



Annex I Guidance Note

Prevention of corruption in procurement at various government levels, including good practices, lessons learned and challenges, and the effective use of technology to prevent, detect, deter and counter corruption in procurement

1. The Secretariat has produced this Guidance Note to assist States parties in providing information on initiatives and practices they have implemented regarding the topics under consideration at the fifteenth session of the Working Group on the Prevention of Corruption taking place from 28 August to 6 September 2024.
2. The Secretariat wishes to recall paragraph 12 of the report of the Working Group on Prevention on its second intersessional meeting, which noted that in advance of each meeting, States parties and signatories should be invited to share their experiences of implementing the provisions of the Convention under consideration, preferably by using the self-assessment checklist.
3. In furtherance of this, the Secretariat outlines a set of questions, based on those in the self-assessment checklist, which States parties and signatories may wish to use as a guide when providing information regarding the two topics under consideration. States parties and signatories are encouraged to view the questions below only as guidance and are free to provide any information believed to be relevant to the topics under consideration.

I - Information requested from States parties and signatories in relation to prevention of corruption in procurement at various government levels and the effective use of technology to prevent, detect, deter and counter corruption in procurement (arts. 9 and Conference resolution 10/9).

1. Please describe (cite and summarize) the measures/steps your country has taken (or is planning to take) to implement this provision of the Convention.

In relation to integrity in public procurement processes, States parties and signatories may wish to cite and describe measures that:

- Ensure the national procurement system is based on principles of transparency, competition and objective criteria in decision-making;
- Establishing in advance the conditions for participation, including selection and award criteria and tendering rules;
- Provide for sufficient time to potential tenders to prepare and submit their tenders and using by default an open tender procedure;
- Provide for transparent publishing of all procurement decisions including publishing the invitations to tender;
- Establish procedures, rules and regulations for review of the procurement process, including a system of appeal;



UNODC

United Nations Office on Drugs and Crime

- Provide for a thorough selection of personnel responsible for procurement, including screening procedures; as well as establishing a conflict of interest management system with declarations of interest and methods to resolve conflicts in particular cases;
- Put in place other administrative practices promoting integrity in procurement (such as the rotation of personnel, debarment procedures, etc.).

The Lithuanian public procurement legal framework transposes the provisions of the EU public procurement Directives (2014/24/EU; 2014/25/EU) and is based on the EU public procurement principles of transparency, equal treatment, non-discrimination, mutual recognition, proportionality, it seeks to ensure competition and objective decision-making.

All the principles are listed in the Law on Public Procurement (hereinafter – LPP) (Article 17 (1) and (3)).

LPP requires establishing in advance the conditions for participation, including selection and award criteria and tendering rules (Article 35 (2)).

LPP also regulates the minimum time for submission of the tenders (Article 60 (for open procedure), Article 62 (for restricted procedure), Article 65 (for negotiated procedure with prior publication), Article 69 (for competitive dialogue), Article 74 (for innovation partnership). Contracting authorities may carry out an open procedure or restricted procedure in all cases, the other procedures may be selected only in the cases listed by LPP.

Based on legal framework, contract notices, prior information notices and contract award notices of procurement procedures above EU threshold are published by Publications Office of the European Union. The same information on the procurement procedures below EU threshold is published in the Central Public Procurement Information System (CPP IS). Additionally, contracting authorities also have to publish information about the public procurement plans, as well as bids of the successful tenderers (except confidential information), contracts awarded and modifications of the contracts in the CPP IS.

It should be noted that the CPP IS provides electronic means for conducting public procurement procedures electronically. Contracting authorities are obliged to carry out all procedures electronically (except very limited cases, listed in the Law).

LPP also sets the right for contracting authorities to invite observers from other state and municipalities institutions to participate in the meetings of Public Procurement Commission.

LPP establishes procedures, rules and regulations for review of the procurement process, including a system of appeal (Chapter VII). All the bidders have legal standing to challenge the contract award to contracting authority and this challenge would suspend the procurement process. Contracting authorities have to respond to the challenge in 6 working days. The decision of contracting authority may be appealed to the Regional Court. The next review tiers would be Court of Appeal of Lithuania and the Supreme Court.

LPP also provides for a thorough selection of personnel responsible for procurement, as well as establishing a conflict-of-interest management system with declarations of interest and methods

Making the world safer from drugs, crime and terrorism



UNODC

United Nations Office on Drugs and Crime

to resolve conflicts in particular cases. Article 19 (3) of LPP sets certain requirements for persons, appointed as public procurement commission members - it states that only a person of impeccable reputations can be assigned with such duties. Article 21 (2) of the LPP sets a requirement that each person can participate in the procurement or take decisions related to the procurement only after signing a confidentiality pledge and declaring his/her private interests in accordance with the procedure laid down by the Law on the Harmonisation of Public and Private Interests¹, and the persons, who are not obliged to declare their private interests, after signing a declaration of impartiality of a form determined by the Public Procurement Office in cooperation with the High Official Ethics Commission.

Persons involved in a conflict-of-interest situation must resign, or may be recused, from the preparation, consideration, adoption or monitoring of decisions relating to the procurement in question, in accordance with the Law on the Harmonisation of Public and Private Interests.

Additionally, Articles 92 and 95 of LPP define the functions of the institutions that carry out monitoring and supervision roles in public procurement.

Institutions incorporate internal control measures, including pre-procurement and post-procurement control.

It could be added that LPP establishes exclusion grounds, that public contracts cannot be awarded to economic operators that has been the subject of a conviction by final judgment for corruption crimes (Article 46 (1) (2) of LPP).

According to the Article 46 (4) of LPP, contracting authorities are required to exclude from participation in a procurement procedure any economic operator in any of the following situations:

- a) where the contracting authority has sufficiently plausible indications to conclude that the economic operator has entered into agreements with other economic operators aimed at distorting competition;
- b) where a conflict of interest cannot be effectively remedied by other less intrusive measures.

LPP establishes a requirement to uphold the principles of non-discrimination and equal treatment. Therefore, there is a prohibition for contracting authorities to decrease the competition artificially and a prohibition to form the technical specification in a way that would result into more/less favourable conditions for certain suppliers (e.g. due to the origin or type of technology, source of supply, etc.)

Through 2023 Public Procurement Office (PPO) has implemented the project “Increasing the number of suppliers into public procurements”. During the project activities PPO provided training for suppliers. These trainings strengthening suppliers’ competences, not only in terms of competence to identify corruption, but also through increased competition, to reduce the risk of corruption. In 2024 PPO will continue this activity.

¹ According to the Law on the Harmonisation of Public and Private Interests (Article 4 (3) (10), the obligation to declare private interests is imposed on heads of contracting authorities, members of procurement committees, persons appointed by the head to carry out simplified procurements, experts involved in procurement procedures, and initiators of procurement.

Making the world safer from drugs, crime and terrorism



UNODC

United Nations Office on Drugs and Crime

As part of public procurements specialist certification program, in 2023 PPO included questions related to ethics of public procurement's proceedings into certification program, which also includes corruption prevention topics.

Lithuania has a specialized anti-corruption institution - the Special Investigation Service of the Republic of Lithuania (hereinafter – STT), one of whose tasks is to prevent corruption and to investigate corruption-related crimes. According to the Article 8 of the Law on the Special Investigations Service (hereinafter – the Law on the STT), pursuing its activity objective and implementing tasks assigned to it, STT has the right to receive free of charge data of the state information resources and documents as well as other information necessary to carry out the functions of the STT from government and municipal authorities, institutions and enterprises, the State and municipality managed enterprises, enterprises whose shareholder is the State or a municipality, public institutions that are established, owned or co-owned by the State or a municipality. Based on this provision, the STT has established and signed an institutional data provision agreement with the PPO according to which the STT has the right to get the public procurement data.

The STT also provides information about the risks related to the subject or its' responsible persons (their criminal records according to the competence of the STT, other possible risks arising from participating in the procurement) upon receiving an official request from the other institutions. This procedure is stated in the Article 72 of the LPP.

2. Please describe (cite and summarize) the measures/steps your country has taken, if any (or is planning to take, together with the related appropriate time frame) to promote the effective use of technology to prevent, detect, deter and counter corruption in procurement.

States parties and signatories may wish to provide information on measures that:

- Utilize technology, such as online platforms for the distribution of information relating to public procurement and tenders as a way to prevent corruption, enhance transparency and ensure competition and objective criteria in procurement decision-making.

Information sought may, in particular, include the following:

- Description of any electronic system of public procurement, including, for example:
 - The means by which tender invitations are published;
 - The inclusion of all pertinent information on the award of contracts;
 - Ways in which applications may be submitted (including the use of electronic procurement platforms); and
 - Ways in which the criteria to be used for selection and award are publicized.
 - Any other ways, in which technology is used in the procurement process
 - Any other ways, in which technology is used to detect corruption or identify irregularities.

When providing information on the use of technology to prevent, detect, deter and counter corruption in procurement, States parties and signatories may wish to refer to their submissions for the sixth meeting of the Working Group, held in 2015.

Making the world safer from drugs, crime and terrorism



UNODC

United Nations Office on Drugs and Crime

Public procurements are carried out through the Central Public Procurement Information System (CPP IS)², a state information system in which:

- the submission and management of public procurement notices and reports;
- public procurement procedures are carried out;
- publication of summaries of planned procurements, procurement documents, public contracts, framework agreements and other information on public procurement;
- archiving and storing procurement documents;
- other actions prescribed by law are performed.

This system provides assurance in the traceability of data publication, modification, and removal.

The system is administered by PPO.

PPO had to implement the CPP IS modernisation to the new e-procurement system “SAULE IS” process, which had to start in 2023. Unfortunately, due to supplier’s fault in contract infringement, PPO had to start legal proceedings against the supplier. On 5th January 2024 the contract was terminated.

In 2024 PPO will seek new financial opportunities to develop a new e-procurement system. Objectives for the new e-procurement system remains the same: it should have technical features allowing for easier accumulation, handling and analysis of public procurement data throughout the procurement process (“once-only” principle, automated solutions for data gathering, publication of the data according to the obligations set in Public Procurement Law, integrations with state registers (including integration with the Register of Private Interests - PINREG), open data format for user friendliness and easier data analysis, etc.).

What is more, every public buyer in Lithuania that is obligated to follow the procedures of public procurements according to the national legal framework is monitored through the Scoreboard³, which provides freely accessible data on the total percentage of single-bidder procurement, volume of such procurement, average number of bids, prevalent buyers, suppliers, types of procurement and other indicators. In 2023 the Scoreboard was supplemented with the following indicators:

- Number of “single bidder” procurement procedures (without / with centralised procurement), in percent.
- Average number of bids for a procurement (without / with centralised procurement), number and etc.

Based on the results of this Scoreboard, PPO selects the public buyers to be inspected, determines the target audience for the training, etc.

Comprehensive data sets on contracts and changes in the contracts are published on yearly basis in an open data format⁴.

² <https://pirkimai.eviesiejiipirkimai.lt> <https://pirkimai.eviesiejiipirkimai.lt>

³ <https://vpt.lrv.lt/lt/statistika-ir-analize/pirkimu-vykdytoju-zemelapis-svieslente-1/>; <https://vpt.lrv.lt/lt/statistika-ir-analize/vieno-tiekejo-pirkimu-stebesenos-ataskaita-1/>

⁴ <https://vpt.lrv.lt/lt/statistika-ir-analize/pirkimu-ir-sutarciau-duomenys-1/sutarciau-duomenys/>

Making the world safer from drugs, crime and terrorism



UNODC

United Nations Office on Drugs and Crime

STT (anti-corruption institution) technologies are used when performing anti-corruption analytical intelligence or corruption risk analyses, analysing public procurement data.

Most of the risk indicators (red flags) that might be related to the public procurement procedure are most often expected to be noticed during regular Analytical Anti-Corruption intelligence investigations performed in the STT. Analytical Anti-Corruption intelligence is one of the functions of the STT. Its purpose is to identify and neutralize corruption threats and risks before they develop into corruption-related crimes. According to the Article 9 of the Law on the STT, the results of the performed analysis can be presented to the state and municipal institutions or officials competent to make relevant decisions significant in terms of reducing the prevalence of corruption.

Furthermore, according to the Article 8 of the Law on the STT, pursuing its activity objective and implementing tasks assigned to it, the STT has the right to receive free of charge data of the state information resources and documents as well as other information necessary to carry out the functions of the STT from government and municipal authorities, institutions and enterprises, the State and municipality managed enterprises, enterprises whose shareholder is the State or a municipality, public institutions that are established, owned or co-owned by the State or a municipality. The before mentioned data is excavated through a STT developed register which include data from state registers (e.g. Legal Entities, Property and Encumbrances, Population, Public procurement, Beneficial owners of legal entities and other registries).

3. Please outline actions required to strengthen or improve the measures described above and any specific challenges you might be facing in this respect.

Examples of the types of challenges States parties and signatories may have faced include:

- Challenges in developing the proper legislative framework;
- Coordination challenges between government agencies responsible for integrity in procurement and other bodies;
- Communication challenges between government bodies, agencies responsible for integrity in procurement, and business community representatives;
- Other implementation challenges; and
- Financial challenges with respect to maintaining sufficient and consistent funding for government bodies and other government agencies responsible for integrity in procurement and management of public finances.

One of the difficulties encountered by the STT in analytical anti-corruption intelligence activities is to enable that public procurement data could be reused and analysed, ensuring that institutions provide accurate data, minimising potential errors in the data.

Overall, the existing legal framework is extensive and complex, the procurement process is lengthy and a high number of documents are required to be submitted. That may also pose some implementation challenges and discourage businesses from participating in public procurement.

Making the world safer from drugs, crime and terrorism



UNODC

United Nations Office on Drugs and Crime

Worth noting that the Ministry of the Economy and Innovation of the Republic of Lithuania conducts periodic evaluations of the public procurement system and proposes necessary actions to address problematic issues.

4. Do you require technical assistance in relation to the measures described above? If so, please specify the forms of technical assistance that would be required. In case you have received or are receiving technical assistance to implement these measures, please indicate so in your response.

We do not require technical assistance.

Making the world safer from drugs, crime and terrorism

United Nations Office on Drugs and Crime | Vienna International Centre | PO Box 500 | 1400 Vienna | Austria
Tel.: (+43-1) 26060-0 | Fax: (+43-1) 26060-5866 | Email: unodc@unodc.org | www.unodc.org