

## FINLAND

### KEY FACTS AND FIGURES

Key Facts and Figures in Finland						
<b>Overview</b>	<b>Total procurement</b> 34,460,000,000€		<b>Procurement % GDP</b> 18%		<b>2013 GDP</b> 202,743,000,000€	<b>Contracting authorities</b> 540
<b>Procedures applied</b>	<b>Open</b> 76%	<b>Restricted</b> 12%	<b>Negotiated procedure with call</b> 7%    2%		<b>Competitive dialogue</b> 1%	<b>Direct award</b> 0% <b>Other</b> 1%
<b>Share of contract notices by buyer</b>	<b>National</b> 12%		<b>Regional/local</b> 52%		<b>Body governed by public law</b> 15%	<b>Other</b> 21%
<b>Contract type</b>	<b>Services</b> 57%		<b>Works</b> 11%		<b>Supplies</b> 32%	<b>Framework agreement</b> 27%
<b>Ex ante conditionality criteria as of 2014</b>	<b>EU rules</b> Fully met		<b>Transparency</b> Fully met		<b>Training</b> Fully met	<b>Admin. capacity</b> Fully met
<b>E-procurement adoption</b>	<b>E-notification</b> Mandatory		<b>E-access</b> Voluntary		<b>E-submission</b> Voluntary	<b>Uptake rate</b> 5%
<b>Perceived corruption</b>	<b>Corruption widespread in society</b>			<b>Corruption widespread in procurement</b>		
	<b>Businesses</b> 27%		<b>Individuals</b> 29%		<b>At national level</b> 19%	<b>At local/regional level</b> 15%
<b>TED indicators</b>	<b>Value of tenders</b> 6,503,196,120€		<b>Of total procurement</b> 19%		<b># contract notices</b> 3,364	<b># contract awards</b> 2,567
<b>Other indicators</b>	<b>Received single bid</b> 13%		<b># days for decision</b> 65.2		<b>Price only criteria</b> 47%	<b>MEAT criteria</b> 53%
	<b>Won by foreign firms</b> 1%		<b>Related to EU funds</b> 3%		<b>Joint purchase</b> 10%	<b>Central purchasing</b> Yes, Hansel Oy

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

### Summary of public procurement system

Finland is characterised by a harmonised and decentralised public procurement system. It is among the group of countries, which are characterised by a total absence of regulation on the organisation of procurement operations below EU thresholds, which implies that the decision whether or not to use public procurement procedures when acquiring goods, services or works belongs to the contracting authorities<sup>i</sup> empowering contracting authorities with expansive discretion in when and how to apply procurement procedures.

According to national statistics, Finland's procurement system spends approximately EUR 35 billion, or 19.4% of the country's GDP annually, making it one of the largest by value in Nordic EU countries. This is attributed mostly to the particularly large size of the public sector in the country's economy. Nonetheless, only a relatively small portion of this spending relies on ESI funds.

### DESCRIPTION OF FEATURES

#### Legal features of public procurement system

In the Finnish legal system, the EU procurement Directives have been incorporated into national legislation via three separate acts: the Act on Public Contracts (348/2007, as amended), implementing Directive 2004/18/EC; the Act on Public Contracts by Contracting Authorities in Water, Energy, Transport and Postal Services Sectors (349/2007, as amended), implementing Directive 2004/17/EC; and the Act on Public Contracts in the Fields of Defence and Security (1531/2011, as amended), implementing the Directive 2009/81/EC.

Furthermore, the rules regarding electronic public procurement have been set out in a separate Act on Electronic Auctions and Dynamic Purchasing System (698/2011).

The national public procurement legislation specifies two national thresholds below the EU thresholds. For works contracts below EUR 150,000, and supplies or services below EUR 30,000, direct award is allowed. Whereas for contracts between EUR 30,000 and EUR 50,000 for supplies and services and EUR 150,000 and EUR 500,000 for works, negotiated procedure with publication is allowed.

As of today, no detailed below-threshold rules have been laid down for the utilities sector.

### ***Institutional system***

Competences in terms of public procurement are divided up among two Ministries. The Ministry of Employment and the Economy (MEE) handles national policy making, drafting of national procurement legislation and amendments, and takes the lead in advising economic operators and contracting authorities on how the law should be interpreted. As part of this responsibility, the MEE works with the Association of Finnish Local and Regional Authorities (FLRA) to operate the Public Procurement Advisory Unit (PPAU), an online and telephone help desk for contracting authorities.

The Ministry of Finance is responsible for managing central government procurement, setting purchasing strategy and conducting centralised purchasing.

Oversight of public procurement is carried out by the Finnish National Audit Office (NAO), which controls public procurement procedures in terms of budget, accounting, and financial operations, and reports its findings to the Parliament.

The Market Court (MC) acts as a specific review body on public procurement in the first instance, and has the authority to cancel a decision by a contracting authority wholly or in part. Its rulings in public procurement cases can be appealed to the Supreme Administrative Court (SAC). The average length of MC cases in 2014, of which procurement cases make up a majority, was 5.8 months.<sup>ii</sup> The average length of an appeal before the SAC was 17.4 months.<sup>iii</sup>

*Hansel Oy*, a publicly owned stock company, acts as a central purchasing body and is designed to increase the Government's savings by entering into framework agreements for procurement. These frameworks remain open on a voluntary basis to contracting authorities at all levels of Government. In addition, *KL-Kuntahankinnat Oy*, a joint procurement company, conducts joint purchasing via framework contracts exclusively on behalf of local governments.

### ***Key issues that have a bearing on administrative capacity***

**Human resources:** Each year, between 8,000 and 10,000 civil servants and future public procurement practitioners receive initial training in public procurement procedures by 30 dedicated specialists, who work on behalf of the Finnish Institute of Public Management (*HAUS*). The administrative capacity of public authorities is considered adequate in view of the large number of civil servants responsible for conducting procurement procedures.

**Structures:** *HAUS* is the primary organisation for consultancy in the Finnish Government. In this regard, it implements training, development and consultation projects for future civil servants at all territorial levels.

In addition, a significant part of the PPAU's activities consists in providing contracting authorities with information and advice on procurement, as well as advising businesses on issues relating to the application of procurement legislation.

**Training:** *HAUS* organises more than 300 short-term training courses and events for public procurement practitioners and administrators from all kinds of contracting

authorities. These trainings generally consist in providing participants with practical tools focusing on the general implementation of the legislation or on specific topics such as innovative procurement.

The FLRA produces information and holds procurement trainings aimed at building the capacity and enhancing the knowledge of procurement practitioners at the regional and local level. Furthermore, the PPAU provides State and municipal authorities with free advice on good practices in procurement, and the proper application of the public procurement law.

**Systems/tools:** The PPAU serves as an information and communications platform in public procurement. It spreads information related to public procurement (principally guidance on the public procurement law and its application, and examples of good practices, via e-mail and telephone advisory services, as well as newsletters and links on its website.

Moreover, the FLRA supports the public administration through the publication of guidelines concerning public contracts and its advisory function. It also supports the MEE in running the PPAU.

### **E-procurement**

Finland has not yet elaborated a comprehensive plan for e-procurement. The country's most important actor in e-procurement is *Hansel Oy*, which runs the national e-procurement platform. It integrated almost all the procurement cycles in its operations more than a decade ago and recently developed an entire public system for online ordering (*Tilha*).

Apart from the national platform, *Hansel Oy* also offers a series of tools for conducting mini tenderings on the framework agreements established for the central Government.

E-notification is mandatory for all contracting authorities above the national threshold and voluntary below the national threshold. In both cases, it is enabled through *Hilma*, the central e-notification portal maintained by the MEE. As e-submission is voluntary and not yet provided on the portal, this functionality is currently available via commercial platforms for which two national framework agreements exist.

To date, the number of local and regional contracting authorities is unknown and data on their use of e-procurement is not monitored. This creates a substantial gap in publicly available data.

### **Corruption**

Corruption is not a systemic challenge in Finland's public procurement process, and there is no comprehensive national anti-corruption strategy in place. In addition, the current Action Plan to Reduce Economic Crime and the Shadow Economy, which extends until 2015, does not identify any procurement-specific anti-corruption measures. Nonetheless, a separate programme, the 2012 Internal Security Programme, did call for a number of actions to prevent corruption, including greater international cooperation and sector specific preventive actions for public officials and for the business sector. These are currently being discussed by the 'Anti-Corruption Network' set up among national anti-corruption authorities by the Ministry of Justice, which will examine how best to implement them.

The overall low level of corruption and the absence of anti-corruption measures therefrom are the outcome of three interrelated sets of factors<sup>iv</sup>: first, a high level of public confidence in institutions, good administration and self-control of civil servants; secondly, a functioning control environment facilitated by the decentralised legislative framework, tight financial monitoring and professional peer-control; and thirdly, heavy

regulation and a strong legalistic tradition of administrative culture at the frontline of the fight against corruption.

Furthermore, the current system of judicial review is considered effective and particularly distinguishes itself by the absence of barriers for tenderers to have their case revised by the MC.

### **Europe 2020 Agenda**

Currently, the Finnish procurement system is being used to promote a number of strategic goals in line with the Europe 2020 strategy, principally in environmental policy, innovation and support to SME development.

With respect to introducing strategic goals in public procurement, Finland has been active in green public procurement for over a decade. It issued a resolution in 2009 according to which environmental perspectives shall be considered in all purchases made by central Government by 2015, and in at least half of all purchases made by municipalities and local governments by the end of 2015. Additionally, in an effort to promote sustainable procurement, the Finnish Government announced in 2013 a goal of allocating 1% of the total value of Finland's public procurement to sustainable environmental and energy solutions, or so-called cleantech solutions<sup>v</sup>.

Moreover, in 2010 it launched a "Demand and User-driven Innovation Policy Framework and Action Plan"<sup>vi</sup>, comprising different actions aimed at encouraging the deployment of innovative procurement through the development of public procurement practices<sup>vii</sup>. In the wake of this plan, the Finnish Government endorsed a measure for the Finnish Research and Innovation Funding Agency to set up appropriate funding to encourage Finnish public procurers to undertake more innovative procurements<sup>viii</sup>. This funding shall cover 50% of the costs of projects aimed at the renewal of services and activities. The objective is to promote innovations in public contracts and bring added value through lower life cycle costs, more efficient production processes and reduced environmental impact.

Furthermore, a Smart Procurement programme was launched in 2013 to increase the economic impact of public procurement practices and improve market access for products and services developed by SMEs. Helping SMEs to develop their activities is also a key objective pursued through *Hansel Oy*, which designs tenders in a way to encourage them to bid.

### **Irregularities and findings of national Audit Authorities**

The NAO regularly carries out and publishes external financial and performance audits of procurement. Possible criteria for selecting public procurement cases include the following: total value and complexity of the procurement; new acquisitions rather than routine procurements; order value and number of orders per contractor; and more general aspects, such as critical statements of external and internal supervision authorities, coverage in the media, complaints, legal proceedings or professional experience of auditors. Most frequent irregularities detected can most easily be attributed to a lack of rigour in the preparation and awarding phases of public contracts.

### **Outlook**

The coming year will be focused on implementing the overall reform of the public procurement legislation, which was commenced by the MEE in 2013. Efforts will focus on simplifying the procurement procedures, creating a review mechanism for public procurement and improving the conditions for SMEs to take part in tenders. A national working group has been in place for two years for drafting proposals for new legislation on public procurement in the light of these objectives. The results of this

consultation are scheduled to be submitted as a bill to Parliament by the end of 2015 to go into effect the following year.

## **ANALYSIS**

### ***Strengths***

Finland has a high-performing procurement system, which is virtually unaffected by corruption. It provides good value for money to taxpayers and a transparent business environment. These strengths stem principally from: various control levers minimising opportunities for corruption; a rigorous regulatory framework combined with a strongly legalistic tradition of administrative culture; as well as a highly efficient review system whose main peculiarity is the absence of barriers for tenderers to have their case revised by the MC.

### ***Weaknesses***

Despite the impetus given by the Government in recent years, public procurement in Finland continues to suffer from a few deficiencies in its strategic dimension. In this regard, procurement still cannot be considered as an adequate driver of innovation. What is more, there are few calls for tenders, as well as shortcomings in the expertise of procurement practitioners.

Additionally, Finland could also do more to develop the involvement of SMEs in public procurement. In fact, its share of the total value of public contracts is slightly lower than elsewhere in the EU and the proportion of SMEs using electronic tender systems is less than half of the EU average (6% as compared to, against 13% at EU level). This is all the more surprising insofar as Finland is regarded as one of the most advanced countries in terms of e-government services. This seeming paradox may be a function of the central Government's preference not to publish electronically tenders worth less than EUR 30,000 for cost reasons<sup>ix</sup>.

### ***Recommendations***

- **Support SMEs and innovation:** Finland's success in using the procurement system to support innovation and SME's could be strengthened.
  - Promote SME-friendly tender design, such as breaking large contracts into lots, making it easier to form consortia, and publishing info on the pipeline of upcoming major projects.
  - Devote resources to market research to identify emerging technologies.
  - Implement feedback channels through which relevant stakeholders will be able to report on their experiences in purchasing innovative solutions.
- **Implement e-procurement:** Finland has not articulated a clear plan to achieve full e-procurement adoption.
  - Develop a comprehensive Action Plan to implement the e-submission functionality on the national e-procurement platform.
  - Incorporate comprehensive and timely data collection and publication as an integral element of the e-procurement environment.

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<sup>i</sup> OECD (2010), Public Procurement in EU Member States - The Regulation of Contract Below the EU Thresholds and in Areas not Covered by the Detailed Rules of the EU Directives", SIGMA Papers, No. 45, OECD Publishing, available at:

[http://www.oecd-ilibrary.org/governance/public-procurement-in-eu-member-states\\_5km91p7s1mxv-en](http://www.oecd-ilibrary.org/governance/public-procurement-in-eu-member-states_5km91p7s1mxv-en)

<sup>ii</sup> Market Court annual statistics, available at:

<http://www.markkinaoikeus.fi/fi/index/markkinaoikeus/tilastojajakasittelyajat.html>

<sup>iii</sup> Supreme Administrative Court of Finland, 2014 Annual report, available at:

<http://www.kho.fi/fi/index/julkaisut/vuosikertomukset.html>

<sup>iv</sup> Ari Salminen, Olli-Pekka Viinamäki, Rinna Ikola-Norrbacka (2007), The control of corruption in Finland, Faculty of Public Administration, University of Vaasa, available at:

[http://www.ramp.ase.ro/en/\\_data/files/articole/9\\_02.pdf](http://www.ramp.ase.ro/en/_data/files/articole/9_02.pdf)

<sup>v</sup> Katriina Alhola (2013), Finnish Environment Institute, Promoting cleantech in public procurement in Finland, IPPC6, Dublin, SYKE, available at:

<http://www.ippc6.com/downloads/ippc%206%20presentations/15th%20friday/Sustainability%20&%20Procurement/Katriina%20Alhola,%20Ari%20Nissinen,%20Jyri%20Sepaala.pdf>

<sup>vi</sup> Peter Stern, Jakob Hellman, Monique Rijnders-Nagle, Miriam Terrell and Tomas Åström (2011), How public procurement can stimulate innovative services, Norden, available at:

[http://www.vpt.lt/vpt/uploaded/2012/metodologija/HowTo%20inovating%20services\\_angl.pdf](http://www.vpt.lt/vpt/uploaded/2012/metodologija/HowTo%20inovating%20services_angl.pdf)

<sup>vii</sup> Ministry of Employment and the Economy Innovation (2010), Demand and user-driven Innovation policy, Framework and Action Plan, available at:

<http://udi.fi/sites/default/files/Policy%20Framework%20and%20action%20plan.pdf>

<sup>viii</sup> Elvira Uyarra (2012), Manchester Institute of Innovation research, Review of measures in Support of

Public Procurement of Innovation, available at: <http://www.innovation-policy.net/compendium/section/Default.aspx?topicid=32&sectionid=149>

<sup>ix</sup> European Commission (2013), 2013 Fact sheet, fact sheet on Finland, available at:

[http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/performance-review/files/countries-sheets/2013/finland\\_en.pdf](http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/performance-review/files/countries-sheets/2013/finland_en.pdf)