Ukraine

Electronic Government Procurement (e-GP)

Contribution to the Country Procurement Assessment Report in the Ukraine, November 2005

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Introduction

This report is the result from the findings of initial discussions with representatives of the following institutions during a mission from November 21-24, 2005:

- Public Procurement Department (PPD) of the Ministry of Economy (MoE);
- Public Procurement Bulletin;
- Ministry of Finance (MoF);
- State Treasury;
- Accounting Chamber;
- Chamber of Commerce;
- Tender Chamber;
- European Union, Ukraine Office;
- SIDA, Ukraine Office;
- Embassy of Japan in the Ukraine;
- UNDP, Ukraine Office.

In addition, the report reflects some considerations from the review of the following official documents of the Ukraine:

- Law on Public Procurement of Goods, Works and Services No. 1490-III (2/22/2000) including the recent amendments;
- Resolution of the Cabinet of Ministers of Ukraine On Public Procurement System Management, No. 1469 of 09.27.2000;
- Draft Strategy for Public Procurement Reform 41REV 2 C Draft 8-VIII-04;
- The Government’s Action Program Towards the People;
- Cabinet of Ministers’ Regulation on Approval of the Strategy of Public Procurement System Development for 2005-2009;
- Law on Electronic Digital Signature No. 852 (5/22/2003);

Starting with a brief e-GP overview in Section 1; the report provides information on the current e-GP situation in the Ukraine in Section 2, based on a set of e-GP adoption indicators jointly developed by the Multilateral Development Banks’ e-GP working group as part of an e-GP readiness assessment. Section 3 provides some recommendations with regard to future possible actions towards the adoption of e-GP in the Ukraine.

1 http://www.mdb-egp.org/data/docs/Questionnaire.pdf
Table of Contents

A. Electronic Government Procurement (e-GP) – A Short Overview .......... 4
   Definition .................................................................................................... 4
   Benefits ...................................................................................................... 5
   Key Success Factors ................................................................................ 5

B. Current Adoption of e-GP ........................................................................ 7
   Government Leadership & Management Planning .................................... 7
   Policy & Legal Framework ........................................................................ 8
   Buyer and Supplier Activation ................................................................. 12
   Infrastructure & Standards ..................................................................... 15
   Systems & Procedures ........................................................................... 17

C. Recommendations .................................................................................... 20

D. Appendix ................................................................................................... 23
   I – Benefits and Beneficiaries of e-GP .................................................. 23
   II – Examples of e-GP Benefits ............................................................... 24
   III – Developing a Buyer Activation Strategy ....................................... 25
   IV – Developing a Supplier Activation Strategy .................................... 26
Electronic Government Procurement (e-GP) – A Short Overview

Definition

1. Electronic Government Procurement (e-GP) is the use of Information & Communication Technology (ICT), especially the Internet, by governments in conducting their relationships with suppliers for the acquisition of works, goods, and consultancy services required by the public sector.

2. The level of e-GP implementation comprises three basic phases:

   - **Online disclosure of information** (e.g. publication of procurement notices, awarded contracts, and procurement law & regulations);
   - **Online procurement transactions** (e.g. electronic distribution of bidding documents and RFP/RFQ documents, electronic submission of bids/proposals/quotations, electronic bid opening);
   - **Online procurement integration** (e.g. integration of e-GP with systems for contract management, financial management, tax administration, and others).

3. Along the lines of traditional tendering and purchasing procedures, e-GP can be divided into e-Tendering and e-Purchasing:

   - **e-Tendering** can be defined as a solution designed to electronically handle the process of public tender for the acquisition of specialized works, goods, and consulting services that are of high value and low volume. Contracts are usually awarded on the basis of price and other factors (e.g. performance, quality, efficiency).

   - **e-Purchasing** is a solution designed to electronically facilitate the acquisition of low value and high volume standard goods and services. Contracts are awarded on the basis of price as the only evaluation criteria. E-Reverse Auctions and e-Catalogues are included in this category.

4. Examples of such systems include Mexico’s e-Tendering system Compranet\(^2\), and Brazil’s e-Purchasing system Comprasnet\(^3\). Chile’s ChileCompra\(^4\), Korea’s GePS\(^5\), and Western Australia’s Government Electronic Market\(^6\) are examples of systems supporting both, e-Tendering and e-Purchasing.

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\(^2\) [http://www.compranet.gob.mx/](http://www.compranet.gob.mx/)
\(^3\) [http://www.comprasnet.gov.br](http://www.comprasnet.gov.br)
\(^4\) [http://www.chilecompra.cl/](http://www.chilecompra.cl/)
\(^5\) [http://www.g2b.go.kr/](http://www.g2b.go.kr/)
Benefits

5. Breaking down the physical barriers of space and time, e-GP allows a more transparent and efficient information flow as well as improved access to information and services. Beneficiaries include not only governments and suppliers but also the public at large who can have access to transparent information on the public expenditure of taxpayers’ money.

6. Many countries around the world are investing into the design and implementation of more or less complex e-GP system as part of the modernization of their public procurement systems. Transparency, efficiency, and improved quality of government procurement are among the main benefits.

7. In capturing all relevant data and information into a securely operated electronic system and automating public procurement processes, thus making them more compliant with the public procurement legislation, governments can reduce corruption or collusion by minimizing the risk of data manipulation or misuse. At the same time, procurement data and information can be made transparent to government decision-makers who, by using these data, can improve the quality of their decisions in the context of public procurement.

8. Besides transparency, e-GP provides for efficiency gains in terms of costs and time. As competition can be increased by opening up the access to online procurement notices to more suppliers – provided an appropriate infrastructure is in place – and transaction costs of the procurement process drop considerably (usually between 50 to 75 %), prices of bids and proposals can be cut by usually 15 to 25 %. These savings include time savings due to automated procurement procedures. A detailed summary of e-GP benefits and some specific examples can be found in Appendices 1 and 2.

9. As the public procurement volume of a country amounts to a percentage of more than 10%, sometimes up to 20%, of the GDP, the use of e-GP may have a considerable impact on economic development due to huge savings and, in addition, due to the encouragement of small and medium enterprises to use modern technology and build the appropriate capacity.

Key Success Factors

10. Designing and implementing projects with major ICT components in the public sector have one issue in common: while ICT is basically available and can be used in many ways to improve government performance, there are some human factors which are critical to the success of any such ICT project including e-Government Procurement.

11. Experience in many countries, no matter which income level, has shown that government leadership is the most important key success factor of e-GP. A strong champion (some countries have seen the President in this role) needs to give the mandate of leading the e-GP initiative to an agency with excellent planning and
management skills which is able to bring about collective commitment for change, inter-government coordination, and partnership with the supplier community.

12. Appropriate government leadership is also needed to meet the requirements of a few more e-GP key success factors:

Set a supporting policy & legal framework including a clear e-GP vision and strategy, the definition of roles & responsibilities, the legally enabling environment with sufficient flexibility in order not to become obsolete along the short innovation cycle of ICT;

Buyer and supplier activation, including awareness and capacity building among government, suppliers, and the public at large on the basis of a well-thought communication strategy, comprehensive training programs, and user help-desk facilities;

Technological infrastructure development including improved connectivity to promote equal access to online procurement data and information, interoperability based on common standards and procedures, appropriate security techniques, and clearly defined e-GP business models.
Current Adoption of e-GP

Government Leadership & Management Planning

13. According to the Resolution of the Cabinet of Ministers of Ukraine On Public Procurement System Management, #1469 of 09.27.2000, the Public Procurement Department (PPD) of the Ministry of Economy and European Integration (MoE) is the authorized agency responsible for public procurement policies, procedures, and regulations as stated in the public procurement law. In this function, the PPD also assumes responsibility for the introduction of electronic government procurement.

14. The Government of the Ukraine in general and the PPD in particular are aware of the important role that e-GP can play in order to meet the main objectives of public procurement as mentioned in the public procurement law:

- maximum economy and efficiency;
- fair competition among bidders;
- openness and transparency at all stages of public procurement;
- non-discrimination of bidders;
- objective and impartial assessment of tender offers.

15. Besides increased transparency and competition by publishing procurement notices, contract award results, and other procurement information on a website; annual savings of up to USD 50-100 million could be achieved by conducting only 10% of the total public procurement (about up to USD 5 billion in 2004) online. These potential savings of 10-20% are calculated on the basis of the experience of countries, such as Brazil, Mexico, Romania, Korea, and India, who have successfully used the Internet to support public procurement procedures.

16. With the PPD as the authorized agency for public procurement policies, procedures, and regulations, the Ukraine is in line with the majority of those countries who have adopted e-GP: they all selected the central public procurement agency as the lead agency for the implementation of e-GP. While in some countries, this central procurement agency is part of the Ministry of Finance or an independent state procurement agency; it is subordinated to the Ministry of Economy and European Integration in the Ukraine.

17. The role of the PPD as lead agency for the introduction of e-GP in the Ukraine is not only defined by Resolution #1469 (see para.13) but also strengthened by the government itself. First, the Minister of Economy provides strong leadership and support to the PPD in its efforts to improve and modernize the public procurement system including any e-GP related initiative. Second, the Draft Strategy for Public Procurement Reform 41REV 2 C Draft 8-VIII-04 assigns the responsibility for the introduction of information technology in the area of public procurement to the PPD. Third, all interviewed governmental institutions acknowledged the PPD as the lead agency for e-GP implementation.
18. With such strong legal and political support in mind, the challenge to the PPD is to demonstrate true leadership in the process of adopting an e-GP program by pursuing a proactive and strategic approach to the e-GP planning process and coordinating the planned activities in this area with other relevant stakeholders in- and outside the government.

Policy & Legal Framework

19. Taking into consideration the increasing role of information and communication technologies in all spheres of the life, the Ukraine has developed a policy and legal framework, which provides a general foundation for the introduction of e-Government services. The Government’s Action Program Towards the People\(^7\) recognizes the significant role of modern technologies: “Informatization will give unique chances for development of the regions and guarantee all the citizens equal access to the information and form new workplaces. In order to achieve this the Government intends:

- to form the list of the top-priority high technologies (including nanotechnologies);
- to integrate all the field and regional programs in the realm of information into one program called “Electronic Ukraine”;
- to develop the all-national telecommunication networks using the newest world achievements in the sphere of high technologies;
- to liberalize the telecommunication market as a basis for the competition, to increase the quality and to low in price the telecommunication services;
- to introduce widely the electronic signature;
- to develop electronic trade, marketing and business on the basis of the Internet;
- to use the world network in order to advance domestic commodities to the foreign markets;
- to provide informatization of the education and knowledge management, basic computer competence, to work out and introduce the educational standards of all levels, to introduce computerized technologies for education and distance education.”

20. In line with this program, the Draft Strategy for Public Procurement Reform 41REV 2 C Draft 8-VIII-04 addresses the implementation of e-GP in the Ukraine. In recognition of e-GP as a catalyzer of increased public procurement transparency, efficiency, and performance; the draft strategy suggests six steps to be taken:

- the nomination of a lead agency to guide and promote the adoption of information and communication technologies for public procurement;
- the assessment of the current use of ICT for public procurement;

• the collection of information and knowledge with regard to e-GP including international experience;
• the development of an e-GP implementation strategy;
• the implementation of e-GP pilot projects;
• the development of a single e-GP portal for all procuring entities and suppliers.

21. This strategy was drafted in August 2004 but has not been approved as an official document as of today. In addition, the Cabinet of Ministers drafted the Regulation on Approval of the Strategy of Public Procurement System Development for 2005-2009. This regulation has also not yet been officially approved. In line with the six e-GP related steps of the drafted strategy, the regulation suggests specific activities, i.e. the development of a single public procurement portal, the implementation of a pilot e-Tendering system, and an online public procurement monitoring facility.

22. While the strategy and regulation drafts include considerable e-GP implementation activities, breaking down these activities into a clearly defined e-GP strategy could serve as a better roadmap to the successful implementation of e-GP. Such e-GP strategy does not only need to address technology issues, but more importantly the management of business and personnel issues in order to ensure the successful application of e-GP technologies. More specifically, an e-GP strategy can define the objectives of e-GP implementation and provide a framework including clearly defined actions, roles, and responsibilities of how to achieve these objectives in the specific political, economic, and legal environment in the Ukraine.

Public Procurement Law

23. As far as the legal framework is concerned, the Law on Public Procurement of Goods, Works and Services no. 1490-III (2/22/2000) including several amendments allows for the use of electronic means in public procurement in a way that might result in some irritations with regard to the required online publication of public procurement information.

24. Article 1 defines electronic government procurement as the use of information systems to conduct public procurement in the Internet on the basis of electronic documents and electronic digital signatures. According to Article 4-1, such systems can be used by contracting agencies in compliance with Article 4.2, which not only requires multilingual support but also the availability of a technical regulation and the approval and certification of the system in terms of security and information protection by the Security Service of the Ukraine.

25. While these Articles mandate the use of an electronic digital signature to conduct online public procurement, there is one exception in Article 4-1(6), which excludes the publication of procurement information in compliance with Article 4-1(1) from

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the definition of electronic government procurement in Article 1. To this end, procurement information can be published without the use of electronic digital signatures. It appears not quite clear whether there was another reason for the existence of Article 4-1(6).

26. In Article 3, the PPD of the MoE is given authority to maintain a list of web-based information systems, which meet the requirements of the public procurement law. According to Article 4-1, these systems are selected by the contracting agencies on a competitive basis and have to meet the relevant requirements of the public procurement law. In line with Article 4-2, all such systems have the right to be included in this list, whereas information systems that are not compliant with the requirements of the public procurement law shall not be allowed to enter the list. With more than 5,000 contracting agencies, the PPD could end up in the maintenance of a list with hundreds of compliant information systems for public procurement.

27. Procurement information as defined in Article 4-1(1), such as annual procurement plans, notices, tender opening results, and contract award results, for the procurement of goods, services (both above UAH 30,000 = about USD 6,000), and works (above UAH 300,000 = about USD 60,000) shall be published in at least one of the web-based information systems to be chosen by the contracting agency.

28. More specifically, Articles 8, 17, and 29-1 seem to mandate the online publication of the required procurement information in two different websites leaving the choice between the two up to the contracting agency. One website is provided by the Public Procurement Bulletin,\(^9\) subordinated to the MoE; the other website is owned by the Tender Chamber.\(^10\)

29. However, together with Articles 8(1, 2), 26(3), and 29-1(1), it seems not to be clear whether a contracting agency needs to publish the required information only in one of the two specified websites, or, in addition, in the web-based information system selected by the contracting agency for conducting electronic procurement transactions or in all those e-GP systems which are approved and listed by the PPD.

30. The difference to many country practices here is that, preferably, the government may mandate the disclosure of such information in just one website and leave it up to the contracting agency to disclose them in additional online or printed media. The mandatory choice to publish in one of the two websites according to the Ukrainian procurement law may result in increased effort and confusion among the contracting agencies, suppliers, and control agencies for the following reasons:

- Procurement data compiling for monitoring and reporting purpose from two independent resources;
- Increased costs due to the duplicated development and maintenance of two mandatory online publication systems;
- Need to check two websites for compliance with the publication requirements before authorizing the money transfer to the contracting agency;

\(^10\) [http://www.ipu.com.ua](http://www.ipu.com.ua)
• Need for suppliers to access two websites for the identification of potential business opportunities.

31. The latest draft for another amendment to the law on government procurement of goods, works and services addresses this issue and suggests to limit the mandatory publication requirement to just one website, i.e. the one of the Public Procurement Bulletin.

32. Article 9 raises some unclarity in terms of the communication formats during the procurement procedure. On the one hand, it is required to execute such communication in writing and if such information is exchanged other than in writing; a confirmation in writing is required. On the other hand, electronic documents are accepted in combination with an electronic digital signature. Does this mean that such electronic documents are legally valid or have to be confirmed in writing?

33. According to Article 8(3), the advertising for the procurement of goods (above Euro 200,000), services (above Euro 300,000), and works (above Euro 4 million) shall use relevant international bulletins and information systems for online publication. It is not clear whether in such cases the same information still has to be published on one of the two websites defined in Article 8(1).

34. Although not mentioned in Section III-1, the tender procedure with price reduction is a good foundation for the electronic reverse auction procedure, which in most cases is conducted for common-use goods and commodities, e.g. office supplies or pharmaceuticals, where price is the only decision criteria.

E-Legislation


37. The electronic digital signature law appears to create some uncertainty. Unlike the suggested approach in the UNCITRAL model law on electronic signatures (2001)[^16] or in the European directive on a community framework for electronic signatures

[^12]: http://www.welcometo.kiev.ua/pls/ili/ilic.frame_law_result2.show?p_arity_names=law_id&p_arg_values=303
[^13]: http://www.welcometo.kiev.ua/pls/ili/ilic.frame_law_result2.show?p_arity_names=law_id&p_arg_values=90
(1999)\textsuperscript{17}, the Ukrainian law includes two conflicting attributes in its title: while a digital signature is always an electronic signature, not all electronic signatures are at the same time digital signatures. Both, UNCITRAL and the European directive do not limit the legal recognition of an electronic signature to the digital signature. Although the Ukrainian law states that an electronic signature may not be deemed invalid on the sole ground of being in electronic form or not being based on an enhanced key certificate, it is not clear whether the Ukraine recognizes the use of an electronic signature without digital cryptography and certificate as legally valid.

38. This uncertainty is supported by the Cabinet of Ministers’ Resolution No. 1452 (10/28/2004) on the Approval of the Procedure of the Electronic Digital Signature Utilization by State Authorities, Local Self-Administration Bodies, State-Owned Enterprises, Institutions and Organizations. The resolution seems to restrict the legal validity to digital signatures only. Under such conditions, the digital certification procedure including any costs and renewal mechanisms has to be designed in a way that would not restrict the public procurement principle of open and fair competition.

Buyer and Supplier Activation

39. Moving public procurement information and transactions online requires buyers (contracting agencies) and suppliers (private industry) to change their mindset of doing business. In line with the management of such change, it is critical to achieve common understanding among the buyers and suppliers about the benefits of e-GP for the Ukraine and to develop collective commitment to achieve these benefits. Appendices 3 and 4 provide some possible components of a buyer and supplier activation strategy.

Awareness Raising

40. While many buyers and suppliers may not be familiar with e-GP, there may also be a considerable number of those who are knowledgeable about e-GP. Some may have an interest in moving public procurement online and others may not. Only if the majority of buyers and suppliers is convinced of the benefits and values e-GP offers to them, the government of the Ukraine does not run the risk of investing into the adoption of e-GP without delivering the promised benefits.

41. To this end, it is critical to raise the awareness of the important role of e-GP to develop a highly efficient and transparent public procurement system in the Ukraine. Such awareness may be raised not only among the buyers and suppliers but also among the public at large, i.e. the taxpayers. The Ukrainian taxpayers may have an interest in being informed about plans and methods to increase the efficiency and transparency of the government when spending taxpayers’ money.

42. While the government of the Ukraine provides a considerable amount of transparency in its information policy (the Internet portal of the Government\textsuperscript{18} offers multiple

\textsuperscript{17} http://europa.eu.int/ISPO/ecommerce/legal/documents/1999_93/1999_93_en.pdf
\textsuperscript{18} http://www.kmu.gov.ua/control/
political, economic, and other information), the communication of the planned introduction of e-GP seems to offer some potential for improvement. Several websites (see para. 63 on page 17) provide public procurement related information but do not offer any details in terms of e-GP plans or activities.

43. It is important to communicate the e-GP program including its benefits to all stakeholders and to demonstrate political will and leadership. An e-GP awareness raising campaign as part of the e-GP strategy and the public procurement reform agenda can help to improve the communication of the planned e-GP activities. The transparency of the government’s plans in the area of e-GP can be increased by publishing them online as much as the transparency of public procurement can be increased by publishing procurement information online.

44. The Internet, however, is only one channel in order to efficiently communicate the planned e-GP program within the government including the contracting agencies and outside to private businesses, business associations, non-governmental organizations, and the public at large. Other channels include typical communication platforms such as the printed media, radio, TV, conferences, etc. References to good e-GP practices and achieved benefits in other countries may be taken into consideration when distributing information through these communication channels.

Capacity Building

45. The introduction of e-GP requires training and skills development on different levels. While the awareness raising program may already contribute to understanding the basics and benefits of e-GP; more extensive capacity building is required in the areas of managing the design and implementation of e-GP, using the implemented e-GP applications appropriately, and providing e-GP systems operation and support services.

46. The successful management of the design and implementation of e-GP depends from the appropriate staffing of the responsible lead agency. Staff should not only be positive about e-GP but also pursue a strategic approach to the adoption of e-GP. Public procurement expertise should play the dominating role over IT expertise. The DPP seems to be well staffed to this end. However, the available resources of currently 19 persons may not be sufficient in order to manage, coordinate, monitor, and evaluate the implementation of e-GP in the Ukraine. Even with the planned increase to 28 staff in the DPP, the future e-GP work may still constitute a challenge. In this context, much will depend on some strategic decisions, e.g. whether

- a single or multiple e-GP systems will be implemented;
- a single e-GP system will be operated within or outside the government;
- an e-GP standards framework will have to be developed in case of accepting the use of multiple e-GP systems;
- the delivery of user training to buyers and suppliers will be contracted to third parties or provided by the DPP;
• user help desk services will be provided by third parties or the DPP.

47. User training needs to address not only the issue of how to use an e-GP application but also the issue of changing from traditional to new methods of conducting public procurement. With thousands of contracting agencies meaning tens of thousands of public procurement agents to be trained as potential future users of an e-GP application, training will definitely require a considerable amount of resources and planning. User training to thousands of more trainees from the supply side should be taken into consideration.

48. The training to use an e-GP application can be delivered through a whole range of channels. The concept of training the trainer may be a good way in order to effectively enable contracting agencies to work with a new e-GP application. This approach can also work for suppliers, particularly if business association representatives are trained as trainers. In-person training at workshops is the more traditional method; whereas online training programs, online demo versions, user manuals, online help facilities, and user help desk facilities add to the variety of training delivery channels.

49. User help desk facilities can offer a hotline phone service or an email service to contracting authorities and suppliers who may have questions on an e-GP application or run into problems of technical or procedural nature. While not all problems need to be solved by the same person, a user help desk should be structured in levels that ensure high quality and a quick response time. The availability of these services may be restricted to the business hours or open on a 24/7 basis. The latter could be offered for procurement transactions that may attract international businesses from different time zones throughout the world.

50. The third level of skills development is linked to the selected business model of operating an e-GP system. While the current public procurement law requires the DPP to be in charge of maintaining a list with the approved e-GP applications in the Ukraine, it does not mandate that these applications have to be operated by a government agency. To this end, outsourcing could be an alternative business model for the operation of an e-GP application in the Ukraine. Both approaches are common in countries all over the world. Outsourcing the operation to the private sector is very often justified with the risk that staff leaves the government for the better-paying private sector after having passed an expensive training program financed by the government and not been offered appropriate incentives to stay. However, such outsourcing approaches fail sometimes due to the fact that the selected service provider cannot cover the costs. In addition, outsourcing contracts require excellent expertise to design and manage this type of contract.

51. As part of the capacity building program, the Ministry of Education can issue licenses for agencies or associations to provide procurement training to procurement agents of contracting agencies or private suppliers. On the basis of such approach, the Ministry of Education could issue the license for e-GP awareness raising and capacity building. Although it may not be easy to identify experienced e-GP training
providers, some of the existing providers may be in the position to design and deliver e-GP related training to contracting agencies and suppliers.

52. The Chamber of Commerce may be a good candidate, since it has already extensive experience as a licensed training provider in the area of public procurement in close coordination with the Ministry of Economy. The Chamber of Commerce has a very good training facility and provided public procurement training to about 6,000 procurement agents in 2005. With more than 7,000 private companies being members, the Chamber of Commerce constitutes a perfect platform to reach out and promote the e-GP agenda in the Ukraine.

53. The donor community can also contribute to raising the awareness and building capacity in the relatively new area of e-GP in the Ukraine. Particularly the donors interviewed during the mission expressed their interest in helping to provide e-GP related training by co-sponsoring learning events (e.g. workshops, conferences) or including appropriate components as part of TA programs.

Infrastructure & Standards

Infrastructure

54. The situation in terms of Information Technology and Internet penetration in the Ukraine is similar to that in other low- and middle-income countries. While these technologies are used in government agencies, private businesses, and individual households, there is a digital divide between municipalities, such as Kiev or Odessa, and small or rural regions with less population and more infrastructure constraints. However, the Chamber of Commerce forecasts a rapid future development of the IT infrastructure and Internet connectivity.

55. A recent statistics overview on the Internet usage in Europe\textsuperscript{19} found that the Internet is being used by almost 5.3 million people in the Ukraine with a total population of about 46.7 million. To this end, the Internet penetration equals 11.3% in the Ukraine. With this rate, the Ukraine belongs to those European countries with a rather low Internet penetration rate. Interestingly, the calculated Internet usage growth between 2000 and 2005 exploded in a few countries, e.g. Albania, Bosnia-Herzegovina, Macedonia, Moldova, and the Ukraine. In terms of Internet usage growth during the last five years, the Ukraine is on the second place with 2,539.1%. This figure clearly is positive about the future expected Internet penetration in the Ukraine.

56. Even if the government of the Ukraine can organize the access to and use of Internet-based applications in public contracting agencies in a coordinated way, it may be more difficult to close the digital gap for small and medium enterprises in the regions with infrastructure constraints. In addition to promoting the use of modern technologies by setting up an enabling framework with regard to the development of the telecommunications and IT sector, the government can help to establish a network

\textsuperscript{19} \url{www.internetworldstats.com}
of business centers in remote locations, which provide Internet access including appropriate instructions for private businesses without connectivity.

57. Many countries have introduced such access points in order to ensure Internet accessibility. Other countries include Internet cafes or similar public places with Internet access in their strategy of developing an IT infrastructure all over the country. However, the access through computers in public places may have some serious implications with regard to security aspects. For example, if a digital signature is required to sign an electronic document before submitting it online, it would not be feasible to use a software-based private key, as such key would need to be stored in the public computer. The option for better security is the use of a token- or smartcard-based private key, which in turn requires appropriate HW devices.

58. On the other hand, those small and medium enterprises in the Ukraine which are not yet connected to the Internet may be willing to get connected in line with the efforts of the government to move public procurement online. Several countries have seen an increase of the Internet penetration rate among private businesses due to the fact that they understood the move towards online public procurement as an incentive to get linked to the web.
Standards

59. Keeping the objective of the European Integration in mind, the Ukraine may think of adopting standards that meet the requirements of the framework set out by the European Directives in the area of public procurement. Such standards refer to the national legal procurement framework and include e-GP specific requirements in terms of procedures (e.g. e-reverse auctions, dynamic purchasing systems), templates/formats (e.g. the format for publishing procurement notices in TED), and product classification (e.g. the CPV code).

60. Standards have already been set by the MoE’s Internal Order No.128 for the procedures and formats of the procurement information to be published online (e.g. procurement plan, procurement notice, contract award results). While these standards may not fully meet the requirements of the European Directive, it should not be a problem to modify them accordingly if required. Other standards that were set by law (e.g. public procurement law, electronic digital signature law) may need to be reviewed in terms of some potential alignment with the European Directives.

61. Information systems that are relevant for e-GP should meet the principle of open and free access and non-discrimination. Common technical standards may include open system architecture, generally available web services, and security standards (e.g. SSL). In particular, it may be important and efficient to apply technical standards (e.g. XML) that ensure interoperability of several government IT systems. In this way, the requirement of publishing procurement notices online could be monitored automatically in the Financial Management System with a link to the system for publishing procurement notices.

Systems & Procedures

62. As understood from the current public procurement law, procurement information including notices and contract award results have to be disclosed on either the website of the Public Procurement Bulletin (www.tender.com.ua) or the website of the Tender Chamber (www.tpu.com.ua). In addition to these two websites, there are two more official e-GP websites available (www.e-tenders.kiev.ua and www.zakupivli.com). Concerning the latter two websites, the official website www.e-tenders.kiev.ua was recently merged into www.zakupivli.com in order to limit the number of official electronic portals. The relationship between www.tender.com.ua and www.zakupivli.com is not quite clear.

63. The official website of the Public Procurement Bulletin (www.tender.com.ua) is operated on a self-sustaining basis by 45 employees who are subordinated to the MoE. While contracting agencies do not need to pay a fee, private businesses need to pay USD 4.00 per month in order to have access to the online version of the Public Procurement Bulletin. Together with the printed bulletin, new procurement information is published on every Monday. Contracting agencies can submit the required information in person, by fax, or electronically by entering it directly into the website. About 25% of the approx. 400 contracting agencies who use the online
public procurement bulletin as online disclosure facility submit their information directly through the website. While the registration procedure is not clearly described on the website, contracting agencies as well as private businesses can register online by entering personal information. In addition, they have to send a legal document for authentication. Some 11,500 private businesses are subscribers to the public procurement bulletin, about half of which prefer the online service and the other half uses the paper version. The database of procurement notices offers a search engine in order to filter notices by region and product type. The website does not provide the functionality of an automated email notification service and is currently only in Ukrainian language available. Contract award results are not freely accessible as required by the public procurement law (Article 17-1).

64. The portal of the Tender Chamber is planned for the disclosure of the same public procurement information as published on the Public Procurement Bulletin’s website in line with the requirements of the public procurement law. While the use of this portal for contracting agencies is free, private businesses would be charged with an annual access fee of some USD 15.00. The portal does not yet seem to be operational. When trying to open the website, it will show a message that the site is currently under construction. On the other hand, there is a link from the National Procurement Bulletin’s website to a different URL of the Tender Chamber’s portal. This website seems to be a test or pilot site for temporary use and offers information about the function of the Tender Chamber. However, there is no public procurement notice or contract award information available, neither in the English nor in the Russian or Ukrainian version of this website. Although an online subscription feature is available, no terms and conditions of such subscription could be identified. It is also not clear, how contracting agencies who want to publish on the Tender Chamber’s website would register and submit their notices and contract award results.

65. The website www.zakupivli.com is owned by the European Consulting Agency Ltd. and considered to be the new e-GP portal of the Ukraine, subordinated to the MoE. The website is available in Ukrainian, Russian, and English. The portal seems to be in its initial phase since a lot of menu topics are listed but do not offer any substantial information. An online registration facility is offered for contracting agencies, private businesses, and controlling agencies. However, similar to the other portals, the registration procedure is not clearly explained so that users would be able to understand what will happen after entering all required data and submitting them. According to the section “Information on violations”, contracting agencies need to pay a fee in order to be able to publish the required information on the web. While the fee for private businesses is listed, it is not clear how much contracting agencies have to pay for the publication of procurement information.

66. According to its section “System of electronic tenders”, the portal zakupivli.com provides the functionality of online tendering with transactions such as the publication of procurement notices, online requests for quotations, electronic

20 http://www.tpu.com.ua
21 http://www.tpu.net.ua/
distribution of bidding documents, electronic submission of bids, online publication of bid opening results, online contract signature. Currently, these transactions are not implemented. The portal offers just procurement information including archived but not current announcements of tenders.

67. Besides the official e-GP websites, there seem to be several websites available, which offer e-GP related information, mostly procurement notices for tenders. Some of these portals are listed on the website http://www.aktsii.com.ua/tenders.htm and include www.tender.net.ua, www.ukrtender.com, www.ua-tenders.com. The websites www.zakupivli.com and www.tender.com.ua are also listed and both websites are referred to as the electronic version of the public procurement bulletin.
Recommendations

68. The role of the PPD as authorized agency for public procurement should be strengthened continuously in order to keep the positive momentum of moving towards e-GP in the Ukraine. On the one hand, the PPD should continue to demonstrate true leadership in the process of e-GP adoption by pursuing a proactive and strategic approach to the implementation of e-GP and coordinating the planned activities in this area with the major stakeholder in- and outside the government. On the other hand, such strong leadership of the PPD requires collective agreement and support on high political level including the President, the Prime Minister, the Cabinet of Ministers, and the Parliament.

69. In line with the public procurement reform draft strategy, the PPD should develop an e-GP implementation strategy which, based on an assessment of the current e-GP readiness, provides the objectives of the e-GP program and a roadmap of how to achieve them including a phased action plan with clearly defined roles, responsibilities, and timelines. Such e-GP implementation strategy should be defined in a separate document as part of the public procurement reform strategy.

70. In drafting an e-GP implementation strategy, the PPD should take into consideration the availability of relevant resources reflecting the experience and lessons learned of several governments in designing and implementing e-GP. Such resources include but are not limited to the EC’s guidance for electronic public procurement\(^22\), the Multilateral Development Banks’ suggestions for e-GP implementation\(^23\), and the experience of different countries. It is recommended to organize an e-GP workshop with international participation before finalizing and approving the e-GP implementation strategy.

71. The latest version of the *Law on Public Procurement of Goods, Works and Services* should be reviewed with the objective of either reducing the articles on e-GP to a minimum ensuring the legal validity of e-GP or addressing the issues raised in paragraphs 25, 26, 29, 32, and 33 of this document by modifying the respective articles in the law appropriately. It is recommended to give preference to the first thought of keeping the e-GP relevant text in the primary legislation to a minimum and cover the rules of e-GP procedures and requirements in the secondary legislation.

72. The idea of offering the choice to contracting agencies to select an e-GP system, which needs to be approved and listed by the PPD, should be reviewed. It is recommended that the PPD has the mandate to decide about a single e-GP portal which ensures compliance with the public procurement policy and constitutes the official public procurement portal of the Ukraine.

73. The mandatory publication of public procurement information on the Internet should be limited to one electronic public procurement bulletin. While contracting agencies would need to publish the required information in such online bulletin, they could

\(^{22}\) [http://europa.eu.int/comm/internal_market/publicprocurement/e-procurement_en.htm#intro]

\(^{23}\) [http://www.mdb-egp.org/data/docs_tools.htm]
choose additional online or offline media to publish the same information if they wish so.

74. The electronic digital signature law should be reviewed with regard to the issues raised in paragraph 37 of this document.

75. In the context of designing and implementing an appropriate e-GP legislation, the Ukraine may wish to take into consideration Directive 2004/18/EC (3-31-2004) of the EC\(^{24}\), which provides a public procurement framework to member countries including e-GP. To this end, the Ukraine would not only have a procurement legislation that is compatible with its neighboring European member countries thus enabling cross-border trade, but also bring the Ukraine another step closer to the EC accession.

76. The DPP should develop an e-GP awareness raising and capacity building program as part of the e-GP implementation strategy. Such program should address both, contracting agencies on the buy-side and private businesses on the supply-side. Multiple communication channels (e.g. printed media, Internet, radio, TV, conferences, exhibitions) as well as partnerships with potential training facilities (e.g. Ministry of Education, Chamber of Commerce) and the use of online training methods (e.g. distance learning, demo versions, help desk) should be explored at an early stage.

77. The DPP in cooperation with other relevant institutions should also think of possible ways to address infrastructure constraints with regard to Internet access and connectivity. While a good e-GP system requires contracting agencies with the appropriate equipment to access the Internet, competition can only be increased if private businesses, particularly small and medium enterprises, are connected to the world wide web. To this end, the government of the Ukraine should continue to promote the use of information and communication technologies by setting up an enabling framework in the telecommunications and IT sector. In addition, the DPP should explore possible partnerships in establishing a network of business centers in remote locations, which could provide Internet access not only to private businesses to participate in online public procurement but also to citizens for any kind of available e-Government services and more.

78. Besides taking into consideration the UNCITRAL model law on electronic signatures (2001) or the European directive on a community framework for electronic signatures (1999) when reviewing the current version of the electronic digital signature law, it is recommended to follow existing international standards rather than creating own national standards in the context of designing and implementing e-GP in the Ukraine. The adoption of international standards (e.g. product classification on the basis of UNSPSC or CPV and technical standards such as XML) is critical for future interoperability not only between government systems within the Ukraine but also beyond the national borderline.

79. Given the coexistence of multiple official public procurement websites (see paragraph 62 of this document), the PPD should try to avoid the emergence of more such websites. In contrast, it is suggested to focus on one portal to be declared as the official public procurement website to be used for disclosing public procurement information as required by the law and for conducting public procurement transactions, such as e-Tendering and e-Purchasing.

80. The Public Procurement Bulletin’s website www.tender.com.ua or any other future official public procurement website should offer public procurement notices and contract award results for free without having to pay a fee. In addition, the functionality of automated email notification may be added to notify registered private businesses automatically about new business opportunities in their area of interest. As part of the online registration facility, it is recommended to describe the procedure and conditions of such registration clearly on the same website so that contracting agencies and private businesses can learn and fully understand the implications and consequences before getting registered online.

81. After having selected a single portal as the official public procurement website for the disclosure of public procurement information, the PPD should incrementally add more e-GP functionalities in line with the e-GP implementation strategy which would allow to conduct public procurement transactions online.
Appendix

I – Benefits and Beneficiaries of e-GP

<table>
<thead>
<tr>
<th></th>
<th>Government</th>
<th>Supplier</th>
<th>Public</th>
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<tbody>
<tr>
<td><strong>Transparency</strong></td>
<td>• Anti-corruption&lt;br&gt;• Increased number of suppliers&lt;br&gt;• Better integration and interaction between governments&lt;br&gt;• Professional procurement monitoring/management&lt;br&gt;• Higher quality of procurement decisions and statistics&lt;br&gt;• Political return from the public</td>
<td>• Increased fairness/competition&lt;br&gt;• Improved access to govt. market&lt;br&gt;• Open the government market to new suppliers&lt;br&gt;• Stimulation of SME participation&lt;br&gt;• Improved access to public procurement information&lt;br&gt;• Government accountability</td>
<td>• Access to public procurement information&lt;br&gt;• Monitor public expenditure information&lt;br&gt;• Participation&lt;br&gt;• Government accountability</td>
</tr>
<tr>
<td><strong>Costs</strong></td>
<td>• Lower prices/transaction costs&lt;br&gt;• Staff reduction&lt;br&gt;• Reduction in fiscal expenditure</td>
<td>• Lower transaction costs&lt;br&gt;• Staff reduction&lt;br&gt;• Improved cash flow</td>
<td>• Redistribution of fiscal expenditure</td>
</tr>
<tr>
<td><strong>Efficiency</strong></td>
<td>• Simplification/elimination of repetitive tasks&lt;br&gt;• Communication anywhere/time&lt;br&gt;• Shorter procurement cycle</td>
<td>• Simplification/elimination of repetitive tasks&lt;br&gt;• Communication anywhere/time&lt;br&gt;• Shorter procurement cycle</td>
<td></td>
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<tr>
<td><strong>Time</strong></td>
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</table>
## II – Examples of e-GP Benefits

- By using the national education portal [www.feonline.net](http://www.feonline.net) in Great Britain, some 500 schools achieve price reductions of up to 100 million British Pounds per year and time reduction of about 90% in order processing.  
  
  *Source:* Public E-Procurement, Gehrmann/Schinzer, 2002

- With the phased introduction of the Government electronic Procurement System (GePS), Korea is able to save some US$ 2.7 billion of all government procurement (US$ 17.1 billion) as compared to US$ 26 million investment. Between 1998 and 2002, staff of the Public Procurement Service PPS were reduced from 1,058 to 935, while the total government procurement volume increased by some 30% (from US$ 12.8 billion to US$ 17.1 billion). Payments to suppliers are electronically transferred which usually takes no longer than 4 hours.  
  

- During the first three years of the procurement portal [COMPRASNET](http://www.comprasnet.gov.br), the Federal Government of Brazil spent about US$ 7 million on system development and maintenance. During the first two years of on-line reverse auction use, the Federal Government is estimated to have saved up to US$ 1.5 million. While the normal procurement process takes more than two months, the on-line reverse auction may be completed in less than 15 working days. The use of on-line procurement has also increased the participation of small businesses in government supplies.  
  
  *Source:* [http://www.egov4dev.org/brazproc.htm](http://www.egov4dev.org/brazproc.htm), 2002
### III – Developing a Buyer Activation Strategy

<table>
<thead>
<tr>
<th>Target groups</th>
<th>Issues</th>
<th>Key messages</th>
<th>Support</th>
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</thead>
<tbody>
<tr>
<td>PROCUREMENT PROFESSIONALS</td>
<td></td>
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<tr>
<td>SMALL-VALUE BUYERS</td>
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<tr>
<td>FINANCE OFFICERS</td>
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<tr>
<td>REGIONAL DEVELOPMENT AGENCIES</td>
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<tr>
<td>INDUSTRY DEVELOPMENT AGENCIES</td>
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<tr>
<td>PROFESSIONAL ASSOCIATIONS</td>
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<td>PROCUREMENT POLICY</td>
<td></td>
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<tr>
<td>PROFESSIONAL OPPORTUNITY</td>
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<tr>
<td>CONVENIENCE</td>
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<td>POLICY TRANSPARENCY</td>
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<td>DOCUMENT STANDARDIZATION</td>
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<td>DISCRETION AND CONTROL</td>
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<td>AGENCY CUSTOMIZATION</td>
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<td>HELP DESK</td>
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<td></td>
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<tr>
<td>BROCHURES</td>
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<tr>
<td>ONLINE INFORMATION</td>
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<tr>
<td>INTERACTIVE DEMONSTRATIONS</td>
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<td></td>
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<td>TEMPLATES</td>
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## IV – Developing a Supplier Activation Strategy

<table>
<thead>
<tr>
<th>Target groups</th>
<th>Issues</th>
<th>Key messages</th>
<th>Support</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing contractors</td>
<td>Business competition</td>
<td>Why this is important to you</td>
<td>Help desk</td>
</tr>
<tr>
<td>Construction industry</td>
<td>Cost</td>
<td>Value proposition</td>
<td>Brochures</td>
</tr>
<tr>
<td>Sub-contractors</td>
<td>Technological literacy - skills</td>
<td>E-GP is here to stay</td>
<td>Online information</td>
</tr>
<tr>
<td>SMEs</td>
<td>Transparency</td>
<td>Greater access to opportunities</td>
<td>Road shows</td>
</tr>
<tr>
<td>Support businesses</td>
<td>Business status eg tax</td>
<td>Improved information access</td>
<td>Workshops &amp; seminars</td>
</tr>
<tr>
<td>Associations</td>
<td>Profile</td>
<td>Convenience</td>
<td>Interactive demonstrations</td>
</tr>
<tr>
<td>Regional businesses</td>
<td>Connectivity</td>
<td>Policy transparency</td>
<td>Association assistance</td>
</tr>
<tr>
<td>Include supplier representatives in the design phase</td>
<td>Site access</td>
<td>Document access</td>
<td>Internet cafés</td>
</tr>
<tr>
<td></td>
<td>Site operation</td>
<td>Equipment</td>
<td>Government office desk service</td>
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<tr>
<td></td>
<td>Bandwidth</td>
<td>Contract packaging</td>
<td>G2G links</td>
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<td></td>
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<td>Security</td>
<td>Catalogue hosting</td>
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<td></td>
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<td>Catalogues</td>
<td>How to get involved</td>
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<td>How to access</td>
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<td>How to download</td>
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