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# PUBLIC FINANCE MANAGEMENT – PUBLIC PROCUREMENT *in the* **ADMINISTRATION**

PAR Principles Mainstreaming in  
Sectoral Policies – Report for the Republic of North Macedonia



## PUBLIC FINANCE MANAGEMENT – PUBLIC PROCUREMENT

Publication:  
PUBLIC FINANCE MANAGEMENT – PUBLIC PROCUREMENT

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European Policy Institute - Skopje

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Skopje, June 2022

PAR AREA: PUBLIC FINANCE MANAGEMENT – PUBLIC PROCUREMENT  
POLICY SECTOR: ADMINISTRATION  
INSTITUTION: MINISTRY OF FINANCE OF THE REPUBLIC OF NORTH MACEDONIA



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This document has been produced with the financial support of the European Union and the SIDA through the Balkan Civil Society Development Network. The responsibility for the content and information in this publication rests solely with the author, the publisher and the Think for Europe Network. Opinions expressed in this publication do not necessarily represent those of the European Union, SIDA or the Balkan Civil Society Development Network.

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# REPORT SUMMARY

The implementation of public procurement by the Ministry of Finance of the Republic of North Macedonia (hereinafter referred to as the Ministry of Finance) is in accordance with the basic principles of equal treatment, non-discrimination, proportionality and transparency. Thereby, it is concluded that during the implementation of the planned public procurement procedures, efficient use of public funds is ensured by using modern techniques and methods for public procurement through the national e-procurement system.

The Ministry of Finance, through the national e-procurement system, published public procurement plans for both 2021 and 2022. In 2021, they changed or supplemented the plan three times, and as of 30 April 2022, the plan has not been changed.

The implementation of public procurement plans mainly takes place through the Electronic Public Procurement System (hereinafter known as the "Electronic System for Public Procurements" - ESPP).<sup>1</sup> The procedures following the procurement are in full accordance with the Law on Public Procurement. In 2021, small value procurements and procurements with simplified procedure prevail, for which a public procurement notice is published with 73.20 % of the total planned procurements.

Up until April 30, 2022, a simplified procedure for which a notice has been published and a simplified procedure for which a notice has not been published prevail, with a total realisation of 52% compared to the plan. Information regarding public procurement is publicly available on the ESPP system and anyone interested can search, primarily in the area of planned public procurement procedures, for ongoing and completed public procurements. Open and competitive procedures are the main method for conducting public procurement, which ensures maximum accountability for spending public money.

The Law on Public Procurement does not prescribe an obligation for the contracting authorities to prepare and publish reports on the conducted public procurements. The only obligation imposed by the Law on Public Procurement for all contracting authorities is that they should keep separate records for public procurement procedures, and such records are kept in a separate record book in electronic form on the portal ESPP. All documents arising from the appropriate public procurement procedure shall be entered in the record book. Although all contracting authorities are required to keep records of all their public procurement procedures and to submit reports to the Public Procurement Bureau through the national portal ESPP, there are no consolidated reports from their total records.

After a detailed analysis of the requests, it was concluded that the national system for public procurement EPPS in the part of data availability and obligation to publish has a high level of transparency and the transparent process of publishing data for the public procurement needs of the contracting authorities should be continued in the section of the public procurement plan. For the purposes of this research, the public procurement plans that are publicly available on the ESPP and on the website of the Ministry of Finance have been analysed. This transparency trend should continue with the formal process of announcing changes to procurement plans.

In order to monitor the implementation of the public procurement plan month by month, which will increase the responsibility and accountability of the contracting authorities, it is recommended that the contracting authorities have an obligation to publish public data on the reasons for timely non-commencement of planned procurements. In practice, it is often the case that the untimely initiation of planned procedures is a reason to use a non-transparent public procurement procedure by negotiating without publishing for urgent cases.

<sup>1</sup> <https://e-nabavki.gov.mk/PublicAccess/Home.aspx#/home>

Introduction of a new functionality of the ESPP (via an automated message) for the officials responsible for conducting public procurement at the contracting authorities, and the responsible person, is significant for notification in a timely manner of commencement / non-commencement of each item within the planned start of procurement. Additionally, a change is proposed regarding the legislation for the introduction of an obligation for the contracting authorities to enter data on the ESPP for the reasons for not initiating a planned procedure in the month when they are planned.

In order to increase the transparency and accountability of spending public funds, it is necessary the data on the planned procurements be made publicly available and be accompanied by explanations and justifications for each procurement, amendment or supplement to the annual plan for public procurements. In that direction, it is necessary to unify the entry date of relevant data related to the amendment or supplementary to the annual plan in a prescribed form. For every planned procedure for public procurement, there should be information on why the procurement is needed, who (and for whom) is requesting it (internally within the framework of the contracting authority), so as to introduce an obligation to fill in an explanation of the need for the procurement and for possible changes or additions of the annual public procurement plan.

The Law on Public Procurement establishes the framework for conducting public procurement for contracting authorities. In practice, there are varieties of organisational hierarchy of different contracting authorities, so it is necessary for each contracting authority to have internal procedures for action. It is recommended that these procedures are publicly available on the website of the contracting authority, which will ensure the availability of the procedures and the deadlines to which they should focus on.

Publication of the internal procedures for public procurement of the contracting authority will contribute to timely action and compliance with deadlines. A small part of the procedures are not implemented in a competitive way, but this is in accordance with the legal provisions (procedure with negotiation without publication of an announcement, exceptions from the application of the law).

Monitoring the implementation of the public procurement plan is extremely important for each contracting authority for timely and appropriate planning for the coming year. Timely and relevant reporting for starting the planned procurements, and why the planned procurements did not start, should be available to the responsible person of the contracting authority or management authorities depending on the organisational hierarchy.

The preparation of an annual and/or biannual report on the implementation of the public procurement plan will enable the monitoring of the implementation of the annual plan for public procurement by preparing a report on the percentage of realization of planned procurement.

The data for this report should be generated automatically by ESPP and should contain, at the very least, the following data:

1. the number of planned procurements,
2. how many procedures for awarding a public procurement contract have been carried out to date,
3. how many procedures have not been started and the reason(s) for this,
4. how many procedures were cancelled by applicants and the reason for this,
5. the value of the concluded contracts and the difference between the estimated value and the value of the concluded contracts, i.e. the saving that was realised initially, the estimated value, and the final offer.

Then, we suggest that the report on the implementation of the public procurement plan should be reviewed by the responsible person(s) of the contracting authority as information material.

# I.

## INTRODUCTION

### I.1 What does WeBER monitor and how?

Public procurement is not only a way of spending public money, but through it is a mean for us to build our society and our future. Public procurements can be observed from several aspects. The first aspect is to ensure the correct allocation of limited public funds and to get the best value for the money spent. Safeguarding the Competitiveness and increasing the transparency in public procurement procedures help public authorities to procure goods, services and works of the best quality for the lowest price (or appreciating the principle “the best value for money”). Thus, public procurement is the key to efficient public spending. As a result of a good public procurement system, taxpayers’ money is spent more efficiently, economic development is improved, and employment and more competition is generated. The fight against corruption is also one of the objectives of public procurement regulations. Good and transparent public procurement procedures reduce the possibility of fraud and corruption, and thus the possibility of abuses in spending public funds.

The second aspect is the development of the market economy and encouragement of competition. When total public spending is summed up, it can be seen that the public sector is a large consumer that seriously affects the entire economy of a country. Bad and uncompetitive public sector practices can seriously disrupt the functioning of the market. From that aspect, the public procurement system is one of the active regulators and instruments in the field of the market economy. It is a complex system involving many stakeholders, both from the public and private sectors, containing numerous procedures through which a lot of public funds are spent.

The source for providing the data that has been analysed and processed for the needs of this analysis is ESPP, which enables the electronic publication of public procurement plans, announcements and notices for public procurement, electronic bidding, electronic auctions, i.e. the use of electronic funds during the entire procedure for awarding public procurement contracts, and electronic appeal. It is managed and maintained by the Public Procurement Bureau,<sup>2</sup> a body within the Ministry of Finance. It is a centralised national system, and contracting authorities and economic operators are therefore not obliged to develop their own systems. This system uses innovative communication and information technologies and is the best way to reduce costs in the implementation of public procurement, increase transparency, and reduce the possibility of bribery and corruption. The system offers a large number of functionalities and ensures responsibility and trust in the public spending of taxpayers’ money.

In addition, a check was made on the website of the evaluated contracting authority - the Ministry of Finance - in the section on the availability of public procurement data. All the data on the website has been updated in a timely fashion for the current year, and the connection/links of the data with the Electronic System for public procurement has been made accordingly.

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2 <https://www.bjn.gov.mk/>

## I.2 In this Report

This report elaborates the seven requirements for the needs of the analysis, specifically in the section on the transparency and competitiveness of the public procurement practices of the Ministry of Finance, which, as a contracting authority, plans and implements public procurement procedures for its own needs. The analysis was made by studying the Annual Plan for Public Procurement of the Ministry of Finance for 2021 and the current year 2022 (based on publicly available data up until 30/04/2022). The source of the data for the Ministry of Finance is ESPP - <https://e-nabavki.gov.mk/PublicAccess/Home.aspx#/home> and the website of the Ministry of Finance, which has a separate section for public procurement - <https://bit.ly/3Q00ynF>. In order to increase accountability and transparency in the public procurement of ESPP, several opportunities have been introduced in order for the general public to have an insight into them, namely:

- **announcement of the planned public procurements**, which are also available on the website of the Ministry of Finance with data taken from ESPP,
- **publication of the published announcements for public procurement**, which are also available on the website of the Ministry of Finance with data taken from ESPP,
- **publication of the awarded contracts for public procurement**, which are also available on the website of the Ministry of Finance with data taken from ESPP and,
- **publication of completed contracts for public procurement**, which are also available on the website of the Ministry of Finance with data taken from ESPP.

In addition, the contracting authorities are obliged to publish the open procedures and the simplified open procedures in the Official Gazette of the Republic of North Macedonia (hereinafter known as the Official Gazette). The Official Gazette of R.N. Macedonia has a section with announcements, where are published open procedures and simplified open procedures. These information and advertisements are connected to and integrated with ESPP and instantly are published in both media.

**In Part II** - Analyses of this report, an analysis of all seven requirements from the aspect of methodology is made, in which the findings resulting from the analysis of the requirements according to the checklist made on the representative sample of the Annual Plan for Public Procurement of the Ministry of Finance for 2021 and 2022 are elaborated upon in detail for the planned procurements up until April 30, 2022. Information on the relevant legal provisions related to each request is provided, with an analysis of their application and proposals for legal amendments/additions/clarifications and good practices.

**Part III** of this report provides recommendations for filling the identified gaps. The recommendations are specific by specifying the competent institutions for their implementation and the time frame for their implementation in terms of whether they are short-term, medium-term or long-term. The recommendations are in line with the direct intervention of the weaknesses identified through the analysis of the requirements.

# II. ANALYSIS

## Requirement 1: Up-to-date public procurement plans are publicly available

The Ministry of Finance, according to Article 75 of the Law on Public Procurement,<sup>3</sup> is obliged to prepare an annual plan for its total procurement needs in the current year. The plan is divided into three categories by types of goods, services and works. The annual public procurement plan determines the expected start of the procedure and the type of procedure for awarding the contract. In Article 75, paragraph 1, it is prescribed that based on the planned sources of financing, the Ministry of Finance (a contracting authority) adopts a plan for its total procurement needs in the current year by types of goods, services and works according to the Common Vocabulary for Public Procurement - (hereinafter known as the CPV), which determines the subject of procurement, the expected start of the procedure, the estimated value of the contract and the type of public procurement procedure. Article 75 paragraph 3 stipulates that the Ministry of Finance (the contracting authority) is obliged to publish the plan for public procurement in ESPP by the end of January of the current year. Pursuant to paragraph 4, the Ministry of Finance (the contracting authority) is given the opportunity to amend and/or supplement the annual plan during the year in accordance with the planned or provided funds for public procurement, and the Ministry of Finance (the contracting authority) is obliged to publish the same changes on the ESPP.

On the basis of Article 75 paragraph 5 of the Law on Public Procurement, a rulebook<sup>4</sup> was adopted on the form, content and method of preparing the annual plan for public procurement based on which the ESPP has a special functionality and module (web application form in accordance with this rulebook) according to which the annual plan for public procurement contains the total needs for procurement in the current year by types of goods, services and works according to the CPV,<sup>5</sup> the expected start of the procedure, the estimated value of the contract or the framework agreement and the type of procedure for awarding the contract or the framework agreement. The module for publication of the plan is connected with the publication of announcements during the year for each individually entered planned purchase. The process begins with the creation of the ESPP plan by the Public Procurement Unit at the Ministry of Finance, where the planned procedures for the current year are entered, and then through the ESPP it is submitted to the Minister of Finance in the role of a responsible person for approval. After approval, the plan automatically becomes publicly available on ESPP.

Based on the above legal provision, the Ministry of Finance has acted in accordance with Article 75 paragraph 3 of the Law on Public Procurement, i.e. version 1, was published on 21.01.2021 on ESPP within the legal deadline (until the end of January of the current year). These data are also available on the website of the Ministry of Finance. All versions of announcements of the annual plan for public procurement are available on ESPP, and the last version (active for the current year) is available on the website, including new items entered, changed items or deleted items. In 2021, the Ministry of Finance in the ESPP published the following:

3 Official Gazette of the Republic of Macedonia 24/19 and Official Gazette of the Republic of North Macedonia 87/21)

4 <https://www.bjn.gov.mk/podzakonski-akti-zjn/pravilnik-za-godisen-plan-za-javni-nabavki/>

5 Declaration for mutual vocabulary of public procurements (Official Gazette on RN Macedonia N 15/20)



## 1.1 THE ANNUAL PLAN FOR PUBLIC PROCUREMENT OF THE MINISTRY OF FINANCE FOR 2021 HAS FOUR VERSIONS, NAMELY:

- the first version published on 21.01.2021 (basic version),
- the second version published on 14.05.2021,
- the third version published on 21.06.2021,
- the fourth version published on 02.12.2021.

All versions and comparisons are publicly available on ESPP. The data that are the subject of analysis were taken from ESPP.<sup>6</sup>

Comparison between the first and second versions shows the following:

- Four new items have been added.
- Three items have been changed.
- Two items have been deleted.

Comparison between the second and third versions shows the following:

- Three new items have been added.
- One item has been changed.

Comparison between the third and fourth versions shows the following:

- Five new items have been added.
- One item has been deleted.

From the above data, it can be concluded that the Ministry of Finance, in accordance with the data of ESPP, added 12 new items, changed four items, and deleted three items in the section of the published plans for 2021.

**The assessment for 2021 is “Requirement is fully met”.**

## 1.2 ONE VERSION OF THE ANNUAL PLAN FOR PUBLIC PROCUREMENT FOR 2022 OF THE MINISTRY OF FINANCE WAS PUBLISHED ON 28.01.2022.

**The assessment for 2022 is “Requirement is fully met”.**

The Ministry of Finance makes public procurement plans for 2021 and 2022 publicly available on ESPP and on its website (<https://bit.ly/3tdfMw1>) in the e-procurement section, but only for the current public procurement plan. If one needs to search for previous versions or data that have been supplemented with new items, changed or deleted, it is enabled and available through ESPP. In 2021, the public procurement plan was published on 21.01.2021 and it was updated with three amendments that were made on three occasions, on 14.05.2021, 21.06.2021, and 02.12.2021. In 2022, the plan for public procurement was published on January 28, 2022.

Good planning is one of the characteristics by which good professionals responsible for public procurement planning differ from others. This process plays a major role in meeting the real needs of the Ministry of Finance throughout the year. Possible omissions in the planning process can have a negative impact on the successful functioning of the Ministry of Finance in terms of providing goods, performing services and performing works. Usually, this process starts at the beginning of the last quarter of the current year (beginning of September) when it has to determine in advance which goods, works or services will be needed for procurement, when they should be procured, the need for financing or co-financing and which award procedure contract is most appropriate, taking into account the estimated value and the type of the public procurement contract.

<sup>6</sup> <https://bit.ly/3GFFPI0>

This period of beginning with planning corresponds to the period of budget planning, so that these two processes are interrelated and dependent on each other. The estimated value of the contract for public procurement is calculated during the preparation of the annual plan for public procurement, which in accordance with Article 7 of the rulebook on the form, content and method of preparation of the annual plan for public procurement is entered by the Ministry of Finance, but without publishing the estimated value on the public web site of ESPP.

## Requirement 2: Public procurements are launched in accordance with the plan

For the purposes of this request, the last five planned public procurement procedures have been analysed individually for goods, services and works<sup>7</sup> in accordance with the public procurement plan for 2021 and 2022 (up until 30/04/2022) of the Ministry of Finance. The analysis was made in respect to the timely initiation of the planned public procurement procedures. The data that has been analysed is publicly available at ESPP.

Based on the data from the representative sample separately for the last five procedures for public procurement of goods and services in 2021, it can be concluded that:

- in the planned procedures for public procurement of goods out of a total of five procedures, four procedures started according to the planned dynamics and the expected start.
- in the planned procedures for public procurement of services out of a total of five procedures, three procedures started according to the planned dynamics and the expected start, and one procedure is a procedure with negotiation without publication of notice.

Procurements that have not started according to the planned start, have not started for the following reasons:

- The technical specifications for the subject of procurement have not been prepared in the planned month for the start of the procedure.
- Procedures not yet started under the 2021 procurement plan have been transferred and they are planned in the 2022 procurement plan.
- The start of the planned procurement has been postponed.
- In the month when the procurement procedure is planned, the officials for the preparation of the technical specification started preparing the technical specification in the same month, and the procedure started (with a published announcement) the following month.

### **The assessment for 2021 is “Partially met” (because at least three of the planned public procurement of goods and services were started as planned).**

Based on the data from the representative sample separately for the last five procedures for public procurement of goods and services in 2022 (as of April 30, 2022), it can be concluded that:

- in the planned procedures for public procurement of goods out of a total of five procedures, one procedure started in accordance with the planned dynamics and the expected start.

Below are the reasons that procurements have not started according to the plan:

- The start of the planned procurement was delayed.
- At the beginning of the certain month, when the procurement procedure was planned to be completed, the officials for the preparation of the technical specification also started preparing the technical specification, and the procurement started (with publishing the notice) in the following month.

### **The assessment for 2022 is “Not met” (as less than three of planned public procurement of goods and services were launched as planned)."**

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<sup>7</sup> Data in Annex 1 and Annex 2 are attached to this Report

## Requirement 3: Amendments to public procurement plans are clearly visible

This requirement correlates with Requirement 1: Up-to-date public procurement plans are publicly available. All versions of the public procurement plan for 2021 and 2022 of the Ministry of Finance and comparisons are publicly available on ESPP. The data that is the subject of analysis is taken from ESPP. The changes made to the annual public procurement plan for 2021 are clearly visible and updated on ESPP and can be compared with the basic public procurement plan (version 1). In accordance with the legal obligation to publish the annual plan for public procurement in the ESPP, the plan becomes a public document and available to the public. Any interested party can monitor and analyse the method of implementation and realisation of the plan at any time through ESPP and the limited search functionalities. The Ministry of Finance has the option to revise the plan with public procurement procedures that did not initially foresee whenever the need arises or in a certain period (quarterly, biannually or annually). Such revisions of public procurement plans can contribute towards strengthening planning capacities, as they provide insight into weaknesses and deficiencies that have arisen in the planning process and will serve as the basis for planning the following year's needs, thereby the main goal of the plan is achieved.

### 3.1 THE ANNUAL PLAN FOR PUBLIC PROCUREMENT OF THE MINISTRY OF FINANCE FOR 2021 HAS FOUR VERSIONS:

- the first version published on 21.01.2021 (basic version),
- the second version published on 14.05.2021,
- the third version published on 21.06.2021,
- the fourth version published on 02.12.2021.

During the comparison of the first and second versions, comparison of the second and third versions, and comparison of the third and fourth versions, it can be concluded that the Ministry of Finance, according to the data of ESPP in the section of published plans for 2021, added 12 new items, changed four items, and deleted three items. The Ministry of Finance in the ESPP clearly indicated the changes to its public procurement plans for 2021. In the ESPP there is a legend with symbols which is visible what is changing, compared to the initial public procurement plan in terms of addition of new items, deletion of planned items or changed items. In the section 'changed items', a comparison of the changes can be made in terms of changes in the subject of the public procurement contract, in the CPV, in the type of contract, and in the type of procedure or the expected starting month. In this part of the ESPP, the percentage of change of the item is displayed.

**The assessment for 2021 is "Fully met".**

### 3.2 VERSION 1 FOR THE CURRENT YEAR 2022 OF ESPP HAS BEEN PUBLISHED, AND NO CHANGES OR AMENDMENTS TO THE PUBLIC PROCUREMENT PLAN HAVE BEEN MADE TO THIS VERSION (AS OF 30/04/2022), ACCORDINGLY, THE ANNUAL PUBLIC PROCUREMENT PLAN FOR 2022 OF THE MINISTRY OF FINANCE HAS ONE VERSION, PUBLISHED ON 28.01.2022.<sup>8</sup>

**The assessment for 2022 is "Fully met".**

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<sup>8</sup> <https://bit.ly/3xacgVp>

## Requirement 4: Policy options are determined as part of the impact assessment process

This requirement is correlated with requirement 3 of this analysis, where it is crucial to note that an obligation for a formal explanation or justification for amending the public procurement plan is not provided for in the Law on Public Procurement. Namely, in Article 75 of the Law on Public Procurement in Chapter 4, entitled Implementation of the Procedure, in Section 1, Planning and Preparation, it is prescribed that based on the planned sources of financing, the contracting authority adopts a plan for its total procurement needs in the current year by types of goods, services and works according to the CPV, which determines the subject of procurement, the expected start of the procedure, the estimated value of the contract and the type of public procurement procedure. In paragraph 2, it is prescribed that the total procurement needs should include the needs realised as a group procurement or through a central procurement body, as well as the procurement of other specific services.

In accordance with paragraph 5 of article 75, a by-law was adopted that develops the area of planning in the form of a rulebook on the form, content and method of preparing the annual plan for public procurement. Pursuant to this by-law, no obligation was introduced for the contracting authorities, nor was such a form prescribed in which to fill in data for justifications and reasons for the need for procurement for each item or for their possible modification, addition or deletion. This data is not available on ESPP.

No data is available on the budget implications, when changes are made to the items (the data on the estimated value of the item is not visible on the public portal of ESPP) during decreases in the estimated value of the item or an increase in the estimated value of the item. There is no available data on the analysis of the market by the Ministry of Finance, which is carried out by the public procurement officers after the publication of the public procurement plan of ESPP in the financing section.

In the analysed sample of the published annual plan for public procurement for 2021 and 2022 (as of 30.04.2022) the Ministry of Finance, did not added any remarks in the prescribed section for remarks,, with an explanation or a reason for amending or supplementing the public procurement plan. In the Ministry of Finance, before the public procurement plan is approved, data is required from all organisational units (departments, divisions, bodies without the status of a legal entity), in order to report their procurement needs. Based on the reported needs, public procurement officers within the Department of Legal Affairs integrate the data into the prescribed form of public procurement plan. At this stage, consultations are made with the Department of Financial Affairs of the Ministry of Finance in order to match the data with the estimated value, individually for each item, and in total for the entire public procurement plan.

In the analysed sample, no amendments were made to the Law on Public Procurement, which should change the type of procedure for public procurement, nor was there an attempt to avoid the implementation of the law, where the type of procedure was changed from a regular open procedure to a procedure with negotiation without publication of an advertisement. The analysis states that in the public procurement plan for 2021 in version 4, which was published on 02.12.2021, the plan was supplemented with a new item by applying a negotiation procedure without publishing an advertisement for the subject of procurement for maintenance of an application program for fixed assets with an expected start date of December 2021. For this procedure, in accordance with Article 55 paragraph 5 , the Ministry of Finance is obliged to receive a positive response from the Public Procurement Bureau on the fulfilment of the conditions for implementing this procedure. Published data that received a positive response from the Public Procurement Bureau on 15.12.2021 can be found on the ESPP, as well as notification of a concluded contract on 14.03.2022. Based on these data, it can be concluded that the Ministry of Finance started and conducted the negotiation procedure without publishing notice in accordance with the addition of a new item to the public procurement plan in December 2021 and for this procedure it has available data and published documents on ESPP in accordance with the obligations of the Law on Public Procurement.

**The assessment for 2021 and 2022 is “Not met”.**

## Requirement 5: Contracting authority conducts open/competitive public procurement procedures

The Law on Public Procurement prescribes the following types of procedures for awarding contracts for public procurement:

- **Small-value procurements** carried out for procurements of goods and services with an estimated value of up to 10,000 euros and of works up to 20,000 euros. The procurement of small value is done by publishing a notice for procurement of small value, with the minimum deadline for submission of bids being seven days, or through the electronic market for small-value procurements on the ESPP, for standard goods and services.
- **A simplified open procedure** is carried out for the procurement of goods and services with an estimated value of up to 70,000 euros and works up to 500,000 euros. In the simplified open procedure, any interested economic operator may submit a tender in response to the contract notice published, with the minimum time limit for the receipt of tenders being 15 days from the date on which the contract notice was published on the ESPP.
- **An open procedure** is carried out in one phase and can be carried out for each procurement item, whereby any interested economic operator can submit an offer with the necessary documentation for determining capability and all other documentation in accordance with the conditions of the tender's documentation. The minimum deadline for submission of bids is 30 days from when the contract notice was published on the ESPP.
- **A limited procedure** is carried out in two stages (pre-qualification and submission of bids) and can be carried out for any item of procurement, whereby any interested economic operator may submit a request to participate in response to the contract notice published. In addition to the application for participation, the documentation for determining the ability according to the conditions of the tender documentation for the first phase is submitted. The minimum time limit for submitting applications for participation in public procurement is 30 days from when the contract notice was published on the ESPP. The minimum deadline for submitting bids is 25 days from the date of sending the invitation to submitting a bid.
- **A competitive procedure with negotiation** can be conducted only in certain cases established by law. In the competitive procedure with negotiation, any interested economic operator may submit a request to participate in response to the contract notice published. The minimum deadline for submitting applications for participation is 30 days from the day of publication of the announcement, while the minimum deadline for submitting initial offers is 25 days from the day of sending the invitation to submit an initial offer.
- **Competitive dialogue** can be used if certain cases established by law are met. The competitive dialogue is conducted in three phases, namely the pre-qualification phase, the dialogue phase, and the final offer submission phase.
- **An innovation partnership** can be used if the contracting authority has a need for innovative goods, services or works, which cannot be satisfied by the procurement of goods, services or works already available on the market. In the innovation partnership procedure, any interested economic operator can submit an application for participation, to which they attach the necessary documentation for determining ability.
- **A negotiated procedure without publication of notice** can be carried out only in certain cases established by law. In certain cases (urgency, technical or artistic reasons) the contracting authority may start the negotiation procedure without publication of notice only after receiving a prior opinion from the Public Procurement Bureau. The contracting authority is not obliged to obtain a prior opinion before carrying out a negotiation procedure without publication of notice if there is a direct threat to human safety, life and health. The contracting authority has an obligation in the decision on public procurement when using this procedure to state and explain the reasons for choosing the procedure with negotiation without publication of notice. When recording this procedure, the contracting authority is obliged to attach the opinion of the Public Procurement Bureau to the notice of the concluded contract in cases where this is mandatory.

In 2021, the Ministry of Finance on ESPP published a total of 97 public procurement procedures, of which:

- 76 procedures were not published, i.e., they had not started.
- 21 procedures were not published, that is 17 had not started, and for four procedures used a negotiated procedure without publication notice.

According to the type of procedure for awarding a public procurement contract, the following types of procedures are planned:

- 48 procurement of small value, of which the notice was published for 39 procurements of small value, and for nine no notice was published, that is, the planned procurement procedure was not carried out;
- 40 simplified open procedures, of which the notice was published for 32 simplified open procedures, and for eight no notice was published, that is, the planned procurement procedure was not carried out;
- Five open procedures and an advertisement had been published for all of them;
- Four procedures with negotiation without publishing notice, and
- No procedures had been published in the form of limited procedure, competitive dialogue, competitive procedure with negotiation, special services and innovation partnership.

Based on the above data for the year 2021, it is established that for 76 procedures for public procurement, a regular and competitive procedure was used, that is, a procurement method was used in which all interested economic operators could submit an offer, and based on contract notices published on ESPP through which the start of the public procurement procedure is announced.

In 2022, the Ministry of Finance on ESPP announced a total of 97 public procurement procedures, of which 50 should be implemented by 30/04/2022:

- An announcement was published for 24 procedures, that is, they have started.
- For 26 procedures, no announcement was published, that is, 25 were not started, and for one procedure a negotiated procedure without publication of notice was used.
- According to the type of procedure for awarding a public procurement contract, the following types of procedures are planned until April 30, 2022:
- 19 procurements of small value, of which nine procurements of small value were published, and for 10 no announcement was published, that is, the planned procurement procedure was not carried out;
- 26 simplified open procedures, of which 12 simplified open procedure notices were published, and for 14 no announcements were published, that is, the planned procurement procedure was not carried out;
- Four open procedures, of which notice was published for three open procedures, and for one no announcement was published, that is, the planned procurement procedure was not carried out;
- One procedure with negotiation without publishing notice, and
- No procedures were published in the form of limited procedure, competitive dialogue, competitive procedure with negotiation, special services and innovation partnership and low value procurement through e-market .

Based on the above data for the year 2022 (until 30.04.2022), it is concluded that for 24 public procurement procedures, a regular and competitive procedure was used, i.e. a procurement method was used in which all interested economic operators could submit an offer based on published notice on ESPP announcing the beginning of the procedure for public procurement.

The Ministry of Finance implemented a greater percentage of competitive procedures which, according to the Law on Public Procurement, and based on the estimated value, are prescribed as procurement of small value, simplified open procedure and open procedure. A small number used the non-transparent procedure with negotiation without publication of a notice. The tables below show the data on published/unpublished public procurement procedures and by type of procedure.

## DATA FOR 2021

Table 1 Published public procurement procedures in 2021

Planned procedures	Number of procedures	%
Has published a notice /are started.	76	78.35%
Procurement procedures have not been initiated.	17	17.53%
Negotiated procedure without publication of a contract notice.	4	4.12%
<b>Total</b>	<b>97</b>	<b>100%</b>

Table 2 Planned procedures by type of procedure for awarding a public procurement contract in 2021

Procedure name	Number of procedures	%
Small-value procurement for which an advertisement has been published.	39	40.21%
Small-value procurement for which no advertisement has been published.	9	9.28%
A simplified open procedure for which an advertisement has been published.	32	32.99%
Simplified open procedure for which no advertisement has been published.	8	8.25%
Open procedure for which an advertisement has been published.	5	5.15%
Negotiated procedure without publication of a contract notice.	4	4.12%
<b>Total</b>	<b>97</b>	<b>100.00%</b>

## DATA FOR 2022

Table 3 Published public procurement procedures in 2022 (as of 30.04.2022)

Planned procedures	Number of procedures	%
Has published a notice /are started.	24	48.00%
Procurement procedures have not been initiated.	25	50.00%
Negotiated procedure without publication of a contract notice.	1	2.00%
<b>Total</b>	<b>50</b>	<b>100%</b>

Table 2 Planned procedures by type of procedure for awarding a public procurement contract in 2021

Procedure name	Number of procedures	%
Small-value procurement for which an advertisement has been published.	9	18%
Small-value procurement for which no advertisement has been published.	10	20%
A simplified open procedure for which an advertisement has been published.	12	24%
Simplified open procedure for which no advertisement has been published.	14	28%
Open procedure for which an advertisement has been published.	3	6%
Open procedure for which no advertisement has been published.	1	2%
Negotiated procedure without publication of a contract notice.	1	2%
<b>Total</b>	<b>50</b>	<b>100.00%</b>

**The assessment for 2021 and 2022 is “Partially met”.**

## Requirement 6: Average number of bidders in open/competitive procedure

Based on the individual data on the procedures of the Ministry of Finance in relation to the average number of bidders, it can be stated that in the small value procurement the number of bids is lower (from one to three bids), compared to the number of bids in the open procedure and the simplified open procedure which is larger (from two to seven offers). In the procedure with negotiation without publication of notice, the number of bids is one due to the specificity of the subject of procurement, where only one bidder can perform the procurement.

**The assessment for 2021 and 2022 is “Partially met”.**

## Requirement 7: Annual reports encompassing all conducted public procurements are publicly available

The Ministry of Finance has not published data on the realisation of the public procurement plan for 2021 on the ESPP, nor on its website. This finding is the same for 2022 (as of April 30, 2022). No public procurement reports were found for any sampled central level contracting authority for the past two calendar years.

In the Law on Public Procurement, there is no prescribed obligation for the Ministry of Finance to prepare a report (monthly, quarterly, biannual or annual) with data on the number of planned procedures for public procurement, the number of initiated procedures, the number of decisions made for selection/cancellation, the number of concluded contracts, number of procedures with negotiation without publishing notice, number of administrative controls by the Public Procurement Bureau, number of complaints, etc.

Based on the above data, it is ascertained that the Ministry of Finance has not published on ESPP nor on its website an annual report on the planned and implemented public procurement procedures for 2021, nor a quarterly report for 2022 (until 30.04.2022). The monitoring of the implementation of the annual plan for public procurement is preferably done on a quarterly basis by submitting a report on the degree of realisation of the planned procurements, including:

- how many procurements were planned,
- how many procedures for awarding a public procurement contract have been carried out,
- how many procedures have not been started and the reason for that,
- how many procedures were cancelled by the claimants and the reason for that,
- the value of the concluded contracts and the difference between the estimated value and the value of the concluded contracts, that is, the saving on the initially estimated value and the final bid.

This report on the implementation of the public procurement plan is recommended to be reviewed by the responsible person(s) from the Ministry of Finance as informational material. In this way, the responsible person(s) will have insight into the degree of realisation of the plan for public procurement, as well as certain changes for the needs of the Ministry of Finance or difficulties in the implementation of regular planned procedures. The Department for Legal Affairs at the Ministry of Finance, the Division for Public Procurement should introduce a procedure for the preparation of a report on the implementation of the plan for public procurement.

**The assessment for 2021 and 2022 is “Not met”.**



## Final assessment of the requirements

Requirement	Final assessment
Requirement 1: Up-to-date public procurement plans are publicly available.	Fully met
Requirement 2: Public procurements are launched in accordance with the plan.	Partially met
Requirement 3: Amendments to public procurement plans are clearly visible.	Fully met
Requirement 4: Amendments to public procurement plans are duly justified.	Not met
Requirement 5: Contracting authority conducts open/competitive public procurement procedures.	Partially met
Requirement 6: Average number of bidders in open/competitive procedures.	Partially met
Requirement 7: Annual reports encompassing all conducted public procurements are publicly available.	Not met

# III.

## RECOMMENDATIONS FOR IMPROVEMENTS

Requirement	Recommendation/ short-, mid-, or long-term intervention	Commentary
1. Up-to-date public procurement plans are publicly available.	To continue with the transparent publication process.	During the period subject to this research, the plans are publicly available.
2. Public procurements are launched in accordance with the plan.	<ol style="list-style-type: none"> <li>1. Introduction of an automated message through ESPP to public procurement officers in the Ministry of Finance and the responsible person(s) for the timely start of each item within the planned start. (mid-term).</li> <li>2. Introduction of an obligation to enter data on the ESPP on the reasons for not starting a planned procedure in the month when it is planned (mid-term).</li> </ol>	In order to monitor the implementation of the Public Procurement Plan by month, which will increase the responsibility and accountability of the contracting authorities, it is necessary for the institutions to publish public data on the reasons for not starting on time for certain items/procurements. In practice, it often happens that the untimely start of the planned regular procedures is the reason to use a non-transparent negotiation procedure without publishing notice due to urgency.
3. Amendments to public procurement plans are clearly visible.	To continue with the transparent process of publishing the changes and amendments to the procurement plan.	During the period subject to this research, the changes to the plans are publicly available.
4. Amendments to public procurement plans are duly justified.	Introduction of a legal obligation and prescription of a form on which all relevant data related to the amendment or addition of the public procurement plan will be specified. For each item to state who requests the change (internally within the framework of the contracting authority), introduce an obligation to state a rationale for the need. (mid-term).	The analysis showed that this requirement is not fulfilled, and at the same time there is no legal provision that would make it mandatory. The recommendation is aimed at increasing the accountability and transparency of the contracting authority.
5. Contracting authority conducts open/ competitive public procurement procedures.	Introducing a mandatory legal obligation to publish the internal procedures, respecting the deadlines. (mid-term).	A small part of the procedures are not carried out in a competitive manner, but this is in accordance with the legal provisions.
6. Average number of bidders in open/competitive procedures.	<ol style="list-style-type: none"> <li>1. Introduction of new procurement functionalities e-catalogue, dynamic purchasing system.</li> <li>2. Introducing functionality for qualified and capable bidders through which there will be easier access to bidding.</li> <li>3. Timely payment of obligations under concluded contracts.</li> </ol>	In order to increase competition, it is suggested that bidders have easier access to the public procurement system and timely servicing of payment obligations by contracting authorities.

<p>7. Annual reports encompassing all conducted public procurements are publicly available.</p>	<p>4. Monitoring of the realisation of the annual plan for public procurement should be entered as an obligation in the Law on Public Procurement and should be done on a quarterly or annual level by preparing a report on the degree of realization of the planned procurements.</p> <p>5. This report should be automatically generated by ESPP and should contain at least the following data: how many procurements were planned, for how many procedures for awarding a public procurement contract were carried out, how many procedures were not started and the reason for that, how many procedures were cancelled from the claimants and the reason for it, the value of the concluded contracts and the difference between the estimated value and the value of the concluded contracts, that is, the saving that was realised initially estimated value and the final bid.</p>	<p>Currently, there is no legal obligation to prepare an annual and/or quarterly report on public procurement.</p>
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# APPENDICES

## Free access to information requests

1. Analysis of the last five procurements of goods and services from the public procurement plan of the Ministry of Finance for 2021.
2. Analysis of the last five procurements of goods and services from the public procurement plan of the Ministry of Finance for 2022.

## Interviews

Institution/Organisation	Position	Date	Place
Ministry of finance	Public procurement officer	20.05.2022	Interview

## Other sources

1. Law on Public Procurement (Official Gazette of the Republic of Macedonia no. 24/19), <https://www.bjn.gov.mk/zakon-za-avni-nabavki/zakon-za-avni-nabavki/>
2. Law on Amendments to the Law on Public Procurement (Official Gazette of the Republic of North Macedonia no. 87/21), [https://www.bjn.gov.mk/wp-content/uploads/2021/05/ZJN\\_izmena.pdf](https://www.bjn.gov.mk/wp-content/uploads/2021/05/ZJN_izmena.pdf)
3. Rulebook on the Contents of the Annual Plan for Public Procurement (Official Gazette of the Republic of Macedonia no. 64/19), <https://www.bjn.gov.mk/category/podzakonski-akti/>
4. Rulebook on the manner of keeping records of public procurement procedures, as well as the content of the record book (Official Gazette of the Republic of Macedonia no. 64/19), <https://www.bjn.gov.mk/category/podzakonski-akti/>
5. Rulebook on the Manner of Utilisation of the Electronic System for Public Procurement (Official Gazette of the Republic of Macedonia no. 64/19 and 271/19), <https://www.bjn.gov.mk/category/podzakonski-akti/>
6. Strategy for improving the public procurement system in Republic of North Macedonia for the period 2022-2026 (December 2021), <https://www.bjn.gov.mk/category/strateshki-dokumenti/>
7. Action Plan for 2022 to implement the Strategy for improvement of the public system Procurements in the Republic of North Macedonia for the period 2022-2026, <https://www.bjn.gov.mk/category/strateshki-dokumenti/>
8. Brochure - Procurement Planning (published on web site on Public Procurement Bureau: <https://www.bjn.gov.mk/prirachnici-za-avni-nabavki/broshura-planra-e-na-nabavkite/>

# ANEXX

## Analysis of the last five purchases of goods and services from the public procurement plan of the Ministry of Finance for 2021

- Section for contracts and framework agreements for **public procurement of goods** for 2021, the following public procurement procedures are planned as the last five:

Subject matter of contract	Type of contract	Type of procedure	Expected start	Announcement (YES/NO)
Fuel for official motor vehicles and fuel.	Goods	Simplified open procedure.	December	YES
Support and subscription of licences for HCL Domino Collaboration Express.	Goods	Simplified open procedure.	December	YES
Printed editions of daily and periodical newspapers.	Goods	Small-value procurement.	December	YES
Support and subscription of licences for data protection and archiving.	Goods	Simplified open procedure.	December	NO
Multifunction devices and printers.	Goods	Small-value procurement.	December	YES

- Section for contracts and framework agreements for **public procurement of services** for 2021, the following public procurement procedures are planned as the last five:

Subject matter of contract	Type of contract	Type of procedure	Expected start	Announcement (YES/NO)
Maintenance and servicing of electrical distribution and lighting of a building.	Services	Small-value procurement.	December	NO
Maintaining an application program for fixed assets.	Services	Procedure with negotiation without publishing notice	December	YES
Washing/cleaning of official vehicles.	Services	Small-value procurement.	December	YES
Maintenance and servicing of the heating, cooling, ventilation system (HVAC).	Services	Simplified open procedure.	December	YES
Hacking security check (penetration testing).	Services	Small-value procurement.	December	YES

- No ESPP records were found for contracts and framework agreements for **public procurement of works** for 2021, which means that the Ministry of Finance has no planned public procurement of works in 2021 at all.





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