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**SME Policy Index**

**Western Balkans and Turkey 2022**

**ASSESSING THE IMPLEMENTATION OF THE SMALL BUSINESS ACT FOR EUROPE**

**DIMENSION 5b - Public procurement**

**Qualitative indicators government questionnaire**

# Introduction

The SME Policy Index is a benchmarking tool for emerging economies, including the Western Balkans and Turkey (WBT), to monitor and evaluate progress in policies that support small and medium-sized enterprises (SMEs). The tool is structured around the ten principles of the Small Business Act for Europe (SBA), translated into 12 policy dimensions, which provide a wide-range of pro-enterprise measures to guide the design and implementation of SME policies.

The sixth, 2022 edition of the SME Policy Index for Western Balkans and Turkey aims to:

* + independently and rigorously assess SME policy settings and reforms against international best practice,
  + allow for comparison across time and participating WBT economies and measure convergence towards EU SME policy standard,
  + support governments in setting targets for SME policy developments and strategic priorities to further improve the business environment,
  + engage governments in policy dialogue and exchange of experiences, within the region and with OECD and EU member countries,
  + facilitate the prioritisation of government and donor activities in support of SME development,
  + assess and show progress in implementation of recommendations provided in the previous editions.

The new cycle of the SME Policy Index for Western Balkans and Turkey 2022 will be conducted in extraordinary circumstances caused by the COVID-19 pandemic. Its impact on local economies will also be taken into account in order to better inform policy-making in the region.

# Assessment framework process and design

The SME Policy Index is based on the results of two parallel assessments government self-assessment, conducted by WBT economies’ governments and independent assessment, conducted by the OECD and its partner organisations and supported by the input collected from economy-based consultants with demonstrated expertise in relevant policy areas. The final scores are the result of a highly collaborative and consultative consolidation of these two assessments, enhanced by further desk research by the OECD and the partner organisations, as well as consultations with government representatives and with key stakeholders (e.g. private sector, business associations, academia & civil society) in the participating economies.

The questionnaire is structured around 12 policy dimensions each comprising up to 5 sub-dimensions that capture the critical elements of policy development. It proposes a scoring approach to transform qualitative information into numerical information and thus facilitating cross-economy comparison and allowing for systematic monitoring of policy developments. The questionnaire is intended to be used by government authorities and statistical agencies in charge of co-ordinating the SME Policy Index assessment process.

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# Guidance to fill out the qualitative assessment

The qualitative assessment is organised around thematic blocks each structured around a certain number of questions.

For each of these questions, please:

* Provide an answer, as fully as possible, citing all key sources in the foreseen grid,
* Assign a score, by using the scoring levels described in Table 1.

Description of score levels

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Level 1** | **Level 2** | **Level 3** | **Level 4** | **Level 5** |
| No framework (e.g. law, institution) exists to address the policy topic concerned | A draft or pilot framework exists, with some signs of government activity to address the policy area concerned | A solid framework, addressing the policy area concerned is in place and officially adopted | Level 3 plus evidence of a concrete record of effective policy implementation | Level 4 plus results of monitoring and evaluation inform policy framework design and implementation |

* Match the highest performance score level characteristics that are fully described by your question responses and assign an according score of 1 to 5. If all requirements in one score level are met and at least half the requirements are met for the next score level, assign a half number score between the two levels.
* Provide a brief justification based on matching your question responses with the best corresponding level or half-level.

This questionnaire provides links to access the responses of the previous SME Policy Index 2019 questionnaire. If relevant for a given policy dimension, this questionnaire is complemented by a Statistic sheet. The assessment framework is accompanied by the Glossary of key terms – please refer systematically to it when answering the questionnaire.

Please **complete and return this assessment by 15 September 2021 to the OECD.**

|  |
| --- |
| Thank you for your time in completing this assessment. Your efforts are contributing towards removing barriers to SME development and unleashing their potential for driving inclusive economic growth in the Western Balkans and Turkey.  Should you have any questions regarding this assessment framework, please contact [jovana.pavlovicdjukic@oecd.org](mailto:jovana.pavlovicdjukic@oecd.org) and [marijana.petrovic@oecd.org](mailto:marijana.petrovic@oecd.org). |

# Assessor information

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| --- | --- | --- | --- | --- | --- | --- |
| **Mr. / Ms.** | **Name** | **Institution / Department** | **Title / Position** | **Email** | **Phone** | **Address** |
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| **Questionnaire submission date:** | 15/09/2021 |

# Public procurement assessment framework

**Public procurement** assesses the systems and procedures required in the Western Balkans and Turkey to facilitate SMEs’ access to the public procurement market.

Figure 1. Public procurement assessment framework

|  |  |  |
| --- | --- | --- |
| **Dimension 5b: Public procurement** | | |
| **Outcome indicators**  Share of SMEs in the total value of public contracts awarded  Share of SMEs participating in public tenders  Average delay in payments from public authorities (in days)  Share of SMEs submitting proposals in a public electronic tender system (e-procurement)  Share of contracts awarded to foreign economic operators  Value of contracts awarded to foreign companies as a share of the total value of procurement in the economy | | |
| **Thematic block 1:**  Policy and regulatory framework | **Thematic block 1:**  Implementation | **Thematic block 1:**  Monitoring and evaluation |

## Dimension 5b: Public procurement

*[To access the responses of the previous SME Policy Index 2019 questionnaire click* [*here*](https://oecd-my.sharepoint.com/personal/marijana_petrovic_oecd_org/Documents/SME%20PI%202022%20Assessment/Turkey/Dimension%205b/2019%20Turkey%20-%20SBA%20Questionnaire%20filled%20out%20.xlsx) *(ctrl+left click)]*

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Question** | | | **Response *[expand box as necessary]*** | **Source/evidence/links** |
| **Thematic block 1. Policy and regulatory framework** | | | | |
|  | **Is there an adopted multi-year strategy that defines objectives of support to SMEs in the public procurement system?** | | Yes.  "The strategy for the SMEs is available in Articles 468 of the 11th Development Plan of Turkey. There are also articles for Manufacturing Industry (296), Effective Use of Incentives and Supports (328), R&D and Innovation (351), Machinery and Electrical Equipment (377, 378), Rail System Vehicles (388.1), Information and  Communication Technologies (468), Construction, Engineering Architectural, Technical Consultancy and Contracting Services (531), Transparency and  Accountability | <https://www.sbb.gov.tr/wp-content/uploads/2020/06/Eleventh_Development_Plan-2019-2023.pdf> |
|  | If yes | Is the objective of supporting SMEs in public procurement: | [ ] included in a broader strategy/ policy for public procurement  [X] included in a broader strategy/ policy for SME support  [ ] defined as a standalone strategy/ policy  With the secondary legislation on the "use of public procurement for regional development and technological development", many new approaches will be included in Turkey’s procurement system. | <https://www.sbb.gov.tr/wp-content/uploads/2018/11/2019_Yili_Cumhurbaskanligi_Yillik_Programi.pdf> |
|  | Has the private sector been consulted in the developing the strategy? | Yes  The opinions of the private sector members have been taken into consideration during the preparations of the Development Plan. | <https://www.sbb.gov.tr/wp-content/uploads/2020/06/Eleventh_Development_Plan-2019-2023.pdf> |
|  | **If the strategy exists, does it include following issues:** | |  |  |
|  | a) | encouraging the division of public contracts into lots? |  |  |
|  | b) | encouraging joint bidding? |  |  |
|  | c) | simplifying/reducing the documentation requirements to participate in a tender? |  |  |
|  | d) | special or focused support to SMEs? | Yes  “Implementation Strategies and Measures for Main Purposes and Policies” chapter of “Entrepreneurship, SMEs, Artisans and Craftsmen” Special Commission Report | <https://www.sbb.gov.tr/wp-content/uploads/2020/04/GirisimcilikKOB%C4%B0lerEsnaf_ve_SanatkarlarOzelIhtisasKomisyonuRaporu.pdf> |
|  | **Are the foreign companies allowed to participate in public procurement procedures on equal terms with domestic bidders?** | | Yes. However, a price preference up to 15% may be applied in favour of domestic bidders in procurement of services and works and in favour of bidders offering domestic goods in procurement of goods according to Article 63 of the PPL. Where contract value is below the thresholds, contracting authority may state in the tender document that only domestic tenderers may participate in procurement procedure. | Article 63 of the Public Procurement Law, page  54  <http://dosyalar.kik.gov.tr/genel/IhaleGovTr/4734_public_procurement_law_Consolidated_2020.pdf> |
|  | **Does the public procurement framework promote the development of a Central Electronic Registry for Public Procurement[[1]](#footnote-2)?** | | Yes | Additional Article 1 of the Public Procurement Law, Implementation Regulation on Electronic Procurement, General Communique on Public Procurement <https://ekap.kik.gov.tr/> |
|  | If yes | Is the use of the Electronic Registry for Public Procurement obligatory for all contracting authorities? | Yes | Additional Article 1 of the Public Procurement Law, Implementation Regulation on Electronic Procurement, General Communique on Public Procurement <https://ekap.kik.gov.tr/> |
|  | **Does the public procurement framework promote the development of a National System of Electronic Public Procurement[[2]](#footnote-3)?** | | Yes | To promote e-procurement, Turkish Public Procurement Institution regularly updates Implementation Regulation on Electronic Procurement  <https://www.mevzuat.gov.tr/anasayfa/MevzuatFihristDetayIframe?MevzuatTur=7&MevzuatNo=14742&MevzuatTertip=5> |
|  | If yes | Is the use of the National System of Electronic Public Procurement obligatory for all contracting authorities and all domestic business entities? | Yes | Article 4, Implementation Regulation on Electronic Procurement  <https://www.mevzuat.gov.tr/anasayfa/MevzuatFihristDetayIframe?MevzuatTur=7&MevzuatNo=14742&MevzuatTertip=5> |
|  | Is there a minimum contracting amount for which the use of the National System of Electronic Public Procurement is obligatory? | No |  |
|  | **Does the public procurement framework promote the introduction of accessibility requirements on public procurement of ICT product and services?** | | No |  |
|  | **Does the public procurement legislation allow contracting authorities to divide public procurement contracts into lots[[3]](#footnote-4)?** | | Yes (Contracting authorities have discretion to divide contracts into lots. Whether it is possible to submit tender for a part of the procurement must be stated in the tender document)s | Article 27 of the Public Procurement Law,  <http://dosyalar.kik.gov.tr/genel/IhaleGovTr/4734_public_procurement_law_Consolidated_2020.pdf> |
|  | If yes | Does the public procurement legislation require that all contracts above certain financial value are divided into lots? If so, please specify the value. | No |  |
|  | Are contracting authorities allowed to limit the number of lots that may be awarded to one tenderer? | No |  |
|  | **Is there a law requiring the contracting authority to pay the remuneration to their contractors within certain time limits?** | | Yes | Article 12 Public Procureent Law,  <https://www.mevzuat.gov.tr/MevzuatMetin/1.5.4734.pdf>  General Specification on Procurement of Works, General Specification on Procurement of Services, Standard Contract on Procurement of Goods  <https://www.resmigazete.gov.tr/eskiler/2007/09/20070912-4-1/Tip%20%C3%87er%C3%A7eve%20S%C3%B6zle%C5%9Fme%2016.08.doc> |
|  | If yes | Does the law impose strict deadlines for payments? | Contracting authority must set a deadline in draft contract  According to standard contract on procurement of works, standard timeframe for payment is 15 days after progress payment report is signed, approved and becomes certain, unless a different timeframe is indicated in the draft contract by contracting authority.  According to general specification on procurement of services, standard timeframe for payment is 30 days after progress payment report is signed and becomes certain, unless a different timeframe is indicated in the draft contract by contracting authority.  Standard contract on procurement of goods does not specify a standard timeframe. | Standard Contracts, General Specification on Procurement of Works, General Specification on Procurement of Services |
|  | Does the law impose financial penalties or other comparable sanctions in case of non-compliance with these deadlines (late payments)? | Yes | Turkish Code of Obligations (Articles 117-122)  <https://www.mevzuat.gov.tr/MevzuatMetin/1.5.6098.pdf> |
|  | **Must the requirements for bidders be related and proportionate to the object and the value of procurement?** | | [X] Yes  [ ] No | Article 10 of the Public Procurement Law, Implementation Regulations on Procurement of Goods, Services and Works  <https://www.mevzuat.gov.tr/MevzuatMetin/1.5.4734.pdf> |
|  | **If specific provisions to this effect exist, do these specific provisions concern:** | |  |  |
|  | a) | turnover requirements? | Yes  (Overall turnover requirement is set in the secondary legislation as 25% of tender price) | Implementation Regulations on Procurement of Goods, Services and Works  <https://www.mevzuat.gov.tr/File/GeneratePdf?mevzuatNo=12917&mevzuatTur=KurumVeKurulusYonetmeligi&mevzuatTertip=5>  <https://www.mevzuat.gov.tr/File/GeneratePdf?mevzuatNo=12918&mevzuatTur=KurumVeKurulusYonetmeligi&mevzuatTertip=5> |
|  | b) | technical capacity? | Yes  (Limitations about documents that can be requested from tenderers are specified in the secondary legislation based on the estimated value of the procurement. For example, quality management system certificate cannot be requested if the estimated value of procurement is below half of the threshold value in procurement of works) | Implementation Regulations on Procurement of Goods, Services and Works  <https://www.mevzuat.gov.tr/File/GeneratePdf?mevzuatNo=12917&mevzuatTur=KurumVeKurulusYonetmeligi&mevzuatTertip=5>  <https://www.mevzuat.gov.tr/File/GeneratePdf?mevzuatNo=12918&mevzuatTur=KurumVeKurulusYonetmeligi&mevzuatTertip=5> |
|  | c) | previous experience? | Yes  (Range for previous experience that can be requested from tenderers is set out in secondary legislation. The range is 50%-100% of tender price in procurement of works, 25%-50% of tender price in procurement services and 10%-40% of tender price in procurement of goods) | Implementation Regulations on Procurement of Goods, Services and Works  <https://www.mevzuat.gov.tr/File/GeneratePdf?mevzuatNo=12917&mevzuatTur=KurumVeKurulusYonetmeligi&mevzuatTertip=5>  <https://www.mevzuat.gov.tr/File/GeneratePdf?mevzuatNo=12918&mevzuatTur=KurumVeKurulusYonetmeligi&mevzuatTertip=5> |
|  | d) | level of tender securities (deposits) and guarantees of good performance? | Yes  (Tender security is 3% of the tender price and guarantee of good performance is 6% of the tender price) | Articles 33 and 43 of the Public Procurement Law |
|  | e) | qualifications of staff? | Yes  (Number of key technical staff requested as selection criteria cannot exceed 2 if the estimated cost of procurement is below the threshold value and it cannot exceed 4 is the estimated cost is above the threshold value in procurement of consultancy services.) | Implementation Regulation on Procurement of Consultancy Services  <https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=12911&MevzuatTur=7&MevzuatTertip=5> |
|  | f) | green public procurement? | No  Contracting authorities can request certificates on environmental management system as qualification criteria according to public procurement legislation. As for contract award criteria, the economically most advantageous tender is determined either solely on the basis of price or on the basis of both price and non-price factors such as operation and maintenance costs, cost effectiveness, productivity, quality and technical value according to Article 40 of the PPL. List of non-price factors is illustrative, not exhaustive, environmental or social considerations may be taken into account. |  |
|  | **Does the public procurement law contain provisions on tender securities required from economic operators[[4]](#footnote-5)?** | | [X] Yes  [ ] No | Article 33 of the Public Procurement Law |
|  | **If such provisions exist, does the law:** | |  |  |
|  | a) | provide for the maximum amount of the tender security? | Yes | Article 33 of the Public Procurement Law |
|  | b) | allow contracting authorities not to demand tender security (tender securities are optional for contracting authorities)? | Tender securities are optional only in procurement of consultancy services | Article 33 of the Public Procurement Law |
|  | c) | allow economic operators to freely choose the form of a tender security from among the forms mentioned in the law? | Yes | Article 34 of the Public Procurement Law |
|  | d) | define conditions (and time limits) under which tender securities must be returned or may be retained by the contracting authority? | Yes  (According to Article 34 of the PPL, letters of guarantee belonging to successful tenderer and to the tenderer submitting the second economically most advantageous tender shall be delivered to accounting offices or departments following the procurement procedure. The tender securities of other participants shall be returned promptly. In case a contract is signed with the successful tenderer, the guarantee belonging to the tenderer who has submitted the second economically most advantageous tender shall be returned immediately after the signing of the contract.) | Articles 10, 11, 34, 37, 44 of the Public Procurement Law |
|  | **Does the law allow groups of economic operators (consortia) to participate in public procurement procedures?** | | [X] Yes  [ ] No | Article 14 of the Public Procurement Law |
|  | If yes | Does the law allow the contracting authorities to require that economic operators assume a specific legal form but ONLY in order to sign a contract with the contracting authority? | Yes  (According to Article 14 of the PPL, joint ventures may be established by more than one natural or legal person either in the form of a business partnership or a consortium. Members of a business partnership become partner to carry out the whole business jointly with its rights and responsibilities while members of consortium become partner to carry out relevant parts of business according to expertise field of members, separating their rights and responsibilities. Business partnerships may participate in any kind of tender. However, in cases where different expertises are needed, the contracting authorities shall indicate in procurement documents whether consortium is allowed or not to submit tender. At tendering stage, joint ventures shall be asked to submit an agreement indicating that they formed a business partnership or a consortium among themselves. The pilot partner and the coordinator partner shall be specified in business partnership agreements and in consortium agreements respectively. In case contract is awarded to the business partnership or consortium, a notary-certified business partnership or consortium contract shall be submitted prior to signing of the contract.) | Article 14 of the Public Procurement Law |
|  | **Does the public procurement law include provisions on subcontracting[[5]](#footnote-6)? If yes, does the law:** | | Yes | Article 15 of the Public Procurement Law |
|  | a) | allow the winning bidder to decide whether to subcontract a part or parts of the contract to third parties? | Yes | Article 15 of the Public Procurement Law |
|  | b) | require the winning bidder to obtain approval from the contracting authority with regard to identity of subcontractors after conclusion of the contract with the contracting authority? | Yes | General Specification on Procurement of Works, General Specification on Procurement of Services, Standard Contract on Procurement of Goods  <https://www.resmigazete.gov.tr/eskiler/2007/09/20070912-4-1/Tip%20%C3%87er%C3%A7eve%20S%C3%B6zle%C5%9Fme%2016.08.doc> |
|  | c) | provide for no limitations concerning the maximum share of the value of a contract which may be subcontracted? | No (Maximum share of the value of a contract which can be subcontracted is 50% in procurement of works, unless contracting authority specifies a higher ratio in tender document. In procurement of goods and services, subcontracts cannot amount to 100% of the contract) | General Specification on Procurement of Works, General Specification on Procurement of Services, Standard Contract on Procurement of Goods  <https://www.resmigazete.gov.tr/eskiler/2007/09/20070912-4-1/Tip%20%C3%87er%C3%A7eve%20S%C3%B6zle%C5%9Fme%2016.08.doc> |
|  | d) | provide for the possibility of direct payments by the contracting authority to subcontractors? | Yes (in procurement of works) | General Specification on Procurement of Works |
|  | **Does the law provide, in principle, for submission of self-declaration as a preliminary proof of fulfilment of requirements of the contracting authorities instead of documents or certificates issued by third parties[[6]](#footnote-7)?** | | [X] Yes (only when e-procurement is used)  [ ] No | Implementation Regulations on Procurement of Goods, Services and Works  <https://www.mevzuat.gov.tr/File/GeneratePdf?mevzuatNo=12917&mevzuatTur=KurumVeKurulusYonetmeligi&mevzuatTertip=5>  <https://www.mevzuat.gov.tr/File/GeneratePdf?mevzuatNo=12918&mevzuatTur=KurumVeKurulusYonetmeligi&mevzuatTertip=5> |
| **Thematic block 2. Implementation** | | | | |
|  | **What specific measures is the government undertaking to encourage participation of SME's in public procurement?** | | - Public procurement legislation allows contracting authorities to divide procurement contracts into lots  - Subcontracting is regulated in the public procurement law  - SMEs may bid jointly to participate in procurement procedures (joint venture)  - Electronic Public Procurement Platform facilitates access to information and participation to procurement procedures  - Administrative burden of participating in public procurement is reduced. Economic operators may submit their self-declarations about their qualifications together with their bids when e-procurement is used. Only best and second best tenderers must submit relevant documents that cannot be verified online prior to the contract award decision.  - Documents requested by contracting authorities and selection criteria cannot be set in a way to impede competition according to public procurement legislation. Certain documents cannot be requested by contracting authorities if the contract value is below a certain threshold.  - Trainings are provided to economic operators to facilitate their participation to procurement procedures. | <http://www.ihale.gov.tr/Mevzuat.aspx> |
|  | **What measures are being taken to enforce the law on late payments?** | | Provisions of Turkish Code of Obligations are applicable in late payments | Turkish Code of Obligations  <https://www.mevzuat.gov.tr/MevzuatMetin/1.5.6098.pdf> |
|  | **What proportion of contract payments is made on time? What is the average delay?** | | N/A |  |
|  | **What are the fees for submission of appeals?** | | Between 7,682 TL – 30,750 TL depending on estimated value of procurement | Article 53 of the Public Procurement Law |
|  | **If public contracts are divided into lots in practice, how big is the share of the procurement divided into lots?** | | 13,917 procurement were divided into lots in 2020, which makes 21% of all procurement in that year. | Public Procurement Monitoring Report 2020  <https://dosyalar.kik.gov.tr/genel/Raporlar/2020_yar%C4%B1y%C4%B1l_kamu_al%C4%B1mlar%C4%B1_izleme_raporu.pdf> |
|  | **Is information on public procurement (contract notices, procurement documents) available free of charge?** | | [X] Yes  [ ] No | <https://ekap.kik.gov.tr/> |
|  | If yes | Is publication of information on public procurement opportunities centralised[[7]](#footnote-8)? | Yes | <https://ekap.kik.gov.tr/> |
|  | **Do the central procurement institutions offer trainings on public procurement dedicated to SMEs? If yes, please specify** | | [X] Yes  [ ] No | Seminars dedicated to SMEs are organised by the PPA. For example, “Seminar on Recent Developments on Public Procurement for SMEs” was organised by the PPA and Turkish Union of Chambers and Exchange Commodities in November 2020. An e-learning platform called EKAP Academy is also available on the website of the PPA. |
|  | **Do the central procurement institutions offer support to SMEs in getting information about public procurement? If yes, does this support have a form of:** | | [X] Yes  [ ] No |  |
|  | a) | telephone "helpdesks"? | Yes | <http://ihale.gov.tr/Iletisim.aspx>  EKAP Interaction Center  444 0 545 - 444 0 KİK |
|  | b) | providing written opinions (advice) in response to questions submitted by SMEs? | Yes | <https://ekap.kik.gov.tr/EKAP/Yardim/Default.aspx> |
|  | c) | publishing guidance for contracting authorities how to facilitate SMEs participation? | Yes | <https://ekap.kik.gov.tr/EKAP/Yardim/Default.aspx> |
|  | d) | publishing guidance for economic operators, in particular SMEs on how to prepare and submit bids? | Yes | <https://ekap.kik.gov.tr/EKAP/Yardim/Default.aspx> |
|  | e) | other (please specify) |  |  |
| 1.2.9 | **Has a Central Electronic Registry for Public Procurement[[8]](#footnote-9) been implemented?** | | [X] Yes  [ ] No | <https://ekap.kik.gov.tr/> |
| 1.2.10 | **Has a National System of Electronic Public Procurement[[9]](#footnote-10) been implemented?** | | [X] Yes  [ ] No | <https://ekap.kik.gov.tr/> |
|  | If yes | Are contracting authorities obligated to perform electronically any of the following processes? | Yes |  |
|  | a) | publication of basic information on tenders, such as contract notices, lists of contractors, information on procurement activities, rules and processes? | Yes | <https://ekap.kik.gov.tr/> |
|  | b) | specific information on a given tender (such as tender documentation, downloadable forms or templates)? | Yes  (Specific information on a given tender such as tender document, contract notice, contract award notice is available on EKAP website) | <https://ekap.kik.gov.tr/> |
|  | c) | communication between contracting authorities and economic operators, other than submission of tenders or requests to participate? | Yes (It is possible to send a notification from contracting authorities to economic operators through EPPP) | <https://ekap.kik.gov.tr/> |
|  | d) | submission of tenders or requests to participate? | Yes | <https://ekap.kik.gov.tr/> |
| 1.2.11 | **Which information on public procurement is available in electronic format?** | | Information available in electronic format includes, inter alia, contract notices, contract award notices, lowest and highest bids, tender documents, notifications, some qualification documents such as work experience certificates, complaints, decisions on complaints, procurement statistics and debarred economic operators. | <https://ekap.kik.gov.tr/> |
| 1.2.12 | **Which tendering procedures can be performed online?** | | Open procedure, restricted procedure, negotiated procedure | <http://www.ihale.gov.tr/Mevzuat.aspx> |
| 1.2.13 | **If information about the share of contracts awarded to groups of economic operators (consortia) is collected, please state the value.** | | N/A |  |
| 1.2.14 | **Is information about economic operators collected by contracting authorities stored for purposes of using in future procedures?** | | [ ] Yes  [X] No |  |
| **Thematic block 3. Monitoring and evaluation** | | | | |
|  | **Is information about obstacles faced by SMEs in access to public procurement procedures collected and analysed? If yes, please specify** | | Yes  (Difficulties in meeting selection criteria and tendering for big contracts) |  |
|  | **Is data periodically collected on the participation in public procurement procedures by SMEs** (for example number and value of awarded contracts)**? If yes, please specify** | | No |  |
|  | **Is data periodically collected on average payment delays?** | | [ ] Yes  [X] No |  |
|  | **Is data collected on the share of foreign companies participating in procurement procedures?** | | [X] Yes  [ ] No | Public Procurement Monitoring Reports  <http://www.ihale.gov.tr/ihale_istatistikleri-45-1.html> |
|  | **Does the law allow economic operators to appeal against decisions of the contracting authorities to the independent, both from contracting authorities and economic operators, review body? If yes, does the law:** | | [X] Yes  [ ] No | Articles 54, 55, 56 of the Public Procurement Law  <http://www.mevzuat.gov.tr/MevzuatMetin/1.5.4734.pdf> |
|  | a) | envisage the time limits for submission of appeals, not shorter, though, than 10 days in case of contracts above EU financial thresholds? | Yes  (According to Article 55 of the PPL, time limit for submission of appeals is 10 days. When negotiated procedure without publication is used due to urgency, the time limit is reduced to 5 days) | Article 55 of the Public Procurement Law  <http://www.mevzuat.gov.tr/MevzuatMetin/1.5.4734.pdf> |
|  | b) | envisage the time limits for submission of appeals, not shorter, though, than 7 days in case of contracts below EU financial thresholds? | Yes  (According to Article 55 of the PPL, time limit for submission of appeals is 10 days. When negotiated procedure without publication is used due to urgency, the time limit is reduced to 5 days) | Article 55 of the Public Procurement Law  <http://www.mevzuat.gov.tr/MevzuatMetin/1.5.4734.pdf> |
|  | c) | enable economic operators to submit appeals without a need to incur excessively high entry fees to have their appeal reviewed? | Yes  (Complaint fees are between 7,682 TL – 30,750 TL depending on estimated value of procurement) | Article 53 of the Public Procurement Law  <http://www.mevzuat.gov.tr/MevzuatMetin/1.5.4734.pdf> |
|  | d) | provide maximum time limits during which a decision of the review body should be adopted? | Yes  (According to Article 56 of the PPL, The Authority is obliged to make the final decision on the appeal within twenty days following the date on which the required documents, information and the procurement process dossier of the procurement under review are received by the Authority. | Article 56 of the Public Procurement Law  <http://www.mevzuat.gov.tr/MevzuatMetin/1.5.4734.pdf> |
|  | e) | provide rules enabling the decisions of the review body to be effectively enforced, including also settlement of costs of the review procedure? | Yes  (According to Article 56 of the PPL, contracting authorities shall immediately take action required by Public Procurement Board decisions which change the legal situation). | Article 56 of the Public Procurement Law  <http://www.mevzuat.gov.tr/MevzuatMetin/1.5.4734.pdf> |
| *Optional - Please provide any further information on* ***public procurement*** *in your economy that you deem relevant for the assessment* | | |  |  |

|  |  |
| --- | --- |
| **Question** | **Response** |
| Self-assessed level  (1 through 5, whole and half numbers) | 4,5 |
| Brief justification | The Public Procurement Law (PPL) was adopted in 2002 and changed many times. The general principles as transparency, competition, equal treatment, reliability and confidentiality are the base of principles in legislation. Legislations are aligned with EU rules. In accordance with the principle of transparency, public procurement notices are published in the Public Procurement Bulletin and on the Electronic Procurement Platform (EKAP). The administrative burden of participating in public procurements are reduced. SMEs obstacles in accessing public procurement is monitored. |
| Assessor name and institution | N. Pınar Işın  Director of EU Coordination Unit  KOSGEB  Beyza Kuriş  SME Expert  EU Corodination Directorate  KOSGEB  Abdullah Aktepe  SME Expert  EU Corodination Directorate  KOSGEB |

1. The Central Electronic Registry for Public Procurement is a registry supporting the transparency of public procurement processes, where all contracting authorities are obligated to publish all acts or documents. [↑](#footnote-ref-2)
2. The National System of Electronic Public Procurement is a central online system offering e-access, e-notification, and e-business services, where public contracts are conducted electronically (e.g. potential bidders can participate to online awarding procedures using e-signatures). [↑](#footnote-ref-3)
3. Contracting authorities may decide to award a contract in the form of separate lots and may determine the size and subject-matter of such lots. They may also decide whether tenders may be submitted for one, for several or for all of the lots. Even where tenders may be submitted for several or all lots, the contracting authorities may still limit the number of lots that may be awarded to one tenderer. Sub-division of public purchases into lots facilitates access by SME's, both quantitatively (the size of the lots may better correspond to the productive capacity of the SME) and qualitatively (the content of the lots may correspond more closely to the specialised sector of the SME). [↑](#footnote-ref-4)
4. Contracting authorities may impose certain criteria on economic operators as requirements for participation, to ensure that the economic operator has necessary economic and financial capacity, as well as human and technical resources, or experience to perform the contract to an appropriate quality standard. All such requirements shall be related and proportionate to the subject-matter of the contract, otherwise they may be considered excessive. [↑](#footnote-ref-5)
5. Subcontracting in this context means entrusting, by the winning bidder, the execution of a part or parts of the contract to a third party (or parties) - subcontractors. [↑](#footnote-ref-6)
6. In accordance with EU provisions, in principle, economic operators submit as a prelimianry proof self declarations (ESPD) to proof compliance with rules on exlusion, qualification and selection - certificates and documents issued by third parties are then required only from bidders whose offers were evaluated as the most advantageous [↑](#footnote-ref-7)
7. Centralised in this context means that there is one single place (national gazette, national portal) where this information is available. [↑](#footnote-ref-8)
8. The Central Electronic Registry for Public Procurement is a registry supporting the transparency of public procurement processes, where all contracting authorities are obligated to publish all acts or documents related to the entire life-cycle of a public contract (i.e. requests for procurements, tender documents, contract award decisions, signed contracts and payment orders). [↑](#footnote-ref-9)
9. The National System of Electronic Public Procurement is a central online system offering e-access, e-notification, and e-business services, where public contracts are conducted electronically (e.g. potential bidders can participate to online awarding procedures using e-signatures). [↑](#footnote-ref-10)