

CYPRUS

KEY FACTS AND FIGURES

Key Facts and Figures in Cyprus						
Overview	Total procurement 1,090,000,000€		Procurement % GDP 7%		2013 GDP 18,118,900,000€	Contracting authorities 700
Procedures applied	Open 77%	Restricted 0%	Negotiated procedure with call 0% no call 23%		Competitive dialogue 0%	Direct award 0% Other 0%
Share of contract notices by buyer	National 84%		Regional/local 3%		Body governed by public law 10%	Other 3%
Contract type	Services 24%		Works 6%		Supplies 70%	Framework agreement 3%
Ex ante conditionality criteria as of 2014	EU rules Fully met		Transparency Fully met		Training Fully met	Admin. capacity Fully met
E-procurement adoption	E-notification Mandatory		E-access Mandatory		E-submission Voluntary	Uptake rate 1%
Perceived corruption	Corruption widespread in society			Corruption widespread in procurement		
	Businesses 85%		Individuals 78%		At national level 67%	At local/regional level 61%
TED indicators	Value of tenders 320,293,263€		Of total procurement 29%		# contract notices 301	# contract awards 334
Other indicators	Received single bid 31%		# days for decision 109.3		Price only criteria 92%	MEAT criteria 8%
	Won by foreign firms 5%		Related to EU funds 5%		Joint purchase 15%	Central purchasing No

For more detailed descriptions and links to sources for the above data, please see Section 4 of the report.

Summary of public procurement system

Cyprus ranks among the smallest EU Member States both in terms of size and number of administrative bodies. Cyprus has a small and services-oriented economy, based on micro-services and family-owned enterprises that has maintained consistent GDP growth for many yearsⁱ. Indeed, since its accession to the EU in 2004, Cyprus' per capita GDP places the country in the category of the more developed regions of the EUⁱⁱ meaning that its economy does not highly rely on EU funds.

As per other small MS, the public procurement system is characterised by the almost exclusive use of open procedures (99% of the procedures used)ⁱⁱⁱ and the relative length of the administrative processes.

The public procurement system has a decentralised approach since contracting authorities are responsible for their own tenders, even though the legislative and review body are centralised at the State level. Yet, Cyprus is currently reforming some aspects of its public procurement system that may result in a more centralised and uniform system in which a central purchasing body could be settled to assist contracting authorities at the local level in their purchasing process.

DESCRIPTION OF FEATURES

Legal features of public procurement system

EU Directives have been transposed into Cypriot Law via several acts. Directive 2004/18/EC and Directive 2004/17/EC have been respectively transposed by Law 12(I) of 2006 governing procurement of public works, public supply and public service, and Law 11(I) of 2006 regulating procurement procedures of entities operating in the water, energy, transport and postal services sectors. In addition, defence and sensitive security procurement are regulated by the Law 173(I) 2011, which transposed Directive 2009/81/EC. Review procedures concerning the award of public

contracts are regulated by the Law 104(I)/2010 which transposed Directive 2007/66/EC.

EU procedures are followed below threshold as well as above for all contracts of value of 50,000 and more, with the one exception that publication to the Official Journal of the EU is not mandatory. Below EUR 50,000, there are a series of increasingly simplified procedures based on value. For contracts whose value does not exceed EUR 2,000, direct award is allowed. For contracts between EUR 2,000 and EUR 15,000, the contracting authorities may invite only a restricted number of economic operators to bid. For contracts below EUR 50,000 the contracting authority may award a contract without prior publication provided that it has invited at least four tenderers and given reason for such choice^{iv}.

Institutional system

Cyprus has a decentralised public procurement system with a single administrative body at the State level and around 700 contracting authorities at the State and local levels^v responsible for their own procurement. The Public Procurement Directorate (PPD) within the Cyprus Treasury is the single centralised body responsible for all matters regarding public procurement in Cyprus. It is responsible for drafting public procurement legislation and ensuring its proper implementation. It supports contracting authorities for proper implementation of the procurement rules through circular guidance and continuous training. Its management board is also entitled to carry out checks upon contracting authorities to ensure compliance with procurement law. It also issues compliance certificates to contracting authorities for some projects whose value is below the EU thresholds.

For contracting authorities at the state level, purchases are carried out through several bodies based on area of expertise. The main bodies are the Department of Information Technology Services for IT products, the Department of Purchasing and Supply for common use products, the Department of Electromechanical Services for electromechanical products and the Printing Office. Procurements originated by the central administration accounted for 35% of the total value of contracts award in Cyprus in 2010^{vi}.

In addition to the PPD, two other bodies oversee public procurement in Cyprus. First, the Audit Office of the Republic of Cyprus is an independent body which performs external controls of the execution of the national budget. It audits all the public-funded activities, including public procurement documents, procedures and award decisions. It publishes its findings in an annual report, but does not have the authority to issue sanctions or to launch judicial proceedings. It can notify the Attorney General of violations in the procurement area, who has the authority to commence judicial proceedings where in his opinion there is a legal issue. Second, the Internal Audit Service of the Republic of Cyprus conducts internal audits of Cypriot public organisations and EU-funded programmes, including public procurement procedures.

Appeals regarding procurement decisions and practices can be lodged with the independent Tenders Review Authority (TRA) of Cyprus, which is charged with maintaining equal treatment, transparency and non-discrimination in the procurement process. Prior complaint to the contracting authority itself is a precondition for judicial review. The TRA has the authority to cancel or amend award decisions. The decisions of the TRA may be challenged before the Supreme Court, which can grant damages to aggrieved bidders.

Key issues that have a bearing on administrative capacity

Human resources: Public procurement in Cyprus is carried out by around 700 contracting authorities at the state and local levels, including the central

administration (78), municipalities and local authorities (406), the utilities sector (5) and other bodies governed by public law (44)^v.

The PPD employs 26 full-time persons^{vii}. The TRA is headed by a five-person committee. It does not have any permanent professional staff, but does have 8 employees responsible for managing the structure.

Procurement procedures conducted in Cyprus have traditionally been relatively lengthy. Indeed, as recently as 2011, the average number of calendar days between the publication of the contract notice and the award notice in the EU Official Journal/TED under an open procedure was 141 days in 2011 (EU average was 112 days). Since then, Cyprus has made progress, reducing the average number of days to 109 in 2014 (EU average was 120 days).

Structures: Most capacity building activities are carried out by the PPD and the Department of Environment (DoE), which provide training on their specific field of competence i.e. regulation and procurement rules and process and green public procurement respectively. The Cyprus Academy of Public Administration is the civil service training school in Cyprus, but there is no information available showing that it includes public procurement related matters in their training offer.

Training: Some training for contracting authorities and economic operators is provided, in particular on green public procurement and e-procurement. Training seminars open to all contracting authorities are organised by the PPD every two years, featuring expert speakers on public procurement from the EC. As far as e-procurement and framework agreements are concerned, trainings were provided during 2009, 2011 and 2014 to all contracting authorities/entities including local authorities.

However, little information is made publicly available on the content of these trainings. In addition, not all public procurement officers benefit from training on public procurement, in particular at the municipal level^{viii}.

Systems/tools: The PPD provides a Public Procurement Best Practice Guide^{ix}, which contains practical guidelines and information on every phase of the tendering process and advises contracting authorities on various issues related to public procurement, including project management, and developing a procurement strategy. Through its help desk, it helps contracting authorities properly design their tendering process and comply with procurement rules at the national and European level^x. The PPD also provides a set of model tendering documents that contracting authorities can use as a template when initiating a tender.

E-procurement

Cyprus is among the more advanced EU countries in terms of e-procurement. E-notification is already mandatory and was used in 100% of procedures in 2013, while e-access, which is also mandatory, reached 60% uptake in 2013. The fact that e-access uptake fell short of 100% is mainly due to a lack of knowledge within contracting authorities, but informative campaigns, including trainings, seminars and guidelines have been launched to promote e-access. As for e-submission, it has been available since 2009 and mandatory since 2015. 20% of all procurements were submitted electronically in 2013^{xi} and Cyprus intends to reach full e-submission by 2016.

The e-procurement system relies on a single centralised portal, which hosts the e-procurement platform for all contracting authorities. It already covers most of the procurement cycle from e-notification and e-submission to e-evaluation and e-awarding. It is free of charge for contracting authorities and economic operators. The portal helps contracting authorities and economic operators in using e-procurement procedures through interactive walkthroughs, videos demonstrators,

helpdesk, FAQs, user manuals and training seminars. Currently, around 9,000 economic operators and 500 contracting authorities are registered on the portal^{xii}, including 91 governmental organisations, 170 public organisations, 233 regional/local authorities and 7 utilities.

Cyprus has not developed a specific strategy focusing on e-procurement. However, the promotion of e-procurement relies on internal policy guidelines and since the e-procurement portal is the only channel for procurement, it has created a functional obligation to use it.

Corruption

Cyprus has the third highest level of perceived corruption in public procurement within the EU, with 55% of companies participating in a public tender declaring that corruption prevented them from winning contract^{xiii}.

The Coordinating Body Against Corruption (*CBB*) has not addressed public procurement, and although it has a mandate to develop an anti-corruption strategy, it has not yet done so as it does not yet have a permanent staff in place. However, Cyprus has taken several measures in recent years to prevent corruption. The PPD has published a national code of conduct for procurement that includes an obligation for tender evaluation committee members to sign a declaration of integrity, impartiality, and confidentiality of information. The PPD also executes mandatory ex-ante control on contracts using a negotiated procedure.

Moreover, all contracts, including those below EU thresholds are subject to the EU anti-corruption safeguards included in EU Directives. In addition, specific regulations for the coordination of procedures for the award of contracts^{xiv} require tender boards, evaluation committees and contracting authorities to keep minutes of every meeting and independent observers such as the Attorney General, the Auditor General and the Accountant General are empowered to attend meetings personally at their discretion.

Furthermore, as suggested by the European Commission^{xv}, Cyprus could benefit from developing more uniform tools to prevent corruption in public procurement, including internal and external control mechanisms and risk management tools within contracting authorities.

Europe 2020 Agenda

The introduction of environmental criteria in public procurement relies mainly on contracting authorities' discretion^{vii}. However, central entities and in particular the DoE within the Ministry of Agriculture, Natural Resources, and Environment take an active role in promoting their use, including by providing comprehensive guidance.

The Green Public Procurement National Action Plan of Cyprus (GPP NAP)^{xvi} adopted in 2012 sets several specific measures to promote environmental criteria in tendering processes whose implementation is ensured by the DoE, including regular communication through electronic newsletters to all contracting authorities and stakeholders in order to update them on the ongoing green public procurement developments at the European level, awareness-raising campaigns through meetings, seminars and workshops focused on both the advantages of green public procurement in the Cypriot context and the means of implementing it, and on-site trainings organised by the DoE. In addition, the DoE intends to closely follow-up the implementation of the GPP NAP through annual review of achievements. In that respect, it requires all contracting authorities to designate a "Coordinate Interior" for green public procurement^{xvii}.

A particular issue faced by Cypriot contracting authorities when including environmental criteria is the small size of the internal market, which limits the variety

of green products available. That is why the DoE carries out market research to identify green products on the Cyprus market to be promoted within public procurement. It results in green products and eco-labelled catalogues available for contracting authorities. It also launched the green public procurement awards to reward the contracting authorities that were the most successful in implementing environmental criteria. The first were awarded in September 2014.

There is no specific action to promote SMEs in public procurement but the possibility to conclude separate contracts by lots and the free e-procurement solution are likely to increase their participation in tenders. In fact, they already represent a large part of the contracts awarded. In average, they have won 70% of the above-threshold contracts between 2009 and 2011^{xviii}.

Irregularities and findings of national Audit Authorities

The central Cypriot oversight bodies conduct a relatively limited number of reviews per year, even given the country small size. Despite the limited number of cases reviewed, they are able to identify a number of irregularities.

The TRA publishes an annual report presenting the results of its oversight efforts and analysing the main weaknesses identified over the course of the year. In 2013, it received 58 appeals, a 12% reduction compared to the previous year. Generally, it found that many contracting authorities have improved their performance both in assessing tenders and in terms of compliance with procurement rules^{xix}.

However, the TRA does identify several irregularities, errors and omissions in the tendering processes reviewed. The main concerns relate to the unclear definition of terms of reference, which create unnecessary compliance burdens for potential bidders, and may even prevent some potential suppliers from tendering. Other issues include the failure to clearly communicate the reasoning behind award decisions, resulting in excessive appeals from unsuccessful bidders, failure to provide key tender documentation to the TRA, and unjustified bid cancellation^{xx}.

The Audit Office's 2013 annual report identified a different set of issues, including the unauthorised extension of contracts beyond their expiry date, unjustified invocation of urgency to make a direct award, and substantial unnecessary delays in processing tenders. The Audit Office recommends that procurement procedures be substantially streamlined in order to improve service and outcomes.^{xxi}

Furthermore, within the framework of the preparation of the new legislative package for public procurement to be passed in 2015, the Audit Office with the TRA, the Accountant General and the Parliament have to be part of an expert group in charge of assessing the public procurement system in Cyprus. It underlined some specific issues, including contradictory provisions in terms of reference and a lack of understandings of the procurement legislation among contracting authorities. The small size of many contracting authorities is also stressed as a significant challenge^{xxii}.

Outlook

Cyprus is reforming its public procurement system in order to transpose the 2014 EU Directives and strengthen its regulatory framework. In that respect, four bills^{xxiii} are currently being developed.

The TRA has suggested some specific measures to be included in the updated regulation of public procurement. These include stricter penalties for cases of fraud and abuse in tendering process, and stricter limitation for the participation of already condemned economic operators in tenders. The TRA also wants to change the way decisions relating to public procurement are made within contracting authorities, in particular the fact that many bodies lack necessary technical expertise. Therefore, the

TRA proposes to further centralise procurement services into a single ministry, and to establish an independent service unit within the Treasury to carry out tender procedures on behalf of local contracting authorities, especially those which manage a small number of contracts. It would result in a more centralised system and should improve outcomes and efficiency by putting more procedures in the hands of qualified and experienced procurers.

Finally, a new green public procurement action plan is being prepared for the 2015-2017 period, but no information is currently available to assess in what extent it will go further in implementing green public procurement in Cyprus.

ANALYSIS

Strengths

The main strength of the Cypriot public procurement system is its e-procurement system. The benefits of e-procurement include easier access for SMEs, greater transparency, and faster procedures. The latter aspect is particularly significant within the Cypriot context, which is otherwise characterised by relatively long procedures. In addition, by having one single procurement platform, the PPD is able to spread best practices among contracting authorities and economic operators while ensuring uniform application of procurement rules. This seems particularly relevant in a decentralised system.

Cyprus is also making significant efforts to improve its public procurement system by passing several reforms that may allow some major improvements in terms of fight against corruption and performance of the tender procedures.

Weaknesses

The administrative capacity of Cypriot contracting authorities remains a serious issue, especially at the municipal level. Public buyers often do not have the qualified public procurement staff needed to handle tendering processes and lack access to the comprehensive trainings necessary to build their skills. This results in deficits in compliance with procurement legislation, creates opportunities for fraud and abuse, and drives up the cost of and delays in tendering processes, especially for small contracting authorities that handle a small number of tenders.

Despite recent improvements, the prevention and prosecution of corruption in public procurement still need to be institutionally strengthened and provided with an overall strategy. There is an important lack of coordination between the different actors involved in this field. Furthermore, the Coordinating Body Against Corruption appears to lack the capacity needed to properly ensure the coordination of the anti-corruption actions and the follow-up of the Audit Office findings and recommendations^{xxiv}. Therefore, the lack of uniform and effective tools to prevent and detect corruption in public procurement at national and local level has been stressed as one of the main weaknesses of the public procurement system^{xxiv}.

Recommendations

- **Address administrative capacity:** Limited procurement-specific skills and experience at the local level are a serious issue in Cyprus, contributing to persistent irregularities, unnecessary delays, and corruption risks.
 - Reduce the number of contracting authorities through aggregation of purchase at the regional or central level.
 - Promote the use of standardised tender documents for common goods and services.
 - Implement targeted *ex ante* controls to improve the quality of tender documents and act as a deterrent to manipulation.

- Make training opportunities more available for contracting authorities and economic operators, particularly focused on preparing tender documents.
- Streamline procurement processes to reduce administrative delays.
- **Corruption:** In Cyprus, corruption has been identified as a significant issue affecting the procurement process. Indeed, recent efforts to enhance the institutional framework to fight corruption in procurement processes appear insufficient, while an anticorruption strategy has still not yet been defined by the *CBB*. One of the reasons for this is the lack of suitably qualified and available staff within the *CBB*.
 - Develop and implement a comprehensive anti-corruption strategy to curb corruption in public procurement.
 - Increase the pool of highly-skilled staff within the *CBB*.
- **Lack of information on training and support:** Although there are plenty of training opportunities and seminars available for contracting authorities and economic operators, information on the content of these trainings is not systematically made publicly available. Another issue is that many practitioners do not benefit from these trainings at municipal level.
 - Facilitate access to information about training opportunities and their links to the professions, and about the skills needs anticipated in contracting authorities.
 - Make training organised for contracting authorities and economic operators accessible to public procurement practitioners at municipal level.

ⁱ European Commission (2012), Position of the Commission Services on the development of Partnership Agreement and programmes in CYPRUS for the period 2014-2020.

ⁱⁱ European Commission (2014), Structural Funds (ERDF and ESF) eligibility 2014-2020, Cohesion Policy.

ⁱⁱⁱ European Commission (2011), DG MARKT, Public procurement in Europe: Cost and effectiveness, A study on procurement regulation.

^{iv} Public Procurement Network (2010), Authority for the Supervision of Public Contracts, The comparative survey on the national public procurement systems across the PPN.

^v P. Katranis (2012), Public Procurement Directorate, Cyprus e-procurement platform & e-catalogues Module and Electronic Marketplace, European e-Government Conference.

^{vi} Treasury of the Republic of Cyprus (2011), Public Procurement Directorate, Cyprus e-Procurement System.

^{vii} Public Procurement Network (2014), Comparative survey on the transposition of the new EU public procurement package.

^{viii} Report from the Commission on Institutions on public procurement, 2014.

^{ix} Public Procurement Directorate, Best Practice Guide, available at :

<http://www.publicprocurementguides.treasury.gov.cy/>

^x Public Procurement Directorate, Public Procurement Best Practice Guide.

^{xi} European Commission (2015), DG MARKT, E-procurement uptake.

^{xii} P. Katranis (2012), Public Procurement Directorate, Cyprus e-procurement platform & e-catalogues Module and Electronic Marketplace, European e-Government Conference.

^{xiii} Eurobarometer business survey, 2013.

^{xiv} Regulations P.I. 201/2007 on Procurement Procedures Supplies, Works and Services (General), 2007.

^{xv} European Commission (2014), DG HOME, EU anti-corruption report, Annex Cyprus.

^{xvi} Department of Environment (2012), Green Public Procurement National Action Plan 2012-2014.

^{xvii} Department of Environment (2011), Annual report.

^{xviii} European commission (2014), DG MARKT, SMEs' access to public procurement markets and aggregation of demand in the EU.

^{xix} Tender Review Authority (2013), Annual report 2013.

^{xx} Tender Review Authority (2012), Annual report 2012.

^{xxi} Audit Office of the Republic of Cyprus (2013), Annual report 2013.

^{xxii} Report from the Commission on Institutions on public procurement, 2014.

^{xxiii} "The public procurement and related matters Act of 2015"; "The public procurement for entities operating in the water, energy, transport and postal services sectors and related matters Act of 2015"; "The concession in procurement and related matters Act of 2015" and "the Bill concerning review procedures in the field of public procurement (Amendment) law of 2015".

^{xxiv} European Commission (2014), DG HOME EU anti-corruption report, Annex Cyprus.