



ELAN
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Business Services

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Fiche ELANBiz: Public Procurement in Costa Rica

The Costa Rica's government is the main buyer of goods and services. However, winning these contracts in Costa Rica may be of some difficulty for foreign companies. The European companies may have a disadvantage if their presence in Costa Rica is not significantly strong. The EU Association Agreement with Central America (AACUE) improves the access of European companies to the Costa Rican public procurement market. The Agreement establishes a series of general principles that ensures local and foreign companies equal opportunities.

What is the applicable legal framework in Costa Rica?

All the public procurement in Costa Rica – whether from the State, the City Hall, or the public institutions – are required to go through public tendering. This procedure is regulated by the “Law of Administrative Contracting” N°7494 dated 1995 and its regulations. This law was published within the legal framework of Law N°8131 for the Financial Administration of Public Budgets of the Republic, which demands that all tenders have legal presence in Costa Rica and establishes the cases in which it allows for direct acquisitions or national preference.

The General Direction for Goods Management and Administrative Contracting (DGABCA) is the public institution that has attributions for evaluating the contracting procedures in order to make the necessary adjustments in the public interest. It has the authority to execute the necessary actions to establish policies for those matters which it regulates.

Costa Rica has endorsed the Agreement of the World Trade Organization (WTO) regarding the prohibition of discrimination of goods and services originated by any of the other signatory country.

The Executive Decree No. 38830- HMICITT creates **the Integrated System of Public Procurements (SICOP** in Spanish) as a technological platform for compulsory use by the Main Administration for the processing of the administrative procedures for public purchasing, dated January 15th, 2015.

The Institutions of the Central government, namely Ministries, public institutions, the Supreme Electoral Court may continue receiving the goods and services that they require under the framework agreements in force, as well any new agreement that may apply in the future. However, these will eventually migrate gradually to the SICOP System according the guidelines issued by the Treasury Ministry through the DGABCA System.

Where to find information?

The two internet portals developed until this moment are:

- **MERLINK:** Costa Rica's main public procurement portal (launched in 2009) <http://www.mer-link.co.cr/>
- **SICOP:** oficial portal for public procurement in Costa Rica (created in 2016) <http://www.sicop.go.cr/index.jsp>

For specific information on public procurement in Costa Rica, it is recommended to consult the Directory of "Business Services" of the ELANbiz platform where contact details of the representative offices of the Member States of the EU can be accessed, some of which have binational chambers of commerce or trade promotion offices in the country.

It is also recommended to contact national organizations within the EU, or other bodies of the Member States and binational chambers present in Costa Rica which can provide Access to specialized lawyers on public procurement.

May European companies participated in public tenders in Costa Rica?

European companies without legal presence in Costa Rica can participate in public tenders but will have to appoint a local agent to present their offer, according to Article 5 of the Law 7494 for Administrative Contracting and Articles 16 and 17 of its Regulation.

The following legal bodies can submit a public tender: (i) national or foreign individuals with or without residence in Costa Rica, (ii) domestic or foreign legal persons with or without legal presence in the country, and (iii) a consortia and / or temporary unions, which may be formed by natural and legal, national or foreign, with or without residence in Costa Rica.



All foreigner bidders without legal presence in Costa Rica must certify a proxy with legal address in Costa Rica duly authorized to submit the proposal and sign the contract, as well as have representation in court and extra-judicially. Once awarded the contract, they will be required to open a corporate structure in Costa Rica according to the Law 3284 on the Commercial Code.

How has the European Union –Central America Association Agreement improved the opportunities for European’s SMEs?

The European Union is a market open to public procurement. Therefore, the negotiation of the EU-Central America Association Agreement has intended to provide a better Access to each of the parties in the bidding process of public procurement.

The commercial Agreement EU - Central America (AACUE) establishes that the public procurements in this country must use transparent and open procedures providing guarantee to the European companies to compete in the same conditions as local companies. For this purpose, the agreement includes several general principles that regulate fundamental aspects of public procurements, aspects such as bidding processes, the use of electronic media, rules of origin, list of conditions, specifications for the cases that allow direct contracting or execution of contracts.

In Costa Rica, public procurement is regulated under the AACUE by the Title V and the Annex XVI in which there is a list of entities which should comply with the requirements under the Agreement.

The openness of the government procurement market in Central America varies depending on the levels of liberalization. Costa Rica is opening its markets in a more significant way over the other Central America Countries included in the agreement.

Links of Interest

- **Text of the Eu-Central America Agreement:**
<http://eur-lex.europa.eu/legal-content/ES/TXT/PDF/?uri=OJ:L:2012:346:FULL&from=ES>
http://www.comex.go.cr/tratados/vigentes/aacue/texto_tratado.aspx
- **List of laws and Rules for Public Procurements and Goods administration in Costa Rica**



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<http://www.hacienda.go.cr/contenido/12504-compras-publicas-y-administracion-de-bienes>

- **Regulation for the Public Procurement Law**
<http://costarica.eregulations.org/media/Replamento%20a%20la%20Ley%20de%20Contratac.pdf>
- **National System for public procurement: a technical evaluation of two informatics systems (SICOP y Merlink)**
<http://www.mer-link.co.cr/atDocs/EvaluacionCompraRed-Merlink.pdf>
<http://www.sicop.go.cr/index.jsp>

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