



REPORT

**on the activities of the Public Procurement Bureau in the realization
and functioning of the public procurement system in 2006**

Skopje, May, 2007

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1 Introduction

Public Procurement Bureau (hereinafter: Bureau) is an institution which ensures, on national level, the monitoring, development and promotion of the public procurement system by securing legality, rationality, efficiency and transparency, equal treatment, non-discrimination and encouragement of competition. The legal competences of the Public Procurement Bureau are stipulated under the Law on Public procurement (Official Gazette of the RM nos. 19/2004, 109/2005).

On the basis of Article 28 paragraph 1 indent 11 of the Law on Public Procurement, the Public Procurement Bureau submits to the Government of the Republic of Macedonia this Report on the activities in the realization and functioning of the public procurement system in 2006.

Under this Report, the Public Procurement Bureau informs the Government of the Republic of Macedonia and the broader public on its activities generally aimed at further harmonization of the national legislation with the EU legislation on public procurement and implementation of best practices in this area, statistical data on the implemented procedures and concluded public procurement contracts on national level in 2006, as well as on the usual irregularities in their implementation.

After the adoption of this report by the Government of the Republic of Macedonia, it shall be available to the public on the website of the Bureau, <http://javni-nabavki.finance.gov.mk>.

2 Normative activities

2.1 Law on Public Procurement

The current Law on Public Procurement was enacted by the Parliament of the Republic of Macedonia on March 26, 2004 (Official Gazette of the RM no. 19/2004), and it entered into force on April 7, 2004.

Pursuant to Article 68 paragraph 3 of the Stabilisation and Association Agreement with the European Union, as well as by acquiring candidate status for EU membership, the Republic of Macedonia has an obligation to harmonise the legislation in the area of public procurement with the one of the EU and to adjust to the European standards of operations in this area.

Under the document “Transposition of the EU directives on public procurement in the Law on Public Procurement”, drafted within the project “Public Procurement Office”, financed by the CARDS Programme and realized in the period September 2004 – May 2006, the level of harmonization of the Law with the EU directives on public procurement was around 50%.

The Law on Public procurement partly incorporates the following old EU directives on public procurement:

- **Council Directive 89/665/EEC** of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts;
- **Council Directive 92/13/EEC** of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of

Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors;

- **Council Directive 93/36/EEC** of 14 June 1993 coordinating procedures for the award of public supply contracts;
- **Council Directive 93/37/EEC** of 14 June 1993 concerning the coordination of procedures for the award of public works contracts;
- **COUNCIL DIRECTIVE 93/38/EEC** of 14 June 1993 coordinating the procurement procedures of entities operating in the water, energy, transport and telecommunications sector.

In December 2005 the Parliament of the Republic of Macedonia has adopted the Law on Amendments and Modifications to the to the Law on Public Procurement (Official Gazette of the RM no.109/2005). More significant novelties incorporated in this Law are the introduction of electronic public procurement, publishing of annual plans for public procurement by entities and publishing of the contract notices on the website of the Bureau thus largely incorporating the universal principles of public procurement – publicity and transparency.

The European Parliament and the Council, on March 31, 2004 adopted new Directives on public procurement:

- **Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004** coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors, and
- **Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004** on the coordination of procedures for the award of public works contracts, public supply contracts, and public service contracts.

Law on Public Procurement (Official Gazette of the RM no.19/2004) entered into force in the same period when the European Union adopted two new directives on public procurement. The new directives consolidated the rules on procurement of goods, services and works in the so-called traditional sector and the sectors for services of public interest introduced a number of novelties and new procedures for awarding public contracts. Accordingly, the Republic of Macedonia was unable to implement the rules from the new directives into the existing law.

2.2 Bylaws

On the basis of the Law on Public Procurement and the Law on Amendments and Modifications to the Law on Public Procurement, in 2004 and 2005, 11 bylaws were adopted:

- List determining the entities to which the provisions of the Law on Public Procurement apply (Official Gazette of the RM no.34/2004),
- Rulebook on the contents and the format of the solvency document (Official Gazette of the RM no. 38/2004),
- Rulebook on the format and the contents of the annual public procurement plan (Official Gazette of the RM no.33/2004),
- Rulebook on the procedure for opening the bids in open invitation and restricted invitation and on the format of Minutes for public opening of bids

- (Official Gazette of the RM no. 50/2004),
- Decision on determining the equipment, materials and services of defence and security nature (Official Gazette of the RM no. 69/2004),
 - Rulebook on the detailed rules on evaluation of the procurement (Official Gazette of the RM no. 10/2005),
 - Rulebook on the format and the contents of the form and the manner of keeping the registry of the carried out procurements at the Procuring entities (Official Gazette of the RM no. 10/2005),
 - Rulebook on the format and the contents of the form and the manner of keeping the single registry (Official Gazette of the RM no. 10/2005),
 - Rulebook on the mandatory elements of the tender documentation (Official Gazette of the RM, no. 10/2005),
 - Methodology of expressing the criteria in points (Official Gazette of the Republic of Macedonia, no. 6p.10/2005),
 - Rulebook on the manner, the conditions and the procedure for selection of experts who would check the regularity of the public procurement procedure (Official Gazette of the RM no. 10/2005).

On the basis of the Law on Amendments and Modifications to the Law on Public Procurement (Official Gazette of the RM, no. 109/2005), in 2006 the Rulebook on the type and the manner of usage of electronic system of public procurement was prepared and adopted (Official Gazette of the RM, no. 36/2006).

This Rulebook means operationalisation of the legal provisions prescribing the implementation of public procurement in electronic form. Under the electronic communication, in all phases of the public procurement procedure, the bids and the requests for participation, i.e. the invitations to submit bids shall be in electronic form. In case of public procurement in electronic form, the tender documentation and the exchange of information should be available through the electronic public procurement system. The necessary documentation to the bids shall be submitted electronically, and only exceptionally in hard copy, in case some documents and other materials are not available in electronic form.

During 2006, via the electronic system of public procurement in the Republic of Macedonia, 11 procuring entities were registered and total of 6 public procurement procedures were realized.

2.3 Amendments and modifications to the Law on Public Procurement

According to the National Programme for Adoption of the *Acquis*, in the third quarter of 2006, the Public Procurement Bureau has prepared and submitted to the Government of the Republic of Macedonia a text of the Proposal for adoption of a Law on amendments and modifications to the Law on Public Procurement with draft law, as a step towards harmonization of the public procurement system in the Republic of Macedonia with the EU Directives. The Amendments and Modifications also resulted from the need to facilitate the implementation of public procurement procedures by reducing deadlines for publication, as well as to eliminate certain inconsistencies determined in the application of the Law.

The Public procurement Bureau started harmonizing the Law on Public Procurement with the aforementioned directives, as well as the comments of the current law from the European Commission and SIGMA (professional body for public procurement of OECD).

This text of the draft law implemented new procedures for public procurement with regard to public procurement working in the area of energy, water supply, transport, telecommunication and postal services.. The text included changes in the definitions which have not been harmonised with the directives, and other more significant changes would be the following:

- introduction of new, negotiated procedure upon prior publication of contract notice,
- elaboration of the procedure for concluding framework agreements,
- introduction of new value thresholds for implementation of public procurement procedures,
- shorter deadlines for announcement of these procedures, and
- introduction of new procedure for smaller-value procurements.

The draft amendments and modifications to the Law on Public Procurement did not achieve full harmonization with the new directives since the full harmonisation requires introduction of new systemic solutions (especially with regard to legal protection, concession agreements for public procurement of works and several new procedures which were not envisaged in our existing legislation are optional and introduced with the new directives), which requires drafting a new law. The draft eliminated certain deficiencies disclosed in the application of the law, the directives are fully implemented with regard to the negotiated procedure with prior contract notice, the negotiated procedure with prior contract notice is further regulated, a new manner was introduced for implementation of a framework agreement, new thresholds were introduced for application of the deadlines for receipt of bids and requests for participation and the threshold for small-value procurements was raised.

3 Public Procurement Bureau

3.1 Competences, organization and structure

In May 2004, Department for the Public procurement System was established in the Ministry of Finance as a transitional organizational form until the establishment of the Public Procurement Bureau. In accordance with Article 112 of the Law on Public Procurement, the Bureau should have been established and begin work until October 31, 2004.

The Public Procurement Bureau was established in February 2005 and began working with the appointment of a Director on June 20, 2005.

The establishment of the Public Procurement Bureau was a significant step undertaken so as to adjust the administrative system necessary for functioning of the public procurement legislation.

The competences of the Bureau were stipulated in Article 28 of the Law on Public Procurement, but also in several sections of the Law. In accordance with these competences, the Bureau has a task to give proposals for adoption of laws and bylaws

and other acts in the area of public procurement, to monitor and analyse the implementation of the law and other regulations, the functioning of the public procurement system and to initiate changes for its improvement, provide opinions with regard to the implementation of the law and the bylaws, provide advice and assistance to procuring entities, prepare standard tender documentation and forms for the open and restricted invitation and negotiated procedure, keep single registry and sub-registries for the procurements by procuring entities that will be accessible on the public procurement website, ensure transparency both with regard to the publishing of indicative notice on the procurements each procuring entity plans to realize during the year and with regard to their realization, thus encouraging competition; regarding the detected irregularities on the basis of the obtained data from the procuring entities on the implemented public procurement, the Bureau shall inform the Government of the Republic of Macedonia and the Minister of Finance; set minimum conditions on professional qualifications of persons who would carry out specialized activities for public procurement; upon prior programme, it will train persons who would implement public procurement procedures in the entities subject to the Law, realize international cooperation with regard to the public procurement system with international institutions and other foreign entities, issue manuals, guidelines and a bulletin, so as to achieve uniformed application of public procurement legislation on one hand and ensure transparency and encourage competition between bidders, as well as their education on the other.

There are essential activities that should be implemented, being a precondition for successful realization of the stipulated competences of the Bureau, as a process of approximation of the Republic of Macedonia to the European Union. Efficient execution of competences of the Bureau means harmonization of legislation, the principles and the public procurement procedures with the European ones.

In order to achieve the aforementioned objectives, appropriate structure must be established in the Bureau, as well as its status, human resources and a knowledge base and staff skills.

The Bureau is a government administration body of the Ministry of Finance, without legal personality. The organizational setup of the Bureau includes two units, Unit for promotion of the public procurement system and a Unit for registry and analysis, with a total of 12 employees, of which:

- 3 are Bachelors of Law;
- 5 are Bachelors of Economics;
- 1 is a Bachelor of Civil Engineering;
- 1 IT Engineer,
- 2 administrative officers.

In December 2006 the Bureau submitted to the Minister of Finance a proposal for new organization and systematization in accordance with the real needs for staff and adequate organization, that would match the legally stipulated competences.

3.2 Prepared opinions on the application of the Law on Public Procurement

During 2006 the entities subject to the Law on Public Procurement as well as bidders submitted to the Bureau a total of 883 requests for opinions regarding the application

of the Law on Public procurement and the bylaws. They have received answers within the legally set period.

3.3 Prior consent for implementation of the negotiated procedure without prior publication of contract notice

The negotiated procedure is exceptional procedure and may be applied only in limited cases stipulated in Article 67 of the Law, upon prior consent by the Bureau. If the Bureau does not issue prior consent, i.e. it considers that no formal conditions were fulfilled for this procedure, the Procuring entity is obliged to implement the procedure by publishing a contract notice.

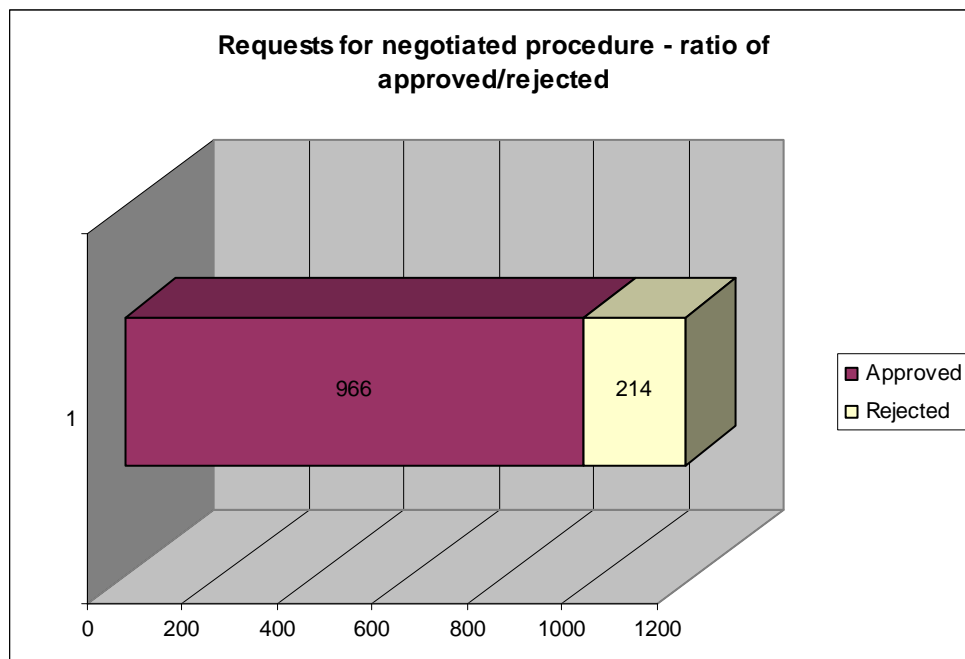
During 2006 the entities subject to the Law on Public Procurement submitted to the Bureau a total of **1180** requests for application of the negotiated procedure without publishing contract notice.

The Public procurement Bureau, pursuant to Article 66 paragraph of the Law, determined that 966 requests fulfill the formal conditions for applying negotiated procedure and prepares the same number of prior consents, which is **82%** of the total number of submitted requests, while it determined that 214 requests or **18%** of the total number of requests do not meet the formal conditions and it refused to provide prior consent for negotiated procedure without publishing contract notice, Table 1, Chart 1.

Table 1

Submitted requests	Issued prior consents	Structure %	Rejected requests	Structure %
1.180	966	82	214	18

Chart 1

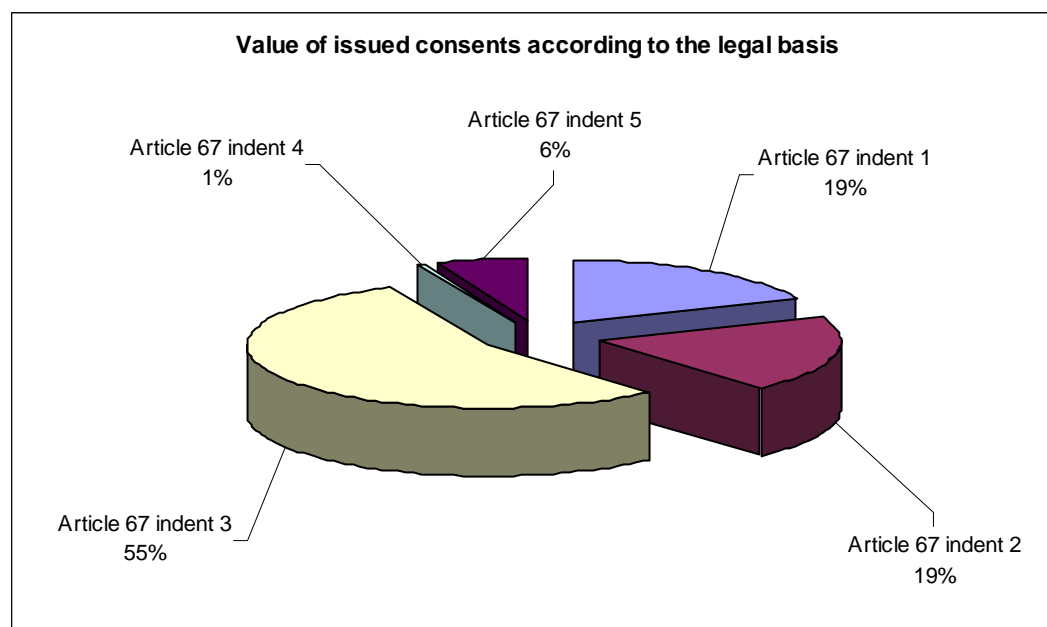


The legal basis for issuance of consent for the negotiated procedure, their structure in % and the estimated value are shown in Table 2, and Chart 2.

Table 2

legal basis for negotiated procedure	number of issued consents	Structure %	estimated value (in denars)	Structure %
Article 67 indent 1 ¹	277	29%	518.073.139	19%
Article 67 indent 2 ²	332	34%	527.407.626	19%
Article 67 indent 3 ³	263	27%	1.500.614.025	55%
Article 67 indent 4 ⁴	17	2%	14.000.491	1%
Article 67 indent 5 ⁵	77	8%	163.814.962	6%
TOTAL	966	100%	2.723.910.243	100%

Chart 2



¹ Upon previously implemented two procedures of open or restricted invitation, there were insufficient number of bids or eligible bids, provided the contents of the tender documentation of these invitations was not significantly changed

² Due to technical, intellectual or implementation reasons or reasons related to protection of exclusive rights registered in the Ministry of Economy or the Chamber of Economy, the procurement can be carried out only by a certain service provider, contractor or supplier.

³ Due to reasons of extreme urgency caused by events the procuring entity could not have predicted, nor could they be attributed to the Procuring entity as its omission or to events (natural disasters, epidemic, infectious diseases or force majeure) due to which the deadline set for the open or restricted invitation could have not been complied with.

⁴ When the procuring entity has to make additional deliveries by the original bidder for the purpose of partial replacement of normal goods or installations; extension of existing supplies or installations, where a change of the bidder would oblige the procuring entity to acquire material having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance.

⁵ When unforeseen circumstances require additional works that were not included in the considered or concluded contract.

Major percentage of prior consents or 34% were issued on the basis of Article 67 paragraph 1 indent 2 of the Law on Public Procurement, above all, due to technical, intellectual or implementation reasons or reasons related to protection of exclusive rights registered in the Ministry of Economy or the Economic Chamber of the Republic of Macedonia.

With regard to the level of the estimated value of the procurement, the most consents or 55% of the total value of all issued consents were issued on the basis of Article 67 paragraph 1 indent 3 of the Law on Public Procurement due to extreme urgency.

3.4 Vocational training of the employees

Since the beginning of the transformation of public procurements in the Republic of Macedonia in accordance with the EU Directives on public procurement, it is especially important to permanently educate the employees of the Bureau, especially in the European legislation on public procurement, the Directive 2004/17/EC and the Directive 2004/18/EC, and the Directives of the Council on legal remedies 89/665/EC and 92/13/EC. The education of the employees of the Bureau is especially important since the Republic of Macedonia, in accordance with the obligations under the Stabilisation and Association Agreement and the candidate status, should draft new Law on Public Procurement and Bureau is responsible for this activity.

In March 2006 within the project “Public Procurement Office”, financed by the CARDS Programme, a stay in Riga – Latvia was organized for five employees in the Bureau so as to be introduced with the public procurement system of this country. During the stay, whereby the Public Procurement of Latvia was the host, and meetings were held with a number of representatives of multiple entities applying the law: in the Parliament of Riga, where experiences were presented in the implementation of public procurement on local level, in the Health Fund of Latvia, where experiences were presented in the implementation of public procurements in the area of public health sector, and in the state institution for electricity transmission, where experiences were presented from the implementation of public procurement.

During 2006, in Maastricht, the Kingdom of the Netherlands, three employees of the Bureau, with financial support from the Dutch grant, via the PSMAL 2 arrangement with the World Bank, attended a seminar on Public Private Partnership organized by the European Institute of Public Administration (EIPA). The topics on the seminar were some issues related to new directives on public procurement, especially the procurements in public enterprises and legal entities operating in the area of water supply, energy, transport, telecommunications and postal services, as well as legal remedies.

In June 2006 four employees of the Bureau attended the public procurement seminar organized by Crown Agents in Ohrid. At the seminar, the employees of the Bureau had 4 presentations, introducing the attendants with the public procurement system in the Republic of Macedonia.

3.5 Carrying out training

To the end of clarifying the provisions in the Law on Public Procurement, the manner of carrying out public procurement procedures, in the course of 2005 and 2006, in cooperation with the “Public Procurement Office” Project, financed under European

Union CARDS Programme, 20 seminars were realized, attended by almost 383 participants from the entities, covered by the Law on Public Procurement, from the state administration, local government, public health, higher education and public enterprises. These seminars were also attended by representatives from many legal entities – bidders.

Six areas were elaborated on these seminars, covering the Law on Public Procurement, as well as the secondary legislation, as follows:

- public procurement planning,
- announcing the contract notice,
- tender documentation,
- additional information for the bidders and changes to the tender documentation,
- bid evaluation and
- concluding contracts and legal protection.

Materials for the seminars were prepared by the Bureau staff, in cooperation with an expert from the “Public Procurement Office” Project. Seminars were interactive, and in addition to the topics mentioned, employees with the Public Procurement Bureau and domestic public procurement experts explained specific issues and problems the participants in the seminars faced when carrying out public procurement. Public procurement experts from EU member states are took part in the seminars, who were engaged under the project, presented the participants with the European principles and practices in public procurement.

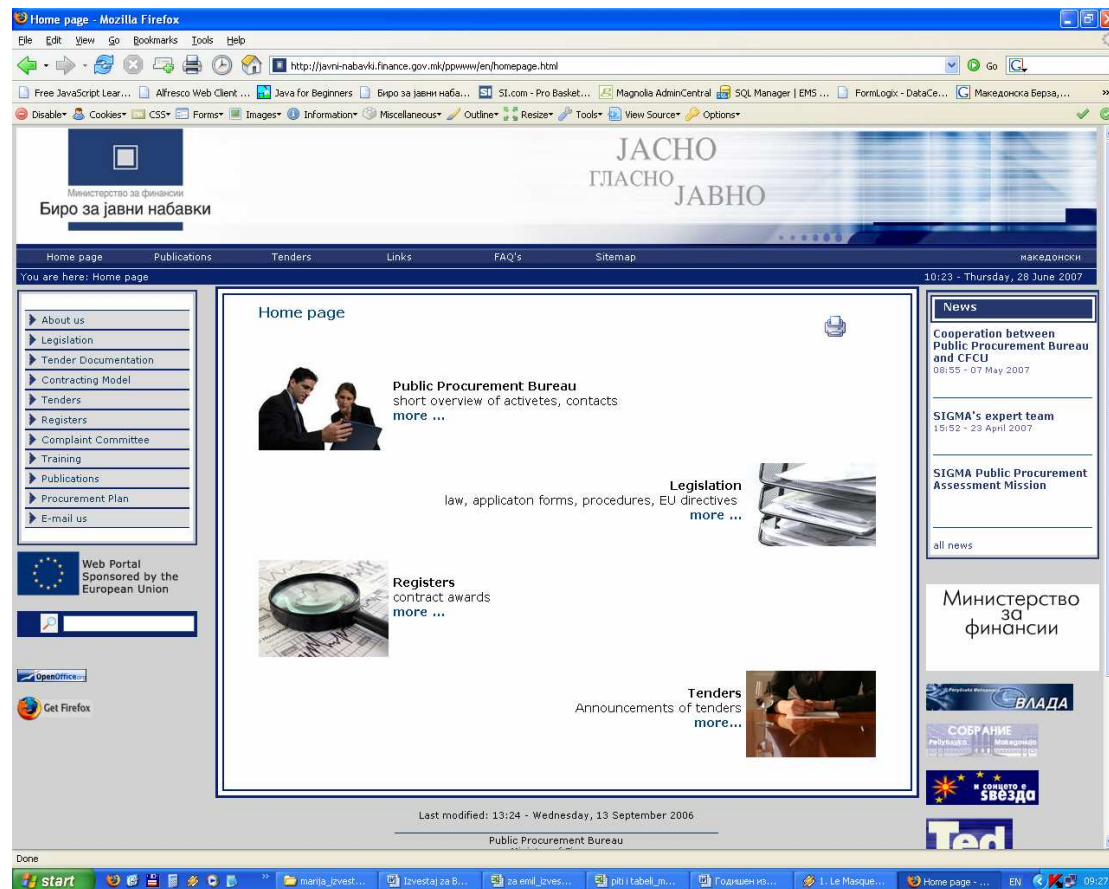
3.6 **Publications**

In the course of 2006, Bureau staff and experts working on the Public Procurement Office Project prepared three publications:

- Manual of the Public Procurement Bureau,
- Guidelines to carrying out negotiated procedure and
- Self-training Manual.

Manual of the Public Procurement Bureau was published in a printed form, while the Guidelines to carrying out negotiated procedure and Self-training Manual were published in electronic form on the Bureau website.

3.7 Website of the Public Procurement Bureau



Website of the Bureau, <http://javni-nabavki.finance.gov.mk>, provides for full publicity and transparency when announcing contract notices and for the concluded public procurement contracts. In addition to the legislation (the Law, amendments to the Law, bylaws), EU Directives, tender documentation, form models, contract models, decisions by the Public Procurement Complaint Commission within the Government of the Republic of Macedonia and other information related to public procurement (seminars, conferences, workshops, etc) are also published. These texts are available in English too. In the course of 2006, the Bureau implemented the provisions in the Law pertaining to the announcement of the annual public procurement plans, as well as the contract notices of the procuring entities.

Amendments to the Law envisage that the procuring entities, in addition to submitting the public procurement plan for the current year in a written form, are obliged to submit it in electronic form to the Public Procurement Bureau, thus ensuring greater transparency in terms of the planning and the manner of carrying out public procurement. This gives the possibility to the bidders to be informed and timely prepared for the procurement the entities intend to carry out during the year, for the approximate time when the contract notice would be announced, as well as for the public procurement procedure the procuring entity would apply.

Adjustment to the IT system of the Public Procurement Bureau will comply with the new legal solutions, will enable not only to fully monitor the public procurement

procedures and the concluded contracts, but also to simplify the procedure for collecting data and their statistical and analytical processing.

3.8 Public relations

In the course of 2006, the Bureau, through its contact form on the website, received 79 questions from institutions, public enterprises, companies and individuals regarding the manner of applying certain provisions in the Law on Public Procurement, or requests for opinions about certain issues that come up during the procurement procedure. Average response time to these questions is less than one business day.

At the same time, the Bureau is open for communication with the public through its telephone line every day for two hours. Average number of calls a day is 22, or around 5,500 calls in 2006.

4 Statistical data on carried out procedures and concluded public procurement contracts

Following each performed public procurement, the entities, pursuant to Article 17 of the Law, are obliged to submit Form PPR-1, registry of performed procurements at the contracting entities, to the Bureau within 30 days from the day of signing the contract.

Form and contents of the Form PPR-1 on public procurement at the procuring entities is stipulated with the Rulebook on the Form and Contents of the Form and the Manner of keeping the Registry of Performed Procurements at Contracting Entities.

Data in the Form PPR-1 are entered in the Public Procurement Single Registry PPSR-2 and are available to the public on the Bureau website.

Single Registry comprises two sub-registries:

- **01.** Budget users and spending units
- **02.** Users and spending units of the budgets of the extra-budgetary funds
- **03.** Users and spending units of local government units' budgets
- **04.** Agencies, public institutions and services, other bodies and organization established in the country
- **05.** Associations of citizens and foundations
- **06.** Public enterprises and legal entities performing activities in the field of water supply, energy, transportation, telecommunications and utilities.

PPSR - 2

Регистар

Преглед

Барај По параметри

Р.бр.	Риб	Набавувач	Под-рег.	Сп.весник	Пред.	Опис набавка	Постапка	Процента вредност	Вредност на договор	Понудувач	Склучена
View 19.04	-	Општина Делчево	3	-	-	работи -	59	0.00	225000.00	ЈКПД Брегалница Буи инженеринг	2006-11-29
View 20.00	-	Полициска академија	1	-	-	стоки Набавка на Библиотекарен информативни системи БС	67	120000.00	104550.00	Природно математички факултет	2006-12-29
View 21.01	-	Општина Македонска 3 Каменица	103.06	-	-	услуги Превоз на ученици од ОУ	56	3620944.00	905236.00	Црби 2003 Доел с Моштица	2006-12-27
View 21.02	-	Општина Македонска 3 Каменица	-	-	-	услуги -	56	0.00	905236.00	Ива ЈТД - Македонска Каменица	2006-12-27
View 21.03	-	Општина Македонска 3 Каменица	-	-	-	услуги -	56	0.00	905236.00	Уно ЈТД М.Каменица	2006-12-27
View 21.04	-	Општина Македонска 3 Каменица	-	-	-	услуги -	56	0.00	905236.00	Коце Комерц ДОО с.Сава	2006-12-27
View 22.00	0800100159	Министерство за надзорени работи	1	-	-	стоки Набавка на монофабриката Борис Трајковски за потребите на МНР	67	36110.00	36110.00	Меѓународна фондација Борис Трајковски	2007-01-19
View 23.01	0800100159	Министерство за надзорени работи	1	-	-	стоки Подароци за потребите на МНР Антологија на македонската чалпа и ирани филмови Пред дождот и правина	67	590000.00	500000.00	Друштво за продукција, копродукција услуги и трговија - Сена - Милчо Манчевски - Увоз извоз - Скопје	2007-01-17
View 23.02	-	Министерство за надзорени работи	1	-	-	стоки -	67	0.00	90000.00	Друштво за издавачка, концертни и уметничка дејност Венсит ДОО - Скопје	2007-01-17
View 24.00	-	Полициска академија	1	111.06	-	стоки Набавка на средства за хигиена	56	750000.00	718505.00	Тројуг - Скопје	2006-01-18

Excel PDF
Подрегистри

Вкупен број на ставки: 386

Data in each PPR-1 Form for performed procurement at the procuring entities are entered in the respective sub-registry and they form the database on the number and types of performed public procurement procedures and concluded contracts in the Republic of Macedonia.

Data are published on the Bureau website, which are stipulated with the Form of the Single Public Procurement Registry SPPR-2, such as data on the procuring entity, number of the Official Gazette of the Republic of Macedonia where contract notice was published, description of the subject to procurement, type of the procurement procedure, assessed value of the procurement, date, number and value of the concluded contracts.

In the course of 2006 and as of 31st December 2006 inclusive, entities, covered by the Law, submitted 2,004 registries on performed procurement procedures and concluded contracts (PPR-1 Forms) to the Bureau, and data thereof were entered in the Single Public Procurement Registry of the Republic of Macedonia.

According to these data, during 2006, total of 4,250 procurement contracts were concluded in the Republic of Macedonia. Total value of the recorded procurement contracts amounted to Denar 8,958,199,675.00 (including VAT), being 3% of GDP in the Republic of Macedonia.

Value of the procurements performed pursuant to Article 5 of the Law on Public Procurement, as well as the value of the procurement up to EUR 3,000, are not subject to these data.

Data on the number of concluded contracts and their value, being subject to this report, are not final, since the Public Procurement Bureau, despite the legal obligation of the procuring entities for submission of the PPR-1 Form within 30 days from the day of signing the contract, stipulated in paragraph 4, Article 4 in the Law, fail to do so in the above-mentioned time period.

In the past period, the Bureau, on several occasions, through press releases in the daily newspapers, permanent announcement on the website, notices for adhering to the legal obligation and the time limit, reminded the procuring entities about their obligations. As a result, the Bureau still receives PPR-1 Forms for 2006.

4.1 Data on the number and value of concluded procurement contracts by type of public procurement procedure

Pursuant to Article 29 of the Law, public procurement can be performed by applying one of the following procedures: open invitation, restricted invitation, negotiated procedure, design contest and restricted invitation for consulting services.

In the course of 2006, 3,420 contracts in the amount of Denar 7,570,665,725 were concluded under the open invitation, 269 contracts in the amount of Denar 792,482,840 were concluded on the basis of the restricted invitation, 520 contracts in the amount of Denar 544,114,927 were concluded on the basis of restricted invitation without prior notification (Table 3, Chart 3 and Chart 4).

Total of 40 procurement contracts were concluded under special procedures applied by the public enterprises and other legal entities performing activities in the field of water supply, energy, transportation, telecommunications and utilities pursuant to Article 75 of the Law, and one contract was concluded on the basis of design contest procedure.

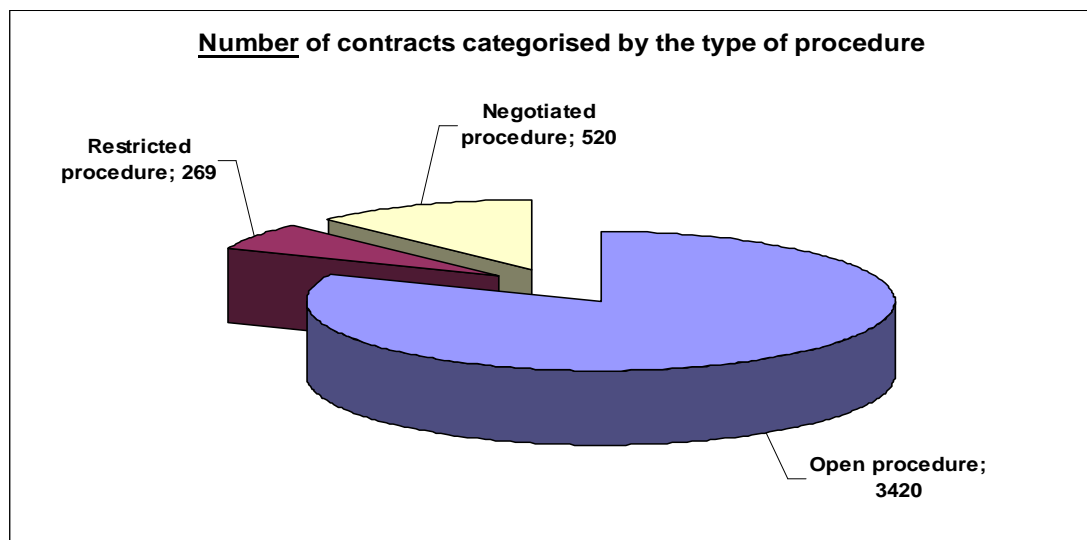
Table 3

Type of procedure	Total concluded contracts	Value of concluded contracts (Denar)
Open invitation	3420	7.570.665.725
Restricted invitation	269	792.482.840
Negotiated procedure without prior notification	520	544.114.927
Design contest	1	1.190.820
Restricted invitation for consulting services	/	/
Special procedures applied by public enterprises pursuant to Article 75 of the Law	40	49.745.363
TOTAL	4250	8.958.199.675

Note: During 2006, the Bureau prepared and submitted 966 prior consents to the procuring entities regarding the carrying out of negotiated procedure, with the estimated value of Denar 2,723,910,243. According to the data in the Single Public Procurement Registry, filled in on the basis of submitted

registries for performed procurement at the procuring entities – Form PPR-1, there were only 520 concluded contracts in the amount of Denar 544,114,924, indicating that the procuring entities do not adhere to the legal obligation for submission of registries for performed procurement.

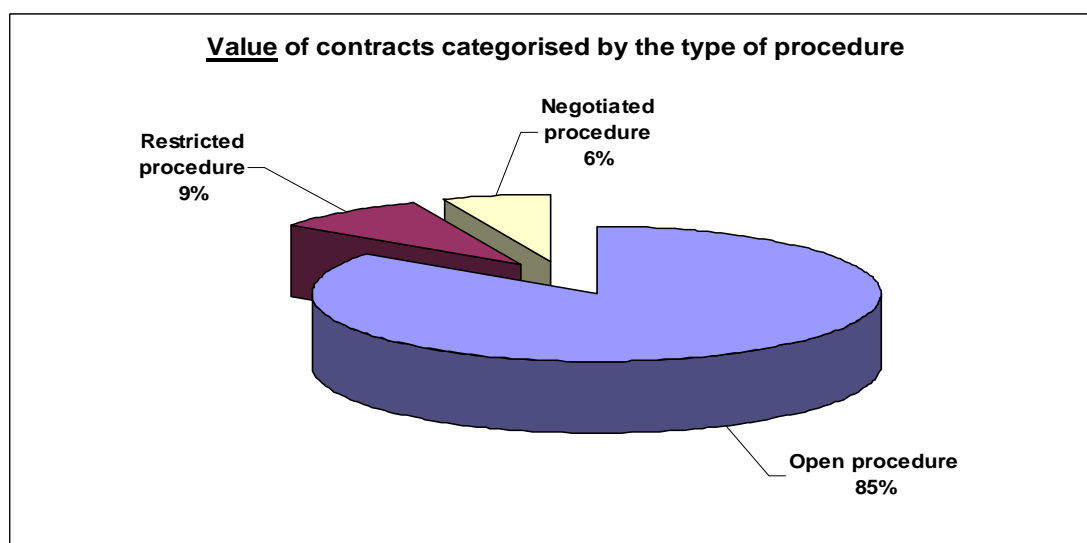
Chart 3



Most of the public procurement contracts or 3,420 (80% of the total number of concluded contracts according to the type of procedure) were concluded on the basis of open invitation. Restricted invitation was applied in signing 269 public procurement contracts or 6% of the total number of signed contracts, and negotiated procedure was applied for 520 public procurement contracts or 12% of the total number, and 1 public procurement contract was signed upon a design contest.

In 2006 the Bureau did not receive any registry of applied restricted invitation for consultant services and it received 40 contracts concluded by the public enterprises, state-owned companies and companies performing activities of public interest in the area of water economy, utility services, energy, transport and telecommunications below the thresholds indicated in Article 75, for which they are not obliged to file a registry of performed procurements.

Chart 4



With regard to the value of the signed contracts by types of procurement procedures, the value of the concluded contracts under an open invitation is Denar 7.570.665.725 or 85% of the total value of concluded contracts, the value of concluded contracts under a restricted invitation is Denar 792.482.840 or 9% of the total value of concluded contracts, while the total value of the concluded contracts under the negotiation procedure is Denar 544.114.927 or 6% of the total value of the concluded contracts.

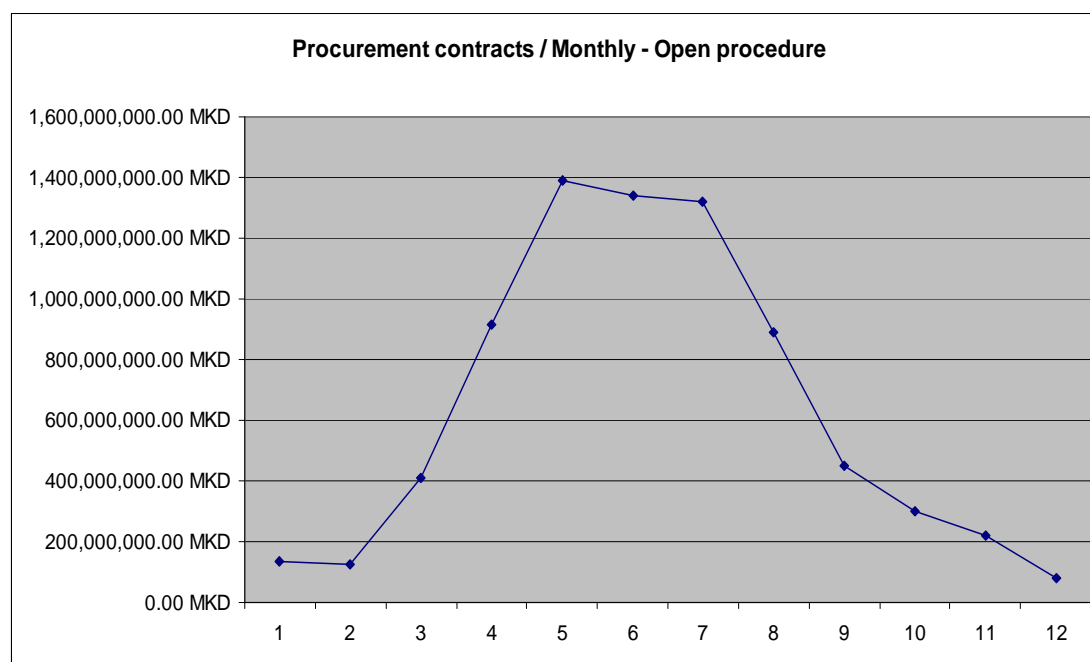
The percentage of the public procurement procedure with an open invitation is the highest since it is simpler and the most competitive compared to other public procurement procedures.

Average value of the signed contracts under an open invitation is Denar 2.213.645 and average value of concluded contracts under a restricted invitation is Denar 2.946.033.

The difference between the estimated value of the public procurement and the value of the concluded contracts under a negotiated procedure arises from the improperly estimated value of the subject to procurement, which the procuring entities should set in accordance with the Rulebook on the detailed rules for estimating the value of the procurement.

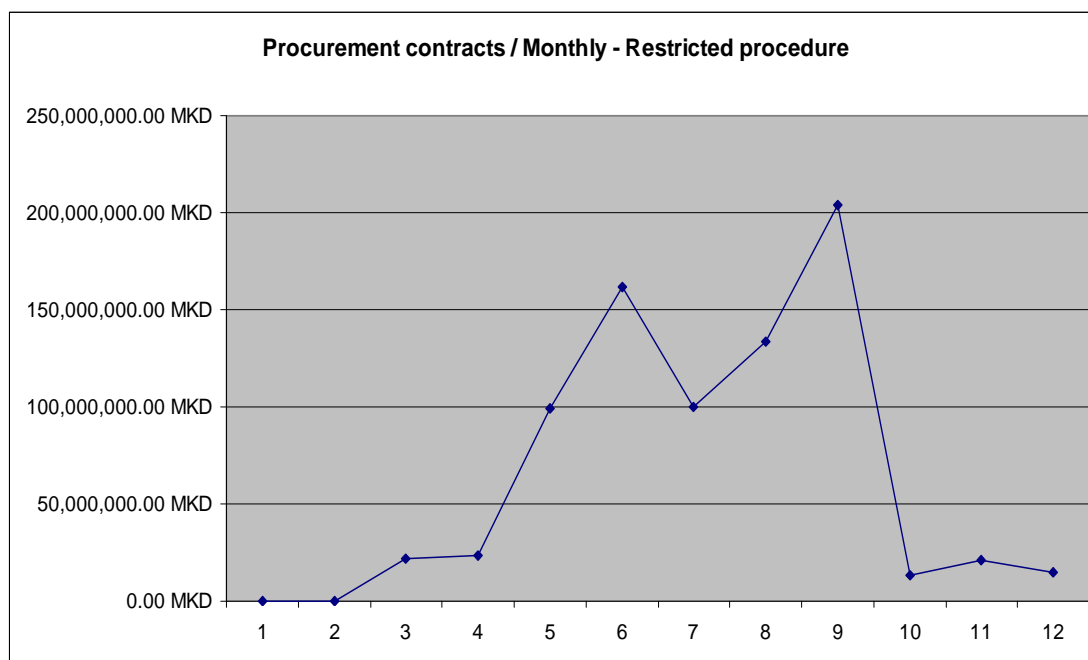
The dynamics of the conclusion of the public procurement contracts during the year varies, depending on the type of the procurement procedure applied. Chart 5, Chart 6 and Chart 7.

Chart 5



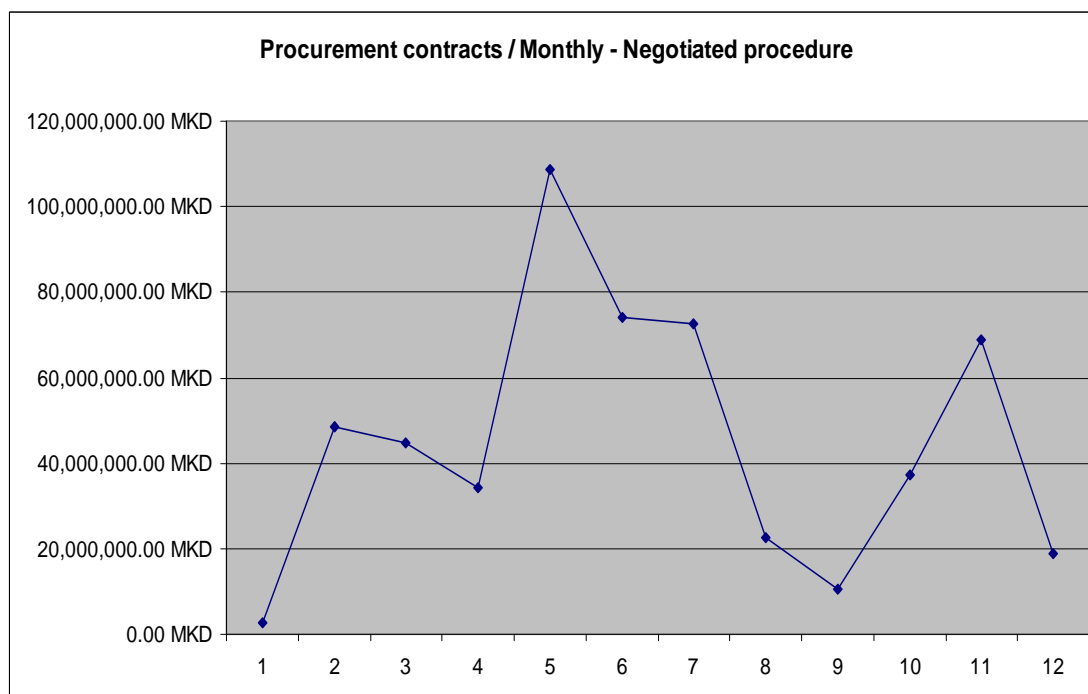
The majority of public procurement contracts under an open invitation were concluded in the period May-July. This is due to the fact that entities begin implementing these procedures at the beginning of the year and largely complete them in the middle of the year by concluding public procurement procedure.

Chart 6



The majority of public procurement contracts under a restricted invitation were concluded in the period July-September. This is due to the fact that this is more complex public procurement procedure implemented in two phases.

Chart 7



With regard to public procurement contracts under a negotiated procedure without publishing a contract notice, the specific trend cannot be seen due to the nature, the

methods and the various circumstances in which the public procurement procedure is implemented.

However, by analyzing the arrived requests for obtaining prior consent for procurement under negotiated procedure by months, we could observe an upward trend in the number of requests in the last quarter of the year for applying a negotiated procedure under extreme urgency, which is due to the following: insufficient and non-timely planning of procurements, short time for implementation of the regular procedure for public procurement and the approaching end of the year and usage of unused funds.

4.2 Data on the number and the value of concluded contracts according to the subject to procurement

According to the number and value of the concluded contract by the subject to procurement, in 2006 total number of 2.951 supply contracts were concluded (69% of the total number of concluded contracts) in the total value of Denar 5.641.945.361; 916 service contracts (22%) in the total value of Denar 1.449.915.677 and 383 works contracts (9%) in the total value of Denar 1.866.338.637. Table 3, Chart 8

Table 3

Subject to procurement	Total number of concluded contracts	Value of the signed contracts (Denar)
supplies	2.951	5.641.945.361
services	916	1.449.915.677
works	383	1.866.338.637
TOTAL	4.250	8.958.199.675

Chart 8

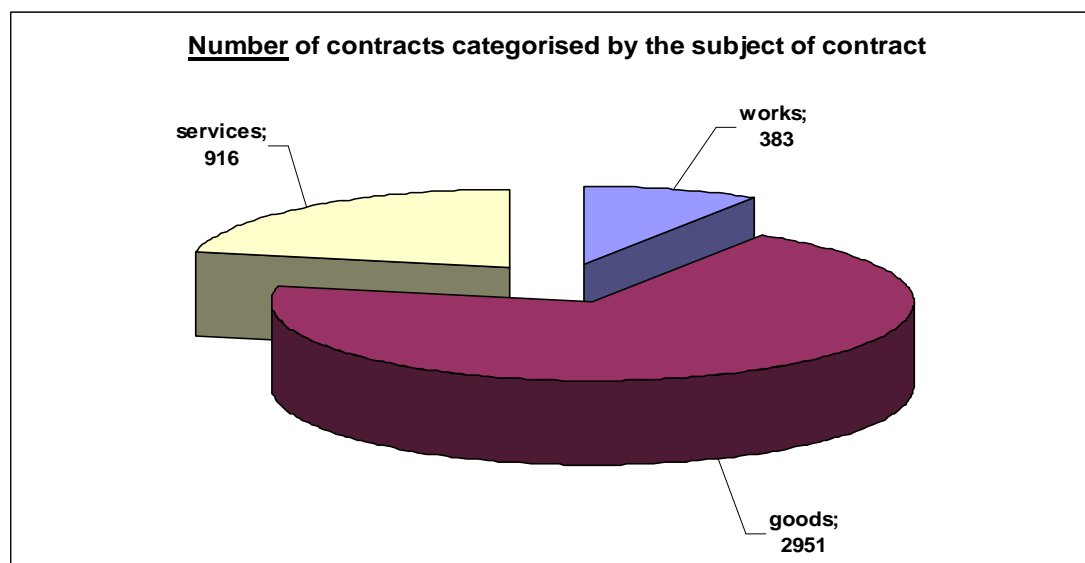
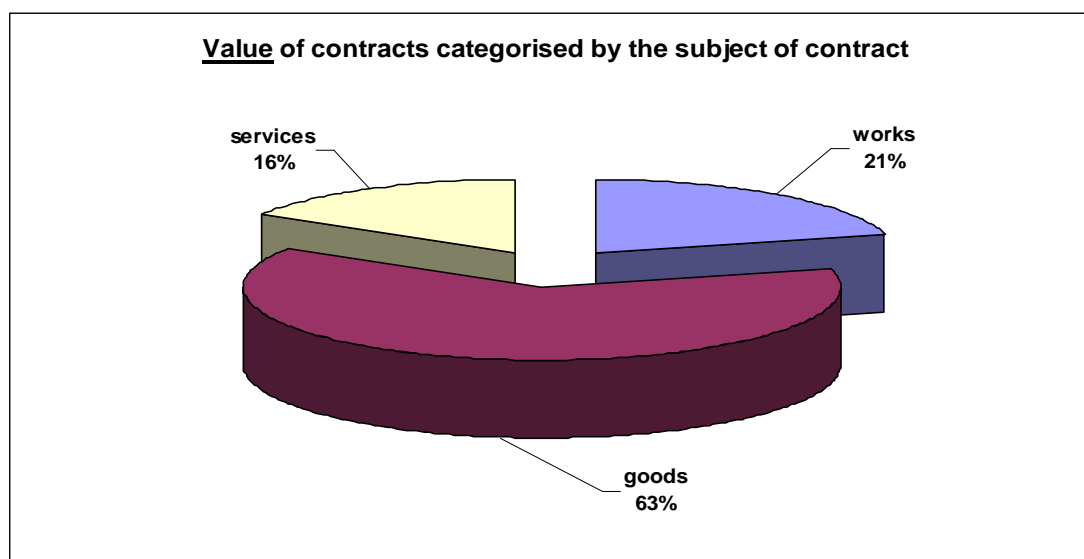


Chart 9

Average value of the supply contracts is Denar 1.911.876 and the average value of the procurement works contracts is Denar 4.872.947 which is 2.5 times higher than the average value of supply contracts and 3 times higher than the average value of the service contracts which amounts to Denar 1.582.877.

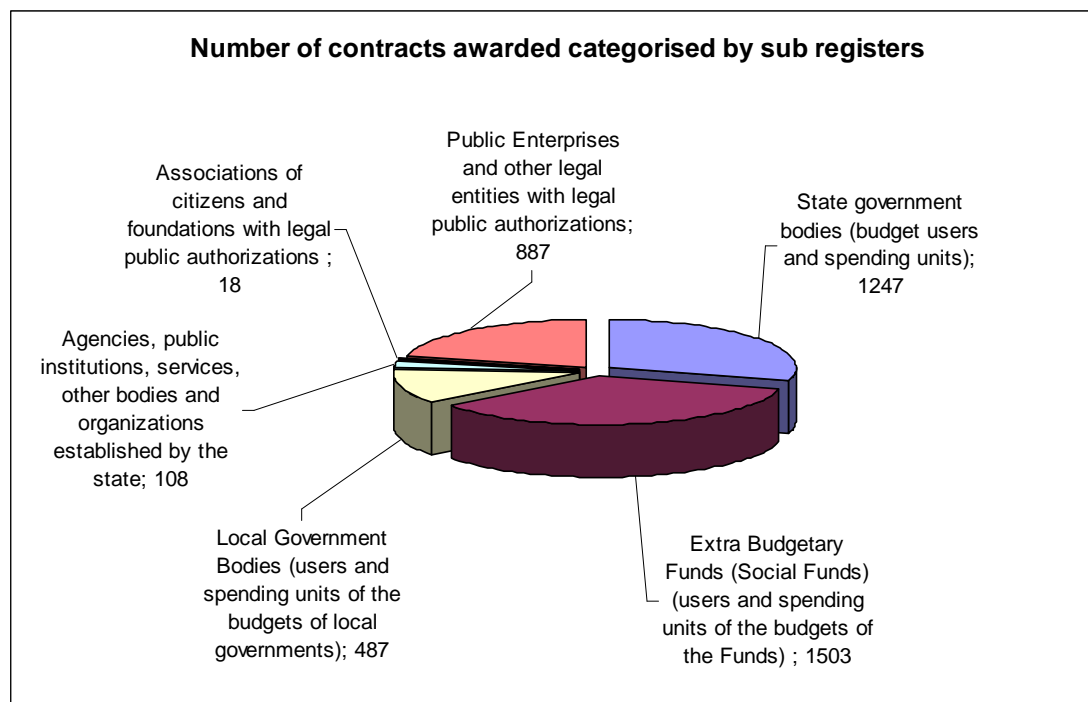
4.3 Data on the number and the value of concluded contracts by sub-registries

Data in the Single registry of procurements on national level are shown through sub-registries and refer to 6 categories of entities, stipulated in Article 18 paragraph 2 of the Law. Table 4 and Charts 10 and 11 show the total number of concluded contracts and their value by sub-registries.

Table 4

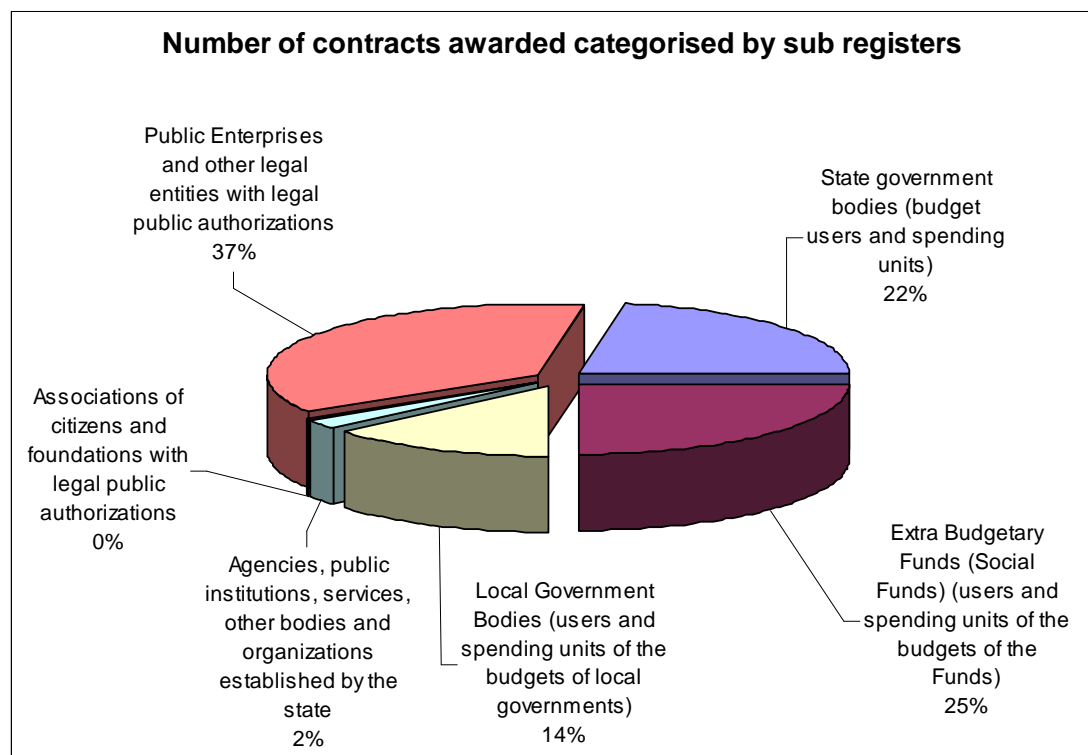
Number of sub-registry	Category of entities by sub-registries	Total number of concluded contracts	Total value of the contracts
1	Budget users and spending units	1.247	2.002.062.799
2	Users and spending units within the budgets of the extra-budgetary funds	1.503	2.221.246.684
3	Users and spending units within the budgets of local government units	487	1.218.955.969
4	Agencies, public institutions and services, other bodies and organizations established by the government	108	196.092.375
5	Associations of citizens and foundations	18	39.000.000
6	Public enterprises and legal entities operating in the area of water supply, energy, transport, telecommunications and utilities	887	3.280.841.848
TOTAL		4.250	8.958.199.675

Chart 10



Majority of concluded contracts (1503 contracts) are in the sub-registry of the users of off-budget funds, budget users and spending units of the Budget of the Republic of Macedonia have concluded 1247 contracts, while public enterprises and legal entities working in the fields of water supply, energy, transport, telecommunications and utility services have concluded 887 contracts.

Chart 11



Unlike the number of concluded contracts by sub-registries, the highest value of concluded contracts is in the category of entities in sub-registry 6, public enterprises and legal entities working in the fields of water supply, energy, transport, telecommunications and utility services in the total amount of Denar 3.280.841.848 or 37% of the total value of concluded contracts. Entities in the sub-registry 2 (users of off-budget funds) have concluded contracts in the amount of Denar 2.221.246.684 or 25% of the total value, while the share of the budget users and the spending units is 22% in the total value of concluded contracts.

4.4 Stated irregularities in the implementation of public procurement procedures

In the past period of the implementation of the Law on Public Procurement, on the basis of the data obtained by the procuring entities – the registry of the procurements Form RJN-1, as well as from the correspondence from multiple bidders, the irregularities could be classified as follows:

- Failure to submit the 2006 Annual plan of public procurements to the Bureau, which is contrary to Article 11 of the Law on Public Procurements,
- Incomplete planning of the procurement needs, resulting in higher number of requests to the Bureau for a negotiated procedure due to extreme urgency for events unforeseen by the procuring entity,
- Publishing a single announcement for open or restricted invitation used by the procuring entities to procure various goods, services and works, which is contrary to Article 57 of the Law on Public Procurement,
- Implementation of only the I phase of the restricted invitation and conclusion of a contract with the selected candidates, without the II phase of the restricted invitation according to Article 63 of the Law,
- Implementation of public procurement procedures without preparation of tender documentation for open or restricted invitation in the manner set in Article 36 paragraphs 6 and 8 of the Law and the Rulebook on the mandatory elements of the tender documentation,
- Implementation of improper procedures for public procurement in relation to the subject to procurement,
- Implementation of public procurement procedures without providing resources in the realization phase of the contract, which leads to partial delivery or failure to deliver the subject to procurement by the supplier,,
- Conclusion of annexes to the basic contracts without prior consent by the Public Procurement Bureau,
- Conclusion of public procurement contracts with negotiated procedure with a value higher than the one obtained in the prior consent by the Bureau.
- Missing Form RJN-1, registry of public procurement at the procuring entities to the Bureau of Public Procurement.

5 Cooperation with the state bodies

The Public Procurement Bureau cooperates with the Public Procurement Complaints Committee, the State Anti-Corruption Commission, the Central Internal Audit Department in the Ministry of Finance and the Commission for Encouragement of Competition. What is a joint component for all bodies in which initial cooperation

was established is that they are “guardians” of the public procurement policy and practice in the Republic of Macedonia and have a responsible for ensuring legality, rationality, efficiency, transparency and encouragement of competition.

Feedback by the State Anti-Corruption Commission, the State Audit Office and the Central Internal Audit Department are of special importance since these information disclose the weaknesses in the regulations which would be of use in the preparation of the new Law on Public Procurement.

During 2006 the Public Procurement Bureau submits to the Public Procurement Complaints Committee and the State Audit Office, which the Bureau drafts with regard to the application of the laws and bylaws upon the request by the procuring entities. In the so-far functioning of the Bureau, it seems necessary to further intensify the cooperation with the Public Procurement Complaints Committee, established in October 2006. The Bureau does not see this cooperation as interference in the operations of the Commission, nor as arbitrary decision-making; on the contrary, the cooperation is imminent in the building of mechanisms for proper and unified functioning of the public procurement system in the Republic of Macedonia, as well as its upgrading in terms of implementation of the EU Directives on public procurement and good international practice.

The State Anti-Corruption Commission, pursuant to the Law on Prevention of Corruption received data on the concluded public procurement contracts and their value on national level.

In order to encourage competition and fight against monopolistic behaviour of certain entities on the market, the Bureau submitted to the Commission for Protection of the Competition 3 requests for an opinion with regard to issues related to competition and elimination of the monopolistic behaviour on the market, for which the Commission gave its opinion so as to encourage competition on the public procurement market in the country.

The Central Internal Audit Department within the Ministry of Finance, in 2006 total of 8 public procurement inspection surveillance procedures were made.

The cooperation between these bodies is necessary from multiple aspects:

- Uniformed application of public procurement legislation,
- The need to exchange information and data on the manner of implementation of the public procurement implementing procedures
- Strengthening of the fight against corruption in the public procurements.

6 International cooperation

The activities of the Bureau on international level during 2006 were the following:

6.1 CARDS Project

The project “Public Procurement Office” was realised in the period September 2004 – May 2006, financed by the CARDS Programme of the European Commission. The project was divided in six main project components:

- Analysis and improvement of the primary and secondary legislation,
- Preparation of standard tender documentation,
- Establishment of the public procurement plan,

- Training activities,
- Design of a website,

6.2 CEFTA

Participation in the negotiations within the Stability Pact in SE Europe for amendments and modifications to the CEFTA Agreement, as well as its signing.

6.3 TAIEX

In November 2006 a request was made for an expert in public procurement for the Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts, and public service contracts as well as Directives on legal protection in the public procurement procedures. The expert in these areas of the public procurement procedures are especially complex areas would be used to assist the drafting of the new text of the Law on Public Procurement.

6.4 SIGMA

Maintaining constant contacts with SIGMA / joint initiative of OECD and EU, financed by the EU, enabled active participation of a consultant in the process of preparation of the text of the Law on Amendments and Modifications to the Law on Public Procurements, which in December 2006 was submitted to the Government of the Republic of Macedonia. The communication with the experts from SIGMA was established in 1998 and it is very open and intensive.

6.5 EC Advisory Committee on Public Contracts

The Advisory Committee on Public Contracts is an advisory body of the European Commission aimed at opening for discussion various problems faced by the Member States in the public procurement system established with the EU Directives on public procurement, discussing the future changes and new solutions to be introduced by the Commission in its legislation. It is held 4 times per year, and the Republic of Macedonia started participating as an observer after obtaining status of a candidate country.

6.6 Sub-Committee on Internal Market

Public procurements are separate chapter in the Action Plan for Accession to the EU. On February 17, 2006 in Skopje a Sub-Committee on internal market and competition was held, whereby one of the items on the agenda were public procurements. The European Commission emphasized that significant efforts are required in this area in the system of legal remedies, continuation of the deadlines for complaints, implementation of the new Directives etc.

The European Commission emphasized that significant progress was made in the harmonization of the public procurement system in the Republic of Macedonia.

6.7 Regional cooperation

In March 2006 the Bureau was visited by the delegation of the Commission for protection of the rights of Montenegro. The objective was to exchange of experiences regarding the functioning of the public procurement system of both countries.

On April 26 and 27, 2006, Regional conference was held in Sarajevo, Bosnia and Herzegovina regarding the reform of public procurements in the Western Balkans,

organized by the Public Procurement Agency of Bosnia and Herzegovina, SIGMA, EUPPP.

On December 7 and 8, 2006 a regional conference was held in Belgrade on protection of the rights in the public procurement procedures. The conference was organized by the OSCE Mission and the Commission for protection of the rights of the Republic of Serbia, covering topics in the area of protection of the rights of bidders in the public procurement procedures.