



**TRANSPARENCY  
INTERNATIONAL  
GEORGIA**

**POLICY DOCUMENT**

# EXISTING PROBLEMS IN ANNUAL PUBLIC PROCUREMENT PLANS

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# CONTENT

I. Executive Summary	4
II. Introduction	5
III. Legislative Framework of Public Procurement Plans	6
IV. Problem Analysis	8
V. Conclusion	13
VI. Recommendations	14

# I. EXECUTIVE SUMMARY

Transparency International Georgia analyzed annual procurement plans of 15 largest procurers of 2017. The study revealed the following findings:

- There are two main problems in public procurement planning: 1. the content of annual procurement plans and; 2. Amendments made to the procurement plans during a year;
- Annual procurement plans often are written just formally and it is impossible for a potential supplier to plan its participation based on them;
- About 52% of purchases given in the annual procurement plans of 15 largest procurers of 2017 were amended during a year. This could have a negative impact on competition among suppliers and quality and price of purchased goods and service.

Among other recommendations needed for mitigating the existing problems in public procurement planning the following worth mentioning:

- Comprehensive preparatory work should be done before starting the planning of procurement that will assess the needs of procurer, define individual procurements and conduct proper market study;
- Existing legislation, which regulates the content of annual procurement plans, should be improved. Namely, it should be mandatory to specify more details in CPV codes;
- The State Procurement Agency should create a database of annual procurement plans of all procurer organizations on its website;
- Certain legislative restrictions could be considered for allowed number of amendments to the annual procurement plans during a year;
- The State Procurement Agency should regularly analyze the amendments made to annual procurement plans and provide recommendations, if needed, for those procurers, which have the most problems with this regard.

## II. INTRODUCTION

In 2010-2017, Georgia has implemented significant reforms in public procurement and this was frequently highlighted by various stakeholders. Among other issues creation of electronic platform, increase of transparency and reduction of corruption risks worth mentioning.<sup>1</sup>

Despite many positive sides of the current public procurement system, it still requires certain improvements. Transparency International Georgia regularly studies achievements and challenges of public procurement system in Georgia. The recent comprehensive report also focused on these issues.<sup>2</sup> In addition, Transparency International Georgia publishes policy documents highlighting concrete issues. The most recent policy document covered the topic of subcontracting in public procurement.<sup>3</sup>

At present, planning is one of the weakest stages in procurement system. There are certain questions about comprehensiveness, sustainability and practicality of annual procurement plans.

Research on Georgia's public procurement mainly focuses on procurement process and concluded agreements. However, it is almost impossible to find a decent study on planning - the first stage of procurement. Proper planning often is a key precondition for a successful procurement. Inappropriate planning could lead to speedy or delayed purchases and many amendments made to the tender documentation and terms of agreements.<sup>4</sup> During a badly planned procurement process, there is a high risk of buying such goods and services that are not compatible with real needs of a procurer. It also could decrease competition among potential suppliers, in turn, leading to failed tenders or speedy simplified procurement practices.

This policy paper discusses legislative framework and practical problems in Georgia's public procurement focusing on improper procurement planning and amendments made to them. The findings of the policy paper are based on analysis of annual procurement plans of 15 largest procurers (according to announced tenders and procurement amounts) of 2017.

The document also presents recommendations how to improve the planning stage of procurement that could lead to more effective public procurement. This can be reflected in reduced number of failed tenders, increased quality of purchased goods and services and enhanced competition that is key for saving of public money.

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1 Georgia: An E-Procurement Success, World Bank, 2015: <https://bit.ly/1AII8yL>

2 How the State Spends Our Money, Transparency International Georgia, 2017: <https://bit.ly/2N2rh1I>

3 Risks attributed to Subcontracting in Public Procurement System, Transparency International Georgia, 2018: <https://bit.ly/2ujFuj5>

4 Public Procurement Guidance for Practitioners, European Commission, 2015: <https://bit.ly/1PW2F8p>

# III. LEGISLATIVE FRAMEWORK OF PUBLIC PROCUREMENT PLANS

The article 9 of Georgian law on “Public Procurement” defines general rules for public procurement planning:

- A contracting authority shall perform procurement under a pre-determined annual procurement plan whose format and the procedure for its development shall be defined in a subordinate normative act;
- If agreed by contracting authorities, public procurements may be conducted jointly (consolidated procurement) under procedures established by a subordinate normative act;
- The head of a contracting authority shall submit an annual procurement plan for the following year to the Agency no later than 20 November of the current year, after which the contracting authority may start public procurements necessary for the following year/years;
- The annual procurement plans shall comply with the draft State Budget of Georgia, draft republic budgets of the Autonomous Republics of Abkhazia and Adjara, draft budgets of local self-government;
- If after entry into force of a relevant normative act on the State Budget of Georgia, republic budgets of the Autonomous Republics of Abkhazia and Adjara, and budgets of local self-government units, it becomes necessary to bring into line with this normative act the annual procurement plans submitted to the Agency, the procurers shall make appropriate amendments to their annual procurement plans and submit the amended plans to the Agency within 10 calendar days after the publication of the relevant normative act on the State Budget of Georgia, republic budgets of the Autonomous Republics of Abkhazia and Adjara and budgets of local self-government units;
- The following shall be taken into account when preparing a draft annual procurement plan::
  - a) Necessity of performing the procurement;
  - b) Similarity of procurement objects;
  - c) Experience in performing similar procurements;
  - d) Type of a procurement object (goods, works, services);
  - e) Results of a market survey conducted to identify potential suppliers and determine contract terms acceptable for a contracting authority;

- f) Reasons for selecting a particular procurement method, and estimated time frames for procurement procedures;
- g) Quantity of goods to be supplied, volume of works to be performed or of services to be rendered, considering the existing supplies;
- h) Estimated value of the procurement objects;
- i) Costs associated with the procurement;
- j) Current year's financial commitments under long term contracts or under contracts awarded in the previous year;
- k) Estimated time frame for the performance of the contract to be awarded;
- l) Other circumstances related to the procurement.

In addition, the specific by-law<sup>5</sup> makes it clear that a procurer should purchase goods and services only based on its pre-defined and registered procurement plan. The plans should be registered in ePLAN<sup>6</sup>, a specific electronic platform. Any parameter of the plan can be changed only in ePLAN according to defined instruction.

The same normative act requires a procurer to conduct a preparatory work based on its annual plan before it starts purchasing (except force majeure cases). The preparatory work is necessary to elaborate draft documentation including contracts that define characteristics, estimated value and means of the procurement object, and the costs associated with it.

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5 Order #2 of the Chairman of State Procurement Agency, article 4: <https://bit.ly/2K7I1nb>

6 ePLAN – an electronic platform created on the website (<https://tenders.procurement.gov.ge>) of the State Procurement Agency for registration of annual procurement plans

# IV. PROBLEM ANALYSIS

There are two main problems in public procurement planning: 1. the content of annual procurement plans and; 2. Amendments made to the procurement plans during a year.

Annual plans usually meet only minimal requirements of legislation and is far from such a document, which a supplier can truly rely on. All procurers fill out a standard form of annual plans. However, the quality of completed forms varies from procurer to procurer. Sometimes a procurer uses specific fields of the form to provide additional information for potential suppliers, but such cases are quite rare.

The existing annual procurement plans include such information as:

- CPV codes of procurement goods and services, which indicates their category;
- Estimated value of the procurement object;
- Means of procurement (for instance, whether it is an electronic tender or simplified procurement);
- Estimated time of procurement given by quarters;
- Procurement period (one year / multiyear);
- Grounds of procurement;
- Source of funding;
- Dates of registration and amendments made to the specific procurement;
- Specific field for comments.

At the first look, this information is sufficient; it is also transparent and publicly available (you can download it in excel format). However, this is not enough due to the following:

1. CPV codes are not subcategorized and does provide sufficient details. For instance, if there is a code 22100000 that is entitled as “printed books, brochures and informative books” potential suppliers do not have exact information which goods shall be purchased while each mentioned product has its own sub code (for instance, 22150000 is for brochures). This level of specification should be provide in procurement plans;
2. There are cases when several purchases are given under one CPV code. Therefore, exact value of each purchase is not clear;
3. Procurement plans include information whether a purchase will be made through electronic

tender or simplified procedure, but they do not specify which type of tender will be used. Would it be an electronic tender (SPA), two stage tender (MEP), tender without reverse auction (NAT), or a tender with prequalification (TEP);

4. Procurement date is given only by quarters and exact month or approximate day is not clear. Moreover, it not clear how the volume of procurement will be distributed though quarters;
5. Delivery address of supply is not given (location, city, municipality);
6. Amount/volume and delivery dates of procurement object are not given.

As mentioned above, the second problem is a big number of amendments made to the annual procurement plans, which makes them instable. We studied annual procurement plans of 15 largest procurers (according to announced tenders and procurement amounts) of 2017 and found out that about 52% of purchases given in the plans are amended during a year (see table 1).

For instance, during a year **the Ministry of Internal Affairs** amended 77% (313 out of 407) of its procurements. It means that the plan was just formally adopted and the Ministry did not follow it. It is also interesting that 221 planned purchases were amended on the same day (January 16, 2018). It indicates that the plan was edited after the completion of procurements. In 2016 the Ministry of Internal Affairs amended 78% (343 out of 442) of its procurement and most of them also were done on the same day (December 30, 2016).

The number of amended procurements was also high for **Tbilisi Transport Company**, a stated owned LLC, **LEPL Revenue Service**, **Batumi City Hall**, **LEPL National Forestry Agency** and **Kutaisi City Hall**. Two organizations - **Roads and Melioration Department** of the Autonomous Republic of Adjara and **Social Service Agency** - were less “prominent” with this regard.

**Table 1.** Amendments made by 15 largest procurer organizations to their annual procurement plans

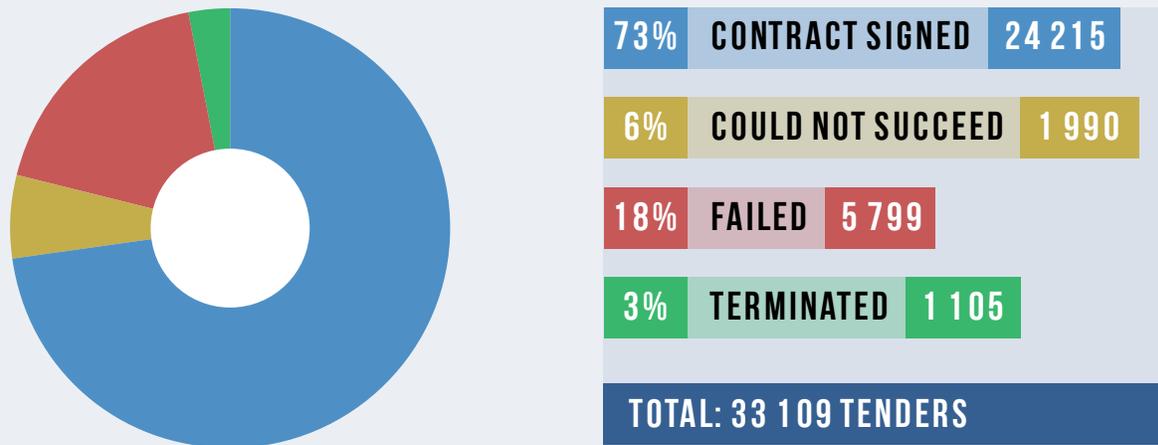
Procurer	Number of planned procurements	Number of amended procurements	Share of amended procurements (%)
Ministry of Internal Affairs	407	313	77%
LEPL Revenue Service	255	195	76%
Tbilisi Transport Company LLC	158	118	75%
Batumi City Hall	317	205	65%
LEPL National Forestry Agency	164	100	61%
Kutaisi City Hall	166	94	57%
Ministry of Defense	247	134	54%
Roads Department of the Ministry of Regional Development and Infrastructure	134	73	54%
Tbilisi City Hall	427	221	52%
LEPL Agency for Development of Educational and Scientific Infrastructure	112	58	52%
JSC Georgian State Electro Systems	341	163	48%
Tbilisi State Medical University	241	112	46%
Ivane Javakhishvili Tbilisi State University	392	133	34%
LEPL Social Service Agency	186	40	22%
Roads and Melioration Department of the Autonomous Republic of Adjara	90	13	14%

Source: <http://www.tendermonitor.ge>, <https://tenders.procurement.gov.ge>

Improperly written and multi-amended procurement plans lead to speedy tenders, which are reflected in big shares of failed attempts. In 2017, 18% of announced tenders could not succeed and 6% - failed.<sup>7</sup> Unsuccessfully conducted electronic tender becomes a reason for purchasing certain goods and services through simplified procedures. Simplified procurement is an undesirable form of procurement because it increases a risk of corruption and reduces an opportunity to save public money through competitive process.

7 2017 Report on the Work of State Procurement Agency, page 12: <https://bit.ly/2HRPMvB>

## GRAPH 1: FINAL STATUS OF TENDERS ANNOUNCED IN 2017



Source: 2017 Report on the Work of State Procurement Agency

Improperly planned and speedy tenders reduce competition. This issue is even more problematic if we take into account the fact that Georgian business is not well developed in order to have high competition in all sectors. In 2017, there were 2.1 competitors on average per tender<sup>8</sup> and there was only one competitor in 45% of tenders.<sup>9</sup>

Numerous interviews conducted by us during last years with various procurers and suppliers, show that a reason for frequently amending the procurement plans is so called “Traditional” practice established in procurer organizations. According to this tradition, next year’s procurement plans are mainly copied from the previous year’s procurement plans. In addition, procurement departments often have only technical functions to fulfill received orders from the organizations’ leadership. There are numerous cases when the leadership required purchasing such goods and services through a speedy process that were not included in annual procurement plans.

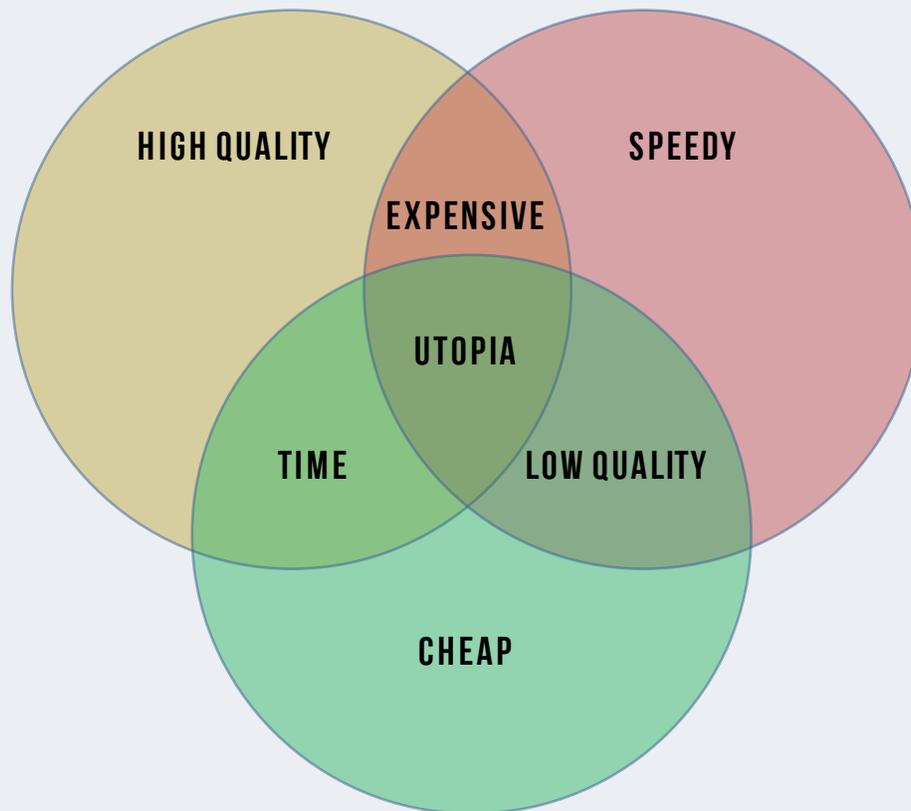
Best procurement practice almost exclude an opportunity to buy high-quality products through a speedy procurement process. This can only happen by chance. During a speedy process in most of the cases, you should pay more to get a high-quality product or buy a cheaper one of low quality (See Graph 2).

We believe that a procurer should not compromise on price and quality of purchased product. Well-prepared and scheduled tender is the only way to buy reasonably priced high-quality goods and services.

<sup>8</sup> Ibid, page 16

<sup>9</sup> How the State Spends Our Money, Transparency International Georgia, 2017: <https://bit.ly/2N2rh1I>

## GRAPH 2. CONFLICT BETWEEN TIME, QUALITY AND PRICE



**Source:** Analysis of the State Procurement System of Georgia, PMC Research Center

It is also worth mentioning that before elaboration of a procurement plan it is important to conduct a proper preparatory work. At this stage, a procurer should assess its needs, plan its individual procurements and conduct a comprehensive market survey.

Good practice of procurement planning includes the following:<sup>10</sup>

- **Needs Assessment:** What and why should we purchase? Who defined what we needed? Which purchases are necessary and which ones – desirable? What kind of results do we expect?
- **Assessment of Alternatives:** Could we have a better option rather than procurement in order to achieve our goals? For instance, leasing or Public Private Partnership (PPP);
- **Budgeting:** Define a realistic budget which will include market prices of supplied goods and services;
- **Value for money:** How is the value for money calculated? How well are the planned costs calculated?
- **Realistic timeframe.**

<sup>10</sup> Public Procurement Guidance for Practitioners, European Commission, 2015: <https://bit.ly/1PW2F8p>

# V. CONCLUSION

Proper and sustainable planning of procurement is key for its success. However, a planning stage (annual procurement plans) is one of the weakest part of entire procurement cycle in Georgia. It also worth mentioning that this issue does not attract much interest of civil monitoring and public oversight, in spite of its high importance.

There are two main problems in public procurement planning: 1. insufficient content of annual procurement plans and; 2. frequent amendments. Despite the fact that a procurer organization regularly prepares annual procurement plan and uploads it on the ePLAN platform, it usually meets only minimal requirements of legislation and is far from such a document, which a supplier can truly rely on and plan its participation in public procurement process. All procurers fill out a standard form of annual plans. However, the quality of completed forms varies from procurer to procurer. Sometimes a procurer uses specific fields of the form to provide additional information for potential suppliers, but such cases are quite rare. In addition, there is a high probability that already planned procurements will be amended.

According to the theory and good procurement practice, improperly planned tenders negatively correlates with a price of purchased goods and service. In Georgia's case, this could be one of the reasons of significant number of failed tenders. Transparently, comprehensively and timely planned procurements would increase competition and effectiveness. In 2017, every fourth tender could not succeed or failed which led to improper use of time and money.

# VI. RECOMMENDATIONS

We believe that the following recommendations should be taken into consideration for mitigating the existing problems in public procurement planning:

1. Comprehensive preparatory work should be done before starting the planning of procurement that will assess the needs of procurer, define individual procurements and conduct proper market study. For this purpose, procurers can use a handbook of State Procurement Agency on “Methodology Instructions for Preparatory Stage of Procurement”:<sup>11</sup>
2. Existing legislation, which regulates the content of annual procurement plans, should be improved. Namely, it should be mandatory to specify more details in CPV codes. In addition, it should be indicated what amount and volume of goods and services will be procured during certain time period (supply time);
3. Procurement date should be provided not by quarters but more specifically, for instance, by months. Delivery address (location, city, and municipality) should also be given;
4. It should be indicated which type of electronic tender (SPA, MEP, NAT, TEP) will be used;
5. It is desirable to provide not only a list of procurement objects, but also give a short description of the items in order to better inform a potential supplier;
6. The State Procurement Agency should create a database of annual procurement plans of all procurer organizations on its website. For instance, a potential supplier should have an opportunity to see overall demand that is envisaged on certain goods and services for the next year. This also will facilitate the process of consolidated tenders;
7. Certain legislative restrictions could be considered for allowed number of amendments to the annual procurement plans during a year;
8. The State Procurement Agency should regularly analyze the amendments made to annual procurement plans and provide recommendations, if needed, for those procurers, which have the most problems with this regard.

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11 Methodology Instructions for Preparatory Stage of Procurement, State Procurement Agency: <https://bit.ly/2K2nxQ7>