

11th Public Procurement Knowledge Exchange Forum

*"Procurement Oversight and Monitoring—a means
for effective project implementation"*

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June, 2015

IMPORTANCE OF PUBLIC PROCUREMENT

- **Main goal** – elimination of trade barriers within the Member States' community.
- A significant share of public spending is executed in the public procurement system.
- **16% GDP in the EU.**
- **Statistical data in MNE:**
 - In 2011 = 11,43 % of the total GDP
 - In 2012 = 9,72 % of the total GDP
 - In 2013 = 8,30 % of the total GDP



IMPORTANCE OF PUBLIC PROCUREMENT

Public procurement represent one of the most important factors that determine realization of national economy and influences the economic activity.

- **This means that public procurement determine:**
 - quality of public services and public infrastructure,
 - affect the micro and macroeconomic aspects of economy and public finances.
- **At the micro and macroeconomic levels, better results are achieved:**
 - contracting authority gets better value for money,
 - healthier public finances, increased quality of public services,
 - economic growth,
 - creating public spending in time of crisis,
 - strengthening small and medium-sized enterprises,
 - creating new jobs,
 - increased accountability for use of public funds.
- **Public procurement market amounts to 8-16 % of GDP**
- The afore-mentioned figures represent a very significant amount that public authorities spend for the purchase of goods, services and works. Increased efficiency of the procurement processes leads to saving of funds at state or local levels.



IMPORTANCE OF PUBLIC PROCUREMENT

- Achieving a better “value for money”, represents the substantial goal of public procurement.
- In a public procurement procedure there are some **basic principles** to be followed which determine the public procurement:
 - **Cost-effectiveness** - (degree of savings in achieving results, reflects the extent to which the business results are achieved as well as the extent of savings in business resources used for obtaining these results – minimizing costs used in procurement procedures),
 - **Efficiency** - related to the cost-effectiveness (whether the results achieved are the same, similar or better using the same amount of invested assets),
 - **Effectiveness** - is essentially the concept of achieving the goal, means doing the right things,
 - **Quality** – conduct a procurement which will correspond to fulfillment of needs and the purpose it was intended for,
 - **Equality** – providing free competition amongst bidders gives the opportunity for positioning in the market to a larger number of companies,
 - **Transparency of a procedure** – public notice.

The principles are used as : **Tools** for interpretation of rules and **Source for establishment of a new obligation** not provided explicitly by the Directives.

Prevention of abuse in use of public funds.



THE EU LEGISLATIVE FRAMEWORK IN PUBLIC PROCUREMENT FIELD

- The objectives of regulating public procurement at the international level are the following:
 - Opening of domestic markets to foreign competition – **the eradication of “protectionism” in public procurement,**
 - **Prohibition of discrimination** on grounds of nationality,
 - **Transparency.**
 - **The goal of “value for money” or “efficiency”** is assumed as a conclusion on opening of the public procurement market, but they are not the main objectives.
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DESCRIPTION OF ACTIVITIES SINCE THE LAST YEAR'S FORUM IN ISTANBUL UNTIL TODAY

- **The Law on Amendments to the Puvblic Procurement Law was adopted** (OG of MNE, 57/14 of 26 December 2014);
- **Drafting of secondary legislation** in accordance with Changes and amendments to the PPL, as well as **the accompanying software solution** adjusted to the amendments at the Public Procurement Portal;
- During 2014, the Government, on quarterly basis, **adopted Reports on operation of the Coordinating Body for monitoring and realization of the Strategy for development of the public procurement system;**
- Preparations related to establishment of the **Working Group for preparation of a new strategic document for the period 2016-2010;**
- Adopted the **Program for the Accession of Montenegro to the European Union for the period 2015-2018;**
- Continued organization of trainings and examinations for the work on public procurement tasks;
- Montenegro **has become the newest member of the WTO Government Procurement Agreement** after its accession bids were approved on 29 October, 2014.



PUBLIC PROCUREMENT IN MONTENEGRO

-LEGISLATIVE FRAMEWORK-

Law on Amendments to the Public Procurement Law of MNE(OG of MNE 57/14 of 26 Dec 2014)

Drafting secondary legislation in 2015

Public Procurement Law of MNE (OG of MNE 42/11 of 15 August 2011)

Rulebook on methodology of expressing criteria into an appropriate number of points, method of assessment and comparison of bids

Rulebook on forms in public procurement procedure

Rulebook on manner of keeping and contents of evidence on breaking anti – corruption rules

Rulebook on records of public procurement procedures

Other implementing acts:
<http://www.ujn.gov.me>



PUBLIC PROCUREMENT IN MONTENEGRO

-COVERED PARTIES-

- **The List of covered parties for classical and utilities sector** was published at the portal www.ujn.gov.me.
- contracting authorities are obliged to apply the PPL even when they are not at the mentioned - **the List is indicative.**
- **Considering the options for centralization of public procurement.**

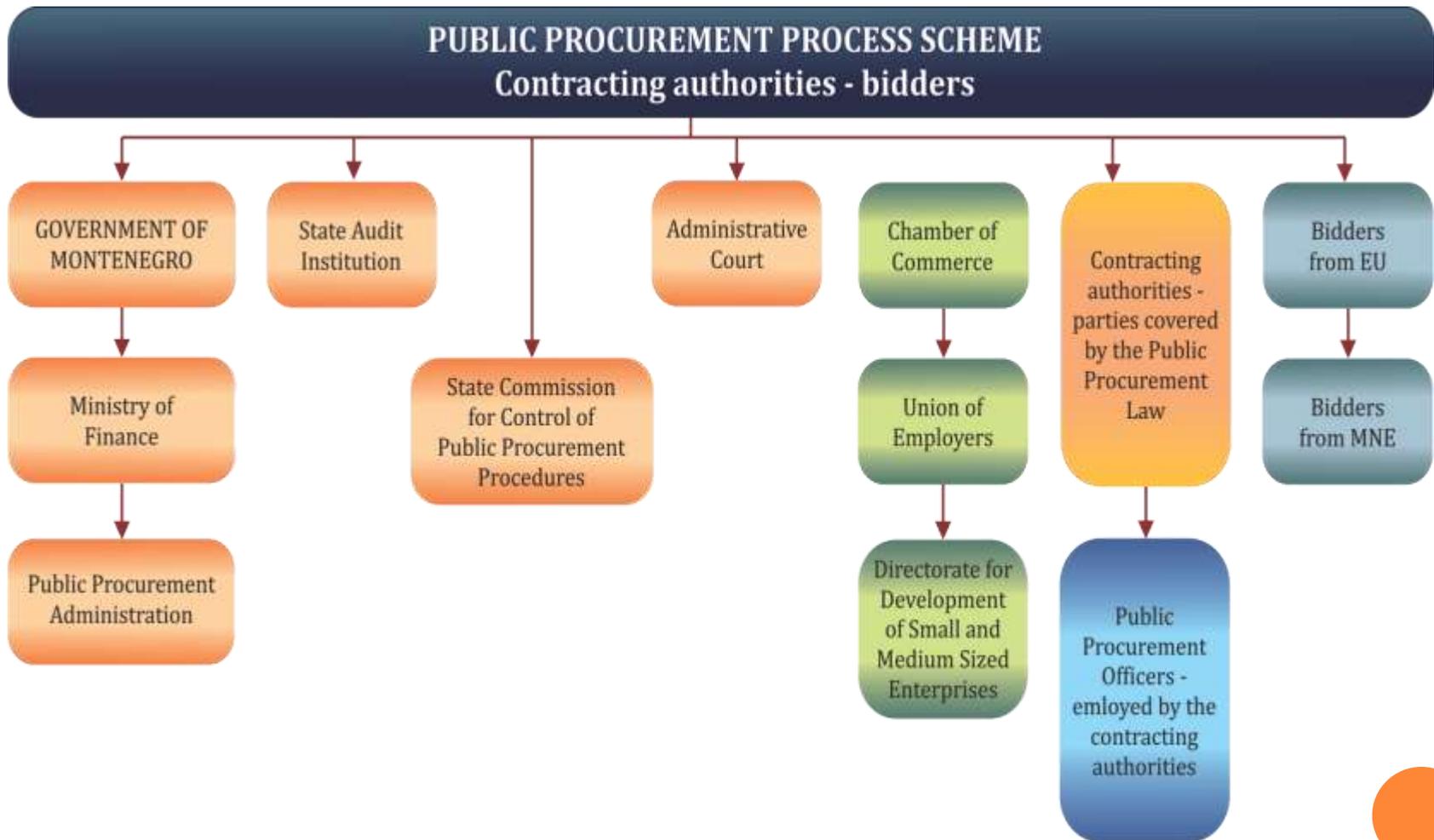


THE AREAS OF PUBLIC PROCUREMENT EXPOSED TO RISK

- Procurement planning
- Choice of procedure
- Bids assessment
- Contract award
- Contract management/execution
- Change of specifications and/or other (substantial) contract conditions after its award



INSTITUTIONAL FRAMEWORK IN PUBLIC PROCUREMENT FIELD



COMPETENCES OF THE PUBLIC PROCUREMENT ADMINISTRATION REGARDING MONITORING IN ACCORDANCE WITH THE AMENDMENTS TO THE PPL

- The mandatory monitoring by the PPA referring to the entire course of a public procurement procedure was established, and in particular when it comes to initiation of a public procurement procedure and compliance of a contract notice with the PPL.**
- Preventive role of the Public Procurement Administration in coordination with the competent procurement inspection should eliminate completely the mentioned risks or reduce them to only sporadic cases where the irregularities cannot be established without a complete analysis of the essence of the problem.**
- The competent authority, in the preparation phase of the notice, provides technical instructions in purpose of ensuring their compliance with the requirements established by this Law.**



MONITORING BY THE PUBLIC PROCUREMENT ADMINISTRATION

- **Monitoring encompasses the following:** monitoring, analyzing public procurement, alerting the contracting authority and informing the competent institutions about infringements of the Public Procurement Law.
- **The objective of monitoring:** reducing the number of errors and infringements of the Law while limiting the circumstances leading to corruptive actions in public procurement procedures, providing recommendations and good practices aimed at securing transparency and cost-effectiveness of the public procurement system.
- **Changes and amendments to the PPL** resulted in improvements in terms of integrity of recognizing **potential cases of conflict of interest on the sides of both contracting authorities and bidders and method of prevention and elimination thereof**, as well as envisaging specific prescribed consequences in case the public procurement procedure is conducted with existence of conflict of interest.
- **Preparation of the Methodology for determining risk analysis in public procurement** was envisaged.



MONITORING BY THE PUBLIC PROCUREMENT ADMINISTRATION

- **On basis of the issued Reports on public procurement, the PPA is preparing the analysis of the situation which would shape the proposals for improvement of the public procurement system and possible legislative changes.**



ADVANCEMENT OF THE PUBLIC PROCUREMENT SYSTEM

- Capacity development of public procurement officers and of wider interest groups is a key element of public procurement reform and there is a particular concern in the context of accession to the EU and the international procurement system, such as the GPA.
- Focusing on the powers of training as a means of strengthening the capacities of public procurement officers to conduct the procurement in an efficient and effective manner may raise the procurement above its administrative function, as it is sometimes considered to have, and put an emphasis to the professionalism necessary for obtaining positive results.



OBJECTIVES OF THE EXISTING INSTITUTIONAL FRAMEWORK AND ADMINISTRATIVE CAPACITIES FOR ESTABLISHING AN EFFICIENT PUBLIC PROCUREMENT SYSTEM

- The main objectives of the existing institutional framework and administrative capacities for establishing an efficient public procurement system are as follows:
 - to improve the **planning** skills, as well as the skills of organization and implementation of the Public Procurement Law, and thereby to ensure realization of basic principles of public procurement;
 - to make public procurement system functional, efficient and transparent through undertaking further **professional** development of the persons who were assigned the duties related to public procurement processes;
 - to provide support to public officers and employees participating in public procurement system through a continuous process of professional development by sharing **knowledge and experiences**;
 - to improve understanding of importance of the public procurement field in context of management over **national funds and the EU financial instruments**.



PROCESS OF EUROPEAN INTEGRATION OF MONTENEGRO

- **Stabilization and Association Agreement (SAA)** entered into force on 1 May 2010.
- Entry into force of the SAA marked the beginning of a new stage of integration which formally obliges Montenegro to harmonize its legislation with the EU acquis.



PROCESS OF EUROPEAN INTEGRATION OF MONTENEGRO

- ❖ Adoption of the **European Commission Report on Screening** for Chapter 5 – Public Procurement.
- ❖ The European Council was provided the **Negotiating Position for the public procurement field**, on 14 October 2014.
- ❖ At the third session of the Conference on Montenegro's accession at the ministerial level, held in Brussels on 18 December 2013, **the negotiations on the Chapter 5 – Public Procurement were open.**



FUTURE DIRECTIONS OF DEVELOPMENT OF THE PUBLIC PROCUREMENT SYSTEM IN MONTENEGRO

- The public procurement system in Montenegro **requires further harmonization in accordance with the relevant EU legislation**, especially when it regards the new set of Directives 2014/24 and 2014/25 in the field of utilities and classical sectors, electronic public procurement, concessions and public-private partnership.
- Exchange of experiences in terms of successful and efficient implementation of the newly-adopted legislation in public procurement field at the EU level.



INTRODUCTION OF VARIABLES FOR MEASURING THE MOST IMPORTANT PERFORMANCES IN PUBLIC PROCUREMENT

Rational use of public funds



Achieving best value for money



Thank you for your attention!

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