

Public Procurement Authority Contributions

(Effective use of technology in the context of preventing corruption in public procurement, steps taken, challenges faced by countries and current information and best practices in preventing corruption in general.)

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.

It is stipulated by Public Procurement Law No. 4734 published in the Official Gazette of 22 January 2002, No. 24648 that in procurements conducted by the contracting authorities, they are obliged to ensure the fundamental principles of transparency, competition, equal treatment, reliability, confidentiality, public supervision, fulfilment of needs appropriately and promptly, and efficient use of resources. In this context, public procurement processes are carried out by taking into account these fundamental principles.

In procurements, all tenderers are basically given sufficient time to prepare their tenders. Furthermore, apart from the open procedure and the restricted procedure, which are determined as the main procurement procedures in the Law, the minimum number of days in advance for the publication of procurement notices for the negotiated procedure is also specified, taking into account the estimated cost and the threshold values specified in the Law. In addition to basic information about the contracting authority and the procurement, the notices contain information such as the place where the work is to be carried out, the commencement and completion dates for the subject matter of the procurement, the procurement procedure, the conditions of participation, the qualification criteria, the type of the tender and the contract, the validity period of the tenders, the tender securities, whether any advantage is to be applied in favour of domestic tenderers, and whether consortia are allowed to submit tenders. Moreover, the Administrative Specifications included in the procurement documents contain detailed information on the costs included in the tender price, the procedures and principles laid down by the Law to be applied in the receipt, opening and evaluation of the tenders, the place and conditions of payment, advance payment, obligations in the case of an increase or decrease in work, insurance conditions, and detailed information on inspection, testing, acceptance procedures and dispute resolution. In this way, the terms are set in advance.

Notices for the procurement result are published in the Public Procurement Bulletin on the Electronic Public Procurement Platform (EKAP) website.

The Public Procurement Law contains provisions on applications and review regarding procurement procedures. Complaint applications to the contracting authority and appeal applications

to the Public Procurement Authority are mandatory administrative application paths to be exhausted before filing a lawsuit. Administrative lawsuits against the decisions of the Public Procurement Board are subject to the expedited procedure. Furthermore, contracting authorities may choose either Turkish courts or arbitration for the settlement of disputes that may arise between the parties during the execution of the contract.

Article 11 of the Law titled "Ineligibility" stipulates that the contracting officers of the contracting authority carrying out the procurement process, and the persons assigned in boards having the same authority, those who are assigned to prepare, execute, complete and approve any procurement transaction relating to the subject matter of the procurement conducted by the contracting authority, their spouses, relatives up to third degree and marital relatives up to second degree, and foster children and adopters, as well as their partners and companies cannot participate in the procurement procedures.

In addition to the penal liability of tenderers, Articles 60, 61 and 62 of the Law contain provisions on the criminal liability of officers, prohibition of disclosure of information and documents and other rules to be complied with by contracting authorities.

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.

On an annual basis, more than 99% of the procurements carried out in our country are carried out on the Electronic Public Procurement Platform (EKAP), which is a transparent and participatory environment run by the Public Procurement Authority. At this point, administrative procedures, including the planning of the procurement, the preparation of the procurement document and notices, and the execution of the procurement and contract, are carried out through EKAP.

Furthermore, persons interested in public procurement can access procurement notices through the Public Procurement Bulletin published on EKAP, obtain procurement documents through EKAP, submit tenders entirely electronically, and file complaint and appeal applications against procurement procedures electronically. Also, EKAP Call Centre provides instant solutions to the problems of stakeholders in all kinds of transactions from procurement notices to the contract process. Result notices of the procurements are also published on EKAP, and contract information is transparently included in these notices.

Electronic procurement aims to reduce bureaucracy in public services, to carry out service processes with the support of information and communication technologies, and to provide public services in a fast, efficient, effective, low-cost, simple and secure environment. In parallel with all these objectives, it is expected to reduce the time and transaction costs of the participants, increase participation and competition by ensuring transparency, and shorten and simplify the evaluation process.

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

Public procurement is a dynamic field and public procurement legislation may need to be reviewed at frequent intervals and revised in line with the conditions of the day. It has been an important factor to increase the expertise of private and public sector representatives in procurement in order to adapt to the changing and evolving procurement legislation. Both face-to-face trainings provided by specialised personnel and online platforms such as EKAP Academy have made it easier to handle these processes.

When the public procurements in Türkiye are analysed, it is seen that almost all of the procurements have been conducted as electronically in the recent period. In this context, keeping the system infrastructure, existing software and hardware up to date, and increasing the competence of IT personnel in current technologies have emerged as important factors.