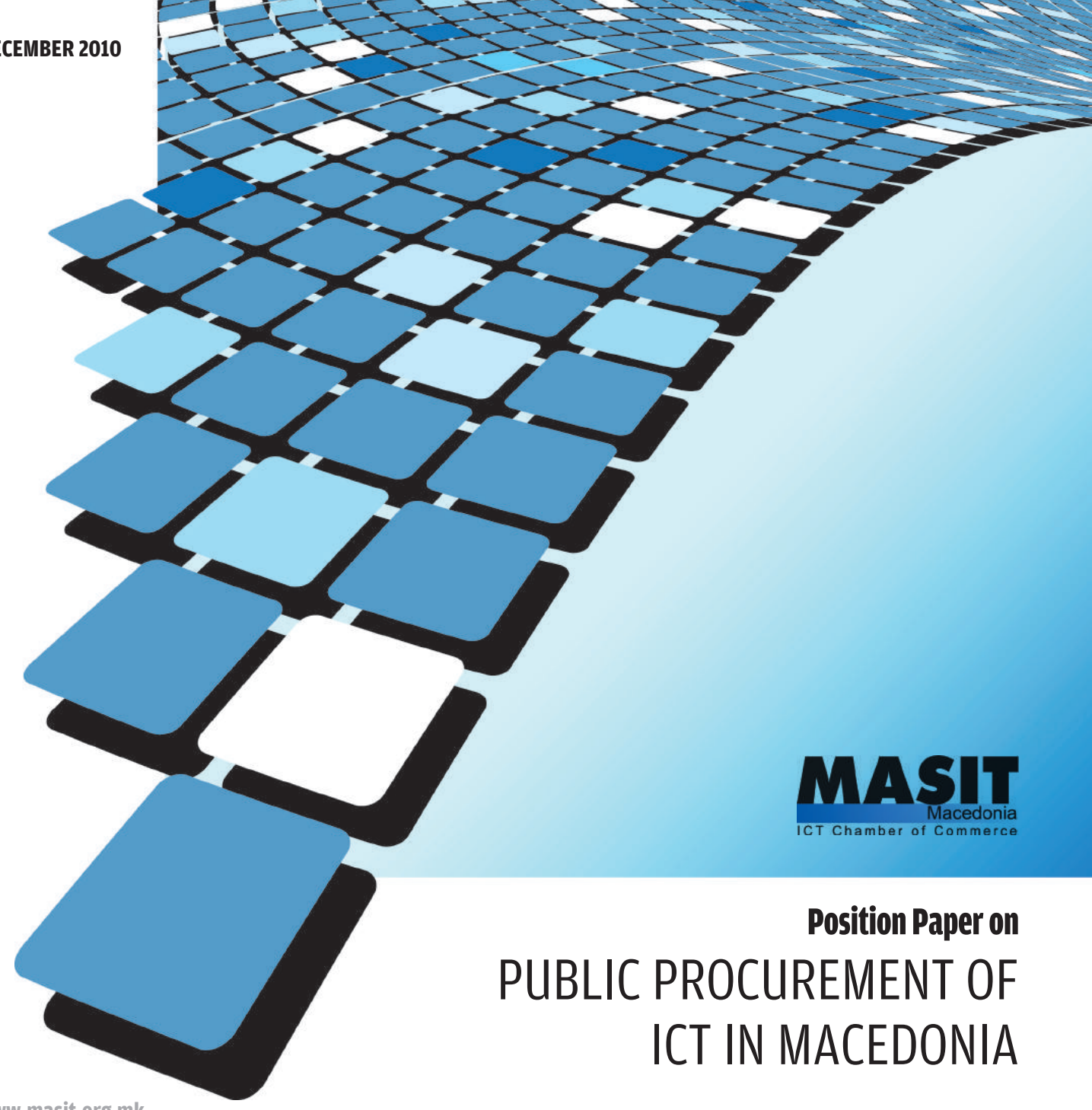
DECEMBER 2010

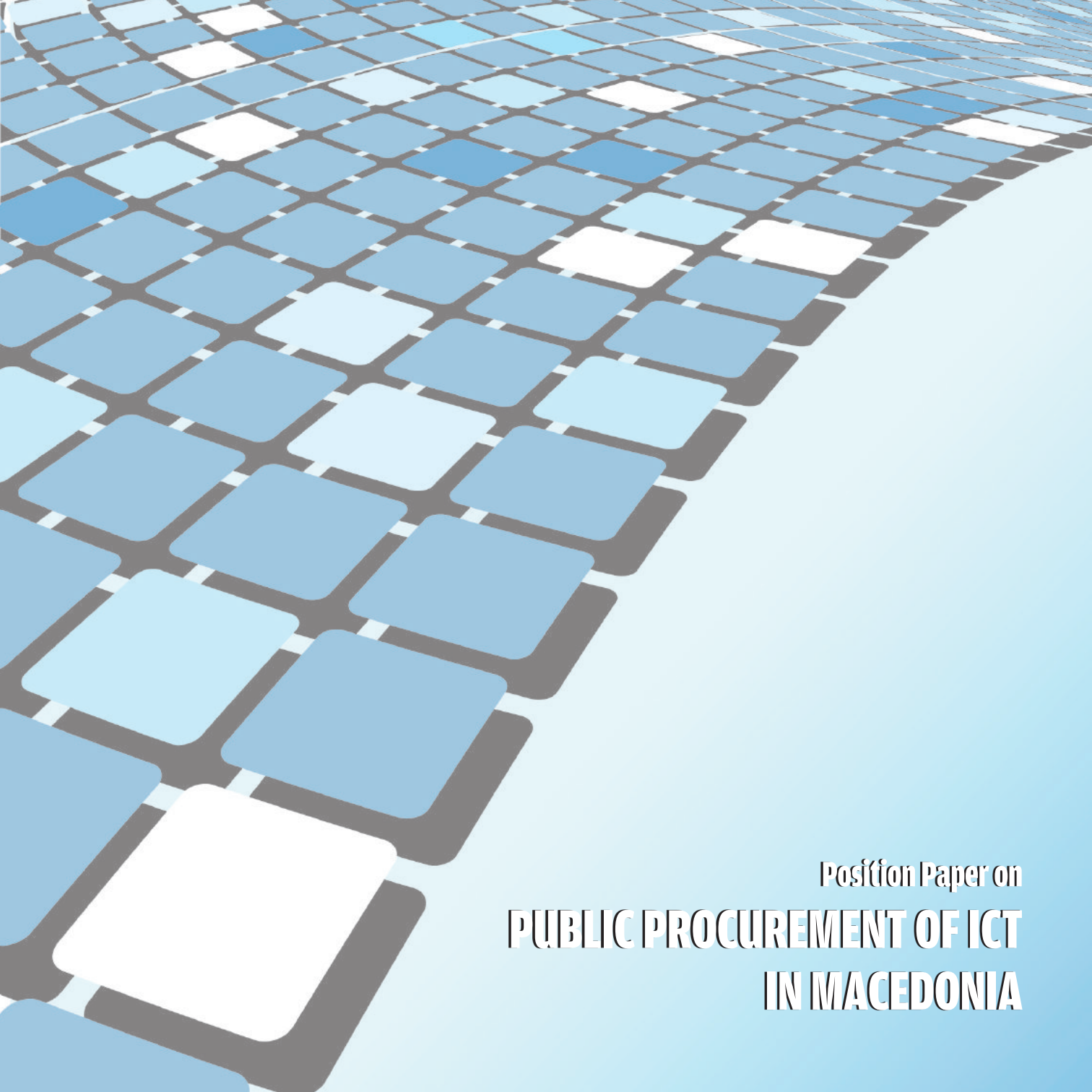


MASIT
Macedonia
ICT Chamber of Commerce

Position Paper on

PUBLIC PROCUREMENT OF ICT IN MACEDONIA

Dimitrie Chupovski 13,
1000 Skopje, Macedonia
Tel: +389.2.3238-601
Fax: +389.2.3244-012
E mail: contact@masit.org.mk
www.masit.org.mk



Position Paper on

PUBLIC PROCUREMENT OF ICT IN MACEDONIA

Publisher - MASIT - ICT Chamber of Commerce

Author - Vanco Uzunov, PhD

Design - MPM Production

Circulation - 500 copies

This publication has been developed by Vanco Uzunov, Phd with support from MASIT, the Chamber of Commerce for Information and Communication Technology, and the USAID Human and Institutional Development Program, financed by the American people, through the United States Agency for International Development (USAID).

The authors' views expressed in this document do not necessarily reflect the views of the USAID or the United States Government.

MASIT

MASIT is a chamber of commerce of Macedonian ICT companies. MASIT implements its role pursuing the following mission statement:

To be a voice, a resource and a driving force for the creation of a competitive ICT sector in the Republic of Macedonia, which will contribute to building prosperity of Macedonian economy and citizens.

With its member companies, MASIT represents a driving force of the ICT sector in the Republic of Macedonia. Since 2000, MASIT provides services to its member companies which enable development of the sector, as well as faster development of the economy of the Republic of Macedonia.

The development of the Macedonian ICT sector has immense influence on:

- The upgrading of the business environment in the Republic of Macedonia, as well as of the productivity of large number of companies;
- The creation of possibilities for transforming Macedonian economy into a modern knowledge-based economy;
- The support of the exports from the Republic of Macedonia;
- The development of local ICT solutions which serve towards upgrading of the Macedonian society (e-Health, e-Government, e-Education);
- The upgrading of the overall productivity and facilitating access to information in the areas of health, social services and education.

During the last five years, the ICT sector in the Republic of Macedonia has marked an average annual rate of growth of its revenues by over 9 percent, while the sector's average annual rate of growth of value added and number of employees was almost 5 percent. With that, the sector creates substantial effect upon the development of the overall economy of the Republic of Macedonia.

Aspects of the impact of public spending on the development of the Macedonian ICT sector

The impact of public spending (spending of budget funds) on the development of the Macedonian ICT sector is positive, with a clear tendency of increasing importance. This was particularly true for the period before the start of the global financial crisis (from 2006 until 2009). However, there are also huge unexploited possibilities for the upgrading of that impact.

In this context, having in mind the goal to assess the actual impact of public spending and public procurement of ICT on the dynamics of growth of the Macedonian ICT sector, with support from the USAID Human and Institutional Development Project (HIDP), in 2010 MASIT prepared a special Background Study to support this Position Paper on Public Procurement of ICT in Macedonia. MASIT's position and recommendations on the public procurement of ICT in the Republic of Macedonia presented henceforth are based on that Study, as well as on the good practices in public procurement of ICT of EU and World Information Technology Services Alliance (WITSA).

MASIT's position and recommendations regarding the public procurement of ICT

MASIT considers that it is inevitable to undertake specific modifications for improving the procedures of public procurement of ICT in the Republic of Macedonia. This will improve the pace and sustainability of the domestic ICT sector's growth, and also of the overall economy.

MASIT primarily declares its willingness for cooperation with the Government of the Republic of Macedonia and with other key stakeholders in order to find the most appropriate solutions for upgrading the existing conditions concerning public procurement of ICT in Macedonia.

The proposed set of policy measures for improving the impact of public procurement on the development of Macedonian ICT sector are separated into three groups:

I measures pertaining to issues connected to the amount of public funds which will be allocated for purchase of ICT equipment, software and services;

II measures pertaining to procedural and implementation issues of public procurement of ICT equipment, software and services, and

III measures pertaining to other issues which are closely connected with the implementation of public procurement of ICT in the Republic of Macedonia.

Regarding the first group of policy measures, the following are the recommendations for the future policy:

- the amount of public funds allocated for purchase of ICT in future years has to be **at least 2 percent of the total budget expenditures** in each year;
- the structure of the public funds allocated for purchase of ICT in future years has to be changed towards **equalization of allocations for hardware and software**; a best solution would be to keep the existing scope of allocations for purchase of hardware and increase the scope of allocations for purchase of software to that level; however, if this is unacceptable, second best solution is to relocate half (50 percent) of the allocation for purchase of hardware towards purchase of software.

8 RECOMMENDATIONS

II The recommendations for the second group of policy measures (the procedural ones) are multifaceted. They are the following:

An obvious flaw of the Public Procurement Law (PPL) is the fact that it covers all types of public procurement hence it has no specific clauses for ICT. The recommendation concerns the need for **drafting and enacting a special by-law** which would encompass all relevant procedural issues concerning the public procurement of ICT. However, this first **requires an amendment of the PPL** to include the legal ground for drafting and enacting this by-law for purchase of ICT.

World Information Technology and Services Alliance Some Key Best Practices in Government IT Procurement

- To use experienced qualifiers
- To use functional specifications
- To distribute risk equitably
- To eliminate ambiguity from the RFP
- To publish detailed evaluation criteria and methodology
- To ensure evaluation criteria allow and require the selection of the best bid based on overall value
- To tell bidders everything
- To continue communication with vendors after RFP release
- To determine a small competitive range, when possible
- To hold oral presentations and discussions
- To allow reasonable time for proposal preparation

One of the major defectiveness of public procurement of ICT derives from the inappropriately designed technical specifications for the needed/procured ICT equipment and software as well as from the inadequately set criteria for selection of bids.

The recommendation for overcoming this is creation of a two-sided procedure for public procurement of ICT:

1. For all purchases up to 20,000 EUR

2. For all purchases above 20,000 EUR

RECOMMENDATIONS 9

1. For all purchases up to 20,000 EUR, the procurement procedure should have the following provisions:

- There must be an **obligation for collection** of at least **two bids from small and/or medium enterprises** in each IT procurement; to this effect, it will be also necessary to design adequate criteria for classification of Macedonian IT companies into small, medium and large first;

- The selection criteria should not include a high turnover threshold; the criteria for turnover should correspond with the size and the range of the procurement;

- The requirements for bank guarantees should be lowest; and

- Possession of technical standards (ISO 9001:2000, CMMI, ITIL, ISO 20000, ISO 17799, ISO 27001 IT Mark, etc.) should not be used as decisive criteria, but additional points can be allocated for that and above mentioned standards to be treated equally.

Good Practices for Public Procurement of ICT of the EU

- State institutions should act as an 'intelligent' customer
- They should consult the market before tendering
- They should involve key stakeholders throughout the procurement process
- The market should propose creative solutions
- The state institutions should seek value for money, not just the lowest price
- Advantage of electronic means should be taken
- The state institutions should decide how to manage risks
- Contractual arrangements should be used to encourage innovation
- An implementation plan should be developed
- The state institutions should learn for the future

2. For all other purchases above 20,000 EUR the procurement procedure should have the following provisions:

- **The budgets** for forthcoming (planned) public procurements **have to be announced publicly well in advance** (at least half a year prior to launching a tender);
- Prior to launching a procurement, **a feasibility study has to be prepared**; it should demonstrate the long-term viability of a planned project based on all implications in terms of additional purchases of ICT which can emerge;
- These projects should be designed in a way to **create higher quality of purchased goods and services**; in other words, this means avoiding buying expensive equipment without an obligation for the vendors for its installation, maintenance, securing adequate software solutions and training of employees;
- For the preparation of technical specifications, in addition to the existing IT employees of each procuring institution, **independent IT experts should be used**; those experts (i.e. the companies in which they are employed or are in their ownership) should **not participate** in the bidding process and should be listed by name, last name and biography in the procurement documentation;
- The procurement procedures should use the option of **requesting prospective bidders/ vendors to offer adequate technical specifications**, and the selection should be done based on the merit of each proposal;
- the procurement of complex projects should be **separated into several (smaller) succeeding procedures** (tenders);

- **MASIT should be also included** in complex projects to propose adequate technical IT specifications for public institutions;

- **The criteria for selection of bids should be set** by the end-user public institution **in cooperation with the Ministry of Information Society (MIS), the Public Procurement Bureau (PPB) and MASIT;**

- For these projects it has to be ensured that the selection of "the economically most advantageous offer" is not abused by the **"lowest cost"** criteria;

- The selection criteria for the economically most advantageous tender should include minimal turnover threshold; the criteria for turnover should correspond with the size and the range of the procurement; and

- The possession of technical standards (ISO 9001:2000, CMMI, ITIL, ISO 20000, ISO 17799, ISO 27001 IT Mark, etc.) should not be used as decisive criteria, but additional points can be allocated when evaluating. The possession of all above mentioned standards has to be treated equally and to be limiting for tenders above 20.000 EUR.

III The recommendations for the third group of policy measures are the following:

1. A major problem which appears in the impact assessment of public procurement upon the development of the ICT sector is the lack of adequate data for all budget allocations (for all budget users) which have been spent for purchase of ICT. **It is necessary to implement a system of evidence of budget expenditures for purchase of ICT with separate and clearly defined items**. Those funds should also be separated by sectors (hardware, software, IT services and telecommunications).

2. Another major deficiency in the public procurement of ICT derives from the lack of supervision of fulfillment of previously awarded tenders. The recommendation is **to create a system for evaluation of the real effects of previously awarded public procurements**. The evaluation has to be **made by an independent body.**

3. It is necessary to **introduce a system of certification of IT companies** for eligibility to participate in public procurements of ICT; this role should be implemented by MIS and MASIT jointly.

4. The strategic plans for utilization of ICT equipment and services are developed by the employees of public institutions' IT departments, although their primary obligations are operational, not strategic. Hence, MASIT recommends **organization of workshops for development of strategic plans for ICT** in close cooperation with the Government.

5. MASIT expresses its readiness **to help in the planning of the budgets and ICT strategies of public institutions**; in this context, MASIT proposes to the Government to select 5 public institutions for which MASIT would help draft ICT strategies and budgets needed for their implementation.

6. MASIT, also, suggests starting cooperation with the Government during the stipulation of the propositions which the Government distributes to all public institutions, users of budget funds, prior to the planning of budgets for the following year.

7. It is very important to launch a process of **additional education (on a long-term basis) of the employees in the IT sectors of the public institutions**; this education can be organized and implemented by the companies members of MASIT, possibly free of charge, or at low cost for the public institutions.

8. In cooperation with MASIT, a more precise **classification of ICT goods and services has to be prepared.**

9. In order to avoid delayed decisions on closed bids and to achieve efficiency and to accelerate procurement procedures, **binding deadlines for decision-making should be set.**

10. **Strict penalties should be introduced for ceasing published tenders.**

11. The PPB should be involved in the supervision of the legal aspects of public procurements. The PPB's position should be strengthened with new relevant provisions in the PPL, in terms of issuing binding opinions for public institutions.

12. MASIT declares its intention to participate in the work of appropriate Parliament Committees (those which deal with issues of economic policy and IT).

14 RECOMMENDATIONS

13. It is very important to start using the public procurement procedures of ICT as a tool for promotion of the competitiveness of the market, as well as for promotion of companies' innovative and competitive capabilities. This can be mostly achieved through drafting sound technical specifications and setting of adequate selection criteria. On the other hand, in order to improve the competitiveness in the communication services market, the following indicators and selection criteria can be established:

- Distribution of market shares according to earned revenues by types of services (or areas);
- Distribution of revenues from public procurements by market players;
- Increasing of market shares of companies which are not market leaders;
- Number of public tenders awarded to companies which are not market leaders;
- Scope of revenues realized from public procurements by companies which are not market leaders;
- Average Revenue Per User (APRU) realized through public procurements;
- Average Minutes Per User (AMOU) realized through public procurements.