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# ORGANIZATION AND REPORTING PRACTICES FOR SMALL-VALUE PUBLIC PROCUREMENT DURING THE PERIOD JULY 2023 - JUNE 2024.

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*AO "Parents in Solidarity"*

project "Strengthening integrity in public procurement". The project is implemented by the Institute for Development and Social Initiatives (IDIS) "Viitorul", in partnership with the Transparency Partnership Fund (PTF). The project aims to support public procurement reforms in Moldova that will increase transparency and fairness in public procurement by empowering citizens to hold relevant institutions accountable.



# INTRODUCTION

- are considered low-value procurements, but involve impressive amounts of public money. According to the [Analytical Synthesis of Audit Findings on public procurement between 2020 and 2021](#), the Court of Auditors estimates the value of small-value purchases in 2020 at around **RON 9 billion**, up by RON 1.5 billion compared to 2019. This value is almost equal to the total budget for the same period for the public procurement in the Republic of Moldova (which does not include low-value purchases).
- The Court of Auditors specified that, although small value public procurement **practically equaled the value of competitive public procurement procedures**, in period analyzed, most of the authorities **did not ensure the conduct of low-value public procurement procedures through the MTender "RSAP" CIS and did not report them to the Public Procurement Agency.**

## Legal framework for low-value public procurement

- **Law no. 131/2015** was the starting point in the regulation of procurement public procurement. It entered into force on May 1, 2016 and applies to contracts public procurement whose estimated value, excluding VAT, was equal to or higher than the following thresholds (excluding VAT):
  - a) for public procurement contracts for goods and services - **80 000 lei**;
  - b) for public works contracts - **100 000 lei**.
- For contracts below these thresholds, the secondary legislative framework - **The regulation on low-value public procurement** was approved eleven months later, by GD no.665 of 27.05.2016.
- The legal and regulatory framework did not contain any provision on obligations **publication in the public domain** of information on low-value procurement realized.

## Legal framework on small value purchases in the period 2015 - 2023

- **A new regulation**, approved on 14.12.2022, entered into force on 01.07.2023;
- **Increased thresholds** for small value purchases  
Reasoned by high inflation and the need for flexibility.
- The new thresholds are:
  - **300 000 lei** for goods and services,
  - **375 000 lei** for works.

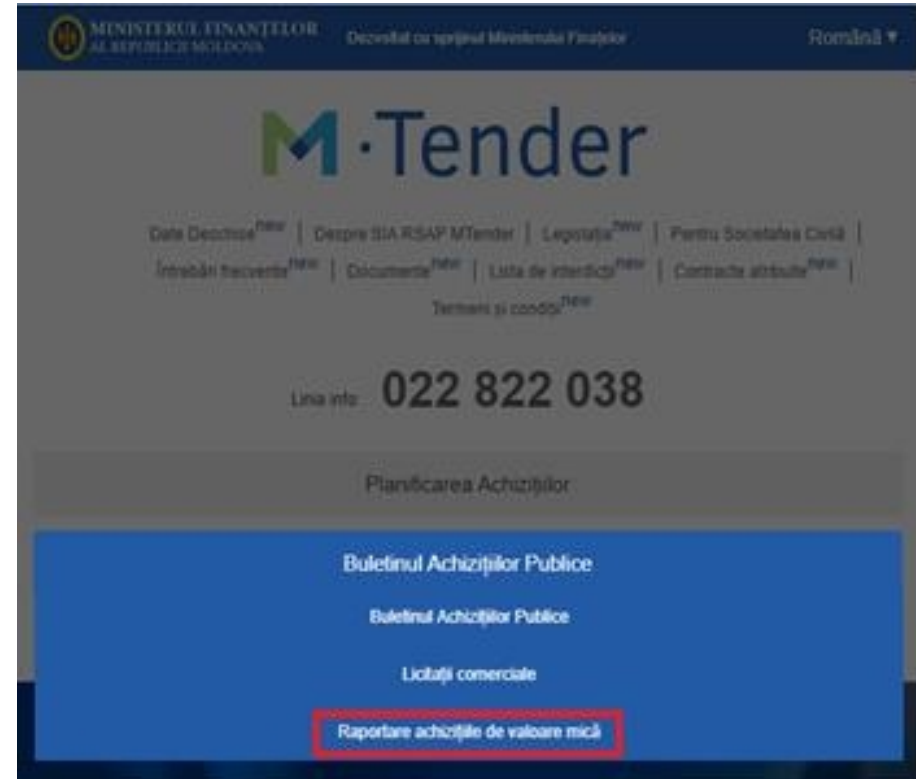
Modalitate de achiziționare	Obiectul achiziției	Prag fără TVA
Factură de plată	Bunuri	< 50 000 lei
	Servicii	
	Lucrări	
Contract direct	Bunuri	< 150 000 lei
	Servicii	< 200 000 lei
	Lucrări	
	Servicii anexa 2 din Legea 131/2015	< 300 000 lei
Atribuirea prin intermediul SIA "RSAP"	Bunuri	< 300 000 lei
	Servicii	
	Lucrări	< 375 000 lei
	Servicii anexa 2 din Legea 131/2015	< 600 000 lei

## **II. Reporting low-value purchases under the conditions of the new Regulation**

## II. Reporting low value purchases under the conditions of the new Regulation

- **Regulation 870/2022** introduced measures which partially increase the transparency of low-value public procurement by establishing a new mechanism for the reporting of low-value public procurement: *quarterly, by the 15th of the following month, in the automated information system "State Register of Public Procurement", the data being available for viewing by all interested persons;*
- for purchases on the basis of the payment invoice and direct contracts, in the "RSAP" CIS a **new box has been created** where This information has been placed in the main menu - Public Procurement Bulletin - *Reporting of value purchases.*

*small*



## II. Reporting low value purchases under the conditions new Regulation

- On a practical level, the necessary prerequisites for reporting (technical functionalities, instructions for carrying out the reporting process and training of responsible staff) were launched with a delay of about 3 months from the date of entry into force of the new Regulation, and became available with less than two weeks until the first reporting deadline (October 15, 2023).
- Technical reporting tool for low-value procurement (payment invoice and direct contract) involve filling in forms Very voluminous digital - **over 50 data fields**.
- Requirement **to** complete data largely **manually** and most fields are mandatory to complete.



## III. Analysis of the problem

## Issues and risks identified by the Court of Auditors in 2021

- The regulatory framework applicable to low-value procurement is ambiguous and incomplete, facilitates non-transparent and inefficient use of public money and does not allow monitoring of public procurement as a whole;
- *Non-reporting of low-value procurement;*
- **Lack of transparency in low-value procurement;**
- *Lack of effective sanctions and accountability for violations of public procurement legislation;*
- **Contracting authorities continue the practice of splitting etc.**

## Premises for the new Regulation

- The information note of the Ministry of Finance mainly invokes **the need to harmonization of the legal framework** as a prerequisite, which requires the drafting of a new  
*Regulation on low-value procurement*;
- The need to implement the actions set out in the Action Plan for implementation of the measures proposed by the European Commission in its Opinion on Moldova's application for membership of the European Union:  
"ensuring transparency in the process of initiation, conduct and award of **low-value procurement contracts**". As a monitoring indicator for this action it is specified "*Regulation on low-value public procurement has entered into*

## Premises for the new Regulation *force*".

## Action plan for the implementation of the measures proposed by the European Commission

7.	Finalizarea reformei gestionării finanțelor publice, inclusiv îmbunătățirea achizițiilor publice la toate nivelurile de guvernare	1. Asigurarea transparenței procesului de inițiere, desfășurare și atribuire a contractelor de achiziții publice de valoare mică.	Regulamentul cu privire la achizițiile publice de valoare mică a intrat în vigoare	<b>Ministerul Finanțelor</b>	Octombrie 2022
		2. Stabilirea unei proceduri de identificare a proiectelor de investiții publice eligibile și extinderea sferei de acoperire a cadrului existent de	Hotărârea Guvernului cu privire la proiectele de investiții capitale	<b>Ministerul Finanțelor</b>	Septembrie 2022

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		gestionare a investițiilor publice pentru a include proiecte implementate de bugetul de stat, proiecte cu finanțare externă și fonduri extrabugetare.	publice a intrat în vigoare		
		3. Aprobarea unei noi Strategii de dezvoltare a managementului finanțelor publice bazată pe dovezi și pe principiile bunei guvernante.	Strategia a intrat în vigoare	<b>Ministerul Finanțelor</b>	Decembrie 2022

## Issues and risks identified as a result of the monitoring of low-value procurements carried out by the 6 education directorates in the period July 2023 - June 2024

- **Through the results of the monitoring of 6 education directorates in the municipality of Chisinau, during one year after the entry into force of the new regulations on low-value procurement, we can state that, at least for part of the public authorities, the risks listed by the Court of Accounts in 2021, remained current, and the area of low-value procurement is facing the same problems as 3-4 years ago.**
- Monitoring results indicate that practices with high fraud risks may be widely used by contracting authorities

➤ **Excessive use of low-value purchases on the basis of the payment invoice or direct contract**

On the monitoring period, the 6 directorates of education have carried out **1437** value procurement procedures of small value. The total value of **859,18** thousand lei. Out of **81** of these, only **21** procedures (constituting 1.5%) were carried out through the MTender platform, the value of these procedures amounted to **2 852.64** thousand lei.

	DGETS	DETS Botanica	DETS Buiucani	DETS Center	DETS Ciocana	DETS Râșcani
<b>TOTAL Low value purchases</b>						
Number of procedures	<b>162</b>	<b>80</b>	<b>127</b>	<b>487</b>	<b>150</b>	<b>431</b>
Estimated value, thousand lei excluding VAT	<b>14785,96</b>	<b>11769,76</b>	<b>9267,78</b>	<b>30347,75</b>	<b>5229,35</b>	<b>8365,93</b>
<b>AVM invoice payment and direct contract modality</b>						
Number of procedures	159	69	124	487	147	430
Share of procedures in total AVMs, %	98,15 %	86,25 %	97,64 %	100 %	98,00 %	99,77 %
Estimated value, thousand lei excluding VAT	14025,96	10500,07	8987,11	30347,75	4972,07	8080,93
Share of estimated value in total AVM, %	94,86 %	89,21 %	96,97 %	100 %	95,08 %	96,59 %
<b>AVM published in MTender</b>						
Number of procedures	<b>3</b>	<b>11</b>	<b>3</b>	<b>0</b>	<b>3</b>	<b>1</b>
Share of procedures in total AVMs, %	1,85 %	13,75 %	2,36 %	0 %	2,00 %	0,23 %
Estimated value, thousand lei excluding VAT	760,00	1269,69	280,67	0	257,28	285,00
Share of estimated value in total AVM, %	5,14 %	10,79 %	3,03 %	0 %	4,92 %	3,41 %

➤ **Deficiencies in planning procurement by value small.**

In the case of the 6 contracting authorities mentioned above, these shortcomings are manifested by the high fragmentation of procurements, thus about **40%** of the total number of low-value purchases made by invoice or direct contract have values up to 5000 lei (excluding VAT). There are cases of separate procurements of goods with a value of up to 100 lei, and even with a value of less than **10 lei**.

➤ **Split procurement**

➤ **Favoritism and lack of transparency**

Large procurements **are split** into several smaller contracts to avoid carrying out another procurement procedure than the one, which would have been used. As an example, in the second semester of 2023, **DETS Centru** concluded **8 direct contracts** for a total amount of more than **1.7 million lei** (including VAT) for repair works within the same educational institution.



➤ **Non-reporting or reporting of incomplete purchases of low value**

This risk arises due to the **lack of effective tools monitoring and control tools**, which would aim to hold contracting authorities accountable and avoid cases of non-compliance with the legal and regulatory framework on procurement of low value.

Currently, after one year of implementation of the new Regulation, **there are still authorities that have not yet reported any low-value procurement procedure** carried out by invoice or direct contract.

No d/o	Authority Contracting Authority	IDNO	Number of low value purchases reported 01.07.2023 - 04.09.2024
1	Chisinau City Hall	1007601009484	0
2	Budești Village Hall	1007601008384	309
3	Vadul lui Voda City Hall	1007601010194	50
4	Vatra City Hall	1007601009554	177
5	Durlești City Hall	1007601009679	0
6	Codru City Hall	1007601010482	110
7	City Hall or. Cricova	1007601010183	110
8	Sîngera Town Hall	1007601010596	199
9	Trușeni Town Hall	1007601007398	304
10	Town hall com.Tohatin	1007601007815	2
11	Grătiești Town Hall	1007601010219	30
12	Bubuieci Town Hall	1007601010459	300
13	Stăuceni Town Hall	1007601009990	302
14	Cruzești Town Hall	1007601009392	136
15	Town hall com.Ciorescu	1007601010437	60
16	Town hall com.Băcioi	1007601010220	0
17	Town Hall village of Ghidighici	1007601009680	553
18	Condrița village town hall	1007601007826	0
19	Colonița village Town Hall	1007601006689	0

## ➤ Lack of sanctions, which can effectively hold authorities accountable in cases of violations of the low-value procurement legislation

*Art. 73 of the Regulation on Low Value Procurement (GD 870/2022) stipulates the following: 'Violation of the provisions of this Regulation shall entail disciplinary, civil, contravention and criminal liability in accordance with the law'.*

However, with the adoption of the new conditions for the realization and reporting of low-value purchases, **the regulatory framework for** the qualification of offenses resulting from the non-compliance with the provisions of the Regulation **has not been properly adjusted.**

This fact creates uncertainty in the work of other state bodies with the function of the State Procurement Enforcement Officer and, at the same time, this situation has the potential to encourage non-compliance with the adopted Regulation.

## ➤ Lack of automated data extraction and analysis tools from the MTender system

Even though as of 1 July 2023 contracting authorities report through the MTender platform low-value purchases made by payment invoice or direct contracts, more than one year after the entry into force of the new legal provisions, **a technical solution for extracting** systematized information on reported low-value purchases from **the MTender system is not developed and implemented.**

This constitutes a considerable impediment in monitoring activities, as monitors of small value purchases have to **extract the information manually** by accessing each reported procedure separately, which requires considerable time and human resources.

## IV. Recommendations

# Recommendations

## **Recommendation 1. Improve framework and on public procurement completing**

It is recommended to review and complete the legislation to remove ambiguities and wording, which may be open to interpretation. These would include

- **introduction of a minimum threshold** (e.g. 10000 lei) for purchases to be reported;
  - **the obligation to publish contracts in full** would be a measure, which will increase transparency, in particular for works procurement;
  - **making it compulsory for the contract to enter into force from the date of its publication in the CIS**
- "RSAP" MTender;**
- **a clear definition of the notion of split contracts**, including the establishment of

# Recommendations

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quantitative indicators, which will simplify the identification and deterrence of such cases, but but and contribute to accountability contracting authorities

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# Recommendations

## **Recommendation 2: Simplification and digitize reporting processes**

In order to reduce errors and administrative burden, low dollar value procurement reporting procedures should be streamlined and digitized, including integration with other state IT systems such as **eInvoice** and the **State Registry of Units of Law**, will reduce manual workload and the risk of human error. Implementing an automated data reporting and validation system will ensure more efficient monitoring and discourage erroneous data entry.

# Recommendations

## *Recommendation 3. Develop and implement the application for automated extraction of low-value procurement data*

Develop and implement the digital application for **the automated extraction of data on low-value procurement**, a tool that will allow both control authorities and civil society to effectively analyze how low-value procurement is carried out.



# Recommendations

***Recommendation 4. Develop and implement mechanisms to identify risk situations in the process of carrying out and reporting on low-value procurement***

The development of **systematic monitoring** tools for **low-value procurement** is **essential to detect irregularities in a timely manner**.

An automated monitoring system, providing an overview of all purchases and flagging possible contract splitting or exceeding legal thresholds, will allow rapid intervention by control authorities.

# Recommendations

## ***Recommendation 5. Complement the legal framework with effective sanctions***

As the current legal framework does not currently provide for administrative sanctions for non-compliance with the requirements for carrying out and reporting low-value purchases.

In order to have instruments to make contracting authorities accountable, it is necessary to complete the legislative framework with clear and effective sanctions for contracting authorities that do not comply with the legal provisions or that admit situations of division, favoring certain companies, etc.

These measures will discourage non-compliant practices and ensure better accountability of those involved.

# Recommendations

## ***Recommendation 6. Intensify GPA activities on issues related to Improving and monitoring the low-value procurement process***

- Compliance monitoring of low-value public procurement,
- statistical analysis,
- consultation and training of contracting authorities.



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# Thank you for your attention!