



## INFOCARD ELANBiz

### Public Procurement in Argentina<sup>1</sup>

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#### Overview

In 2017, the EU Delegation in Argentina concluded a project consisting in the study of the legislation, procedures and practices related to public procurement in Argentina. Its chapter that introduces the public procurement system in Argentina can be found [here](#).

The public procurement regime in Argentina can be summarised as follows:

- ✓ Regulation of public procurement is divided between different governmental levels (national, provincial and municipal) and each one of them is divided into governmental branches (executive, legislative and judicial), with the executive branch spending most of the public money.
- ✓ The procurement of goods and services, the procurement of public works and Public- Private Partnership contracts tend to be regulated independently (i.e. by different rules). Furthermore, each procurement type has its own enforcement authority.
- ✓ For the procurement of goods and services, the vast majority of public administration bodies including the centralized administration (e.g. Ministries) and most decentralized entities (autarkic entities) apply the general public procurement regime. Some decentralized entities, including all public companies, however, establish their own public procurement regimes.
- ✓ Most procurement regimes are based on one national regulation (unique policy making and enforcement authority) with decentralized operations.
- ✓ The contractor selection procedure depends on the estimated cost of the procurement, public tender being the standard selection procedure. For smaller procurements, private tender and price biddings may be used, by inviting only a determined quantity of bidders to present their bids. Finally, direct awarding applies in specific circumstances such as small purchases, urgency, contracts between State agencies, or in cases where only a sole supplier exists.
- ✓ Foreign companies can be bidders in either “national” public tenders (if they have a branch office in Argentina) or “international” public tenders (if they do not have a branch office in Argentina).
- ✓ Preference regimes for national or local goods or services, and national or local companies,

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<sup>1</sup> The information provided in this document is of a general nature only. For more detailed information, events and commercial trade offers, as well as commercial business contacts, please contact the Commercial Offices of the member states Embassies, the European trade organizations and the bilateral chambers of commerce.



are regulated at each governmental level. At the federal level, the national companies currently enjoy 5% preference. Generally, none of those preferences apply to contracts partially or fully funded by International Financial Institutions.

- ✓ The websites of the procuring entities contain all the necessary information on the calls for public tenders.
- ✓ Electronic procurement platforms are currently being developed and implemented by different jurisdictions.
- ✓ Various municipalities are following the global trend of smart cities, which implies large investments in new technologies.
- ✓ Public companies are a central factor in public procurements. They have their own procurement regulations and vast experience with foreign investors.

### Legal Framework

The general legal framework for public procurement at the national level is provided by Decrees [No. 1023/2001](#) and [No. 893/2012](#). These regulations concern all national government agencies, including those that are decentralized or autonomous. Several specific regulations also apply (available [here](#)).

The National Contracting Office (Oficina Nacional de Contrataciones), ONC, is the agency that is in charge of controlling the purchases of the national public administration. It belongs to the Secretary of Public Management of the Chief of Cabinet (Secretaría de la Gestión Pública de la Jefatura de Gabinete).

### Preferences

[Law No. 27,437](#) issued in 2018 established a preference system for the public procurement of goods and services of national origin. According to that law, a product is considered of national origin when it is produced or extracted in Argentina and the cost of imported raw materials and inputs does not exceed 40% of the gross value of the product. Public works are considered of national origin when at least 50% of the materials used comply with the rule of national origin for products, and the company providing it is considered to be of national capital according to [Law No. 18,875](#).

The publicly available Market Access Data Base of the European Commission describes Law No. 27,437 as follows:

*“The law establishes that public entities shall grant a preference for companies offering local goods in their purchases, when the difference with imported goods is equal to or less than of 15% for Micro, Small and Medium Enterprises (MSMEs) and 8% for other companies. Such preference is mandatory above a relatively low threshold (in May 2018, equivalent to approximately €63,000).*

*The above-described preferences of 15% and 8% can be reduced to 5% for the acquisition of goods of high technological scientific content (except for SMEs during the three first years from the enforcement of the Law).*

*The law foresees a mechanism to provide incentives, in case of competition among goods that do not*



*have a national origin, to those goods that contain the highest percentage of local content: offers without national origin have a preference margin of 1% every 5 percentage points of national content in the gross production value of the goods, up to a maximum preference of 8%.*

*In addition to the above, the Law also includes specific preferences for national MSMEs. MSMEs offering goods of national origin in binding processes will have the possibility of improving their offers when their price has not exceeded more than 20% the best price in the process. In case of contracts of up to ARS 1.3 million in goods or ARS 100 million in works in housing and public buildings, the national administration shall award their contracts to local MSMEs that offer goods or works of national origin.”*

More detailed information on this topic can be found [here](#).

### EU – Mercosur Agreement

The recently concluded [Trade Agreement between Mercosur and the EU](#) includes a chapter on Public Procurement. In particular, it stipulates that parties shall accord immediately and unconditionally to the goods and services of the other and to their suppliers a treatment that is not less favourable than the treatment accorded to their own goods, services and suppliers.

However, it must be noted that this chapter will only apply (i) to public procurement of the entities listed by each party; (ii) to acquisitions of goods and services included in the commitment list; and (iii) provided that the total amount of the contract exceeds the threshold established for each party. There may also be exceptions for certain stakeholders or areas, such as SMEs and R&D.

### Useful Links

Argentina’s National Portal of Public Procurement – [COMPR.AR](#)

National Office of Public Procurement ([ONC](#))

Argentina’s Union of Government Suppliers ([UAPE](#))

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