TRANSPARENCY AND ACCOUNTABILITY OF THE PUBLIC PROCUREMENT SYSTEM IN BULGARIA

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INTRODUCTION

The Public Procurement (PP) system in Bulgaria is based on transparency and accountability, free and fair competition and equal treatment of all candidates. In 2006 a decisive step was taken with respect to achieving full harmonization of the national legislation in the field of public procurement with the European Acquis. Following the commitments undertaken, the amendments of the public procurement law, the secondary legislation, new remedies system and the new standard forms obligatory for the European Union entered into force from 01 July 2006, thus the necessary conditions for the application of the new regulations were established.

The prerequisites for the development of e-procurement in Bulgaria have been laid with the PP Law, which entered into force since 1.10.2004 and has been amended in July 2006 and with the Law on e-Governance. New amendments of the Public procurement law are now drafting.

PUBLIC PROCUREMENT REGISTER

The PP Register, as the main tool for the provision of these principles, is in line with the New European Directives in that area and the e-

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government Strategy of Bulgaria for providing qualitative administrative services on-line. The role of the Register is now increasing even more with the accession of Bulgaria to the European Union. Till 2004 there existed an electronic register that contained only information about the procedures above the threshold. With the new Law new requirements for publicity and transparency were adopted. Entirely new electronic database system based on the modern ICT with more functionalities was decided to be developed. The technical specifications for the design of the new register were in line with the new legislation in the area, with the European legislation and with the modern information and communication technologies that enable the future enhancement of the system of e-procurement. A team of highly qualified IT and legal experts from the Public Procurement Agency, Ministry of Economy and USAID worked together for the design of the new register. The technical specifications were also approved by experts from SIGMA and the European Commission. The new electronic system was ready for operation with the entry into force of the new public procurement law on October 1, 2005. Two months before the system's endorsement, the system integrators tested all functionalities of the Register.

The PP Register gives the authorized users who have universal e-signatures the possibility to send a notice directly into the database through a cryptic connection. This electronic submission of the procurement notices was developed but for the first six months this feature was not used by the contracting authorities probably due to the lack of experience. For the year 2007 only 142 authorised procurement agents submitted 3089 documents to the register with e-signatures. These documents represent 9 % of all documents registered in the system for the whole year.

For those users who do not have an Internet connection, a specialized software called "Procurement Form Editor" with the whole set of procurement notices, has been developed. The new software gives the users the possibility to fill in the necessary standard form on their computers and then to send it for publication in the PPR. All electronic forms have the option for automatic validity check of the information and the filled in obligatory sections, which corresponds to the requirements of the Public Procurement Law.

If the notice is above the European thresholds, the Public Procurement Agency through a connection established between its

Register and the database of Tenders Electronic Daily will send officially this notice to the Official Journal of the European Union.

So currently the e-notification process of public procurement is provided by the PP Register. The Register is an electronic database which contains information about all procedures for the award of public contracts. It was developed on the basis of the latest version of one of the most powerful database management systems – Oracle 10g, in combination with the SuSE Linux Enterprise Server v.9 system and specialized software for cluster operation of Oracle Real application Cluster 10g servers. It is public and the access to the information on it is free via the Public Procurement Agency's website: www.aop.bg.

PUBLIC PROCUREMENT WEBSITE

This site hosts up-to-date and comprehensive information concerning public procurement. Through its sections the website provides various and exhaustive information in the field of public procurement – a library of legal texts, related to the award of public contracts, practice on the application of the PP Law, useful information for the stakeholders in the public procurement process, different lists, standard forms of notices, CPV Classifier, etc. The website provides quick and easy access to other websites, for example: Supplement to the Official Journal of the EU; European Acquis, case law, etc.

Another option of the PP Register is the possibility for every registered user to create and to save a search pattern which includes a random combination of search criteria. Furthermore, when a pattern is established the service "Electronic subscription for information from the PP Register" can be activated where daily information corresponding to the criteria indicated can be received at an indicated e-mail address regarding the new information about public contracts published in the Register. An indicator for the interest and benefit of the information provided through this specialized internet site is the number of registered visits which for 2007 is 470408.

The main information source for the picture of the public procurement in Bulgaria is the PP Register as an extensive database which allows collection, analysis and synthesis of information with a different level of detail and regularity. For 2007, the number of public procurement procedures announced in the Register is 10 610 while the

total number of documents is 33 836. The increase of the number of notified documents is with 17,4 % more than the previous year. 43,5 % of all procedures are opened pursuant to the Public Procurement Law (PPL), and 56,5 % of them are under the PPL thresholds. The distribution of the notices according to the type of contracting authorities is: 75 % – for public contracting entities and 25 % - for the utilities sector. 45 % of all procurement notices are for supply. For the first year of our EU membership, 873 Bulgarian procurement procedures were notified in the Official Journal according to article 45 a of the PPL (above the European tresholds), 2064 contracts were signed.

PUBLIC PROCUREMENT PORTAL

The Register functionalities now are in a process of enhancing and turning into a Public Procurement portal. The e-tendering procedure which is now developing will allow the upload of contract documents by the contracting entity and also the download of the full set of documents by the interested persons who have the right of access to these documents. Another functionality which will be developed is the e-exchange of documents using e-signatures – all electronic documents exchanged between the contracting entity and the interested body should be digitally signed. The system will explicitly verify the existence of the e-signature of each document and the validity of this signature at the moment of 'uploading' of the file on PPA's server. The contracting entity will be able to upload the files of the contract documents or the descriptive document on the PP Agency server. These data, the files and the moment of upload will be registered in the PP Register database. A mechanism through which the contracting entity can check the contents of every document uploaded by it before allowing the interested persons to download the full set of documents shall be established.

The functionality to download documents will be available only to the interested persons who have the right of access to the documents and it will utilize a standard download mechanism (including also the possibility for just opening of the document). The application software should permit multiple download of the documents from the same candidate in the permitted period. When the contracting entity has declared the documents of the particular contract or of a part of it confidential, before allowing the interested person to download the documents, the system must explicitly notify him/her of the

confidentiality of the documents. The exchange of questions will be developed in both directions – asking questions upon request for clarifications and answering questions. The option for asking questions could be used by the interested person on the contract documents and/or additional documents by the contracting entity on the PPA server. A mechanism similar to the Internet forums shall be used. When a question is asked the system automatically will send a notification by e-mail of the questions asked to the contracting entity.

The clarifications on the documents will serve two situations. In the first case the contracting entity answers a question on the contract document asked by the interested person. The elaboration of the answer must take place within 3 days from the receipt of request of clarifications on the documents and the system will generate a warning to the contracting entity for keeping this deadline. The answer shall be published on the web site and the interested persons who have the right of access to the contract documents will receive an automatic notification by e-mail for the publication of an answer. In the second case when the interested person answers a question on the request to participate asked by the contracting entity of the particular contract, only the contracting entity receives notification by e-mail of the published answer and can see answer to the question.

Another best practice for e-procurement and transparency and publicity is the on-line system for e-procurement of small public contracts developed four years ago and used for the needs of the Ministry of Finance in Bulgaria.