



**Vademecum**  
on **Member States' Defence**  
**Procurement Practices**  
for **EDA Defence Procurement Gateway**

1 September 2021

## Revision History<sup>1</sup>

DATE	VERSION	REVISION CLASS	COMMENTS
10 October 2014	v.0.0	-	Initial version published at EDA Defence Procurement Gateway
20 February 2018	v.1.0	Intermediate	Updated version incorporating proposed changes from CZ, EE, SI and adding new sections for ES, LV practices
5 March 2018	v.1.1	Minor	Updated version incorporating input received from IT and NO
15 February 2019	v.1.2	Minor	Updated version incorporating input received from BE and
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16 December 2020	v.2.1	Minor	Updated version incorporating input received from HR and IE
1 September 2021	v.2.2	Minor	Updated version incorporating input received from EL

<sup>1</sup> For any comments or proposals for updates of this document please contact the relevant EDA PoC at [costas.tataroglou@eda.europa.eu](mailto:costas.tataroglou@eda.europa.eu) or [ise@eda.europa.eu](mailto:ise@eda.europa.eu).

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**AUSTRIA**

**1 Overview of defence procurement policy**

The Aim of the Austrian MoD’s Directorate General III (Assets Provision) is to equip the Austrian Armed Forces with the appropriate materiel in quality and quantity, infrastructure and services.

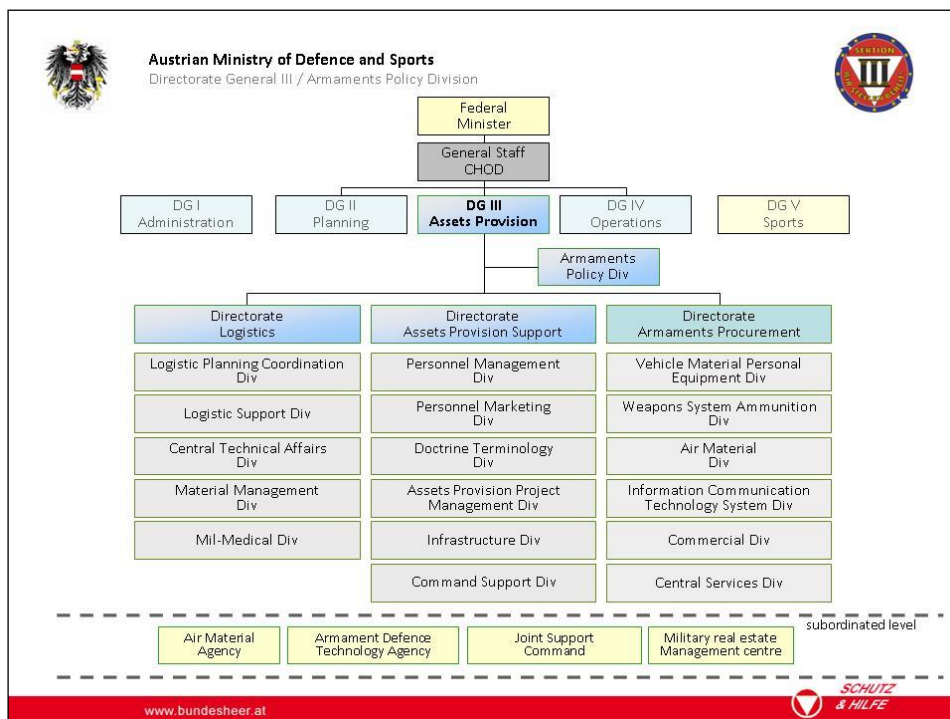
Therefore it is necessary:

- to realize armament programmes effectively and efficiently;
- to find cooperative solutions concerning procurement, maintenance, and supply;
- to create a national and an international framework;
- to foster international cooperative activities;
- to promote research & technology;
- to facilitate the creation of a national and an international armament market in the Euro Atlantic context.

Armament Policy as part of the Defence Policy, includes all measures to ensure

- within the national and international context;
- an effective and efficient realisation of the needs of the Austrian Armed Forces;
- making them able to act in quality and quantity during national and international operations.

**2 Organisation (simplified organisational chart)**



### 3 Public contracts procurement

- 3.1 In general, any procurement of the Austrian MoD is done according to the Federal law. The relevant legislation in Austria regulating Public Procurement Law is the Federal Procurement Act (“BVerG”) and the Federal Defence and Security Procurement Act (“BVerGVS”). The BVerG implements the Directives 2004/17/EC, 2004/18/EC and 2007/66/EC and therefore covers the legal framework for the award of both public contracts from public entities and entities operating in the water, energy, transport and postal sectors (“sectoral entities”).
- 3.2 Since April 2012, defence procurement is covered by the BVerGVS implementing the Directive 2009/81/EC. As the provisions of the BVerGVS are only applicable in relation to the procurement of certain (defence and security) products and services, contracting authorities in the field of security and defence are (still) subject to the rules of the BVerG in relation to all procurement activities not subjected to the defence and security acquisitions covered by the BVerGVS. However, neither the BVerGVS nor the BVerG shall apply to public contracts when they come under the exemptions of Art 346 of the Treaty on the Functioning of the European Union (TFEU).

Both the BVerGVS and the BVerG cover the main principles and rules on public procurement procedures, including the different types of award proceedings and competences on appeal procedures for the Federal State, the provinces, and the municipalities. They do so not only for purchases above certain thresholds, but also for those below such thresholds.

- 3.3 As procurement within the scope of Article 346 of the TFEU is exempted from the application of the European directives on public procurement and consequently exempted from both, the BVerG and the BVerGVS, the procurement procedure follows – according to internal rules – the Austrian standard “ÖNORM A 2050, edition 1957”, issued by the Austrian Standards Institute (<http://www.austrian-standards.at>). The main principles of these regulations are the award of contracts in a competitive manner and the equal treatment of bidders. Following the principle of competition, the open procedure has primarily to be taken. The use of the restricted procedure is limited to the cases specified in Art 346 TFEU or exempted from the BVerGVS and the BVerG, such as procurement for research, study or development.

## 4 Policy and regulations

### a. Quality assurance standards

Generally, quality assurance standards are an integrated part of the defined requirements. In addition to proven quality management systems of partners and suppliers, quality of defence systems is assured according to the defined respective quality plans. For commercial of the shelf products quality assurance is generally reduced to a test of functionality. To reduce costs of quality assurance and to use local experience, Austria is interested in the delegation of government quality assurance for defence systems to the authorities of the producer nation to the greatest possible extend.

### b. Environmental management standards

All products and services have to comply with EU and Austrian Environmental Laws.

### c. Intellectual Property Rights

Austrian right applies exclusively to all contracts, except all regulation of the UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS (national law gazette Nr.

96/1988 in the latest version) and the Regulations of the Federal Law of International Private Law (IPRGesetz, national law gazette Nr. 304/1978 in the latest version). For all disputes under the contract in hand, the parties of the contract agree the local competence of the court with the jurisdiction for 1010 Vienna. The Federal Republic of Austria has to be kept harmless and without complaining in case of infringement of patent rights against damage claims of third parties.

#### **d. Standards reference**

The following certificates must be provided with the offer when requested:

Official verifications: commercial register report and trade or industry commercial authorization, or the confirmation which is intended there, or a declaration in Lieu on oath. Documents of the security check.

Economic and financial verifications: revenues from the past three years, balance sheets, validations of the fiscal authorities, validations of the social security offices, and credit ratings by the Association for the Protection of Creditors.

Quality management systems: standards according to EN, ISO 9001:2008, AQUAP, STANAG, occupational health and safety regulations etc. and quality management plans.

This is an incomplete list of standards references. Additional documents must be delivered on request. The Austrian MoD accepts documents issued by foreign governmental authorities or similar documents of the country of origin of the entrepreneur. If requested, an official translation of the documents will be necessary.

#### **e. Security clearance**

Facility Security Clearance/ Personal Security Clearance. If an enterprise seeks a classified contract with the Austrian Armed Forces, the enterprise has to submit a Facility Security Clearance issued by the relevant national authority (state where the enterprise headquarter is located). The certified security classification has to correspond to the security classification of the information to be transmitted. Only after submitting such a certificate, access to and/ or transmission of classified information is possible. Should, in the course of processing a classified contract, enterprise personnel require access to areas of higher security classification, a Personal Clearance issued by the relevant national authority (state where the enterprise headquarters is located) is to be submitted three weeks prior to the visit.

#### **f. VAT – importing – customs**

DAP consignee (INCOTERMS 2010); The bidder has to obtain all import licences and other official approval on his own expense and risk.

#### **g. Offset**

Since 1 July 2009 Austria follows the Code of Conduct on Offsets. Any offset measures are taken in accordance with Art. 346 TFEU and Directive 2009/81/EC.

The standard procedure will run as follows: If there is an current interest in offsets with a procurement of the Austrian MoD, appropriate information will be given in the contract notice (EBB) and in the call for tenders. The tenders and the offers of offsets (offset is no award criterion in the procurement procedure) will be valuated strictly separated. First of all the tender itself has to meet all the military requirements and will be ranked by the MoD in regard to most value for money. After the Federal Ministry of Defence

and Sports has decided upon the best bidder of the procurement the Federal Ministry of Economy concludes an offset agreement with this company.

Finally there will be two separate contracts, one for the item to be procured between the prime contractor and the MoD and the other for the offsets between the prime contractor and the Federal Ministry of Economics. (more information on <http://www.eda.europa.eu/offsets/viewpolicy.aspx?CountryID=AT>)

#### **h. Security Supply**

The Austrian Army (ÖBH) expects its contractors to guarantee the security of supply for the whole duration of use of the product in the Austrian Armed Forces.

#### **i. Supply chain management**

As Tier 2 member of the NATO Codification System (NCS), Austria is interested in using NCS as a uniform and common system for identification, classification and stock numbering of Items of Supply to achieve maximum effectiveness in logistics support and to facilitate materiel data management.

#### **j. Relations with SME**

Austria has the intention to let Austrian SME participate in greater programmes.

#### **k. Reserved Contracts**

At the moment no such contracts are known by the Procurement Division.

#### **l. Payment to contractors**

The performances listed in the specifications have to be supplied with the fixed price of each unit and also with the fixed total price and have to be offered – except VAT, purchase tax, import VAT in Austria – to fixed prices in EURO, which are unchanging until the complete fulfilment of the performance, even there is a change in the price basis. Advance payments need an explicit agreement and occur exclusively on presentation of a valid executed bank guarantee.

#### **m. E-Procurement**

Although e-procurement had found its way into non-military fields (e.g. works, travel bookings), the MoD has not conducted any e-tendering for military products so far. Electronic tender announcements on different platforms (national and TED-website) are standard, however infrastructure for a full implementation of military e-procurements has to be obtained.

#### **n. Other**

All offers have to be built in German. The language of the contract is German.

### **5 Resolution of disputes**

Have a look at 4. c. Any decision of a court of arbitration or of an international tribunal will not be accepted.

### **6 National Official Journal platform**

Principally almost all planned purchases of Austrian contractors have to be announced. The relevant legal stipulations can be found in §§ 46-55 of the Federal Procurement Act (“BVerG”) and the corresponding stipulations in §§ 38-47 of the Federal Defence and Security Procurement Act (“BVerGVS”).

The Federal Procurement Act demands the announcement of the following phases of the procedure:

1. Prior information notice (optional, if done shorter deadlines can be set for the submission of tenders) - § 53 (Advance information at least 52 days and at the latest 12 months before sending of the announcement of the request for tender). Planned purchase (information concerning the request for tender)
2. An announcement of request for tender (intended purchase) is principally always required.
3. An announcement of awarding of contract (agreed upon purchase) is generally required. Following the principles of transparency within the public administration, it has been adopted by national law that media purchase procedures have to be announced.

On the 'central level' announcements are currently made via the 'Lieferanzeiger' of the 'Wiener Zeitung' (Austrian official gazette): <http://www.lieferanzeiger.at>; MoD-announcements are published on the MoD-website: <http://www.bmlvs.gv.at>

## **7 Contact**

Directorate General III (Assets Provision)

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MoD-website: <http://www.bmlvs.gv.at>

Office located at: Franz Josefs Kai 7-9, 1010 Vienna, Austria



**BELGIUM**

1. Overview of national Defence Procurement Policy
2. Defence procurement organisation
3. Defence procurement
  - a. Procurement national legislation / regulations
    - i. For procurement under Classical Directive 2004/18/EC
    - ii. For procurement under Defence & Security Procurement Directive 2009/81/EC
    - iii. For other defence procurements (Article 346 TFEU, below thresholds...)
  - b. Procurement planning process (including examining potential cooperation or joint procurement)

- c. Procurement budget – the process
      - d. Standard documents requested to evidence eligibility of a supplier
4. Policy and regulations
  - a. Quality assurance standards
  - b. Environmental management standards
  - c. Intellectual Property Rights
  - d. Standards reference
  - e. Security clearance
  - f. VAT – Importing customs
  - g. Security of Supply
  - h. Supply Chain management
  - i. Relation with SME
  - j. Reserved contracts
  - k. Payment to contractors
  - l. E-Procurement
  - m. Other
5. Resolution of disputes
6. National official Journal platform
7. Contact

**1. Overview of national defence procurement policy**Material resources management:

- Integrated management of material resources.
- Rationalisation of processes.
- Application of modern management methods and modern, efficient IT tools.
- Development of a corporate culture and adequate education /training of people.

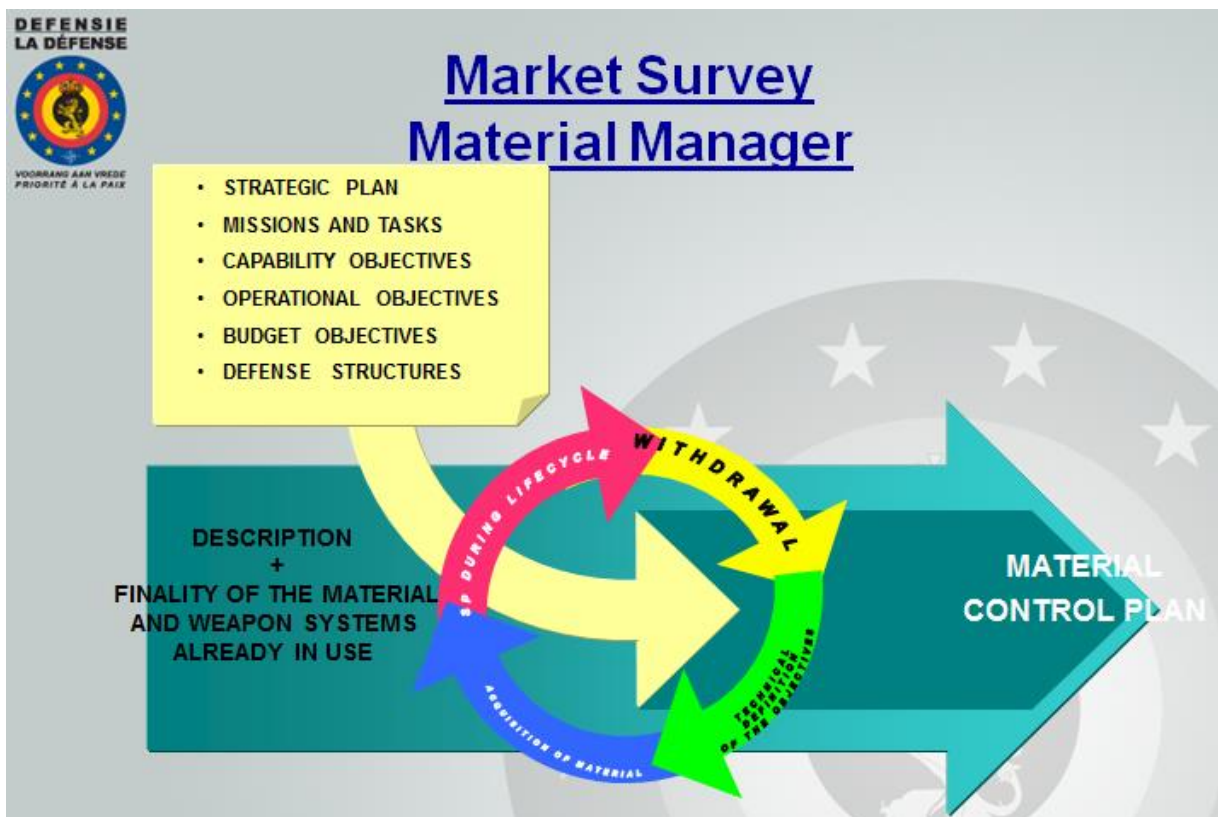
Integrated management :

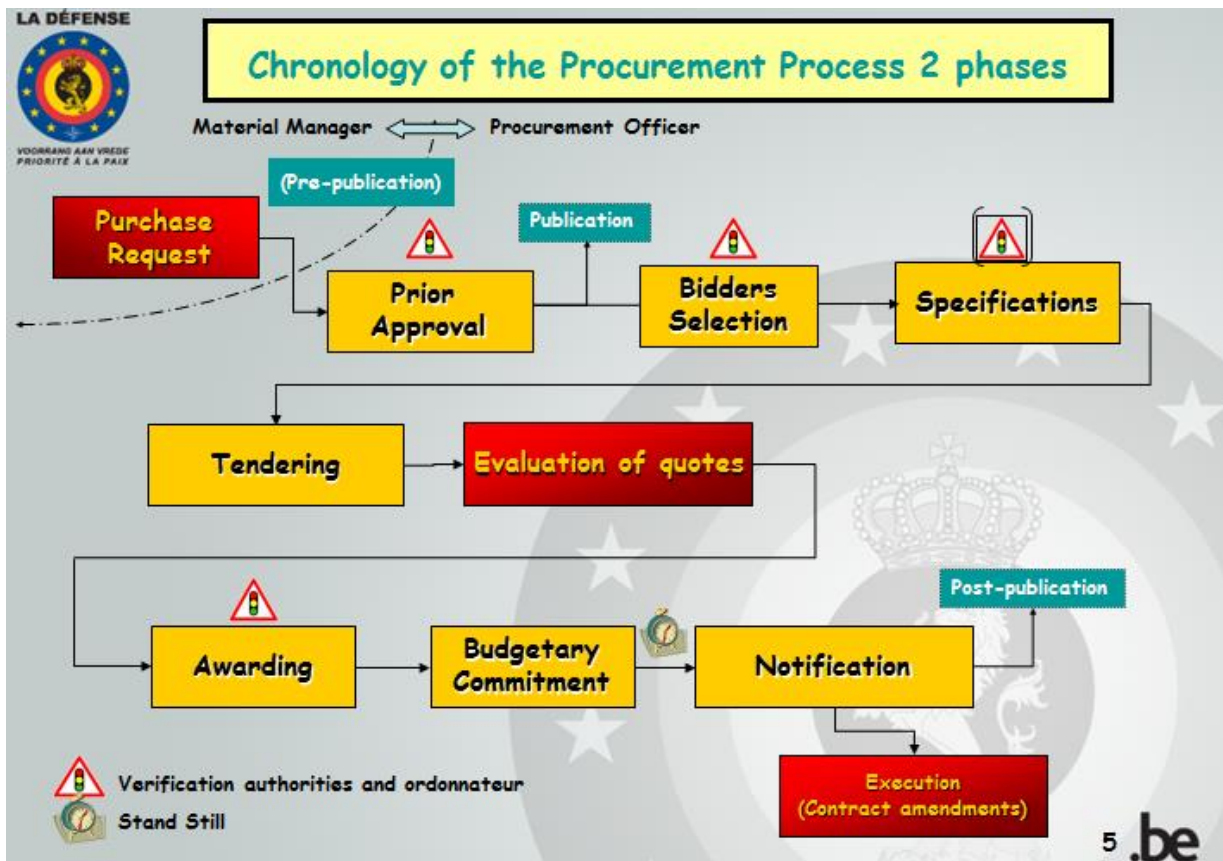
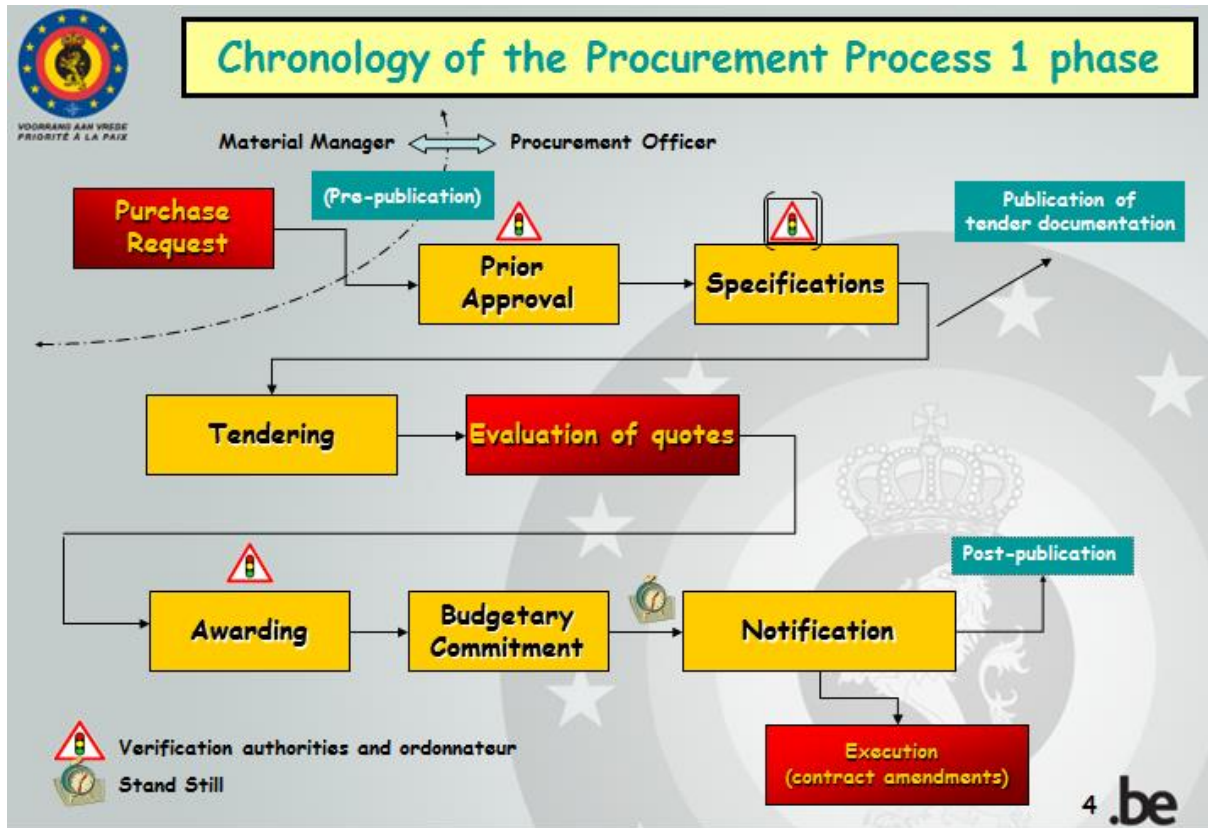
ONE responsible manager carries ALL RESPONSIBILITIES for a type of material :

- technical performances
- maintenance
- (re)supply
- cost and expenditures
- in close co-operation with operational units

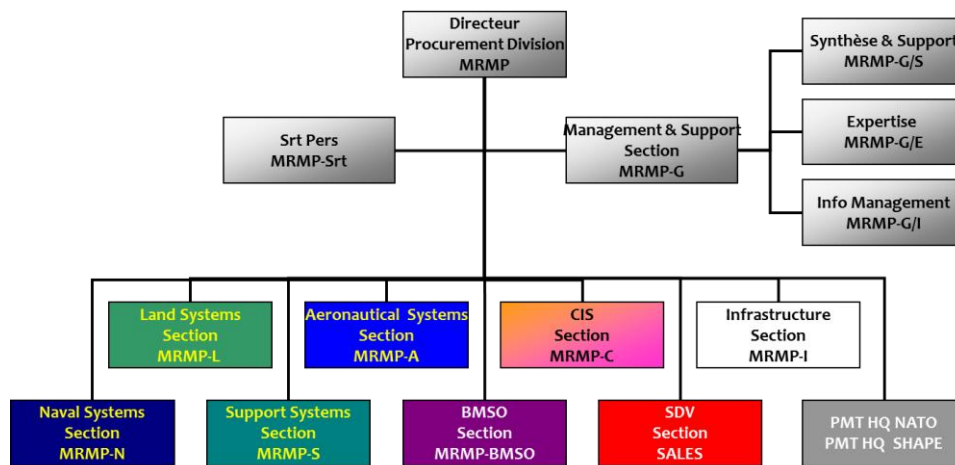
Coherent logistic support during complete lifecycle of material

- definition of material resources
- acquisition phase
- operational and maintenance phase
- phasing out of material resources





## 2. Defence procurement organization



## 3. Defence procurement

### a. Procurement national legislation / regulations

#### i. For procurement under classical directive 2014/24/EU

- ❖ Law of 17 June 2016 related to public procurement
- ❖ Royal Decree of 18 April 2017 related to the contract award procedures for public procurement (classical sectors)

#### ii. For procurement under defence and security directive 2009/81/EC

- ❖ Law of 13 August 2011 related to public procurement in the defence and security domain
- ❖ Royal Decree of 23 January 2012 related to the contract award procedures for public procurement in the defence and security domain.
- ❖ Royal Decree of 14 January 2013 defining the general conditions of contractual execution of public procurement contracts.

#### iii. For other defence procurements (Art 346 TFEU, below thresholds,...)

- ❖ Project Royal Decree regarding the procedures to be followed in case Art 346 TFEU is legally invoked (“under construction”)
- ❖ Open procedures have been made available in the Defence and Security Procurement Law (13 August 2011) for procurement below the EU publication thresholds.

### b. Procurement planning process (including examining potential cooperation or joint procurement)

The procurement planning process is initiated by the material manager based on the strategic vision of the Belgian MOD, the Programme Law for Military investments of 23 May 2017, the expression of the needs (Key User Requirements) from the Belgian Defense Strategy Department. The procurement plan drafted by the material manager consists out of a short-term investment plan, a long-term investment plan, and a five-year plan for routine procurement and support.

Regular market surveys and contacts with other Armed Forces will enable the material manager to determine whether a potential cooperation or joint procurement can be a valuable option in order to acquire the desired material, and will be used to draft the procurement plans. The final decision to start the actual procurement is formalized by a Purchase Request being issued to the Public Procurement Division. In this Division the Purchase Request is then transformed into a Request for Preliminary Approval (PAR) by means of which an approval is requested from the competent authorities (Inspector of Finances among others). This PAR contains the essential data needed to start the acquisition procedure. Upon approval of this PAR, either the contract notice and tender documents are published (one phase procedure) or the contract notice invitation to introduce a request to participate is published (two phase procedure). From the moment of publication (or the issuance of tender documents in case of negotiated procedures without publication) onward, the acquisition process is officially started.

### **c. Procurement budget – the process**

To obtain the approval of this purchase request by the appropriate authorities, the necessary budget needs to be reserved.

The following budget cycle is used in the Belgian Defence.

#### **(1) Preparing the Budget**

The first step of the budget process is to generate the budget of the year X, which takes place in year X-1. During this process the material manager analyses the basic needs as to what new initiatives could be started (bottom-up approach). This will result into a Purchase Request. Meanwhile, leadership and vision from the top offers some guidance as to what the department can expect (top-down approach) The different requests are enclosed in an expenditure program and sent to the decision makers who will decide whether or not it will be included in the final document.

#### **(2) Approving the Budget**

During this phase, the final document will be examined, possibly amended and finally voted by the House of Representatives. As the general expenditure is always voted not later than 31 December X-1, a precise time schedule for the different approval stadia has to be followed.

#### **(3) Executing the Budget**

During the actual budget year (X) the budget can be spent for works, goods and services. However, changes in the economic or geo-political situation and strict budget control measures lead the department to adapt its expenditure program during the year. Each year two budgetary revisions are planned one at the beginning of the budget year and a second one in September. During this revision additional funds can be asked if the budget seems to be insufficient, the budget can be reduced or reallocated to other activities which may need it. However, should some reprogramming need parliamentary approval, a budgetary control is held every year in April.

#### **(4) Concluding and Evaluating the Budget**

At the end of every budget year, each department closes its accounts after which the final settlement is enclosed in an Accounts Act which will be voted by the House of Representatives in the following year. An independent audit institution, the Court of Auditors' analysis the government's accounts and its financial statements a posteriori.

#### **d. Standard documents requested to evidence eligibility of a supplier**

As far as public procurement according to the Law of 13 August 2011 (related to public procurement in the defence and security domain) is concerned, a supplier needs to be in conformance with two major dispositions determined in Article 60 in the Royal Decree of 23 January 2012 related to the actual contract award procedures for public procurement in the defence and security domain. These dispositions are related to the access to the public procurement procedure (Art 63 to 68 in this Royal Decree) and the qualitative selection criteria of a financial, economic or technical nature or related to the professional capability of the supplier (Art 69 to 84 in this Royal Decree).

In case of an open procedure (one phase), a tenderer intending to submit a tender for a specific request for tender, implicitly declares (no actual explicit declaration), by the mere fact of introducing a bid, that it is in conformance with the exclusion criteria set out in the request for tender. This is also explained in the template for the bid which is sent together with the request for tender. In other words, by the mere introduction of a bid, the company should be aware that it implicitly declares to be in conformance with the exclusion criteria. During the evaluation process of the tenders, only the company which is best ranked needs to provide evidence of conformance with the exclusion criteria.

In restricted procedures or negotiated procedures with publication (two phases), the documents must be provided together with the request to participate.

Note: Other documents might be requested, including documents related to technical financial or economic standing, but the information regarding the requested documentation is always specified in the procurement documents.

As far as the access from third countries (outside of the EU territory) to the contract award procedures is concerned we refer to Article 21 of the Law of 13 August 2011 related to public procurement in the defence and security domain and to Article 4 of the Law dated 17 June 2016 by means of which the candidates are in principle only allowed to take part in the contract award procedure (either by the introduction of a request to participate or by the submission of a tender) in case an international treaty (such as the international agreements concluded by the European Commission with States which are not a member of the EU, e.g. the Government Procurement Agreement concluded in the framework of the WTO and the European Economic Area Agreement) or a written declaration from an international institution is invoked. The contracting authority does however have the right to decide (in the tender documents) to allow third countries to take part in the contract award procedure without invoking the above mentioned treaty or declaration.

### **4. Policy and regulations**

#### **a. Quality assurance standards**

Should it require the production of certificates drawn up by independent bodies attesting the compliance of the economic operator with certain quality assurance standards, the Belgian Defence refers to quality assurance systems based on the relevant European standards' series certified by bodies conforming to the European standards' series concerning certification and recognizes equivalent certificates from bodies established in other Member States. It also accepts other evidence of equivalent quality assurance measures from economic operators.

#### **b. Environmental management standards**

In appropriate cases, when the Belgian Defence requires the production of certificates drawn up by independent bodies attesting the compliance of the economic operator with certain environmental management standards, it refers to the Community Eco-Management and Audit Scheme (EMAS) or to environmental management standards based on the relevant European or international standards certified by bodies conforming to Community law or the relevant European or international standards concerning certification. It recognizes equivalent certificates from bodies established in other Member States. They shall also accept other evidence of equivalent environmental management measures from economic operators.

#### c. Intellectual Property Rights (IPR)

Article 19 to 23 in the Royal Decree of 14 January 2013 defining the general conditions of contractual execution of public procurement contracts determine the dispositions applicable in case of IPR.

#### d. Standards reference

The use of technical specifications and standards is described in Article 7 of the Royal Decree of 23 January 2012 related to the contract award procedures for public procurement in the defence and security domain.

#### e. Security clearance

Law of 11 December 1998 regarding classification of information and security clearances

Royal Decree of 24 March 2000 in execution of the Law of 11 December 1998

Royal Decree of 3 June 2005 in execution of the Law of 11 December 1998

If classified specifications (“confidential” being the highest classification in regular contract award procedures) are introduced in a request for tender (two phase procedure by definition), a Prior Information Notice will be sent out as soon as possible in order to inform the candidates that they should initiate the process of requesting a security clearance (or the renewal of an existing clearance) well in advance of the actual publication of the invitation to introduce a request to participate. Once the invitation to introduce a request to participate is published and the request to participate is received, only candidates disposing of a valid security clearance will be entitled to introduce a request to participate. Taking into account the long process to obtain a security clearance, candidates should be aware that they should initiate this security clearance process well in advance in order to be prepared (security clearance should be valid) by the time the invitation to introduce a request to participate is published.

#### f. VAT – importing customs

VAT in Belgium is governed by the Code of Value Added Tax (VAT Code) and the decrees taken for its implementation.

The three main categories of taxable transactions are the following:

- The **supply of goods and the supply of services** carried out for a consideration by a person liable to VAT, when they occur within the country;
- The **importation** of goods into Belgium by any person whatsoever. Importation shall only refer to goods coming from a country which is not a EU Member State;
- The **intra-Community acquisition** of goods, where it occurs in Belgium and is made for a consideration. These are goods coming from any of the other EU Member States.

The Belgian Defense is considered as a non-taxable legal person. Therefore, the Belgian Defense is paying VAT directly to its suppliers (first category of taxable transactions) or to the Tax Administration.

In case of importation (second category of taxable transactions), the tax is due in Belgium and the VAT is paid directly to the Tax Administration by the Belgian Defense.

Council Regulation EC No 150/2003 of 21 January 2003 is suspending import duties on certain weapons and military equipment.

For intra-Community acquisition of goods (third category of taxable transactions), the Belgian Defense is assigned a VAT identification number and must submit a special quarterly VAT return.

Besides the above described procedure, the Belgian Defense benefits from some VAT exemptions foreseen in the VAT Code (for example for warships and airplanes).

#### **g. Security of Supply**

Specific for each contract under the Law of 13 August 2011. Article 10 in the Royal Decree of 23 January 2012 related to the actual contract award procedures for public procurement (works, supplies and services) in the defence and security domain.

#### **h. Supply chain management**

The Belgian Procurement law states that the Prime contractor is always responsible for the execution of the contract and the supply chain management. Belgium does not use the specific dispositions of its procurement law transposing the subcontracting provisions of Directive 2009/81/EC, with the exception of requesting the prime contractor to report on the parts of the contract that will be subcontracted.

#### **i. Relation with SME**

The Belgian Procurement law states that the Prime contractor is always responsible for the executing of the contract and the relations with SME's. Procurement notices are published in a transparent manner, allowing SME's to participate either as contractor or subcontractor.

#### **j. Reserved contracts**

The Belgian Defence may reserve the right to participate in public contract award procedures to sheltered workshops or provide for such contracts to be performed in the context of sheltered employment programs where most of the employees concerned are handicapped persons who, by reason of the nature or the seriousness of their disabilities, cannot carry on occupations under normal conditions. However, this provision is infrequently used, if at all.

Contracts below the European publication threshold may allow for a reservation of the access to the contract award procedure to social insertion companies.

#### **k. Payment to contractors**

According to Royal Decree of 14 January 2013 defining the general conditions of contractual execution of public procurement contracts, the payment terms have been reduced to 30 days from the moment the verification period has ended. The verification period (during which the supplied goods, services or works are checked) may take up to 30 days maximum subsequent to the delivery of the supplies. Once the verification has been achieved, the payment term of 30 days starts. In case the verification is



achieved earlier than the 30 days period (official term for a verification period), the total delay to get paid is reduced. The Belgian federal administration is moving towards a full electronic invoicing and payment process.

#### **I. E-Procurement**

Here is the link to <http://www.publicprocurement.be/portal/page/portal/pubproc>

#### **5. Resolution of disputes**

In case of disputes related to the interpretation of contracts, the parties will endeavor to friendly solve, using ways they will determine at the proper time, the disagreements which could appear at the time of the execution and/or of the interpretation of the Contract.

In the event of dissension of one of the two parties, this one will notify the other, in writing and with the necessary proofs within 30 (thirty) calendar days. In the event of dissension of one of the two parties, this one will notify the other, in writing and with the necessary proofs within 30 (thirty) calendar days.

In the absence of such an agreement the Contract will be interpreted in accordance with the Belgian law, only the courts of Brussels being qualified.

In case of disputes related to contract placement procedures, the Belgian high administrative court (Conseil d'Etat) is competent.

#### **6. National official journal platform**

Link to <https://enot.publicprocurement.be/>

Link to national site for publication of procurements reaching publication thresholds at a national level : <https://enot.publicprocurement.be/displayBulletins.do>

#### **7. Contact**

Belgian Defence

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## CROATIA

### REPUBLIC OF CROATIA

#### 1. Overview of national Defence Procurement Policy

The goal of the defense policy is to equip and modernize the Armed Forces of the Republic of Croatia, taking care of the legality, responsibility and transparency of all procedures.

#### 2. Defence procurement organisation

Procurement in the field of defense is carried out by the Ministry of Defense.

#### 3. Defence procurement

##### a. Procurement national legislation / regulations

##### i. For procurement under Classical Directive 2004/18 / EC (originally) - now 2014/24 / EU

Public Procurement Act (Official Gazette, No. 120/2016)

##### ii. For procurement under the Defense and Security Procurement Directive 2009/81 / EC

Decree on Public Procurement in the Field of Defense and Security (Official Gazette, No. 19/2018)

##### iii. For other defense procurements (Article 346 TFEU, below the thresholds ...)

Instructions on the implementation of simple procurement procedures in the Ministry of Defense, Class: 803-05 / 17-01 / 1, Urboj: 512-01-17-69 dated 30.06.2017.

##### b. Procurement planning process (including examination potential cooperation or joint procurement)

Procurement planning is based on the defense capability development plan - in accordance with the defense strategy of the Republic of Croatia and on defense planning implemented in accordance with NATO and EU defense planning systems, which is ensured by regular development and adoption of policy and planning documents established by the Defense Planning Ordinance. in the Ministry of Defense and the Armed Forces of the Republic of Croatia.

##### c. Procurement budget - procedure

The procurement budget is based on the Financial Plan of the Ministry of Defense.

##### d. Standard documents requested to evidence eligibility of a supplier

Standards are required that are in accordance with Chapter 4 (Criteria for qualitative selection of an economic operator) of the Public Procurement Act (Official Gazette, No. 120/2016)

#### 4. Policy and regulations

##### a. Quality assurance standards

Quality assurance standards are determined through the requirements of technical and professional ability and quality assurance standards and environmental management standards in the manner prescribed by Articles 270-272. Of the Public Procurement Act (Official Gazette, No. 120/2016) and the provisions of the Decree on Public Procurement in the Field of Defense and Security (Official Gazette, No. 19/2018).

#### **b. Environmental management standards**

Quality assurance standards are determined through the requirements of technical and professional ability and quality assurance standards and environmental management standards in the manner prescribed by Articles 270-272. Of the Public Procurement Act (Official Gazette, No. 120/2016) and the provisions of the Decree on Public Procurement in the Field of Defense and Security (Official Gazette, No. 19/2018).

#### **c. Intellectual property rights**

Intellectual property rights are regulated by national law.

#### **d. Standards reference**

The provisions and evidence referred to in Article 268 of the Public Procurement Act, Article 71 of the Decree on Public Procurement in the Field of Defense and Security (Official Gazette, No. 19/2018) shall apply to the reference on standards.

#### **e. Security clearance**

In the case of contracts involving, requiring or containing classified information, the execution of which requires processing, storage and transmission of classified information in the premises or information system of the economic operator, the economic operator shall provide proof of possession of a valid business security certificate classification in accordance with Article 71 of the Decree on Public Procurement in the Field of Defense and Security (Official Gazette, No. 19/2018). Also, measures for the protection of classified information during the performance of the contract are applied in accordance with Article 39 of the Decree on Public Procurement in the Field of Defense and Security (Official Gazette, No. 19/2018).

#### **f. VAT - Importing customs**

The Value Added Tax Act (Official Gazette 73/2013, 99/2013, 148/2013, 153/2013, 143/2014, 115/2016, 106/2018 and 121/2019) applies.

#### **g. Security of Supply**

The procuring entity may specify its security of supply requirements in the invitation to tender, procurement documentation, descriptive documentation or additional documentation. These requirements for security of supply are regulated by Article 70 of the Decree on Public Procurement in the Field of Defense and Security (Official Gazette, No. 19/2018).

#### **h. Supply Chain management**

The contracting parties shall execute the public procurement contract in accordance with the conditions specified in the procurement documentation and the selected tender in accordance with Article 313 of the Public Procurement Act (Official Gazette, No. 120/2016).

#### **i. Relation with SME**

When determining the subject of procurement, contracting authorities must take into account in particular the possibility of access of small and medium-sized economic entities to the public procurement procedure in accordance with Article 204 of the Public Procurement Act (Official Gazette 120/2016).

#### **j. Reserved contracts**

Article 51 of the Public Procurement Act (Official Gazette, No. 120/2016):

The contracting authority may reserve the right to participate in public procurement procedures for:

1. protective workshops,
2. economic entities whose main goal is the social and professional integration of persons with disabilities,
3. economic operators whose main objective is the social and professional integration of disadvantaged persons, or
4. may provide for such contracts to be performed in the context of protected employment programs.

Article 326 of the Public Procurement Act (Official Gazette, No. 120/2016):

The contracting authority may reserve the right to participate in public procurement procedures for the procurement of health, social and cultural services referred to in Article 323 of this Act, which are covered by CPV codes: 75121000-0, 75122000-7, 75123000-4, 79622000-0, 79624000-4, 79625000-1, 80110000-8, 80300000-7, 80420000-4, 80430000-7, 80511000-9, 80520000-5, 80590000-6, from 85000000-9 to 85323000-9, 92500000-6, 92600000-7, 98133000 -4 and 98133110-8

#### **k. Payment to contractors**

Contracts usually stipulate a payment deadline of 30 days from the date of delivery of the invoice in accordance with the Financial Operations and Pre-Bankruptcy Settlement Act (Official Gazette 108/2012, 144/2012, 81/2013, 112/2013, 71/2015 and 78/2015) .

#### **l. E-procurement**

The Ministry of Defense uses these national electronic platforms for publishing information and documents related to public procurement: <https://eojn.nn.hr>

#### **5. Resolution of disputes**

The State Commission for the Control of Public Procurement Procedures is responsible for deciding on appeals in public procurement procedures. An administrative dispute may be initiated before the High Administrative Court of the Republic of Croatia against the decisions of the State Commission for the Control of Public Procurement Procedures.

#### **6. National Official Journal platform**

Electronic public procurement notice of the Republic of Croatia - <https://eojn.nn.hr>

#### **7. Contact**

Ministry of Defense of the Republic of Croatia

Independent public procurement sector

Zvonimirova 12, 10000 Zagreb

[sspjn@morh.hr](mailto:sspjn@morh.hr)

## CYPRUS

### 1. Overview of national Defence Procurement Policy

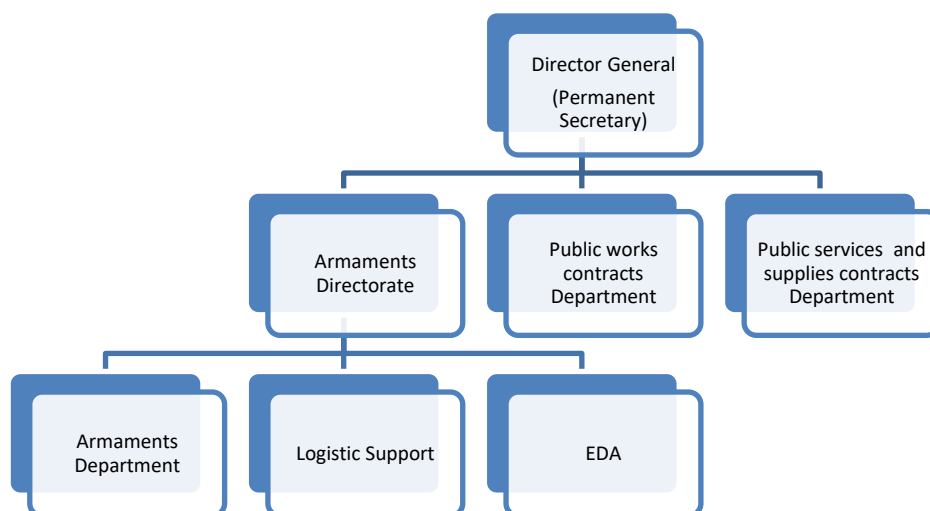
In the frame of coordination of procedures for the award of certain works, supply and services contracts, both the Ministry of Defence and the National Guard, apply administrative actions regarding the stipulation of public contracts (with suppliers of products and services and contracting companies of the private sector) according to Laws 12(I)/2006 and 173(I)/2011.

The above mentioned legislation is a direct transpose of the EU Directives 2004/17/EC, 2004/18/EC, 2009/81/EC (and their related amendments) of the European Parliament and of the Council.

The objectives of all personnel involved in defence procurement are to:

- Ensure an open, transparent and compliant process;
- Achieve continuous improvement on all categories of expenditure through a transparent and fair procurement process;
- Achieve Value for Money in all procurement activities
- Promote equality of opportunity for all businesses and in particular SMEs and SEs
- Promote equality of opportunity for all businesses and in particular SMEs and SEs
- Work in partnership with the private sector and other organizations to achieve value for money, quality and effective service delivery
- Promote innovation
- Encourage environmental and social sustainability through effective procurement policies and practices.

### 2. Defence procurement organization



### 3. Defence procurement

#### a. Procurement national legislation/regulations

- i. For procurement under Classical Directive 2004/18/EC  
Law 12(I)/2006 and Regulations 201/2007
- ii. For procurement under Defence & Security Procurement Directive 2009/81/EC  
Law 173(I)/2011 and Regulations 257/2012
- iii. For other defence procurements (Article 346 TFEU, below thresholds)

Procurement within the scope of Article 346 of the Treaty establishing the European Community (ECT) is exempted from the application of the European directives on public procurement and consequently exempted from the above mentioned legislation. Instead of this the procurement procedure of the Cyprus MoD under Article 346 follows the decisions of the cabinet of the Cyprus Government (Council of Ministers).

#### b. Procurement planning process (including examining potential cooperation or joint procurement)

- i. According to Law 12(I) / 2006:

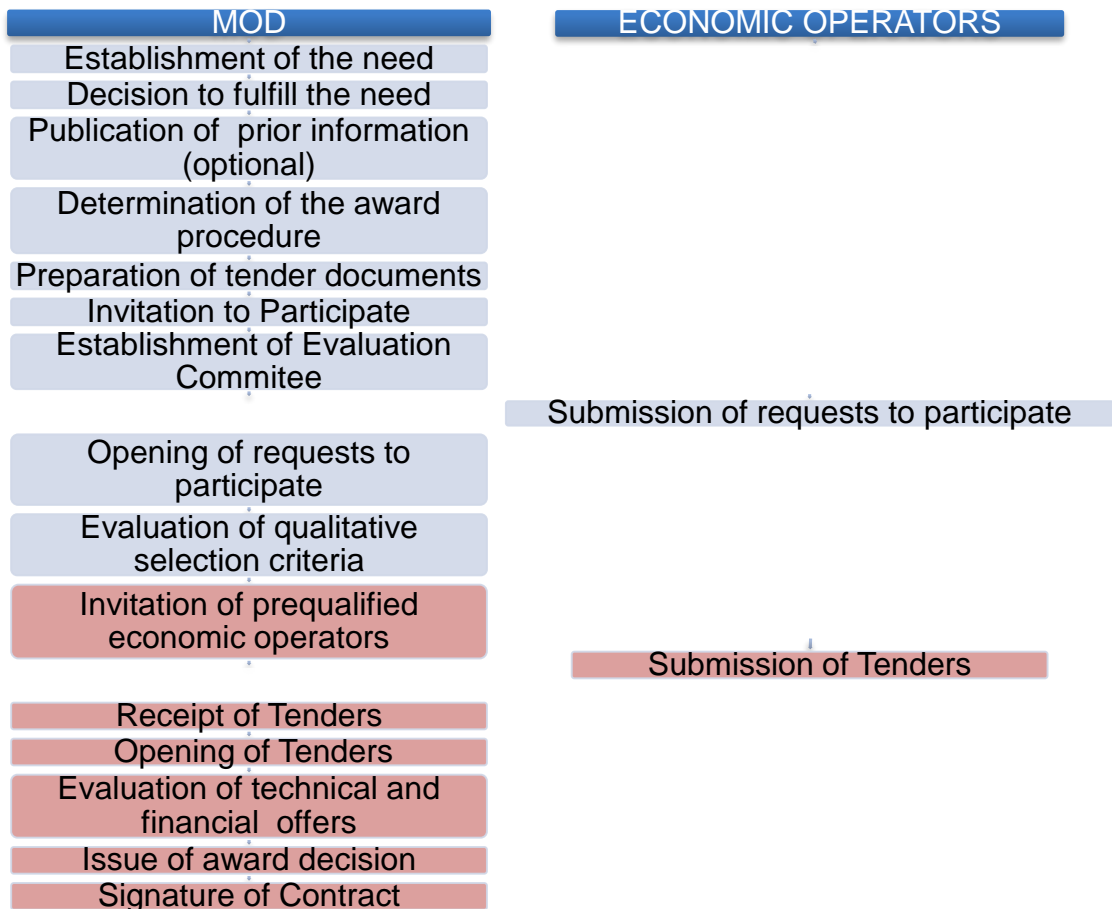
On 1.4.2004 a five member Tenders Council was set up at the Ministry of Defence with the Director General (Permanent Secretary) of the Ministry as its President and hence forth undertook its duties. This Tenders Council was wound up as a result of the application of the new Law 12 (1) / 2006. The Director General, who is also the administrator of the Budget of the Ministry of Defence, approves for every tender the commencement of the procedure of the Competition. After approval to undertake the expenditure at the expense of the Budget of the Ministry, the procedures to prepare the necessary specifications and the conditions of the documents of the tenders are put into motion. The competent Tenders Department of the General Staff of the National Guard, submits for approval to the Director General the names of usually three member Evaluation Committees of the tenders and receipt / verification of the offered product. This Department prepares the text for the call of tenders for submission to the Director General for approval. According to the case the call for tenders can be published in the Official Gazette of the Government and in the local press, if desirable or/and in the European Union paper.

- ii. According to Law 173(I) / 2011:

On 9.11.12 a five member Defence and Security Tender Board was set up at the Ministry of Defence with the Director General (Permanent Secretary) of the Ministry as its President and henceforth undertook its duties. This Tenders Council was wound up as a result of the application of the new Law 173(I) / 2011.

The Director General approves, for every tender, the commencement of the procedure of the Competition except for tenders that should follow the negotiated procedures. The initiations

of such procedures (negotiated procedures) are subject to approval by the Defence and Security Tender Board. The remaining procedure is similar to that described in paragraph 3.b.i



**c. Procurement budget-the process**

After the approval of the annual budget by the House of Representatives each procedure obtains a permission to continue by the Director General (Permanent Secretary), if a certain amount is included in the budget.

Following the conclusion of the selection process, the “Defence and Security Tender Board” awards the tender to the successful tenderer.

The Defence Committee of the House of Representatives then releases the budgetary amount and the Contract is signed by both parties.

**d. Standard documents requested to evidence eligibility of a supplier**

For certifying the eligibility for participation the followings should be submitted:

- i. If the Candidate is a legal person, proof of its establishment.
- ii. If the Candidate is a consortium of natural and/or legal persons, the above supporting documents should be submitted for each legal person participating in the consortium. A Cooperation Agreement, signed by all participants in the consortium, should also be submitted, stating:

- 1) The intention of each participant to participate in the consortium,
  - 2) The participation rate of each member in the consortium,
  - 3) The consortium member to act as the leader of the consortium, and
  - 4) The person appointed as Representative of the consortium.
- iii. For certifying the personal situation of the Candidate, the Solemn Declaration Certifying the Candidate's Personal Situation, duly completed and signed is required
- iv. For certifying the technical and professional ability of the Candidate
- 1) A statement providing general information about the following characteristics of the Candidate as a minimum:
    - a) Business structure
    - b) Activity areas
    - c) Goods and Services provided
    - d) Facilities and equipment
  - 2) A certificate issued by an independent organisation, attesting the compliance of the Candidate with a quality assurance standard based on the CYS EN ISO 9000 series of Cyprus standards, or other equivalent certification issued by bodies established in other Member States of the European Union, or other evidence of equivalent quality assurance measures
- v. Certification regarding the protection of employees

#### **4. Policy and regulations**

##### **a. Quality assurance standards**

MOD usually refers to quality assurance systems based on the relevant Cyprus standards series CYS EN ISO 9000 and certified by bodies conforming to the Cyprus standards series CYS EN ISO 45000 concerning certification and/or European and/or international standards. MOD recognises equivalent certificates from bodies established in other member states and also accept other evidence of equivalent quality assurance measures from economic operators.

##### **b. Environmental management standards**

All products and services have to comply with EU and Cyprus Environmental Laws.

MOD usually requires the submission of certificates drawn up by independent bodies attesting the compliance of the economic operator with certain environmental management standards, based on the Community Eco-Management and Audit Scheme (EMAS) or to environmental management standards based on corresponding European or international standards concerning certification. MOD recognises equivalent certificates from bodies established in other member states and also accept other evidence of equivalent environmental management measures from economic operators.



**c. Intellectual Property Rights**

They are determined in the calls, depending on the content of the procurement.

**d. Standard reference**

Depends on the type of equipment to be procured

**e. Security clearance**

In contracts where high level of security is considered of great essence, the bidders might be required to show their eligibility in this regard

**f. VAT-Importing customs**

The Contract shall not be exempted from duties and taxes, including also VAT.

**g. Security of Supply**

Specific for each contract

**h. Supply chain management**

The Prime contractor is responsible for the executing of the contract and the supply chain management.

**i. Reserved contracts**

The cases where this exception may be applied are those where an economic operator has the exclusive right to execute, supply or provide a particular work, product or service.

**j. Payments of Contractors**

Upon commencement of the Contract, the Contractor shall notify in written the Contracting Authority about the bank account number to which it wishes the payments of the Contract Value to be made. The Contract Value shall be paid to the Contractor in the manner described in the Agreement. The period of time between the time of commencement of the Contractor's right to remuneration, as such right is specified in the Agreement, shall not exceed forty-five (45) calendar days. When the above-mentioned deadline expires, the Contractor may, claim interest on the payment so overdue at the default rate specified by a decree of the Minister of Finance based on the "Uniform Public Default Rate Law of 2006", within two weeks of expiry of the deadline set for an overdue payment to be made.

**k. E-Procurements**

MOD uses the e-PS which is a secure and interoperable web-based application of the Republic of Cyprus that constitutes a total solution for the implementation of electronic procedures in conducting public procurement competitions. The system is compliant with the provisions of the European and Cyprus Law related to public procurement.

E-Procurement provides an environment for organizing Call for Tender-related activities. These services provide the tools for supporting the management of electronic competitions, providing amongst others the means for the electronic preparation and transmission of procurement notices to the Official Journal of the European Union. Advanced services include

the electronic and automated evaluation of tenders, the automated notification of EOs when addenda/corrigenda for competitions are published and the support for electronic auctions.

#### **5. Resolution of disputes**

If a dispute arises between the Contracting Authority (MOD) and the Contractor in connection with or as a result of the Contract or its execution, either during or after such execution, including any dispute arising from any decision, then either the Contracting Authority or the Contractor shall notify the other party accordingly.

In such an event, both parties shall make every effort to settle amicably such dispute within the next fifty-six (56) days.

Any dispute for which amicable settlement has not been reached within fifty-six (56) days of the date, on which the above notification has been served, shall be settled finally in the Courts of the Republic of Cyprus.

#### **6. National official Journal platform**

Acquisition of armament and common use items:

[www.eprocurement.gov.cy](http://www.eprocurement.gov.cy)

[www.cygazette.com](http://www.cygazette.com)

#### **7. Contact**

For further information you may apply to the following addresses:

Armaments Directorate

Ministry of Defence

4 Emmanuel Rhoides str. 1432, Nicosia Cyprus

tel. 22-807503, fax.: 22-676225

email: [kypamdex@mod.gov.cy](mailto:kypamdex@mod.gov.cy)

Public services and supplies contracts Department

tel.: 22807688, 22807685, 22807713, 22807711

## CZECH REPUBLIC

### 1. Overview of national Defence Procurement Policy

The national law No. 134/2016 Coll. regulates public procurement in the Czech Republic. Directive 2009/81/EC has been implemented into this law.

Contracts are regulated by the national law No. 89/2012 Coll. Civil Code, legal relationship after the contract signature is regulated according to the Czech national law and disputes are solved by the Czech courts.

### 2. Defence procurement organization

Authority to perform public bidding on behalf of the MOD is delegated by the ministerial order to contracting authorities.

Contracting authorities are especially:

- National Armaments Office
- Central Purchasing Agency
- Military Intelligence (regards only procurement funded out of special military intelligence funds)

### 3. Defence procurement

#### a. Procurement national legislation / regulations

##### i. For procurement under Classical Directive 2004/18/EC

National law No. 134/2016 Coll. on Public Procurement

##### ii. For procurement under Defence & Security Procurement Directive 2009/81/EC

National law No. 134/2016 Coll. on Public Procurement

##### iii. For other defence procurements (Article 346 TFEU, below thresholds...)

National law No. 134/2016 Coll. on Public Procurement

#### b. Procurement planning process (including examining potential cooperation or joint procurement)

Procurement planning is based on a long-term plan of key defence capabilities development - in line with the Defence strategy of the Czech Republic and other political- strategic documents and conceptions (White Paper on Defence, Mid-term plan), including strategic and planning documents of NATO and the EU.

#### c. Procurement budget - the process

Procurement budget as a part of the MOD budget is based on the MOD Mid-term plan (and other MOD planning documents).

**d. Standard documents requested to verify eligibility of a supplier (qualification requirements set out for the above-threshold regime)**

- Personal situation
  - a) a copy of an entry in the Criminal Records,
  - b) a confirmation from a relevant tax office,
  - c) written affirmation to prove that:
    - the tenderer is not in outstanding arrears in respect of payments and penalties of public health insurance in the Czech Republic or in the country of his registered office;
    - the tenderer is not in outstanding tax arrears (regarding excise duty) registered in tax records in the Czech Republic or in the country of its registered office,
  - d) a confirmation from a relevant district of social security administration.
- Authorisation to pursue professional activity
  - a) an extract from the Commercial Register, if it is enrolled thereon or an extract from any other analogous register, if it is enrolled thereon,
  - b) evidence of possession of a licence to pursue business activities under separate legal regulations to the extent corresponding to the subject-matter of the public contract, particularly, evidence proving relevant trade authorisation or licence,
  - c) evidence issued by a professional self-governing chamber or any other professional organisation proving membership thereof in such a chamber or another organisation, if such a membership is essential for the performance of a public service contract under separate legal regulations,
  - d) evidence attesting professional competence of the economic operator or any other person through which the economic operator assures professional competence, where it is indispensable for the performance of the public contract under separate legal regulations.
- Economic capability

The contracting authority may require that the minimum yearly turnover of the economic operator or the turnover reached by the economic operator with respect to the subject-matter of the public contract for not more than three immediately preceding accounting periods reach a minimum level set by the contracting authority; where the economic operator came into existence later, it is sufficient if it submits documents on the required amount of its turnover for all accounting periods since its creation. The requirement of minimum yearly turnover shall not exceed twice the estimated value of the public contract.
- Technical capability

- a) a list of significant supplies or significant services or provided over the past three/five years before the commencement of the procurement procedure
- b) list of works carried out over the past five years before the commencement of the procurement procedure.

#### **4. Policy and regulations**

##### **a. Quality assurance standards**

Government Quality Assurance (GQA) is defined by the law No. 309/2000 Coll. Defence Standardization Codification and Government Quality Assurance Authority is responsible for performing of GQA. NATO AQAP publications as GQA requirements are used in contracts. For cooperation between NATO countries STANAG 4107 is respected.

##### **b. Environmental management standards**

According to the legislation, the MOD may ask the contractor to prove his environmental management standards.

Where it is justified by the subject-matter of the public contract, the contracting authority is entitled to require in the framework of demonstration of the fulfilment of technical qualifications prerequisites pursuant to this provision evidence of registration in the Community Eco-Management and Audit Scheme (EMAS) of the certificate of environmental management system issued under the Czech technical standards by an accredited person. The contracting authority shall recognize equivalent evidence issued in a member state of the European Union. The contracting authority shall, in addition, recognize other evidence of equivalent environmental management measures.

##### **c. Intellectual Property Rights**

The Authors Rights Law regulates legal protection for the rights. Only persons obtaining the licence issued by the author of the deed can use the result of the deed. The Act No. 527/1990 Coll, regulates inventions and patents.

##### **d. Standards reference**

Depends on a type of equipment to be procured.

##### **e. Security clearance**

Depending on the object of procurement and based upon specific confidentiality requirements. National law No. 412/2005 on Protection of the information and on the security capabilities is applied.

##### **f. VAT - Importing customs**

National law No. 235/2004 on Value added tax.

##### **g. Security of Supply**

In line with 2009/81/EC Directive. Specific for each contract.

##### **h. Supply Chain management**

After being awarded the contract the main contractor is responsible for execution of the contract. The

contractual relationship between main contractor and its subcontractor(s) is ultimately an issue between the two and thus the role of contracting authority is limited in that respect.

In case of a public contract in the field of defence and security, the contracting authority may require, in the procurement documents, a tender to contain the commitment of the participant to inform the contracting authority of all changes in subcontractors during the performance of the public contract. In case of the above-threshold public contract in the field of defence and security, the contracting authority may also require the main contractor to select its subcontractor(s) in respect of the Act No. 134/2016 Coll.

a) proceed pursuant to the provisions

#### **i. Relation with SMEs**

Relationship with defence and security industry (mostly comprised of SMEs) is regulated by the government resolution. Based on this resolution, the MOD and the Defence and Security Industry Association (DSIA) adopted the Cooperation Agreement between both parties. This agreement together with the Strategy of Defence and Security Industry Interaction with government bodies is a cornerstone of the modern relationship between the state and the defence industry. Cooperation agreements are also concluded between DSIA and Ministry of Foreign Affairs, Ministry of Industry and Trade and Ministry of the Interior.

#### **j. Reserved contracts**

According to the law, the contractor whose employees are from more than 50% medically disabled personnel can enjoy the advantage. Contracting authority can use such advantage, if it chooses so.

#### **k. Payment to contractors**

Payment to contractors follows the Act No. 89/2012 Coll. Civil Code. The payment is normally done in 30 days. If the bill is delivered in the period of December - March, the payment timeframe is extended for 60 days. Prepayments and deposits are usually not forwarded.

#### **l. E-Procurement**

MOD uses these national electronic platforms for publishing contracts related information and documents: [www.tendermarket.cz](http://www.tendermarket.cz), <https://www.egordion.ci/nabidkaGORDION/profilMO>.

#### **m. Other**

International business with the military material is regulated by the national law No. 38/1994.

### **5. Resolution of disputes**

The Office for the protection of competition, national courts.

### **6. National Official Journal platform**

[www.vestnikverejnychzakazek.cz](http://www.vestnikverejnychzakazek.cz)

### **7. Contact**

National Armaments Office,  
Nám. Svobody 471, 160 01 Prague 6,  
Czech Republic.

E-mail: [svamo@army.cz](mailto:svamo@army.cz)

## ESTONIA

### 1. Overview of national Defence Procurement Policy

The Statutes of the Estonian Ministry of Defence sets the task of carrying out procurements to the departments under the jurisdiction of the Deputy Undersecretary for Defence Investments. In 2013, Estonian Ministry of Defence ratified National Defence Development Plan 2013-2022, which determines the priorities for enhancing defence capabilities and general resource restrictions for the development of Defence Forces and the Defence League for the next 10 years.

The fundamental principle behind the National Defence Development Plan is to develop and sustain high-readiness units. Plan includes estimated defence budget and expenditures for the next 10 years. Link to National Defence Development Plan 2013-2022:

<http://www.kaitseministeerium.ee/en/documents>

### 2. Defence procurement organisation

Defence procurement is done by Estonian Centre for Defence Investment within the administrative area of the Ministry of Defence. ECDI procures all materials and services for Estonian Defence Forces and MOD. In addition the ECDI is responsible for also all the activities related to infrastructure, starting from planning and building up to every day repair and maintenance.

### 3. Defence procurement

#### a. Procurement national legislation/regulations

Procurement national legislation is described in Public Procurement Act:

<https://www.riigiteataja.ee/en/eli/505092017003/consolide>

The new Public Procurement Act was passed on 14<sup>th</sup> June 2017.

#### b. Procurement planning process (including examining potential cooperation or joint procurement)

Generally procurements are done according to Public Procurement Act, however in fields of defence and security the contracting authority is not required to apply all the procedures laid down in Public Procurement Act. Therefore Estonian Ministry of Defence has issued procurement procedures for defence procurements.

The procurement planning process depends on procurement value. The value determines, which procurement regulations to follow, how to conduct the procurement and what's the timeline for procurement process.

Main principles which defence procurement planning process follows are: economical use of financial resources, transparency and supervision of procurement, equal treatment and prohibition of discrimination, free and effective competition, avoiding conflicts of interest and preferring the environmentally sustainable solutions.

Starting each project, procurement department of the Ministry of Defence is evaluating the possibilities for multinational cooperation. So far cooperation is done within different projects with Latvia, Lithuania, Finland and Sweden. Joint procurements are used to purchase radars, ammunition, and some individual

equipment (underwear, sleeping bags, etc.). Some projects were initiated by Estonian Ministry of Defence, some we joined later.

#### **c. Procurement budget – the process**

Based on the 10-year National Defence Development Plan the MOD creates a 4-year procurement plan and one year detailed procurement plan, which covers the detailed procurement projects and all in all incorporates into 5-year purchase plan.

The 10-year National Defence Development Plan describes the capabilities that should be developed during the period within the proposed budget. Besides these, the procurement plan has the projects necessary for maintaining existing capabilities.

All projects procurement are listed in the national Procurement Information System.

#### **d. Standard documents requested to evidence eligibility of a supplier**

Reasons of exclusion of tenderer and candidate form procurement procedure are listed in Public Procurement Act

### **4. Policy and regulations**

#### **a. Quality assurance standards**

NATO AQAP 2000

#### **b. Environmental management standards**

All products and services have to comply with EU and Estonian Environmental Laws. Overview of national environmental legislation can be found on the web page of the

Estonian Environment Agency: <http://www.keskkonnainfo.ee/main/>

#### **c. Intellectual Property Rights (IPR)**

IPR are regulated according to Patents Act (<https://www.riigiteataja.ee/en/eli/527012015002/consolide>) and Copyright Act (<https://www.riigiteataja.ee/en/eli/519062017005/consolide>). Additionally, Ministry of Defence has made its own regulations for defence R&T projects. These regulations leave some IPRs (right to use) to the project contractor, which may implement the R&T results if this is not contrary to the interest of the Estonian Defence Forces.

#### **d. Standards reference**

NATO Allied Quality Assurance Publication (AQAP) Standards

#### **e. Security clearance**

Set by the State Secrets Act. Additional information can be found on the web page of the Estonian Security Police: <https://www.kapo.ee/en/content/protection-state-secrets.html>

#### **f. VAT – importing customs**

Tax of customs is not applied on transactions inside the European Union. VAT has to be paid, except for cases when MoD's counterpart is a government of another European country, which has paid VAT for products already.



#### **g. Security of Supply**

Public Procurement Act allows to set requirements for the Security of Supply during the procurement procedure.

#### **h. Supply Chain management**

No formal regulations.

#### **i. Relations with SME**

In 2013 Estonian Government ratified national Defence Industry Policy 2013 – 2022, which points out specific tasks to the Estonian Defence Forces for developing relations with SME <http://www.kaitseministeerium.ee/en/objectives-activities/defence-industry-policy>

In 2009 Estonian Defence Industry Association (EDIA) was established. EDIA includes more than 80 Estonian SMEs, which produce goods and services for defence and security market. EDIA tasks are:

- foster a broader understanding of the importance of the Estonian defence industry;
- consolidate the collaboration of the public and private sector (PPP);
- improve cooperation with Estonian, international organizations and its agencies;
- promote and represent its members common interests;
- support cooperation and create opportunities for consumers, developers and manufacturers.

EDIA English homepage is: <http://www.defence.ee/>

#### **j. Reserved contracts**

No contracts

#### **k. Payment to contractors**

According to contracts, general rule is that payment is done within 30 days after the invoice is received.

#### **l. E-Procurement**

All public procurements are announced in the national e-procurement environment:

<https://riigihanked.riik.ee/lr1/web/guest#>

#### **5. Resolution of disputes**

In case it is not possible to solve a dispute between parties, parties should first turn to the Public

Procurement Appeals Committee under the Estonian Ministry of Finance: <https://riigihanked.riik.ee/lr1/web/guest/vaidlustusmenetlus1> Next level for solving a dispute is in the Estonian courts.

## 6. National Official Journal platform

Public defence procurements conducted by the Estonian Centre for Defence Investment are announced on national e-procurement website: <http://riigihanked.riik.ee>.

- Enter to the Procurement Register
- Enter "riigi kaitseinvesteeringute keskus" (trans.ECDI) to the box "Contracting authority"

In the register ECDI's procurements are usually published in Estonian. Only procurements with expected contract value above 5 Million Euros are published also in English language.

## 7. Contact

Defence Investments Department

Estonian Ministry of Defence

Sakala 1, 15094 Tallinn,

Estonia

Tel.: +372 717 0022

Fax: +372 717 0001

Website: <http://www.kaitseministeerium.ee>

[info@kaitseministeerium.ee](mailto:info@kaitseministeerium.ee)

FINLAND

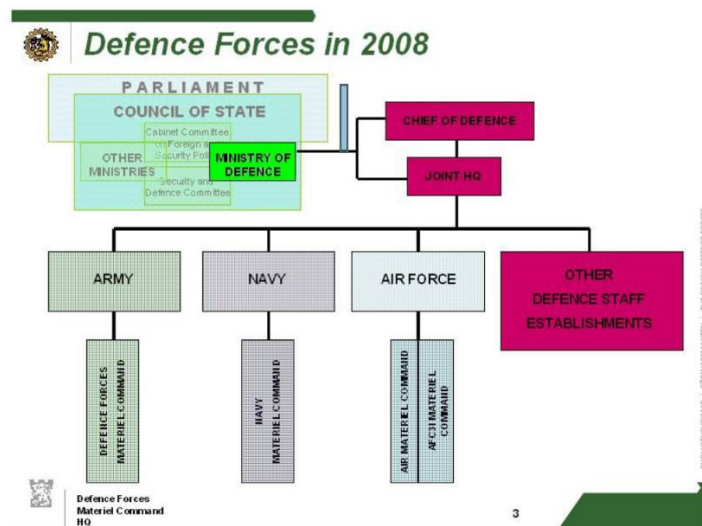
1. Overview of national Defence Procurement Policy

The Finnish Defence Forces procure its defence materiel in accordance with Defence and Security Procurement Directive (2009/81/EC) which is implemented into national legislation by the Act on Public Defence and Security Contracts. All procurements must be conducted in open and non-discriminatory manner taking into account effective competition and cost-effectiveness. In addition, so called “General Principles of Defence Procurement” are applied. These principles are:

- All materiel should be NATO interoperable.
- Finland should not be the only user of the materiel.
- Materiel procured abroad or having non-Finnish origin should not be in development or prototype phase. Operational functionality, reliability and capability of such materiel should be sufficiently proven.
- Security of Supply should be taken into account.
- Environmental aspects must be taken into account when and where possible by setting the requirement for ISO 14001 standard.
- Possibilities for European and international cooperation in procurements should be sought.
- The cost of whole life cycle of the materiel should be taken into account
- National requirements should be avoided in order to fulfil the requirement of interoperability.
- On R&D all duplications should be avoided. If specification meets NATO standards or final product is elsewhere accepted it should also be accepted in Finland without additional tests.

A market research for example in form of Request for Information (RFI) may be conducted prior starting a tendering process.

2. Defence procurement organisation



### 3. Defence procurement

#### a. Procurement national legislation / regulations

##### i. For procurement under Classical Directive (2004/18/EC)

The Classical Directive is implemented into Finnish legislation by the Act on Public Contracts (“laki julkisista hankinnoista”, 30.3.2007/348). The Act includes rules on procurements above national thresholds.

##### ii. For procurement under Defence and Security Procurement Directive (2009/81/EC)

The Defence and Security Procurement Directive is implemented into Finnish legislation by the Act on Public Defence and Security Contracts (“laki julkisista puolustus- ja turvallisuushankinnoista”, 29.12.2011/1531).

##### iii. For other defence procurements (article 346, below thresholds...)

The Act on Public Defence and Security Contracts includes rules on procurements above national thresholds. National thresholds are following: 100 000 € for Goods and Services and 500 000 € for Works. The contracts with value below the threshold set out in the Directive, but above the national threshold must be procured by using “national procedures”. Public contracts which fall within the scope of national procedures must also be notified in Finland.

The Act also recognises a procedure for public contracts falling within the scope of Article 346 (1) b of the TFEU. The procedure regarding Article 346 (1) b is quite similar to the procedure governing the procurements exceeding national thresholds, however, without having to publish a contract notice.

#### b. Procurement planning process (including examining potential cooperation or joint procurement)

The basis for the defence procurement is established in the four year cyclic strategic planning process where the required capabilities of the defence system are defined in the Development Programme of the Defence Forces. Capability solutions, i.e. the troops and the systems, are planned based on the strategy and where necessary, procurement will be performed.

The execution of the Development Programme is performed in a close cooperation with the defence administration, national partners and international organisations. The execution and outcomes of the Development Programme are evaluated in the light of the NATO PARP-process analyses, EU Pooling & Sharing aims and in the NORDEFECO (Nordic Defence Cooperation) long and short term planning.

There is an active drive towards collaboration and cooperation in the Finnish defence procurement principles. Collaborative/joint procurement possibilities should be investigated and examined carefully as early as possible in the process.

#### c. Procurement budget - the process

Every year (March-April) the Defence Forces draws up the budget proposal for the next year and submits the proposal to the Ministry of Defence (May). The budget proposal is a combination of

the appropriations needs for operating costs and procurement of defence materiel. The Ministry of Defence draws up the budget proposal of the defence administration and sends it to the Ministry of Finance. The Parliament approves the final budget in December.

Taking into account the long production cycles of certain Defence Programmes, funding for multi-annual procurement agreements are enabled by parliamentary authorizations to order (ATO).

**d. Standard documents requested to evidence eligibility of a supplier**

No standard documents are requested. Requirements for the eligibility of a supplier and the evidence for the fulfilment of such requirements are always decided on case-by-case basis as to best suit the needs of the Finnish Defence Forces. Documents issued by other EU authorities are accepted as evidence.

**4. Policy and regulations**

**a. Quality assurance standards**

See item d. (Standards reference) below. Especially ISO 9000 / ISO 9001 and in case of defence related procurements NATO Allied Quality Assurance Publication standards (AQAP 2000 series).

**b. Environmental management standards**

In procurements where environmental management standards are required the Finnish Defence Forces will require ISO 14001 Environmental Management Systems standard.

Sustainability is an emerging issue and may play an increased role in the procurements in future.

**c. Intellectual Property Rights**

The intellectual Property Rights (IPR) issues are decided case-by-case basis and they will be clearly stated in the procurement documents. As a general principle, in Developmental Programme contracts the Finnish Defence Forces rarely requires the full IPR ownership, however, sufficient IPR user rights are reserved.

In collaborative programmes, IPR rules may be governed by special stipulations in the applicable collaborative regime.

**d. Standards reference**

The Finnish Defence Forces requires the use of NATO's Allied Quality Assurance Publication (AQAP) standards on its defence procurements. AQAP standards include the ISO 9001 standard. Depending on the product relevant military or civil standards are used as reference (e.g. STANAG, DEFSTAN, ISO, EN, SFS).

**e. Security clearance**

Within the tendering process the Finnish Defence Forces acts in accordance with article 22 of the Defence and Security Directive, which have been implemented into the Act on Public Defence and Security Contracts. In cases where the tendering process and/or contract to be awarded entails restricted, classified or secret information the requirement of KATAKRI (National Security Auditing Criteria, [http://www.defmin.fi/files/1871/KATAKRI\\_eng\\_version.pdf](http://www.defmin.fi/files/1871/KATAKRI_eng_version.pdf)) will be imposed for example on

tenderers and/or the execution of the contract. Requirements for Security of Information will always be clearly stated in the procurement documents.

For more information on Defence Security see [http://www.defmin.fi/en/administrative\\_branch/defence\\_security](http://www.defmin.fi/en/administrative_branch/defence_security) (web page provided by the Ministry of Defence.).

#### **f. VAT - Importing customs**

Value added tax procedures for procurements are defined in the Act on Value Added Tax ("Arvonlisäverolaki", 30.12.1993/1501). Refer to individual procurement documents for more information.

As for customs, please find general guidance in individual procurement documents. As for defence materiel imports from third countries, there may also be a possibility of a suspension of import duties on certain weapons and military equipment procured by the Finnish defence Forces. The possibility for suspension is only applicable to goods imported by or on behalf of the defence authorities (Council Regulation (EC) No 150/2003 of 21 January 2003 suspending import duties on certain weapons and military equipment, OJ L 25 of 30.01.2003).

As for export licenses, the export or transit of defence materiel from Finland requires an export license. For further information see [http://www.defmin.fi/en/tasks\\_and\\_activities/resources\\_of\\_the\\_defence\\_administration/export\\_control](http://www.defmin.fi/en/tasks_and_activities/resources_of_the_defence_administration/export_control) (web page provided by the Ministry of Defence).

#### **g. Security of Supply**

In many procurements, security of supply may play an important role in the Finnish defence procurements. These issues are often linked to the life cycle profile of the procured systems (the required support, locally available maintenance and repair capability issues etc.).

Within the tendering process the Finnish Defence Forces acts in accordance with article 23 of the Defence and Security Directive, which have been implemented into the Act on Public Defence and Security Contracts.

#### **h. Supply Chain management**

Within the tendering process the Finnish Defence Forces acts in accordance with articles 21, 52 and 53 of the Defence and Security Directive, which have been implemented into the Act on Public Defence and Security Contracts.

After being awarded the contract the main contractor is responsible for the execution of the contract. The contractual relationship between the main contractor and its subcontractor(s) is ultimately an issue between the two and thus the role of the contracting authority is limited in that respect.

#### **i. Relation with SME**

Finland has not adopted any policy giving preferential treatment or promoting the position of the SME's.

Most of the Finnish companies (including the SMEs) in the defence sector are members of Suomen Puolustus- ja Ilmailuteollisuus PIA ry (The Finnish Defence and AeroSpace Industries Association). The list of its members is published at <http://www.teknologiateollisuus.fi/fi/ryhmat-ja-yhdistykset/j-senet-448.html>

**j. Reserved contracts**

N/A

**k. Payment to contractors**

As a general principle, payment by Finnish Defence Forces is conducted within 21 days from the invoice date upon the accepted delivery of the goods/services and arrival of an acceptable invoice. Other payment methods are considered case-by-case basis. The basic guideline is that payment is completed only upon accepted delivery of the goods/services. Advance payment, which is only exceptionally possible, is acceptable only in situations where the benefits of such a payment are shown and an acceptable guarantee is provided. In general, only an absolute bank guarantee is accepted.

Issues concerning invoicing, payments and advance payments will be clearly stated in the procurement documents.

**l. E-procurement**

E-procurement within the Finnish Defence Forces is under development. At present E-procurement is limited to minor procurements only. There are estimates that E-procurement would be available in year 2017.

**m. Other**

**Offset (Industrial Participation)**

Possibility for offsets are reserved for those exceptional procurements where essential national security interests dictate. Otherwise, there is no industrial participation obligation imposed on a contractor in connection with Finnish defence procurements.

In most procurements, necessary requirements for security of supply are handled by other means i.e. utilizing the possibilities available in the procurement legislation (see item 4 g above).

See the recently renewed rules (from year 2012) on industrial participation at the home site of the Ministry of Employment and the Economy (the new rules at the bottom of the page):

[http://www.tem.fi/en/enterprises/promoting\\_internationalisation/agreements\\_on\\_industrial\\_participation/industrial\\_cooperation\\_in\\_a\\_changing\\_operating\\_environment](http://www.tem.fi/en/enterprises/promoting_internationalisation/agreements_on_industrial_participation/industrial_cooperation_in_a_changing_operating_environment)

**Procurement contract**

Contract terms: the Finnish Defence Forces generally drafts its purchasing contracts in accordance with the standard contract terms ratified by the Ministry of the Employment and the Economy (General Terms of Government Procurement for Finland "JYSE 2009 Supplies" and "JYSE 2009 Services"). These terms contain stipulations on price, payments, securities, time of delivery, risk, cancellation of contracts etc. The General Terms are being reviewed by the Ministry of the Employment and the Economy in the year 2014.

## Publicity of documents

Public authorities in Finland are bound by the Act on the Openness of Government Activities (“laki viranomaisten toiminnan julkisuudesta”, 21.5.1999/621) which governs also the publicity of documents drafted by and delivered to the contracting authority within the tendering process.

Finlex Data Bank (<http://www.finlex.fi/en/>): Finlex is an online database of up-to-date legislative and other judicial information of Finland. Finlex is owned by Ministry of Justice. Most of the databases are only available in Finnish and Swedish. Some translations of Finnish acts and decrees are also available in English and other languages. Case-Law in legal literature database is also available in English.

## 5. Resolution of disputes

Appeal to the Market Court (<http://www.markkinaoikeus.fi/en/index.html>): In case of breach of the Act on Public Defence and Security Contracts the case may be referred to Market Court. Unless otherwise provided, appeal must be made in writing within **14 days** from the date on which the party has been informed of the decision on the award of public contract, accompanied by the appeal instructions.

The case to the Market Court by means of appeal may be referred by a tenderer, a candidate or another interested party, however, not by a subcontractor.

The remedies at the Market Court’s disposal under the Act on Public Defence and Security Contracts are congruent with those of the Defence and Security Directive.

In cases where the public contract is based on a framework agreement or on the Article 346 (1) (b) of the TFEU, appeal may not be made unless the Market Court grants leave to appeal.

Request for correction: A party who is dissatisfied with the decision of the contracting authority or other decision made during the contract award procedure may submit a request for correction to the contracting authority. A party must request correction within 14 days from the date on which that party has been informed of the decision of the contracting authority or other decision made during the contract award procedure.

Defence procurement related disputes are also resolved through negotiations between parties. At times, an arbitration clause is introduced in defence procurement contract.

## 6. National official Journal platform

<http://www.hankintailmoitukset.fi> (“HILMA”), which is administered by the Ministry of Employment and the Economy. The platform provides information only in Finnish and Swedish, however, some contract notices may be published in English. From HILMA the notices are forwarded to TED (<http://ted.europa.eu>).

The platform must be used for all the “classical” procurement contracts above the national threshold (national threshold for goods and services is 30 000 €) which require contract notice to be published under the Act on Public Contracts (348/2007). The platform must be used only for those defence and security procurement contracts which are above the EU threshold and which require contract notice to be published under the Act on Public Defence and Security Contracts



(1531/2011). The defence and security contract notices above the national threshold (national threshold for goods and services is 100 000 €) must be publicly published e.g. on the web page. As a general principle, the Finnish Defence Forces uses HILMA in all of its defence and security procurements above the national threshold which require contract notice to be published under the Act on Public Defence and Security Contracts.

The platform may also be used for publishing RFIs.

## 7. Contact

### **Defence Command Finland**

Armaments Division J10

(Commercial Legal Advisor Christa Talliniemi)

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Mobile: +358 (0)299 510932

### **Ministry of Defence of Finland**

Materiel Unit

Senior Adviser Tommi Nordberg

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## FRANCE

### 1. Overview of defence procurement policy

The following websites are designed to inform about the French organization and the policies:

[www.defense.gouv.fr/](http://www.defense.gouv.fr/)

[www.ixarm.com/index\\_fr](http://www.ixarm.com/index_fr)

### 2. Defence procurement

General information on awarding and contracting procedure is available on:

[www.ixarm.com/-Methodologie-des-marches-publics-](http://www.ixarm.com/-Methodologie-des-marches-publics-)

The public procurement code is available on:

[www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000005627819&dateTexte=20140221](http://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000005627819&dateTexte=20140221)

Its first part (*“PREMIÈRE PARTIE: DISPOSITIONS APPLICABLES AUX POUVOIRS ADJUDICATEURS”*) transposes the directive 2004/18/CE. The third part (*“TROISIÈME PARTIE: DISPOSITIONS APPLICABLES AUX MARCHÉS DE DÉFENSE OU DE SÉCURITÉ”*) transposes the directive 2009/81/CE.

Standard documents requested to evidence eligibility of a supplier: the French standard document (*DC1*) is available on:

[www.economie.gouv.fr/daj/formulaires-declaration-candidat-dc1-dc2-dc3-dc4](http://www.economie.gouv.fr/daj/formulaires-declaration-candidat-dc1-dc2-dc3-dc4)

There is no regulation dealing with procurement in the field of the article 346TFEU.

### 3. Regulations

Standard terms and conditions (including but not limited to quality, IPR, payments...) are available on:

[www.boc.sga.defense.gouv.fr/pdf/2014/2014\\_004\\_p\\_defa1352299s\\_191039.pdf](http://www.boc.sga.defense.gouv.fr/pdf/2014/2014_004_p_defa1352299s_191039.pdf)

In addition, the IP code is available on:

[www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006069414&dateTexte=20140221](http://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006069414&dateTexte=20140221)

### 4. Resolution of disputes

The code of administrative justice is available on:

[www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006070933](http://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006070933)

### 5. National official journal platform

The national official journal platform is available on: [www.journal-officiel.gouv.fr/](http://www.journal-officiel.gouv.fr/)

The platform BOAMP is dedicated to procurement, above or below the threshold of the EU directives. It is available on: [www.boamp.fr/](http://www.boamp.fr/)

Another platform: [www.marches-publics.gouv.fr/?page=entreprise.EntrepriseHome](http://www.marches-publics.gouv.fr/?page=entreprise.EntrepriseHome)

## GREECE

### 1. Overview of National Defence Procurement Policy

Hellenic Defence Procurement Policy is conducted through the implementation of Law 3978/2011, as amended by the greek Law 4782/2021.

### 2. Defence Procurement Organization

General Directorate of Defence Equipment and Investment “FAKINOY” Camp-TGA 1020 Papagou Athens, Hellas

### 3. Defence Procurement

#### a. Procurement national legislation/regulations

- The provisions of the classical Directive 2004/18/EC are transposed to the Hellenic legislation by the implementation of Presidential Decree 60/07 and Presidential Decree 118/07
- The provisions of the Defence and Procurement Directive 2009/81/EC are transposed to the Hellenic legislation (Law 3978/2011)
- Other Defence Procurements (below thresholds,...) are also conducted under provisions of Law 3978/2011

#### b. Procurement Planning Process

Procurement Planning Process is conducted under provisions of Laws 3883/2010 (Articles 72-76) and 3978/2011

#### c. Procurement budget-the process

Procurement Planning Budget is conducted under provisions of Laws 3883/2010 (Articles 72-76) and 3978/2011

#### d. Standard documents requested to evidence eligibility of a supplier

- Personal situation

Standard documents requested are presented in Law 3978/2011 (Articles 57, 65)

- Suitability to pursue professional activity

Documents requested are presented in Law 3978/2011 (Articles 58, 64,65)

- Economical and Financial standing

Documents requested are presented in Law 3978/2011 (Articles 59, 65)

- Technical and/or Professional Ability

Documents requested are included in the provisions of Law 3978/2011 (Articles 60, 65)

- Quality Management Systems Standards

Documents requested are included in the provisions of Law 3978/2011 (Article 61)

- Environmental Systems Standards

Documents requested are included in the provisions of Law 3978/2011 (Article 62)

The following table provides more information on documents to evidence eligibility of a supplier:

Eligibility of a supplier	Relevant article		Standard documents
	Hellenic Legislation (Law 3978/2011)	Directive 2009/81/EC	
Personal situation	57, 64 & 65	39 & 46	Hellenic Legislation requests no additional documents than those described in Directive 2009/81/EC (Articles 39 & 46)
Suitability to pursue professional activity	58, 64 & 65	40 & 46	Hellenic Legislation requests no additional documents than those described in Directive 2009/81/EC (Articles 40 & 46)
Economical and Financial standing	59, 64 & 65	41 & 46	Hellenic Legislation requests no additional documents than those described in Directive 2009/81/EC (Articles 41 & 46)
Technical and/or Professional Ability	60, 64 & 65	42 & 46	Hellenic Legislation requests no additional documents than those described in Directive 2009/81/EC (Articles 42 & 46)
Quality Management Systems Standards	61	43	Hellenic Legislation requests no additional documents than those described in Directive 2009/81/EC (Articles 43)
Environmental Systems Standards	62	44	Hellenic Legislation requests no additional documents than those described in Directive 2009/81/EC (Articles 44)

Note: Hellenic Legislation Article 64 refers to the official lists of approved **domestic** contractors, suppliers or service providers or certification by certification bodies established under public or private law.

#### 4. Policy and regulations

##### a. Quality Management

Quality standards and requirements are included in contracts. Standard Quality Assurance Contractual Requirements are expressed in the Allied Quality Assurance Publication (AQAP). Except for low technology commercial material, Government Quality Surveillance is conducted in accordance with Internal Legislation for Government Quality Assurance, based on NATO policy and MOU for non-NATO countries

#### **b. Environmental Management Standards**

The standards and directives of the European Union are applied

#### **c. IPR**

They are determined in the calls, depending on the content of the procurement

#### **d. Standard Reference**

The procurement of defence material is carried out on the basis of the technical specification issued by the General Staff

#### **e. Security Clearance**

The following parties are entitled to participate in Armed Forces procurement tenders, on the basis of the procedures and documentation prescribed by Law 3978 (Article 21) :

1. Natural or legal persons
2. Joint ventures of suppliers.

#### **f. VAT-Importing customs**

- Customs clearance is carried out by the competent agency of each Armed Forces branch, provided that the required documentation is produced in a timely manner by the supplier or his representative or is forwarded through the competent bank or the Armed Forces agencies stationed abroad (Law 3433/2006 Article 36).

- This documentation is forwarded to the competent Customs Authority by the Armed Forces agency that will take over the material. Such agency also applies for the suspension of import duties according to the EU Council Regulation 150/2003 (OJ L 25/30 January 2003) and the customs clearance of the material. Following customs clearance, the material is forwarded to the competent Armed Forces take-over committee for inspection and preparation of the qualitative and quantitative take-over protocols. The procurement of defence material is carried out on the basis of the technical specification issued by the General Staff. (Law 3433/2006 Article 36).

- VAT is imposed in accordance with the provisions of Law 2859/2000

#### **g. Security of Supply**

According to European Directive 2009/81, which is embodied to National legislation through Law 3978/2011 the type, method and amount of the procurement, Defence Procurement Organization demands by National or Non-National supplier, the manufacture of contract products at the place of the performance. Additionally, in order to secure the Procurement, the following letters of guarantee are required:

1. For participation in the tender

2. For the performance of the contract
3. For the advance payment
4. For good operation.

According to the article 33A of the Law 3433/2006, which was amended by the Law 4782/2021, letters of guarantee can be issued not only by the Bank of Greece, but also by companies, on condition that on the one hand such possibility is prescribed on the procurement documents, on the other hand such companies provide creditworthiness certified by international credit rating agencies recognized by the Greek State.

#### **h. Supply chain Management**

The main supplier may choose the subcontractors for whom he is bound in the main contracts and who shall also be bound by the main contract.

#### **i. Relation with SME**

In accordance with the existing Procurement legislation no special treatment to SME's is applied. Efforts are being made through European Union procedures, in order to support them by applying specific measures.

#### **j. Reserved Contracts**

There are no special categories of contracts

#### **k. Payment to Contractors**

The call determined the payment method and the relevant details. Suppliers are paid after the qualitative and quantitative take-over of the items, according to the terms of the call, the awarding decisions and the relevant contract, either by money order (regular or for advance payment) or by the fixed down payment, on the basis of documentation determined and supplemented in the awarding decision or the contract. For procurements from abroad, payment is made by remittance. In exceptional cases and following a fully justified and documented recommendation, payment may be made by opening a credit in favour of the supplier, by decision of the financially responsible party.

#### **l. E-Procurement**

E-Auction is a procedure that also described in Hellenic Defence Procurement legislation. It is conducted under provisions of Law 3978/2011 (Article 67).

#### **5. Resolution of Disputes**

The procedure for the resolution of disputes is determined in the contracts on the basis of Hellenic law and such contracts are binding for both parties.

#### **6. National Official Journal Platform**

Relevant information for each procurement are uploaded regularly to : [www.et.gr](http://www.et.gr) following the issue of Public Procurement Contact Notice

#### **7. Contact**

PoC: LTC. Michael Polychronidis

Tel. +302107466510

E-mail: [legad@gdaee.mil.gr](mailto:legad@gdaee.mil.gr)

## IRELAND

### 1. Overview of defence procurement policy

Procurement of defensive equipment and services is carried out in accordance with EU Council Directive 2009/81/EC as implemented into Irish law by Regulation 42 of the European Union (Award of Contracts relating to Defence and Security) Regulations 2012 (Statutory Instrument No. 62 of 2012). The Contracts Branch unit in the Department of Defence is responsible for procurement policy and managing procurement processes for the acquisition of defensive and other military related equipment and services for the Irish Defence Forces, which includes the Army, Air Corps and Naval Service.

In accordance with delegation of financial responsibility to the Defence Forces, an extensive procurement function is also provided by the Defence Forces. The Defence Forces purchase goods and services commonly associated with day-to-day operations, e.g. in the area of food, clothing, logistics and the maintenance of equipment and premises.

### 2. Organisation

The Department of Defence has its headquarters at Station Road, Newbridge, County Kildare, Ireland.

### 3. Public contracts procedures

The Department of Defence procurement policy guidelines are available on [www.defence.ie](http://www.defence.ie). General guidelines on the award of public sector contracts in Ireland are available on the nation public procurement website run by the Department of Public Expenditure and Reform which is <http://www.etenders.gov.ie>.

### 4. Policy and regulations

#### a. Quality assurance standards

The Department seeks to procure equipment, material and products/services that comply with National and International standards, including STANAGs and UN standards. In submitting tenders, manufacturers are generally requested to provide independent certification of compliance with standards claimed for the products, materials or services. Copies of such standards are also generally supplied to the Department.

#### b. Environmental management standards

The Irish Department of Defence complies with any requirements of the Department of Environment, Climate and Communications and central Office of Government Procurement green procurement policies and guidelines.

#### c. Intellectual Property Rights

The intellectual Property Rights (IPR) issues are decided case-by-case basis and they will be clearly stated in the procurement documents. As a general principle, in research and developmental programme contracts the Department of Defence rarely requires the full IPR ownership, however, sufficient IPR user rights are reserved. All Pre-Existing Intellectual Property Rights (IPR) remain the sole property of the Party who owned, acquired or developed such IPR.

**d. Standards Reference**

Depending on the type of equipment or services, the specific technical specification and standards will be prescribed in the contractual documents issued. These can include national, international, UN standards and NATO STANAGS, where applicable.

**e. Security clearance**

These are required for suppliers, in particular, for building and engineering contracts, involving work in military installations.

**f. VAT –**

Importing- The Irish VAT code applies. Guidance on VAT and Customs requirements can be found on the Revenue Commissioners site at <http://www.revenue.ie>

**g. Offset**

No regulations are enacted, the Department of Defence does not engage in offset policies.

**h. Security of Supply**

Regulation 21 of the Irish national implementing legislation Statutory Instrument No. 62 of 2012 enables terms referable to security of supply apply in the selection process and these are incorporated into contractual arrangements.

**i. Supply chain management**

No regulations are implemented, however, due regard is had to supply chain management in contractual arrangements.

**j. Relations with SMEs**

The Department of Defence applies central policy guidance issued by the Office of Government Procurement (OGP), the National Central Purchasing Body.

**k. Reserved contracts**

Not applicable.

**l. Payment to contractors**

Payments are made to the contractor as soon as is practicable following the satisfactory delivery of the goods. In any event, payment is subject to the Prompt Payment of Accounts Acts, 1997 and European Communities (Late Payment in Commercial Transactions) Regulation, 2002, i.e. payment will be made within 30 days after receipt of a valid invoice or delivery of the goods whichever is the later.

**m. E-Procurement**

In general terms procurements are carried out on an electronic basis.

**5. Resolution of disputes**

Standard Central Purchasing Body (OGP) contracts make transactions subject to Irish Laws and Irish courts. The parties can refer issues to alternative Dispute Resolution which may take the form of Mediation, Arbitration & Adjudication (compulsory for construction contracts since 2013) Arbitration is



governed by the UN established UNCITRAL rules which make the applicable law that applies the one that the parties signed up to in the contract (Irish law).

#### 6. National Official Journal

Office of Government Procurement (OGP) <http://www.etenders.ie>

#### 7. Contact us

Contracts Branch

Department of Defence

Station Road

Newbridge

County Kildare

Ireland

Email: [contracts@defence.ie](mailto:contracts@defence.ie)

Tel : 00353 45 492000

## ITALY

**1. Overview of national defence procurement policy**

The Technical-Operational Area of the Ministry has the responsibility to define requirements, characteristics and quantities of materials and systems to be procured for the fulfillment of Armed Forces operational needs, based on directives issued by the Minister and the Chief of Defence Staff.

The Technical-Administrative Area of the Ministry (Secretariat General of Defence and National Armament Directorate) has the responsibility to manage the procurement procedures through Technical Directorates in charge of specific competences depending on the subject (i.e. Land, Naval or Air Force systems, C4ISTAR systems, general support services, etc.).

**2. Defence procurement organization**

Centralized and under the coordination of Secretariat General of Defence and National Armament Directorate.

**3. Defence procurement****a. Procurement national legislation / regulations**

- i. For procurement under classical directive 2014/24/EC

Legislative decree n. 50/2016, “the Contract Code” or simply “the Code”.

- ii. A specific decree of the Minister of Defence currently at the stage of being finalized, as well as, other ministerial decrees competent by sector and the guidelines of the anti-corruption authority, both implementing the Code. For procurement under defence and security procurement directive 2009/81/EC

Legislative decree n.208/2011

Presidential Decree n.49/2013

- iii. For other defence procurements (Article 346 TFUE, below threshold, ...)

Prime Minister Cabinet Directive issued on 21<sup>st</sup> January 2014

Ministry of Defence Directive issued on 17<sup>th</sup> November 2015

The procedures to be applied to procurement under the EU threshold have been updated in the specific ministry decree mentioned before in this paragraph.

**b. Procurement planning process (including potential cooperation or joint procurement).**

The overall process has been described at section 1 above. One of the elements to be taken into consideration during the procurement process definition is the possibility to better satisfy the requirements through bilateral or multilateral co-operations.

**c. Procurement budget – the process.**

The process related to budgeting activity starts at the beginning of each financial year and is aimed to parliamentary approval of planning documents attached to the following Annual Budget Law. The budget planning is a shared responsibility among Chief of Defence Staff and Secretariat General of Defence and National Armament Directorate under the direction of Minister Cabinet Office.

**d. Standard documents requested to evidence eligibility of a supplier**

- i. Personal situation: Documents proving the candidate's generic requirements (reference article 11 legislative decree n. 208/2011 or art. 45/46/48/80/83 legislative decree n. 50/2016) provided through self-certifications based on the European Single Procurement Document (ESPD) or appropriate official papers as listed below:
- Certificate (released no earlier than six months prior to bid expiration), or self-declaration, proving registration in Professional or Commercial Register (as provided in art. 83 of the legislative decree n. 50/2016 and as listed in Annex XVI of the aforementioned legislative decree), reporting names of the individuals who can legally take charge for the Firm. The same document must also prove that the firm is not in conditions of winding-up, closure agreement of creditors, temporary receivership, or bankruptcy.
  - Certificate released by the competent Authority (or self-declaration also providing information on the National Authority able to certify this requirement), proving the regular payments of social security contributions to personnel employed in the Firm or equivalent paper.
  - Certificate (or self-declaration) reporting the management positions in the Firm released by Chamber of Commerce (EU Entities listed in Annex XVI of the aforementioned legislative decree) or equivalent paper.
  - Certificate (or self-declaration), reporting that the Firm has not incurred in any final judgement about violations of the State fiscal law.
  - Appropriate declaration released by the relevant Authorities (or self-declaration) addressing the Firm's compliancy with work safety requirements.
  - Self-declaration proving no pending penal charges or final judgements pronounced against the Firm's legal representative. The Document should also provide information on the National Authority able to certify this requirement.
  - Self-declaration regarding the respect of competitor's national laws addressing work rights of handicapped employees.
  - Self-declaration proving that the Firm is not under control (or in similar conditions) by another tendering Firm, so that different offers might be referred to a single Entity.
  - Authorization to pursue professional activity

- ii. Technical capability: Documents proving technical and/or professional ability (reference article 12 legislative decree 2011/208 or art. 83 of the legislative decree 50/2016, as for art. 58 and Annex XII of the directive 2014/24/EC), such as certificates, or self-declarations, reporting:
  - The total quantity of products supplied in the last three years, reporting dates, values and customers;
  - Description of technical instruments and means employed.
  - As necessary, it might be required the provision of a Certificate provided by competent National Institute or Service in charge of quality control, proving goods are supplied in conformance with the requirements or regulations specified in tender's notice.
- iii. Economic and financial capability: Documents proving the economic and financial standing (ref. art. 83 legislative decree n. 50/2016 and 58 EU Directive 2014/24), as:
  - appropriate bank statements;
  - balance-sheets or extracts from the balance-sheets
  - undertaking's overall turnover and, where appropriate, of turnover in the area of services or materiel tendered regarding the last three financial years

Other documents might be requested, including all documents related to technical capacities.

Information on requested documentation is always specified in the Request for Tenders.

#### **4. Policy and regulations**

##### **a. Quality assurance standards**

NATO AQAP/ ISO 9001:2015

##### **b. Environmental management standards**

Respect of ISO 14001, not mandatory

##### **c. Intellectual property rights**

Managed in accordance with National IPR Code (legislative decree 2005/30) and in accordance with the standards international practices.

##### **d. Standard reference**

National and NATO documentations, where applicable.

##### **e. Security clearance**

Depending on the object of procurement and based upon specific confidentiality requirements. Article 13 of legislative decree 2011/208 in case of procurement under Directive 2009/81/EC.

#### **f. VAT – importing customs**

VAT managed in accordance with directive 2006/112/EC (specific exemptions provided by national transposition law Presidential Decree 1972/633)

Importing customs managed in accordance with Council Regulation 2003/150.

#### **g. Security of supply**

Article 14 and 15 of legislative decree 2011/208 in case of procurement under Directive 2009/81/EC.

#### **h. Supply chain management**

Normally under industry responsibility. Article 27 of legislative decree 2011/208 in case of procurement under Directive 2009/81/EC provides for subcontracting on request of the contracting authority.

#### **i. Relation with SME**

Continuous dialogue through working groups at Ministry of Defence level with the participation of Ministry of Economic Development. In 2017, the Director of National Armaments approved an action plan to support the SME to facilitate their defence market access.

#### **j. Reserved contracts**

In accordance with EC communication and only in specific cases provided by General Directive issued by Prime Minister Cabinet and dedicated Directive issued by Ministry of Defence.

#### **k. Payment to contractors**

In accordance with legislative decree 2012/192 transposing directive 2011/7/EC.

#### **l. E-Procurement**

Only for procurement under classical directive and in accordance with procedures issued by national central purchasing body called CONSIP.

### **5. Resolution of disputes**

National courts. Arbitration clause as an exception.

### **6. National official journal platform**

[www.gazzettaufficiale.it](http://www.gazzettaufficiale.it) with a section dedicated to public contracts.

### **7. Contact**

Ms Sonia Simonella - Ministry of Defence - Secretariat General of Defence and National Armament Directorate - Deputy Director of Administrative Coordination Department

E-mail: [r2u2s0@sgd.difesa.it](mailto:r2u2s0@sgd.difesa.it)

#### **Related Internet Links:**

- <http://www.gazzettaufficiale.it/gunewsletter/dettaglio.jsp?service=1&datagu=2011-12-16&task=dettaglio&numgu=292&redaz=011G0249&tmstp=1325581432100>

- [http://www.gazzettaufficiale.it/atto/serie\\_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=2016-04-19&atto.codiceRedazionale=16G00062](http://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=2016-04-19&atto.codiceRedazionale=16G00062)

## LATVIA

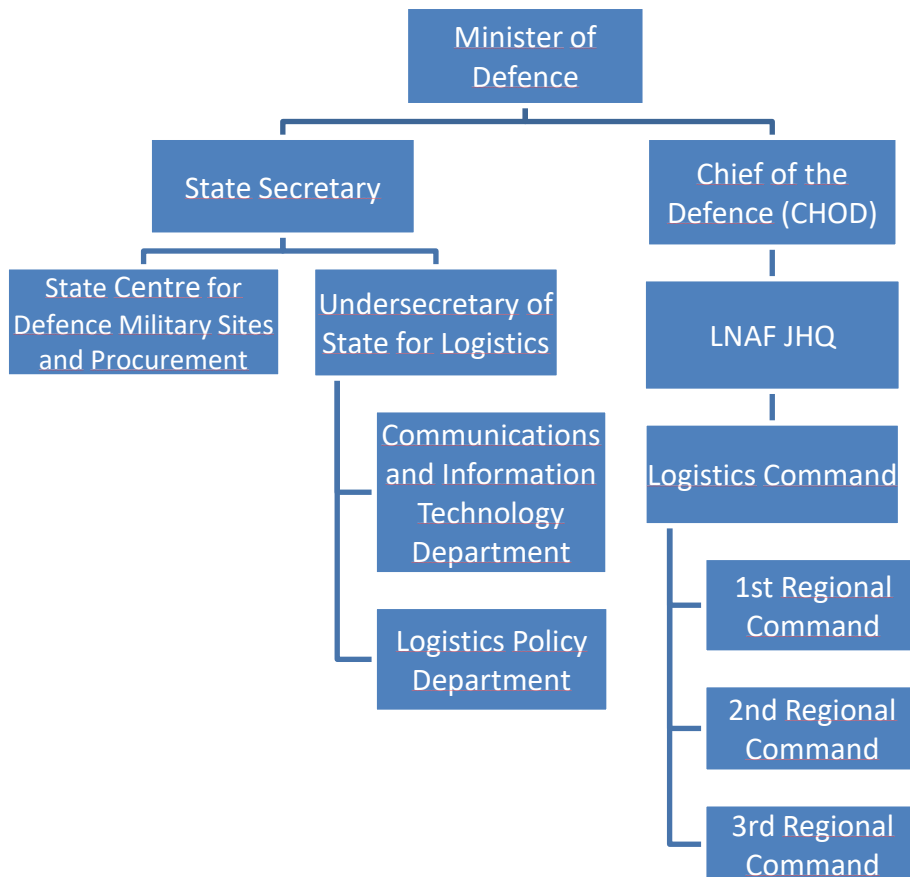
### 1. Overview of defence procurement policy

The aim of the Latvian MoD's procurement policy is to organize long term procurement planning processes in order to support NAF with timely supply of goods and service.

MoD has established 3 level procurement planning system:

- Long Term Acquisition Plan (12 years)
- Mid-Term Procurement Plan (4 years)
- Current Procurement Execution Plan (1 year)

### 2. Defence Procurement Organization



### 3. Defence Procurement

#### 3.1 National Legislation

- Procurements falling under the classical Directive 2014/24/EC are organized according to Public Procurement Law.

- b. Procurements falling under the Defence and Security Procurement Directive 2009/81/EC are organized according to Law on Procurement in Fields of Defence and Security.
  - c. Other Procurement – there is no specific regulations for other type of procurements. In such cases each Procurement is organized on case-by-case basis.
- 3.2 Procurement planning process is organized in three levels – strategic, operational and tactical. Institutions in each level have their own responsibilities but all decisions regarding the procurement type (international organizations, local agencies, G2G or other) are made at the strategic level – MoD.
- 3.3 Procurement Budget is planned in accordance with the guidelines set forth in the NAF Long Term Development Plan and accordingly Long Term Acquisition plan.
- 3.4 Standard documents to evidence the eligibility of the supplier can differ from case to case and pretty much depends on the type of the procurement, goods or services to be procured, etc. There is no standard documentation that is requested from suppliers in every case in addition to those that are defined in the respective Procurement Directive.

#### 4. Policy and regulations

##### a. Quality assurance standards

In most cases quality assurance standards are an integrated part of the defined requirements and/or technical specifications and can be different from case to case due to level of complexity of the procurement subject.

##### b. Environmental management standards

All products and services have to comply with EU regulations. In some cases additional requirements can be defined but normally those requirements are described in the procurement documentation.

##### c. Intellectual Property Rights

No standard regulations or requirements are applied.

##### d. Standards reference

In many cases requirements for standards or quality management procedures can be set forth. There can be different possibilities for the requirements:

Internal procedures: in some cases it can be requested that supplier has its own internal quality management procedures.

Quality management: in separate cases accordance with standards according to EN, ISO or STANAG regulations and quality management plans can be requested.

Financial stability: in high value projects verification of supplier's financial stability can be requested.

##### e. Security clearance

If the current project contains information that is considered classified or if supplier needs to access customers premises that is considered as restricted area then appropriate security clearances can be requested both for supplier and personnel.

In some cases only security check by appropriate state security institutions is requested.

**f. VAT – importing customs**

In most cases importing is organized in accordance with INCOTERMS and VAT is paid by Buyer directly to state budget.

**g. Security of Supply**

In some large procurements Security of Supply requirements can be set in accordance with Directive 2009/81/EC.

**h. Supply chain management**

Currently there are no specific regulations in this regard.

**i. Relations with SME**

Currently there are no specific regulations in this regard.

**j. Reserved Contracts**

At the moment no such contracts has been signed.

**k. Payment to contractors**

In some cases down payment can be paid by Buyer but in cases when it exceeds certain amount bank guarantee is requested.

**l. E-Procurement**

E-procurement regulations are applied for the Procurements under the classical Directive 2014/24/EC. Currently e-procurement regulations are not applied to Procurements under the Defence and Security Directive 2009/81/EC but Latvian MoD is currently working on standardization of Procurement processes and there could be some e-procurement regulations drafted also for the Defence Procurements.

**5. Resolution of disputes**

Majority of contracts states that two level resolution of disputes is possible where first level is mediation and the second level is state court.

**6. National Official Journal platform**

All Procurements in country is monitored by Procurement Monitoring Bureau and basically every Procurement organized by state institutions has to be publicized on the Procurement Monitoring Bureau website or e-Procurement platform.

**7. Contact**

Ministry of Defence of the Republic of Latvia

Official e-mail: [kanceleja@mod.gov.lv](mailto:kanceleja@mod.gov.lv)

Website: [www.mod.gov.lv](http://www.mod.gov.lv)

Office: Kr.Valdemara street 10/12, Riga, Latvia, LV-1473



## LITHUANIA

### 1. Overview of defence procurement policy

The main goal of the defence procurement policy is to acquire equipment, services and works needed for the Armed Forces for accomplishing assigned goals and missions.

In Lithuania, the main guiding principles of defence procurement are non-discrimination and equality of treatment as well as maximizing competition to the extent practicable and minimizing performance risks.

### 2. Defence procurement organization

Ministry of National Defence and Lithuanian Armed Forces are main contracting authorities for procurement of arms, munitions, explosives and other defence related supplies. They can delegate this right to the Weaponry Fund of the Republic of Lithuania or to establishments of NATO or EU for carrying out procurement procedure.

### 3. Defence procurement

#### a. Procurement national legislation.

Procurement of defence related supplies, services and works, is conducted either in accordance with the Law on Public Procurement i.e. under Classical Directive 2004/18/EC or in accordance with the Law on Public Procurement in the fields of defence and security i.e. under Defence & Security Procurement Directive 2009/81/EC.

#### b. Procurement planning process

In general we follow procurement planning process' regulations (explain procurement procedures) approved by minister of defence. These regulations divide procurements into two groups: decentralized (units' responsibility) and centralized (MOD's responsibility). Procurement plans are prepared annually. Procurement lists are revised and finally approved after validation of annual budget the ministry of finance.

#### c. Procurement budget – the process

The process of the procurement budget making is conducted in accordance with the Budget Law, the Budget Indicators Law and in accordance with the Government approved Regulation for the State Budget and Municipal Budget Preparation and Execution and the Regulation for the State Funding for the State capital Investment Planning, Use, Accounting and Control.

#### d. Standards documents requested to evidence eligibility of a supplier.

Personal situation of the candidate or tenderer, suitability to pursue the professional activity, economic and financial standing, technical and/or professional ability. Detailed requirements are set in the tenders' documents.

### 4. Policy and regulations

#### a. Quality assurance standards

ISO standards or regulations are applied.

#### **b. Environmental management standards**

ISO standards or regulations are applied.

#### **c. IPR (Intellectual Property Rights)**

Intellectual property issues are regulated by the law on copyright and related rights of the Republic of Lithuania.

#### **d. Standards reference**

<http://www.iso.org/iso/home.html>

#### **e. Security clearance**

Suppliers must have Facility Security Clearance in order to participate in award procedures of contracts related to state secrets. Personnel, who will be authorized to have access to the state secrets, must have Personal Security Clearance.

#### **f. VAT-importing –customs**

Contracting authority pays VAT to the budget of the Republic of Lithuania under the contracts with foreign suppliers.

#### **g. Security of Supply**

A company that supplies defence equipment must ensure a proper performance of its obligations under a contract. In case of delay or improper performance monetary penalties apply.

#### **h. Supply Chain management**

Requirements may be set in tender's provisions. In some cases subcontractors must be approved by contracting authority.

#### **i. Relations with SME**

In Lithuanian defence procurement there is no policy or regulation granting preferences to SME over other companies.

#### **j. Reserved contracts**

A contracting authority may reserve the right to participate in contract award procedures to sheltered workshops or provide for such contracts to be performed in the context of sheltered employment programmes where most of the employees concerned are handicapped persons who, by reason of the nature or the seriousness of their disabilities, cannot carry on occupations under normal conditions.

#### **k. Payment to contractors**

Payments to contractors are made according to the tender's and contract's provisions.

#### **I. E-procurement**

E-procurement website address: <https://pirkimai.eviesiejipirkimai.lt/> . Registration is required, but it is free of charge.

### **5. Resolution of disputes**

Suppliers can file a claim with the contracting authority in writing. The contracting authority must fully examine the claim and make a justified decision. If contracting authority fails to examine the claim within timeframe, defined by the law, or rejects the claim, the supplier may file a complaint with the general jurisdiction court.

#### **6. National Official Journal platform**

Procurement notices are placed on website <https://pirkimai.eviesiejpirkimai.lt/>.

#### **7. Contact us:**

Darius Puidokas

Senior adviser

Procurement Department

Ministry of National Defence of the Republic of Lithuania

[Darius.Puidokas@kam.lt](mailto:Darius.Puidokas@kam.lt), phone +370 5 2635900

## NORWAY

### Procurement Process Framework - Norwegian Model

#### Introduction

This document describes the Norwegian equipment procurement process, and the main players, laws and regulations, commercial aspects and the Norwegian Policy for Industrial Co-operation. The document is not a formally document from the Norwegian Ministry of Defence (MoD), but a guidance to help understanding the way the procurement process is conducted.

#### Constitutional structure

According to the Constitution, which was adopted in 1814, Norway is a monarchy in which the power is divided between three branches. The first is a legislative branch which is also responsible for appropriations, the Parliament. The second branch is an executive branch, the Government, and the third branch is a judicial branch, the courts.

The Norwegian Parliament is the supreme arena for political debate and decision-making in the Kingdom of Norway. There are 169 elected members of the Parliament. Parliamentary elections take place every four years. There are no by-elections, nor is there any constitutional provision to dissolve the Parliament between elections. The system of parliamentary rule means that it is the Parliament that determines the composition of the Norwegian Government. Most of the business laid before the Parliament is first prepared by a committee. Each Member of the Parliament serves on one of the 12 permanent committees.

The Standing Committee on Foreign Affairs and Defence, is responsible for matters relating to foreign affairs, military defence, development cooperation, Norwegian interests on Svalbard or in other polar regions and matters in general relating to agreements between Norway and other states or organizations.

#### Government

The Government is formed by the party/parties that have a majority of the seats in the Parliament or constitute a minority capable of governing. Thus the Government is indirectly selected by the electorate. Sometimes a government has the support of a majority in the Parliament (a majority government). Other times governments are formed that can only count on the support of a minority in the Parliament. The Office of the Prime Minister and the ministries serve the Government and are headed by the Prime Minister and the various ministers, respectively. There are 18 ministries to serve the Prime Minister.

The Minister of Defence is responsible for the formation and implementation of Norwegian security and defence policy.

#### Basic budget figures

Total Defence budget (2016): 49 BNOK (5,8 B€)

Materiel investment 12 BNOK (1,4 B€)

Procurement of supplies/services 11 BNOK (1,3B€)

## Strategy

The current Norwegian military equipment procurement process was redesigned in 2004 and is formed from four separate phases leading into full operational capability (FOC). These four phases are 1) Initiating phase, 2) Concept phase, 3) Definition phase, 4) Acquisition phase. The process is governed by the Norwegian Ministry of Defence (MoD), but the last two stages in the process are mainly staffed within the Norwegian Defence Materiel Agency (NDMA) and the Defence Forces as well as all lifecycle support and use of equipment after implementation.

Norway acquires about two-thirds of its military materiel abroad, based on three main acquisition strategies:

1. National development programmes
2. International armaments co-operation
3. Procurement off-the shelf

## Description of key procurement process phases

### a. Long term planning

The long term planning process outlines the continuous development of the Norwegian Defence Sector with respect to organization, infrastructure (garrisons and bases), personnel (numbers, composition and qualifications) and materiel (existing equipment and new acquisitions). This process is carried out under the direction of the Royal Norwegian Ministry of Defence (MoD). The Long Term Plan Materiel forms the basis for all materiel procurements in the short term (4-5 years), the medium term (5-10 years) and the long-term perspectives (10-20 years). The plan is updated annually to reflect updates stemming from changing requirements, available resources and progress in on going acquisitions.

### b. Initiating phase

In the initiating phase strategic analyses, capability requirements (both national and alliance) and a force structure perspective form the basic inputs in developing a force structure development plan (FSDP). Political priorities, operational requirements, economic constraints, and their mutual influence, are synthesized to form a force structure. The required force structure may lead to capability gaps that need to be closed. In order to close this gap, the MoD develops updated long term plans for materiel, infrastructure and personnel.

In addition to the strategic analyses which is a “top down” approach to close the capability gap, the armed forces have the possibility to put forward a project idea to the MoD based on operational needs. This is a “bottom up” approach to ensure that the armed forces always have the necessary equipment to solve their operational tasks.

### c. Concept phase

Long term plans and recognised capability gaps form the basis for the concept phase where analyses of a required capability and the choice of operational concept are made. This means that for the capability analysis there will be an objective evaluation of the required capacity (*not* technical requirements or choice for specific systems at this stage) such as need for sea transportation. At this stage, the MoD performs a strategic requirement analysis and develops the business case. External quality audits are performed for major programmes before they are presented to, and approved by the Government.

Normally, only major (overall cost above 750M NOK) acquisitions undergo a concept phase and an external quality assurance. Acquisitions below this amount will normally go directly to definition phase after the MoD's approval of the project idea.

#### d. Definition phase

The definition phase is done in order to perform a detailed description regarding elements such as the number of systems required, detailed technical requirements, financial cost of systems (both acquisition and life cycle cost) and operating & maintenance plans. The definition phase is led by the NDMA, with support from the Defence forces. The NDMA makes the final recommendation to the MoD, coordinated with the armed forces.

Acquisitions up to 75M NOK is approved by the Chief of Department for management and financial governance, up to 500M NOK by the Minister of Defence, and above 500M NOK by the Parliament, after a governmental recommendation and submission.

#### e. Acquisition phase

The acquisition phase is led by the NDMA, and consists of procurement of materiel, establishing organization and infrastructure and educating personnel. Planning of handover to the operation phase is also an important part of the acquisition phase.

Request for proposal (RfP) process, supplier selection, contract negotiations, documentation and training and other related tasks are all staffed in the NDMA.

The Defence forces are responsible for preparing the operational units, such as initial education, new operational procedures, necessary organizational changes and logistic support.

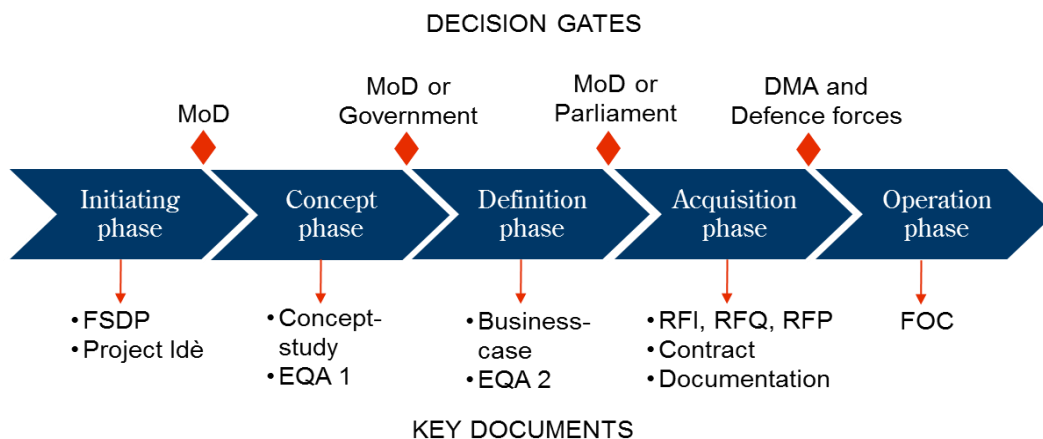


Figure. The procurement process model, the phases, decision gates & responsibilities, and key documents in the procurement process

#### Key documents in the process

The Force Structure Development Plan is created and updated by the MoD. The plan is the result of the strategic planning process. The overall force structure plan consists of sub plans such as a long term plan materiel, long-term plan infrastructure and long-term plan personnel.

After the concept phase, recommendation is drafted by the MoD to the *Government*. External quality audit always precedes recommendation, and summary of this audit is included in the recommendation to the *Government*.

*Definition phase documentation* contains detailed descriptions regarding the number of systems, detailed technical requirements, financial cost (acquisition and life cycle cost) and operating plan including maintenance responsibilities. After the definition phase, recommendation is drafted by the MoD to the Parliament if the overall cost of the acquisition is above 500MNOK.

*Acquisition phase documentation* contains all documents related to the procurement of materiel and are drafted by the NDMA. These documents are namely RFI (request for information), RFQ (request for qualification), RFP (request for proposal) and contract documentation. In addition educational and operational documentation is also created as part of the acquisition process.

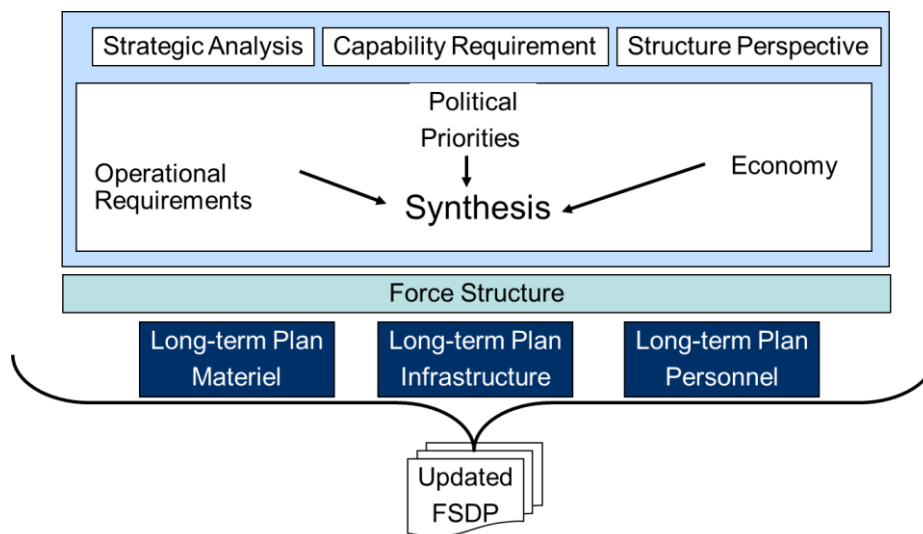


Figure. The Norwegian model for capability management - Force Structure Development Plan (FSDP)

### Norwegian Defence Industrial Strategy

The white Paper (Meld. St. 9. (2015-2016))<sup>2</sup> describes the Norwegian Governments strategy for industrial cooperation and has a broad political foundation, and forms the base for the cooperation between the Armed Forces and the industry. The defence sectors requirements and national security interests form the prioritizing on areas of competence that should be kept and developed, and prioritizing that must be done before the procurement process starts.

The Norwegian MoD is responsible for the national defence industrial strategy. The MoD appraise the needs to keep and develop the technological competence within the national defence industry based on national security interests. This also includes appreciation regarding general initiatives to strengthen the comprehensiveness within the national defence industry. This policy constitutes guidance to the procurement projects regarding involvement of national defence industry and contract and procurement regulations.

National security interests necessitate a viable and highly competent domestic defence and security industry. The Government will continue to pursue close co-operation between the Armed Forces and

<sup>2</sup> Meld. St. 9 (2015-2016) Nasjonal forsvarsindustriell strategi, jf. Innst. 185 S (2015-2016).

industry within selected high technology areas. Eight technology areas are making up the future framework for a strategic co-operation with the industry:

1. Command, control, information, decision making support and combat systems (incl. radar systems)
2. System integration
3. Autonomous systems
4. Missile technology
5. Underwater technology
6. Ammunition, aiming devices, remotely controlled weapon stations, rocket and missile engine technology and military explosives
7. Material technology (incl. composites) specially developed and/or adapted for military use
8. Life cycle support for military land, air and sea systems

### **Multinational defence cooperation**

Multinational defence cooperation has been part of Norway's daily business since the establishment of NATO. NATO's integrated defence planning, integrated command and force structure and commonly owned and operated operational capabilities like AWACS, ACCS and the developing AGS/JISR and BMD, are all examples that multinational defence cooperation can provide the most cost-efficient solutions to national as well as shared requirements. In fact, for smaller nations like Norway, multinational cooperation will, in many cases, be the only way to access strategic capabilities like these.

The Norwegian approach to the forums and formats for cooperation is pragmatic. The paramount concern is the cost-benefit ratio in relation to our requirements. NATO, the EDA and the Nordic Defence Cooperation – NORDEFCO – are the preferred institutional frameworks, mostly depending on the nature and scale of the capability in question. Bilateral cooperation with close and natural partners supplements the institutional cooperation.

### **Main players**

The MoD acts as the project owner in all the project phases. The MoD initiates, funds and approves all acquisitions projects as well as all phase transitions. The project portfolio is divided into sub portfolios or investment programs, after the concept phase. The MoD Investment programs ensure an integrated investment planning and management process that include all civilian and military levels and services within the defence sector.

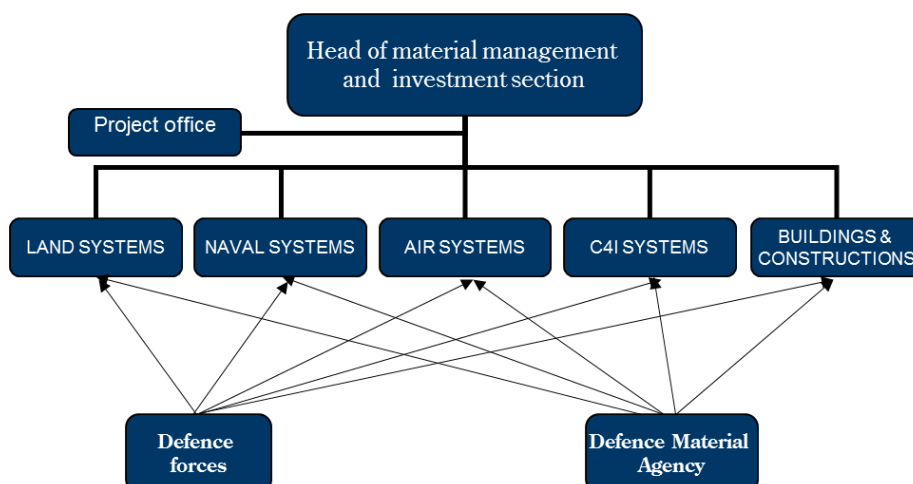




Figure. MOD Investment Programmes

The NDMA acts as the procurement agency for all materiel acquisition projects while all supplies and maintenance procurements are the responsibility of the Defence Forces. Based on functional requirements from the end users, NDMA creates the technical as well as the commercial requirements to be part of the tender for acquisition projects. NDMA issues the tenders publications at the Norwegian website DOFFIN ([www.doffin.no](http://www.doffin.no)), performs the procurement process and signs the contracts. Tenders with a value above certain thresholds are also made public at the EU website TED ([www.ted.europa.eu](http://www.ted.europa.eu)).

The Defence Forces and other defence branches are the end users of the equipment that are to be procured, and are writing the functional requirements to the system. The branches must make necessary preparations to be able to use the new equipment, and run operational tests to verify initial and fully operational capability.

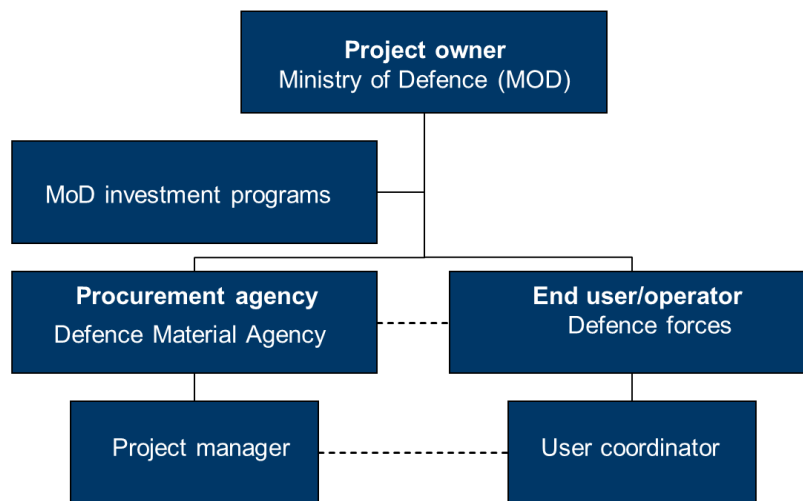


Figure. The main players in the procurement process

## Laws and Regulations

Norway is a member of the European Economic Area (EEA). Through the EEA Agreement Norway has implemented EU Directives 2004/18/EC and 2009/81/EC in its legislation. EU Directive 2014/24/EU is implemented through the Norwegian Public Sector Procurement Act (in short term mentioned LOA), Classic sector procurement regulations (in short term mentioned FOA), and Directive 2009/81/EC is implemented through Defence and security sector procurement regulations (in short term mentioned FOSA). The MoD has in addition issued an internal guideline called “Defence Acquisition Regulations” (in short term mentioned ARF). ARF is mandatory to all defence acquisitions done by the MoD and subordinated agencies. Similar, but not equal to article 346 in the EU treaty, the EEA Agreement article 123 grants the MoD to exempt from the above mentioned procurement law and regulations in the field of production and trade of weapons, ammunition and military equipment. The tender procedures used for these procurements are to be found in ARF.

ARF’s general principles are that all acquisitions shall, as far as possible, be subject to competition, and the acquisition process shall be proportionate, transparent and accountable. The selection of the winning bid shall be based on objective and non-discriminating criteria. In cases where safeguarding of national

security interests is vital MoD may impose derogations to this basic acquisition principles (referring to paragraph 7).

Industrial cooperation agreements (offset), applies to procurements subject to EEA Agreement (Article 123) exemptions and FOSA when elected contractor is situated outside EEA. It is applicable when the procurement (from outside of Norway)  $\geq$  50M NOK, or if the sum of procurements from a foreign supplier within 5 years equals NOK 50 mill or more. The decision regarding industrial cooperation (offset) is made by the MoD, and the industrial cooperation agreement (ICA) is signed by the MoD, but is often negotiated by NDMA, which also manage the ICA trough is lifetime.

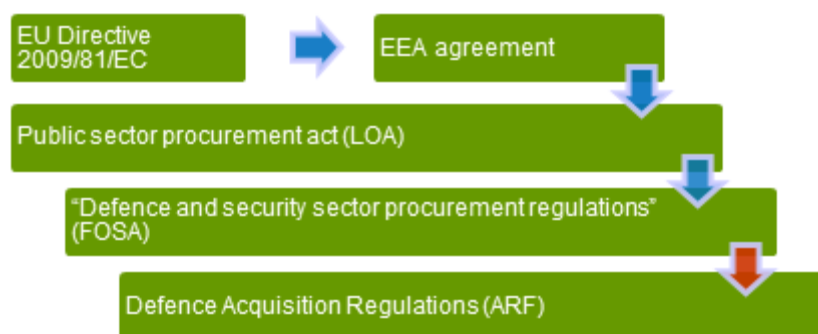


Figure. The key laws and regulations

### Complaints procedures

The Norwegian Complaints Board for Public Procurement (KOFA) is a “low threshold” appeal body for tenderers in public procurements. KOFA is an independent body assigned to review complaints regarding infringements of the law on public procurement and associated regulations.

KOFA is composed of ten members (judges, lawyers, academics), including a chair. It is supported by a Secretariat consisting of legal officers.

The procedure for reviewing cases consists of a written exchange of pleadings, similar to the hearing of civil actions. There is however no oral proceedings. A complaint does not have the effect of suspending the procedure for the award of a public contract. An action for interim measures to suspend the procedure must be brought before a court. In the absence of a court-ordered suspension of the conclusion of a contract, the contracting authority decides whether to suspend the procedure pending the outcome of the KOFA's decision. KOFA handles the case in an expedited procedure if interim measures are in place or the contracting authority confirms that the conclusion of the contract will be suspended.

KOFA gives advisory opinions, i.e. decisions not enforceable by law. Note that there are different procedural rules governing complaints regarding illegal direct awards and other complaints.

Filing a complaint before KOFA does not prevent a tenderer to try the case of possible infringements of the law on public procurement before a court in parallel or after the KOFA complaint procedure or without trying the case before KOFA.

### Commercial aspects

The basic principle for all procurements is to facilitate a competition among qualified tenderers in the relevant market. NDMA seek through thorough planning and market research to achieve this goal. If this is not achievable and it is necessary to perform procurement without competition (sole source suppliers), cost audits will normally be performed through a contract audit unit.

There is a constant focus on consolidation of volumes in procurement of commodities and services, and framework agreements are widely used in the Armed Forces and for the defence sector as a whole.

MoD will, based on a cost benefit analysis in the definition phase, decide whether to procure equipment off-the-shelf, modified of-the-shelf or to start development of new equipment.

Norway will seek international cooperation in acquisitions as well as in procurement of supplies and services. The main goal in such cooperation is to benefit within price and availability as well as interoperability.

### Ministry of Finance scheme for quality assurance of major public investments

The QA scheme applies to public investment projects in Norway with an expected budget exceeding 750M NOK. Quality assurance must be performed during the front-end phase by a pre-qualified QA consultant company. There are two points of review during the investment project's planning process, QA1 and QA2:

**QA1:** Quality assurance of the choice of concept before Government decision whether or not to start a pre-project

**QA2:** Quality assurance of the management base and cost estimates before the project is submitted to Parliament for approval and funding.

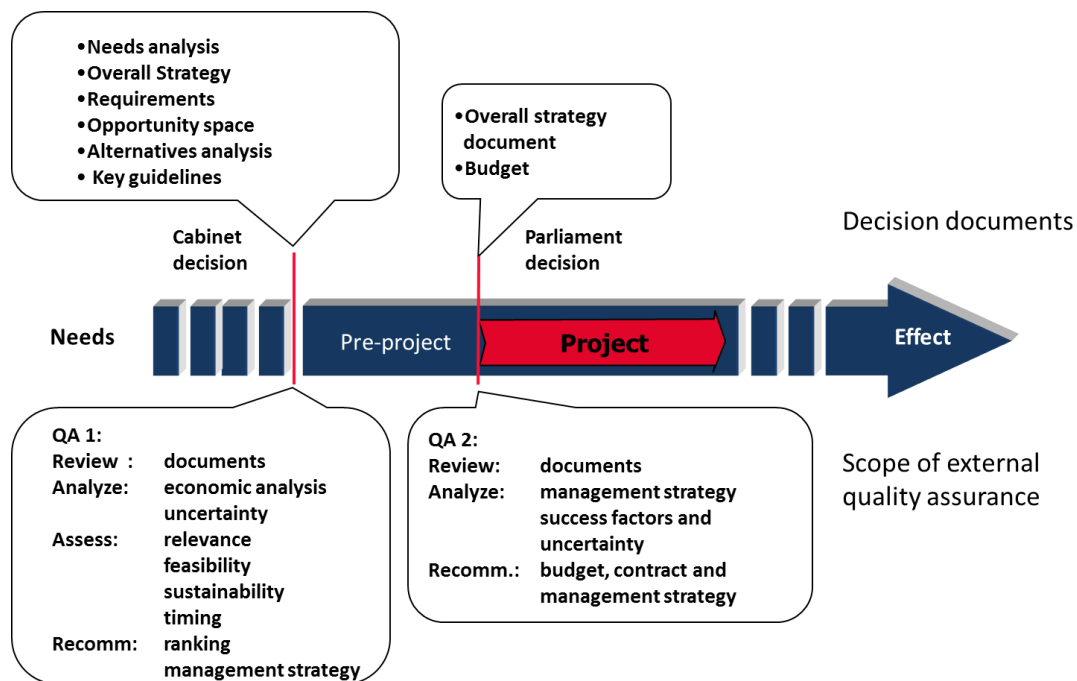


Figure. QA regime: scope and procedure

### Relevant Internet Links

Norwegian Defence Materiel Agency (NDMA) homepage (English version): <https://forsvaret.no/forsvarsmateriell/en/>

MoD page on Future acquisitions for the Norwegian Defence Sector 2017-2025 (includes link to downloadable catalogue in English): <https://www.regjeringen.no/en/dokumenter/future-acquisitions-for-the-norwegian-defence-sector-2017-2025/id2549259/>

## PORTUGAL

### 1. Overview of defence procurement policy

Defence procurement policy is based on the 'National System of Forces' which defines the military capabilities to be built as a corollary of the Military Strategic Concept.

To achieve the military capabilities defined and to fill in the gaps identified in the existing System, the Parliament approves, each four years, a long term investment programme which defines the maximum amount of public expenditure by year and by military capability ('Military Programming Law').

The Directorate-General of National Defence Resources (DGRDN) is the central body within Ministry of National Defence (MoD) with the mission to design, develop, coordinate and implement the policies of human resources, armaments, equipment and infrastructures necessary for national defence.

The DGRDN pursues, inter alia, the task of planning, coordinating and implementing the activities related to life-cycle management of military equipment, through acquisition, maintenance, sales and demilitarisation and/or dismantling processes.

### 2. Defence procurement organization

The acquisition procurement procedures are decentralized in a few contracting entities (mainly MoD and the three branches of the Armed Forces). In all cases, major defence acquisitions need to be submitted to the approval of the Government.

### 3. Policy and regulations

Defence procurement procedures are carried out according to the Portuguese law:

- Decree-law n.º 104/2011, of 6 October 2011 (transposition of the Defence and Security Directive 2009/81/EC);
- Public Contracts Code, approved by Decree-law n.º 18/2008, of 29 January, recently amended and republished by Decree-law n.º 111/2017, of 31 August (transposition of the Classic Directive 2014/24/UE and Directives 2014/23/UE, 2014/25/UE and 2014/55/UE).

Decree-law n.º 104/2011, of 6 October 2011 is applicable to:

- Supply of military and sensitive equipment, as well as works and services related with that equipment or for specific military purposes, above 443.000€ (supply of goods/services) or 5.548.000 € (works).

Public Contracts Code is applicable to other military contracts not included in the scope of Decree-law n.º 104/2011.

All contracts above 350.000€ are submitted to the oversight of the Audit Court, before enter into force.

#### a. Quality assurance standards

ISO 9001; NATO AQAP 2000

#### b. Environmental management standards

ISO 14001

### **c. IPR**

IPR are determined in the contract accordingly to Portuguese law: “Código dos Direitos de Autor e dos Direitos Conexos” (Copyright and related rights) and “Código da Propriedade Intelectual” (Patents and other industrial property rights).

For more info <https://inpi.justica.gov.pt/>

Additionally, there is an internal regulation (Minister of Defence dispatch n.º 11940/2014) applicable to IPR in the context of Defence R&I projects.

### **d. Standards reference**

Depending on the contract, military or civil standards references can be used (STANAG, MIL, ISO).

Required documents (successful tenderer):

- Non-debt declaration of Tax Authority;
- Non-debt declaration of Social Security Authority;
- Criminal record;
- License for the activity of commerce and industry of military goods and technologies;
- Other licenses if required (e.g. public works license)

### **e. Security clearance**

Defence procurement procedures and contracts can be (totally or partially) classified under national regulations. Therefore, a security clearance can be demanded to candidates, tenderers, contractor or subcontractors.

### **f. VAT - importing – customs**

Portuguese VAT Code is applicable. In general, goods imported (including defence-related products) are subject to VAT, to be pay by the buyer.

INCOTERMS are commonly used.

The transfers of defence-related products within the EU market, as well as import, export, transit and trans-shipment of defence-related products from/to third countries requires a special license. Decree-law n.º 37/2011, of 22th June, defines the terms and conditions of transfers of defence related products.

### **g. Offset**

Offset law was revoked in October 2011.

### **h. Security of Supply**

Depending on the contract, requirements concerning security of supply can be demanded and submitted to evaluation. As a rule, the contractor must specific the number of years during which the manufacturers guarantee the logistic support.

A financial guarantee is required in all contracts above 200.000 €, up to 5% of the total value of the contract (performance guarantee). In the case of advanced payments a financial guarantee is also required.

Additionally, in the case of delay, default or breach of contract financial penalties are applied.

#### **i. Supply chain management**

The Prime contractor is responsible for the execution of the contract and the supply chain management.

#### **j. Relations with SMEs**

In accordance with Classic Directive, some measures to facilitate the participation of SME in public procurement were transposed to the national law.

#### **k. Reserved contracts**

Accordingly with UE Directives.

#### **l. Payment to contractors**

Payment to contractors is subject to good reception of the goods and/or services. Partial payments are admitted against deliveries. Advanced payments are also allowed up to 30% of the value of the contract; in the case of advanced payments a financial guarantee is required.

Payment deadlines are set in the contracts between 30 to 60 days upon receipt of invoice.

#### **m. E-Procurement**

E:procurement is applicable to defence procedures if not classified.

[www.acingov.pt](http://www.acingov.pt)

### **5. Resolution of disputes**

The procedure for the resolution of disputes is determined in the contracts on the basis of Portuguese law. Disputes are, as a rule, subject to Portuguese Courts (Administrative and Tax Courts). However, Arbitration is also possible. In the case of disputes above 500.000€, arbitral decision can be subject to appeal to Administrative Courts.

During the procurement procedure, administrative proceedings or appeal is optional.

### **6. National Official Journal platform**

<https://dre.pt/>

[www.base.gov.pt/](http://www.base.gov.pt/)

### **7. Contact**

[Directorate-General of National Defence Resources](#)

[www.dgrdn.pt](http://www.dgrdn.pt)

## SLOVAKIA

### 1. Overview of defence procurement policy

Carried out according to:

- Act No. 25 of 14 December 2005 on Public Procurement and on Modification and Amendment of Certain Acts,
- Act No. 513 of 5 November 1991 Commercial Code and on Modification and Amendment of Certain Acts.

### 2. Organization

Commercial Public Competition

### 3. Public contracts procedures

Carried out according to:

- Act No. 513 of 5 November 1991 Commercial Code and on Modification and Amendment of Certain Acts,
- Act No. 40 of 5 March 1964 Civil Code and on Modification and Amendment of Certain Acts,
- Directions of the Ministry of Defence of the Slovak Republic No. 19 of 5 April 2011 dealing with public acquisition.

### 4. Policy and regulations

#### a. Quality assurance standards

- Act No. 264 of 7 September 1999 on Technical Requirements on Products and Services and on Modification and Amendment of Certain Acts is applied.
- Standards ISO 9001, AQUAP are required.

#### b. Environmental management standards

- Act No. 25 of 14 December 2005 on Public Procurement and on Modification and Amendment of Certain Acts – § 30 Environmental management is applied.

#### c. IPR

N/A

#### d. Standards reference

Reference on similar supplies from the past, solvency and on technical competency and capabilities may be required.

#### e. Security clearance

- Act No. 215 of 11 March 2004 on Protection of Classified Matters and on Modification and Amendment of Certain Acts is applied.

**f. VAT - importing - customs**

- Act No. 222 of 1 2004 on Value Added Tax and on Modification and Amendment of Certain Acts is applied.

- INCOTERMS 2004

**g. Offset**

Policy regarding to offsets is under preparation.

**h. Security of Supply**

N/A

**i. Supply chain management**

Direct relation with main contractors is applied.

**j. Relations with SMEs**

N/A

**k. Reserved contracts**

N/A

**l. Payment to contractors**

- Act No. 523 of 23 September 2004 on Budgetary Regulations and on Modification and Amendment of Certain Acts is applied.

**m. E-Procurement**

N/A

**5. Resolution of disputes**

Act No. 25 of 14 December 2005 on Public Procurement and on Modification and Amendment of Certain Acts, Part 4 - Control proceedings and Part 6, Head 4 - Audit proceedings is applied.

**6. National Official Journal platform**

None

**7. Contact**

at: <http://www.mosr.sk>



## SLOVENIA

### 1. Overview of the national Defence Procurement Policy

Basic principles in all defence procurement are open and effective competition, cost-effectiveness and non-discriminatory and confidential treatment of the contractors. The main goal of the defence procurement policy of the Ministry of Defence of the Republic of Slovenia is to equip the Slovenian Armed Forces with the appropriate materiel in quality and quantity, infrastructure and services. There are two acts regulating the field of defence procurement in the Republic of Slovenia, namely:

- **The Public Procurement Act** (The Official Gazette of Republic of Slovenia, no. 91/2015 – official consolidated text dated November 30, 2015) - this Act follows the Directive 2014/24/EC;
- **The Public Procurement for Defence and Security Act** (The Official Gazette of Republic of Slovenia, no. 90/2012 dated November 30, 2012, with amendments) - this Act follows Directive 2009/81/EC.

These Acts are standard procedures for defence and sensitive security procurement in the Republic of Slovenia and cover, in principle, all contracts for the procurement of military equipment, works and services. Article 346 of the TFEU is limited to exceptional cases, when this is required for the protection of the essential security interests. The decision to use Article 346 of the TFEU is based on a case-by-case assessment by the intersectoral commission.

Other acts, which are related with the defence procurement:

- **The Legal Protection in Public Procurement Procedures Act** (The Official Gazette of Republic of Slovenia, no. 43/2011 dated June 3, 2011, with amendments). A specific part of the Directive 2009/81/EC, Title IV. – Rules to be applied to reviews, was transferred to this Act.
- **The Defence Act** (The Official Gazette of Republic of Slovenia, no. 82/1994 dated December 30, 1994, with amendments) - Article 77 - trade of military weapons and equipment - pertains to the procurement. This Act, inter alia, states that “military weapons and equipment can be sold, exported or imported, and brokerage of those goods can be performed only by company, institution or other organization that was authorized by the Ministry of Defence.” Any export, import or transit of military weapons and equipment on the national territory is subject to a prior authorization of the Ministry of Defence, unless specified otherwise by an international treaty. The Minister reports to the government on the authorizations issued for the export, import and transit of military weapons and equipment at least once per year. The Government determines what is considered to be a military weapon and equipment.
- **The Classified Information Act** (The Official Gazette of Republic of Slovenia, no. 87/2001 –dated November 8, 2001, with amendments) - part of the document pertains to the procurement. This act, inter alia, provides rules, when the procurement process (tender documentation, contract, etc.) includes classified information. According to the Classified Information Act, a person or company which has the insight into the classified information has to have an appropriate security clearance (PSC, FSC).
- **The Decree on lists on service in the field of defence and security, the activity in the field of works, military equipment, sensitive equipment, sensitive works and sensitive services, information to be included in notices, definition of technical specifications and requirements relating to devices for the electronic receipt of tenders in defence and security public procurement and intersectoral commission responsible for issuing an approval on public procurement according to Article 11 of**

**Public Procurement Act for Defence and Security Act** (The Official Gazette of Republic of Slovenia, no. 4/2013 dated January 18, 2013, with amendments). This Decree includes a list of services in the field of defence and security, list of military equipment, sensitive equipment, sensitive works and sensitive services, etc. The Decree also included some paragraphs, related to the intersectoral commission, which is responsible for issuing an approval for exclusions (Article 346 of the TFEU and intelligence activities).

- **The Decree on production consents and trade permits for military weapons and equipment, and on preliminary permits for import, export, transit and transfer of defence products** (The Official Gazette of Republic of Slovenia, no. 59/2011 dated July 25, 2011, with amendments). This Regulation transposes into the national legislation of the Republic of Slovenia the Directive 2009/43/EC of the European Parliament and of the Council of May 06, 2009. The Decree is simplifying terms and conditions of the transfers of the defence-related products within the Community.

## 2. Defence procurement organization

Within the Ministry of Defence of the Republic of Slovenia, the Logistics directorate is responsible for procurement.

Directorate consists of four organizational units:

- Equipment Supplies Division
- Real Estate Management Division
- Procurement Division (Defence and Confidential Procurement Section, Public Procurement Section)
- Material Assets Management Division

The procurement procedures within the Ministry of Defence of the Republic of Slovenia are carried out mainly by the Procurement Division.

Information about the Ministry of Defence of the Republic of Slovenia can be found on the following website: <http://www.mo.gov.si/en/>.

## 3. Defence procurement

### a) Procurement under national legislation/regulations

#### i.) Procurement under Directive 2014/24/EC

**The Public Procurement Act (The Official Gazette of Republic of Slovenia, no. 91/2015 — official consolidated text dated November 30, 2015)**

This Act follows the Directive 2014/24/EC and applies to the contract award of supplies, services or works, which does not fall within the scope of the Public Procurement for Defence and Security Act.

#### ii.) For procurement under Defence and Security Procurement Directive 2009/81/EC

**The Public Procurement for Defence and Security Act (The Official Gazette of Republic of Slovenia, no. 90/2012 dated November 30, 2012, with amendments)**

This act follows the Directive 2009/81/EC. The subjects of the Act are:

- Military equipment, its components or assemblies;
- Sensitive equipment, its components or assemblies;
- Services for specific military purposes;
- Works for specific military purposes;
- Sensitive services;
- Sensitive works;
- Goods, services or works that are in any stage of the life-time of military equipment directly related to this equipment, its components or assemblies;
- Works, supplies and services at any stage of the life-time of sensitive equipment directly related to this equipment, its components or assemblies.

The Government of the Republic of Slovenia has defined a list of goods and services listed above with the **Decree on lists on service in the field of defence and security, the activity in the field of works, military equipment, sensitive equipment, sensitive works and sensitive services, information to be included in notices, definition of technical specifications and requirements relating to devices for the electronic receipt of tenders in defence and security public procurement and intersectoral commission responsible for issuing an approval on public procurement according to Article 11 of Public Procurement Act for Defence and Security Act. Official Gazette of Republic of Slovenia, no. 4/2013 dated January 18, 2013, with amendments**);

Only the provisions of the Public Procurement for Defence and Security Act (The Official Gazette of Republic of Slovenia, no. 90/2012 dated November 30, 2012, with amendments) in the part which governs the definition of the subject of the contract and forwarding of the statistical data on the contracts awarded in the preceding year apply to the following contracts:

- Procurements under Article 346 of the Treaty on the Functioning of the European Union - TFEU,
- Procurement for the implementation of intelligence and counterintelligence activities.

**The Legal Protection in Public Procurement Procedures Act (Official Gazette of Republic of Slovenia, no. 43/2011 dated June 3, 2011, with amendments)**

A specific part of the Directive 2009/81/ES, Title IV. – Rules to be applied to reviews was transferred to this Act.

### **iii.) For other defence procurements (Article 346 of the TFEU, below thresholds, etc...)**

In the Republic of Slovenia, only the provisions of the Public Procurement for Defence and Security Act (The Official Gazette of Republic of Slovenia, no. 90/2012 dated November 30, 2012, with amendments) apply in the part which governs the definition of the subject of the contract and forwarding of the statistical data on the contracts awarded in the preceding year, for the procurement under Article 346 of the Treaty on the Functioning of the European Union – TFEU and procurement for the implementation of intelligence and counterintelligence activities.

In case all the conditions are fulfilled, the intersectoral commission responsible for issuing an approval for the implementation of a contract under Article 346 of the Treaty on the Functioning of the European Union – TFEU and procurement for the implementation of intelligence and counterintelligence activities, issues an approval for the implementation of a contract. Contracts below 40.000 EUR do not require the approval of the intersectoral commission. Legal protection for the tenderers in these cases is not provided. In such case, the tenderers who have not been selected may claim legal protection through a regular court.

In relation to the other exceptions/exclusion, the Republic of Slovenia followed the Directive 2009/81/EC and excluded from the Public Procurement in Defence and Security Act:

- Contracts, which fall within the scope of international rules, that provide a specific procedure for the award of that contract (NSPA, OCCAR, NSIP, etc).
- Cooperative programs
- Contract awards in third countries
- Government to government sales
- Etc.

Contract below the thresholds are governed by the Public Procurement for Defence and Security Act and are published on the national public procurement web portal (<http://e-narocanje.si/?podrocje=pregledobjav>) and on the website of the Ministry of Defence of the Republic of Slovenia ([http://www.mo.gov.si/si/javne\\_objave/javna\\_narocila\\_nizjih\\_vrednosti/](http://www.mo.gov.si/si/javne_objave/javna_narocila_nizjih_vrednosti/)) from the values of 40.000 EUR (supply and service contracts) or 80.000 EUR (works contracts) up to 443.000 EUR (supply and service contracts) or 5.548.000 EUR (works contracts). Legal protection for these contracts is provided.

Procurements whose values do not exceed 40.000 EUR are published on the website of the Ministry of Defence of the Republic of Slovenia.

All values are net of value-added tax (VAT).

#### **b) Procurement planning process (including examining potential cooperation or joint procurement)**

The Resolution on General Long-Term Development and Equipping Programme of the Slovenian Armed Forces up to 2025 (Official Gazette of Republic of Slovenia, no. 99/2010 dated December 7, 2010) is the highest development and guidance document for the Slovenian Armed Forces and at the same time principal long-term planning document providing the basis and framework for long-term development and equipping of the Slovenian Armed Forces.

The Resolution on General Long-Term Development and Equipping Programme of the Slovenian Armed Forces up to 2025 and other strategic documents of the Ministry of Defence of the Republic of Slovenia, are the basis for the Mid-term Defence Programme. This is a 5year planning document (currently 2016-2020), which defines the goals and key guidelines for the performance and development of the defence system of the Republic of Slovenia in the medium-term period. The Mid-term Defence Programme also includes military capabilities and projection of defence expenditures in the mentioned 5year period.

The Mid-term Defence Programme is the basis for the investment documentation, which, among other, analyses the various possibilities to procure the equipment (independent procurement of new equipment, joint procurement, procurement via NSPA, G2G, procurement of used equipment etc.).

The Mid-term Defence Programme and investment documentation are the basis for the preparation of the short-term planning documents. Budget planning in the Republic of Slovenia encompasses a 2-year period and includes a specific plan of procurement of supplies, services and works.

#### **c) Procurement budget – the process**

Financial resources for the procurement in the Ministry of Defence of the Republic of Slovenia are planned by 5 independent budget users, the largest among them are the Slovenian Armed Forces. Financial resources for the procurement are planned in the 4-year Plan of development programmes (NRP) and 2-year Budget, which provides financial resources for the procurement of supplies, services and works.

#### **d) Standard documents requested to prove the eligibility of the supplier**

The Public Procurement for Defence and Security Act followed the Directive 2009/81/EC regarding the required documents. The scope of the requested documents definitely depends on the value and complexity of an individual contract and is defined case by case.

The Ministry of Defence of the Republic of Slovenia requests the following documents:

- Personal situation of candidate or tender - obligatory:
  - o Tenderer and his legal representatives, have not been convicted by a final judgment for the acts defined in Public Procurement for Defence and Security Act:
    - Certificate from the criminal records of natural persons, for all legal representatives.
    - Certificate from the criminal records of legal persons.
  - o Tenderer has not been disqualified from participating in the public contract procedures due to being placed onto the list of tenderers with negative references on the day when the deadline for the submission of tenders expires or that the Tenderer, in the 3-year period preceding the Bid submission closing time, has not been fined twice with a final decision of a competent authority of the Republic of Slovenia or another Member State or a third country for an offence related to payment of work – Statement.
- Economic and financial standing – decided on case by case
  - o Bank guarantees (Tender Bond, Performance Bond, Guarantee for the remedy of defects in the warranty period).
- Technical and/or professional ability
  - o The contracting authority shall always decide on case by case basis depending on the subject of the procurement. Contracting authority thus requires documents related to the technical capacities and documents which provide previous experience and performance.
- Statement on the participation of the natural and legal persons in the tenderer's ownership:
  - o In accordance with the Integrity and Prevention of Corruption Act (The Official Gazette of the Republic of Slovenia no. 45/10, with amendments) tenderer undertakes to submit to the contracting authority, at his request and on the enclosed form, prior to the conclusion

of a contract which exceeds 10.000 EUR without VAT, a statement or data regarding the participation of natural and legal persons in the tenderer's ownership, including participation of silent partners and economic operators, which, in accordance with the Companies Act, are considered companies associated with the tenderer, in order to ensure transparency and prevent the risk of corruption. If the tenderer submits a false statement or data in relation to the mentioned facts, this shall result in a void contract or incomplete contract.

Information on the requested documentation is always specified in the Invitation to tender/Request for Tenders. Usually, the documents issued by foreign authorities are accepted.

#### **4. Policy and regulations**

##### **a) Quality assurance standards**

In general, the quality assurance standards are an integrated part of the defined requirements. The contract award procedures generally apply as a criterion the current standards of the Allied Quality Assurance Procedures (AQAP) and the International Standardization Organization (ISO) or other relevant quality standards depending on the equipment to be procured.

With regard to the subject of procurement other national, European and NATO standards are also considered in the procurement procedures.

Contracting authority may request certificates drawn up by independent accredited bodies, but has to accept other equivalent certificates from independent accredited bodies established in other Member States. Contracting authority must also accept other evidence of equivalent quality management measures from economic operators.

##### **b) Environmental management standards**

In general, the standards and directives of the European Union and Slovenian Environmental Laws are applied in this field. Their application is generally required case by case, particularly for procurements, which may have damaging effects to the natural environment.

Should the contracting authority require the fulfilment of conditions on the basis of the environmental management standards, he shall have to refer to the Community Eco-Management and Audit Scheme (EMAS) or to environmental management standards based on the relevant European or international standards, which have been certified by bodies recognized by the EU. Contracting authority shall also accept other equivalent certificates from bodies established in other member States and other evidence of equivalent environmental management measures.

##### **c) Intellectual Property Rights**

National legislation and regulations on the Industrial Property Rights can be found on the following website: <http://www.uil-sipo.si/sipo/office/tools/home/>

Slovenian Intellectual Property Office

Kotnikova ulica 6

SI-1000 Ljubljana

Slovenia

Phone: +386 1 620 31 00

Phone: +386 1 620 31 01

E-mail: [sipo@uil-sipo.si](mailto:sipo@uil-sipo.si)

#### **d) Standards reference**

The Slovenian Armed Forces require the use of national, European, ISO, MIL, NATO and other standards. Depending on the product, relevant military or civil standards are used as reference (STANAG, AP, MIL, DEFSTAN, ISO, EN, SFS, IPC, IEEE, IEC, DIN, BS, etc.)

#### **e) Security clearance**

The suppliers are obliged to operate in accordance with the **Classified Information Act (Official Gazette of Republic of Slovenia, no. 87/2001 – dated November 8, 2001, with amendments)**. This act provides the rules, when the procurement process (tender documentation, contract, etc.) includes classified information. Access to classified information, which is disclosed in the implementation of the procurement procedure or in the implementation of the contract, is only provided to individual persons or company, which has already been granted permission to access classified information, or organizations which have an appropriate security clearance.

According to the Classified Information Act, every natural person that has the insight into the classified information has to have an appropriate security clearance. In the case tender documents or contract contains classified information, with the level of classification confidential or higher, the competent organizational unit of the Ministry of Defence of the Republic of Slovenia submits to the MoD Intelligence and Security Services a proposal for a security clearance of the people who will get acquainted with the classified information. In the case of non-residents, the MoD Intelligence and Security Services will forward the proposal to the Government Office of the Republic of Slovenia for Classified Information, which verifies individuals with the national security authorities of the individual's country. Such examinations are possible only when there is a previously signed security agreement between the Republic of Slovenia and a foreign country.

The Classified information Act states that the Government Office of the Republic of Slovenia for the protection of Classified Information (<http://www.uvtp.gov.si/en/>) is responsible for the enforcement of international treaties and accepted international obligations in relation to the handling and protection of classified information entered in or accepted by the Republic of Slovenia. The Government Office of the Republic of Slovenia for the protection of Classified Information cooperates with the appropriate authorities of foreign countries and international organizations, unless the treaty provides otherwise. The Government Office of the Republic of Slovenia for the protection of Classified Information coordinates the activities of national classified information abroad and foreign classified information in the Republic of Slovenia.

#### **f) VAT – Importing customs**

Summary of the VAT legislation and regulations on the national tax policy may be found in English language on the official website of the Ministry of Finance ([http://www.fu.gov.si/en/taxes\\_and\\_other\\_duties/](http://www.fu.gov.si/en/taxes_and_other_duties/)).

The Slovenian Value Added Tax Act lays down the provisions concerning VAT return, payment of VAT and indirectly also exemption from VAT. The basic VAT rate is 22%. When VAT is applied, there is no difference between domestic defence products and foreign defence products.

The European Union is based upon a customs union, which requires the consistent application of the Common Customs Tariff on imports of the product from the third countries by all Member States unless a specific Union measures provide otherwise. Given the security interest of the Member States it is compatible with the interests of the Union that some of these weapons and equipment may be imported free of import duties in accordance with the Council Regulation (EC) no. 150/2003 of 21<sup>st</sup> January 2003 suspending import duties on certain weapons and military equipment. This Regulation lays down the conditions for the autonomous suspension of import duties on certain weapons and military equipment imported by or on behalf of the authorities in charge of the military defence of the Member States from third countries. Imports of the military equipment, which are not covered by this Regulation, are subject to the appropriate duties in the Common Customs Tariff. Customs taxes may apply, rates according the nature of the goods and their origin.

Despite the suspension of import duties (customs), all goods imported, including the goods falling under Regulation 150/2003, are subject to the value added tax (VAT).

Information regarding the customs can be found on the following website:  
<http://www.fu.gov.si/en/customs/>

#### **g) Security of Supply**

The Republic of Slovenia followed the provisions of Directive 2009/81/EC and the requirements from Article 23 (Security of Supplies) were transferred into the national Public Procurement for Defence and Security Act.

For the security of supply, the contracting authority adjusts his requirements to the specific traits of the subject of the contract. In most cases, the security of the contract executions is guaranteed with relevant references of the tenderer as a condition to conclude a contract and with the Performance Bond and Guarantee for remedy of defects in the warranty period. When purchasing supplies, tenderers have to ensure the maintenance and delivery of spare parts within the life span as well. In order to ensure the operativeness of the items, a separate, usually a multi-annual contract is concluded, which is used depending on the needs of the user.

#### **h) Supply Chain management**

The Republic of Slovenia followed the provisions of Directive 2009/81/EC and requirements from Article 21 (Subcontracting) were transferred into the national Public Procurement for Defence and Security Act. The Slovenian Public Procurement Act and Public Procurement for Defence and Security Act state that the Prime contractor is responsible for the implementation of the contract and the supply chain management. In accordance with the provisions of both Acts, tenderers may include sub-contractors in the implementation of the contract. In the Public Procurement Act, the payments are carried out directly to the sub-contractor, if requested by the sub-contractor, whereas in the Public Procurement for Defence and Security Act this has not been prescribed. In most cases, the contracting authority does not require a sub-contractor to be included.

#### **i) Relations with SME**



Relations between the Slovenian Ministry of Defence (including the Slovenian Armed Forces) and the Slovenian Defence industry sector are basically relations with small and medium-sized enterprises (SMEs), since a great majority of Slovenian companies in the field of defence equipment are SMEs. The Slovenian legislation on special-purpose public procurements makes no provision for granting any preferences to the SMEs.

The Republic of Slovenia encourages the SMEs through various programmes through the Chamber of Commerce and Industry of Slovenia. In the field of defence, there is the Slovenian Defence Industry Cluster (<https://sdic.gzs.si/>), which tries to include the SMEs into European projects through different trainings, promotions etc. Slovenian Defence Industry Cluster (GOIS) is a business association based on the economic interest of their members. It associates Slovenian suppliers of defence, security and protection products and services.

The Ministry of Defence of the Republic of Slovenia and GOIS have concluded a cooperation agreement in order to raise the technological level of the Slovenian defence industry and thus improve its competitive position.

#### **j) Reserved contracts**

N/A

#### **k) Payment to contractors**

According to the provisions of the Act on the implementation of the budget of the Republic of Slovenia, payment deadlines charged to the budget are 30 days from the receipt of the instrument, which is the basis for the payment.

Pursuant to the Act on the Provision of Payment Services to Budget Users (Official Gazette of the Republic of Slovenia no. 59/2010 dated August 7, 2010, with amendments) contractors submit invoices solely in electronic format (e-invoice). The contractors with no registered office in the Republic of Slovenia submit their invoices in .PDF format by e-mail.

#### **l) E-Procurement**

E-procurement is planned in the Public Procurement Act as well as the Public Procurement for Defence and Security Act. There have been several activities in the field of e-procurement in the Republic of Slovenia in the last few years. In the scope of a project to upgrade the state accounting system, a module called eNabava (eProcurement) became active in 2013. This module enables the contracting authority to conduct the public procurement procedure electronically, including the combining of needs in the scope of the contracting authority, delegating the tasks related to the individual contract to public employees, adopting decisions and reserving the financial resources at the beginning of a public procurement procedure. In 2014, module e-Katalog (e-Catalogue) has been established. It is used primarily in order to award individual contracts on the basis of a framework agreement or when implementing successive contracts.

Modul e-Dražbe (e-Auction) was introduced in 2015, enabling through the use of electronic auction higher cost-effectiveness in public procurement. In 2015, another Modul e-Dosje (e-File) was introduced, whereby all the information on the Tenderer or his suitability for the performance of the contract can be verified in a single location as e-File is linked to the key national official records. On 1 April 2018 another Module e-Oddaja (e-Submission) will be introduced to enable electronic submission of tenders. By the

second half of 2018, E-JN Portal will be introduced. E-JN Portal will link all the e-public procurement modules, thus providing access to all the modules in a single location.

Pursuant to the legislation governing access to public information, electronic copies of contracts concluded on the basis of public procurement procedures, concession contracts and public-private partnership contracts are published on the Public Procurement Portal.

## 5. Resolution of disputes

- In the Legal Protection in Public Procurement Procedures Act (The Official Gazette of Republic of Slovenia, no. 43/2011 dated June 3, 2011, with amendments) a specific part of the Directive 2009/81/EC, Title IV. – Rules to be applied to reviews, was transferred to this Act. Tenderers may claim legal protection in any procedure following the Public Procurement for Defence and Security Act and Public Procurement Act. The first instance decision is delivered by the contracting authority (it is decided as a response to a claim), the second instance, if the plaintiff continues with the complaint, is delivered by the National Review Commission for Reviewing Public Procurement Award Procedures, which consists of a chairman and four members. Their decision is final. Tenderer may then file a civil action.
- With the contracts, which are not carried out on the basis of Directive 2009/81/EC or a national Act (for example, Article 346 of the TFEU), the legal protection in the public procurement procedure is not provided. In such case, the tenderers who have not been selected may claim legal protection through a regular court.

## 6. National official Journal platform

The Republic of Slovenia in accordance with Public Procurement Act publishes tenders whose values exceed:

- Contract notices whose value, net of value-added tax (VAT), is equal to or greater than 10.000 EUR, for the procurement of goods or services and greater than 20.000 EUR for the procurement of civil works are published on the website of the Ministry of Defence of the Republic of Slovenia: [http://www.mo.gov.si/si/javne\\_objave/jnseznam/](http://www.mo.gov.si/si/javne_objave/jnseznam/)
- Contract notices whose value, net of value-added tax (VAT), is equal to or greater than 20.000 EUR, for the procurement of goods or services and greater than 40.000 EUR for the procurement of civil works, are published on the national procurement portal.
  - o Procurement portal: <http://e-narocanje.si/?podrocje=pregledobjav>
- Contract notices whose value, net of value-added tax (VAT), is equal to or greater than 144.000 EUR, for the procurement of goods or services and greater than 5.548.000 EUR for the procurement of civil works are published by the Office for Official Publications of the European Communities. Office for Official Publications of the European Communities: <http://ted.europa.eu/>

The Republic of Slovenia in accordance with Public Procurement for Defence and Security Act publishes tenders of value above:

- Contract notices whose value, net of value-added tax (VAT), is equal to or greater than 10.000 EUR, for the procurement of goods or services and greater than 40.000 EUR for the procurement of civil works are published on the website of the Ministry of Defence of the Republic of Slovenia: [http://www.mo.gov.si/si/javne\\_objave/jnseznam/](http://www.mo.gov.si/si/javne_objave/jnseznam/)

- Contract notices whose value, net of value-added tax (VAT), is equal to or greater than 40.000 EUR, for the procurement of goods or services and greater than 80.000 EUR for the procurement of civil works, are published on the national procurement portal.
  - o Procurement portal: <http://e-narocanje.si/?podrocje=pregledobjav>
- Contract notices whose value, net of value-added tax (VAT), is equal to or greater than 443.000 EUR, for the procurement of goods or services and greater than 5.548.000 EUR for the procurement of civil works, are published on the national procurement portal by the Office for Official Publications of the European Communities. Office for Official Publications of the European Communities: <http://simap.europa.eu/>

## 7. Contact

The Slovene Ministry of Defence/Logistics Directorate/Procurement Division is responsible for the defence procurement in MoD Slovenia.

Contact information:

Republic of Slovenia

Ministry of defence

Logistics Directorate

Vojkova ulica 55

1000 Ljubljana

Slovenia

T: +386 1 471 25 46

F: +381 1 471 24 23

E: [glavna.pisarna@mors.si](mailto:glavna.pisarna@mors.si)

[www.mors.si](http://www.mors.si)

## SPAIN

### 1. Overview of Defence procurement Policy

The aim of the Spanish MoD is to provide the Spanish Armed Forces with the appropriate equipment and services to operate effectively. Equipment for the MoD is procured through a number of contracting bodies. In broad terms main programs are centralized within the National Armament Directorate (NAD). The development and management of these programs up to In Service Phase is run by the different units contained within the aforementioned NAD. More specifically the Armament and Materiel Acquisitions Subdirectorate deals with contracting related activities as the main contracting body. In particular this unit is competent to:

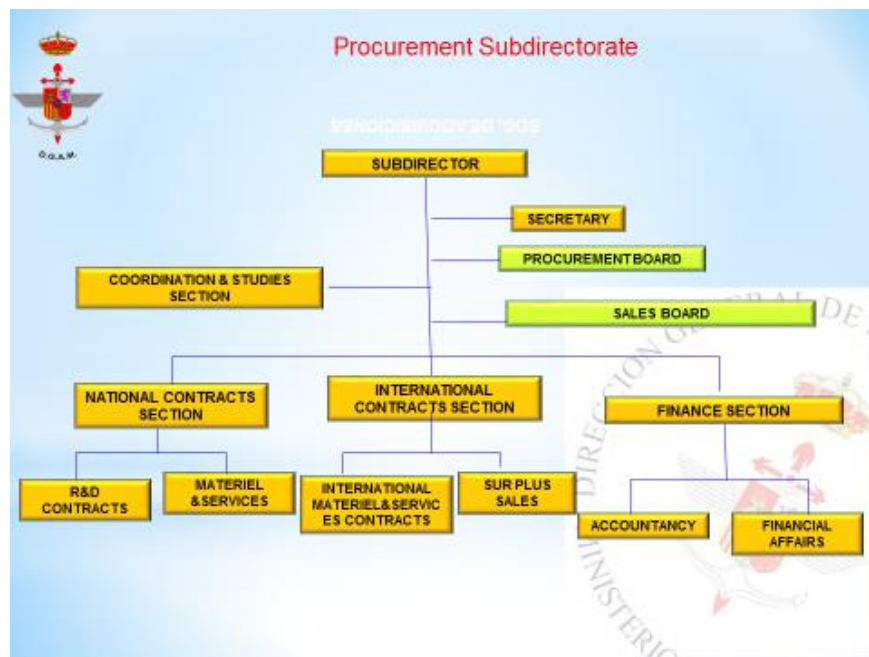
- Propose contractual and negotiation strategies to the programme management office
- Conduct and/or participate in, in close cooperation with the respective technical Managers, negotiations with industry
- Manage carefully the configuration of the whole contract during its preparation, awarding and execution
- Ensure compliance of contract terms with related SP rules and regulations in consideration of the applicable law
- Sur plus sales Management
- GtG and other international business

The different services (Army, Navy and Air Force) are responsible for in service phase support activities including contracting ones.

For further organizational information please use the link below: [www.defensa.gob.es](http://www.defensa.gob.es)

### 2. Defence Procurement Organisation

Within the National Armament Directorate the program management contracting activities is led by the Defence procurement organization Armament and Materiel Acquisitions Subdirectorate which works under the following structure:



### 3. Policy and regulations

The MoD procures the majority of its requirements under Public Contract Regulations 2011 (Real Decreto Legislativo 3/2011, de 14 de noviembre, por el que se aprueba el texto refundido de la Ley de Contratos del Sector Público) and the Defence and Security Public Contract Regulations 2011 (Ley 24/2011, de 1 de agosto, de contratos del sector público en los ámbitos de la defensa y de la seguridad).

Other defence procurements such as exclusions (i.e article 346 TFEU) to the aforementioned laws, only applies in exceptional circumstances. In these cases no standard procedure is established. Nevertheless any invocation of article 346 TFEU requires compliance with the scope of the identified areas of knowledge and capabilities related with essential National Defence and Security interests contained within the a special Cabinet Regulation (*Resolución 420/38100/2015, de 30 de julio, de la Secretaría General Técnica, por la que se publica el Acuerdo del Consejo de Ministros de 29 de mayo de 2015, por el que se determinan las capacidades industriales y áreas de conocimiento que afectan a los intereses esenciales de la Defensa y la Seguridad Nacional*).

Any further information on public contracting opportunities may be found using the following link:

<https://contrataciondelestado.es/wps/portal/plataforma>

#### a) Quality assurance standards

The MoD require the use of NATO's Quality Assurance Publication (AQAP) standards on its Defence procurements. AQAP standards includes the ISO 9001 standard. Depending on the product relevant military or civil standards are used.

#### b) Intellectual Property Rights

The Intellectual Property Rights (IPR) issues are decided on a case-by-case basis. As a general principle, in Developmental Program contracts the Spanish MoD requires the full IPR ownership provided the said contracts has been fully funded by the Spanish Government. When funding and risks are shared sufficient IPR user rights are reserved.

In collaborative programs, IPR rules may be governed by special stipulations in the applicable collaborative regime.

**c) Security Clearance**

Within the tendering process the Spanish MoD acts in accordance with article 22 of the Defence and Security Directive, which has been implemented into the Act on Public Defence and Security Contracts (article 21).

**d) VAT importing customs**

Value added tax procedures for procurements are defined in the Act on Value Added Tax ( Ley 37/1992 del Impuesto Sobre el Valor Añadido, de 28 de diciembre).

As for export licenses, the export or transit of defence materiel from Spain requires an export license subject in accordance with the Defence and Dual Use Materiel Export Control Act (Ley 53/2007, de 28 de diciembre, sobre el control del comercio exterior de material de defensa y doble uso ).

**e) Security of supply**

In most cases security of supply may play an important role in the Spanish defence contracts. Within the tendering process the Spanish MoD acts in accordance with article 23 of the Directive, which has been implemented into the Act on Public Defence and Security Contracts.

**f) Supply Chain Management**

Within the tendering process the Spanish MoD acts in accordance with articles 31, 52 and 53 of the Defence and Security Directive which implemented into the Act on Public Defence and Security Contracts.

**g) Relation with SME**

The new Act on Public contracts foresees certain measures in order to promote the participation of SME's on public contracts. This Act will be enforced in March 2018.

**h) Payment to contractors**

As a general principle, payment by Spanish MoD is conducted within 30 days from the invoice date upon the accepted delivery of goods/services and arrival of an acceptable invoice. Other payment methods are considered on a case-by-case basis. Any delay on payment is eligible to late payment interest in accordance with the Act on measures against delayed payments on commercial operations (Ley 3/2004, de 29 de diciembre por la que se aprueban medidas contra la morosidad en operaciones comerciales).

**i) E-procurement**

E-procurement within the Spanish MoD is already established only for minor procurements.

**j) Other**

**Offset (industrial participation)**

Possibly for offsets are reserved for those exceptional procurements where essential national security interests dictate. Otherwise there is no industrial participation obligation imposed on a contractor.

#### **4. Resolution of disputes**

Disputes are subject to Administrative Courts. There is a special court which deals with disputes arising within the awarding process.

#### **5. National Official Journal Platform**

<http://www.contrataciondelestado.es> , which is administered by the Spanish Ministry of Economy and Public Function.

## SWEDEN

The Swedish Defence Materiel Administration, FMV, is a civil authority under the Ministry of Defence and the Swedish defence procurement organization. Please see FMV webpage for information about procurement and FMV activities.

[www.fmv.se/en/](http://www.fmv.se/en/)