

## **Restrictive conditions and requirements in procurement carried out by "Chisinau-Gaz" LLC**

As it is not a state-owned enterprise, LLC "Chisinau-Gaz" does not benefit from public funds for its activity in the gas sector, more specifically in the field of gas distribution. However, 'Chisinau-Gaz' Ltd. carries out this activity, operating on the basis of special or exclusive rights granted by law, in a sector of strategic importance for the State, where competition is extremely limited. For these reasons, the way in which Chisinau-Gaz Ltd. carries out its purchases concerns every gas consumer, because the efficiency of the purchases carried out by this enterprise directly affects the price of gas tariffs for consumers.

Procurement carried out by this entity is subject to [Law 74/2020 on procurement in the energy, water, transportation and postal services sectors](#). The rationale for regulating procurement in the energy, water, transport and postal services sectors, even by enterprises that are financed from the public budget, is to ensure transparency and competition and to comply with applicable environmental, social and labor obligations. These principles are rooted in the principles of the Treaty on the Functioning of the EU and, in particular, in the provisions on the free movement of goods and services, the right of establishment and the freedom to provide services.

In this analysis we have analyzed some risk indicators identified in the procurements carried out by SRL "Chisinau-Gaz" between September 2024 and April 2025. We analyzed the calls for tenders and technical specifications/ tender documents in order to identify restrictive conditions and requirements that could limit competition in the procurements carried out by SRL "Chisinau-Gaz", potentially contributing to the increase of the procurement prices. These are listed below, with concrete examples from procurement procedures carried out by the entity.

### ***Restrictive requirements for demonstrating economic and financial standing***

In the meter procurement procedure, no. [ocds-b3wdp1-MD-1733835969994](#), with the estimated value of more than 40 mln/lei, potential bidders were asked to prove that they have executed a contract having the execution of similar supplies (supply of goods: meters, legal means of measurement or other goods in the category of the subject matter of the procurement) at least equal to 75% of the value of the future contract in the last three years or the cumulative value of all contracts executed in the last year of activity to be equal to or greater than the value of the future contract or average annual turnover, period of the last three years - not less than the estimated value of the subject matter of the proposed procurement (for each lot separately).

The requirements on the ***demonstration of economic and financial standing***, which so specifically describe the deliveries that tenderers must have carried out in recent years, allow a very limited number of economic operators to participate in these tenders. Few entities conduct tenders for the procurement of meters, especially on such a large scale. Respectively, when conditions

on similar experience are so restrictive, generally the same economic operators that have supplied the contracting entity with similar goods in previous years can bid.

With reference to the option to demonstrate the average annual turnover, the period of the last three years - not less than the estimated value of the subject matter of the proposed procurement, for each lot, is also restrictive. This tender procedure has been divided into 9 lots (8 lots of meters and 1 lot of correctors), the estimated value for each lot ranging from RON 12 700 to RON 22 001 925, excluding VAT. In order to participate in any of the 9 lots, according to the wording of the tender notice, an economic operator would have to demonstrate an average annual turnover, for the last three years, not lower than the estimated value of the subject of the proposed procurement, not of the lot for which it would submit a tender. It appears that even the economic operator interested in submitting a tender for a single lot, with a value of only a few tens of thousands of lei, would have to have a turnover in relation to the total value of the procurement, which is disproportionate. With reference to the maximum allowable turnover limit that may be requested by the contracting entity Law 74/2020 on procurement in the energy, water, transport and postal services sectors refers to art. 21 of Law 131/2015 on public procurement, which provides that *"the minimum annual turnover required from economic operators must not exceed twice the estimated value of the contract, except in well-justified cases, such as those related to special risks related to the nature of the goods, works or services"*.

All 8 lots of meters were awarded to the company "Orion-GS" Ltd. The same economic agent was awarded a similar contract in the amount of 35 481 134 lei, excluding VAT in 2024 as a result of the tender procedure No. [ocds-b3wdp1-MD-1701433884573](#), and another one for over 36 million lei, excluding VAT, at the beginning of 2023 as a result of the tender procedure No. [ocds-b3wdp1-MD-1673613150942](#).

### ***Restrictive requirements to demonstrate technical and professional capacity***

In the open tender procedure initiated by "Chisinau-gas" LLC for the purchase of the information system for natural gas distribution activity No. [ocds-b3wdp1-MD-1726656893928](#), with an estimated value of 52 600 000 MDL, several restrictive requirements were invoked with regard to the qualification and selection criteria. These formed the basis of a complaint to the National Agency for the Settlement of Complaints (ANSC) ([Decision No. 03D-788-24 of 06.11.2024](#)). One of the requirements set by the entity, as a way of demonstrating financial economic capacity, but with elements that also referred to similar experience, was that the bidder had been in business for at least seven years and that 90% of the bidder's activity had to be the provision of information technology (IT) systems, including software and services. At least 5 of these years had to have been spent in the Republic of Moldova.

While not questioning the objective needs of the contracting entity, the ANSC noted that the proportion of 90% of the total activity that the potential tenderer would have had to have in

(IT) field would not have been an objective indicator, assuming that there could be economic operators carrying out several types of activities, i.e. the proportion of services provided in the field would be less than 90% of their total activities, but which could exceed the value of the future contract. With reference to the requirement "at least 5 of these years the tenderer must be active in the Republic of Moldova", the Agency considered that the contracting entity did not demonstrate by objective arguments how the 5 years of experience of the potential tenderer in the Republic of Moldova would facilitate/ensure the proper execution of the sector procurement contract, being such as to unduly limit competition in the mentioned procedure. At the same time, in the section referring to the description of technical and/or professional capacity, SRL "Chisinau-Gaz" established the mandatory requirement that the bidder must demonstrate proven experience of integration with Moldovan governmental systems in at least three projects in the last 5 years.

***Conditions for the execution of a contract by an association different from those imposed on individual participants***

Also in the open tender procedure for the purchase of the information system for natural gas distribution activity no. [ocds-b3wdp1-MD-1726656893928](#), LLC "Chisinau-gas" established, in the tender notice, that "the tenderer must provide proof of similar contracts rendered in the last three years, calculated from the deadline for submission of tenders, showing that it has rendered services subject of the tender procedure for which the tender is submitted at the level of maximum 3 contracts, indicating the amounts, dates and public or private beneficiaries in the aggregate value of at least 52 600 000 MDL excluding VAT. In the case of the participation of a consortium of companies, each participant must demonstrate that it meets this requirement". The ANSC considered that imposing the fulfillment of the qualification requirements fully on each member of the association as requested by the contracting entity, in fact contravenes its purpose, including the principle of proportionality.

***Restrictive evaluation factors***

In the open tender procedure for the purchase of the information system for the natural gas distribution activity No. [ocds-b3wdp1-MD-1726656893928](#), the evaluation factors for the evaluation of the most advantageous offer according to the criterion "best value for money" were in contradiction with the provisions of Article 76 of Law No. 74/2020, according to which the best value for money or quality-cost ratio is determined on the basis of evaluation factors that include qualitative, environmental and/or social aspects related to the subject matter of the procurement contract.

**20. Factorii de evaluare a ofertei celei mai avantajoase din punct de vedere economic, precum și ponderile lor:**

Criteriul	Denumirea factorului de evaluare	Ponderea%
<b>I.</b>	Prețul ofertei (Elaborarea Sistemului informațional pentru activitatea de distribuție a gazelor naturale).	50 % (punctaj maxim 50 puncte)
<b>II.</b>	Experiența similară în ultimii 7 ani (suma contractelor similare fără TVA), conform informației prezentate în Anexele nr. 7 și nr. 8.	20 % (punctaj maxim 20 puncte)
<b>III.</b>	Costul serviciilor de mentenanță/suport tehnic al sistemului informațional pentru activitatea de distribuție a gazelor naturale, pentru perioada de 12 luni (conform informației prezentate în p. VI din Anexa nr. 2).	5 % (punctaj maxim 5 puncte)
<b>IV.</b>	Cost om/oră pentru lucrări de dezvoltare a unei funcționalități suplimentare a sistemului sau de modificare a celei existente în cadrul suportului tehnic al sistemului (conform informației prezentate în p. VIII din Anexa nr. 2).	5 % (punctaj maxim 5 puncte)
<b>V.</b>	Propunerea tehnică – (Demonstrarea înțelegerii cerințelor incluse în Caietul de sarcini și prezentarea unei metodologii ce va permite implementare a proiectului).	20% (punctaj maxim 20 puncte)
<b>VI.</b>	<b>TOTAL</b>	<b>100 %</b> <b>(punctaj maxim 100 puncte)</b>

The evaluation factor referring to similar experience basically repeats several qualification and selection criteria. However, the ANSC considered that *"although there is also a qualification requirement for the sectoral procurement procedure in question, the holding of several contracts for the provision of similar services during the requested period may demonstrate the more experienced capacity of the economic operator to execute the future contract, i.e. the applicability of the disputed factor does not contravene the provisions of Art. 76 para. (7) letter b) of Law no. 74/2020"*. With reference to evaluation factors III and IV, ANSC considered that they do not fall within the provisions of Art. 76 para. (7) lit. c) of Law no. 74/2020 and cannot be qualified as an element having an impact on the quality of the service to be provided. With regard to the evaluation factor "Technical proposal - (Demonstration of understanding of the requirements included in the specifications and presentation of a methodology that will allow the implementation of the project)", the Agency noted that it is not clear how the contracting entity will award the score, namely how it will compare the offers in terms of "understanding of the requirements included in the specifications", and in each case, this factor cannot be measurable and quantifiable.

Following the ANSC's decision, the contracting entity made certain amendments to the invitation to tender, and the tender documentation was not challenged repeatedly. All the conditions that were found to be restrictive in the framework of the LLC "Chisinau-Gaz" for the purchase of the information system for the natural gas distribution activity were found in a similar tender procedure carried out by "MOLDOVAGAZ" SA, with no. [ocds-b3wdp1-MD-1726484885053](#), which concerned the purchase of an information system for the natural gas supply activity, with the same estimated value of MDL 52 600 000. No objections were lodged against the tender documentation for the tender procedure in question, and the contracting entity was not obliged to make any changes. Both contracts for the two tender procedures were concluded with the economic operator "Esempla Systems" SRL, with identical amounts of 46 617 812 MDL each.

### ***Lack of subdivision***

In several procurement procedures, LLC "Chisinau-Gaz" includes a large number of positions in the same lot. Thus, each economic operator wishing to participate in a procurement procedure should be able to satisfy all the positions included in the lot.

A case of including 6 positions in a single lot is the tender procedure for the purchase of computers and office equipment, No. [ocds-b3wdp1-MD-1740412837870](#).

**8. Cumpărătorul invită operatorii economici interesați, care îi pot satisface necesitățile, să participe la procedura de achiziție privind livrarea/prestarea/executarea următoarelor bunuri /servicii/lucrări:**

Nr. d/o	COD CPV	Denumirea bunurilor solicitate	Unitate de măsură	Cantitate	Specificarea tehnică deplină solicitată, Standarde de referință
1	30141200-1	Notebook	buc.	16	descrișă în documentația de atribuire (caiet de sarcini)
2	30141200-1	Calculator (All-in-One) - 1	buc.	165	descrișă în documentația de atribuire (caiet de sarcini)
3	30141200-1	Unitate multifuncțională (MFU A4)	buc.	67	descrișă în documentația de atribuire (caiet de sarcini)
4	30141200-1	Unitate multifuncțională (MFU A3) Canon	buc.	5	descrișă în documentația de atribuire (caiet de sarcini)
5	30141200-1	Unitate PC pentru bazele de date test ERP и ЗУП	buc.	1	descrișă în documentația de atribuire (caiet de sarcini)
6	30141200-1	Server	buc.	1	descrișă în documentația de atribuire (caiet de sarcini)
Valoarea estimată (lei fără TVA)					<b>3 579 616,00</b>

In the "[Clarifications](#)" section, we find claims about not dividing into lots or setting technical specifications that would correspond to a particular manufacturer. The economic operator "FORS-Computer" SRL filed a complaint on the tender documentation, which was settled by [Decision No. 03D-335-25 of 03.04.2025](#). Although the ANSC rejected the appeal, we consider that at least some of the requirements in the tender notice are indeed restrictive and deserve attention.

Unlike Law 131/2015 on Public Procurement, Law 74/2020, which refers to sectoral procurement, does not oblige contracting entities to justify the decision not to divide into lots the contracts procuring goods/services/works, circumstances that were taken into account by ANSC when examining the challenge. Furthermore, the Agency found that the Appellant formulated its claims in general as limitative but not in relation to itself and did not submit any relevant and convincing evidence that the actions of the working group within the contracting entity to include the requested goods in a single lot restricted its right to participate in the contested sectoral procurement procedure. For this reason, the claim was rejected.

The representative of the contracting entity argued, in support of his position: *"In the given tender, we insisted to go for a single lot and, what is related to the fact of post-service after procurement. We procure the given technique for 12 companies and it is very complicated to turn a contract into 6, then into 12, it is a matter of our internal logistics"* (page 26 of the [text of the decision](#)).



Whether the representative's statements in this regard are true or not, not splitting by lots is a poor practice in public and/or sectoral procurement, which has the effect of restricting competition and increasing the purchase price. However, for some lots it is intended to procure less than 12 units, i.e. it is not possible to talk about splitting into 12 contracts for each company. If we assume that it would be a question of centralization of procurement for affiliated enterprises in the districts, then lotting would be a good practice, which would allow the contracting entity to adapt the content of individual contracts to the capacity of small and medium-sized enterprises and/or more closely to the specialized sectors of small and medium-sized enterprises, thus providing the possibility to obtain better prices for better quality.

The [text of the decision](#) (p. 12) contains some allegations of the complainant, which refer to the fact that in a similar tender in 2024, a Lenovo laptop was offered at a price of 18 300 lei excluding VAT (USD 1 031 at the NBM exchange rate on the date of signing the contract). During the same period, the same laptop was sold by the importing company to the partners at a price of USD 830 - 840 excluding VAT, from which it would appear that the winning bidder would have made a profit of 20%. In the above mentioned procedure ([ocds-b3wdp1-MD-1703842634584](#)), the contracting entity had included 9 positions in one lot and, as for the 2025 procurement, rejected the requests for lot splitting on the grounds that it would not be obliged to justify the decision not to allocate.

In another tender procedure for the purchase of steel valves, faucets and similar products, no. [ocds-b3wdp1-MD-1736589091690](#), LLC "Chisinau-Gaz" included 110 items in one lot. In the section "Clarifications" several requests were submitted to divide the goods into separate lots, e.g. steel valves, steel taps, bronze taps, flanges, valves, other steel items, etc. The contracting entity replied that it would be entitled not to batch, without justifying this decision.

In the procurement procedure for gas leak search devices, No. [ocds-b3wdp1-MD-1738243810708](#), in one lot 12 items were included. This dissatisfied an economic agent, who accused the LLC "Chisinau-gas" in the "[clarifications](#)" section of favoring certain companies, which would lead to high gas prices.

8. Cumpărătorul invită operatorii economici interesați, care îi pot satisface necesitățile, să participe la procedura de achiziție privind livrarea/prestarea/executarea următoarelor bunuri /servicii/lucrări:

Nr. d/o	Cod CPV	Denumirea bunurilor solicitate	Un. de măs.	C-te	Specificarea tehnică deplină solicitată, Standarde de referință
1	38431100-6 38543000-3	Manometru electronic 3 kg/cm2	buc.	26	Manometru electronic 3 kg/cm2 - sau echivalent
2	38431100-6 38543000-3	Odorimetru OO-4	buc.	2	Odorimetru OO-4 - sau echivalent
3	38431100-6 38543000-3	Модем Data Logger GPRS MACR6 cu 1 senzor de presiune	buc.	10	Модем Data Logger GPRS MACR6 cu 1 senzor de presiune - sau echivalent
4	38431100-6 38543000-3	Detector de scurgeri de gaze "Бапра 5-03"	buc.	4	Detector de scurgeri de gaze "Бапра 5-03" - sau analog
5	38431100-6 38543000-3	Модем Data Logger GPRS MACR6 cu 2 senzori de presiune	buc.	4	Модем Data Logger GPRS MACR6 cu 2 senzori de presiune - sau echivalent
6	38431100-6 38543000-3	Indicator de gaze și presiune "ИГД-1"	buc.	3	Indicator de gaze și presiune "ИГД-1" - sau echivalent
7	38431100-6 38543000-3	Detector de gaze SNOOPER mini	buc.	90	Detector de gaze SNOOPER mini - sau echivalent
8	38431100-6 38543000-3	Detector de scurgeri de gaze Inspectra Laser	buc.	2	Detector de scurgeri de gaze Inspectra Laser - sau echivalent

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9	38431100-6 38543000-3	Echipament de găsire a conductelor de gaz subterane din oțel marca "Progress-3" + generator de frecvențe	buc.	2	Echipament de găsire a conductelor de gaz subterane din oțel marca "Progress-3"+generator de frecvențe - sau echivalent
10	38431100-6 38543000-3	Echipament de găsire a conductelor de gaz subterane din oțel "АНПИ"	buc.	6	Echipament de găsire a conductelor de gaz subterane din oțel "АНПИ" - sau echivalent
11	38431100-6 38543000-3	Aparat multifuncțional de măsurare a gazelor VARIOTEC 460 EX	buc.	1	Aparat multifuncțional de măsurare a gazelor VARIOTEC 460 EX - sau echivalent
12	38431100-6 38543000-3	Echipament de găsire a conductelor de gaz subterane din oțel marca "Progress-2" + generator de frecvențe	buc.	2	Echipament de găsire a conductelor de gaz subterane din oțel marca "Progress-2"+generator de frecvențe - sau echivalent

Valoarea estimativă totală (lei fără TVA): 3 737 676,70

**Indication of the trademark in the technical specifications established by the contracting entity**

Indication of the trademark is a common practice in purchases carried out by SRL

"Chisinau-gas". In addition to the non-division into lots, in the tender procedure for the purchase of computers and office equipment, No. [ocds-b3wdp1-MD-1740412837870](#), "Chisinau-Gaz" Ltd. indicated in the tender notice the brand name of some equipment, such as the multifunctional unit, Canon. For other equipment, the respondent stated that the technical specifications would correspond to the trademark Lenovo. The specifications, likewise, contain narrow specifications. The contracting entity stated, in response to a request for clarification, that other trademarks with equivalent characteristics would be accepted. However, the variety of equipment that could be offered is extremely limited, especially as all goods, with narrow specifications, are included in a single lot and tenders cannot be submitted for only some items. Each economic operator, who would wish to submit a tender, would have to be able to satisfy all the items included in the lot.

In the procedure for the purchase of devices for searching for gas leaks, no. [ocds-b3wdp1-MD-1738243810708](#), LLC "Chisinau-Gaz" indicated in the tender documentation trademarks for the devices to be purchased (e.g. Data Logger GPRS MACR6, "Progress-3" + , "Progress-2", "АНПИ" etc.). The contracting entity was accused of failing to provide information

Sufficient information on the technical specifications of the goods may lead the economic operator to offer a good with full completeness, which leads to a price increase, or on the contrary, to minimum completeness, which will not meet the needs of the contracting authority ([Clarifications](#)). The contracting entity has merely included the phrase 'or equivalent', although this is not sufficiently clear.

In the technical specifications for the radio module procurement procedure, No. [ocds-b3wdp1-MD-1733841989530](#), several trademarks are referred to, such as LoRaWAN communication protocol or LPWAN radio communication protocol. Although the procuring entity has stated that any technical specification, indicating a particular origin, source, production or standardized process, trademark, patent, manufacturing license, LPWAN radio communication protocol is referred to only for the purpose of easily identifying the type of product, it is uncertain whether other trademarks, which would serve the intended purpose as well, could be included in the bids.

### ***Wrong CPV***

In the tender procedure for the purchase of computers and office equipment, No. [ocds-b3wdp1-MD-1740412837870](#), the CPV code that appears in the Mtender system is 30100000-0 - Office machinery, equipment and office accessories, excluding computers, printers and furniture. This code is shown incorrectly because the equipment items included in the tender procedure include computers and printers. The correct CPV code was indicated in the tender documentation. However, according to the claims indicated in the contestation lodged by one economic operator, indicating the wrong CPV code does not allow potential tenderers to receive information, as economic operators in the market usually subscribe to send notices for CPV codes falling within their field of activity. This claim was rejected by the ANSC, which found that the complainant did not prove that the error admitted by the contracting entity affected its guaranteed rights, including that it did not prove any prejudice in relation to this fact.

However, we consider that the admission of such an error, whether intentional or by omission, could indeed have had the effect of limiting the circle of potential bidders for the procedure in question. It should be noted that exactly the same error was admitted for other procedures described below, for example:

- Tender procedure for the purchase of steel valves, taps and similar products, nr. [ocds-b3wdp1-MD-1736589091690](#)

The CPV code that appears in the Mtender system is **42100000-0** - Mechanical power production and utilization machinery. The tender notice indicates another code, **42130000-9** - Taps, cocks, valves and similar appliances. The latter describes precisely the subject of the procurement, while the former is very vague, limiting the possibility for potential bidders to be notified of this tender.

- Procurement procedure for meters, No. [ocds-b3wdp1-MD-1733835969994](#)



The CPV code that appears in the Mtender system is 38500000-0 - Control and test apparatus. On the other hand, a CPV code is indicated in the tender notice which relates strictly to the subject of the procurement - **38550000-5** - Meters.

- Procurement procedure for fastening nodes and gaskets, No. [ocds-b3wdp1-MD-1735540372367](#)

The CPV code indicated in the Mtender system is 42100000-0 - Mechanical power production and utilization machinery. The CPV code **42130000-9** - Taps, cocks, valves and similar appliances is indicated for each position in the tender notice.

- Procurement procedure for pressure gauges, No. [ocds-b3wdp1-MD-1734437323316](#)

The CPV code indicated in the Mtender system is 38400000-9 - Physical property testing instruments. In the tender notice, the CPV code **38425100-1** - Pressure Gauges is indicated for each position.

- Procedure no. [ocds-b3wdp1-MD-1741928964850](#), for the procurement of construction works, capital repairs and electrical networks for cathodic protection stations

In the Mtender system, the CPV code 45200000-9 - Complete or partial building works and public works was indicated. On the other hand, in the tender notice, the CPV code **45259000-7** - Repair and maintenance of equipment is indicated for each lot and position.

## Conclusions

As a result of the analysis of the calls for tenders and technical specifications of the procurements carried out by "Chisinau-Gaz" LLC, we came to the conclusion that they very often contain restrictive conditions and requirements, which are likely to restrict competition, favoring certain economic operators and/or manufacturers. These circumstances may result in higher purchase prices for the goods/services/works procured by "Chisinau-Gaz" LLC, in the absence of advantages related to their quality and performance. One of the most common such limiting conditions, which can be found in the majority of purchases made by SRL

"Chisinau-gas", is the inclusion of several items in a single lot, for some of these items being established technical specifications that correspond only to certain brands, in addition to the requirement that the tenderer must prove by documents the relationship with the manufacturer. Although they do not necessarily add value to the procurement process, such conditions/requirements are often impossible for the majority of economic operators active in the areas covered by the subject matter of these purchases to meet. As a consequence, a limited number of economic operators, if not the only one able to meet these requirements, are free to set higher prices, with the burden of these increased prices inevitably affecting the final consumers of natural gas, who will pay higher tariffs.

The author of this article is Olga Diaconu, member of the Public Procurement Monitoring Coalition. The article was written in the framework of the project "Strengthening Integrity in Public Procurement" implemented by IDIS "Viitorul", in collaboration with the Partnership for Transparency ([PTF](#)) in the USA. s