

This publication has been prepared as part of the project "Increasing the integrity in public procurement", implemented by the Institute for Development and Social Initiatives (IDIS) "Viitorul", in partnership with the Partnership for Transparency Fund (PTF).

The newsletter was prepared with the financial assistance of the Transparency Partnership Fund. The content is the sole responsibility of IDIS "Viitorul" and the opinions of individual contributors to this newsletter do not necessarily reflect the views and policies of IDIS "Viitorul" and PTF.

# MONITORING MOLDOVA'S PUBLIC PROCUREMENT

Newsletter no. 3 (December 2021)

## »»» CONTENTS »»»

### 2 | LEGISLATIVE NEWS

The new Standard Documentation for public procurement of goods and services has been published

### 4 | UNITARY PRACTICES

The National Agency for Complaints Settlement has created a unitary practice to facilitate the public procurement procedure

### 5 | ELECTRONIC PROCUREMENTS

New features versus MTender e-procurement priorities

### 7 | INTERVIEW

VADIM ȚURCAN: "Public works procurement requires rigorous planning, knowledge of legislation, and the involvement of construction specialists"

### 10 | TRAINING

Capacity building: Monitoring public procurement in Moldova

### 14 | REPORT

Risk assessment for increasing the integrity in Moldova's public procurement

## EDITORIAL

### PROCUREMENT OF WORKS REPRESENTS OVER 4.5 BILLION LEI, HALF OF THE TOTAL VALUE OF AWARDED CONTRACTS



**Vadim ȚURCAN,**  
*Public Procurement  
Expert*

Public procurements of works are probably the most complex procedures in terms of awarding documentation. According to the 2020 report of the Public Procurement Agency, the procurement of works represented over 4.5 billion lei, approximately 50% of the total value of awarded contracts. Another indicator of the complexity of public procurement of works is the total number of appeals submitted by economic operators to the National

Agency Complaints Settlement. In 2020, 510 appeals were filed, approximately 40% of the total filed appeals.

The conduct of public procurement of works requires, in my opinion, rigorous additional planning and the involvement of construction specialists. At the same time, consulting services are not covered, but in this newsletter, we discuss the issues involved in advising the beneficiary's representatives, namely the technical manager and copyright controller.



## THE NEW STANDARD DOCUMENTATION FOR PUBLIC PROCUREMENT OF GOODS AND SERVICES HAS BEEN PUBLISHED

» According to the Public Procurement Agency (PPA), the Order of the Ministry of Finance regarding the approval of the Standard Documentation for the performance of public procurement of goods and services (no. 115 of 15.09.2021) was published in the Official Gazette no. 230-237 of 01.10.2021.

The document was developed to ensure the application of a single methodology for public procurement of goods and services. It also provides instruction for contracting authorities and tenderers initiating and conducting public procurement procedures for goods and services.

In additions the Standard Documentation for the public procurement of goods and services provides templates for notices of intent, participation, contract awarding, and modifications of the contract. These can be employed by contracting authorities when conducting procedures of public procurement of goods and services.

Source: [www.tender.gov.md](http://www.tender.gov.md)

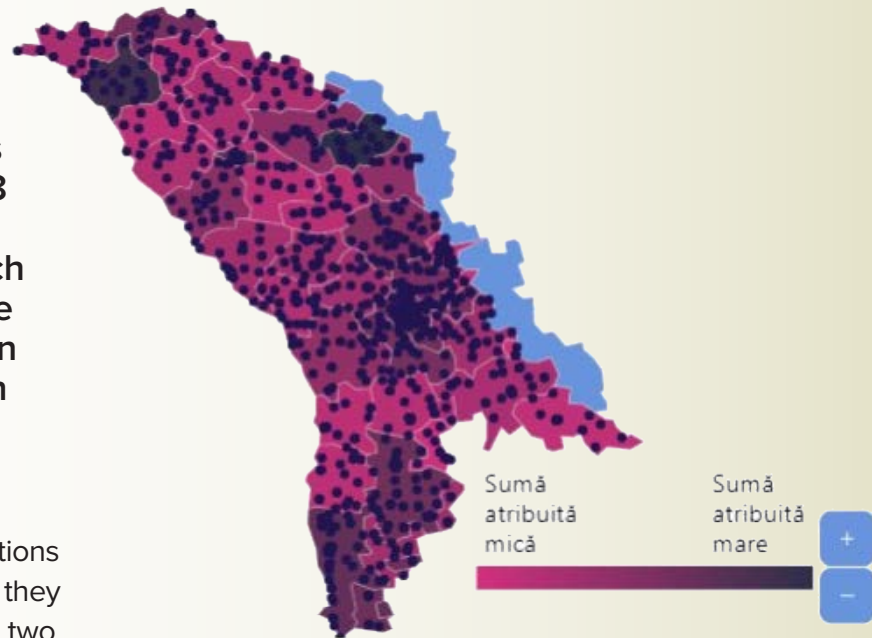
# THE PUBLIC MONEY SPENDING MAP - THE TOOL TO MONITOR THE PURCHASES IN YOUR LOCALITY

» With a single click, citizens can now follow the tenders performed in Moldova. TV8 has launched [the Public Money Spending Map](#) which presents information on the amounts of money spent on public procurement in each district during the first 11 months of the 2021 year.

Additionally, the map includes the list of institutions that initiated tenders this year and the amount they spent. In addition to the overall spending map, two separate maps have been added, one for town halls and one for medical institutions.

Beyond the information displayed on the maps, users can track the money spent by a public institution by subscribing to alerts. By doing so, subscribers will receive information on which auctions are organized by the local town hall, school, or district hospital. The information will be delivered by email. Moreover, if followers detect possible illegalities, they can be signaled to the TV8 journalists who will investigate the situation.

„Through this project, we wanted TV8 readers to be active, to get involved in the life of their communities, to become true watchers of integrity, and to help us keep an eye on public money. Thus, a bridge will be created between journalists and local people who know better the situation at the local level and can provide us with information about the links between officials and economic agents as well as with information about the beneficiaries of tenders”, stated Cristina Lujan, one of the implementers of the project. Users who subscribe to alerts will receive information from the M-Tender platform, developed by the Republic of Moldova’s Ministry of Finance.



This platform gathers information about the public procurements launched by the public institutions throughout the country.

„I strongly believe that the digitization and automation of the interaction between citizens and public authorities can lead to better development of localities, proactive involvement of citizens, but also to the prevention of acts of corruption. It is important that these systems of interaction with citizens be implemented directly by the authorities, but in the absence of these solutions, we have developed in parallel the system connected to official data. Citizens deserve to be informed on the way in which the money provided through their taxes is spent,” stated the journalist Constantin Copăceanu.

The Public Money Spending Map, created by Constantin Copăceanu, Sergiu Niculiță, Cristina Lujan, and Cristina Straton, was made possible due to a grant obtained during the seventh edition of the media hackathon „Fifth Power,” organized by the Center for Independent Journalism of the Republic of Moldova and Internews.

Source: [www.tv8.md](http://www.tv8.md)

## THE NATIONAL AGENCY FOR COMPLAINTS SETTLEMENT

# HAS CREATED A UNITARY PRACTICE

## TO FACILITATE THE PUBLIC PROCUREMENT PROCEDURE

» In response to the [state of emergency in public healthcare](#) and to avoid further delays in conducting public procurement procedures as the fiscal year ends, the National Agency for Complaints Settlements has established a unitary practice on certain procedural aspects. Contracting parties must incorporate these changes in order to be able to successfully complete any recently initiated public procurement procedures.

Updates include: Any offer or related documents without an electronic signature or otherwise, cannot be legally submitted. Further, any offer submitted electronically but with no electronic signature will be rejected without being any explanations or clarifications being requested.

Irrespective of the purpose of the procurement, the offer of quantities greater than those requested by the contracting authority may not constitute a plausible reason for rejecting such an offer. However, the quantities shall be adjusted according to the needs of the contracting authority.

Unless the tenderer has been disqualified at the pre-qualification stage for submitting a defective European Single Procurement Document (ESPD) form, the contracting authority is required to request supporting documents to demonstrate eligibility and technical and financial capacity, if it has been ranked first.

The offer guarantee which does not fully cover the expiry date of the offer will be rejected by the working group, and cannot be regarded as an insignificant deviation, in so far as this error cannot be removed without affecting the essence of the offer.

Source: [www.ansc.md](http://www.ansc.md)



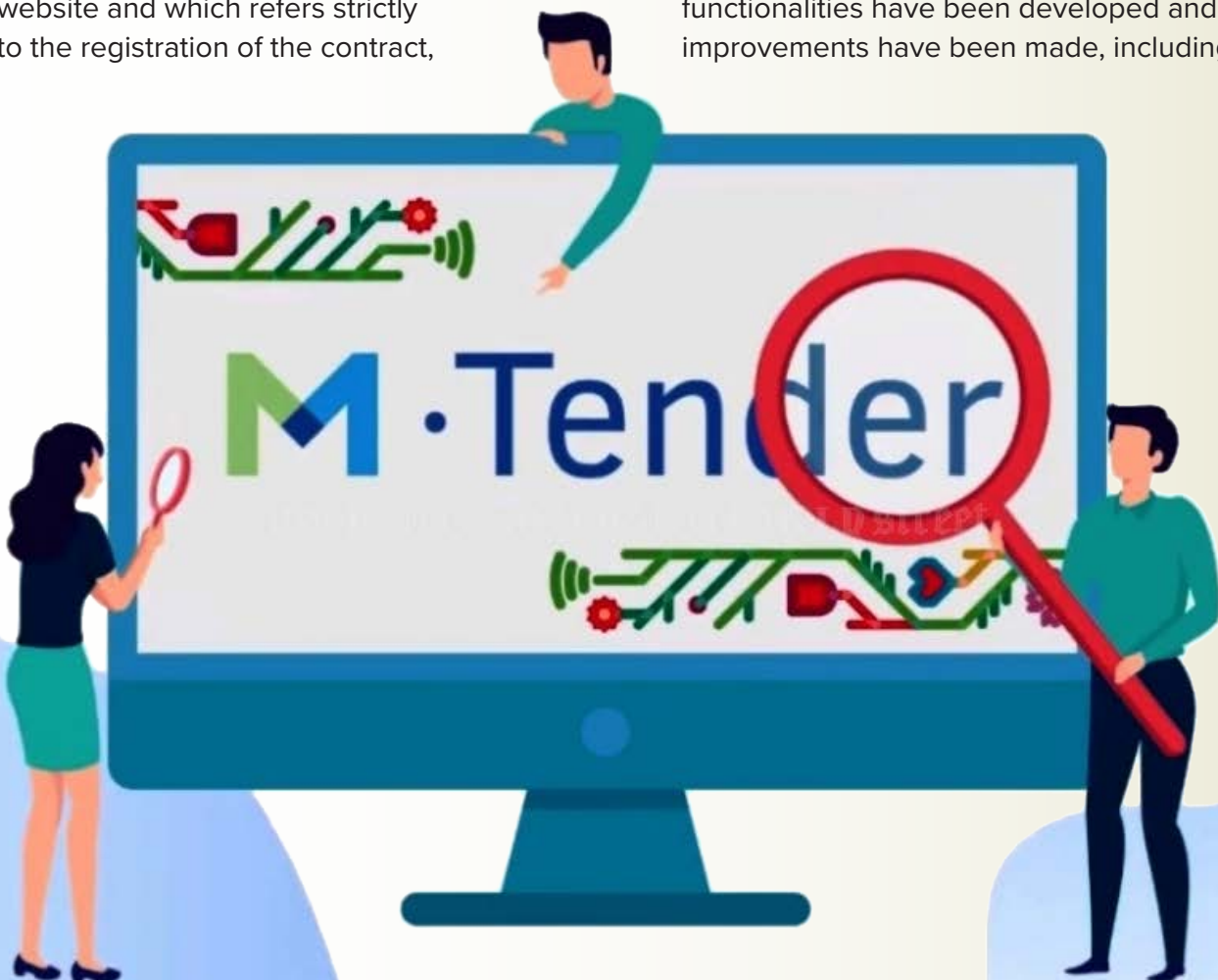
## NEW FEATURES VERSUS MTENDER E-PROCUREMENT PRIORITIES

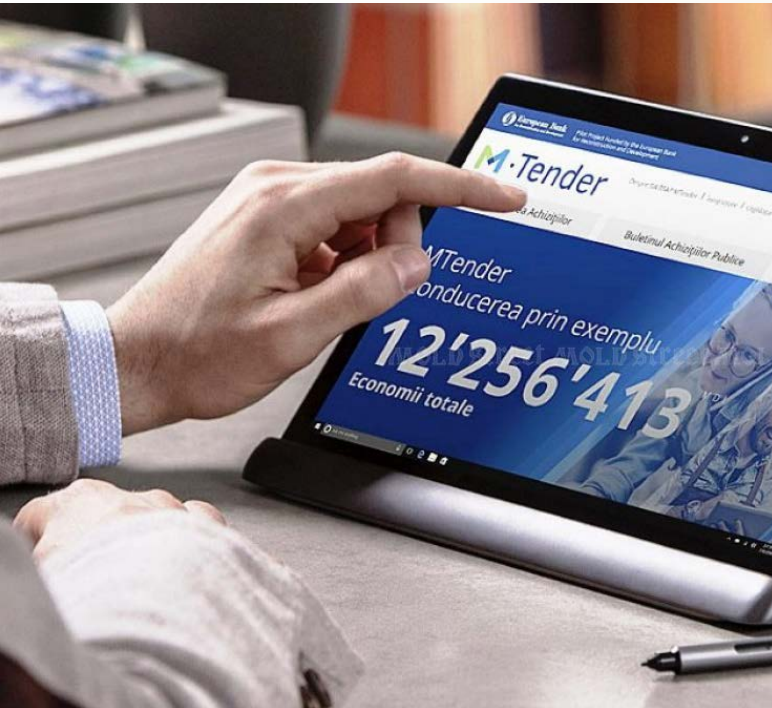
» MTender's e-Procurement system has improved the transparency of the procurement process, but not at all stages. The current functionalities of the electronic system do not allow for the conduct of a fully electronic procurement process. Therefore, although the system has been operational since October 2018, no functionalities have been developed for the public procurement contract execution stage, nor for the conduct of all applicable procedures according to Law no. 131 of July 3, 2015 on public procurement.

Contracting authorities continue to report to the Public Procurement Agency (PPA) and record paper procurement contracts on paper. The Public Procurement Agency also continues to manually process using its own system, separate from the electronic system, the data on the awarded contracts, cancellation of procedures, and additional agreements. By default, transparency at the procurement contract execution stage is limited to the information that PPA publishes on its website and which refers strictly to the registration of the contract,

the contractor, and its value. This shortcoming does not allow the monitoring of public procurement up to the stage of finalization of the procurement contract, including payments, deviations, sanctions, etc.

In August 2021, the Center for IT in Finances (CTIF), as the operator of the MTender system, [publicly announced the update of the digital procurement platform with new features](#). According to the press release, extensive functionalities have been developed and improvements have been made, including:





- 1 IMPROVEMENT of the functionality of determining the budget line, by adding additional parameters.
- 2 IMPROVEMENT of the management functionality of the public procurement plan, by adding additional parameters.
- 3 EXTENSION of the batch division function, which brings the reallocation of the procurement process into a separate process.
- 4 ADJUSTMENT of the system to account for legislative requirements regarding the tender evaluation process (declaration of conflict of interest becomes mandatory).
- 5 COMPLETION of the function array with the possibility to cancel the offer/lot by sending out the cancellation intention and through the possibility of confirming/revoking the action.
- 6 IMPROVING the system by extending the data models for the cost, tender, and supply element.

The e-procurement system has a number of deficiencies and shortcomings, including those which create difficulties for both contracting authorities and other institutions with responsibilities in the field. Therefore, any new functionalities and improvements which can address existing gaps are necessary. However, it is not clear what these changes and improvements amount to in practical terms, what specific problems they solve, and with whom they have been discussed and agreed as a priority. Moreover, the new functionalities developed in the MTender system need to be implemented by private platforms in order to benefit the users, ie authorities and economic operators. Without a clear format for the electronic system and the activity of the platforms that are not consulted and have no motivation or obligation to the Ministry of Finance, these functionalities do not generate a real improvement of the e-procurement process.

Although the same communiqué stated that the CTIF, in coordination with the parties involved, has drawn up the Update Plan which contained stipulations on deadlines, responsibilities, and actions for revocation in case of failure, such a plan was not discussed with interested parties and not published.

In conclusion, the recently introduced adjustments, mainly of a technical nature, do not correspond to the development priorities of the system (in particular, the development of missing functionalities), which were also provided in [the technical concept of the system approved by GD no. 705/2018](#). Moreover, there is a lack of dialogue between all stakeholders on the development of the electronic system, the elimination of inconsistencies with the legislation, and the resolution of the shortcomings faced by the authorities and economic operators.

*Author: Diana Enachi,  
public procurement monitoring coordinator*

## VADIM ȚURCAN: "PUBLIC WORKS PROCUREMENT REQUIRES RIGOROUS PLANNING, KNOWLEDGE OF LEGISLATION, AND THE INVOLVEMENT OF CONSTRUCTION SPECIALISTS"

» The efficiency of the use of public money largely depends on how the contracting authorities carry out public procurement procedures. For this reason, the principles of economy, efficiency, and transparency are basic requirements when purchasing goods, works, or services. In 2020, the acquisitions of works amounted to over 4.5 billion lei, and nearly half of the appeals filed in that year refer to this type of procurement. The current situation of procurement of public works, the provisions governing this field, needed improvements, and how to properly monitor a public works procurement were discussed with Vadim Țurcan, a public procurement expert at IDIS „Viitorul”.





**Ana-Maria Veverița: How would you describe the current context in which the public procurement of works takes place in the Republic of Moldova?**

**Vadim Țurcan:** Public procurements of works are probably the most complex procedures in terms of awarding documentation. According to the 2020 report of the Public Procurement Agency (PPA), the procurement of works represented over 4.5 billion lei, which constituted approximately 50 percent of the total value of awarded contracts in that year. Another indicator of the complexity of public procurement of works is the total number of appeals submitted by economic operators to the National Agency Complaints Settlement. In total, 510 appeals were filed in 2020, which represents approximately 40 percent of the total filed appeals.

**AMV: What are the acts that regulate public procurement of works?**

**Vadim Țurcan:** The procurements of works are regulated by Law no. 131 of 03.07.2015 on public procurement and by Government Decision no. 638 of 26.08.2020 for the approval of the regulation on public procurement of works. In my opinion, with the adoption of this regulation, the situation regarding the conduct of public works procurement has improved significantly. At the same time, public procurement specialists must be aware of the rules for determining the value of construction objectives and of the instructions concerning drawing up estimates for construction assembly works through the method of resources, in order to prepare the awarding documentation.

**AMV: What aspects do you think need to be improved in terms of public procurement of works?**

**Vadim Țurcan:** First of all, the conduct of public procurement of works requires, in my opinion, rigorous additional planning and the involvement of construction specialists. Similarly,



*The conduct of public procurement of works requires, in my opinion, rigorous additional planning and the involvement of construction specialists. Similarly, consulting services are frequently overlooked, but advising the beneficiary's representative, namely the technical manager and copyright controller, is an important part of the process.*

consulting services are frequently overlooked, but advising the beneficiary's representative, namely the technical manager and copyright controller, is an important part of the process. Currently, advisory services are calculated as a percentage of the estimated value of the works. The practical code in constructions CPL.01.01-2012 provides an amount of 1.1 percent for the technical manager and 0.3 percent for the copyright control. That approach is only good for estimating the value of a potential contract. However, in practice, these amounts do not cover all the services that both the technical manager and the copyright controller must provide.

**AMV: How could the quality of consulting services be improved in this regard?**

**Vadim Țurcan:** In my opinion, changes are needed to increase the quality of construction consulting services, namely purchases made according to the best value-for-money awarding criterion. Another long-awaited change is the transition to Fédération Internationale des Ingénieurs Conseils (FIDIC) type contracts. FIDIC contracts are the most common standard



forms of international construction contracts in the world today. They have certain features in common and recognize the need for a balanced approach between the roles and responsibilities of stakeholders, as well as a balanced delegation and management of risks. In addition, most FIDIC forms provide for a multi-level dispute resolution mechanism.



**AMV: What do we need to know when monitoring the procurements of works?**

**Vadim Țurcan:** When monitoring, we need to divide the procurement procedures into several stages. At the planning stage, we focus on the correct determination of the estimated value of the future procurement of works. We check the lists of quantities of works and then we check the awarding documentation. At the stage of carrying out the procurement procedure of the works, from the publication of the participation notice through the opening of the tenders, the correct award documentation must be elaborated respecting the rules regarding the description of the goods, works, and services accord-

ing to art. 37 of Law 131/2015. The most frequent violations refer to specific trademarks indicated for certain machines, which is contrary to the provisions of the public procurement legislation. At the tender evaluation stage, the bids of the economic operators must be compared with the estimated calculation of the contracting authority, so that it meets the needs and does not contain significant deviations. The regulation on public procurement of works specifies the types of insignificant deviations. According to point 134, insignificant deviations are considered minor deviations from the technical/financial offer that cumulatively meet the following conditions: 1) they represent corrections of minor technical deviations, and a possible the change in the total bid price, induced by these corrections, does not change the initial ranking of the bidders; 2) the theoretical quantification in the monetary value of the respective deviation/omission does not exceed 1 percent of the total offer price; 3) the theoretical quantification in the monetary value of the respective deviation/omission does not exceed the amount of 10,000 lei from the total price of the offer.

After the awarding of the public procurement contract, it is important to monitor the quality of the performed works. They must meet the essential requirements according to Law no. 721 of 02.02.1996 on quality in construction, namely: strength and stability, operational safety, fire safety, hygiene and human health, thermal insulation, noise protection, and sustainable use of natural resources. At the same time, the monitors can check the construction technical book to monitor the progress of the works, to check the minutes for works that become hidden, or the minutes for decisive phases. Following the sequence of steps described above, the civil society representatives can easily monitor any public procurement of works.

**AMV - Thank you for the interview!**

**Ana - Maria Veverița**



## CAPACITY BUILDING: MONITORING PUBLIC PROCUREMENT IN MOLDOVA

STRENGTHENING THE CAPACITY OF MORE THAN 30 REPRESENTATIVES OF CIVIL SOCIETY, MEDIA, AND BUSINESS TO MONITOR PUBLIC PROCUREMENT IN THE REPUBLIC OF MOLDOVA

» During an in-depth training program organized by the Partnership for Transparency Fund (PTF) and the Institute for Development and Social Initiatives (IDIS) "Viitorul" thirty-five representatives of civil society organizations, investigative journalist organizations and the private sector developed the knowledge, tools and skills needed to monitor public procurement. The training program is part of the project "Increasing Integrity in Public Procurement," a project which aims to increase transparency and support public procurement reforms in Moldova.

The training program took place between October 7 and December 17, 2021, and included 12 training modules comprised of two sessions each. The topics addressed included the legal and institutional framework, sectoral procurement, the process of electronic public procurement, access to information and open data analysis, the appeal procedures, and tools for identifying and analyzing corruption risks.

Participants worked through case studies on public procurement issues and risks as part of the program.

*"The training program is a core element in a broader program that will support CSOs and investigative journalist organizations as they put the knowledge, skills, and tools they learned into practice and engage in monitoring*



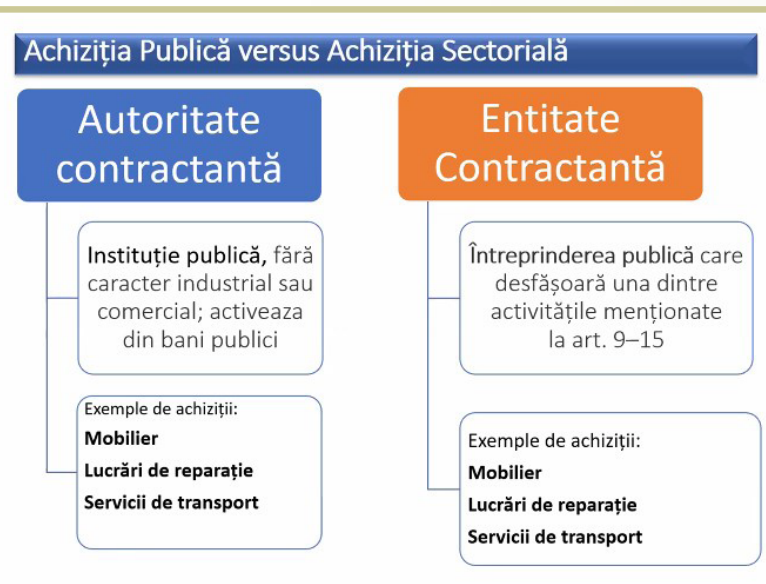
of actual procurement through all phases of the procurement cycle, from specifications through to awarding of and implementation of contracts. This support will include funding for competitively selected organizations, as well as mentoring and advice to ensure complaints are well-founded before being submitted to relevant public authorities to address", stated Karin Millett, Project Director, PTF.

"The watchdog role of the representatives of civil society and of the investigative journalists can induce the contracting authorities, economic operators, and decision-makers to be more responsible, more efficient, more honest, and

more transparent. For efficient monitoring of public procurement, civil society and the investigative journalists must have in-depth knowledge on topics such as the functioning of the public procurement system, the legal and institutional framework, data collection and analysis tools, the application of monitoring tools, and the identification of irregularities and actions to hold public authorities accountable. In this context, we considered it appropriate to strengthen capacities and provide a comprehensive training program through which civil society monitoring could subsequently have a positive impact on the efficient spending of public money and on the strengthening of good governance", stated Carolina Ungureanu, Deputy Director and Project Manager at IDIS "Viitorul."

"The training program on public procurement has once again demonstrated the need for ongoing training for civil society and journalists who monitor and investigate public procurement. In the process of monitoring procurement, it is equally important to know the regulatory framework, the monitoring tools, the electronic procurement process, and the procedures for awarding procurement contracts. Although the participants had a different level of training and experience, the program was a good opportunity for networking and for exchanging best practices. We would very much like all the knowledge and tools acquired in the training program to be applied in practice so that public procurement in all regions is under the scrutiny of civil society and public authorities are becoming responsible", stated Diana Enachi, Public Procurement Monitoring Coordinator at IDIS "Viitorul."

"Training is not an end; it is the beginning. The end we envisage is that the monitoring some of the training participants will do will identify inefficient and corrupt practices. Only when these practices have been corrected through actions taken by the contracting agencies or control bodies will we have approached the end. And not even then because there may be a



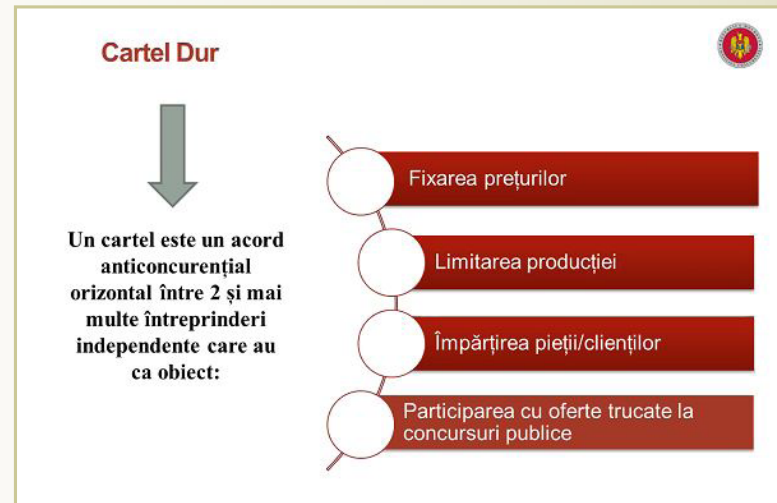


need for changes in legislation, regulations, and the system of control and sanctions. Only when such changes are made by the appropriate state bodies and the parliament, and those laws and regulations are adhered to, can we say we have reached our goal. This is a long process which this project will not complete. The procurement monitoring work that some of you are about to embark on will, I am convinced, accelerate this process", stated Lars Jeurling, a PTF Senior Adviser to the project.

"The stages of launching a procurement procedure, of opening and evaluation of tenders is governed by some pre-established rules. Likewise, there is a multitude of aspects related to the human factor. Their knowledge is essential in the objective monitoring of public procurement by civil society, but also for journalistic investigations, the representatives of these segments being the beneficiaries of the current training", stated Ecaterina Meaun, one of the moderators of the training program.

The legal expert Viorel Pîrvan explained to the participants in the training program all the legal aspects of a public procurement, the conflict of interests, and the stages of the appeals procedure: "An important topic addressed in the program is that of conflicts of interest and corruption in public procurement. Participants were acquainted with the prohibited practices in procurement procedures, the responsibilities of the actors involved in the procurement process, and on the ways to notify the competent bodies regarding illegal practices, but also on the consequences for public procurement procedures in case of proven acts of corruption and conflicts of interest. Also, the beneficiaries of the training program understood better the role of different public institutions in everything related to public procurement as well as the way in which they can notify these institutions to report a certain problem".

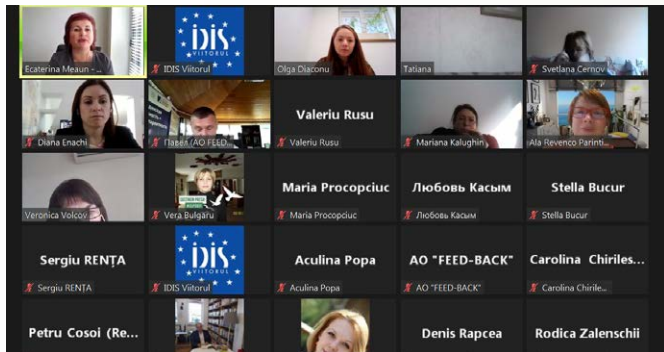
"Participants showed a good insight of procurement issues and risks in the procurement



**An important topic addressed in the program is that of conflicts of interest and corruption in public procurement.**

process from needs identification all the way to contract implementation and management. They identified vulnerability points in the process such as contract implementation and stressed the importance of monitoring at that stage. They also highlighted the need to go beyond the legal and institutional framework and ensure enforcement of existing rules and sanctions for non-compliance. In that respect, one of the participants brought up the fact that despite the existence of a Contravention Code in Moldova, non-compliance in the area of public procurement often goes unpunished. The participants also understood that strength is in numbers and that increased communication and cooperation among key stakeholders in procurement can help prevent and/or expose prohibited practices in procurement, leading to better practices and ultimately a more transparent and efficient public procurement system delivering value for money", stated Sabine Engelhard, Legal and Regulatory Specialist, Partnership for Transparency Fund.

Each of the beneficiaries of the program had the opportunity to comment on the usefulness of the training course and to come up with recommendations and suggestions for the public procurement monitoring process.



with the rounds of sessions of questions and answers, allowed the information to be assimilated more easily. The agenda of each session was well thought out for the convenience of the participants, including from the point of view of the time".

” **MARCELA ZAMOSTEANU,**  
RISE Moldova journalist:

“Although I was mostly familiar with certain terms and procedures, I learned new things in today’s sessions. For example, I did not know that the authorities have such leverage as the offer guarantee and still do not use it. The presented and analyzed case studies were relevant and useful to understand the way in which certain provisions work in practice. Also, the presentation of the method of calculating the most economically advantageous offer was important and useful”.

” **OLESEA HARTI,**  
a member of the “Zubrea” Natives Association from Zubrești village:

“The course is very welcome. As I have virtually no experience in the field of procurement, it is a significant contribution towards improving my knowledge and skills in this area. It was very useful to combine the theoretical aspect with the practical one and it is much easier to assimilate the information in this way.”

” **TATIANA DJAMANOV,**  
a journalist at Radio Orhei:

"The training was very well organized. The presentations of the moderators, combined

” **NĂLEA DEMIAN,**  
the administrator of the LLC Bioenergy Company:

"I decided to participate in this program because the company I work for never took part in any public procurement procedure, the reason for this being the lack of knowledge in the field. This training helped me understand all the stages of a public procurement procedure, the legal framework, and all the information necessary to launch such procedures”.

” **VERA BULGARU,**  
the director of TV Drochia:

"This is very useful and important information for us journalists. I received answers to questions that will help me a lot in my work. Thank you very much!"

Also, at the end of the program, the participants received certificates from the organizers and exchanged impressions and useful information.

The participants in the training program will subsequently have the opportunity to apply for a grant program through which eligible organizations—selected on the basis of an open competition—will receive support, as well as mentoring and expert advice on verifying and supporting claims of irregularities or abuse in specific procurements before submitting concerns and complaints to relevant public authorities for review and action. The expected result would be to achieve efficiency in the use of public money, minimize the risks for public authorities, and ensure quality public goods, works, and services for the citizens of the Republic of Moldova.



## RISK ASSESSMENT FOR INCREASING THE INTEGRITY IN MOLDOVA'S PUBLIC PROCUREMENT

» Civil society organizations and political actors in Moldova have designed procedures and legislation to combat corruption throughout the country. However, persistent risks threaten the success of these efforts. Any effective action must not only consider these risks, but incorporate specific measures to counteract or circumvent the most prevalent challenges to anti-corruption work.

This consideration informed the risk assessment component of the recent Inception report drafted as part of a joint PTF project with IDIS “Viitorul”: “Increasing the Integrity of Public Procurement in Moldova”. The project aims to train civil society organizations (CSOs), economic actors, and members of the media to monitor public procurement in Moldova, identify corruption, and take action to mitigate it. Currently in its inception phase, the project, as with all other anti-corruption measures, must account for the risks posed to its work. In order to do so, the risk analysis aims to answer the following questions: *What are the most important risks in public procurement? Where and how should priorities be set for this project?*

In the risk assessment, the authors identified a variety of risks facing the success of the project,

through a variety of approaches, including qualitative interviews with key stakeholders and mapping the various phases of public procurement. The identified risks range from high to low-level threats, yet each must be considered and accounted for. When reviewing the total assessment, risks can be grouped according to five key themes:



### MANIPULATION FOR PERSONAL GAIN

Throughout the procurement process, there are a number of points at which key actors manipulate information, appointments, contracts, and selections for personal gain. For example, actions such as splitting requirements to use less formal procurement methods and blocking competent CSO representatives from information related to



the procurement often lead directly back to benefits for the actors managing these moves.

### **INCONSISTENCIES, IRREGULARITIES AND INCOMPLETE INFORMATION**

Not all issues within the public procurement process are necessarily due to outright corruption. Often, irregularities and inefficiencies are equally guilty for faults in the process. Inconsistent information across various steps in the procurement process may point to either manipulation of the information, or a simple mistake. There is little to no professional training for staff of contracting agencies, and this often leads to errors in understanding and lack of adherence to the rules and procedures for public procurement, either intentional or otherwise. Either way, this risk undermines the legitimacy of the process in a corrupt environment.

### **BENDING RULES, OMITTING STEPS AND NONCOMPLIANCE**

Though a detailed process for public procurement exists, it is often sidestepped. For example, the contracting authority (CA) frequently does not provide timely or complete information related to the tender evaluation to CSO representatives taking part in the public procurement working group. Though they often do not follow the rules and guidelines, there is no penalty for CAs who do so because the Public Procurement Agency (PPA) has no authority to sanction them. Ultimately, simple noncompliance with the rules of the procurement process manifests into a significant share of risks posed to the integrity of the procurement process.

### **CONFLICTS OF INTEREST**

If a single contracting authority works with the same beneficiary time and time again, and this entity consistently receives contracts, regardless of parameters, such a situation points to a potential conflict of interest. Further, conflicts

of interest between CA public procurement working group members and one or more of the bidders often remain undisclosed and result directly in unethical behavior. In these circumstances, often the two groups will benefit from each other. Once in business together, future procurements are manipulated to ensure their partnership continues. This is a common arrangement, and while relatively easy to spot through a paper trail, it can often be difficult to prove, which will constitute a key challenge for the monitors to be trained in the project.

### **ROLE OF CONTRACTING AUTHORITY**

Though contracting authorities have a major role in public procurement, their centrality to the process and relatively unchecked authority provide frequent opportunities for corrupt mismanagement of the procurement process. In each theme outlined above, there is a question of how the contracting authorities will undermine the process for their own gain. Monitoring their activities and holding them accountable will be an essential component of any anti-corruption action in Moldova's public procurement sector.

With these risks in mind, measures have been put in place to safeguard against potential undermining of project activities and sustainability. For example, the training program has been specifically designed to safeguard against these risks in the procurement process. In addition, throughout the course of the project, implementers and advisers will monitor for new risks and adjust activities as needed.

Though the landscape of corrupt activities in Moldova remains an intimidating and significant threat to the success of the project, conducting and analyzing the risk assessment ensures the project's design accounts for these potential challenges. This activity demonstrates that while risks may not be eradicated, they can be overcome.

*Author: Rachel Ansley,  
Communications Specialist, PTF*

## PUBLIC PROCUREMENT AUDIT AT THE MINISTRY OF EDUCATION, CULTURE AND RESEARCH, DISCUSSED IN THE PARLIAMENTARY COMMITTEE



» The Court of Accounts of the Republic of Moldova (CCRM) presented on December 8, within the Public Finance Control Commission (CCFP), [the results of the audit of public procurement conducted within the system of the Ministry of Education, Culture, and Research \(MECC\) in 2020.](#)

The audit team presented findings on the estimation and planning of public procurement, as well as the stages of awarding, executing, and monitoring procurement contracts. The audit evidence was collected from the Ministry of Education, Culture, and Research (MECC), 88 budgetary institutions, and about 113 subordinate self-managing institutions.

In 2020, the entities subordinate to MECC conducted procurements amounting to 608.3 million lei, of which low-value acquisitions (up to 10.0 thousand lei each) amounted to a total of 291.5 million lei or 47.9 percent of total procurement (including budgetary entities - 33.9% and self-management institutions - 60.5%).

According to the audit findings, these entities did not ensure compliance with the requirements of needs assessment, budget determination,

and preparation of the procurement plan, nor was a correlation between the approved budget and the procurement plan ensured. Thus, 87 budgetary institutions, according to the specified budget, had planned procurements in the amount of 640.48 million lei and 602.32 million lei, respectively. Of these, only 25 entities developed procurement plans for 2020. These plans amounted to 61.18 million lei, or 10.2% of the specified procurements. Also, out of 106 self-managed institutions active under the MECC, only 29 entities elaborated procurement plans for 2020 amounting to 108.3 million lei out of the total procurement of about 654.7 million lei.

The Court of Auditors pointed out that the entities subordinated to the MECC did not ensure the organization and proper fulfillment of the roles of the working groups in public procurement. Members' roles were not clearly estab-



lished, the MECC did not comply with regulations when drafting the procurement file, and did not provide the relevant economic and financial arguments for the chosen solutions aimed for in the procurement. (For example, the “Moldova-Concert” Concert and Booking Organization; Special boarding school for blind and partially sighted children in Bălți).

Poor planning of public procurement allowed for deficiencies admitted at the stage of selection and awarding of procurement contracts, and also allowed the division of procurement. For example, the procedure for purchasing textbooks (39.74 million lei) unjustifiably combines the procurement of the “copyright on textbooks” and the procurement of “printing services,” which generates deficiencies in the correct determination of the estimated purchase value and criteria for determining the winner. Thus, in case of the need to republish a textbook, MECC carries out the procurement through direct negotiations without the winning economic operator’ publication of the initial tender, which led to an increase in the value of the textbooks by 8.4 million lei. In another case, the purchase of liquid hand sanitizer (28.9 million lei), necessary for the prevention and control of COVID-19 infection, was conducted by stipulating unmotivated requirements, which led to limited competition and the purchase of disinfectant at prices increased by at least 7.2 million lei.

In the process of awarding public procurement contracts, the contracting authorities admitted to non-compliances, which affected the legality and efficiency of the procurement, such as:

- THE PURCHASE OF COAL worth 1.3 million lei by the Special Boarding School for Blind and Partially Sighted Children from Bălți municipality during the last five years was procured from a single supplier;
- THE PREMATURE ALLOCATION of the means for the purchase of armchairs and awnings

by the „B.P. Hasdeu” Theater in the city of Cahul was worth 1.3 million lei, but the construction of the theater building has not been completed;



- UNJUSTIFIED CANCELLATION of the procurement of the supplies for the capital repair of the toilets from the State University “Bogdan Petriceicu Hașdeu” amounting to 734.3 thousand lei (excluding VAT) and, similarly, of the procurement of the installation of fire signaling systems and of the lightning rod worth 802.59 thousand lei (excluding VAT).

In conclusion, the Court of Accounts noted that the audit of public procurement conducted in 2020 by the MECC and about 200 subordinate institutions reveals non-conformities in the estimation and planning of procurement, as well as at the stages of awarding, executing, and monitoring contracts. These entities neglected to ensure the transparency of public procurement. At the stages of tender evaluation and of awarding the procurement contracts, the public procurement process was affected by a number of non-compliances, conditioned by the lack of impartiality and objectivity in the activity of the tender evaluation working group. These aspects related to the work of the institutions in the field of public procurement need to be improved in order to increase the transparency and efficiency of the use of public funds.

Source: [www.ccrm.md](http://www.ccrm.md)