

State Agency on Public Procurement and Material Reserves
under the Government of the Kyrgyz Republic

Public Procurement System of the Kyrgyz Republic

State Agency on Public Procurement and Material Reserves under the
Government of the Kyrgyz Republic

Role of the State Agency in the Public Procurement System

Pursuing the national policy in the area of procurement of goods,
works, services and consultancy services at the expense of
government funds, foreign credits and grants

Legal frameworks regulating public procurement

Law of the Kyrgyz Republic as of 28.07. 2008 № 172 On Public Procurement:

Key goals of the Law:

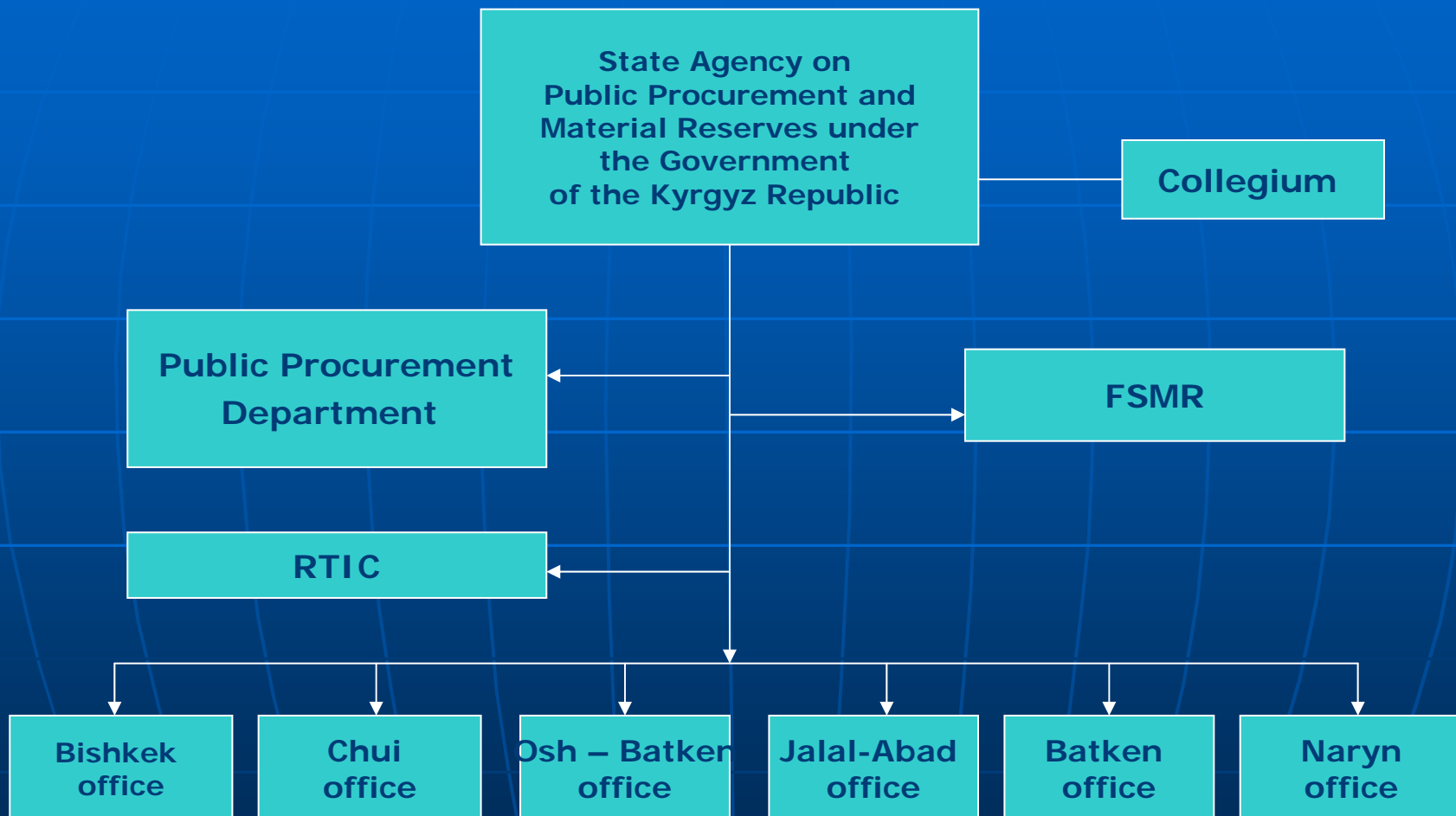
- Ensuring maximum effectiveness and cost-efficiency of procurement
- Increasing participation and development of competition among suppliers (contractors) in procurement process
- Ensuring fair treatment of all suppliers (contractors)
- Ensuring transparency of procurement procedures

On the State Agency on Public Procurement and Material Reserves under the Government of the Kyrgyz Republic

- ❖ Decree of the KR President dated October 15, 2005 № 462 On Improvement of the Government Bodies Structure
- ❖ Resolution of the KR Government dated February 28, 2006 “Issues of the State Agency on Public Procurement and Material Reserves under the Government of the Kyrgyz Republic”

Structure

of the State Agency on Public Procurement and Material Reserves under the Government of the Kyrgyz Republic



Key amendments to the KR Law On Public Procurement

The following amendments have been introduced to the KR Law dated 24.05.2004 № 69 On Public Procurement according to Resolution №520 of the Government of the Kyrgyz Republic as of 23.10.2007:

- the procedure of agreement with the Authorized body has been excluded in 18 cases of out of 19. Only single source procurement is to be agreed.
- the time for submission of bids has been reduced: for unrestricted bidding – from 6 to 4 weeks; for restricted bidding – from 4 to 3 weeks.

Amendments introduced to legal acts regulating public procurement

- By Resolution №302 of the Government of the Kyrgyz Republic as of 13.06.2008 “On Amendment to Resolution №440 of the Government of the Kyrgyz Republic as of 16.09.2005 “On Approval of Threshold Amounts for Public Procurement of Goods, Works and Services” the following new threshold amounts have been established:

for budgetary organizations

- For procurement of goods and services:
minimum threshold – US\$12.0 thousand
maximum threshold – US\$36.0 thousand
- For procurement of works:
minimum threshold – US\$12.0 thousand
maximum threshold – US\$48.0 thousand

for organizations and funds established at the expense of public resources, state-owned enterprises and joint stock companies, in which the share of the government is not less than 51%, and the authorized capital is below US\$2,400 thousand:

- for procurement of goods, works and services:

minimum threshold – US\$48.0 thousand

maximum threshold – US\$241.0 thousand

Amendments introduced to legal acts regulating public procurement

The Regulation on the Division and
the Tender Commission has been
brought in line with the new Law of
the Kyrgyz Republic On Public
Procurement

Amendments introduced to legal acts regulating public procurement

To strengthen controlling functions of the State Agency the following amendments has been introduce to the Code of Administrative Responsibility of the Kyrgyz Republic dated August 4, 1998 № 114, on initiative of the State Agency to increase penalties:

- for violating legislation on public procurement **up to seventy reference indicators – US\$167.0 (before – US\$ 48.0)**
- for a failure to implement decisions of the Authorized body **up to fifty reference indicators – US\$121.0 (before – US\$48.0)**

Proposals of contracting organizations to be introduced to the KR Law On Public Procurement

- The Ministry of Labor and Social Development of the Kyrgyz Republic, the Ombudsman of the Kyrgyz Republic propose to amend the Law to provide privileges to socially vulnerable strata of the population – disabled people.
- The Parliament of the Kyrgyz Republic drafted the Law “On Public Procurement of Goods for Societies of Disabled”.

Proposals of contracting organizations to be introduced to the KR Law On Public Procurement

- The Ministry of Industry, Energy and Fuel Resources of the Kyrgyz Republic proposed to amend the Law to provide privileges to small business subjects
- The State Agency for Architecture and Construction of the Kyrgyz Republic proposed to consider a possibility to introduce changes to the signed contract given the fluctuation of prices for construction materials and energy resources

Proposals of contracting organizations to be introduced to the KR Law On Public Procurement

The Parliament of the Kyrgyz Republic will introduce the following amendments to the Law On Public Procurement:

- the procedure for approval of the minutes of procurement procedure by the state body within 10 days;
- Framework Agreement – the mechanism of application is not described;
- Security Declaration – when signed, the bidders undertake the commitments to observe bidding procedures, and in case of a failure unreliable suppliers and contractors will be included into a relevant database.

Comments of the State Agency on Public Procurement and Material Reserves under the Government of the Kyrgyz Republic on proposals of contracting organizations

- The key goals of the KR Law On Public Procurement are undermined:
 - Ensuring maximum effectiveness and cost-efficiency of procurement
 - Increasing participation and development of competition among suppliers (contractors) in procurement process
 - Ensuring fair treatment of all suppliers (contractors)
 - Ensuring transparency of procurement procedures
- There is a possibility of numerous appeals (complaints) by a majority of suppliers (contractors), who represent small businesses
- Amendments to the contract terms will result to numerous changes not only in terms of price, but also other conditions. Each of the parties will introduce amendments and addenda to the contract given its own interest
- Approval of the minutes of procurement procedures may result in **corruptive practices**
- It is abundant to introduce the declaration, as the Law envisages to provide bid security. This will create additional burden for suppliers (contractors) when preparing bids.

Proposals of the State Agency on Public Procurement and Material Reserves under the Government of the Kyrgyz Republic

- To publish a regulatory act of the Government of the Kyrgyz Republic obliging to place orders with societies of disabled.
- In terms of small-business subjects, the KR Law On Public Procurement envisages privileges as for local commodity producers.
- According to the KR Law On Public Procurement, it is not allowed to change any provision of the signed contract, or introduce new terms and conditions.

Coordination and regulation of activities of state bodies when carrying out procurement of goods (works and services) at the expense of the state budget, foreign credits and grants

- In 2008 – total procurements – 5,920 for US\$ 288,160.0 thousand
- Total volume of public procurement as compared to 2007 increased by US\$1,111.0 thousand or 34% of the level of 2007

Enforcement of the KR Law On Public Procurement

- In 2008 audits were conducted in 319 contracting organizations to identify their compliance with public procurement legislation.
- Based on identified violations the responsible officials were subject to 326 administrative penalties for the total amount of US\$ 8,840.0.
- On 7 cases materials have been referred to law-enforcement bodies, as a result of violations the assumed damage established totaled US\$ 144.2 thousand.
- 40 appeals have been considered against decisions of tender commissions when conducting tenders.

- In 2008 the Regional Training and Information Center conducted 18 five-day seminars on procurement seminars on public procurement procedures for 406 participants from 321 organizations.
- The Public Procurement Management seminar was conducted by representatives of contracting organizations from Dushanbe, Republic of Tajikistan. The seminar was attended by 21 participants from state bodies of the Republic of Tajikistan.
- With the financial support of GSAC project the introductory course on Public Procurement Management was conducted for 30 participants – representatives of aiyl okmotus from Issyk-Kul oblast, for 60 participants – representatives of aiyl okmotus from Osh and Talas oblasts, for 30 participants from Jalal-Abad oblast and 20 participants from Chui oblast.

Coordination and regulation of activities of state bodies when carrying out procurement of goods (works and services) at the expense of the state budget, foreign credits and grants

- To ensure transparency and openness of biddings the Public Procurement Bulletin is published twice a week. In 2008, 7652 notices were published.
- For 12 month of 2008 the web-site was visited 22,510 times.

One of the key tasks of the State Agency for 2009 is to introduce the e-bidding system.

- Development of clear and comprehensive instructions and mechanism
- Training of specialists with studying the experience of countries with the operational e-procurement system
- Implementing pilot project in several contracting organizations
- Phased introduction of the system in contracting organizations of Bishkek city

Thank you for
attention!