

# THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

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## Recommendation 405 (2017)<sup>1</sup> Making public procurement transparent at local and regional levels

1. In its many forms, corruption poses a major threat to governance and democracy in Europe and undermines the confidence of citizens in democratic institutions. Its prevalence affects citizens, governments and business alike, increasing unpredictability and impeding new investment. With this in mind, at its 31st Session, the Congress of Local and Regional Authorities of the Council of Europe adopted a road map of activities for preventing corruption and promoting public ethics at local and regional levels (Resolution 401 (2016)). This road map includes the preparation of thematic reports, including those on transparency in public procurement.

2. Public procurement lies at the heart of public service provision for local and regional governments. At the same time, the process of public procurement can be particularly vulnerable to corruption, as it involves the transfer of public resources to the private sector or to non-profit organisations.

3. As an essential part of good governance, it is therefore vital to ensure the integrity and efficiency of the procurement process, which, as an important area of public expenditure, carries a significant risk of corruption.

4. Maximum transparency at all stages of the public procurement cycle is the key principle for reducing the risks of corruption in this area and maintaining public trust in local and regional administrations.

5. Corruption in the context of public procurement can take many forms. It may include the allocation of government contracts to friends or political cronies, at the expense of a transparent and competitive process, or the “revolving door” phenomenon, where civil servants benefit from their insider information or shape policy on the awarding of contracts while they are in office in order to benefit from it later, when they work for a private contractor, or to create other opportunities for themselves or for friends.

6. Risks are present at all stages of the public procurement process. During the needs assessment phase, an individual might artificially inflate the needs, hence impacting the whole competition process, or might make excessive provision for the cost of errors. In the design phase, the risks are related to the drafting of the requirements or to a lack of clarity in the selection criteria. During the award phase, a corrupt official could insist on the weaknesses of a particular supplier and on the supposed advantages of another. In the

implementation phase, the risks concerning the monitoring of the chosen contractor could lead to deficiencies in quality or to increasing costs and, therefore, a waste of public funds.

7. Many local authorities are also at risk on account of the lack of expertise in the field of public procurement among their staff, which makes the assessment process difficult. The staff involved in public procurement processes sometimes lack the competence to carry out complex contracting procedures and to monitor their application.

8. An effective tool in fighting corruption in public procurement is the information supplied by those with inside knowledge of the processes. These whistle-blowers need to be protected. They face a real risk of reprisals and intimidating pressures which can be particularly daunting at local level.

9. In the light of these considerations, the Congress invites the Committee of Ministers to encourage the governments and parliaments of member States and, where applicable, regions with legislative powers, to:

*a.* establish national standards regarding public procurement in order to make the process more transparent and easier to understand;

*b.* introduce e-procurement systems for public procurement to minimise the amount of human discretion in the process, using standardised norms and procedures for communication and online tools;

*c.* ensure maximum transparency at all stages of the public procurement cycle by publishing comprehensive and machine-readable data from the beginning of the procurement process;

*d.* ensure a common level of training and/or professional qualification for all staff responsible for public procurement processes;

*e.* establish a common set of indicators at national level to facilitate analysis of the risk of favouritism in public procurement processes;

*f.* establish an independent body to investigate complaints;

*g.* regulate and track the movement of employees from the public to the private sector in order to lower the risk of conflicts of interest associated with the “revolving door” phenomenon;

*h.* set up an anonymous whistle-blower hotline in order to facilitate the reporting of malpractice and to ensure the protection of those who report such information.

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1. Debated and adopted by the Congress on 19 October 2017, 2nd sitting (see Document [CG33\(2017\)13](#), explanatory memorandum), rapporteur: Amelie TARSCHYS INGRE, Sweden (L, ILDG).