



Ministry of Finance of the Republic of Kazakhstan

Status and Perspectives of Developing the Public Procurement System in the Republic of Kazakhstan

BATUMI, June, 2015

Current Status of Public Procurement

Legislation:

1. Law of RK dated July 21, 2007 «On Public Procurement»
2. By-laws (about 20 regulations)

Authorized Entity (policy work): Ministry of Finance of the RK

Authorized Entity (oversight functions): Committee for Financial Control of the MF of RK

Area, covered by Public Procurement: public entities and institutions, public enterprises, government-owned legal entities, except for national holdings and companies

Average Annual Volume: **2,8 – 3,2 trillion Tenge** (equiv. USD 17 bln.)

Number of Clients/Buyers: **29 thousand**

Number of Potential Suppliers: **over 170 thousand**

Enhancing Public Procurement

Drafting Legislation:

To improve efficiency and transparency of the public procurement processes a new draft law “On Public Procurement” has been developed

Main Objectives:

1. Simplification of public procurement
2. Minimizing corruption risks
3. Protection of rights and legitimate interests of potential suppliers
4. Increasing responsibility of all public procurement participants

Tasks:

1. Complete transition to electronic procurement format
2. Integration of the web-portal with information systems of other public entities
3. Reduce the share of the “single source” procurement

Comparative Analysis

INTERNATIONAL EXPERIENCE	IMPLEMENTING NORMS OF THE DRAFT LAW
1. UNCITRAL model law on public procurement	<ul style="list-style-type: none"> - Suspension of contract signing for challenging tender results (standstill period) - Pre-qualification proceedings
2. E-Procurement of South Korea	<ul style="list-style-type: none"> - public procurement process is fully automated (E-planning, E-Auctions, E-Contracts, E-Implementation, E-Payments)
3. Eurasian Economic Union Agreement	<ul style="list-style-type: none"> - Antidumping measures - The right of a Supplier to refuse the advance payment - Electronic contract signing
4. Federal Law RF-44 «On the Contract System »	<ul style="list-style-type: none"> - Public Procurement Monitoring - Control over Public Procurement - Procurement through the method of restricted participation, closed tenders

EXPERIENCE WITH OTHER TYPES OF PROCUREMENT IN RK	IMPLEMENTING NORMS OF THE DRAFT LAW
Procurement rules of the National Fund “Samruk-Kazyna”	<ul style="list-style-type: none"> - Flexibility (simplified qualification requirements and requirements to the bidding documents)

Analysis of the Problem Issues (Risks) at Various Phases of Public Procurement



Phase 1: Planning

Issues:

Estimating costs/budgets at high rates/prices

Ways of solution:

1. Signing agreements/ contacts exclusives electronically. This will allow to identify average purchasing price for Goods/Works/Services (GWS).
2. In parallel the Uniform Stock Item Identification Guide (USIIG) of goods, works, services, which would allow to provide complete and reliable information on the GWS being acquired.
3. In cases, when the Agreement is concluded for the amount, which exceeds the price bracket established by the USIIG (Price Module) then the Risk Management System (CFC) will be activated, which will cause inspection.

Result:

The budget estimation will be made on the basis of the Information System for Price Monitoring



Phase 2: Preparation of Bidding Documents and Technical Specifications

Issues:

Clients/Buyers design technical specifications for specific suppliers

Ways of solution:

1. Introduction of an Institute for preliminary discussion of draft technical specifications

Result:

Ensuring equal access to procurement/tenders



Phase 3: Review of Bids

Issues:

Groundless rejection of bids. Because all bids are rejected a Tender is declared void, which gives grounds to do a single source selection,

Ways of solution:

1. Introduction of an institute of preliminary admission to participation in a tender (implemented).
2. Introduction of a mutual control (cross check) through providing opportunities to suppliers to review applications of other potential suppliers.
3. Integration of the web-portal with the Information Systems of other public entities :
 - Tax Committee in regard to debts for tax ;
 - Ministry of Justice in regard to Register of Debtors, property charging (Technical Inventory Bureau);
 - Electronic Government in regard to E-Licensing, etc.

Result:

Prevention of groundless rejection of applications and illegitimate admission to admission to the tender



Phase 4: Outcome of Tender and Contract Signing

Issues:

1. Absence of effective instruments for challenging results of the tender during stand still period.
2. Delays in contract signing.
3. Holdout of contract signing

Ways of Solution:

1. Establishment of timelines for challenging tender results, and during standstill period contract signing will be suspended.
2. Contracts are signed exclusively in electronic form.
3. Delegating to the MF authorities for including the potential suppliers, who holdout contract signing, into the Blacklist of Suppliers.

Result :

Prevention of abuse from the part of the Clients and Suppliers



Phase 5 Contract Execution and Payments

Issues:

1. Groundless rejection of accepting goods , works, services.
2. Delayed payments.

Ways of Solution:

1. Establishment of timeframes for full payment to the supplier, within 30 days from the date of fulfilling all obligations under the contract.
2. Signing contracts exclusively in electronic format.
3. Introduction of electronic invoices and certificates of completion, acts of acceptance.

Result:

Prevention of abuse from the part of clients during acceptance of goods and execution of payments.

Public Procurement Process

How it is now:

How it will be:

1. Planning (based on price lists)	1. Planning (based on Price Module)
2. Elaboration and approval of Bidding Documents	2. Elaboration and approval of the draft Bidding Document
3. N/A	3. Preliminary discussion of the Bidding Document
4. Submission of Bids and reviewing Bids	4. Submission of Bids and reviewing Bids
5. Preliminary examination of the Bids	5. Preliminary examination of the Bids
6. Results of the Tender and contract signing	6. Results
7. N/A	7. Standstill period for challenging tender results
	8. Contract signing

Full Automation of the Public Procurement System

How it is now:



How it will be:



Advantages of complete shifting to E-procurement:

1. Increasing efficiency of public expenditures
2. Transparency and minimizing corruption risks
3. Reducing the timeline for procurement processes
4. Cost reduction in acquisition of goods, works and services

Public Procurement Methods

How it is now:

How it will be:

1. Tender, including two-stage procedures	1. Tender (open tender, pre-qualification, two-stage bidding, closed tender, limited (restricted) bidding)
2. Auction	2. Auction
3. Request for Price Quotations	3. Request for Price Quotations
4. N/A	4. E-Shopping
5. Single Source	5. Single Source
6. Through Commodity Exchange	6. Through Commodity Exchange
7. Special Bidding Procedure	7. Changed to Limited Bidding and Closed Bidding
8. Special Procedures	8. Changed to Pre-qualification
9. Special Procurement Procedures for Defense Needs	9. Excluded (procurement for defense needs are envisaged in the State Defense Order)

General Approaches to the Sequencing in Public Procurement

Approaches	Justification
<p>Simplification of the Order of Conducting Tenders and Auctions <i>in Tenders: reduction of phases in the process (2 phases will become 1)</i> <i>in Auctions: the sequence is being reconsidered and phases are being reduced (3 phases will become 2 now)</i></p>	<p>Simplification, and minimization of corruption risks</p>
<p>Empowering the authorized body (MF) with competency (power) to manage the Register of Unscrupulous Participants of Procurement Process (include into the Blacklist)</p>	<p>Having the E-contract signing option would allow to drop the requirement to prove the facts of holdout of contract signing. The System will “see” the holdout by default. NOTE: over 80% of the potential suppliers are blacklisted on the grounds related to holdout of contract signing.</p>
<p>Introduction of anti-dumping measures</p>	<p>This measure will allow the potential suppliers to offer dumping prices at the time of their depositing the amounts, in addition to their Performance Securities, equal to the reduced price of the allocated amount.</p>
<p>List of goods, works and services through Auction are being excluded</p>	<p>The Auction will be conducted only for goods. The share of the Auction, in terms of procurement methods, is expected to increase (today it is only 0,3%). In Russian the share of the Auction is 58%.</p>
<p>Toughening requirements in regard to single source selection (after completion of the selection process the Client/Buyer must report to justify the selection of the Supplier as well as the price of the contract)</p>	<p>The aim is to reduce the share of the single source selection.</p>
<p>Introduction of anonymousness in regard to submission of applications/bids by procurement process participants</p>	<p>It would allow to eliminate the collusion between potential suppliers and clients/buyers</p>
<p>Introduction of a concept of “the Second Winner” (next ranked)</p>	<p>It would help to ensure timely contract signing when the Winner holdouts to sign the contract</p>