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# GUIDE

## MONITORING OF PUBLIC PROCUREMENT: practical tool for civil society and investigative journalists

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The guide is a product of the project "[Strengthening Integrity in Public Procurement](#)". The project is implemented by the Institute for Development and Social Initiatives (IDIS) "Viitorul", in collaboration with the Partnership for Transparency (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.

The views reflected in this Guide are those of the authors and do not necessarily reflect the views of the Partnership for Transparency (PTF).



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# Contents

<b>ACRONYMS</b>	<b>4</b>
<b>1. INTRODUCTION</b>	<b>5</b>
<b>2. REGULATORY AND INSTITUTIONAL FRAMEWORK FOR PUBLIC PROCUREMENT</b>	<b>7</b>
2.1. Regulatory framework	7
2.2. Institutional framework	8
<b>3. CIVIC MONITORING OF PUBLIC PROCUREMENT</b>	<b>10</b>
3.1. Role of monitors	10
3.2. Selecting procurement for monitoring	11
<b>4. THE 'RED FLAGS' TOOL IN PUBLIC/SECTOR PROCUREMENT MONITORING</b>	<b>14</b>
4.1. The planning and tender documentation phase	15
4.2. Stage of launching the procurement procedure, submission and opening of tenders	24
4.3. Tender evaluation and contract award stage	32
4.4. Contract implementation and monitoring phase	37
<b>5. DATA SOURCES AND MONITORING TOOLS</b>	<b>42</b>
5.1. The electronic procurement system <a href="#">SIA RSAP MTender</a> and its platforms	42
5.2. Public Procurement Agency website - <a href="http://www.tender.gov.md">www.tender.gov.md</a>	44
5.3. Website of the National Agency for Dispute Resolution	45
5.4. <a href="#">Pulsachachizitii.md</a> platform	46
5.5. <a href="#">Revizia.md</a> platform	47
5.6. <a href="#">Open Money</a> Platform	48
5.7. Integrity Pacts	49

# Acronyms

<b>AAP</b>	Public Procurement Agency
<b>AC</b>	Contracting Authority
<b>APL</b>	Local Public Authority
<b>ANI</b>	National Integrity Authority
<b>ANSC</b>	National Agency for the Settlement of Complaints
<b>AVM</b>	Low-value purchases
<b>BAP</b>	Public Procurement Bulletin
<b>CAPCS</b>	Centre for Centralized Public Procurement in Health
<b>CNA</b>	National Anti-Corruption Center
<b>COP</b>	Request for Quotation
<b>CPV</b>	Common Procurement Vocabulary
<b>DUAE</b>	Single European Procurement Document
<b>HG</b>	Government Decision
<b>IDNO</b>	State Identification Number
<b>SME</b>	Small and Medium Enterprises
<b>OJEU</b>	Official Journal of the European Union
<b>OECD</b>	Organization for Economic Cooperation and Development
<b>EO</b>	Economic Operator
<b>CSO</b>	Civil Society Organizations
<b>GDP</b>	Gross Domestic Product
<b>SIA SIAHS</b>	Automated Information System "State Register of Public Procurement"
<b>SIGMA</b>	Project implemented by OECD "Support for Improved Governance and Management in Central and Eastern European Countries"
<b>EU</b>	European Union

# 1. Introduction

The efficient use of public money, transparency, competition and the fight against anti-competitive practices, the protection of the environment and the promotion of sustainable development are the principles underpinning the public procurement process. Monitoring the transparency and legality of public procurement makes public authorities accountable and thus contributes to the efficient use of public money.

A public procurement is the acquisition, through a public procurement contract, of goods, works or services by one or more contracting authorities from economic operators selected by them, regardless of whether the goods, works or services are intended or not for a public purpose (Art. 1 of Law No. 131/2015 on Public Procurement). The contracting authority is any public authority (at central or local level) or legal person under public law and association of such authorities or persons.

A significant volume of public budgetary resources flows annually through the public procurement system in the Republic of Moldova. According to statistical data, **in 2023, public authorities procured goods, supplies and services worth about 12.36 billion lei**, which represents **4.1% of GDP**<sup>1</sup>. In total, during 2023, the country's public authorities concluded **32,165 procurement contracts as a result of 6,499 public procurement procedures** (the data exclude contracts for small will-supply below the thresholds regulated by Law no. 131/2015). Compared to the national public budget expenditure, the share of public procurement constitutes about 12%. For comparison, in OECD member countries, public procurement accounts for about 12% of GDP and 29% of public expenditure.<sup>2</sup> At the EU level, public procurement accounts on average for 16% of EU GDP, varying from country to country.

In the Republic of Moldova, public procurement remains an area vulnerable to fraud and corruption, which enhances the role of civil society in overseeing the procurement process. Limited transparency, inconsistent legal framework, lack of control and lack of qualified specialists in the field are major problems of the public procurement system. All these have a negative impact on the development of social and economic infrastructure, the quality of public services, as well as on the trust of citizens and business in state institutions.

Although progress has been made in the area of transparency in recent years, with easier access to procurement documents, tenders and appeals, the contract execution stage remains the most non-transparent. The introduction of the new electronic MTender system has been an important component of the public procurement sector reform and has certainly contributed to increased transparency and more active involvement of civil society in monitoring. However, the system does not ensure a fully electronic procurement process, does not allow all applicable procedures to be carried out in accordance with the law, does not ensure the secure submission of bids (encryption) and also has inconsistencies with the provisions of the legal framework.<sup>3</sup>

Civil society has an essential role in monitoring public procurement and ensuring transparency in the award and execution of procurement contracts. In cases where public authorities do not respect the principles of transparency, integrity and efficiency in the procurement process, or are even part of co-corruption schemes, civil society organizations can use the findings and corruption risks identified, both to refer the matter to the control/law enforcement bodies and to mobilize citizens to hold the government more accountable.

1 [Report on public procurement activity in the period 2023, Public Procurement Agency](#)

2 [OECD: The value of public procurement](#)

3 [POLICY ANALYSIS: Constraints in the use of the MTender e-procurement system](#)

Therefore, it is civil society that, by monitoring how public money is used, can make an important contribution to good governance and to developing bridges between society and government at all levels.

This guide has been designed and continually updated to assist civil society organizations, civic advocates and journalists in monitoring public procurement at any level and in any sector. The Guide is based on the Transparency International US - Civil Society Procurement Monitoring Tool<sup>4</sup>. This is a widely used international monitoring tool based on the identification of "red flags" at each stage of the procurement process. Red flags are signals or indicators of possible irregularities, fraud or corruption. However, a red flag does not necessarily indicate illegality or corruption, but rather a possibility that it may exist. Sometimes, a red flag may indicate human or technical error without malice.

The logical structure of the guide first allows you to understand how the system works.

procurement (legal and institutional framework, stages of the procurement process, accessing and analyzing available data, etc.) and, subsequently, the selection of procurement for monitoring together with the monitoring tools. Finally, the guide provides step-by-step instructions for the process of identifying risk indicators (red flags) at each stage of the procurement process. The authors also formulate post-monitoring recommendations, including advocacy actions, referrals to competent bodies, coalitions with other civil society actors, media, etc. These actions are intended to contribute to increasing transparency, ensuring efficiency in the use of public money, sanctioning those responsible for illegalities, and accountability of public authorities.

This guide is developed within the project "Strengthening integrity in public procurement". The project is implemented by the Institute for Development and Social Initiatives (IDIS) "Viitorul", in collaboration with the Partnership for Transparency (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.

<sup>4</sup> [Coalition for Integrity: Publications](#)



## 2. Regulatory and institutional framework in public procurement

### 2.1 Regulatory framework

The public procurement system in the Republic of Moldova is regulated by laws, Government Decisions, orders of the Ministry of Finance and the Public Procurement Agency. The basic normative act regulating the public procurement system in the Republic of Moldova is [the Law No.131 of 03.07.2015](#) which regulates procurement above the thresholds of 300,000 lei for goods/services and 375,000 lei for works. In order to implement the provisions of the public procurement legislation, there are a number of secondary regulations, included in Government Decisions, Orders of the Ministry of Finance and Orders of the Public Procurement Agency, which can be found on the website [www.tender.gov.md](http://www.tender.gov.md)

Mode of Procurement	Applicable regulations	Subject of the procurement	Threshold excluding VAT
AVM, by payment invoice	HG No 870/2022	Goods	< 50 000 lei
		Services	
		Works	
AVM, by direct contracting	HG No 870/2022	Goods	< 150 000 lei
		Services	
		Works	< 200 000 lei
AVM, through publication in SIA "RSAP"	GD no 870/2022	Goods/services	< 300 000 lei
		Works	< 375 000 lei
Classical public procurement	Law no. 131/2015	Goods, services	> 300 000 lei
		Works	> 375 000 lei

And, procurement contracts in the energy, water, transport and postal services sectors are regulated by [Law no. 74/2020](#). The application of this law is carried out according to the Methodological Norms approved by [GD no. 464/2022](#), which establish the manner of awarding sectoral procurement contracts and framework agreements in these areas.

In the period 2022-2025, the regulatory framework in the field of public procurement was supplemented by [Government Decision No. 870/2022](#) on low-value procurement. This regulation brought clarity on the value thresholds and procedures applicable to smaller procurements, a segment often marked by a lack of transparency and increased risks of fraud. As a consequence, monitoring low-value procurement is becoming an important priority for civil society organizations, journalists and concerned citizens.

The public procurement system is also regulated by other laws and regulations subordinated to the law, in particular we note the regulations for public works procurement, including regulations and codes of practice in construction. All laws, normative acts and legislative novelties in the field of public and sectoral procurement are available on [tender.gov.md](http://tender.gov.md).

## 22 Institutional framework

The institutional system comprises all the institutions designed to ensure the implementation of the regulatory framework in the field of public procurement, monitoring and increasing the efficiency of public procurement procedures. In this respect, we list the institutions with direct attributions in the field of public procurement and institutions with related attributions in the field of public procurement.

Institutions directly responsible for procurement	Institutions with procurement-related tasks
Ministry of Finance	<b>Competition Council</b>
Public Procurement Agency	<b>Court of Accounts</b>
National Agency for Dispute Settlement	<b>State Financial Control Inspectorate</b>
Regional Treasuries	<b>National Integrity Authority</b>
	<b>National Anti-Corruption Center</b>

### MINISTRY OF FINANCE

Specialized body of the central public administration, which ensures the regulation of the state policy in the field of public procurement by elaborating and promoting the legislative and normative framework. Tasks of the Ministry of Finance in the field of public procurement:

- drafting procurement regulations;
- monitoring the implementation of procurement regulations;
- monitoring the activity of the subordinated public authorities and services, which are responsible for public procurement (Public Procurement Agency, Regional Treasuries, State Financial Control Inspectorate).

### PROCUREMENT AGENCY PUBLIC

an administrative authority subordinated to the Ministry of Finance, established for the purpose of strengthening the capacities of contracting authorities and developing the business environment's skills in the field of public procurement, monitoring the compliance of public procurement procedures and analyzing the public procurement system.

The basic tasks of the Public Procurement Agency according to art. 10 of [Law no.131/2015](#) (detailed in [Government Decision no.67/2024](#) for the approval of the Regulation on the organization and functioning of the Public Procurement Agency):

- Drafts and submits to the Ministry of Finance proposals for amendments and additions to the public procurement legislation;
- draws up, updates and maintains the Prohibition List of economic operators;
- monitors the compliance of public procurement procedures and analyzes the public procurement system;
- c<sup>1</sup>) exercise control over the compliance with the incompatibilities regime of economic operators set out in Article 16 para. (6);



- d) provides methodological assistance and advice and organizes training seminars in the field of public procurement;
- e) design, develop and implement mechanisms for the certification of persons within contracting authorities and procurement service providers responsible for the organization and conduct of public procurement procedures and the award of public procurement contracts;
- f) publishes the Procurement Bulletin;
- g) maintains the official website on public procurement of the Republic of Moldova;
- h) elaborates quarterly and annual statistical analysis on public procurement;
- i) requests and obtains from the competent bodies any information necessary for the exercise of its tasks;
- j) organizes awareness campaigns on public procurement;
- k) issue annual reports based on the analysis of the economy, efficiency and effectiveness of the public procurement system;
- l) cooperates with international institutions and similar agencies in other countries in the field of public procurement.

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**NATIONAL AGENCY FOR  
THE SETTLEMENT OF  
COMPLAINTS (ANSC)**

Public authority autonomous and independent from other public authorities, natural and legal persons, which examines appeals lodged in the framework of public and sectoral procurement procedures.

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**REGIONAL  
TREASURIES**

subdivisions of the State Treasury Directorate within the central apparatus of the Ministry of Finance, which ensure the record of the cash execution of the national public budget and its components and the registration of public procurement contracts.

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**COMPETITION  
COUNCIL**

an autonomous public authority, accountable to Parliament, which ensures compliance with competition legislation by preventing anti-competitive practices, eliminating competition infringements, promoting and increasing competition culture.

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**THE COURT OF AUDITORS**

The supreme audit institution of the Republic of Moldova, which exercises control over the formation, administration and use of public financial resources and public assets by carrying out external public audits.

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**STATE FINANCIAL  
CONTROL  
INSPECTORATE (ICFS)**

an administrative authority subordinated to the Ministry of Finance, whose mission is to ensure the efficiency of public finances by exercising, in accordance with the fundamental principles, budgetary supervision and control over the processes of management of national public budget resources and public assets, to exercise the function of national controller of European funds, as well as to assist and cooperate in order to protect the financial interests of the European Union against fraud and other misconduct.

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**NATIONAL ANTI-  
CORRUPTION CENTER  
(NAC)**

body specialized in preventing and combating corruption, acts related to corruption and acts of corrupt behaviour (including those in the public procurement process)

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**NATIONAL  
INTEGRITY  
AUTHORITY (ANI)**

independent public authority that ensures integrity in the exercise of public office or public dignity and the prevention of corruption by carrying out checks on assets and personal interests and on compliance with the legal regime of conflicts of interest, incompatibilities and restrictions.

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# 3. Civic monitoring of public procurement

## 3.1. Role of monitors

Monitoring the use of public money, including the use of public procurement by civil society, involves a number of challenges. The procurement process has become more transparent in recent years, which has facilitated the work of monitors. However, the limited transparency at certain stages of the procurement process (in particular contracting), the lack of a single source of data on the procurement process and the non-respect of legal transparency requirements by some authorities are the main barriers for monitors. Even in these circumstances, the impact that monitoring findings and results can have can be considerable.

"Red flags" are not always indications of corruption, but they can be signs of mismanagement, lack of knowledge and skills of working group members, etc.

Investigative monitors/journalists are neither auditors, nor do they have the power or authority to enforce and apply the law, but they have an important role to play in increasing the efficiency of public procurement and sanctioning corrupt actors. First, public procurement monitoring has a major effect on raising awareness in society about the irresponsibility of authorities in the use of public money, as well as alerting the public to concrete cases of corruption and embezzlement of public funds. Secondly, the monitors play an important role in making public authorities accountable and improving their procurement processes through their findings and recommendations for the elimination of shortcomings. And thirdly, monitors can contribute to the sanctioning of corrupt actors by bringing to the attention of control, audit and law enforcement bodies the investigation and holding accountable those responsible for corruption and fraud.

Efforts by civil society to monitor public procurement and journalists to investigate cases of fraud and corruption can contribute to:

- Increase transparency and reduce/prevent corruption risks;
- making public authorities accountable by ensuring compliance with the law in the procurement of goods, services and works with public money;

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- generating trust and ownership of reforms by public sector managers/governments committed to transparent procurement and efficient use of public money;
- publicizing cases of corruption, conflicts of interest, illegalities and frauds detected in the monitoring process, which generates social prejudices against corruption;
- Identifying and sanctioning corrupt actors, those who have committed illegalities and damaged the public budget by corrupting the procurement process, as well as discouraging and preventing corruption and fraud in the future;
- Raising awareness and encouraging citizens to be more involved in the decision-making process, in the permanent monitoring of public authorities and how they spend public money;
- providing opportunities for civil society, including citizens, to become actively involved in the development of programs and initiatives that contribute to increasing the transparency and efficiency of the public sector, including the budgetary process, public procurement, etc.
- building bridges between government, civil society and the private sector to strengthen good governance.

#### In conclusion

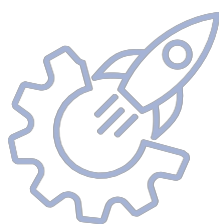
It will obviously not be possible to eliminate corruption once and for all, but reducing it and preventing the risks of corruption is a goal towards which those who monitor corruption should aim public procurement.

## 3.2. Selection of procurement for monitoring

The selection of procurement to be monitored is important in view of the fact that it is impossible to monitor all procurement, which is very large in volume and number. Annually, the more than 3000 contracting authorities and entities carry out thousands of procurement procedures (6,499 procurement procedures in 2023) and award thousands of procurement contracts (32,165 procurement contracts in 2023). Therefore, monitoring the quality and efficiency of all public procurement is a practically impossible task. It is important for monitors to be aware of the need to select specific procurement procedures, contracting authorities, regions or sectors for procurement monitoring.

Monitoring can take different forms, depending on the priorities and capacities of the monitors. The simplest and most accessible method is observation, so that any citizen can observe whether a good has been procured, whether a public work has been performed qualitatively or non-qualitatively, fully or partially. For example, citizens/beneficiaries of purchases can observe whether furniture has been procured for a school in the quantity foreseen, whether food has been provided in pre-school establishments, whether medicines have been made available according to patients' needs or whether a stretch of local road has been built.





To be effective and successful, the monitoring of public procurement should be systematic (not one-time) and focused on the long term, as follows:

- **Organization.** It is essential to decide in advance which sectors and procurement to monitor. Some may even decide to specialize on a particular stage of the procurement, rather than the whole process.
- **Preparation.** Monitors cannot improvise, they need to know what to do, where, when, what to look for, what to expect and what to do with the results.
- **Accountability and impartiality.** Not every problem is an act of corruption; sometimes it is just a case of inexperience on the part of the contracting authorities.
- **Adequate resources.** Make sure the organization has the right number of people, skills, knowledge, time and funding. If you are an investigative journalist, you will need access to a team that has these resources.
- **Compliance with ethical standards.** Monitors must behave fairly, impartially and responsibly at all stages of their work, ensuring the integrity of the monitoring process and avoiding conflicts of interest.

#### Also

In the monitoring process, monitors are recommended to set targets clear and appropriate procedures to ensure that the time and resources allocated are maximized and that the results, including data, analysis and monitoring reports are credible. Equally, assumptions, blaming of specific individuals and/or general which are not based on data and facts.

Effective monitoring, with visible results, involves following the procurement process from planning through to contract execution, interacting with contracting authorities, and taking action to rectify identified problems. Thus, among the most common methods applied in the monitoring process are: in-depth analysis of information and documents at each stage of the procurement process and their compliance with the legal framework; analysis of various data sources; comparison of the quality/quantity of goods/services/works executed with the contractual provisions. And, throughout the monitoring process, red flag tools will be used.

The following **criteria for selecting the procurement procedure, authority or sector to be monitored** can be used to streamline monitoring activities:

- focus on high value procurement and contracts;
- complexity of the procurement process;
- the transparency of certain procurement procedures (e.g. low-value procurement, which in some cases can account for as much as 70% of an authority's total procurement, especially in the case of local public authorities);
- sectors of the economy which are vulnerable to illegality and co-rruption schemes;
- sectors with the highest procurement volumes (health, education, infrastructure, etc.);

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- contracting authorities with the largest procurement volumes, proven to be the least transparent in the procurement process or which have previously admitted to violations, either according to Court of Auditors audit reports, previous civil society monitoring reports or journalistic investigations);
- the goods, services or works with the highest share in the total volume of public procurement (construction works, road repair works, medicines and medical devices, etc.);
- according to the field of activity and expertise capacities of the civil society organization/journalist (e.g. organizations with expertise in education may monitor procurement in educational institutions or organizations with expertise in health may monitor procurement in health, such as procurement by CAPCS);
- by regions or administrative-territorial units (local organizations are closer to local realities and can monitor all or part of the contracting authorities in the locality/region in which they operate - city hall, local councils, district hospitals, other educational institutions, other public institutions).

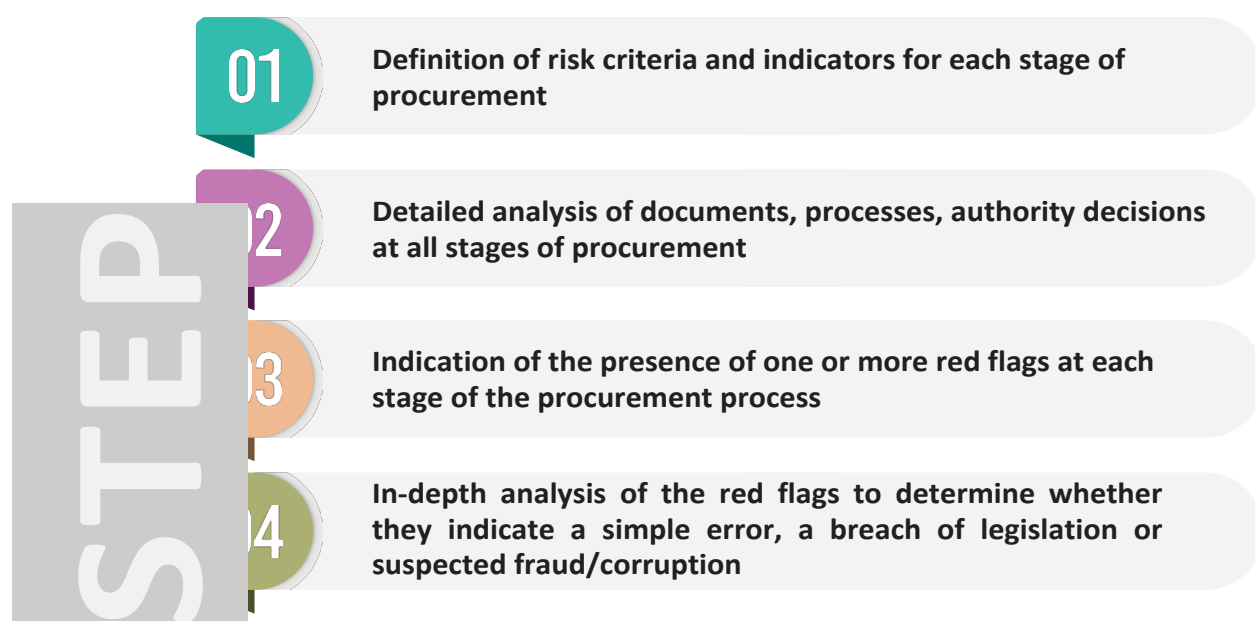
### Practical checklist for selecting purchases:

Criteria	Yes / No	Comments
Is the value of the procurement significant?		
Does the procurement concern an area of major public interest?		
Does the procedure involve several stages or complex issues?		
Does the contracting authority have a history of problems, cases/submissions of corruption/fraud?		
Is there a lack of transparency in the procurement process?		
Is it a high-risk procurement?		
Was the procedure carried out on an emergency or exception basis?		

## 4. The 'Red Flags' tool in monitoring public/sectoral procurement

The monitoring methodology is based on a tool developed by Transparency International USA - Civil Society Procurement Monitoring Tool. It is a monitoring tool widely used internationally and is based on identifying "red flags" at each stage of the procurement process. Red flags are signals or indicators of possible irregularities, fraud or corruption.

### How does the Red Flags tool work?



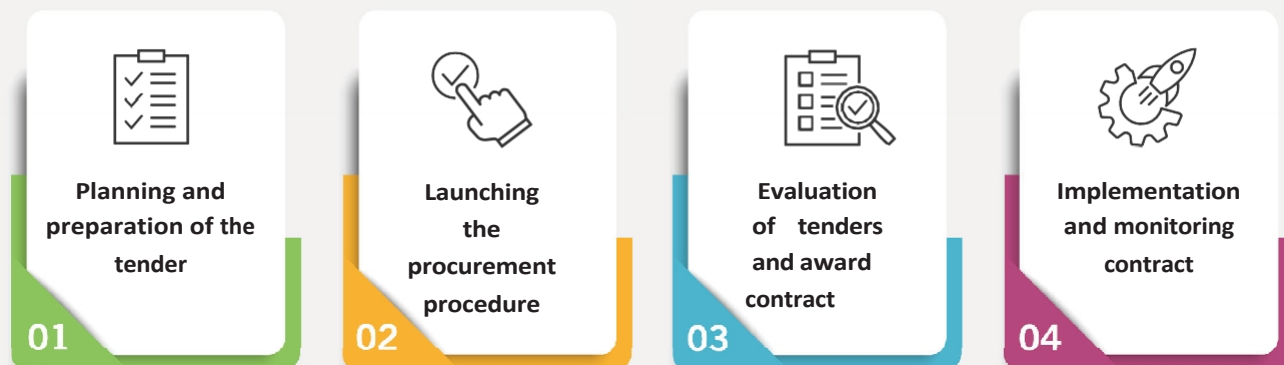
In addition, it is important to emphasize that the identification of a red flag does not necessarily indicate the existence of a non-regulation or act of corruption, but rather a possibility that it may exist. Sometimes a red flag may be the result of human or technical error without malice and not a signal of corruption. It is therefore important for monitors to be aware not only of the methods for identifying red flags, but also of the steps they can take to analyze them thoroughly, including notifying the bodies responsible for supervision and control in the field of public procurement, those responsible for investigating anti-competitive practices, conflicts of interest, corruption, etc.



The public procurement process is a complex one and is carried out through a succession of stages and sub-stages, as a result of which a public authority obtains the necessary goods, services or works following the award of a procurement contract to an economic operator. Detailed knowledge of each stage, from the identification of needs to the delivery of the goods, services and works, is essential for an effective monitoring process.

"Red flags" are not always indications of corruption, but can be signs of mismanagement, lack of knowledge and skills of the members of the working group, etc.

**For monitoring activity, the public procurement process includes four main steps:**



## 41 PLANNING AND TENDER DOCUMENTATION PHASE

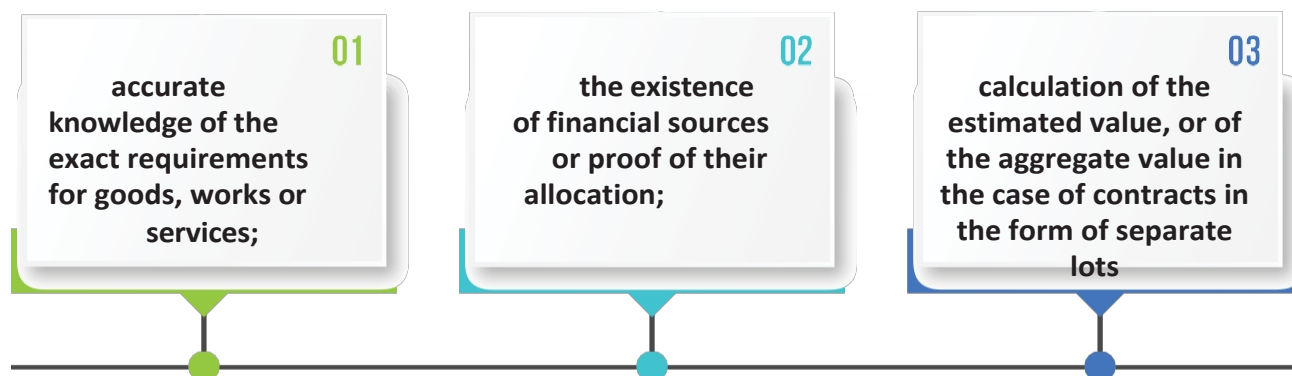


The planning and tender documentation stage is the foundation of every public or sectoral procurement procedure. Incorrect planning or poor documentation can create premises for manipulation of the procedure, favoring certain operators or inefficient use of public funds. For this reason, monitoring this stage is essential for early detection of risks and irregularities.

### ► Identification of needs

The procurement process starts with the contracting authority identifying needs, estimating costs and prioritizing them according to the financial resources available. The process continues with the drafting and publication of notices of intent and the annual procurement plan.

### Procurement planning rules:



An illustrative example of seasonal goods is food, and an example of seasonal services is air passenger transportation services.

The **planning of public supply contracts** is carried out taking into account: average market price indicators; the place of delivery of the goods; the complexity of the goods; the purpose of the purchase of the goods; the period of performance of the contracts (contracts with continuous performance or contracts with instantaneous performance, which satisfy a concrete requirement at the time, not with continuous performance - which do not involve the maintenance of guarantees).

The **planning of service procurement contracts** shall be carried out taking into account: the place of service provision; the purpose of service procurement and the period of service provision.

The **planning of public works contracts** is carried out for the whole object (construction) or by aggregation of several objects in lots, with the winner for each object/lot in part (for each construction).

In the case of the procurement of seasonal goods and services, the planning of public procurement contracts shall be carried out in accordance with the above-mentioned criteria, for each period during which the goods will be delivered or the services will be pre-supplied. Seasonal goods and services may be procured through separate (periodic) contracts, which require contracts to be concluded for a specific period of time.

#### **WARNING!**

The contracting authority shall not be entitled to split the procurement by concluding separate public-public procurement contracts for the purpose of applying a different public procurement procedure from the procedure which would have been used in accordance with the law if the procurement had not been split. The exception is the procurement of seasonal goods and services. In the case of purchases of goods, works and services to be completed over a period of more than one year, the contract may be concluded for the entire purchase, but its performance shall be subject to the annual allocations provided for these purposes and specified annually in the contract.

If it does not award the contract by lots, the contracting authority shall justify its decision not to award the contract by lots.

#### **Division into lots**

The contracting authority is entitled to award public contracts and framework agreements by lots and, in that case, to determine the size and subject-matter of the lots, provided that this information is included in the tender documents.

The contracting authority shall determine the subject-matter of each lot:

1. **on a quantitative basis**, adapting the size of individual contracts to better match the capacity of the SME, or
2. **on a qualitative basis**, in accordance with the different trades and specializations involved, to adapt the content of individual contracts more closely to the specialized sectors of small and medium-sized enterprises, or in accordance with the subsequent phases of the project.

## ► Notice of Intent

The Notice of Intent covers all public procurement contracts expected to be awarded by the end of the budget year, whose estimated value for goods and services is equal to or greater than 800,000 lei, and for works equal to or greater than 2.000.000 lei. It shall be published in the BAP no later than 30 days from the date of approval of the contracting authority's own budget. The publication of the notice of intent for purchases below the above-mentioned amounts is not mandatory.

The publication of the Notice of Intent does not bind contracting authority to carry out the public procurement in question.

## ⚠ NOTE!

In the case of public procurement with a value  $\geq 2.3$  million lei for goods/services and  $\geq 90$  million lei for works, the notice of intention shall also be published in the Official Journal of the European Union (OJEU).

## ► Annual Procurement Plan

The procurement plan covers all goods, works or services for the entire budget year, which are to be realized by concluding one or more procurement contracts, depending on the way they are planned.

The public procurement plan shall obligatorily:

- Coordinates with the public entity's budget and the authority's development strategy;
- prepare, in a first draft, before drafting the budget proposal;
- finalize after approval of the contracting authority's own budget;
- is amended or supplemented if changes occur in the budget and new financial resources are identified.

For additional allocated financial sources (modification of the financing plan, award of grants), which were not known at the time of drawing up the procurement plan, a new procurement procedure is carried out in accordance with the thresholds set by law for the application of public procurement procedures.

The contracting authority is obliged to publish on its website the provisional/annual procurement plan within 15 days of approval or within 5 days of its amendment.

Low-value procurement is also carried out on the basis of annual procurement plans. The annual procurement plan will therefore also include planned low-value contracts.

If the public procurement contract is terminated and the contracting authority needs the goods, works or services provided for in this contract, a new procurement procedure shall be carried out by deducting the balance (the undelivered, undelivered or unfulfilled volume) from the original contract and framing this procedure according to the thresholds provided by law for the application of public procurement procedures.



## WARNING!

Penalties provided by the Contravention Code (art. 327<sup>(1)</sup> "Violation of the rules for initiating and conducting public procurement procedures"): Failure to plan the public procurement or planning it in violation of the provisions of the normative acts, failure to publish the invitation to tender and the notice of intent, splitting the public procurement by concluding separate contracts in order to apply a procurement procedure other than the one that would have been used in accordance with the normative acts shall be punishable by a fine of from 15 to 60 conventional units imposed on the person in a position of responsibility.

PROCUREMENT PLANNING STAGE	
Red flags	Identification methods and actions recommended to monitors
<p><b>Inadequate planning of</b> public procurement without taking into account the average market indicators, the place of delivery of goods/services, the complexity of goods, the purpose of procurement, the period of performance of contracts, etc.</p>	<ul style="list-style-type: none"> <li>• Analysis of market prices of the goods, services or works planned to be procured (market prices, purchase prices of similar goods, services, works procured by other authorities, etc.).</li> <li>• Requesting explanations from the contracting authority on how the procurement was planned (aspects taken into consideration).</li> </ul>
<p><b>Manipulating the need</b> by including in the Procurement Plan goods, services or works which do not correspond to the real needs of the authority and its beneficiaries, and possibly are carried out just to "secure" contracts with certain economic operators (<i>for example, the purchase of video surveillance cameras for a school, when the school does not have the appropriate furniture, heating system, sanitary blocks</i>).</p>	<ul style="list-style-type: none"> <li>• Analysis of ongoing and planned purchases for the current budget year.</li> <li>• Analysis of historical procurement contracts and the positive links between the contracting authority officials and the contracting companies.</li> <li>• Requesting explanations from the contracting authority on the necessity of the respective procurement and whether the public/beneficiaries have been consulted.</li> </ul>

<p><b>Overestimation of the value of the purchase</b> (goods, services or works) with a view to favoring a particular economic operator and/or obtaining personal benefits later at the stage of awarding contracts.</p>	<ul style="list-style-type: none"> <li>• Analysis of market prices of goods, services or works planned to be procured.</li> <li>• Analysis of purchase prices of goods, services or works recently procured by other contracting authorities.</li> <li>• Request explanations from the contracting authority.</li> </ul>
<p><b>Failure to publish the notice of intention</b> in the BAP and in the MTender electronic system within the set deadline of 30 days from the date of approval of the contracting authority's budget.</p>	<ul style="list-style-type: none"> <li>• Verification of the data published in the BAP/MTender electronic system.</li> <li>• Request for explanations from the contracting authority, including for notices which have not been published.</li> </ul>
<p><b>Planned purchases (included in the Annual Procurement Plan) that are not within the authority's budget</b> or do not correspond to the development strategy of the authority/community (in the case of LPAs).</p> <p>Unnecessary goods, services or works are included in the Procurement Plan that do not correspond to the real needs of the community <i>(they often "hide" in low-value contracts, which, having limited transparency, are more difficult to monitor)</i>.</p>	<ul style="list-style-type: none"> <li>• Analysis of the contracting authority's approved budget.</li> <li>• Analysis of the development strategy of the authority/community, from the perspective of fitting the purchase(s) into the real priorities and needs of the authority/community (in the case of LPAs).</li> <li>• Request for explanations from the contracting authority on the need for the respective purchase and whether public opinion/beneficiaries have been consulted.</li> </ul>
<p><b>Non-planning of low-value</b> procurement/non-inclusion of low-value contracts in the contracting authority's Annual Procurement Plan.</p>	<ul style="list-style-type: none"> <li>• Analysis of the contracting authority's Annual Procurement Plan (if not public, request it from the contracting authority).</li> <li>• Require the contracting authority to respect the legal provisions on the planning of low-value purchases and include all planned contracts in the Annual Procurement Plan.</li> </ul>
<p><b>Failure to publish the Annual Procurement Plan on the contracting authority's website</b> within 15 days of its approval or within 5 days of its modification during the year.</p>	<ul style="list-style-type: none"> <li>• Requesting explanations from the contracting authority at the same time as requesting the publication of the Annual Procurement Plan in compliance with the legal provisions.</li> <li>• Referral to GPA to initiate monitoring.</li> </ul>

<p><b>Planning the procurement according to the interests of individual persons or groups of persons</b> (<i>construction/rehabilitation of a stretch of road that will pass in front of the house of a politician or a person in a leading position in the municipality, while other roads are in the same condition and require construction/rehabilitation works</i>).</p>	<ul style="list-style-type: none"> <li>• Analysis of procurement contracts included in the contracting authority's annual Procurement Plan.</li> <li>• Analysis of previous procurement contracts and companies contracted, including their founders/managers.</li> <li>• Request explanations from the contracting authority as to the need for the re-procurement, whether it is included in the development strategy, whether public opinion / beneficiaries have been consulted.</li> </ul>
<p><b>Split procurement</b> by applying a different procurement procedure than the procedure that would have been used in accordance with the Public Procurement Act if the procurement had not been split.</p>	<ul style="list-style-type: none"> <li>• Analysis of previous procurements conducted during the current budget year as well as those planned for the entire budget year.</li> <li>• Request information from the contracting authority on low value purchases and contracts concluded during the budget year.</li> <li>• Referral to GPA to initiate monitoring.</li> </ul>

### ► Award documentation

The award documentation shall contain all the requirements, criteria, rules and other information necessary to provide economic operators with complete, correct and explicit information on the requirements or elements of the procurement, the subject matter of the contract and the procedure to be followed for the award procedure, including the technical specifications or descriptive document, the contractual terms and conditions proposed, the formats for the submission of documents by tenderers/candidates, information on the general obligations applicable. The preparation of the award documentation is the responsibility of the Procurement Working Group within the contracting authority.

The contracting authority is obliged to set out in the award documentation any requirements, criteria, rules and other information necessary to ensure that the tenderer/applicant is complete, correct and explicit information.

When awarding a procurement contract, the contracting authority is required to draw up the award documentation on the basis of the standard documentation as follows:

- **Goods, services** - Standard documentation for the realization of public procurement of goods and services, approved by Order of the Minister of Finance No. 115 of 15.09.2021.
- **Works and procedures for public procurement of design services and works** - Standard documentation for public procurement of works, approved by Order of the Minister of Finance No. 69 of 07.05.2021.



**Standard documentation for the procurement of goods and services** (Annex no. 1 of the Order of the Ministry of Finance no. 115/2021) contains annexes intended for the initiation, publication, award and modification of public procurement procedures, as well as to facilitate the preparation and submission of the tender, and documents to enable the working group to examine and evaluate all submitted tenders.

Technical specifications in the case of public procurement of goods or services - a specification in a document to define the characteristics that a good or service must have, such as:

- quality levels;
- environmental performance levels;
- design for all types of use (including access for disabled people) and conformity assessment;
- performance;
- use of the good;
- safety;
- its dimensions;
- terminology, symbols;
- tests and test methods;
- packaging, marking and labeling;
- instructions for use;
- production processes and methods at all stages of the life cycle of the good/service;
- conformity assessment procedures.



**The standard documentation for works procurements or procedures for the procurement of design and works services** contains annexes intended for the initiation, publication, award and amendment of public procurement procedures, as well as to facilitate the preparation and submission of tenders, and documents to enable the working group to examine and evaluate all tenders submitted.

**Technical specifications in the case of public works contracts** - the totality of the technical requirements, set out in particular in the tender documents, defining the characteristics required of a material or a good to be supplied in order that it may be used for the purpose intended by the contracting authority:

- environmental performance levels;
- design for all types of use (including access for disabled persons) and conformity assessment;
- performance, safety or dimensions;
- quality assurance procedures;
- terminology, symbols;
- testing and test methods;
- packaging, marking and labeling, instructions for use;

- production methods and processes at all stages of the life cycle of the works;
- design and costing rules;
- conditions for testing, inspection and acceptance of works;
- construction techniques or methods;
- all other conditions of a technical nature which the contracting authority is in a position to lay down, under general or specific regulations, in respect of the works completed and the materials or parts thereof.

When drafting technical specifications, designs, technical drawings, sketches and descriptions, the contracting authority shall carry out the physical description of the goods, works or services required only in cases where where it is not possible to describe performance and/or functional requirements.

When analyzing the tender documentation, including the specifications, the monitors will analyze and evaluate whether the technical specifications of the goods, services, works:

- ❖ contain a clear and complete description of the subject of the procurement;
- ❖ meet the requirements of the contracting authority as regards quality, efficiency, testing, security, dimensions, symbols, terminology, packaging, transport, marking, labeling, production processes and methods, and the procedures for determining whether it conforms to the requirements of the tender documentation
- ❖ shall not make reference to a specific trademark or to a specific economic operator, patent, design or type of goods, works and services, or to a specific origin, manufacturer or economic operator. Where there is no sufficiently precise way of stating the requirements against the purchase, and such reference is unavoidable, the characteristics shall include the words "or equivalent";
- ❖ they shall be based on national and international standards, technical regulations and national regulations, as appropriate;
- ❖ are defined in such a way as to meet, where possible, the non-requirements/requirements of any user, including people with disabilities;
- ❖ allow any tenderer equal access to the tender procedure and must not have the effect of introducing unjustified obstacles likely to restrict competition between economic operators.

## PREPARATION OF THE TENDER DOCUMENTATION

Red flags	Identification methods and actions recommended to monitors
<p><b>Discriminatory technical specifications</b> which reference:</p> <ul style="list-style-type: none"> <li>• to a particular trademark;</li> <li>• to a particular patent;</li> <li>• a design;</li> <li>• a specific type of goods, works or services;</li> <li>• a specific origin, manufacturer or economic operator.</li> </ul>	<ul style="list-style-type: none"> <li>• Detailed analysis of the tender documentation, technical specifications.</li> <li>• Request from the contracting authority for clarifications in parallel with the request for modification of the technical specifications and republication in the MTender system of the tender documentation.</li> <li>• Examination of whether a challenge has been lodged on the tender documentation and analysis of the ANSC's decision, including the economic operators' claims, reasoning of the contracting authority, if a challenge has been lodged.</li> <li>• Referral to GPA to initiate monitoring.</li> </ul>
<p><b>Technical specifications are complex, vague, too narrow or "tailored"</b> to a particular economic operator.</p> <p>Economic operators file complaints because they feel that their right to participate in procurement is being violated.</p> <p>There is only one tenderer in several procurement procedures of the monitored authority.</p>	<ul style="list-style-type: none"> <li>• Analysis of previous procurements of the contracting authority being monitored, to rule out the possibility of error or lack of capacity of the contracting authority.</li> <li>• Consultation of an expert in the field in which the procurement will be made.</li> <li>• Request to the contracting authority to review and revise the tender documentation as appropriate and, if necessary, contract an independent expert to draw up specifications.</li> </ul>
<p><b>Not dividing the procurement into lots</b> (including without justification), in particular in the case of large-volume purchases containing various categories of goods, services, works, with the aim of limiting the participation of certain economic operators and favoring a particular economic operator.</p>	<ul style="list-style-type: none"> <li>• Analysis of the subject matter of the procurement in detail, each category of goods, services and works and the appropriateness of division into lots (including on the basis of the analysis of other similar procurements);</li> <li>• Analysis of possible decisions of the ANSC (admitted, rejected, etc.) on appeals lodged in the period prior to the opening of tenders, i.e. concerning the non-division by lots and the arguments of the challenger</li> <li>• Requests for explanations from the contracting authority regarding the non-division of the procurement into lots, without justification, even though this would correspond to the market, certain sectors, business needs, etc.</li> </ul>

**Complaints lodged by one or more economic operators** at the stage prior to the opening of tenders/ on the award documentation, including: restrictive requirements; award criteria and evaluation factors with subjective/ non-transparent calculation algorithms; mention of names of technologies/products/brands/manufacturers; lack of clear response to requests for clarification; non-separation of lots for similar goods/works; form of tender guarantee etc.

- Attending the hearing organized by ANSC for the examination of the contestation.
- Analysis of the ANSC's decisions (contestation partially/entirely admitted, rejected, remedial measures, procedure annulled, etc.) concerning the contestation/contests submitted by the economic operators and the alleged infringements;
- Analysis of the actions taken by the contracting authority (modification of the award documentation, including by division into lots, cancellation of the procedure, etc.) after ANSC's decision.



## 4.2. STAGE OF LAUNCHING THE PROCUREMENT PROCEDURE, SUBMISSION AND OPENING OF TENDERS

### ► Launching the procurement procedure

For launching the procurement procedure in the electronic system, the CA will draw up the contract notice, the DUAE form and the standard documentation with all the forms applicable to the procurement in question.

Once the planning stage, including the preparation of the tender documentation, has been completed, the procurement procedure can be launched. For open and COP procedures, the contracting authority is obliged to publish the notice in the MTender electronic system.

#### Contract notice

In drawing up and finalizing the contract notice, standard forms, approved for this purpose, shall be used which permit the advertising of public procurement. All information included in the notice must be presented in a clear, precise and unambiguous manner. The contracting authority has the obligation to include in the notice at least the information contained in Annex no. 3 of Law no. 131 of 03.07.2015 on public procurement.

**In order to ensure** maximum transparency, the contracting authority has the right to publish the contract notice also in other national or international media, but only after the publication of the notice in the BAP and on the website of the GPA. The procurement notice will be sent in electronic form for publication also in the OJEU, if the value of the contract to be awarded is equal to or greater than: *2.3 million lei, goods/services and 90.0 billion lei, works.*

### ⚠ ATTENTION!

The procurement notice shall be published in a timely manner in order to provide all interested economic operators, without any discrimination, with real opportunities to participate in the procedures for awarding the public procurement contract.

## Single European Procurement Document (SEPD)

The EUEED form is an Affidavit, as preliminary evidence in lieu of certificates issued by public authorities or third parties, confirming that the EO in question fulfills the following conditions:

- it is not in any of the exclusion situations referred to in Law No. 131 of 03.07.2015 on Public Procurement.
- It fulfills the capacity criteria as requested by the Authority;
- if applicable, meets the selection criteria as set by the Authority;

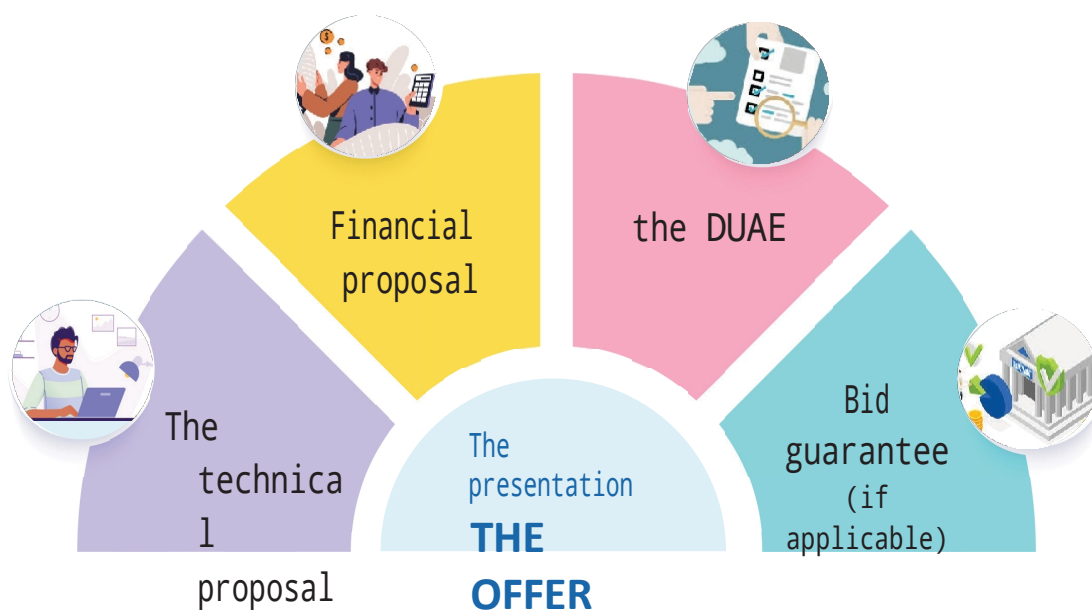
### ► Period for clarifications and submission of tenders

Any economic operator interested in a procurement procedure is entitled to request clarifications on the tender documentation. In the MTender electronic system, the tender submission period has two distinct stages: the *clarification period* and the *tender submission period*.

According to the way the MTender system works, the contracting authority is obliged to reply to all clarification questions submitted by economic operators. Otherwise, upon expiry of the deadline for clarifications, the procurement procedure is automatically suspended and the submission of tenders is blocked until the answers to all clarification questions are published. The submission period will be extended by the number of days of delay in replying after the deadline for clarification. During the submission period, tenders shall be submitted exclusively by submitting them in electronic format via the MTender electronic system.

The contracting authority must reply clearly, completely and unambiguously to any clarification requested as quickly as possible

**According to Law no. 131 of 03.07.2015 on Public Procurement, the submission of the tender requires the submission in a common set of:**



The MTender electronic system does not accept tenders after the deadline for submission of tenders. Before expiry of the deadline for submission of tenders, the contracting authority is entitled to amend the tender dossier either on its own initiative or in response to a request for clarification from an economic operator, where appropriate by extending the deadline for submission of tenders, so that at least 50% of the original deadline remains from the date of notification of the amendment to the new deadline for submission of tenders.

► **Participation of civil society in the Procurement Working Group of the contracting authority**

The civil society representatives included in the working group shall have the right to vote consultative vote or the right to a separate opinion, which shall be set out in the deliberative act of the group concerned.

According to Article 14, paragraph (5) of Law no. 131/2015, the CA shall obligatorily include in the composition of the working group representatives of civil society if a written request to this effect has been submitted two days before the deadline for submission of bids, but they may not constitute more than one third of the total composition of the group.

The CA shall keep a strict record of the applications received from civil society and, if more than one application is submitted, shall organize the drawing of lots to be included in the composition of the working group. The working group shall inform the representatives of civil society, from whom such requests have been received, of their inclusion/non-inclusion in the working group and of the date, place and time of the drawing of lots, at the latest one day before the deadline for submission of tenders.

The inclusion of representatives of civil society in the composition of the working group shall be effected for each procurement procedure by means of a decision (order) or provision, which shall be published on the official website of the contracting authority and/or publicly displayed within the contracting authority at least one day before the deadline for submission of tenders.

The members of the working group have the obligation to take all necessary measures to avoid situations that could lead to a conflict of interest and/or anti-competitive practices, and to sign, under their own responsibility, the declaration of confidentiality and non-disclosure (this obligation is also binding for civil society representatives included in the working group).

**BY THE DECLARATION OF CONFIDENTIALITY AND IMPARTIALITY, THE SUBJECTS UNDERTAKE TO COMPLY UNCONDITIONALLY WITH THE PROVISIONS OF LAW NO. 131/2015 AND ALSO CONFIRM THAT:**

He/she is not a spouse, relative or relative in-law, up to the third degree inclusive, with one or more persons employed by the bidder(s) or with one or more of their founders;

has not, within the last three years, been working under an individual contract of employment or any other document proving employment relationship with one of the tenderers or been a member of the board of directors or any other governing or administrative body of one of the tenderers

does not hold any shares or interests in the subscribed share capital of the bidders.



## CAUTION!

Failure to sign the declarations of confidentiality and impartiality by the members of the working group shall be penalized in accordance with the provisions of Art. 327<sup>1</sup>, para. (5) of the Contravention Code of the Republic of Moldova with a fine from 15 to 90 conventional units imposed on the person in a position of responsibility.

**At this stage, the monitors recommend evaluating and analyzing the following issues:**

- Whether the tender notice is drafted in accordance with the legal requirements and includes all the information necessary to properly inform potential bidders and the public;
- Whether the information in the contract notice, the tender documentation and the DUAE form correspond completely and there are no contradictions.
- Whether the contracting authority ensures an adequate degree of transparency and complies with the legal provisions on the publicity of the contract notice, both in the electronic system and in other sources, including its official website;
- Whether the authority is responsive to requests from civil society representatives to be included in the composition of the working group and informs them of the decision taken.

### Opening of tenders

Tenders shall be opened at the time specified in the tender documentation as the deadline for the submission of tenders or at the time specified as the deadline for the extended deadline, regardless of the number of tenderers, in accordance with the procedures set out in the tender documentation. The tender is valid for the period specified in the tender documentation.

Until the expiry of the period of validity of the tender, **the** contracting authority may propose to the tenderer to extend the deadline. In such a case, the tenderer is entitled

- a) to reject the proposal without forfeiting the right to withdraw the security for his tender;
- b) to accept the proposal by extending the period of validity of the tender security or by providing new tender securities for the extended period of validity of the tender. If the tenderer has not extended the period of validity of the tender security or has not provided a new tender security, he shall be deemed to have refused to extend the period of validity of the tender.

### Electronic auction

An electronic auction is a repetitive process involving electronic means of presenting, in descending order, new prices and new values for certain elements of tenders, after an initial full evaluation of the tenders, enabling them to be ranked using automatic evaluation methods.

Tenders shall be posted on the MTender portal and electronic platforms after the deadline for submission has expired, and in the case of procedures with the electronic auction option after the electronic auction has been completed. If only one participant is registered in the e-auction procedure, the opening of the tender takes place automatically after the submission deadline.

**Currently, in the MTender e-procurement system, contracting authorities apply electronic tendering, which is carried out:**

- according to the principle of competitive tendering;
- bidders may decrease the price of the initial bid over three rounds (according to the minimum step set by the authority, set either in absolute value or in percentage).
- The system ranks the bids in ascending order after each round of the auction, with the bidder with the lowest price having priority;
- At the end of the electronic auction, the bids are automatically ranked and the authority will proceed to the evaluation of the bids on the basis of this ranking.

Verification of the electronic signature is carried out through the [Government Electronic Signature Service "MSign"](#).

Pursuant to Article 33, paragraph (1) of Law no. 131/2015, all communications and exchanges of information under this Law shall be transmitted in writing, by electronic means of communication or, as an exception, by other means of communication. According to the same article, para. (14, letter i) **electronic signature shall be affixed to electronic tenders**.

In accordance with p. 25 of GD no. 987 of 10.10.2018, the economic operator is obliged to prepare the tender in accordance with the provisions of the tender documentation. The offer, written and electronically signed, shall be submitted using the electronic system by the date and time - deadline for submission, set by the contracting authority in the invitation or tender notice.

#### LAUNCHING OF THE PROCUREMENT, SUBMISSION AND OPENING OF TENDERS

Red flags	Identification methods and recommended actions for monitors
<p><b>The contract notice was published in terms too narrow</b> for the type and complexity of the procurement.</p> <p>Inconsistencies in the requirements included in the contract notice, documentation and the DUAE form.</p>	<ul style="list-style-type: none"> <li>• Detailed analysis of all procurement documents.</li> <li>• Analysis of data on the authority's previous contracts for similar goods, services, works and contractors.</li> <li>• Notifying the contracting authority of the content of the notice and requesting compliance with applicable legislation.</li> </ul>
<p><b>Evasive and unclear responses from the contracting authority</b> to requests for clarification submitted by economic operators.</p>	<ul style="list-style-type: none"> <li>• Analysis of the published questions for clarification and the Contracting Authority's replies published in the electronic system.</li> <li>• Check whether a challenge has been lodged and analyze ANSC's decision (challenge partially/entirely admitted, rejected) on challenges concerning the lack of a clear, complete reply from the contracting authority to the economic operators' requests for clarification.</li> </ul>

<p><b>Unjustified refusal</b> by the contracting authority to the civil society's request to be part of the Procurement Working Group.</p> <p>Inclusion of the representative of civil society in the working group but not being invited to all meetings of the working group, not being provided with all documents, etc.</p>	<ul style="list-style-type: none"> <li>• The GPA's complaint that the contracting authority is in breach of the legal provisions giving civil society the right to participate in the Procurement Working Group.</li> <li>• Request for information from the contracting authority, including explanations of the reason for refusal.</li> <li>• Sensitization of public opinion, media.</li> </ul>
<p><b>Disputes submitted by one or more economic operators</b> at the stage prior to the opening of tenders concerning evasive, unclear answers to requests for clarification submitted by economic operators.</p>	<ul style="list-style-type: none"> <li>• Analysis of the ANSC's decisions (contestation partially/entirely admitted, rejected) concerning the contestation(s) submitted by the economic operators and the alleged infringements.</li> <li>• Analysis of the actions taken by the contracting authority after ANSC decision.</li> </ul>
<p><b>Non-signing of the Declaration of Confidentiality and Impartiality</b> by the members of the Contracting Authority's Procurement Working Group.</p>	<ul style="list-style-type: none"> <li>• If the monitor has been accepted in the working group, immediately refer the matter to the chair of the working group at the opening of the tenders and request replacement by another person/alternate member.</li> <li>• Sensitization of public opinion, media.</li> </ul>
<p><b>A conflict of interest between a member of the working group and one of the bidders</b> (founders/administrators) which did not result in a request for exclusion from the working group and replacement by another person/alternate member.</p>	<ul style="list-style-type: none"> <li>• Analysis of the connections between the members of the working group and the founders/managers of the companies that submitted bids;</li> <li>• Referral to the contracting authority on conflict of interest.</li> <li>• Submission of a complaint to ANI.</li> </ul>

## ► Anti-competitive practices in public procurement

Competition is vital because it ensures the necessary conditions for the efficient use of public money and provides incentives for companies to improve efficiency, innovation and development. Anti-competitive practices, on the other hand, threaten good governance and economic development. And the phenomenon of collusion results in the "reallocation" of public funds to individuals and companies, and not for their use in the public interest.

According to Law no. 131/2015 on public procurement, technical specifications must allow any bidder equal access to the procedure for awarding a procurement contract and must not have the effect of introducing unjustified obstacles that restrict competition between economic operators. And, contracting authorities are obliged to exclude from the procedure for awarding public procurement contracts any tenderer or candidate who has concluded agreements with other economic operators aimed at distorting competition.

Also, according to the Competition Act No. 183/2012, an anti-competitive practice is an anti-competitive agreement, decision of the association of undertakings, concerted practice, abuse of dominant position, action or inaction of public authorities to restrict competition prohibited by law. Bid-rigging is the implementation, by means of tenders or other forms of competitive bidding, of anti-competitive agreements between competing undertakings concerning prices, market sharing, sources of supply or product quality.

Collusion is a secret agreement between two or more participants in public procurement procedures to restrict free competition by deceiving or depriving others of their legal rights in order to influence the process of selecting the winner. Collusion and corruption are two distinct problems in auctions, although they can often occur together and have a mutually "reinforcing" effect. If corruption, in general, is a vertical agreement between a bidder and the contracting authority (official, civil servant), then collusion is a horizontal agreement between bidders.

### Forms of collusion (according to OECD)

#### Bid suppression

an agreement whereby economic operators agree to refrain from submitting bids in order to ensure that one of them wins

#### Bid rotation

an agreement whereby operators agree to win procurement contracts in rotation, while bidding on all procedures to "ensure competition"

#### Market sharing

agreement whereby operators divide the procurement market by geographic regions, contracting authorities and agree not to bid for procedures other than those they have been 'allocated' under the agreement

#### Complementary auction

an agreement whereby operators agree to submit bids either higher than that of the one designated to win, either far too high to be accepted or tenders that do not meet the requirements of the authority and the tender documentation

### DETECTION OF ANTI-COMPETITIVE PRACTICES

#### Red flags (actions by economic operators)

**Some companies regularly win authority procurement contracts in the same regions of the country** - a sign of market division along geographical lines.

**The same bidder often has the lowest bid**, although the monitored CA procedures usually involve several companies.

**A particular company wins a contracting authority's procurement in a particular area/object** (e.g. road reconstruction/rehabilitation works; food delivery, etc.).

**Deliberate withdrawal of tenders or intentional failure to provide additional information requested** by the contracting authority during the clarification period, with the purpose of exclusion from the procedure by the contracting authority.

#### Identification methods and actions recommended to monitors

- Analysis of procurement procedures and data on previous procurement contracts concluded by the monitored contracting authority(ies) in order to assess competition and the extent to which the same company(ies) regularly win(s) procurement contracts with the same contracting authority(ies).
- Consulting economic operators who have participated in the monitored contracting authority's procurement procedures and who can provide more detailed information.

<p><b>The winning tenderer regularly subcontracts to tenderers who participate in the procedure</b>, but are not usually named as winners.</p> <p><b>Two or more companies that have submitted bids are founded and/or managed by the same natural persons</b> (<i>data about the founders and managers of each bidder can be checked on the <a href="#">OpneMoney</a> portal (connected to the MTender system) or portals that retrieve data from the State Register of Law Units: <a href="#">www.companii.md</a>; <a href="#">www.idno.md</a>; <a href="#">www.bizzer.md</a>.</i></p> <p><b>Very high price difference between the lowest and other bids submitted.</b></p> <p>The price differences between the bidders are very small, and if each position is analyzed, it can be determined that there is a fixed cost difference between the positions in bid 1 and bid 2 (e.g. 10 lei or 1%).</p> <p>Some bidders participate in several tenders, contracting authorities always together or, on the contrary, never participate against each other.</p>	<ul style="list-style-type: none"> <li>• Notifying the contracting authority of possible anti-competitive practices that may exist in order to analyze the situation and decide whether to continue or cancel the procedure, based on the legal grounds.</li> <li>• Refer to the Competition Council on signs of anti-competitive practices in the public procurement market.</li> <li>• Sensitization of public opinion, of media.</li> </ul>
<p><b>Some economic operators participated with rigged bids/as members of the group of dependent companies with several bids/created unfair competition</b> between the participants, as demonstrated by the control body or other evidence exists.</p>	<ul style="list-style-type: none"> <li>• Analysis of information on founders and managers of the bidders (OpenMoney, idno.md, etc.).</li> <li>• Notification of the contracting authority about rigged bids submitted in the procedure and their obligation to exclude the operators from the procurement procedure.</li> <li>• Notification of GPA and request to include the economic operator in the Prohibited List.</li> </ul>
<p><b>Indicators specific to tenders and documents submitted by economic operators:</b></p> <ul style="list-style-type: none"> <li>➤ Identical misspellings, mistakes in spelling, wording, same format/ font in the submitted tender documents;</li> <li>➤ the bids contain contact details, telephone, address, which also identify another bidder;</li> <li>➤ bids contain identical mistakes, identical estimates of cost estimates for certain products.</li> </ul>	<ul style="list-style-type: none"> <li>• Notification to the contracting authority of possible anti-competitive practices that may exist in order to analyze the situation and decide whether to continue or cancel the procedure.</li> <li>• Referral to the Competition Council.</li> <li>• Sensitization of public opinion, media the media.</li> </ul>



### 4.3. STAGE OF EVALUATION OF TENDERS AND AWARD OF CONTRACT

The CA will not accept any changes to the tender, including the price, which would make the tender correspond to requirements to which it did not initially correspond.

The examination, evaluation and comparison of tenders is the competence and responsibility of the contracting authority. Once the tenders have been opened, the working group shall examine and evaluate the tenders in accordance with the operation of the MTender electronic system. If the award criterion is 'lowest price', the system automatically ranks the submitted tenders in ascending order of price and the contracting authority will examine the first tender. If the first tender meets all the selection and qualification criteria, it will award the contract to the successful tenderer. Otherwise, the contracting authority will disqualify the tenderer on the legal grounds and evaluate the next tender. In cases where a non-price award criterion has been set, the contracting authority will open all the tenders submitted in order to evaluate them and determine the successful tenderer on the basis of the evaluation factors included in the documentation.

The examination and evaluation of tenders shall be carried out without the participation of tenderers or other persons who are not members of the working group. The civil society representative, as a member of the group, will be informed by the contracting authority of the date, time and place of the tender evaluation meeting(s).

At the stage of the examination, evaluation and comparison of tenders, the contracting authority has the right to ask the tenderer only for written explanations of its tender if the documents submitted are incomplete or, where appropriate, for supporting documents relating to the EEAD.

At the tender evaluation stage, explanations, clarifications of tenders, reconfirmation of certain elements of the tender or of the commitments made in the tender may be requested, and the Authority shall allow a reasonable time for reply. The additional information submitted by the tenderers must not lead to changes to the tenders which would distort competition or create an additional advantage over the other tenderers.

If the information/documents submitted by the tenderer are incomplete/erroneous, the contracting authority shall ask the tenderer to supplement, clarify or complete the information/documents, respecting the principles of transparency and equal treatment. The tenderer is disqualified if it fails to supplement, clarify or complete the information/documents requested by the authority within the time limits set by the authority (minimum three working days or, minimum one working day - at COP). The CA may require tenderers to submit all or part of the supporting documents as proof of the information in the SAD.

The Working Group shall examine the bids confidentially and shall not disclose information relating to the examination, evaluation and comparison of bids to bidders or persons not formally involved in these procedures or in the determination of the winning bid.

Insignificant deviations must not serve as grounds for rejecting the tender.

The CA has the right to consider a tender as compliant if it contains minor deviations from the provisions of the tender documentation, errors or omissions that can be removed without affecting the substance of the tender. Any such deviations shall be expressed quantitatively, as far as possible, and taken into account in the evaluation and comparison of tenders. Monitors should keep a close watch on how and when the CA excludes tenderers from the tender procedure, whether justified or not.





**The CA is obliged to exclude from the procurement procedure any tenderer who is in any of the following situations:**

- a) is insolvent as a result of a court judgment;
- b) has not fulfilled its obligations to pay taxes, duties and social security contributions in accordance with the legal provisions in force in the Republic of Moldova or in the country in which it is established (not applicable if the EO benefits, under the conditions of the law, from the installment of the payment of taxes, duties and social security contributions or from other facilities for their payment, including late payment surcharges (penalties) and/or fines).
- c) has been convicted within the last 3 years by a final judgment of a court of law of an act detrimental to professional ethics or of professional misconduct;
- d) has submitted false information or has failed to submit information required by the contracting authority to demonstrate that he meets the qualification and selection criteria;
- e) has failed to comply with applicable obligations relating to the environment, employment and social security, if the contracting authority proves this by any appropriate means;
- f) has been guilty of professional misconduct of such a kind as to cast doubt on his integrity where this is proved by any appropriate means, if the contracting authority proves this by any appropriate means;
- g) has entered into agreements with other economic operators which are aimed at distorting competition, where this is established by decision of the body empowered to do so;
- h) is in a situation of conflict of interest which cannot be effectively remedied by the measures provided for in Article 79.
- i) is included in the Prohibited List of economic operators;
- j) does not comply with the regime of incompatibilities provided for in Article 16 para. (6).

The CA finalizes the tender evaluation process with the award of the public procurement contract by adopting the Decision awarding the public procurement contract (or, where appropriate, canceling the tender procedure). The CA will award the procurement contract using the award criteria specified in the tender documentation and on the basis of the information included in the tender.

**The CA will take into account the following aspects at the contract award stage:**

- The contract shall be awarded within the period of validity of the tenders.
- The Authority is obliged to inform the tenderers about the decisions on the result of the selection, the outcome of the public procurement procedure or the annulment of the award procedure and the possible subsequent initiation of a new procedure, in writing no later than three working days after their issuance.

#### **Cancellation of the procurement procedure**

**According to the provisions of Law no. 131/2015, the CA has the right to cancel the procurement procedure in the following situations:**

1. No offer has been submitted.
2. The number of qualified bidders is lower than the number stipulated in the legal framework.
3. None of the tenderers met the qualification conditions set out in the tender documentation.



After the date of transmission of the communication on the result of the public procurement procedure, the cancellation of the procedure shall be carried out only by ANSC.

4. All bids meet one or more of the conditions specified below:
  - *are unsuitable, unacceptable or non-compliant;*
  - *have not been drawn up in accordance with the requirements of the tender documentation;*
  - *contain prices which are not the result of free competition and cannot be justified;*
  - *contain proposals for contractual clauses which are clearly disadvantageous for the contracting authority.*
  - *exceed the estimated value of the procurement by 30%;*
  - *exceed the amount of funds allocated;*
5. Corruption or related acts confirmed by a final court judgment;
6. The tenders cannot be compared because of an uneven approach to technical and/or financial solutions;
7. There are serious deviations from the legal provisions affecting the outcome of the tender procedure or making it impossible to conclude the contract.

EVALUATION OF TENDERS AND AWARD OF CONTRACT	
Red flags	Identification methods and recommended actions for monitors
<p><b>Conflict of interest situation</b> where members of the contracting authority's procurement working group:</p> <ul style="list-style-type: none"> <li>• <i>is a spouse, relative or relative in law up to and including the third degree, of one or more persons employed by the tenderer(s) or one or more of the founders of the tenderer(s);</i></li> <li>• has not, within the last three years, been working under an individual employment contract or any other document proving employment relationship with one of the tenderers or been a member of the board of directors or any other governing or administrative body of one of the tenderers</li> <li>• <i>holds shares or interests in the subscribed share capital of the bidders (founder, shareholder).</i></li> </ul>	<ul style="list-style-type: none"> <li>• Checking for potential conflicts of interest that may exist (checking the data in the State Register of Legal Entities; declarations of assets and personal interests, etc.).</li> <li>• Notify the chairperson of the Procurement Working Group of the contracting authority.</li> <li>• Referral to ANI, CNA.</li> <li>• Sensitize public opinion, media.</li> </ul>
<p><b>Submitting false documents</b> in the public procurement procedure (<i>e.g. falsification of the form concerning the absence of debts to the state budget</i>).</p>	<ul style="list-style-type: none"> <li>• Notification to the contracting authority of false information/document submitted by a tenderer in the procurement procedure.</li> <li>• Referral to GPA and request to include the economic operator on the Prohibited List.</li> </ul>

<p><b>Exclusion of a tenderer(s)/bidder(s) without legal grounds</b> (<i>e.g. disqualification of a tenderer for insignificant deviations/without clarification</i>).</p>	<ul style="list-style-type: none"> <li>• Analysis of any appeals lodged, and if lodged, analysis of ANSC's decisions (partially/fully admitted, rejected, re-measures - re-evaluation of bids, cancellation of the pro-cedure, etc.).</li> <li>• Request explanations from the contracting authority as to the reasons for the exclusion of the bidder(s).</li> <li>• Sensitize public opinion, media.</li> </ul>
<p><b>Accepting unsuitable tenders</b> (<i>not complying with the qualification and selection criteria in the tender documents; containing prices in the financial proposal which are not the result of free competition; etc.</i>) or tenders which are/were involved in corruption.</p>	<ul style="list-style-type: none"> <li>• Analysis of any appeals submitted, and if submitted, analysis of ANSC's decisions (partially/fully admitted, rejected, remedial measures - re-evaluation of bids, annulment of the procedure, etc.).</li> <li>• Request explanations from the contracting authority.</li> <li>• Referral to GPA for monitoring.</li> </ul>
<p><b>Deviations, in the evaluation process, from the evaluation criteria and factors</b> set out in the award documentation.</p>	<ul style="list-style-type: none"> <li>• Analysis of any appeals lodged, and if lodged, analysis of ANSC's decisions (partially/fully admitted, rejected, remedial measures - re-evaluation of bids, annulment of the procedure, etc.).</li> <li>• Request explanations from the contracting authority on how the bids were evaluated.</li> <li>• Referral to GPA for monitoring.</li> </ul>
<p><b>Unjustified annulment of the procurement procedure</b> (<i>e.g. in order to favor a particular bidder in the repeated procedure</i>).</p>	<ul style="list-style-type: none"> <li>• Analysis of any appeals lodged with a view to the annulment of the procurement procedure, and if they have been lodged, analysis of ANSC's decisions (partially/integral admission, rejection, re-measurement measures - re-evaluation of bids, annulment of the procedure, etc.).</li> <li>• Request explanations from the contracting authority.</li> <li>• Referral to GPA for monitoring.</li> </ul>

<p><b>Signing of the purchase contract</b> when:</p> <ul style="list-style-type: none"> <li>the tenderer has not lodged a performance guarantee;</li> <li>the performance guarantee is presented for a shorter period than the period of performance of the contract.</li> </ul>	<ul style="list-style-type: none"> <li>Request for explanations from the contracting authority on the reasons for signing the contract without complying with the legal provisions.</li> <li>Refer the matter to the GPA for monitoring.</li> <li>sensitize public opinion, media.</li> </ul>
<p><b>The contracting authority does not publish the award decision in the MTender system</b>, although the system has functionalities for this purpose.</p> <p><b>The contracting authority does not provide access to the Procurement Procedure Report</b> which, according to the law, is a public document.</p>	<ul style="list-style-type: none"> <li>Requesting the Debriefing from the contracting authority through an access to information request (<i>refusal to provide access to information can be challenged in court by the requesting organization</i>).</li> <li>Referral to GPA to initiate monitoring.</li> <li>Sensitization of public opinion, media.</li> </ul>
<p><b>The tenderer awarded the procurement contract has previously won most or all of the contracting authority's previous procurement contracts</b> for similar goods/services or works.</p>	<ul style="list-style-type: none"> <li>Analysis of the contracting authority's previous procurements and procurement contracts in recent years.</li> <li>Analysis of the activity of the winning company and previous procurement contracts.</li> <li>Referral to GPA for monitoring.</li> <li>Referral to other competent bodies (Ministry of Finance, CNA, Competition Council).</li> </ul>
<p><b>The results of the procedure were contested by one or several bidders in the procurement procedure.</b></p>	<ul style="list-style-type: none"> <li>Consultation of the opinion of the economic operators who challenged the results of the procurement procedure.</li> <li>Attending the meeting organized by ANSC to examine the contestation.</li> <li>Analyzing the ANSC's decision (partially/fully admitted, rejected, remedial measures) and the actions of the authority accordingly.</li> </ul>



Although the award of the contract marks the end of the actual procurement process, the real risks of loss of public money occur most frequently at the contract execution stage. Monitoring implementation is essential to verify that the goods, services or works purchased are delivered as agreed. This stage is often less transparent than the procurement procedure itself, making the role of monitors even more important.

The economic operator must fulfill, in good faith, the obligations undertaken in terms of quantity, quality, time and budget

established. The economic operator shall unconditionally execute the terms of the public procurement contract concluded, respecting the quality requirements and the price established. Failure to perform or improper performance of the contractual obligations shall render the economic operator liable in accordance with the law and the terms of the public procurement contract.

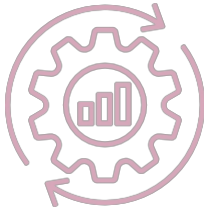
The contracting authority shall be responsible for the proper monitoring of public procurement contracts and for taking action in accordance with the legislation in force in cases of non-performance or improper performance of procurement contracts.

**The CA will not admit the following situations at the stage of contract execution:**

- ☐ delays/refusals in the delivery of goods, rendering of services or completion of works;
- ☐ increase in costs;
- ☐ non-compliance with quality standards;
- ☐ Non-compliance (partial or total) with the contractual provisions, both in terms of quality and quantity;
- ☐ deviations from the objectives of the contract;
- ☐ the occurrence of unforeseeable situations preventing successful completion of the procurement contract, etc.

**In case of non-performance or improper performance of the contractual obligations by the economic operator, the CA shall take the following actions:**

- ☐ resolve the problem by identifying a solution jointly with the economic operator; notify
- ☐ the operator of the permissible deviations in the performance of the contract;
- ☐ suspend the performance of the correlative obligation (payment);
- ☐ to claim compensation for damages; to apply penalties in
- ☐ accordance with the contract;
- ☐ retain the performance guarantee;
- ☐ terminate the contract;
- ☐ to apply to the GPA for the operator to be included on the
- ☐ Prohibited List; to refer the matter to the competent law
- ☐ enforcement bodies.



In the process of implementing a public procurement contract, situations may arise in which the terms of the contract may be amended or part of the contract may be subcontracted to other economic operators. Public procurement contracts may be amended by concluding additional agreements. The decision of the Working Group, the report and the notice of amendment of the Procurement Contract/Framework Agreement will be submitted to the GPA and the Additional Agreement will be submitted for registration to the regional treasury of the Ministry of Finance.

Contractual clauses may be amended in cases when it is necessary to change the name of the parties or their identification data, when the need arises to extend the duration of the contract, other cases. Most often contract terms may be amended when there is a need to decrease/increase the quantity of goods, works or services in duly justified cases, which leads to a decrease/increase of the contract value.

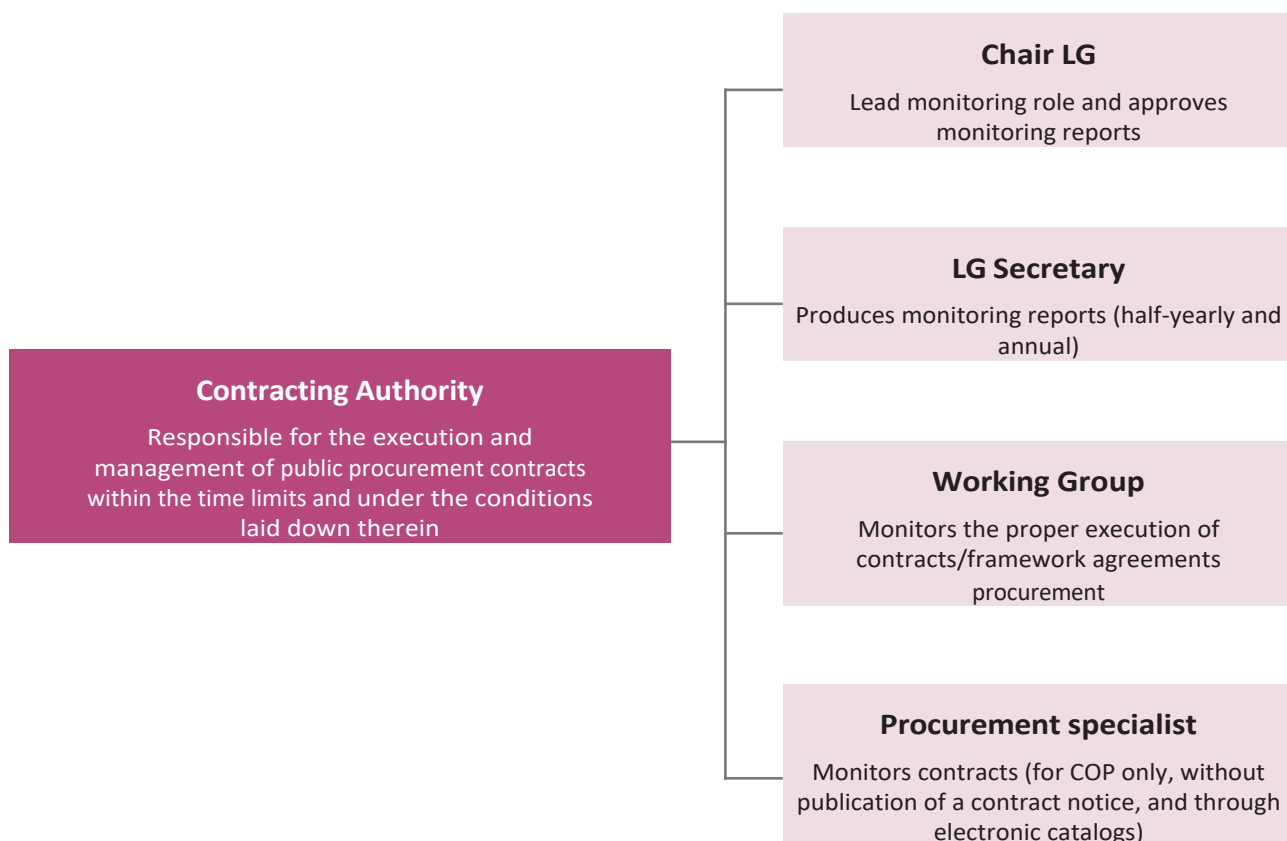
It is important for monitors to monitor whether the modification of contract conditions is carried out in accordance with the legal provisions, is not aimed at avoiding the application of tender procedures, and additional agreements are not used as a tool to unjustifiably increase the initial contract price.

The Working Group may decrease or increase the quantity of goods and/or services initially contracted in duly justified cases, without changing the unit price or other terms and conditions of the tender and tender documents. The CA may procure additional goods, provided that the initially established price, quality requirements and other requirements stipulated in the initial contract are respected, and the value of the additional contracted goods does not exceed 15% of the value of the initially contracted goods (this also refers to the cumulative value of successive changes).

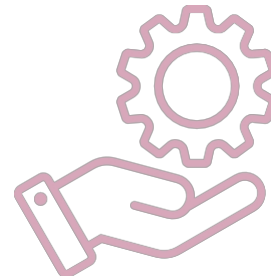
The situations in which public procurement contracts may be *amended without organizing a new* public procurement procedure are exactly described in Law No 131 of 03.07.2015 on public procurement. If the conditions provided by the law are not met, the contracting authority is obliged to *organize new* public procurement *procedures*, not to amend the existing contract. Sub-contracting a part of the public procurement contract may take place at the stage of submitting the tender, after the award of the contract, the start of its execution or even during the implementation process.

**The mandatory conditions to be fulfilled in case of subcontracting are the following:**

- the system of incompatibilities, restrictions and grounds for exclusion of subcontractors as provided by law for tenderers;
- the tenderer is obliged to notify the contracting authority of any subcontractors involved (names, contact details and legal representatives of the subcontractors);
- the contracts concluded between the tenderer and the subcontractor/subcontractors must be consistent with the tender;
- the contracts concluded between the tenderer and the subcontractor/subcontractors will be submitted to the contracting authority and will constitute annexes to the public procurement contract.



The CA, through the working group, will ensure the monitoring of the compliant execution of public procurement contracts, monitoring reports, semi-annually and annually. These reports will necessarily include information on the stage of performance of contractual obligations, the causes of non-performance, complaints lodged and sanctions applied, information on the quality of contract performance, etc. The monitoring reports will be placed on the website of the contracting authority, and in its absence on the official website of the central authority to which it is subordinated or of the second level local public administration authorities.



The GPA is also responsible for monitoring the public procurement procedures regulated by Law no. 131/2015, including those of small tender which, from July 1, 2023, are carried out or reported directly in the MTender electronic system. Thus, the GPA monitors the compliance of the performance of public procurement procedures and, in this regard, prepares Monitoring Reports in which it finds the violations admitted by the contracting self-entity in the process of awarding the public procurement contract and makes recommendations for their remedy.



## CONTRACT IMPLEMENTATION AND MONITORING

Red flags	Identification methods and recommended actions for monitors
<p>In the process of contract execution, the <b>contracting authority does not request the inclusion of economic operators in the Prohibited List</b>, although they do not fulfill or improperly fulfill their contractual obligations.</p>	<ul style="list-style-type: none"> <li>• Analysis of the fulfillment of the contractual obligations by the contractor (through discussions with the beneficiaries; verification at the place of delivery of goods, execution of works; request for information from the contracting authority through access to information request).</li> <li>• Referral to the GPA (but also to the Ministry of Finance, CNA) of admitted infringements.</li> <li>• sensitizing public opinion and the media.</li> </ul>
<p><b>The contractor asks for the contract value to be increased</b> (independently of the contracting authority) within a very short time after signing the contract (<i>the tenderer initially proposed a much lower price in order to win the contract and then immediately afterwards asks for the contract value to be increased</i>).</p> <p><b>The contracting authority accepts the contractor's request to increase the value of the contract without reasonable grounds</b> (an illegal agreement between the CA and the SO).</p>	<ul style="list-style-type: none"> <li>• Remind the contracting authority to be vigilant and not to accept the increase in the contract value without justification.</li> <li>• Refer the matter to the GPA for monitoring.</li> <li>• Sensitize public opinion and the media.</li> </ul>
<p><b>The contracting authority admits infringements in terms of quantity/quality of goods delivered or work carried out</b> which deviate from what is stipulated in the contract.</p> <p><b>The contracting authority admits the infringement of the terms of delivery of goods, execution of works.</b></p>	<ul style="list-style-type: none"> <li>• Analysis of the fulfillment of the contractual obligations by the contractor (through discussions with the beneficiaries; verification at the place of delivery of goods, execution of works; request for information from the contracting authority).</li> <li>• If necessary (particularly in the case of works), consulting a technical specialist in the field to analyze the situation and identify irregularities.</li> <li>• Request explanations from the contracting authority and request the application of sanctions, inclusion on the Prohibited List, if the situation is not remedied.</li> <li>• Refer the matter to the GPA for inclusion on the Prohibited List.</li> <li>• Sensitize public opinion, media.</li> </ul>

<p><b>The contracting authority does not apply sanctions in accordance with the contract</b> against the economic operator that has not fulfilled or has not properly fulfilled the contractual clauses and accepts goods that are not delivered in full, of the appropriate quality; works partially executed or executed poorly (may be an illegal agreement between the CA and the SO).</p> <p><b>The Contracting Authority does not require the PAA to include the Contractor on the Contractor's Prohibition List</b> for non-performance or inadequate performance of the contract.</p>	<ul style="list-style-type: none"> <li>• Requesting explanations from the contracting authority and requesting the application of sanctions, inclusion on the Prohibition List, if not remedied.</li> <li>• Refer the matter to GPA for inclusion on the Prohibited List.</li> <li>• Referral to other competent control, law enforcement, anti-corruption bodies (Ministry of Finance, NAC, Financial Inspectorate, etc.).</li> <li>• Sensitization of public opinion, media.</li> </ul>
<p><b>The working group does not monitor the execution of procurement contracts</b> and does not prepare and publish (on the contracting authority's website) half-yearly and annual reports in this respect.</p>	<ul style="list-style-type: none"> <li>• Requesting explanations from the contracting authority on the breach of the legal obligation to monitor the execution of public procurement contracts.</li> <li>• Refer the matter to GPA for monitoring.</li> <li>• Sensitization of public opinion, media.</li> </ul>
<p><b>The monitoring reports are prepared and published on the contracting authority's website, but they are of a formal nature</b> and do not contain information on the stage of performance of the contractual obligations, the causes of non-performance, the complaints submitted and the penalties applied, the quality of the contract performance, etc.</p>	<ul style="list-style-type: none"> <li>• Request to the contracting authority regarding the legal obligation to publish monitoring reports in accordance with the provisions on the content of monitoring reports, which must include information on the stage of performance of contractual obligations, the causes of non-performance, the complaints lodged and the penalties applied, information on the quality of contract performance, etc.</li> <li>• Sensitization of public opinion, media.</li> </ul>

# 5. Data sources and tools monitoring

## 5.1 THE SIA RSAP MTENDER ELECTRONIC PROCUREMENT SYSTEM AND ITS PLATFORMS

Currently, the main source of data in the field of public procurement is the portal of the electronic procurement system [MTender.gov.md](http://MTender.gov.md). In the [MTender electronic procurement system](#), there are data on all public procurement - high value (regulated by the Law No. 131 of 03.07.2015 on public procurement) and partially on low value procurement, sometimes published at the discretion of the contracting authority. The MTender electronic system and its platforms provide access to the following types of data and documents in the process of a public procurement, as shown in the table below:

DOCUMENTS, DATA	DESCRIPTION
<b>Contract notice and amendments, if any,</b>	Full details of the procurement procedure, including estimated value, subject, lots, lots, deadlines, qualification and selection requirements, all required documents and forms
<b>Technical specifications/ specifications and amendments, if any</b>	All technical characteristics (performance and functional requirements) of the goods, services or works procured
<b>Form DUAE and amendments, where appropriate</b>	The standard form consisting of an affidavit to be completed by the economic operator confirming that the economic operator meets all the conditions relating to exclusion situations, capacity criteria and selection criteria
<b>Clarifications</b>	All clarification questions submitted by the EO and all replies of the CA are publicly available
<b>Tender documents<sup>5</sup>:</b> <ul style="list-style-type: none"> <li>✓ Technical proposal;</li> <li>✓ financial proposal;</li> <li>✓ documents of qualification (guarantee, other certificates);</li> <li>✓ completed DUAE form</li> </ul>	The documents are publicly accessible in full for the first-ranked bidder with the lowest price, and the eligibility and qualification documents are publicly available for the other bidders

<sup>5</sup> This is valid if bidders have arranged each document in the appropriate folder. Otherwise, the documents will be publicly accessible in whole or in part, depending on the folder in which they have been filed.

<b>Challenges submitted and ANSC decision</b>	In the MTender, the data from the ANSC's page, concerning the appeals submitted and the decisions publicly available in full, are taken and published
<b>Award decision, if published by the CA</b>	In MTender, the CA has the option to publish the decision, but few CAs publish it.
<b>Cancel the award procedure</b>	The system only displays details of the status of the procedure, including whether a procurement has been canceled.
<b>AVM data</b>	As of July 2023, AVM data, invoice data and awarded AVM contracts are available in MTender (if published by the CA)

In addition, MTender and its platforms ([e-li-quitation](#), [achiziții.md](#) and [mtender](#)) have available search engines with filters that allow the identification and monitoring of a specific procurement or authority, according to the following criteria:

- **Information about the contracting authority** (dename, IDNO, region, type of activity).
- **Procurement procedure** (type of procedure, unique procedure identification number, status, range for estimated value of the procurement, CPV code).
- **Periods** (period of publication, clarifications, e-tendering, submission of tenders, award of contract).

#### Example of a procurement procedure using the [MTender](#) electronic system



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

## 5.2. PUBLIC PROCUREMENT AGENCY WEBSITE - [WWW.TENDER.GOV.GOV.MD](http://WWW.TENDER.GOV.GOV.MD)

The following data and information can be publicly accessed on the [tender.gov.md](http://tender.gov.md) portal:

- Data on [awarded procurement contracts](#) (contract number and date, value, economic operator, object of procurement).
- Data on [additional agreements to the contracts awarded](#) (reduction/renewal of the contract, increase in value, extension of the term of the contract;
- [Prohibition list of economic operators](#) (name and legal address of the economic operator, data on the founders and managers of the economic operator, the applicant, the basis for

inclusion in the list, the date of inclusion in the list, the deadline for inclusion in the list and, where applicable, indications concerning the suspension of the execution of the GPA's decision to include in the list following the court decision).

- [Reports with quarterly statistical data](#) on developments in public procurement at national level (number and value of procedures, contracts awarded, etc.).
- [Legislative and regulatory acts in the field of procurement; instructions and models of documents](#) (notices, standard documentation, standard documentation, DUAE, explanatory memoranda, declarations, etc.).



Ministerul Finanțelor al Republicii Moldova  
**Agencia Achiziții Publice**



AGENȚIA INSTRUIRI TRANSPARENTA CPV E-ACHIZITII LEGISLAȚIE DOCUMENTE COMUNICATE ACHIZITII DURABILE ÎNTREBĂRI FRECVENTE CONTACTE

**Pentru consultații privind modul de utilizare a funcționalităților noului SIA „RSAP” (MTender) apelați: 022 822 038**

**Pentru consultații privind aplicarea legislației din domeniul achizițiilor publice apelați: 022 820 729, email: [helpdesk@tender.gov.md](mailto:helpdesk@tender.gov.md)**

**Pentru informații privind statutul documentelor în examinare consultați: <https://tender.gov.md/ro/documente-in-curs-de-examinare>**

### CONTRACTE ATRIBUITE

Tipul Contractului	Data documentului	Tipul documentului	Autoritatea Contractantă	Operator Economic	Obiectul Achiziției	Suma
Contract de achiziție	11.03.2024	LP MTender	IMSP SPITALUL RAIONAL COMRAT ISAAC GURFINCHEL	DITA ESTFARM SRL	Achiziționarea Dispozitivelor medicale conform necesităților IMSP beneficiare (paturi multifuncționale pentru adulți (6-8 poziții) caracteristici avansate)	150.738,37
Contract de achiziție	16.04.2024	COP MTender	IMSP SCM Sf Treime Chisinau	Eleamag SRL	Utilaj pentru blocul alimentar (utilaj, ustensile) pentru anul 2024	17.235,60

### DESCARĂ ÎN FIȘIER

DOC	XLS	CSV
DESCARĂ	DESCARĂ	DESCARĂ

### FILTRE

#### Numărul procedurii

#### Operator Economic

#### Autoritatea Contractantă

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

### 5.3. THE WEBSITE OF THE NATIONAL COMPLAINTS HANDLING AGENCY

The following data and information can be accessed on [the ANSC website](https://www.ansc.md):

- data on the appeals lodged (CA, challenger, date of registration of the appeal, subject of the appeal, procurement procedure contested, panel examining the appeal, reporting details).
- ANSC decisions on submitted contestations (main dates and full decision document);
- ANSC decisions on suspension of procurement procedures (main dates and full decision document).

02/501/25	17/04/2025	25/3	FIRMA POLIMER GAZ COMPLET SRL	PRIMĂRIA COMUNEI CEPELEUȚI	Rezultatele procedurii	<a href="#">ocds-b3wdp1-MD-1737739279085</a>	LP	Proiectarea și execuția lucrărilor de amenajare a terenului în satul Cepeleuți, Rîngaci și Vancicauți, com. Cepeleuți, r-nul Edineț	În examinare	COMPLET2
02/500/25	17/04/2025	1	SUD-TERRA SRL	PRIMĂRIA COMUNEI PELINEI	Rezultatele procedurii	<a href="#">ocds-b3wdp1-MD-1742302369388</a>	LP	Termoizolarea fațadelor și amenajarea teritoriului aferent gimnaziului „Ștefan cel Mare” din c. Pelinei r. Cahul	În examinare	COMPLET2
02/499/25	16/04/2025		ATAR INTER SRL	PRIMĂRIA SATULUI BALASINEȘTI	Rezultatele procedurii	<a href="#">ocds-b3wdp1-MD-1742378273905</a>	LP	Construcția rețelelor pentru alimentare cu apă potabilă	În examinare	COMPLET2
02/498/25	16/04/2025	02-2025	SERANA GRUP SRL	CENTRUL PENTRU ACHIZIȚII PUBLICE CENTRALIZATE ÎN SĂNĂTATE	Rezultatele procedurii	<a href="#">ocds-b3wdp1-MD-1733751006533</a>	LP	Achiziționarea Dispozitivelor medicale, conform necesităților IMSP Spitalul Clinic Municipal „Sfânta Treime”	În examinare	COMPLET3
02/497/25	16/04/2025	3	DAMICOM UTILAJE SRL	AGENȚIA ASIGURARE RESURSE ȘI ADMINISTRARE PATRIMONIUL A MINISTERULUI APĂRĂRII	Documentația de atribuire	<a href="#">ocds-b3wdp1-MD-1743056717845</a>	LP	Utilaj medical pentru operații în cadrul Spitalului Clinic Militar Central	Decizie adoptată	COMPLET1
02/496/25	16/04/2025	03/25	DANLEVITA SRL	PRIMĂRIA ORAȘULUI BIRUINȚA	Rezultatele procedurii	<a href="#">ocds-b3wdp1-MD-1740579829186</a>	LP	Construcția Complexului sportiv din or. Biruința, raionul Singerei	În examinare	COMPLET3
02/495/25	16/04/2025	1	CEGOLTAR SRL	Universitatea de Stat din Moldova	Rezultatele procedurii	<a href="#">ocds-b3wdp1-MD-1741185609565</a>	LP	Materiale electrotehnice și accesorii	În examinare	COMPLET3

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



## 5.4. PULSACHIZITII.MD PLATFORM

**Puls achizitii** is designed to be a "one-stop-shop" for anyone interested in monitoring public procurement in the Republic of Moldova. Its objective is to provide a single source of information and a tool to facilitate the exchange of information between grantees and other potential monitors, while providing essential resources for effective public procurement monitoring and information on procurement processes, including relevant online functionalities and tools.

**The Procurement Pulse** also includes useful information for economic operators (EOs), contracting authorities (CAs), decision-makers and other stakeholders. It functions as a centralized and trusted source of information and as an advocacy tool to support coordination and cooperation between actors involved in public procurement monitoring activities.

The platform aims to increase transparency in the field of public procurement in the Republic of Moldova, as it makes various monitoring tools, guides, brochures, newsletters, analytical notes, reports, investigations and breaking news available to all interested parties.

**ACCESEAZĂ**  
**#PulsAchizitii.md**  
**și fii INFORMAT!**

**AICI găsești**  
Peste 140 de noutăți și comunicate de presă  
40 de rapoarte analitice  
Aproape 30 de infografice atractive  
Peste 20 de investigații și video explicative

**www.pulsachizitii.md**

Proiectul „Consolidarea integrității în achizițiile publice” este implementat de către Institutul pentru Dezvoltare și Inițiativă Sociale (IDIS) „Victoria” împreună cu Parteneriatul pentru Transparență (PTI). Proiectul urmărește susținerea reformelor în domeniul achizițiilor publice în Moldova, transparentă și corectitudinea achizițiilor publice prin impunerea de către cetățenii de a responsabiliza instituțiile relevante.

**Portalul PulsAchizitii**

Noutăți Resurse Coalitia de monitorizare PNAP Achiziții publice durabile Despre About

**Calendarul achizițiilor publice**  
**Instrumente de monitorizare**  
**Întreabă un expert**

**Studii, rapoarte**  
**Monitori în achiziții**

Pagina web **pulsachizitii.md** este o platformă online despre achizițiile publice din Republica Moldova, creată în cadrul proiectului „Consolidarea integrității în achizițiile publice”, implementat de către Institutul pentru Dezvoltare și Inițiativă Sociale (IDIS) „Victoria”, în colaborare cu Parteneriatul pentru Transparență (PTI).



## 5.5. REVIZIA.MD PLATFORM

The [Revizia.md portal](#), developed by AGER, based on data available in the MTender electronic system, is a civic platform that facilitates the monitoring of public procurement by identifying errors, signaling them and remedying them by addressing them to the competent authorities. Thus, the following information can be accessed on the portal:

- Revisions/materials developed as a result of public procurement monitoring and red flags identified in concrete procurement procedures;
- profile of contracting authorities and economic operators, with the most significant information about them (number of procedures carried out, contracts won, etc);
- statistics on procurement-specific risk indicators;
- a list of the most frequent infringements detected in public procurement procedures (explained by reference to legislative provisions and with concrete examples, where appropriate, from material previously published on the portal).



## 5.6. OPEN MONEY PLATFORM

The [OpenMoney.md](https://openmoney.md) platform uses open data sources and government electronic data registries to provide civil society and journalists with access to open data in a structured and accessible format. Launched in 2016, the first version of the platform aimed to publish data on the beneficiaries of public procurement contracts and was connected with the old Electronic Public Procurement Register (SIA RSAP - [etender.gov.md](https://etender.gov.md)) and the State Register of Legal Entities (currently, the State Register of Legal Entities). The new version of the platform, launched in December 2020, is connected to the MTender e-procurement system and therefore provides data on:

- procurement procedures conducted through MTender;
- Beneficiaries of procurement contracts (identification and contact details of the economic operator, administrators and founders, procurement contracts won, top economic operators with the largest procurement contracts);
- contracting authorities (identification, contact details, top authorities with the largest procurement contracts);
- the links between the beneficiaries of procurement contracts and those responsible within contracting authorities;
- the interactive map showing data on contracting authorities, public procurement and economic operators by regions/regions of the country.

The Open Money platform also has a [market analysis tool](#) available, which presents data on public procurement disaggregated by lots, quantities procured, procurement costs per lot and procurement costs per piece. The tool allows the analysis of the market and, directly, of the procurement prices of different categories of goods, services and works.



Source: [www.openmoney.md](https://www.openmoney.md)

## 5.7. INTEGRITY PACTS

Integrity Pacts are agreements between contracting authorities responsible for executing procurement processes, economic operators and usually civil society organizations. Under such an agreement, companies bidding for contracts commit to refrain from bribery, collusion and other corrupt practices for the duration of the contract/project. To ensure accountability, integrity pacts also include an independent monitoring system. The Integrity Pact could be concluded for a single, usually large, procurement transaction, or for several transactions, or even for all procurements in a particular sector or by a particular government buyer.

The Integrity Pact should cover all stages of the procurement process, including contract implementation. See the figure below for the potential scope of an integrity pact. This means that for civil works in particular, the implementation/construction period could be very long and therefore the integrity pact could extend over a long period of time.



Monitors are committed to maximum transparency and all monitoring reports and results are made publicly available on an ongoing basis.

### **Integrity Pacts offer the following advantages:**

- They help ensure due process on the part of contractors and public officials during the execution of a project.
- Ensuring access to information, increasing transparency in public contracts.
- Increasing confidence in public decision-making.
- Reduce disputes related to procurement processes.
- Increase the number of bidders competing for contracts.

Romania has implemented Integrity Pacts in the context of four projects within the EU project "Integrity Pact - EU Funds Rescue Program". These are:

- Electronic Catalog (National Electronic e-Education Platform) by the Ministry of Education.
- Increasing the Coverage and Inclusion of the Property Registration System in Rural Romania by the National Agency for Cadastre and Real Estate Publicity.
- Digital Library of Romania by the Ministry of Culture and National Identity.
- Service contracts financed under Priority Axis 3 "Technical Assistance" of the Administrative Capacity Operational Program, by the Ministry of Regional Development and Public Administration.

**Find more information about Integrity Pacts in the European Union on:** [www.transparency.org/integrity\\_pacts](http://www.transparency.org/integrity_pacts)