

IRELAND

KEY FACTS AND FIGURES

Key Facts and Figures in Ireland						
Overview	Total procurement 15,540,000,000€		Procurement % GDP 9%		2013 GDP 174,791,300,000€	Contracting authorities 3,319
Procedures applied	Open 68%	Restricted 14%	Negotiated procedure with call no call 15% 0%		Competitive dialogue 1%	Direct award 0% Other 1%
Share of contract notices by buyer	National 34%		Regional/local 11%		Body governed by public law 40%	Other 15%
Contract type	Services 61%		Works 9%		Supplies 30%	Framework agreement 24%
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 22%
Perceived corruption	Corruption widespread in society			Corruption widespread in procurement		
	Businesses 49%		Individuals 81%		At national level 39%	At local/regional level 39%
TED indicators	Value of tenders 2,434,831,083€		Of total procurement 16%		# contract notices 1,279	# contract awards 763
Other indicators	Received single bid 8%		# days for decision 147.9		Price only criteria 16%	MEAT criteria 84%
	Won by foreign firms 11%		Related to EU funds 2%		Joint purchase 9%	Central purchasing Yes, NPS

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

Summary of public procurement system

Ireland's public procurement system is relatively modern and high performing. In particular, the range of services offered online is extensive, national, and quite well-developed.

The Irish system is currently undergoing a move towards greater centralisation, particularly at the state level, where a large number of diverse functions have recently been consolidated in a single office. There has also been a move to introduce greater standardisation and simplification of processes, which is expected to accelerate under the coordination of the central procurement authority. Tendering responsibilities are still managed by the individual contacting authorities at the state and local levels.

It is notable that despite the budgetary pressures that have been in place in Ireland since the economic crisis, the government has made substantial efforts to incorporate other strategic policy goals into the system. This includes environmental goals such as energy efficiency and use of sustainable materials, as well as economic policy goals like promotion of innovation and addressing long-term unemployment.

DESCRIPTION OF FEATURES

Legal features of public procurement system

In the Irish legal system, EU procurement Directives 2004/18/EC, 2004/17/EC, and 2009/81/EC have been transposed into national law by the European Communities Regulations SI No. 329 of 2006, the European Communities Regulations SI No.50 of 2007, and the European Union Regulations SI No 62 of 2012, respectively.

At the national level, public procurement below EU thresholds is regulated by the Department of Finance's (DoF) 'Green Book', which sets out a number of national sub-thresholds. Contracts valued at less than EUR 5,000 may be awarded on the basis of verbal quotes from one or more competitive suppliers. For contracts valued between

EUR 5,000 and EUR 25,000, the buyer must solicit quotes from at least three potential suppliers or service providers. Furthermore, all contracts for supplies and general services with an estimated value of EUR 25,000 and upwards have to be published on the national procurement website, while above the national threshold of EUR 50,000 for works and related services, there is no obligation to advertise on the same website.

Institutional system

The Office of Government Procurement (OGP) of the Ministry for Public Expenditure and Reform (MPER) plays the primary role in the Irish procurement system. It is in charge of the formulation of public procurement policy, dissemination of best practices, general guidance, and management of the Government's e-procurement strategy.

In addition, the OGP recently absorbed the key executive role played by the National Procurement Service (NPS), which acted as both a central purchasing body and an oversight body. Within this new capacity, the OGP's goals are to standardise the procurement process and achieve savings by implementing a systematic approach to public procurement. It also manages the central e-procurement platform, eTenders¹.

Further oversight responsibilities are carried out by the boards and management of individual contracting authorities, along with the Office of the Comptroller and Auditor General (C&AG), which conducts external controls of procurement for compliance with the procurement regulation.

The Irish High Court is responsible for public procurement first instance review procedures. Its rulings may be appealed to the Supreme Court in Dublin, which is the last recourse instance. The full determination of a public procurement case can take up to 3 years. However, the procedure can be expedited to 6-12 months if the parties ask for the case to be transferred to the commercial division of the High Court.

Key issues that have a bearing on administrative capacity

Human resources: As of the end of 2014, the total staffing level of the OGP was 213, two thirds of whom are sourcing staff. With the increased role of the OGP, Irish authorities are actively recruiting additional highly skilled staff.

At the contracting authority level, availability of skilled staff is an even greater issue. According to research by the Irish Institute of Public Administration (IPA), just 10% of public buyers have procurement as their full time job, and less than 40% of public buyers have procurement as a major part of their responsibilities. The same study found that just 23% of buyers possessed any kind of procurement-related qualification.¹

Structures: The IPA is the country's leading provider of education and training for the wider public service. It therefore has a responsibility to provide future procurement practitioners with procurement-related vocational trainings, including certificates in public procurement.

A number of private education providers, such as the Irish Institute of Purchasing and Materials Management, the Chartered Institute of Public Finance and Accountancy, and Public-Affairs-Ireland, offer degree programs specifically tailored to procurement practitioners. In addition, a few Universities such as the National University of Ireland

¹ <http://www.etenders.gov.ie/>

Maynooth and the University College Dublin, include procurement practice in their curricula.

Training: The IPA's vocational trainings program, along with various public procurement fora and short-term seminars organised by professional, commercial and trade associations, provide public procurement practitioners with legal, financial and administrative background of how public procurement works in practice.

Moreover, as laid out in Ireland's 2014 Partnership Agreement, public procurement training workshops will be organised by Managing Authorities in the coming yearsⁱⁱ.

Systems/tools: The OGP supports contracting authorities through the publication of guidance and legal materials, as well as its advisory function. Also, its website contains general information directing on the eTenders platform.

Additionally, procurement related information including guidelines on national and EU public procurement procedures, information on ESI Funds management and control, reports, and circulars, are made available by the NPS through the eTenders platform.

The Competition Authority also publishes guidance material on procurement issues, including a booklet for contracting authorities on how to spot potential bid riggingⁱⁱⁱ, and a guide for SMEs on how to assemble consortia without running afoul of competition law.

E-procurement

The use of e-procurement in Ireland is relatively well-developed, having been implemented early and currently offering a range of services to contracting authorities and bidders. The central portal² is managed by the OGP, and contains guidance, analysis, and legal materials. The central e-procurement platform, eTenders, run by the NPS offers the full spectrum of the e-procurement functionality, including a searchable database of current and upcoming tenders and offering the full gamut of e-procurement functionality. It is free of charge to all parties. There are also a number of privately operated platforms that offer additional services, including e-auction.

E-notification is compulsory for all contracting authorities for tenders greater than EUR 25,000 in value for supplies and services, and EUR 10,000 for ICT procurements. Below these thresholds, it is optional. E-submission was made mandatory for all contracting authorities as part of the 2001 e-procurement strategy, and is thus usually offered by contracting authorities.

Until recently, comprehensive national data on procurement was not systematically collected, making it impossible to properly analyse elements of the system, such as the benefits of adopting e-procurement. In 2013, OGP's Business Intelligence Unit began collecting contracting authority source data to create a rich information source reflecting procurement practice in Ireland. This will be analysed and reported on to the public.

Corruption

The combination of a strong legal framework, substantial enforcement activity and relatively harsh sanctions for abuse of office offenses has been successful in keeping the problem of corruption relatively in check in Ireland compared with the rest of the EU. This is not to imply that Ireland is corruption free. As the recently released reports of two high profile Tribunals of Inquiry into corruption-related offenses have

² <http://www.procurement.ie/>

highlighted, close connections between politicians and the business community remain a risk area for corruption.

In 2012, the Government acknowledged the need to address corruption and started an ambitious programme of political and legislative reform with the aim of enhancing openness and anti-corruption standards. Since then, substantial progress has been made in improving transparency and accountability in matters related to public procurement, electoral funding and fraud. However, beyond increased use of e-procurement tools and improved data collection, procurement-specific reforms do not feature prominently in the agenda.

In 2015, Transparency International's Irish office published a report based on data collected from over 500 whistle-blowers, witnesses and victims of wrongdoing, according to which public procurement constitutes a corruption-prone area for local authorities.^{iv}

Europe 2020 Agenda

The Irish procurement system has been used to promote a number of strategic goals in line with the Europe 2020 strategy, including environmental policy, support to SME development and innovation.

With regards to the environmental dimension, Ireland has been active in green public procurement (GPP) since 2007. Current policy is primarily guided by the 2012 "Green Tenders" National GPP Action Plan from the MPER and the Ministry for the Environment, Community and Local Government^v. The plan lays out a number of techniques that can be used by public buyers to incorporate GPP into their processes, including adding environmental concerns to evaluation criteria, requiring suppliers of certain services to have green certifications, require that all buildings built, leased or purchased meet a minimum Irish Building Energy Rating of B3, and requiring electric devices be purchased from suppliers certified by the WEEE Register Society.

Expanding access to procurement contracts for SMEs is another priority that has increased in prominence since the economic downturn. Efforts in this area focus on improving the standardisation of pre-qualification and tendering documents to reduce compliance costs for smaller firms, eliciting input from SMEs in reforming procedures, providing Q&A and dialogue on open tenders via the e-procurement portal, and by helping Irish SMEs identify and compete for public contracts overseas.

Another important initiative for Irish SMEs is the Tender Advisory Service (TAS) pilot project, which fields questions from economic operators during the tendering procedure. This project is managed by the OGP and aims at facilitating communications between contracting authorities and bidders to address procurement issues before the procedure is concluded, thereby potentially reducing litigation following the award of the contract.

However, one factor working against greater SME involvement is the move towards an increased use of large framework contracts^{vi}. Therefore, as part of an effort to encourage SMEs to form consortia to compete for larger contracts, the Competition Authority, together with the Consumer Protection Commission, have developed a walkthrough of how to build a consortium in compliance with competition law.

Innovation policy goals are also being incorporated into the procurement system through the promotion of the use of pre-commercial procurement to modernise public services, and the procurement of innovative solutions to create new business opportunities for industry.

Finally, although the implementation of social policy goals via the procurement system remains less developed, some initiatives have been started such as the establishment of a Social Clauses Project Group led by the Office of Government Procurement. The group is charged with identifying social considerations and assisting procurement

bodies in the implementation, evaluation and support of these social initiatives^{vii}. In addition, the 2015 Action Plan for Jobs does call for greater social engagement with public bodies and job training facilities to identify opportunities to use procurement to help address long-term unemployment and other labour force development issues.^{viii}

Irregularities and findings of national Audit Authorities

The C&AG carries out audits and reports on the use of public funds. It also examines the internal audit systems of public bodies and publishes annual reports referred to as 'Accounts of the Public Services' on funding granted by the Irish legislature. Recent oversight activities have identified a number of recurring irregularities and issues that have an impact on the efficiency of procurement processes, including delays in the procurement process, non-compliance with procurement rules, and the tendency to award multiple successive contracts to single suppliers, thus increasing the risk that best value may not be obtained where proper procurement procedures are not followed.

Outlook

Over the near term, the ongoing reform of the Irish procurement system will focus on two issues, transposition of the new EU Directives, and enhancing the strategic use of procurement for policy promotion. Many of the targets and methods laid out in the 2015 Action Plan for Jobs, in the case of SMEs, innovation and social policy, and the Green Tenders Action Plan in the case of GPP, remain unfulfilled. Turning these goals into practice will require coordinated efforts over the course of the coming years. At the same time, Ireland still has to transpose the 2014 EU Directives, providing ample opportunity to reopen and reform the country's procurement laws.

ANALYSIS

Strengths

The three primary strengths of Ireland's procurement system are its highly developed and centralised e-procurement system, the streamlined and centralised administrative set-up, and its extensive use of procurement to achieve other policy goals. Ireland was a pioneer of e-procurement adoption, and as a result they have had a long time to develop and improve the system. The current platform is comprehensive, easy to navigate, and freely available to all.

The centralisation of nearly all state procurement function in the OPG is a more recent development, but is also bearing fruit. The move to a single procurement entity has increased professionalization of procurement work, reduced coordination costs, and facilitated efforts to streamline services and regulations.

Finally, Ireland's efforts to use their procurement system to further environmental, innovation and social policy goals is laudable, particularly given the challenging economic environment that the country has faced in recent years.

Weaknesses

While there has been significant progress made in professionalisation of procurement at the state level, there is still substantial room for improvement at the sub-national level. A primary factor underlying this shortfall is the lack of required training or certification. Because sub-national public bodies have a relatively high degree of freedom in managing their own human resources, there is no consistent requirement that those responsible for procurement duties have or maintain any kind of qualification. Absent a national mandate, the lack of local administrative capacity could be countered by the conglomeration of responsibilities through a central or regional purchasing body.

In addition, despite the positive reforms undertaken in recent years, more remains to be done. This applies in particular to the issue of corruption, which continues to be perceived as a barrier to participation in procurement by both local and international suppliers. Furthermore, while sizeable efforts have been made in the last two years to improve transparency in matters related to public procurement, there is still room for improvement as regards the access to information on public tenders.

Recommendations

- **Increase administrative support:** Contracting authorities at the sub-national level lack adequate skills and experience in procurement, resulting in inefficiency and errors.
 - Allow public procurement practitioners at sub-national level access to vocational training courses organised at a State level, such as those provided by the IPA.
 - Expand the existing suite of standardised documents and guidance materials available to practitioners.
 - Establish a telephone and e-mail helpdesk to provide *ad hoc* support.
- **Combat corruption:** The perception of corruption is considered a serious barrier to participation in Irish public markets by both local and international suppliers.
 - Delegate anti-corruption efforts to a politically independent organisation.
- **Lack of transparency:** Despite positive reforms in recent years to increase transparency in public procurement matters, access to information on public tenders could be further improved.
 - Improve public access to timely and comprehensive data on all stages of the procurement process.
 - Increase collaboration with civil society groups to oversee procurement data.
- **Upgrade the e-procurement system:** While a full suite of e-procurement tools has been developed, uptake rates are modest, and many cite the excess administrative burden of using the system.
 - Update existing e-access and e-submission tools to reduce administrative burdens for contracting authorities and economic operators.
- **Low SMEs' involvement in public procurement:** Efforts to foster SME participation in public procurement markets are being undermined by the current trend to increasing use of large framework contracts.
 - Incentivise SMEs to form consortia to compete for larger contracts.
 - Publish information on the pipeline of large projects so SMEs can better prepare.

ⁱ Institute for Public Administration (2013), Local Authority Times, Vol 17, No 1&2, p. 20.

ⁱⁱ Partnership Agreement (2014) for Ireland, 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, available at: <http://per.gov.ie/wp-content/uploads/Partnership-Agreement-Ireland-2014-2020.pdf>

ⁱⁱⁱ The Irish Competition Authority (2009), The Detection and Prevention of Collusive Tendering, available at: <http://www.tca.ie/images/uploaded/documents/Booklet%20-%20The%20Detection%20and%20Prevention%20of%20Collusive%20Tendering.pdf>

^{iv} Transparency International (2015), Speak Up Report, available at : http://transparency.ie/sites/default/files/15.03.31_Speak_Up_Final.pdf

^v Green Public Procurement, available at: <http://www.greenpublicprocurement.ie/>

^{vi} SBA Fact sheet (2014), fact sheet on Ireland, available at: http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/performance-review/files/countries-sheets/2014/ireland_en.pdf

^{vii} Brendan Howling, Irish Minister of Public Expenditure and Reform, June 9th 2014 Press Releases, available at: <http://www.per.gov.ie/en/minister-for-public-expenditure-and-reform-mr-brendan-howlin-td-announces-establishment-of-social-clauses-project-group/>

^{viii} Ministry for Jobs, Enterprise and Innovation (2015), Action Plan for Jobs, available at: <http://www.djei.ie/publications/2015APJ.pdf>