

# The Results of State Procurement Reforms in Georgia

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## Abstract

In our daily routine, state fund distribution and consumption hold major role for financing and implementation of the programs that are of a public and social importance. Unity of any expenditure, which is made to cover the costs of products and services required by public and undertaken by state authority and state organization of any level is attributed to state procurement.

In post-socialistic countries, one of the notable examples of state procurement evolution is reforms implemented in Georgia, which resulted in approximation to international procurement standards. In Georgia, elaboration and functioning of state procurement regulatory legislation started after gaining independence. In this direction, reform went through multiple stages and came to nowadays. Support provided by World Bank, United Nations Organization and other international organizations to countries with transitioning economy, including Georgia shall be highlighted.

**Keywords:** State procurement, Public finance, E-procurements, Economic policy, Public administration

## 1. Introduction

Starting from second half of XX century, since state's expenditures to meet public needs have significantly increased, development of field related international standards and regulations, establishing state procurement related general rules became important. All this was based on tariff and trade agreement, which was not clear on state procurement regulations. However, later, World Trade Organization has expended and improved these regulations, which entered into force in 1996. These regulations are based on principles as follows (Khomeiriki, 2006):

- ❖ Rational expenditure of state funds;
- ❖ State procurement process transparency;
- ❖ Establishment of fair and comprehensive competition for private companies participating in state procurement sphere.

It is important to plan and systematize state procurement process in countries with transition economy including in Georgia, where international standards were implemented gradually step

by step. This process started when Soviet Union countries started to gain independence. For newly established state institutions introduction of private companies in process of state obligation fulfillment was a novelty, as market economy principles and basics of performance were something new (Gaprindashvili,2012).

### **1.1 Developing stages of state procurement reforms in Georgia**

In Georgia the state procurements system reform might be divided into four general stages. First stage might be considered for the year 1998, when for the first time the Law on the state Procurements was passed. With the purpose to improve the Law on state Procurements great financial and technical assistance was held from the part of the international financial organizations aimed for the state procurements systematic reforming. The reform was oriented towards the economic securing of the radical changes and it is still in the process of amendments and improvement. The goal of the law was to submit to the public monitoring the procurements implemented with the public funds and to facilitate from this point of view to development of healthy, competitive and transparent system. Its introduction turned out to be impossible at the starting stage, which were followed by the legislative amendments by 2001 aimed for harmonization with the international norms (second stage). Nonhomogeneous interpretation of the legislation as well as neglecting of the norms defined by the regulatory legislation rendered ineffective the action of the reforms in the given field (Gaprindashvili, 2017). By that period achievement of the indicated goal turned out to be almost impossible, the main reason for which was the unhealthy environment existing with the public institutions and in the business sector of the country. The indicated was preconditioned by existence of corruption at all the levels of the state administration, which was negatively reflected on the country economic and political development. Besides, the law was adjusted to the real environment in the country and therefore, its purposed activation failed. All the more, the indicated law was developed as the main tool of violations of law and non-transparency. The indicated law failed to obtain the trust of the society (Gvelesiani, 2017).

With the purpose of institutional and instrumental improvement of the state procurements, the basic reforms stage started in 2005. The amendments were introduced into the great part of the legislation, and the reforms system introduction started, though, notwithstanding that attempt, establishment of just and transparent environment for the state procurements principles failed (Chania&Demetrashvili, 2017).

The third stage of implementation of the state procurements reform started on January 1, 2010. Following results were expected after the reform:

- ❖ Securing of the maximal transparency of the procurement procedures;
- ❖ Forming of the competitive non-discriminating environment in the framework of the procurements process (Gaprindashvili, 2015);

In turn, third stage of the reforms can be divided in two-part, execution and development of E-procurements and Implementation of commitments considered under the Association Agreement with the European Union. The association agreement concluded between Georgia and European Union(2014) is an important circumstance. This agreement also relates to state

procurement system, obligation of harmonization with European Union regulations and step by step approximation mechanisms have been determined as well, which will increase the effectiveness of state procurement system in Georgia (Arghutashvili&Gogochuri, 2019). The State Procurement Agency has been implementing significant projects since 2014, which has been closer to EU regulations, and is expected to elaborate a new legislative base of state procurement and improve existing ones that will end the main stage of the commitment undertaken by the Association Agreement (Khokhobaia, 2016).

## 2. Methodology

In the work has been used induction, deduction, analysis, synthesis, quantitative based research technique. The work is also supported by the data of the National Statistics office and state procurement Agency. Furthermore, in depth interviews were carried out with the representatives of the state procurement agency and the members of board of disputes.

## 3. Results and discussion

### 3.1 Implementation of E-procurements system in Georgia

While reforming the state procurements system the priorities and the demands were defined, which should have been meet by the legislative amendments for the private and the public sectors. The main goal of the reform was rising of trust towards the state procurements policy in the civil society. With that purpose several main issues were highlighted:

- ❖ Securing of the maximal transparency of the procurement procedures;
- ❖ Facilitation of rational spending of the public finances;
- ❖ While evaluation of the claimants providing objective decisions;
- ❖ Improvement of quality of planning and implementation of the procurement process;
- ❖ Establishment of effective and transparent mechanism for the dispute resolution (Gaprindashvili, 2012);

Changes were made by the Parliament of Georgia on the state procurement law in order to regulate following issues:

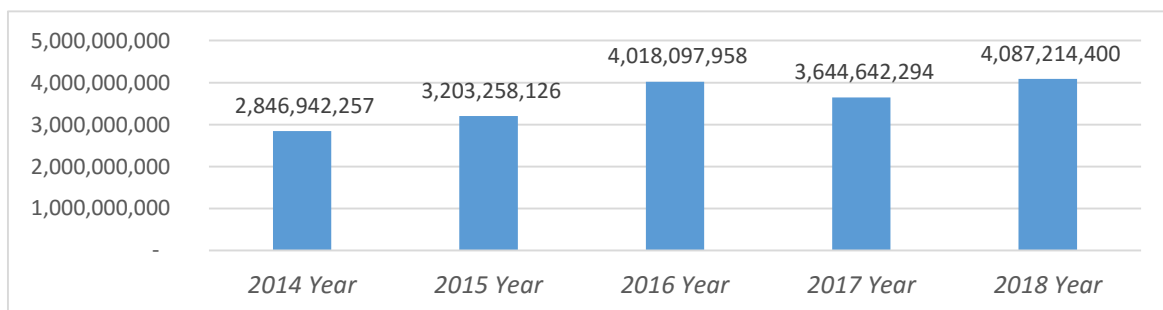
- ❖ Ensuring rational expenditure of state procurement funds;
- ❖ Develop healthy competition in the field of production, service delivery and construction work necessary for the state needs;
- ❖ Ensure proportionate, non-discriminatory approach and equal treatment towards procurement participants during state procurement process;
- ❖ Ensure state procurement transparency;

- ❖ Creating unified electronic system of state procurement and establishing public trust towards it (Gaprindashvili, 2018);

The law covered all the important issues that were prioritized during the reform. In order to evaluate the state procurement reform carried out in Georgia, it is important to consider and analyze statistical data during reporting period and direct and indirect factors related to it.

State funds, which are managed in the direction of procurement, are the largest part of the gross domestic product and the state budget, the same is happening in Georgia and the total cost of state procurement by year is given below (Gaprindashvili, 2015).

Figure 3.1: The total cost of state procurement in GEL

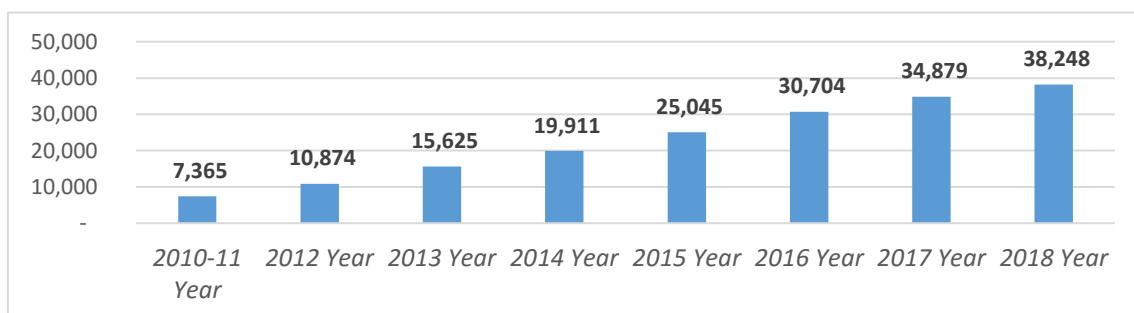


Source: State procurement agency

The role of state procurement is especially important in the development of the country's entrepreneurship. The transparency and competitive environment of the procurement process directly reflects the development of private companies and income growth.

State procurement can be considered stimulating factor for beginner entrepreneurs to start business, because with the state procurement market study, it becomes clear what kind of goods and services are demanded from the state institutions, according to statistics they can properly define their business goals by desired field. It's interesting to view data which consists of private companies interests with regards to state contacts execution, which is shown in their registration data on state procurement portal, that is also necessary to participate in tenders (Gaprindashvili, 2018). (See Figure N 3.2)

Figure 3.2: The number of suppliers registered on the state procurement electronic system by years:



Source: State procurement agency

In the electronic system of state procurement exists 8 major and 3 additional means of procurement (procedures), through which the state agencies can purchase goods and services, as well as the goods, services and construction works provided by the annual plan of procurement. We consider it important to review each purchase procedure, according to its content and the implementation period:

❖ **Simplified Procurement (Direct Procurement) - CRM**

• **The basis for the use of the means of procurement:**

- ✓ Similar procurement objects with a value of up to GEL 5 000.
- ✓ procurement method used in cases provided by procurement Law.

Not conducted electronically, but it is published in the special module of the eProcurement system. Operates since March 2012.

❖ **Electronic Tender SPA**

• **The basis for the use of the means of procurement:**

- ✓ Procurement of similar procurement objects with a value from 5000 to 150 000 GEL, Product and services, and/or above 150 000 GEL;
- ✓ Procurement of similar procurement objects with a value from 5000 to 300 000 GEL, construction services, and/or above 300 000 GEL;

Electronic service. Operated since December 2010

❖ **Consolidated Tender CON**

• **The basis for the use of the means of procurement:**

- Procurement of some sorts of similar products: computers, A4 format papers, telecommunication services, tires, UPS, printers and cartridges.

Electronic service. Operated since December 2012.

❖ **Contest CNT**

• **The basis for the use of the means of procurement:**

- Purchase objects / projects related to the design by decision of procuring organization such as projects related to architecture, engineering and design.

Electronic service. From July 1, 2015, the State Procurement Agency has made the procedure 100% electronic.

❖ **Two stage tender MEP**

- **The basis for the use of the means of procurement:**
- Buying goods, services and construction works based on price and other monetary criteria. The best candidate is revealed by price-quality ratio, which is calculated by the unique algorithm built into the system MEAT method.

Electronic service. Since August 1, 2016, the State Procurement Agency has released so-called "two stage" tender or as the European law refers economically the most profitable electronic tender".

❖ **Electronic tender without auction (trade with hidden data) NAT**

- **The basis for the use of the means of procurement:**
- ✓ The type of tender that works as the so-called "sealed envelope principle." All procedures are the same as in the electronic reverse auction, but instead of 3 extra rounds, the proposal is only once. In addition to the best offer, all suggestions remain sealed.

Electronic service. On July 1, 2016, the State Procurement Agency issued a new procedure: "Electronic tender without auction.

❖ **Different Procedure for Purchase of construction services DAP**

- **The basis for the use of the means of procurement:**
- ✓ The procedure is done by prequalification. Candidates are presenting tender proposals, qualification documents and cost estimates. After the procuring entity evaluates all applicants, in case of tender terms satisfied, it will invite the candidate with the lowest price proposal, in accordance with the established procedure, to sign the contract.

Electronic service. On December 1, 2016, a different rule was launched of tenders announced for purchase of construction works.

❖ **Electronic tender through pre-qualification TEP**

- **The basis for the use of the means of procurement:**
- ✓ Electronic tender through pre-qualification, through a reverse auction. After the candidates present tender proposals and qualification documents, the procuring entity reviews the suppliers' documentation, and in the event of their satisfaction, a reverse auction is held at the next stage and the winner will be revealed at the lowest price.

Electronic service. From September 2017, a new procurement mean has been introduced, which applies to all procurement objects (goods, construction works, services).

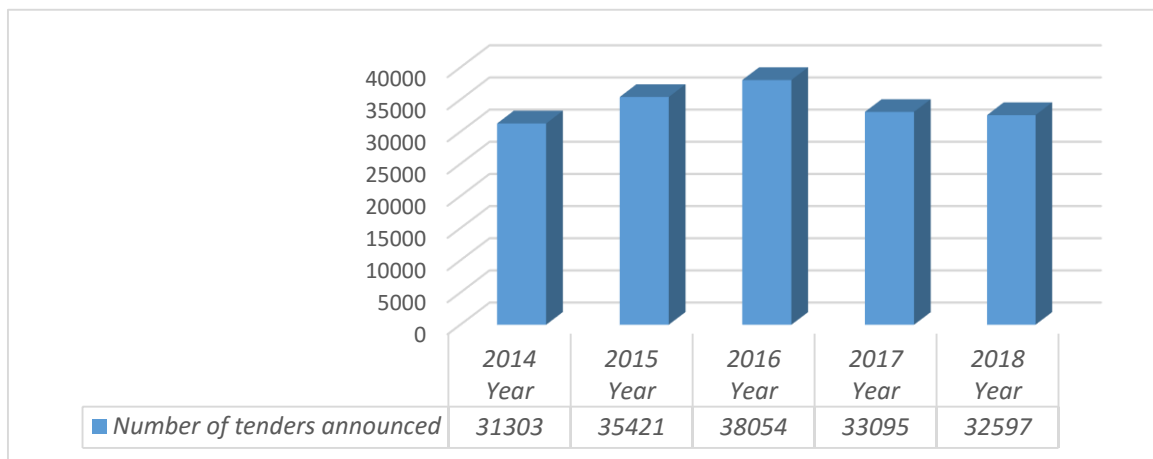
**Other additional purchasing means built into the eProcurement system**

- ❖ **Electronic procedure) GEO**

- **The basis for the use of the means of procurement:**
  - ✓ Purchase of goods or services with special rules established for which the term of validity may not exceed 2 years.
  - ✓ Also used to carry out secret state procurement; Is regulated by a special resolution of the Government of Georgia.
- ❖ **DEP tender (procurement electronic procedure with donor funds) DEP**
- **The basis for the use of the means of procurement:**
  - ✓ Procurement Procedures through donor funds (World Bank - WB, European Investment Bank - EIB, Asian Development Bank - ADB, Millennium Challenge Fund - MCA Georgia, Japan International Cooperation Agency - UNHCR, etc.).
- ❖ **GRA (Grant Competition) GRA**
  - **The basis for the use of the means of procurement:**
    - ✓ Procurement procedure used to conduct grant competitions announced by state agencies / organizations.

Using the electronic system, the dynamics of electronic tenders are as follows:

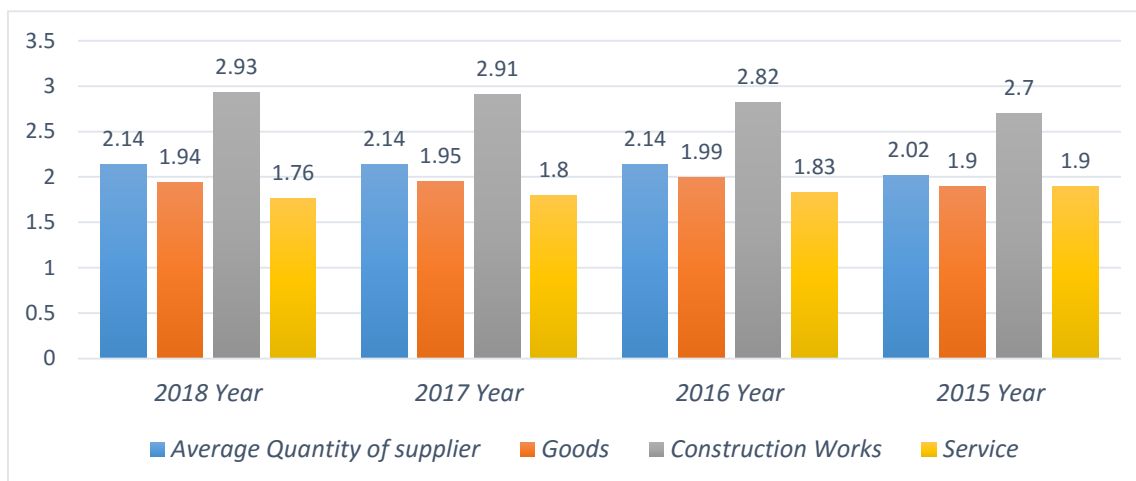
Figure 3.3: Number of tenders declared through electronic system



Source: State procurement agency

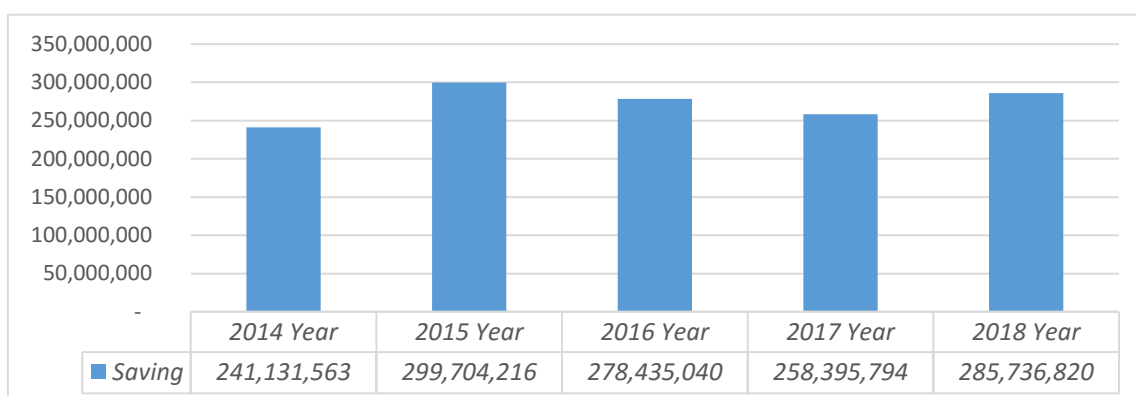
The unified electronic system, which has been introduced as a result of the reform, which includes all the means of procurement that we discussed above, had a direct influence on transparency of the process, it became the basis for the establishment of a competitive environment (see Figure No.3.4) which has become the prerequisite for rational spending of state funds. Increased number of organizations participating in the procurement process caused the reduction of the amount between the estimated cost and the actual value as a result of the competition in announced tenders, which is a great economy for procuring entities and they are given the opportunity to use the released funds as needed (Gaprindashvili&Kavtaradze,2018). (See Figure N3.5)

Figure 3.4: Average tender participation according to the procurement object:



Source: State procurement agency

Figure 3.5: Savings made through electronic tenders in GEL

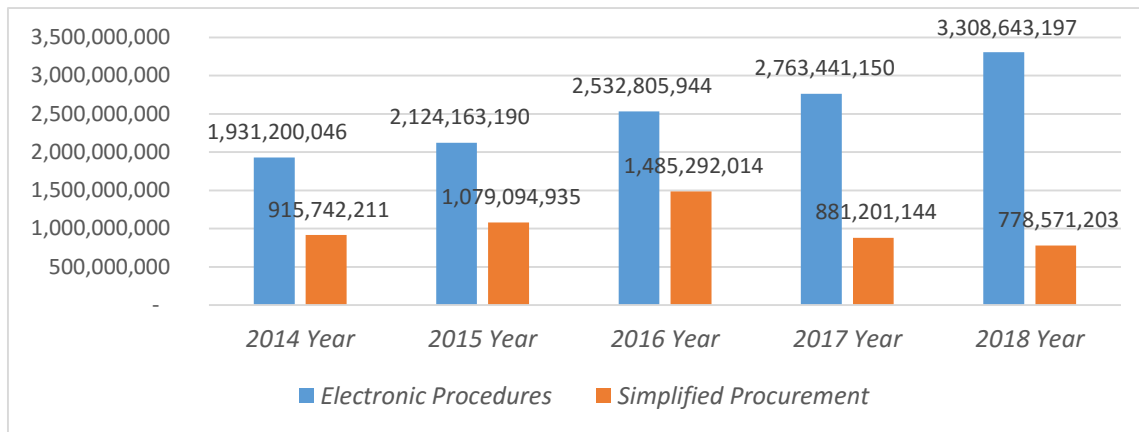


Source: State procurement agency

Within the scope of research, it is important to draw attention to purchases made through a simplified procurement that is considered a high risk of possible corruption. In this regard, the main task of solving the problem is the reduction of state funds, which is carried out using the selected procedure. It should be noted that the volume of contracts for the acquisition of simplified procurement during the year 2018 amounted to 19% of the total amount, which is 5% less than the same indicator in 2017. It should be noted that in 2018 in the state procurement agency entered 3,165 proposals, which is also 3% less than the same indicator in 2017 (In 2017 it was 3,271). Positive answer to the appeal made in 2018 was 84%, and 16% was those that were not satisfied. It is interesting to note that the amount of tenders carried out through electronic procedures for the last five years with the agreements concluded with a simplified procurement that is characterized by a tendency of a clear decrease and naturally should be assessed positively (Gaprindashvili, 2015). (See Figure N 3.6, N3.7).

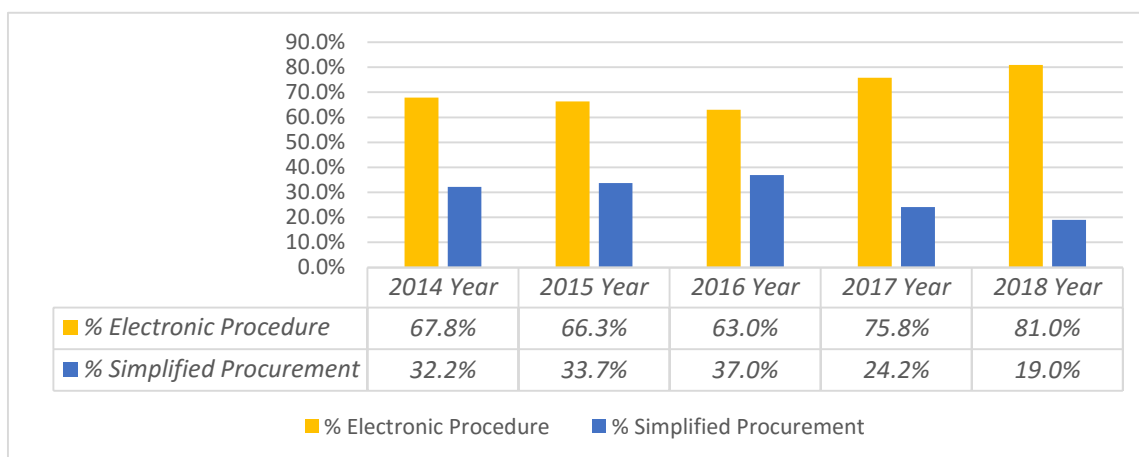


Figure 3.6: Procurement Rate with Simplified Procurement Procedure, in GEL with Electronic Procedures



Source: State procurement agency

Figure 3.7: Percentage of Procurement Procedures implemented through the simplified procurement procedure against tenders implemented by electronic procedures



Source: State procurement agency

One more new system, black and white list was introduced within the framework of state procurement reforms, the first of which is the function of the Defense Mechanism for procurement organizations. Black list consists of dishonest supplier organizations that violate the state procurement legislation in the tenders, in addition or in whole or in part, fail to comply with the contracted liabilities, they are forbidden to participate in state procurement for a year after entering the black list, such restriction is positive for the process of procurement, as the

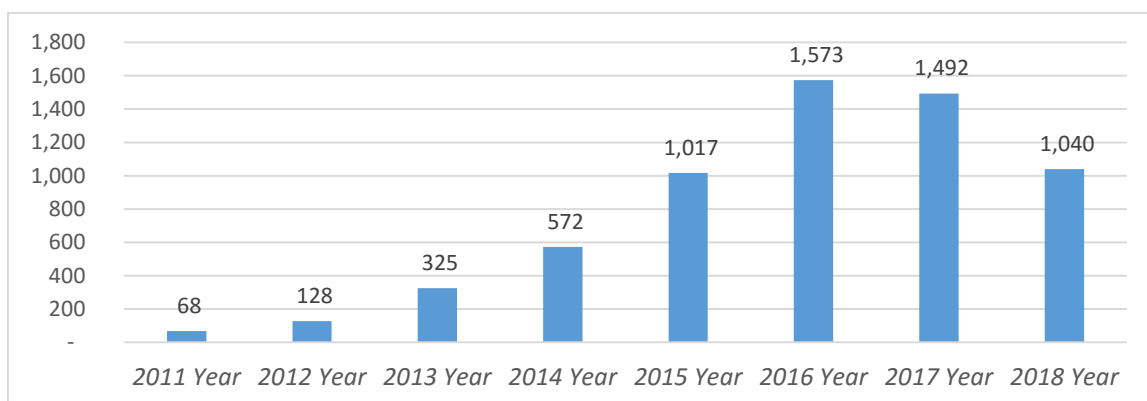
suppliers are aware of the threat posed by the unscrupulous act. In regards to blacklisting the suppliers in 2018, 607 applications have been submitted to the Agency. Out of these 403 providers were registered in black list and 143 suppliers were given a warning (Gaprindashvili, 2018).

Along with the black list, the Agency announces white list which is encouraging system for successful companies. In 2016, a lot of changes have been made in regards to the white list, the new norms and new criteria to be entered into the white list, which will further strengthen the development of small and medium businesses, as well as non-discrimination. In 2018, the Agency has received 127 proposals regarding registration in the white list and 53 companies were accepted in the list; 46 companies stayed in the white list; 3 companies were rejected and 25 left without answer (Gaprindashvili, 2012).

For the process of procurement to take place in a fair, non-discriminatory, transparent environment, considering of disputes is important and is undertaken by the Board of Disputes. Their direct function is to settle disputes arising from the procurement process. The Board consists of six members, three of which are NGOs and they are replaced by the rotation principle, involvement of NGOs in the discussion of the disputes in the Board grants great legitimacy and trust. In the beginning of 2018, based on the legislation amendments, another dispute resolution board with extended composition has been established. The extended board considers disputes above European Union monetary limits. This board is composed of 10 members. Board composition is as follows: Procurement Agency, Competition Agency, Chamber of Commerce and Industry, Business Ombudsman, nongovernmental sector and representatives of academic circles (Gaprindashvili, 2018).

The dynamics of addressing the dispute council is as follows:

*Figure 3.8: Complaints statistics submitted to the Dispute Resolution Board regarding State Procurement 2011-2018:*



Source: State procurement agency

There is also a partially negative impact on the formation of competitive environment in the state procurement system caused by consolidated tenders, according to which government of Georgia makes a decision on consolidated tender for procurement of homogenous products or services, where requirements of all procuring organizations are unified. In 2018, for consolidated tender purposes (fuel, computer equipment, printing paper, paper, mobile phone communication services, tires, printers, cartridges, television advertisement services, uninterruptible power supply (UPS)) and new objects were added. Under the Unified Electronic System of State Procurement, 61 consolidated tender was announced in 2018, with contractual cost of 290 million GEL. In 2018, the state procurement surplus exceeded 4 (four) billion GEL, from which 3,7 billion (93%) was purchased through open electronic tenders and simplified procurement and 290 million (7%) was spent through consolidated tenders (Gaprindashvili, 2018).

These consolidated tenders achieved significant economies, but they have negatively impacted on small and medium-sized businessmen as they were not able to participate in these purchases taking into consideration their capabilities.

#### **4. Conclusion**

As a result of assessment of reforms implemented in the sphere of state procurement, we can conclude that it is possible to manage budgetary expenditure in rational, transparent and cognitive environments in the country by properly regulating and implementing the relevant policy, which is one of the preconditions for promoting and developing the local business sector. In Georgia the reforms were implemented, which fully satisfied the basic goals set out initially (Khokhobaia, 2015).

According to the research carried out by us, along with positive sides of state procurement system reforms, number of shortcoming have been identified as well. However, such faults accompany all fundamental reforms. Deficiencies identified are as follows:

- Implementation of new system of state procurement has emphasized deficiency lack of professional personnel. At the first stage of reform implementation, personnel working at procuring organizations, function of which was to plan and implement procurement process, appeared not to be ready to work with new electronic system. This was reflected on number of failed tenders. We consider that, necessary condition in order to eliminate this problem is: enhanced engagement of state procurement in personnel training process, which shall be finalized with personnel certification. It is also important to revise and introduce additional stimulus for procurement personnel and revise their remuneration issue, in order to prevent outflow of qualified personnel from state institutions.

- Based on state procurement practice analysis, conditions for possible corruption encouraging motives and discriminatory approaches in entrepreneurship development have been examined. This issue is present in application of simplified state procurement instruments. In this view, state institutions have more opportunities to make subjective decision, which may be of a corruptive nature. In 2018, total price of agreements concluded based on simplified procurement procedures was 778.571.203 million Georgian GEL. This is 19% of total costs allocated for procurement activities. We think that, this problem shall be regulated, it is important to revise provider selection criteria and transparency shall be the main condition of establishing such criteria. All the above mentioned in turn will become a precondition for establishment of competitive environment and rational expenditure.
- High number of failed tenders which results in additional financial expenses and interrupts process development;
- In the case of centralized (consolidated) procurement, the circumstances must be taken into consideration so that medium and small companies will be able to engage in the process, this issue will become more important since the next year it is planned to increase the number of purchased objects through centralized procurement.

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