
Social non-cash benefits, not subject to procurement regulations	82.8
Defence material, not subject to procurement regulations	12.2
Hire of premises	107.2
Monopoly services	4.5
Patented pharmaceuticals, not subject to procurement regulations	7.7
In-house investments	8.6
Total public purchases not subject to procurement regulations	223.1

Note: All amounts are rounded to one decimal place.

Sources of data: Separate sources for the respective items. See description of each item below.

Social non-cash benefits are costs that the public sector has for subsidies for goods and services that other providers produce and supply direct to households. If a subsidy or payment is made according to a particular piece of legislation, then the compensation is not subject to the procurement regulations. The public purchases shall thus be reduced to reflect that which is not procured. This value amounted to SEK 82.8 billion in 2018 (see Table e).

Table e. Social non-cash benefits not subject to procurement regulations in 2018.

Social non-cash benefits	SEK billions
Independent schools, day nurseries, etc.	48.1
Pharmaceutical benefits	24.7
Incontinence products	0.7
Dental subsidies	6.4
Compensation to private doctors working under compensation laws	1.4
Compensation to private physiotherapists working under compensation laws	1.2
Car support for the disabled	0.1
Total of all social non-cash benefits not subject to procurement regulations	82.8

Note: All amounts are rounded to one decimal place.

Calculations: the Swedish Competition Authority, 2020.

Sources of Data: Försäkringskassan, *Socialförsäkringen i siffror 2019r*. National board of Health and Welfare, *Statistik om läkemedel 2019*. Statistics Sweden (SCB), *Regionernas finanser – räkenskapssammandraget 2018*. the Swedish Association of Local Authorities and Regions (SKR), *Privata läkare och fysioterapeuter som erkar enligt lag om ersättning 2018*.

Defence materiel is another item where the public purchases need to be reduced to reflect those procurements that are exempt within the area of defence. According to the Swedish Defence Materiel Administration (FMV), such procurements amounted to SEK 12.2 billion in 2018.

One of the largest postings where public purchases are to be reduced is *hire of premises*. In the national accounts, hire of premises is included as intermediate consumption, but according to the procurement laws this is not subject to procurement regulations. The total for the hire of premises posting was SEK 107.2 billion in 2018⁸⁷.

*Monopoly products and services*⁸⁸ need not be procured in accordance with the procurement regulations and should therefore be removed from public purchases. This includes district heating and electrical network services which totalled SEK 4.5 billion in 2018.

⁸⁷ Statistics Sweden (SCB), *Kommunernas finanser – räkenskapssammandraget 2018*, and Statistics Sweden (SCB), *Regionernas finanser – räkenskapssammandraget 2018*.

⁸⁸ Refers to contracts which, for legal reasons, can only be conducted by a particular supplier, and where there are no similar products available on the market.

The calculation of purchases of district heating is based on the district heating market turning over SEK 33.5 billion in 2018⁸⁹. There is no acceptable statistics for the purchase of electricity grid services for public premises. Previous versions of this calculation have been based on the value from Bergman's 2006 calculation and they have then been increased to reflect the development of the electricity network prices for business customers. With effect from 2012 however, SCB's statistics in respect of the development of electrical network services do not include business customers. This item has therefore been based on the price development for electricity for industrial customers as an average of the different consumption categories. This results in approximately SEK 2.8 billion for electricity grid services in 2018. Public premises are assumed to make up an eighth of the total area. Based on this percentage we have estimated the value of the public premises' district heating and electricity grid services to SEK 4.5 billion. The weakness of this calculation is, however, that it assumes that all premises have the same price per square meter, which is probably not the case. However, in absence of better data this is the estimation used.

Patented pharmaceuticals need not be procured by the healthcare provider. According to the National Board of Health and Welfare's pharmaceutical statistics, the total cost of pharmaceuticals for institutional care was SEK 9.0 billion in 2018⁹⁰. In information provided prior to the calculation of the 2011 public procurement figures, the Board stated that approximately 85 percent of the total cost related to original pharmaceuticals – the vast majority of which are patented. There might be a marginal percentage of pharmaceuticals where the patent has expired and competition has yet to arise. We have based this year's calculation on the assumption that the state of affairs is primarily the same as before. The cost for patented pharmaceuticals within institutional care has therefore been estimated at 85 percent of the total cost for pharmaceuticals within institutional care.

Finally, certain *in-house investments* are not subject to procurement regulations. We estimate these at SEK 8.6 billion for 2018. The estimation is based on the in-house investments' share of public purchases remaining unchanged since Mats Bergman's 2008 calculation, i.e. just over one percent.

2. Purchases made by publicly owned companies that are subject to the procurement regulations

The purchases made by publicly owned companies that are subject to procurement regulations is estimated at SEK 213 billion for 2018 (see Table f). In the national accounts, the activities of publicly owned companies are assigned as gainful economic activity. For this reason, the purchases made by these companies which are subject to procurement regulations need to be included in order to estimate the total value of purchases subject to procurement regulations.

⁸⁹ Swedish Energy Markets Inspectorate, *Sammanställning av fjärrvärmeföretagens årsrapporter för år 2013-2018 – Resultaträkning ver 3*.

⁹⁰ National board of Health and Welfare, *Statistik om läkemedel 2019*.

Table f. Purchases made by publicly owned companies that are subject to procurement regulations, 2018.

Category	SEK billions
Publicly owned companies' purchases according to NA	308.9
Deductions for government-owned companies with no particular social mission	-95.9
Deduction for publicly owned companies' purchases not subject to procurement regulations	-40.4
Total of publicly owned companies' purchases subject to procurement regulations	172.6

Note: All amounts are rounded to one decimal place.

Calculations: the Swedish Competition Authority, 2020.

Sources of data: Separate sources for the respective items, see description of each item below.

The calculation of *publicly owned companies' purchases* is based on SCB's statistics in respect of company turnover. In 2018, the combined turnover for companies owned by the government, the municipalities and the county councils was SEK 595.6 billion⁹¹. The intermediate consumption percentage has been calculated based on the companies' net turnover and gross investments and intermediate consumption for financial and non-financial companies⁹². Publicly owned companies' purchases have thus been estimated at a total of 52 percent of turnover, with gross investments equivalent to 9 percent and intermediate consumption to 43 percent. Consequently, purchases have been estimated at SEK 308.0 billion.

2.1 Government-owned companies not subject to the procurement regulations

For government-owned companies, the purchases need to be reduced to reflect those purchases made by companies that are not subject to the procurement regulations. To estimate the percentage of the government-owned companies' purchases to be deducted, this calculation has been based on the notion that those government-owned companies that have, according to the Ministry of Finance, "a particular social mission", are subject to procurement regulations.

The same estimate of gross investment and intermediate consumption is used here as before, i.e., a total of 52 percent of turnover. In total, the item amounts to SEK 40.4 billion in 2018.

⁹¹ Statistics Sweden's Statistics database, Offentlig ekonomi, *Offentligt ägda företag samt ekonomiska mått efter ägarkategori och näringsgren SNI 2007 för 2008–2014 samt 2015–2018*.

⁹² **Calculations:** the Swedish Competition Authority, 2020. **Sources of data:** Statistics Sweden's Statistics database, Näringsverksamhet, Företagens ekonomi, *Företagsenhet – Resultaträkningsposter för företagens ekonomi enligt SNI 2007 och år 2000–2018*, and Statistics Sweden's Statistics database, Nationalräkenskaer, Sektorräkenskaer åtsdata, *Inkomster och utgifter samt kapitaltransaktioner (ENS2010), efter institutionell sektor och transaktionspost, löpande priser år 1950–2018*.

2.2 Publicly owned companies' purchases not subject to procurement regulations

Even some publicly owned companies are subject to exemptions from the procurement regulations, which means that certain purchases are not affected by the regulations (see Table g).

Table g. Purchases made by publicly owned companies not subject to procurement regulations in 2018.

Purchase	SEK billions
Hire of premises	15.1
Fuel etc. for electricity and district heating production	13.7
Radio and TV programmes	1.7
Monopoly services	2.2
In-house investments	7.7
Total of publicly owned companies' purchases not subject to procurement regulations	40.4

Note: All amounts are rounded to one decimal place.

Sources of data: Separate sources for the respective items. See description of each item below.

The costs for *hire of premises* in 2018 are calculated at over SEK 15.1 billion. This is based on the same assumptions as in Bergman's 2008 calculation, i.e., that the public companies have more or less the same costs for premises as the government-owned companies, but that only 69 percent of this sum is to be deducted. The remaining 31 percent represents those public companies not subject to procurement regulations and has therefore been removed in another manner.

Fuel etc. for electricity and district heating production by publicly owned energy companies are not subject to procurement regulations and need to be deducted. The calculation is based on the same assumptions as in Bergman's 2008 calculation, i.e., that the municipal companies and Vattenfall accounted for 60 percent and 8 percent respectively of the district heating companies' production and purchases. For other fuels, we have assumed that the total percentage is 54 percent (see Table h).

Table h. Estimated purchases of fuel, etc. for publicly owned companies, 2018, SEK billions.

Purchase	Total value	Assumed percentages	Assumed value,
Fuel for district heating production	15.1	68%	10.3
Fuel for electricity production	6.3	54%	3.4
Total purchases of fuel for electricity and district heating production			13.7

Note: All amounts are rounded to one decimal place.

Calculations: the Swedish Competition Authority, 2020. **Source of data:** Statistics Sweden.

The *purchases of radio and TV programs* made by Sveriges Radio and Sveriges Television (including production facilities, co-productions and other costs for external participation) have been calculated at SEK 1.7 billion for 2018⁹³.

Finally, for 2018, purchases for *monopoly services* is estimated at SEK 2.2 billion and *in-house investments* at SEK 7.7 billion. This is based on the same assumptions as in Bergman's 2008 calculation, i.e., that the public companies use 0.7 percent of purchases for monopoly services and 2.5 percent for in-house investments.

3. Private companies' purchases that are subject to procurement regulations

According to The Act on Procurement in the Utilities Sector⁹⁴, even some *private companies' purchases* are subject to the procurement regulations. This primarily concerns purchases made by electricity network companies but private district heating companies and the A-Train company are also affected. Private companies' purchases that are subject to procurement regulations are estimated to SEK 16.8 billion in 2018 (see Table i).

This value is based on the electricity network market in total turning over SEK 48.4 billion and the district heating market turning over SEK 31.0 billion,⁹⁵ and on A-Train turning over SEK 909 million⁹⁶ in 2018. It has been subsequently assumed that private electricity network companies represent 50 percent of the electricity network market, and that private district heating companies represent 30 percent of the district heating market. Finally, the same assumptions

⁹³ Sveriges Radio, *Public Service redovisning 2019* and Sveriges Television, *Public Service-redovisning 2019*.

⁹⁴ The Act on Procurement in the Utilities Sector (2016:1146).

⁹⁵ Data on the electricity network market and the district heating market has been purchased from Statistics Sweden.

⁹⁶ A-Train AB, *A-trains nettoomsättning enligt www.allabolag.se/5565003745/bokslut* (2020-07-02).

were used as for publicly owned companies, i.e., that intermediate consumption corresponds to 43 percent of turnover, and investments to 9 percent of turnover.

Table i. Private companies' purchases subject to procurement regulations, 2018.

Purchase	SEK billions
Private companies on the electricity network market, purchases subject to procurement regulations	12.6
Private companies on the district heating market, purchases subject to procurement regulations	3.8
A-Train, purchases subject to procurement regulations	0.5
Total of privately owned companies' purchases subject to procurement regulations	16.8

Note: All amounts are rounded to one decimal place.

Calculations: the Swedish Competition Authority, 2020. **Sources of data:** Statistics Sweden and A-trains nettomsättning enligt www.allabolag.se/5565003745/bokslut (2020-07-02).

Annex II:

	2018	2019	2020
Number of notices announcing a call for competition above thresholds	8,387	8,577	8,535
Number of notices announcing a call for competition below thresholds	10,074	9,715	9,313
Number of awarded contracts above thresholds	17,097	17,318	13,500
Number of awarded contracts below thresholds	12,339	12,187	11,516
Total value of procurement above EU thresholds (EUR/National currency)	Not applicable	Not applicable	Not applicable
Total value of procurement below EU thresholds (EUR/National currency)	Not applicable	Not applicable	Not applicable

Annex III:

	2018	2019	2020
Number of decisions	2,862	3,024	3,616
upon a complaint	2,862	3,024	3,616
<i>ex officio</i>	Not applicable	Not applicable	Not applicable
Comments			
Median length of the review	91	94	85
upon a complaint	91	94	85
<i>ex officio</i>	Not applicable	Not applicable	Not applicable
Comments			
Number of review decisions challenged	676	513	778
Number of decisions (primarily) upheld	78	43	29
Number of decisions (primarily) rejected	176	52	156
Number of decisions – other	488	441	557
Comments			