

PUBLIC PROCUREMENT SYSTEM PERFORMANCE INDICATORS. CASE STUDY OF ROMANIA

Mirela Violeta PĂTRAȘ

*Bucharest University of Economic Studies
6 Piața Romană, 010374, Bucharest, Romania
mirela_mialtu@yahoo.com*

Abstract. *The performance of the public procurement system must refer to the outcome of the contract, it should not be limited to the outcome of the procedure. The article identifies the performance indicators of the public procurement system in Romania, reported by the regulatory and corrective institutions. Through the qualitative analysis of these institutions reports, it was observed an improvement in public procurement system performance evaluation, but there it remained room for better. The article complements the literature by proposing a new set of indicators for assessing the performance of the public procurement system in order to improve it, particularly by taking into consideration the implementation phase of the awarded contract. A more performant public procurement process involves a proper functioning of controls, the system of remedies and redress, the system of prevention of conflict of interest and corruption.*

Keywords: *public procurement; indicators; performance; efficiency; contract implementation.*

Introduction

A generic definition of the public procurement is the permanent or temporary acquisition by a legal entity, defined as the contracting authority of goods, works or services by awarding a public contract (Asapro & Centras, 2014).

The importance of the public procurement system in developing countries is recognized at the international level. According to the World Bank Group (2016), the public procurement is a critical element of the government and it plays an important role in the poverty eradication and the development of the country. Meanwhile, in a public institution, because of the multitude of processes that are carried out and default the related risks attached, the public procurement activities are the most vulnerable to the corruption (Ministry of Public Finance, 2009). In the countries where the government is able to control the corruption from public procurement system, the human and financial resources are used efficiently, attracting more domestic and foreign investment, on average having a faster development (World Bank Group, 2016).

A performant public procurement process involves a proper functioning of controls, the system of remedies and redress, the system of prevention of conflict of interest and corruption. Although the public procurement system in Romania is guided by principles such as transparency, competitiveness and economic efficiency benefit of society, the current organization of monitoring and supervision of the system needs improvements and substantial changes. (Guvern, 2015). The monitoring of the public procurement is done inefficiently, without creating a coherent picture of the public

procurement market, it is focused on the activity and not on the performance. The relevant performance indicators of public procurement system are not yet well defined, not broadly accepted / agreed by stakeholders, and include interpretations and different views (Government, 2015).

The term of performance refers to a particularly good result from a certain field. The result of a public procurement procedure is the actual awarding of a contract according to the principles specified by the GEO 34 / 2006 as amended and supplemented (non-discrimination, equal treatment, mutual recognition, transparency, proportionality, the effectiveness of public funds, accountability). The outcome of the public contract award represents the completion of the assigned work as far as possible in the initial terms and conditions (quality, duration, and value). Consequently, we can say that the public procurement system performance does not refer strictly to contract award, it could be attributed to the final result of the acquisition, namely, the obtained good, the executed work, the service.



Figure 1. The final result of the public procurement procedure

Therefore, it is confirmed at the national level the necessity for an improved monitoring tool of the Romania public procurement system, by defining and implementing relevant performance indicators.

Literature review

The public contracts represent a signified quantum both from GDP and public expenditure budget of any country. The imperative objective of the public procurement system of a state is to ensure effectiveness and "value for money" in the use of public funds. The performance evaluation seeks to answer the fundamental question of whether the system of public procurement procedures and ensure the provision according to the main objectives set (OECD, 2011). In the same time, the evaluation should inform managers about what works well and should inspire to act what aspect should be improved to provide the necessary information for correction if something went wrong (Cărăușu, Pipă & Nimigean, 2015).

Through indicators, the benchmarking system is performed according to set criteria, and the analysis of the problems causes or deviations from these criteria is made. The main aim of the performance indicators is to improve the evaluated system. According to OECD (2011), the measurement of the public procurement system performance can be done at three levels: national (meta), the contracting authority (macro) and contract management level (micro). Post-contract review of the public contract performance is a comparison of the goods, works, materials and services related to the given criteria specified and agreed. Performance measurement at micro level aims to verify whether the acquisition has provided benefits for which it was originally conceived and identify

areas for improvement that can be applied when the future purchases will be made (OECD, 2011).

In general, the public institutions in Romania, except the easily quantifiable area, there are no performance assessment system, respectively no performance measurement indices. Mardale (2015) considers that it is necessary to introduce a performance measurement system in use of public funds by extensive use of clear, tangible and easy to use ratios. This would be a first step of the performance concept towards migration from doctrinal concept, intangible sphere to the real sphere, applied one

On the other hand, other countries, such as Thailand, in the practice of the larger construction projects, the traditional evaluation of performance (time, cost and quality) tends to be replaced by an more complex assessment considering new indicators such as safety, efficiency resource efficiency, stakeholder satisfaction and reducing conflicts (Ogunlana, 2010).

Deloitte (2011) conducted an analysis of performance indicators in public procurement, specific to Romania, that are monitored at the EU level. These indicators relate to the total expenditure on works, goods, and services, the value of calls for tender published in the Official Journal (TED), the number of calls for tender published in the Official Journal (TED). As a result of the report, an additional set of the performance indicators were recommended to be analyzed and used by the institutions involved, the new National Public Procurement Authority (NPPA) and National Council for Solving Complaints (NCSC). The additional performance indicators were classified into five categories: KPI related to the procurement procedures value, KPIs related to the procurement procedures type, KPIs related to notices, KPI related to the procurement procedures participants, KPIs related to the complaints.

Table 1 illustrates the performance indicators recommended by Deloitte to implement in the Romanian institutions, together with the indicators used by the EC to describe the procurement system at European level (EC, 2016) and indicators of EC comparing the performance of public procurement system of the EU member states (EC, 2015).

Table 1. Public procurement system performance indicators

KPI Categories		Indicators calculated by European Commission	Indicators proposed by Deloitte
	KPI relating to the initiated procedure value	The estimated value of tenders published in TED (including utilities and defense)	
		The estimated value of tenders published in TED (excluding utilities and defense)	
KPI relating to the procedure value	KPI relating to the completed procedure value	The estimate of total general government public procurement expenditure on goods, services, and works	The total value of the procedures (in relation to GDP)
			The value of procedures, allocated by type of contract (goods, services, works)

			The average value of procedures, in accordance with the type of contract (goods, services, works)
		The estimate of total general government public procurement expenditure (in relation to GDP)	
		Number of contract notices published in TED (excluding utilities and defense)	
		Distribution of contract award notices by size of notice for works (excluding utilities and defense),	
		Percentage of contract award notices below 134 000 euros with nonmissing value (including utilities and defense)	
		Percentage of contract award notices below 134 000 euros with nonmissing value (excluding utilities and defence)	
Quantitative KPI		Total number of contract award notices published in TED with nonmissing value (including utilities and defense)	
		Total number of contract award notices published in TED with nonmissing value (excluding utilities and defense)	
KPI related to the notices		Total number of notices published in TED with nonmissing value (excluding utilities and defense)	The number of notices on the types of contracts (goods, services, and works)
		The total number of notices published in TED, excluding utilities and defense	
KPI relating to the procedure type			The value of each type of procedure (open tender, restricted tender, etc.)
		No calls for bid	The frequency of use for each type of procedure by type of contract (goods, services, works)
KPI relating to the bidders		One bidder	The average number of bidders participating in procurement procedures by type of contracts awarded

		(goods, services, works)
		The average number of the bidders participating in the types of procedures assigned (open tender, restricted tender, etc.)
	Aggregation	
KPI relating to the award criteria	Award Criteria	
KPI related to the duration of the award	Decision Speed	
KPI relating to the reporting quality	Reporting Quality	
	Publication rate in terms of total expenditure and excluding utilities and defence	
	Publication rate in terms of % of GDP (including utilities and defense)	
	Publication rate in terms of % of GDP (excluding utilities and defense)	
KPI relating to the complaints		The number of procedures, subject to the complaints
		The total number of the approved complaints of all contested procedures
		The total value of the contested procedures
		The total number of procedures, canceled by the contracting authorities
		The number of the procedures canceled after the decision of the relevant institutions

At European level, in the comparative study of Member States, the public procurement system performance was measured according to the number of procedures which was submitted, the number of procedure with a single bid, procedure which were conducted without notice, procedure where the bids were submitted in common, according to the criterion of awarding, the procedure duration and the quality of reporting the information regarding the value of tenders (EC, 2015). According to the report, Finland has the most powerful system of procurement and worst-performing acquisition systems is used in Slovakia, followed by Croatia and Romania. The only satisfactory indicators of Romania's performance PP system are the contract awarding speed decision and the quality of information transmission regarding the amount of the winning bid. In Romania, the legal provisions about the value information transmission to all bidders are mandatory, therefore the latter indicator might not have

as much relevance for Romania PP system performance. On the other hand, the short-term decision of the contract award does not justify the changing of the legislative rules fencing of the right of appeal, by imposing the guarantee of good conduct. According to the 2015-2020 national strategy on public procurement, following the appearance of the new body NPPA, the monitoring, and supervisory functions will witness new dimensions of development. In the next period, to improve the performance of the national public procurement system, in Romania will be monitored some of the indicators proposed by Deloitte (2011), the total value of the public procurement compared to GDP, competition in the procedures and the participation of foreign operators, corruption index, the absorption of European funds and administrative burden.

Methodology

Using the qualitative analysis of the reports of NCSC and NPPA from 2015 it was aimed to identify the performance indicators of the public procurement system reported from these institutions and the evolution way of the public procurement system performance from 2011 until present. The information in the reports was selected avoiding activity indicators, was pooled and compared the information of both institutions, and after that, with the information from Deloitte report.

Results and conclusions

From the qualitative analysis of the latest reports issued by the NCSC and NPPA, I have identified indicators reported by these institutions. In Table. 2 were synthesized only performance indicators of the public procurement system, without taking into account indicators based on activity.

Table 2. Reported performance indicators reported at NCSC and NPPA

KPI Categories	KPI reported by NCSC	KPI reported by NPPA
KPI relating to the procedure value		The total value of initiated / completed by award / canceled procedure
		The value of initiated procedures by type of contract (goods, services, works)
		The value of initiated procedures by type of funding
Quantitative KPI		The number of EU/non-EU signers of awarded contracts, The number of awarded EU/non-EU contracts
KPI related to the notices		The total number of initiated/completed notices by publication
		The number of initiated notices by types of contracts (goods, services and works)
KPI relating to the bidders		The average number of bidders participating in procurement procedures by type of contracts awarded (goods, services, works)

		The average number of bidders participating in the types of procedures assigned (open tender, restricted tender, etc.)
		The rejection rate by type of procedure
		The rejection rate by type of contract
KPI related to the duration of the award		The duration between the publication of the contract notice and contract signing for each type of procedure
KPI relating to the complaints	The total value of procedures in which NCSC pronounced decisions	
	The value of the procedures in which NCSC ordered remediation/cancellation	
	The total value of EU funded procedures, in which the NCSC ordered the annulment	
	The total number of approved/disapproved complaints of the total number of procedures-subject to complaints	The total number of the approved/disapproved complaints of the total number of procedures - subject of the complaints
	The total number of complaints approved deciding the remedial/cancellation procedure	The total number of the approved complaints, where was decided the remedial/cancellation procedure, by type of the financing
	The total number of appeals annually filed	
	The number of the appeals filed against the documentation assignment/outcome of the procedure	The number of the appeals lodged against the documentation assignment/outcome of the procedure
	The number of the appeals filed in procedures funded by state/local/European budget	
	The number of the appeals filed in procedures by type of contract	
	The ratio of the total estimated value of the procedure published in PPES and the estimated value of the contested procedures	

	The ratio of the total estimated value of the procedure published in PPES and the estimated value of fixed/canceled procedures	The estimated value of the procedures for which they were issued remedial/cancellation decisions
KPI relating to the tender documentation		Percentage of the tender documentation published without rejecting/after 1 rejection/after 2 rejections/after 3 rejections
KPI relating to the control		The total number of finding and sanctioning minutes
		The total amount of fines
KPI relating to the NCSC		NCSC decisions, contested to the Court of Appeal
		NCSC pass/fail decisions rate
KPI relating to the irregularities		The share of procedures depending on the degree of risk
		The share of advertisements published over 48 days
		The share of procedures whose value exceeds 10% EV
		The share of procedures with a value <85% EV
		The share of contracts awarded in a single tender

From Table 2, it can be seen that the evaluation of the public procurement system performance has been partly improved. Just 5 of the 13 performance indicators recommended by Deloitte (2011) has been implemented at the NCSC and NPPA level.

Some indicators are reported at the level of both NCSC and NPPA. This denotes a lack of the efficiency in the work of these institutions. And the most important aspect is that no institutions report any indicator for the contract implementation. Indicators like the total value of the public procurement, the value of the procedures allocated on different types of contracts (goods, services, works), the value of the procedures allocated by type of funding provide relevant information on market size for public procurement works, goods and services, and can also provide data on the amount or proportion of works, goods and services in the overall volume of public procurement transactions.

KPI relating to the procedure type are relevant in justifying risk analyses for control and monitoring institutions causing, in addition, the type of procedure that should be included explicitly in the control samples. KPI relating to the bidders (Share of joint tenders) measures the opportunity to submit better offers because the aggregation allows tendering better prices and exchange of know-how. The degree of utilization of each award criterion is also an important performance indicator because it indicates the Contracting Authorities emphasis to quality, execution time and maintenance costs.

Given that in a single public procurement procedure, may be submitted several complaints, it may be more meaningful reporting the number of proceedings initiated in SEAP when illustrates an evolution of the number of complaints submitted, fact sustained by Mialțu and Patras (2014). A procedure with 2 bidders and 1 appeal is, in the same way, non-performant as a procedure with 10 bidders and 5 appeals. Thus,

can be more relevant the indicators which refer to the number of procedures, subject of the appeals, the total number of canceled procedures by contracting authorities, the total number of canceled procedures by other institutions decisions

The indicators like the value for each type of used procedure (open tender, restricted tender, etc.) and the frequency of use for each type of procedure by type of contract (goods, services, works) are relevant in justifying the risk analyses for control and monitoring institutions, causing extra type of procedure that should be included explicitly in the control samples. As long as the final result of a correct public procurement procedure is to achieve a work / providing a service as possible, in the initial conditions (quality, term and value), with funding from the state budget / Europe, we can talk about a public procurement system performance, if the duration or value of awarded contract is exceeded, if the contract has not been fully realized, has not achieved the required standards?

The situation in Romania projects, financed with EU funds, to be completed by the end of 2015 and the completion of which could not be achieved by the deadline, there were losses of millions of euros. The money, which must be financed from European funds have been or will be paid from local funds due to exceeding the time limits, due to the large number of the complaints, design errors, surveys, starting work without permits, etc. Among such projects include modernization Park Camp Road, land of lakes Floreasca and Tei, Square South Passage, Romanescu Park, Craiova Water Park, etc.) Some projects have not even reached the stage of awarding the contract (photovoltaic central, Slatina City Hall). I believe that in order to assess the performance or efficiency of the procurement system must be taken into account indicators such as the number, total amount, and percentage of the public contracts for works / services / supply whose value / initial period has been exceeded, depending on the financing type. These indicators provide relevant information on the effectiveness of public procurement contracts.

Obviously, in this regard, it is useful the collaboration between the institutions, in order to implement new KPIs to improve the PP system performance monitoring and evaluation.

Table. 3 Proposed public procurement system performance indicators

KPI Categories	Proposed Indicators
KPI relating to the procedure value	The value of procedures, allocated by type of contract (goods, services, works)
	The average value of procedures, in accordance with the type of contract (goods, services, works)
	The value of procedure allocated by type of financing
KPI relating to the procedure type	The value of each type of procedure (open tender, restricted tender, etc.)
	The frequency of use for each type of procedure by type of contract (goods, services, works)
KPI relating to the bidders	Share of joint tenders
KPI relating to the award criteria	The degree of utilization of each award criterion
KPI relating to the complaints	The number of procedures, subject to the complaints
	The total number of procedures, canceled by the contracting

	authorities
	The number of the procedures canceled after the decision of the relevant institutions
KPI relating to the contract implementation	The number, total amount and share of public works contracts / works / supply whose duration has been exceeded, depending on the type of financing
	The number, total amount and percentage of the public contracts for works / services / supply, whose initial value has been exceeded, depending on the type of financing

The work presented the performance indicators of the public procurement system in Romania, reported by the key factors of the public procurement system, the regulatory and corrective institutions, like NPPA and NCSC. New performance indicators were identified and recommended in order to improve the evaluation of the public procurement system, which must refer to the outcome of the contract, it should not be limited to the outcome of the procedure. The proposed indicators focus on the outcome of the contract by taking into consideration the implementation phase of the awarded contract. The article complements the literature by proposing a new set of indicators for assessing the performance of the public procurement system in order to improve it. A more efficient procurement process involves a proper functioning of the controls, a more efficient prevention of fraud and corruption, sustaining a competitive market and therefore the country's development.

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