



საერთაშორისო გამჭვირვალობა – საქართველო  
TRANSPARENCY INTERNATIONAL GEORGIA

# Georgian Reforms after 2004: Public Procurement and the Wider Public Finance Reforms

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December 15, 2015

Minsk

# How Georgian Reforms Came about

- Before 2004 Georgia is a failing state with very corrupt government and very weak economy
- Rose Revolution, supported by the majority of Georgians, brings a group of young western-educated professionals to power
- Sweeping reforms start right away
- Suddenly Georgia has the youngest government in the world having the legitimacy to implement sweeping and very painful reforms (average age of a cabinet minister is under 30)
- The new government borrows money from international donors as the country's cash-strung to pay its public administration living salaries and discourage corruption

# How Georgian Reforms Came about

- The new government implements a very effective police reform: puts new recruits who have never worked for the police before, through rigorous training and testing, lets go of the old police in its entirety and bars them, invariably, from joining the new police force
- The new government abolishes the Anti-Corruption Bureau, which, though counter-intuitive, was the to go if the endemic corruption was to eliminated.

# PFM reforms at a Glance, 2004-2015

- Tax Reform: Number of taxes reduced from 21 to 6
- Number of licenses and permits almost halved
- Tax collection responsibilities merged into the new Revenue Service
- Setting up a single treasury account instead of all government budget spenders having their treasury accounts, which made streamlining/consolidating next to impossible

# Georgia in International Rankings

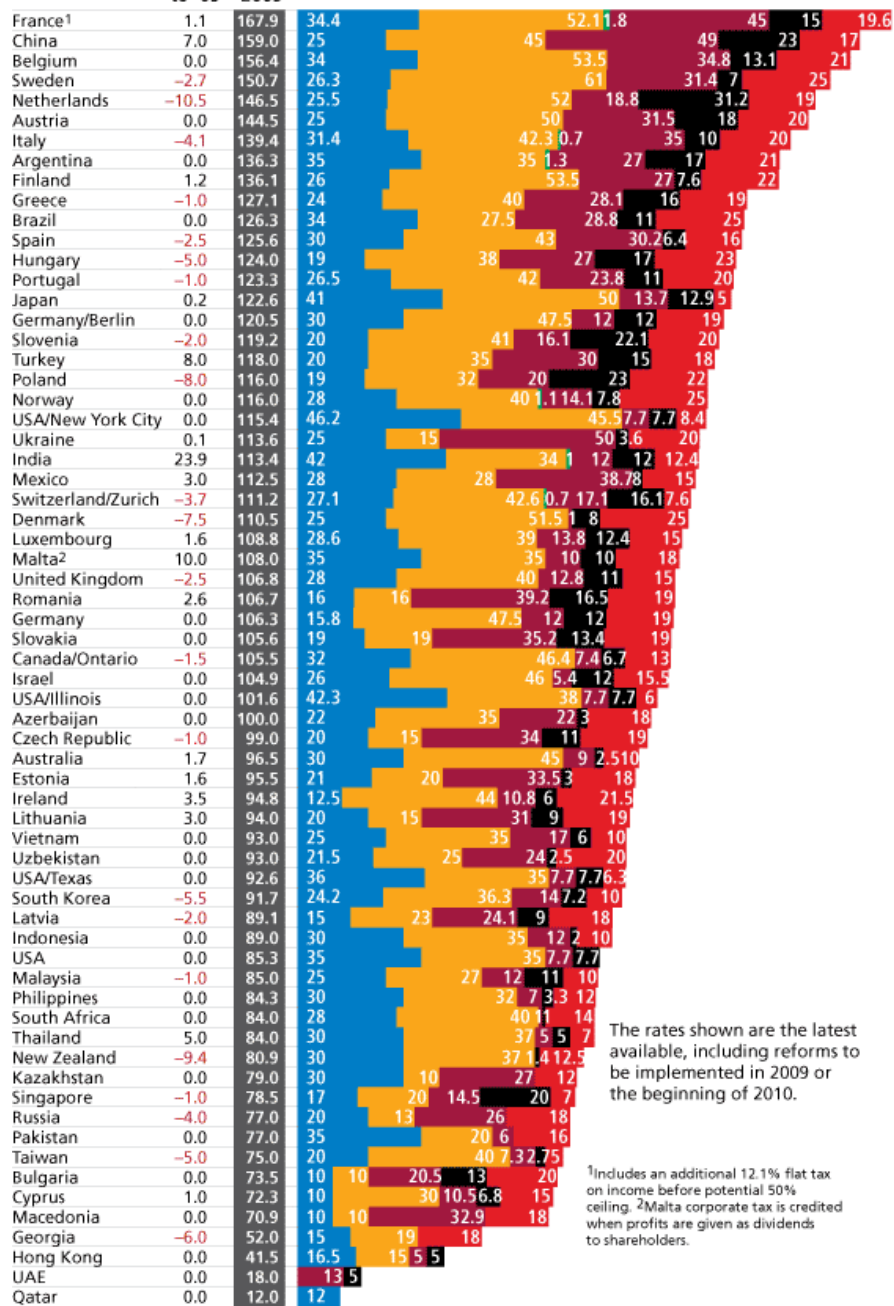
- **Doing Business 2013:** Georgia ranks 9<sup>th</sup> out of 185 countries, up from 112<sup>th</sup> in 2006.
- **Doing Business 2015:** Georgia ranks 15<sup>th</sup> out of 189 countries

# Forbes 2009 Tax Misery & Reform Index

- Georgia ranks 4<sup>th</sup> in terms of severity of tax burden

REFORM  
2008 MISERY  
to '09 2009

Corporate Income	Employer Social Security
Personal Income	Employee Social Security
Wealth Tax	VAT/Sales



The rates shown are the latest available, including reforms to be implemented in 2009 or the beginning of 2010.

<sup>1</sup>Includes an additional 12.1% flat tax on income before potential 50% ceiling. <sup>2</sup>Malta corporate tax is credited when profits are given as dividends to shareholders.

# Forbes 2009 Tax Misery & Reform Index

*The Misery score is the sum of the taxes shown in the colored bars, at the highest marginal percentage in each locale. It's our best proxy for evaluating whether policy attracts or repels capital and talent. The countries at the top of the chart impose the harshest taxes while those at the bottom are the most tax friendly. The Reform column reflects a reduction in misery (a negative number highlighted in red) or an increase in misery in the past year. In most of the world local governments are usually funded from property taxes, which aren't part of the Misery Index.*



# **E-Procurement in Georgia:**

## **Achievements and Challenges**

# The Size of Georgia's Public Procurement Market

- Approximately 10% of GDP and 29% (GEL 2.847 billion) of Georgia's 2014 consolidated budget (central gov+local gov-s) was spent on public procurement

A large, disorganized stack of papers and documents. In the center, a pink folder is visible, with a green folder or sheet partially visible above it. The papers are mostly off-white or light beige, with some darker, possibly carbon-copied, pages. The stack is thick and appears to be in a storage or filing area.

09:26

+15.3

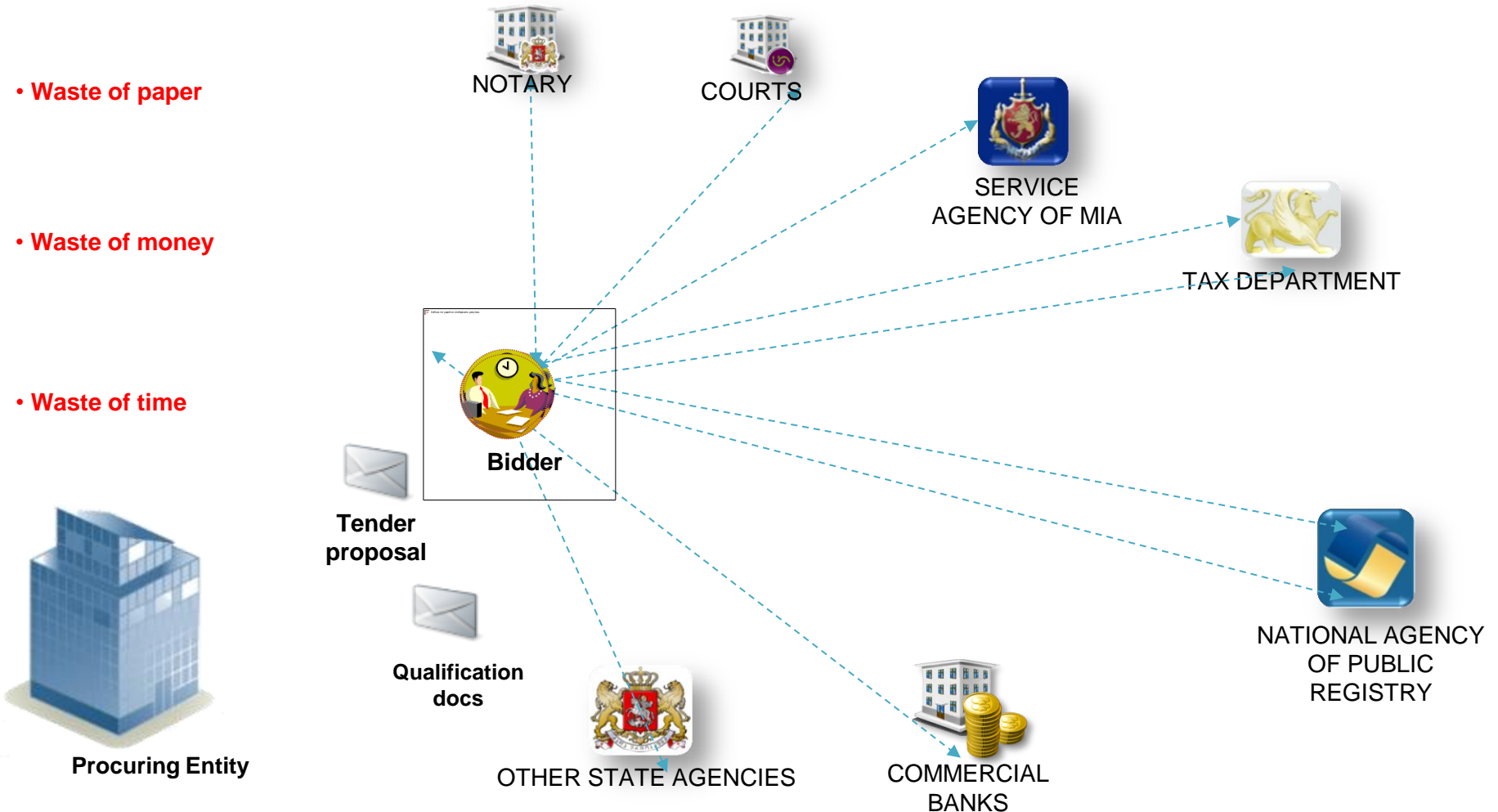
# Collection of documents from state bodies (paper tenders)

• Waste of administrative resources

• Waste of paper

• Waste of money

• Waste of time



Some of the visualisations in the presentation were borrowed from SPA's presentation, September 2012

# Paper tenders and “geographical inequality”

Limited access to information

- Bidders had to pay at least **4 physical visits** to a procuring entity, and the winner – an additional **a 5<sup>th</sup> visit** to sign a contract

High compliance costs

High transaction costs

20 mln paper copies – in the last 5 years



# Side effects of paper tenders

High risk of corruption

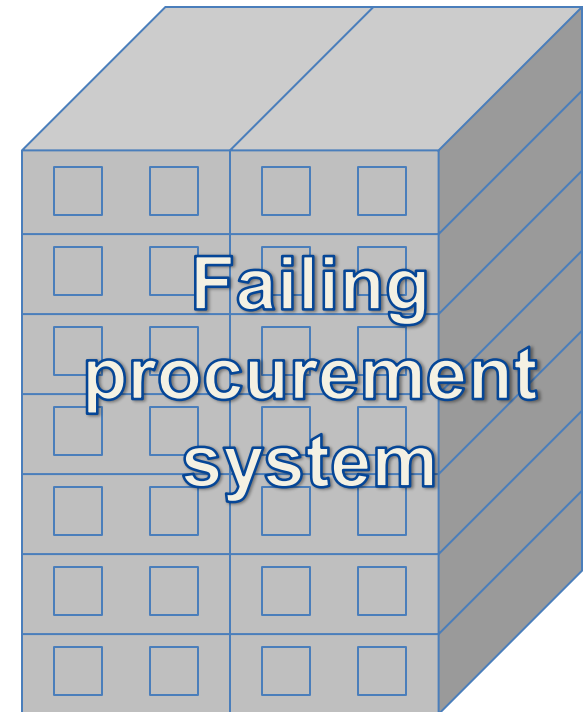
Non-reliable data

Restricted competition

Geographical inequality

High compliance costs

Lack of transparency





..and get rid of papers!!!



# Two options

**Off-the-shelf solutions**  
(made according to a standardized  
format, ready-made)

Approx.  
**\$ 10 mln**

**In-house development**

Less than  
**\$ 1 mln**



# Second option: Georgian alternative



- **S/W** \$ 150 000
- **H/W** \$ 500 000
- **BI** \$ 70 000
- **Website** \$ 10 000
- **Communication campaign** \$ 30 000

# Pace of the reforms

- **January 2010.** Started with legal amendments and design of the e-procurement system
- **August 2010.** E-procurement system launched in test mode
- **October 2010.** First e-tender announced
- **December 2010.** Paper tenders abolished. Only e-tenders allowed
- **September 2011.** 10 000 registered users
- **October 2011.** \$ 100 mln savings generated
- **December 2011.** Bilingual system was introduced
- **May 2012.** 13 339 registered users
- **September 2012.** \$ 198 mln savings generated
- Throughout 2014 the e-system helped save \$ 109.1 million, 12% of all public procurements in 2014

# What we got

Everyone sees everything

- Bidders do not make **physical visits** to procuring entity. Only the winner once **visit** procuring entity to sign a contract

No physical visits

Minimum transaction costs

Geographical “inequality eliminated”

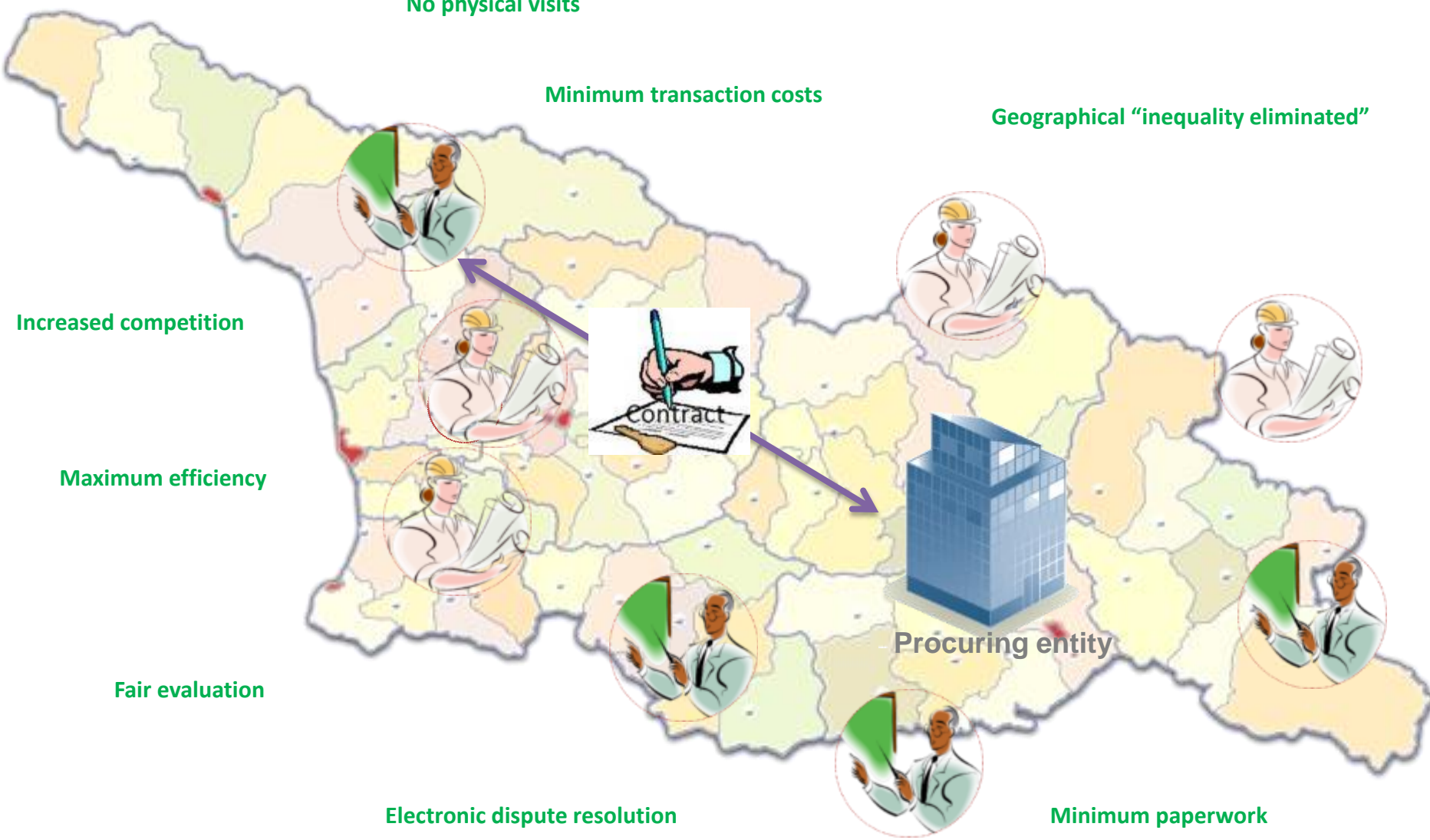
Increased competition

Maximum efficiency

Fair evaluation

Electronic dispute resolution

Minimum paperwork



# Georgian Electronic Government Procurement - Ge-GP

100% e-tenders - since December 1, 2010



Developed in-house...in one year



\$1.3 billion went through Ge-GP



\$198 million public funds savings



14462 registered users

# Some features of Ge-GP

## Non discrimination

- No local preference/ No local presence/ ~100 foreign bidders/ contracts won > 30

## Smart system preventing mistakes / warning

- Deadlines / Thresholds / Homogeneity / Abnormally low price / Documents

## Internal messaging system

- Topics of interest / News / Updates / Legal and procedural amendments / more than 3 million messages sent

## Fast and transparent dispute resolution

- E-submission of complaint/ Free of charge / Standstill Period/ Very fast -10 days / Civil society equally involved in decision making (/ Standstill Period is a period of at least ten calendar days following the notification of an award decision, before the contract is signed with the successful supplier(s). Its purpose is to allow unsuccessful bidders to challenge the decision before the contract is signed.

## Minimum administrative barriers

- No administrative documents in advance / No physical visits / Electronic bid bonds /

# Ge-Gp business process in brief

## Publication of Annual Plan

Needs assessment

- Budget planning

## Preparation of Tender Documentation

- Needs assessment
- Market research
- Neutral description

## Publication of Tender Notice/Tender Documentation

- Estimated value
- Deadlines
- Clarifications

## Registration on Ge-GP

- One step registration
- Free of Charge
- Easier than in Facebook
- Subscription to news

## Submission of Tender Proposal

- Web-payments
- Technical Description
- Price
- Minimum documents required

## Participation in e-Auction (not obligatory)

- Decrease price
- 3 rounds
- Full anonymity

## Evaluation of Bids

- Transparent
- Conflict of interest
- Minutes of evaluation committee
- All correspondence
- Immediate upload

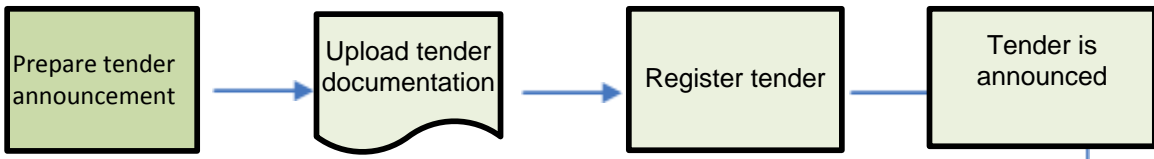
## Awarding contract

- Award notice
- Standstill – minimum 3 days

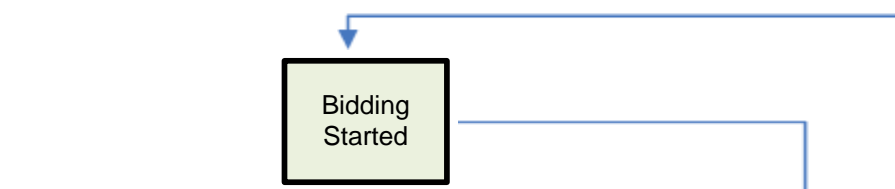
## Contract implementation

- Online Contract
- E-payment/E-Treasury
- Reporting
- Monitoring

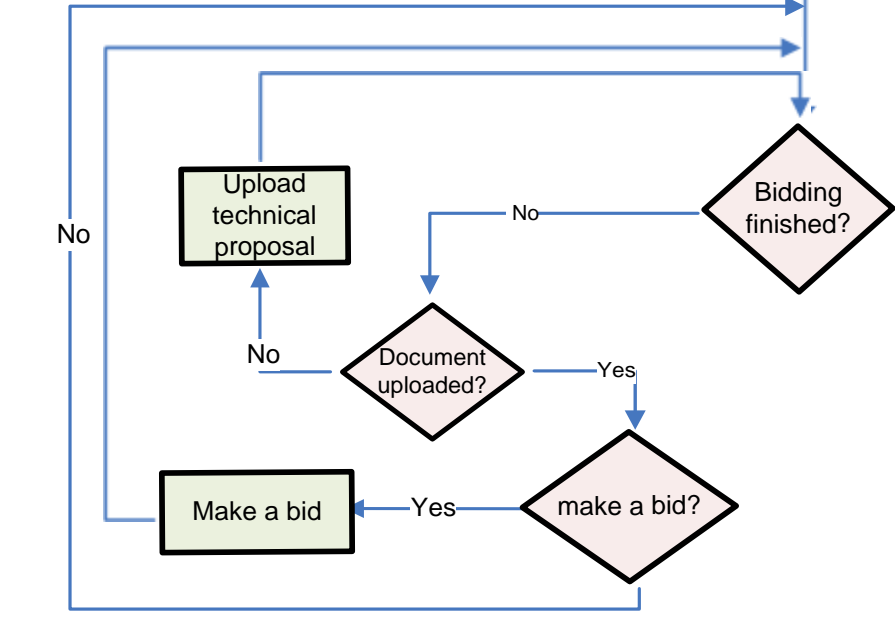




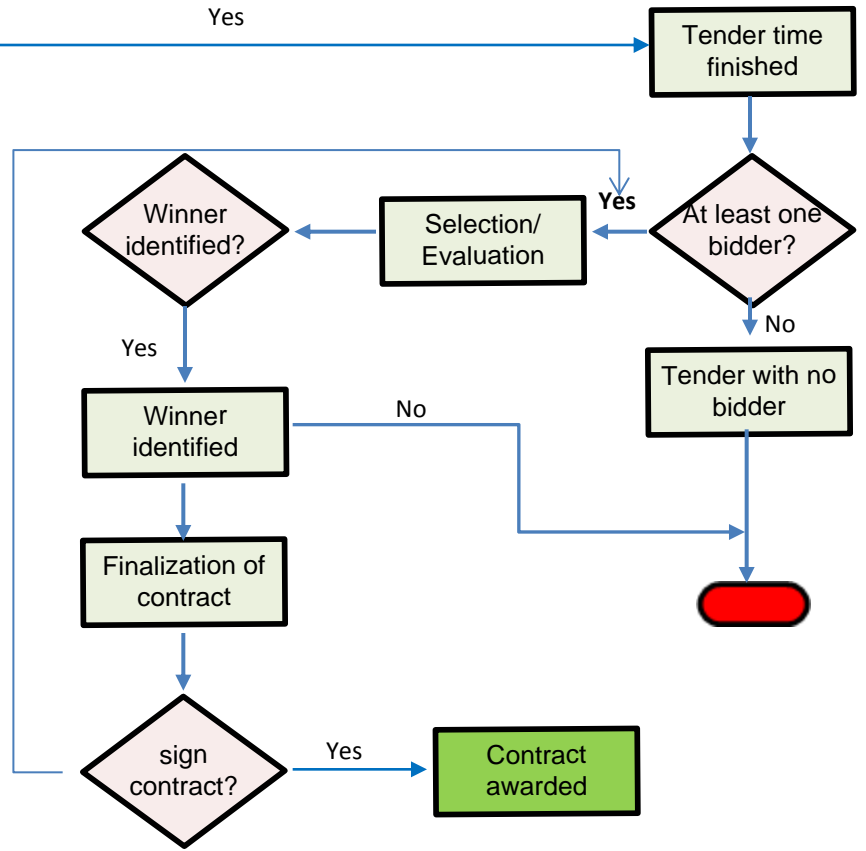
**Bilingual system.  
Georgian - English**



**System prevents mechanical  
and procedural mistakes**



**System provides subscription  
and internal messaging options**

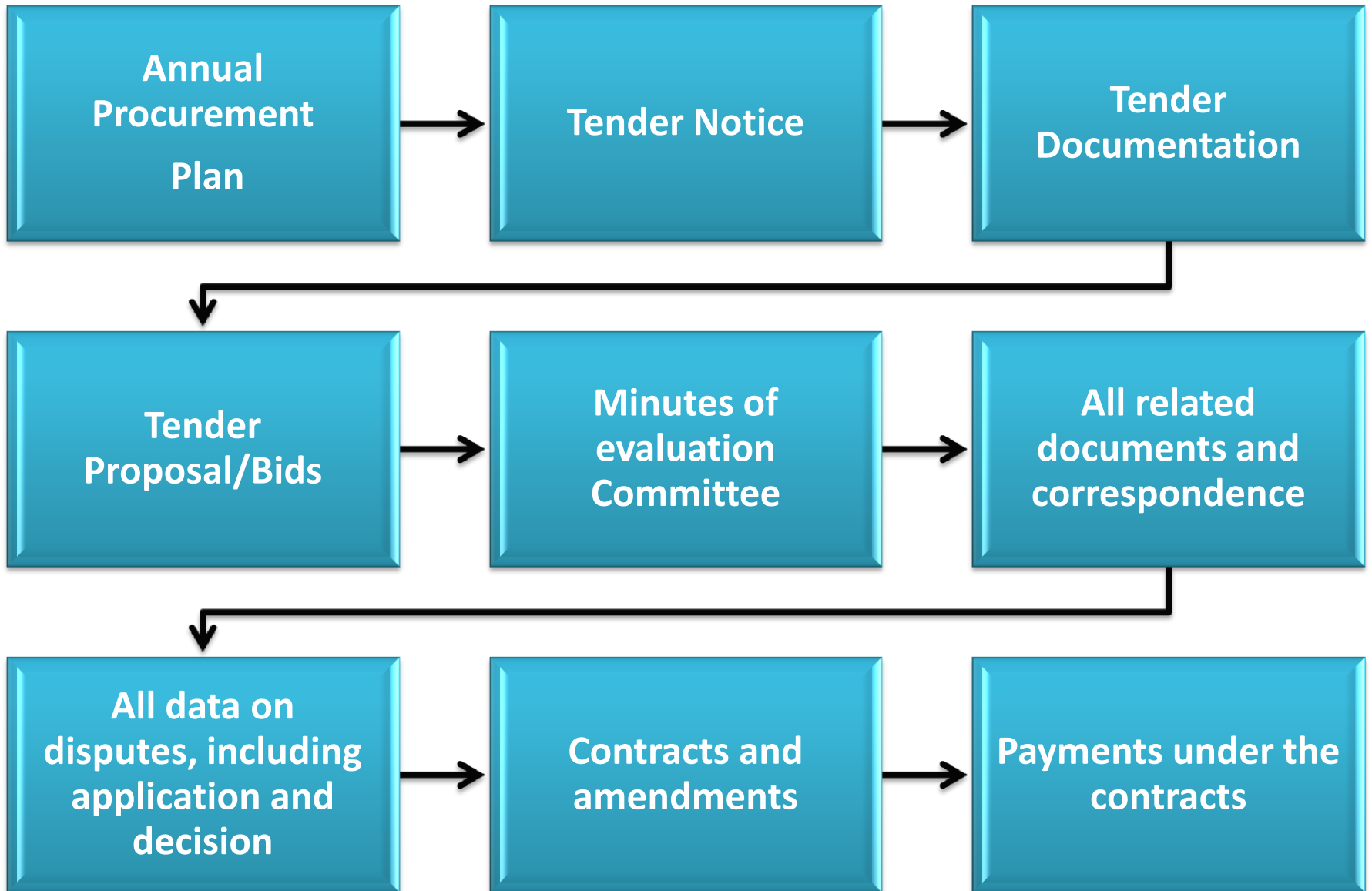


**All activities are logged**

**Integrated appeal mechanism**

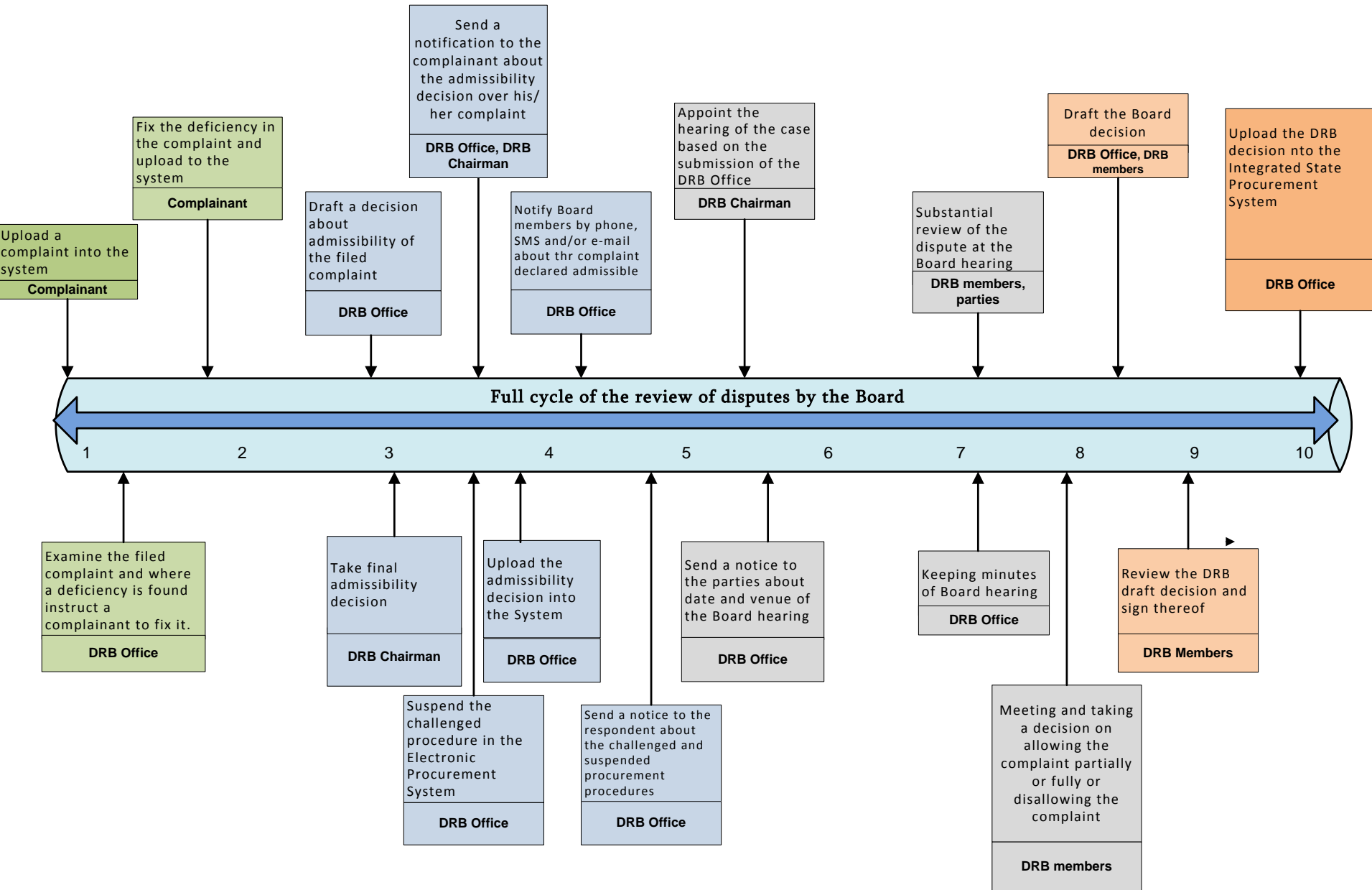
**Electronic payments module/  
linkage with State Treasury**

# Everyone sees everything

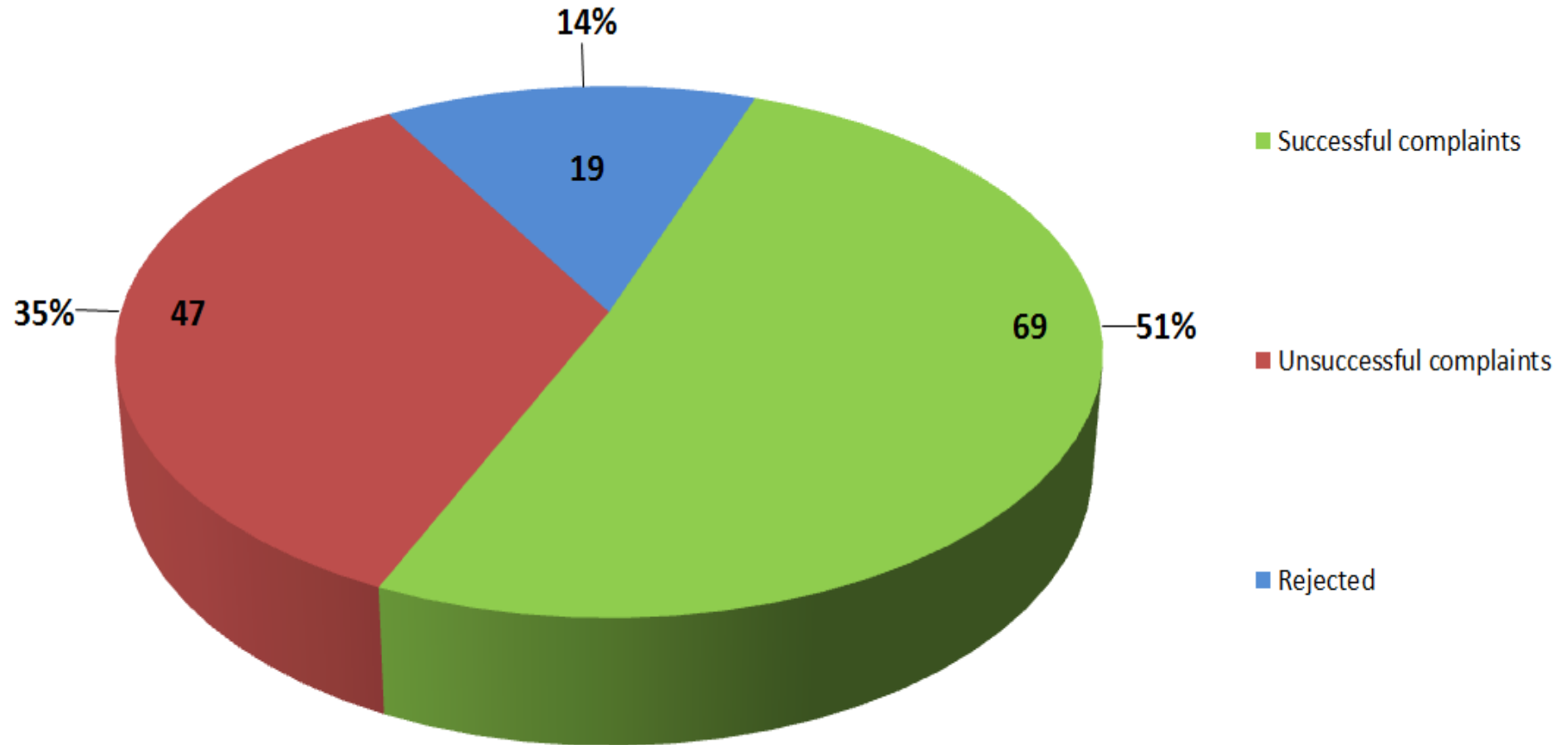




# DRB Business Process



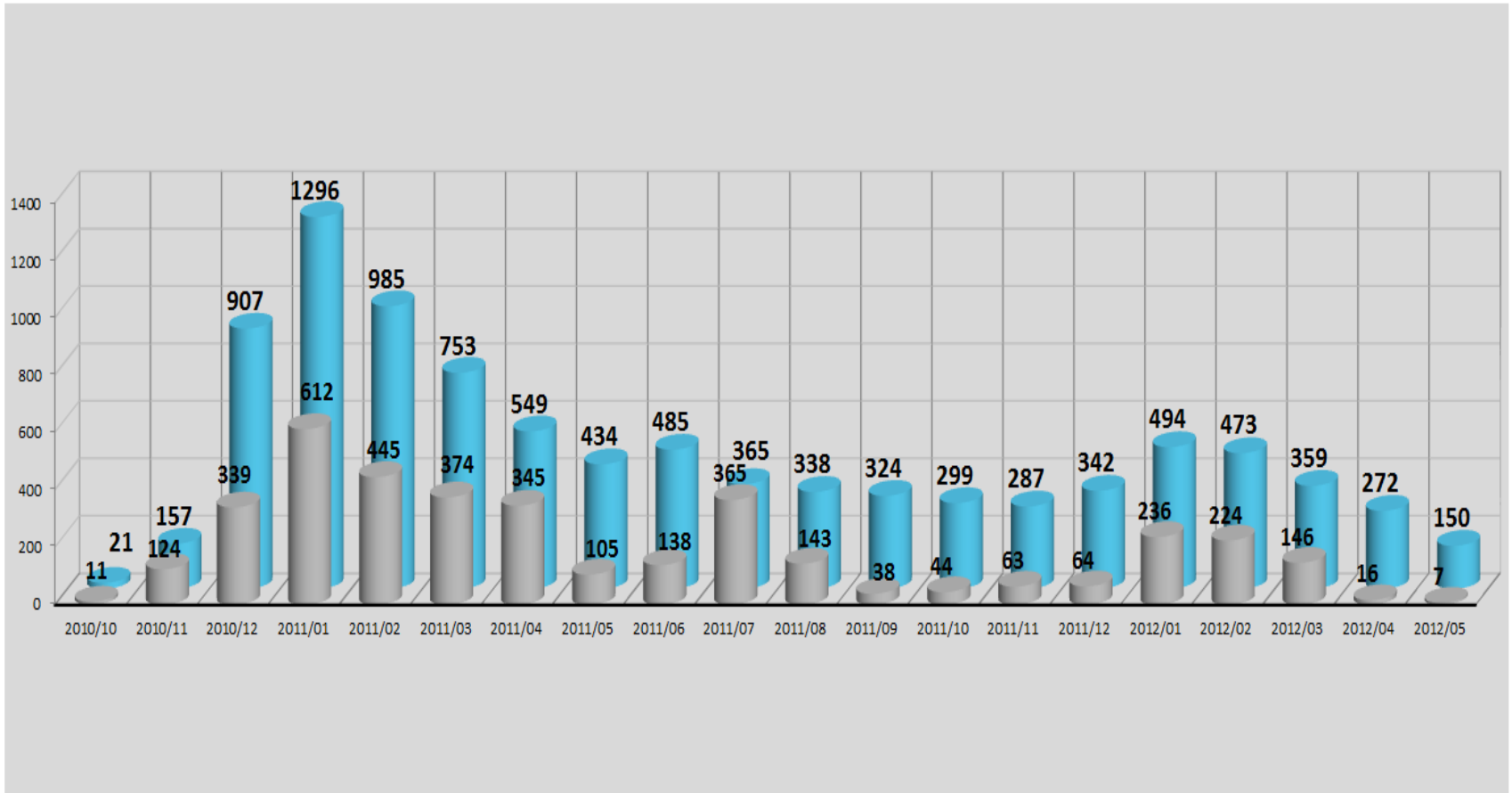
# Data on DRB activities



Total number of complaints 135



## Statistics of registration

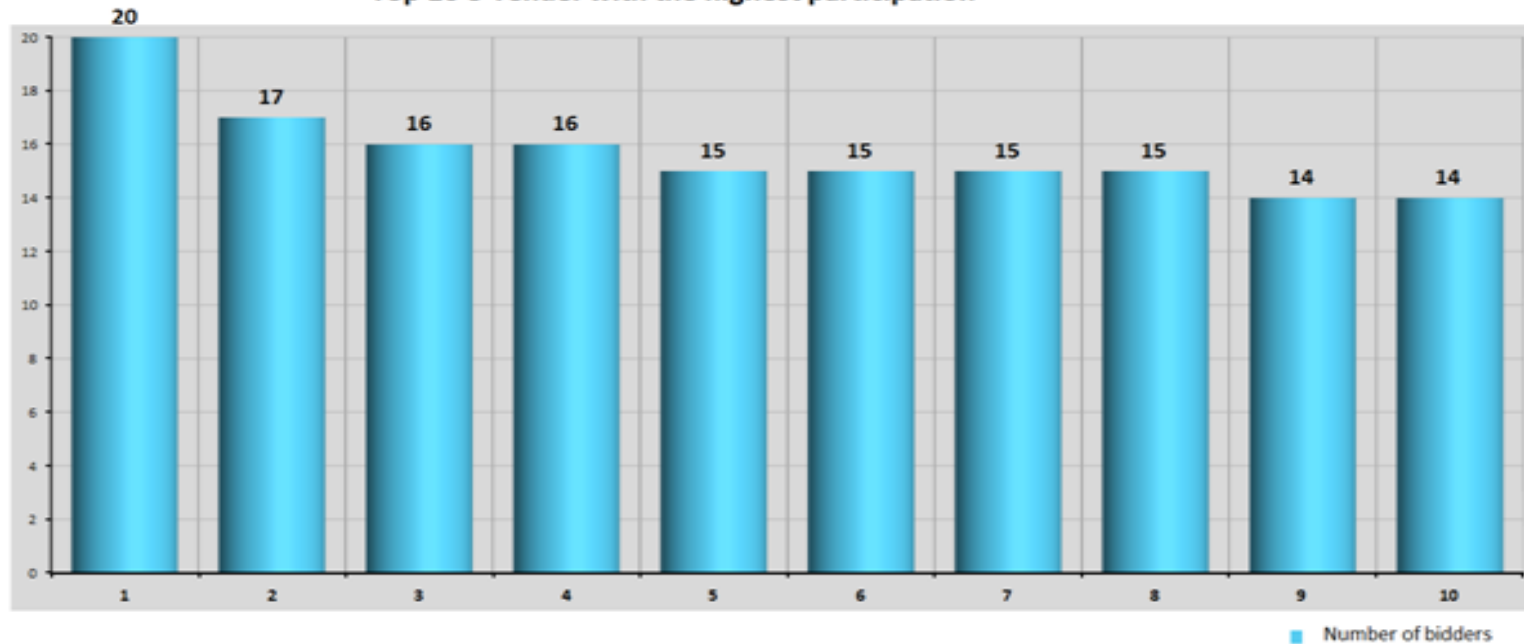


■ Number of Procuring entities Total 3839

■ Number of bidders Total 9290



Top 10 e-Tender with the highest participation



No	Tender No	Number of bidders	Declared amount	Contract price	Savings
1	SPA120001777	20	17222	8699	8523
2	SPA120004857	17	468592	221999	246593
3	SPA110028997	16	427748	269999	157749
4	SPA110003804	16	47202	28994	18208
5	SPA110016125	15	156800	88790	68010
6	SPA120000191	15	102349	67000	35349
7	SPA110031300	15	684240	532000	152240
8	SPA110027690	15	131000	79999	51001
9	SPA110008900	14	195900	113999	81901
10	SPA120001652	14	98300	49000	49300
			<b>2329353</b>	<b>1460479</b>	<b>868874</b>

# CPV Codes

The CPV establishes a single classification system for public procurement aimed at standardising the references used by contracting authorities and entities to describe the subject of procurement

The image shows a screenshot of a software interface titled "Common Procurement Vocabulary". It displays a hierarchical tree structure of CPV codes. The root node is "03100000 - Agricultural and horticultural products". Under this, there are several sub-nodes, including "03110000 - Crops, products of market gardening and horticulture" and "03200000 - Cereals, potatoes, vegetables, fruits and nuts". The "03210000 - Cereals and potatoes" node is expanded, showing further sub-nodes like "03211000 - Cereals" and "03212000 - Potatoes and dried vegetables". The "03211000" node is also expanded, listing specific cereal types: "03211100 - Wheat", "03211200 - Maize", "03211300 - Rice", "03211400 - Barley", "03211500 - Rye", "03211600 - Oats", "03211700 - Malt", and "03211900 - Grain products". The "03211900" node is highlighted in blue. At the bottom right of the window, there is an "OK" button.

- 03100000 - Agricultural and horticultural products
  - 03110000 - Crops, products of market gardening and horticulture
    - 03111000 - Seeds
    - 03112000 - Unmanufactured tobacco
    - 03113000 - Plants used for sugar manufacturing
    - 03114000 - Straw and forage
    - 03115000 - Raw vegetable materials
    - 03116000 - Natural rubber and latex, and associated products
    - 03117000 - Plants used in specific fields
  - 03120000 - Horticultural and nursery products
    - 03121000 - Horticultural products
  - 03130000 - Beverage and spice crops
  - 03140000 - Animal products and related products
- 03200000 - Cereals, potatoes, vegetables, fruits and nuts
  - 03210000 - Cereals and potatoes
    - 03211000 - Cereals
      - 03211100 - Wheat
      - 03211200 - Maize
      - 03211300 - Rice
      - 03211400 - Barley
      - 03211500 - Rye
      - 03211600 - Oats
      - 03211700 - Malt
      - 03211900 - Grain products
    - 03212000 - Potatoes and dried vegetables
  - 03220000 - Vegetables, fruits and nuts
- 03300000 - Farming, hunting and fishing products
- 03400000 - Forestry and logging products

Country / Territory	Visits	Pages / Visit	Avg. Visit Duration	% New Visits	Bounce Rate
1. Georgia	3,157,081	3.15	00:05:12	10.53%	60.24%
2. (not set)	28,313	2.82	00:04:05	16.53%	63.01%
3. Jordan	15,868	2.99	00:05:17	9.69%	60.55%
4. Russia	11,931	2.45	00:04:45	18.36%	66.60%
5. Germany	6,831	3.43	00:03:58	18.68%	57.72%
6. United States	5,468	2.76	00:03:52	23.92%	60.11%
7. Ukraine	4,321	4.38	00:05:09	22.49%	52.53%
8. Turkey	3,964	3.09	00:03:53	47.12%	58.55%
9. Armenia	2,290	3.13	00:04:07	20.61%	51.92%
10. India	1,220	2.88	00:03:14	51.97%	67.54%
11. United Kingdom	937	3.42	00:03:24	40.34%	56.24%
12. China	904	2.62	00:03:34	24.45%	68.14%
13. United Arab Emirates	895	5.45	00:07:15	11.73%	29.05%
14. Italy	876	4.12	00:04:22	37.90%	51.71%
15. Switzerland	861	2.63	00:03:36	23.93%	61.79%
16. France	753	2.59	00:19:09	26.16%	56.18%
17. Spain	651	3.45	00:04:02	32.26%	56.68%
18. Czech Republic	532	2.62	00:03:44	15.60%	61.28%
19. Lithuania	509	2.06	00:02:20	19.06%	72.50%
20. Belarus	463	2.62	00:04:04	25.70%	54.64%

# How we built it

## Transparent & Efficient System of State Procurement (in 1 year !!!)

Maximum transparency – “everyone sees everything”

### ~~Mainstream Alternative:~~

Non-discrimination & fair evaluation

- Elaboration of a strategy (1 year)

Streamlined, easy-to-follow procedures

**Too long and too expensive for us (what about you ☺?)**

- Dialogue with the interested parties

Unilateral liberalization of procurement market for foreign bidders

- Elaboration of an action plan/introduction (1 year)

Correction during the implementation – return to the reforms several time

- Implementation (3 years)

Consolidated team – unified views and values

Visionary approach – no special rigid strategy

Clear and well articulated political will

# What we learned

As Tato Urjumelashvili, former Chair of the Public Procurement Agency, who presided over the procurement reform, once said:

- Reform boldly, broadly and communicate
- Start small and leverage on demonstrable results
- Businesses love change they understand
- More transparency – less corruption
- Streamline then automate
- Simplicity is power
- Keep on identifying the next biggest binding constraint, reform in series
- Reform unilaterally, don't wait for reciprocity

Communicate reforms... Results inspire



# Georgian public procurement system: International Recognition

- Since the radical reforms of 2009 to the Georgian public procurement system, Georgia has had one of the most transparent procurement systems in the world. Transparency International Georgia and a number of other international organizations have praised the system (e.g. the World Bank, The United Nations, The European Bank for Reconstruction and Development).
- Even so, a public procurement system's openness and transparency does not always mean that it will ensure resource savings or an appropriate level of competition.
- **Transparency International Georgia, June, 2013. Georgia's E-procurement platform is one of the most transparent in the world but because of loopholes, too many contracts bypass the system:**  
<http://transparency.ge/en/post/report/georgia-s-e-procurement>
- World Bank, February 18, 2015. *Georgia: An E-Procurement Success:*  
<http://goo.gl/9JkRHZ>
- United Nations, 2012. *Public Service Awards Winner* <http://goo.gl/MXrFQb>
- European Bank for Reconstruction and Development (EBRD). *On the Way to WTO GPA Accession: Georgia*



BETTER MANAGEMENT — BETTER PUBLIC SERVICE



*23 June 2012*

*United Nations Public Service Award 2<sup>nd</sup> Place Winner*

**Preventing and Combating Corruption in the Public Service Category**

*This certificate is given in recognition of the contribution of*

**State Procurement Agency of Georgia  
Georgia**

*towards improving the effectiveness, efficiency and quality of public service.*

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Sha Zukang

Under-Secretary-General for Economic and Social Affairs

Transparency International Georgia's  
Tendermonitor.ge for better public  
procurement monitoring

Tendermonitor.ge is an online tool launched by TI Georgia in 2013 that allows to receive alerts when new tenders are posted by certain public agencies or call for certain fields:

- ❑ an automatic system for flagging potentially suspicious tenders (e.g., major tenders awarded to newly-formed companies)
- ❑ graphs and visualizations allowing users to view aggregate data such as the total value of tenders awarded to a certain company, and ways to compare the amounts spent by agencies on different types of tenders.

## How we use Tendermonitor.ge: Georgia's Public Procurement in Figures

- In 2013-2014, GEL 3.132 billion was spent in tenders. Of this, GEL 1.428 billion was procured in 2013 and GEL 1.704 billion in 2014. Electronic and simplified electronic tenders made up approximately 60% of total public procurement spending in 2014 and 51% in 2013.
- In 2013-2014, 42 404 contracts were reached through tenders. Of these, 33 984 contracts (80%) were not amended after being signed, 5 753 (13.5%) were amended once, and 1 604 had two amendments. The remaining 1 063 contracts (2.8%) had three or more amendments;
- Of the 42 404 contracts reached through tender, there was a single competitor on 5 644 (13.3%) contracts. After changes were made to 44 of the contracts awarded through electronic tender (0.1%), the final value of the contract was higher than the prices offered by the losing bidders.

# Risks that Remain

# Risks at a Glance

Despite the transparency of public procurement system, there remain a number of closely interrelated risks with public procurement. The system does not always:

- help save public money
- provide access for all potential suppliers, or provide equal access to the public procurement market for all bona fide suppliers.
- ensure value for money (the procuring organization should consider options which they are not at present. For example, instead of constructing a building, would it be better to lease one?)

*As a result, the system does not ensure an appropriate level of competition, a non-discriminatory approach to procurement, or an effective spending of public money.*

# Risk #1: Simplified Procurements

*Simplified procurement can be used to purchase goods, services or construction works valued at up to GEL 5 000 (about \$2200) or when an entity has the exclusive right to supply the good, service, or construction works and there is not another reasonable alternative supplier.*

## Exceptions in the law allow for the use of simplified procurement

- ✓ Urgent need (the length of service provision should not exceed the timeframe needed to solve the urgent problem);
- ✓ A procuring entity can decide to procure an item from a supplier to avoid worsening the quality of an object and/or if it is necessary to ensure the procured item is fully used, or if it is necessary that the procurement be carried out with the same contractor as part of a sub-contract, except in cases in which the estimated price of the object to be procured is greater than the original object procured;
- ✓ When it is in the state's and the public's interest to take action in a short timeframe instead of conducting a public procurement, the Government of Georgia, an Autonomous Republic or the Board of the National Bank may use simplified procurement.
- ✓ Exclusive right does not apply in situations when the estimated value of the good, service, or construction works is over GEL 2 000 000 (about \$900,000) and **either** outside the country but reasonably close, **or** within the country there are organizations which could implement the services



# Risk #1: Simplified Procurements

- These exceptions, in practice, enable budget spending entities to bypass the transparent electronic tender process for the purchase of any form of good, service, or construction work.
- Because state entities award contracts directly to a company when using a simplified procurement, the risk of corruption is significantly higher. It is possible to reach contracts with persons close to office holders or a company which is either loyal to or dependent on the government. Through simplified procurement the government cannot save money as can be achieved through tenders.

# **Risk #1: Simplified Procurement (Best Practices)**

- Simplified procurements are used in many countries, although the main difference between the Georgian practice as detailed in legislation and European practice (in Slovenia, the Czech Republic, Slovakia, and Poland) is that simplified procurement is only allowed in force majeure situations or in case of emergency.

# Risk #1: Simplified Procurement

## Our Recommendations

- In order to reduce the risks associated with simplified procurements, we believe that the government should introduce two key terms into state procurement legislation: 1. *force majeure situation* and 2. *urgent need*, which will include every situation, when shortened time frames for procurement will be allowed on the basis of European practices:
- **Urgent need** should be interpreted as a situation in which it is not possible to foresee the need, and/or the reason for the procurement was not caused by the procuring organization's actions, or which, by not procuring, would significantly harm the public's or the state's interests or property;
- **Force majeure situations**, should include wars or national emergencies, strikes, sabotage, industrial unrest, civil unrest, blockade, insurrection, ecological catastrophe, natural disasters, epidemics, dangerous situations related to disease among the animal population, or other force majeure situations in which by not procuring an item, human life, health, public welfare, or state security will be endangered.

## **Risk #2: Misapplication of different forms of public procurement**

Per Georgian legislation, simplified electronic tender is used if the value of the tender is less than GEL 200 000 (about \$90,000), while electronic tender is used for the procurements over GEL 200 000.

- The procurement law recognizes a specific case in which simplified electronic tender can be announced, including when it is in the state and/or public interest to carry out the procurement within a short period of time. A legal act by Georgian President and/or Georgian Government may allow the use of simplified electronic tender when within a single budget year the same type of items worth GEL 200 000 or more are to be procured.

## **Risk #2: Misapplication of different forms of public procurement (Best Practices)**

The legislation of the EU countries studied does not allow the use of two essentially different means of procurement in such situations, which is not only a problem with the legal technique, but rather blurs the lines between two different kinds of procurement – simplified electronic tender and electronic tender.

## **Risk #2: Misapplication of different forms of public procurement : Our Recommendations**

Simplified electronic tenders valued at GEL 200 000 (about \$90,000), or more should not be used in instances where it is in the public or state interests to carry out the procurement in a shorter timeframe, but rather should only be used in instances of urgent need or force majeure situations, as defined in this section.

# **Risk #3: Price as the main selection criteria (Best Practices)**

- In the EU countries we studied, price is not the only legislative criteria for selection, because such an approach can seriously damage the quality of the procured goods, services, or construction works.
- At present, bidders have the right to lower the price of their proposal in order to win the contract, within a given timeframe. Even though the procurement rules have recently been amended, price remains the main selection criteria in Georgia. According to the amendments, upon procuring entity's request, a bidder is required to substantiate the adequacy of the price if it is 20% or more below the procuring entity's estimated price.

# Risk #4: Price as the main selection criteria:

## Our Recommendations

- Bidders should keep the right to lower the price of their proposal in order to win a tender, although it is important that the final price and the difference between the estimated value of the procurement and the final price be substantiated.
- Structured substantiation requires the creation of a questionnaire in which procuring entities ask suppliers specific questions, when the proposed price is lower than the estimated value of the item to be procured by 20% or more.
- When the substantiation is not structured, the supplier will be unable to respond to the questions, which are essential for the procuring agency to know the answers to in order to guarantee that the bidder will be able to provide the good, service, or construction works of the same quality at a lower price.



# Risk#5: The risk of artificially dividing tenders

*Artificial division of a procurement means decreasing or dividing the amount or quantity of a single object, when the procuring organization knows in advance that during the same budget year it will be necessary to make another procurement of the same object.*

- A procuring entity is prohibited from artificially dividing tenders to avoid monetary thresholds or other related requirements with the goal of evading regulation (monetary thresholds are defined in the public procurement law).

# **Risk#5: The risk of artificially dividing tenders: Our Recommendations**

It is important that a methodology for preventing the artificial division of tenders be developed in consultation with experts and civil society organizations.

# Risk#6: Access to the System

- In order to increase the effectiveness of public spending, it is necessary for all potential suppliers to have access to the system.
- In 2014, 58 contracts valued GEL 82 254 335 were awarded to non-resident suppliers in 2014. While this is about 5.2 times the level of 2013, it is still below 5% of the total value of all tenders awarded.

# Risk#6: Access to the System: Our Recommendations

- Georgia needs to accede to the Government Procurement Agreement, which the country has been an observer to since 1999. Although the legislation in force is neither nondiscriminatory towards foreign suppliers nor protectionist towards local suppliers, the public procurement market has still not been liberalized. The procurement market can only be liberalized through changes to Georgian legislation.
- **Unified procurement should be used more actively in instances where centralization is expedient.** Public procurement is still carried out in a decentralized manner, which in turn prevents the state from saving public money .
- Develop supplier assessment system. This will ease procurement planning as well as the process of selecting suppliers. Suppliers could be rated by a “star” system based on objective criteria. State Audit Office, March 18, 2014. *Ensuring the effectiveness of the public procurement system.*

# Risk#7: The independence of the public procurement appeals board

- The State Procurement Appeals Board should settle appeals quickly and justly, respecting the equality of the parties.
- Clear conflicts of interest have been present from the Board's establishment: **1.**the State Procurement Appeals Board is chaired by the Chairman of the State Procurement Agency. **2.** Of the six board members, the chairman nominates two board members yearly. Even though there are three representatives of non-governmental organizations on the board, the fact that the chairman nominates two board members represents a risk to the board's independence. Hence, the Appeals Board cannot be considered an independent entity at present.

## **Risk#7: The independence of the public procurement appeals board: Recommendations**

- The Public State Procurement Appeals Board should be established as a completely independent entity. The Chairman of the Appeals Board should no longer be the Chairman of the State Procurement Agency, nor should the chairman nominate the members.
- The Board of Appeals should be established as an independent entity, which means that the Board should have its own staff who do not work for the Public Procurement Agency.

Thank you for your attention!

