

# **E-Government Procurement**

**Enabling Business through Efficient Systems**

January 2017

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## Enabling Business through Efficient Systems

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# Executive Summary

Public procurement is a key instrument through which governments deliver important social and economic goods to citizens. These public goods range from large scale infrastructure development to consumables, such as fertilisers and pharmaceuticals. Efficient and accountable public procurement enables better utilisation of public funds, and in turn better public goods and services.

Public procurement in Sri Lanka currently suffers from three main weaknesses. First, information related to procurement, such as tender opportunities and contract awards, is difficult to access. Second, bidding imposes high transaction costs on businesses and government agencies, including costs associated with preparing and submitting bids. Manual administration of procurement tends to be time-consuming and labour intensive; for instance it relies on physical transfer and storage of bid documents. Third, Sri Lanka's procurement marketplace has featured anti-competitive

practices that lead to corruption; for instance, the practice of accepting unsolicited proposals for large, high value projects that circumvent the process stipulated by the government's Procurement Guidelines. Independent oversight over procurement is weak, and suppliers possess limited means to challenge unfair or corrupt practices. In the absence of strong institutional safeguards against such practices, public procurement has offered fertile grounds for corruption.

In this context, strengthening public procurement in Sri Lanka requires enhancing its efficiency, cost-effectiveness and competitiveness. One solution that has been considered is the introduction of e-government procurement (E-GP). E-GP broadly refers to the application of electronic systems to the public procurement process. E-GP systems can be designed to handle any or all aspects of the procurement process, including publication of tenders, transfer of bid documents, bid submission of, bid evaluation, and contract

awards. Advanced E-GP systems can undertake online evaluation of bids and e-payments.

## Research overview and findings

E-procurement offers the government major cost-savings, higher value for money and better fiscal management. By making procurement more efficient, cost-effective, and competitive, e-procurement can create a stronger procurement marketplace and better investment of government resources. There are at least three ways in which E-GP can enhance the transparency, fairness and efficiency of public procurement in Sri Lanka. First, E-GP offers major cost-savings for both government agencies and suppliers. Second, E-GP can enhance competitiveness by making tender opportunities accessible to a greater number of suppliers. Furthermore, E-GP systems can help minimise corruption by strengthening the transparency of procurement actions and reducing opportunities for discretionary actions that could bias award outcomes. Third, E-GP systems are more efficient than the existing manual procurement process. E-GP simplifies and automates various stages of the procurement process, including tender publication, bid processing, document transfers and communication, thus making the procurement process less cumbersome and less prone to errors.

The Sri Lankan government has expressed its commitment to introducing E-GP. There are four enabling factors that will strengthen E-GP implementation in Sri Lanka.

### 1. Legislative and Policy Interventions.

Institutionalising E-GP requires legislative interventions to stipulate a transition from manual procurement, and to permit certain functional features of E-GP systems, such as digital signatures and electronic payments. Day-to-day management of E-GP activities

should be governed by a comprehensive E-GP policy framework to facilitate electronic procurement processes.

**2. Institutional Interventions.** E-GP typically requires the creation of a centralised lead agency that provides institutional leadership for the roll-out and operation of the E-GP system.

**3. Change Management Strategies.** A smooth transition to E-GP requires:

- i. Development of the necessary technological infrastructure for both suppliers and procuring entities, such as network connectivity and digital security systems;
- ii. Capacity development efforts to equip suppliers and procuring entities with the tools and skills to participate effectively in the E-GP system; and
- iii. Business process re-engineering of existing processes to maximise the efficiency of procurement workflows through the E-GP system.

**4. Strategies for Roll-out.** Governments contemplating E-GP should consider the following:

- i. Phasing its roll-out, starting with basic E-GP functions and incorporating new capabilities over time;
- ii. Building a single E-GP system across all procuring entities rather than multiple systems for use by different agencies; and
- iii. Piloting the E-GP system amongst a small group of procuring entities prior to roll-out across government agencies.

## Recommendations

The following recommendations can be considered for E-GP implementation in Sri Lanka:

- 1.** Amend the Procurement Guidelines and the Procurement Manual to enable and facilitate E-GP, including to:
  - i.** Remove prohibitions of electronic bid submission;
  - ii.** Mandate electronic publication of annual procurement plans, selection criteria, the composition of Procurement Committees and Technical Evaluation Committees, any revisions to tender notices, and contracts awarded; and
  - iii.** Mandate the transition to E-GP within a stipulated period.
- 2.** Issue a circular stating that e-signatures certified by an appropriate Certification Service Provider can be accepted as valid and enforceable for the purposes of concluding public procurement transactions.
- 3.** Develop and implement a comprehensive policy framework that clearly defines the terms of use of the E-GP system.
- 4.** Designate the National Procurement Commission (NPC) as the primary agency responsible for:
  - i.** Conducting an audit of the existing manual procurement processes and proposing how they can be streamlined and automated on the E-GP platform;
  - ii.** Formulating necessary amendments to the Procurement Guidelines and Procurement Manual; and
  - iii.** Drafting the E-GP policy.
- 5.** Strengthen the institutional capacity of the NPC to oversee the management of the platform.
- 6.** Establish an adequately-resourced Project Management Unit under the NPC, which would be tasked with the development of the E-GP platform and an E-GP implementation plan.
- 7.** Given the limited resources available to the NPC, consider a third-party service provision model for E-GP implementation that utilises a third-party with the necessary skills and expertise to run the country's E-GP system subject to adequate government management, oversight and proprietary rights.
- 8.** Provide robust training and communication programs for suppliers and procuring entities to support E-GP uptake.
- 9.** Adopt a phased approach to E-GP roll-out, starting with hosting a pilot group of key procuring entities on a single online portal. The table below sets out proposed E-GP functions to be rolled out in the short, medium, and long terms. Short-term activities can run concurrently with manual procurement processes; however, medium and long-term activities necessitate the migration of existing procurement processes to the E-GP platform.



**Table 1 | Phasing E-GP rollout**

|   |  |
|---|--|
| <b>Phase 1: Short-Term<br/>(1 year)</b>     | <ul style="list-style-type: none"> <li>• Publication of tender notices</li> <li>• Registration of suppliers</li> <li>• Availability of procurement information</li> <li>• Tender tracking</li> </ul> |
| <b>Phase 2: Medium-Term<br/>(2-3 years)</b> | <ul style="list-style-type: none"> <li>• E-Catalogues</li> <li>• E-Submission of bids</li> <li>• Contract and File Management System</li> </ul>  |
| <b>Phase 3: Long-Term<br/>(3-4 years)</b>   | <ul style="list-style-type: none"> <li>• E-payments</li> <li>• E-evaluation of bids</li> <li>• Contract awards</li> </ul>  |

# Introduction

Public procurement is a key instrument through which governments seek to supply important social and economic goods to citizens. Well-managed public procurement can account for a significant portion of a country's GDP. Moreover, strong procurement systems are a prerequisite for effective public investment.

Sri Lanka's public procurement marketplace currently suffers from information asymmetries, high transaction costs, anti-competitive practices and a high potential for corruption. The Sri Lankan government reports that it has initiated a range of public finance management reforms in the area of public procurement. A key activity proposed in this regard is the establishment of an electronic portal for government procurement and the use of electronic government procurement (E-GP) for the public sector. Other reforms proposed include the adoption of

a National Procurement Strategy, the adoption of new procurement guidelines and regulations, and improved systems for reporting on, monitoring and evaluating procurement awards.<sup>1</sup> A constitutional amendment passed in April 2015 established an independent National Procurement Commission, tasked with formulating a fair, competitive and cost-effective procurement system.<sup>2</sup> Against this backdrop, an assessment of E-GP's applicability in Sri Lanka is both timely and relevant.

E-GP is 'the use of information technology (especially the Internet) by governments in conducting their procurement relationships with suppliers for the procurement of works, goods, and consultancy services required by the public sector.'<sup>3</sup> E-GP has the potential to enhance the competitiveness in the procurement marketplace, reduce transaction costs for both the government

1. Ministry of Finance, Sri Lanka, Annual Report (2015).
2. The Constitution of the Democratic Socialist Republic of Sri Lanka, article 156C(1).

3. Procurement Harmonization Project of The Asian Development Bank, The Inter-American Development Bank and The World Bank, *Electronic Government Procurement Roadmap* (March 2004).

and the private sector, improve transparency and minimise opportunities for corruption in public procurement. A number of countries have set up E-GP platforms to streamline government procurement, contributing to an expanding body of knowledge on and comparative experiences in E-GP.

This report is presented in five sections. The first provides an overview of public procurement in Sri Lanka, including the existing institutional framework governing procurement and the public procurement marketplace. The second explains E-GP and its advantages, while the third identifies key practical considerations relevant to E-GP implementation in Sri Lanka. The fourth section discusses comparative experiences of E-GP. The

final section provides recommendations on the use of E-GP as a means of improving public procurement in Sri Lanka.

The methodology utilised by Verité Research for this study comprised a combination of secondary research and key informant interviews. These included officials from key government procuring entities, private sector suppliers, and independent procurement specialists. The study's initial findings and provisional recommendations were subject to stakeholder feedback through a panel discussion held in November 2016, which was subsequently incorporated into this report.

# 1

## Public procurement in Sri Lanka

The Sri Lankan government is the largest buyer of goods, services and works in the domestic market. It expended approximately 597 billion rupees, or 5.3% of GDP, through public procurement in 2015.<sup>4</sup> The largest procurement value was disbursed through the Ministry of Highways, Higher Education and Investment Promotion at 167 billion rupees, followed by the Ministry of Defence and the Ministry of Health and Indigenous Medicine, at 87 billion and 66 billion rupees respectively.<sup>5</sup> Around 57% of procurement in Sri Lanka was financed through domestic government resources in 2015.<sup>6</sup> Public contracts form the basis of several strategic government activities, ranging from large-scale infrastructure development to provision of consumables, such as agricultural fertilisers and pharmaceuticals. Procurement also functions as an instrument of economic policy, with the government providing price preferences to local bidders in order to promote domestic industry and suppliers.

4. Ministry of Finance, Annual Report (2015).

5. *Ibid.*

### 1.1 Institutional framework

Sri Lanka currently lacks formal legislative instruments that govern public procurement. Instead, procurement is governed primarily through a set of Cabinet-approved procurement guidelines, issued by the now defunct National Procurement Agency (NPA). The following guidelines are currently in use:

1. Procurement Guidelines: Goods and Works (2006);
2. Guidelines: Selection & Employment of Consultants (2007);
3. Guidelines on Private Sector Infrastructure Projects (1998); and
4. Guidelines for Procurement of Pharmaceuticals & Medical Devices (2006).

6. *Ibid.*

The guidelines are accompanied by two procurement manuals:

1. Procurement Manual (2006); and
2. Consulting Services Manual (2007).

Revisions to the Procurement Manual are published as a series of supplements. As at 25 January 2016, 29 such supplements had been issued. Furthermore, these guidelines and manuals are supplemented by government circulars issued previously by the NPA, and later by the Department of Public Finance.

The NPA was established in May 2004, pursuant to the findings of a World Bank Country Procurement Assessment carried out the previous year.<sup>7</sup> The Assessment observed the lack of an independent entity to formulate and oversee public procurement policy, with the Ministry of Finance having assumed this role. The Assessment recommended the establishment of an independent, professionally-staffed procurement regulatory agency that would be distinct from agencies carrying out executive functions. The NPA's mandate included streamlining government procurement, and improving the transparency and efficiency of the procurement process.<sup>8</sup> However, in 2008, the NPA was dissolved and its functions were transferred to the Department of Public Finance within the Ministry of Finance.

Public procurement activity is de-centralised.

Chief responsibility for procurement actions is vested in secretaries of ministries, who are deemed to be the Chief Accounting Officers of their respective ministries.<sup>9</sup> The regulatory framework set out in the guidelines and manual listed above is applicable to a range of procuring entities including:<sup>10</sup>

- Ministries, departments and statutory authorities;
- Provincial councils and local authorities;
- Government corporations and government-owned companies; and
- Any body wholly or partly owned by the Sri Lankan Government or where the Government has effective control of the body.

Each procurement action involves the appointment of the following committees, as applicable, by the relevant procuring entity:

- Procurement Committees;
- Technical Evaluation Committees; and
- Consultants Procurement Committees.

Each committee is responsible for overseeing components of the procurement process. The Procurement Committee (PC) established varies according to the value of the procurement and the procuring entity in question.<sup>11</sup> For instance, Regional Procurement Committees can be constituted by agencies having a large number of

7. South Asia Regional Procurement Unit, The World Bank, Sri Lanka Country Procurement Assessment Report, Volume I (June 2003).

8. 'National Procurement Agency shut down', *The Sunday Times*, 4 May 2008, at: <http://www.sundaytimes.lk/080504/FinancialTimes/ft318.html> [accessed on: 5 September 2016].

9. National Procurement Agency, Procurement Guidelines, Goods and Works (2006), at 2.2.1.

10. Procurement Guidelines, Goods and Works (2006). See also: Japan International Cooperation Agency,

*Study on Public Procurement Systems and Capacity in South Asian Countries, Final Report* (February 2013), at [http://open\\_jicareport.jica.go.jp/pdf/12087599.pdf](http://open_jicareport.jica.go.jp/pdf/12087599.pdf) [accessed on: 5 September 2016].

11. PCs include Ministry Procurement Committees, Department Procurement Committees, Project Procurement Committees, Regional Procurement Committees, Cabinet-Appointed Procurement Committees (for high value procurement) and Standing Cabinet-Appointed Procurement Committees (for special circumstances that require deviation from normal procedures).

regional or district offices. Meanwhile, Cabinet-Appointed Procurement Committees are constituted for procurement values in excess of 200 million rupees for domestically funded procurement, and of 600 million rupees in case of foreign funded procurement.<sup>12</sup> The responsibilities of Procurement Committees include ensuring the availability of funds for contract awards, and reviewing the reports of the Technical Evaluation Committee (TEC) in order to award the final contract.<sup>13</sup>

The TEC is responsible for reviewing and approving bidders' pre-qualification documents and the technical specifications for the bid.<sup>14</sup> TECs are also required to participate in negotiations with suppliers, if directed to do so by the relevant PC.<sup>15</sup> Consultants procurement committees are responsible for the selection process pertaining to the procurement of consulting services. Their duties include ensuring the availability of funds for consultancy services under consideration, reviewing and approving the RFP and TOR prepared by the procuring entity, and approving shortlists of consultants considered.<sup>16</sup>

The Nineteenth Amendment to the Constitution, passed in April 2015, introduced the independently appointed National Procurement Commission (NPC). The function of the NPC is to:

Formulate fair, equitable, transparent, competitive and cost-effective procedures and guidelines for the procurement of goods,

services, works, consultancy services and information systems by government institutions and cause such guidelines to be published in the Gazette.<sup>17</sup>

The NPC is empowered to monitor and evaluate the compliance of government procurement entities with procurement processes and rules.<sup>18</sup> The five-member NPC was appointed on the recommendation of the Constitutional Council in November 2015. Hence, procurement-related functions currently vested in the Department of Public Finance, are in the process of being transferred to the NPC. The Ministry of Finance has reported that revised Procurement Guidelines, Goods and Works (2015) and an updated Procurement Manual have been drafted by the Department, and are due to be published by the NPC.<sup>19</sup>

## 1.2 The public procurement process

The Procurement Guidelines provide for several procurement modalities that can be utilised by public procuring entities. Table 2 below lists procurement modalities employed in the procurement of goods and works.

The Guidelines stipulate that national competitive bidding (NCB) should be utilised for most public procurement. The procuring entity is required to carry out environmental and social impact assessments as relevant, and resolve

12. Supplement 28 to the Procurement Manual, issued 4 July 2014, at <http://www.treasury.gov.lk/documents/57687/174433/ProcuManSupple28E%281%29.pdf/49f052ae-e7eb-4cd8-9ab5-f0d5af41afe6> [accessed on: 13 December 2016].
13. Procurement Guidelines (2006), at 2.5.
14. Procurement Guidelines (2006), at 2.6.
15. *Ibid.*

16. National Procurement Agency, Procurement Guidelines, Selection & Employment of Consultants (2007).
17. *The Constitution of the Democratic Socialist Republic of Sri Lanka*, article 156C(1).
18. *The Constitution of the Democratic Socialist Republic of Sri Lanka*, article 156C(2).
19. Ministry of Finance, Annual Report (2015).

matters such as land acquisitions and compensation claims relating to the procurement action considered.<sup>20</sup>

Once appointed, the PC and TEC jointly handle the various stages of procurement process, such as tender preparation, bid submission, evaluations, and contract awards.<sup>21</sup> The PC and TEC appointed for any procurement action are terminated upon contract award. Implementation of the contract awarded falls entirely within the responsibility of the procuring entity and its line ministry.

The basic selection principle employed is that of cost, i.e. that the lowest evaluated substantially responsive bid is awarded the contract. However, bids may be evaluated in terms of other considerations (such as technical factors or delivery times); in such cases, these additional criteria must be specified in bid documents.<sup>22</sup>

Existing procurement guidelines allow procuring entities to set up certain electronic platforms.<sup>23</sup> For instance, procuring entities are permitted to publish notices and pre-qualification requirements, as well as respond to supplier queries

20. *Ibid.*, at 2.3.

21. *Ibid.*, at 2.4

22. *Ibid.*, at p. 60.

23. Procurement Guidelines, Goods and Works (2006), at 9.8.

24. National Procurement Agency, Procurement Manual (2006).

**Table 2:** Public procurement modalities<sup>24</sup>

|   |   |
|---|---|
| <b>National Competitive Bidding</b>                           | Default method for public procurement that utilises government funds. Foreign bidders are excluded unless their participation is a donor requirement, in which case domestic preference criteria do not apply.  |
| <b>International Competitive Bidding</b>                      | Utilised where required by a donor or where domestic capacity is limited. Domestic preference criteria apply.   |
| <b>Limited International Bidding/Limited National Bidding</b> | Utilised where qualified sources or suppliers are limited. Bids are addressed directly to a pre-selected list of international or national suppliers or contractors.  |
| <b>Shopping</b>   | Utilised for low value purchases of frequently-used items where advertising may be uneconomical. Requests are addressed to entities registered with the procuring entity, or those listed in the Yellow Pages or Rainbow Pages.   |
| <b>Direct Contracting</b>                                     | Procurement from a single supplier in the case of exceptional circumstances, such as when prices are fixed by legislation. Direct contracting is subject to maximum values, and to controls over repeat orders.   |
| <b>Repeat Orders</b>  | Placed with the original supplier over a short period for the supply of the same goods. This mode is utilised only in exceptional circumstances. Repeat orders are subject to a value limit of 50% of the original contract, and a six-month time limit from the date of the original contract award. |
| <b>Force Account</b>  | Implies the execution of works by using the procuring entity's own personnel and equipment. Utilised in exceptional circumstances, including when quantities are difficult to predetermine; contractors are unlikely to bid at reasonable prices; and in emergency situations.                        |

through electronic means.<sup>25</sup> Certain aspects of the procurement process are currently carried out online, such as the publication of calls for tenders. Various government agencies and procuring entities publish tenders on their website, including line ministries and state corporations such as the Ceylon Petroleum Corporation (CPC). However, at present, the government's procurement guidelines explicitly prohibit the electronic submission of bids.<sup>26</sup>

### 1.3 Weaknesses in Sri Lanka's public procurement marketplace

Public procurement in Sri Lanka currently suffers from a range of weaknesses, presenting challenges for both procurement entities and suppliers. These weaknesses stem from gaps in the existing institutional framework governing public procurement, as well as the challenges associated with traditional manual procurement processes. Four such weaknesses are discussed below.

25. *Ibid.*

26. *Ibid.*

|  |   |
|--|---|
| <b>Emergency Procurement</b>               | A form of direct procurement utilised in case of natural or man-made disaster or a declaration of emergency by the government.  |
| <b>Community Participation Procurement</b> | Employed to achieve certain social objectives, such as creating employment opportunities in a particular area; and involves calling for the participation of registered local-community-based organisations.  |
| <b>Two-stage bidding</b>                   | Used for turnkey contracts or contracts for large complex works of a special nature, where technically unequal bids are likely. This method requires Cabinet approval. In the first stage, technical proposals are invited on the basis of a conceptual design or performance specifications (and not financial criteria). Amended bidding documents are prepared for the second stage, in which final technical proposals and priced bids are sought using any of the bidding methods permitted. |
| <b>Two-envelope system</b>                 | Also utilised in turnkey, 'design and build' or 'supply and installation' contracts, where alternate technical proposals are sought. Bidders submit technical and financial proposals simultaneously but in two separate envelopes.   |
| <b>Pre-qualification of bidders</b>        | For large or complex works contracts. Invitations to bid are confined to those meeting specific criteria which include: (i) past experience on similar contracts; (ii) resources in terms of personnel, equipment, and other facilities.  |



## Information asymmetries

The accessibility of information regarding public procurement opportunities is currently limited. Procuring entities are required to publish tenders in the government Gazette and through nationally distributed newspapers.<sup>27</sup> Several government agencies, such as the Ministry of Education<sup>28</sup> and the Ministry of Telecommunications and Digital Infrastructure,<sup>29</sup> and other public institutions such as the Sri Lanka Police,<sup>30</sup> the Road Development Authority,<sup>31</sup> and Sri Lanka Railways, also publish tender notices on their websites.<sup>32</sup> Certain agencies also publish information on contract awards on their websites, such as the Ministry of Education<sup>33</sup> and the State Pharmaceuticals Corporation.<sup>34</sup>

The lack of an accessible, central hub of information on tenders has meant that seeking bidding opportunities imposes significant costs on suppliers. Suppliers seeking information on tender opportunities are compelled to monitor daily newspapers or scan websites of government agencies to discover tender opportunities. Moreover, the specifications in tender notices pertaining to a particular bid are often amended sans supplier notification. Such costs could in turn result in fewer bidders, thus weakening competition in the procurement marketplace. Moreover, these costs weigh disproportionately

on small and medium enterprises (SMEs) that are unable to mobilise the necessary resources to monitor tender bids or maintain communication channels with procuring entities.

Information asymmetries feature in various other aspects of public procurement. For instance, annual plans compiled by procuring entities setting out anticipated procurement actions are currently inaccessible to suppliers – despite their value in signalling demand and allowing suppliers to adapt their production accordingly. Suppliers also face information asymmetries once they have entered the bidding stage. For example, suppliers have limited information on PCs' decision-making criteria. While high-value contract award decisions made at the Cabinet-level are published, the results of lower-value procurement decisions are rarely published.<sup>35</sup> Moreover, procuring entities rarely publish successful bids, thus creating challenges for suppliers wishing to challenge discrepancies in the award. The absence of publicly available information on procurement actions allows suppliers to access information on tenders and bid requirements through personal relationships and links to procuring entities, undermining competition in bidding.

Certain private service providers have moved to meet the demand for more efficient flows of information from procuring entities. For

27. Procurement Guidelines, Goods and Works (2006), at 3.2.2.

28. Website of Ministry of Education at [http://www.moe.gov.lk/english/index.php?option=com\\_content&view=article&id=989&Itemid=808](http://www.moe.gov.lk/english/index.php?option=com_content&view=article&id=989&Itemid=808) [accessed on: 5 September 2016].

29. Website of Ministry of Telecommunications and Digital Infrastructure, at: <http://www.mtdi.gov.lk/procurement-main.html> [accessed on: 5 September 2016].

30. Website of Sri Lanka Police, at <http://www.police.lk/index.php/tender-notice->

31. Website of Road Development Authority, at [http://www.rda.gov.lk/source/bid\\_invitation.htm](http://www.rda.gov.lk/source/bid_invitation.htm) [accessed

on: 5 September 2016].

32. Website of Sri Lanka Railways, at [http://www.railway.gov.lk/web/index.php?option=com\\_content&view=category&id=51&Itemid=197&lang=en](http://www.railway.gov.lk/web/index.php?option=com_content&view=category&id=51&Itemid=197&lang=en) [accessed on: 5 September 2016].

33. Website of Ministry of Education at [http://www.moe.gov.lk/english/index.php?option=com\\_content&view=article&id=989&Itemid=808](http://www.moe.gov.lk/english/index.php?option=com_content&view=article&id=989&Itemid=808) [accessed on: 5 September 2016].

34. Website of the State Pharmaceuticals Corporation, at <http://www.spc.lk/awarded-tenders.php> [accessed on: 5 September 2016].

35. Key informant interview, 9 September 2016.

instance, *tenders.lk* is an online platform that collates tender information, and offers subscribed suppliers a tailored tender alert service (based on the tender category or threshold value) for a fee.<sup>36</sup>

### High administrative and transaction costs

Procurement actions impose high costs on both procuring entities and suppliers. For procuring entities, tender preparations, bid administration, and bid evaluation are administratively burdensome. This is largely due to the lack of standardised forms, and comprehensive supplier databases in procuring entities. Moreover, administrative delays occur due to the fact that there is limited information sharing within procuring entities (e.g. between legal and finance departments) during the procurement process. Manual administration of procurement also tends to be time-consuming and labour intensive; for instance it relies on physical transfer and storage of bid documents. Procurement of complex or highly technical goods and services has been prone to delays due to the lack of relevant technical expertise within procuring entities.<sup>37</sup>

Procuring entities currently do not utilise framework agreements that centralise purchasing of common goods, such as stationery and office supplies. As such, procurement of such low-value, high-volume goods involves considerable duplication of resources across government agencies. The compartmentalised nature of procurement actions prevents government agencies achieving

substantial cost savings and productivity gains that could be realised through common procurement. The government has recognised this problem, and Cabinet has recently approved a proposal to establish a central procurement agency to manage purchase of common goods.<sup>38</sup>

Participation in public procurement often entails high transaction costs for suppliers. Bid preparation typically requires high human and material resources, particularly in the case of technically complex bids. Transaction costs incurred by suppliers include the labour cost of searching for potential bids (detailed above) and costs of travel to collect bid documents and submit completed bids.

### Anti-competitive practices

Public procurement in Sri Lanka often features practices that undermine competition. One such practice has been the acceptance of unsolicited proposals for large, high value projects that circumvent the modalities of competitive bidding stipulated in the Procurement Guidelines.<sup>39</sup> In December 2016, the Department of Public Finance issued a supplement to the Guidelines on Private Sector Infrastructure Projects that introduced the ‘Swiss Challenge’ procedure to deal with unsolicited proposals.<sup>40</sup> The ‘Swiss Challenge’ procedure requires government agencies receiving unsolicited proposals to publish a Request for Proposals (RFP) inviting counter-proposals from other interested parties.

36. For instance, see <http://tenders.lk/>.

37. Key informant interview, 15 September 2016.

38. Decisions Taken by the Cabinet of Ministers at its Meeting Held on 01-11-2016, 2 November 2016, at <http://www.news.lk/cabinet-decisions> [accessed on: 10 November 2016].

39. The Sri Lankan government has undertaken a number of unsolicited infrastructure projects over previous years. For instance, see ‘Competitive bidding turned on head’, *The Sunday Times*, 9 March 2014, at <http://www.sundaytimes.lk/140309/news/>

[competitive-bidding-turned-on-head-88552.html](http://www.sundaytimes.lk/140309/news/competitive-bidding-turned-on-head-88552.html) [accessed on: 30 January 2017].

40. Democratic Socialist Republic of Sri Lanka, Supplement 30 to the Guidelines on Government Tender Procedure - Part II (Private Sector Infrastructure Projects), dated 26 December 2016. Available at: <http://www.treasury.gov.lk/documents/10181/329538/ProcuManSupple30/b4189d65-183c-4f48-9e77-f8edacbcc5c2> [accessed on: 30 January 2017].

Government agencies also often engage in direct contracting to a pre-identified supplier or service provider sans an open tendering process, as seen in Cabinet's recent decision to contract a Singaporean firm for consultancy services in the redevelopment of the Beira Lake.<sup>41</sup> Such practices deny qualified suppliers the opportunity to fairly compete in public procurement. Additionally, the practice undermines the lowest-cost principle stipulated in the Procurement Guidelines. A study of unsolicited bids accepted by the Sri Lankan government for the construction of highways in 2014 found that the resulting contracts awarded were overpriced by an average of 135%, with an estimated loss to government of about Rs 200 billion.<sup>42</sup>

Anti-competitive practices are not restricted to procurement actions that circumvent the existing regulatory framework. PCs also exercise significant discretionary power over the conditions of tenders, and administration of the bidding process, which could potentially undermine competition. Discretionary actions by PCs that could prejudice award outcomes include changes to tender deadlines,<sup>43</sup> or revisions to tender specifications to match the bids of pre-identified suppliers.<sup>44</sup>

In the absence of strong institutional safeguards against anti-competitive practices, Sri Lanka's procurement marketplace provides a highly uneven playing field for suppliers. The appointment of the NPC is an important step forward in this regard. The NPC's functions include monitoring and reporting on all public procurement in relation to: compliance with pre-approved action plans; equal participation in bidding; fairness and transparency of procurement procedures; and whether members of PCs and TECs are 'suitably qualified' for their duties.<sup>45</sup> Effective discharge of these functions is likely to require further investments in the NPC's technical and administrative capacity over time, as well as the enactment of enabling guidelines and rules.

### Weak protections against corruption

The OECD has described public procurement as 'the government activity most vulnerable to waste, fraud and corruption due to its complexity, the size of the financial flows it generates and the close interaction between the public and the private sectors.'<sup>46</sup> Public procurement in Sri Lanka has been a sphere of large-scale corruption. Instances of corruption in procurement are

41. 'Beira project: S'pore firm may get huge contract sans tender', *The Sunday Times*, 4 September 2016, at <http://www.sundaytimes.lk/160904/news/beira-project-spore-firm-may-get-huge-contract-sans-tender-207655.html> [accessed on: 10 November 2016].
42. Amal S. Kumarage, 'The Real Cost of Highway Development - Who has got the numbers right?', *The Sunday Times*, 21 December 2014, at <http://www.sundaytimes.lk/141221/Cost%20of%20Express-ways.pdf> [accessed on: 29 November 2016].
43. 'BIA duty-free complex: Confusion over tender deadlines', *The Sunday Times*, 3 July 2016, at <http://www.sundaytimes.lk/160703/news/bia-duty-free-complex-confusion-over-tender-deadlines-199598.html> [accessed on: 10 November 2016].

44. Namini Wijedasa, 'Hot-hot allegations over coal tenders', *The Sunday Times*, 7 February 2016, at <http://www.sundaytimes.lk/160207/news/hot-hot-allegations-over-coal-tenders-182249.html> [accessed on: 10 November 2016].
45. *The Constitution of the Democratic Socialist Republic of Sri Lanka*, article 156C(2).
46. The Asian Development Bank, *E-Government Procurement Handbook* (2013).

frequently reported; for example, in tenders for infrastructure projects,<sup>47</sup> waste management contracts,<sup>48</sup> airport facilities,<sup>49</sup> telecommunication services,<sup>50</sup> and the organisation of large-scale public events by the government,<sup>51</sup> among others. Corruption in public procurement can result in large scale financial losses. For instance, the government is reported to have incurred a loss of Rs. 1.2 billion as a result of corruption in the procurement of coal by the Ministry of Power and Energy.<sup>52</sup>

The existing process affords a high degree of executive discretion in decision-making, particularly in high value procurement that is referred directly to Cabinet for a contract award decision. Moreover, suppliers possess limited means to challenge unfair or corrupt practices. Bidders can submit representations against award decisions by Cabinet-Appointed Procurement Committees to the Procurement Appeals Board (PAB), on payment of a non-refundable fee. The PAB was established in August 2005 under the Presidential Secretariat. The three members of the PAB are appointed by Cabinet, on recommendation of the president. The PAB carries out its investigation and then reports to Cabinet, either endorsing the original award decision or submitting an independent

recommendation on the contract award. For procurement by Ministry PCs, bidders are able to submit complaints to the relevant Ministry Secretary, which are then taken up for consideration by the relevant PC and TEC responsible for the original contract award. For lower-value procurement, investigation of and decisions on bidder complaints are undertaken entirely within the same procuring entity whose award has been challenged. Each of these mechanisms permits a high degree of executive influence over the investigation of supplier complaints. In the absence of independent oversight and investigation of procurement decision-making, the existing institutional framework offers few protections against corruption.

The recent controversy surrounding a tender for coal issued by Lanka Coal Company (Private) Limited demonstrated the weakness of existing accountability mechanisms for corruption in procurement. In July 2016, a contract awarded by Lanka Coal Company for the purchase of two million tonnes of coal was subject to litigation by a bidder alleging corruption in bid selection.<sup>53</sup> Noble Resources International (Pvt) Ltd alleged that Swiss Singapore Overseas Enterprises had violated the Procurement Guidelines by making

47. Devan Daniel, 'Colombo Hyatt's Grand Scale Surpassed by its Grand Opaqueness', *Echelon Magazine*, 8 October 2015, at <http://www.echelon.lk/ipg/colombo-hyatts-grand-scale-surpassed-by-its-grander-opaqueness/> [accessed on: 10 November 2016].
48. Nirmala Kannangara, 'Violating Tender Procedures Cost Millions To The State', *The Sunday Leader*, 5 July 2015, at <http://www.thesundayleader.lk/2015/07/05/violating-tender-procedures-cost-millions-to-the-state/> [accessed on: 10 November 2016].
49. Ravi Ladduwahetty, 'AASL attempts to cancel tender for BIA travel counters', *Ceylon Today*, 10 July 2016, at <http://www.ceylontoday.lk/print20160321CT20160630.php?id=3195> [accessed on: 10 November 2016].
50. Nirmala Kannangara, 'Tender Bender at SLT', *The Sunday Leader*, 2 August 2015, at <http://www.thesundayleader.lk/2015/08/02/tender-bender-at-slt/> [accessed on: 10 November 2016].
51. Ranil Wijayapala, 'Former Deyata Kirula head files bribery charges', *The Daily News*, 6 September 2016, at <http://archives.sundayobserver.lk/2015/09/06/new02.asp> [accessed on: 10 November 2016].
52. 'Rs.1.2bn loss incurred in controversial tenders to purchase coal', *Newsfirst.lk*, 9 July 2016, at <http://newsfirst.lk/english/2016/07/rs-1-2bn-loss-in-controversial-tenders-purchase-coal/141050> [accessed on: 10 November 2016].
53. Law and Society Trust, *Challenging Traditional Approaches to Locus Standi? A Commentary on Noble Resources International Pte. Ltd. Vs. Hon. Ranjith Siyambalapitiya et al.* (October 2016).

direct representations to the PC in question.<sup>54</sup> Although the Court upheld a preliminary technical objection to Noble Resource's petition, it ruled that the decision of the Cabinet-Appointed Procurement Committee was null and void. The Court directed that Lanka Coal Company terminate the contract awarded and issue a fresh tender following a competitive bidding procedure.<sup>55</sup> The issue has since reportedly been referred to Cabinet for a decision.<sup>56</sup>

54. 'Rs. 50 b coal tender up for grabs; backroom manoeuvres to clinch deal', 2 August 2015, at <http://www.sundaytimes.lk/150802/news/rs-50-b-coal-tender-up-for-grabs-backroom-manoevres-to-clinch-deal-159232.html> [accessed on: 10 November 2016].

55. SC FR No. 394/2015, S.C. Minutes 24.06.2016, at

[http://www.supremecourt.lk/images/documents/sc\\_fr\\_394\\_2015.pdf](http://www.supremecourt.lk/images/documents/sc_fr_394_2015.pdf) [accessed on: 10 November 2016].

56. Namini Wijedasa, 'Ministry passes buck on coal tender to Cabinet', 24 July 2016, at <http://www.sundaytimes.lk/160724/news/ministry-passes-buck-on-coal-tender-to-cabinet-202312.html> [accessed on: 10 November 2016].

# 2

## E-Government Procurement

The term E-GP broadly refers to the application of electronic systems to the public procurement process. E-GP systems can be designed to handle any or all aspects of the procurement process, ranging from the publication of tenders, transfer of bid documents, bid submission, bid evaluation, contract awards, ordering and payments. E-GP systems provide governments with a common infrastructure for procurement that is shared among all public procuring

entities. In addition, E-GP systems deliver valuable services to bidders, minimising the costs of procurement transactions and enhancing the visibility of procurement decision-making. The handling of all steps in the procurement processes through electronic means is referred to as 'end-to-end e-procurement'. Table 3 below outlines the key facilities and functions that an end-to-end E-GP system could provide.

**Table 3 |** 'Functions of E-GP systems

| Facility                    | Function  |
|-----------------------------|---|
| <b>Supplier registries</b>  | Provides information on registered suppliers seeking to participate in public procurement.  |
| <b>Buyer registries</b>     | Provides information on public procuring entities hosted on the E-GP system, and their respective procurement staff.  |
| <b>E-notifications</b>      | Notifies users of new bid opportunities, changes to bid criteria, upcoming closing dates, contract awards, and payment acknowledgements, among others.  |
| <b>Information services</b> | Publishes procurement-related information, with search and sort capabilities e.g. tender notices; annual procurement plans; procurement guidelines and manuals; details of selection criteria, committee members and contract awards. |



| Facility  | Function   |
|---|--|
| <b>E-tendering</b>                                      | Provides a portal for tender submission into a virtual bid box, through standardised tender documents and bid forms. Other functions include document upload, re-use of supplier information, checklists to ensure completion of bid documents, and post-submission tracking of bid progress.  |
| <b>E-purchasing</b>                                     | Mainly used for low-value, high volume goods; to generate purchase orders, browse supplier catalogues, receive and select quotations, processing purchase orders and enabling digital payments.  |
| <b>E-cataloguing</b>                                    | Enables suppliers to create and manage catalogues, and enable procuring entities to search, short-list and verify stocks available.  |
| <b>E-payments</b>                                       | Facilitates digital payments to awarded suppliers, and payments from bidders e.g. tender processing fees and bid securities.   |
| <b>Procurement Management Information System (PMIS)</b> | Provides procuring entities and government agencies with a system to manage documents, information and workflows, such as through data collection and storage; document management, inventories and contract administration. PMISs can also help procurement planning by providing spend analyses e.g. on transactions, suppliers, payments. |

The implementation of E-GP has advanced across the world. The United Nations e-government survey of 2016 found that 98 out of 193 countries provide an e-procurement platform, up from 63 countries in 2014.<sup>57</sup> National portals providing information on results of bidding are available in 116 countries, compared to 55 in 2014.<sup>58</sup> A number of countries, such as India, Singapore and the Philippines currently utilise E-GP systems to handle parts of their respective procurement processes. Some have successfully implemented end-to-end E-GP systems, South Korea and Bangladesh.

The advantages of E-GP systems for both main end-users, i.e. government agencies and bidders, feature in four broad areas: (i) cost savings; (ii) increased competition and inclusive growth; (iii) greater process efficiency; and (iv) enhanced transparency and accountability.

## 2.1 Cost savings

E-GP lowers the time and resources spent by suppliers in preparing and submitting bids. For instance, E-GP systems can provide for one-time supplier registrations that enable re-use of information such as company names, business addresses, contact information, business registration certificates, prior procurement awards, and technical capabilities. E-GP systems can reduce direct costs of procurement by digitising various aspects of the procurement process. For instance, it can cut down on paperwork, advertising costs and expenditure on physical transfers of bid documentation. An E-GP platform generally centralises all procurement-related communications by procuring entities. This centralisation can substantially reduce the cost of accessing information related to tender opportunities, bid specifications and final awards. Additionally, E-GP can enable electronic transfers of bid

57. United Nations Department of Economic and Social Affairs, *E-Government Survey 2016: E-Government in Support of Sustainable Development* (2016).

58. *Ibid.*

documents, thus reducing transaction costs of preparing and submitting tender responses.

Government agencies can also enjoy indirect cost savings stem from improved productivity and efficiency. For instance, E-GP systems can enable better management of procurement activity by introducing means to organise information and lists of registered suppliers or manage supplier ‘blacklists’. In the case of end-to-end systems with bid evaluation features, E-GP can also enable stronger application of technical evaluation criteria, potentially providing procuring entities with better value for money. For instance, Bangladesh’s E-GP system generates a ‘comparison matrix’ of all bids submitted based on quoted prices and the evaluation criteria specified. The evaluation committee utilises the matrix to generate its evaluation report, which is forwarded electronically to the relevant authority through the workflow of that particular procurement

action as set in the E-GP system.

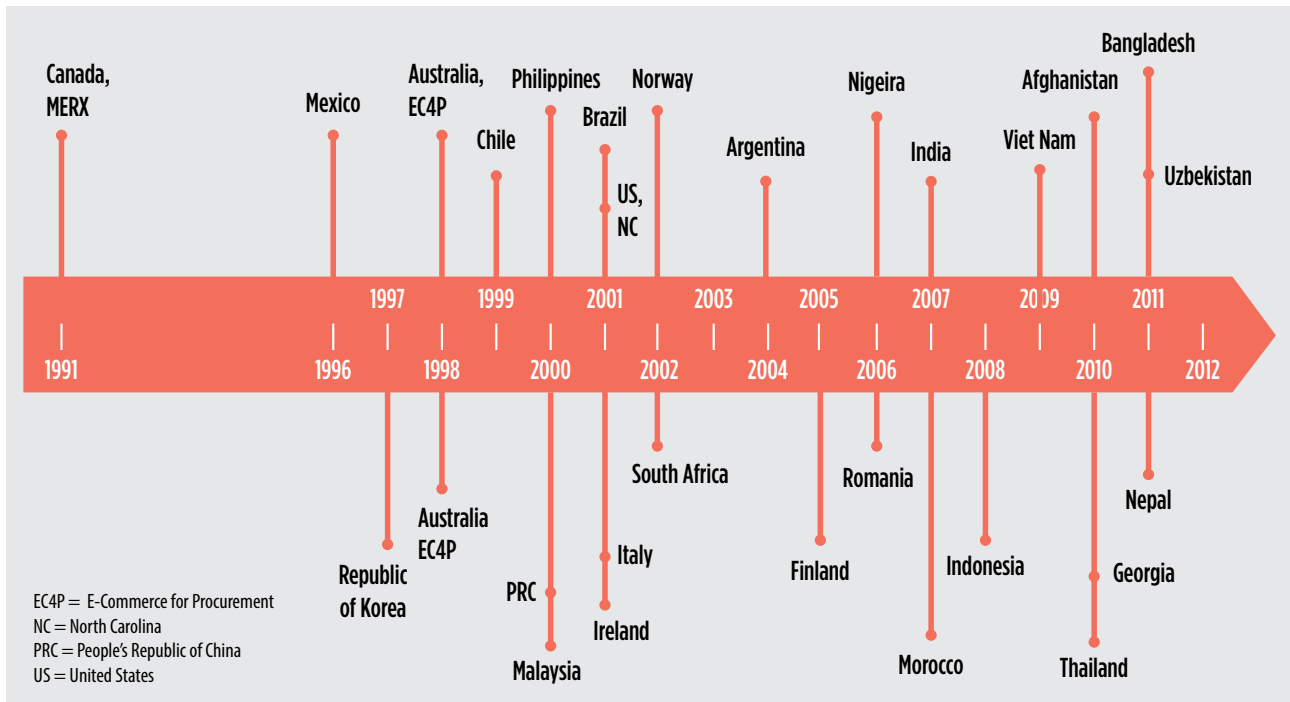
Moreover, the centralisation of procurement can facilitate collaborative procurement of common goods. In Mexico, cost-saving strategies facilitated by E-GP, such as centralised purchasing and framework agreements, generated savings of US\$1 billion from December 2009 and December 2012.<sup>59</sup>

## 2.2 Increased competition and inclusive growth

The increased transparency associated with E-GP increases the competitiveness of the procurement marketplace. E-GP can improve competition by increasing accessibility of bid opportunities to a larger pool of suppliers. Online publication of tenders helps suppliers identify and locate bidding opportunities with minimal effort. E-GP

59. The World Bank, ‘Mexico Moves to Results-based Procurement System’, 3 April 2013, at <http://www.worldbank.org/en/results/2013/04/03/mexico-moves-to-results-based-procurement-system> [accessed on: 4 September 2016]

**Figure 1 | E-GP systems worldwide plotted on a time-scale**





systems can also generate automated alerts for suppliers when tender opportunities arise. The introduction of E-GP has proven successful in improving participation in public procurement; for example the introduction of Russia's official procurement website ([www.zakupki.gov.ru](http://www.zakupki.gov.ru)) in 2011 facilitated remote tendering from regions such as the Ural Mountains, Siberia and the North Caucasus in the procurement markets of Moscow and St. Petersburg.<sup>60</sup> Furthermore, by minimising distance and information barriers, E-GP can facilitate the entry of foreign firms into the domestic procurement marketplace, further boosting competition.

Ease of access and participation in procurement is particularly beneficial to small and medium enterprises (SMEs), which tend to face several challenges in competing with larger, more experienced tenderers. E-GP systems can further facilitate SME participation in public procurement by enabling the submission of joint bids and easier identification of sub-contracting opportunities. E-GP thus helps even the playing field for SMEs. SME registration for participation in Korean public procurement doubled within two years of introducing E-GP, from 70,864 SMEs in 2001 to 147,186 in 2003.<sup>61</sup> In Mexico, E-GP helped increase SME participation in the federal procurement system by approximately 36% between 2010 and 2011.<sup>62</sup>

Expanding the pool of qualified suppliers boosts competition, and in turn delivers greater value for money for procuring entities. Enhanced

competition in public procurement prevents the conclusion of overpriced public contracts by adjusting prices for procured goods, works and services to market price levels. However, the strength of E-GP in boosting competitiveness and value for money is best realised when deployed alongside wider procurement reform efforts, such as liberalising procurement markets and policy reforms to curb anti-competitive practices and corruption.

The introduction of E-GP can also help catalyse the growth of e-commerce in general. E-GP stimulates policy and institutional reforms in the direction of e-commerce, such as by mainstreaming the use of online transactions, digital signatures and certificates, and the use of e-government systems. Since the introduction of E-GP, South Korea witnessed an eight-fold growth in e-commerce from 2001 to 2011, including an increase in the number of e-certificates in use from 1.1 million in 2001 to over 24 million by 2010.<sup>63</sup>

### 2.3 Greater process efficiency

In contrast with procurement by private entities, public procurement is often subject to stricter regulations in order to prevent corruption, enable fair competition and achieve value for money. Accordingly, public procurement is often subject to highly detailed processes, which could introduce inefficiencies into procurement processes.

60. Dina V. Krylova and Alexander Settles, 'Procurement Reform in Russia: Implications for the Fight Against Corruption', 30 June 2011, at <http://www.cipe.org/sites/default/files/publication-docs/Procurement%20Reform%20in%20Russia.pdf> [accessed on: 25 August 2016].

61. Ho In Kang, 'e-Procurement Experience in Korea : Implementation and Impact' (June 2012), at [http://ec.europa.eu/internal\\_market/publicprocurement/docs/eprocurement/conferences/speeches/ho-in-kang\\_en.pdf](http://ec.europa.eu/internal_market/publicprocurement/docs/eprocurement/conferences/speeches/ho-in-kang_en.pdf) [accessed on: 30 August 2016].

62. The World Bank, 'Mexico Moves to Results-based Procurement System', 3 April 2013, at <http://www.worldbank.org/en/results/2013/04/03/mexico-moves-to-results-based-procurement-system> [accessed on: 4 September 2016].

63. Ho In Kang, 'e-Procurement Experience in Korea : Implementation and Impact' (June 2012), at [http://ec.europa.eu/internal\\_market/publicprocurement/docs/eprocurement/conferences/speeches/ho-in-kang\\_en.pdf](http://ec.europa.eu/internal_market/publicprocurement/docs/eprocurement/conferences/speeches/ho-in-kang_en.pdf) [accessed on: 30 August 2016].

E-GP systems can promote overall process efficiency in public procurement by simplifying and automating its various procedural stages. E-GP saves time in relation to several aspects of the procurement process – including bid processing, document transfers and communication. The introduction of E-GP in the Andhra Pradesh state government in India enabled the decrease in tender cycle times from 90–135 days to approximately 35 days.<sup>64</sup> In Norway, E-GP enabled a 20%–40% reduction in the time taken to handle procure-to-pay processes.<sup>65</sup> In Mexico, E-GP stimulated an audit of procurement processes, which enabled the elimination of 586 redundant procurement regulations.<sup>66</sup>

Sri Lanka's existing procurement guidelines and manuals can prove daunting for suppliers to comprehend and comply with. E-GP systems can improve the accessibility of government guidelines and manuals to suppliers. Furthermore, they can help suppliers by minimising opportunities for procedural errors, thus reducing the risk of non-compliance with bid specifications. For example, online bid-submission portals can feature checklists for bid completion, and flag instances of incomplete data fields or missing documents. Moreover, E-GP systems induce greater standardisation of procurement materials (e.g. bid forms, notifications and supplier qualification).

E-GP systems also help procuring entities strengthen the integrity of the public procurement process. For instance, the introduction of an E-GP system eliminates the use of physical

bid boxes, hence increasing the security of bid documents and reducing the risks of tampering or damage. E-GP systems typically provide 'electronic vaults' that prohibit access to bid submissions prior to the relevant submission deadline.<sup>67</sup> Other security measures built into E-GP systems include the use of public-key encryption, document authentication mechanisms and authorisation controls.<sup>68</sup>

## 2.4 Transparency and accountability

E-GP can enhance the transparency of Sri Lanka's public procurement process by addressing some of the information asymmetries faced by suppliers. Key features of E-GP systems that enhance transparency include greater visibility over the progress of bids through the procurement process, and public disclosure of contract awards. For example, the E-GP system could alert bidders in the event submitted bids are accessed before the close of bidding, or if tender specifications are changed at any point during the tender process. Moreover, E-GP facilitates increased public access to up-to-date policies, procurement plans, and bid selection criteria.

E-GP also enhances transparency by enabling access to information pertaining to past procurement actions. Sri Lanka's existing Procurement Guidelines do not explicitly require procuring entities to maintain records of procurement activities (e.g. selection criteria, successful bids, and tender notices).<sup>69</sup> Instead, the Guidelines

64. The Asian Development Bank, *E-Government Procurement Handbook* (2013).

65. *Ibid.*

66. The World Bank, 'Mexico Moves to Results-based Procurement System', 3 April 2013, at <http://www.worldbank.org/en/results/2013/04/03/mexico-moves-to-results-based-procurement-system> [accessed on: 4 September 2016].

67. The Asian Development Bank, *E-Government Procurement Handbook* (2013).

68. *Ibid.*

69. Japan International Cooperation Agency, *Study on Public Procurement Systems and Capacity in South Asian Countries, Final Report* (February 2013), at [http://open\\_jicareport.jica.go.jp/pdf/12087599.pdf](http://open_jicareport.jica.go.jp/pdf/12087599.pdf) [accessed on: 5 September 2016].

only mandate record keeping in relation to certain documents, such as bid evaluation reports.<sup>70</sup> E-GP systems can help create repositories of information pertaining to past procurement actions. Such information can be utilised by suppliers to optimise their future bids in accordance with the particular demands of the procuring entity. Information on past procurement can also help government agencies design better procurement plans, and enhance their audit capabilities.

Greater transparency of the public procurement process yields immediate benefits in minimising corruption. Moreover, E-GP minimises opportunities for officials to exercise bias at various stages of the procurement process, thus reducing inconsistencies in the application of the Procurement

Guidelines. For example, the E-GP system would only accept bids submitted by their due date and time, and deny bids submitted by blacklisted suppliers. E-GP systems also allow businesses, civil society and the public to scrutinise the various stages and actors involved in the procurement process. For instance, the E-GP portal can publicly list the composition of PCs and TECs, or enable comparison of successful bids against stated selection criteria. By improving public visibility over procurement actions, fully functional E-GP systems make corruption easier to detect and deter. E-GP systems thus reduce the space for corruption in public procurement transactions. This reduction of corruption results in the better utilisation of taxpayer money and improved public financial accountability.

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70. *Ibid.*

# 3

## International experiences of E-GP

### South Korea

South Korea enjoys one of the most advanced E-GP systems in the world in the form of the Korea Online e-procurement system (KONEPS). KONEPS is a single end-to-end E-GP system, which currently processes over two thirds of South Korean public procurement. KONEPS is worth 60 billion annually.<sup>71</sup> The system processes all stages of the Korean public procurement process. The number of KONEPS users has grown significantly over time, to over 250,000 private sector users and almost 50,000 public entities in 2014.

KONEPS was instituted within a broader procurement reform process initiated in the late 1990s. Prior to KONEPS, procurement was processed by the Korean central Public Procurement Service (PPS). The reforms aimed to address a

number of lapses in the public procurement process administered by the PPS, including a lack of transparency, convoluted legal and regulatory requirements, and difficulties accessing information on bid opportunities. In response to the constraints of the PPS systems, many agencies opted for procurement autonomous from the PPS. However, this had the effect of decentralising procurement which introduced further inefficiencies in the bidding process.

The development of KONEPS took place in incremental stages, starting with a platform for electronic data interchange in 1997 and an e-bidding system in 2000. In 2001, e-payments were introduced. KONEPS was launched as a nation-wide system in 2002. The system has since incorporated capability for an e-shopping mall, fingerprint authentication and mobile procurement.<sup>72</sup> In re-engineering the procurement

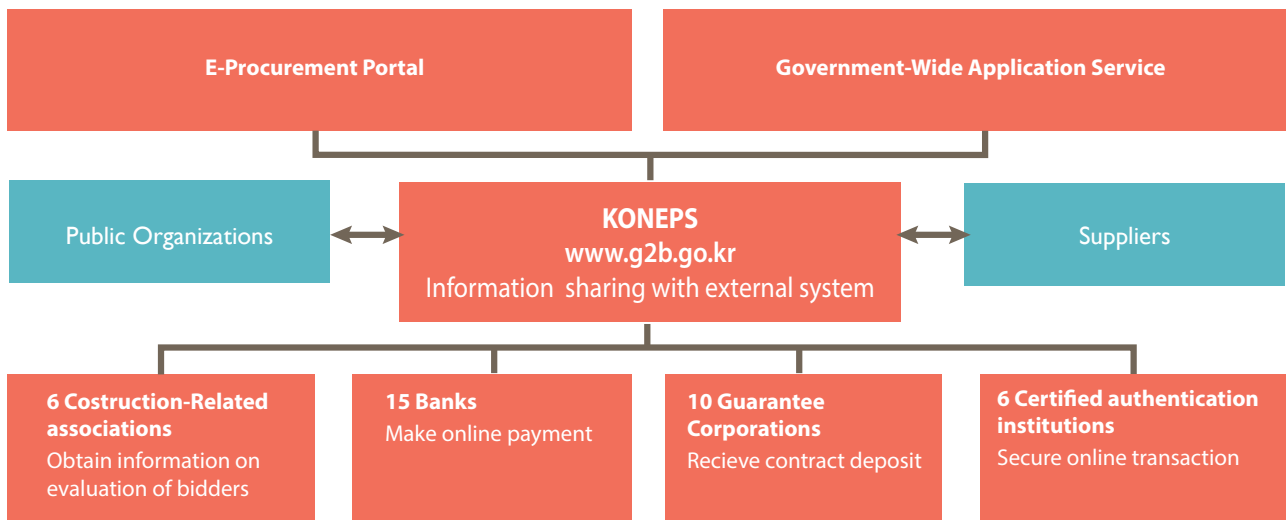
71. OECD, The Korean Public Procurement service: innovating for effectiveness, OECD Public Governance Reviews (2016) at: [http://www.oecd-ilibrary.org/governance/the-korean-public-procurement-service\\_9789264249431-en](http://www.oecd-ilibrary.org/governance/the-korean-public-procurement-service_9789264249431-en) [accessed on: 25

August 2016].

72. Public Procurement Service South Korea, 'Korea Online E-procurement Service', at [http://www.g2b.go.kr/gov/koneps/pt/intro/file/4\\_KONEPS\\_eng.pdf](http://www.g2b.go.kr/gov/koneps/pt/intro/file/4_KONEPS_eng.pdf) [accessed on: 25 August 2016].

## Figure 2 | Outline of KONEPS

Source: [www.pps.go.kr](http://www.pps.go.kr)



process, the Korean government set up a dedicated project management body to run the automation of the procurement through E-GP. The design of KONEPS also incorporated user reviews and opinions as part of its transition strategy.

KONEPS generates savings of approximately USD 8 million in administrative costs, of which 80% accrues to the private sector.<sup>73</sup> Efficiency gains achieved through KONEPS has resulted in lower requirements for human resources; between 1998 and 2002 the number of PPS staff fell from 1,058 to 935, while the value of procurement they handled increased from \$12.8 billion

to \$17.1 billion.<sup>74</sup> The automation of procurement through KONEPS has resulted in reduced paperwork, i.e. a reduction of 7.8 million pages of paper per year.<sup>75</sup> The system has also generated high transaction cost savings, estimated in 2015 to amount to approximately USD 6.8 billion.<sup>76</sup> These savings are largely enjoyed by the private sector, which accounted for USD 5.6 billion in cost savings.<sup>77</sup>

Moreover, the system has also enabled better detection and prevention of corruption, through monitoring of bidding practices and referral of offenders to the Fair Trading Committee for investigation. Korea also employs an informant

73. OECD, The Korean Public Procurement service: innovating for effectiveness, OECD Public Governance Reviews (2016) at: [http://www.oecd-ilibrary.org/governance/the-korean-public-procurement-service\\_9789264249431-en](http://www.oecd-ilibrary.org/governance/the-korean-public-procurement-service_9789264249431-en) [accessed on: 25 August 2016].

74. The World Bank, Korea's move to e-procurement, PREMnotes (July 2004), at: <http://www1.worldbank.org/prem/PREMNotes/premnote90.pdf> [accessed on: 30 August 2016].

75. Ho In Kang, 'e-Procurement Experience in Korea:

Implementation and Impact' (June 2012), at [http://ec.europa.eu/internal\\_market/publicprocurement/docs/eprocurement/conferences/speeches/ho-in-kang\\_en.pdf](http://ec.europa.eu/internal_market/publicprocurement/docs/eprocurement/conferences/speeches/ho-in-kang_en.pdf) [accessed on: 30 August 2016].

76. The OECD, The Korean Public Procurement service: innovating for effectiveness, OECD Public Governance Reviews (January 2016), at [http://www.oecd-ilibrary.org/governance/the-korean-public-procurement-service\\_9789264249431-en](http://www.oecd-ilibrary.org/governance/the-korean-public-procurement-service_9789264249431-en) [accessed on: 25 August 2016].

77. Ibid.

reward policy, where informants receive rewards of up to USD 10,000 for information regarding illegal E-GP practices.<sup>78</sup>

## Bangladesh

Bangladesh piloted its national E-GP portal ([www.eprocure.gov.bd](http://www.eprocure.gov.bd)) in 2012 across four major government agencies that together accounted for over 50% of the country's annual development programme. These agencies are the Water Development Board, the Rural Electrification Board, Local Government Engineering Department, and the Roads and Highways Division.<sup>79</sup> The system was rolled out to 291 procuring entities under these four agencies. It was set up with support from the World Bank, and is operated by the Central Procurement Technical Unit (CPTU), under the Ministry of Planning. Over 28,000 tenders valued at about US\$3 billion have been processed through E-GP as of August 2015.<sup>80</sup>

Key features of Bangladesh's E-GP system include a central registration system, an e-tendering platform, an online evaluation system, a workflow management system, an e-payment system and a contract management system. The system's e-tendering platform provides for online pre-tender meetings, tender openings, bid evaluations by Technical Committees, negotiations, and issuance of notices of awards. Their contract management system enables procuring entities to

submit work plans, generate progress reports, set repeat or variation orders and manage a database of complaints and their resolution. Furthermore, Bangladesh's E-GP platform also provides a Procurement Management Information System (PROMIS) that measures procurement actions against key procurement performance indicators, such as processing time and average number of bidders.

The introduction of E-GP in Bangladesh precipitated a range of benefits in relation to competition, efficiency and transparency. By 2014, all tender invitations were published online, up from 70% in 2007. Tender processing time reduced from 51 days in 2012 to 29 days in 2015.<sup>81</sup> The number of registered tenderers grew 35-fold, from around 520 to 18,000 over the same period.<sup>82</sup> When compared to Bangladesh's traditional procurement system, E-GP resulted in a decrease in the price to cost ratio by between 10% and 12%, translating into cost savings of more than USD 10 million.<sup>83</sup>

The roll-out and operation of the system was accompanied by a capacity development programme, supported by a public-private stakeholders committee (PPSC) and a government contractors' forum. The programme included training for over 2100 staff members of the four identified agencies, as well as for policy makers, bidders, and auditors. A communication

78. Public Procurement Service South Korea, 'Korea Online E-procurement Service', at [http://www.g2b.go.kr/gov/koneps/pt/intro/file/4\\_KONEPS\\_eng.pdf](http://www.g2b.go.kr/gov/koneps/pt/intro/file/4_KONEPS_eng.pdf) [accessed on: 25 August 2016].

79. The World Bank, 'Wind of Change: Digital Procurement Transforms Bangladesh', 6 October 2015, at: <http://www.worldbank.org/en/news/feature/2015/10/06/winds-change-digital-procurement-transforms-bangladesh> [accessed on: 31 October 2016].

80. Ibid.

81. The World Bank, 'Wind of Change: Digital Procurement Transforms Bangladesh', 6 October 2015, at: <http://www.worldbank.org/en/news/feature/2015/10/06/winds-change-digital-procurement-transforms-bangladesh> [accessed on: 31 October 2016].

feature/2015/10/06/winds-change-digital-procurement-transforms-bangladesh [accessed on: 31 October 2016].

82. The World Bank, 'World Bank Helps Expand Electronic Public Procurement in Bangladesh', 6 June 2016, at <http://www.worldbank.org/en/news/press-release/2016/06/07/expand-electronic-public-procurement-bangladesh> [accessed on: 31 October 2016].

83. Wahid Abdallah, 'Effect of Electronic Public Procurement: Evidence from Bangladesh', International Growth Centre (May 2015), at <http://www.theigc.org/wp-content/uploads/2015/05/Abdallah-2015-Working-Paper-1.pdf> [accessed on: 31 October 2016].



**Figure 3 | National E-GP portal of Bangladesh**

National e-Government Procurement (e-GP) Portal of the Government of the People's Republic of Bangladesh

Home Page | About e-GP | Contact Us | RSS Feed | Language [English]

Type your Keyword here eTenders Search Advance Search

Go To » eTenders Annual Procurement Plans eContracts Debarred Tenderers Reports Off-line Tenders Off-line Contracts

Wednesday, 02 Nov, 2016 14:24:48 BST

**'Electronic Tender, makes Procurement Simpler'**

User Login

e-mail ID

\*\*\*\*\*

Login Forgot Password?

View All Notifications

Reports

Registration Details Annual Procurement Plans Tenders/Proposals Performance Indicators Report

|                | No. of Tenders/Proposals Invited | No. of Tenders/Proposals being Processed | No. of Contracts Awarded |
|----------------|----------------------------------|--|--------------------------|
| Ministry :     | 68611                            | 16352                                    | 43539                    |
| Division :     | 60184                            | 14531                                    | 37944                    |
| Organization : | 68611                            | 16352                                    | 43476                    |

Source: [www.eprocure.gov.bd](http://www.eprocure.gov.bd)

campaign was launched aiming to demystify procurement and build support for procurement reforms among the public. Campaign material was disseminated through the mass media, including a six-episode reality show.<sup>84</sup>

## Mexico

Mexico began to overhaul its procurement system in the late 1990's. Procurement reforms in Mexico were catalysed by 1995 Peso crisis, which necessitated stronger controls on public expenditure. The period was also marked by political upheaval and widespread public dissatisfaction over prevailing economic circumstances. A number of weaknesses existed in Mexico's public procurement system. These included: high level of inefficiency, an over-concentration of suppliers in Mexico City, skills deficiencies among officials, and a lack of transparency.<sup>85</sup>

Mexico's E-GP system, CompraNet, was first launched in 1997 and is currently in its fifth version. CompraNet 5.0 was launched in 2009, alongside reforms of procurement legislation. Public institutions are required to use CompraNet to register all the contracts over MXN 15,000 (approx. USD 1,150).<sup>86</sup> Moreover, since June 2011, the registration of procedures and procurement documents on CompraNet is mandatory for every governmental agency that uses the Federal budget for its procurement procedures, provided that the procured items exceed a value threshold of 300 days of minimum wage.<sup>87</sup> Information available on the system includes tender notices, tendering procedures, yearly procurement schedules, contract awards and possible challenges. CompraNet has enjoyed a high level of backing from the Mexican government, which has been a key ingredient for its success.

84. The World Bank, 'Bangladesh: Transforming Procurement Outcomes through Capacity Development and Performance Monitoring', 15 April 2013, at <http://www.worldbank.org/en/results/2013/04/15/bangladesh-transforming-procurement-outcomes-through-capacity-development-and-performance-monitoring> [accessed on: 31 October 2016].

85. Estrada, S.I., 'Success/failure case study no.14: e-procurement by Mexico's government' (2002), at:

<http://www.egov4dev.org/success/case/mexeproc.shtml> [accessed on: 26 August 16].

86. The OECD, Fighting Bid Rigging in Public Procurement in Mexico, A Secretariat Analytical Report on Compliance with OECD Standards of Procurement Legislation, Regulations and Practices in CFE (2015), at <http://www.oecd.org/daf/competition/FightingBidRigging-Mexico-CFE-Report-2015.pdf> [accessed on: 26 August 16].

87. Ibid.

From January to May 2010, CompraNet 5.0 handled almost 24,000 procurement transactions valued at MXN 209,847 million.<sup>88</sup> The use of the system has generated cost-savings of USD 1 billion from 2009 to 2012.<sup>89</sup> CompraNet also enabled the rationalisation of excessive and complex procurement laws, and the elimination of 586 redundant regulations regarding procurement.

CompraNet's key success in tackling corruption has been in increased transparency, enabled through access to detailed historical information on each bid processed by the system. Information access via CompraNet was instrumental in public disclosure of 'towel-gate' in 2001, when journalists discovered on the platform that former President Vicente Fox's office spent \$440,000 to redecorate two cabins in the presidential compound, including on \$400 embroidered towels.<sup>90</sup> CompraNet has also facilitated greater SME participation in federal public procurement. The number of contracts awarded to SME's grew by 36% between 2010 and 2011.<sup>91</sup>

## The Philippines

The Philippine Department of Budget and Management (DBM) initiated a web-based Pilot

Electronic Procurement System (Pilot EPS) in November 2000. The EPS provided a common portal for supplier registration and for advertisement of bid opportunities. An Executive Order issued by President Gloria Macapagal-Arroyo in October 2001 mandates the EPS to function as the single, centralised E-GP portal, and expanded its application to all national and local level government agencies, including government financial institutions and state-owned higher educational institutions. The Government Procurement Reform Act (GPRA), enacted in 2003, provided for the creation of PhilGEPS to 'serve as the primary source of information on all government procurement'.<sup>92</sup> The GPRA also established the Government Procurement Policy Board (GPPB), which functions as a policy and monitoring body as well as an oversight agency.

PhilGEPS functions as a government-owned business operation, with a third-party service provider responsible for the initial delivery, implementation, and ongoing operation of the system. The government retains ownership and control of the business operation and management of the service.<sup>93</sup>

PhilGEPS's main features include: (i) an electronic bulletin board which publishes tenders and

88. OECD, *Towards More Effective and Dynamic Public Management in Mexico*, OECD Public Governance Reviews (June 2011), at [http://www.oecd-ilibrary.org/governance/towards-more-effective-and-dynamic-public-management-in-mexico\\_9789264116238-en](http://www.oecd-ilibrary.org/governance/towards-more-effective-and-dynamic-public-management-in-mexico_9789264116238-en) [accessed on: 26 August 2016].

89. The World Bank, 'Mexico moves to Results based Procurement System', 3 April 2013, at: <http://www.worldbank.org/en/results/2013/04/03/mexico-moves-to-results-based-procurement-system> [accessed on: 26 August 2016].

90. 'Pricey Linens Cause a Fray in Mexican Politics', *The New York Times*, 27 June 2001, at <https://web.archive.org/web/20130926145537/http://www.nytimes.com/2001/06/27/world/27MEXI.html?pagewanted=1> [accessed on: 26 August 2016].

91. The World Bank, 'Mexico moves to Results based Procurement System', 3 April 2013, at: <http://www.worldbank.org/en/results/2013/04/03/mexico-moves-to-results-based-procurement-system> [accessed on: 26 August 2016].

92. Section 8, the 2016 Revised Implementing Rules and Regulations of Republic Act No. 9184, Otherwise Known As The Government Procurement Reform Act, at <Http://Www.Bsp.Gov.Ph/Downloads/Procurement/Ra9184.Pdf> [accessed on: 26 August 2016].

93. The Asian Development Bank, *E-Government Procurement Handbook* (2013).



award notices, (ii) a registry of all procuring entities and suppliers, contractors and consultants, and (iii) an e-catalogue for centrally purchased, common-use goods. PhilGEPS also include government auditors as among its end-users: auditors have visibility over system activities conducted by buying agencies.<sup>94</sup> The PhilGEPS office also conducts regular training for both procuring entities and suppliers.

A key area for cost savings stemming from the use of PhilGEPS has been in terms of reduced

newspaper advertising costs. By January 2011, the Philippine government reportedly saved over 564 million pesos (approximately USD 11,326,200) in advertising costs from using PhilGEPS; this amount alone represented around 20% more than 467 million pesos (USD 9,378,266) expended for building and maintaining the system, including the costs for operating the pilot phase.<sup>95</sup> The system's users have also reported to find the system efficient, cost-effective and supportive of a more competitive procurement environment.<sup>96</sup> PhilGEPS has seen an average increase of 5,500

94. Nide Marie Bombay for the Asian Development Bank, Philippines: Case study on The Philippine Government Electronic Procurement System (PhilGEPS) (June 2011), at <http://adbprocurementforum.net/wp-content/uploads/Phil-eGP->

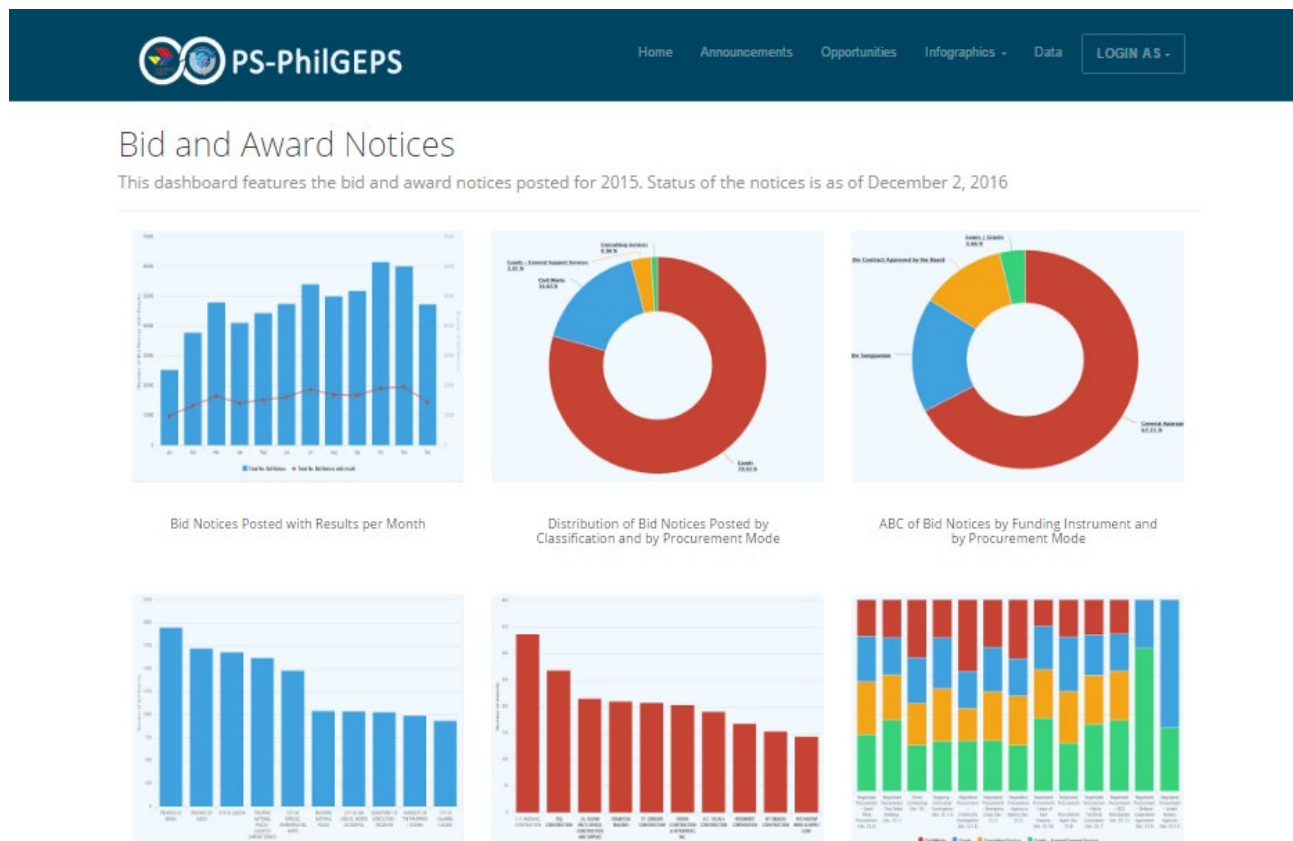
[case-study-Sep2011.pdf](#) [accessed on: 26 August 2016].

95. Ibid.

96. Ibid.

## Figure 4 | PhilGEPS

Source: [data.philgeps.gov.ph/notices.html](http://data.philgeps.gov.ph/notices.html)



registered suppliers per year from 2000 to 2015. It currently hosts over 83,000 suppliers of which 17,616 registered in 2015.<sup>97</sup>

PhilGEPS has faced challenges in securing registration of buyers i.e. procuring entities. By April 2011, only 15% of Philippines 43,694 local government units (barangays) had registered on the system.<sup>98</sup> Furthermore, compliance with requirements to post procurement notices

on PhilGEPs was weak: from 2000–2010, only 18% of the total of 1.23 million notices were posted.<sup>99</sup> As at October 2016, only 34% of tender notices posted on PhilGEPs were followed by posts as to their results.<sup>100</sup> In 2013, the design of the PhilGEPS platform was also reported to be a hurdle to accessibility and use of any data that made available.<sup>101</sup> The platform has since been revamped, and currently features several public datasets on suppliers, bid notices and awards.

97. See <http://data.philgeps.gov.ph/> [accessed on: 13 December 2016].

98. Nide Marie Bombay for the Asian Development Bank, Philippines: Case study on The Philippine Government Electronic Procurement System (PhilGEPS) (June 2011), at <http://adbprocurementforum.net/wp-content/uploads/Phil-eGP-case-study-Sep2011.pdf> [accessed on: 26 August 2016].

99. Ibid.

100. See: <http://data.philgeps.gov.ph/notices.html> [accessed on: 13 December 2016].

101. Alexander Furnas, 'Transparency Case Study: Public Procurement in the Philippines', 7 October 2013, *The Sunlight Foundation*, at: <http://sunlightfoundation.com/blog/2013/10/07/case-study-public-procurement-in-the-philippines/> [accessed on: 26 August 2016].



# 4

## Implementing E-GP

**E**-GP involves more than automating existing public procurement processes. Rather, the introduction of E-GP involves the streamlining, simplification and harmonisation of a country's procurement system. As such, the full value of E-GP lies in its ability to serve as a catalyst for procurement reform.

The Sri Lankan government is currently considering a range of procurement reforms, including E-GP. In this context, there are four enabling factors that will strengthen E-GP implementation:

- 1.** Legislative and policy interventions
- 2.** Institutional interventions
- 3.** Change management strategies
- 4.** Strategies for roll-out

### **4.1 Legislative and policy interventions**

The effective implementation of E-GP necessitates that the country's procurement legislation permits electronic procurement. Accordingly, the core legislative requirements for implementing E-GP include amending existing procurement policies and laws to (a) stipulate a transition period in which manual procurement is phased out, (b) streamline existing rules and guidelines to permit E-GP, and (c) mandate online supplier registration as a precondition for submitting bids through the E-GP system. Furthermore, in order to ensure the broader functionality of a country's E-GP platform, it will need to enact or amend existing legislation to permit e-signatures, e-documents, and electronic payments.

Governing laws on E-GP do not routinely deal with the working details of the E-GP system.<sup>102</sup> Instead, the day-to-day management of E-GP

102. *Ibid.*

activities are governed by a robust and comprehensive E-GP policy framework. This policy framework should be designed to facilitate procurement processes and transactions in an electronic environment. As such, these policies should clearly set out the terms of use for the E-GP system. For instance, the terms of use can address the manner in which documents are received and queries are electronically submitted through the system. Moreover, an E-GP system will entail the institution of new management practices within public procurement processes. As such, the E-GP policy framework should set out rules governing: (a) electronic tender bid opening protocols (b) the user roles and responsibilities for accessing data in the system (c) electronic template and contract development, (d) electronic tender management security and encryption standards for data, (e) policies for data backups and archiving, and (f) electronic payment gateways.

## 4.2 Institutional interventions

Comparative experience of E-GP implementation lists political support and high-level institutional leadership as among its key success factors.<sup>103</sup> Accordingly, the success of an E-GP system is often dependent on the creation of a centralised lead agency tasked with providing the institutional leadership for the roll-out and operation of the E-GP system. This agency should also function as the primary procurement policy body. As such, it should be positioned to drive reforms relating to procurement policy and institute procedures to ensure the efficient implementation of E-GP. In addition, the agency should be made responsible for conducting capacity building within procuring entities, in order

to enable better compliance with the procedures and practices of the E-GP system.

It is common for the lead procurement agency to establish a Project Management Unit under its purview. The PMU should be tasked with the actual development, delivery and operation of the E-GP system. As such, the PMU can undertake responsibilities such as defining the project scope, outlining key deliverables, and developing an E-GP implementation plan. Moreover, the PMU can be made responsible for managing key project risks, such as securing government approval for E-GP policies.

## 4.3 Change management

The transition to an E-GP system represents a significant change in the operational procedures for procuring agencies and supplier communities. A smooth transition to E-GP requires that the lead procurement agency takes responsibility for informing supplier communities of the transition, and provides clarifications and guidance as required. It will also entail government investment in management support to procuring entities, particularly during the initial stages of the E-GP system's roll-out and operation.

### *Technological Infrastructure*

It is essential that procuring entities and suppliers are equipped with the necessary infrastructure and resources to utilise the E-GP system. For instance, one risk in the roll-out of E-GP is the weakness or lack of network infrastructure, which prevents procuring entities from participating in the system. This risk also applies to suppliers, who may be unable to benefit from E-GP in the

103. *Ibid.* See also: Ramanathan Somasundaram for the Asian Development Bank, *Consolidated View & Analysis of Responses from 27 Asia Pacific Countries to Public Procurement Survey (with e-GP Overview)* (November 2011), at <https://www.adb.org/sites/default/files/project-document/60460/43149-012-reg-tacr-04.pdf> [accessed on: 30 August 2016].

absence of reliable network connections. As such, transitioning to E-GP should be complemented by efforts to build the technological infrastructure in procuring entities as well as supplier communities, who may face challenges in accessing and adopting the E-GP system.

Moreover, the roll-out of an E-GP system introduces risks that did not exist in the manual procurement process, such as hacking and denial-of-service attacks. Bids will need to be encrypted during transmission and storage, and only decrypted at scheduled opening times. E-GP systems must also possess a means for user authentication, to enable irrefutable identification of bidders, procuring entities and other designated officials. E-GP systems typically utilise data encryption alongside a user certification process for these purposes. Additional security features required include facilities for secure storage of documents, time-stamping, and data recovery in the event of the system malfunctioning. Investments in digital security infrastructure are hence a vital element of transitioning from manual procurement to E-GP. Strong security measures will also help reassure suppliers wary of transitioning to E-GP.

### ***Capacity Development***

E-GP implementation typically represents a greater management challenge than a technological one.<sup>104</sup> The introduction of an E-GP system entails substantial changes to practices that have become institutionalised over time across government agencies. In this context, the initial roll-out of E-GP is likely to face some resistance from within government agencies. As such, the full value of E-GP is best realised when it enjoys institutional buy-in, bureaucratic leadership and interest in procurement reforms. The absence of these elements creates substantial challenges for

E-GP implementation. Therefore, it is necessary that the roll out of E-GP be accompanied by significant investment in training and capacity development programs in procuring entities. Training and capacity development should focus on equipping procuring entities to utilise the new system to publish tender notices, manage supplier registration and process bids. Furthermore, a communication programme geared towards disseminating the benefits on E-GP for procuring entities is essential in the first stages of E-GP implementation.<sup>105</sup> This communication programme will aid in alleviating common misconceptions around procurement reform.

Moreover, investments in awareness raising and training are also necessary to build supplier trust in the E-GP system. Suppliers are likely to need reassurance that the E-GP system is fair, secure and cost-effective. Accordingly, an E-GP rollout strategy will benefit from investment in efforts to (i) secure supplier-buy in, and (ii) equip them with the necessary tools and knowledge to participate effectively in the E-GP systems. Furthermore, E-GP platforms often feature ongoing support services for suppliers, such as information hotlines and help desks to manage everyday operational issues faced by suppliers. The lead procurement agency could also carry out introductory training programmes for suppliers, particularly those representing SMEs, entering the E-GP system.

### ***Business Process Engineering***

The adoption of an E-GP system provides an opportunity for business process engineering (BPR) in procuring entities. Embarking on BPR in relation to public procurement will maximise the efficiency and timeliness of the procurement process. As such, prior to the full implementation of E-GP, the PMU can be tasked with

104. *Ibid.*

105. *Ibid.*

conducting an audit of existing procurement processes, to (a) identify areas for improvement within system workflow, (b) detail opportunities for process integration across procuring entities and (c) design standardised forms and documents that will enhance streamlining across the bidding process. On the completion of its audit, the PMU will be able to develop procurement processes that are more simplified and standardised.

## 4.4 Strategies for roll-out

### *Phasing procurement processes*

Most governments begin E-GP programmes by setting up a basic E-GP platform, which publishes tenders, and registers bidders and procuring entities. This system can often be run alongside manual stages of the procurement process. The initial E-GP system should aim to set the foundation for an open, transparent and competitive procurement environment. Governments can progressively build on the basic E-GP system over time, to incorporate capabilities such as online bid submission and bid evaluation.

An E-GP system is ideally deployed as a single system across all procuring entities at various levels of government. However, a single system does not necessarily represent the centralisation of procurement activity; rather it functions as shared infrastructure that can be utilised by

decentralised procuring entities. It also centralises the management of E-GP implementation, hence minimising the risk of fragmented E-GP systems that make usage cumbersome and time-consuming for suppliers.<sup>106</sup> A single system maximises the efficiency of processes such as security management and supplier registration, as well as providing suppliers with single log-ins for tendering across procuring entities. While E-GP serves to create a common infrastructure for procurement, procuring entities remain fully in control of bid specifications, and the value and volume of purchases. Procuring entities may be able to customise certain aspects of the E-GP system to match their internal management practices. However, single sign-ons and a common portal that hosts all government-issued tenders are recommended as a minimum requirement.<sup>107</sup>

### *Rolling out E-GP across procuring entities*

The roll-out of the unified E-GP system can first be extended to particular categories of procurement to build a critical mass of users, in terms of both suppliers and procuring entities. For example, it can be rolled out to handle procurement of a specific threshold value, of a particular good or service purchased, or within a specific level of government. Piloting the E-GP system amongst a smaller group of buying agencies can permit the implementer to better understand the user environment, training needs, support services and IT infrastructure required for users.<sup>108</sup>

106. *Ibid.*

107. *Ibid.*

108. See: <http://data.philgeps.gov.ph/data.html> [accessed on: 29 November 2016].



# 5

## Recommendations

The Sri Lankan government has expressed its commitment to introducing E-GP as part of its strategy to implement broader public procurement reform. As demonstrated above, E-GP has the potential to address prevailing constraints in Sri Lanka's public procurement marketplace pertaining to information asymmetries, anti-competitive practices and high transaction costs. Moreover, as comparative studies demonstrate, E-GP is positioned to increase the efficiency and timeliness of the public procurement process. As such, implementing E-GP can ensure that procuring entities benefit from concluding value for money transactions, and suppliers benefit from the enhanced ability to access and participate in the procurement marketplace.

This section recommends legal, policy and institutional interventions for the implementation of E-GP in Sri Lanka. Moreover, the section will suggest strategies for the operation and roll-out of E-GP in the country.

### *Legislative and policy interventions*

In order to implement E-GP in Sri Lanka, it is necessary that the country's Procurement Guidelines and the Procurement Manual be suitably amended to facilitate and enable E-GP. For instance, the explicit prohibitions in the Procurement Guidelines relating the electronic availability of tender documentation, and the electronic submission of bids, should be removed. Moreover, the Guidelines should be amended to permit the online registration of suppliers and require the electronic publication of tender notices. In the interests of enabling E-GP to address the prevailing information asymmetries in the procurement marketplace, the Procurement Guidelines should be amended to mandate electronic publication of (a) annual procurement plans, (b) the selection criteria for bids, (c) the composition of Procurement Committees and Technical Evaluation Committees, (d) any subsequent revisions to tender notices, and (e) successful tender bids. Additionally, the Guidelines should also mandate the use of the E-GP



system as per the government's roll-out plan. As such, parallel bidding should not be permitted beyond a stipulated transition period.

As demonstrated through country examples such as India and the Philippines, the functionality of an E-GP system is dependent on the existence of a law or regulatory framework that recognises the validity of digital certificates and e-signatures. Sri Lanka currently has an Electronic Transactions Act, No. 19 of 2006. This Act permits the use (and acceptance) of e-signatures and e-documentation by government entities. Notwithstanding this Act, procuring entities have consistently challenged the authenticity of e-signatures and e-documentation when concluding transactions with suppliers. As such, the Electronic Transactions Act has had limited use in practice. This limited use has negatively impacted the degree of automation in the procurement marketplace. Therefore, in order to enable the full implementation of an E-GP platform in Sri Lanka, procuring entities should issue a circular stating that e-signatures certified by an appropriate Certification Service Provider can be accepted as valid and enforceable, for the purposes of concluding public procurement transactions.

In order to ensure the full implementation of E-GP, the government will be required to enact an E-GP policy that clearly defines the terms of use of the system. This policy should set out management practices under the E-GP system, with a view to complementing the existing manual procurement process. Moreover, the revised management practices should aim to address circumstances that may not have been present under the manual procurement processes. Such circumstances include: handling of documents found to contain a virus, electronic tender bid opening protocols, online catalogues, and the malfunction of government facilities before closing time set for electronic tender submission. Moreover, the E-GP policy should include rules governing IT

security, backup policies, and archival procedures in procuring entities.

### *Institutional reform*

The NPC is mandated to formulate fair, transparent and cost-effective procedures governing public procurement. Accordingly, the NPC will function as the primary procurement policymaking body for the purposes of E-GP roll-out. In this context, the NPC should be made responsible for making the necessary amendments to the existing Procurement Guidelines and the drafting the E-GP policy. Moreover, the NPC can develop standardised documentation concerning tendering templates and tendering rules that are likely to increase the efficiency and accessibility of the procurement marketplace. Implementing an E-GP system also provides Sri Lanka with an opportunity to conduct business process re-engineering in relation to its procurement processes. As such, drawing from the Korean experience with KONEPS, the NPC can conduct an audit of the existing manual procurement processes within procuring entities and propose how they can be streamlined and automated on the E-GP platform.

Additionally, the NPC can strengthen the flow of procurement information between suppliers and procurement entities. For instance, the NPC can devise rules pertaining to the disclosure and management of procurement information by public authorities. Moreover, the NPC can detail the extent and types of information that should be published in the annual procurement plans of procuring entities. Increasing the availability of procurement information will also enable the NPC to adequately monitor and analyse procurement activity (e.g. the number and value of transactions, the identification of the main buyers within the industry, and the number of transactions per supplier).

The NPC should also build up its advisory capacity in order to facilitate E-GP implementation and uptake. Accordingly, the NPC can conduct training for suppliers and procuring entities on the use E-GP system, and the rules and processes governing public procurement.

In order to ensure smooth E-GP implementation, the institutional capacity of the NPC to oversee the management of the platform has to be strengthened. This process will require increasing the capacity of the NPC to perform both regulatory and executive functions in relation to public procurement. As such, the government can consider establishing a Project Management Unit (PMU) under the NPC. The PMU should be tasked with the development of the E-GP platform, and the creation of an implementation plan (i.e. in relation to the amendment of procurement guidelines, the implementation of business processes and the institution of the E-GP system) with realistic milestones. The PMU should also be required to measure the overall performance of the E-GP platform, by benchmarking existing manual processes. This data can be utilised to justify the transition from one phase of E-GP roll-out to the next.

In order to enable the PMU to carry out the above functions, it is necessary that it be allocated the necessary financial resources and staffed with the required skills to support the project. According to comparative examples, well-run PMU units require at least 30 to 40 trained staff to service the E-GP platform and its management.

### ***Change management***

According to country experiences, custom development of an initial implementation of an E-GP system can take 2 to 3 years. This timeframe includes scoping the requirements of procuring entities and suppliers, development of the software and E-GP implementation. Accordingly,

the design and management of Sri Lanka's E-GP system can be facilitated through one of three approaches. First, the government can opt for an E-GP system that is government owned and operated, such as in the Republic of Korea and Singapore. Government owned and operated E-GP platforms can be developed externally, but are run and managed in-house. Second, the government can also follow the example of the State of Karnataka in India and set up its E-GP platform by way of a public private partnership. Under this approach, the E-GP system is managed, owned and operated by a third-party service provider, often with the intent to transfer the platform back to the government at a later date. Third, Sri Lanka can adopt an approach where its E-GP system is operated and owned by a third-party provider, but is managed and overseen by government.

The selection of an appropriate model for designing and managing the E-GP platform will depend on the government's ability to manage risks related to software development, data security and project delivery. At present, given the limited resources and staff attached to the NPC, it is advisable that Sri Lanka considers a model that utilises a third party with the necessary skills and expertise to run the country's E-GP system, subject to adequate government management, oversight and proprietary rights. For instance, in the Philippines where the above model has been adopted, the government pays the third party service provider a flat monthly fee for the services provided. This fee is contingent on the system being able to respond within a period of five seconds per page (regardless of the user load) 99.9% of the time. Failure to meet the above condition results in penalties against the monthly fee payable to the service provider.

The implementation of E-GP in Sri Lanka will require considerable investment in operational support across procuring entities. The use and

uptake of the E-GP platform by suppliers and procuring entities in Sri Lanka will be contingent on the implementation of robust training, support, and communication programs. These programs should aim to communicate the value of E-GP to both suppliers and procuring entities. Moreover, these programs should demonstrate how suppliers and procuring entities can use the E-GP platform to their advantage (e.g. to receive notifications on the publication of tenders, one-time registration of suppliers and the standardisation of tendering notices). In order to ensure participation by Small and Medium Enterprises, drawing from experiences in countries like Mexico, the NPC (in collaboration with procuring entities) should conduct regular supplier forums in the regions, where suppliers will get the opportunity to test the usage of the platform, and ascertain the needs of procuring entities.

**Strategies for roll-out**

Once the procurement guidelines have been amended to facilitate E-GP, and the necessary institutional infrastructure is in place, the government should commence the development and roll-out of the platform. It is recommended that this roll-out adopts a phased approach in order

to enable the system to better adapt to the user environment, training needs, support services, and available IT infrastructure. Drawing from comparative examples, the E-GP system should be set up as a single web portal that is accessible through the Internet and links procuring entities to the platform. Initially, the E-GP system should host a pilot group of key procuring entities before extending its reach to the wider community of government agencies. These agencies could include the Ministry of Highways, Higher Education and Investment Promotion, the Ministry of Health, the Ministry of Transport, or agencies such as the Ceylon Electricity Board, or Ceylon Petroleum Corporation.

The following tables set out the proposed functions of the E-GP platform roll-out in its short, medium and long-term phases. Short-term activities can run concurrently with manual procurement processes. However, in order to implement the medium and longer-term activities, Sri Lanka’s procurement processes will have to migrate to the E-GP platform. The country’s ability to transition smoothly from one phase to the next will depend on regular, specialised activity-based training for both suppliers and procuring entities.

**Phase 1 | Short-Term (1 year)**

| Activity                                    | Function  |
|---|---|
| <p><b>Publication of tender notices</b></p> | <ul style="list-style-type: none"> <li>• Tender notices of procuring entities hosted by the system will be published in Sinhala, Tamil and English.</li> <li>• Suppliers will be able to sort tender notices by industry, product/service, threshold value, geographic location or timeframe.</li> <li>• Suppliers will be able to activate notifications for a particular tender notice. Activating such notifications will ensure that users get an automated message in the event the tender notice has been amended by the procuring entity.</li> </ul> |

|  |  |
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| <b>Registration of suppliers</b>               | <ul style="list-style-type: none"> <li>• The E-GP platform will enable a one-time registration of suppliers. Each supplier will be required to register on the system after furnishing necessary documentation such as its business registration certification, previous work experience, and financial information.</li> <li>• Once registered on the system, each supplier will be given a unique registration number and a supplier log-in which can be used on subsequent bids.</li> <li>• Procuring entities will be able to view past awards of suppliers registered on the system.</li> <li>• The NPC can conduct regular audits of suppliers, and blacklist suppliers found to be contravening procurement processes.</li> </ul> |
| <b>Availability of procurement information</b> | <p>The E-GP website will make the following information available on the platform:</p> <ul style="list-style-type: none"> <li>• Procurement guidelines, manuals, circulars and rules;</li> <li>• Annual procurement plans, with an ability for users to activate notifications for amendments made to such plans;</li> <li>• Standardised templates for bidding documents;</li> <li>• The composition of TECs;</li> <li>• Successful bids; and</li> <li>• The evaluation methodology and criteria of awards.</li> </ul>  |
| <b>Tender Tracking</b>                         | <ul style="list-style-type: none"> <li>• Users will be able to view the stage of the bid in the procurement process (e.g. evaluation by TEC).</li> </ul>   |

## Phase 2 | Medium-Term (2-3 years)

| Activity                    | Function  |
|-----------------------------|---|
| <b>E-Submission of bids</b> | <ul style="list-style-type: none"> <li>• Suppliers will be able to submit bids for posted tenders through a secure and encrypted gateway.</li> <li>• Bids submitted electronically will be password locked until the bid opening time.</li> </ul>   |
| <b>E-Catalogues</b>         | <ul style="list-style-type: none"> <li>• The NPC will set standards for the procurement of common items (e.g. furniture).</li> <li>• Suppliers will be able to classify, code, price and upload their products and services (conforming to the above standards) on an online catalogue on the E-GP platform.</li> <li>• Procuring entities will be able to electronically purchase the items listed on the e-catalogue in a timely manner.</li> </ul> |

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| <b>Contract and File Management System</b> | <ul style="list-style-type: none"> <li>• There will be a central file management system that will convert all electronic documents into common formats and store them centrally. Centrally stored documentation can be routed to all parties involved in the approval process, such as finance or legal departments.</li> <li>• Procuring entities will be able to rate suppliers against well-defined performance standards. The system will monitor and track progress against project milestones and, perform quality checks.</li> </ul> |
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### Phase 3 | Long-Term (3-4 years)

| Activity                    | Function  |
|-----------------------------|---|
| <b>E-payments</b>           | <ul style="list-style-type: none"> <li>• Suppliers will be able to receive payments from procuring entities through the E-GP platform.</li> <li>• Procuring entities will be able to receive payments from suppliers through the platform. These payments include tender processing fees, and bid security deposits.</li> </ul> |
| <b>E-evaluation of bids</b> | <ul style="list-style-type: none"> <li>• The evaluation of bids will be carried out through the E-GP system.</li> <li>• All suppliers will have access to bid evaluation reports generated through the system.</li> </ul>   |
| <b>Contract award</b>       | <ul style="list-style-type: none"> <li>• In respect of major contracts, procuring entities will be able to award contracts through the e-procurement system.</li> </ul>   |





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