

GREECE

KEY FACTS AND FIGURES

| Key Facts and Figures in Greece | | | | | | |
|---|---|--------------------------|--|---|---|---|
| Overview | Total procurement 16,230,000,000€ | | Procurement % GDP 9% | | 2013 GDP 182,438,300,000€ | Contracting authorities N/A |
| Procedures applied | Open N/A | Restricted N/A | Negotiated procedure with call N/A no call N/A | | Competitive dialogue N/A | Direct award N/A Other 0% |
| Share of contract notices by buyer | National N/A | | Regional/local N/A | | Body governed by public law N/A | Other 0% |
| Contract type | Services N/A | | Works N/A | | Supplies N/A | Framework agreement 6% |
| Ex ante conditionality criteria as of 2014 | EU rules Not met | | Transparency Not met | | Training Fully met | Admin. capacity Not met |
| E-procurement adoption | E-notification Mandatory | | E-access Mandatory | | E-submission Planned | Uptake rate N/A |
| Perceived corruption | Corruption widespread in society | | | Corruption widespread in procurement | | |
| | Businesses 99% | | Individuals 99% | | At national level 76% | At local/regional level 94% |
| TED indicators | Value of tenders 3,398,202,777€ | | Of total procurement 21% | | # contract notices N/A | # contract awards N/A |
| Other indicators | Received single bid N/A | | # days for decision N/A | | Price only criteria N/A | MEAT criteria N/A |
| | Won by foreign firms N/A | | Related to EU funds N/A | | Joint purchase N/A | 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

The impact of the 2008 economic crisis has been harder on Greece than perhaps any other country, with GDP falling by nearly 30% between 2007 and 2013. As part of the coordinated response effort, the Greek government agreed to undertake a major process of structural reforms in order to increase efficiency of government. In this context, procurement features prominently among the functions to be reformed, having been identified by the OECD as one of the top drivers of administrative costsⁱ.

Prior to the crisis, the Greek procurement system was marked by its singular complexity among both legal and institutional structures. Substantial progress has already been made in consolidating and rationalising responsibilities, including through the creation of a single public procurement authority responsible for a wide range of policy, executive and oversight functionsⁱⁱ.

In addition, the procurement system features prominently in a government-wide push to increase transparency and combat corruption. This includes the rapid adoption of e-procurement and online reporting tools, which have substantially increased the efficiency, openness, and ease of oversight of the system.

DESCRIPTION OF FEATURES

Legal features of public procurement system

The Greek procurement legal system is uniquely complex, being dispersed among as many as 400 laws, regulations, and presidential decreesⁱⁱⁱ. Further contributing to the complexity is a lack of uniformity, as different laws and regulations employ a number of concepts and definitions that diverge from those inherent in the EU Directives. For example, there is no single definition of an awarding authority in Greek law, meaning that different classifications are used for different purposes^{iv}.

In 2014, the Greek government implemented a new law (law 4281/2014), which consolidated the vast array of regulations on procurement into a single framework covering virtually all legal aspects of the procurement environment. Despite enactment, implementation is not yet active as a number of ministerial decrees and other regulatory initiatives have to be introduced first. In addition to bringing together all previous regulations, the new law makes decisive steps towards simplification and modernisation of the procurement system in Greece, notably by cancelling procurement privileges, which currently allow some actors, such as State-owned companies, to follow their own procurement procedures. The deadline for passing the necessary secondary laws is January 2016.

Below the EU thresholds, awarding authorities have the right to use open, restricted, or negotiated procedures, with or without publication of notice. For goods, services and work contracts below EUR 60,000, awarding authorities can choose to use simplified bidding procedures under certain conditions. Direct award is permitted below EUR 20,000 for State authorities, and below EUR 15,000 for local and regional authorities.

Institutional system:

As with the legal system, institutional responsibilities have traditionally been diffuse, although efforts have been made toward greater centralisation. In 2011, the government established the Hellenic Single Public Procurement Authority (SPPA) to be the primary procurement organ. Its responsibilities include managing central government procurement of works, supplies and services, providing policy advice to the legislature, providing guidance to awarding authorities on the application of procurement law and regulation, and authorising the use of special procedures, such as negotiated procedure without publication notice. The SPPA also plays a supervisory role by monitoring and evaluating awarding authorities' decisions for effectiveness and conducting random checks of on-going procedures for compliance with the law^v. The Authority is fully operational, with a staff of 100 employees, and is in an on-going process to obtain the technical capacity, including servers and experts, necessary to become the focal point of all e-platforms available in Greece for e-procurement.

The General Secretariat for Public Works (GSPW) in the Ministry of Economy, Development and Tourism is responsible for public works procurement and public services contracts relating to public works, as well as for the regional authorities. The Ministry's responsibilities include the publishing and evaluation of calls for tenders and submitted offers, as well as the awarding of procurement contracts. It also makes law and regulations propositions concerning public work contracts, and it furthermore provides awarding authorities with technical specifications and guidelines regarding mandatory implementation^{vi}. It represents the administrative organ and hence supervises the construction activity in the country.

The General Secretariat of Commerce (GSC) also within the Ministry of Economy, Development and Tourism is the owner and coordinator of the e-procurement system and is also responsible for public supplies and services. Moreover, the Ministry of Interior and Administrative Reconstruction established in June 2011, has some jurisdiction over procurement as part of its focus on public organisation and administration matters, including the relations between the State and society, as well as it coordinates policies concerning the e-governance and administrative reforms^{vii}.

As far as compliance is concerned, the Administrative Authority of Public Contracts is the institution in charge. It is responsible for the supervision, control, and conduct of the tendering processes and conclusions of public contracts, as well as to ensure the compliance with the Greek and European legislation^{viii}.

In case a contract exceeds one million Euros in value, the contracting authority is obliged to submit all relevant documents and papers to the Court of Auditors, which

will check the contract's legality, and efficiency. On the local level, there are Government Representatives ("Secretary Generals of the Region"), who examine the decisions taken by the local authorities during the award procedure. In case there are irregularities during the execution of the contract, the Body of Inspectors of Public Procurement Works will control the respective contracting authorities^{ix}.

For the implementation of procurement procedures in municipalities, each one has a dedicated Department of Finance and a Procurement Office. They are in charge of the implementation and coordination of the public procurement procedures, according to the "Procurement Regulation of Local Authorities"^x.

Administrative courts have primary jurisdiction to review contracts for compliance with the law. Actions for the annulment of harmful contracting decisions can be lodged before the administrative courts of appeal of the same area of the court of first instance. Decisions taken on appeal are subject to review by the Administrative Court of Appeals depending on the contracting authority, and by Council of State whose ultimate judgment cannot be challenged. Legal actions related to the publication of calls for tenders as well as award decisions are frequent, making substantial demands on the administrative courts and contributing to the above average length of Greek procurement procedures.

Key issues that have a bearing on administrative capacity

Human resources: The Greek administration has clearly identified the need to expand human resources in procurement in order to improve capacity. However, binding budgetary constraints limit the ability to hire additional staff.

As of 2013, the SPPA had a staff of 100, more than a third of whom are advanced degree holding specialists in legal, economic or engineering areas with substantial procurement backgrounds.

Structures: The Public Procurement Monitoring Unit (PPMU) is part of the Centre of International and European Economic Law in Thessaloniki. The PPMU provides Greek contracting authorities with specialised and prompt legal advisory support in all phases of awarding public works and technical services contracts falling within the scope of EU Law on Public Procurement.

In this context, the PPMU's mission is to ensure the correct application of EU Law in public contract award procedures, to contribute to the establishment of transparency and fair competition in public procurement processes, to promote the effectiveness and best value for money in public procurement procedures, and to disseminate knowledge by promoting academic research, encouraging dialogue in its field of expertise^{xi}.

Training: Greek authorities organise training seminars for contracting authorities as well as economic operators. In July 2011, the European Commission set up the Task Force for Greece (TFGR), to provide the Greek public authorities with technical assistance in order to enable them to implement the reforms under their economic adjustment programme^{xii}. Among its tasks, the TFGR also implemented over 400 missions and 35 policy workshops on various domains in Greece, including public procurement.

Systems/tools: The SPPA publishes a number of tools designed to promote standardisation among awarding authorities, including rules and best practices guides, interpretations of laws and regulations, standardised tender documents, procurement plans, and technical specifications.

The e-procurement platform also provides e-learnings and information manuals^{xiii}. Moreover, PPMU provides a list of public procurements Directives and handbooks on how to navigate and follow the process^{xiv}.

E-procurement

The Greek e-procurement system is relatively advanced, offering a range of services to awarding authorities and bidders. It applies to public supplies and public services contracts but it does not apply yet to public works. The central portal, known as Prometheus, contains links to all the key platforms, as well as training and guidance materials, legal materials, and statistical reports^{xv}.

The key e-procurement platform is the National Electronic Public Procurement System (*ESIDIS*), which offers e-notification, e-access, and e-submission. A blanket government mandate for all three categories was phased in for goods, services and works over the course of 2014 for all contracts over EUR 60,000^{xvi}. For the post-awarding procedure, the Greek Government has established electronic tools, such as e-auction, e-catalogue, e-ordering, e-payment and e-archiving. Use of these tools is not mandatory to this date^{xvii}.

Prometheus also hosts links to the Central Electronic Registry for Public Procurement (CERPP), which serves as a transparency register. All procurement notices worth EUR 1,000 and above must be published on this platform^{xviii}. Furthermore, there is a search engine for open public data, *UltraClarity*, which contains all Greek open Government documents, including relevant data and information on tenders and procurement procedures. The portal was established with the objective to promote transparency among the Greek citizens and to encourage the use of public data.

Corruption

Greek authorities have repeatedly identified corruption as a significant issue impacting the public administration, and particularly the procurement process. In the aftermath of the 2008 financial crisis, the fight against corruption was given a new impetus both due to the severe budget constraints placed on the government and the conditions of international financial assistance. As a result, Greece has undertaken numerous reforms in recent years to increase transparency and reduce opportunities for corruption^{xix}. For example, a 2010 law obliges all public institutions and authorities to publish their decisions, including on public contracts, online on the so-called Clarity Programme website¹.

In 2013, the Ministry of Justice, Transparency and Human Rights developed a national anti-corruption plan called "TRANSPARENCY", which laid out a detailed plan to implement more effective monitoring and supervision processes, and recommended the creation of a special anti-corruption public prosecutor^{xx}. Two such offices have been established in Athens and Thessaloniki, focusing exclusively on investigating corruption^{xxi}.

Meanwhile, there has also been a push to further consolidate the legal system governing procurement in order to reduce gaps and overlaps that give practitioners undue discretion in applying procurement processes, creating the opportunity for corruption. On a similar note, the push to move all procurement onto electronic

¹ <https://diavgeia.gov.gr/>

platforms is also expected to contribute to the transparency of the process, and thus make corruption easier to detect and prosecute.

In 2015, Greece abolished the office of the National Anti-Corruption Coordinator and shifted the competences in anti-corruption to the political level by appointing a Minister of State for Combating Corruption. Upon his assignment, he made headlines by declaring that corruption was endemic to the procurement process, and included a system of kickbacks worth an average of 2% to 2.5% per contract^{xxii}. Consequently, he announced the upcoming adoption of several measures geared to tackle corruption, including the investigation of all public contracts, an increase in the severity of criminal penalties, and a policy of voiding overpriced contracts^{xxiii}. A subsequent change in the institutional setting occurred in September 2015, when competences moved to the office of an alternate Minister of Justice.

An updated version of the 2013 National Plan against corruption was published in August 2015 and contains an ambitious timeline for relevant anti-corruption actions^{xxiv}. Public procurement is recognised as a high-risk area that needs a specific strategy and action plan to be adopted by the end of 2015.

Europe 2020 Agenda

The EU has specified in various Directives the goal of having a 50% share of Green Public procurement (GPP) by 2010. However, despite this legislation, the Greek public authorities have not yet reached this target. The percentage of contracts that are compliant with the green procurement criteria is below 20%, while the national Greek GPP plan is still being elaborated^{xxv}. Nevertheless, environmental aspects have been included in the Greek Presidential Decrees (60/2007, 59/2007), and with the European Directives and Regulations, the Greek public authorities have become more strict, especially in the field of their energy performance of public and private contracts for procurement of buildings, and green electricity among other areas^{xxvi}.

Irregularities and findings of national Audit Authorities

Greek oversight bodies have identified a number of persistent, recurring irregularities and issues that have an impact on the economic efficiency of procurement processes, effective use of national and EU funds, and ease with which potential contractors do business with the government. According to the 2013 Supreme Court of Audit report^{xxvii}, which covers 2011 data, the most common irregularities include artificially splitting contracts to remain below tender thresholds, costs that unjustifiably exceed the standard rates set out by the SPPA, particularly for medical supplies, and unauthorized direct award of additional work or extension of contract to an existing contractor in violation of contract deadlines or cumulative award limits.

As part of its oversight function, the SPPA has also identified a number of recurring irregularities, including discrepancies between published notifications and actual tendering documents, unjustified invocation of urgency in order to bypass tendering requirements and unauthorized extension of contracts^{xxviii}. Systematic irregularities have been a barrier to both EU funds management, and payments. In 2013, Greece was subject to the second highest number of financial corrections in the EU. In addition, in 2014 Greece was reported to the European Court of Justice for a potential violation of non-discrimination and equal treatment rules (Directive 2004/18/EC) due to its company classification system^{xxix}.

Outlook

Considerable efforts have been carried out to improve the procurement system, but given the political unrest, the outlook remains uncertain.

The most promising agenda item in Greece's near-term outlook is the effective implementation of the new procurement law (4281/2014) by 2016, which still requires follow-up actions by the SPPA. Once implemented, this law should dramatically simplify the current legal and regulatory landscape down to a single set of procurement processes for services, goods, and works in line with EU norms. It would also substantially advance the standardisation and centralisation of procurement functions in the SPPA, unify reporting and publication requirements to a single system under the CERPP, and complete the transition to a fully digital procedure. Full implementation of the law is dependent on the enactment of a number of supporting decrees and regulations, a process which remains far from complete.

In addition, the Greek government is obliged by their partnership agreement with the Commission to transpose the 2014 procurement directives by the end of January 2016.

Over the medium term, the SPPA is working with key stakeholders to develop a new national strategy for procurement, which will set public procurement policy over the coming years. At the same time, the SPPA is cooperating closely with the GSC and the GSPW to design an integrated procurement management training program to standardise and systematise the formation of procurement practitioners.

Finally, for the longer term, the government is working to increase centralisation through greater use of framework contracts for the central government services and commodities in order to achieve economies of scale, and to reduce the number of awarding authorities from 7,000 to 700^{xxx}.

ANALYSIS

Strengths

The recent economic crisis has been a major catalyst for structural reforms in Greece, many of which have improved transparency and accountability in procurement. These concern in particular the establishment of the CERPP and the implementation of the e-procurement platform in 2013, which publishes all stages of procurement procedures for contracts with a value of EUR 1,000 and above. These platforms in particular contribute to a higher level of transparency with regards to contracts and payments, as the information are made available for anybody, and have been rapidly made a mandatory part of doing business for the government. These reforms were made possible in large part thanks to the involvement of the on-site EC staff from the TFGR.

In addition, the creation of the SPPA is a major step forward in the centralisation and professionalisation of the procurement process. The full time professional staff of the SPPA have increased standardisation in two ways: first by managing central contracts in-house; second, by providing authoritative guidance to contracting authorities nationwide. Perhaps most importantly, they are leading the push to dramatically simplify the jungle of laws and regulations governing Greek procurement. In this respect, the role of the TFGR has been crucial in providing both the guidance and motivation necessary to get these reforms enacted.

Finally, a number of reforms were passed to combat corruption among officials by introducing harsher sentences for officials convicted of corruption and eliminating political immunity from sanctions such as travel restrictions and asset seizures.

Weaknesses

The key weakness of the Greek procurement system is the overly complex system of laws and regulations governing its exercise, which underlies many of the issues adversely affecting outcomes. First and foremost, complexity increases the amount of

discretion awarding bodies have in tendering and awarding contracts, obscure practices, and complicates oversight, all of which encourage corruption. A simpler, more standardised system would present fewer opportunities for corruption, and be easier to monitor for irregularities.

Second, the complexity of the system makes it very costly to administer, reducing efficiency. In addition, delays in delivering public works and supplies not only increase the cost of the contract but also deprive the beneficiaries of public goods and undermine development.

Regular, comprehensive training of practitioners and oversight personnel is essential to the operation of any procurement system. The more complex the regulatory system is, the more extensive, and thus expensive, the training must be. The same relation holds true for the administration of contracts, and oversight of activities. Managing complexity is costly.

Finally, the complexity of the procurement system imposes another kind of costs on suppliers and on the State by contributing to an excess of disputes and appeals. The lack of clarity in how to apply the regulations, and in which regulations to apply, increases the incentives for aggrieved failed bidders to take their case to court, delaying the process and creating considerable financial burdens on the State.

Of course, complexity is not the only issue. Another important barrier to greater efficiency and fairness is the sensitivity of the process to political needs. For example, Greece is one of the few MS in which the head of the Supreme Audit Office is appointed by the Prime Minister and answerable to the executive rather than the Parliament.

Recommendations

- **Keep it simple:** Greece's procurement system is overburdened with a complex system of laws and regulations on the one hand, and institutions on the other.
 - Prioritise the enactment of regulations and secondary legislation needed to fully implement the 2014 procurement reform law according to schedule in order to realise the expected benefits in streamlining and rationalisation.
 - Implement a comprehensive education and training program to ensure that procurement practitioners can anticipate the coming changes and are prepared to implement them.
 - Improve harmonisation, or consolidate audit and control functions currently spread across the Court of Auditors, MAs and the Inspector of Public Procurement Works to eliminate gaps, reduce redundancies, and lessen the burden of compliance for contracting authorities.
 - Develop feedback channels through which relevant stakeholders can comment on procedural matter and legal issues.
- **Increase independence:** Greek procurement decisions are susceptible to political influence in a number of ways, creating opportunities for abuse of the system and harming confidence in its fairness and objectivity.
 - Reform the SPPA to ensure that the president and leadership are appointed by, and accountable to the Parliament and not the government
 - Require declarations of honour from evaluation committee members to discourage, and facilitate prosecution of conflicts of interest.
- **Get tough:** There is a perception that violations of procurement rules are infrequently and inconsistently enforced, and that sanctions are too modest to act as a deterrent.

- Increase sanctions for violations of procurement rules and invest resources into enforcement.
- **Incorporate transparency:** Despite the reforms in recent years to increase transparency and reduce opportunities for corruption, more needs to be done to mitigate the risks.
 - Incorporate comprehensive and timely data collection and publication into the design of the e-procurement system to maximise transparency and the ability of outside groups and the public to conduct oversight.
- **Lack of training and support:** Many Greek practitioners, including at the MA level, lack sufficient access to adequate training to fulfil their responsibilities.
 - Develop more specific and advanced training programs covering general procurement procedures, ESI funds specific topics, and anti-corruption policies.
- **Think strategically:** Greek authorities are delayed in applying the proposed EU target of having a 50% share of GPP by 2010. For now, this percentage remains only at 20%, while the national GPP plan is slow to be put under way.
 - Develop and implement a comprehensive GPP plan to ensure established targets are met.

ⁱ OECD (2014), Measurement and Reduction of Administrative Burdens in 13 sectors in Greece, available at: <http://www.oecd.org/regreform/regulatory-policy/Greece-Measurement-and-reduction-of-administrative-burdens.pdf>

ⁱⁱ Law 4013/2011 on establishment of PPA

ⁱⁱⁱ The Hellenic Single Public Procurement Authority (2013), Annual Report, available at:

<http://www.eaadhsy.gr/index.php/m-eadhsy/m-ethsies-ektheseis/95-ethsia-ekthesi-pepragmenvn-2013>

^{iv} The Government Procurement Review (2014), The Law Business Preview

^v The Hellenic Single Public Procurement Authority (2013), Annual Report, available at:

<http://www.eaadhsy.gr/index.php/m-eadhsy/m-ethsies-ektheseis/95-ethsia-ekthesi-pepragmenvn-2013>

^{vi} Buy Smart +, Analysis report of procurement standards and procurement praxis in Greece,

Available at: http://www.buy-smart.info/media/file/2099.D22_Procurement_Standards_in_Greece.pdf

^{vii} Available at : <http://www.ydmed.gov.gr/>

^{viii} The Government Procurement Review (2014), The Law Business Review

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

^x Buy Smart +, Analysis report of procurement standards and procurement praxis in Greece,

Available at: http://www.buy-smart.info/media/file/2099.D22_Procurement_Standards_in_Greece.pdf

^{xi} Public procurement monitoring unit, available at: <http://mopadis.cieel.gr/index.jsp?extLang=LG>

^{xii} Task Force For Greece Seventh Activity Report, available at:

http://ec.europa.eu/archives/commission_2010-2014/president/pdf/gr7_en.pdf

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

^{xiv} Public procurement monitoring unit, available at: <http://mopadis.cieel.gr/civilagr.jsp?extLang=>

^{xv} Official website of the e-platform, available at: <http://www.promitheus.gov.gr/>

^{xvi} *Ibid*

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

^{xviii} The Government Procurement Review (2014), The Law Business Preview

^{xix} European Commission (2014), EU anti-corruption report, Annex Greece, 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_greece_chapter_en.pdf

^{xx} Ministry of Justice (2013), « TRANSPARENCY » Anti-Corruption National Action Plan, available at:

http://www.ministryofjustice.gr/site/LinkClick.aspx?fileticket=KyH_7RZiUPg%3D&tabid=64

^{xxi} European Commission (2014), EU anti-corruption report, Annex Greece, 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_greece_chapter_en.pdf

^{xxix} Business Anti-Corruption Portal, Greek Public Procurement, available at: <http://www.business-anti-corruption.com/country-profiles/europe-central-asia/greece/show-all.aspx>

^{xxiii} Address of the Minister of State for combating corruption to the Greek Parliament, available at:

<https://www.youtube.com/watch?v=kdpc0QarmjE>

^{xxiv} Hellenic Republic General Secretariat Against Corruption, National Anti-Corruption Strategy, available at:

<http://www.gsac.gov.gr/index.php/el/2015-08-12-10-16-53>

^{xxv} Buy Smart +, Analysis report of procurement standards and procurement praxis in Greece,

Available at: http://www.buy-smart.info/media/file/2099.D22_Procurement_Standards_in_Greece.pdf

^{xxvi} *Ibid*

^{xxvii} Supreme Audit Authority (2011), Annual Report, available at:

http://www.elsyn.gr/elsyn/etisia_ekthesi.jsp

^{xxviii} The Hellenic Single Public Procurement Authority (2013), Annual Report, available at:

<http://www.eaadhsy.gr/index.php/m-eadhsy/m-ethsies-ektheseis/95-ethsia-ekthesi-pepragmenvn-2013>

^{xxix} European Commission (2014), Public procurement: Commission refers Greece to Court for non-

compliance with EU rules in construction sector, Press release, available at: http://europa.eu/rapid/press-release_IP-14-807_en.htm?locale=en

^{xxx} Ministry of Finance (2014), The 2014 National Reforms Programme, available at:

http://ec.europa.eu/europe2020/pdf/csr2014/nrp2014_greece_en.pdf