

Country case: Setting clear ethical standards for procurement officials: The 2002 public procurement reform in Turkey

Description

The Turkish public procurement system experienced a major reform in 2002 in order to address the following shortcomings:

- Most public agencies were not covered by the law, and had the right to issue their own regulations on procurement. This resulted in a dozen of regulations covering different public agencies.
- Publication of notices was not required for all procurement methods and even when it was obligatory, announcement periods were too short for interested economic operators.
- Selection and evaluation criteria were not objectively determined and pre-announced.
- Unsuccessful bidders were not informed about the decision of the contracting entity.

Public Procurement

Principle: **Integrity, Capacity**

Procurement Stage:
All phases

Audience: **Policy Maker, Procuring Entity**

With the 2002 Public Procurement Law (PPL), the Public Procurement Authority (PPA) was established as an administratively and financially autonomous entity at the central governmental level to regulate and monitor public procurement. In order to prevent problems encountered previously, measures were introduced by the law to prevent pressures from interest groups and set higher ethical standards for officials as follows:

- The Authority shall be independent in the fulfilment of its duties. No organ, office, entity or person can issue orders or instructions for the purpose of influencing the decisions of the Authority.
- The Authority is comprised of the Public Procurement Board, the Presidency and service units. Members of the Public Procurement Board are appointed by the Council of Ministers and must have no past or present relationship of membership with any political party. Members of the Board are nominated for a four-year terms and, once appointed, cannot be revoked before the expiry of their term.
- Members of the Board take an oath that they will fulfil their duties in an honest and impartial manner, that they will not violate and let others violate the provisions of the PPL Law and related legislation. Members of the Board, except for some legally-defined exceptions, cannot be involved in any official or Private job, trade or freelance activity, and cannot be a shareholder or manager in any kind of commercial partnership. Members of the Board are obliged to dispose of any share or securities they have acquired prior to taking office, via transferring them to persons other than their relatives by blood up to third degree or by marriage up to second degree, within thirty days following the start of their assignment periods, except for those securities issued by the Under secretariat of Treasury for domestic borrowing purposes. The members who do not act in compliance with this provision shall be deemed resigned from their memberships.

- Members of the Board are obliged to submit a declaration of property, within one month following the date of commencement and expiry of office, and every year during their service period.
- When executing their duties, Members of the Board and the staff of the Authority cannot disclose any confidential information or document to any entity except for those authorised by law for such disclosures, and cannot use them for the benefit of their own or third parties. This duty of confidentiality shall also continue after they leave their offices.
- Members of the Board cannot participate in meetings and voting sessions related to decisions concerning their relatives by blood up to third degree or by marriage up to second degree and fosters.

In addition to safeguards provided in the Public Procurement Law, “Regulation on Principles Which Public Procurement Board Members and Public Procurement Authority Staff Must Observe” was adopted and published in the Official Journal in 21.01.2003. The regulation provides, inter alia, that Members of the Board and Public Procurement Authority Staff:

- Cannot act for real or legal persons who deal with Public Procurement Authority, cannot borrow from them or their employees or cannot use them as personal surety.
- Cannot make a commitment or promise about the regulatory or supervisory activities concerning their duties.
- Neither them nor their spouses and family members which they support can accept a gift from persons who deal with Public Procurement Authority.
- Cannot use confidential information they obtained in carrying out their duties for their own interest, cannot make recommendations or comments based on such information.
- Neither them nor their spouses and family members which they support can acquire goods or real estate from persons who deal with Public Procurement Authority or from their subsidiaries other than goods or real estate they sell as part of their usual commercial activity; Public Procurement Board Members and Public Procurement Authority Staff cannot obtain or become an intermediary for others to obtain goods or services from them below the price announced to public in general.
- Cannot buy, sell or own any share or securities except for those securities issued by the Under secretariat of Treasury for borrowing purposes.
- Must carry out regulatory activities in a transparent manner open to public in order to prevent an impression that contacting with a company or a group of companies in drafting regulation puts them in a privileged position.
- Cannot ask others to intervene/ mediate for their assignment, appointment or promotion within the Public Procurement Authority.

Source: OECD (2014), [“Compendium of Good Practices for Integrity in Public Procurement: Meeting of the Leading Practitioners in Procurement”](#), OECD, Paris.