

## **EUA REPORT**

A comparative analysis of public procurement frameworks and practices in universities in Portugal and selected EU member states

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## Introduction

### Rationale

A substantial share of public investment is spent on public procurement in the European Union (EU) (ca. EUR 2 trillion per annum, representing 14% of EU GDP<sup>1</sup>) and quality public services depend on well-managed and efficient modern procurement. Improving public procurement can yield big savings: a 1% efficiency gain could save EUR 20 billion every year<sup>2</sup>. The public sector can use procurement to boost jobs, growth and investment.

Public higher education institutions, including university hospitals, are important public procurers. Universities act not only as *buyers* (of goods, services and works), but also as *providers* for other public authorities as well as companies, particularly in the context of research, development and innovation.

On average, Europe's public universities spend 10-15% of their annual operational budgets on purchasing goods, services and works.<sup>3</sup> This makes them major contributors to a dynamic, innovative, resource-efficient and socially inclusive economy and ecosystem. In purchasing the goods and services needed to achieve their mission, universities can deliver efficiencies and value for money in higher education and research.

In this context, it is vital to: understand the procurement needs of higher education institutions, identify enablers of efficient and effective procurement in the higher education sector, and analyse potential hurdles, be they at *system* (EU, national or regional) level, or inherent in *institutional* practices and governance frameworks.

### Background and methodology

The European University Association (EUA) wrote this report for the Portuguese higher education sector. It is designed to provide a comparative overview of the existing public procurement frameworks in selected EU member states and to showcase the procurement systems and good practice at several universities.

The analysis presented in this report was conducted during the final wave of changes to national procurement legislation triggered by the transposition of EU Procurement Directives. While many member states have delayed this process, the subsequent implementation period will see many public organisations, including universities, adopt new approaches to achieve better procurement results.

This report was also prepared in the context of evolutions in Portuguese public procurement legislation. The most recent such changes were designed to simplify research and development administration and reduce the administrative burden, including for public procurement procedures in the field of science and technology. These changes support a

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<sup>1</sup> European Commission, URL: [https://ec.europa.eu/growth/single-market/public-procurement/strategy\\_en](https://ec.europa.eu/growth/single-market/public-procurement/strategy_en)

<sup>2</sup> Ibid.

<sup>3</sup> While procurement budgets may vary according to the size and nature of each higher education institution, they also depend on national provisions, particularly regarding their financial autonomy, which, for example, affects universities' ability to own and sell buildings and the related maintenance arrangements.

broader national policy to enhance local R&D players' competitiveness and create a more attractive environment for research and innovation. The report also reviews the processes and practices adopted by several public higher education institutions in Portugal, in response to this agenda.

The study was conducted in conjunction with EUA's public procurement work for the ongoing USTREAM project co-funded by the Erasmus+ Programme of the European Union.<sup>4</sup>

This comparative study has three focus areas:

- (1) An analysis of the basic rules, provisions and thresholds at the EU level, as set out in Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement
- (2) An analysis of basic national public procurement legislation in selected member states, including national thresholds
- (3) An analysis of good public procurement practices by higher education institutions in selected member states

In line with these focus areas, the study aims to:

- i. Analyse existing procurement frameworks and provisions and test their flexibility and fitness for purpose from a public higher education institution perspective
- ii. Identify and share good public procurement institutional practices that help meet specific needs and requirements of the higher education sector;
- iii. Make general recommendations for policy makers and higher education institutions in Portugal and beyond, highlighting ways to improve existing public procurement frameworks and to develop institutional strategies and implementation practices

Data was collected using the following methods:

- (a) Desk research on primary public procurement legal documents and secondary information (for example, policy reports and summaries)
- (b) A series of interviews and consultations with university management and procurement experts

Public procurement trends and developments were analysed at the following levels:

- EU level
- National level
- Sector/institution level

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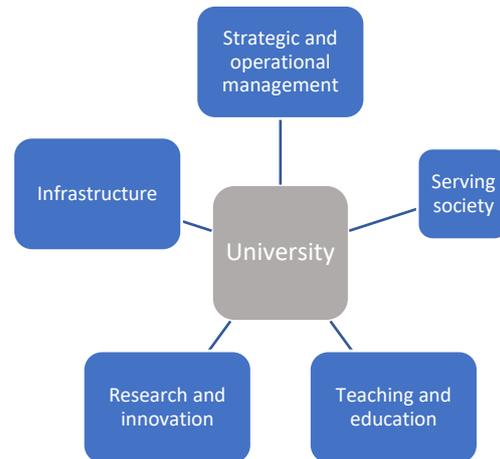
<sup>4</sup> Universities for Strategic, Efficient and Autonomous Management (USTREAM). The USTREAM project is implemented by EUA in partnership with Universities UK (UUK), the Irish Universities Association (IUA) and Central European University (CEU) in 2016-2019. URL: [www.eua.eu/101-projects/607-ustream.html](http://www.eua.eu/101-projects/607-ustream.html)

At national level, the study covers a sample of seven benchmark countries representing different government, legal and university traditions: **Austria, Finland, France, Ireland, Italy, Portugal** and **Spain**. Examples of regional public procurement regulations are also featured.

This analysis took the highly specific and diverse procurement needs of higher education institutions into consideration, including:

- **Infrastructure:** needs related to campus/estate development and maintenance, including catering, housing, IT, office equipment and consumables, sports facilities, utilities, etc.
- **Strategic management:** for example, needs related to consultancy and advisory services
- **Operational management:** needs related to event management, financial, HR, payroll, and travel systems, software and support services, etc.
- **Research and innovation:** needs related to access to publications, equipment and consumables, experimental sites, library systems, patents, research databases and ethical, HR, legal, IP, knowledge transfer and other expert advisory services
- **Learning and teaching:** needs related to guidance and equipment, IT - including learning platforms, overseas marketing, student recruitment services, teaching materials, etc.
- **Serving society:** for example, needs related to advocacy, external communication and public relations as well as specific university hospital needs.

Figure 1. Topology of university procurement needs



The report is divided into three chapters.

The first chapter reviews current EU public procurement provisions from the perspective of public higher education institutions.

The second chapter explores the national public procurement frameworks in seven benchmark countries and describes several institutional case studies. These case studies explore various university approaches to managing public procurement in these countries in more detail.

The third chapter sets out a comparative analysis of the national public procurement frameworks and regulations in the seven countries examined.

The report concludes with a discussion of key public procurement bottlenecks from a public university perspective and makes a few broad recommendations on how to tackle these issues at institution, sector and system level in Portugal.

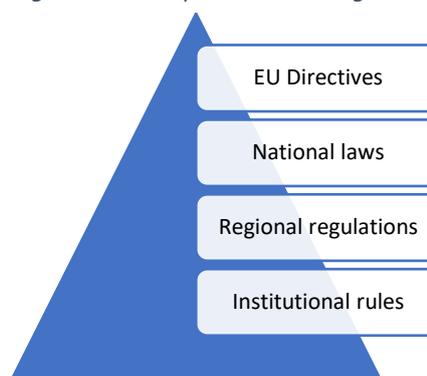
# 1. Public procurement from a university perspective: EU law

## 1.1. Legal framework

In the European Union, public procurement is governed by a combination of EU directives and principles, and national and regional laws and regulations. Public entities can also adopt internal rules that must comply with EU and national/regional legislation (Fig. 2).

To create a level playing field, EU law sets out **minimum harmonised public procurement rules**, which organise the way in which public authorities purchase goods, services and works. These rules are transposed into national legislation and apply to tenders that are worth more than a certain threshold. Tenders with a lower value are regulated by national rules which must respect the general principles of EU law.

Figure 2. Public procurement regulation



The EU legal procurement framework comprises three public procurement directives:

- **Directive 2014/24/EU** of the European Parliament and of the Council of 26 February 2014 on public procurement<sup>5</sup>
- **Directive 2014/25/EU** on procurement by entities operating in the water, energy, transport and postal services sectors<sup>6</sup>
- **Directive 2014/23/EU** on the award of concession contracts<sup>7</sup>

These EU directives embed the core principles of equal treatment, open competition, sound procedural management and transparency.

Public contracts awarded by or on behalf of national authorities must also comply with the principles of the **Treaty on the Functioning of the European Union** (TFEU) such as “the free movement of goods, equal treatment, non-discrimination, mutual recognition, proportionality and transparency”.<sup>8</sup>

## 1.2. Universities as contracting authorities under EU legislation

EU legislation differentiates between two types of contracting authority: **central government authorities** (national public bodies) and **sub-central contracting authorities** operating regionally and locally. The directive application thresholds are defined differently for each category.

Higher education institutions must comply with the EU procurement rules in Directive 2014/24 in two situations.

<sup>5</sup> URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02014L0024-20180101&locale=en>

<sup>6</sup> URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02014L0025-20180101>

<sup>7</sup> URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02014L0023-20180101&locale=en>

<sup>8</sup> URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT>

- I. Higher education institutions are considered to be ‘**contracting authorities**’ under Article 2(1)(2) of Directive 2014/24 if they have a formal status of a **state authority** based on the member states’ internal decision in line with their public administration traditions. This situation is relatively rare. For example, France and Sweden treat their higher education institutions as central government authorities, and they are listed in Annex to Directive 2014/24.

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*Acting as buyers, higher education institutions with the status of state authorities or that are over 50% state financed must comply with EU public procurement law.*

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- II. Higher education institutions must also comply with EU public procurement rules if they are recognised as ‘**bodies governed by public law**’ in line with Article 2(1)(4) of Directive 2014/24. In this more common case, they must fulfil the following requirements:
  - a. Be established for the specific purpose of meeting **public needs**, and not have an industrial or commercial character
  - b. Have **legal personality**
  - c. Be **financed, for the most part, by the state**, regional or local authorities, or by other bodies governed by public law; or be subject to management supervision by said authorities or bodies; or have an administrative, managerial or supervisory board, on which half of the members are appointed by the state, regional or local authorities, or by other bodies governed by public law.

As a result, depending on differences in national funding schemes, higher education institutions may or may not be subject to EU jurisdiction, for example, if they generate substantial income from non-public sources, as some British universities<sup>9</sup>.

However, even sporadic receipt of public funds triggers the requirement to comply with the EU public procurement rules in line with Article 13 of Directive 2014/24, where these funds cover over 50% of the cost of specific contracts involving works for university buildings, services or goods.

 *In most cases, **public funding** and state regulated **autonomy and governance** provisions oblige public universities to comply with EU procurement law.*

Universities that are not in either of the two situations described above can comply with EU public procurement rules voluntarily. However, these are generally private higher education institutions which are beyond the scope of this study.

In addition to their status of contracting authorities (i.e. *buyers*), universities can also be *providers* of goods, services or works to other public organisations. This role is particularly

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<sup>9</sup> A. Gideon and A. Sanchez-Graells (2016). When are universities bound by EU public procurement rules as buyers and providers? English universities as a case study. URL: [www.ius-publicum.com/repository/uploads/14\\_03\\_2016\\_9\\_04-Gideon\\_SanchezGraells\\_DEF.pdf](http://www.ius-publicum.com/repository/uploads/14_03_2016_9_04-Gideon_SanchezGraells_DEF.pdf)

important in the context of public research, development and innovation contracts, including those concluded under innovation partnerships analysed below.

### 1.3. EU regulations at different stages of public procurement

The public procurement cycle can be roughly divided into five stages (Fig. 3). EU legislation contains various specific provisions for each stage.

Figure 3. Common public procurement stages



**Source:** European Commission (2018). Public procurement guidance for practitioners. URL: [http://ec.europa.eu/regional\\_policy/sources/docgener/guides/public\\_procurement/2018/guidance\\_public\\_procurement\\_2018\\_en.pdf](http://ec.europa.eu/regional_policy/sources/docgener/guides/public_procurement/2018/guidance_public_procurement_2018_en.pdf)

#### 1.3.1. Thresholds and contract value

In most cases, higher education institutions are flexible about identifying their purchasing needs and objectives and selecting technical and economic conditions and contract type under EU provisions.

##### Box 1. Types of EU contract

The contracting authority must define the nature of the contract:

- Public works contracts: design or execution of works
- Public supply contracts: product lease, rental, hire or purchase (for example, computers, stationery)
- Public service contracts: service provision (for example, consultancy, cleaning)

Mixed contracts covering a combination of goods, services and works are also possible.

**Source:** Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement.

Contract value determines the applicable thresholds under EU legislation. As contracting authorities, higher education institutions must follow EU procurement rules for the award of contracts above the EU thresholds. National or regional rules and thresholds apply to tenders of lower value, which must nevertheless respect the general principles of EU law.

The thresholds are based on the estimated contract value, which is the total volume of goods, services or works to be purchased during the entire contract. It covers the total

contractor remuneration, which includes **all types of expenses** such as human resources, materials and transport, as well as additional costs such as licences, maintenance, operational costs or travel and subsistence expenses.

Contracts that exceed EU value thresholds require an invitation to tender and must be published throughout the EU (Table 1).

*Table 1. EU thresholds for contract award procedures, as of 18 December 2017*

	Works	Goods	Services		
			Special and specific services	Subsidised services	All other services
<b>Central government authorities</b> <i>E.g. higher education institutions in France and Sweden</i>	€5,548,000	€144,000	€750,000	€221,000	€144,000
<b>Sub-central contracting authorities</b> <i>Most public higher education institutions in other member states</i>	€5,548,000	€221,000	€750,000	€221,000	

### 1.3.2. Procurement procedures

Contracting authorities have a relatively flexible choice of EU procurement procedures. Directive 2014/24/EU defines the following procedures and specific criteria for various situations:

- **Open procedure:** any supplier that meets the criteria defined in the contract notice can submit a tender application.
- **Restricted procedure:** the tender is only open to suppliers selected on the basis of objective criteria. This procedure is generally used when the marketplace is very competitive, for example for cleaning, furniture or IT equipment.
- **Negotiated procedure:** authorities can negotiate the terms of a contract with one or more suppliers of their choice in certain justified circumstances).
- **Competitive procedure with negotiation:** any economic operator can submit a request to take part in a competitive tender, but only a few are invited to submit an initial bid, which will become the basis for subsequent negotiations with the contracting authority.
- **Competitive dialogue procedure:** used to allow contracting authorities to engage in post-tender negotiations with at least three bidders for particularly complex procurements.
- **Innovation partnership:** a three-stage procurement process for the purchase of R&D services to develop an innovative solution and the resulting innovative products, services or works.

- **Design contest:** a competitive procedure to purchase a design or plan used mainly in the fields of architecture, civil engineering, data processing and spatial planning.

### 1.3.3. Award criteria

As contracting authorities, universities must identify the most economically advantageous tender based on the price or cost, or the **best price-quality ratio**.

The EU rules leave it up to contracting authorities to identify the best price-quality ratio and provide a non-exhaustive list of possible award criteria:

- **Quality**, including technical merit, aesthetics, functional characteristics, accessibility, user friendly design, social, environmental and innovative characteristics and trading and its conditions
- **Organisation, qualification and experience of the staff** who will carry out the contract, where this has significant impact on quality
- **After-sales service and technical assistance**, delivery conditions including the delivery date, delivery process and delivery period or completion period
- **Environmental or social factors**

To identify the most economically advantageous tender, qualitative criteria should be accompanied by a cost criterion that could be either the price or a cost effectiveness approach such as lifecycle costing.

### 1.3.4. Publication and e-procurement

All public tenders for contracts whose value exceeds the EU thresholds must be published in the *Supplement to the Official Journal of the European Union* (S series, Official Journal S or OJ S) and advertised across the EU. The Official Journal S is only available online and can be accessed free on the TED website<sup>10</sup>, which also allows users to access the archives.

**E-procurement** is mandatory for public entities and contractors. This means that purchasing operations are performed electronically:

- Contract notices are published online (**e-notification**)
- All call for tender documents are published online (**e-access** to tender documents)
- Suppliers must submit public tender bids electronically (**e-submission**)

#### Box 2. European Single Procurement Document

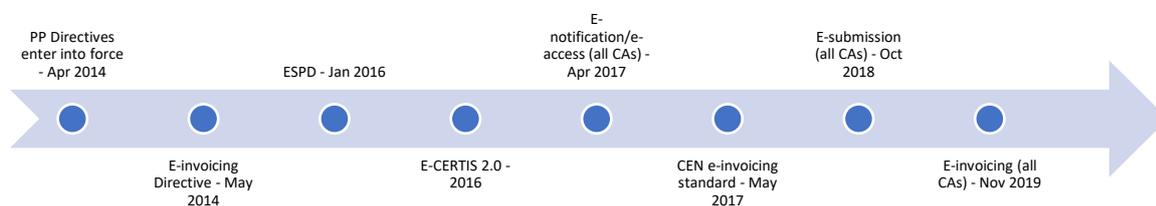
The European Single Procurement Document (ESPD) is a self-declaration of the businesses' financial status, abilities and suitability for a public procurement procedure. It is available in all EU languages and used as preliminary evidence of fulfilment of the conditions required in public procurement procedures across the EU. The tenderers no longer have to provide the full documentary evidence and different EU procurement forms, which simplifies access to cross-border tendering opportunities. From October 2018 onwards the ESPD shall be provided exclusively in an electronic form. ESPDs provided under a previous public procurement procedure can be reused so long as the information remains correct.

**Source:** European Commission, URL: <https://ec.europa.eu/tools/espdc>

<sup>10</sup> Tenders Electronic Daily. URL: <https://ted.europa.eu>

The European Commission's timeline<sup>11</sup> for the implementation of e-procurement rules by all contracting authorities (CAs) in the EU is shown in Fig. 4.

Figure 4. Rollout of e-procurement in the EU



### 1.3.5. Procurement of research, development and innovation

The Directive 2014/24/EU contains several specific research and development (R&D) provisions that can apply to public higher education institutions as *buyers* and *providers* of R&D solutions.

First, the scope of R&D goods, services and works subject to the EU Directive is clearly defined.

The rules stipulated in the directive cover a specific set of R&D services that meet the following condition: the service benefits will be used exclusively by the contracting authority that paid for them in full (Article 14). Such services include:

- **R&D services** and related consultancy services; research and experimental development services; research services; research laboratory services; marine research services; experimental development services (CPV codes 73000000-2 to 73120000-9)
- **Design and execution** of research and development (73300000-5)
- **Pre-feasibility study and technological demonstration** (73420000-2)
- **Test and evaluation** (73430000-5)

Second, 'less bureaucratic' procedures may be used in some public R&D goods, services or works contracts.

If allowed by the respective national legislation, contracting authorities can award public contracts by negotiated procedure and without prior publication in the following cases (Article 32):

- (a) Public supply contracts for products "**manufactured purely for the purpose of research, experimentation, study or development**" (excluding situations aiming for "quantity production to establish commercial viability or to recover research and development costs") (paragraph 3).
- (b) Situations, where it is necessary to ensure the **technical compatibility** of additional deliveries (goods or installations) by the original supplier (for example, for maintenance and operation purposes) (paragraph 3).

<sup>11</sup> URL: <http://ec.europa.eu/DocsRoom/documents/16332/attachments/1/translations/en/renditions/native>

- (c) Situations in which **there is no competition** due to the unique nature of the procured goods, services or works (i.e. only a particular economic operator can create or deliver a unique work of art or artistic performance), or for technical or legal reasons (i.e. where exclusive rights, including intellectual property rights must be protected) (paragraph 2).
- (d) Situations in which **new works or services repeat works or services** entrusted to a supplier under an original contract in compliance with a basic project (paragraph 5), provided that the basic project mentions the extent and conditions of such additional works or services.

These provisions give public universities room for manoeuvre when purchasing equipment, consumables or services for R&D purposes and facilitate the delivery of these services by universities themselves.

Finally, the EU Procurement Directives open new opportunities for public innovation procurement.

Along with improvements to existing procedures (Table 2), the new innovation partnership mechanism was introduced to enable the procurement of goods, services or works that cannot be delivered by currently available market options. The contracting authority can establish an innovation partnership with one or several partners conducting separate R&D activities (Article 31). This procedure makes it easier to award complex/mixed contracts that combine development and purchase elements. Essentially, it can be structured into successive R&D stages and delivered without holding further procurement processes for each R&D stage, prior to subsequent purchase.

This procedure is extremely relevant for universities, which are key players in the innovation value chain. For example, universities and university hospitals can use it to purchase tailor-made IT solutions, smart services and equipment. Higher education institutions can also use this mechanism to expand their innovation activities by entering into innovation partnerships that deliver required solutions to other public organisations.

*Table 2. 2014 Procurement Directives: provisions on public innovation procurement*

<b>2014 Procurement Directives: summary of provisions on public innovation procurement</b>	
<ul style="list-style-type: none"> <li>• Streamlined selection documentation requirements</li> <li>• Exemption for R&amp;D services</li> <li>• Rules on preliminary market consultations</li> <li>• Functional and performance-based specifications</li> <li>• Innovation partnership procedure</li> </ul>	<ul style="list-style-type: none"> <li>• Competitive procedure with negotiation</li> <li>• Greater availability of competitive dialogue</li> <li>• Ability to apply environmental and social criteria and to consider life-cycle costs</li> <li>• Joint procurement rules</li> <li>• Reporting on SME involvement in public innovation procurement</li> </ul>
<p><b>Source:</b> Procurement of Innovation Platform. Guidance for public authorities on Public Procurement of Innovation. URL: <a href="http://www.innovation-procurement.org/fileadmin/editor-content/Guides/PPI-Platform_Guide_new-final_download.pdf">www.innovation-procurement.org/fileadmin/editor-content/Guides/PPI-Platform_Guide_new-final_download.pdf</a></p>	

### 1.3.6. Conclusions

Current EU public procurement legislation is complex and detailed. It requires an in-depth understanding of the principles and rules for different contracting situations. However, it also offers a relatively broad and flexible framework for purchasing goods, services and works and creates a positive impetus for procurement activities by EU contracting authorities, including public higher education institutions.

The latest update to the EU public procurement rules resulted in renewed interest in using this instrument not only to achieve efficiency, but also to more actively support local growth and employment by linking procurement to broader policy objectives like sustainability, social inclusion and innovation. These links are vital to universities in their position as key players in local economies and ecosystems. They push universities to abandon the old-fashioned perception of procurement as an administrative and financial task and to adopt more strategic approaches that are more in line with their missions.

While EU Procurement Directives offer no specific provisions to address some specific public university needs, several dedicated, more simplified mechanisms are foreseen for research, development and innovation activities.

In many cases, particularly for awarding public contracts with values below the EU thresholds, it is up to member states, regional or local authorities to establish specific rules for public procurement at national or regional level. National provisions are complemented by internal rules introduced by public universities in their capacity as contracting authorities.

As a result, the complexities of European public procurement do not seem to stem from a need to align and implement EU-level rules and procedures by transposing the EU Procurement Directives. This situation seems to be due to a complex, multi-layered governance framework that has to be absorbed, embraced and mastered locally by public procurement experts working in higher education and research. These issues are discussed in more detail in the following chapter.

## 2. Public procurement from a university perspective: national frameworks in selected EU member states

This chapter takes stock of the national procurement frameworks in seven EU member states: **Austria, Finland, France, Ireland, Italy, Spain** and **Portugal**. It also contains examples of additional internal procurement provisions adopted by the higher education institutions studied.

These institutional approaches and good practices illustrate how universities in the selected countries try to comply with, adapt to and implement existing legislation for public procurement as effectively and efficiently as possible.

Each country summary follows the same structure and examines the following elements:

- 1) National public procurement legislation
  - Types of contract
  - Procedures
  - Award criteria
  - National thresholds
  - Publication/transparency
  - Legal protection
  - Centralised and collaborative procurement
  
- 2) Institutional provisions
  - Institutional framework
  - Internal thresholds
  - Governance and responsibilities
  - Selection and award criteria
  - Centralised and collaborative procurement
  - Socially responsible and sustainable procurement practices
  - Procurement capacity building and training
  - Key challenges and lessons learned

## 2.1. Austria

### 2.1.1. National public procurement legislation

Austria regulates public procurement through the **Federal Procurement Act** (*Bundesvergabegesetz*).<sup>12</sup> A new procurement law came into force in autumn 2018. The following description is based on the previous act.

Basic principles for efficient and effective university management and financial accountability are defined in the **University Act**. Paragraph § 15 (1) stipulates that the “the Rectorate shall conduct University accounting in accordance with the principles of legality, efficiency, usefulness, economy and transparency and shall manage the University budget with due care.” Paragraph § 15 (4) specifies, “That the decision regarding obligations that go beyond the University’s current business activities requires the approval of the University Council.”<sup>13</sup>

Public universities are subject to the EU and national rules outlined in the Federal Procurement Act. Universities also follow relevant international procurement regulations (for example, the WTO rules and provisions of bilateral agreements).

Additional public procurement guidelines are set out in the **Austrian Action Plan for Sustainable Public Procurement** adopted by the government in 2010.<sup>14</sup>

#### *Types of contract*

The Federal Procurement Act distinguishes between five different types of contracts (§4), which essentially match those described in the previous chapter on public procurement legislation in the EU.

#### *Procedures*

Under the Federal Procurement Act, contracting authorities in Austria can apply the following procedures:

- Open procedure
- Restricted procedure with/without notice
- Negotiated procedure with/without notice
- Framework agreement
- Dynamic procurement system
- Competitive dialogue
- Direct award with/without prior notification
- Electronic auction (in combination with other procedures)

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<sup>12</sup> *Gesamte Rechtsvorschrift für Bundesvergabegesetz 2006, Fassung vom 08.08.2018.* URL: [www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20004547](http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20004547)

<sup>13</sup> *Gesamte Rechtsvorschrift für Universitätsgesetz 2002, Fassung vom 08.08.2018,* URL: [www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20002128](http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20002128)

<sup>14</sup> *Österreichischen Aktionsplan zur nachhaltigen öffentlichen Beschaffung - naBe-Aktionsplan.* URL: [www.nachhaltigebeschaffung.at](http://www.nachhaltigebeschaffung.at)

### *Award criteria*

A public contract must be awarded to the 'best bidder'. The award criteria include: cost, execution period, quality, price, and professional capacity as well as environmental, innovation and social aspects. The latest amendment to the Federal Procurement Act gave contracting authorities more flexibility to decide on the exact price-quality ratio. This ratio can now vary depending on the type of contract.

### *National thresholds*

National threshold values depend on the type of contractor and procedure chosen. Table 2 provides a simplified summary of current thresholds. A more detailed description of potential combinations is set out in the Federal Procurement Act.

*Table 3. Austrian national threshold values (excluding VAT), as of 8 August 2018*

	National contracting procedures		EU contracting procedures
	Direct award for goods, services and works	National tendering procedures	
Other contracting authorities, including universities	€100,000	€100,000 – €221,000 (goods and services) (advertised in <i>Amtsblatt zur Wiener Zeitung</i> )	€221,000 (goods and services) €5,548,000 (works)

### *Publication/transparency*

The Federal Procurement Act regulates how and where contract notices have to be published. European publication procedures apply above the EU thresholds. Calls for tender worth less than the EU thresholds must be published in the online edition of the *Official Supplies Gazette*, which is issued as part of *Amtsblatt zur Wiener Zeitung* (except direct awards without prior notification).<sup>15</sup>

E-procurement is currently compulsory for contracts worth over €100,000 and will be used for all public contracts starting from 2019.

### *Legal protection*

Most contracting decisions are subject to review and can be annulled by the public procurement review authorities (the Supreme Administrative Court,<sup>16</sup>) if they contravene the Procurement Act.

<sup>15</sup> URL: [www.wienerzeitung.at/amtsblatt](http://www.wienerzeitung.at/amtsblatt)

<sup>16</sup> URL: *Österreichischer Verwaltungsgeschichtshof – VWGH*. URL: [www.vwgh.gv.at](http://www.vwgh.gv.at)

### *Centralised and collaborative procurement*

Public procurement is centrally organised through the **Federal Procurement Agency (BBG)**.<sup>17</sup> BBG was established as a branch of the Austrian Ministry of Finance in 2001. This public procurement company arranges purchases all kinds of goods and services (books, cleaning services, energy, fuel, insurance, IT, press and, transport, etc.) for the State of Austria, and also for regional and local authorities, bodies governed by public law and associations of one or several such organisations. BBG users include higher education institutions and health care facilities.

BBG promotes a better use of financial resources by bundling and standardising public procurement. It carries out the following tasks:

- Needs analysis: bundling federal authority needs
- Public tender and framework contract administration
- Organisation of public tenders at the special request of public entities
- Documentation (catalogue) management for completed contracts, goods and services
- Definition of purchasing strategies and marketing (market research, supplier analysis)
- Implementation of standards and specifications
- Procurement monitoring

#### 2.1.2. Institutional provisions at the University of Graz

##### *Institutional framework*

The University of Graz is subject to the public procurement provisions of EU Directive 2014/24 and the Federal Procurement Act. It has also adopted five important internal documents that together comprise institutional procurement policy:

- Guidelines for central and decentralised procurement (*Beschaffungsrichtlinie für die zentrale und dezentrale Beschaffung*)
- Rectorate Guidelines for Accounting (*Richtlinien des Rektorats für die Gebarung*)
- Rectorate Guidelines for Budgeting (*Richtlinien des Rektorats für die Budgetierung*)
- General Terms and Conditions of Business (*Allgemeine Geschäftsbedingungen*)
- Guidelines for Sustainable Procurement (*Leitfaden nachhaltige Beschaffung*)

#### **Box 3. The Austrian Library Network**

The government created the Austrian Library Network and Service company (*Die Österreichische Bibliothekverbund und Service GmbH - OBVSG*), responsible for purchasing on behalf of several library organisations, among other things. OBVSG is Austria's largest network of scientific and administrative libraries, and has 70 members representing 91 institutions, including the Austrian National Library, university libraries, colleges, ministries, and other organisations (for example, the Austrian Academy of Sciences, AK Wien, MAK and the Sigmund Freud Foundation).

Source: [www.obvsg.at](http://www.obvsg.at)

<sup>17</sup> Bundesbeschaffung GmbH – BBG. URL: [www.bbg.gv.at](http://www.bbg.gv.at)

According to the Guidelines for Centralised and Decentralised Procurement, the university can only make purchases that are strictly necessary to implement its tasks. Procurement needs must be justified in writing and meet five broad criteria:

- Needs must arise within 12 months. The university must demonstrate that other, more cost-effective equipment, machines or objects cannot satisfy the need.
- Longer-term needs for similar purchases must be bundled together.
- Similar goods must be purchased for similar purposes.
- Purchases must be used. Equipment may only be purchased if the appropriate technical staff and space are available.
- Secure funding must be in place for follow-up costs.

**Box 4. The University of Graz**

The University of Graz was founded in 1585. It is Austria's second oldest university and one of the largest in the country.

**Facts and Figures**

- 32,500 students
- 4,300 employees
- 6 faculties and 76 institutes
- 120 study courses
- 180,000 m<sup>2</sup> net floor area
- Annual budget of ca. €216 million

Source: [www.uni-graz.at](http://www.uni-graz.at)

*Internal thresholds*

The university can award public contracts with a value of less than €100,000 without using a tendering procedure (direct award without a procurement procedure, § 41 *Bundesvergabegesetz*).

University units (faculties, departments, etc.) that manage purchases of less than €100,000 must request one or more quotes in line with the conditions shown in Table 4.

*Table 4. Institutional conditions for direct awards*

<b>Contract value</b>	<b>Minimum number of quotes</b>
Up to €4,000	1 offer i.e. request for a quote
From €4,001 to €20,000	2 offers
From €20,000 to €100,000	3 offers

*Governance and responsibilities*

The University of Graz has a devolved procurement system. The **Economic Department** is responsible for centralised university procurement for purchases worth over €100,000 (excluding VAT). It also ensures the university's compliance with the Federal Procurement Act. The Procurement Unit employs 6.5 FTE staff.

The Rectorate has overall responsibility for contract evaluation and compliance with the principles of value for money, transparency and usefulness. Any contracts worth over €500,000 (one-off purchases) or €250,000 (annual recurring spending) must be approved by the University Council.

### *Selection and award criteria*

Following the recent change to national procurement legislation, the University is free to determine the exact price-quality ratio for the award criteria. This ratio varies according to the type of contract. For example, quality can be more important for non-standard contracts.

When selecting suppliers, the university must consider contractors' professional skills and reliability as well as their technical and financial capacity. The Economic Department can obtain standardised proof of suitability from Contractor Cadastre Austria (ANKÖ).<sup>18</sup>

The university has adapted the BBG platform and combined it with the internal management system to create an extended electronic catalogue, which is used to place and manage purchase orders. All procurement procedures are carried out electronically using the VEMAP system.

### *Centralised and collaborative procurement*

The University of Graz works with other local higher education institutions, sharing services and engaging in joint procurement. The partners usually negotiate purchasing conditions jointly and conclude separate purchase contracts.

For example, the University of Graz, the University of Innsbruck and the Medical University of Innsbruck jointly procured cleaning services. In this instance, the partners joined forces specifically to draft common quality requirements and quality control procedures for the services procured.

The University of Graz uses BBG services and framework contracts for various purposes (for example, cleaning, electricity and security). The annual budget for services procured through BBG is approximately €5 million.

### *Socially responsible and sustainable procurement practices*

The University of Graz developed specific sustainable procurement guidelines in line with the Austrian Action Plan for Sustainable Public Procurement (*naBe-Aktionsplan*).

The university guidelines recommend applying BBG environmental and social criteria to companies and products. Other things being equal, the university will purchase the most environmentally-friendly, least energy-consuming products and prefer products that are recycled or made out of renewable materials. All university employees are encouraged to use materials and energy sparsely.

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<sup>18</sup> The Contractor Cadastre Austria (*Auftragnehmerkataster Österreich - ANKÖ*) is a public procurement service provider. Having started out as a proof of suitability specialist, ANKÖ's mission is to make public procurement simpler, more efficient, more transparent and more fair. URL: [www.ankoe.at](http://www.ankoe.at)

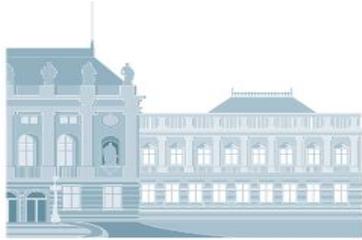
The University of Graz uses its own environmental management system. It is audited according to Eco Management and Audit Scheme (EMAS)<sup>19</sup> standards.

**Box 5. Sustainable workplace guidelines**

The University of Graz has developed specific recommendations on the procurement of sustainable catering, chemicals, cleaning, electric appliances, energy, events, food products, furniture, IT equipment, office supplies, and mobility. For instance, local and seasonal products are recommended when it comes to catering. The guidelines contain example criteria for purchasing sustainable office suppliers.



**Leitfaden  
nachhaltige Beschaffung**



Beispielkriterien für Büromaterial

Produktgruppe	Worauf beim Kauf geachtet werden sollte	✓
Hefte, Blöcke, Papier	Recyclingpapier aus 100% Altpapier	<input type="checkbox"/>
	manuelle Bedienung	<input type="checkbox"/>
	Verpackung aus Recyclingkarton	<input type="checkbox"/>
Klebstoffe	lösungsmittelfrei	<input type="checkbox"/>
	Behälter aus PE, PP oder Kunststoffrecyclat	<input type="checkbox"/>
	kein Aluminium	<input type="checkbox"/>
	Verpackung aus Recyclingkarton	<input type="checkbox"/>
Korrekturmittel	wenn möglich nachfüllbar	<input type="checkbox"/>
	lösungsmittelfrei	<input type="checkbox"/>
	Nachfüllbarkeit	<input type="checkbox"/>
	Verpackung aus Recyclingkarton	<input type="checkbox"/>
Filzstifte, Fasermarker	Tinte auf Wasserbasis	<input type="checkbox"/>
	Schaft/Kappe aus Kunststoffarten wie PE und/oder aus min. 65% Kunststoffrecyclat oder aus min. 65% Bio-Kunststoff aus nachwachsenden Rohstoffen	<input type="checkbox"/>
	Verpackung aus Recyclingkarton	<input type="checkbox"/>
	Nachfüllbarkeit	<input type="checkbox"/>

**Source:** University of Graz, URL: [http://nachhaltigeuniversitaeten.at/wp-content/uploads/2014/06/Leitfaden-Nachhaltige-Beschaffung\\_WEB.pdf](http://nachhaltigeuniversitaeten.at/wp-content/uploads/2014/06/Leitfaden-Nachhaltige-Beschaffung_WEB.pdf)

As part of the Ökoprofit<sup>20</sup> community, the university partners with the City of Graz to try and reduce operational costs and spare resources by raising awareness, sharing experience and adopting sustainable management practices.

The University of Graz is a co-founding member of the University Alliance for Sustainability. One of its working groups is dedicated to sustainable procurement in order to share expertise and information about the opportunities in this field.

*Procurement capacity building and training*

The university organises various training courses on public procurement issues. Special attention is paid to e-procurement and internal systems. For example, staff are offered beginners and advanced SAP training courses (Table 5).

<sup>19</sup> The EU Eco-Management and Audit Scheme (EMAS) is a management instrument developed by the European Commission for companies and other organisations to evaluate, report, and improve their environmental performance. EMAS is open to every type of organisation eager to improve its environmental performance. It spans all economic and service sectors and is applicable worldwide. URL: [http://ec.europa.eu/environment/emas/index\\_en.htm](http://ec.europa.eu/environment/emas/index_en.htm)

<sup>20</sup> Ökologisches Projekt für Integrierte UmweltTechnik. URL: [www.oekoprofit.com](http://www.oekoprofit.com)

*Table 5. General procurement training. Example from the University of Graz*

<b>Training</b>	<b>Required Qualifications</b>	<b>Target Audience</b>
Basic procurement training (MM)	None	Newcomers
Procurement training (MM)	Basic procurement training (MM) or SAP experience (MM, procurement)	Newcomers and returning staff
SAP CO-Reports	None	Newcomers and returning staff

NB: MM – Materials Management Module; SD – Sales and Distribution Module

Furthermore, various training courses provide more in-depth knowledge for specific topics (for example, issuing invoices).

*Table 6. Specialist procurement training. Example from the University of Graz*

<b>Training</b>	<b>Required Qualifications</b>	<b>Target Audience</b>
Electronic procurement workflow	Basic procurement training (MM) or SAP experience (MM, procurement)	Employees working with SAP
Electronic application forms	Basic procurement training (MM) or SAP experience (MM, procurement)	Employees working with SAP
Basic sales training (SD)	None	Newcomers and returning staff

NB: MM – Materials Management Module; SD – Sales and Distribution Module

A series of authorised user training courses were organised to support the introduction of contract management procedures at the University of Graz. All new employees responsible for contract management and with the appropriate authorisation, receive specialist training.

University procurement or contract management staff are constantly updated on SAP changes and evolutions through the SAP Newsletter.

General procurement information (for example, procurement guidelines and processes) is available on the Economic Department intranet.

Information about the University of Graz Data Privacy Statement and General Terms and Conditions is published on the firmeninfo.uni-graz.at website, along with information about deliveries, invoicing and ordering.

### *Key challenges and lessons learned*

One of the key procurement issues for the University of Graz is consistent implementation of existing provisions by all staff involved in purchasing and contract management. This requires regular staff training and professional development activities along with continuous initiatives to raise awareness of the procurement provisions at all levels.

## 2.2. Finland

### 2.2.1. National public procurement legislation

Finland regulates public procurement through the **Finnish Act on Public Procurement and Concession Contracts** (The Act on Public Contracts). This Act seeks to enhance the efficient use of public funds, promote quality, innovative and sustainable procurement, and safeguard equal opportunities in competitive tendering for public procurement for companies providing goods, services and public works.<sup>21</sup> The Act was last revised on 1 January 2017.

This national act applies to higher education institutions in their capacity as ‘public institutions’ (institutions that satisfy the public interest, and that are mainly financed and regulated by the state) (The Act of Public Contracts, Section 5, paragraph 1).

In addition to the Act on Public Contracts, two other national acts apply to public procurement in Finland:

- The **Act on the Openness of Government Activities**
- The **Act on the Contractors’ Obligations and Liability when Work is Contracted Out** (22.12.2006/1233)

Finnish contracting authorities also adhere to the World Trade Organisation’s Government Procurement Agreement (GPA).<sup>22</sup>

#### **Box 6. Contractor’s obligations and liability**

The Act on the Contractors’ Obligations and Liability when Work is Contracted Out aims to prevent the undeclared economy. It also aims to promote fair competition and compliance with employment conditions. It therefore obliges the contractor to check that its subcontractors fulfil their legal obligations as a contracting party and employer. The information and certificates required cannot be more than three months old and include the following:

- Prepayment Register and VAT Register account numbers
- An extract from the Trade Register
- A certificate proving the absence of tax debt
- Staff pension insurance certificates
- A description of the collective agreement or principle employment terms and conditions
- A description of occupational healthcare
- A mandatory accident insurance certificate (required in the building sector)

The Act applies when temporary agency workers work for more than 10 days, or if the subcontract agreement value exceeds €9,000, excluding VAT.

**Source:** Ministry of Economic Affairs and Employment of Finland. URL: <https://tem.fi/en/contractor-s-obligations-and-liability>

<sup>21</sup> Finnish Act on Public Procurement and Concession Contracts. URL: [www.finlex.fi/fi/laki/kaannokset/2016/en20161397.pdf](http://www.finlex.fi/fi/laki/kaannokset/2016/en20161397.pdf)

<sup>22</sup> The World Trade Organisation’s Agreement on Government Procurement (GPA). URL: [https://tem.fi/documents/1410877/2132242/WTO\\_en.pdf/c2ee5b75-32af-4467-b539-daba3f57f9fa/WTO\\_en.pdf.pdf](https://tem.fi/documents/1410877/2132242/WTO_en.pdf/c2ee5b75-32af-4467-b539-daba3f57f9fa/WTO_en.pdf.pdf)

Additional public procurement guidelines are provided in the *Guide to Socially Responsive Public Procurement* adopted by the Finnish Ministry of Economic Affairs and Employment in 2017.<sup>23</sup>

### *Types of contract*

The following contract types are stipulated in the Act on Public Contracts:

- Public works contracting agreement
- Supply contract
- Service contract
- Works concession contract
- Service concession contract

### *Procedures*

Chapter 5 of the Act on Public Contracts establishes the following procurement procedures for contracts exceeding the EU threshold values:

- Open procedure
- Restricted procedure
- Negotiated procedure
- Competitive negotiated procedure
- Innovation partnership
- Direct procurement
- Framework agreement
- Electronic auction
- Dynamic purchasing systems
- Electronic catalogues
- Design contests

Apart from the publication requirement, no specific procurement procedures are established for national-level purchases below the EU thresholds. Contracting authorities are free to either apply EU-level procurement procedures at the national level or to innovate and apply new processes. However, the degree of such innovation varies between the different contracting authorities, including higher education institutions.

### *Award criteria*

Contracting authorities are obliged to select the most economically advantageous tender at the lowest price, at the most affordable cost, or with the best price-quality ratio. The best price-quality ratio is not regulated by law, but “shall be relevant to the procurement and

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<sup>23</sup> The Ministry of Economic Affairs and Employment of Finland (2017). Guide on Socially Responsive Public Procurement. URL: [http://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/160318/TEM\\_oppaat\\_12\\_2017\\_guide\\_to\\_socially\\_responsible\\_EN\\_web\\_21112017.pdf](http://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/160318/TEM_oppaat_12_2017_guide_to_socially_responsible_EN_web_21112017.pdf)

enable an impartial comparison of tenders.” It must also be announced in the contract notice or call for tender.

### *National thresholds*

National thresholds define the Finnish Act on Public Contracts’ scope of application. Where contract values fall below the national threshold values, they are outside its scope, which means that higher education institutions can apply their own regulations and procedures (typically, direct award without prior publication) to manage contracts below the national threshold values.

*Table 7. Finnish national threshold values (excluding VAT), as of 1 January 2017*

	National contracting procedures		EU contracting procedures (advertised on <a href="http://www.hankintailmoitukset.fi">www.hankintailmoitukset.fi</a> and in OJEU)
	Direct award for goods and services (low-value purchases)	National tender procedures (advertised on <a href="http://www.hankintailmoitukset.fi">www.hankintailmoitukset.fi</a> )	
Other contracting authorities, including universities	€60,000 (goods and services) €150,000 (works) €500,000 (concessions)	€60,000 – €221,000 (goods and services) €150,000 – €5,548,000 (works)	€221,000 (goods and services) €5,548,000 (works)

The Act on Public Contracts does not apply to purchases with a total value of less than €60,000 in one calendar year or contractual period, or to public contracts awarded in-house.

The direct award procedure may be used for contracts worth over €60,000 in exceptional circumstances. Conditions stipulated in Chapter 40 of the Procurement Act provide Finnish higher education institutions with several opportunities to apply simpler rules for procuring new or unique research equipment when “only a certain supplier can implement the procurement for technical reasons, or reasons related to protecting an exclusive right” (§ 2) or when “the goods to be procured are manufactured only for research, testing, product development or scientific purposes [...]” (§ 5).

### *Publication/transparency*

All purchases worth over €60,000 in one calendar year or contract period must be published in Finnish or Swedish on the [www.hankintailmoitukset.fi](http://www.hankintailmoitukset.fi) website using the national tender publication form.

### *Legal protection*

The Finnish Market Court is a special court that hears public procurement cases.<sup>24</sup> Tenderers can refer public contract matters to the Market Court in writing. Market Court ruling appeals can be submitted to the Supreme Administrative Court.

<sup>24</sup> The Finnish Market Court. URL: [www.markkinaoikeus.fi/en](http://www.markkinaoikeus.fi/en)

### *Centralised and collaborative procurement*

As contracting entities, universities can procure goods and services through a central purchasing body or procure goods, services and works using a procurement agreement concluded by a central purchasing body, a framework agreement, or a dynamic purchasing system (Section 20, § 1).

The Ministry of Finance is responsible for managing and carrying out central government procurement activities. The Ministry of Finance decides whether or not to hold centralised competitive tenders for central government contracts in line with the State Budget Act.

#### **Box 7. National Library Network Services**

The **Linnea2 Consortium** comprises 18 universities (including the National Library), six special libraries (including the Parliament Library and the National Repository Library), and four university of applied science libraries. Consortium members manage around 20 local library databases. Four national or union catalogue databases are also maintained by the National Library.

**FinELib Consortium** is a consortium of Finnish universities, universities of applied sciences, research institutes and public libraries. The Consortium was set up to acquire electronic resources centrally on behalf of its member organisations. Electronic resources are accessed through the Nelli portal.

**Source:** National Ex Libris User Group: Finland.

URL: <https://igelu.org/wp-content/uploads/2014/08/Finland-report-2014.pdf>

Centralised procurement is managed by **Hansel Ltd**,<sup>25</sup> a state-owned company that acts as the central purchasing body. Hansel Ltd invites tenderers to bid for goods and services contracts and concludes and maintains the relevant framework agreements on behalf of central government contracting authorities. It also provides contracting authorities with expert support on public contracts and procurement practices.

More detailed centralised procurement provisions are established in the Ministry of Finance Decision on Joint Procurement in Central Government. This Decision specifies which central government products and services are to be procured centrally through

competitive tendering, by the joint procurement unit that will execute the tendering process.

Universities may also agree to pursue collaborative procurement for individual purchases.

### 2.2.2. Institutional provisions at the University of Helsinki

#### *Institutional framework and general principles*

The University of Helsinki carries out procurement in compliance with national public procurement legislation, with the Board's decision on the approval of procurement contracts of 15 December 2016 and with the university's procurement principles.

#### **Box 8. The University of Helsinki**

The University of Helsinki is Finland's oldest and largest academic institution.

##### **Facts and Figures**

- 31,312 students
- 7,800 employees
- 11 faculties
- Annual budget ca. €704 million

**Source:** [www.helsinki.fi/en](http://www.helsinki.fi/en)

<sup>25</sup> Hansel Ltd. URL: [www.hansel.fi/en/](http://www.hansel.fi/en/)

Procurement involves purchasing or renting supplies or services or equivalent activities, including commissioning work, from outside the University of Helsinki. Procurement must be carefully planned and appropriately conducted in accordance with the university's interests. The key principles are transparent and efficient tendering and equal, non-discriminatory treatment of tenderers.

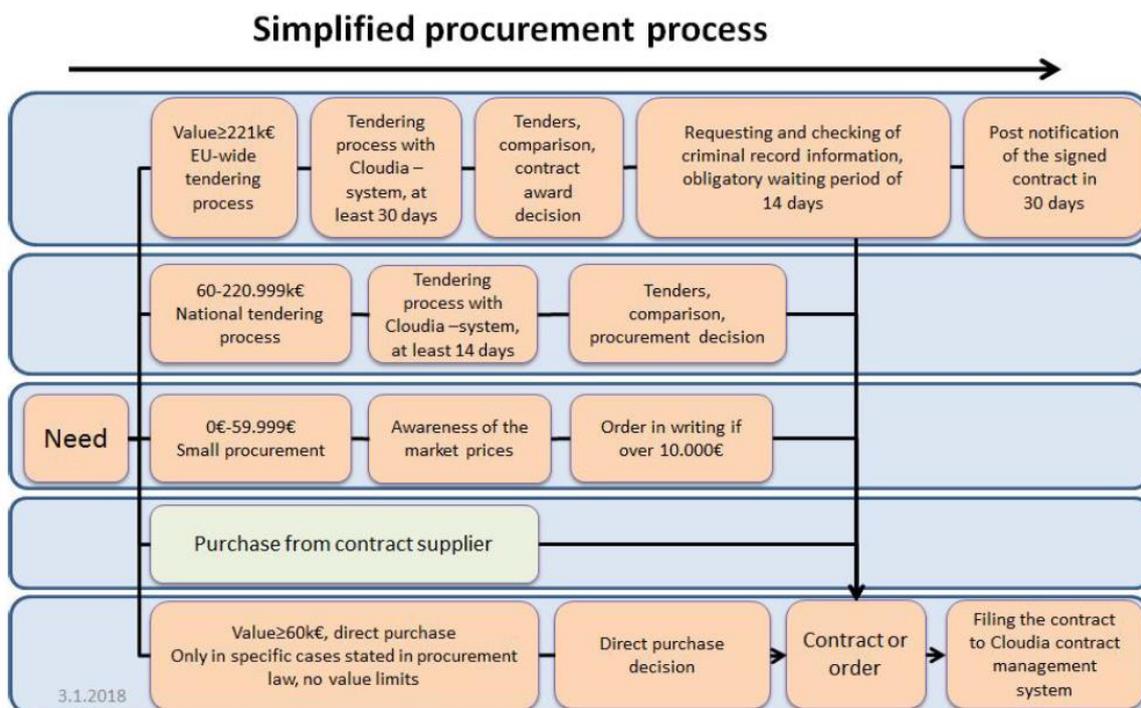
Compliance with the Act on Public Contracts ensures that the university's procurement system is cost-effective. The tender process also allows the university to become aware of new tenderers and products.

*Internal thresholds*

Tendering procedures are not required for low-value purchases (when all purchases from the same supplier are worth less than a total of €60,000 in a single calendar year or contract period). Purchase values are calculated on a product-specific basis. This means that all purchases in a specific product category must be added together to calculate the total value. Examples of product groups include service design and IT supplies.

Low-value procurement should primarily be conducted using the purchasing agreements tendered by the university. The market price must be established for low-value procurement not covered by tendering. For purchases exceeding €10,000, a written order, contract or similar document must be prepared to confirm each purchase.

Figure 5. Procurement processes at the University of Helsinki



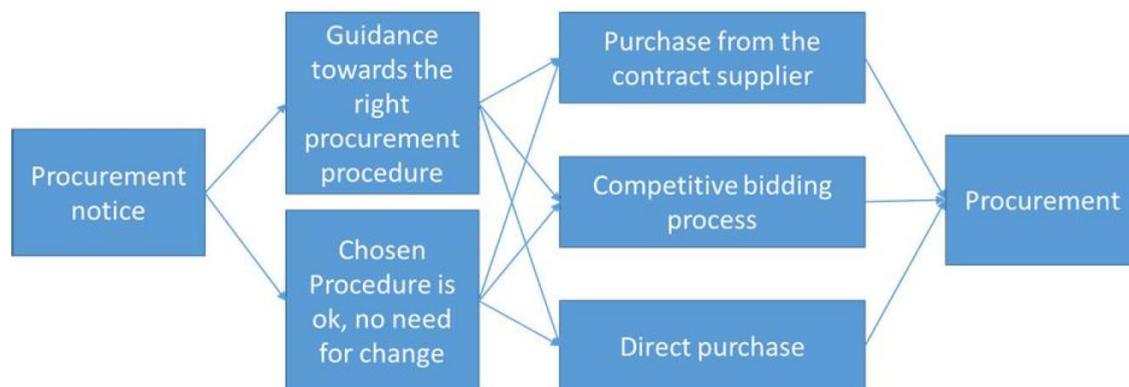
### *Governance and responsibilities*

The University of Helsinki has a devolved procurement system. The central office (Administrative Services – Procurement Unit) is responsible for holding tenders for contracts worth over €60,000 and deals with approximately 8,000 clients. The Procurement Unit also manages the Cludia system, which is designed to assign tendering responsibility to specific university employees. The Procurement Unit has two FTE staff members.

Contracts below the €60,000 threshold are concluded directly by faculties and other university units and signed by the deans. For example, the departments are responsible for purchasing the special research devices and services they need. A competitive bidding process must be arranged when the value of such purchases exceeds €30,000.

Faculties can organise tendering processes themselves when one of their employees knows, or can learn, how to use the e-procurement system. It is currently used by only a few faculty employees. The Procurement Unit arranges tendering processes when required. For this purpose, procurement notices are submitted by the staff member responsible for procurement at unit level using a dedicated e-form. The notice procedure helps units make cost-effective purchases and helps develop central framework agreements that match university needs. All procurement notices are processed (either approved or guided to a more appropriate procedure) within three working days (Fig. 6).

*Figure 6. Procurement notice procedures at the University of Helsinki*



Deans sign contracts that are worth less than €1 million and the Rector signs contracts that are worth up to €10 million. Purchases with a value of over €10 million must be approved by the University Board.

### *Selection and award criteria*

The University of Helsinki has the flexibility to define its own quality criteria, standards and the price-quality ratio. Quality criteria are specifically defined for goods and services. The e-procurement process provides suggestions about the price-quality ratio and related criteria.

### *E-procurement*

Although not required to do so by national legislation, the University of Helsinki decided to conduct all tendering processes electronically. All contracts that exceed national value thresholds must be tendered through the Cludia system. The University of Helsinki intends to place tendering responsibility with unit-specific procurement coordinators through the electronic Cludia system. All tendered contracts processed through the Cludia SaaS tendering system must be filed in the Cludia contract management system.

### *Centralised and collaborative procurement*

The University of Helsinki makes active use of the **blanket agreements** offered by the national procurement operator: Hansel Ltd.

The university currently has over 40 contracts concluded under framework conditions arranged by Hansel Ltd. Blanket agreements are designed to be used by all university units. In this case, they do not need to arrange competitive bidding processes, which means that all of the products covered by these agreements can be purchased within the limits of the unit budget, free of further procurement process limitations.

Blanket agreements come with established prices for purchasing products and entail no obligation regarding the amount of purchases to be made by the university. University units must place separate orders.

**Collaborative procurement** with other universities is mostly used to purchase IT equipment and services, when volume has a significant impact on price.

As Finland's biggest university, the University of Helsinki frequently takes the lead and assumes responsibility for such collaborative procurements.

The University of Helsinki operates several in-house companies on its own and in collaboration with other higher education institutions not only to offer specific services, but also to engage in collaborative procurement. For example, Funidata Ltd<sup>26</sup> operates the Student Life Cycle System. Helsinki

#### **Box 9. Hansel Ltd blanket agreements**

At present, there are valid blanket agreements in the following areas:

- Vehicle leasing services
- Care maintenance services
- Cars and economic driving
- Food supplies
- Train services
- Gases
- Accommodation and congress services in Finland
- Finnish literature and magazines
- Transport services
- Leasing services (devices)
- Ship travel services
- Short-term car rental services
- Accommodation services in Brussels
- Mobile phones
- Travel agency services
- Computer services
- Regular flights
- Internal auditing, etc.

**Source:** Hansel Ltd.

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<sup>26</sup> URL: <https://funidata.fi>

Innovation Services HIS Ltd<sup>27</sup> provides IPR and commercialisation services. Unigrafia Ltd<sup>28</sup> offers copying, printing, publishing and audiovisual services and HY247 Ltd provides facility and property services.

### *Socially responsible and sustainable procurement*

Green or social issues are not currently specifically reflected in the university's procurement policy or calls for tenders. Related criteria are added when appropriate. For example, sustainability criteria are generally used to purchase services. The university and its contractors must comply with national employment legislation (Box 10).

#### **Box 10. Fair Trade criteria**

Hansel Ltd established the following specific terms for Fair Trade products in its calls for tender:

**Contract term:** the supplier must pay the producers a price that covers the costs of sustainable production, including a standard wage that complies with the law and gradually increases to a level that is sufficient to live on, safe working conditions and the right to join a trade union.

**Verification:** the tenderer can prove compliance either by citing a Fair Trade label granted to the relevant product, or other similar information.

**Source:** The Ministry of Economic Affairs and Development of Finland (2017). Guide to Socially Responsible Public Procurement.

### *Procurement capacity building and training*

Detailed procurement instructions and goods and services manager contact details are provided in the procurement manual and on the University of Helsinki's internal website.

The Procurement Manager also holds regular annual or bi-annual meetings for all staff engaged or interested in procurement. Staff are offered training in how to use the Clouadia system if required.

Finally, a working group of university procurement advisors and experts meets twice a year to share good practices. Universities take it in turns to manage and host such meetings. University experts also regularly exchange information and advice on the latest procurement news and trends.

### *Key challenges and lessons learned*

One of the key lessons learned at the University of Helsinki relates to the importance of an internal culture of efficiency, and the respective role of procurement. Tendering can lead to considerable cost savings at an organisation with the size of the university. Small savings at unit level result in significant sums at institutional level. In addition to the cost savings achieved, delivery, payment, the complaint procedure and other terms agreed in the contract are also important for the university. The parties can place more demands on each other in the context of a long-term contractual relationship.

<sup>27</sup> URL: [www.helsinki.fi/fi/tutkimus/innovaatiopalvelut](http://www.helsinki.fi/fi/tutkimus/innovaatiopalvelut)

<sup>28</sup> URL: <https://unigrafia.fi>

## 2.3. France

### 2.3.1. National public procurement legislation

As contracting authorities, French universities are subject to national and EU procurement law. The main provisions are contained in **Ordinance N° 2015-899** on Public Procurement of 23 July 2015.<sup>29</sup> This legal act provides the general framework for public procurement in France. **Decree N° 2016-360** on Public Procurement as of 25 March 2016 contains more detailed rules.<sup>30</sup> Additional rules on specific aspects of public procurement are also stipulated in national labour, environment, social and government transparency legislation.

Prior to the latest public procurement reform, French public research and cultural institutions benefited from a special derogation from the general procurement law (*Code des marchés publics* 2006) for research related purchases (Ordinance N° 2005-649 of 6 June 2005 on contracts awarded by public or private entities exempt from the Public Procurement Code<sup>31</sup>).

The reform abolished the earlier, different regimes for general and research procurement, and unified national legislation. However, several exemptions for purchases by research organisations, (including universities,) have been retained:

The legislation allows certain types of organisations, including universities, to apply special rules: “*National public administration institutions with a statutory research mission can apply special rules for research related purchases [which applies to non-state purchasers and public entities that are not industrial or commercial organisations, as well as local authorities, their public institutions and groups]*” (Article 2 of the Decree). Such rules establish some exemptions from the threshold values that usually require tenders to be advertised nationally:

- The publication/advertising threshold for ‘adapted’ procedures<sup>32</sup> is set as below €144,000, replacing the intermediate €90,000 threshold specified in the general law (Article 34 I 2)
- Buyers are only required to advertise the tender and publish the award notice in the *Official Journal of the European Union* for formalised procedures, whereas national legislation requires additional publication in the *Official Bulletin of Public Procurement Announcements* (BOAMP) (Article 33 I 2).

The general law also stipulates some derogations for the following research activities:

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<sup>29</sup> *Ordonnance n° 2015-899 du 23 juillet 2015 relative aux marchés publics.* URL: [www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000030920376](http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000030920376)

<sup>30</sup> *Décret n° 2016-360 du 25 mars 2016 relatif aux marchés publics.* URL: [www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000032295952&categorieLien=id](http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000032295952&categorieLien=id)

<sup>31</sup> *Ordonnance n° 2005-649 du 6 juin 2005 relative aux marchés passés par certaines personnes publiques ou privées non soumises au code des marchés publics.* URL: [www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000629820](http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000629820)

<sup>32</sup> *Marchés à procédure adaptée - MAPA*

- Article 14 3 of the 2015 Decree exempts “Public procurement of R&D services for which the buyer does not acquire exclusive ownership of the results or does not fully fund the service. [...]” (for example, research partnership contracts) from its scope.
- Article 30 of the 2016 Decree states that “*II. - Contracting authorities may also negotiate public supply contracts for the purchase of products manufactured solely for the purposes of research, experimentation, study or development, and with no profitability or amortization of research and development costs objectives, without advertising or issuing a prior call for competition.*”
- **Innovation partnerships** (Article 93) covering R&D for innovative goods, services or works [...] and the acquisition of goods, services or works responding to a need that cannot be satisfied by solutions already available on the market.
- Public contracts under publicly funded programmes (Article 97) and that support national public research, testing and experimentation programmes.

### *Types of contract*

The following types of public contracts are used under Article 4 and 5 of the 2015 Decree:

- Public contract
  - Public supply contract
  - Public service contract
  - Public works contract
- Framework agreement
- Partnership contract

### *Procedures*

Article 42 of the 2015 Decree defines the following competitive bidding procedures:

- Formalised procedures:
  - **Open or restricted tendering procedure**, whereby the buyer chooses the most economically advantageous tender based on objective criteria communicated to the candidates in advance (without negotiation)
  - **Competitive procedure with negotiation**, whereby a contracting authority negotiates the terms of a public contract with one or more economic operators
  - **Negotiated procedure with prior call for competition**, whereby a contracting entity negotiates the terms of a public contract with one or more economic operators
  - **Competitive dialogue**, in which the buyer enters into discussions with a select group of candidates in order to define or develop solutions that meet their need(s).

- Adapted procedure:
  - o Defined by the buyer in line with public procurement principles **for purchases below the formalised procedure thresholds** and involving the public procurement of social services and other specific services
- Negotiated procedure without publication or competitive bidding (Article 30)

The afore-mentioned procedures are complemented by special buying techniques (Articles 72, 77, 81, 84, 86 and 88 of the 2016 Decree):

- Public contracts divided into batches
- Framework agreements
- Dynamic purchasing system
- Electronic auction
- Electronic catalogues
- Design contest

Finally, some specific public procurement procedures can be applied:

- Public contracts for project management (Article 90), for an urban or landscape project defined in Article 7 of the Public Works Management [MOP] Law of 12 July 1985<sup>33</sup>
- Public design-build contracts (Article 91) or comprehensive public procurement contracts (Article 92)
- Innovation partnerships (Article 93)
- Public procurement contracts for the purchase of motor vehicles (Article 96)
- Public procurement under experimental programmes (Article 97)
- Partnership contracts (Article 143) assigning a global mission to an economic operator or a group of economic operators (Article 67)

#### **Box 11. National rules for the direct award of public contracts in France**

French contracting authorities can award public contracts with values below €25,000 (excluding VAT) without prior advertising or competition. This procedure can be applied in the following cases:

- In urgent cases, particularly to fulfil the provisions of the Public Health Code, the Construction and Housing Code and the Rural and Sea Fisheries Code
- If no suitable applications or tenders were submitted within the prescribed deadlines
- If only one economic operator is able to provide goods, services or works for artistic, technical or exclusivity reasons
- For public supply contracts under which an original supplier provides additional deliveries for the partial renewal of supplies or installations
- For public supply or service contracts offering particularly advantageous conditions
- When a public service contract is awarded to the winner or one of the winners of a contest
- For public works or service contracts providing services that are similar to those under a previous contract adjudicated following a competitive call for tender
- For public book supply contracts awarded by contracting authorities worth less than €90,000 (excluding VAT)
- For public contracts below the EU thresholds if a call is impossible/unnecessary due to the low level of competition in the sector concerned
- Public supply contracts for the purchase of products manufactured solely for experiment, research, study or development, and that do not seek to make a profit or amortise R&D costs

**Source:** Article 30, Decree No. 2016-360 on Public Procurement of 25 March 2016

<sup>33</sup> *Loi n° 85-704 du 12 juillet 1985 relative à la maîtrise d'ouvrage publique et à ses rapports avec la maîtrise d'oeuvre privée*. URL: [www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000693683](http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000693683)

### Award criteria

Historically, the French system of awarding public contracts was based on tendering, in which public contracts were awarded to the contractor or supplier offering the lowest price. Influenced by EU law, the system has gradually moved to the ‘best bidder’ principle.

EU Directive 2014/24, Article 82 obliges contracting authorities to award public contracts to the ‘most economically advantageous’ bids. This provision has been transposed into French law (Article 52 of the 2015 Decree and Article 62 of the 2016 Decree).

To award a public contract to the bid that represents the most economically advantageous offer, buyers must base their decision on the following (Article 63 and Article 38 of the 2015 Decree):

- A **single criterion** that can be:
  - o Price (for standardised services or supplies whose quality does not vary)
  - o Cost (defined, for example, as life-cycle cost)
- A **set of criteria**, including price or cost and other criteria reflecting environmental, qualitative or social aspects (for example, after-sales service, animal welfare, biodiversity, guarantee of fair remuneration, innovation, quality and sustainability).

For public contracts awarded through a formal procedure, award criteria must be weighted or specified in order of priority. The award criteria must also make it possible to select the bid that represents the most economically advantageous tender for the purpose of the contract. The rules must not be discriminatory. They also must be sufficiently precise, announced before the procedure and weighted or hierarchical.

### National thresholds

The national threshold values establish the conditions for tender publication (Table 8). The rules stipulated in the Ordinance and the Decree apply to contracts worth over €25,000.

*Table 8. French national threshold values (excluding VAT), as of 27 March 2016*

	National contracting procedures			EU contracting procedures (publication in BOAMP and OJEU)
	Direct award for goods and services	Free-form or adapted publication	National tender procedures (Publication in BOAMP or JAL)	
Central contracting authorities, including universities	€25,000 (no procedure required)	€25 000 – €89,999.99 (general rule) or €25,000 - €144,000 (Derogation for public entities with a research mission. Optional use of formalised procedures prescribed by the Decree.)*	€90,000 – €143,999.99 (goods and services) €90,000 – €5,547,999.99 (works) (Mandatory use of the formalised procedures prescribed by the Decree)	€5,548,000 (works) €144,000 (goods and services)

\* The contracting authority is free to define the appropriate level of publicity and the terms and conditions of the publication procedure, provided the principles of equal treatment, open access and transparency are satisfied.

### *Publication/transparency*

Contracting authorities must advertise their tenders in accordance with the regulatory conditions for different contract types, estimated contract values and buyer types to ensure the broadest competition, (Articles 31-37 of the Decree). Depending on the contract value, tenders must be published in:

- *The Official Bulletin of Public Procurement Announcements (BOAMP)*<sup>34</sup>
- The official newspaper authorised to publish legal announcements (JAL)<sup>35</sup>
- *The Official Journal of the European Union (OJEU)*

### *E-procurement*

France introduced e-procurement in 2001 with the adoption of a new Public Procurement Code but it was slow to make an impact. The new EU law (Article 22 of the Directive 2014/24) provided new impetus as it made e-procurement mandatory for all public contracts above the EU thresholds.

This obligation has been transposed into French law (Article 43 and 39 of the 2015 Decree; Articles 39 and Article 41 of the 2016 Decree). As of 1 October 2018, all public contracts worth over €25,000 (excluding VAT) with a consultation or a published notice of competition must be fully electronic. This general rule is complemented by the following additional requirements:

- Buyers must receive applications in the form of a European Single Procurement Document (ESPD) (Article 49 of the Decree)
- Key information about procured contracts worth over €25,000 must be published in the buyer's profile on the PLACE public procurement platform
- Buyers must use the *Tell Us Once* programme to re-use application documents submitted for a previous consultation under formalised procedures (Articles 51 and 53)
- Buyers are recommended to use e-signature, to ensure more consistent public contract e-procurement (Article 102)
- All public procurement contracts (Article 141) must be shown in the Economic Observatory of Public Contracts.<sup>36</sup>

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<sup>34</sup> *Bulletin officiel des marchés publics - BOAMP*. URL: [www.boamp.fr](http://www.boamp.fr)

<sup>35</sup> *Journal d'annonces légales - JAL*. URL: [www.annonces-legales.fr](http://www.annonces-legales.fr)

<sup>36</sup> *L'Observatoire économique de la commande publique - OEC*. URL: [www.economie.gouv.fr/daj/observatoire-economique-commande-publique](http://www.economie.gouv.fr/daj/observatoire-economique-commande-publique)

### *Legal protection*

According to Article 3 of the 2015 Decree, public procurement contracts are subject to administrative law. Therefore, the body responsible for appeal procedures is the local administrative court.

In recent years, alternative dispute resolution methods, such as mediation through advisory Committees for Amicable Settlement of Disputes (CCIRA), the Mediator of Enterprises (Article 142), conciliation, mediation or arbitration, have become common.

### *Centralised and collaborative procurement*

National legislation foresees several types of collaborative procurement:

- Central purchasing (through the central purchasing body to ensure bulk buying)
- Order grouping (when several contracting authorities have the same purchasing needs and one is authorised to manage the procedure)
- Transnational joint entities (formed by purchasers from several countries)
- Pooling between contracting authorities

Contracting authorities can also form collaborative procurement partnerships.

The Public Sector Buying Group (UGAP)<sup>37</sup> is a public organisation supervised by the Budget Minister and the Minister for National Education. According to Article 26 of the 2015 Decree, the UGAP performs two key roles:

- Acquisition of goods or services for buyers (wholesaler)
- Public procurement of goods, services or works on behalf of buyers (intermediary)

At first, UGAP was the only collaborative purchasing body in France. It remains the only 'general' public purchasing centre, acting as both a wholesaler and as an intermediary. It gives public customers immediate access to over 890,000 stock items, including research specific supplies such as scientific consumables, under 2,414 current contracts.

The advantages of using UGAP include reduced public procurement costs through economies of scale, shared purchasing process expertise, greater public procurement efficiency and expanded competition. Public buyers also benefit from the appointment of a single business contact, access to e-ordering infrastructure, and settlement of potential litigation.

The State Purchasing Department (DAE)<sup>38</sup> of the Ministry of Finance and Public Accounts was created by the 2016 Decree and is responsible for concluding inter-ministerial public contracts. It can also delegate such contract responsibilities to other state bodies, including UGAP, other public procurement centres and other public institutions. DAE ensures the proper execution of such public contracts.

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<sup>37</sup> *L'Union des groupements d'achats publics*. URL: [www.ugap.fr](http://www.ugap.fr)

<sup>38</sup> *La Direction des achats de l'Etat (DAE)*. URL: [www.economie.gouv.fr/dae/presentation](http://www.economie.gouv.fr/dae/presentation)

Universities and research entities are free to form purchasing consortia driven by different needs and operating at sector (for example CNRS<sup>39</sup> or AMUE – as shown in Box 13), national or local levels (for example, the Aquitaine Public Procurement Association (AMPA)<sup>40</sup>). Universities also form joint procurement consortia with other public bodies, for example, hospitals for energy or other supplies. Such purchasing consortia can involve both public and private entities (for example, business schools).

### 2.3.2. Institutional provisions at the University of Bordeaux

#### *Institutional framework*

The University of Bordeaux drafted the following internal procedures and standard documents to regulate institutional procurement:

- The purchasing guide (a set of internal rules approved by the Board of Directors on 7 February 2018)
- The general terms and conditions (CGA) for purchases under €25,000, which prevail over the general terms and conditions of sale (GTC) for suppliers

As a state-owned public institution with a purchasing budget of over €40 million, the University of Bordeaux is required to submit a detailed annual overview of its operations and activities to the Rectorate and to the State Purchasing Department (DAE) of the Ministry of Finance before 31 March each year.

Procurement operations are reflected in the three-year **Purchasing Action Plan**,<sup>41</sup> which outlines the internal purchasing policy for specific actions and includes:

- (1) A prospective section on provisional actions to be implemented by the end of the year
- (2) A retrospective section presenting the results of activities conducted during the previous year

This plan is compiled as part of an internal budget planning process (*dialogue de gestion*), in which the units identify and present their future purchasing needs.

The University of Bordeaux procurement policy focuses on several priorities:

#### **Box 12. The University of Bordeaux**

The University of Bordeaux (Université de Bordeaux) was founded in 1441. In 1970, the University was divided into four separate universities, but on 1 January 2014, it re-emerged out of the merger of three universities: Bordeaux 1, Victor Segalen University (Bordeaux 2), and Montesquieu University (Bordeaux 4).

#### **Facts and Figures**

- 48,000 students
- 5,600 employees
- 9 clusters of excellence and 70 research labs
- Annual budget of ca. €560 million

Source: [www.u-bordeaux.com](http://www.u-bordeaux.com)

<sup>39</sup> Le Centre national de la recherche scientifique – CNRS. URL: [www.cnrs.fr](http://www.cnrs.fr)

<sup>40</sup> L'Association des marchés publics d'Aquitaine. URL: [www.a-mpa.fr](http://www.a-mpa.fr)

<sup>41</sup> Plan d'actions achats (PAA)

- ⇒ Priority 1: Ensure purchases comply with the legislation to avoid any financial or legal risks
- ⇒ Priority 2: Ensure purchases are cost effective, to reduce university costs
- ⇒ Priority 3: Develop sustainable purchasing by promoting the integration of environmental and social procurement clauses
- ⇒ Priority 4: Facilitate SME access to university public procurement
- ⇒ Priority 5: Foster innovative procurement

The last priority was added in 2018, to promote business development of innovative solutions and provide purchasing solutions that support the detection and adoption of innovation through procurement.

The emphasis for the 2018-2020 period is on moving towards a more sustainable, local model, favouring sustainable development, SME access and innovation.

### *Governance and responsibilities*

Responsibility for public procurement is shared across different levels at the University of Bordeaux. The Purchasing Department plays a central role and aims to:

- Define and implement university purchasing policy
- Conduct public procurement procedures in accordance with the regulations
- Guarantee the legal compliance of public contracts
- Support internal units' procurement management

The Purchasing Department currently oversees purchasing contracts worth over €25,000 (excluding VAT) by:

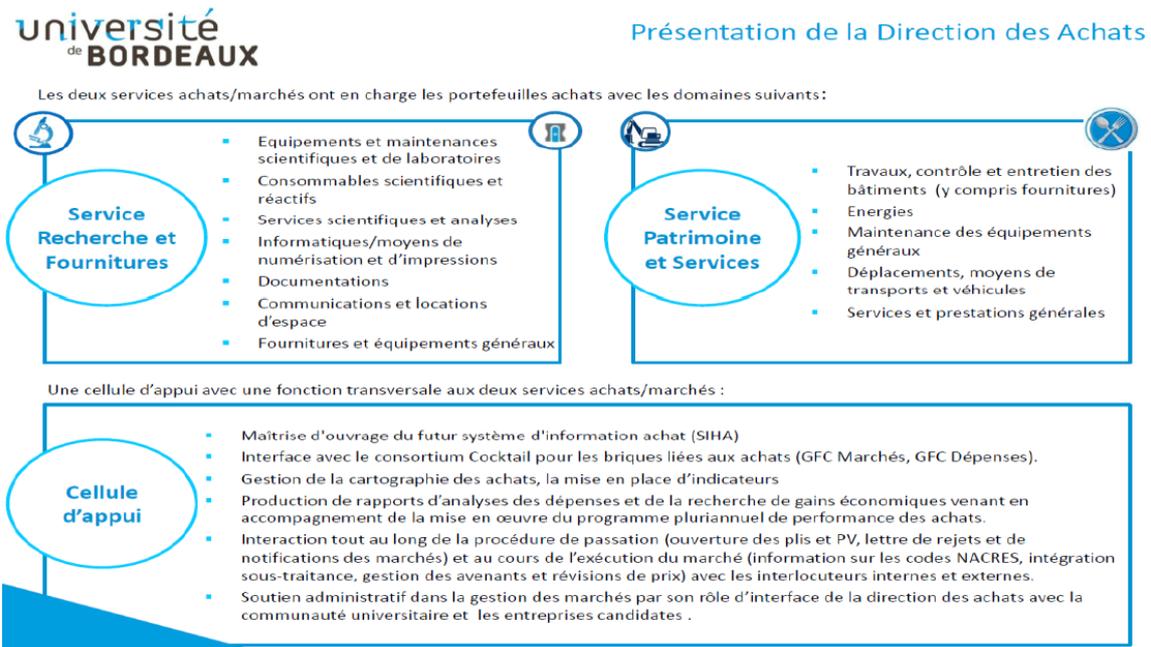
- Steering the process and ensuring the implementation of purchase rules for contracts that exceed formalised procedure thresholds (€144,000 for goods and services and €5,548,000 for works)
- Advising internal users and supporting purchasing transactions ranging between €25,000 and €143,999 in accordance with the purchase guide

The Purchasing Department manages around 225 goods, services and works contracts, or 150 procedures per annum, representing a total cost of ca. €50 million:

- Almost 40% of these involve formalised procedures leading to notification of 55% of all contracts, which represent 93% of the total procurement expenses
- Procedures for contracts worth less than €90,000 represent over 60% of annual operations: 45% of contracts in this category represent only 7% of the total procurement expenses (€3-4 million)

The university is planning to delegate the power to procure contracts worth less than €90,000 (excluding VAT) to the faculties, departments and other university units. The objective is to allow the Purchasing Department to focus on more strategic, high-risk purchasing, to streamline the purchasing process and to give internal units greater responsibility for their procurement purchases and needs. This process also involves further empowerment and professionalisation of the university units and their staff.

Figure 7. The University of Bordeaux Purchasing Department



The University Board must approve all purchases above €5 million (excluding VAT). Four senior officials (DGS, DGSA Finance and Procurement, DGSA Heritage, Director of Procurement)<sup>42</sup> and the heads of unit (Directors of Laboratories) are responsible for signing contracts below this threshold, in line with the contract type (goods, services and works) and internal thresholds.

#### *Selection and award criteria*

When the university complies with national procurement rules, it has sufficient flexibility to choose the award criteria and appropriate weighting.

#### *Centralised and collaborative procurement*

The University of Bordeaux actively uses the services offered by UGAP. In 2017, the university used this body for various purchases including scientific goods and services.

<sup>42</sup> DGS - Directeur General des Services, or Head of Administration; DGSA - Directeur General des Services Adjoint, or Deputy Head of Administration

The University of Bordeaux benefits from a reduced management fee based on the partner pricing conditions established under an agreement covering all state operators supervised by the Ministry of National Education and the Ministry of Higher Education and Research.

The university is free to use other central purchasing bodies created by various public entities, such as CNRS or AMUE (Box 13), at national or regional level.

Ad hoc or regular order grouping to award one or more public contracts jointly (Article 28) create economies of scale. (Unlike the central purchasing office, such collaboration does not have a legal personality). In 2017, the University of Bordeaux placed 25 contracts through grouped orders (valued €26 million), including five contracts through AMUE.

At regional level, the University of Bordeaux works with the CAPAQUI central purchasing unit of the Aquitaine Public Procurement Association (AMPA) (for example, to purchase cleaning products).

#### **Box 13. Collaborative procurement through AMUE**

AMUE is a French public interest group, which facilitates cooperation between higher education and research institutions. AMUE represents 181 members, including 68 universities and 113 higher education institutions.

AMUE supports the modernisation of higher education institutions in terms of their steering and management capacity and contributes to the development of higher education information systems.

AMUE provides access to multiple framework agreements to ensure a rapid, economical and shared response to common needs. AMUE's members benefit from more attractive prices, while retaining autonomy with regard to contract awards and performance monitoring, as well as from secure procurement procedures and harmonised purchasing practices.

Source: [www.amue.fr](http://www.amue.fr)

#### *E-procurement*

The University of Bordeaux is actively engaged in e-procurement. It uploads all of the bid documents from its buyer profile to the PLACE public purchasing platform,<sup>43</sup> which must be used by the national administration and public institutions. The university is currently trying to optimise its use of PLACE by adapting the documents consulted, experimenting with electronic signature and exploring the new opportunities offered by e-catalogues.

#### *Socially responsible and sustainable procurement*

The University of Bordeaux has assigned specific targets for Priority Area 3 - Sustainable Development of its Purchasing Action Plan. In 2018, 8% and 15% of all contracts must include a social and an environmental clause, in comparison with 6% and 13% respectively in 2017. The internal guidelines on sustainable procurement are available to all staff.

A similar target has been set for SME access to university orders. At least 35% of all 2018 contracts should be awarded to SMEs. Several actions will be undertaken to increase SME access, for example, by splitting procurement contracts into smaller batches.

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<sup>43</sup> URL: [www.marches-publics.gouv.fr](http://www.marches-publics.gouv.fr)

Similarly, the university is trying to boost innovation procurement. A total of €2.6 million was spent on innovative purchases in 2014-2017, bringing the average rate to 0.95%. To reach the national target of 2% by 2020, the university will have to increase its innovative purchasing to over €1.5 million a year.

The University of Bordeaux is also applying innovative procurement techniques, like **sourcing** to gain a better understanding of and interaction with suppliers; as well as **strategic purchasing** to improve procurement and market performance.

#### Box 14. Innovative procurement

Innovative procurement means purchasing products or services that do not currently exist but could be developed within a reasonable timeframe. This definition also covers purchases under which suppliers can offer significantly better alternatives to an existing solution. This term also covers newly patented products launched on the market within the last two years, or social innovation solutions.

**Source:** The University of Bordeaux

#### *Procurement capacity building and training*

In line with the objective to give university units greater procurement autonomy and responsibilities, the University of Bordeaux adopted several measures to improve procurement awareness and staff skills:

1. **Internal information sharing** through a dedicated intranet page providing information about the Purchasing Action Plan and its balance sheet, purchasing news, the different university tenders, internal procedures and templates, a list of purchases by category, and contact details
2. **Internal guidance** on procurement procedures and templates through the purchasing guide, purchasing policy and multi-annual Purchase Action Plan, as well as general terms and conditions for purchases below €25,000 (excluding VAT)
3. **Advice** in case of difficulties with a supplier
4. **Regular** and **ad hoc training** (for example, two training courses: *Purchasing and Public Procurement* and *Purchasing Scientific Equipment* were held in 2018 and specific training on the new public procurement regulation was organised in 2016)

The Purchasing Department is also trying to develop an internal network of procurement experts with knowledge of the public rules and procedures, to provide advice at unit level. It relies on a network of technical procurement specialists/officers working at research laboratories and units involved in the procurement or execution of tenders.

#### *Key challenges and lessons learned*

One of the challenges at the University of Bordeaux is how procurement functions are spread across the institution. This makes it difficult to train the staff involved. At the same time, several good practices such as mapping purchasing for each product or service type, sourcing and pluriannual purchasing planning have been developed, tested and applied successfully.

The university pays special attention to developing strategic procurement. Purchase planning has provided a better understanding of needs and enabled future projections. The institutional procurement plan also needs regular revision to allow it to cover more ad hoc needs that arise in the context of EU or national competitive research grant applications.

At a more strategic level, such macro planning for institutions with large procurement budgets provides a helicopter view of the sector needs and therefore facilitates more effective system-level governance, coordination and smart specialisation.

The French public procurement system pays special attention to the needs of research and education institutions. However, French universities often avoid applying the legislative derogations to which they are entitled. One reason for this is their desire to avoid making internal procurement processes more complex in a situation in which existing incentives may not be sufficiently attractive.

The rich nature of the French collaborative procurement landscape with its various purchasing consortia operating at multiple levels may also be confusing for higher education institutions and their procurement staff, who may not be fully aware of the opportunities.

Furthermore, collaborative procurement has not yet been taken up at COMUE level.<sup>44</sup> These higher education and research associations were created to pursue collective academic and other goals in France.

Some of the areas for the further development of public procurement in the French higher education context include:

- Further implementation of **e-procurement** requirements and simplification of application procedures, particularly through the European Single Procurement Document (ESPD). The draft decree, expected to come into force on 1 January 2020, foresees the use of a standard e-form to advertise national public contracts worth over €90,000.
- Fostering **innovative purchasing**: the Ministry of the Economy is planning to raise the threshold for public procurement contracts for innovative products, services or works from SMEs that can be concluded without prior notice/publication or competitive bidding from €25,000 to €100,000.
- Improving **purchase pooling** and professionalising university supply positions
- Advancing **purchasing systems** by developing specific modules or complete procurement contracts to facilitate operations

French universities have to acquire further experience and develop good practices in all these fields.

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<sup>44</sup> *Les communautés d'universités et établissements (COMUE)* are associations grouping several higher education and research institutions typically on a regional basis. COMUE were introduced by the Law on Higher Education and Research in 2013 and replace the centres for scientific and higher education (*Pôles de recherche et d'enseignement supérieur*).

## 2.4. Ireland

### 2.4.1. National public procurement legislation

EU and national rules govern public procurement in Ireland. The National Public Procurement Policy Framework consists of five strands:

1. Legislation (Directives, Regulations)
2. Government Policy (Circulars)
3. Capital Works Management Framework for Public Works
4. General Procurement Guidelines for Goods and Services<sup>45</sup>
5. More detailed technical guidelines, template documentation and information notes issued periodically by the Policy Unit of the Office of Government Procurement<sup>46</sup>

The framework supports contracting authorities that operate in education and other fields, including entities subsidised over 50% by a public body. The national framework does not contain any specific higher education public procurement provisions.

In 2016 and 2017, the EU Procurement Directives were transposed into Irish Law by way of the following regulations: S.I. No. 284/2016 (the “2016 Regulations”), S.I. No. 286/2016 (the “2016 Utilities Regulations”) and S.I. No. 203/2017 (the “2017 Concessions Regulations”).

Government Policy is set out in various circulars issued by the Departments of Finance and Public Expenditure and Reform. The key policy instruments are as follows:

- Circular 13/13: Public Spending Code<sup>47</sup>
- Corporate Governance Standard for the Civil Service<sup>48</sup>
- Code of Practice for the Governance of State Bodies<sup>49</sup>
- Code of Practice for Public Bodies<sup>50</sup>
- Freedom of Information Model Publication Scheme<sup>51</sup>
- Circular 10/2014: Initiatives to assist SMEs in Public Procurement<sup>52</sup>
- Circular 16/2013: Revision of arrangements concerning the use of Central Contracts put in place by the National Procurement Service<sup>53</sup>
- Circular 40/2002: Public Procurement Guidelines<sup>54</sup>
- Circular 05/2013: Procurement of Legal Services and Managing Legal Costs<sup>55</sup>
- Circular 01/2016: Construction Procurement<sup>56</sup>

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<sup>45</sup> URL: <https://ogp.gov.ie/public-procurement-guidelines-for-goods-and-services>

<sup>46</sup> URL: <https://ogp.gov.ie/national-public-procurement-policy-framework>

<sup>47</sup> URL: [www.publicspendingcode.per.gov.ie](http://www.publicspendingcode.per.gov.ie)

<sup>48</sup> URL: [www.per.gov.ie/en/corporate-governance-standard](http://www.per.gov.ie/en/corporate-governance-standard)

<sup>49</sup> URL: [www.per.gov.ie/en/revised-code-of-practice-for-the-governance-of-state-bodies](http://www.per.gov.ie/en/revised-code-of-practice-for-the-governance-of-state-bodies)

<sup>50</sup> URL: <http://foi.gov.ie/code-of-practice>

<sup>51</sup> URL: <http://foi.gov.ie/guidance/model-publication-scheme>

<sup>52</sup> URL: <https://ogp.gov.ie/990-2>

<sup>53</sup> URL: <https://ogp.gov.ie/986-2>

<sup>54</sup> URL: <https://ogp.gov.ie/997-2/>

<sup>55</sup> URL: <https://ogp.gov.ie/995-2/>

<sup>56</sup> URL: <https://constructionprocurement.gov.ie/wp-content/uploads/Circular-01-2016.pdf>

- Circular 6/10: Construction Procurement Reform<sup>57</sup>

### Types of contract

Four types of contract are specified in the national procurement legislation:

- Services contracts
- Works contracts
- Suppliers contracts
- Framework agreements

### Procedures

The 2016 Regulations outline six different procurement procedures (Fig. 8). One of the most common is the Open Procedure.

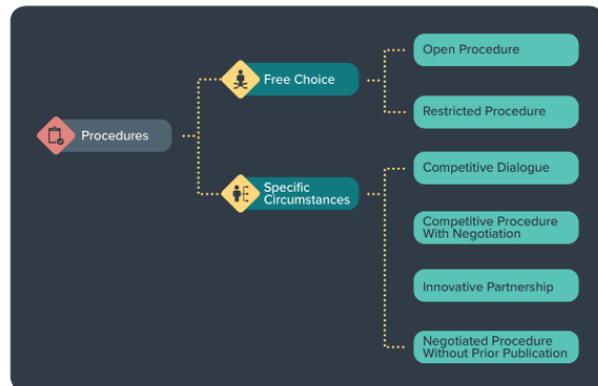


Figure 8. Public procurement procedures in Ireland

Source: *Public procurement guidelines for goods and services*, Office of Government Procurement, 2017.

### Award criteria

According to the 2016 Regulations, contracts must be awarded to the ‘most economically advantageous tender’ (MEAT). To identify the most economically advantageous tender, contract award decisions should be based on:

- a) **Price or cost**, using a cost-effectiveness approach like life-cycle costing
- b) The best **price-quality ratio** assessed on the basis of criteria including environmental, qualitative or social aspects related to the subject matter of the contract when the cost element is fixed price.

### National thresholds

The specific procurement procedures set out in the 2016 Regulations do not apply for contracts or purchases that fall below EU threshold values, so the contracting authorities follow less formal procedures (Table 9):

- Contracts for goods and services with an estimated value of less than **€5,000** (excluding VAT) can be purchased on the basis of verbal quotes from one or more competitive suppliers (best practice is to seek a minimum of three quotes confirmed by e-mail)
- Contracts for goods and services with an estimated value **between €5,000 and €25,000** (excluding VAT) can be awarded on the basis of responses to written specifications (for example, by email) sent to at least three suppliers or service providers matching the particular procurement needs and who may facilitate this process.
- Contracts for goods and/or services with an estimated value exceeding **€25,000** (excluding VAT) up to the value of the EU thresholds, must be advertised in a formal

<sup>57</sup> URL: <https://circulars.gov.ie/pdf/circular/finance/2010/06.pdf>

tendering process on eTenders using the Open Procedure in line with DPER Circular 10/14.

Table 9. Irish national threshold values (excluding VAT), as of 6 May 2016

	National contracting procedures		EU contracting procedures
	Direct award for goods and services	Formal national tendering procedures	
Other contracting authorities, including universities	€25,000 (goods and services) €50,000 (works and concessions) < €5,000: min 1 quote €5,000 – €25,000: min 3 quotes	€25,000 – €221,000 (goods and services) €25,000 – €5,548,000 (works) <i>Advertised for at least 10 working days</i> <i>Awarded subject to 14-day standstill period</i>	€5,548,000 (works) €221,000 (goods and services)

The Open Procedure is mandatory for goods and general service contracts below €125,000 as well as for works contracts and related services below €250,000.

*Publication/transparency*

In line with DPER Circular 10/14, contracting authorities are required to publish all Contract Award Notices worth over €25,000 on the eTenders procurement website<sup>58</sup> on completion of the award. This is a separate step to publishing in the *Official Journal of the European Union* aimed at facilitating measurement of SME participation in public procurement.

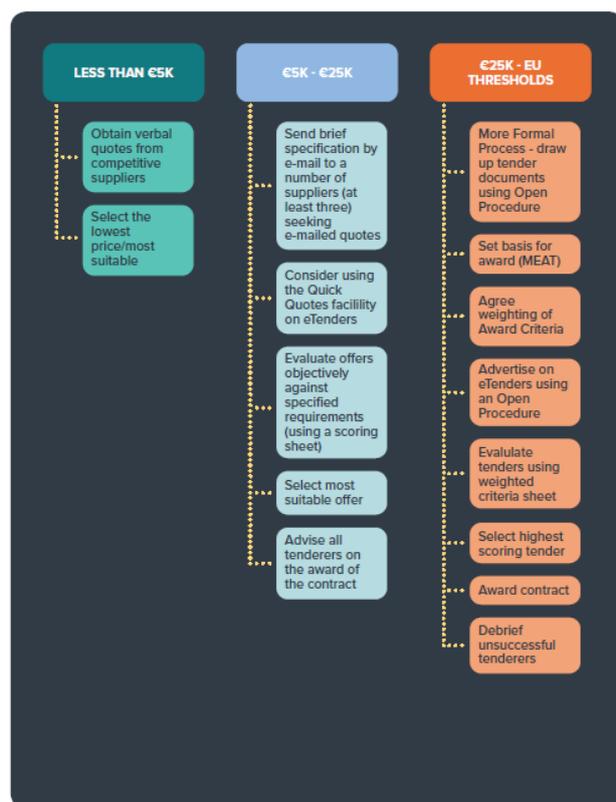
*Legal protection*

The Irish High Court is responsible for public procurement first instance review procedures. Its rulings can be appealed at the Supreme Court in Dublin, which is the last resort.

*Centralised and collaborative procurement*

Following a public service reform in 2013, the Irish government introduced a centralised public procurement body – the **Office of Government Procurement (OGP)**, part of the

Figure 9. Steps for below threshold tendering in Ireland



<sup>58</sup> URL: [www.etenders.gov.ie](http://www.etenders.gov.ie)

Ministry for Public Expenditure and Reform (MPER).<sup>59</sup> The OGP is the primary actor in the Irish procurement system.

Reform in Ireland has also involved a more dynamic approach that goes beyond cost savings and enhances efficiency and effectiveness based on five procurement priorities:

- **Category management** (“teams built around what they are buying rather than who they are serving”)
- **Centralised approach** (“centralised buying with established offices/teams coordinating procurement”)
- **Holistic approach to policy and operations** (“a single, integrated procurement function responsible for policy, sourcing and category management for common categories and support operations”)<sup>60</sup>
- **Professionalisation** of the service/purchasing
- **Improved use of systems** and data

The OGP oversees the formulation of public procurement policy, dissemination of best practices, general guidance, and management of the Government’s e-procurement strategy. It aims to standardise the procurement process and achieve savings by implementing a systematic approach to public procurement.

In 2014, the **Education Procurement Service (EPS)**<sup>61</sup> was mandated to act as the ‘Education Sector Hub’. Following the reform, the EPS expanded from a shared service representing four institutions to a broader network of education and training institutions.

On behalf of OGP, the EPS provides the public sector with shared service procurement for agriculture and veterinary supplies, diagnostics and research equipment, laboratory equipment and library goods and services under the central procurement model. It also presents education and training sector needs to the OGP.

Most universities in Ireland are now using at least some of the OGP frameworks, especially for energy and ICT. By the end of 2015, the EPS contributed to public sector procurement savings estimated at about €160 million.

#### 2.4.2. Institutional provisions at University College Cork

##### *Institutional framework*

At University College Cork (UCC), procurement is regulated by the internal **Purchasing Policy** (last updated in May 2018), which governs the management and control of all non-salary expenditure for the acquisition of goods and services in all departments, regardless of the funding source.

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<sup>59</sup> Office of Government Procurement. URL: <https://ogp.gov.ie/welcome-from-minister-of-state>

<sup>60</sup> Irish Management Institute (2017). Case study on the Office of Government Procurement (OGP). URL: [www.per.gov.ie/wp-content/uploads/OGP-FINAL-26-Sep-2017.pdf](http://www.per.gov.ie/wp-content/uploads/OGP-FINAL-26-Sep-2017.pdf)

<sup>61</sup> Education Procurement Service. URL: [www.educationprocurementservice.ie](http://www.educationprocurementservice.ie)

This policy states that purchasing should be undertaken to secure maximum **value for money** and in compliance with all of the relevant legislation and risk avoidance measures.

#### *Governance and responsibilities*

UCC applies a combination of centralised and departmental purchasing procedures (a devolved system).

**Box 15. University College Cork**  
University College Cork is a constituent university of the National University of Ireland and located in Cork.

**Facts and Figures**

- 21,529 students
- 2,838 employees
- 120+ schools and departments
- Annual budget of ca. €290 million

Source: [www.ucc.ie](http://www.ucc.ie)

The Procurement and Contracts Office is responsible for managing all contracts worth €25,000 or more. Faculties and departments arrange their own procurement deals for contracts below this threshold.

Departments must use centrally negotiated contract agreements including consortium contracts (where these exist), to maximise the university's purchasing power and obtain optimum value for money. In specialist areas, the buying department determines the technical specifications and the **Procurement and Contracts Office Team** helps arrange competitive quotes/tenders as appropriate. It also helps departments comply with the University's Financial Regulations and the Purchasing Policy. OGP contracts must be used.

The Purchasing Policy contains a detailed summary of the purchasing responsibilities assigned to various units, including the Governing body (Finance and Audit Committees), financial administration (Bursar, CFO and Finance Officer), Procurement and Contracts Office (Procurement Officer and her team), Heads of Colleges, Heads of Department and Research Principal Investigators, and the Director of Buildings and Estates.

The Procurement Office manages an **Annual Procurement Plan** consolidating all department requests for a calendar year (with around 80 different projects running in parallel). In response to the EPS requirement, the university is planning to develop a more strategic plan for purchases covering three consecutive years (particularly research equipment).

#### *Internal thresholds, selection and award criteria*

The university has no additional internal thresholds and follows the general national rules. UCC has the flexibility to define the price-quality ratio for the contracts it will procure.

#### *Centralised and collaborative procurement*

UCC works closely with the OGP and in some cases with the EPS (for example, when purchasing chemicals). The university uses OGP framework contracts in several areas and advertises some of its tenders through the system.

Following the introduction of the OGP, the volume of collaborative tendering with other higher education institutions decreased. For example, UCC used to work with other

universities on jointly procuring cleaning services, chemicals and laboratory consumables etc. However, such cooperation is less needed as a result of OGP services.

*Socially responsible and sustainable procurement*

UCC applies green and sustainability criteria on a selective basis, for example, for purchasing catering services. In practice, it is sometimes difficult to embed the relevant criteria in the evaluation process because of a lack of guidance or dedicated templates. To address this issue, UCC is currently developing a dedicated sustainable/green procurement policy and process, and related guidance as part of the UCC Sustainability Strategy.

Figure 10. UCC’s Sustainability Strategy: Green procurement

SUSTAINABILITY GOAL	KEY PERSONNEL (NOT EXHAUSTIVE)	OVERALL RESPONSIBILITY
To minimise the local, regional and global environmental impacts of our educational, research, operations and infrastructural development, specifically in relation to the purchase of goods and services by and for the University	Procurement & Contracts Manager; Office of Buildings and Estates; Green Campus Forum; Heads of Colleges & Academics Units (colleges/department/institute/research groups); Key Administrative Staff; Students Union	Procurement & Contracts Manager; Director of Buildings and Estates

Source: UCC Sustainability Strategy, URL: [www.ucc.ie/en/media/support/buildingsandestates/environment/UCC\\_SustainabilityStrategy\\_interactive.pdf](http://www.ucc.ie/en/media/support/buildingsandestates/environment/UCC_SustainabilityStrategy_interactive.pdf)

The objectives are as follows:

- To help those who draft university tenders to consider sustainability criteria at the different stages of the procurement process, including the definition of the: contract subject matter, technical specifications, selection/exclusion criteria, award criteria
- To promote green procurement best practice in procurement consortia
- To engage with key suppliers to bring about environmental improvements throughout the supply chain, including by substituting products that contain harmful substances, considering environmental impact from a life-cycle perspective, selecting products that meet recognised labelling scheme requirements (for example, EU Ecolabel)
- To require contractors and suppliers to achieve environmental management standards equivalent to certified environmental management systems such as ISO14001, EMAS
- To promote practical sustainable buying principles like the principles embodied in schemes such as Fairtrade™, where appropriate

UCC follows the various social procurement requirements outlined in national legislation (for example, national pay regulations) and does not currently apply any further specific social criteria in its tendering processes.

*Procurement capacity building and training*

The Procurement Officer is responsible for coordinating staff training for those involved in purchasing activities throughout the university. They organise three training sessions a year for approximately 100 staff members, under an internal target to bring the number of trained employees to 300.

### *Key challenges and lessons learned*

First, the workload of the university's procurement team almost doubled following the decrease in national threshold values for a direct award from €50,000 to €25,000. This government-led development points to the importance of a balance between accountability and trust in public entities like higher education institutions, within framework conditions that support operational efficiency.

Second, the centralisation of procurement processes at OGP level has brought many efficiency gains by reducing duplication. At the same time, it has also created another layer of coordination, which may slow university procurement operations. The public sector's high demand for OGP services may mean that there can sometimes be longer waiting times, particularly when it comes to organising large-scale tenders. Higher education interaction with the central purchasing body must be tested and optimised further.

Third, the introduction of a three-year planning procurement timeline gives universities a better overview of planned spending and facilitates to move towards more strategic financial management. However, considering the nature of academic activities and the current funding landscape (for example, the many 'opportunity calls' published by national funders on an ad hoc basis), it can be difficult for institutional procurement teams to prepare three-year procurement plans in a consistent and accurate way. Such mid-term procurement plans always require systematic updating and crosschecking.

Finally, institutional level procurement processes could significantly benefit from broader use of IT and the related opportunities offered by business analytics. Such new information technologies not only speed up the procurement processes, they also enable more informed and more strategic decision making which is therefore more efficient and more effective.

## 2.5. Italy

### 2.5.1. National public procurement legislation

Italian procedures generally follow the 2014/24 European Directives. The 2004/18/EC and 2004/17/EC EU Directives were transposed into Italian law by the **Code of Public Contracts** (Legislative Decree n° 50/2016 which entered into force on 19 April 2016 and was amended by Legislative Decree n° 56 in 2017). Public procurement above and below the EU thresholds is regulated by this single legislative act.

In addition to the Code, the most important public procurement regulations are:

- Guidelines of the National Anti-Corruption Authority (ANAC)<sup>62</sup>
- Law on the traceability of financial flows (Law 136/2010)<sup>63</sup>
- Law on splitting payments<sup>64</sup>
- Law on electronic invoicing<sup>65</sup>

Different laws, specific guidelines and legislative principles are also adopted at regional and provincial level. For example, the Autonomous Province of Trento adopted an additional document containing supplementary provincial provisions (Provincial Laws 23/1990 and 2/2016).

#### *Types of contract*

Public Procurement Contracts (“*Contratti di appalto pubblico*”) are most commonly used for goods, services and works. The Public Concession is another type of public contract.

#### *Procedures*

There are basically three main types of procedure for awarding public contracts in Italy: **open**, **restricted** and **negotiated procedures** (with or without publication of a contract notice).

Under the specific circumstances explained below, administrations can select a direct award procedure, which implies no competition. Other procedures, including the competitive negotiation (Article 64) and innovation partnership (Article 65), are established in the Code.

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<sup>62</sup> Autorità Nazionale Anticorruzione. URL: [www.anticorruzione.it/portal/public/classic/Autorita](http://www.anticorruzione.it/portal/public/classic/Autorita)

<sup>63</sup> All financial transactions must be made by bank transfer or other traceable payment methods and must indicate a specific tender identification code, the ‘CIG’, which is provided electronically by ANAC. All partners involved in the procurement procedure must comply with this new regulation or the contract will be null and void.

<sup>64</sup> According to the Decree Law published in the Italian Official Gazette on 24 April 2017, the split payment mechanism will be extended to transactions carried out by all public administrations (and not merely state and public bodies) to combat tax evasion when invoicing transactions between state and other public bodies.

<sup>65</sup> Ministerial Decree n° 55 of 3 April 2013 introduced compulsory e-invoicing. Hard copy invoices will no longer be accepted by the public administration and cannot be paid. All invoices must be sent via the Exchange System (ES) (*Sistema di Interscambio* – SdI).

### *Award criteria*

Italian law stipulates the following principles for every purchase:

- **Cost-effectiveness** (i.e. optimal resource use) and economy
- **Effectiveness** (i.e. operating in line with the contract purpose and public interest)
- **Timeliness** (i.e. consideration of the time required for the purchase, and prompt response to public administration needs)
- **Correctness, free competition, non-discrimination, transparency, equal treatment, proportionality, publicity and fairness.**

The award criteria for competitive procedures include the cheapest or most economically advantageous tender (value for money: price/quality ratio). By law, the most economically advantageous tender procedure must achieve a minimum quality score of 70%. However, contracting authorities can set the evaluation scores and criteria for the “most economically advantageous tender” to meet their specific needs. The criteria and scores must be specified in the tender procedure documents prior to publication.

Economic operators are to be identified on the basis of market surveys using lists of economic operators in accordance with a principle of rotation.

#### **Box 16. Green procurement in Italy**

Green Public Procurement (GPP) is one of the key priorities of the Italian Programme for the Rationalisation of Public Purchases carried out by CONSIP, a joint-stock company owned by the Italian Ministry of Economy and Finance. Greater focus has been placed on sustainable purchases since the launch of the GPP National Action Plan in April 2008. The National Action Plan outlines the distribution strategy, product categories, environmental goals and methodology. Later regulations introduced the minimal environmental criteria that must be followed in procurement procedures.

In the last few years, the number of green initiatives has increased in the fields of: **energy** (to create energy savings, promote the use of renewable resources and green fuel), **goods and services** (abiding by standards for the use of materials harmful to public health and the environment), **recycling** and waste.

**Source:** CONSIP, URL: [www.consip.it/media/approfondimenti/green-public-procurement-non-solo-risparmio-di-prezzo](http://www.consip.it/media/approfondimenti/green-public-procurement-non-solo-risparmio-di-prezzo)

### *National thresholds*

European thresholds for goods, services and works contracts (building and infrastructure) are defined in Article 35 of Law Decree 50/2016.

Table 10. Italian national threshold values (excluding VAT), as of 18 April 2016

	National contracting procedures		EU contracting procedures
	Direct award for goods and services	National tender procedures/negotiated procedure	
Other contracting authorities, including universities	€40,000 (min. 2 quotes, procedures via e-procurement platforms) E-procurement procedures are not required for contracts below €1,000.	Goods and services €40,000 – €221,000 (min. 5 entities, procedures via e-procurement platforms) Works €40,000 – €150,000 (min. 10 entities) €150,000 – €1,000,000 (min. 15 entities) Procedures via e-procurement platforms.	€5,548 000 (works) €221,000 (goods and services) (advertised on national or local marketplaces) From 18 October 2018, new legislation introduced the obligation to use e-procurement platforms.

Contracts for the supply of goods, services and works worth less than €40,000 can be awarded directly without prior publication of a contract notice or tender. Specifically, Article 36 of Law Decree 50/2016 authorises direct awards for contracts under €40,000, provided there is a valid justification of the chosen supplier (generally, the lowest price based on the comparison of at least two or more offers, under ANAC guidelines).<sup>66</sup> No further documents are required for a direct award (Table 10).

Exceptionally, the contracting authority may proceed with a direct award that does not involve any comparison in duly and thoroughly justified cases of **exclusivity, uniqueness** and **urgency**. This means that following an evaluation of the product's technical characteristics and market survey, the selected business is deemed to be the only operator on the market (uniqueness) able to supply products that meet the essential technical specifications or where there is only a single specific product that can satisfy the needs available (infungibility). A common example is the need for researchers to use the same reagent in specific scientific experiments to obtain consistent results. Exclusivity exists where only one rights holder is allowed to market a certain product (for example, a patented product).

Contracts worth €40,000 or more and below the EU threshold of €221,000 (€1,000,000 for works) are subject to a negotiated procedure. Under national law, at least five economic operators (or three economic operators under Trentino provincial law) must be consulted for goods and services contracts and ten economic operators for works contracts.

<sup>66</sup> ANAC guidelines N° 4, implementing Legislative Decree 18 April 2016, Chapter 4.3 (paragraph 1) on the Selection criteria, choice of contractor and the obligation to state the reasons for the choice. URL: [www.anticorruzione.it/portal/rest/jcr/repository/collaboration/Digital%20Assets/anacdocs/Attivita/Regolazio neContratti/LineeGuida4/Proposta%20di%20Linee%20guida.pdf](http://www.anticorruzione.it/portal/rest/jcr/repository/collaboration/Digital%20Assets/anacdocs/Attivita/Regolazio neContratti/LineeGuida4/Proposta%20di%20Linee%20guida.pdf)

### *Publication/transparency*

In addition to the European directives, each public administration must create a 'Transparent Administration' (*Amministrazione Trasparente*) section on its official website in line with the rules defined in Law Decree 33/2013. The "Payments of the Public Administration" and "Calls for tender and contracts" sub-sections are applicable to public purchases. "Transparent Administration" promotes access to information about existing contracts, payments, purchasing and suppliers.

All purchases above the €1,000 threshold must be made via e-procurement platforms. Specifically, invitations for the competitive procedure must be issued through the **e-procurement platforms** such as the MEPA national electronic market or the provincial electronic marketplace. This means that the actual purchase order or the competitive procedure must be placed on such official platforms for purchases over €1,000, allowing the contracting authority to select which registered suppliers it would like to invite to take part in procurement procedures.

### *Legal protection*

In 2014, the **National Anti-Corruption Authority** (ANAC) became responsible for overseeing public contracts. ANAC prepares public procurement guidelines and ensures that the law and rules are respected. ANAC conducts inspections and, if necessary, files complaints to the competent judicial authorities. It also operates a whistle-blowing procedure, which can be used to report any unlawful behaviour and encourages public authorities to create a similar procedure internally.

The Italian Court of Auditors<sup>67</sup> also oversees public procurement and can fine contracting authorities or responsible individuals for damage to the treasury.

Furthermore, every Public Administration has a **Supervisor for Transparency and Anti-corruption** responsible for preventative measures and regular controls.

Contracts can be challenged through a simplified procedure at a competent Administrative Court. The Public Procurement Code provides for alternative dispute resolution, such as requesting a binding opinion from ANAC, amicable agreement, or arbitration at a relevant tribunal named by ANAC.

Finally, every Public Administration has a Transparency and Anti-corruption Supervisor,<sup>68</sup> responsible for preventative measures and regular controls.

### *Centralised and collaborative procurement*

At national level, centralised procurement is organised through CONSIP, the main Italian Ministry of Economy and Finance purchasing body.<sup>69</sup> CONSIP was established to ensure

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<sup>67</sup> Corte dei Conti. URL: [www.corteconti.it](http://www.corteconti.it)

<sup>68</sup> Responsabile trasparenza e anticorruzione (RPCT)

more efficient and transparent use of public resources by providing tools and skills to public bodies.

Some of the larger regions and provinces have also created their own central purchasing bodies, as most expenditure takes place at sub-national level.<sup>70</sup> APAC is the regional procurement body for the province of Trentino, for example.<sup>71</sup>

CONSIP concludes framework agreements through competitive procedures organised to establish a supplier and price for various goods and services. CONSIP conventions can be derogated when an item is not covered by any framework agreement, or if an item covered by a framework agreement does not suit the specific needs.

## 2.5.2. Institutional provisions at the University of Trento

### *Institutional framework*

Legally compliant and efficient management of the goods and services procurement process are a strategic priority for the University of Trento.

The university adopted an internal **Regulation of Contractual Activity** (*Regolamento attività contrattuale*) for procurement and purchases under all contract types, according to art. 57, paragraph 3 of the University Regulation on Finance and Accountability issued by Rector's Decree 1609 on 28 December 2000. The Regulation is currently being significantly updated to reflect the latest changes to the Code of Public Contracts (Law Decree 50/2016).

#### **Box 17. The University of Trento**

The University of Trento was founded in 1962 and is located in the Autonomous Province of Trento. Based on the 2009 Milan Agreement with central government, the province obtained new powers over the university, especially in terms of financial regulations.

#### **Facts and Figures**

- 16,227 students
- 1,296 employees
- 10 departments and 4 centres
- 7 directorates (for management and administration)
- Annual budget of ca. €163 million

Source: [www.unitn.it](http://www.unitn.it)

### *Governance and responsibilities*

Internal procurement responsibilities are outlined in the Regulation on Contractual Activity. Each Head of Unit (for example, Directorates, Departments, Centres) has 'RUP' power (unique responsibility for the procedure) and is responsible for expenditure, finance and procurement procedures.

The **Division for Procurement and Contracts** is responsible for central purchases worth over €40,000 (the direct award threshold). The Division for Procurement and Contracts creates,

<sup>69</sup> *Concessionaria Servizi Informativi Pubblici*. URL: [www.consip.it](http://www.consip.it)

<sup>70</sup> Over 60% of public works contracts are commissioned by territorial entities. For more details, see Public procurement – Study on administrative capacity in the EU. Italy Country Profile. [http://ec.europa.eu/regional\\_policy/sources/policy/how/improving-investment/public-procurement/study/country\\_profile/it.pdf](http://ec.europa.eu/regional_policy/sources/policy/how/improving-investment/public-procurement/study/country_profile/it.pdf)

<sup>71</sup> *Agenzia provinciale per gli appalti e I contratti*. URL: [www.appalti.provincia.tn.it](http://www.appalti.provincia.tn.it)

manages and updates common templates and documents, which can be used by different units that procure and purchase goods and services, and provides support to all units and centres. (The seven Directorates are entitled to make autonomous purchases for contracts below €40,000.) Three administrative centres at the Trento-town campus, the Povo-Mesiano campus and the Rovereto campus carry out procurement services for the faculties and departments.

The Heads of Service Centres and Heads of Institutional Centres are responsible for signing contracts with values under €200,000. Contracts worth over €100,000 euros must be cleared by the General Director.

#### *Internal thresholds*

The university has no additional internal thresholds and follows the national threshold values (Table 10).

By national law, all public bodies including universities must prepare two-year goods and services programmes for the purchase of goods and services worth €40,000 or more. This programme has to be approved on a yearly basis. A three-year works programme must also be provided and published every year.

An additional two-year plan must be released for goods and services worth €1 million or over.

#### *Publication, selection and award criteria*

The University of Trento follows the selection and award criteria and principles defined at national and provincial level.

To ensure transparent competition, the University of Trento actively applies the “Expression of Interest” option, publishing prior notices on the university and the Ministry of Infrastructure and Transport websites to announce its intention to publish a call for tender and invite economic operators to express their interest in such a call.

The university does not pre-select the suppliers who can be invited to participate in procurement procedures. Its alternative procedure involves either inviting individual suppliers who are registered on the e-procurement platforms on a random basis or inviting all economic actors to participate, in order to ensure the highest level of participation, publicity and rotation.

Another UNITN good practice (pursuant to art. 51 of the Code) is to aggregate several batches in a single procurement procedure in order to optimise administrative management, and to foster SME participation, by allowing such organisations to submit a bid for a single or all batches. The legal regulations also allow the university to limit the number of batches that can be awarded to a single enterprise.

#### **Box 18. IT support for procurement management at the University of Trento**

The university's internal purchasing management system (SGA system) was developed by the Department of Information Systems, Services and Information Technologies. This platform helps manage the entire purchasing process starting from the purchase request to management of tender authorisations, administrative requirements and archiving. The actual purchase order or competitive procedure must be uploaded to the official national or regional e-procurement platforms. These platforms are used to invite suppliers to participate in a tender on a random basis or to invite all economic actors to ensure participation, publicity and rotation.

UNITN also uses other management tools: (a) SAP for accounting cycles, purchase orders, and registered assets; (b) a digital invoicing platform and (c) a supplier database.

E-commerce (e.g. amazon, ebay) purchasing is not allowed due to related e-invoicing, cash flow tracking, payment splitting, supplier verification and so on restrictions, etc.

Source: [www.unitn.it](http://www.unitn.it)

#### *Centralised and collaborative procurement*

The University of Trento works with other universities and regional public institutions to purchase goods and services on an inter-institutional and inter-sectorial basis. For example, the University of Trento purchased books for the university library in collaboration with the University of Padua. It also procured shared cleaning services jointly with several local public institutions through a dedicated procurement procedure conducted by APAC.

#### *Socially responsive and sustainable procurement*

The basic principle of cost effectiveness is evaluated according to criteria such as social needs, occupational health and nature conservation as well as sustainable development. The *UniTrento Sostenibile* project involves the use of environmental sustainability planning, policies and principles that foster recycling and re-use, sound energy and other resource management as well as car sharing services for work. Environmental and quality criteria are included in calls for tender requirements. For example, cleaning service tenders include the use of eco-friendly products in addition to quality/price criteria. Tenderers are also required to comply with the latest legal provisions that support disabled employees.

The Code of Public Contracts contains special provisions for Social Services Contracts.

#### *Procurement capacity building and training*

Staff training in public procurement issues is organised in different ways at UNITN:

- **Virtual training** by means of video tutorials accessible to all university staff, for example, explaining the key procurement principles and how to use the university's SGA (Purchasing Management System).<sup>72</sup>

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<sup>72</sup> The tutorials were jointly developed by the Department of Planning, Procurement and Administration, the Office for Audio, Video and Multimedia of the Department for Information Systems, Services and Information Technologies Department, and the Department for Communication and Events of the General Directorate of the University of Trento. URL: <https://intranet.unitn.it/infoservizi/video-tutorial-sga-acquisti-di-beni-e-servizi-d-ateneo>

- **Face-to-face training** for all staff on an occasional basis. Over 200 employees, including researchers and professors, took part in training in 2017 and engaged in a dialogue to improve and adjust internal procurement documentation, procedures and templates.

The University of Trento has also signed a procurement procedure protocol with ANAC. This close partnership involves two UNITN contact points: a professor for technical training, and a member of the administration for procedure management. The protocol includes hands-on training on practical aspects of public procurement for university staff. The university committed to deliver feedback to ensure continuous improvement of the procurement procedures. ANAC is available for advice and assistance. Finally, ANAC offers internships for UNITN students and UNITN committed to develop Master's courses on public procurement for its students.

#### *Key challenges and lessons learned*

The key challenge for Italian higher education procurement practices concerns high levels of bureaucracy and the proliferation of complex rules and regulations at different levels (for example, the rotation of previously invited suppliers, multiple supplier controls, multiple publication duties), which significantly slow processes.

Areas for improvement include the introduction of a single central purchasing office with specialist, trained staff and the further development of collaborative procedures at regional and sector level for common, ad hoc, research and scientific purchases.

Digital interoperability should also be improved at national level. This should reduce the time and workload involved in posting notices on various platforms and fulfilling the legal publication requirements (i.e. posting the same document on different platforms).

Further improvements are necessary at institutional level to optimise the selection and awards processes. Selection criteria are usually set by managerial staff when drafting the call for tender. But the evaluation committee is made up of experts who were not involved in defining the quality criteria for the products or service, obliged to adopt and follow the specifications of the call. While this arrangement ensures impartial selection and award procedures, it could jeopardise the effective implementation of the adopted criteria.

## 2.6. Spain

### 2.6.1. National public procurement legislation

The **national Law 9/2017 on Public Sector Contracts** of 8 November 2017<sup>73</sup> transposes the 2014/24 EU Directive into Spanish public procurement legislation. It applies to all public organisations in Spain, including public higher education institutions. It seeks to make public procurement more transparent, quality-oriented, open to competition, focused on pursuing certain social objectives and less bureaucratic.

There are no additional national legal provisions for public universities. However, further procurement regulations may exist at Autonomous Community level.

#### *Types of contract*

The following types of public contract exist in Spain (Article 12-18, law 9/2017):

- Public contracts for works
- Public contracts for works concessions
- Public contracts for goods
- Public contracts for services
- Public contracts for service concessions
- Mixed contracts
- Contracts subject to harmonised regulation
- Framework contracts

Contracts are qualified as a services or works concession contract when risk is transferred to the contractor. If the contracting authority assumes this risk, the contract is defined as a services or works contract.

The following contracts are not covered by Spanish public procurement law:

- Agreements between a public body and a company or another public body of common interest to both parties. Such agreements can never cover the procurement of goods, services or works regulated by Law 9/2017.
- International contracts concluded under international laws and treaties, etc.
- Investigation contracts, for example for experimental investigation

#### *Procedures*

National law specifies the following types of public procurement procedure:

- **Open procedure**, including a **simplified open procedure** for goods and service contracts under €100,000 and works contracts under €2 million, provided they do not include any award criterion that entail value judgments or, that where there are value judgements, their weighting does not exceed specific percentages
- **Restricted procedure**

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<sup>73</sup> *Ley de Contratos del Sector Público (LCSP)*. URL: [www.boe.es/buscar/doc.php?id=BOE-A-2017-12902](http://www.boe.es/buscar/doc.php?id=BOE-A-2017-12902)

- **Negotiated procedure** with or without prior publication
- **Competitive dialogue**
- **Innovation partnership procedure** applied for special cases requiring the introduction of innovation and technology in goods, services or works contracts; or when R&D is required for works, services and innovative products
- **'Minor contracts'** (*contrato menor*) procedure, which requires no prior publication, but does require proper justification of the need for the goods, services or works

#### *Award criteria*

Prior to the adoption of Law 9/2017, contract value/price was the main selection and award criteria. The new law established that contracts are now awarded using a variety of award criteria based on the principle of **'best value for money'**. This principle is evaluated according to financial and qualitative criteria (for example, aesthetic and functional characteristics, accessibility, environmental, social and innovative aspects and marketing conditions) as well as the qualifications and experience of the staff involved.

When only a single award criterion is used, it must assess the costs of the performance offered, for example the price, return or life-cycle costing. Qualitative criteria must always be accompanied by cost criteria.

The new law obliges contracting authorities to reject abnormally low offers, as these violate sub-contracting regulations, or do not comply with applicable national or international environmental, social or labour requirements, including collective sector agreements.

#### *National thresholds*

Table 11 presents the national threshold values for procurement procedures in Spain.

*Table 11. Spanish national threshold values (excluding VAT), as of 9 March 2018*

	National contracting procedures			EU contracting procedures / "Contracts submitted to harmonised regulation"
	Direct award for goods, services and works ( <i>contrato menor</i> )	National tendering procedures		
		Simplified open procedure	Regular open procedure	
Other contracting authorities, including universities	€15,000 (goods and services) €40,000 (works)	€15,000 - €100,000 (goods and services) €40,000 – €2,000,000 (works)	€100,000 – €221,000 (goods and services) €2,000,000 – €5,548,000 (works)	€221,000 (goods and services) €5,548,000 (works)

Simplified open procedures have shorter time frames, allow documentation to be presented in a single envelope, and require no provisional guarantee.

‘Minor contracts’ can be awarded on the basis of a single quote, although in some cases contracting authorities can obtain up to three quotes.

### Publication

All contract notices, except contracts concluded under the negotiation procedure without prior publication and special contracts such as Minor Contracts, must be published in the *European Union Official Journal*.

Public organisations must publish information about selected contractors and the price/value of completed contracts on the e-contracting platform.

All contracts must be processed electronically from September 2018.

### Legal protection

There are two types of public procurement appeals in Spain:

- (1) Appeal through a specialist Autonomous Community court (for example, belonging to the Community of Madrid), which is mandatory for works contracts above €3 million and goods and services contracts worth over €100,000
- (2) Appeal to the body that awarded the contract
- (3) Appeal to the Spanish Courts specialised in public administration

### Centralised and collaborative procurement

The **Directorate General for Rationalisation and Centralisation of Procurement (DGRCC)**<sup>74</sup> at the Spanish Ministry of Finance and Public Administration is responsible for harmonising and centralising procurement through the central purchasing body for state administration and other related activities.

The DGRCC was created as part of the 2013 public administration reform and designed to achieve procurement savings and improvements by increasing efficiency and transparency and standardising the quality of goods and services procured by the state. National public administration bodies, including ministries and public bodies must use DGRCC framework agreements.

Figure 11. Services offered by the DGRCC



Source: DGRCC, URL:

<https://contratacioncentralizada.gob.es/>

<sup>74</sup> URL: <https://contratacioncentralizada.gob.es/>

Within the Ministry of Finance and Public Administrations, the **State Consultative Board on Administrative Procurement**,<sup>75</sup> provides legal advice and guidance to improve the administrative, financial and technical aspects of public contracts. The Spanish regions also have their own consultative boards, which produce reports and recommendations for public procurement.

## 2.6.2. Institutional provisions at Carlos III University of Madrid

### *Institutional framework*

There are no additional institutional rules or thresholds at Carlos III University of Madrid (UC3M).

### *Governance and responsibilities*

A dedicated central service oversees procurement for the whole university. It makes purchases for all departments and faculties.

Under the university statutes, the Rector has the power to sign contracts. This power can be partially delegated to the General Manager.

### *Selection*

The university is free to set its own award and selection criteria in line with national law.

### *Centralised and collaborative procurement*

Although the university is not obliged to use the services of the centralised purchasing body, UC3M works with the DGRCC on some technology contracts.

The UC3M procurement department is also in close contact with other universities. Its experts exchange public procurement information and good practice.

### *Sustainable and social procurement*

Environmental and social criteria are currently being developed by the university, in line with national legislation.

### *Procurement capacity building and training*

The National Institute of Public Administration (INAP)<sup>76</sup> and similar schools operating in the autonomous regions organise various training and capacity building activities and e-learning courses. These generally provide participants with practical instruments and tools focusing

#### **Box 19. Carlos III University of Madrid**

Carlos III University of Madrid (UC3M) was established by an Act of the Spanish Parliament on 5 May 1989, in the framework of the 1983 University Reform Act.

#### **Facts and Figures**

- 21,047 students
- 2,715 employees
- 27 departments and 5 schools
- Annual budget of ca. €174 million

Source: [www.uc3m.es](http://www.uc3m.es)

<sup>75</sup> La Junta Consultiva De Contratación Pública Del Estado. URL: [www.hacienda.gob.es/en-GB/Areas%20Tematicas/Contratacion/Junta%20Consultiva%20de%20Contratacion%20Administrativa/Paginas/default.aspx](http://www.hacienda.gob.es/en-GB/Areas%20Tematicas/Contratacion/Junta%20Consultiva%20de%20Contratacion%20Administrativa/Paginas/default.aspx)

<sup>76</sup> Instituto Nacional de Administración Pública. URL: [www.inap.es](http://www.inap.es)

either on the general implementation of the legislation or specific topics like competition, transparency or green, innovative and society-friendly procurement.

#### *Key challenges and lessons learned*

One of the current challenges facing public universities is the interpretation of the recent and highly complex national procurement legislation.

One practical issue for public universities is relates to the implementation of Minor Contracts, which now seem more restrictive and regulated at national level. For example, the LCSP establishes that the contracting authority must present a report justifying the need for a minor contract (in addition to requiring approval of the expense and inclusion of the corresponding invoice in the procurement records). The procurement records must also show that: (i) the contract purpose has not been altered in order to apply the minor contract regime, and (ii) the contractor has not entered into additional minor contracts that, individually or jointly, exceed the maximum minor contract thresholds.<sup>77</sup>

The new procurement law lowered the minor contract thresholds from €50,000 to €40,000 for works contracts and from €18,000 to €15,000 for goods and services contracts.

The above changes make minor contract administration more complex and time-consuming.

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<sup>77</sup> Uria Menendez. The main innovations of Law 9/2017 of 8 November 2017 on public sector contracts. URL: [www.uria.com/documentos/circulares/955/documento/7259/UMBriefing.pdf](http://www.uria.com/documentos/circulares/955/documento/7259/UMBriefing.pdf)

## 2.7. Portugal

### 2.7.1. National public procurement legislation

#### *General framework*

The national public procurement rules are established in the **Public Procurement Code** (CCP) approved by Decree-Law n<sup>o</sup> 18/2008 of 29 January 2008.<sup>78</sup> The ninth amendment to the Code implements the EU Directives on Public Procurement. The law implementing the related amendments (Decree-Law No. 111-B / 2017) came into force on 1 January 2018.<sup>79</sup>

The latest changes fall into three broad groups: (i) changes resulting from the transposition of the directives, (ii) measures to increase flexibility, simplify and remove red tape, and (iii) measures to promote transparency and good public management.

Other rules that are relevant to public procurement are stipulated in:

- The **Administrative Procedural Code** (Decree Law n<sup>o</sup> 4/2015), which contains the general rules on administrative procedures, including transparency provisions
- The **Procedural Code** of the Administrative Courts (Decree Law 214-G/2015), which contains the rules on litigation over pre-contractual procedures and public contracts

The Institute of Public Markets, Real Estate and Construction (IMPIC)<sup>80</sup> is responsible for regulating public procurement and is responsible for cooperation with the European Commission, for the purposes of the EU procurement Directives.

#### *Latest changes regarding R&D procurement*

In 2018, new provisions regulating public procurement in the field of research and development were introduced in the CCP with the adoption of Decree n<sup>o</sup> 60/2018 of 3 August 2018 and Decree n<sup>o</sup> 33/2018 of 15 May 2018:

- Article 159 of Decree n<sup>o</sup> 33/2018<sup>81</sup> introduced several amendments, specifying the scope of CCP application to research and development contracts, which are subject to EU Directive 2014/24.<sup>82</sup>

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<sup>78</sup> For more details, see *Diário da República* n.º 20/2008, Série I de 2008-01-29, URL: <https://dre.pt/web/guest/pesquisa/-/search/248178/details/normal?!=1>

<sup>79</sup> For more details, see *Diário da República* no. 168/2017, 2nd Supplement, Series I of 2017-08-31, URL: <https://dre.pt/pesquisa/-/search/108086621/details/maximized>

<sup>80</sup> *Instituto dos Mercados Públicos, do Imobiliário e da Construção, I.P.* (IMPIC, I.P.), URL: [www.impic.pt](http://www.impic.pt)

<sup>81</sup> For more details, see *Diário da República* no. 93/2018, Series I of 2018-05-15. URL: <https://dre.pt/web/guest/pesquisa/-/search/115312061/details/normal?!=1>

<sup>82</sup> Article 14 stipulates that EU Directive 2014/24 applies to public service contracts for R&D services which are covered by CPV codes 73000000-2 to 73120000-9 (R&D services and related consultancy services), 73300000-5 (design and execution of R&D), 73420000-2 (pre-feasibility study and technological demonstration) and 73430000-5 (test and evaluation when both of the following conditions are fulfilled: (a) profits accrue exclusively to the contracting authority for use in the conduct of its own affairs, and (b) the service provided is wholly paid for by the contracting authority).

- Decree n° 60/2018 introduced several provisions aimed at simplifying the contracting and financing procedures in the research and development field. Article 3 exempted lease and purchase contracts for research and development goods and services worth less than the EU thresholds from the scope of the CCP.

As a result, public universities and other R&D institutions will not have to follow the contracting procedures established by the Public Procurement Code if the contract concerns R&D activities and is worth less than €221,000. Universities must follow CCP procedures for all procurement activities that are not related to R&D.

The decree also introduced a set of new rules on document delivery and authentication, to avoid the official translation requirement, allowing documents to be delivered in the language defined for the proposal.<sup>83</sup>

### *Types of contract*

The CCP applies to all competition contracts. In Portugal, the following contract types must be granted through a competitive process:

- Public works contract
- Concession of public works
- Concession of public services
- Lease or supply of goods
- Service provision
- Company incorporation contracts

### *Procedures*

The CCP establishes the following main award procedures:

- Public tender
- Restricted tender (by previous qualification)
- Direct award
- Negotiation procedure
- Prior consultation
- Competitive dialogue
- Innovation partnership

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<sup>83</sup> Further changes foreseen by this decree include the introduction of simplified online support for R&D projects and programmes as well as training grants and scientific employment contracts, the launch of common digital tools to share, rationalise and publish information requested by R&D institutions and researchers. For more details, see *Diário da República* n.º 149/2018, Série I de 2018-08-03, URL: <https://dre.pt/web/guest/pesquisa/-/search/115886130/details/maximized?res=en>.

### Award criteria

Public contracts must be awarded to the most economically advantageous tender, which is established using one of the following methods (Articles 74-75):

- a) Best **value for money**, where the award criterion is composed of a set of factors, evaluated based on sub-factors related to various aspects of contract execution, such as **quality** reflected in technical value, aesthetic and functional characteristics, accessibility, after-sales service, design, delivery conditions, environmental, innovative and social characteristics and supply conditions, staff qualifications and experience, etc.
- b) Evaluation of the **price or cost** as the only aspect of contract performance to be executed.

### National thresholds

The national threshold values adopted for public procurement procedures in Portugal are presented in Table 12.

Table 12. Portuguese national threshold values for public procurement

	National contracting procedures					EU contracting procedures / "Contracts submitted to harmonised regulation"
	Special R&D regime (exempt from public contracting procedures)	Direct award		Prior consultation (at least three entities are invited to bid)	National tender procedures (advertised in <i>Diário da República</i> )	
		Simplified regime (invoice-based)	Regular regime (consultation with one entity)			
Other contracting authorities, including universities	Lease and purchase contracts for R&D goods and services under €221,000	€5,000 (goods and services) €10,000 (works)	€20,000 (goods and services) €30,000 (works) €50,000 (concessions and company incorporation contracts)	€20,000 – €75,000 (goods and services) €30,000 – €150,000 (works)	€75,000 – €221,000 (goods and services) €150,000 – €5,548,000 (works)	€5,548,000 (works) €221,000 (goods and services)

Only an invoice is required to purchase goods and services using simplified procedures for contracts worth less than €5,000. Consultation with one entity requires an invitation and an offer. The invitation and proposal must be submitted electronically, and the use of an electronic platform is not mandatory (Article 115).

In some cases, an award can be made using material criteria irrespective of the contract value, namely when:

- No competitor presented a proposal, or all proposals were rejected in a previous open or restricted tender, so long as the specifications and minimum technical requirements have not been altered substantially.
- In urgent cases, where the deadlines for other procedures cannot be met due to unforeseeable events, provided that these circumstances cannot be attributed to the awarding entity.
- When technical or artistic reasons, or the protection of exclusive rights mean that the contract can only be granted to a specific entity.

The full list of criteria that can be applied for the direct award of public contracts is set out in Articles 23-27.

### Publication

Public tenders for contracts above the national and below the EU thresholds<sup>84</sup> must be advertised in the Official Journal of Portugal, the *Diário da República*. The notice may subsequently be disclosed in any other appropriate way, such as publication on an e-platform used by the contracting authority (Article 130).

Procurement contracts that exceed the EU thresholds and all public works concession contracts (regardless of their value) must be published in the *Official Journal of the European Union* (OJEU).

#### Box 20. The Base Portal

The Base Portal is Portugal's Public Procurement Portal. It publishes information about all of the contracts signed under the Public Procurement Code. It also provides access to the public works procurement system (*Observatório das Obras Públicas*). Its databases are constantly updated with information from the online version of the national official journal (*Diário da República Eletrónico*), public procurement platforms and contracting entities. It also advertises the launch of calls for tender and other procurement procedures, contract signatures, and any penalties imposed for breaches of the Public Procurement Code.

Source: [www.base.gov.pt/Base/en/Portal/Base](http://www.base.gov.pt/Base/en/Portal/Base)

The CCP defines minimum deadlines for submitting applications or bids (Table 13).

Table 13. Minimum deadlines for submitting a bid in Portugal

Urgent tender	Open tender		Restricted tender		Direct award	Prior consultation	Negotiation procedure	Competitive dialogue	Innovation partnership
	Below EU thresholds	Above EU thresholds	Below EU thresholds	Above EU thresholds					
Min. 24 hours	6 days (goods & services) 14 days (works)	30 days or 15 days when a notice has been issued	6 days (goods & services) 14 days (works)	25 days or 10 days if a notice has been issued	No min. timescale	No min. timescale	30 days	40 days	30 days

### Legal protection

The CCP stipulates procedures for non-judicial (administrative) appeals of decisions taken under the contracting procedure or tender documents. Non-judicial appeals can be lodged with the awarding entities and must be presented within five working days.

<sup>84</sup> €75,000 (goods and services) and €150,000 (works)

Judicial appeals are regulated by the Procedural Code of the Administrative Courts (PCAC) and can be brought before the Administrative Courts (or Arbitration Courts, if arbitration is specified in the tender documents). Judicial claims (challenges to tender documents or actions under pre-contractual procedures) must be filed within one month from notification or, in its absence, the knowledge of such actions.

The new procurement legislation encourages the use of arbitration as a simple, quick and inexpensive way of resolving conflicts.

### *Centralised and collaborative procurement*

The CCP establishes several methods for collaborative procurement. Contracting authorities may form a group in order to enter into a mutually beneficial contract or framework agreement. Awarding entities can also jointly manage dynamic purchasing systems to make joint purchases using e-catalogues.

The CCP allows contracting authorities to establish purchasing centres to centralise the procurement of goods, services and works. Purchasing centres can also be established for a particular sector of activity (Article 260).

Figure 12. eSPap's work in figures



Source: ESPAP. URL: [www.espap.pt](http://www.espap.pt)

The **Shared Services Entity for Public Administration** (eSPap)<sup>85</sup> is the Portugal's central purchasing body. ESPAP is responsible for the following public procurement tasks:

- Developing, evaluating and managing the National Public Procurement System (SNCP)
- Centralised procurement of goods and services
- Drafting and implementing purchasing strategies and negotiating centralised procurement contracts for goods and services
- Coordinating and supporting public bodies in the implementation of public procurement procedures
- Evaluating and monitoring the development of the national public procurement system

Universities can use eSPap services on a voluntary basis.

The **General Secretariat for Education and Science** (SGEC)<sup>86</sup> provides specialist technical support to the government and other public bodies in the field of education and science, including on public procurement issues. The SGEC performs the functions of the Ministerial Procurement Unit and Asset Management Unit, among others.

<sup>85</sup> Entidade de Serviços Partilhados da Administração Pública, I. P. URL: [www.espap.pt](http://www.espap.pt)

<sup>86</sup> Secretaria-Geral da Educação e Ciência (SGEC), URL: [www.sec-geral.mec.pt/pagina/visao-e-missao-0](http://www.sec-geral.mec.pt/pagina/visao-e-missao-0)

## 2.7.2. Institutional provisions at the University of Beira Interior<sup>87</sup>

### *Institutional framework*

The University of Beira Interior has adopted additional internal guidelines and rules for procuring goods, services and works. The most important rule relates to the additional number of suppliers requirement for direct awards of contracts worth between €1,000 and €20,000: quotes must be obtained by email from at least two to three suppliers.

### *Governance and responsibilities*

The Division of Commodities and Assets is responsible for all contracts above €5,000. It supervises procedures, validates documents with the Legal Office and prepares authorisations. Three full-time procurement staff are employed in this Division.

The Administrators and Presidents of the Colleges approve contracts worth up to €5,000, whereas departments and services are responsible for purchases below this threshold. Vice-Rectors approve contracts worth up to €50,000 and the Rector signs contracts up to €3,740,974.

#### **Box 21. The University of Beira Interior**

The University of Beira Interior (*Universidade da Beira Interior*, UBI) is a public university in the city of Covilhã, Portugal. UBI is a comprehensive university created in 1979.

#### **Facts and Figures**

- Ca. 7,000 students
- Ca. 980 employees
- 5 faculties
- Annual budget of ca. €40 million

Source: [www.ubi.pt](http://www.ubi.pt)

### *Publication, selection and award*

The university has the flexibility to define award criteria that respect national law.

In line with Article 128 (paragraph 3) and Article 67 of the CCP, the Rector appoints a jury that decides on the relevant procedure and selects a supplier for contracts worth more than €5,000. Different juries of professionals with experience in the relevant field are formed for each award. (For example, the energy procurement jury includes engineers). Informal juries of three people evaluate contracts worth over €5,000 managed at faculty and department level.

### *Procurement capacity building and training*

Internal and external training is organised for staff to discuss changes in national procurement legislation and to reach the level of knowledge required to comply with the national public procurement rules. UBI procurement experts also discuss common problems with peers at other universities and public institutions.

### *Centralised and collective procurement*

UBI can purchase goods and services through eSPap and its framework agreements. However, its share of such contracts is rather limited. UBI also makes collaborative

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<sup>87</sup> Based on the situation before the adoption of Decree 33/2018 and Decree 60/2018.

purchases with other Portuguese universities (for example, joint purchase of data centre equipment with the University of Aveiro, the University of Lisbon and the University of Algarve) in order to obtain better conditions.

### 2.7.3. Institutional provisions at the University of Aveiro<sup>88</sup>

#### *Institutional framework*

The University of Aveiro follows national public procurement legislation. It has adopted a set of internal rules that explain how to comply with the relevant national legal requirements.

#### *Governance and responsibilities*

Procurement is mostly centralised at the University of Aveiro. All purchases worth over €5,000 are managed and processed by the University Procurement Office (AVAL). AVAL employs five full-time staff. Purchases are made based on an annual internal plan prepared by the Procurement Office.

The Rector and the Administrator (who assists the Rector in administrative, economic, financial and property matters and acts as Head of Services,) sign all contracts worth over €5,000. Lower-value contracts are signed by the Administrator alone. Deans can sign procurement contracts worth up to €80,000 for their specific research units.

#### **Box 22. The University of Aveiro**

The University of Aveiro was created in 1973. Now a public foundation under private law, it has three campuses in Aveiro (the main campus) as well as Águeda and Oliveira de Azeméis.

#### **Facts and Figures**

- Ca. 15,000 students
- 16 departments
- 18 research units
- Annual budget: ca. €105 million

Source: [www.ua.pt](http://www.ua.pt)

#### *Publication, selection and award*

The University of Aveiro can define contract selection criteria so long as these comply with national legislation.

#### *Centralised and collective procurement*

The university works with eSPap but is not obliged to use its services.

It also engages in collaborative procurement with other universities and public entities. For example, it regularly acquires equipment, publications and technology with other Portuguese universities.

#### *Procurement capacity building and training*

The University of Aveiro organises regular training sessions for those who work on public procurement at both central level and in the research units. The university is planning to hold these sessions on an annual basis. At present, information sessions focus on recent changes due to the transposition of EU procurement directives into national law.

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<sup>88</sup> Based on the situation before the adoption of Decree 33/2018 and Decree 60/2018.

### 3. A comparative overview: lessons learned from selected EU member states and universities

#### 3.1. The impact of national legislation on university procurement capacity

EU legislation outlines the general principles for public procurement and establishes more specific procedures for public contracts with values that exceed EU thresholds. It provides a broad, modern framework that allows member states to adopt their own national public procurement provisions in a flexible and straightforward way. It contains some basic provisions that legislators can use to simplify research, development and innovation procurement procedures.<sup>89</sup>

It is generally up to member states to define specific national procedures for low-value contracts that are generally awarded on a direct basis and frequently used by contracting authorities, including universities, in many countries. Several countries in our sample, like Austria, Finland and France, decided not to regulate contractual procedures for contracts below a certain threshold (Table 14). Austria and Finland decided on higher contract thresholds, as this reportedly entails less bureaucracy and gives contracting authorities more room for manoeuvre (Fig. 13).

Figure 13. Direct award thresholds for goods and services contracts in seven EU member states



\* The threshold for a special regime adopted for R&D goods and services in Portugal is €221,000.

National procurement provisions tend to echo the broader framework of university funding and autonomy. For example, the ability to retain surplus without any restrictions (an indicator of financial autonomy)<sup>90</sup> in Austria, Finland, France and Spain can be a strong incentive for a more strategic procurement approach as savings can be redirected to core university needs.

On the other hand, public funding cuts and the unfavourable economic context may lead to greater control over public organisations' procurement activities, with for example, the introduction of greater restrictions and reduced thresholds, as recently in Ireland and Spain.

<sup>89</sup> Article 14 and Article 32 of the EU Directive 2014/24. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0024&from=EN>

<sup>90</sup> For more details, see the EUA University Autonomy Scorecard, URL: [www.university-autonomy.eu/dimensions/financial](http://www.university-autonomy.eu/dimensions/financial)

However, lower thresholds affect internal management processes and lead to a higher procurement staff workload and longer procurement periods, among other difficulties.

In this context, the requirement that all contracting authorities draft and publish annual procurement plans (in Ireland, Italy and Spain) may be seen as a way to exercise control. However, this practice helps universities manage and make better forecasts of their future procurement needs, which tends to extend the planning horizon.

Table 14. A comparative overview of procurement frameworks in seven EU member states

Country	National threshold for direct award			Centralised purchasing body		University purchasing consortia	Publication of institutional procurement plans	Selected policy priorities
	Goods and services	Works	Number of quotes required	Name	Legal status			
Austria	€100,000		Not regulated	BBG	State-owned enterprise	e.g. Österreichische Bibliotheksgesellschaft GmbH	No	Sustainability
Finland	€60,000		Not regulated	Hansel Ltd.	State-owned enterprise	e.g. FinELib Consortium	n/a	Socially responsible procurement
Ireland	€25,000	€50,000	1 to min. 3	OGP	Under ministry	e.g. Education Procurement Services (EPS)	Mandatory, on a yearly basis	SMEs in procurement
France	€25,000		Not regulated	UGAP	State-owned enterprise	e.g. AMUE	Mandatory, on a three-year basis, with a yearly correction	Innovation
Italy	€40,000		Min. 2	CONSIP	State-owned enterprise	n/a	Mandatory, on a yearly basis	Transparency
Portugal	€20,000		Min. 1	ESPAP	Government Agency	n/a	Mandatory, on a yearly basis	R&D and innovation
Spain	€15,000	€40,000	Min. 1	DGRCC	Under ministry	n/a	Mandatory, on a yearly basis	n/a

France provides a good example of an enabling national procurement framework, as additional provisions for public higher education institutions were adopted at national level in order to consider the specific procurement needs of research organisations, although the actual uptake of such additional provisions varies across the related contracting authorities.

In the same spirit, the latest amendments to procurement legislation in Portugal give public universities more flexibility to procure goods and services for research and development in order to support national R&D players in an increasingly competitive European and global environment. Yet successful implementation of these new provisions will largely depend on university awareness, capacity and interest in applying these exemptions.

More flexible national frameworks based on high levels of trust enhance institutional procurement capacity elevating such work to beyond ensuring compliance with procurement rules. As a result, procurement is seen as a tool to enhance cost effectiveness, efficiency, and quality from a more strategic and proactive perspective, and not as a

restriction. In organisations the size of universities, tendering can lead to considerable savings as even small savings at unit level result in significant sums at institutional level. In addition to the cost savings achieved, the delivery, payment, procedural compliance and other terms agreed in the contract are important. Going beyond cost effectiveness, procurement could enhance greater openness to innovative economic actors like SMEs - a current priority in France, or foster sustainability and social-mindedness at universities, as is the case in Austria and Finland (Table 14).

Table 15 provides an overview of basic procurement system elements at the selected universities. This comparative analysis reveals great diversity among the institutions interviewed in terms of their operating and procurement budgets as well as the number of full-time staff responsible for public procurement operations.

*Table 15. A comparative overview of procurement frameworks at eight universities*

Country	Institution	Annual budget	Institutional threshold for centralised procurement	Central procurement staff <sup>91</sup>
Austria	University of Graz	€216 million	€100,000	7.5 FTE
Finland	University of Helsinki	€704 million	€60,000	2 FTE
Ireland	University College Cork	€290 million	€25,000	6 FTE
France	University of Bordeaux	€560 million	€25,000	14 FTE
Italy	University of Trento	€163 million	€25,000*	11 FTE
Portugal	University of Beira Interior	€40 million	€5,000	3 FTE
Portugal	University of Aveiro	€105 million	€5,000	5 FTE
Spain	Carlos III University of Madrid	€174 million	n/a	6 FTE

\* €40,000 by law but the central office can take over the administrative duties of the decentralised centres if needed and/or in particularly complicated cases.

The universities sampled in Austria and Finland and to some extent France, Ireland and Italy tend to have a more flexible, devolved system, supported by comprehensive online and e-procurement systems, in which internal units (for example, departments and faculties) can define and manage their procurement needs up to a certain limit (which typically matches the direct award threshold) more or less independently. Such institutions have to design comprehensive internal capacity building and professionalisation activities to inform and educate both professional and academic staff through various means, including comprehensive policy and implementation guides, video tutorials or regular information sessions.

<sup>91</sup> FTE – full-time equivalent

Institutions from more flexible systems are also free to decide whether to use a centralised purchasing body or engage more freely in collaborative procurement. This practice is common in France and in Ireland, for example, where universities and other research organisations establish and actively use sector-level purchasing consortia that also act as important procurement capacity building vehicles for their members. In Finland, contracting authorities are encouraged to innovate and continuously look for effective and efficient procurement solutions.

### 3.2. Public procurement in Portugal: bottlenecks and focus areas

The analysis of the Portuguese situation<sup>92</sup> is based on interviews with several Portuguese university representatives, public procurement experts and representatives of the Ministry of Science, Technology and Higher Education, along with an evaluation of the national procurement frameworks and legislation.

New national legislation to simplify public procurement procedures for research, development and innovation activities came into force during this evaluation. It will have a significant impact on university research and innovation procurement procedures. When this report was prepared, benchmark university interviewees had no practical experience of procuring R&D goods and services under the new legislation.

The Portuguese Ministry of Science, Technology and Higher Education was responsible for drafting the new regulation. Its aim was to simplify procurement procedures for research, development and innovation as far as possible within European and national legal frameworks.

The following analysis takes account of the new legislation. It distinguishes between two specific situations for public universities: (a) procurement of R&D goods and services exempt from the Public Procurement Code and (b) procurement for other needs, which will continue to be regulated by the general Portuguese procurement legislation.

This analysis cannot provide any detailed assessment of the proportion of procurement activities pursued by public universities that will fall under the special R&D regime and the proportion that will remain subject to the general procurement regulation. This parameter will depend on the profile of the institution, among other factors. All universities have both R&D procurement needs (which can vary significantly across different types of higher education institutions) and other procurement needs, related to teaching, interaction with society, support and administrative procedures. In this context, one of the potential challenges lies in the fact that it is not always clear whether an activity (or purchase) is 100%

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<sup>92</sup> The analysis presented in this sub-chapter primarily refers to the Portuguese context, including lessons learned, challenges and areas for the further development of public procurement from the perspective of public higher education institutions. At the same time, many conclusions and observations are general in nature and could therefore be relevant for other countries and legal systems.

related to R&D or to other activities as well. EUA's work on cost accounting practices<sup>93</sup> has shown that universities often have **mixed activities** (such as teaching doctoral students). It will therefore be important to clarify which activities can be covered by the new legislation.

The Portuguese case will also be of great interest to other European systems, as it will allow observers to see how this development is actually implemented and how other European systems could benefit from a regulation exempting R&D activities from national procurement regulations.

a) Procurement for non-R&D activities

The general Portuguese procurement regulation remains in force for all non-R&D purchases. Analysis revealed several bottlenecks and limitations in comparison with the other systems analysed. Limitations to further developing modern and adequate procurement lie both at system and institutional level.

Significant progress has been made in further aligning national rules and procedures with EU and global market realities, with the recent introduction of the possibility to submit tender application documents in other languages than Portuguese. In the past, foreign suppliers dropped out before completing the award procedures due to the comparatively high workload in relation to the small contractual amounts involved. The new documentation requirements might help solve this issue.

*Limitations and challenges at system / regulatory level*

1. Lower direct award thresholds than in other systems in the sample
2. Relatively high documentation requirements for low value purchases (such as enhanced documentation requirements for prior consultation with three entities and the strict supervision of public contracts by the Court of Auditors)
3. The rule limiting use of the same supplier for (cumulative) contracts worth a total of over €20,000 in a three-year period
4. Frequent changes in the legal framework affecting universities' ability to keep up with national public procurement developments and leading to a reliance on external legal advice in order to avoid the systemic risks and legal implications of non-compliance

*Limitations and challenges at institutional level*

1. Institutional procurement rules are sometimes stricter than national legislation.
2. Institutional procedures are sometimes stricter than necessary.

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<sup>93</sup> European University Association (2008). Financially Sustainable Universities: Towards Full Costing In European Universities. URL: <https://eua.eu/resources/publications/651:financially-sustainable-universities-towards-full-costing-in-european-universities.html>

3. Institutions find it difficult to ensure the efficiency and effectiveness of internal procurement procedures (for example, by finding the right balance between centralisation and decentralisation or using dedicated procurement tools).
4. The development of institutional procurement capacity and expertise doesn't seem to be a priority.
5. Procurement is generally seen as a necessary evil involving a significant workload, rather than an opportunity to enhance efficiency and create sustainable gains for the institution.
6. There is insufficient collaboration between higher education institutions or with local economic actors.

#### b) R&D procurement

During the university practitioner interview and data collection stage, those interviewed were yet to gain practical experience of implementing the new legislation.

The new legislation is expected to give public universities significantly increased flexibility when procuring goods and services for R&D purposes.

However, it will be important to disseminate it to the higher education community and provide support for fully implementing the new institutional regulations and procedures in order to achieve the effective adoption of the new rules by universities.

To ensure effective implementation and avoid sticking to the old practices, Portuguese universities will have to develop dedicated institutional R&D procurement policies and guidelines. These may be different from existing procurement practices.

### 3.3. Recommendations

The following broad recommendations address the different challenges at various levels.

#### Recommendations to policymakers / at national level

#### **1) Disseminate knowledge of the new R&D public procurement regime and build implementation capacity**

Proposed actions to achieve this aim:

- **Organise an event** to bring together all of the relevant stakeholders, including national procurement experts from public universities and procurement agencies, to present and discuss the results of this comparative analysis and the new legislation in relation to R&D procurement. This event could have two parts:
  - The first part could specifically target institutional leaders and policymakers to discuss how to support implementation and the changes required at institutional level and share European good practice showing how institutions can use procurement as a strategic tool to increase efficiency and effectiveness.

- The second part could specifically address procurement practitioners with the aim of exchanging good procurement practice across Europe to identify the operational steps that need to be taken to implement the new R&D regime at universities.
- Establish a **regular exchange** between the Ministry of Science, Technology and Higher Education and Universities to discuss implementation progress and challenges and the use of new R&D procurement opportunities. This exchange could also involve the national procurement agency and discuss how universities could receive better support for standard procurement procedures (Ireland is a good example).
- Create a ‘hotline’ involving the SGEC or other relevant body, to allow universities to promptly obtain up-to-date information on public procurement legislation and its interpretation in the context of higher education and research.

## 2) Invest in and establish support and incentives for procurement capacity building

Proposed action to achieve this aim:

- Encourage **peer learning** at meetings and events for international exchanges on procurement
- Sponsor **expert contributions** to share knowledge about good practice in procurement
- Establish prizes or other **incentives for advanced procurement** practices and achievements (for example, more efficient, innovative, greener or socially responsible procurement)
- Develop and support a framework for procurement maturity assessment (the UK is a good example)<sup>94</sup>

## 3) Discuss the overall procurement framework and options to simplify CCP procedures and increase national thresholds for directly awarded contracts

Proposed actions to achieve this aim:

- Following a phase evaluating the implementation of the new regime for R&D related purchases, a discussion and exchange could be launched to adapt the national procurement framework. This process could be launched at an event uniting the relevant ministries responsible for procurement, policymakers and national and international experts and practitioners to provide comparative examples of how procurement frameworks work in other systems.

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<sup>94</sup> For more details, see <https://supc.ac.uk/pma>

## Recommendations for universities

### **1) Set up new guidelines and procedures to implement the new R&D public procurement regime**

Proposed action to achieve this aim:

- Adopt an efficient and effective approach to implementation by developing cooperation with other institutions and participation in national events
- Institutional leadership should sponsor the development of new institutional guidelines and procedures to implement the new procurement regime for R&D

### **2) Create opportunities to share expertise and knowledge in a structured and sustainable way**

Proposed action to achieve this aim:

- Look for **opportunities to share lessons** learned and good practices from other institutions, support and encourage relevant staff participation in national procurement networks
- Support exchange with other European countries, for instance, through **staff exchanges** (for example, as part of Erasmus staff exchange schemes)

### **3) Develop a more holistic and strategic approach to procurement**

Proposed activities to achieve this aim:

- Develop a comprehensive procurement policy, mid-term procurement needs planning and resources allowing for a greater purchase aggregation
- Develop an **internal procurement culture** explaining why tendering is important and how it contributes to achieving the university's mission to create a sense of ownership and responsibility for more efficient and effective procurement and, generally, use of resources

### **4) Make an accurate internal assessment of institutional procurement needs and the related functional and structural requirements**

Proposed actions to achieve this aim:

- Find the right degree of institutional procurement **centralisation and decentralisation** and share responsibilities between central administration and the faculties/departments accordingly
- Evaluate the advantages (for example, generating savings by buying in bulk) and disadvantages of centralised purchasing (for example, extra layers of coordination

and longer related procedures) to ensure the university's agility and ability to promptly and flexibly meet its academic needs

#### **5) Support further professionalisation of administrative staff**

Proposed activities to achieve this aim:

- Develop internal and external **training and other capacity building** activities like public procurement career management and develop tools to make procurement processes more efficient (for example, adopt IT tools, develop guidelines and templates)

#### **6) Foster collaboration within cross-institutional purchasing consortia**

Proposed actions to achieve this aim:

- Engage in an exchange with other institutions and evaluate which areas would be suitable for **collaborative procurement** through cross-institutional purchasing consortia to obtain better prices for bulk purchases and implement more strategic, socially oriented and sustainable procurement locally and nationally
- Select the most promising areas for testing various collaborative procurement arrangements (for example, sector or region-based) and evaluate short-term and long-term benefits and pitfalls

#### Recommendations at European level

- 1) Develop system-level and public higher education institution capacities (including universities and university hospitals), to engage in socially inclusive, sustainable and research, development and innovation procurement as part of key EU funding instruments including Erasmus+, Horizon 2020 and European Structural and Investment Funds**
- 2) Continue to work on adapting EU legislation to the specific needs of contracting authorities, such as public universities and university hospitals, to ensure more efficient and effective procurement in higher education, research and innovation**

## Appendices

### Resources

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#### List of participating institutions

1. Carlos III University of Madrid, Spain
2. University College Cork, Ireland
3. University of Aveiro, Portugal
4. University of Beira Interior, Portugal
5. University of Bordeaux, France
6. University of Graz, Austria
7. University of Helsinki, Finland
8. University of Trento, Italy

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