



REPUBLIC OF KOSOVA
NATIONAL AUDIT OFFICE

Document No: 21.9; 5.3-2013/16-08

Planning for construction contracts

Performance audit

Prishtina, July 2017

The Auditor General of the Republic of Kosovo is the highest institution of economic and financial control which, according to the Constitution and domestic laws, enjoys functional, financial and operational independence. The National Audit Office undertakes regularity and performance audits and is accountable to the Assembly of Kosovo.

Our Mission is to contribute to sound financial management in public administration. We perform audits in line with internationally recognized public sector auditing standards and good European practices.

The reports produced by the National Audit Office directly promote accountability as they provide a base for holding managers' of individual budget organisations to account. We are thus building confidence in the spending of public funds and playing an active role in securing taxpayers' and other stakeholders' interests in enhancing public accountability.

Performance audits assess whether Government programs are managed appropriately, are cost-effective and efficient, and whether the systems for measuring and reporting their efficiency are functional.

This report examines whether the planning for construction contracts is done properly and identifies the opportunities for improvement in planning.

The Auditor General has decided on this Performance Audit Report "Planning for construction contracts" in consultancy with Deputy Auditor General Vlora Mehmeti, who supervised the audit.

The report issued is as a result of the audit carried out under the management of the Audit Director, Mirlinda Ahmeti, supported by Arben Selimi (Team leader), and Fexhrie Thaqi (Team member).

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List of abbreviations

MCYS	Ministry of Culture, Youth and Sports
MPA	Ministry of Public Administration
Ministry	MPA or/and MCYS
NAO	National Audit Office
CD	Construction Documents
TS	Technical Specification

Executive Summary

One of the ways of the Government's efforts to improve the standard of living of its citizens is by investing in infrastructure such as educational and recreational facilities. Government Authorities have spent an average yearly of 57 million Euros on construction contracts which represents more than 4% of the yearly national budget.

The Ministry of Public Administration and the Ministry of Culture Youth and Sports alone have spent 58 million Euros on the construction of such facilities in the last four years (2013-2016). The purpose of this investment was to improve infrastructure in the public administration and the standard of living of citizens.

Despite the improvements in these areas, not always the intended purpose was achieved. The citizens who were intended to benefit from these investments have expressed, through reports published by the media, their discontent with the authorities involved in the implementation of construction contracts¹.

Financial audits² have identified several cases when the Ministry of Public Administration and the Ministry of Culture Youth and Sports have faced problems during the implementation of construction contracts. Some of the issues that were mentioned were: variations between the contracted and the implemented works in terms of quantity, delays in implementation that range from several months up to several years, payment for work that was not done etc.

If actions are not taken, there is a high risk of continued problems with cost overrun and delays. Seen over a longer period that will have huge economic consequences both for the state budget and for the citizens. Just to illustrate: an unnecessary delay of say in average four months for the 58 million Euros annually spent of building contracts, would with an interest rate of 6% mean an extra cost of over one million Euro just in capital cost. Further on this means that citizens are not getting needed services on time.

What have we audited?

The National Audit Office has examined the planning of construction contracts to assess if it was appropriately carried out and whether there is room for improvements. The audit is focused on examining whether the construction plans from the requesting entities were based on appropriate

¹ <http://m.gazetaexpress.com/lajme/klina-me-ne-fund-e-ndertoi-palestren-sportive-u-deshten-12-vjet-te-plota-205146/?archive=1>

<http://www.kosova-sot.info/sport/139368/vonesat-pergjegjesi-e-institucioneve-tona/>

² Audit report on Financial Statements of MCYS for year ended on 31 December 2014, page 20

Audit report on Financial Statements of MPA for year ended on 31 December 2014, page 19

Audit report on Financial Statements of MCYS for year ended on 31 December 2015, page 20

Audit report on Financial Statements of MPA for year ended on 31 December 2015, page 19

information and whether the key steps in the planning process at the responsible Ministry were properly conducted.

We have audited eleven projects, six in the Ministry of Public Administration and five in the Ministry of Culture Youth and Sports. All projects were more the 100,000€ in worth and were implemented between 2013 and 2016.

What have we found?

Based on our examination, we conclude that the responsible authorities have difficulties managing the planning of construction contracts effectively.

In most projects examined, we have found problems not only when it comes to defining the needs of the user and examining the physical conditions of the locations. We have also found problems concerning funding and securing whether the technical specification fully correspond with reality. As result, the construction projects lead to cost overrun and took longer time to complete than expected or needed. Are some elements that are related to the planning phase that were not taken into consideration fully during the construction contracts.

The audit findings show that the above mentioned causes are some of the elements that are related to the planning phase that were not fully taken into consideration when planning for construction contracts.

The National Audit Office finds it reasonable to assume that that these problems are not unique for the projects examined. With that assumption, one may argue that the current management problem causes cost consequences for the society and the state budget, not only in term of capital costs (due to delays).

What do we recommend?

To achieve the objectives of the public investments, the responsible institutions for implementing these objectives should plan their work in detail: who will do what, what and how, when and how much they will cost. In this respect, close cooperation is need with the Ministry of Finance to ensure that budget is planned in accordance with the priorities set by the government, to achieve the needs of the citizens of the Republic of Kosovo. Further on, the Ministries and the Requesting entities should also strengthen their cooperation in the planning stage to secure that public investments are made in accordance with citizens needs and within scheduled time framework.

We recommend the Responsible Ministers to:

- Ensure that a Strategy is drafted on which the Ministries bases its future public investments, lays out the investment criteria, and identifies mechanisms for coordination with Ministry of Finance and Requesting Units and monitoring of the Strategy implementation. This document should be followed by the Action Plan which should include the roadmap on objectives and sequential steps at the planning process, including the budgetary costs and financial implications;

- Cooperate closely with the Minister of Finance to ensure that sustainable budget planning is done for capital projects which can be fully realized through detailed and concrete argumentation of institutional needs. This cooperation would prevent budgeting of capital projects with insufficient funds and increase of the liabilities of the Ministries that can burden the budget of the coming year; and
- Ensure capacity building of the staff by providing sufficient trainings in the planning process of the capital projects considering such in securing effectiveness in the delivery of administrative services, efficient from the point of view of the costs and European in its organization and working methods.

We recommend the Ministries staff and Requesting Units to:

- Strengthen their cooperation by establishing a procedure that describes the roles and responsibilities of both parties. They should define especially the flow of information from the Requesting entities to the Ministry with the aim of getting information right when it comes to needs of the Requesting unit.
- Establish an operating procedure describing all the necessary steps that are to be taken in the planning phase of construction contracts and should check that this operating procedure is applied throughout the department; and
- Exercise control over its projects in order to see the intended results and the outcome and determine the reason for variations, if any

Minister's Response

The Ministry of Public Administration and the Ministry of Culture, Youth and Sports agreed with the findings and conclusions of the audit. We encourage the Ministers to address the recommendations given in this report.

1 Introduction

The aim of the Government is to improve the standard of living of its citizens. One way of doing this is by investing in infrastructure such as schools, cultural and sports centres etc.

Public institutions of central and local level are obliged to carry out activities related to construction and ensure that the needs of citizens are met. In order to achieve this, the Government has mandated the respective Ministries to manage capital projects related to construction, renovation or adoption of state facilities – of central and local level - in accordance with the Law on Construction.

Even if it is just a small part of the total capital spent on capital investments, the costs for such investments are significant. About 3% of the state budget (57 million euro) 2016 was spend on construction contracts for schools, cultural building, sports centres etc. In two ministries – the Ministry of Culture, Youth and Sport and the Ministry of Public Administration – one fourth of their budget was that year used for such construction work.

Previous regularity audit reports³ ascertained that MCYS and MPA have faced performance problems with construction contracts such as variations between the initial TS of the project and the outcome and delays in the delivery of the project.

Variations usually occur because needs are not properly identified. This mainly happens because there is no sufficient information about the location where construction will take place. Due to the lack of this information the construction plan does not reflect the real needs for work and construction material required to fully implement the project.

A number of public institutions is currently accommodated in rented facilities. Failure to solve the issue of their accommodation causes unnecessary costs to the state budget.

³ Audit report on Financial Statements of MCYS for year ended on 31 December 2014, page 20
Audit report on Financial Statements of MPA for year ended on 31 December 2014, page 19
Audit report on Financial Statements of MCYS for year ended on 31 December 2015, page 20
Audit report on Financial Statements of MPA for year ended on 31 December 2015, page 19

1.1 Audit problem

Construction works in this area are often delayed. The planned date and the actual date of implementation are in some cases, years apart (see tables in appendix 1). Some contracts took years to implement, while implementation of projects of similar size should not take so long. This is likely to have negative economic and other consequences.

According to experts⁴, most of such problems are caused by poor planning: the needs are not clearly defined, sufficient funding is not secured, the physical examination of the conditions is not properly done, etc.). As a result, amendments to the contract have to be done, additional funds are required and the implementation of the contract is prolonged.

1.2 Audit objective

The objective of this audit is to examine if the planning of construction contracts of these kinds are appropriately carried out or whether there is room for improvements. By identifying flaws in the planning process, the audit might help to improve the planning process and contribute to a good and sound financial procurement practice.

The audit was focused on certain aspects of relevance for a successful planning process, namely whether the construction plan is based on proper information, whether the physical conditions are properly examined, and whether key steps in the planning process are properly conducted.

1.3 Audit questions and criteria

The overall audit question is the following: Is the planning for construction contracts in this area appropriately carried out? This question is turned into two main audit questions, as seen below.

1. Are the construction plans from the requesting entity is based on appropriate information?
In order to obtain that information the entity is expected to meet at least these requirements:
 - The requesting entity conducts a justified needs assessment (using up-to-date data), which will include an estimation of usage of the facility such as the number of users and the frequency of use, i.e. every day, one shift or more, specific needs of specific users.
 - Before the procurement is announced the requesting entity unit is able to ensure the ownership certificate, provide a copy of the plan and approvals from the utility companies (electricity, water, sewage etc).
 - Location specifics are closely examined in order to draw up a project that fits with the location specifics.
 - An adequate Geo-mechanic and geodesy study is carried out before designing of the project commences,

⁴ Interviews with local field experts

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2. Are key steps in the planning process at the responsible ministry properly conducted?
In order to achieve that the Ministry is expected to meet at least these requirements:
- The Ministry has ensured that funds for each planned project are available.
 - The Ministry has properly reviewed each project before the procurement is initiated and when needed conducted a proper inspection on the field: the surrounding infrastructure is considered, as well as the structure of soil and the slope of the location;
 - The Ministry has made it clear that the CD is compatible with the location specifics;
 - The Ministry has checked that the ownership certificate and the approvals from the utilities companies are included in the project's documents;
 - The Ministry has ensured that the project design correspond with user's needs.

The first audit question will address the actions that the requesting unit (the user of the facility) has made to specify their need as clearly and thoroughly as possible, to enable the Design Company to draw up a project that meets the user's needs.

The second question will address whether the actions taken by the Ministry, as an implementing authority, where appropriate to ensure that the construction contracts will meet the users' needs

The audit criteria are based on legal requirements, existing guidelines and generally recognised good planning process for construction contracts.⁵

Our audit criteria are criteria against which the performance of our chosen entities is compared to. More detailed criteria will be presented later in the text.

1.4 Audit scope

We have chosen to examine more in detail the planning of construction contracts implemented between years 2013-2016 by MCYS and MPA. In total 41 projects were implemented during that period: 13 by MCYS and 28 by MPA. The implementation of many of these projects took over three years.

The projects we have chosen were of two categories, the first category includes projects valued more than a million euros and took up to four years to implement. The other category includes projects valued from 100 to 500 thousand euros and took more than a year to be implemented. The sample is significant due to the high value of the contract.

⁵ Example of legal acts are the Law on Public Procurement and the Law on Construction. Good practices in this area are reflected in various documents :

http://ec.europa.eu/oib/pdf/mit-standard-building-specs_en.pdf

<https://www.coaa.ab.ca/COAA-Library/COP-WFP-PBP-01-2013->

<v1%20WFP%20Best%20Practice%20and%20all%20supporting%20instructional%20documents.pdf>

Based on that criterion 11 projects were selected as a sample for closer examination (five from MCYS and six from MPA).

The selected projects represent more than one fourth of the project implemented during this period, and about 30% of the total costs spent on construction projects during the same period.

We have picked the 11 projects which had indications of problems based on interviews with the responsible staff of the respective ministries. Our aim was not to compare findings between the two categories.

The tables below shows the sample of contracts that we audited, the value of the contract and the related expenses.

Ministry of Public Administration

#	Contract name	Contracted amount €	Paid amount €
1	Detention Center Prishtina	5,850,000	6,369,000
2	University of Mitrovicë faze 1	1,600,000	1,550,000
	University of Mitrovicë faze 2	4,390,000	4,071,000
3	Prosecutor's Office Gjilan	820,000	830,000
4	School in Kishnarekë	270,000	248,000
5	Annex building in shcool in Gjilan	210,000	230,000
6	Gym in Pogradjë	180,000	110,000

Ministry of Culture Youth and Sport

#	Contract name	Contracted amount €	Paid amount €
1	Gym in Deçan.	1,530,000	1,659,000
2	Gym in Drenas.	650,000	700,000
3	Gym in Klinë.	1,270,000	1,326,000
4	Gym in Kaçanik.	1,300,000	1,295,000
5	Stadium in Prizren.	390,000	435,000

1.5 Audit methodology

The audit questions are answered by:

- Studies of relevant laws and regulations in the area
- Studies of relevant statistics, documents and protocols from the responsible authorities involved
- Interviews with official representatives from the responsible authorities involved and with experts and stakeholders in the field
- Studies of relevant studies and research from various countries and institutions of relevance

More specifically, we have examined documents related to the construction contracts, interviewed key officials who were responsible to take action before and after the decision for construction was made. We have studied all documents about the entire process up to the award of the contract. The contracted amounts have been compared to the actual expenses, and the contracts' TS is compared against the outcome in order to determine variations.

In order to ensure reliability we have engaged experts to examine our preliminary findings. We have also invited all authorities involved to go through our findings and conclusion and examine whether we have misinterpreted any information or arguments. In addition, we have made some minor examination in order to check whether provided information (and statistics) is reliable. We have tried our best to consider all relevant arguments for a large number of stakeholders.

The findings are based on a sample during a certain period. The period covers four years, and the sample covers major projects during that period. Based on these facts and what has been mentioned above, the Audit Office has no reason to believe that the findings are biased or not reliable.

2 Description of planning for construction

Governmental institutions at the local and central level, as well as independent state agencies (hereafter the requesting entity) benefit from the cooperation with MAP / MCYS both financially and in terms of expertise. This cooperation improves and expands the existing infrastructure of the Requesting entity, which enables them to perform their job more efficiently and provide better services to citizens.

The Department of sports in MCYS pays special attention to sports infrastructure therefore it has committed half of its budget to renovation, improvement and expansion of this infrastructure.

The Department for project management of MPA manages all capital projects related to construction, renovation or adoption of state facilities.

The planning phase consists of several actions that are to be taken either by the Ministry or by the requesting entity. The graph below shows the actions that should be taken and who is responsible for them.

Figure 1. The authorities involved and their responsibilities

Entity	Main responsibilities
Requesting entity	<ul style="list-style-type: none"> • Description of need • Construction Decision • Ownership certificate and copy of Plan
Ministry (MPA/MCYS)	<ul style="list-style-type: none"> • Budget • Geo-mechanic and geodesy study • Design Contest (Construction Documents) • Revision of the Construction Documents • Procurement for Construction

Requesting entity prepares a detailed description of needs with regard to the object it intends to build. The description of needs includes information about: the purpose of the building, number of users, how the space will be used, and who will be using the space.

Then it obtains a decision for Construction issued by the highest decision making authority of the Requesting entity. This means that the Requesting Entity has allotted a location which needs to be backed by a Copy of the Plan and the Certificate of Ownership. These documents need to be handed over to the Ministry for the next stage of planning.

The Ministry is responsible to budget funds for implementing the project. In cases when there is no budget available the procedure does not proceed further until funds are secured.

The Ministry then visits the allotted location for general inspection and announces a tender for Geo-mechanic and geodesy study to provide information on the composition of soil and of the condition of the terrain. This is required for every project because specifics of soil and terrain vary in every Project.

The Ministry also announces a tender for project design and the competing design companies will draw the construction documents (CD) based on description of the user's need and the results of the Geo-mechanic and geodesy study.

CD are the final drawings and a Technical Specification (TS) that gives detailed/exact declarations of a request related to: materials, dimensions and quantity of work with regard to the object that needs to be built.

The Ministry revises the CD, i.e. checks the drawings to compare it against the description of need provided by the user, and checks that amounts of key items in the TS were properly specified so that it corresponds with the specifics of the location that was allotted.

The procurement for the construction contract is the last step in the planning process undertaken by Ministry. The TS that was checked is now included in the tender documents and becomes subsequently a part of the contract between the Economic Operator and the Ministry.

All of the actions above should be taken before the tender is announced.

3 Key findings

This chapter presents the findings related to the actions that the Requesting entity and MCYS/MPA have taken to ensure that the planning for construction contracts has been appropriately conducted as described above.

3.1 Are the construction plans from the requesting entity based on appropriate information?

The Requesting entity should properly identify and state their needs by conducting a need assessment (using up-to date data) and be well justified. The Requesting entity should do an estimation of usage of the facility regarding e.g. the number of users, the frequency of use and the specific needs of specific users. The Requesting entity should also provide an ownership certificate and a copy of the plan.

Poor preparation of the need assessment

The need assessment is the basis for drafting a design task which provides the basic information to the Design Company for drawing the construction document. Lack of it might result in a facility that does not meet the users' needs properly.

Of the six cases that were examined in the MPA three of them had a need assessment. These descriptions differ in form where only one of them has described the need in detail by describing the number of users, the number of rooms, the square meter per user etc.

The other two need assessment documents contained only information about the number of users. In such case the MPA had to acquire more information in order to make it complete.

The other three projects were lacking a need assessment. Lack of this information resulted in concluding contracts that did not fully meet the user's needs. Such is the case in of the school whose contract had to be adjusted in order to fit the user's needs.

Since the MCYS has applied a "model" Construction Document (CD) for the construction of gyms, the requesting entities were not required to provide an assessment of need. A model CD is a CD that is drawn once and the same is used for construction in various locations. The MCYS has obtained the CD from the European Commission.

Table 1 below shows how each Requesting entity of the Ministry has provided a needs assessment. Fully means that the need assessment included all the necessary details, partially means that the information was not complete, while not at all means that there was no need assessment.

Table 1. Need assessment by the requesting entities

Ministry	Fully	Partly	Not at all	Total
MPA	1	2	3	6
MCYS			5	5

As seen above, a proper need assessment was carried out only in one of the eleven projects, and in more than two thirds of the cases no need assessments what so ever was carried out. This means that a large majority the projects was initiated without any clear picture of the needs. This in turn is likely to cause problems when it comes drawing the construction documents and subsequently it might lead to a technical specification that does not fully meet the real user's need. It is also likely to have negative consequences during the implementation of the project because additional procedures might be required which will run the risk of causing delays.

Poor examination of physical conditions.

The examination of physical conditions is a necessary action that is taken to check on what kind of terrain is the construction going to take place. This means that a general inspection of the surrounding infrastructure – is the location easily accessible, does it have required infrastructure, are there any obstacles that need to be considered before the construction begins. This action provides crucial information for the Design Company to write an accurate TS.

Since there is no described procedure when establishing cooperation between the Ministry and the Requesting entities, that defines what has to be done and by who, the mode of cooperation varies from case to case. The MPA has received a ready CD from the Requesting entity. In these cases the physical examination of the parcel as an activity has to be carried out by the Requesting entity and has to be an integral part of the CD.

The CD that was handed over by the Requesting entities to the MPA had not accounted for the physical conditions of the parcel. In two cases we noticed that, while implementing the project, the MPA encountered physical obstacles (power transformer had to be dislocated) and lack of infrastructure (no access to road and utilities).

The MCYS project CD were procured by the Ministry itself therefore the Requesting entity is not obliged to do a physical examination.

Table 2. Examination of physical conditions

Ministry	Fully	Partly	Not at all	Total
MPA			6	6
MCYS			N/A	5

As seen in the table above the requesting entities have not checked the physical condition of the location. This is likely to cause problems when it comes to drawing of construction documents because not all information is available to the design company in order to include it in the project design. Not accounting for the physical conditions, such as access to roads and utilities, might cause additional work which will require time to complete and in turn might cause delays.

Ownership certificates

Inclusion of the ownership certificate in the CD is a legal requirement to ensure that construction will take place on a location that is free of property disputes.

Requesting entities have provided ownership certificates to the MPA which is supposed to be a proof that the location is owned by the requesting entity and the ownership issue is defined. However two⁶ out of six audited cases resulted in property disputes, even though only partially.

In all five cases in MCYS there were no ownership issues.

Table 3. Checking of ownership issues

Ministry	No disputes	Disputes solved	Disputes unsolved	Total
MPA	4	1	1	6
MCYS	5			5

As seen above two projects had ownership issues one of which remained unsolved and partially changed the design of the original construction documents and of the project. Solving the ownership issue for the second project did require several months which caused delays in its delivery.

3.2 Are key steps in the planning process at the responsible ministry properly conducted?

The Ministry as a contractor and a supervisor of construction projects should ensure that CD that it receives, either from its Requesting entities or directly procured by the Ministry, is compared to the description of user needs.

It should also ensure that the TS that is designed by the Design Company must be in accordance with the drawings contained in the CD. The terrain specifics are included here.

⁶ Detention Center of Prishtina and School in Gjilan – Interviews with Project Managers

Ownership should be defined first of all since property disputes hinder the start/development of works, therefore property issues should be clarified before the procurement for construction contract.

Lack of sufficient funds available to implement the projects

Funding of projects is an issue that should be clear from early on in the planning stage, the funds should be sufficient, neither lacking nor redundant, to start and finish the project at a reasonable time.

In MPA funding was not an issue when planning for construction contracts, except in construction of University of Mitrovica. MPA had problems meeting its obligations because it was financing two contracts from a single budget code.

MPA had budgeted two projects in one fund. The total budget for both was 4.6 million € while the contracted value of both projects was 11.6 million €. Though works on the first project had been completed 95%, only 60% of it was paid, thus the liability of MPA to the contractor was 1.6 million € due to insufficient funds.

MCYS had problems setting its priorities. It had contracted several projects at the same time it had not secured funds for their full implementation. Of this kind was the gym in Deçan which was planned to be completed in two phases. But due to the frequent changes in TS, additional works, the funds that were allocated were spent before all planned work was completed. Now 670 thousand euros are required to complete the project whose implementation begun in 2009.

The same case is the gym in Klinë and Drenas.

Poor checking of TS's correspondence with location specifics

When using a "Model" CD, the Ministry needs to review the CD and check if the TS correspond with location specifics by comparing the amounts of specific items in the TS against the amounts resulting from the geo-mechanic dhe geodesy study and from the inspection of the existing surrounding infrastructure. If lack of correspondence is evident that may lead to more/less work than initially specified. Therefore the Geo-mechanic study should be conducted before and used when drafting the CD.

The table below shows the number of projects who's TS resulted incompatible with location specifics. Fully means that the geo-mechanic study was done properly and on time and that other location specifics were taken into consideration, partly means that there was a geo-mechanic study but other location specifics (physical infrastructure, obstacles etc.) were not considered, while not at all means that there was no geo-mechanic study or that it was done after the conclusion of construction contract.

Table 4. Checking the correspondence of location with TS

Ministry	Fully	Partly	Not at all	Total
MPA	1	2	3	6
MCYS			2 ⁷	2

MPA has inspected the locations and was aware of the lacking infrastructure but it expected that the municipality will address the issue, based on their regulation plan. The municipality had not provided access to sewage for two facilities that are already complete thus both are still not utilized. To solve the issue of sewage MPA had concluded another annex contract to construct a plant and another contract for other infrastructure which amount to 343 thousand euros or 5% of the original contract. MPA has not taken any action to address the lacking sewage in the other project therefore however further costs are foreseen to make the building usable.

The MCYS has not inspected locations prior to conclusion of construction contracts because as it relied on a "Model" CD when constructing gyms. This CD was drawn under the assumption that the location where the building is based is flat. However not all locations are flat, nor they are free of physical obstacles. Two construction contracts⁸ were concluded while the geo-mechanic study was not included in the CD. Due to lack of geo-mechanic study it was impossible to check if specified amounts of certain items in the TS are right amounts.

As a result , in the case of stadium in Prizren, there was a huge discrepancy between the contracted and the implemented amount of work. An additional amount of work had to be done which compared to the contracted amount, for some items specified in the TS, had exceeded 100%. This variation resulted in failure to complete other contracted items amounting close to 50% of the value of the contract. MPA estimated that to complete the project additional 440 thousand euros are required.

Another similar project was the gym in Kaçanik when the Requesting entity decided to allocate a different parcel, not the one it initially allocated. However, MCYS had already conducted all the activities up to the conclusion of construction contract. This re-allocation required re-tendering for geo-mechanic study which resulted in a need to change the TS. Regardless of this need the MCYS did not re-tender the construction contract. to complete the project an estimated 900 thousand euros are required.

MPA had not conducted a geo-mechanic and geodesy study in three projects saying that the small size facilities don't require one.

⁷ 3 other projects were of the second stage of construction therefore this criteria applies only to these two projects.

⁸ Stadium in Prizren = 178,000€, Gym in Kaçanik = 349,000€

MCYS in one project had not conducted the geo-mechanic study on time. In the other project it had conducted the study after conclusion of the construction contract and they took no action to correct its TS in order to fit to the location specifics. Both these contracts were concluded based on model CD.

Checking if the Design Company has interpreted the project's TS correctly, in line with users' needs

The Ministry needs to review the CD and compare its drawings with the stated users' needs to see if they correspond. Improper drawings might not fully meet users' need. However, since in the majority of cases there was no need description the Ministry was not able to do a comparison of drawings with the need. Also the Ministry has not reviewed the CD of any project, because the Law on Construction does not require it.

The MPA has in two cases identified that the TS is flawed and that it contained serious defects but these defects were only identified after the construction contract had already been signed. In one of these cases the value of the contract had increased by 64%. However since the Law on public procurement does not allow annex contracts that exceed 10% of the original contract, about 50% of works required to complete the facility remain unfinished. The remaining works that need to be contracted through a new procurement procedure have an estimated value of 60 thousand euros. For the other project an annex contract had to be signed that amounts close to 10% of the original contract⁹.

The MCYS, as presented above in this report, did not consult its Requesting entities regarding their needs, therefore the process of checking the TS against the needs was impossible.

Checking if the specified location is free of property disputes

The ministry should ensure that ownership certificates are received from the requesting entitees in order to be sure that the requesting entity is the rightful owner of the location. Ownership issues should be clarified before the procurement for construction contract. This means that the Ministry should visit the location, mark its boundaries and see if any legal or illegal object is within the marked boundaries. Property disputes over the parcel where construction takes place might hinder the start/development of works and might cause delays in the delivery of the project.

The following shows how the ministry has checked ownership issues related to the construction location. Fully means that it was checked, partially means that there were ownership issues that were not checked, and not at all means that there was no checking of ownership issues.

⁹ School in Kishnarekë

Table 5. Checking of ownership issues by the Ministry

Ministry	Fully	Partly	Not at all	Total
MPA	4	2		6
MCYS	5			5

MPA Requesting entities have provided ownership certificates on time. MPA had conducted a location visit and marked its boundaries, and no problem was identified at the time. However when the implementation of the contract begun, in 2¹⁰ out of 6 audited cases the Ministry identified property disputes. A citizen was claiming that the part of the location where construction was taking place belonged to him. The case was taken to Court and the Court decided in favor of the Ministry. Nevertheless this dispute resulted in prolonged delivery of the project because works had to be suspended temporarily for few months.

An ownership issue was found in the project of the Correctional Center. The Requesting entity had provided the ownership certificate according to which the Requesting entity was the legal owner of the parcel. Later, a part of the parcel was expropriated by the Municipality and two buildings that belonged to the Municipality were already built there. Therefore a part of the construction had to be built in another location.

MCYS has not had any property issues in any of the five cases.

3.3 Summary of projects

The table below presents our sample of projects and when they were completed. The start date and the end date of the project was compared to the agreed date of completion.

Table 6. Implementation of works as per the schedule

Ministry	Ready on time	Delayed 1-3 months	Delayed 4-6 months	Delayed 7 months or more	Total
MCYS			2	3	5
MPA	4		2		6

In total more than two thirds of projects were delayed four months or more. All of MCYS projects and one third of MPA projects were delayed four months or more.

The size of the project was not a contributing factor in the delay.

¹⁰ Gym in Gjilan, Correctional Center

Table 7. How many projects were completed within budget and how many have exceeded the contracted price.

Ministry	Within budget	Cost-overrun up to 10%	Overrun 11 to 20%	Overrun over 21%	Total
MCYS		2		3	5
MPA	3	2		1	6

As the table shows all of MCYS projects and half of MPA projects have had cost overruns. 60% of MCYS projects have cost overrun by more than 21 %, and in total more than one third of the projects had severe cost overrun Most of cost overruns occurred because of the poor physical examination of conditions of locations.

4 Conclusions

Based on our examination, we conclude that the responsible authorities have difficulties managing the planning of construction contracts effectively.

In most projects examined, we have found problems not only when it comes to defining the needs of the user and examining the physical conditions of the locations. We have also found problems concerning funding and securing whether the technical specification initially prepared by the authorities fully correspond with reality. As result, the construction projects lead to cost overrun and took longer time to complete than expected or needed.

The audit office finds it reasonable to assume that that these problems are not unique for the projects examined. With that assumption, one may argue that the current management problem causes cost consequences for the society and the state budget, not only in term of capital costs (due to delays).

Are construction plans from the requesting entity based on appropriate information?

Communication between the Ministry and the Requesting entities in some cases was not properly documented. Most information that is required at the planning stage and that should have been provided by the Requesting entity was not available. Therefore we found that in some cases due to lack of this information the construction plans were not properly carried out and that resulted in delays and variations between the contract work and the actual work that was done which lead to either cost overrun or incomplete construction projects.

Are key steps in the planning process at the responsible Ministry properly conducted?

The Ministry has not checked if the CD correspond with the user's needs and terrain specifics, i.e. it has not revised the CD. This, partly, is because the Law on Construction does not require such action to be taken beforehand, and partly because the Ministry lacks human resources to do it.

During the implementation of construction contracts the Ministry identified problems in the CD that could have been identified before commencing the construction, before the announcement of the tender for construction contract, by revising the CD. The main errors are found when it comes to checking the correspondence of the TS with location specifics. This issue is typically a main cause to delays and cost overrun. In other words, it is vital that proper studies/inspections of the allotted location are carried out. The CD was not revised, nor proper inspections of the location were carried out, therefore the quantity of work that was carried out, in some cases, has varied compared to the quantity of work that was contracted.

These variations resulted in insufficient funds to complete the project - therefore annex contracts had to be signed - or projects were not fully completed.

5 Recommendations

If actions are not taken there is a high risk of continued problems with cost overrun and delays. Seen over a longer period that will have huge economic consequences both for the state budget and for the citizens. Just to illustrate: an unnecessary delay of say in average four months for the 57 million Euros annually spent of building contracts, would with an interest rate of 6% mean an extra cost of over one million Euro just in capital cost.

To achieve the objectives of the public investments, the responsible institutions for implementing these objectives should plan their work in detail: who will do what, what and how, when and how much they will cost. In this respect, close cooperation is need with the Ministry of Finance to ensure that budget is planned in accordance with the priorities set by the government, to achieve the needs of the citizens of the Republic of Kosovo. Further on, the Ministries and the Requesting entities should also strengthen their cooperation in the planning stage to secure that public investments are made in accordance with citizens needs and within scheduled time framework.

We recommend the Responsible Ministers to:

- Ensure that a Strategy is drafted on which the Ministries bases its future public investments, lays out the investment criteria, and identifies mechanisms for coordination with Ministry of Finance and Requesting Units and monitoring of the Strategy implementation. This document should be followed by the Action Plan which should include the roadmap on objectives and sequential steps at the planning process, including the budgetary costs and financial implications;
- Cooperate closely with the Minister of Finance to ensure that sustainable budget planning is done for capital projects which can be fully realized through detailed and concrete argumentation of institutional needs. This cooperation would prevent budgeting of capital projects with insufficient funds and increase of the liabilities of the Ministries that can burden the budget of the coming year; and
- Ensure capacity building of the staff by providing sufficient trainings in the planning process of the capital projects considering such in securing effectiveness in the delivery of administrative services, efficient from the point of view of the costs and European in its organization and working methods.

We recommend the Ministries staff and Requesting units to:

- Strengthen their cooperation by establishing a procedure that describes the roles and responsibilities of both parties. They should define especially the flow of information from the Requesting entities to the Ministry with the aim of getting information right when it comes to needs of the Requesting unit;
- Establish an operating procedure describing all the necessary steps that are to be taken in the planning phase of construction contracts and should check that this operating procedure is applied throughout the department; and
- Exercise control over its projects in order to see the intended results and the outcome and determine the reason for variations, if any.