



# REPORT

## on the Activities of Public Procurement Bureau in Functioning of Public Procurement System in 2013<sup>1</sup>

Skopje, May 2014

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<sup>1</sup> DISCLAIMER: This is unofficial translation done by external translators and should be used for reference only. The Public Procurement Bureau is not liable for any errors in the translated text or the statistical data presented herein. The Macedonian version is the only official version of this text.

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## 1.1. Law on Public Procurement

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*Expanding the scope of professionals who can apply for Chairman of the State Appeals Commission*

In the course of 2013, Law on Public Procurement was modified and amended at several occasions. Hence, Law on Modifications and Amendments to the Law on Public Procurement (“Official Gazette of the Republic of Macedonia”, no. 15/2013) prescribes modification to the requirements for election of the Chairman of the State Appeals Commission. The concerned modification expands the scope of persons who, in future, could apply for the position of Chairman of the State Appeals Commission.

Law on Modifications and Amendments to the Law on Public Procurement (“Official Gazette of the Republic of Macedonia”, no. 148/2013) envisages significant number of new solutions. Proposed modifications and amendments primarily regulate, more precisely, certain provisions and provide for additional regulation of certain open issues occurring in practice. At the same time, several new innovative solutions were proposed, which are to contribute to the overall improvement of the public procurement system in the Republic of Macedonia.

*Profile of economic operator*

In particular, economic operator profile was introduced in the ESPP, which significantly facilitates the proving of the personal standing of registered economic operators in the procedures carried out by using electronic means.

*New exceptions from the Law, pertaining to the notary public services and services rendered by enforcement officers*

New exceptions were introduced, hence the contracting authorities are not obliged, in the contract award procedures regarding notary public services and services rendered by enforcement officers, to apply the provisions in the Law. In addition, when the contract is awarded to a related entity, the contracting authority is not obliged to apply the Law, however, this exception can be applied only if legally prescribed requirements are met. Explicit prohibition was also



*Mandatory uploading of the tender documentation, significant reduction of the costs of the economic operators*

introduced as regards grouping the items into a lot within the subject-matter of the procurement in a manner that a certain item would limit the competition to only one economic operator for all items within the lot, regardless of whether it is a matter of a dividable procurement into lots or not. Taking such prohibition into account, the contracting authority will be obliged to single out the item for which it is aware that there will be no competition to a separate lot, which would not be related to the other items.

*Prohibition to group the subject-matter of the procurement into items, to the end of strengthening the competition*

In order to prevent abuse in the services contract award procedure related to designing software solutions, obligation is envisaged for the contracting authority to purchase the source code of the software solution being procured. At the same time, the contracting authorities in the health sector are obliged to use the generic names of the pharmaceuticals when procuring them.

One of the more significant novelties being introduced is the mandatory uploading of the tender documentation to the ESPP, thus making it available in an electronic form the same moment the contract notice is published. So-far established practice of obtaining the tender documentation at the contracting authority itself and paying for it, which had significantly limited the competition and the interest of the economic operators to participate in the contract award procedures, is being abandoned.

*Precisely regulating the relations between the members in the group of tenderers*

The concerned modifications and amendments have contributed to regulating more precisely the issue of participation of a group of tenderers in the procedures, especially if a certain member of the group wants to withdraw during the procedure or prior to signing the public contract.

At the same time, the respective modifications and amendments have envisaged extension of the scope of the technical dialogue to the whole tender documentation, together with all of its requirements, also envisaging delivering the agreed minutes from the carried out technical dialogue to all economic operators who gave proposals and comments. Hence, economic operators, having participated in the technical dialogue and been taken their comments into account, are provided the right to appeal.

Further more, previously established instrument – negative reference has been additionally regulated, i.e. the manner of publishing the negative reference has been precisely governed, at the same time envisaging the right to protection of the rights of economic operators being published such reference.<0> In fact, the need for such precise regulation was a result of the so-far practice of implementation of the concerned instrument, all to the end of avoiding misunderstanding and mistakes when applying it.

A noteworthy innovative solution being promoted under these modifications and amendment is certainly the introduction of an additional step in the procedures when only one acceptable tender is received or only one acceptable tender remained – submission of final price. Hence, the single tenderer is given the possibility to reduce the initially offered price only once, thus obtaining its final price. As regards procedures when only one acceptable tender is received or only one acceptable tender remained, it is not possible to carry out standard electronic auction and, as a result thereof, negotiated procedure without prior publication of a contract notice was carried out pursuant to intent 4, point 1, paragraph 1, Article 99 of the Law. Thus, the single tenderer having submitted an acceptable tender is given the possibility to reduce the initially offered price. This contributes to increasing the transparency, on one hand, and reducing the number of cancelled procedures, on the other, in case when only one tender is submitted or only one tender remained and when there is will on the side of the tenderer to reduce the initially offered price. However, the most important amendment introduced and aimed at strengthening the control is the obligation for the contracting authorities to obtain consent from the Public Procurement Council in cases envisaged by law.

## 1.2. Bylaws

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*More precise  
regulating of the  
Rulebook on  
Electronic System  
for Public  
Procurement*

Bylaws, as part of the legal framework regulating contract award procedures, i.e. as instruments facilitating the implementation of the Law on Public Procurement, are adopted within the envisaged deadlines and are continuously improved, at the same time being harmonised with the possible modifications and amendments to the Law.

Rulebook on the Manner of Using the Electronic System of Public Procurement ("Official Gazette of the Republic of Macedonia", no. 57/2013) was adopted in April 2013. It more closely regulates the manner of using the Electronic System for Public Procurement (ESPP) and describes, in details, the procedure for carrying out e-procurement and electronic auctions.

Hence, the legal framework, on the basis of which public procurement system in the Republic of Macedonia is established, is fully completed.

## 2.1 Competences

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*Public Procurement Bureau takes care of the proper application of the Law on Public Procurement when carrying out the contract award procedures*

Public Procurement Bureau takes care of the proper functioning of the public procurement system and, through its numerous competences, strives for modernizing and improving it, to the end of enhancing its efficiency and functionality.

Pursuant to the Law on Modifications and Amendments to the Law on Public Procurement (“Official Gazette of the Republic of Macedonia“, no. 148/2013), competences of the Bureau have increased, hence it is in charge of the following:

- preparation of instructions as internal acts for preparation and carrying out public procurement training and train-the-trainer courses in public procurement,
- removal of the published negative reference of an economic operator on the basis of a decision by a competent official body, an agreement with the effect of an executive act between the contracting authority and the contractor or upon request by the contracting authority, accompanied with a statement by the person, having published the negative reference, given in front of a competent official body, pertaining to a made technical error,
- analysis of explanations for not attaching the contract notice to the tender documentation and, if they are groundless, it points out the omission made to the contracting authority,

These new competences enable the Bureau to efficiently organise and carry out public procurement training, administer the negative reference list, as well as control the mandatory uploading of the tender documentation to the ESPP.

In order to successfully perform its competences, the Bureau has established, from the very moment of its incorporation, good communication with both the public and the private sector and it

constantly enhances it. In fact, the Bureau increases the transparency on continuous basis by promoting new communication means, which provide for better accessibility to its available information for all interested entities.

At the end of 2012, Certificate Issuance Secretariat of TÜV SÜD Management Service GmbH awarded ISO 9001:2008 Quality Management Systems Certificate to the Bureau, confirming the quality organisational setup of the working processes and the modern methods of operations of the Bureau. In the course of 2013, the Secretariat controlled and checked the operations of the Bureau and submitted a report, proving that the Bureau continuously organises the working processes and the operations in a quality and modern manner.

## 2.2 Prepared Opinions

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*Answering the questions posed by the contracting authorities and the economic operators and advisory function are one of the most important competences of the Bureau*

One of the most significant competences of the Bureau is the delivery of opinions on provisions and application of the Law on Public Procurement, thus helping both the contracting authorities and the economic operators which participate in the contract award procedures. The Bureau carries out this advisory function in several manners: by giving opinions to the letters the contracting authorities and the economic operators submit by mail, answering questions posed through the web contact form on the Bureau's website and the ESPP, as well as by answering questions posed through the User Support Center.

*Open Day for Ideas, new form of communication with the entities applying the Law on Public Procurement*

In the middle of 2013, the Bureau commenced organizing Open Doors Day, an event at which both the economic operators and the contracting authorities can give their opinions about the Law and the manner of its implementation in practice. Thus, the Bureau directly includes the immediate participants in the creation of the future public procurement policies, i.e. in the improvement of the public procurement system. Total of 40 representatives from among the contracting authorities and the economic operators took part in the three events scheduled in June, July and September.

*In the course of 2013, the Bureau acted upon 394 requests for opinions submitted by mail and 704 requests posed through its web contact form.*

In the course of 2013, 394 requests were submitted to the Bureau by mail and 704 requests through its web contact form. Compared to 2012, less requests were submitted in 2013. However, it is a matter of slight decline of the number of requests, which was most probably due to the comprehensive public procurement training the Bureau carried out, as well as the fact that there had been no significant changes in the legal regulations until the end of last year. Replies to all requests were submitted within the shortest period of time, depending on the complexity of the questions posed.

*Which are the  
most frequently  
posed questions  
in 2013?*

*40 persons  
attended the  
Open Doors Day*

The analysis of the submitted requests has shown that the 2012 trend was maintained, i.e. most of the requests pertained to sections of the Law which underwent modifications and amendments at the end of 2012, although questions were also posed for the other sections of the Law. Hence, the requests for opinions most often referred to the negative references, including the requirements and the manners in which they were published, the effect thereof and the manner of carrying out the technical dialogue. Questions were also posed about the documentation that could be additionally requested in the evaluation stage, the public opening, the dividable procurement into lots, issues related to the special types of procedures, as well as questions pertaining to the right to appeal. Large number of the requests for opinions pertained to the Annual Public Procurement Plan, i.e. its preparation and adoption, as well as the need for its modification and amendment.

Manner of carrying out the medical checkups of the employees with the contracting authorities was also in the limelight, taking into account the specificity of the subject-matter of the procurement, as well as the material regulations governing them. Thus, one of the questions most frequently posed to the Bureau referred to carrying out the procedure when the subject-matter of the procurement was the medical checkups. In fact, the contracting authorities faced a problem at such procurement, having in mind that the price of the medical checkups is set in a special bylaw and it is unified for all economic operators that can participate as tenderers.

*In 2013, Bureau's  
User Support  
Center answered  
5,576 calls made  
by the  
contracting  
authorities and  
the economic  
operators*

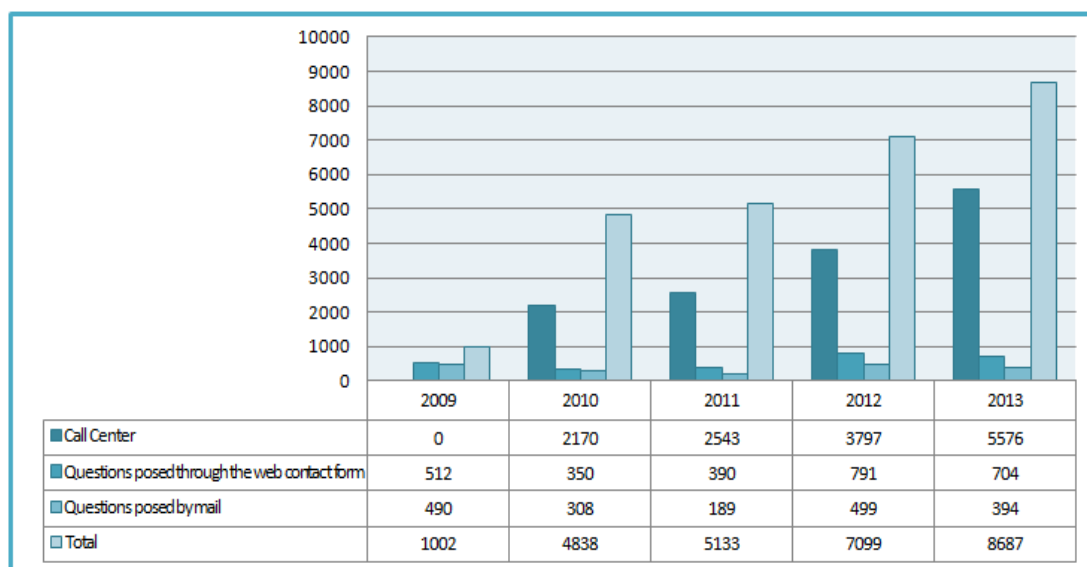
In the course of 2013 as well, employees with the Bureau provided timely and prompt advices with respect to carrying out the public procurement procedures, at the same time providing expert assistance to both the contracting authorities and the economic operators through the User Support Center.



User Support Center was available to the contracting authorities and the economic operators on daily basis in 2013 as well. In the period from 1<sup>st</sup> January 2013 to 31<sup>st</sup> December 2013, the Center received total of 5,576 calls. 3,292 out of these calls were received by the Department for Monitoring the Public Procurement System and ESPP Management, while 2,284 calls were received by the Department for Normative Affairs, Training and International Relations. In addition to the calls made to the User Support Center, Bureau employees replied to questions the contracting authorities and the economic operators posed by dialing the phone numbers published on the Public Procurement Bureau website.

Chart 1

*Number of requests for opinions submitted to the Bureau continuously increases. Thereby, both the contracting authorities and the economic operators more often tend to choose to have direct communication*





According to the data shown in the Chart, it can be concluded that the total number of requests for opinions submitted by the contracting authorities and the economic operators to the Bureau is constantly increasing. Thereby, it is noticeable that the questions posed through the User Support Center continuously increase. As for the requests for opinions submitted by mail, as well as through the Bureau's web contact form, they were at the same level as in 2012. Data presented in the Chart also show that both the contracting authorities and the economic operators used the direct communication with the Bureau's employees the most, which provided for prompt and simple way of resolving the practical problems they faced when carrying out the procedures.

## 2.3. Tender Document Models and Manuals

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*The Bureau constantly updates the tender document models, the manuals and the guidelines and makes them available on its website.*

In order for the contracting authorities and the economic operators to be facilitated the application of the Law when carrying out the contract award procedures, the Bureau continuously prepares and adjusts the Manuals, the Guidelines and the tender document models and makes them available, on regular basis, to the public through its website.

Hence, in the course of 2013, tender document models, Guidelines on Negative References, as well as the Public Procurement Manual and the Manual on the Manner of Use of the Electronic System for Public Procurement for the contracting authorities and the economic operators, were adjusted and harmonised with the modifications and the amendments to the Law on Public Procurement.

*In 2013, the Bureau prepared new tender document model for procurement of services for certain types of insurance*

In cooperation with the Insurance Supervision Agency and the representatives from the Chamber of Commerce of Macedonia, the Bureau prepared new tender document model for procurement of services for certain types of insurance, thus facilitating the work of the contracting authorities when carrying out contract award procedures, the subject-matter of procurement of which is a certain insurance service.

## 2.4. Negative References

*Negative references as a mechanism to protect the contracting authorities*

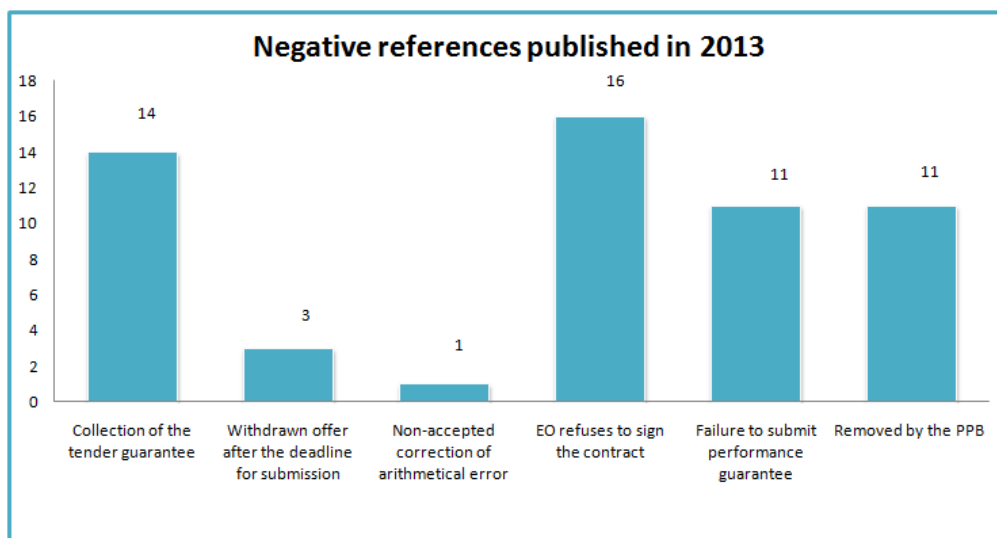
*More than 60 negative references were published in 2013*

Negative reference is an instrument limiting the right to participate in all future contract award procedures.

This instrument should protect the contracting authorities from the economic operators who are not serious, i.e. who do not adhere to the terms and conditions they offered in their tenders, as well as from the tenderers selected as contractors who do not respect the contractual obligations.

Hence, in the course of 2013, the contracting authorities published total of 56 negative references for the economic operators. Detailed analysis of the reason due to which the negative references were published can be seen in the Chart below. The Bureau removed total of 11 negative references, acting upon a decision of the State Appeals Commission, an agreement with the effect of an executive act between the contracting authority and the contractor or upon request by the contracting authority.

Chart 2



*Guidebook on Negative References by which the contracting authorities and the economic operators could obtain all information about this mechanism*

What is interesting is the fact that some economic operators, as a result of being published a negative reference, were pronounced the maximum period for not being allowed to participate, i.e. they are forbidden to participate in contract award procedures for a period of five years.

List of negative references is publicly available on the ESPP, and the terms and conditions for publishing a negative reference are clearly prescribed in the Law. The Bureau, to the end of properly using the negative references, has prepared Guidelines on Negative References, which was updated in 2013 and made available through the Bureau website. Both the contracting authorities and the economic operators can use the Guidelines so as to obtain, in a prompt and simple manner, answers to the questions and the dilemmas they face when implementing this instrument.

## 3.1. Data on Trainings Carried Out

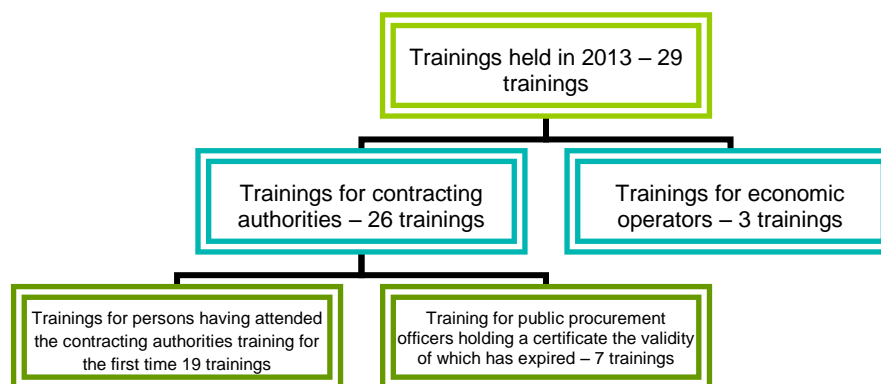
*New acts on training were adopted, all to the end of better-quality and more successful implementation of the trainings*

*Total of 29 trainings were held in the course of 2013*

In the course of 2013, the Public Procurement Bureau continued carrying out public procurement training. As a result of the previously gained experience during the public procurement training carried out in a period of several years, new manuals were adopted, regulating more precisely certain segments within the training process. New Manual on Preparation and Carrying out Public Procurement Training, as well as Manual on Operations of the Commission Members were adopted for the needs of public procurement training. As a result of the electronic training system being fully operational, Manual on Use of Electronic Training System was adopted.

In line with the 2013 Annual Public Procurement Training Plan, 29 trainings were held, as follows: trainings for contracting authorities (for the persons not having acquired the certificate for public procurement officer and trainings for the persons whose certificate validity expired) and trainings for economic operators.

Activities within the Programme were realised through lectures by trainers who acquired their certificates in the course of 2013, i.e. passed the written public procurement exam following the trainer re-certification training.



*In 2013, 19 trainings were carried out for the persons employed with the contracting authorities who attended the training for the first time*

*Total of 376 persons attended the training*

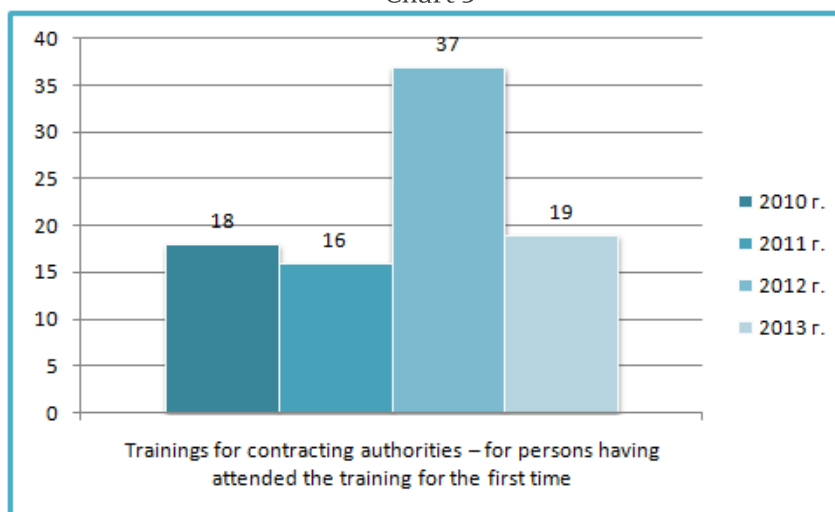
*During 2013, 201 persons attended the training for Parts 14 and 15 under the Programme organized in 7 trainings*

All envisaged trainings for the persons employed with the contracting authorities, attending the training for the first time, were realised in line with the Annual Plan.

Accordingly, in the course of 2013, Training Unit within the Department for Normative Affairs, Training and International Relations carried out 19 trainings in line with the adopted 2013 Public Procurement Training Plan. Total of 376 persons attended the trainings. Each training was attended by 20 persons in average.

The reason for the reduced number of carried out trainings, compared to the previous year, was that, in 2013, the Bureau started, for the first time, to carry out trainings for the economic operators, hence, it was necessary to schedule trainings under the economic operator module. In addition, unlike the previous year, in 2013, trainings started in the middle of February instead of January, due to the re-certification exams.

Chart 3



Pursuant to the amendments to the Law in 2011, certificates for public procurement officers issued in line with the Law on Public Procurement (“Official Gazette of the Republic of Macedonia”, nos. 136/07, 130/08, 97/10 and 53/11) continue to be valid for the period for which they were issued, but no longer than the day of entry of the last

amendments into force. In the course of 2013, 201 persons attended **the training for Parts 14 and 15** under the Programme organised in 7 trainings, while the other participants, who did not have extended the validity of the certificates yet, were invited to again attend such training and to take the written exam in public procurement, thus acquiring the certificates for public procurement officers.

*35 trainers acquired  
train-the-trainer  
certificate*

The Bureau, for the first time in 2013, started organizing and carrying out training specialised for the **economic operators**. In fact, so far, training for economic operators was carried out within the training for contracting authorities and economic operators, whereby 4 lessons within the training were dedicated to the manner of preparation of the tender and the rights and the obligations of the economic operators. Following the evaluations and the questionnaires, the Bureau concluded that training was to be designed and carried out just for the economic operators. Hence, module for economic operators was envisaged in the Rulebook on Public Procurement Training Programme, Train-the-Trainer Programme, the Form and the Contents of the Certificate for Passed Exam for Public Procurement Officer and Public Procurement Trainer, as well as the Amount of the Fee paid by the Participants in the Training. Thus, in the course of 2013, the Bureau scheduled 10 two-day trainings for economic operators. However, economic operators showed poor interest in such trainings and only 3, out of the 10 trainings, were carried out, which were attended by 39 participants.

At the end of 2012, the Bureau organised train-the-trainer training, held on 20<sup>th</sup>, 21<sup>st</sup> and 22<sup>nd</sup> December. Total of 50 persons attended this training. The written exam took place in the premises of the Public Procurement Bureau, organised in several groups in the course of January, February and March 2013. Total of 50 candidates had the right to take the exam and 35 candidates, from among those on the list of trainers, acquired the certificate for public procurement trainer.

Following the written exam for the trainers, on 24<sup>th</sup> April, certificates for public procurement trainer were awarded to the trainers who passed the exam. This ceremony took place in the MP's Club on 24<sup>th</sup> June 2013 and it was attended by the employees with the Public Procurement Bureau and the trainers who passed the exam for public procurement trainer.



Photo 1 – Formal awarding of the certificates for public procurement trainers

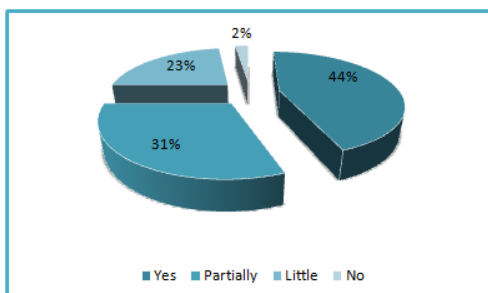
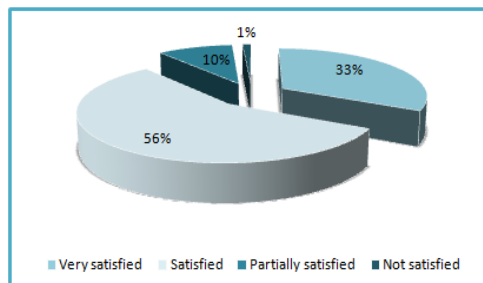
In order to meet the needs for training, Public Procurement Bureau, for several years now, has measured the satisfaction of the participants in the trainings, whereby in 2013, we delivered, on two occasions, questionnaires to the participants in the trainings pertaining to the trainings they attended, including several questions on the manner of carrying out the trainings and the effect thereof on their work as persons having acquired certificates for the exams passed.

Training Unit uses these questionnaires so as to check the so-far success of the trainings, as well as to improve the trainings to be carried out next year. 100 participants in the trainings provided answers to the questionnaire.

1. As for the question “How satisfied are you with the training quality?” 35 respondents replied they were very satisfied, 53 respondents replied that they were satisfied, 7 respondents replied that they were partially satisfied and 1 respondent replied that he was not satisfied.



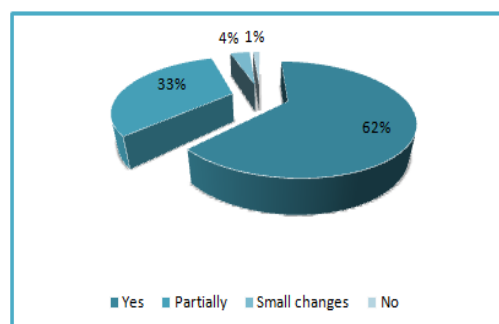
2. As for the question ***“Has the training helped you in the manner of your operations?”***, 30 respondents replied they were very satisfied, 52 respondents replied that they were satisfied, 9 respondents replied that they were partially satisfied and 1 respondent replied that he was not satisfied.



3. As for the question ***“Did the number of cancelled procedures due to major shortcomings in the procedures or omissions in the tender documentation reduce following the training?”***,

39 respondents gave a positive reply, 27 respondents said the number of cancelled procedures was partially reduced and 20 respondents said that there were less cancelled procedures, while 2 respondents said that the number of cancelled procedures did not reduce

4. 50 respondents replied that they *made changes in the manner of their operations following the training*, 26 respondents said they made partial changes, 3 respondents said they made slight changes, while 1 respondent said he made no changes in the manner of operations.



5. 59 respondents *improved their knowledge in public procurement following the training*, 28 respondents said it improved partially, 2 respondents said their knowledge improved a little and 1 respondent replied his knowledge did not improve at all.

*The fact that more than half of the respondents said they needed to attend the training again, speaks of the need that the Bureau should carry out training on specific topics in future.*

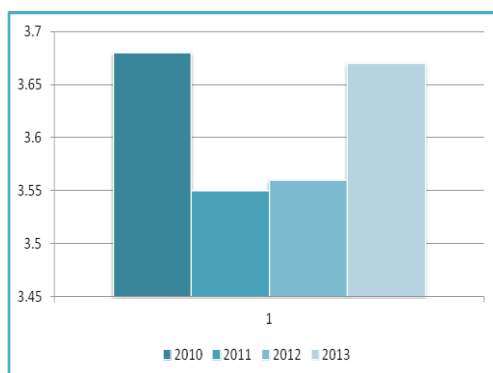
6. 51 respondents said they needed to *attend the training again*, while 42 respondents needed no training. The participants believed they needed to attend the training again as regards the following topics: evaluation (8 participants), framework agreements (12 participants), remedies (5 participants), novelties in the Law (14 participants), types of procedures (6 participants), ESPP (9 participants), as well as other topics of their interest.

On the basis of the above-mentioned results, it can be concluded that it is particularly positive that 44% of the respondents said that number of cancelled procedures due to major shortcomings in the tender documentation was reduced, as well as that 66% of them improved their knowledge on public procurement following the training. Especially positive is that 62% of respondents made changes in the manner of their operations following the completion of the training.

In addition, the fact that more than half of the respondents, who participated in the trainings, said they needed to attend the training again, speaks of the need for the Bureau to carry out training on specific topics in future.

*It is obvious that there is continuous satisfactory average above 3.5 in relation to the highest possible average of 4*

Following each completed training, the Bureau was evaluated by the participants in the training regarding their satisfaction with the training. Below is a comparative table regarding the measurement of satisfaction of the participants in the trainings in the past years:



According to this comparison, it is evident that the Bureau has a continuous satisfactory average above 3.5 in relation to the highest possible average of 4, as well as that it needs to continuously improve the organization and the carrying out of the trainings so as for they to retain the same or attain a higher level.

## 3.2. Electronic Training System

*All trainings in 2013 were carried out through the electronic training system*

In the past period, the Bureau developed an electronic training system and it became fully operational in the course of 2013. The system commenced to be applied at the end of 2012, while all trainings in 2013 were carried out through this system. Participants in the training also positively accepted this manner of operations, since the overall organization of the training was more efficient and timely.

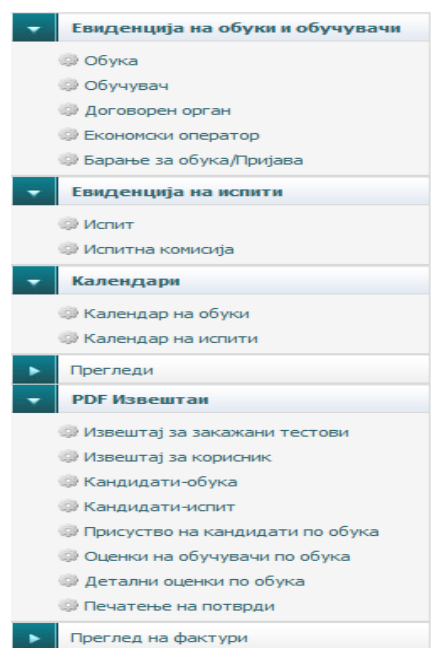
*The written exam was carried out fully electronically*

The participants, by using their user name and password, log in in the system, obtain the trainers' presentations, which are in the application the participants use,

while the written exam is carried out fully electronically, and the results thereof are obtained immediately after the exam is completed. All results from the evaluations and the exams are electronically available as soon as the training, i.e. the exam, is completed. In the course of 2013, total of 27 trainings were carried out electronically, and total of 32 written exams (regular and make-up exams) were conducted electronically.

Thus, the Bureau renders better quality and more prompt services to the participants in the trainings, at the same time generating large savings.

and evaluate the trainers anonymously,

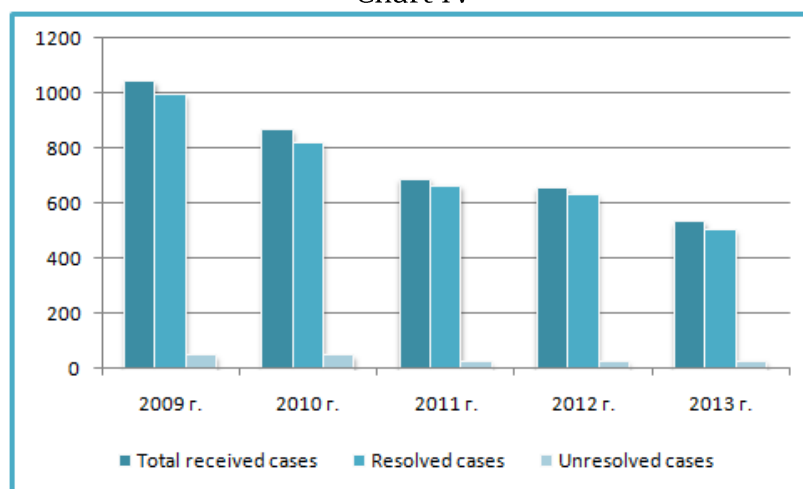


## 4.1. State Appeals Commission

State Appeals Commission, pursuant to the Law on Public Procurement, is competent to decide upon appeals in the contract award procedures, as well as appeals in the procedures for awarding contracts for concessions and public private partnership. Taking into account such competence of the State Appeals Commission, the Bureau addressed it with a letter, requesting data within Commission's competence, which are related to carrying out contract award procedures. In particular, State Appeals Commission is competent to decide on the legality of the actions and the omissions to undertake actions, as well as the legality of the decisions which are adopted as individual legal acts in the procedures. In addition, it also decides upon requests for continuation of the contract award procedure, requests for cancellation of the procedure if the contracting authority fails to act pursuant to Article 215 of the Law, as well as the procedural costs.

The Chart below shows data obtained from the State Appeals Commission.

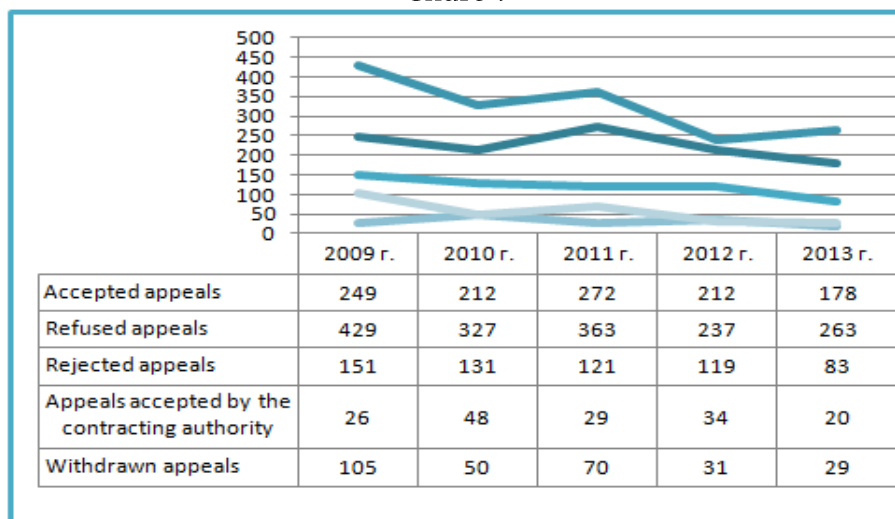
Chart IV



By comparing the data on the number of cases in 2009, 2010, 2011 and 2012, as well as the number of cases in 2013, downward trend of the number of appeals lodged to the State Appeals Commission can be registered. Main reason for the drop in the total number of appeals in 2013 is the increased capacity and professionalism of the persons working in the field of public procurement at both the contracting authorities and the economic operators. In fact, public procurement training carried out fourth year in a row clearly points out to the effects arising therefrom. In addition, one should also take into account the practice established by the State Appeals Commission in resolving the cases, as well as the fact of increased percentage of procedures in which the lowest price criterion is applied, which reduces the possibilities for occurrence of appeals in the course of the procedure.

In the course of 2013, ten requests for continuation of the procedure were submitted, seven out of which were refused and two were rejected as unallowed.

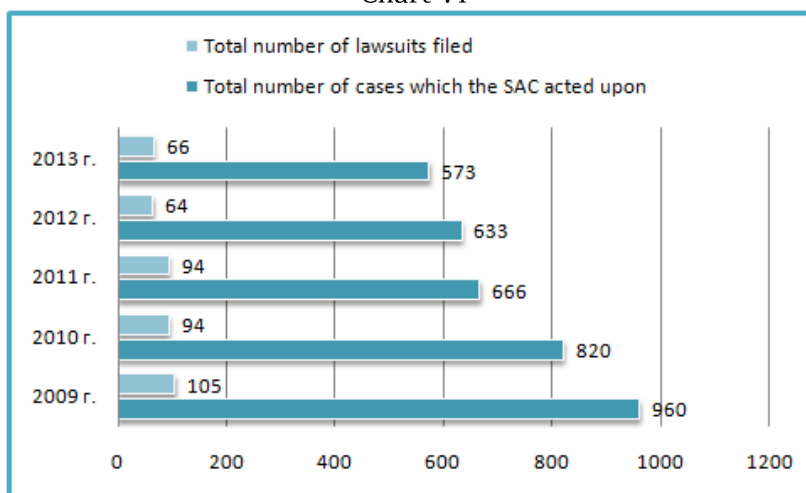
Chart V



*Upward trend of the appeals lodged against the contents of the tender documentation*

The Chart above shows a review of the percentage of accepted, refused, rejected appeals, as well as review of appeals accepted by the contracting authorities and withdrawn appeals. Most of the appeals were lodged after the decision for contract award or cancellation of procedure was adopted, and they pertained to the evaluation of the tenders. In addition, an upward trend of appeals lodged against the contents of the tender documentation was observed, i.e. that it contained discriminatory requirements.

Chart VI



*Number of filed lawsuits insignificantly increased*

Taking into account the data from the past years pertaining to the percentage of lawsuits filed before the Administrative Court of the Republic of Macedonia against the decisions adopted by the State Appeals Commission, it can be seen that number of filed lawsuits slightly increased in 2013 in relation to 2012.

## 4.2. Administrative Court of the Republic of Macedonia

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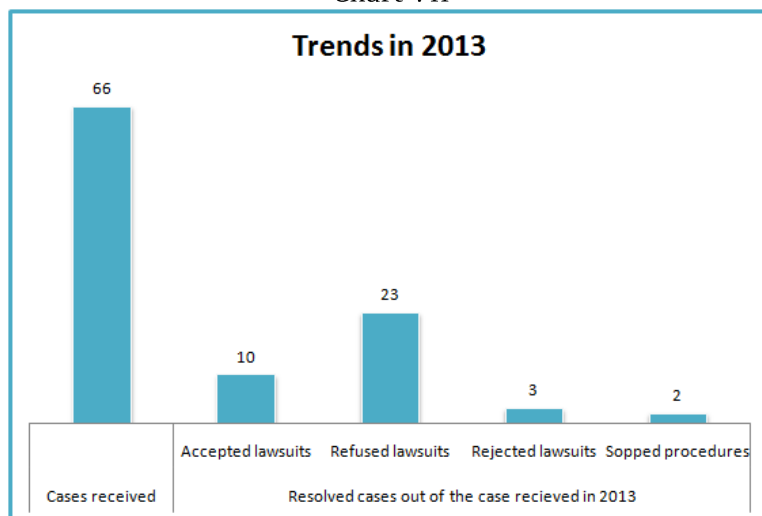
Significance of the Administrative Court of the Republic of Macedonia, from the point of view of functioning of the public procurement system, i.e. remedies system in contract award procedures, stems from its competence to decide upon lawsuits filed by parties that are not satisfied with the decisions of the State Appeals Commission.

In order to perceive the efficiency and the effectiveness of the review procedures in the field of public procurement, the Bureau provides statistical data on the number of cases initiated against the decisions of the State Appeals Commission, as well as the number and the manner in which such cases are resolved. The Chart below shows the trends in 2013<sup>2</sup>:

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<sup>2</sup> Data are obtained from the Administrative Court of the Republic of Macedonia, correspondence Su. no. 03-309/14 dated 17<sup>th</sup> March 2014.

Chart VII



In addition, out of the total lawsuits filed, 3 lawsuits were filed by contracting authorities, while 63 lawsuits were filed by economic operators.

Compared to the data from the previous three years, consistency in the trend of resolving the lawsuits by the Administrative Court can be observed. It is also worth to mention that the number of accepted lawsuits increased compared to the previous years.

Chart VIII





## 4.3. High Administrative Court of the Republic of Macedonia

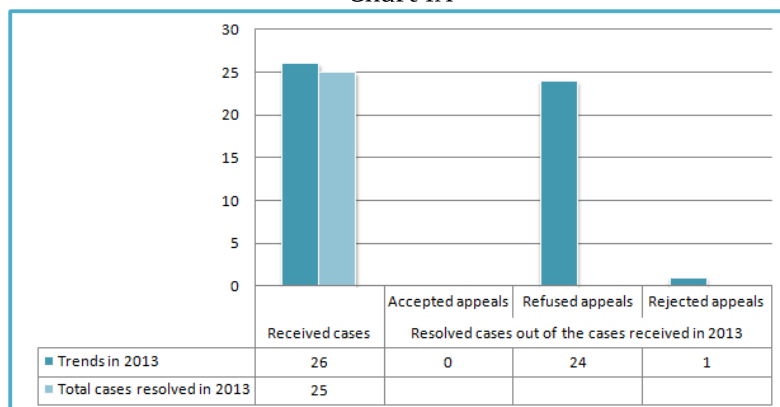
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Within its legal competences, High Administrative Court, deciding upon appeals lodged against the decisions of the Administrative Court adopted in first instance, pertaining to annulment of the decisions reached by the State Appeals Commission in the course of 2013, acted upon 26 appeal cases, all of which were lodged in 2013. With respect to 24 appeal cases, decisions were reached to refuse the appeals and the decision of the Administrative Court was confirmed, in 1 appeal case the appeal was rejected and the case was registered as lawsuit filed to repeat the procedure regarding the decision adopted by the High Administrative Court in 2012, while no decision was adopted in 1 appeal case.<sup>3</sup>

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<sup>3</sup> Data are obtained from the High Administrative Court of the Republic of Macedonia, correspondence 0709 UPP no. 45-2/14 dated 13<sup>th</sup> March 2014.

Chart IX



Out of the total registered cases in the course of 2013 in the area of public procurement, appeals were lodged by 25 economic operators, while only one contracting authority lodged an appeal against the decision of the Administrative Court.

## 5.1. State Audit Office

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*Data received from the State Audit Office is of especial importance to the Bureau which, on the basis of such data, plans the undertaking of respective measures, aimed at eliminating the detected irregularities*

State Audit Office (SAO) is the supreme audit institution in the Republic of Macedonia, the goal of which is to inform the Parliament of the Republic of Macedonia, the Government and the other holders of public office on the findings from the carried out audit in a timely and objective manner. SAO carries out regularity audit and performance audit. When carrying out regularity audit, among other things, the audit teams examine and assess the use of funds in line with the legal regulations. Hence, the manner of planning, carrying out and implementing public procurement procedures carried out in the auditing period are inspected.

Data received from the State Audit Office is of especial importance to the Bureau which, on the basis of such data, plans the undertaking of respective measures, aimed at eliminating the detected irregularities at the contracting authorities, subject to audit.

State Audit Office prepares Annual Report on Audits Carried Out and submits the results therefrom to the Parliament of the Republic of Macedonia for consideration by 30<sup>th</sup> June in the current year at the latest for the previous year. As regards the information published in the concerned Report, the Public Procurement Bureau can use them for its purposes.

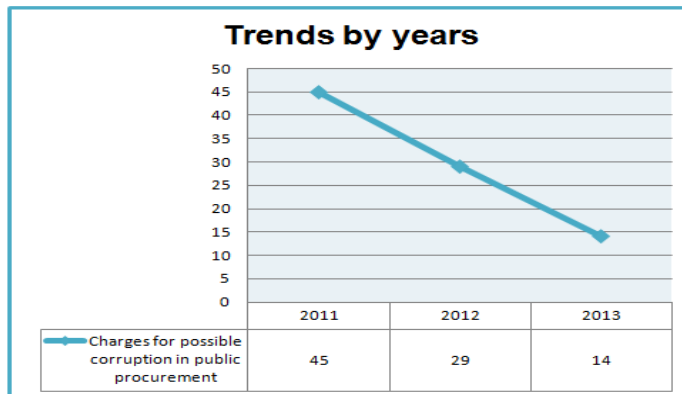
## 5.2. Data obtained from the State Anti-Corruption Commission

*Compared to 2011  
and 2012, number of  
charges for  
existence of a  
suspicion for  
corruption in public  
procurement  
dropped to 14  
charges in 2013*

In the course of 2013, State Anti-Corruption Commission acted upon total of 14 charges lodged for possible corruption in the field of public procurement, i.e. in the contract award procedures carried out by the contracting authorities. With respect to 6 out of the concerned cases, State Anti-Corruption Commission considered for there to be grounded suspicion for criminal deed committed in performing ex-officio duties and authorities by the responsible persons at the contracting authorities, for which an initiative was raised for initiating a procedure for criminal prosecution of these persons before the Public Prosecutor's Office of the Republic of Macedonia.

Compared to 2011 and 2012, number of charges for existence of a suspicion for corruption in public procurement dropped in 2013. In 2011, there were 45 charges, in 2012, there were 29 charges for possible corruption and, in 2013, there were 14 charges.

Chart X



Public procurement training for the contracting authorities, which the Public Procurement Bureau carries out, covers topics that refer to prevention of corruption in public procurement and conflict of interest. It can be concluded that being better informed through the above-mentioned training also contributes to decline in the number of corruption cases in the field of public procurement.<sup>4</sup>

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<sup>4</sup> Data are obtained from the State Anti-Corruption Commission, correspondence no. 03-530/3 dated 31<sup>st</sup> March 2014.

## 5.3. Data obtained from the Commission for Protection of Competition

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*In 2013, Commission for Protection of Competition detected no offences as regards the competition at public procurement and pronounced no fines for committed offence, i.e. no collusive contracts between companies were determined.*

Free competition is of special importance for all states, the economies of which are based on the free-market principle, where distribution of funds is a result of the relation between the supply and the demand on the market. Right to competition is aimed at preventing certain practices and business activities on the market, which can place certain companies in an unjustifiably more favourable position in relation to other companies, thus jeopardizing free competition among the companies. Having in mind that legal implementation of contract award procedures, especially adherence to the principle of competition among economic operators and equal treatment and non-discrimination of economic operators, is a subject of interest to the Commission for Protection of Competition, in the course of 2013, no severe or lesser offences were detected regarding the competition at public procurement and no fine was pronounced for a committed offence, i.e. no collusive contracts between companies when submitting the tenders in contract award procedures were determined. Above-mentioned data speak of a reduction in terms of the two decisions reached by the Commission for Protection of Competition in 2012 for existence of collusive agreements between companies when submitting the tenders in public procurement procedures<sup>5</sup>.

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<sup>5</sup> Data are obtained from the Commission for Protection of Competition, correspondence no. 03-95/2 dated 24<sup>th</sup> March 2014.

## 5.4. Data on Cooperation with Other Institutions Included in the Public Procurement System

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*All activities were undertaken to the end of enhancing the capacities of the contracting authorities, i.e. strengthening professionalism, expertise and accountability of the persons engaged in the field of public procurement, which was welcomed by the European Commission, presented in the Republic of Macedonia Progress Report.*

During 2013, the Bureau also cooperated with other institutions, activities of which, although having no direct effect on the public procurement system, still influence it indirectly, in particular from the point of view of strengthening professionalism, expertise and accountability of persons engaged in public procurement operations.

One of the institutions the Bureau cooperated with in the course of last year was the Academy for Training of Judges and Public Prosecutors. In fact, the Academy, in line with the Programme on Training Court Officers and Public Prosecution Officers, organised and carried out, in cooperation with the Bureau, three trainings on the application of the Law on Public Procurement. Total of 69 participants attended these trainings, as follows: judges, public prosecutors and expert associates. In addition, in the course of 2013, the Bureau also cooperated with the Ministry of Information Society and Administration. This Ministry, in line with the activities envisaged in the 2013 Annual Programme on Generic Training of Civil Servants in the Republic of Macedonia, organised and carried out, in cooperation with the Bureau, three workshops “Consistent Application of the Law on Public Procurement“. Total of 76 civil servants took part in these workshops, as follows: 57 civil servants from the central government and 19 civil servants from the local government. As mentioned above, these activities were undertaken to the end of enhancing the capacities of the contracting authorities, i.e. strengthening professionalism, expertise and accountability of the persons engaged in the field of public procurement, which was welcomed by the European Commission, presented in the Republic of Macedonia Progress Report.

## 6.1 Cooperation with International Institutions related to Public Procurement

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*All above-mentioned activities will be a step forward in creating a modern public procurement system, which will provide conditions for creation and management of a sustainable development in all spheres of the social life.*

*Centralized procurement, as an efficient way of procurement, was in particularly emphasized*

Within its competences as regards cooperation with international institutions and other foreign entities on matters related to the development of public procurement system, Bureau representatives participated in many conferences and forums where they had the opportunity to exchange experience with representatives of these institutions, as well as representatives of other participating countries. Two representatives from the Public Procurement Bureau took part in the Regional Conference, “Transparency in Public Procurement” held in Sofia, Republic of Bulgaria, from 19<sup>th</sup> to 21<sup>st</sup> June 2013, which was organised by the Embassy of the USA in the Republic of Macedonia. Public Procurement Bureau, in cooperation with the World Bank, Asian Development Bank, European Bank for Reconstruction and Development and SIGMA, hosted the Ninth Public Procurement Platform in Europe and Central Asia – “Centralised Public Procurement“, which was held in Skopje in the period from 28<sup>th</sup> to 31<sup>st</sup> May 2013.





This Forum was attended by delegations of public procurement authorities from many countries from the Western Balkans and Central Asia, as well as delegates from the international organisations, and it was aimed at exchanging the experience in public procurement reforms, paying special attention to centralised procurement as efficient manner of procuring, as well as enhancing the mutual cooperation among the participating countries and the international organisations.

## 6.2 International Cooperation within the process of EU Integration

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Within the Regional IPA Project on train-the-trainer in public procurement in IPA countries and Turkey, organised by the European Commission and realised by the International Training Center of the International Labour Organisation (ITC/ILO), many activities were implemented, in which representatives from the Republic of Macedonia also took active participation and the participants successfully mastered the envisaged programme. “First Annual Regional Forum of Professional Network of Public Procurement Trainers” was held in Danilovgrad, Republic of Montenegro, from 17<sup>th</sup> to 19<sup>th</sup> June 2013, organised under European Commission project for the countries in the IPA region, which was also attended by representatives from the Public Procurement Bureau. Trends and manner of functioning of the network following the completion of the Project were discussed at the Forum, as well as future activities as regards exchange of experience and knowledge in the field of public procurement. On 25<sup>th</sup> June 2013, the final meeting under this Project was held in Turin, Italy, at which the final report and the final activities were discussed and the Management Committee of the “Training in Public Procurement in the Western Balkans and Turkey” Project finalised this Project.

As for European Union and OECD joint initiative - SIGMA, public procurement is one of its priority fields of interest. At the same time, SIGMA also cooperates, apart from the European Commission, with all EU Member States, as well as candidate countries, such as the Republic of Macedonia. In the past period, SIGMA continuously organised international events (conferences, forums, etc.) at which Bureau’s representatives took active participation. In 2013, SIGMA cooperated more intensively with the State Appeals Commission and the Ministry of

*SIGMA carried out Peer Review Mission on the trends in public procurement, and the Review was submitted to the European Commission for the purpose of preparation of 2013 Republic of Macedonia Progress Report*

Economy on issues related to the Law on Concessions and Public-Private Partnership.

Three representatives from the Public Procurement Bureau participated in the Sixth IPA Regional Conference, which took place in Danilovgrad, Republic of Montenegro, on 20<sup>th</sup> and 21<sup>st</sup> June 2013. The Conference was organised by RESPA, in cooperation with SIGMA. All countries from the Western Balkans and Turkey presented their public procurement systems at the Conference.

At the same time, legislative reforms in the European Union were also discussed, paying special attention to the utilities contracts and the procurement in the defense sector. As part of pre-accession activities, and upon request by the European Commission, SIGMA carried out Peer Review Mission on the trends in public procurement, and the Review was submitted to the European Commission for the purpose of preparation of 2013 Republic of Macedonia Progress Report.

In the coming period, the Bureau will continue to more intensively cooperate with SIGMA representatives to the end of realizing certain activities envisaged in the “2014 - 2018 Strategic Priorities of the Public Procurement Bureau for Further Development of Public Procurement System in the Republic of Macedonia”.

Advisory Committee on Public Contracts is an advisory body of the European Commission, at which various problems encountered by the Member Countries, pertaining to public procurement, are discussed. In addition, this Committee discusses about modernisation of the public procurement system, as well as new solutions to be introduced in the EU Acquis.

After being granted candidate country status, Republic of Macedonia participates in this Committee as an observer. Representatives of the Republic of Macedonia in the Statistical Working Group and the E-Procurement Working Group are usually Public Procurement Bureau employees.

In the course of 2013, representatives from the Public Procurement Bureau participated as observers in the public procurement working group and the e-procurement working group of the Advisory Committee on Public Contracts in Brussels, the Kingdom of Belgium.

*Public Procurement Bureau will continue exchanging experience pertaining to the process of further harmonisation with the EU Acquis, as well as implementation of good practices in public procurement.*

In the coming period, Public Procurement Bureau will continue its already established cooperation with the institutions in charge of monitoring public procurement systems in the Western Balkan countries, thus providing for exchange of experience in the EU integration process and further harmonisation with the EU Acquis, as well as implementation of good practices in public procurement.

Public Procurement Bureau managed the Working Group under Chapter 5. Public Procurement within the 2013 National Programme for Adoption of the Acquis Communautaire and realised all the envisaged activities. In addition, the Bureau also took active participation in the work of the Working Group under Chapter 23 – Judiciary and Fundamental Rights through activities aimed at prevention of corruption in public procurement.

During 2013, the Bureau also participated in the work of the Inter-Ministerial Body for Coordination of Activities against Corruption, together with the other relevant institutions in the Republic of Macedonia, the scope of work of which also covers this area.

In addition, Public Procurement Bureau also actively participated in the realisation of the activities arising from the 2012 - 2020 Innovation Strategy of the Republic of Macedonia and 2013 – 2015 Action Plan on Innovation Strategy of the Republic of Macedonia. The Bureau commenced implementing the Action Plan for Encouraging Innovations in Public Procurement by determining functional requirements in public procurement. All above-mentioned activities will be a step forward in creating a modern public procurement system, which will provide conditions for creation and management of a sustainable development in all spheres of the social life.

In the coming period, Public Procurement Bureau will continue its already established cooperation with the institutions in charge of monitoring public procurement systems in the West Balkan countries, thus providing for exchange of experience in the EU integration process and further harmonisation with the EU Acquis, as well as implementation of good practices in public procurement.

## 7. Use of the Electronic System for Public Procurement

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*New EU Directives on public procurement introduce mandatory use of e-procurement starting 2016*

Increased use of electronic public procurement or e-procurement is one of the important goals of the Europe 2020 Strategy. New EU Directives on public procurement introduce mandatory use of e-procurement starting 2016. Introduction of the Electronic System for Public Procurement has provided a possibility to all contracting authorities in the Republic of Macedonia to carry out their contract award procedures electronically. However, taking into account the fact that carrying out the procedures electronically is on voluntary basis, number of e-procurement procedures being carried out from year to year is insignificant. The expectations are that the number of the e-procurement procedures can increase by introducing a legal obligation, as well as by holding continuous training at which the advantages and the good practices of applying them will be pointed out and presented.

*Introduction of the Electronic System for Public Procurement has provided a possibility to all contracting authorities in the Republic of Macedonia to carry out their contract award procedures electronically*

Having in mind the main features of the Electronic System for Public Procurement – EASIER, FASTER, CHEAPER, we are confident to say that e-procurement simplifies the manner of carrying out the procedures, contributes to achieving better results, reduces the duration of the procedures and lowers the costs by improving the efficiency of the public expenditures. In addition, e-procurement increases confidence in the public procurement system, which is noticeable through the increased registration on the ESPP and the participation of SMEs.

Use of the electronic systems has contributed to increased transparency, as follows:

- all activities in the auction round are carried out electronically and are fully transparent; all tender documentations, invitations for participation, timetables, qualification requirements, questions and answers, as well as all activities undertaken through the system, are recorded into logs and available through Internet;
- reduction of ambiguities and potential errors that can occur when carrying out paper-based procedures;
- encoding (encrypting) of data received, decoding (decrypting), submission, receiving, opening, authentication, keeping electronic documents is far more safer, timely and secure;
- increased transparency of the public procurement system by providing for an electronic access to the database of all contract notices, contract award notices, cancellations, records;
- provision of far more safer, precise, indestructible evidence of all public procurements carried out electronically and electronic auctions, which facilitates their reviewing, searching and control;

In addition to the mentioned advantages arising from the implementation of the e-procurement procedures, the following was evident:

- improved and better communication between the contracting authorities and the economic operators, and
- unification and standardisation of the steps undertaken when carrying out certain types of public procurement procedures.

Despite the many benefits, since the moment the ESPP was introduced, certain problems and difficulties when using it were observed, which in most cases referred to the following:

- fear of the unknown and resistance to change the well-established manner of carrying out paper-based public procurement procedures;
- insufficient knowledge of the information and communication technology and its use;

- distrust in the new technologies to undertake actions related to public procurement procedures.

*As for using the system, and as a result of all so-far implemented activities, following were the more significant indicators in 2013: around 1,350 contracting authorities registered and more than 7,000 active economic operators; provided support through the User Support Center in more than 4,500 cases; 18,654 contract notices and 18,158 contract award notices of different type published, as well as 11,310 tender documents; total of 34,288 e-auctions carried out*

As for using the system, and as a result of all so-far implemented activities, following was achieved in 2013:

- around 1,350 contracting authorities (with total of 8,793 users within the contracting authorities, out of which 6,944 users are active) and over 9,000 economic operators (out of which more than 7,000 users are active within the economic operators) registered;
- over 2,400 answered questions through the Q&A link on the ESPP, posed by the contacting authorities and the economic operators pertaining to the manner of functioning and using the ESPP in 2013;
- total of 2,284 calls received through the User Support Center, pertaining to the functioning of the Electronic System for Public Procurement and the e-auctions;
- more than 3,300 visitors daily on the electronic system on working days;
- over 680,000 e-messages sent to various users;
- 18,654 contract notices of different type and 18,158 contract award notices of different type published;
- total number of published tender documents – 11,310 (around 60% of the published contract notices);
- 34,288 e-auctions carried out, i.e. more than 130 e-auctions daily in average (only working days).



## 8. Analysis of Public Procurement Market in 2013

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*In 2013, 20,645 public contracts were concluded, in the total amount of Denar 52.5 billion or more than EUR 850 million*

This Chapter presents qualitative and quantitative analysis of the public procurement market in the Republic of Macedonia in 2013. Data are categorised by different parameters and types, so as to better observe the developments in the field of public procurement, the financial trends and the implications on public spending through the carried out procedures. Data shown in this Report pertain to the contract notices, the design contests, the annexes, the cancellations and all public contracts concluded in the respective period. All listed forms are published and publically available on the ESPP.

All gathered data are analysed by applying the new module on monitoring and statistical review of trends in public procurement, implemented in the Electronic System for Public Procurement. ESPP database is one of a kind in the Republic of Macedonia and it reflects overall actual developments in the field of public procurement in the country. The tool for timely and mandatory submission of information on the procedures, introduced with the ESPP, provides for gathering complete and relevant data and making comparative analysis of the data, which covers all contracting authorities and all procurement procedures carried out, hence, the data presented in the text below provide for a full picture of the trends on the public procurement market in 2013.

*Share of public procurement in GDP in Macedonia accounted for 11% in 2013*

Data on the number of the awarded public contracts in 2013, obtained from the ESPP database, show that 20,645 public contracts were concluded, in the total amount of Denar **52,491,650,489** (around Denar 52.5 billion) or approximately EUR 850 million. Value of public procurement in the country in 2013 accounted for 11% of GDP of the Republic of Macedonia. According to data available to the Bureau, value

of concluded contracts in 2013, compared to the previous year, dropped by around 7%. In addition, number of concluded contracts also dropped (23,732 contracts were concluded last year). Hence, it can be pointed out that, in the last three years, value of the concluded public contracts in the Republic of Macedonia constantly declined – Chart 1. Comparative data on the volume of public procurement, as share of GDP, and the 2013 Budget are presented in Table 1.

Chart 1

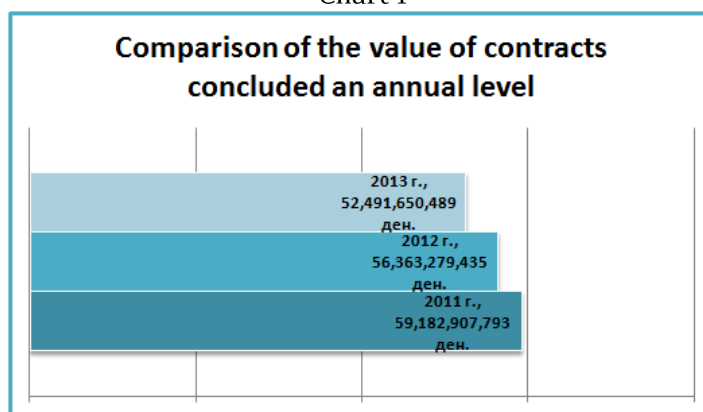


Table 1


| Value of concluded public contracts | Public procurement as % of the Budget | Public procurement as % of GDP |
|-------------------------------------|---------------------------------------|--------------------------------|
| 52.5 billion denars                 | 31%                                   | 11%                            |

## 8.1. Data from Contract Notices

18,654 contract notices  
were published in 2013

In 2013, **18,654** contract notices were published, 9,559 out of which were notices for simplified competitive procedures with an estimated value up to EUR 5,000 in Denar equivalent, 4,603 were notices for simplified competitive procedures with an estimated value of up to EUR 20,000 in Denar equivalent for supplies and services and up to EUR 50,000 in Denar equivalent for works, 4,419 were notices for open procedure, 4 were notices for restricted procedure, 11 were notices for negotiated procedure with prior publication of a contract notice, 24 were announcements for establishment of a qualification system and 34 were notices for design contest. Table 2 and Chart 2 show the number of published contract notices according to the type of the procedure.

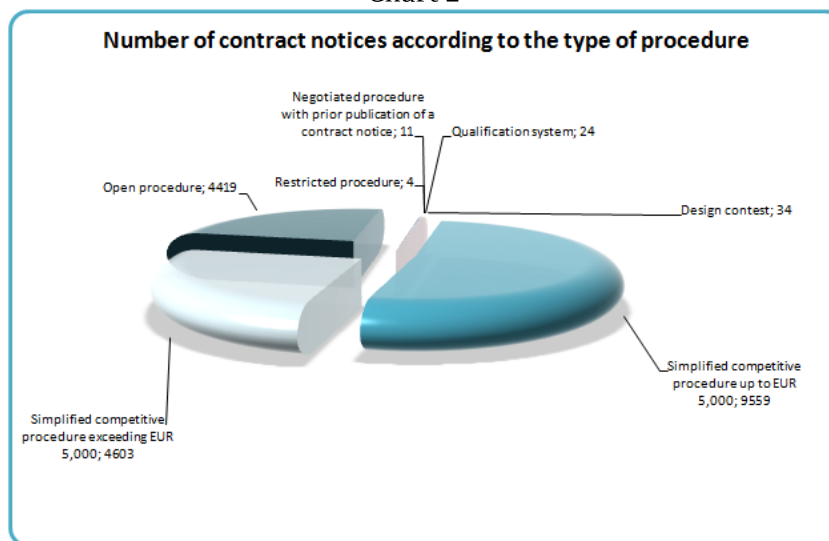
Table 2

| Type of procedure   | Number of contract notices |
|---|----------------------------|
| <b>Simplified competitive procedure <sup>6</sup></b> | 9559                       |
| <b>Simplified competitive procedure</b>   | 4603                       |
| <b>Open procedure</b>   | 4419                       |
| <b>Restricted procedure</b>   | 4                          |
| <b>Negotiated procedure with prior publication of a contract notice</b>   | 11                         |
| <b>Qualification system</b>   | 24                         |
| <b>Design contest</b>   | 34                         |
| <b>Total</b>  | <b>18654</b>               |

Most contract notices  
in 2013 were published  
by applying the  
simplified competitive  
procedures, total of  
14,162 contract notices

<sup>6</sup>  - simplified competitive procedure up to EUR 5,000 in Denar equivalent.

Chart 2



*Number of published contract notices increased by 59% compared to 2012, mostly due to the mandatory publication of the procedures exceeding EUR 5,000 in 2012, mandatory publication was applied from 1<sup>st</sup> July 2012 (only for six months)*

Most contract notices in 2013 were published by applying the simplified competitive procedures, total of 14,162 contract notices, and open procedure – 4,419 contract notices. Out of the total of 14,162 contract notices by applying the simplified competitive procedures, 9,559 were contract notices published for procedures with an estimated value of up to EUR 5,000 in Denar equivalent.

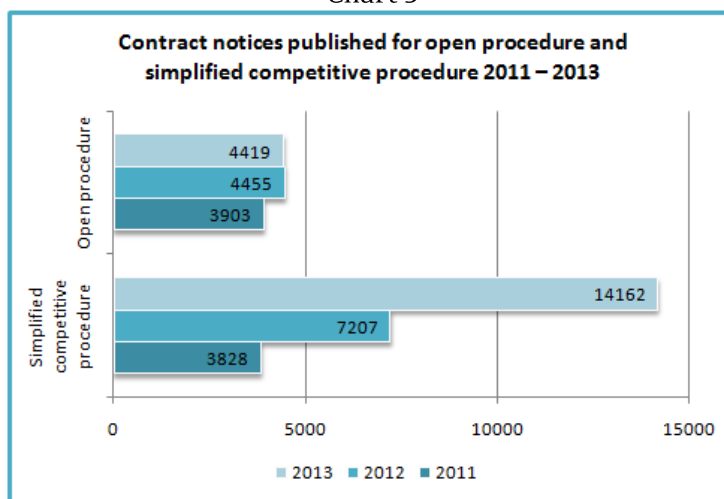
As for 2013, total of 18,654 contract notices were published, and it can be concluded that the number of published contract notices increased by 59% compared to 2012. Significant increase of the number of contract notices for simplified competitive procedure was observed, mostly as a result of the legal obligation to publish contract notices for an estimated value up to EUR 5,000 in Denar equivalent. When comparing the number of published contract notices for this type of procedures, it should be taken into account that mandatory publication of the procedures up to EUR 5,000 in 2012 pertained to the period from 1<sup>st</sup> July 2012, while, in 2013, the number of published contract notices covered the whole year (3,100 contract notices in 2012, 9,559 contract notices in 2013). As regards the other procedures, slight decline of the number of published contract notices was observed for the open procedure, while the downward trend in the number of published

contract notices by applying the restricted procedure and the negotiated procedure with publication of a contract notice continued. Total of 24 announcements for qualification systems were published in 2013. Increased use of this type of announcements for the utilities could be noted since its introduction in 2012, when only 5 announcements for qualification systems were published.

Out of the total number of published contract notices in 2013, 3 announcements were published for establishment of public-private partnership, which were awarded as public contract.

Chart 3 shows the ratio between published contract notices for the most used procedures – open procedure and simplified competitive procedure – in the last three years. As already mentioned, significant increase in the number of published contract notices for simplified competitive procedure is due to the publication of contract notices for procedures with a value threshold below EUR 5.000 in Denar equivalent.

Chart 3



The analysis of the number of contract notices according to the type of the subject-matter of the public contract shows that most contract notices were published for procurement of supplies – 10,254 contract notices

In 2013, contracting authorities published total of 657 contract notices on the system in the category *Other Contract Notices*. In fact, it is a matter of contract notices for procurement of so-called “non-priority” services pursuant to indent 2, paragraph 1, Article 17 of the Law,

such as services related to temporary employment, hotel, catering, recreational, cultural, educational, legal and other services. Compared to 2012, publication of such contract notices experienced a threefold increase.

Pursuant to Article 19 of the Law on Concessions and Public-Private Partnership, announcements for establishment of public-private partnership as a public works concession or as a public service concession are published on the Electronic System for Public Procurement in a special module for public works concessions and public service concessions. Total of 10 such announcements were published in 2013.

The analysis of the number of contract notices according to the type of the subject-matter of the public contract shows that most contract notices were published for procurement of supplies – 10,254, 6,765 contract notices were published for procurement of services and 1,635 contract notices were published for procurement of works. Published contract notices according to the type of public contract are shown in Table 3 and Chart 4. Proportional increase of contract notices for procurement of supplies and services was observed, corresponding to the increase of the total number of published contract notices, while compared to 2012, there was slight decline in the number of contract notices published for procurement of works. Comparative data for the last 3 years are presented in Chart 5.

Table 3

| Type of public contract | Number of contract notices |
|-------------------------|----------------------------|
| Supplies                | 10254                      |
| Services                | 6765                       |
| Works                   | 1635                       |
| <b>Total</b>            | <b>18654</b>               |

Chart 4

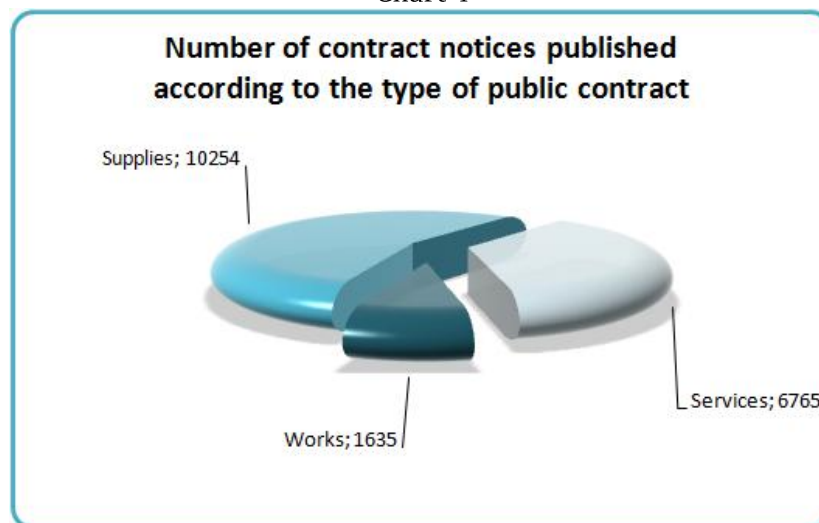
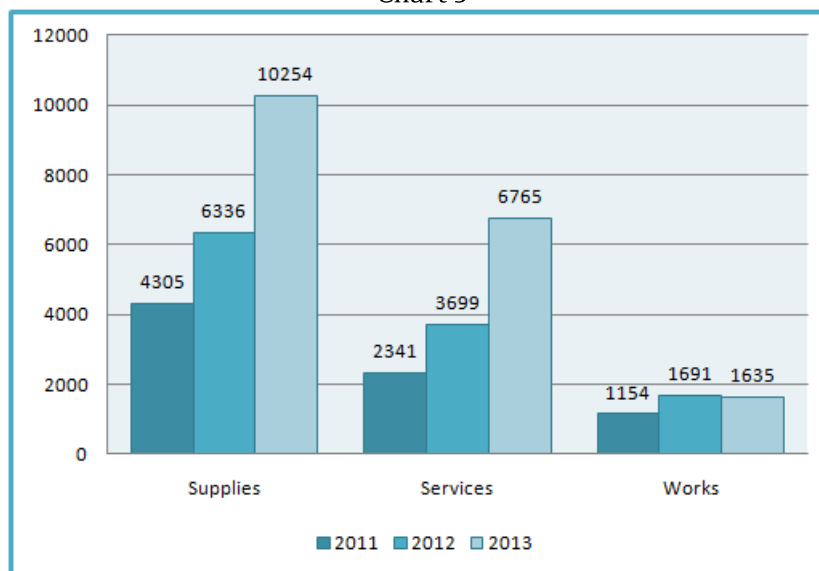


Chart 5



Next few tables show detailed data on published contract notices according to the type of contract and the way of its execution.

Table 4

| Type of public contract- supplies                    | Number of contract notices |
|--|----------------------------|
| <b>Purchasing</b>                                    | 4863                       |
| <b>Hire purchase</b>                                 | 5344                       |
| <b>Lease, with an option to purchase supplies</b>    | 1                          |
| <b>Lease, without an option to purchase supplies</b> | 17                         |
| <b>Combination of the above-mentioned types</b>      | 29                         |
| <b>Total</b>   | <b>10254</b>               |

Table 5

| Type of public contract - services                         | Number of contract notices |
|--|----------------------------|
| <b>Architectural and engineering services</b>              | 959                        |
| <b>Auxiliary transport services</b>                        | 29                         |
| <b>Other services</b>                                      | 371                        |
| <b>Health and social services</b>                          | 131                        |
| <b>Publishing and printing services</b>                    | 285                        |
| <b>IT and related services</b>                             | 326                        |
| <b>Investigative and security services</b>                 | 140                        |
| <b>Education and vocational education services</b>         | 49                         |
| <b>Legal services</b>                                      | 49                         |
| <b>Advertising services</b>                                | 99                         |
| <b>Recreational, cultural and sporting services</b>        | 24                         |
| <b>Accounting, auditing and bookkeeping services</b>       | 119                        |
| <b>Management consulting services</b>                      | 59                         |
| <b>Telecommunication services</b>                          | 452                        |
| <b>Air transport services of passengers and freight</b>    | 86                         |
| <b>Market research and public opinion polling services</b> | 31                         |
| <b>Land and air transport services of mail</b>             | 38                         |
| <b>Land transport services</b>                             | 372                        |
| <b>Maintenance and repair services</b>                     | 2263                       |
| <b>Sewage and refuse disposal services</b>                 | 132                        |
| <b>Temporary employment services</b>                       | 74                         |
| <b>Development and research services</b>                   | 54                         |



|   |             |
|---|-------------|
| Building cleaning services and property management services | 84          |
| Water transport services                                    | 1           |
| Rail transport services                                     | 2           |
| Financial services  | 471         |
| Hotel and catering services                                 | 65          |
| <b>Total</b>  | <b>6765</b> |

Table 6

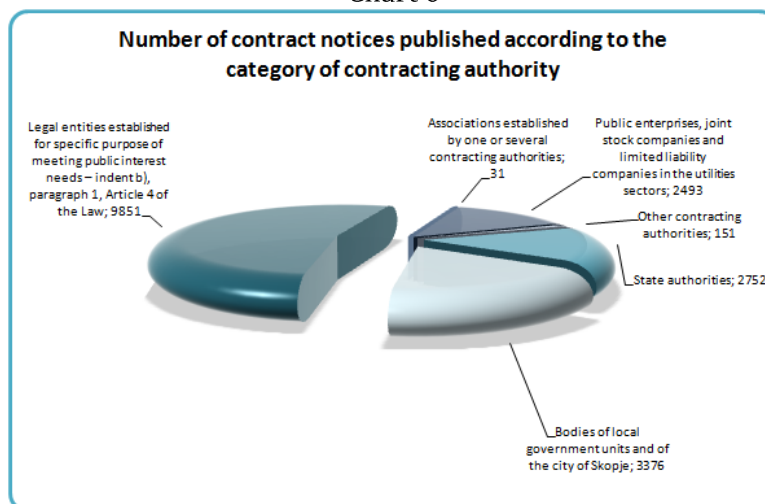
| Type of public contract – works  | Number of contract notices |
|----------------------------------|----------------------------|
| <b>Execution</b>                 | 1474                       |
| <b>Design and execution</b>      | 31                         |
| <b>Realisation, by any means</b> | 130                        |
| <b>Total</b>                     | <b>1635</b>                |

Total number of published contract notices according to category of contracting authorities, pursuant to Article 4 of the Law on Public Procurement and the Decision on Determining the Indicative List (“Official Gazette of the Republic of Macedonia”, nos. 159/07 and 74/09) is shown in Table 7 and Chart 6.

Table 7

| Category of contracting authority  | Number of contract notices |
|--|----------------------------|
| <b>State authorities</b>   | 2752                       |
| <b>Bodies of local government units and of the city of Skopje</b>  | 3376                       |
| <b>Legal entities established for specific purpose of meeting public interest needs – indent b), paragraph 1, Article 4 of the Law</b> | 9851                       |
| <b>Associations established by one or several contracting authorities</b>  | 31                         |
| <b>Public enterprises, joint stock companies and limited liability companies in the utilities sectors</b>                              | 2493                       |
| <b>Other contracting authorities</b>   | 151                        |
| <b>Total</b>   | <b>18654</b>               |

Chart 6



*In 2013, most contract notices were published by contracting authorities falling in the category legal entities established for specific purpose of meeting public interest needs - indent b), paragraph 1, Article 4 of the Law – 9,851 contract notices*

When analysing the data on the published contract notices according to category of contracting authority, it can be seen that most contract notices were published by contracting authorities falling in the category legal entities established for specific purpose of meeting public interest needs - indent b), paragraph 1, Article 4 of the Law – 9,851 and by contracting authorities falling in the category bodies of local government units and of the city of Skopje – 3,376.

When analysing the data from the contract notices, as regards the type of contract award criteria the contracting authorities applied in the carried out procedures, it can be determined that the lowest price criterion was again used far more than the criterion for economically most advantageous tender. Table 8 shows data on the number of published contract notices according to the contract award criterion applied in the procedure. It is necessary to point out that these data do not include some of the contract notices for restricted procedure and negotiate procedure with prior publication of a contract notice, since, in some of them, the contracting authority publishing the contract notice did not publish the criterion in the contract notice, but rather included it in the tender documentation for the next stage of the procedure.

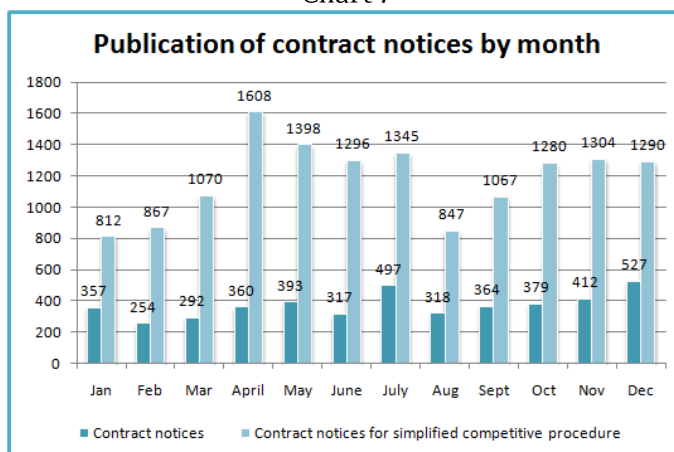
Table 8

| Contract award criterion                     | Number of contract notices |
|--|----------------------------|
| <b>Lowest price</b>                          | 15926                      |
| <b>Economically most advantageous tender</b> | 2665                       |

*The lowest price criterion was used in 86% of the total published contract notices as contract award criterion*

Presented data show an increased use of the lowest price criterion (86%) by the contracting authorities when publishing contract notices. In 2012, use of this criterion accounted for 81%, while if analyzing the trend in the last six years, constant increase of the use of the lowest price criterion in public procurement procedures could be noted, ranging from around 16% in 2008 up to even 86% in 2013. Pursuant to the new amendments to the Law, starting 1<sup>st</sup> May 2014, use of the lowest price criterion would be mandatory criterion when awarding public contracts. Chart 7 shows the dynamics of publishing contract notices by month. It could be seen therein that most of the contract notices were published in April, as well as in July and December 2013.

Chart 7



## 8.2. Concluded Public Contracts

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*As mentioned above,  
contracts concluded in  
2013 amounted to  
Denar 52.5 billion*

*Compared to 2012, the  
value of the concluded  
contracts dropped by  
7%*

Analysis of the data on concluded public contracts includes a review of the data on the public contracts concluded in 2013 on the basis of different parameters. Data mainly refer to the total number of concluded public contracts and their value, however, with respect to some parameters, due to ESPP setup (depending on whether data are received from contract award notices or from the records on simplified competitive procedures), data are grouped and refer only to the procedures - open procedure, restricted procedure, negotiated procedure with and without prior publication of a contract notice, competitive dialogue and awarding of public services contract pursuant to indent 2, Article 17, exceeding EUR 20,000 in Denar equivalent, excluding VAT. These Tables and Charts are presented below. All data regarding concluded public contracts are published on the ESPP <https://e-nabavki.gov.mk> and are fully available to the public. Contracting authorities are responsible for the reliability and accuracy of the entered data, since they publish their contract notices, contract award notices/cancellation notices and records on simplified competitive procedures through the ESPP by means of their usernames and passwords.

Number and value of concluded public contracts in 2013 according to the type of contract award procedure are presented in Table 9 and Chart 8. Total value of concluded public contracts in 2013 dropped by around 7% compared to 2012, amounting to Denar 52,491,650,489. Most applied procedure according to the value of the concluded contracts was the open procedure, on the basis of which 7,109 contracts were concluded in the amount of Denar 35,691,471,782, i.e. 68% of the total value of public procurements carried out in the Republic of Macedonia. The second most applied procedure was the negotiated procedure without prior

*Most applied procedure according to the value of the concluded contracts was the open procedure, by which 7,109 contracts were concluded in the amount of Denar 35,691,471,782, i.e. 68% of the total value of public procurements carried out in the Republic of Macedonia*

publication of a contract notice, on the basis of which 1,452 contracts were concluded in the amount of Denar 5,936,324,555 – 11% of the total value.

Chart 8

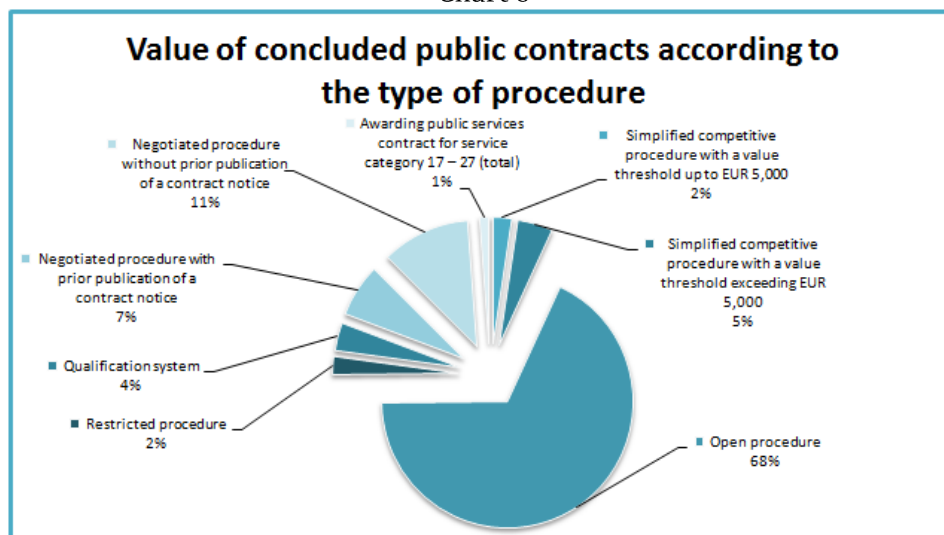


Table 9

| Type of contract award procedure   | Number of concluded contracts | Value of concluded contracts |
|--|-------------------------------|------------------------------|
| <b>Simplified competitive procedure</b>                                    | 7364                          | Denar 1,233,311,336.00       |
| <b>Simplified competitive procedure</b>                                    | 3268                          | Denar 2,362,690,242.00       |
| <b>Open procedure</b>  | 7109                          | Denar 35,691,471,782.00      |
| <b>Restricted procedure</b>  | 7                             | Denar 1,209,102,469.00       |
| <b>Qualification system</b>  | 22                            | Denar 1,887,408,950.00       |
| <b>Negotiated procedure with prior publication of a contract notice</b>    | 58                            | Denar 3,555,028,607.00       |
| <b>Negotiated procedure without prior publication of a contract notice</b> | 1452                          | Denar 5,936,324,555.00       |
| <b>Awarding public services</b>  | 1365                          | Denar 616,312,548.00         |

contract for service category  
17-27 (total)

|              |              |                                |
|--------------|--------------|--------------------------------|
| <b>Total</b> | <b>20645</b> | <b>Denar 52,491,650,489.00</b> |
|--------------|--------------|--------------------------------|

*What is specific for 2013 as regards the contracts concluded by different type of procedure was the reduction (approximately by twice) of the value of the concluded contracts by applying the simplified competitive procedures, with an estimated value of EUR 5,000 in Denar equivalent*

As regards the application of different types of procedures compared to the previous year, number of concluded contracts by applying the simplified competitive procedure with estimated value up to EUR 5,000 in Denar equivalent declined. With respect to this type of procedure, there were 10,049 contracts concluded in 2012 in the amount of Denar 2,043,030,609.00, while in 2013, total of 7,364 contracts were concluded in the amount of Denar 1,233,311,336.00. As regards the other procedures, the same trend as in the previous three years continued. In fact, with respect to the value of concluded contracts, most of them were concluded by applying the open procedure (64% in 2011, 67% in 2012, 68% in 2013). As regards the share of restricted procedure, significant downward trend continued (8% in 2011, 5% in 2012, 2% in 2013). The same applies for the share of negotiated procedure with prior publication of a contract notice, which delined from 14% in 2011 to 10% in 2012 and 7% in 2013. On the other hand, in 2013 as well, share of negotiated procedure without prior publication of a contract notice increased (4% in 2011, 8% in 2012, 11% in 2013). This increase was partly due to the possibility to use this type of procedure in case when the contracting authority cannot schedule electronic auction since there is not enough competition. This trend is expected to change in 2014, pursuant to the latest amendments to the Law, i.e. with the introduction of the final price concept. More detailed data on the negotiated procedures will be presented in the text below. Volume of the other procurement procedures is approximately the same in terms of value of the concluded contracts. Comparative data are presented in Charts 9 and 10.

Chart 9

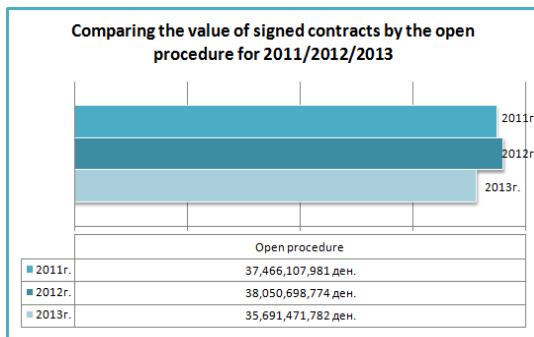
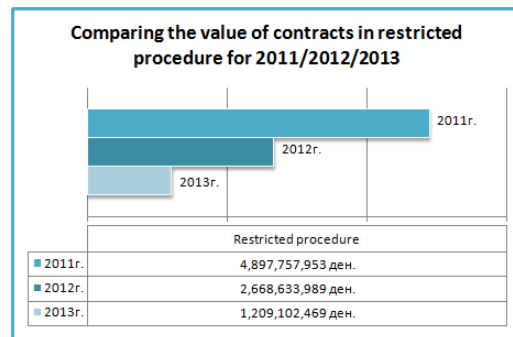


Chart 10



### 8.2.1. Data on Public Contracts Concluded according to the Type of Public Contract

According to the subject-matter of the public contract, 11,285 supply contracts in the amount of Denar 20,507,007,163, 7,890 services contracts in the amount of Denar 12,030,639,341 and 1,470 works contracts in the amount of Denar 19,954,003,985 were concluded in 2013. Chart 11 and Table 10 present more detailed data on the number and value of concluded public contracts according to the type of the subject-matter of the contracts.

Chart 11

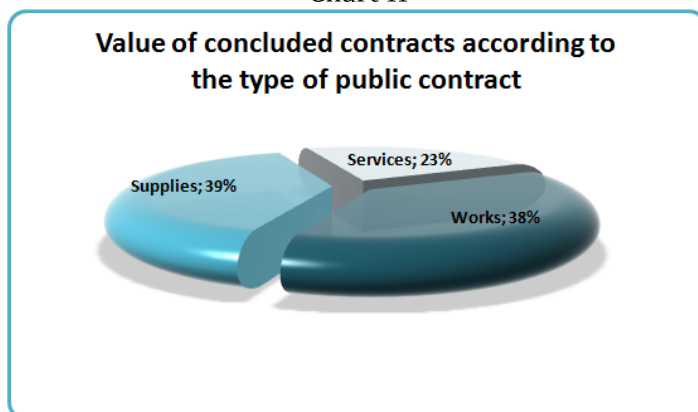


Table 10

| Type of public contract | Number of concluded contracts | Value of concluded contracts   |
|-------------------------|-------------------------------|--------------------------------|
| <b>Supplies</b>         | 11285                         | Denar 20,507,007,163.00        |
| <b>Services</b>         | 7890                          | Denar 12,030,639,341.00        |
| <b>Works</b>            | 1470                          | Denar 19,954,003,985.00        |
| <b>Total</b>            | <b>20645</b>                  | <b>Denar 52,491,650,489.00</b> |

*According to the type of public contract, the highest percentage (39%) of the value of public contracts accounted for procurement of supplies*

Highest percentage (39%) of the value of public contracts accounted for procurement of supplies. Public work contracts accounted for 38% of the total value of contracts (most often execution of works). By comparing the data on the value of the concluded public contracts according to the type of the contract, it is noticeable that share of the procurement of works increased by 8% in 2013, while share of the procurement of services dropped by 7%. Public supply contracts were most often realised through purchasing and hire purchase. Public services contracts participated with 23% in the total value of public procurement in 2013 (they accounted for 31% in 2011 and 30% in 2012). Their structure shows different share of the categories of services pursuant to the Decree on services subject-matter of public services contracts ("Official Gazette of the Republic of Macedonia", no. 157/07). However, most of the value of public services contracts accounted for public contracts for architectural and engineering services (category No. 12) and maintenance and repair services (category No. 1), same as in the previous years. However, share of these services in the total value of services contracts in 2013 was significantly lower in relation to their share in 2012 (40% in 2012, 18% in 2013).



### ***8.2.2. Data on Public Contracts Concluded according to the Category of Contracting Authority***

Number and value of contracts concluded according to the category of contracting authority and its main business activity are shown below (Table 11 and Chart 12). Information presented below were obtained from the contract award notices and refer exclusively to contracts concluded by applying open procedure, restricted procedures, negotiated procedure with and without prior publication of a contract notice and competitive dialogue. This was due to ESPP setup and the manner of gathering data according to the parameter – category of contracting authority. In fact, these data do not include data on the simplified competitive procedures due to the fact that contract award notice is not filed in for these procedures, but rather summary records on semi-annual basis.

Chart 12

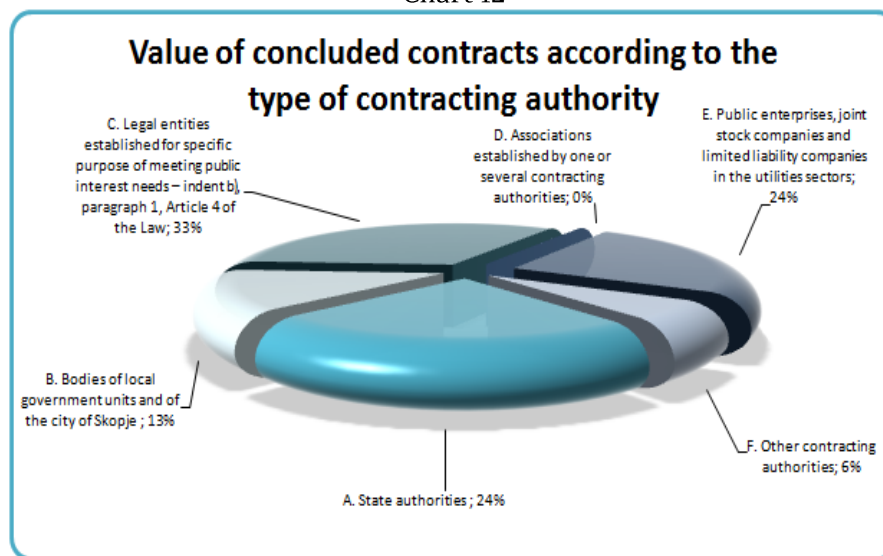


Table 11

| Category of contracting authority  | Main business activity    | Number of contracts | Value of concluded contracts |
|--|---------------------------|---------------------|------------------------------|
| A. State authorities   | General public services   | 484                 | Denar 6,003,876,982          |
|  | Defence                   | 127                 | Denar 745,121,419            |
|  | Public order and security | 123                 | Denar 613,447,238            |
|  | Environment               | 8                   | Denar 50,999,549             |
|  | Health                    | 65                  | Denar 1,274,891,630          |
|  | Economy and finance       | 45                  | Denar 1,192,968,840          |
|  | Social protection         | 35                  | Denar 71,839,667             |
|  | Sports and culture        | 38                  | Denar 1,119,166,377          |
|  | Education                 | 94                  | Denar 805,621,004            |
|  | Other                     | 11                  | Denar 22,458,143             |
|  | <b>Total A.</b>           | <b>1030</b>         | <b>Denar 11,900,490,849</b>  |
| B. Bodies of local government units and of the city of Skopje  | General public services   | 1106                | Denar 6,237,061,942          |
|  | Sports and culture        | 7                   | Denar 12,487,910             |
|  | Education                 | 7                   | Denar 1,798,524              |
|  | Other                     | 1                   | Denar 5,085,800              |
|  | <b>Total B.</b>           | <b>1121</b>         | <b>Denar 6,256,434,176</b>   |
| C. Legal entities established for specific purpose of meeting public interest needs – indent b), paragraph 1, Article 4 of the Law | General public services   | 1051                | Denar 6,744,006,645          |
|  | Public order and security | 41                  | Denar 173,756,646            |
|  | Environment               | 55                  | Denar 145,791,681            |
|  | Health                    | 2932                | Denar 5,890,314,723          |
|  | Social protection         | 316                 | Denar 538,114,710            |
|  | Sports and culture        | 251                 | Denar 721,570,042            |
|  | Education                 | 748                 | Denar 1,491,981,985          |
|  | Other                     | 64                  | Denar 221,055,712            |
|  | <b>Total C.</b>           | <b>5458</b>         | <b>Denar 15,926,592,144</b>  |
| D. Associations established by one or several contracting authorities  | Other                     | 6                   | Denar 3,108,732              |
|  | <b>Total D.</b>           | <b>6</b>            | <b>Denar 3,108,732</b>       |

|   |                                     |             |                             |
|---|-------------------------------------|-------------|-----------------------------|
| E. Public enterprises, joint stock companies and limited liability companies in the utilities sectors | General public services             | 485         | Denar 2,535,288,496         |
|   | Housing, construction and transport | 56          | Denar 1,382,469,446         |
|   | Economy and finance                 | 1           | Denar 2,975,216             |
|   | Social protection                   | 3           | Denar 83,097                |
|   | Sports and culture                  | 2           | Denar 1,888,000             |
|   | Other                               | 620         | Denar 7,693,754,156         |
|   | <b>Total E.</b>                     | <b>1173</b> | <b>Denar 11,622,459,829</b> |
| F. Other contracting authorities  | Education                           | 3           | Denar 5,157,886             |
|   | General public services             | 14          | Denar 22,440,281            |
|   | Social protection                   | 2           | Denar 3,540,000             |
|   | Other                               | 35          | Denar 3,013,975,248         |
|   | <b>Total F.</b>                     | <b>54</b>   | <b>Denar 3,045,113,415</b>  |
| <b>Total<sup>7</sup></b>  | <b>Total A + B + C + D + E + F</b>  | <b>8843</b> | <b>Denar 48,754,199,145</b> |

*In 2013 as well, the highest percentage of the value of concluded contracts accounted for the category the legal entities established for specific purpose of meeting public interest needs - indent b), paragraph 1, Article 4 of the Law - 33% of the value of public procurement*

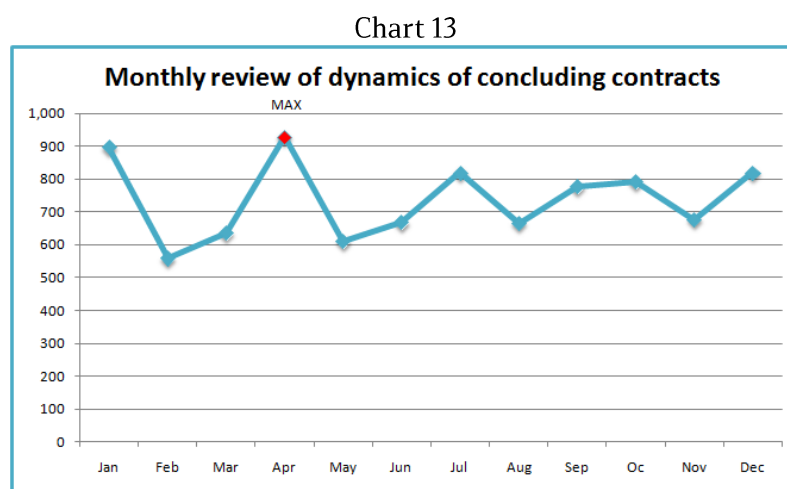
The Table shows detailed review of realised public procurements according to the category and the main business activity of the contracting authorities. In 2013 as well, the highest percentage of the value of concluded contracts accounted for the category the legal entities established for specific purpose of meeting public interest needs - indent b), paragraph 1, Article 4 of the Law - 33% of the value of public procurement. Further on, on the basis of the realised public

<sup>7</sup> Data refer only to contracts concluded under the open procedure, restricted procedure, negotiated procedure with and without prior publication of a contract notice and competitive dialogue and for service public contract referred to in indent 2, paragraph (1), Article 17, when the estimated value exceeds EUR 20,000 in Denar equivalent.

procurements, state authorities, as well as contracting authorities falling within the category of public enterprises, joint stock companies and limited liability companies in the utilities sectors, accounted for 24% of the value of public procurement. Other contracting authorities participated with around 19% all together in the total value of public contracts. Compared to 2012, downward trend was observed as regards the share of contracts concluded by the state authorities (28% in 2012, 24% in 2013, as well as contracts concluded by the bodies of local government units and of the City of Skopje (17% in 2012, 13% in 2013). In addition, certain decline of 2% was observed at the share of public enterprises, joint stock companies and limited liability companies in the utilities sectors. With respect to 2013, share of legal entities established for specific purpose of meeting public interest needs in the total value of concluded contracts increased (28% in 2012, 33% in 2013).

### ***8.2.3. Data on Public Contracts Concluded according to Other Parameters***

When analysing the dynamics of awarding contracts by months in 2013 (Chart 13), it can be seen that most of the contracts were concluded in April.

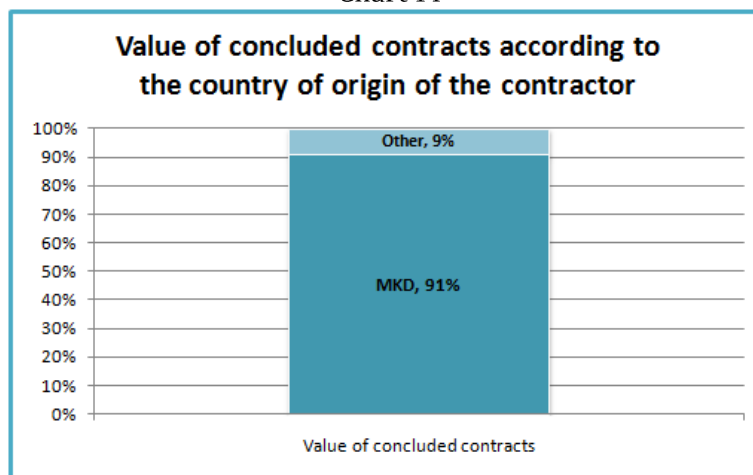


There was international publication of the contract notices for 626 of the public contracts in 2013. Analysed by country of origin of the contractor, data are presented in Table 12 and Chart 14.

Table 12

| Country of origin of the contractor | Number of concluded contracts | Value of concluded contracts <sup>8</sup> |
|-------------------------------------|-------------------------------|---|
| <b>Macedonia</b>                    | 8526                          | Denar 44,328,480,599                      |
| <b>EU</b>                           | 67                            | Denar 2,515,576,279                       |
| <b>Other</b>                        | 250                           | Denar 1,910,142,267                       |

Chart 14



*The data lead to the conclusion that national companies participated the most on the public procurement market in the Republic of Macedonia, accounting for 91% of the value of awarded public contracts*

<sup>8</sup> Data refer only to contracts concluded under the open procedure, restricted procedure, negotiated procedure with and without prior publication of a contract notice and competitive dialogue and for service public contract referred to in indent 2, paragraph (1), Article 17, when the estimated value exceeds EUR 20,000 in Denar equivalent.

*The most common reason/legal justification to use the negotiated procedure without prior publication of a contract notice in 2013 was when the contracting authority could not schedule e-auction since there was not enough competition – almost half of the value of the contracts awarded through this type of procedure*

Above-stated data in Table 12 and Chart 14 lead to the conclusion that national companies participated the most on the public procurement market in the Republic of Macedonia, accounting for 91% of the value of awarded public contracts. Share of foreign companies as contractors in the public contracts accounted for 9% in 2013. Value and percentage of awarded contracts to companies outside Macedonia dropped compared to the previous year (14% in 2012).

In addition, it is worth mentioning that 678 framework agreements (total of 831 framework contracts were concluded in 2012) and 243 agreements for conducting joint procurement were concluded in 2013.

As mentioned at the beginning of this Chapter, negotiated procedure with prior publication of a contract notice accounted for 7% (10% in 2012), while negotiated procedure without prior publication of a contract notice accounted for 11% (8% in 2012) in the total amount of funds. Table 13 and Chart 15 show the number and the value of concluded public contracts by applying these procedures on the basis of the reason for applying/legal basis for applying these procedures. Compared to 2012, use of negotiated procedure without prior publication of a contract notice increased. This increase was mostly due to the possibility to use this type of procedure in case when the contracting authority cannot schedule electronic auction since there is not enough competition. As mentioned above, this trend is expected to change in 2014, in line with the recent amendments to the Law, i.e. with the introduction of the final price concept, prescribing deletion of the indent on justification of the use of negotiated procedure without publication of a contract notice when, in the open procedure, the restricted procedure, the negotiated procedure with publication of a contract notice and the simplified competitive procedure, the contracting authority cannot schedule an electronic auction since there is not enough competition. By using this reason/legal justification, 340 contracts in the amount of Denar 2,911,682,503 were awarded in 2013 (Denar 986,547,060 in 2012), which is the most often used reason for the use of the negotiated procedure

*Public Procurement Bureau, through the amendments to the legislation – deletion of the legal possibility to carry out negotiated procedure in cases when e-auction cannot be scheduled and introduction of the new final price concept, expects for the number of contracts awarded through the negotiated procedure to drop in 2014*

without publication of a contract notice (49% of the value of the awarded contracts in the negotiated procedure without publication of a contract notice).

Data on the negotiated procedure can lead to the conclusion that another reason/legal justification for the use of the negotiated procedure without publication of a contract notice (16%) is indent 1, point 4), paragraph (1) of Article 99 of the Law, at procurement of additional works or service, when such additional works or services cannot be technically or economically separated from the original contract without causing major inconvenience for the contracting authority. Following reasons account for 15% each in the total value of the contracts awarded by applying the negotiated procedure without publication of a contract notice: due to technical or artistic reasons, i.e. due to reasons related to protection of exclusive rights (patents, etc.), the contract can be executed only by a particular economic operator, and due to reasons of extreme urgency caused by events unforeseeable by the contracting authority, nor attributable to it as an omission.

Table 13

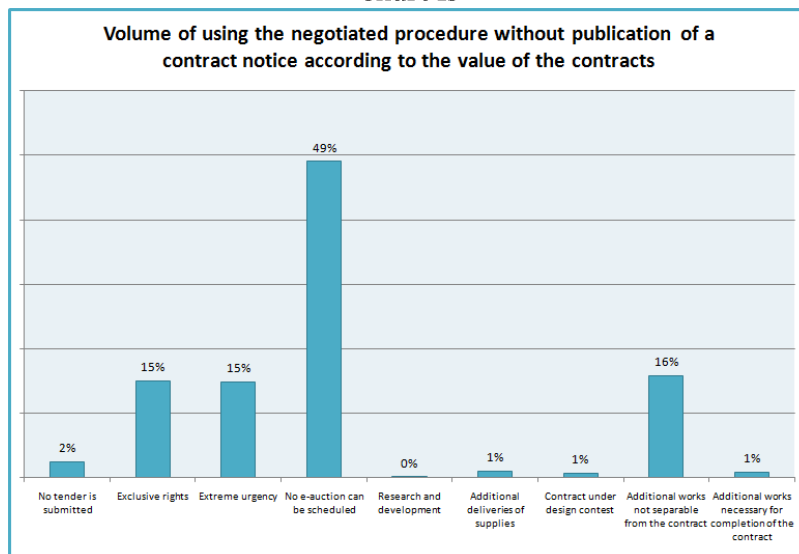
| Type of procedure  | Justification for selection of a procedure  | Number of concluded contracts | Value of concluded contracts |
|--|---|-------------------------------|------------------------------|
| <b>A. Negotiated procedure with prior publication of a contract notice</b> | when no acceptable tender was received in an open procedure, restricted procedure or competitive dialogue, and the previous procedure was cancelled without substantially modifying the initial requirements in the tender documentation; | 3                             | Denar 180,116,782            |
|  | in exceptional cases, when the nature of the works, supplies or services, or the risks arising therefrom, did not allow a prior overall pricing of the contract;  | 6                             | Denar 3,143,820,143          |

|  |   |           |                            |
|--|---|-----------|----------------------------|
| B. Negotiated<br>procedure without<br>prior publication<br>of a contract<br>notice | contracting authority invited to negotiations the economic operators which, in the open procedure, restricted procedure or the competitive dialogue procedure proved their qualifications and submitted tenders in line with the requirements of the respective procedure;                        | 44        | Denar 229,799,612          |
|  | for services, if the service was of such nature, that the technical specifications could not be determined with sufficient precision so as to enable the awarding of the contract on the basis of the most favourable tender in accordance with the rules governing open or restricted procedure; | 5         | Denar 1,292,070            |
|  | <b>Total A.</b>   | <b>58</b> | <b>Denar 3,555,028,607</b> |
|  | when in an open procedure, restricted procedure, negotiated procedure with prior publication of a contract notice and simplified competitive procedure, the contracting authority could not schedule electronic auction since there was not enough competition;                                   | 340       | Denar 2,911,682,503        |
|  | when the contracting authority had to procure additional deliveries from the original contractor for the purpose of partial replacement of common goods or installations or extension of the existing goods or installations;   | 39        | Denar 60,711,453           |
|  | when no tender in an open procedure or no request to participate in the first phase of a restricted procedure was submitted, provided that the initial requirements of the contract were not altered;   | 175       | Denar 146,119,280          |
|  | in case of reasons of extreme urgency caused by events the contracting authority could not foresee, nor they could be attributed to it as an omission;  | 330       | Denar 880,369,233          |
|  | when due to technical or artistic reasons, i.e. reasons connected to protection of exclusive rights (patents, etc.), the contract could be executed only by a particular economic operator;   | 334       | Denar 895,840,585          |
|  |   |           |                            |
|  |   |           |                            |



|   |             |                            |
|---|-------------|----------------------------|
| when the contract concerned followed a design contest and was awarded to the best ranked participant or to one of the best ranked participants;   | 39          | Denar 40,755,800           |
| manufactured purely for the purpose of research, experimentation, study or development, but not for goods in mass production by which gain or recovery of research and development costs might be realised; | 11          | Denar 5,621,709            |
| such additional works or services could not be technically or economically separated from the original contract without major inconvenience for the contracting authority;                                  | 151         | Denar 943,145,852          |
| such works or services, although separable from the performance of the original contract, were strictly necessary for its completion.   | 33          | Denar 52,078,140           |
| <b>Total B.</b>   | <b>1452</b> | <b>Denar 5,936,324,555</b> |

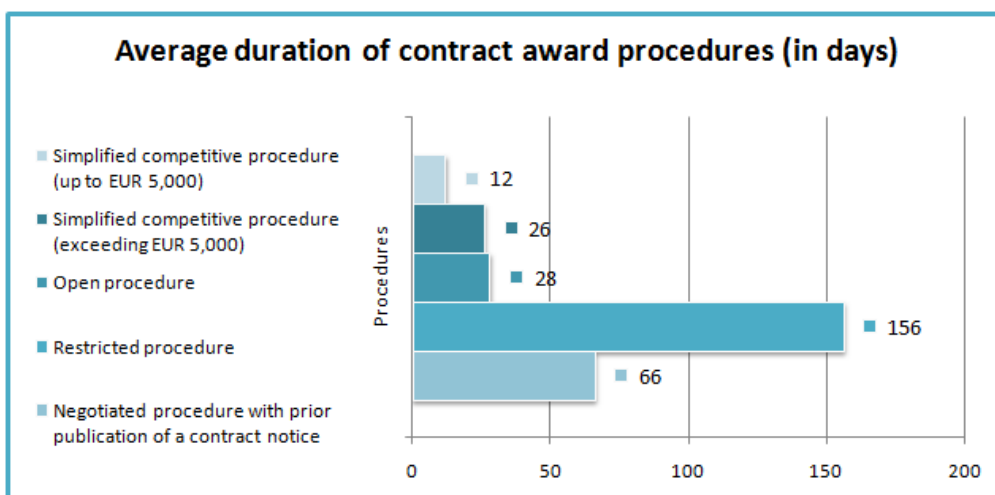
Chart 15



Data that can also serve to present efficiency of contract award procedures are average duration of the procedures from the public tender opening to concluding the contract. Gathered data lead to the conclusion that average duration of the evaluation phase at simplified competitive procedure with an estimated value of up to EUR 5,000 in Denar equivalent was 12 days, at simplified competitive procedures with an estimated value of up to EUR 20,000 in Denar equivalent for supplies and services and up to EUR 50,000 in Denar equivalent for works was 26 days, at open procedure – 28 days, at restricted procedure – 156 days, and at negotiated procedure with prior publication of a contract notice – 66 days.

Chart 16

*In 2013, there was a significant decrease in the number of days necessary to evaluate tenders, to reach a decision selecting the winning tenderer and to conclude the contract at the simplified competitive procedures and open procedure*



Above-stated data show that, compared to 2012, there was a significant decrease in the number of days necessary to evaluate tenders, to reach a decision selecting the winning tenderer and to conclude the contract at the procedures most used (simplified competitive procedure and open procedure). Compared to 2012, duration of the procedures was as follows: simplified competitive procedure up to EUR 5,000 - 26 days, simplified competitive procedures exceeding EUR 5,000 – 31 days, open

*Increase of the efficiency in carrying out the procedures is due to the efforts of the Bureau to strengthen the capacities of contracting authority through the training programme, as well as to the introduction of the obligation for the contracting authorities to reach decision for selection or cancellation of the procedure within a time limit not longer than the one for submission of tenders*

procedure - 42 days, restricted procedure - 63 days and negotiated procedure with prior publication of a contract notice - 52 days. Compared to last year, increase of the average duration of the procedures was noticed only at the restricted procedure and the negotiated procedure with prior publication of a contract notice, however, due to the small number of contracts awarded by applying these procedures, it had no influence on the reduction of the days necessary to complete the procedure. Hence, we can conclude that there was a significant decrease in the number of days necessary to evaluate tenders compared to the previous year, i.e. there was an increase in the efficiency in carrying out procedures. This is due to the efforts of the Bureau to strengthen the capacities of the contracting authorities through the training programme, as well as to the introduction of the obligation for the contracting authorities to reach decision for selection or cancellation of the procedure within a time limit not longer than the one for submission of tenders, i.e. submission of requests to participate in the respective procedure, from the day determined as final time limit for submission of tenders, i.e. submission of requests to participate. Comparison on the duration of procedures in 2012-2011 is presented in Table 14.

Table 14

| Average duration of contract award procedures                    |         |          |
|--|---------|----------|
|  | 2012    | 2013     |
| Simplified competitive procedure (up to EUR 5,000)               | 26 days | 12 days  |
| Simplified competitive procedure (exceeding EUR 5,000)           | 31 days | 26 days  |
| Open procedure   | 42 days | 28 days  |
| Restricted procedure   | 63 days | 156 days |
| Negotiated procedure with prior publication of a contract notice | 52 days | 66 days  |

Below are presented data on the value of concluded contracts by contracting authority (a list of 10 largest public consumers in 2013), and by contract (list of 10 highest-value public contracts in 2013). Tables 15 and 16.

Table 15

| List of contracting authorities – 10 largest consumers in 2013  |   |
|---|---|
| <i>Name of contracting authority</i>  | <i>Total value of contracts (Denar)</i> |
| <b>Macedonian Power Plants joint stock company - Skopje</b>   | 6.004.371.369                           |
| <b>Common Service Agency within the Government of the Republic of Macedonia</b>   | 1.493.642.375                           |
| <b>Agency for Electronic Communications</b>   | 1.346.864.345                           |
| <b>Ministry of Health</b>   | 1.318.226.398                           |
| <b>Joint Stock Company for Construction and Management of Housing and Business Premises of relevance to the Republic of Macedonia</b> | 1.307.894.421                           |
| <b>City of Skopje</b>   | 1.251.752.416                           |
| <b>Public Enterprise for State Roads</b>  | 1.223.616.621                           |
| <b>Ministry of Culture</b>  | 1.128.516.234                           |
| <b>Macedonian Forests Public Enterprise - Skopje</b>  | 1.069.381.431                           |
| <b>Ministry of Finance</b>  | 1.035.030.661                           |

Table 16

| List of 10 highest-value contracts concluded in 2013   |  |  |                                     |
|--|--|--|-------------------------------------|
| <i>Subject-matter of procurement</i>   | <i>Name of contracting authority</i>                   | <i>Contractor</i>  | <i>Value of concluded contracts</i> |
| Excavation of coal and tailing from landslide on micro location – 3 in Suvodol mine – REK Bitola, with | Macedonian Power Plants - Joint Stock Company - Skopje | Company for Construction, Transport and Trade TRANS MET DOO Skopje | 2.360.000.000                       |

supplies of  
crushed coal to  
ITU 2  
transporter  
within the coal  
system with  
discontinued  
technology  
according to the  
additional  
mining project

|  |  |  |               |
|--|--|--|---------------|
| Construction of antenna system for control and monitoring of radio frequencies on the territory of the Republic of Macedonia | Agency for Electronic Communications                           | GRANIT AD Skopje Construction Company  | 1.084.706.000 |
| Construction of the building of the Ministry of Finance  | Ministry of Finance  | LSG BUILDING SOLUTION DOOEL Skopje   | 952.260.000   |
| PP 01-201/2013<br>Use of auxiliary mechanisation upon call for the needs of REK Bitola subsidiary                            | Macedonian Power Plants Joint Stock Company - Skopje           | Company for Trade, Production and Service MARKOVSKI COMPANY Borce DOOEL Import-Export Bitola | 886.180.000   |
| Procurement of property and persons security services  | EVN Macedonia joint stock company - Skopje                     | SECURITY GROUP SERVICES DOOEL Skopje   | 725.700.000   |
| Construction of new administrative building "AD ELEM Business Facility"  | Macedonian Power Plants Joint Stock Company - Skopje           | STRABAG AG   | 715.100.812   |
| Construction and reconstruction of facilities within Idrizovo Penitentiary Institution (Gazi Baba Municipality, Skopje)      | Ministry of Justice, Directorate for Execution of Sanctions    | CHEMKOSTAV AD SKOPJE SUBSIDIARY  | 695.946.300   |
| Execution of construction works for reconstruction of the façade   | Common Service Agency within the Government of the Republic of | Company for construction, trade and services BAUER BG DOO Skopje                             | 571.891.720   |

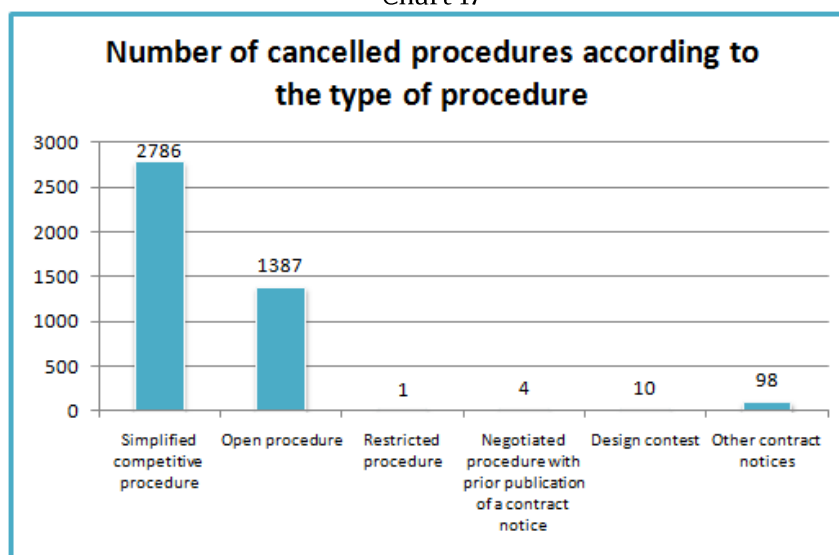
|  |   |   |             |  |
|--|---|---|-------------|--|
| and the illumination of the building of the Government of the Republic of Macedonia  | Macedonia   |   |             |  |
| Construction works for construction of facility Bosnia and Herzegovina B 9.3 O-4 in Skopje   | Joint Stock Company for Construction and Management of Housing and Business Premises of relevance to the Republic of Macedonia - Skopje | Company for Designing and Construction IMPEKSEL 2 DOOEL Import - Export, village of Debrese, Gostivar | 526.252.807 |  |
| Execution of construction and craftsmanship works with interior adaptation for the museum exhibition in the facility of the Archeological Museum, Skopje | Ministry of Culture   | Construction Company BETON-STIP, joint stock company, Stip  | 497.683.492 |  |

## 8.3. Data from Cancellation Notices

*In 2013, 19% of the published contract notices were cancelled, approximately the same percentage like in the previous year*

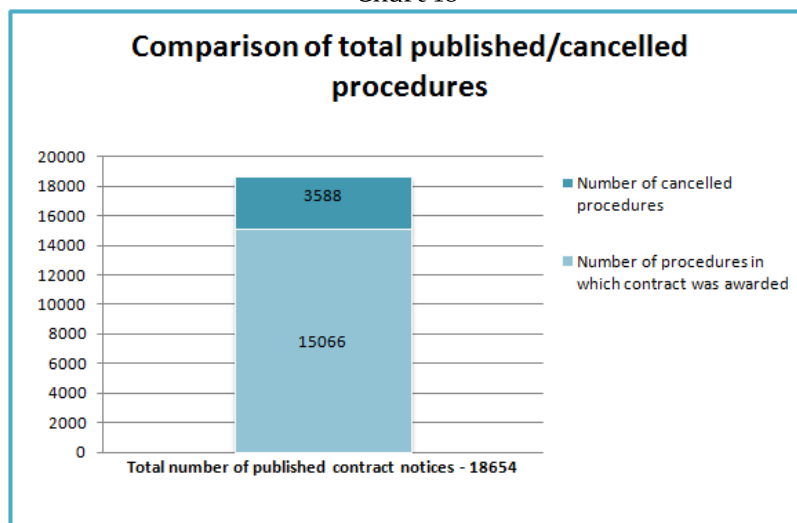
Analysis of the data on the number of cancellations in 2013 show that total of 4,286 cancellation notices were filled in through the ESPP for cancellation of a procedure or parts of the procedure. It should be pointed out that these data include cancellation notices for the entire procedure, as well as cancellation notices for parts thereof. When it comes to cancellation of the whole procedure, there were total of 3,588 cancellations of contract award procedures in 2013. Chart 17 shows data on cancellation of procedures according to the type of procedure.

Chart 17



Above-presented data lead to the conclusion that 19% of the published contract notices was cancelled in the course of 2013, the same percentage of cancellations as in 2012.

Chart 18



*The most common reason for cancellation of the procedures in 2013 was that no acceptable or appropriate tender was submitted*

Table 17 presents the reasons for cancellation of procedures. It can be concluded that procedures in 2013, like in 2012, were most often cancelled due to the following reasons:

- no acceptable or appropriate tender was submitted,
- no tender was submitted and
- tenderers offered prices and terms and conditions for execution of the public contract which were less favourable than the real prices and conditions on the market.

Table 17

| Information on the reasons for cancellation of the procedure or cancellation of parts thereof   | Number of cancelled procedures | Number of cancelled parts thereof |
|---|--------------------------------|-----------------------------------|
| number of candidates was less than the minimum number set for the contract award procedures pursuant to the Law                       | 174                            | 45                                |
| no acceptable or no appropriate tender was submitted  | 1203                           | 184                               |
| no tender was submitted   | 780                            | 256                               |
| acceptable tenders were submitted, but they could not be compared due to different approaches in the financial or technical proposals | 97                             | 16                                |
| unforeseeable changes occurred in the budget of the contracting authority   | 113                            | 2                                 |
| tenderers offered prices and conditions for execution of  | 496                            | 131                               |



|   |             |            |
|---|-------------|------------|
| the public contract which were less favourable than the real prices and conditions on the market  |             |            |
| tender documents had major shortcomings or faults   | 299         | 24         |
| needs of the contracting authority changed due to unpredictable and objective circumstances   | 122         | 11         |
| contracting authority could not select the winning tender due to major infringements to the Law on Public Procurement pursuant to Article 210 of this Law | 135         | 17         |
| selected tenderer withdrew from signing the contract  | 28          | 8          |
| State Appeals Commission cancelled the procedure  | 73          | 4          |
| other reasons (other notices, design contest)   | 68          | /          |
| <b>Total</b>  | <b>3588</b> | <b>698</b> |

### ***8.3.1. Data from Forms for Amending and Supplementing the Contract Notice***

In 2013, total of 2,289 forms for amending and supplementing the contents of the contract notice were published through the ESPP. These data show that 12% of contract notices, after being published, underwent amendments or supplements to the contents of the contract notice and the tender documents, which was by 4% less compared to 2012.

## 8.4. E-Procurement Procedures

---

As mentioned above, data and information the Public Procurement Bureau analyzed and monitored through the ESPP, as well as the experience of the users carrying out the procedures electronically, showed evident positive effects from the e-procurement in the past period. Below are presented the more significant and positive results and benefits. Anyhow, despite the efforts the Bureau puts for the contracting authorities to use the ESPP more as regards the carrying out of the procurement procedures fully electronically, they are still using the traditional “paper-based” form of carrying out the procedures to a great extent. Percentage of carrying out contract award procedures fully electronically in 2013 was approximately the same as in 2011 and 2012. Data show that the contracting authorities, having accepted this manner of awarding contracts (electronically), continued to use, third year in a row, the ESPP for carrying out the procedures, i.e. they themselves recognised the benefits arising from the e-procurement. It means that once the contracting authority starts carrying out the procedures electronically, it recognises the benefits e-procurement provides, accepts such manner of awarding contracts and continues to use it, i.e. it does not go back to the traditional paper-based method. Contracting authorities, which are mainly oriented to shifting from the paper-based method to e-procurement procedure and have been carrying out, several years in a row, the procedures electronically are the following:

*Despite the efforts the Bureau puts for the contracting authorities to use the ESPP more as regards the carrying out of the procurement procedures fully electronically, they are using more the traditional “paper-based” form of carrying out of the procedures*

- Macedonian Power Plants Joint Stock Company
- Water Supply and Sewerage Public Enterprise – Skopje
- Real Estate Cadastre Agency
- DOOEL Fort Oslomej
- “8<sup>th</sup> September” City General Hospital PHI - Skopje
- Ministry of Internal Affairs of the Republic of Macedonia
- Bitola Municipality

- Kisela Voda Municipality
- Customs Administration of the Republic of Macedonia
- Ministry of Transport and Communications

*In 2013, 2,560 contract notices were published electronically, i.e. approximately 15% of the total number of published contract notices*

Although the benefits from carrying out the procedures electronically are numerous, still it has to be pointed out that use of the system as a tool to award contracts through e-procurement by the contracting authorities is still low. Focus in the coming period should be put on the contracting authorities which carry out the procedures in a paper-based form so as for them to be encouraged and to shift to carrying out the procedures electronically. It might be necessary, at the beginning, for the larger state institutions, having the necessary capacity, to start carrying out the procedures as e-procurement, and for the other contracting authorities to gradually shift to this manner of carrying out the procedures. Contracting authorities which, starting 2013, commenced to use the ESPP more and to fully carry out the procedures electronically are the following:

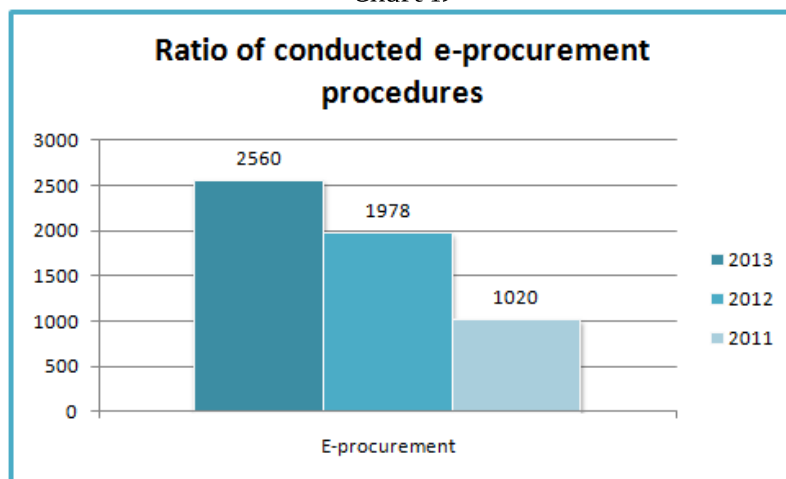
*Focus in the coming period should be put more on the contracting authorities which carry out the procedures in a paper-based form so as for them to be encouraged and to shift to carrying out the procedures electronically*

- Central Registry of the Republic of Macedonia
- Pension and Disability Insurance Fund of the Republic of Macedonia
- Struga Municipality
- Minister of Labour and Social Policy
- Ministry of Education and Science
- Ministry of Information Society and Administration
- Public Enterprise “Official Gazette of the Republic of Macedonia”

There were 2,560 e-procurements carried out through the ESPP in 2013, increasing by approximately 30% compared to the number of carried out e-procurements in 2012 (1,978 e-procurements). Chart 19 shows comparison of e-procurements carried out at annual level.

*In 2013, 2,560 contract notices were published electronically, i.e. approximately 15% of the total number of published contract notices*

Chart 19



As already mentioned, carrying out the procedures electronically is still not at the satisfactory level. Published contract notices show that around 15% of contract award procedures in 2013 were carried out fully electronically.

## 8.5. Electronic Auctions

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*The threshold for mandatory carrying out of e-auctions in 100% of the published contract notices was attained*

In 2013, provision on mandatory carrying out of e-auctions in 100% of published contract notices was applied second year in a row. The 100% threshold was attained in 2013 as well, i.e. the contracting authorities successfully applied the legal provision. Successful and efficient application of the legal provision on mandatory carrying out of e-auctions in 100% of the contract notices was a result of the following factors:

- introduction of legal and operational measures by the Bureau, which had significantly helped in the application of this legal provision (improvement of the legislation, ESPP control mechanisms, etc.),
- continuous training and technical support to the users of the ESPP,
- continuous development and upgrading of the ESPP (optimizing the application, adding new functionalities, etc.).

*Public Procurement Bureau plays key role in carrying out such government policy*

Public Procurement Bureau fully performed its legally prescribed competence to control the carrying out of e-auctions by the contracting authorities and implemented certain automated control processes in the Electronic System for Public Procurement, which prevents avoidance of the application of e-auctions, except in cases prescribed by the Law. Like in 2012, it can be concluded that percentage of mandatory e-auctions was achieved, and the Bureau played key role in implementing such government policy.

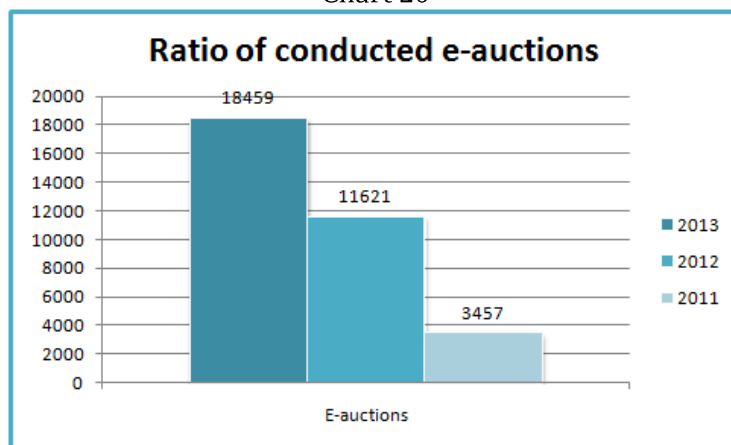
In 2013, there were **18,459** contract notices published for procedures with e-auctions as a final phase in e-procurement procedures or procedures previously carried out in a paper-based form, being by 60% more compared to the number of e-auctions carried out in 2012 (11,621 e-auctions). This figure leads to the conclusion that 99% of the published contract notices in 2013 included e-auction as final phase of the

*In 2013, there were 18,459 contract notices published for procedures with e-auctions as a final phase in e-procurement procedures or procedures previously carried out in a paper-based form*

*There were 34,288 e-auctions carried out in 2013 through the ESPP or 130 e-auctions a day in average (working days)*

procedure. Other contract notices fall within the exception from the application of e-auction referred to in Article 123 of the Law on Public Procurement and they are not taken into account when determining the percentage of procedures that are to include e-auction as final phase on mandatory basis. Even if they are taken into account, it can be seen that they are in an insignificant number – only 127 contract notices.

Chart 20



An important data, providing for the volume of carrying out e-auctions, as well as the volume of using the ESPP, is the number of carried out e-auctions on the Electronic System for Public Procurement. There were 34,288 e-auctions carried out in 2013 or 130 e-auctions a day in average.

### 8.5.1. Positive Effects from Carrying Out E-Auctions and E-Procurement

*In the course of 2013, by applying the e-auctions, average savings of 17% were generated or savings in the amount of around Denar 3.4 billion were generated in absolute terms (or more than EUR 55 million)*

*The contracting authorities, following the carried out e-auction at the procurement procedures, obtained prices reduced by 17% in average*

*In 2013, the largest savings were generated by applying e-auctions as a manner of awarding contracts, compared to the last three years*

So-far experience in public procurement analysed by the Bureau shows that the most significant effect achieved by carrying out the e-auctions is generating savings. Thereby, the Bureau calculates the savings generated through e-auctions as follows:

a. the lowest price being the criterion for awarding the contract – the savings generated is the difference between the initial price at the e-auction (the lowest price from all tenders previously evaluated and accepted to participate in the e-auction) and the final price achieved at the e-auction, i.e. the value of the contract concluded.

b. economically most advantageous tender being the criterion for awarding the contract – the savings generated is the difference between the own initial price and the price of the tenderer with the most favourable tender, following the e-auction.

Data on the carried out e-auctions in the course of 2013 show that average savings of 17% were generated or savings in the amount of Denar 3,382,290,268 were generated in absolute terms (or more than EUR 55 million). It should be hereby emphasised that, considered as aggregate value, savings are even higher, since the above-mentioned value also included e-auctions which were carried out at unit price, thus when such value is presented as an aggregate value of the contract, savings have higher aggregate value. Analyses made by the Bureau lead to the conclusion that the amounts of the savings, both as aggregate value and as a percentage, had constantly increased in the last three years. Amounts of the savings in the last three years are presented in Table 18. Amounts of the savings by type of the criterion used for awarding the public contract are as follows:

- as regards e-auctions in procedures in which the lowest price is the criterion applied, savings in the amount of Denar 2,505,969,343 were generated,

- as regards e-auctions in procedures in which the economically most advantageous tender is the criterion applied, savings in the amount of Denar 876,320,925 were generated.

Chart 21

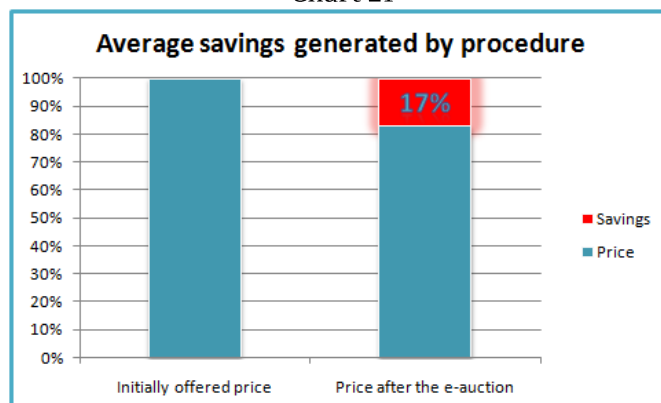


Table 18

| Total amount of savings generated through e-auctions |                     |
|--|---------------------|
| 2013   | Denar 3,382,290,268 |
| 2012   | Denar 2,680,501,017 |
| 2011   | Denar 1,564,807,608 |

Data gathered show constant increase of the amount of savings generated in the last three years.

Such trend was mostly a result of the volume of procedures (published contract notices) in which the e-auction was the final phase in the e-procurement. However, many other factors, contributing to the increased amount of savings, could be also mentioned, such as: significant reduction of the prices in conditions of increased competition, as well as submission of abnormally high prices in the initial tenders at some types of procedures, etc.



*The largest savings in 2013 were generated in the sectors where standardised supplies and services are offered and where real competition exists with more competitors participating (IT products, industrial machines and equipment, etc.) In average, savings in these sectors account for more than 20%*

As regards savings generated in relation to the different procedures, data are presented in the Table below:

Table 19

| Type of procedure                                 |     | Total amount of savings | Percentage of savings |
|---|-----|-------------------------|-----------------------|
| Simplified competitive procedure up to EUR 5,000  | LP  | Denar 133,996,854       | 21%                   |
|   | EMA | Denar 15,288,893        | 27%                   |
|   | T   |                         |                       |
| Simplified competitive procedure up to EUR 20,000 | LP  | Denar 252,729,760       | 18%                   |
|   | EMA | Denar 73,635,276        | 23%                   |
|   | T   |                         |                       |
| Open procedure                                    | LP  | Denar 2,077,218,578     | 14%                   |
|   | EMA | Denar 829,420,907       | 14%                   |
|   | T   |                         |                       |

*The largest amount of savings were generated at the e-auctions as final phase of the open procedure – even 85% of the total savings were savings generated at the open procedures*

In 2013, like in 2012, the same trend continued – larger savings were generated at the procedures with higher value thresholds. In fact, 86% of the total amount of the savings was generated at e-auctions carried out at the open procedures (share of open procedures in the total number of published contract notices accounted for approximately only one fourth of the contract notices). Higher percentage of savings was observed at the simplified competitive procedure, however, as an aggregate amount, the amounts were lower. Savings at restricted procedure and negotiated procedure with prior publication of contract notice were insignificant and are not included in this review.

As regards savings by type of procurement, i.e. type of supplies, service or works procured, more important data are shown in the Table below:

Table 20

| Activity/sector  | Percentage of savings |
|--|-----------------------|
| IT and telecommunication goods and services            | 25.7%                 |
| Fixed assets   | 21.3%                 |
| Construction works                                     | 20.9%                 |
| Industrial machines and equipment and related services | 18.7%                 |

Like in 2012, the largest savings, in average, were generated in the sectors where standardised supplies and services are offered and where competition exists. As it can be seen from the Table, savings of more than 20% are generated in these sectors. In these terms, market competition means that more competitive tenderers participate with their offers in the contract award procedures. Thereby, it has to be pointed out that, although market competition can exist in a particular sector, if the companies do not participate with their offers, there would not be real competition in the contract award procedures and the e-auctions would not yield the expected positive effect. With respect to the savings generated in public procurement by type of sector, it is worth mentioning that high percentage of savings was registered in the construction works sector in 2013. Interesting data is that savings of more than 40% were generated in the services sectors (financial, educational, consulting, etc.) when e-auction was carried out. Since this type is not a significant item in the total amount of the savings, it is not presented in the Table. However, the Bureau will continue monitoring this trend in future as well and it will analyze whether these savings are real or the prices the tenderers offer prior to the beginning of the e-auction are significantly higher than the real ones on the market.

In 2013, out of the total number of published contract notices for procedures having an e-auction as final phase, at more than **90%** of the procedures there were at least two acceptable tenders and e-auctions were carried out, while as regards the other contract notices, the procedure was completed with a concluded contract with the only acceptable tenderer or the procedure was cancelled. This ratio is presented in Chart 22. These data show a significant increase in terms of the number of contract notices for which e-auction was carried out. For comparison purposes only, contract notices having an e-auction as a final phase last year accounted for 68%. This means that the situation improved when the potential tenderers participated in the contract award procedures having an e-auction as a final phase, i.e. more successfully carried out e-auctions. Quite positive information as regards the use of e-auctions and participation of the tenderers is the percentage of e-auctions at which there was reduction of the initial price. Reduction of the initial price was observed at **80%** of the e-auction scheduled and carried out through the system. This information shows that the percentage of e-auctions at which the initial price was reduced has been constantly increasing in the last three years (2012 - 72%, 2011 - 65%). Average number of price reductions when carrying out e-auctions in 2013 was around 19 price reductions.

*Significant improvement achieved in terms of competition when carrying out the e-auctions*

*In 2013, e-auctions were carried out in more than 90% of the published contract notices*

*Initially submitted price was reduced in 80% of the scheduled e-auctions, a percentage constantly increasing in the last three years*

Chart 22

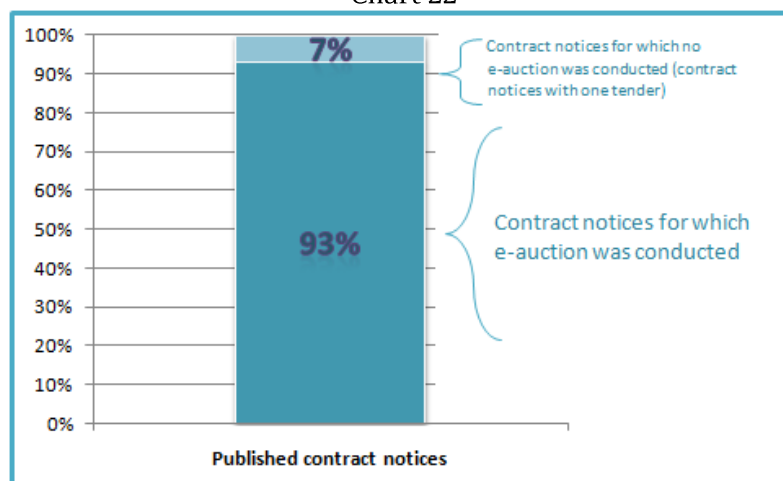
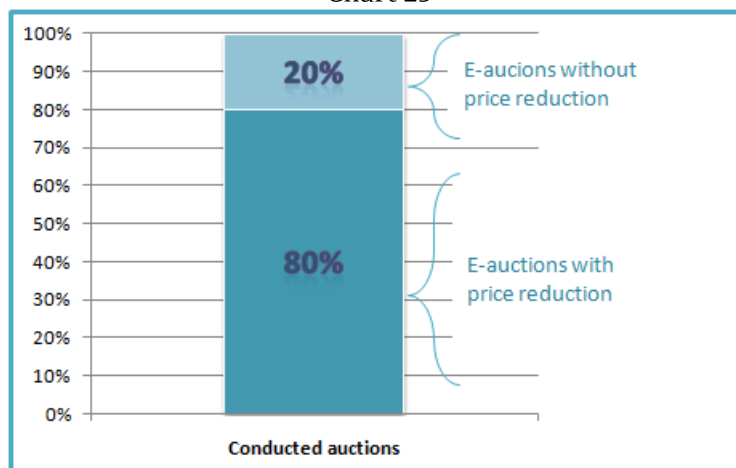


Chart 23

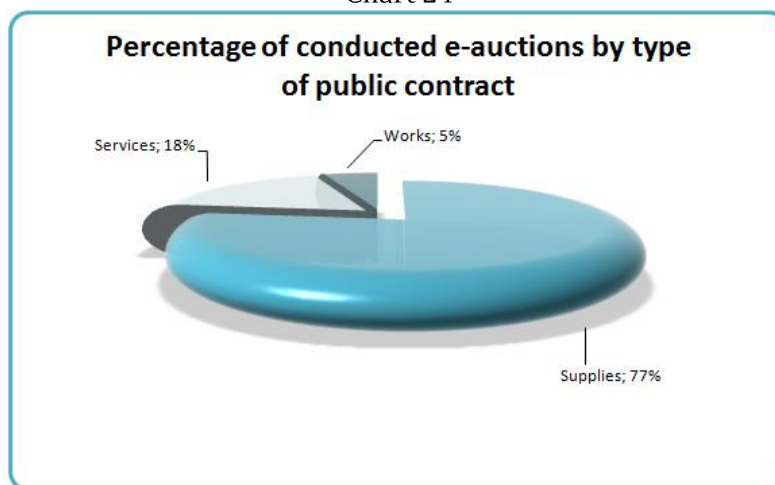


Average duration of an e-auction was around thirty-five minutes (including the extensions of 3 minutes if new reduced price was submitted in the last 3 minutes). Most e-auctions on the ESPP on a single day in 2013 were scheduled on 25<sup>th</sup> November, when 372 auctions were scheduled and carried out.

Number of re-scheduled auctions:

- due to technical problems: 183
- upon decision by the State Appeals Commission: 41

Chart 24



*The most e-auctions on one day were carried out on 25<sup>th</sup> November 2013 - 372 e-auctions*

### ***8.5.2 Analysis of the effects from carrying out e-actions on the overall public procurement system***

On the basis of the so-far use and functioning of the e-auctions, as a tool to award public contracts, and the effects achieved therefrom, several rules have been defined as for the cases when they provide for the best benefits, i.e. where and when high savings are generated when using the e-auctions. As explained in the presented data and analyses, positive effects from using the e-auctions are more than obvious. However, it should be also pointed out that e-auctions do not always provide for the positive effects mentioned in the previous chapter. Although the benefits they yield, in terms of the generated savings, are significant, still, negative effects from carrying out e-auctions can also be distinguished. Hence, taking into account the experience the Bureau has already acquired in carrying out e-auctions in public procurement and the analyses made, several features and trends can be distinguished related to e-auctions at public procurement:

*E-auctions yield the expected results when standardised supplies and services are procured, with well-defined technical specifications and when used on a market with high level of competition*

- e-auctions yield the expected results when standardised supplies and services are procured, with well-defined technical specifications and when used on a market with high level of competition and prevailing fair competition relations (according to the data from the Report – ICT products and services - 25.7% savings, fixed assets - 21.3% savings, etc.). Thereby, it should be underlined that even if the e-auctions are used for procurements in a sector in which there is competition, if, as regards the respective procedure, there is unfair competition or “cartelization”, the e-auctions will not yield a positive effect.
- real effect of the savings ONLY at the higher-value procurements, i.e. at the procurements with higher value threshold. slight effect at low-value procurements – although savings are generated at procurements with low value threshold, i.e. low-value procurements of supplies in smaller quantities or for everyday use, they are small and

*Theoretically/technically, e-auctions could be used in all procurements, however, not all subject-matters of procurement are suitable for the e-auction to be applied*

*Real effect of the savings ONLY at the higher-value procurements, i.e. at the procurements with higher value threshold*

*Trend of abnormal increase of the prices in the phase prior to the e-auction*

account for an insignificant percentage in terms of the value of the supplies or the service procured. Hence, it could be said that more efforts are put in carrying out the e-auction compared to the benefit yielded at the low-value procurements. Data presented above also speak in favour of this - 86% of the total amount of the savings is generated at e-auctions carried out at the open procedures (procedures with higher value threshold), while the share of the open procedures in the total number of published contract notices accounts for approximately only one fourth of the contract notices.

- abnormal increase of the prices in the phase prior to the e-auction – this trend occurs with the mandatory use of the e-auctions at public procurement. The tenderers participating in the procurement procedures, already having acquired experience with the e-auctions and expecting reduction of the prices with the beginning of the e-auction (dynamic acting and rapid drop of the prices), when submitting their initial tenders, offer higher price, i.e. they abnormally increase the cost prices. This trend distorts the real market picture and the relations, thus presenting inaccurate results from the market research.
- not all subject-matters of procurement are suitable to be tendered at an e-auction – i.e. theoretically/technically, e-auctions could be used in all procurements, however, they do not give the results and do not justify the purpose of their existence if used in 100% of the procurements.
- more and more companies adopt decisions, at management level, not to participate in public procurement procedures when the lowest price is the contract award criterion and have an e-auction as a final phase – i.e. the companies are not interested in submitting tenders in procedures when the element of quality is not taken into account and they are not competitive with the tenders, which sometimes include an abnormally low price.