FINAL REPORT ON APEC SEMINAR ON TRANSPARENCY IN PROCUREMENT AND E-PROCUREMENT

Ha Noi, Viet Nam
5–6 September 2006

Committee on Trade and Investment

October 2006

FINAL REPORT ON APEC SEMINAR ON TRANSPARENCY IN PROCUREMENT AND E-PROCUREMENT

05-06 Sep 2006, Ha Noi, Viet Nam

I. BACKGROUND

Law on Procurement, ratified by the National Assembly of the Socialist Republic of Vietnam on 29, November 2005, taking effect on 1st April 2006 is the highest legal document on government procurement in Vietnam. In order to bring the Law into play, sharing and learning valuable experiences from other member economies to complete documents guiding the implementation of the Law are deemed necessary to Vietnam. Of which, ensure transparency in procurement as well as apply e-procurement are main concerns of various economies, including Vietnam.

For years, transparency has also been one of priorities of Asia-Pacific Economic Cooperation, from APEC's Bogor Goals for free and open trade and investment in Asia-Pacific, Osaka Action Plan, Declaration of APEC Leaders, Ministers' Meetings, Senior Officials' Meetings to the Working Group's Meetings.

With this background and taking advantage of Vietnam's being the host of APEC 2006, Vietnam, supported by member economies, especially Korea, Australia, Canada and New Zealand, had raised a project proposal of organizing a seminar on transparency in procurement and e-procurement in association with APEC Senior Officials' Meeting (SOM III). This proposal was approved by GPEG (Government Procurement Expert Group) at its meeting on 22-23/2/2006, by Committee of Trade and Investment in March, 2006 and Budget and Management Committee on 29, March 2006.

II. OBJECTIVES

The seminar on transparency in procurement and e-procurement is an open forum for participants, speakers to exchange information and discussion on their economy's regulations and practices concerning transparency in procurement and e-procurement from the new angles and perspectives. The seminar is also a forum for participants and speakers to share and learn experiences and lessons in procurement activities in order to achieve competitions, fairness, transparency and economy. The seminar is particularly an opportunity for developing economies to acquire valuable experiences and useful information to serve its process of completing legal framework as well as better identify the obstacles to be overcome, opportunities to be gained of applying e-procurement.

III. AGENDA AND PARTICIPANTS

1. Speakers and participants

There were more than 100 delegates of government procurement experts and speakers, of which 37 participants from 15 APEC member economies, namely Australia, Korea, China, Japan, The United States, Thailand, Chinese Taipei, Peru, Indonesia, Russia, The Philippines, Papua New Guinea, Malaysia, New Zealand and 1 delegate from Poland. A part from that, participant list also included representatives of international organizations: OECD, World Bank, ADB, CIDA, NORAD, JBIC, AUSAID as well as Vietnamese agencies, scholar and private sector (see attached participant list).

On behalf of Ministry of Planning and Investment of Viet Nam, Vice-Minister Cao Viet Sinh had delivered opening speech. The seminar then was chaired by Mr. Nguyen Viet Hung, Director General of Public Procurement Department, Ministry of Planning and Investment of Vietnam; Mr. Seunghyun Kang, Korea, GPEG Convenor – APEC; Mr John Grant, Procurement Policy Division Manager, Department of Finance and Administration, Australia.

14 speakers were scholar, policy makers, procurement managers and experts inside and outside APEC (Australia, Korea, China, Japan, The United States, Thailand, Chinese Taipei, Peru, The Philippines, Poland, OECD).

2. Agenda

The seminar focus on transparency in procurement and e-procurement, details as following:

1) Conflict of interests in procurement

2) Professional tendering agency: performance and contribution in procurement activities

3) Procurement Bulletin: an important tool to increase transparency

4) Complaint reviewing mechanism to enhance transparency

5) Contract management

6) Review on member economies' e-procurement system

7) Legal and policy framework on e-procurement

8) Managing liability and Intellectual Property Issues in the ICT marketplace - a Business Perspective from Australia

9) Components of e-procurement and technical solutions for e-procurement

10) Security and authentication issues

11) E-procurement in construction sector: lessons and

experiences from Japan

12) United States e-procurement Initiatives and Lessons learned

13) Best practices: GePS of Republic of Korea

IV. SEMINAR'S RESULTS

The seminar has provided participants with valuable knowledge, experiences and lessons on government procurement, summarized as follows:

1. Complaint reviewing mechanism to enhance transparency

1.1 Poland

Challenge procedures available under the Polish public procurement system are established by the provisions of the Public Procurement Law (PPL).

Economic operators competing for the award of a contract, other entities, if their legal interest in obtaining a contract has been damaged or may have been damaged as a result of infringement on provisions of the PPL by the contracting authority as well as organizations associating economic operators that are enrolled on the list maintained by the President of the PPO are entitled to law enforcement measures specified in the PPL:

- Protest – lodged to the contracting authority,

- Appeal - lodged to the President of the Public Procurement Office,

- Compliant - lodged to the competent regional civil court.

A protest is a law enforcement measure lodged directly to a contracting authority and examined by a contracting authority. It may refer to any action of a contracting authority or to the failure to perform an action as it is bound to perform under PP Law. The action or the failure, the demand and brief description of charges should be included in the protest.

An appeal is a law enforcement measure available against a resolution of the protest (dismissal, rejection or failure to resolve a protest). It is lodged to the President of the PPO but it is examined by a panel of three independent arbitrators - persons who have passed the exam on the knowledge of provisions governing the award of contracts. Arbitrators are selected from the list maintained by the President of the PPO by means of a public computer drawing.

A compliant is a law enforcement measure available against resolution of an appeal by an arbitration panel. It is considered as judicial control of the decisions issued by the quasi-judicial body – an arbitration panel. The compliant shall be lodged to the Regional Court competent for the place of residence of contracting authority through the President of the PPO. The President of the PPO delivers the compliant together with the files of the appeal procedure to the competent Court. The lodge of a complaint involves the payment of a registration fee.

One of strengths of Polish complaint reviewing mechanism is that the appeal is resolved by a panel of three independent arbitrators. This panel is selected at random from the list maintained by the President of the PPO by means of a public computer drawing. This results in enhancing the transparency of complaint review.

1.2 Philippines

Bidders those found ineligible or irregular have 7 calendar days upon written notice or upon verbal notification, within which to file a request for reconsideration with the Bids and Awards Committee (BAC). Provided, however, that the BAC shall decide on the request for reconsideration within 7 calendar days from receipt thereof.

Decisions of the BAC with respect to the conduct of bidding may be protested in writing to the head of the procuring entity. Provided, however, that a prior motion for reconsideration should have been filed within seven (7) calendar days from receipt by the party concerned of the resolution of the BAC denying its motion for reconsideration. The Head of the procuring entity shall resolve the protest within 7 calendar days from receipt thereof. Subject to the provisions of existing laws on the authority of the heads of agencies, branches, constitutional commissions or government instrumentalities to approve contracts, the decisions of the head of the procuring entity concerned shall be final up to the limit of his contract approving authority.

Court action may be resorted to only after the protests contemplated is resolved by the head of the procuring entity with finality. The regional trial court shall have jurisdiction over final decisions of the head of the procuring entity. Only the Supreme Court has sole jurisdiction to issue temporary restraining orders and injunctions relating to infrastructure projects of government.

The particular feature of Philippines complaint reviewing system is that the Bids and Awards Committee shall, in all stages of the procurement process, invite:

- An observer from a duly recognized private group in a sector or discipline relevant to the procurement

- An observer from a Non-Government Organization (NGO)

Observers will prepare the report either jointly/separately indicating their observations to be submitted to the Head of the procuring entity. They may also give a copy of their report to the office of the Ombudsman if the BAC is found to have failed in following the prescribed bidding procedures or for any justifiable and reasonable ground where the award of the contract will not redound to the benefit of the Government.

2. Tendering agency

A tendering agency is a social intermediary organization set up according to law to engage in business as a tendering agent and provide related

services.

A tendering agency shall satisfy the following conditions:

- Having a place of business and the necessary financial resources for the business as tendering agent.

- Having relevant professional capacity for compiling tender documents and organizing bid evaluation;

- Having a pool of experts in technology, economics and such other fields who satisfy the conditions laid down in Tendering and Bidding Law and who can be candidates for members of bid evaluation committee.

A tendering agency shall conduct tendering work within the scope authorized by the tenderer and shall comply with the provisions of this Law on tenderers.

The practice of tendering agency qualification management system of China is: qualification and certificate, examination by the end of the year, and classified management. Of which, tendering agency apply to relevant departments for related tendering agency certification. The period of validity of government procurement agency is three years.

The achievements of tendering and procurement agency: (i) Improve the specialization of procurement in order to guarantee the legitimacy of procurement activities (ii) Improve quality of procurement in order to save the procurement funds (iii) Enhance transparency of procurement to prevent corruption (iv) Help purchaser to improve the management in the relevant trade.

3. Procurement Bulletin

1. Chinese-Taipei

In Oct. 1992, in Chinese-Taipei, "Electronic Public Construction Tendering Information Bulletin" was established. In Nov. 1994 "Electronic Public Construction Tendering Information Bulletin System" was expanded into "Government Procurement Information System", subsuming the procurement for property and services. In Jan.19, 1996 "The Government Procurement Gazette" was given out for free on Mondays, Wednesdays and Fridays and issue every workday from May 27 1999.

Government Procurement Gazette publish: notice of open selection, call for bidding and evaluation, outcome of an award or no award, amendment or supplement to the content of the tender documentation, name of suppliers with bad records and case description, outcome of annual efficiency analysis for large procurement.

Up to now, 2,603 volumes of GP Gazette have been published. More than 260,000 registered members online. The bulletin website has over 700,000 hits per month. More than 20,000 pieces of tendering information posted per

month. 95% of all tendering cases allow electronic bid claiming. More than 45,000 downloads of tendering documents per month.

The benefits of Bulletin is obvious. It enhances the openness and transparency of tendering information, saving up to $3 billion NTD a year on advertising bidding announcements, preventing collusive bidding, providing on-line service of receipting tender documentation on a 24/7 basis. In addition, documents and payment transfers are done via on-line automatic mechanism. Workflow is thus simplified, and administrative efficiency enhanced. It also reduce the use of paper and ink; being environmentally friendly.

2. Viet Nam

After being released for trial for a while, the first issue of the Bulletin on Vietnam Public Procurement was on 14 December, 2004. The Bulletin is now published 3 issues/week, but will be developed to the daily newspaper in the year of 2007.

Information to be published free of charge include: Procurement plans; announcements for prequalification and the results of prequalification; bid announcements; bidder selection results; blacklist; information on the treatment of violations of procurement law and regulations; current procurement law and regulations; and articles on procurement issues.

Ministry of Planning and Investment is assigned to manage the Public Procurement Newspaper.

4. Conflict of interests in procurement

In the year of 2003, OECD issued Guidelines on Managing Conflict of Interest in the Public Service. This is the first international standard to help governments review and modernize their conflict of interest policies for the public sector. It sets comprehensive standards for policy design and implementation in OECD member countries and non-member countries. In 2006, OECD member countries reviewed the implementation of the Guidelines.

OECD focus on conflict between the public duty and private interests of public officials in which public officials have private-capacity interests which could improperly influence the performance of their official duties and responsibilities. This occurs in public service in general and in procurement in particular. Conflict of interest is also shown as "lobby" policy, for the sake of a group.

Aim at eliminating conflict of interest in procurement via OECD work on curbing corruption in Public Procurement, in November 2004 OECD also organized a Global Forum "Fighting Corruption and Promoting Integrity in Public Procurement" to identify "weak links" in the public procurement process, to explore ways of improving transparency and accountability and

to identify effective actions to prevent, detect and sanction corruption in this field.

5. Contract management

Contract is an important document defining responsibilities of winner bidder and procuring entity. Well-organized contract will assure the effectiveness and efficient of procurement processes to select winner bidder.

To make a contract, in addition to the legislative and policy framework, there are a number of issues that are important at all stages of the contracting process. These are:

- Managing risks: Identifying risk and implementation of risk treatments (where necessary)

- Managing relationships: Having a professional, constructive relationship with the contractor. Communications should be open and constructive, non adversarial, based upon mutual understanding

- Managing resources: Understand the goods or services being provided, judge whether agreed performance standards are being met; require obtaining expert advice and assistance; obtain internal or external expert professional advice (for example probity, legal, financial, business) when the knowledge or skills of contract managers need supplementing.

- Specifying responsibilities: Establish clear lines of responsibility and accountability, ensure necessary authorizations and delegations at the beginning of the contracting cycle, authorizations and delegations reviewed and kept up-to-date over the life of the contract

- Maintaining records: Documentation should enable the parties to a contract to evidence and recall what has been done or decided, and to provide evidence of business conducted on line; ensure that sufficient resources and priority are given to contract development and management; behave ethically, honestly and fairly at all times and require the same standards from the contractor.

6. Overview of member economy's e-procurement

6.1 Australia

In 2000, the Australian Commonwealth Government released an e-procurement strategy, which provided government agencies with a framework to build and enhance their capabilities to trade electronically and encouraged suppliers to consider their own directions for e-commerce. . The strategy was successful, with over 90% of transactions across agencies

now being paid electronically and wide spread use of e-procurement tools such as online catalogues and electronic invoicing.

One of the tools utilized extensively by Australian Government agencies is the Australian Government procurement information system, AusTender (http://www.tenders.gov.au). Applicable Australian Government agencies must lodge all publicly available business opportunities on AusTender to satisfy their legislative requirements.

AusTender provides:

- Centralized publication of all publicly available Australian Government business opportunities, multi-use lists, annual procurement plans and reported contracts;

- Automatic notification to registered suppliers as new opportunities are posted;

- 24 x 7 access to the procurement information noted above; and

- Secure electronic lodgement of tender responses, where agencies specify its use.

AusTender was launched in December 2003 following a successful pilot. In May 2004, the Minister for Finance and Administration mandated the publishing of open business opportunities by agencies under the Financial Management and Accountability Act 1997, then from 01 January 2005, AusTender access was opened to those agencies under the Commonwealth Authorities and Companies Act 1997 listed under AUSFTA. AusTender was also enhanced to include integration of contracts reported functionality, notification of multi-use lists and access to agencies' annual procurement plans.

There are currently 135 Australian Government agencies using AusTender with some 128 Annual Procurement Plans published. Each week, AusTender publishes an average of 50 Approaches to Market and issues close to 60,000 business opportunity notifications to the 50,000 suppliers who are registered.

6.2 Chile

In August 2003 the Public Procurement Law 19.886 entered into force changing radically the way the state entities used to deal with its procurement. At the same time this year the electronic platform ChileCompra became a massive operation with the incorporation to the system of all central government entities and their suppliers.

E-Commerce platform www.chilecompra.cl is a virtual marketplace where demand meets supply with low transaction costs and high levels of transparency. This tool, designed to do business with the State constitutes the backbone of the reformed public procurement system.

	2003	2004	2005
Amount traded (US$ millions)	1.038	1.933	2.877
Number of purchasing orders	n.a.	374.931	917.15
Number of purchasing entities registered (accumulated)	348	718	883
Number of suppliers registered (accumulated)	48.006	97.262	164.022
Number of suppliers sending offers (yearly)	n.a	33.451	58.355
Number of suppliers awarded (yearly)	n.a	21.179	37.323
Monthly average visits to ChileCompra	n.a	447.000	1.100.000

During 2004 a new platform entered in operation, one able to support digitally the whole procurement cycle, from the beginning procurement to its electronic payment. Together with a massive user assistance program, during 2004 the municipalities were incorporated gradually to the system.

In 2005, finally, represents the year of consolidation of the system. New value-added functions were added to the electronic platform, the Armed Forces and Public Security service were incorporated to the system, a Public Procurement Court was implemented and also an Official Electronic Register of Suppliers (ChileProveedores).

To 2006 most of the objectives and goals have been attained and the system can be considered consolidated.

6.3 China

At present, China has yet to set up national e-procurement system, however, some local authorities and branches has build their own e-procurement system.

Chinese Government has also assigned some websites as the authorized website for posting government procurement information. For example, www.chinabidding.com.cn is authorized for posting tender notices;

Via those websites, the following functions have been achieved and contributed to transparency:

- Law, regulations, rules and policy publishing; procurement information publish; and results publishing;

- Choosing experts for bid evaluation online; experts data administration;

- Statistic online;

- Document download.

6.4 Indonesia

Indonesia are facing lots of difficulty in developing e-procurement: Lack of policy and legal framework; Limited in technology infrastructure; Low level of people's knowledge, understanding and awareness in area of procurement and the usage of ICT facilities.

Indonesia has planned to promote e-procurement. To avoid high and expensive investment, the government decides to develop one National Electronic Government Procurement Services (NEGPS), and roughly 17 "satellite" centers of e-GP services. Those satellite centers consist of 5 selected ministries (Ministry of Finance, Ministry of Communication and Informatics, Ministry of Public Works, Ministry of Defense and State Ministry of National Development Planning) and 12 regions/locals: City Government of Surabaya (East Java Province), Province Government of East Kalimantan, Province Government of Central Kalimantan, Province Government of Nusa Tenggara Barat and Province Government of West Java.

6.5 Malaysia

E-procurement in Malaysia is developed as one of e-government strategies. As the first in the world to use electronic procurement on a nationwide scale, Malaysia has set up its e-procurement system from simple module to complicated one.

Supplier registration and central contract have been started from 06/10/2000, then direct purchase on 10/5/2002. Module of quotation and tender went live on 27/5/2003.

Benefits gained from usage of e-procurement in Malaysia include:

- To Government: Provide more efficient and effective procurement process; able to evaluate supplier performance, gather statistics and feedback for future planning; reduce operation cost and turn around time; availability of product information and latest price; creates a more skilled and knowledgeable workforce; able to trace order & status of delivery automatically and online; enhance level of transparency and accountability;

- To suppliers: Provide facilities for e-commerce; suppliers become global; provide better and larger markets; reduce procurement process, administration and operation costs; fast and safer payment via Electronic Fund Transfer.

The particular feature of e-procurement in Malaysia is that e-procurement is interfaced with electronic budget checking system (eSPKB) for checking and confirmation of budget allocation (eSPKB is operated by Accountant General Office).

6.6 New Zealand

The New Zealand government attempted to implement a whole of government electronic procurement system from 2000-2003 and found the venture to be an expensive failure. This may have resulted from the highly decentralized system in place for procurement in New Zealand, but there are lessons to be learnt from the project:

- It is not a good idea to pursue an all of government electronic purchasing system merely because some other countries have done so.

- A full understanding of how procurement operations work within the entities that are to use the system, and the changes that must happen to these entities if they are to use the system, must be made before plans are made to design or implement an e-procurement system.

- One should not continue to spend money, effectively throwing good money after bad, when it becomes apparent that original expectations and milestones are not going to be met.

It was eventually found that the decision making processes that were in place across government departments in New Zealand did not suit any one of the systems on offer. It also seems that to a certain extent the government got caught up in the hype of e-procurement. This problem was compound by the fact that many government agencies were not yet mature enough to implement or take advantage of e-procurement systems.

6.7 Papua New Guinea

Procurement reform within PNG has been significantly bolstered with the promulgation of new legislation and Finance Instructions in relation to procurement. The Government of PNG through the Central Supply and Tenders Board is currently undergoing significant internal reform. It is also managing procurement reform across PNG as part of its legislated responsibility.

E-procurement is long-term goal of PNG's procurement reform, however they have to face with lots of obstacles, even the required infrastructure-stabilized power and telecommunications networks is not currently available.

6.8 Peru

Seace www.seace.gob.pe is an integrated system, made up of policies, procedures, norms and Internet-based software on order to ensure transparency, optimize policies and modernize procedures to generate savings in the Peruvian government's public contracts process.

In 2002, Peruvian Government declared interest of the State the implementation of an Electronic System of Procurement and Public Hiring. In 2004, it was established by law that CONSUCODE will develop, manage

and operate the Electronic Government Procurement System (SEACE) and that all public entities must publish the information about their procurement procedures.

SEACE has operating a Web Module for small purchases (less than USD 4,000). Recently a Cooperation Agreement with Brazil to get the "Pregón Electrónico" (reverse auction engine) has been signed. In late 2006 the SEACE will have operating:

- Module for Procurement with public act

- Module for Electronic Car of Purchases for purchases by adhesion.

As planned, in May 2007 the SEACE will have in operation the Module of electronic reverse auction.

The hit to Seace is increasing day by day, from 4000 hit/day in 01/2005 to 240.000 hit/day in 05/2006. There are over 5 thousand users coming from the most important public agencies. Seace post annual Procurement Plans of all entities (In 2006: 102,742 processes planned) and automatically notify to registered suppliers (30,000 of supplier recorded and 300,000 e-mails is being sent per month).

6.9 Philippines

The PhilGEPS (Philippine Government Electronic Procurement System) is the single, centralized electronic portal to be used by all government agencies in the procurement of common goods and also as the primary source of information on the procurement of other goods and general support services; civil works; and consulting services.

The Government started e-procurement by operating pilot EPS, including Electronic Bulletin Board (posting procurement opportunities, notices of awards, electronic distribution of bid documents and automatic notification of bid notices and amendments); Supplier/Subscriber Registry; Electronic Catalogue.

The PhilGEPS Project comprises 2 phases. Phase 1 is enhancements of the Pilot EPS (April, 2004-August 28, 2006). Main tasks of this phase are to develop Dynamic Home Page wherein contents refresh daily to display current notices, recent awards, calendar of events and GEPS statistics; online registration of buyers and suppliers; changes in terminology to adhere to RA 9184.

Phase 2 (2008) includes virtual store, electronic payment, charges and fees, electronic bid submission.

Until July 18, 2006, there are 4,524 agencies registered, 16,921 suppliers registered, 234,713 notices posted and 38,721 awards posted. Estimated savings of newspaper advertisement cost is US$ 6.4 million.

6.10 Russia

The public procurement in the Russian Federation makes an essential part of budgetary outlays. E-procurement is an important part of it and the perfection of e-procurement system is one of the priorities and important task in a state policy.

New law provided a strong impulse to develop a system of public e-procurement. Regional and municipal authorities adopted local regulations and developed their own official sites and manage the electronic register of the public contracts. Ministry for Economic Development and Trade of the Russian Federation has developed the specific software "the Portal of the public e-procurement" which can be replicated or customized and used both on federal, and on regional levels.

Since 2002 within the limits of the federal program "Electronic Russia (2002-2010)" the project on creation of the electronic procurement system on goods, works and services for the state needs is being implemented.

In July 2005 the new Federal law "Placing delivery orders on goods, works and services for the public and municipal needs" was adopted. According to this law, information on delivery orders should be placed on the official Internet-site and be noted in the register of the public (municipal) contracts.

The main objective of e-procurement systems is to increase effectiveness of delivery orders procedure by:

- Securing transparency and an openness of public procurement;
- Efficient implementation of the federal budget allocations;
- Reducing costs of customers through carrying out procurement tenders for federal needs;
- Securing public and private access to the information on public e-procurement.

6.11 Chinese - Taipei

Electronic Procurement System in Chinese-Taipei includes:

- Government Procurement Information System
- Electronic ITB/RFP Document and Electronic Bidding System
- Inter-entity Supply Contract System
- Electronic Supplier Catalog and Electronic Price Inquiry and Quotation System (for small procurements)

Government Procurement Information System (http://web.pcc.gov.tw) has been operated since 1992, publicizing all tendering and award information on the Internet. In 2005, more than US$30Billion awarded. There are over 20,000 tenders and 700,000 hits per month. Information is opened to the public free of charge. Besides electronic Bulletin, Government Procurement Gazette is also published.

Electronic ITB/RFP Document and Electronic Bidding System (http://www.geps.gov.tw): e-ITB/RFP document available from Internet (19,886 procurements in June, 2006); e-document obtained by suppliers from Internet (46,590 copies in June, 2006); e-bidding permitted from Internet (8,489 procurements in June, 2006).

Inter-entity Supply Contract System (http://sucon.pcc.gov.tw): simplifying common procurement procedures and enhance the efficiency of government procurement by reducing paper work. 23,895 orders in NT$1.9 billion in June, 2006.

Electronic Supplier Catalog and Electronic Price Inquiry and Quotation System (http://gecs.pcc.gov.tw): Suppliers post description of products; 15 categories of products, 11,623 items, 3,159 companies participating in the system; Government entities query products and ask for supplier's quotation; Applicable to the procurement of a value less than NT$100,000.

6.12 Thailand

In 2002, e-Procurement was added to be a part of Thailand's Government Procurement methods. In 2004, MOF's launching GP Development Plan aims to support GP as a whole, including e-GP in their efforts to:

- Increase effectiveness, efficiency and transparency in GP operations

- Foster and facilitate the participation of Thai SMEs in GP

- Fulfill needs to improve GP in Thailand

- Gain knowledge from GP international best practices

- Improve understanding of Government staff members, contractors and suppliers about good procurement practice

The e-government procurement action plan includes:

- Establishing the framework of e-GP

- Determining the e-procurement methods

- Developing the e-GP Website to be one stop service (OSS) and fast response time guarantee

- Developing program for agencies to publish law, regulation, solicitation, and other information

- Establishing e-Catalogue under e-GP Website

- Developing standard documentations, products and services code

- Developing network system which connected to other agencies system

Up to now, the current e-procurement of Thailand has gained significant results. The number of procurement announcement in the e-GP Website are

75,000; Budget saved approximately 6%; Standard documentation can be reached through the internet; Enable to evaluate the quantity of procurement and savings; All GP information can be access easily and procurement process can be monitor by stakeholders.

6.13 Viet Nam

Law on Procurement of Vietnam was adopted by the National Assembly, Legislature XI at its 8th Session on 29/11/2005. According to this Law, Ministry of Planning and Investment (MPI) is assigned to build and manage National e-Procurement Network.

Although e-procurement is just under the initial stage of study, Vietnam has implemented some activities to prepare for future e-procurement. One of these activities is to establish and operate website on procurement (http://dauthau.mpi.gov.vn) from 5/12/2005, posting free of charge procurement announcement, procurement plan, bidder selection results, information on the treatment of violations of procurement legislation etc... A part from that, MPI of Viet Nam has been cooperating with PPS of Korea to draft Feasible Study for e-procurement system in Viet Nam. However, Viet Nam still faces lots of difficulty in promoting e-procurement, mainly due to lack of capital and inadequate IT infrastructure.

7. Legal and policy framework on e-procurement

Legal and policy framework on e-procurement should ensure maximize accessibility to e-Procurement; clarify allotment of responsibility and risks among parties concerned; keep strict control of information (including personal, bid price) critical for completeness of bid and contracts; make legal effectiveness of e-documents and its remittance and receipt sure.

Following are current acts, regulations…on e-procurement in Korea.

Acts controlling Bids and Contracts of respective Public Bodies as Purchasers	• Act on Contracts to which the State is A Party (ACSP); Local governments, Central and local governments-owned enterprises have respectively contract laws which are invoked from ACSP • SMEs Products Promotion Act • Act on Government Procurement Business and Public Procurement Service
Acts on Accessing to and Sharing Information	• Act on Common Use of Administrative Information • Act on Protection of Personal Information by Public Entities

Acts on e-Transactions	• Basic e-Trade Act • e-Signature Act • Act on Promotion of Electronizing Administrative Works for e-Government

8. Managing liability and Intellectual Property Issues in the ICT marketplace - a Business Perspective from Australia

Liability is one of the most hotly contested issues in ICT contracting, consuming significant time and resources from both governments and industry. A limitation of liability arrangement will allow ICT suppliers to focus on lower cost, competitive offerings. This will enable government to realize costs savings in a variety of ways: (i) greater competition reduces prices and may lead to better offerings (ii) reduced transaction costs (iii) lower insurance premiums will lower costs. A part from that, liability will result in better ICT outcomes, greater interest from multinational corporations, greater SME participation, reduction of flow of funds to offshore insurers.

Australia's viewpoint to this issue is that the liability of ICT suppliers contracting with agencies should, in most cases, be capped at appropriate levels. Unlimited liability should only be required when there is a compelling reason. Australian Government also released Australia's "Guide to Limiting Supplier Liability in ICT contracts with Australian Government Agencies" in August 2006. This is fundamental shift in policy - reversals of the default position.

A part from liability, Intellectual Property Rights is also a major issue in IT market. As it benefits government as well as business sector, experiences from Australia is that the contractor, in general, should own intellectual property in the software, tools and documentation the contractor develops'. Australian Government also announced its policy position in early 2006: "Government agencies are encouraged to only acquire the IP necessary for achieving their corporate missions and be alert to opportunities for financial savings".

9. Components of e-procurement and technical solutions for e-procurement

Components of e-procurement includes: Web Portal, Networking, e-procurement method, standardized documentation, open-source technique.

Web Portal is centralized electronic based online solicitation publication. It comprises e-Learning System, Information center (Law and regulations, suppliers blacklist, etc.), database management program with open-source methodology.

The Networking should connect all stakeholders, basing on intranet or internet, be suitable for communication needs and has upgradeable back-up system.

10. Security and authentication issues

The critical elements of current security and authentication of e-procurement system in Peru (Seace) includes:

- Identity: The information coming from the sources of information should correspond with those sources, to avoid the usurpation.

- Communications: The channel for which the information travels should be safe.

- Information: The information of the SEACE should remain unaffected. The offers of the suppliers should also remain sealed and they should not be accessible until the day and hour foreseen to open the proposals.

The current solutions:

- Identity: use electronic signature with strong password generated by the system. It authenticates and it takes the user to a sure environment.

- Communications: Use https/ SSL: Encryption of information transferred between the client and the Seace

- Information: The proposals that arrive to Seace are signed and encrypted with the digital certificate of Seace server

In 2007, new Seace version will use Digital Certificates to guarantee the surest development of electronic transactions. The National Suppliers Registry will emit the digital certificates to identify the suppliers and officials of public agencies that participate of electronic transactions. The authentication for the selection processes will require the suppliers to be identified by the system with a digital certificate granted by the National Suppliers Registry that credits their identity. The proposals that arrive to SEACE will be encrypted with the supplier's private key and the public key of the selection process.

11. E-procurement in construction sector: lessons and experiences from Japan

The Japanese government has developed the "e-Japan Strategy," which is intended to make the country the world's most advanced IT nation by 2005, and has been making efforts for the accomplishment of the aim. Among such efforts, computerization in the public works sector focuses on "CALS/EC" (CALS: Continuous Acquisition Life-cycle Support, EC: Electronic Commerce) for its achievement.

Since FY1996, The Ministry of Land, Infrastructure and Transport (MLIT) have promoted CALS/EC for the field of construction, port and airport facilities. The "CALS/EC Action Program," which was established in March 2002, has set the full-scale execution of electronic bidding and electronic delivery, launch of electronic contracting, provisioning for optical fiber data distribution, establishment of electronic work flow system, etc. O

Outline of CALS/EC Action Program:

Phase 1	Phase 2	Phase 3	
1996-1998	1999-2001	2002-2004	2010
➢Arrangement of proper environment for making use of the Internet ➢Start of Verification Test	➢Implementation of Electronic Procurement System in small numbers of construction works. ➢Start of Electronic Delivery	➢Realization of CALS/EC in all works under projects.	➢Realization of CALS/EC in all public organizations including Local Governments

For the development of the Core System, JACIC and Service Center of Port Engineering (SCOPE) have established the e-Bidding Core System Development Consortium to study flexible system specifications and conditions of provision in view of the needs of a wide range of public procurers including local government agencies. The Core Consortium has IT vendors and affiliates and public procurers (168 as of June 2004) on board.

Based on the e-Bidding system developed by the MLIT, JACIC and SCOPE have developed the Core System as a flexible e-Bidding system for every public procurer according to their needs and up-to-date knowledge from IT vendors. Public procurers will establish their own e-Bidding system by customizing the Core System according to their own implementation needs.

As of the end of May 2004, 43 domestic organizations (9 central government offices, 4 public corporations and 30 local government agencies) have purchased the Core System, 20 of which have already started operations. The number of organizations that use the system is expected to increase in the future.

The MLIT started e-Bidding in October 2001 for some of the projects, and has carried out procurement through the Core System for all public works since April 21, 2003. The accumulated number of bid openings is approximately 36,000 at the end of March 2004. There were 39,569 nominations for e-bidding in 2005 fiscal year.

In addition, the number of e-Bidding system with the Core System operated by local government agencies has been expanding.

Below is dissemination status of Core System as of May 2006.

Public Procurement Organization	Operation	Developing
Ministries & Agencies	8 bodies	0 bodies
Public corporations	2 bodies	1 bodies
Prefectures	34 bodies	4 bodies
Cabinet order designated cities	11 bodies	2 bodies
Other cities and towns*	147 bodies	165 bodies
Minor total	202 bodies	172 bodies
Total	374 bodies	

* Included core system user with prefecture.

The Core System has been developed for the purpose of providing a system that allows inexpensive establishment of e-Bidding by public procurers in Japan and benefits tenderers as well. The Core System won 2004 e-ASIS award on Sep in Taipei. The system was appreciated for is standardization effort and dissemination status.

12. United States e-procurement Initiatives and Lessons learned

E-procurement is part of broader Electronic Government (E-Gov) initiative, one of five Presidential Management Agenda items.

The e-procurement project in US is named Integrated Acquisition Environment (IAE). Project structure of IAE is part of larger PMA and E-Gov structures, of which President's Management Council is in charge overall and managing partner agencies run projects. Office of Management and Budget's E-Gov Office oversees all projects.

Name of project itself reflected the approach not to develop a new E-Procurement System, but to build on available Internet-based components. Project Plan built around the "Lanes" of procurement includes: Micro-purchases and other credit card buys, include payments; Simplified Acquisition Procedures up to 5M for commodities; large dollar value, negotiated FAR type contracts for research & development, services, base operations, construction, and major weapons or other systems.

The project is implemented through 3 parts: business opportunities zone, acquisition information zone, integrated vendor profile-data zone. Up to date, it gained first big success, but only 10% of potential in business opportunities zone, 40% complete in acquisition information zone (due to FPDS-NG problems) and 80% complete in integrated vendor profile-data zone.

Results of US current e-procurement system:

- Replaced paper solicitations with electronic postings (FedBizOpps)

- Collected contractor performance information into single, shared database

- Since 2003, eliminated >300 outdated contract writing systems

- Streamlined information for 427,148 registered contractors into single Central Contractor Register

- Replaced paper-based wage determinations with single website – reduced response from 9 months to 3 minutes

- Began standardizing data input for all agencies

Lessons Learned from US e-procurement initiatives:

- Need clear authority for E-Procurement

- Make E-Procurement a high priority

- Appoint a champion with sufficient influence

- Assemble a skilled team

- Partner effectively with stakeholders

- Grow new champions for continuous improvement

13. Best practices: GePS of Republic of Korea

To initiate e-procurement, in 1997, Public Procurement Service of Korea (PPS) adopted EDI. As a centralized procurement agency, PPS accounts for 30% of the entire public procurement. E-procurement applied to procurement of goods and to the online shopping mall in 1997, expanded to construction and services in 2000, and upgraded from EDI to XML based on the Internet in 2000. In 2001, digitalization extended to all work including bidding, contract, and payment. Per-capita productivity rose by 75% (from 280 to 489 cases annually).

In the effort for government-wide expansion, Korea prompted e-procurement as one of the 11 e-government projects in 2001 by establishing government-wide promotion system. Korea operated an e-government special committee as a top taskforce for building e-government (Jan. 2001 ~ Jan. 2003). The Committee assumed full management of e-government projects and the President himself checked the progress of projects directly through the committee. The committee included both public sector (Vice-ministers planning and budgeting) and private sector (specialists applying new ICT).

The GePS launched in October 2002 after the BPR/ISP for GePS started in July 2001. There are 220,000 users from 30,000 organizations (buyers) and 150,000 businesses (suppliers). It is jointly used by all organizations from the central and local governments to state-owned enterprises including all entities belonging to themselves. It records a daily average of 100,000 website hits, and exchange 100,000 documents online which, in the past,

were delivered via mail or in person. 91% of all biddings were conducted online (18millions businesses participated in 141,000 biddings amounting to US$ 24 billions). Construction materials, software and office supplies, which are regular purchase items of public organizations, were ordered by one-click purchasing in the shopping mall according to the unit costs, which were contracted by PPS (US$ 7 billion for 510,000 orders). Other transactions of US$ 12 billions including private contracts were made electronically. Totally, transaction volume is US$ 43billion annually, saving annual transaction costs of US$ 4.5 billion.

Korea has made effort to increasingly innovate GePS:

- Establishment of GePS (2002)

- Expansion of use (2003)

- Development of CRM for customized services (2004)

- Provision of ubiquitous service including mobile e-bidding (2005)

- Building up the Ontology-based e-catalogue (2006)

GePS had received with the Public Service Award (UN, Jun. 2003), evaluated as the best e-government service provider (OECD, May. 2004), reflected the standardized process in the UN global standard (UN/CEFACT, Mar. 2005), best practice model for e-procurement from around the world (UN, "e-government readiness Index", Nov. 2004), BS15000 acquisition from BSI (British Standard Institution, Nov. 2005), Global IT Excellence Award (May. 2006, WITSA).