

e-Procurement practice in Georgia

David Jaiani, Emily Haentschel

Tbilisi, December 2021

Structure

1. Overview of the GEO e-procurement system
2. Guarantees for companies and other measures to safeguard public money
3. Appeal system

Contact

1. Overview of the GEO e-procurement system

- Since Dec-2010, the SPA web-portal (procurement.gov.ge) serves as the **single public (governmental) portal** for all procurement led by all government agencies and contracting authorities in GEO. Usage of the mentioned single government service (G2B and G2C) is mandatory in order to perform any public procurement transactions. There are several private e-platforms in GEO serving just B2B operations.
- E-procurement system is linked by e-services to a number of other governmental (GEO e-government landscape) systems like e-treasury, revenue service, business registry, and civil registry

1. Overview of the GEO e-procurement system

- The e-procurement system is managed and supported by the **State Procurement Agency of Georgia (SPA)** - an **independent government organisation**, reporting directly to the office of the Prime Minister
- SPA is responsible for
 - preparing procurement laws, bylaws, decrees, governing rules, guidelines, manuals
 - running e-procurement system to support procurement by central government entities, local self-governing bodies, legal entities of public law (LEPL) and state owned enterprises (SOE)
 - monitoring all procurement activity conducted through the system.

1. Overview of the GEO e-procurement system

- An open dispute resolution process allows bidders, civil society and any interested parties to file any concerns to the *Dispute Resolution Council* for timely resolution in order not to delay the procurement process.
- The tendering process is **open to all interested companies, both national and international**, willing to supply goods and services to GEO without any discrimination.
- The SPA web-portal serves as the **single portal for all procurement transactions**, led by all contracting authorities in GEO.
- All contracting authorities in GEO are responsible for their individual procurement requirements and must conduct their procurement in accordance to GEO Law on Public Procurement (PPL), using the electronic system tools provided.
- By the rules, all procurement greater than 5,000 GEL (approximately 1,429 EUR) should be conducted using an open, competitive e-tender process.

1. Overview of the GEO e-procurement system

- The *International Financial Institutions* (IFIs) have approved use of the e-procurement platform for both national and international packages and have processed large numbers of packages.
- Donor funded procurement had no substantial issues with the use of the GEO e-procurement system and received good competition for most projects processed through it.
- The GEO e-procurement system is used by **4,522 contracting authorities** and **48,508 registered economic operators**, including approximately **2,000 international bidders**.
- The GEO e-procurement system does not differentiate between *National Competitive Bidding (NCB)* or *International Competitive Bidding (ICB)*. All tenders are open to any registered bidder.

1. Overview of the GEO e-procurement system

E-procurement system modules and services

The e-tenders module is the primary component of the system, supporting e-procurement functions and serving as the main portal for all government procurement.

In addition to e-tenders, the following modules are in place:

- E-complaints: access to a listing of all complaints, filed with regards to procurement processes and decisions applied by administrative review body
- Donor-Funded Procurement (DEP)
- Etc. (see slide 17)

2. Guarantees for companies and other measures to safeguard public money

- Bid security guaranty
- Performance guaranty
- Advanced payment guaranty

are used to protect loss of public money and human/time resources.

Payments are made

- In advance
- After fulfilment of the commitments and responsibilities set in the contract.

Advanced payments and payments after completion of the responsibilities set in the contract can be **partial or full**.

2. Guarantees for companies and other measures to safeguard public money

It is allowed to accept

- Bank's guarantees
- Insurance company's guarantees

which play a high and vital role for the businesses to allow participation and performing during the procurement process. Guarantees allow economic operators to save own financial resources and receive additional funds from the contracting authority to operate and perform obligations, set in the contract.

2. Guarantees for companies and other measures to safeguard public money

- **Bid security guarantee** is fixed to 1% of the estimated value of the tender
- **Performance guaranty** is 2%-5% of the contract value.
- In case the value of the contract is 20% lower than the estimated value of the tender announced, **performance guaranty** is 2%-10% of the contract value
- **Advanced payment** is equal to the amount of the payment

No special formula or algorithm for establishing the level of the guarantees in place.

3. Appeal system

Functioning of the administrative review body of GEO (*Dispute Resolution Council - DRC*) is regulated by the relevant primary and secondary legislation.

- Appealing **tender documentation** is possible before deadline of submission of bids.
- **Decision of the contracting authority/tender committee** can be appealed not later than 10 days from the upload of the appropriate decision in the e-procurement system, but before the contract is signed.
- **Action of the contracting authority/tender committee** can be appealed not later than 10 days from date of the action, but before the contract is signed.

Since January 2021, decision to sign the **direct, single-source contract** (so called 'simplified procurement' by the GEO PPL), which is above the EU public procurement monetary thresholds can also be appealed to the DRC.

3. Appeal system

- **Appealing tender documentation** is allowed for **any interested party**, duly registered in the e-procurement system as a supplier
- As soon as bid submission is finished (special status is assigned to the tender in the e-procurement system), **only participants** of the tender can appeal
- **The direct contract** can be appealed by any interested party, duly registered in the e-procurement system as a supplier

3. Appeal system

- Fee for the appeal to the DRC in both cases - tenders and direct contracts is **2%** of the estimated value of the procurement, but **not less than 100 GEL** (approximately 29 EUR) and **not greater than 500 GEL** (approximately 143 EUR)
- Appeal fee cannot be reimbursed in case of **negative decision** of the DRC
- If the applicant **withdraws an appeal** before the DRC hearing, **full amount** is refunded.
- In case the applicant **withdraws** an appeal during the DRC hearing, or after the hearing - **half of the amount** is returned.

Payment of the appeal fee is running when the appeal is placed via e-procurement system, by the bank credit/debit card electronically.

In addition to that, different fees are envisaged during appealing **concessions or PPP** projects – 0.15% of project amount (min 22,000 GEL and max 150,000 GEL).

3. Appeal system

- DRC evaluates appeal and makes appropriate decision within **10 working days** after the appeal is assigned the status eligible.
- The DRC can decide to **prolong for 10 working days** based on special circumstances
- Decision must be uploaded on e-procurement system

About the German Economic Team



Financed by the Federal Ministry for Economic Affairs and Energy, the German Economic Team (GET) advises the governments of Moldova, Georgia, Ukraine, Belarus, Kosovo, Armenia and Uzbekistan on economic policy matters. Berlin Economics has been commissioned with the implementation of the consultancy.

CONTACT

Emily Haentschel, Project Manager Armenia
haentschel@berlin-economics.com

German Economic Team
c/o BE Berlin Economics GmbH
Schillerstraße 59
10627 Berlin

Tel: +49 30 / 20 61 34 64 0
info@german-economic-team.com
www.german-economic-team.com

Implemented by



1. Overview of the GEO e-procurement system

SPA has introduced various *procurement procedures and methods* such as

- One and two envelop
- Design contest
- Donor funded procedures
- Restricted procedure
- Simplified Method of Procurement (SMP) as exemptions to the competitive procurement process and others

All registered users can access and view all procurement process, including any application under the SMP module or direct (single-source) contracts recorded in the CMR module, and file an appeal to the *Dispute Resolution Council*.

Interested parties can also access the system as a guest to view most of information related to the procurement transactions.

1. Overview of the GEO e-procurement system

- e-procurement test mode: copy of the running system to allow contracting authorities to create 'non-official tenders' in order to learn and improve their skills how to use the system and test new features before they are implemented in the production system
- CNT - design contest
- CMR - simplified procurement (direct/single-source procurement) records
- ePlan - annual procurement planning tool
- SMP - simplified procurement (direct/single-source procurement) requests
- CON – consolidated tenders (framework agreements)
- PPP - concessions or PPP
- GEO special eProcedure
- B2B
- eGrants

2. Guarantees for companies and other measures to safeguard public money

Performance guaranty is regulated by the Decree #12 of the Chairman of the SPA, clause 34.

- In case the value of the contract is **greater than 200,000 GEL** (approximately 57,143 EUR), contracting authority is obliged to request Performance guaranty 2%-5% of the contract value
- In case the value of the contract is **lower by 20% or more to the estimated value** of the tender announced, contracting authority is obliged to request Performance guaranty 2%-10% of the contract value
- In case the value of the contract is **lower than 200,000 GEL**, contracting authority must not request the Performance guaranty, if not otherwise proved in the tender documentation, that deriving from the peculiarities of an object of procurement it is necessary to claim one

2. Guarantees for companies and other measures to safeguard public money

By the decision of the contracting authority economic operator can be exempt of supplying Performance guaranty

- In case being enrolled in the “*White List*” of the SPA
- Economic operator **being highly reputed**, widely known and deriving from the quality and specifics of the goods/services/works to be delivered.

In case economic operator being enrolled in the “*White List*” of the SPA is not granted exemption from supplying Performance guaranty, economic operator can deliver **half of the value** of the Performance guaranty set in the tender documentation.

Performance guaranty must be supplied by the economic operator **prior signing of the contract**.

2. Guarantees for companies and other measures to safeguard public money

Payment terms is regulated by the Decree #12 of the Chairman of the SPA, clause 35.

- In case of **advanced payment**, economic operator must deliver guarantee, issued on equal amount of the payment.

Economic operator can be exempt of supplying advanced payment guaranty if

- Payment is made to the **special bank account** and all bank transfers are under control of the contracting authority during the whole contract validity period
- The contract value is above 30 Mln. GEL (approximately 8.57 Mln.EUR), economic operator being highly reputed, widely known and deriving from the quality and specifics of the goods/services/works to be delivered.

In case economic operator being enrolled in the '*White List*' of the SPA, it can deliver **half of the value** of the advanced payment guaranty.

Contracting authority along the contract, must same time upload also copy of the advanced payment guaranty in the e-procurement system, or not later than **10 days** after delivery must upload copy of the advanced payment guaranty in the e-procurement system.