



# **BILATERAL MEETING**

## **Chapter 05- PUBLIC PROCUREMENT**

**Country Session: The Republic of TURKEY**  
**28 November 2005**



## **SCREENING CHAPTER 05 PUBLIC PROCUREMENT**

### **AGENDA ITEM VII: DEFENCE PROCUREMENT**

**Country Session: The Republic of TURKEY  
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## Outline

- \* **Legal Framework**
- \* **Defence Supply System and Its Implementation**
- \* **Conclusion**



\* In accordance with **the Article 117** of the Constitution of the Republic of Turkey,

“The Council of Ministers shall be responsible to the Turkish Grand National Assembly for the national security and for the preparation of the Armed Forces for the defence of the country.”

In this context, supply activities concerning defence procurement are conducted,

- under the responsibility of **the MoD**
- through other units authorised by **the Ministry**
- through **the Ministry** and **its affiliated units**

\* Defence procurement will be initiated by the MoD

**only if:**

- the **demands** are determined by the authorities in need
- the **principles and priorities** meeting the demands are determined
- **the funds** required for the demanded goods, service and constructional works are allocated

\* **Authorities in need (Service Commands under the responsibility of Turkish General Staff)**

- set out and **prioritise** the demands concerning the defence procurement,
- determine the **principles** and priorities to meet the demands.



**\* MoD carries out the activities concerning the estimation of the appropriate funds for the **required goods, services and constructional works, preparation of the budget proposal and its presentation to the Turkish Grand National Assembly for approval.****





\* As per the Annual Budgetary Law adopted by the **Turkish Grand National Assembly**, the amount of appropriation to be allocated depending on the goods, services and constructional works is determined by the **MoD**.



**\* Supply procedures for the required goods and services are determined by the MoD, taking into account the demands of the authorities in need.**



\* The supplied goods and services for which the commitments will be undertaken according to years **within the context of modernization projects**, are subject to the **approval of the Council of Ministers**.

\* Defence procurements carried out by the MoD are realized in accordance with

- primarily the **Public Procurement Law (PPL)**
- **Public Procurement Contracts Law**
- the other related laws, legislation, **resolutions of Council of Ministers.**

•The procurement activities **include**,

- opening bids
- awarding the bids
- approving the bid awards
- arranging contracts

which are carried out by the bidding authorities appointed by the  
Minister of National Defence.



\* **Ministry of Finance and authorities from the Court of Accounts control and inspect all of the phases; starting from the announcement of the bid until the payment of the supplied goods and services.**



In addition to the controls and inspections by the Ministry of Finance, Court of Accounts and Public Procurement Authority during the process of defence procurement, **internal audit unit** of the MoD inspects the process and the accounts during or at the end of the process.

Moreover, **authorities from the Ministry of Finance** serve in bidding commissions as **natural members** in line with the legislation.



Expenditures related to the defence procurements are examined **within the context of Final Accounting Law by the Court of Accounts** in the following year and they are submitted to **the approval of the Turkish Grand National Assembly.**

The approval process is the same as the public procurements of the other institutions.





\* Tenderers or contractors have the right to appeal to **the law or other legal rights**, including pausing the execution of all these procedures, concerning all supply procedures carried out by the MoD.



# Defence Supply System and Its Implementation

## Defence Procurement

### \* General Provisions

### \* Procurements carried out under the scope of PPL

- procurements **by the MoD**
- procurements **by the units or institutions of the**

### **Turkish Armed Forces**



\* Procurements carried out under the scope of **exception**

- procurement from **Public Affiliated Enterprises**
- **other** procurements

\* Procurements **for the modernisation of the Turkish Armed Forces and development of defence related industry.**



# General Provisions



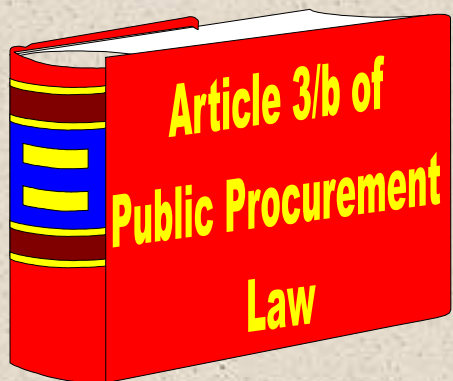
**\* All procurements and constructional works not related with defence, security and intelligence are conducted by the affiliated units of the MoD under the scope of the general provisions of the PPL.**

- \* In addition, daily consumption materials **in small quantities and with small costs** are procured only by the nation-wide units or institutions which are authorized by the MoD under the scope of PPL.
- \* As per the Article 3/b (**exceptions**) of PPL, materials related to **defence, security and intelligence** are procured only by the specialized units of the MoD.

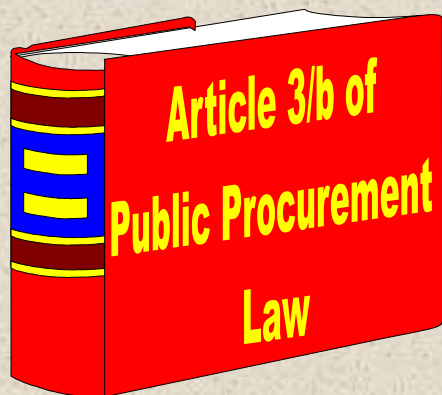


**\* Units and institutions of the Turkish Armed Forces do not realize any procurement without the approval and authority of the MoD.**

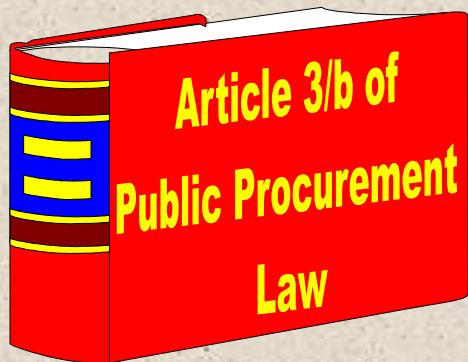




**“Procurements with regard to defence, security and intelligence pursuant to related legislation which requires to be treated confidentially as approved by the contracting officer for each bid; involving tools, arms, military materials and equipment, systems and war materials...**



...such as aircraft, helicopters, ships, submarines, tanks, panzers, rockets, missiles and bid for their research, development, training, manufacturing, modernization, software and ammunition and their related goods and services..



**...aiming at military expedition stocks, maintenance, operation and maintaining and procurement of services, tools, equipment and systems within the scope of state and of intelligence, shall not be governed by this law except prohibition and penal provisions.”**



# **Procurements Carried out under the Scope of the Law**



Procurements **under the scope of PPL** are carried out in two ways:

- procurements carried out by the MoD
- procurements carried out by the Units and

**Institutions of the Turkish Armed Forces**



## Procurements Carried out by the MoD



**\* These procurements, independent of the exceptional provisions, of the related law, include constructional works, goods and services such as all kinds of food, clothing, transportation, machinery, equipment.**



**\* Procedures of the procurements carried out under the scope of the law have been previously covered. The MoD procurements are carried out in accordance with the procedures explained.**





- \* Such procurements are announced;
  - in the **seven nation-wide Field Directorates** for goods and service procurements
  - in the **twelve different Field Directorates** together with the MoD Headquarters
- \* Such implementation in line with the PPL is announced through **Open Procedure.**



\* The MoD carries out all of the supply procedures by its units **specialized and trained** on bidding, preparing specifications, and quality control.



# **Procurements Conducted by the Units and Institutions of the Turkish Armed Forces**



\* At the beginning of each financial year, MoD **gives authorization** for expenditures and carrying out procurements only to **a certain number of units and institutions.**



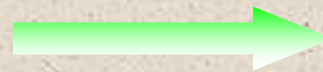
\* **Main materials, systems and basic goods/services and constructional works of any kind cannot be purchased by the affiliated units/institutions without the authorization of the MoD.**



\* The procurement of daily requirements that are **likely to be spoiled** and therefore, have to be supplied locally, such as fresh fruit and vegetables, and of small consumption materials **is provided in this way.**

\* **The heads of the units / institutions**, in accordance with the current legislation, can carry out procurements **within the financial authorization limits set only by the MoD;**

Limit for the year 2005



5,000 -100,000 €



\* Those procurements **higher than the financial limits** are presented to the **approval of a superior bidding officer.**





**\* Procurements are carried out within the scope of the legislation, just like the others carried out by the MoD and announced in accordance with the law previously explained.**

**\* These procurements, too, are subject to inspection.**



\* The objective is to **provide** the procurement of the basic needs of the nation-wide units and institutions **in time**.



# **General Provisions on Supply Activities Executed under the Scope of Exception**



\* The procurement under the scope of **exception**, which is realized to maintain the **sustainability of the currently used goods and services** in the Turkish Armed Forces, or to carry out new procurements shall be conducted only if its reason is documented and approved by the MoD.

- \* For needs to be met **in this context**,
  - sole source (direct procurement)
  - open procedure
  - restricted procedure are used.



**\* First, detailed bidding documents including the specifications and general terms are arranged and then approved by the bidding officer.**



\* Bidding documents concerning goods and services which can be procured from several domestic or foreign sources are **announced**, or the pre-qualified companies are **invited to the bid** by sending these documents at least **40-60 days** before the date of the bid.



\* After reviewing the bidding documents, bidding commissions **negotiate** with the tenderer or tenderers on **firstly** technical and **then** administrative issues.





\* Following the **mutual agreement** on the technical and administrative aspects of the procurement, **the tenderers are asked to submit** their price offers in a given additional period.



\* As a result of the negotiations with the tenderers, the bidding documents are finalized by taking the arranged technical and administrative issues into account, and the **MoD may update an estimated cost** based on the latest version of the bidding document.



- Offered prices are evaluated by the bidding commissions considering the estimated costs updated by the MoD.
- As part of the price negotiations, **the tenderers may be asked to review their offers** and submit a final offer including the deductions they make or **to explain the reasons of the high or low price offered.**



- Price negotiation and cost examination are carried out, **even if** an offer is requested from **a single tenderer**.



- \* The commission evaluates the result of the bid, submits it to the approval of the bidding officer together with its reasons and if approved, **a contract is drawn** with the successful tenderer.
- \* This contract is sent to the Ministry of Finance for **approval**, if necessary.



\* The contracts as a result of the bids to which **a sole source / company** is invited are put into force **regardless of the price** after the consent of the MoD and the Minister.



**\* In line with the contract; all activities concerning the procurement including the procurements that have to be monitored during the production process, are inspected and controlled by the units of the MoD.**



**\* Control and examination procedures are carried out by the Quality Control Department of the MoD.**





\* Following the delivery of the goods and services, the units of the **Ministry of Finance carries out the payment procedure** in accordance with the documents arranged by the receiving authorities.



\* If the tenderer **fails** to fulfill the delivery or service as per the contractual conditions, or these items are found to be inadequate, **sanctions accepted** by the parties **beforehand** are applied.



# Procurements from Public Affiliated Enterprises



\* These goods and services have to be procured **dependent on the** current stock or the ones being used, for the **sustainability** of the **same** system or for new procurements.

\* These procurements have to be realised since they are used **in harmony with the current system or materials** such as,

radios



bullets



systems



night vision devices





## Other Procurements

\* Other procurements include

related  
systems



arms



vehicles



ammunition



produced nationally or in foreign countries, due to the fact that they have to be **compatible with** the arms and systems **currently used by the Turkish Armed Forces** under the scope of the exceptional provisions of the related law.

- \* They are announced under the scope of the legislation, and companies are given **a preparation time** (of 40-60 days).
- \* **Procurement reasons** in accordance with the legislation are **documented** and bidding documents are arranged.



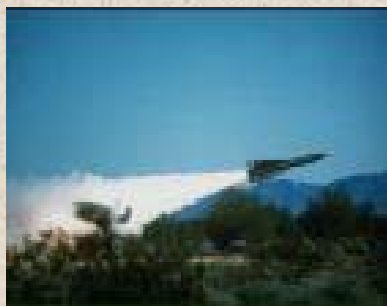
• Generally, **companies producing the same type of goods**

vehicle

ammunition

arms

night vision  
device



**are invited** as required by the **Restricted Procedure** and following the price negotiations, procurement is realised as per the exceptional provisions.



\* Goods or services which have to be procured as per the **exceptional provisions** from companies with **exclusive rights**, because they are used in harmony with the ones in Turkish Armed Forces, are evaluated in terms of their technical, administrative and price aspects and reasons are stated.



**\* If found suitable, they are procured under the scope of the contracts signed only with the mentioned company.**

\* Materials such as ;

**Aircraft**



**Tanks**



**Systems**



**Arms**



**Helicopters**





**\* which are impossible to procure domestically and are used in harmony with the ones in Turkish Armed Forces , are procured only from foreign companies as per the exceptional provisions.**



\* After the requests for these procurements and **the other required documents** including technical ones **are sent to the MoD**, foreign companies from which the required goods and services may be procured, are determined and the bidding document is arranged **so as to ensure competition.**



• **Open and Restricted Procedures** are announced by the **Public Procurement Authority and Military Attaché Offices** respectively in electronic environment, on the website of MoD and abroad, in accordance with the legislation.

\* If the procurement has to be realised only from a sole foreign company, such company is invited to the bid.



# **Procurements for the Modernisation of the Turkish Armed Forces and the Development of Defence-related Industries**





- \* Procurements in this context are intended for the modernization of the Turkish Armed Forces and the development of the Defence-related Industry.
- \* These activities are conducted **by the Undersecretariat for the Defence Industries** which is affiliated unit of the MoD .



\* Implementation is carried out under the scope of the **PPL and Exceptional Article 3/b** of the PPL and Law for the Establishment of Undersecretariat for Defence Industries No 3238.



- In order for such a procurement to be realized **in this context**, it has to require a basic **technology transfer**, a **considerable investment in Turkey**, the **use of national capabilities and investments**, or has to be a procurement based on **common production**.



\* The realization of these procurements requires the approval of the project by the **Executive Committee**, consisting of the Prime Minister, Minister of National Defence and the Chief of General Staff.



\* A project group responsible for the specified procurement is established. Following the **pre-studies** concerning the funds, the involvement of national industry, technological gains and offset, **results** are presented to the **Executive Committee**.



**\* The Executive Committee decides for the implementation of the bidding procedure (Open Procedure, Restricted Procedure, Sole Source/Direct Procurement) suitable for the intended objectives, considering the activities carried out by the project group.**



\* Project group **prepares the bidding documents** for the procurement in question (Request for Information /Request for Proposal) and **publishes** them in accordance with the determined bidding procedure.



- \* Besides, this document may be announced on the internet ([www.ssm.gov.tr](http://www.ssm.gov.tr).)
- \* All of the main criteria to be used in the evaluation of the bids are mentioned in the bidding document sent to the companies.





- \* **Bid Evaluation Board** considers the tenders and reviews all such aspects as technical, administrative, offset, cost.
- \* **Bid Evaluation Board** presents the results to the **Executive Committee.**



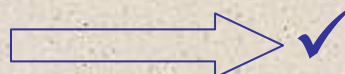
\* Contract is signed in line with the decision of the Executive Committee. Undersecretariat for Defence Industries observes whether the contractual responsibilities are fulfilled or not.



\* In this method, inspection procedures, regarding the modernization of the Turkish Armed Forces and the development of defence related industries, are carried out by an **independent inspection board** consisting of the Prime Ministry, Ministry of Finance and the MoD.

## Contact Information Concerning Defence Procurements

**General  
Announcements  
and Legislation Info**



**[www.kik.gov.tr](http://www.kik.gov.tr)**

**MoD Legislation  
and Announcements**



**[www.msb.gov.tr](http://www.msb.gov.tr)**

**SSM Legislation  
and Announcements**



**[www.ssm.gov.tr](http://www.ssm.gov.tr)**



**\* Defence procurements are carried out within the scope of the current legislation.**

\* In the transition period, in order to carry out the parallel studies concerning defence procurement in due time, it is considered that the **participation** of staff from the **Turkish MoD** in activities in such fields as;

- Green Paper,
- European Defence Agency (EDA),
- European Defence Equipment Market (EDEM),



will provide a **positive contribution** to the achievement of the **EU objectives** concerning the Turkish Republic **within a short time.**



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