

Questionnaire on Public Procurement in V4 countries

Give a brief insight into the legal and economic background of establishing the PP (public procurement) systems, to see the challenges your country faced on this field in the last 20 years.

I. Legal framework

Analyzing the legal framework will be the fundamental part of this study. This part has to reveal the PP system of each country as a whole and identify similarities and differences between them, which may serve as the basis for further comparison. The legal framework defines the scope of each country's PP system.

1.

1. 1. Is there a separate body of law that regulates public procurement? (Y/N)	Y
--	---

1. 2. Identify the relevant national-level regulations [primary/secondary law]. If possible, insert a reference to the official English translation of each act and decree in effect. Indicate if there were any major changes in the regulatory framework recently.

PUBLIC PROCUREMENT LAW

Act of 29 January 2004 - Public Procurement Law

SECONDARY LEGISLATION

Regulation of the Prime Minister of 10 May 2011 on non-price mandatory tender evaluation criteria with respect to certain types of public contracts (Journal of Laws No. 96, item 559)

Regulation of the Prime Minister of 26 October 2010 on report on contract award procedure (Journal of Laws, No. 223, item 1458)

Regulation of the Prime Minister of 22 March 2010 on the rules regarding the procedure for examining the appeals (Journal of Laws No.48, item 280)

Regulation of the Prime Minister of 15 March 2010 on the amount of and the manner for collecting the registration fee for the appeal, kinds of costs in the appeal procedure and the manner for their calculation (Journal of Laws No. 41, item 238)

Regulation of the Prime Minister of 16 October 2008 on the standard forms of notices placed in the Public Procurement Bulletin (Journal of Laws, No. 12, item 69)

Regulation of the Prime Minister of 28 January 2010 on the list of priority and non-priority services (Journal of Laws, No. 12, item 68)

Regulation of The Prime Minister of 30 December 2009 on the types of documents which may be requested by the awarding entity from the economic operator and forms in which these documents may be submitted (Journal of Laws, No. 226, item 1817)

Regulation of The Prime Minister of 16 December 2011 on the average exchange rate of Polish zloty against Euro being the basis for converting the value of public contracts (Journal of Laws, No. 282,

item 1650)

Regulation of The Prime Minister of 16 December 2011 on the value threshold of contracts and design contests which imposes an obligation of dispatching the notices to the Office for Official Publications of the European Communities (Journal of Laws, No. 282 item 1649)

Regulation of the Prime Minister of 10 September 2007 amending the regulation on the scope of information included in annual report on the conducted contract award procedures, its standard form and the manner of submission (Journal of Laws No. 175, item 1226)

Regulation of the Prime Minister of 25 August 2006 on the scope of information included in annual report on the conducted contract award procedures, its standard form and the manner of submission (Journal of Laws No. 155, item 1110)

All abovementioned regulations can be found on www.uzp.gov.pl (english version)

2.

2. Describe the scope of public procurement. Does it cover sub-national levels of government? Does it include coverage of all government procurement, including security and military procurement? Are there separate procurement rules established for parastatals?

Art. 4 PPL provides that "This Act shall apply to public contracts, awarded by:

1) the public finance sector units within the meaning of provisions on public finances [including sub-national levels of government]

2) state organisational units not having legal personality, other than those specified in item 1;

3) legal persons, other than those specified in item 1, established for the specific purpose of meeting needs in the general interest, not having industrial or commercial character, if the entities referred to in these provisions and in items 1 and 2, separately or jointly, directly or indirectly through another entity:

a) finance them in more than 50%, or

b) have more than half of shares or stocks, or

c) supervise their managerial board, or

d) have the right to appoint more than half of the members of their supervisory or managerial board;

3a) associations of the entities referred to in items 1 and 2, or entities referred to in item 3;

4) entities other than those specified in items 1-3a, if the contract is awarded for the purposes of exercising one of the activities referred to in Article 132, if such an activity is exercised on the basis of special or exclusive rights, or if the entities referred to in items 1-3a, separately or jointly, directly or indirectly through another entity, have a dominant influence over them, in particular:

a) finance them in more than 50 %, or

b) have more than half of the shares or stocks, or

c) have more than half of the votes resulting from the shares or stocks, or

d) supervise their managerial board, or

e) have the right to appoint more than half of the members of their managerial board;

5) entities other than those specified in items 1 and 2, if all of the following circumstances occur:

a) more than 50% of the value of the contract awarded by them is financed from public funds or by the entities referred to in items 1-3a,

b) the value of a contract is equal to or exceeds the amounts specified in the provisions issued under Article 11 paragraph 8,

c) the contract object is works comprising the activities in the field of overland and maritime engineering, construction of hospitals, sport, recreation and leisure centres, school buildings, facilities used by the universities or buildings used by the public administration or services connected with such works;

6) [deleted];

7) entities with which concession for works contract was concluded under *the* Act of 9 January 2009 on concession for works or services, insofar as they award contracts for the purpose of the execution of that concession

In 2011, the draft Act on amendment to the Act - Public Procurement Law was prepared. Its subject matter is to be implementation of the provisions of Directive of the European Parliament and of the Council 2009/81/EC of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts, and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (defence directive). The purpose of the implementation also includes rationalisation of public spending on acquisitions in the fields of defence and security, improvement in the transparency in the area of awarding public contracts, ensuring compliance of the awarding entities' actions with the defence directive and TFEU, especially aimed at ensuring compliance of spending EU funds with the EU legislation on public procurement, as well as protection of the Polish defence industry and ensuring its development – utilisation of the opportunities brought by the opening of the EU defence and security market for the Polish enterprises and protect state security.

At present in most cases PPL does not apply to security and military procurement (art. 4.3.f provides that the act shall not apply to supplies and services being subject to Article 296 of the Treaty establishing the European Community and art. 4.5 provides that PPL shall not apply to contracts containing classified information, if required by the substantial public interest or important state interest.). Contracts are awarded due to decision of Ministry of Defence of 26.07.2006 concerning rules and procedures for the conclusion of contracts relating to weapon or military equipment and decision of Ministry of Defence of 25.10.2004 relating to procurements containing classified information, if required by the substantial public interest or important state interest.

There are no separate rules for parastatals.

3.

3. 1. Was / is there any EU infringement case in progress against the government concerning PP? (Y/N)	Y
<p>3. 2. Describe the cases briefly and indicate the violated EU regulations. (source: http://ec.europa.eu/eu_law/infringements/infringements_en.htm)</p> <p>13.12.2006 - The Commission has decided to send a reasoned opinion to Poland concerning the the Polish Border Guard's award of a public contract for a radar coastal surveillance system without any form of publication and without following the competitive procedures set out in the relevant EU Directive. The Polish authorities argued that the contract in question was exempted from the application of the Directive since its execution had to be accompanied by special security measures and since the state's essential security interest required such an exemption. However, the Commission considers that the Polish authorities have not proven that the exemption actually applies. Therefore, as the conditions for the exemption claimed by the Polish authorities were not met, the contract should have been advertised and awarded in conformity with the Directive, and failure to have done so constitutes an infringement of EU public procurement law.</p> <p>11.2011 – There is an information about some steps of Commission concerning exclusion criteria in PPL. Probably it is connected with art. 24.1.1a PPL which stipulates that excluded from contract award procedures shall be economic operators with whom the given awarding entity has cancelled or terminated a contract or withdrawn there from due to circumstances for which the responsibility is beared by the economic operator, if the cancelation or termination of a contract or withdrawal there from occurred within 3 years prior to the commencement of contract award procedure, and the value of non-performed procurement amounted at least to 5% of the contract value. Regardless of the above, National Appeal Chamber in October 2011 issued a request to European Court of Justice for preliminary ruling concerning this regulation.</p>	

4.

4. 1. Please indicate if the following OECD principles are expressed by the national regulations. (Y/N)	
4. 1. 1. Transparency	Y
4. 1. 2. Good management	Y
4. 1. 3. Prevention of misconduct	Y

4. 1. 4. Accountability and control	Y
4. 2. Are the following key recommendations of the OECD ensured by the relevant regulations? (Y/N)	
4. 2. 1. Providing an adequate degree of transparency throughout the whole procurement cycle in order to promote fair and equitable treatment for potential suppliers	Y
4. 2. 2. Maximising transparency in competitive tendering and taking precautionary measures to enhance integrity, in particular for exceptions to competitive tendering	Y
4. 2. 3. Ensuring that public funds are used in public procurement according to purposes intended	Y
4. 2. 4. Developing a set of professional standards to enhance the knowledge, skills and integrity of public procurement officials	Y
4. 2. 5. Putting mechanisms in place to prevent risks to integrity in public procurement	Y
4. 2. 6. Encouraging close co-operation between government and the private sector to maintain high standards of integrity, in particular in contract management	Y
4. 2. 7. Providing specific mechanisms for the monitoring of public procurement and the detection and sanctioning of misconduct in public procurement	Y
4. 2. 8. Establishing a clear chain of responsibility together with effective control mechanisms	Y
4. 2. 9. Handling complaints from potential suppliers in a fair and timely manner	Y
4. 2. 10. Empowering civil society organisations, media and the wider public to scrutinise public procurement	Y
4. 3. If you have any remarks on the above listed principles and recommendations please describe. Due to "Ensuring that public funds are used in public procurement according to purposes intended" there are quite many problems with procurements under 14.000 euro, because as a rule PPL not apply to contracts not exceeding that amount. Usually awarding entities prepare internal regulations concerning this "small" procurements.	
4. 4. Indicate any other guiding principles expressed in the legal regulations. -	

5.

5. 1. Which procurement methods are allowed by the national regulation? (e. g. open, restricted, negotiated, accelerated). List them. Open tendering, restricted tendering, negotiated procedure with publication, competitive dialogue, negotiated procedure without publication, single – source procurement procedure, request for quotations procedure, electronic bidding procedure	
5. 2. Are conditions for use of various procurement methods clearly established? (Y/N)	Y
5. 3. Is there an explicit requirement that open competitive bidding is the preferred or default method? (Y/N)	Y
5. 4. Describe these. Art 10 PPL stipulates that „The primary procedures for awarding contracts are open tendering and restricted tendering. Awarding entity may award contracts by negotiated procedure with publication, competitive dialogue, negotiated procedure without publication, single – source procurement procedure, request for quotations procedure, electronic bidding procedure only under the circumstances specified in this Act”.	
5. 5. Specify the relevant thresholds by types (min/max) and relevance (goods, works, services). [Insert extra rows/columns if needed]	

type	goods		works		services		other: [specify] (e.g. construction)	
	min	max	min	max	min	max	min	max
open tendering	14.000 euro	no maximum limit	14.000 euro	no maximum limit	14.000 euro	no maximum limit	-	-
restricted tendering	14.000 euro	no maximum limit	14.000 euro	no maximum limit	14.000 euro	no maximum limit	-	-
negotiated procedure with publication	14.000 euro	no maximum limit	14.000 euro	no maximum limit	14.000 euro	no maximum limit	-	-
competitive dialogue	14.000 euro	no maximum limit	14.000 euro	no maximum limit	14.000 euro	no maximum limit	-	-
negotiated procedure without publication	14.000 euro	no maximum limit	14.000 euro	no maximum limit	14.000 euro	no maximum limit	-	-
single – source procurement procedure	14.000 euro	no maximum limit	14.000 euro	no maximum limit	14.000 euro	no maximum limit	-	-
request for quotations procedure	14.000 euro	130.000 euro (public finance sector), 200.000 euro (non public finance sector), 400.000 euro (utilities contracts)	no maximum limit	no maximum limit	14.000 euro	130.000 euro (public finance sector), 200.000 euro (non public finance sector), 400.000 euro (utilities contracts)	-	-
electronic bidding procedure	14.000 euro	130.000 euro (public finance sector), 200.000 euro (non public finance sector), 400.000 euro (utilities contracts)	14.000 euro	5 mln euro	14.000 euro	130.000 euro (public finance sector), 200.000 euro (non public finance sector), 400.000 euro (utilities contracts)	-	-

		contracts)						
--	--	------------	--	--	--	--	--	--

6.

6. Do legal provisions stipulate the use of new and innovative techniques in PP process (automatic or e-procurement)?

Specification of essential terms of the contract shall be provided by the awarding entity on its own website (art. 37 PPL)

Awarding entity or the economic operators may provide statements, requests, notifications by fax or electronic means (way of communication is selected by awarding entity) (art. 27 PPL)

Tender may be submitted in electronic form with a secure electronic signature verifiable using a valid qualified certificate (art. 82 PPL)

Electronic bidding procedure (art. 74 PPL) means contract award procedures in which using a form available on the website allowing to enter the necessary data on line, economic operators shall submit successive more advantageous tenders (bid increments), subject to automatic classification

The informatisation of the public procurement system is a significant process within the entire contract award procedure. It is supported by the solutions provided for in the Act – Public Procurement Law that enable to use electronic means to conduct procedures. Free IT tools issued and maintained by PPO streamline and accelerate the procedures. PPO provides access to a Central Portal – information service via the Internet.

PPO maintained two separate communication platforms: information platform – a website and the Central Portal – providing access to an on-line forum and the Public Procurement Bulletin.

Another tool available on the Portal includes the electronic classification of CPV, CPC, priority and non-priority services. The Public Procurement Office provides a tool that facilitates search of the necessary information and enables a faster classification of supplies, services and construction works.

PPO also maintains an Electronic Submission Office (EUP) and an Electronic Inbox (ESP) – “A publicly available electronic communication means used to provide information in electronic form to a public entity using a publicly available telecommunication and IT network”. Through the Electronic Inbox, the following matters may be submitted to the Office, including the President of National Appeal Chamber, on electronic forms bearing a secure certified electronic signature:

- correspondence concerning appeal cases;
- appeal;
- accession to an appeal procedure;
- application for login and password to place notices in PPB.

7.

7. 1. Describe the system of administrative or judicial review/appeal. Is it fair and adequate?

An appeal to National Appeal Chamber is admissible against actions in compliance with the Act, performed by the awarding entity in the course of contract award procedure or against failure to act which the awarding entity is bound to perform under this Act (art. 180 PPL). The composition of the National Appeal Chamber consists of no more than 100 members appointed and dismissed by the Prime Minister from among persons satisfying special requirements, who obtained the best results in qualifying procedure.

If the value of the contract is less than EU thresholds, appeals can only be lodged against the following actions:

- choice of negotiation without notification, direct contract agreement or price quotation;
- description of the way in which compliance with the conditions for participating in procedure will be evaluated;
- exclusion of the appellant from procurement proceedings;
- rejection of the appellant's bid.

In many cases concerning procedures not exceeding EU thresholds, economic operators have no tools to fight against awarding entities. Before 2009 economic operators were entitled to lodge a

protest (special appeal institution which was resolved by awarding entities), but finally this institution was eliminated from PPL and replaced by procedure of „Informing the awarding entity”. Art. 181 PPL provides that „The economic operator or the participant of design contest may, within the time limit for lodging an appeal, inform the awarding entity of the action taken by the awarding entity in compliance with the Act or against failure to act which the awarding entity is bound to perform under this Act against the provisions of the Act or failure to act which the awarding entity was obligated to take under the Act, both subject of appeal under Article 180 paragraph”. The problem is that awarding entity is not obliged to even respond for this information.

The other problem is incoherent jurisdiction issued by National Appeal Chamber and the fact that most cases are resolved by one judge.

The parties and participants of the appeal procedure may complain to the court against the Chamber's ruling. The complaint should be lodged with the district court competent for the seat or place of residence of the awarding entity.

Many participants of public procurement market and specialists claim that the appeal and complaint fees are too high and because of this economic operators can not afford to start appropriate actions against awarding entities.

7. 2. Specify the legal sanctions (penalties etc.) of violating legal regulations regarding public procurements.

Art. 200 PPL provides that The awarding entity is subjected to a financial penalty when awards a contract:

a) infringing the provisions of this Act which refer to prerequisites for the application of types of contract award procedures: negotiated procedure without publication, single-source procurement or request-for-quotations,

b) without the required notice;

c) without applying this Act;

4) modifies the concluded contract infringing upon the provisions of this Act

Awarding entities shall also be subject to a penalty in the following cases:

1) where the requirements to participate in a contract award procedure as defined by the awarding entity distort fair competition,

2) where the awarding entity describes the object of contract in a way that restricts fair competition,

3) where the awarding entity conducts a contract award procedure in breach of the rule of openness,

4) where the awarding entity fails to comply with the respective time limits fixed for in this Act,

5) where the awarding entity excludes an economic operator from the contract award procedure in breach of the provisions of the Act governing the preconditions for such exclusion,

6) where the awarding entity rejects a tender in breach of the provisions of the Act governing the preconditions for such rejection,

7) where the awarding entity selects the best tender in breach of the provisions of this Act

- if such a breach has an impact on the outcome of the contract award procedure

The amount of the financial penalty, is determined depending on the contract value. Where the contract value:

1) is less than the amounts specified in the provisions issued under Article 11 paragraph 8 (EU thresholds) - the financial penalty shall be PLN 3 000;

2) is equal to or exceeds the amounts specified in the provisions issued under Article 11 paragraph 8 (EU thresholds), but is less than EUR 10 000 000 for services and supplies and EUR 20 000 000 for works - the financial penalty shall be PLN 30 000;

3) is equal to or exceeds the expressed in PLN equivalent of EUR 10 000 000 for services and supplies and EUR 20 000 000 for works - the financial penalty shall be PLN 150 000.

The head of the awarding entity is the person responsible for the preparation and conduct of the contract award procedure (art. 18 PPL). He may be subject to criminal liability. Also economic operators may be subjected to criminal liability (fraud, corruption, forge).

The other thing is that many awarding entities use money from EU programs. If disbursement of this funds will be made with infringements of national rules or EU rules, special financial penalty is imposed on awarding entity. There are many cases concerning this situations now in Poland

--

8.

8. 1. Are there minimum time limits for the receipt of tenders required for public procurements below EU-threshold? (Y/N)	Y
8. 2. If so, specify by types and conditions of procurement. [Insert extra rows if needed]	
Open tendering	Not less than 7 days (supplies and services) and not less than 14 days (works) from the day, on which the contract notice is placed in the Public Procurement Bulletin
Restricted tendering	Not less than 7 days (supplies and services) and not less than 14 days (works) from the date of dispatch of the invitation to tender
negotiated procedure with publication	Not less than 10 days from the date of invitation to submit initial tenders
competitive dialogue	Not less than 10 days from the date of invitation to submit initial tenders
negotiated procedure without publication	The awarding entity shall fix a time limit for submission of tenders taking account of the time necessary to prepare and submit a tender.
single – source procurement procedure	-
request for quotations procedure	The awarding entity shall fix a time limit for submission of tenders taking account of the time necessary to prepare and submit a tender.
electronic bidding procedure	During each stage of the electronic bidding the awarding entity shall dispatch, on a current basis, to all economic operators information about the position of their tenders, the number of economic operators participating in each stage of the bidding, as well as their quotations, however, information allowing identification of economic operators shall not be disclosed until the closing of the electronic bidding.

9.

9. Is there a legal or regulatory requirement for public disclosure of procurements /related legal texts and statistical data? (Y/N)	Y
--	---

10.

10. Are there provisions regarding preferences for particular categories of suppliers (sp. preferential treatment of local bidders) and/or categories of goods, works and services (cf. private sector provision/operation of power, water or other infrastructure facilities)? If so, specify.

Provisions concerning preferences for local economic operators are forbidden, because of infringement of the rule of fair competition and equal treatment of economic operators.

Art. 5 PPL provides that „To contract award procedures where the object involves services of non-priority nature, the provisions of PPL the time limits for submission of requests to participate in a procedure or time limits for submission of tenders, obligation to demand deposit, obligation to demand documents certifying the fulfilment of conditions for participation in the procedure, prohibition to determine contract award criteria on the basis of the economic operator’s characteristics as well as preconditions for the selection of negotiated procedure with publication, competitive dialogue and electronic bidding shall not apply”.

Regulation of the Prime Minister of 28 January 2010 on the list of priority and non-priority services lists non-priority services: hotel and restaurant services, rail transport services, water transport services, supporting and auxiliary transport services, legal services, personnel placement and supply services, investigation and security, except armoured car services, education and vocational education services, health and social services, recreational, cultural and sporting services

11.

11. 1. Are there any explicit anti-corruption / transparency rules - as part of the framework regulation? If so, specify the essential features.

Art. 7 PPL provides that awarding entities shall prepare and conduct contract award procedures in a manner ensuring fair competition and equal treatment of economic operators. Art. 29.2. PPL provides that the object of the contract shall not be described in a manner which could restrict fair competition and 29.3 PPL provides that the object of the contract shall not be described by reference to trade marks, patents or origin unless this is justified by the nature of the object of the contract or where the awarding entity cannot otherwise describe the object of the contract with sufficient precision, provided that such references are accompanied by the words “or equivalent”.

The rule of fair competition and equal treatment of economic operators is the most important rule in PP, but is also the rule which is violated in most cases. The infringements are often connected with conditions for participation in the procedure which are exaggerated. In many situations object of the contract is described in that way that only one is proper. It is also very important that contracts shall be awarded only to economic operators chosen in accordance with the provisions of PPL (art. 7.3. PPL). It means that awarding entity is obliged to choose the best tender, meaning either the tender providing the most advantageous balance of price and other criteria relating to the object of the contract or the tender with the lowest price

Art. 8 PPL stipulates that contract award procedures shall be public. This rule ensures access to all information concerning procurement procedures and, in consequence its transparency. Very important is the fact that access is open even for entities which did not take part in contract award procedure - everyone interested is entitled to get an appropriate information.

Art. 17 PPL provides that Persons performing actions in connection with the conduct of award procedures shall be subject to exclusion, if:

- 1) they are competing for a contract;
- 2) remain in matrimony, consanguinity or affinity in direct line or consanguinity or affinity in indirect line up to the second degree, or is related due to adoption, legal custody or guardianship with economic operator, his legal deputy or members of managing or supervisory bodies of economic operators competing for a contract;
- 3) during the three years prior to the date of the start of the contract award procedure they remained in a relationship of employment or service with the economic operator or were members of managing or supervisory bodies of economic operators competing for a contract;
- 4) remain in such legal or actual relationship with the economic operator, which may raise justified

doubts as to their impartiality;

5) have been legally sentenced for an offence committed in connection with contract award procedures, bribery, offence against economic turnover or any other offence committed with the aim of gaining financial profit.

Persons performing actions in connection with a contract award procedure shall provide a written statement, under the pain of penal liability for making false statements, about the absence or existence of the circumstances referred to in paragraph 1. Actions in connection with the contract award procedure undertaken by a person subject to exclusion after they became aware of the circumstances referred to in paragraph 1 shall be repeated, except for the opening of tenders and other factual actions having no influence on the outcome of the procedure.

Art. 32.2. provides that the awarding entity may not split up a contract into lots or understate its value with the intention of avoiding the application of PPL. This rule is also violated very often by awarding entities. The aim of this regulation is to prevent awarding entities from splitting up some contracts to avoid to apply PPL or some of its regulations.

Of course there are also criminal provisions concerning public procurement – bribery (art. 228 and 229 of penal code), forgery (art. 271 of penal code), fraud to obtain a contract (art. 297 of penal code), obstruction of public procurement procedure (art 305 of penal code)

11. 2. Is there a conflict of interest policy in effect? If so, describe the essential features.

See 11.1. concerning persons performing actions in connection with the conduct of award procedures

Sources: regulations, laws, other studies, reports

II. Institutional framework

The institutional framework introduces the public entities taking part in PP procedures, and the managerial framework.

1.

1. 1. Name the institutions/authorities in charge of PP in your country. Describe their duties and responsibilities. Quote the legal sources of the infrastructural framework.

Art. 152 PPL provides that The Public Procurement Office President is a central government body competent for matters concerning public contracts. The PPO President shall be subordinate to the Prime Minister. The PPO President shall be assisted in his work by the PPO. The organisation of the PPO shall be defined by a statute issued by the Prime Minister by an order

The PPO President:

- 1) prepares drafts of normative acts on public contracts;
- 2) takes decisions on individual issues stipulated in this Act;
- 3) issues by electronic means the Public Procurement Bulletin, where all the notices provided for in this Act are placed;
- 4) [deleted];
- 5) keeps and publishes on the PPO website a list of organisations authorised to submit legal protection measures;
- 5a) runs, publishes and updates on the PPO website list of economic operators that caused damage by failing to perform a contract or by performing a contract incorrectly, if the damage was stated by the legally valid decision of the court, and deletes economic operators from the list;
- 6) ensures the functioning of the system of legal protection measures;
- 7) prepares training programmes, organises and encourages training in the field of public

procurement;

8) prepares and disseminates standard criteria for assessment of the substance of the training;

9) [deleted]

10) disseminates standard forms of public procurement contracts, rules of procedures and other documents used in awarding public contracts;

11) watches over observance of the public procurement system rules and in particular carries out controls of the contract award process within the scope stipulated in this Act;

12) disseminates the principles of professional ethics of persons performing tasks within the public procurement system;

13) aspires to provide uniform application of the procurement provisions, considering the judicature of courts and the Constitutional Court, in particular dissemination of decisions of the National Appeal Chamber, courts and Constitutional Court which refer to public procurement;

14) maintains international co-operation on issues relating to public contracts;

15) analyses the functioning of the system of public contracts;

16) prepares and submits to the (Polish) Council of Ministers and to the European Commission annual reports on the functioning of the system of public contracts;

17) presents to the Prime Minister an annual information on the functioning of the National Appeal Chamber, which considers the problems resulting from the adjudication;

18) proposes candidates for the post of Chairman and Vice-chairman of the National Appeal Chamber;

19) puts forward a motion to appoint the disciplinary agent of the National Appeal Chamber;

20) carries out activities which refer to E-procurement;

21) delivers to the European Commission, every year by the 31st March, the decisions passed by the National Appeal Chamber in the previous year with regard to appeals concerning contract award procedures, where the contract was not annulled due to important public interest, referred to in Article 192, together with the justification.

1. 2. Is the procurement system in your Country centralized or decentralized? (C/D)	C
1. 3. Is there a central tender board or authority? (Y/N)	Y

2.

2. 1. Is there an entity with oversight responsibilities for procurement functions throughout public administration (e.g., with primary regulatory powers, responsible for harmonization of rules and monitoring of compliance)? If so, identify and describe responsibilities and structure.

The PPO President disseminates the principles of professional ethics of persons performing tasks within the public procurement system

2. 2. Are procurement decisions overridden by higher governmental agencies? (Y/N)	N
---	---

2. 3. If so, by whom?
-

2. 4. Are the authorities relating to procurement clearly delegated to the entities carrying out the process?	Y
---	---

2. 5. Are the applicable procedures clearly defined?	Y
--	---

3.

3. 1. Are there any integrity and transparency guidelines or code of ethics for employees working with PP? (Y/N)	Y
--	---

3. 2. What guidelines ensure integrity and transparency in PP?

PPO is issuing the Public Procurement Office Information Bulletin, which, is issued cyclically – once a month – in the electronic form at the website of PPO. It includes materials concerning the functioning of public procurement system in Poland and the activity of the Public Procurement Office, including information on public procurement provisions, drafts of legal documents, interpretation of provisions, rulings, judgments, and analytical studies prepared by PPO. The PPO Information Bulletin has a significant information and educational function and enjoys high interest both from, awarding entities and economic operators.

In December 2010, publication entitled Guidelines regarding interpretation of prerequisites for conduct of a public contract award procedure by negotiated procedure with publication, competitive dialogue, negotiated procedure without publication, single-source procurement and request for quotation was issued. The publication was adopted on November 18th, 2010 by the Committee of the Council of Ministers. The goal of the issuance of the guidelines is to introduce into the judicature and decisions of domestic authorities (courts, Public Procurement Office, National Appeal Chamber) and EU authorities (ECJ) and to help interpret the provisions of the act and avoid negative effects of decisions made in breach of the law.

All publications issued by PPO were distributed in print inter alia among the government administration authorities, local governments, control authorities, organisations of entrepreneurs, health care entities, courts, uniformed services, schools of higher education, libraries and other entities participating in the public procurement market. Moreover, the electronic versions of publications were made available for all interested parties at the website of PPO (www.uzp.gov.pl).

4.

4. What institutions have the power of supervision and control in the PP system? Name the key authorities, describe their rights and duties. Distinguish between internal management control and external audit.

Art. 161 PPL provides that The PPO President shall control the award of contracts. The objective of controls is to prove the conformity of contract award procedures with the Act. The PPO President shall commence an ad hoc control ex officio or on request in case of justified presumption, that in course of the contract award procedure a breach of the provisions of the Act appeared, which might have influenced the result.

The PPO President shall conduct control of the awarded contracts cofinanced by the EU funds prior to the conclusion of contract (ex-ante control), if the value of contract or framework agreement for:

- 1) works - is equal to or exceeds the PLN equivalent of EUR 20 000 000;
- 2) supplies or services - is equal to or exceeds the PLN equivalent of EUR 10 000 000.

Awarding entities are also controlled by regional audit chambers, tax audit agencies and The Central Anticorruption Bureau which is a special service that combats corruption in public and private sector, especially in the State and self-government institutions, as well as fights against any activity which may endanger the State's economic interests.

Contracts cofinanced by the EU funds are also controlled by special departments in agencies responsible for reimbursement of this funds.

5.

5. Describe how review and remedy is regulated in Public Procurement. Name the key authorities.

Economic operators, providing that they have or had an interest in the contract and suffered or may suffer damage arising from violation of the provisions of PPL, are eligible to legal protection remedies.

An appeal to National Appeal Chamber is admissible against actions incompliant with the Act, performed by the awarding entity in the course of contract award procedure or against failure to act which the awarding entity is bound to perform under this Act (art. 180 PPL).

Before 2009 economic operators were entitled to lodge a protest (special appeal institution which was resolved by awarding entities), but finally this institution was eliminated from PPL and replaced by procedure of „Informing the awarding entity”. Art. 181 PPL provides that „The economic operator or the participant of design contest may, within the time limit for lodging an appeal, inform the awarding entity of the action taken by the awarding entity incompliant with the Act or against failure to act which the awarding entity is bound to perform under this Act against the provisions of the Act or failure to act which the awarding entity was obligated to take under the Act, both subject of appeal under Article 180 paragraph”.

The parties and participants of the appeal procedure may complain to the court against the Chamber's ruling. The complain should be lodged with the district court competent for the seat or place of residence of the awarding entity.

6.

6. Is there a national Public Procurement strategy? If so, describe its main objectives, targets and indicators. If it is publicly available, please add online reference.

On June 14th, 2010 the Council of Ministers adopted the National Action Plan on sustainable public procurement for the period 2010-2012 developed by the Public Procurement Office. Due to conclusion of implementation of initiatives under the National Action Plan on green public procurement for the period 2007-2009, PPO developed a new 3-year planning document, the goal of which is to maintain the popularization of green public procurement in Poland. The document contains an analysis of EU and domestic legal regulations, regarding directly the matter of green public procurement and indirectly related thereto. It also contains information regarding the activities carried out to date and results of surveys carried out at the beginning and end of the plan implementation. Following the EU initiatives and in connection with the introduction in the Act - Public Procurement Law of provisions enabling a wider consideration of social issues in public contracts, the document additionally contains a schedule of actions in this respect.

The National Action Plan on sustainable public procurement for the period 2010-2012 is available at the website of PPO: <http://www.uzp.gov.pl/cmsws/page/?F;291>.

7.

7. 1. Can public procurement be outsourced?	Y
---	---

7. 2. Do procurement agents or consultant / law firms take part in tendering?	Y
---	---

7. 3. If so, under what circumstances? How are they selected?

If they are not employed on the basis of labour law, they have to be chosen with PPL.

7. 4. Describe the normal basis for compensation and contract duration.

Compensation is usually determined at the contract, which is in most cases performed for 1 year.

8.

8. 1. How are employees in PP institutions recruited? (Are vacancies publicly announced? What are the HR requirements – e. g. professional certificate, experience)

Information about vacancy are usually published on institution's website. Usually law degree or an engineering degree is required.

8. 2. How are PP employees trained? Are there regular training programs for entry- and higher level staff?

It depends on each institution. There are no special trainings for entry – usually employees start to deal with real procedures. There are many training companies and post-graduate studies for people interested in PP matters, but the problem is that the trainings are not obligatory and improvement of knowledge depends on the approach of management of awarding entities. The situation is gradually improving, also because of subsidizing trainings from UE funds.

On November 8th, 2010 the Public Procurement Office joined the project entitled *New approach to public procurement – training and advisory*, which has been implemented by the Polish Agency for

Enterprise Development since 2009. The project assumptions are based on the recommendations contained in the government's document adopted in 2008 entitled "New approach to public procurement – public procurement versus small and medium enterprises, innovations and sustainable development".

The activities provided for in the project are aimed at a change of approach of the public administration and entrepreneurs to application and conduct of public contract award procedures.

III. Practice and performance

The third part focusing on practical issues shows how Public Procurement systems operate in reality, how transparency and integrity are guaranteed, what deficiencies there are among them. This part plays a key role in analyzing whether and how Freedom of Information prevails in the PP system.

1.

1.1. What are the main performance indicators of the PP sector - for the year 2010? (Or latest available statistics Indicate the year:)				
% of GDP				11,8 %
nominal value in PPP				167 billions PLN
1. 2. Please indicate the share of methods (% in volumes and cases) [Insert extra rows if needed]				
methods (cf. open, restricted etc.)	in volume		case	
	In %	Nominal value in PPP	%	TOTAL
open tendering	60,37 %	no data	77,94 %	no data
restricted tendering	15,44 %	no data	0,69 %	no data
negotiated procedure with publication,	3,06 %	no data	0,13 %	no data
competitive dialogue	0,09 %	no data	0,03 %	no data
negotiated procedure without publication	12,27 %	no data	0,29 %	no data
single – source procurement procedure,	8,33 %	no data	17,20 %	no data
request for quotations procedure	0,39 %	no data	3,55 %	no data
electronic bidding procedure	0,05	no data	0,17 %	no data
TOTAL	100	no data	100	no data
1. 3. Please indicate the share of PP types (works, goods, and services - % in volumes and cases)				
type (cf. goods, services, etc.)	in volume		case	
	In %	Nominal value in PPP	In %	TOTAL
goods	20 %	no data	36 %	no data
services	36 %	no data	36 %	no data
works	43 %	no data	28 %	no data
TOTAL	100	no data	100	no data

2.

2. 1. Are summaries of information about public procurement published? (Y/N)		Y
2. 2. Is there any comprehensive database on PP? (Y/N)		Y
2. 3. What kind of data is available? Specify the format.	Y/N	format
2. 3. 1. number of recieved bids	Y	website and in a publicly accessible location in awarding entity's seat
2. 3. 2. number of contracts awarded	Y	website and in a publicly accessible location in awarding entity's seat
2. 3. 3. names of successful bidders / losing bidders	Y	website and in a publicly accessible location in awarding entity's seat
2. 3. 4. public advertisements	Y	website and in a publicly accessible location in awarding entity's seat
2. 3. 5. prequalification documents (if used)	N	-
2. 3. 6. the prequalification evaluation report documenting any decisions not to prequalify certain potential bidders	N	-
2. 3. 7. the bidding documents	N	-
2. 3. 8. record of any pre-bid meetings	N	-
2. 3. 9. the bid opening minutes	N	-
2. 3. 10. final bid evaluation report	N	-
2. 3. 11. detailed record of the reasons used to accept or reject each bid	N	-
2. 3. 12. copies of bids	N	-
2. 3. 13. appeals against procedures or award recommendations	Y	website and in a publicly accessible location in awarding entity's seat
2. 3. 14. signed copy of the final contract	N	-
2. 3. 15. any performance and advance payment securities issued	N	-
2. 3. 16. any changes in the final contract	N	-
2. 3. 17. documents on contract performance/completion	N	-
2. 4. Is a timeline follow up of a tender possible? (Does a tender have a specific ID from the beginnig to the end?) (Y/N)		Y
<p>2. 5. Describe the access rules. Identicate if there are legal restrictions on the public availability of these data. Are data easily available to the general public?</p> <p>Art. 96 PPL provides that In the course of the conduct of an award procedure the awarding entity shall prepare a written record of the contract award procedure, hereinafter referred to as the "record", which shall include at least:</p> <ol style="list-style-type: none"> 1) description of the object of the contract; 2) information on the contract award procedure; 3) information on economic operators; 4) price and other essential elements of the tender; 		

5) indication of the selected tender or tenders.

The record together with annexes attached thereto shall be open to the public. The annexes to the record shall be made available after the best tender is selected or after the procedure is cancelled, however, tenders shall be made available from the moment of their opening, initial tenders shall be made available from the day of invitation to submit tenders, and requests to participate in the procedure shall be made available from the day of notification of the results of assessment of fulfilment of the conditions for participation in the procedure.

Regulation of the Prime Minister of 26 October 2010 on the report on contract award Procedure provides that Apart from the information, referred to in Article 96 (1) of the Act of 29 January 2004 – Public Procurement Law, hereinafter referred to as the "Act", the report shall include, depending on the type of procurement procedure, the information referring to:

1. the awarding entity;
2. object of public contract, hereinafter referred to as the "contract";
3. indication of the value of contract, value of the framework agreement or value of the dynamic purchasing system, value of contract divided into lots, value of supplementary contracts as well as the date and manner of their estimation;
4. reasons for application by the awarding entity of other, than the open and restricted tendering, type of procurement procedure;
5. persons performing the activities in the contract award procedure and of persons involved in preparation of the procedure;
6. notices and their modification;
7. economic operators invited to contract award procedure, negotiations, submission of tenders, initial or indicative tenders;
8. announcement to President of the PPO on the commencement of procedure under single source procurement or negotiated procedure without publication;
9. economic operators that submitted requests to participate in the award procedure, submitted tenders, initial or indicative tenders;
10. economic operators admitted to the dynamic purchasing system;
11. place and date for submission of tenders;
12. opening of tenders;
13. the amount, the awarding entity plans to allot to finance the contract or part thereof;
14. comparison of tenders;
15. evaluation of fulfilment of conditions for participation in the procedure;
16. economic operators excluded from the procedure;
17. tenders, which were rejected;
18. application of electronic auction;
19. selection of the best tender;
20. approval of the outcome of award procedure;
21. notification of selection or annulment of procedure along with reasons for the annulment;
22. legal protection measures;
23. award of public contract;
24. annexes to the report;
25. comments to the report.

The awarding entity shall make the report or the annexes thereto available at request.

Making the report or the annexes available may have the form of inspection, dispatch of the copy by post, fax or by electronic means, according to applicant's choice as specified in the request.

Without the consent of awarding entity, the applicant shall not make a copy or recordings by means of devices or technical means used to record the image of the submitted tenders or requests to participate in the contract award procedure during the inspection of report or annexes conducted in a place determined by the awarding entity.

If the dispatch of copy of report or the annexes according to the applicant's choice is significantly hindered, in particular due to the number of documents requested to be dispatched, the awarding entity shall notify it to the applicant and shall indicate the way, the documents may be made available.

The awarding entity shall forthwith make the report or the annexes thereto available to the applicant. In exceptional cases, in particular in order to provide efficient workflow in reference to examination and evaluation of tenders, the awarding entity shall make the tenders or the requests to participate in a procedure available for inspection or shall dispatch their copies within the time limit fixed by the

awarding entity, however not later than the day when the information on selection of the best (most advantageous) tender or on the cancellation of the procedure is dispatched.

By the virtue of Law on access to public information dated 6.09.2001 also all the information concerning public procurement procedures are accessible to the public.

There are no problems with access to files concerning procurement procedures. Very important is the fact that access is open even for entities which did not take part in contract award procedure. In consequence everyone interested is entitle to get an appropriate information. Although in some cases there are problems with getting an information via awarding entities website, which for ordinary people are the main source of knowledge.

2. 6. Describe forms of publication (printed, electronic), scope and frequency. Does the country have a national gazette (or other similar publication) published in a timely fashion?

The awarding entity commences an award procedure by placing the contract notice in a place accessible to the public in its seat and on its website. Notices shall be placed in the Public Procurement Bulletin available on the portal of Public Procurement Office, shall be published in the Official Journal of the European Union if they are dispatched to the Publications Office of the European Union.

The scope of contract notice depends on tender time. In example, in open tendering it contains at least:

- 1) name (company name) and address of the awarding entity;
- 2) type of the contract award procedure;
- 3) the website address where the specification of essential terms of contract is posted;
- 4) definition of the object of contract and of the volume or scope of the contract, stating whether it is possible to submit tenders for lots;
- 5) information concerning the possibility of submitting variants;
- 6) contract execution date;
- 7) conditions for participation in the procedure and description of the method used for the evaluation of the fulfillment of those conditions;
- 8) information concerning the deposit;
- 9) criteria for evaluation of tenders and their significance;
- 10) place and time limit for submission of tenders;
- 11) time limit during which a economic operator must maintain his tender;
- 12) information on the intention to conclude a framework agreement;
- 13) information on the intention to establish a dynamic purchasing system including the website address where additional information concerning the dynamic purchasing system shall be posted;
- 14) information on the envisaged selection of the best tender with the use of electronic auction including the address of the website where the electronic auction shall be held.
- 15) information on supplementary contracts, referred to in Article 67 paragraph 1 item 6 and 7 or Article 134 paragraph 6 item 3 and 4, if the awarding entity envisages the award of such contracts.

The awarding entity may place the contract notice also in a different manner, in particular in a national daily or periodical. There is no special gazette for that purpose.

2. 6. Is there a public website available with comprehensive real time data? If so, please insert reference link.

<http://bzp0.portal.uzp.gov.pl/>

2. 7. Who handles public procurement data? Name the authority.

The President of Public Procurement Office

--

3.

3. 1. Do procuring entities have internal quality and control mechanisms? (Y/N)	N
<p>3. 2. Are they regularly audited? If so, describe scope, frequency, who carries them out, etc.</p> <p>Art. 161 PPL provides that The PPO President shall control the award of contracts. The objective of controls is to prove the conformity of contract award procedures with the Act. The PPO President shall commence an ad hoc control ex officio or on request in case of justified presumption, that in course of the contract award procedure a breach of the provisions of the Act appeared, which might have influenced the result.</p> <p>The PPO President shall conduct control of the awarded contracts cofinanced by the EU funds prior to the conclusion of contract (ex-ante control), if the value of contract or framework agreement for:</p> <p>1) works - is equal to or exceeds the PLN equivalent of EUR 20 000 000; 2) supplies or services - is equal to or exceeds the PLN equivalent of EUR 10 000 000.</p> <p>Awarding entities are also controlled by regional audit chambers, tax audit agencies and The Central Anticorruption Bureau which is a special service that combats corruption in public and private sector, especially in the State and self-government institutions, as well as fights against any activity which may endanger the State's economic interests.</p> <p>Contracts cofinanced by the EU funds are also controlled by special departments in agencies responsible fo reimbursement of this funds.</p>	
3. 3. Is procurement monitoring and administration computerized? (Y/N)	Y
<p>3. 4. How adequately do procurement entities track the key steps in the procurement process and collect appropriate project-related cost and schedule information?</p> <p>Awarding entities usually prepare 1-year schedule at the beginning of the year and spend the money due to this schedule.</p>	
3. 5. Do procurement units regularly update their informations on prices for goods and works? (Y/N)	Y
3. 6. For small contracts or purchase orders for goods procured using shopping procedures, is a database maintained showing the current market price for commonly needed items? (Y/N)	N
3. 7. Are completion of contracts adequately monitored? (Y/N)	Y
<p>3. 8. How frequently are contracts not completed on schedule? What is the major cause for slippage? Which sectors and which particular kinds of contracts are effected? Specify.</p> <p>It is hard to assess the amount of contracts. The most effected sector is construction industry and works contracts. Delays occur mostly as a result of force majeure, meaning a fortuitous event which could not have been foreseen and was caused by the forces of nature (especially flooding or the other bad weather conditions). In case of delays there are special provisions in contracts envisage contractual penalties for economic operators</p>	
<p>3. 9. How frequently are contracts not completed within the originally approved contract price? How frequently are clauses of the contract (quality/quantity of goods, services, work) modified? What is the major cause for modification? Which sectors and which particular kinds of contracts are affected? Specify.</p> <p>It is hard to assess the amount of contracts, but It is quite rare situation. As a rule a lump-sum remuneration can not be changed during performance of the contract.</p> <p>There are special rules concerning modifications of contracts. Art. 144 PPL provides that Any significant modification of provisions of the concluded contract with reference to the content of the</p>	

tender, which was the basis for the choice of the economic operator, is prohibited, unless the awarding entity envisaged the possibility of conducting such a modification in the contract notice or specification of essential terms of contract and determined the terms of such modification. The modification of the procurement contract done in breach of paragraph 1 above shall be null and void. Modifications may be for example a result of change of VAT rate. The most effected sector is construction industry and works contracts

4.

4. 1. Describe briefly the selection and contract awarding procedures. (per tender type). Take the checklist questions as a guideline

Open tendering	
4. 2. Are qualification criteria appropriate and clearly described? (Y/N)	Y
4. 3. Do Instructions to Bidders (ITBs) contain all information necessary to prepare responsive bids and clearly understand evaluation criteria and their method of application? (Y/N)	Y
4. 4. Are time limits for the receipt of tenders fairly prescribed and sufficient for the preparation of bids? (Y/N)	Y
4. 5. Are bidders afforded sufficient time to revise their bids following a modification of the documents? (Y/N)	Y
4. 6. Are qualification requirements for bidders, if any, fair and appropriate for the purpose of the contract? (Y/N)	
4. 7. Is prequalification carried out when appropriate? (Y/N)	N
Restricted tendering	
4. 2. Are qualification criteria appropriate and clearly described? (Y/N)	Y
4. 3. Do Instructions to Bidders (ITBs) contain all information necessary to prepare responsive bids and clearly understand evaluation criteria and their method of application? (Y/N)	Y
4. 4. Are time limits for the receipt of tenders fairly prescribed and sufficient for the preparation of bids? (Y/N)	Y
4. 5. Are bidders afforded sufficient time to revise their bids following a modification of the documents? (Y/N)	Y
4. 6. Are qualification requirements for bidders, if any, fair and appropriate for the purpose of the contract? (Y/N)	
4. 7. Is prequalification carried out when appropriate? (Y/N)	Y
negotiated procedure with publication	
4. 2. Are qualification criteria appropriate and clearly described? (Y/N)	Y
4. 3. Do Instructions to Bidders (ITBs) contain all information necessary to prepare responsive bids and clearly understand evaluation criteria and their method of application? (Y/N)	Y
4. 4. Are time limits for the receipt of tenders fairly prescribed and sufficient for the preparation of bids? (Y/N)	Y
4. 5. Are bidders afforded sufficient time to revise their bids following a modification of the	Y

documents? (Y/N)	
4. 6. Are qualification requirements for bidders, if any, fair and appropriate for the purpose of the contract? (Y/N)	
4. 7. Is prequalification carried out when appropriate? (Y/N)	Y
competitive dialogue	
4. 2. Are qualification criteria appropriate and clearly described? (Y/N)	Y
4. 3. Do Instructions to Bidders (ITBs) contain all information necessary to prepare responsive bids and clearly understand evaluation criteria and their method of application? (Y/N)	Y
4. 4. Are time limits for the receipt of tenders fairly prescribed and sufficient for the preparation of bids? (Y/N)	Y
4. 5. Are bidders afforded sufficient time to revise their bids following a modification of the documents? (Y/N)	Y
4. 6. Are qualification requirements for bidders, if any, fair and appropriate for the purpose of the contract? (Y/N)	
4. 7. Is prequalification carried out when appropriate? (Y/N)	Y
negotiated procedure without publication	
4. 2. Are qualification criteria appropriate and clearly described? (Y/N)	Y
4. 3. Do Instructions to Bidders (ITBs) contain all information necessary to prepare responsive bids and clearly understand evaluation criteria and their method of application? (Y/N)	Y
4. 4. Are time limits for the receipt of tenders fairly prescribed and sufficient for the preparation of bids? (Y/N)	Y
4. 5. Are bidders afforded sufficient time to revise their bids following a modification of the documents? (Y/N)	Y
4. 6. Are qualification requirements for bidders, if any, fair and appropriate for the purpose of the contract? (Y/N)	
4. 7. Is prequalification carried out when appropriate? (Y/N)	N
single – source procurement procedure	
4. 2. Are qualification criteria appropriate and clearly described? (Y/N)	Y
4. 3. Do Instructions to Bidders (ITBs) contain all information necessary to prepare responsive bids and clearly understand evaluation criteria and their method of application? (Y/N)	Y
4. 4. Are time limits for the receipt of tenders fairly prescribed and sufficient for the preparation of bids? (Y/N)	Y
4. 5. Are bidders afforded sufficient time to revise their bids following a modification of the documents? (Y/N)	Y
4. 6. Are qualification requirements for bidders, if any, fair and appropriate for the purpose of the contract? (Y/N)	
4. 7. Is prequalification carried out when appropriate? (Y/N)	N
request for quotations procedure	
4. 2. Are qualification criteria appropriate and clearly described? (Y/N)	Y
4. 3. Do Instructions to Bidders (ITBs) contain all information necessary to prepare responsive bids and clearly understand evaluation criteria and their method of application? (Y/N)	Y
4. 4. Are time limits for the receipt of tenders fairly prescribed and sufficient for the preparation of bids? (Y/N)	Y
4. 5. Are bidders afforded sufficient time to revise their bids following a modification of the documents? (Y/N)	Y
4. 6. Are qualification requirements for bidders, if any, fair and appropriate for the purpose of the contract? (Y/N)	
4. 7. Is prequalification carried out when appropriate? (Y/N)	N
electronic bidding procedure	
4. 2. Are qualification criteria appropriate and clearly described? (Y/N)	Y
4. 3. Do Instructions to Bidders (ITBs) contain all information necessary to prepare responsive bids and clearly understand evaluation criteria and their method of application? (Y/N)	Y
4. 4. Are time limits for the receipt of tenders fairly prescribed and sufficient for the	Y

preparation of bids? (Y/N)	
4. 5. Are bidders afforded sufficient time to revise their bids following a modification of the documents? (Y/N)	Y
4. 6. Are qualification requirements for bidders, if any, fair and appropriate for the purpose of the contract? (Y/N)	
4. 7. Is prequalification carried out when appropriate? (Y/N)	Y

4. 8. Specify the types of contract prequalification is used for.

Restricted tendering, negotiated procedure with publication, competitive dialogue, electronic bidding procedure

4. 9. Who carries out the evaluations? Are evaluations conducted by qualified evaluating committees? Are evaluating committees appointed ad hoc for each evaluation? Describe the composition of evaluation committees.

Art. 19 PPL provides that The head of the awarding entity shall appoint a tender committee for the conduct of an award procedure, where the contract value is equal to or exceeds the amounts specified in the provisions issued under Article 11 paragraph 8. Where the contract value is less than the amounts specified in the provisions issued under Article 11 paragraph 8, the head of the awarding entity may appoint a tender committee. The provisions of this Chapter shall apply accordingly. Tender committee may be of a permanent character or be appointed for a particular procedure. Members of the tender committee shall be appointed and recalled by the head of the awarding entity. The tender committee shall be composed of at least 3 persons. The head of the awarding entity shall specify the organisation, composition, working procedure and scope of duties of members of the tender committee to ensure its efficient operation, individualisation of responsibility of its members for performed actions and transparency of its work.

4. 10. What kind of information do bid evaluation reports contain? (i.e. a clear and complete description of the evaluation process, including the reasons for rejecting any bid as non-responsive, how the stated evaluation criteria were applied, and how the successful bidder's qualifications were verified) Describe.

The report shall include: place and date for submission of tenders, opening of tenders, the amount, the awarding entity plans to allot to finance the contract or part thereof, comparison of tenders, evaluation of fulfillment of conditions for participation in the procedure, economic operators excluded from the procedure, tenders, which were rejected, application of electronic auction, selection of the best tender, approval of the outcome of award procedure.

4. 11. Are contracts required to be awarded to the lowest evaluated responsive bidder who has been determined to be qualified to perform the contract satisfactorily? (Y/N)	Y
---	---

4. 12. Are additional Government approvals required before contracts can be made effective? (Y/N)	N
---	---

5. Evaluate briefly the national public procurement system in your country. Identify the major problems and challenges. Is the system clear, comprehensive and consistent compared to EU framework?

In 2010 the area of public procurement ensuring nondiscriminatory access to public contracts was extended, the system became more transparent and the risk of inefficient funds spending was reduced. This is particularly important to ensure efficiency of spending the EU funds taking account of the fact that the European Commission considers unjustified lack of a contract notice publication the most severe procedural infringement. Although there are quite many situations that because of infringements of PPL fiscal penalties are imposed on awarding entities. Due to the reform of the system of legal protection measures and other amendments made to the Act, the duration was shortened in the case of award procures below the EU thresholds and in award procedures for construction work.

Many participants of public procurement market and specialists claim that the appeal and complain fees are too high and because of this economic operators can not afford to start appropriate actions against awarding entities. The other problem is incoherent jurisdiction issued by National Appeal Chamber and civil courts.