

ESTONIA

KEY FACTS AND FIGURES

Key Facts and Figures in Estonia						
Overview	Total procurement 2,450,000,000€		Procurement % GDP 13%		2013 GDP 18,738,800,000€	Contracting authorities 1,364
Procedures applied	Open 65%	Restricted 1%	Negotiated procedure with call 3% no call 9%		Competitive dialogue 0%	Direct award 22% Other 0%
Share of contract notices by buyer	National 34%		Regional/local 10%		Body governed by public law 44%	Other 12%
Contract type	Services 33%		Works 6%		Supplies 60%	Framework agreement 20%
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 Voluntary		E-submission Mandatory	Uptake rate 2%
Perceived corruption	Corruption widespread in society			Corruption widespread in procurement		
	Businesses 57%		Individuals 65%		At national level 28%	At local/regional level 35%
TED indicators	Value of tenders 769,787,356€		Of total procurement 31%		# contract notices 1,048	# contract awards 1,012
Other indicators	Received single bid 20%		# days for decision 59.8		Price only criteria 81%	MEAT criteria 19%
	Won by foreign firms 7%		Related to EU funds 31%		Joint purchase 4%	Central purchasing Yes

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

Summary of the public procurement system

The Republic of Estonia is one of the smallest Member States in the Union by both GDP and population, with a highly centralised government system. The central government was responsible for approximately 70% of all public spending in 2013 and 2014, and thus the bulk of national procurement. Below the central level, there are 213 municipalities, organised into 15 counties.

Estonian law provides for joint procurement, but does not currently feature a comprehensive central procurement body. However, the Centre of Registers and Information Systems does currently operate as the central purchasing body at the state level for IT goods and services.

Estonia is frequently cited for its early and effective adoption of e-procurement. The central e-procurement platform offers end-to-end services to contracting authorities and bidders free of charge.

DESCRIPTION OF FEATURES

Legal features of public procurement system

Public Procurement in Estonia is regulated by the Public Procurement Act (PPA), which transposes EC Directives 2004/17/EC, 2004/18/EC and 2007/66/EC, and governs the awarding process for goods, services, and public works contracts.

Contracts of value greater than the EU thresholds must be managed according to EU procedures, and can use open or restricted procedure, competitive dialogue, and negotiated procedure with or without publication. Below the EU thresholds, but above the national thresholds of EUR 40,000 for goods and services and EUR 250,000 for works, negotiated procedures with or without notice, and competitive dialogue may be

used under certain conditions, and shorter minimum time limits apply. Below the national thresholds, simplified procedures may be used, including direct award.

For every procurement procedure, a public procurement report must be submitted to the government within 20 days of award detailing the terms of the contract, and in the case of other than open or restricted procedures, justifying the procedure used. Within 20 days of the termination of the contract, an annex to the report must also be submitted, detailing the any changes to the terms of the contract signed, and in the case of a framework contract, the amounts and descriptions of the specific contracts awarded.

Estonia does not have a single act specifically designed for concessions nor a general law stating the legal framework for PPP and concessions. Therefore, when awarding service concessions, PPA rules and the general EC principles applyⁱ.

Institutional system

Central procurement policy and executive functions are concentrated at the Department of Public Procurement and State Aid (*RRO*) in the Ministry of Finance. This includes drafting legislation and amendments, supervising procurement activities, managing Estonia's e-procurement platform, and providing guidance and training to contracting authorities and potential suppliers. Individual contracts are handled by the respective contracting authority, although the PPA does allow for voluntary joint purchasing, which is used on an *ad hoc* basis.ⁱⁱ

Complaints regarding procurement decisions can be made to the Estonian Public Procurement Review Committee, which operates as an extrajudicial dispute settlement and review body of first instance. The Committee is composed of three independent members empowered to invalidate awards and to ask for compensation in case of an infraction. In case of an appeal, the Administrative Court is the first instance body. The ruling issued by the Review Committee or by the Administrative Court can then be lodged with the Regional Courts, and the Court of Appeal. The National Court of Estonia has the ultimate say.ⁱⁱⁱ

In addition, external controls are conducted by the National Audit Office (NAO) and internal controls by internal auditors. The NAO conducts audits of State agencies for compliance with the PPA, and publishes annual reports of its findings and recommendations for the Parliament and the general public. NAO's authority to audit local entities is limited, but does under certain circumstances include procurement procedures.

Key issues that have a bearing on administrative capacity

Human Resources: The staff of the *RRO* includes 15 specialists and management personnel with advanced university degrees, primarily legal experts and a handful of sector specialists^{iv}. Regional and local buyers typically have access to extensive training opportunities and support services, resulting in a level of administrative capacity that is relatively consistent across contracting authorities.

Structures: The *RRO* is the primary institution responsible for the training of public procurement stakeholders in Estonia. As part of this task, they operate telephone help lines dedicated to general inquiries on the PPA, and specific questions on the use of the online platform. The *RRO* also fields written requests for advice and guidance from contracting authorities and economic operators, which as a rule are responded to within 5 working days. In 2013, *RRO* responded to one thousand such inquiries.

Trainings The *RRO* regularly organises training sessions in order to update and deepen the knowledge of providers, vendors, staff, and other interested parties, and to encourage the use of e-procurement tools^v. In 2013, a total of 1,177 persons were

trained over the course of 31 day-long sessions on the e-procurement environment, 6 on the PPA, and 16 on the central purchasing programme. This schedule represents an increase of more than 25% compared with the previous year. There are also training workshops organised to promote the implementation of Green Public Procurement into the tenders in accordance with the Europe 2020 agenda^{vi}.

Systems/Tools: The RRO makes available a number of printed training materials on the e-procurement platform, including step-by-step guidance on how to execute a procurement contract according to Estonian law, and on how to use the platform itself, information on the PPA and recent amendments, procedural information and forms, and written analyses of different elements of the Estonian procurement system. There are also video guides on using the e-procurement environment.

E-procurement

Estonia ranks among the most advanced MS in terms of e-procurement. E-notification has been mandatory since 2001, and compliance is effectively 100% for contracts above EUR 10,000 for goods and services, and EUR 30,000 for public works. E-submission is partially mandatory since contracting authorities have to allow e-submission for at least 50% of their public procurement. Implementation of e-submission has proceeded rapidly in recent years, with uptake rising from under 5% in 2011 to 72% in 2014, exceeding the national target of 50%. The quick development of e-procurement relies both on comprehensive e-procurement services and wide dissemination of e-procurement practices among contracting authorities and economic operators through awareness-raising actions, guidelines and trainings.

In fact, Estonia's highly developed e-procurement environment and e-procurement portal¹ are frequently referred to as best practice examples for other MS because they are rapid and easy to use. The Register is free of charge for all contracting authorities and suppliers^{vii}, and offers the full range of e-procurement services, including e-notification, e-access and e-submission. The e-procurement portal also provides a wide-range of information and updates for all matters related to e-procurement. In addition, it produces data on the use of e-procurement in Estonia, and broader overviews of the work of the Ministry of Finance in the field of public procurement. The development of e-procurement in Estonia is also supported through comprehensive guidelines and trainings to both contracting authorities and economic operators.

Corruption

Despite Estonia's wide use of e-procurement and related transparency, corruption risks are still present^{viii}. The problem is limited at the state level. In 2012, the Estonian Ministry of Justice registered 28 cases of corruption in relation to state agencies, of which three were related to public procurement. In 2013, there were 287 appeals to contracting award decisions out of 8,214 procedures in total, a rate of just 3.5%. In addition, 4 cases of violation of requirements for public procurement were registered in the past year^{ix}.

However, public procurement at the local level is more vulnerable to corruption. The NAO has identified issues in the adherence of local officials to the guidelines of the Anti-Corruption Act. In 2010 and 2012, it audited ten local authorities to assess whether their economic transactions were compliant with the Anti-Corruption Act. Eight of the ten audited were found to be in breach of the Act. Most of the breaches related to a conflict of interest in public procurement. Specifically, the NAO found that

¹ <https://riigihanked.riik.ee>

local authorities had been involved in contract awards to companies in which they had a financial interest. The audit also found insufficient levels of transparency in the management of funds at the local level^x.

In addition, EU funds are also vulnerable to corruption, and in fact procurement is considered as one of the more vulnerable areas, mainly due to the complexity of the legislation and guidance^{xi}. In 2012, 185 violations or suspected violations of EU funding rules were recorded, while over the period 2008-2012, 339 breaches to EU funding rules were detected in the implementation of EU funds, accounting for a total of EUR 35 million^{xii}.

The 2013-2020 Estonian Anti-corruption Strategy is largely focused on increasing transparency in public sector decision-making. In this sense, the continued development of the e-procurement environment, and the ability it creates to gather and analyse data, are a key function. Furthermore, since 2013, many kinds of financial data of Estonian local authorities, including on procurement, have been made available through an online application².

Europe 2020 Agenda

Estonia's National Reform Program declares the government's intention to use the procurement process to advance secondary policy goals under the Europe 2020 Strategy, but specific goals and means are not developed. The primary strategy document is the "Better Use of Environmental Management in the Public Sector" plan, which set the modest goal of 10% GPP uptake by 2014. These goals are being updated for the coming years.

In order to foster innovation in Estonia, the government has set aside EUR 20 million for the "State as a Smart Customer" initiative. The funding will be used to raise awareness among contracting authorities of how they can take a more innovation-friendly approach to tendering including via expert counselling, trainings, and building of networks among buyers and innovative suppliers.

In addition, the country's Estonia 2020 Strategy lays out a number of innovation-related goals linked to procurement, including increasing the participation of Universities, start-up businesses, and applied research in public procurement and increasing the share of contracts that incorporate innovation to 3% by 2020^{xiii}.

Irregularities and findings of national Audit Authorities

According to the National Audit Office, the Estonian Ministry of Finance adheres relatively consistently to the PPA in implementing procurement contracts. However, regular audits do identify a number of irregularities, including incorrect choice of procedures, incomplete or missing documentation, and incorrect application of procedure, particularly for simplified procedures. Specifically, they found unjustified prepayment, unjustified use of direct purchase, and delayed or non-submission of Public Procurement Reports. However, auditors observed an improvement in state agencies' performance in the procurement procedures and their plans, which took into account the shortcomings that were pointed out by the National Audit Office in 2012^{xiv}.

In terms of the management of ERDF, CF and ESF funds, Estonia has not been frequently cited for irregularities. Estonia was subject to one financial correction in 2013 in the amount of EUR 0.3 million.

² <http://riigiraha.fin.ee/>

Outlook

Estonia's top near term procurement policy priority is the transition to a fully digitised procurement process. The move should result not only in significant time and cost savings for contracting authorities and bidders, but will also further improve the government's ability to gather and analyse performance data for supervision and policy-making purposes.

Another key goal, as laid out in the 2013-2020 Anti-corruption Strategy, is to increase transparency in government in general, and in procurement specifically. One key step in this process will be to strengthen conflict of interest disclosure requirements and enforcement measures^{xv}.

ANALYSIS

Strengths

One of Estonia's greatest strengths is its highly developed e-procurement platform, which offers the full range of services in an environment that is efficient and easy to use. The early adoption of digital services has also been a major factor in the country's strong oversight and anti-corruption efforts. Finally, Estonia stands out for its comprehensive training and support system, which have helped to ensure a relatively consistent and irregularity-free application of the PPA at all levels of government and throughout the country.

Weaknesses

The most substantial weakness to be addressed in Estonia is the lack of systematic risk assessment tools and procedures to support anti-corruption efforts. At present, Anti-Corruption Authorities do not have a centralised databank of corruption cases that can be linked to procurement actions to identify the risk of corruption when evaluating bidders, and as such must rely on the Commercial Register, the Criminal Records Database, or even web searches. As a result, systematic monitoring is quite limited. In addition, the administrative capacity of the *RRO* is too limited to comprehensively oversee the Estonian public procurement system. In 2012, the Ministry of Finance only reviewed 0.8% of public procurement procedures.

Recommendations

- **Clean up corruption:** Corruption is perceived to be a serious issue in the Estonian procurement system, particularly at the local level where, for example, conflicts of interest are frequently observed.
 - Dedicate greater resources to the *RRO* so they can more effectively conduct oversight.
 - Implement declarations of honour for procurement practitioners to deter and facilitate the prosecution of conflicts of interest.
 - Develop corruption risk assessment tools at every level of government, such as a centralised database of procurement-related corruption cases.
- **Get strategic:** Despite government's intentions to promote the strategic use of procurement to achieve other policy objectives, specific goals and means have not yet been established.
 - Set down precise long-term objectives to ensure that environmental, social and innovative criteria are included in tender procedures.

- ⁱ European Bank for Reconstruction and Development (EBRD) (2012) Estonia PPP legislation quality assessment 2011.
- ⁱⁱ Veiko Lember, Rainer Kattel, Tarmo Kalvet, Public Procurement, Innovation and Policy, 2014, p. 136.
- ⁱⁱⁱ Europe Economics and Milieu for the European Commission (2015), Final country fiches of the study on the economic efficiency and legal effectiveness of review and remedies procedures for public contracts (2013).
- ^{iv} Ministry of Finance, available at: <http://www.fin.ee/kontaktid>
- ^v Ministry of Finance (2013), Landscape summary of procurement, available at: https://riigihanked.riik.ee/lr1/c/document_library/get_file?p_l_id=216043&folderId=518320&name=DLFE-33903.pdf
- ^{vi} GPP in Practice, available at: http://ec.europa.eu/environment/gpp/pdf/news_alert/Issue45_Case_Study95_Estonian_police.pdf
- ^{vii} Partnership Agreement (2014) for Estonia, in accordance with Articles 14 and 15 of Regulation (EU) N.1303/2013 of the European Parliament and of the Council of 17th December 2013
- ^{viii} European Commission (2014), DG HOME, EU anti-corruption report, Annex Estonia
- ^{ix} Criminal Policy Studies n.20, Crime in Estonia (2014), Department of Justice, available at: http://www.kriminaalpoliitika.ee/sites/www.kriminaalpoliitika.ee/files/elfinder/dokumendid/kuritegevuse_at_2015_0.pdf
- ^x National Audit Office (2012), *Korruptsiooni ennetamine valdade ja linnade tehingutes* (Prevention of corruption in municipalities and cities transactions), Report to the *Riigikogu* (Parliament)
- ^{xi} Tõnnisson, K. and Muuga, M. (2013), Korruptsiooniriskid Euroopa Liidu vahendite rakendamisel (Corruption risks in the implementation of European Union funds)
- ^{xii} European Commission (2014), DG HOME, EU anti-corruption report, Annex Estonia, Available at: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/docs/2014_acr_estonia_chapter_en.pdf
- ^{xiii} Competitiveness Agenda "Estonia 2020" (2014), Interim Report prepared by the State Chancellery, available at: https://riigikantselei.ee/sites/default/files/content-editors/organisatsioon/failid/eesti_2020_vahearuanne.pdf
- ^{xiv} National Audit Office (2013), Auditing of Annual Accounts 2013 and legality of transactions of the state, 2013, available at: <http://www.riigikontroll.ee/tabid/206/Audit/2334/Area/18/language/en-US/Default.aspx>
- ^{xv} Anti-Corruption Strategy 2013–2020 (Estonia), available at: http://www.korruptsioon.ee/sites/www.korruptsioon.ee/files/elfinder/dokumendid/estonian_anti-corruption_strategy_2013-2020.pdf