

# Overview of application of Framework Agreements in Turkey

**Public Procurement Law and Practice of Turkey | Framework Agreements  
Regulations of PPL | Central Purchasing and State Supply Office (DMO) | FAs  
in centralized procurement - Case Studies (Healthcare Products, Fuel etc.  
Procurement) | Challenges on introduction of FAs**

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Beirut, July,4 th, 2023

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# INTRODUCTION

# Introduction

- Purpose of Event
- Keypoints
- Further Steps

# SURVEY 1

Which one is the the most important for the best practice of public procurement ?

- A. Transparency and Accountability
- B. Multidimensional and flexible decision making
- C. Acting in accordance with the law, regulations and ethic code.
- D. Goal for buying the cheapest and/or the most advantegous.





# PUBLIC PROCUREMENT SYSTEM IN TURKEY

# Public Procurement System in Turkey 1/2

## BACKGROUND, SCOPE, EXCEPTIONS

- 1983, State Tender Law
  - Sales and Purchasing terms were under one Code
  - Very long-term contracts
  - Unsteady and various rules, unefficient procurement and contract management processes
- 2002, Public Procurement Law (No.4734)**
  - EU Integration goal
  - Conservative approach
  - Utilities and Classic Procurement Rules under one Code
    - Too many and expanding number of exceptions (28 clauses, over 160 amendments)
- 2007, Framework Agreement (Inserted)**

# Public Procurement System in Turkey 2/2

## DATA AND INTERPRETATION OF TENDENCIES

	2013	2022	Change (%)
Number of CA	12.996	9.400	-28
Number of Tenders	175.724	104.843	-40
Cancelled tenders after bid opening	18.400 (%10,47)	34.710 (%33,1)	89 (%216^)
Total amount of Contracts (PPL)	89 B TRY	530 B TRY	496
Total amount of Contracts (Exceptions)	9 B TRY	130 B TRY	1344
Appeal Applications	5093	1773	-65
No of Application/tender rate	2,9	1,69	-42
GDP	1,56 T TRY	15,06 T TRY	865
GDP/PP Contracts (%)	6,76	4,86	-28





# FRAMEWORK AGREEMENTS TERMS OF PPL

# Terms of Framework Agreements

## DEFINITION

- **Framework Agreement**, means an agreement between one or more contracting authorities and one or more tenderers, which establishes the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged. (PPL, Article 4)

# Regulation of Framework Agreements 1

## Framework agreements Additional Article 2

Contracting authorities may conclude framework agreements for procurement of required **goods, services and works** provided that they use **open or restricted procedures(!)**.

Framework agreements shall not be used in a way that prevents, restricts or distorts **competition**.

Goods, services and works to be procured under framework agreements shall be announced in accordance with Article 13 of this Law. **Estimated quantity** planned to be procured under framework agreement shall be **stated in the notice**.

Except for the provisions with regard to receiving of securities, the framework agreement shall be signed for a period not exceeding **forty-eight months** in accordance with the provisions in this Law prescribing **the conclusion of contracts**, and the results **shall be announced** in Public Procurement Bulletin.

# Regulation of Framework Agreements 2

## Framework agreements

### Additional Article 2

...

Framework agreements **may also be concluded with only one tenderer (?) provided that all terms are set out in advance.** In framework agreements to be concluded with more than one tenderer, the **number of tenderers who will become party to the framework agreement, which is not less than three, shall be stated in procurement documents (!)**, on condition that adequate number of tenders meeting the requirements is submitted. The tenderers whose tenders are accepted as valid **after the evaluation shall be included in the list by ranking from the economically most advantageous tender**, except the cases which the framework agreement is concluded with only one tenderer. In case the number of tenderers who are party to the framework agreement falls under three, the parties shall be notified of the termination of the framework agreement in question.

...

# Regulation of Framework Agreements 3

## Framework agreements Additional Article 2

....

In procurements under framework agreements in which all terms are set out in advance, **tenderers may be requested to re-tender (?) on condition not to exceed their initial tenders.** In cases where all terms are not set out in advance, tenderers shall be requested to re-tender provided that no substantial changes are made on terms of the framework agreement.

**The tenderers shall be given sufficient time (?)** for submitting their tenders considering the complexity and originality of the subject matter of the contract.

Tenderers **shall document every twelve months that their qualification is still valid.** Framework agreements of those **who lose their qualifications and those who do not submit a valid tender twice** even though they have been invited to do so, **shall be terminated.**

....

# Regulation of Framework Agreements

## Framework agreements

### Additional Article 2

...

The framework agreement with the tenderer who have **failed to sign the individual contract** within the time specified in procurement documents in spite of an invitation from the contracting authority, shall be **terminated and the provisions of Article 58 shall be applied to that tenderer. (Prohibition from participating in tenders)**

Articles 6, 38, 40, 41, 42, 43, 44, 45, 46, 54, 55 and 56 of this Law shall not apply to individual contract phase. The Authority is authorized to establish the procedures and principles as well as the nature and scope of the purchases under framework agreements, including the matters specified in these articles, to impose restrictions, and to determine the form and scope of contract when such contracts are deemed necessary.

**(Procurement Commission, Invitation to signing of contract, performance bond, abnormally low bids, Conclusion and Approval of Procurement, Notification of final tender decisions etc.)**

Entering into a framework agreement does not impose contracting authority an obligation to purchase. **Contracting authority may procure its needs that are within the scope of framework agreement also by using other procedures in this law.(!).**

# Framework Agreements Rules 2

## OTHER TERMS IN PPL RELATED TO FA

- **Prior notice (A. 13)**
- The complaint and appeal applications (A. 53)
- **Announcement and Notification Principles**

# Framework Agreements Rules 3

## SECONDARY REGULATIONS

### •Limited Scope with the Subject

- a) **Goods** :All kinds of surgical supplies, drugs, serums, anti-serums, vaccines, all kinds of orthoses and prostheses, office supplies, medical devices, stationery materials, computer and computer consumables, fuel, all kinds of solid fuels, all kinds of foodstuffs. all kinds of cleaning consumables, various types of rails, various types of concrete and wooden sleepers, all kinds of paint materials, textile and clothing materials, spare parts of transport vehicles and construction machinery, aggregate and ballast, locked parquet, curbs, tiles and all kinds of sand, gravel. and cement, ballot box, election bag, election screen, watermarked ballot paper bag and watermarked ballot box bag, electricity, natural gas, petroleum products and liquefied petroleum gas products, all kinds of chemical gas and substance,
- b) **Services** : Regular maintenance and repair services of transportation vehicles and machinery, ballot printing services, non-continuous cargo/load transportation services, **translation services**, insurance services, calibration services, market control and surveillance services, diagnostic and usage services, electronic communication services, search purposeful investigation services,
- c) **Works**: Building maintenance and repair works, regular road maintenance and repair works, drinking water and sewerage network maintenance and repair works, energy transmission lines maintenance and repair works, natural gas and oil pipelines maintenance and repair works.



# Framework Agreements Rules 4

## DETAILS OF PROCEDURES OF FA

- Competition
- 48 month time limit
- Not being obliged for **individual contract**
- **Number of tenderers (>3) and in tender notice**
- Second bid price (individual contract) should be lower than FA bid price
  - (Inflation risks)
- Documentation every 12 months
- Bidding obligation, no bidding in two individual contract causes FA cancellation
- Additional works, omitted works
- Only **OPEN** Procedure

# Framework Agreements Rules 4

## DETAILS OF PROCEDURES OF FA

- Estimated cost for FA and IC
    - For FA not necessary
    - Update of Estimated cost
  - Open procedures
  - Re-registry of IC
- If the number of bidders party to the framework agreement falls below three, the parties shall be notified that the current framework agreement has ended.
- Bid bonds and performance bonds are not required at the stage of the framework agreement.

## PRACTICE

- **Works (ONLY under PPL) Rarely used.**
  - **Earthquake, Urban Planning**
    - > not FA?
    - > (TCDD Railroad Maintenance)
- **Services (ONLY under PPL) Rarely used.**
  - > **Standart and Specialized Services, Rarely used, Catering for Syrian Kids**
- **Goods (HAS WIDE PRACTICE MOSTLY UNDER DMO EXCEPTIONAL PROCUREMENT PROCEDURES)**
  - **DMO, State Supply Office, Medical Products Market**
  - **Until 2021, Provincial Health Authorities**

# PRACTICE OF FA under PPL

**ekap ihale arama**

Yasa Kapsamı: 4734 Kapsamında | Aranan: çerçeve anlaşma | Filtreleri Temizle | İhale Tarihi (En yeni)

İKN Yılı / İKN Sayısı | çerçeve anlaşma | Filtrele

E-İhale | E-Eksiltme

İhale Başlangıç | İhale Bitiş

İhale Durumu

İdarenin İli

İdare Ara... (İl seçip sonuçları kısımlırsınız)

Üst İdare Ara...

En Üst İdareler

İhale Usulü

4734 Kapsamında

+ Branş Ekle

İhaleleri

<b>2021/233907</b> Yapım - Açık İhale İptal Edilmiş	TCDD 3 BÖLGE MÜDÜRLÜĞÜ MINTIKASINDA BULUNAN BİNALARIN VE SABİT TESİSLERİN BAKIM ONARIMI ÇERÇEVE ANLAŞMA İHALESİ İZMİR - 27.05.2021 14:00	T.C DEVLET DEMİRYOLLARI İŞLETMESİ GENEL MÜDÜRLÜĞÜ(TCDD) 3. BÖLGE SATIN ALMA VE STOK KONTROL SERVİS MÜDÜRLÜĞÜ Böğler   İlan   Doküman
<b>2021/179255</b> Yapım - Açık İhale İptal Edilmiş	TCDD 3 BÖLGE MÜDÜRLÜĞÜ MINTIKASINDA BULUNAN BİNALARIN BAKIM ONARIMI ÇERÇEVE ANLAŞMA İHALESİ İZMİR - 29.04.2021 14:00	T.C DEVLET DEMİRYOLLARI İŞLETMESİ GENEL MÜDÜRLÜĞÜ(TCDD) 3. BÖLGE SATIN ALMA VE STOK KONTROL SERVİS MÜDÜRLÜĞÜ Böğler   İlan   Doküman
<b>2019/284417</b> Hizmet - Açık İhale İptal Edilmiş	AVRUPA BİRLİĞİ HİBE ANLAŞMASI ÇERÇEVESİNDE MİLLİ EĞİTİM BAKANLIĞINCA YÜRÜTÜLEN "SURIYELİ ÇOCUKLARIN TÜRK EĞİTİM SİSTEMİNE ENTEGRASYONUNUN DESTEKLEME PROJESİ" (PIKSES) SURIYELİ VE TÜRK ÖĞRENCİLERE BİR ÖĞÜN BESLENME HİZMETİ İSTANBUL - 27.06.2019 10:00	BÜYÜKÇEKMECE -İLÇE MİLLİ EĞİTİM MÜDÜRLÜĞÜ-GENEL ORTAÖĞRETİM MİLLİ EĞİTİM BAKANLIĞI BAKAN YARDIMCILIKLARI Böğler   İlan   Doküman
<b>2016/413714.19</b> Mal - Açık Teklif Değerlendirme Tamamlanmış	843 Kalem Çerçeve Anlaşma Kapsamında 1 Kalem Münferit Tıbbi Sarf Malzeme Alımı ERZURUM - 03.01.2019 11:00	ERZURUM KAMU HASTANE BİRLİĞİ SAĞLIK BAKANLIĞI TÜRKİYE KAMU HASTANELERİ KURUMU Böğler   İlan   Doküman
<b>2016/413714.18</b> Mal - Açık	843 Kalem Çerçeve Anlaşma Kapsamında 9 Kalem Münferit Tıbbi Sarf Malzeme Alımı	ERZURUM KAMU HASTANE BİRLİĞİ SAĞLIK BAKANLIĞI TÜRKİYE KAMU HASTANELERİ KURUMU Böğler   İlan   Doküman

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# CONCLUSION

## FOR THE USE OF FA

- Market Stability
- Competition
- Long Term
- Unanticipated amount,
- Anticipated Fluctuation of price
- Desire of recompetition for better price
- RISKS
  - Bid Rigging
  - Collusion

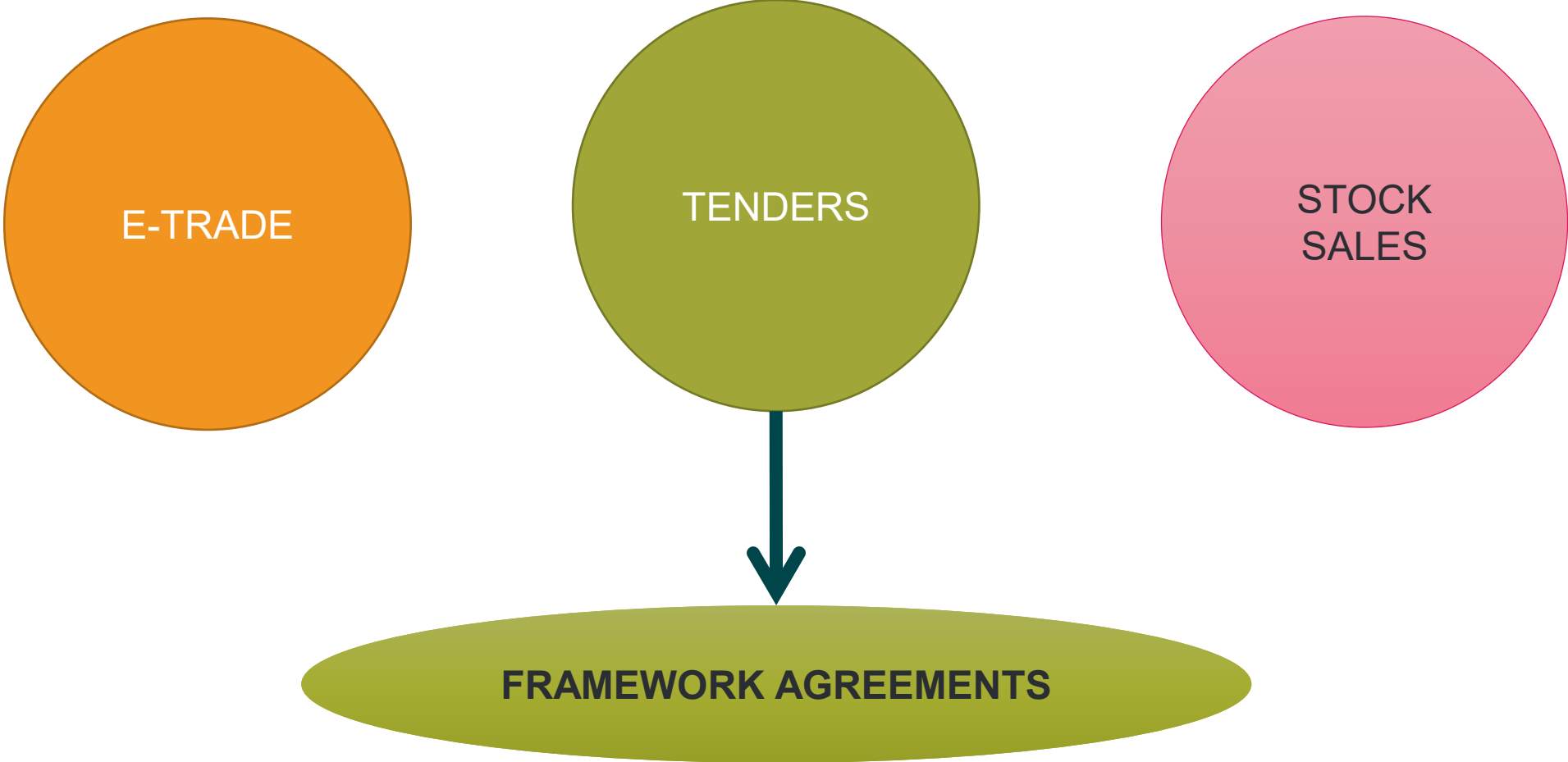


# Central Purchasing and DMO

# DMO- State Supply Office

- Independent Legal Personality
- State-owned Enterprise (%100 of Capital )
- Operates on commercial basis
- 100 years of institutional experience (Many Critical Project in last 5 years)
- CEO&Board Members appointed by President
- Related to MoF
- Audit by Court of Accounts on behalf of Turkish Grand National Assembly (Parliament)
- HQ in Ankara, 11 Regional Directorates, 1 Printing House
- Supply Management Types
  - Tenders, E-catalog, Stock Sales
- Annual Turnover, 2021 (36B TRY ~4,46B USD), 2022 (50B TRY ~3,12B USD)
- Profit/Turnover ratio %1,6-1,7

# REGULATIONS OF DMO





# REGULATIONS OF DMO

## MEDICAL MARKET FA

- Medical Supplies
- Healthcare products
- Medicines, Drugs, serum, anti-serum etc.

## SCOPE

- DMO is free to e-tender or (+direct purchase)
- Lots divided in to Provinces
- E-tenders

# REGULATIONS OF DMO

## MEDICAL MARKET FA

- Registered Firms

- Registered Products

- Firms are free to add new products through MoH
- Bidding conditions (for one product only for same lot)

- Prior notice to firm before tenders
- Request for withdrawal of products
  - 3 months no re-registry

Fixed price until next tender

not higher than direct purchase

% 50 additional works, if supplier agree

Delivery in 2 portion 45 days + 45 days (!)

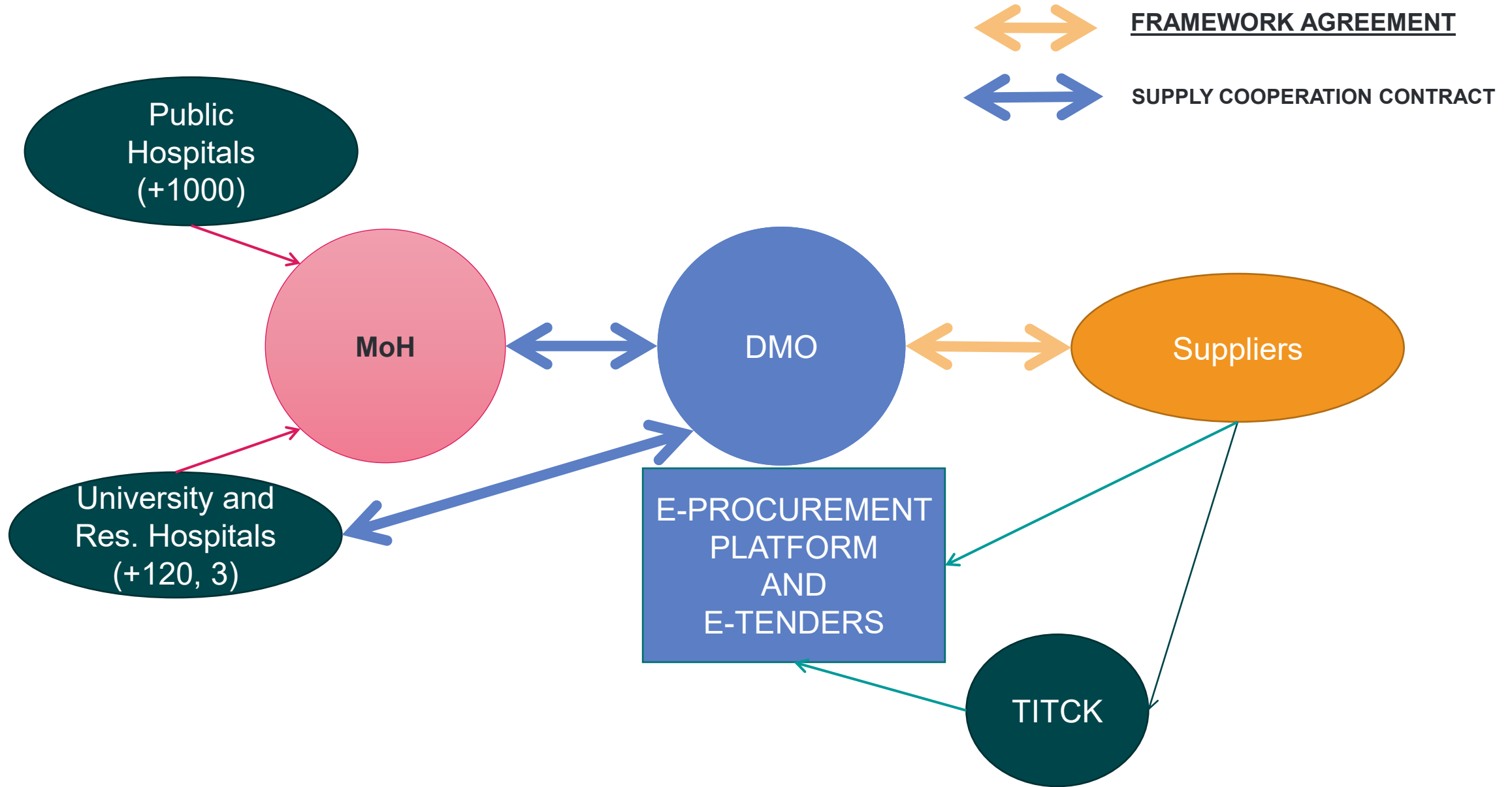
**Bid advantage (%15)**

# REGULATIONS OF DMO

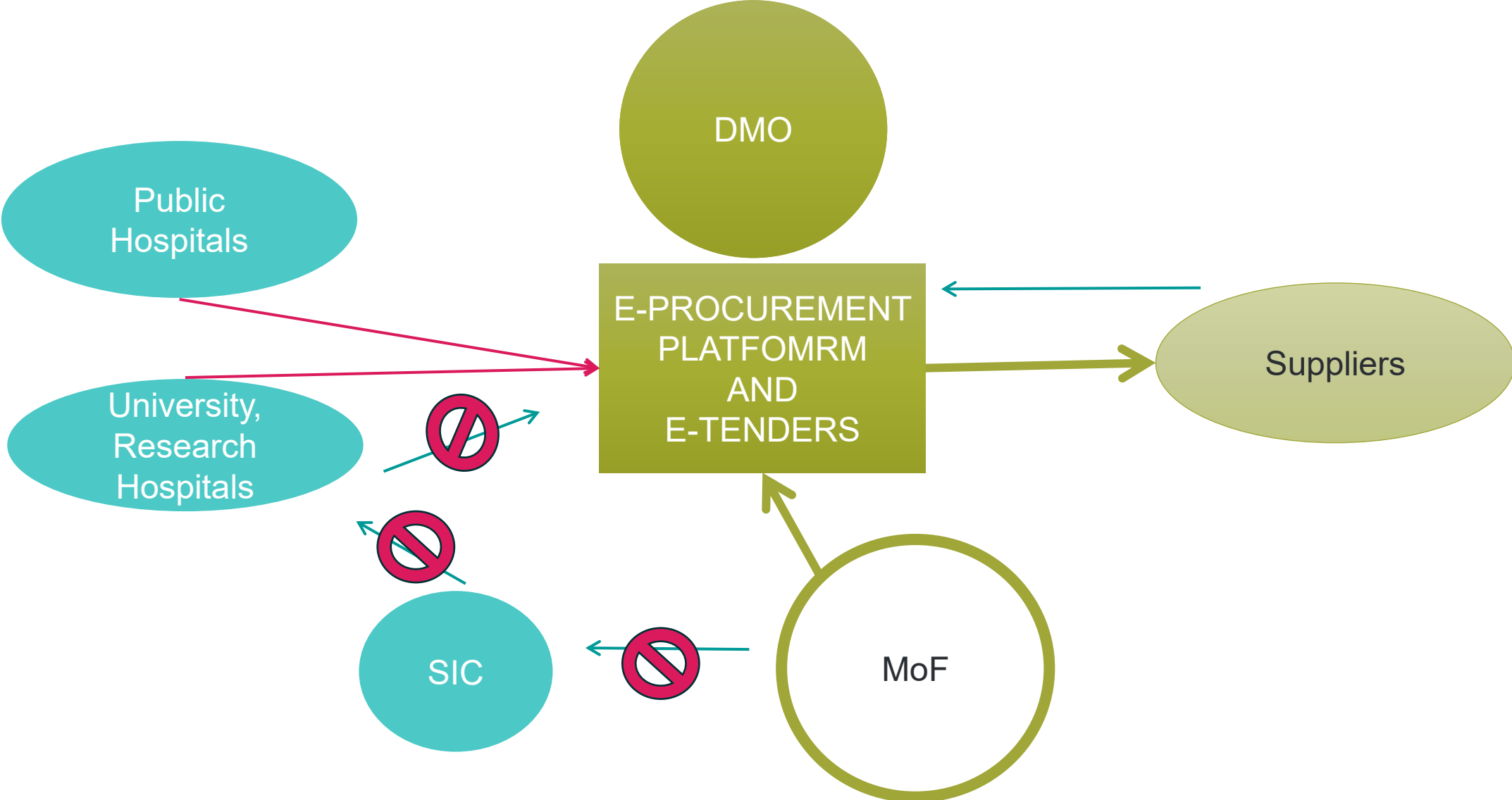
## MEDICAL MARKET FA

- General Guarantee (%6 of annual market turnover)
  - Fixed at the entrance
- Incomplete delivery
- Defective goods delivery
- Suspension
  - Products
    - MoH
    - SIC
  - Firms
    - Absent documentation of renewal of contract
    - Blacklisting

# E-tendering of Healthcare Products



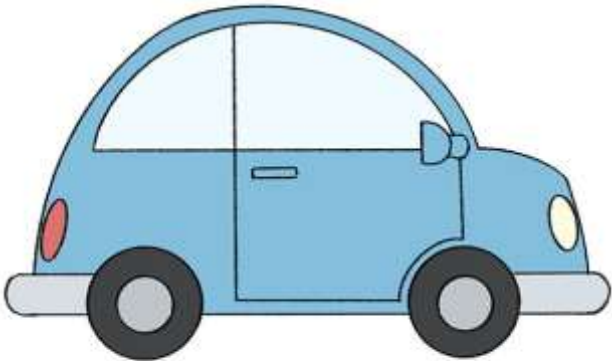
# Contract Management



# Q & A



# FUEL PROCUREMENT & WORKSHOP



120.000 vehicles



81 provinces 966 districts

## TENDER DOCUMENT PREPARATION AND REQUIREMENTS

- Number of Stations with TOS on the basis of Provinces

PROVINCAL	PO	OPET	SHELL	BP	TOTAL	TP
Number of Total Gas Stations (with TOS)	1600	1282	940	720	460	489
Number of Provinces with TOS Gas S.	81	80	74	76	64	74

- Number of Stations with TOS on the basis of Districtes

DISTRICT BASED	PO	OPET	SHELL	BP	TOTAL	TP
TOTAL	1566	1276	931	720	436	485
No Districts with min. 1 gas st	646	530	378	350	261	315

- 70 Provinces and 300 Districtes (2022)



# DESIGN OF TENDER

1- Do you think FA is applicable for this tender? Why/(not)?  
Is it the best option ? Why/(not)?

2-How many suppliers should be included to the tender ? Why?  
Give details based on your own calculation

3- How long should be the period of contract ?

4- What could be the possible risks and/or advantages of the tender?

5- Better idea for design of tender?

## CASE SCENARIO 2



# SURVEY 2

Which one is the the most important for the best practice of public procurement ?

- A. Transparency and Accountability
- B. Multidimensional and flexible decision making
- C. Acting in accordance with the law, regulations and ethic code.
- D. Goal for buying the cheapest and/or the most advantegous.





**THANK YOU !**

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