

LATVIA

KEY FACTS AND FIGURES

| Key Facts and Figures in Latvia | | | | | | |
|---|---|-------------------------|--|--|---|---|
| Overview | Total procurement 2,660,000,000€ | | Procurement % GDP 11% | | 2013 GDP 23,265,000,000€ | Contracting authorities 2,258 |
| Procedures applied | Open 72% | Restricted 1% | Negotiated procedure with call 3% no call 9% | | Competitive dialogue 0% | Direct award 15% Other 1% |
| Share of contract notices by buyer | National 38% | | Regional/local 12% | | Body governed by public law 18% | Other 33% |
| Contract type | Services 33% | | Works 7% | | Supplies 60% | Framework agreement 4% |
| Ex ante conditionality criteria as of 2014 | EU rules Not met | | Transparency Fully met | | Training Fully met | Admin. capacity Fully met |
| E-procurement adoption | E-notification Mandatory | | E-access Mandatory | | E-submission Mandatory | Uptake rate N/A |
| Perceived corruption | Corruption widespread in society Businesses 79% Individuals 76% | | | Corruption widespread in procurement At national level 66% At local/regional level 58% | | |
| TED indicators | Value of tenders 1,379,839,659€ | | Of total procurement 52% | | # contract notices 1,123 | # contract awards 1,233 |
| Other indicators | Received single bid 33% | | # days for decision 66.4 | | Price only criteria 80% | MEAT criteria 20% |
| | Won by foreign firms 4% | | Related to EU funds 19% | | 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

Since its accession to the EU in 2004, Latvia's economic development and growth has relied heavily on EU funds. At just 64% of the EU average in 2014, Latvia has among the lowest GDP per capita in the EUⁱ.

While central and local contracting authorities can conduct their own tender procedures within a decentralised public procurement system, several initiatives in the past years have fostered the harmonisation and centralisation of purchases especially for local authorities. However, additional challenges still need to be tackled to reduce the substantial number of irregularities in tender procedures and to strengthen the administrative capacities of public procurement practitioners at both national and local levels.

DESCRIPTION OF FEATURES

Legal features of public procurement system

Public procurement in Latvia is currently regulated by two main laws: the 2006 Law on Public Procurement (PPL) transposed Directive 2004/18/EC, and the 2010 Law on the Procurement of Public Service Providers transposed Directive 2004/17/EC. The PPL regulates procurement procedures both above and below EC thresholds.

Latvia has two levels of national thresholds below the EU thresholds. First, direct procurement is allowed for small value contracts of less than EUR 4,000 for supplies and services and EUR 14,000 for worksⁱⁱ. Second, simplified procedures can be used for contracts between EUR 4,000 and EUR 42,000 for supplies and services and EUR 14,000 and EUR 170,000 for worksⁱⁱⁱ. Above this second level, the same procedures and rules apply as above the EU thresholds, except for shorter time limits

^{iv}.

The 2013 reform of the public procurement law made centralised procurement mandatory for local authorities for all goods and services offered in the e-catalogue, such as stationary and computer equipment. This has been implemented mainly through the creation of Tender Committees in charge of conducting the entire tender procedure from the drafting of tender documents to the awarding of contracts.

Institutional system

The Ministry of Finance (MoF) has primary responsibility for procurement policy making and drafting legislation. The Procurement Monitoring Bureau (*IUB*), a State direct administration institution that is supervised by the MoF, is responsible for monitoring procurement compliance with legal requirements and for conflicts of interest, preparing guidelines and instructions, and drafting standardised tender and contract documents. The *IUB* also prepares annual reports to the Latvian government on the monitoring and functioning of public procurement^v. In addition, the *IUB* acts as a first instance review body for complaints regarding public procurement. It also carries out *ex-ante* controls before the start of procurement procedures in cases of projects co-financed by ESI funds.

The State Regional Development Agency (*VRAA*) is responsible for promoting harmonised and comprehensive public purchases nationwide through the management of e-procurement and the conclusion of framework agreements for certain types of goods and services. For central government institutions, purchasing from the e-catalogues based on these framework agreements is mandatory. The Providing State Agency for Internal Affairs and the State Agency for Defence Properties of the Ministry of Defence also act as central purchasing bodies in the security and defence sectors^{vi}.

The main external supervision body in public procurement is the State Audit Office (*SAO*). The *SAO* is an independent collegial supreme audit institution. It performs audits in order to ascertain whether resources of central and local public bodies are used in a lawful, economical and efficient manner, and to provide recommendations for the reduction of deficiencies^{vii}. One of its tasks is to audit public procurement activities and to control the implementation of EU co-funded programmes. The *SAO* reports its findings to the *IUB* which can consequently impose fines to contracting authorities for violation of the PPL.

The Corruption Prevention and Combating Bureau (*KNAB*), as the leading specialised anti-corruption authority of Latvia, plays a supporting role in the public procurement system. Its aim is to fight corruption in a coordinated and comprehensive way through prevention, investigation and education. In particular, it detects corruption in public procurement procedures in collaboration with the *IUB* and is responsible for prosecuting cases of corruption and other criminal offences in public procurement cases.

Ultimately, there are judicial review procedures applicable to public procurement complaints. Aggrieved parties may request the administrative court to annul, terminate, amend or reduce the contractual terms of a tender procedure, even if it is already executed. An appeal to the administrative court does not suspend the public procurement processes, but may result in the annulment of the process and/or the award of damages^{viii}.

Key issues that have a bearing on administrative capacity

Human resources: The main procurement institutions in Latvia struggle to attract and retain qualified personnel, as public procurement specialists are one of the lowest paid categories in the public administration. Additionally, expertise on public procurement is often not readily available on the market and needs to be realised through education and training of staff.

The *IUB* primarily recruits staff with a legal background, with an in-house training program designed to build procurement-specific skills. The staff of the *IUB* consisted of 61 persons in 2014, including 54 public officials and 7 contractual employees. In the past year, the increase of responsibilities of the *IUB*, particularly regarding the control of EU co-funded projects, development and monitoring of electronic procurement and green public procurement, has generated a growing workload for the *IUB* staff^{ix}. Due to the comparatively low salaries offered in proportion to the professional qualification necessary for performance of duties, work intensity, and responsibility, the *IUB* suffers from a relatively high levels of staff turnover. In fact, in 2014 it registered a 67% rotation coefficient, i.e. number of recruited plus fired workers over number of employed personnel.

The SAO faces many of the same challenges in terms of recruitment and retention of high-skilled employees. In 2013, they had 163 on staff, of which 124 were auditors and 39 were supporting personnel^{vii}. Procurement is just one of the functions the SAO controls.

Structures: The *IUB* is the main supportive body for contracting authorities and economic operators in public procurement. Training wise, it works in collaboration with the Latvian School of Public Administration (LSPA), which is the largest training centre for civil servants and public administration employees in Latvia.

Training: Apart from the trainings organised internally, *IUB* staff benefit from capacity building activities offered by the LSPA, the State Chancellery and other educational institutions including foreign seminars and conferences^{ix}.

Contracting authorities have access to a diverse set of trainings given by the *IUB* in collaboration with the LSPA and other Ministries. Regarding e-procurement, the *IUB* and the *VRAA*^x provide training to contracting authorities through jointly held seminars on the procurement legal framework and e-procurement benefits^{xi}. In addition, training sessions on green public procurement are organised by several institutions, mainly the Ministry of Environment and Regional Development, the *IUB*, the Ministry of Economy and the Ministry of Agriculture^{xii}. In 2014, *IUB* experts have held 36 seminars for state and local authorities with a total audience of 1,497 participants^x.

The SAO also invests important resources in the training of auditors as no higher education training is available on that matter in the country. In 2013, each auditor benefited from an average of 33 hours of educational training and professional development. 22 training sessions and seminars were held on topics such as the use of specific audit software, processes of financial audit, audit evidence and documentation, evaluation of errors, risk assessment, IT controls and international financial reporting standards.

Systems/tools: The *IUB* offers numerous and diverse types of support and tools to public procurement practitioners and economic operators. It provides oral and written advice and phone consultations, organises workshops, and drafts guidelines, explanatory notes and standardised tender documents^{xiii}. Moreover, it maintains a Publication Management System¹, which facilitates the dissemination of procurement notices online, as well as electronic dispatch for publication on the EU Official Journal.

In addition, the SAO is currently carrying out an ESF co-funded project to strengthen its performance audit capacity. One of the priorities set in the SAO's 2014-2017 Strategy is to increase the focus on performance issues in audits, including performance of public procurement procedures. In this context, the activities

¹ <http://www.iub.gov.lv/pvs/users/registerAdmin>

implemented include a review of performance audit methodology and the organisation of training and pilot audits^{xiv}.

E-procurement

The use of e-procurement in Latvia is highly centralised towards a unique electronic procurement system (*EIS*) and is currently limited to e-notification of contracts and to a lesser extent to e-access to tender documentation. E-notification on the national e-procurement portal is mandatory for all contracts.

The national e-procurement portal provides e-catalogues and e-ordering services for the management of centralised framework agreements, as well as limited e-submission services for the reopening of competition within these framework agreements.

E-auction and full e-tendering functionalities are currently being developed in cooperation with the *IUB* as part of an ERDF co-funded project to be completed by the end of 2015^{xv}. Furthermore, Latvia is currently working to develop a comprehensive strategy towards full, effective and timely functionality of e-procurement procedures by early December 2015.

Corruption

Corruption remains a serious issue in public procurement practices in Latvia, notably in public works. Perceptions of corruption in procurement organised at the national level well exceed the EU average^{xvi}, and there have been a number of bribery investigations at both the state and national levels in recent years^{xvii}.

The *IUB* has identified recurrent irregularities which may indicate corruption risks. These consisted mainly in cases where contracting authorities failed to make documentation available to bidders, requirements for bidders and subcontractors were missing or unclear, or requirements regarding bidders' qualifications were disproportionate^{xviii}.

Several anti-corruption initiatives have been implemented in recent years in the framework of the Corruption Prevention and Combating Programme 2009-2013 to foster integrity in the public sector. One of these initiatives resulted in the approval by the government of a framework plan for human resources in the central administration, entailing wider use of open competitions and a unified system of disciplinary liability for contracting authorities and public-private partnerships. In addition, a unified code of ethics is planned before spring 2016^{xix}.

Since 2013, the Code of Administrative Violations established administrative sanctions for violations of rules governing public procurement, public-private partnerships and the award of concessions. This makes it possible to sanction officials for procurement violations that do not amount to criminal offences. The sanctions mainly consist in fines, and can include deprivation of the right to hold public office^{xx}.

Europe 2020 Agenda

The use of public procurement to achieve strategic goals is not highly developed in Latvia and has been mainly focused so far on green public procurement. Under the PPL, environmental criteria can be introduced in tender procedures as a part of technical specifications or selection criteria. However, the use of green public procurement is not mandatory for contracting authorities, and thus their use is limited. According to the *IUB* monitoring data, only 4.5% of contracts awarded between 2010 and 2013 included environmental criteria. Social criteria, too, have been introduced in the legislation, but are not widely used, primarily due to the fact that contracting authorities lack a thorough understanding on how to apply them.

In general, Latvian contracting authorities award a relatively large share of public contracts to SMEs or groupings of companies led by such enterprises, 67% compared to EU average of 56%^{xxi}. Although there is no specific regulation for SME access to public procurement, the VRAA has introduced some regional divisions of purchases within the centralised e-catalogue system in order to facilitate the participation of SMEs essentially splitting the framework contracts into smaller lots and thus fostering the participation of SMEs^{xxii}.

Irregularities and findings of national Audit Authorities

An analysis of errors in public procurement procedures involving EU Structural Funds between 2010 and 2013 was recently carried out by the SAO on the basis of data reported by EU Funds management bodies^{xxiii}. Identified public procurement-related errors amounted to 1% of the total ERDF and ESF expenditure declared to the EC. Furthermore, the analysis makes three key observations. First, the majority of the errors that resulted in financial corrections during the audit period were related to unlawfully restrictive selection criteria or unequal treatment of tenderers in awarding of the contract. Second, discrepancies related to the reported cause of irregularities by beneficiaries and Audit Authority have been noticed. Third, there are inaccuracies in the reporting of errors to the Commission, such as failure to specify the type of irregularity.

As a result, the SAO issued three recommendations to the Ministry of Finance, aimed at gathering detailed information on public procurement irregularities, explaining the essence of errors to contracting authorities upon their identification, and ensuring the accurate classification and evaluation of irregularities according to their type.

The *IUB* also conducts reviews of irregularities in procurement. It cites disregard of technical specifications, non-compliance with publication requirements, splitting contracts into lots in order to avoid procurement procedures as the most common irregularities in public procurement.

Furthermore, DG REGIO has identified several issues with project implementation at the end of the 2007-2013 programming period. Notably, this has concerned delays in the execution of major projects, significant cost overruns, and the unjustified use of additional works. Frequent legal challenges also contribute to delays in project implementation.

Outlook

Latvia recently established requirements for the development of green public procurement along with a wider supply of energy-efficient and ecological goods in the National Development Plan of Latvia 2014-2020 and also adopted a Green Procurement Promotion Plan 2015-2017. This short-term strategic policy aims to promote sustainable purchase and production and to increase the use of green public procurement up to 30% by 2017. These objectives will be particularly implemented through the use of the EU Structural Funds and the Cohesion Fund.

The main specific measures foreseen to achieve these ambitious goals deal are the development of the regulatory framework of green public procurement, the production of guidelines and standardised documentation for the purchase of certain products and services, the promotion of green products in the *EIS* e-catalogue, the development of a life cycle cost estimation model for certain product groups, the organisation of training courses and awareness raising campaigns for contracting authorities at State and local level, as well as the annual monitoring and reporting on green public procurement by the Ministry of Environment and Regional Development.

ANALYSIS

Strengths

Latvia is making significant efforts towards a wider use of centralised procurement, which should substantially reduce errors and irregularities, as well as the administrative cost of preparing and responding to tenders. Recent amendments to the PPL have introduced the obligation for all contracting authorities to publish tenders notifications online and for local administrations to use centralised procurement through the Tender Committees. In addition, new developments in Latvia's e-procurement system allow a larger range of buyers to register in the centralised system.

In addition, recent amendments to the Code of Administrative Violations are expected to bring a greater degree of discipline and accuracy to public procurement decisions through the application of administrative penalties for breaching tender procedures^{xxiv}.

In Latvia contracting authorities that make use of EU Funds are requested to make an annual planning of procurement needs and related procedures. This has two beneficial effects: on the one hand, it forces contracting authorities to think strategically about procurement; on the other hand, it allows economic operators to better prepare for upcoming public tenders.

Weaknesses

Many of Latvia's public procurement deficiencies can be traced back to insufficient focus on the preparation of tender documents. More emphasis is placed on *ex-post* identification of irregularities than on anticipation and prevention. In this sense, investment in more *ex ante* controls or support could improve outcomes.

Also, the legal framework below EU thresholds presents several weaknesses, as its provision for ensuring transparency and mechanisms for accountability are not particularly robust. In addition, issues related to unforeseen additional works and cost overruns may be related to the lack of clear contractual provisions to cover potential risks. Economic operators view the exemption of in-house procurement as a major obstacle to a transparent procurement system. Also, low threshold public procurement bears significant risks for corruption, yet it is not sufficiently monitored.

Although a number of relevant initiatives are in place to support public procurement practitioners, the main bodies involved in the management and control of public procurement at national level struggle to maintain a stable and well-trained workforce and the overall level of competence still needs to be improved.

The development of e-procurement is still quite low in Latvia. Until now, the lack of full e-procurement functionalities, especially e-submission, has been a substantial barrier to the uptake of e-procurement by contracting authorities and economic operators.

Finally, the integration of Europe 2020 objectives into the public procurement process has only recently become a priority for Latvia and the inclusion of environmental, social and innovation criteria in tender procedures is not highly developed.

Recommendations

- **Get it right the first time:** Preparation of tender documents is a major weakness in Latvia, due in part to the administration's focus on detection rather than prevention of errors and irregularities.
 - Dedicated increase resources to *ex ante* controls of tender documents.
 - Develop comprehensive guidance materials, including sample tender documents, to help contracting authorities in the preparation of documents.

- **Follow through:** Many issues in the procurement process, such as preventable delays and cost overruns, and unjustified add-works, take place after the signature of the contract, and thus beyond the jurisdiction of the *IUB*.
 - Extend the *IUB*'s authority to the full project lifecycle.
 - Develop risk-management tools to systematically identify potential issues before they arise.
- **Increase transparency:** Economic operators. Oversight bodies and civil society groups would benefit from increased transparency on procurement procedures in Latvia.
 - Subject below EU threshold tenders to reporting and transparency requirements more in line with above EU threshold norms.
 - Bring the legal definition of fraud into line with the EU's definition.
 - Increase the transparency of in-house procurement done by municipalities.
 - Oblige Latvia's procurement bodies to make their public procurement plans available online.
- **Better pay:** Procurement bodies, including the *IUB*, struggle to attract and maintain highly skilled staff. The current human resources strategy involves an extensive training regime, but ultimately procurement staff are among the lowest paid in the public administration.
 - Bring compensation for high skilled procurement staff into line with similarly qualified positions in other parts of the public administration.
- **Develop e-procurement:** E-procurement is still in its infancy and uptake remains very low due to underdeveloped functionalities.
 - Create a comprehensive e-procurement platform.
 - Develop a policy plan setting out ambitious targets on e-procurement.
 - Introduce dedicated e-procurement trainings and guidance materials.
- **Get strategic:** The promotion of strategic goals via procurement is a recent priority for the Latvian government, and thus remains modest.
 - Set up and maintain an inventory of ready-to-use environmental, social and innovative criteria for different product groups.
 - Implement the government's strategic plan to promote quality criteria.
 - Design specific trainings to promote such criteria within contracting authorities.

ⁱ Eurostat statistics explained: GDP per capita, consumption per capita and price level indices, available at: http://ec.europa.eu/eurostat/statistics-explained/index.php/GDP_per_capita_consumption_per_capita_and_price_level_indices

ⁱⁱ European Commission (2011), Commission Staff Working Paper, Evaluation Report: Impact and Effectiveness of EU Public Procurement Legislation, Part 2.

ⁱⁱⁱ *Publisko iepirkumu likums* (The Public Procurement Law), edition of 1 November 2014.

^{iv} 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.

^{vii} *Publisko iepirkumu likums* (The Public Procurement Law), edition of 1 November 2014.

^{vi} *Ibid*

^{vii} State Audit Office of Latvia (2014), Annual Report 2013.

^{viii} *Ibid*

^{ix} Procurement Monitoring Bureau (2015), Annual Report 2014.

^x State Regional Development Agency (2014), Annual Activity Report 2013.

^{xi} DG MARKT (2013), Study on e-Procurement Measurement and Benchmarking - EU-country-profiles.

^{xii} DG ENV (2014), National GPP strategies.

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

^{xiv} State Audit Office of Latvia (2014), Communication on the ESF co-funded project "Support to implement structural reforms in the public administration", Sub-activity "Strengthening the capacity of the State Audit Office," available at: <http://www.lrvk.gov.lv/en/about-the-state-audit-office/eu-structural-funds>

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

^{xvi} European Commission (2013) Flash Eurobarometer 374

^{xvii} Corruption Prevention and Combating Bureau (2013), Progress and results in preventing and combating corruption in Latvia, Periodical update.

^{xviii} European Commission, DG HOME (2014), EU anti-corruption report – Annex Latvia.

^{xix} Council of Europe GRECO (2015) Fourth Evaluation Round Corruption prevention in respect of members of parliament, judges and prosecutors Compliance Report Latvia

^{xx} *Latvijas Administratīvo pārkāpumu kodekss* (Latvian Administrative Violations Code), last amended on 10 March 2015.

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

^{xxii} DG MARKT (2013), Study on e-Procurement Measurement and Benchmarking - EU-country-profiles.

^{xxiii} State Audit Office of Latvia (2014), Parallel regulatory audit on "Analysis (of types) of errors in EU and National public procurement within the Structural Funds programmes".

^{xxiv} European Commission (2014), Assessment of the 2014 national reform programme and convergence programme for LATVIA.