



# Presentation of the proposals received from EOs and Contracting Authorities

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# Methodology

- Economic operators from various sectors
  - Directly: survey sent in email to 220 addresses
  - Indirectly: survey distributed by Kosovo, French, German, and Turkish chamber of commerce
  - Placed on PPRC website
  - Hard copies distributed: 52
  - Personal interviews: 4 companies
- Public procurement actors
  - Directly: survey sent in email to 134 addresses
  - Hard copies distributed: 20



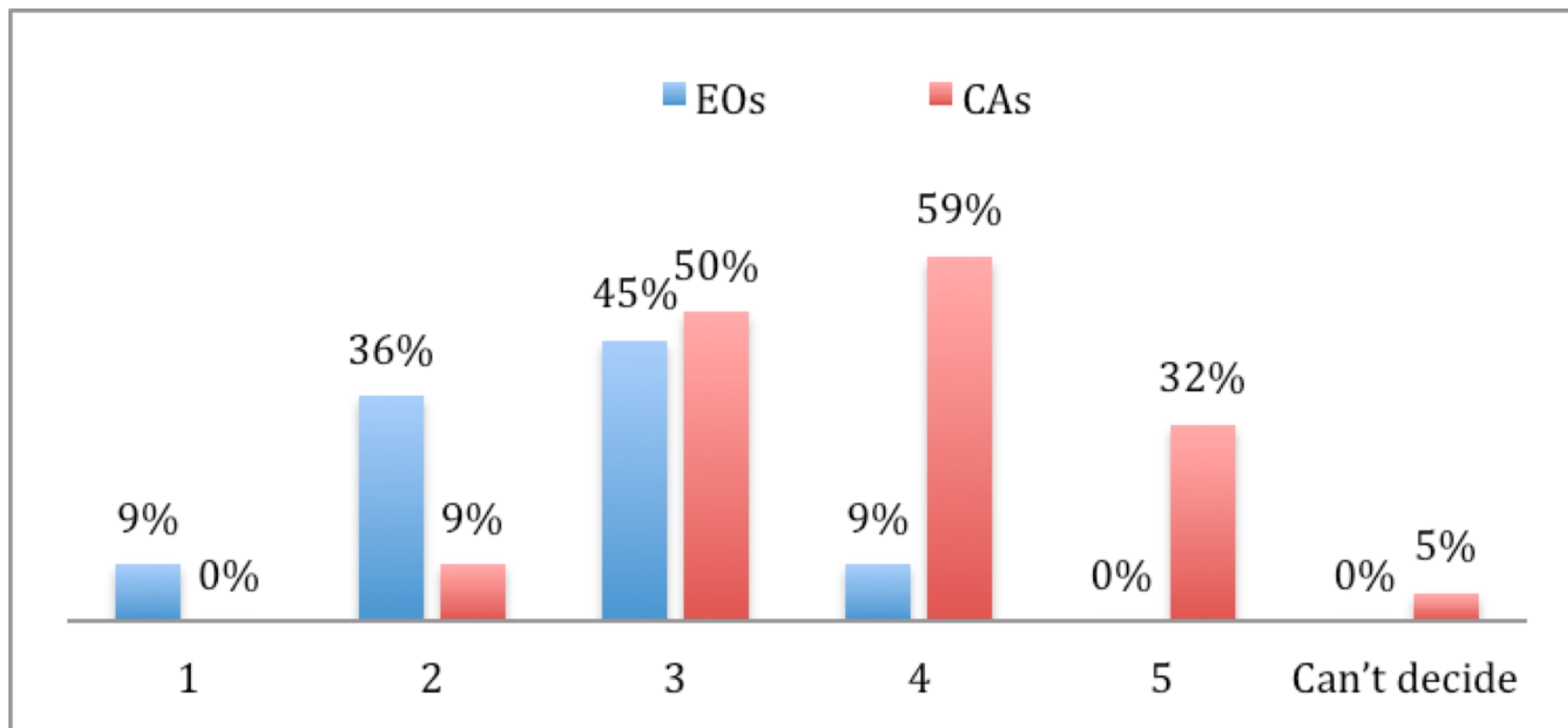
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# How regulation in Kosovo serves public procurement objectives like fair competition and transparency



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# Surveys for contracting authorities

Three categories were used where interviewees suggested improvement:

- the field of legislation/ regulation and managing PP processes;
- training and education of public procurement actors;
- and the information materials available and communication in general.



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# Legislation / regulation

## General remarks

- **e-Procurement** is a general request
- **Law, regulation and administrative guidance shall be harmonized**
- A more specified **division of responsibilities** is expected between procurement officer and other subordinate officers
- **Monitoring** of the procurement process **from the first stage.**
- Equal treatment of domestic EO and foreign EO does not help the economy of Kosovo.
- The **terms and conditions** of the tender documentation are too complicated



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# Legislation / regulation

## Specific suggestions

- Improve the **PRB procedures**
- Role of the **Evaluation Commission** (advisory – or more functions, accountability of the EC).
- Special annexes shall be added to the regulations eg. Procurement for specific military equipment
- The issue of **abnormally low prices**
- Correction of **arithmetic errors**
- More detailed regulation for **procurement plan and technical specifications**



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# Legislation / regulation

- More detailed regulation for selection of reliable EO and contract beneficiaries
- **Simplification** of the Operational Guidance and Public Procurement Regulation
- PRB – speeding up decision-making



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# Information / communication

## Information materials requested

- Administrative guidelines to be published on website
- Manuals
  - Essential elements of the PPL
  - Procurement planning (by CPA)
  - Certain solved cases and cases that can't be handled by PPL or not included in the rules of the secondary legislation (Regulation and Public Procurement Guidance are very theoretical)
  - Questions and Answers



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# *Suggestions regarding websites*

## PPRC

**General opinion:** the website meets the daily requirements from EO and Contracting Authorities.

### **Requests, remarks:**

- Publishing legal interpretations for issues that contracting authorities may ask.
- The possibility to receive information on the value of the contracts awarded as well as of cancelled contracts.
- Questions and answers, interpretations and advices of the helpdesk should be published on the web site.
- Networking – Procurement officials should access the page with an account in order to make announcements, enabling cooperation between the officials in the area of procurement.
- To enable the access to publication via smart phones.



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# *Suggestions regarding websites*

## **PRB**

**General opinion:** the website meets the daily requirements from EO and Contracting Authorities.

### **Requests, remarks:**

- Publishing all complaints received
- Document structure: separating information documents, decisions, conclusions, notice reply; opportunity to know from the first page that the documents contain information regarding rejections, revaluations, or cancellations in favour of EO or CA.
- Register of blacklisted EO's
- Looks a bit old style (not attractive).



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# *Suggestions regarding websites*

## *CPA*

**General opinion:** CPA is not functioning as an organization concerning central procurement, and its website reflects this.

### **Specific remarks:**

- An active CPA website would be necessary to inform all contracting authorities with activities as central procurement authority for functions that PPL sets.
- Implementation of centralized procurement system in certain field and preparation of the certain central procurement procedures should be appeared on the website.



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# Professional abilities, internal organizational issues

- Engaging more professional and qualified experts and training **to all three institutions** involved in public procurement.

## *General and specific suggestions to institutions*

- **Clarifying the responsibilities** within the CAs
- **Better communication** is needed between requesting unit – procurement office – contract management.
- The **management** shall be better and staff more stable.
- Better treatment of staff, rewarding, salary increase



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# PPRC

- **Monthly discussions** with officials who are working in the local or central procurement institutions
- More work, **professionalism** and responsibility needed in competencies granted by PPL, especially when providing advice.
- PPRC should increase **cooperation with contracting authorities**, to provide them with greater support through various forms of communication and offer them assistance to develop procurement procedures.
- To **monitor the procurement process** and to draw conclusions and rules for the protection of procurement officers.
- **Interpretations** shall be similar, clear and respected by the PRB and CA.



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# CPA

- To appoint the director, become independent!
- General suggestion is the **development of procedures** for centralized procurements.
- Introducing the joint procurements.
- More cooperation with CAs
- More **frequent meetings** with procurement officials at all levels.



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# PRB

- More **professional experts** are needed
- A decision issued by the PRB should stay **timely** (understood within the same legislation and the same conditions) and not just issued ad hoc.

## Challenges:

- Different decision for appeals with similar content
  - Obtain two or more decisions for a procurement activity, cancelling the decisions taken
  - Giving orders and determination of accountable and non accountable economic operators
  - Decisions are not based on the principle of cost-effectiveness and efficiency
- In order to analyse the decisions in general, PRB shall take into account all parties' opinion and all written materials by the evaluation commission and the decision of CA on how will be rewarded the contract to EO.



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# ***Suggestion for improving procurement officers' trainings***

Generally, the interviewees expect **regular professional training**, with less theory and **more practical** information and case studies, for all staff involved in procurement procedures – CAOs, Project Managers and management of each institution. *“As much training as possible.”*

## **Training methods:**

- Trainings should be less theoretical and more practical and interactive.
- Trainings are almost the same; participants attend only to meet the legal obligation for a license.

**...SEE TRAINING STRATEGY...**



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# Perception of public procurement in general

The overall picture is mixed, but one trend is significant: **interviewees consider public procurement system generally positive**, that is constantly developing, heading towards EU principles, while there is room for a further improvement.

However, when it comes to **implementation and management of contracts**, the picture is less positive.



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# Surveys for economic operators

Three categories were used where interviewees suggested improvement:

- the field of legislation/ regulation;
- the information received regarding PP;
- and the elements of PP procedures from tendering to implementation.

Also, the analysis contains the opinion of EO's about public procurement in general as well as what is the insight of EO's on the general public opinion.



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# Legislation/regulation

- Generally, companies need **transparency** and **fairness** in PP procedures, and they suggest specific changes to enhance of public procurement regulation.
- However, some remarks mention that **the regulation is right, it should only be implemented** as it is disregarded now.



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# Remarks from EOs

- The evaluation of the companies should to be fairer; prices offered shall be controlled.
- **Selection and contract award criteria should be used more professionally.**
- The Project Manager should verify the criteria defined in the tender dossier also during the contract implementation.
- There is **no control of consortia**, and the public procurement has left a huge room for manipulation in this aspect.
- The criteria for participation for new companies in the tender should be facilitated.



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- The **tender dossiers** should include each parameters and quantities
- Establishing a national procurement agency **dealing only with additional works.**
- Stronger regulation and clarification of **groups or EO's consortia** participating in a tender.
- Enable companies assigning a lawyer or economist to be certified as a **Procurement Officer.**
- Procurement procedure should be simplified by making prequalification of companies based on annual turnover and technical capacities.



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# Acquiring information about procurement notices

- CA's require information about procurement notices generally in electronic format and through media.
- **The fee shall be applicable only when the tender dossier is received in physical format.**
- **Information system** should be elaborated (for a fee) so that PPRC could send the notifications automatically for certain procurement procedure.
- The information should include the **amount of the tender.**
- Every institution should have **its own website** where they announce official notifications and give as much information about them.



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# Public procurement procedure issues

- EO's consider the market more stable now, with **better opportunities and shorter tendering periods in private sector** than in public procurement. The profit rate is same in public and private sector, but in public sector the prices are lower (which lead to low quality of works).
- EO's only apply to tender if they know that they have good chance, only in the own region.
- In the tender notice there are often more requirements with different meanings, and failure to comply means the tenderer is eliminated from the further procedure.



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