

REFORM OF PUBLIC PROCUREMENTS IN UKRAINE

and performance results
of ProZorro e-procurement
system

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Names and abbreviations

AMCU	Antimonopoly Committee of Ukraine
CA	Condominium Association
CMU	Cabinet of Ministers of Ukraine
CPA	Central purchasing authority
CPV	Common Procurement Vocabulary
DMU	Defense Ministry of Ukraine
EC	European Commission
EU	European Union
EU Project	Project on Harmonization of Public Procurement System in Ukraine with EU Standards
HA	Housing association
IMG	International Marketing Group Ukraine
KCSA	Kyiv City State Administration
KSE	Kyiv School of Economics
Law	Law of Ukraine
LLC	Limited liability company
ME	Municipal enterprise
MEDT	Ministry of Economic Development and Trade of Ukraine
MHU	Ministry of Health of Ukraine
ME	Municipal establishment
MI	Municipal institution
MU	Military unit
NABU	National Anticorruption Bureau of Ukraine
PE	Private enterprise
PJSC	Public joint-stock company
PrJSC	Private joint-stock company
SASU	State Audit Service of Ukraine
SE	State enterprise
SI	State institution
SP	Sole proprietorship
TI	Transparency International
USR	Unified State Register of Legal Entities, Sole Proprietorships and Civic Formations
VRU	Verkhovna Rada of Ukraine

Key definitions

Analytics module

an online instrument for aggregation, sorting and other processing of machine-readable data on public procurements

Automatic risk indicators

criteria with preset parameters, used for automatic selection of procurements containing signs of a low-quality tender announcement, low competitive activity and nontransparent procurement procedure

Civil society

the aggregate of nongovernmental organizations and institutions that manifest interests and will of citizens

E-procurement system

an information and telecommunication system for implementation of procurement procedures, electronic generation, posting, publication and exchange of information and electronic documents, comprised of the Authorized Agency's web portal and authorized e-platforms linked by secure automatic exchange of information and documents

Lot

a contracting authority-designated part of goods, works or services for which tenderers may submit tender offers within single procurement procedure or proposals during negotiations, if negotiation procurement procedure is used

Machine-readable data

open data or metadata regarding public procurements, available in formats that can be processed by a computer (.xml, .json, etc.)

Over-threshold procurement

a procurement of goods, works and services with the value equal to or exceeding UAH 200 thousand for goods and services and UAH 1.5 million for works. For contracting authorities in certain sectors of economy, the thresholds are UAH 1 million for goods and services and UAH 5 million for works

Procurement contract

a contract between the contracting authority and the tenderer, based on the results of the procurement procedure and envisaging the provision of services, performance of works, or acquisition of the ownership of goods

Sub-threshold procurement

a procurement of goods, works and/or services valued at less than UAH 200 thousand for goods and services and less than UAH 1.5 million for works. For contracting authorities in certain sectors of economy, the thresholds are UAH 1 million for goods and services and UAH 5 million for works

Tender

a competitive selection of tenderers for the purpose of determining the winner of the tender in accordance with procedures set out in the Law of Ukraine On Public Procurements (except negotiation procurement procedure) and the Law of Ukraine On the Procedure for Procurement of Goods, Works and Services for Guaranteed Satisfaction of Defense Needs.

Tenderer

an individual (including sole proprietors) or legal entity (resident or nonresident) submitting a tender offer or participating in negotiations, if negotiation procurement procedure is used

Tender documentation

open data on public procurements, available in formats suitable for analysis by users (.pdf, .docx, etc.)

Introduction

The monitoring report for the second half of 2017 summarizes many issues raised in the previous studies. As compared to the second half of 2016, this report confirms seasonal trends, such as the increased number of sub-threshold procurements in November- December. Comparing to the first half of 2017, the study reveals tendencies of conducting procurements by certain contracting authorities during the year.

At the same time, the problems remain largely the same: insufficient legal regulation, poor performance of controlling authorities, low quality of documentation by tenderers and contracting authorities. Much of the report is devoted to the discussion of the changes in the procurement sector that help resolve or, conversely, deepen the above problems.

For the purposes of current analysis, we used the methodology designed in the previous monitoring reports. In the first one of them, the methodological basis according to international approaches to procurement monitoring was developed. In the second one, the methodology was improved, in particular, we included the analysis of civic monitoring and the competitive dialogue procedure data. The current report stands upon pillars of the former studies, making it possible to compare its analytics to the previous periods.

Just like previous reports, this one is intended to demonstrate to civil society and government experts the way towards efficient monitoring of public procurements rather than provide definitive answers. The report and its annexes contain open data analysis results that can be used to identify or disprove the existence of violations in specific procurements.

In particular, the study describes eight examples of procurement, where such violations were revealed by civil society. Unfortunately, the number of procurements to be audited for possible violations is much higher. The authors of this report hope that all stakeholders will take advantage of open data in the ProZorro system to make public procurement more efficient.

PUBLIC PROCUREMENT MONITORING METHODOLOGY

1

BRIEF DESCRIPTION OF METHODOLOGY OF MONITORING PROCUREMENTS IN PROZORRO

This report uses public procurement monitoring methodology developed by TI Ukraine (TI Ukraine, 2017a, p. 9). This methodology is based on the best international practices of civic monitoring in the procurement sector, in particular, on the approaches developed in Armenia, Paraguay, and Hungary. Our approach also takes into account the specifics of every type of public procurements existing in Ukraine. We analyze indicators important for certain procurement type, e.g. avoidance of open tenders by contracting authorities in the case of contract reporting.

To inspect every indicator, we employ variables that can be measured using the data available in ProZorro. For example, the average expected value of a contracting authority's lot is a variable used to analyze possible avoidance of open tenders. This variable is calculated by dividing the expected value of all lots of a contracting authority by the number of these lots.

It should be noted that the methodology remains largely the same in this report. However, it includes the adjustments made in the previous analytical work (TI Ukraine, 2017b, p. 6). For example, the analysis of innovations in the procurement sector contains the part of the state of civic monitoring of this sector. In addition, monitoring of the competitive dialogue procedure continues, despite the lack of competitive dialogue statistics in the ProZorro professional analytics module. In general, the use of our methodology allows to compare ProZorro's performance in the second half of 2017 with that in the first half of 2017.



2

ANALYSIS PERIODS AND DATA SOURCES

Analysis of law and technology development and civic monitoring covers the period of July–December 2017. Data from open sources, e.g. laws of Ukraine and public online resources, was used.

Quantitative procurement data was analyzed for the same period in 2017. Sources of information for this section include ProZorro's analytics modules: public (Qlik Tech International AB, 2016a) and professional (Qlik Tech International AB, 2016b). We also used the results of the online surveys among civil society and businesses regarding the ProZorro system which were conducted by the International Marketing Group Ukraine upon request of Prozorro SE (IMG, 2017).

Legal analysis of violations covers the period of the second half of 2017. Data sources include publications and commentaries of TI Ukraine experts. This report also uses public comments and blogs posted on DOZORRO monitoring portal (TI Ukraine, 2017e).

PUBLIC PROCUREMENT REFORM IN THE SECOND HALF OF 2017



Many changes have taken place in Ukrainian public procurements during the second half of 2017. The majority of innovations were the continuation of reforms initiated in the previous analysis periods (TI Ukraine, 2017b, pp. 9-16). In particular, the VRU adopted the draft law No. 4738-d determining the procedure for monitoring procurements by SASU and TI Ukraine presented a pilot version of procurement risk indicators. There have also been some unexpected events, principally, adoption of the draft law No. 7206, which proposes to add a «national» component in the evaluation of tender offers, in the first reading by the Parliament. This section will discuss in details the developments that took place in the procurement sector.

1

LEGISLATIVE DEVELOPMENTS

In the beginning of October 2017, the draft law No. 2126a On the Main Principles of Ukraine's Cybersecurity (VRU, 2017e) was adopted. The initial version of this document contained the provisions dealing with public procurements. Specifically, the document proposed definition and authorization mechanisms of e-platforms alternative to the ones provided by the Law On Public Procurements (VRU, 2017b), as well as the list of their functions. TI Ukraine objected such version of the draft law, because such amendments had signs of corruption, as highlighted in more details in the previous monitoring report (TI Ukraine, 2017b, p. 9). As a result, the ambiguous aspects were removed from the final version of the draft law No. 2126a. We can now state that the approved document does not impose risks to public procurements.



Another event was the adoption of the draft law No. 4738-d amending the Law of Ukraine On Public Procurements and some other laws of Ukraine concerning monitoring of procurements (VRU, 2017d). The draft law contains a number of innovations developed with the participation of TI Ukraine, such as monitoring procedure of SASU as a controlling authority and reporting procedure of MEDT as an authorized agency. This document also determines five grounds on which basis SASU can adopt the decision on monitoring of specific procurement, in particular, automatic risk indicators data and information provided by nongovernmental organizations (see Figure 1). According to MEDT, the main change is that tenders will be reviewed to prevent violations rather than to identify them upon completion of procurement (MEDT, 2017b). It is important that tender won't be suspended for the period of monitoring, and the control will be exercised by using the e-procurement system and posted on the ProZorro web-portal.



Figure 1. Determining the automatic risk indicators in the draft law No. 4738-d

« AUTOMATIC RISK INDICATORS »

criteria with preset parameters, used for automatic selection of procurements containing signs of the law violations in public procurement sector.

In the monitoring report for the first half of 2017, we discussed in detail the importance of the draft law No. 4738-d, including in terms of international best practices (TI Ukraine, 2017b, p. 11). This document creates the basis for preventive monitoring of procurements by controlling authorities. At the same time, the document meets the requirements of the Law On Public Procurements. The pressing issue at the moment is to implement the provisions outlined in the draft law into practice. Researchers state that low professional level of civil servants is one of the key reasons to negate the results of reforming the countries of Central and Eastern Europe (Randma-Liiv & Drechsler, 2017, p. 603). In this context, it is reasonable to determine new indicators of successful control by SASU, increase the professional level of its employees to achieve these indicators, and clarify step-by-step monitoring procedure when sufficient data on its progress is collected.

The third event in the focus of this report is the draft law No. 7206 «Buy Ukrainian, Pay to Ukrainians» (amending some legislative acts of Ukraine that promote the development of industrial production, as well as small and medium business) (VRU, 2017c). The draft law proposes amendments to three laws, including the Law On Public Procurements. In particular, the draft law introduces a concept of the «reduced price», which takes into account a «local component» in tender offer of the tenderer, and «specialized procurements», or those where the local component criterion may be used. This criterion includes evaluation of price offer according to eight «national» parameters, such as the availability of service centers in Ukraine or the use of Ukrainian raw materials in the production of

the procurement item. It is proposed to disclose price and the reduced price of tenderers' offers prior to e-auction, and to determine the winner upon its completion based on the highest economic benefit.

This draft law raised vivid discussions among economists regarding the expediency of protecting the Ukrainian suppliers. Such discussions are beyond the scope of our report, however some issues deal with anti-corruption activities in the procurements. Firstly, according to MEDT, to confirm a share of the local component, the tenderers shall collect up to 23 additional reference documents (MEDT, 2017a). And although the draft law refers to 23 requirements that need to be confirmed (possibly through self-declaration, not by references), in view of the fact that Ukraine is perceived by civil society as a quite corrupt state (TI Ukraine, 2017a, p. 17), the appearance of additional requirements increases the corruption risks in the procurements.

Secondly, the expediency of additional requirements to protect small and medium business is questionable. With current price targeting as the only evaluation criterion of the offers, a share of SPs among suppliers in the ProZorro system has increased from 24% in 2015 up to 42% in 2016 (KSE, 2017, p. 2). At the same time, based on the results of the survey among the entrepreneurs participating in tenders, about 58% of tenderers want the requirements to be simplified to the number of documents (IMG, 2017a, p. 23). Thus, the adoption of the draft law No. 7206 may create more space for corruption due to the need to collect additional references by the entrepreneurs, while participation of small and

medium business in the procurements has positive dynamics without the proposed legislative changes.

At the international level, the need to protect a national producer may not be justified. The lawyers state that the proposed changes violate the principle of equal access to the markets under the treaties signed by Ukraine: EU Association Agreement, Government Procurement Agreement, and Canada-Ukraine Free Trade Agreement (Smyrnov, 2017). In addition, the latest EC guidance indicates that the union of the European states is moving in an opposite direction: the growth of a turnover between the EU countries in the conditions of joint improvement of the procurement standards (The EC, 2017, p.4).

In 2009-2015, 3.5% of the European procurements were made directly from the producer of another EU country. One of the EC's goals is to increase this share. However, less than 1% of tenderers and winners registered in the ProZorro system are foreign companies (TI Ukraine, 2017c). So, the need to protect national suppliers requires more thorough analysis to say the least. In this context, we can only state that the draft law No. 7206, if adopted, will create discriminatory conditions for tenderers from other countries.

2

ADMINISTRATIVE AND TECHNICAL INNOVATIONS

The first administrative and technical innovation to be noted is the publication of the ProZorro system development plan (Prozorro SE, 2017). The page showing the plan contains three sections: «Completed», «Expected» and «In progress» (see Figure 2). The page illustrates that the works completed in 2017 include the integration of ProZorro with USR and the establishment of procurement procedure under energy service contract. The page also contains links to get more information about the works done. Especially relevant for the civil society seems to be the possibility to monitor whether the works are performed on time. For example, a pilot integration with the Register of Medicinal Products of MHU was in progress as of the beginning of 2018, although this task was expected to be completed in December 2017. Such publicity provides necessary information for civic monitoring of the improvements in the ProZorro system.

ПЛАНУЄТЬСЯ

Електронна тендерна документація

Електронізація Тендерної документації та пропозиції: поля в системі, замість підвантаження документів та скан копій. Легше готовувати, легше шукати, легше аналізувати.

очікується в I-му півріччі 2018

У РОБОТІ

Пілотна інтеграція з реєстром лікарських засобів МОЗ

Можливість вибору МНН з випадаючого списку, а не введення вручну.

очікується в грудні 2017

Рамкові угоди

Процедура довготермінових закупівель товарів загального вжитку.

ЗАВЕРШЕНО

Нова процедура закупівель за енергосервісним договором

[Новина](#)
[Анонс](#)

Інтеграція з ЄДР

[Новина](#)
[Анонс](#)

Figure 2. Scope of works in the ProZorro system development plan

The procurement system development plan contains information on the implementation of energy service contracts in the second half of 2017. Such contracts are an example of public-private partnership, when the companies invest in the modernization of energy equipment of state institutions, allowing them to save budget funds, and receive a particular share of such cost savings (Government Portal, 2017). ProZorro serves as an electronic tool to select the winner with whom the contract is concluded.

It is worth noting that the introduction of energy service contract as a type of agreement and electronization of selection for such contract fully correspond to the objectives of innovation and transparency promoted by the EU in the procurement sector (The EC, 2017, p. 12; EU Project, 2017, p. 70). However, such contracts are governed by a separate legislative framework in the area of energy saving and have other rules of conduct than the procedures provided for in the Law On Public Procurements. The key differences include: these tenders do not have the expected value, the procurement item is not attributable to goods, services or works, and the tenderers compete to increase the potential cost savings from the implementation of technologies of the participating company. In view of the above, monitoring the conclusion of such contracts requires the development of separate methodology and is not the subject matter of our analysis.

As for the development of tools to work with ProZorro data, the professional analytics module¹ provides now an opportunity to analyze the concluded contracts. We can see the number of days for which the contract is extended, a share of contracts with particular type of changes and other indicators (ProZorro Analytical Tools, 2017). This improvement is an important step towards extending monitoring to the stage of performance of the contract (TI Ukraine, 2017a, p. 22). An example of contract analysis is studying the history of work with the supplier when the contracting authority wishes to understand how many contracts with his provider raised problems and why. Another opportunity is to track the number of days for which the contacts are extended by the contracting authority. Extension

for a great number of days may indicate a deliberate specification of the shortened delivery term in the tender offer in order to restrict competition.

The tool of the analysis of concluded contracts needs further improvements. Firstly, the exclusive list of reasons for contract termination is not currently available in the ProZorro system. Thus, it is impossible to determine precisely in the automatic mode the reason for contract termination. Secondly, when concluding additional agreements, the category «Improvement of procurement quality» is quite often used when the contracting authority fails to determine where a specific reason for extending the contract can be attributed to. Possible solutions are to create the category «Other» or to expand the list of reasons for concluding such contracts.

3

THE STATE OF CIVIC MONITORING

In early November 2017, the Expert Group on the improvements in public procurement system (Nestulia, 2017) was established. The Group's goal was to elaborate a strategy for the development of law and ProZorro electronic system. The Group brought together representatives of MEDT, Prozorro SE, SASU, contracting authorities, tenderers, civil society, as well as independent consultants and researchers. It should be noted that this initiative is aligned with the Action Plan for the implementation of Open Government Partnership initiative in 2016-2018 (CMU, 2016). For civil society, this forum is an opportunity to promote the objectives of procurement monitoring and develop a joint position on the implementation of these objectives with representatives of other sectors.

The Group met twice while preparing the report. The most important result of its work is the draft law aimed at harmonization of certain aspects of the operation of ProZorro system with the Law On Public Procurements (CMU, 2017). This draft law

¹Website of ProZorro's professional analytics module – bipro.prozorro.org.

is also aimed at the improvement of procurement process, e.g. allowing the tenderers to remove errors in tender offers within 24 hours after such offers are submitted.

The second event to be highlighted is the development of DOZORRO monitoring portal. During the second half of 2017, the portal counted 22 nongovernmental organizations which tracked violations in public procurements, as well as 13 contracting authorities which responded to feedbacks posted on the portal (TI Ukraine, 2017e). An important step for the development of this project was integration with ProZorro portal and websites of e-platforms. The tender feedback can be currently posted both from e-platform, and through the direct link on ProZorro portal. In addition, DOZORRO's tender complaint page contains not only feedbacks but also information about the work of nongovernmental organizations regarding the identified violations. Publication of the statistics on the efficiency of each nongovernmental organization seems to be expedient, e.g., the number of successful complaints to corresponding authorities.

As to the results of DOZORRO's operation during the year,² we revealed violations in about 3,000 tender procedures amounting to over UAH 15 billion (TI Ukraine, 2017f). The contracting and controlling authorities satisfied 671 of these complaints, refused 111 ones, and other ones were pending at the time of presenting the results. The lawyers of TI Ukraine and specialized nongovernmental organizations using the DOZORRO portal identified the most common violations: «Possible avoidance of tender procedure», «Discriminatory requirements of tender documentation», and «Unjustified choice of winner» (see Table 1).

At the same time, the statistics of penalty sanctions for the revealed violations is quite moderate: 3 criminal sentences and 5 penalties for administrative violations. Such results are consistent with the fact that contracting authorities evaluate the competence of controlling and law enforcement authorities negatively (TI Ukraine, 2017b, p. 35). Adoption of the draft law No. 4738-d may be the first step to remedy this situation.

² Statistics is given for the period from 1 November 2016 to 1 November 2017 – as from the date on which DOZORRO portal was launched.

Table 1. Types and number of common violations revealed through DOZORRO portal during the first year of its operation

TYPE OF VIOLATION	NUMBER OF CASES
Possible avoidance of tender procedure	711 
Discriminatory requirements of tender documentation	371 
Unjustified choice of winner	248 
Excessive requirements to tenderers	178 
Collusion of tenderers	138 
Unjustified disqualification	125 

Another important event was the launch of pilot project of ProZorro system risk indicators.³ The project data array includes procurements amounting to over UAH 1 million completed via the system after 1 January 2016 (TI Ukraine, 2017g). This data array is updated online, and at the time of preparing the report the data could be analyzed by 44 risk indicators. The number of indicators for every procurement depends on peculiarities of the procurement procedure. The most common risks include: «No detailed CPV» (revealed 71,938 times), «Repeated procurement under the same code during the year» (37,971 times), and «Repeatedly losing tenderer» (28,667 times). Creation of this tool is in line with the best international public procurement monitoring practices (TI Hungary et al, 2015, p. 9).

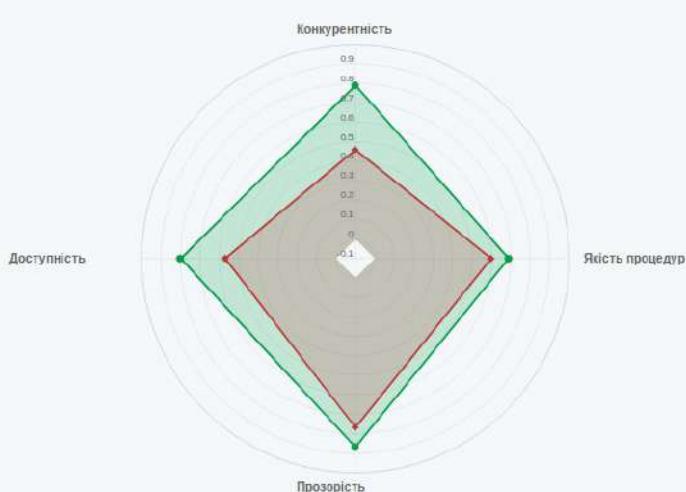
Improvement of the list of risk indicators may be the next step in their development. The names of indicators should correspond to international classifications. Assigning weight to different indicators is also possible. For example, «Great number of lots in the tender» may not be so important as «Winner is chosen without tender documentation». The second direction for improvements is the expansion of procurement array to which indicators are applied. The researchers state that the amount of data for analysis can be a determining factor for the

³ The tool is available at risk.dozorro.org

efficiency of risk indicators (TI Pharmaceuticals & Healthcare Program, 2017, p. 17). In Ukraine, splitting the procurements to avoid monitoring is a widespread phenomenon. Last but not least step is the integration of risk indicators with ProZorro's professional analytics module.

Best practices index of contracting authorities when making procurements is quite similar to the idea of risk indicators.⁴ This tool was developed to compare different contracting authorities, motivating them to improve their performance (TI Ukraine, 2017d, p.1). The methodology of this tool comprises 4 categories: competition level (12 indicators), transparency level (8 indicators), procedure quality (7 indicators), and procedure availability (11 indicators). These indicators are similar to risk indicators, however they are based on the descriptive statistics of the contracting authority, e.g., «Total share of competitive procedures according to the expected value». For a more precise comparison, the contracting authorities are grouped into 27 categories according to general characteristics and their procurement structure, such as rescue services, scientific and research institutions, etc. For each group, there is a general diagram of TOP-5 leaders and outsiders, as well as a diagram of particular contracting authority (see Figure 3).

⁴ The tool is available at index.dozorro.org



Замовники, які дотримуються найкращих практик ТОП 5

- 78.65. ГП "Дирекція Автотранспортного УДППЗ Укрпошта"
- 78.28. ДП "Хмельницька дирекція УДППЗ "Укрпошта""
- 77.88. ПАТ "Укрпошта" в особі вінницької дирекції
- 77.09. ГП "Дніпропетровська дирекція УДППЗ "Укрпошта""
- 75.14. Харківська дирекція "Укрпошта"

Замовники, які уникнувають найкращих практик ТОП 5

- 59.91. Львівська дирекція ПАТ "Укрпошта"
- 60.14. ДП "Житомирська дирекція УДППЗ "Укрпошта""
- 61.24. ПАТ "Укрпошта"
- 64.13. ПАТ "Укрпошта" в особі николаївської дирекції
- 65.24. ДП "Запорізька дирекція УДППЗ "Укрпошта""

Figure 3. Best practices index of contracting authorities in category «Postal service»

Among necessary improvements to the index of best practices, it is worth to mention the inclusion of more contracting authorities in the sample. For example, the category «Postal service» shown on the Figure has 30 contracting authorities, and the index is calculated on the basis of the data received from 19 of them. In addition, the tool has no search by name or tax code of the contracting authority. This significantly restricts its use for civic monitoring. Similar to risk indicators, integration with ProZorro's professional analytics module is absent.

4

UNADDRESSED ISSUES

Updating the law in public procurement sector remains the pressing issue. In particular, the EU Project recommended Ukraine to evaluate tenderers' offers according to the life cycle value approach for certain groups of products and to provide the contracting authority with a legal mechanism of rejecting abnormally low offers (EU Project 2017, pp. 62-65). Similar objectives have been set for EU countries, where, according to the EC, about 55% of procedures still use the lowest price as the only criterion for defining a winning tender offer (The EC, 2017, p. 5). The wider use of strategic, innovative and «green» evaluation criteria is promoted in the EU. It is also worth noting that 83% of the Ukrainian population considers orientation towards cooperation with the European structures as an opportunity to raise trust in the ProZorro system (IMG, 2017b, p. 17). Hence, the adoption of a draft law that would allow to update tender evaluation criteria by bringing them closer to the EU agenda and avoiding the shortcomings of the draft law No. 7206 seems an appropriate step.

Another urgent need is the regulation of sub-threshold procurements. The previous monitoring reports highlighted the shortcomings of their voluntary conduct, particularly, the low number of unique price offers (TI Ukraine, 2017b, p. 45). The

survey of business representatives who participated in sub-threshold tenders⁵ confirmed the need to regulate such trades at the level of the Law On Public Procurements: 62% of respondents supported this offer (Mazurok, 2017). The main problems were the lack of contracting authority's responsibility for violation (66%) and the impossibility of appealing (60%). International research also emphasizes the dependence of efficiency and transparency of tenders on the competition rate. In particular, in the EU during 2009-2014, the overpayment in procurements with one tenderer reached 9-9.6% (Fazekas & Kocsis, 2015, p. 15). As you can see, the pre-threshold procurements require the establishment of clear rules of conducting the procurements, which would improve competition and provide the tenderers with the mechanisms of appealing their results.

As for the quality of data in the ProZorro system, the lack of verification of some data fields remains an acute problem. In particular, the field «Contract amount» is filled in by the contracting authorities manually. During three reporting periods, only in the first half of 2017 this amount corresponded to a difference between the expected value and saved funds (TI Ukraine, 2017b, p. 19). In the reporting period, similar to the second half of 2016, these values had a significant difference, which did not allow to use the contract amount for the procurement data analysis. Another example is the lack of verification of entered information about the supplier when reporting on the concluded contract. If in the field «Company code» several contracting authorities enter, for instance, «-», then all procurements made under this code in the professional analytics module are attributed to the name of the last specified supplier. This data can be verified only by reviewing the concluded contracts on web-pages of corresponding tenders. According to TI Ukraine, the motivation of contracting authorities to enter the correct data or the exclusion of human factor to obtain this data should be one of the priority areas of Prozorro SE.

⁵ Survey was conducted among the tenderers registered at three e-platforms operating in ProZorro system: zakupki.prom.ua, dzo.com.ua and e-tender.ua. Its results are not representative.

5

SUMMARY OF CHANGES

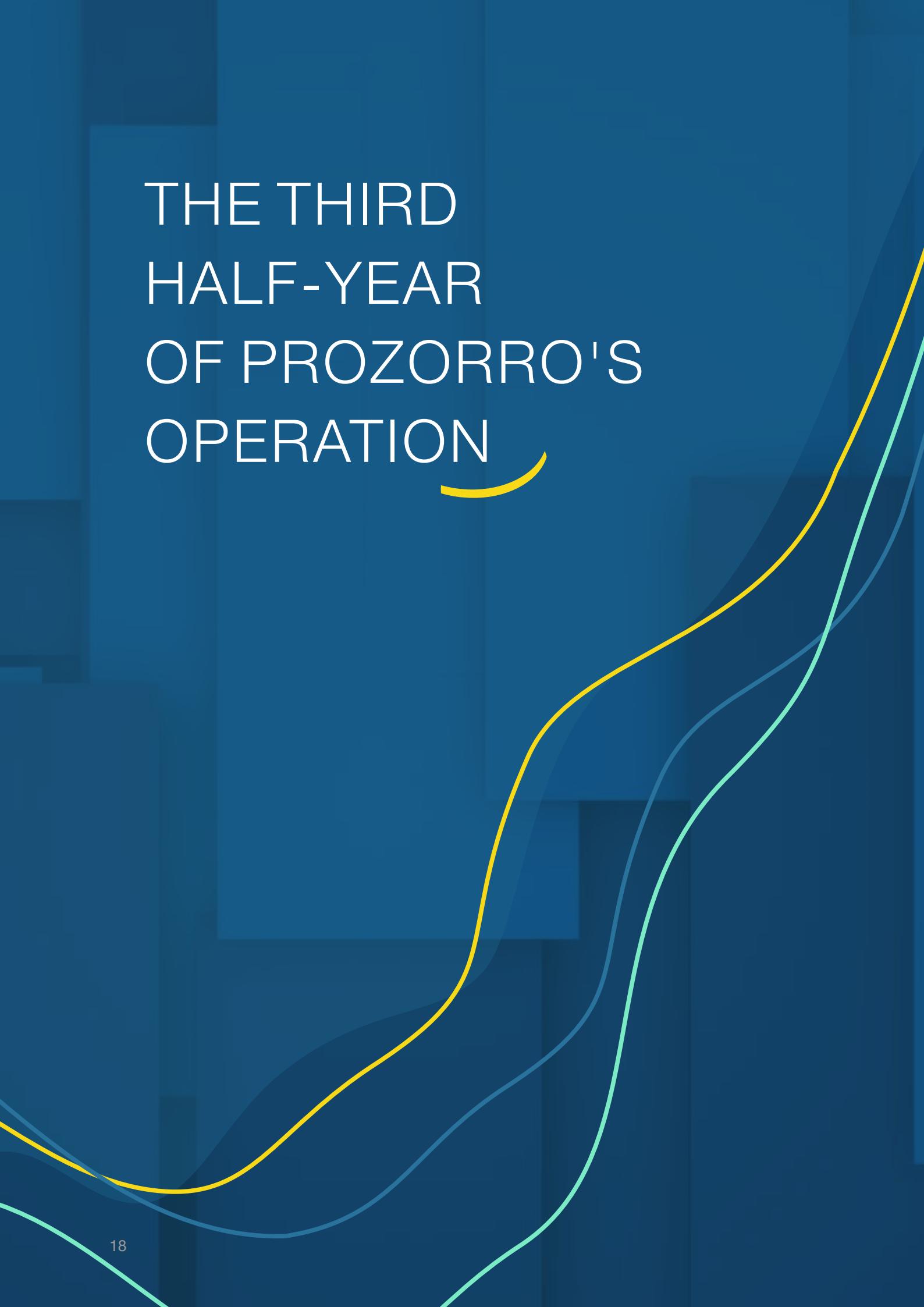
The second half of 2017 covered a significant number of events in public procurements. The draft law No. 4738-d was adopted, which regulated the procedure for monitoring of tenders, including with the help of automatic risk indicators. The organizational capacity of SASU as a controlling authority to implement the envisaged rules into practice remains an open question. At the same time, the draft law No. 7206 was adopted in the first reading, proposing to introduce a concept of the reduced price into the Law On Public Procurements, which takes into account the «nationality» of tenderer's production. This document is controversial regarding the relevance of additional requirements, the potential negative impact on small and medium business, and a sharp change in the direction of the reforms envisaged by the international agreements signed by Ukraine.

Publication of the ProZorro system development plan allowed civil society to track the steps on its improvement and timeliness of work performance. Introduction of the procedure for energy service contracts via the electronic system increased the transparency of concluding such contracts. However, they are not covered by the Law On Public Procurements and have their own peculiarities in the energy saving sector, and therefore are not the subject of this report. We also created a new tool of monitoring the post-tender procurement stage – the analysis of concluded contracts. Further steps should be clarifying the lists of reasons for contract termination and conclusion of additional agreements.

The Expert Group on the improvements of public procurement system was launched, providing civil society with an opportunity to promote monitoring issues. 22 nongovernmental organizations joined the DOZORRO portal. The results of the first year of portal's operation confirmed low activity of the controlling and law enforcement authorities based on the results of public appeals. In addition, we launched pilot versions of risk indicators tools and best practice index of contracting authorities. Their advantage for civic monitoring will depend on the implementation of necessary improvements, such as expansion of data arrays for the analysis and integration with the ProZorro's professional analytics module.

The expansion of non-pricing evaluation criteria of tender offers remains an urgent issue, in particular for the selection of economically viable and innovative solutions. Another problem is the lack of legislative regulation of pre-threshold procurements. The results of the survey conducted among businesses involved in such procedure confirmed the need to regulate these tenders to increase competition rate and enable the tenderers to protect their interests. It is also necessary to implement comprehensive measures to improve data quality in the ProZorro system. Specifically, the data fields filled in by contracting authorities manually often contain errors and are not suitable for the analysis.

THE THIRD HALF-YEAR OF PROZORRO'S OPERATION



This section offers the analysis of public procurements concluded ⁶ during the second half of 2017. The analysis covers the period from 1 July to 31 December. It allows to make comparisons with the public procurements analyzed in the previous period, i.e. concluded in the first half of 2017. The procurement procedure initiation date is not taken into account.

The analysis covers all procurement types available in ProZorro system. They include both the procedures governed by the Law On Public Procurements, e.g., negotiation procedures, and the types of procurement conducted on voluntary basis, in particular, sub-threshold procurements. The only exception shall be energy service contracts, since they undergo the procedure which is different from public procurements within the framework of existing legislation.

1

GENERAL CHARACTERISTICS OF CONCLUDED PROCUREMENTS

During the analyzed period, almost 493 thousand lots ⁷ with the expected value of UAH 255.8 billion were finished (see Table 2). The number of procurements has increased by 20% and their expected value – by 5.4% comparing to the first half of 2017 (TI Ukraine, 2017b, p. 19). This result is normal, because the majority of procurements are commonly conducted by the end of the year. 94 thousand unique enterprises and sole proprietors participated in such procurements, which is approximately 18% more than in the previous period. At the same time, the number of offers for the competitive procurement tenders increased insignificantly – from 315 to 316 thousand. As we can see, the volume of procurements and the number of tenderers have increased in comparison to the previous period. However, the competitiveness level slightly decreased – from 2.3 down to 2.2 offers per tender. The average cost savings also somewhat declined – from 5.5% to 5.2%.



⁶ Concluded procurements mean procurements that reached the point of signing a contract between contracting authority and supplier. Sampling was made by sorting procurements based on «Status», «Lot status» and «Last lot status date» indicators in the professional analytical module bipro.prozorro.org. Only completed lots were included into the sample.

⁷ For completed procurement lots, the number of lots equals to the number of signed contracts, because every lot is being bought under a separate contract.

Table 2. Procurement statistics for all procurement types,⁸ July-December 2017

	All procurements	Sub-threshold procurements	Open tenders	Open tenders with English-language publication	Contract reporting	Negotiation procedure	Negotiation procedure for defense needs
Number of lots	492 938	98 361	39 130	3 487	335 481	15 191	1 288
Expected value of lots	255 854 292 056	23 491 906 160	60 681 449 231	94 922 226 297	43 294 252 790	27 058 831 427	6 405 626 150
Cost savings	13 352 940 569	3 839 050 141	4 009 105 105	5 244 828 816	0	0	259 956 507
Number of unique tenderers	94 080	22 790	20 549	2 724	74 679	5 600	708
Average number of price offers	2,2	2	2,7	2,8	-	-	2
Number of price offers	316 867	199 469	105 019	9 765	0	0	2 614
Total contract amount ⁹	623 182 110 526	19 637 177 388	56 480 105 334	90 143 265 252	424 310 893 421	26 330 128 806	6 280 540 325
Number of questions	27 455	17 153	8 067	1 764	0	0	471
Number of unanswered questions	2 783	2 783	0	0	0	0	0

⁸ The competitive dialogue procedure is not included, since the statistics is unavailable in the professional analytics module bipro.prozorro.org. This procedure is described in a separate section.

⁹ In case of completed non-competitive procurements, the expected value of lots equals the value of contracts, because the cost saving is zero. If the amount of concluded contracts for these procurements differs from the expected value, it indicates errors in contract data entered by contracting authorities. In particular, in case of the column «Contract reporting», the expected value and the amount of contracts differ almost ten times. In this case, only the expected value shall be analyzed.

2

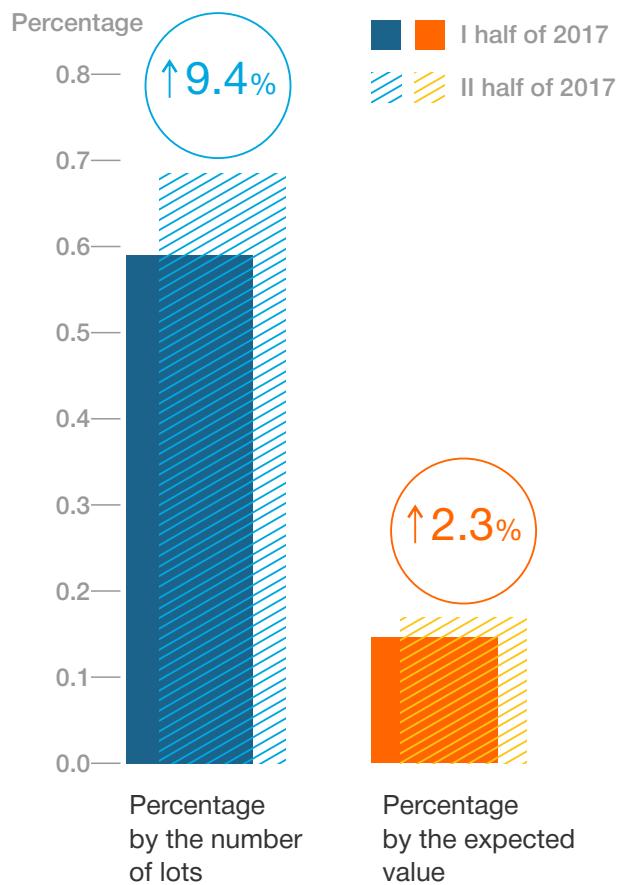
NON-COMPETITIVE PROCUREMENTS

Non-competitive procurements, i.e. contract reporting and negotiation procedure, contained 71.1% of awarded contracts, which is almost 3.7 percentage points¹⁰ more than in the first half of 2017. The percentage of such procurements in terms of the expected value decreased to 27.5% - by 13.2 percentage points less than in the previous period. As we can see, procurements of this type represent an important subject of the analysis covering approximately 70% of contracts by quantity and 30% - by value.

2.1. Contract reporting

Contract reporting encompasses 68.1% of completed lots, which is almost 10% more than in the first half of 2017. The number of unique tenderers in the procurements of this type in the reporting period reached nearly 75 thousand. The expected value of all contracts makes up UAH 43.3 billion, or 16.9% of the value of all procurements made via ProZorro, which is 2.3 percentage points more than in the previous period (see Diagram 1). The most common violations that concern this type of procurements include «Price inflation» and «Possible avoidance of open tender procedure». As we can see, contract reporting remains the dominant type of procurement by the number of completed lots and unique tenderers. As compared to the first half of 2017, this type of procurement tends to increase both by the number and the amount of signed contracts. The reporting is prone to high risk of inefficient spending of public funds due to highly probable price inflation. Thus, the increased use of this type of procurement is a negative tendency.

Diagram 1. Dynamics of the percentage of contract reporting in all procurements by the number and the expected value of contracts (first half of 2017 – second half of 2017)



2.1.1. Close relationships between suppliers and contracting authorities

The data on procurements made by awarding direct contracts was sorted on the basis of two indicators characterizing close relationships between contracting authorities and suppliers: percentage in terms of the number and the value of contracts. We analyzed all procurements featuring more than 40 lots, in which the supplier's share in the procurer's lots is equal to or exceeds 70% of contracts and 50% of the value. These reference points were chosen on the basis of monitoring methodology of TI Armenia, as well as taking into account the data array amount in the ProZorro system for six months (TI Ukraine, 2017a, p. 9). Such a relationship between the contracting authority and the winner shall be deemed close.

¹⁰ Percentage points mean a difference between percentage of certain index in various periods of time.

Close relationship has been observed in six cases¹¹ (see Table 3). Some of these procurements may be economically justified, for instance, concluding direct contracts for current repair services in village Pokotyivka. However, in most cases the contracting authority was abusing the contract reporting option. As an example, State Institution «Ukrainian State Scientific and Research Institute for Medical and Social Disability Problems

of the Ministry of Health of Ukraine» procured foodstuffs from Prodcatering LLC without conducting sub-threshold procurements. At the same time, this supplier received only 41.3% of contracts by way of contract reporting. The procurement item is competitive, and therefore, price inflation in the case of direct contracts between these parties is highly probable.

¹¹ Sampling includes two threshold cases, when a percentage in terms of the value of lots exceeded 50% threshold, and a percentage in terms of the number equaled 69%.

Table 3. Close relationship between contracting authorities and suppliers when reporting on contracts: more than 70% of contracts and 50% of the value

Contracting authority	Supplier	Number of contracts	Percentage	Contract value (UAH)	Percentage
State Institution «Ukrainian State Scientific and Research Institute for Medical and Social Disability Problems of the Ministry of Health of Ukraine»	All suppliers	162	100%	2,128,590	100%
	Prodcatering LLC	125	77%	1,273,350	60%
General statistics for the second half of 2017	93.6% of procurements of the contracting authority were made by way of contract reporting. The tenderer actively supplies via sub-threshold procurements. The procurement item: foodstuffs.				
Municipal Establishment «Horodnia specialized boarding secondary general school with advanced study of some disciplines and courses» of Chernihiv Regional Council	All suppliers	83	100%	924,495	100%
	SP Antonova Yu.H.	79	95%	497,111	54%
General statistics for the second half of 2017	94.3% of contracting authority's lots were procured by way of contract reporting. 89.7% of tenderer's supplies were made by way of concluding direct contracts with two Horodnia municipal establishments. The procurement item: foodstuffs.				

Contracting authority	Supplier	Number of contracts	Percentage	Contract value (UAH)	Percentage
Pokotylivka Village Council	All suppliers	83	100%	14,017,607	100%
	INDIGO GROUP LLC	57	69%	10,877,357	78%
General statistics for the second half of 2017	100% of contracting authority's procurements were made by way of contract reporting. The percentage of direct contracts of the supplier equals 86.7%. The procurement item: current repair services.				
Zavallia secondary general boarding school	All suppliers	73	100%	696,887	100%
	PS Turkova S.V.	53	73%	383,675	55%
General statistics for the first half of 2017	97.3% of contracting authority's procurements are made by way of contract reporting. The supplier has never participated in the competitive tenders and works with two contracting authorities by way of concluding direct contracts. The procurement item: foodstuffs.				
Municipal Establishment «Tuchyn Educational Rehabilitation Center» of Rivne Regional Council	All suppliers	47	100%	480,000	100%
	SP Dyshkant K.S.	47	100%	480,000	100%
General statistics for the second half of 2017	Contracting authority and supplier work only with each other by way of concluding direct contracts. Neither of them have other procurements. The procurement item: foodstuffs.				
State Educational Establishment «Sievierodonetsk vocational school»	All suppliers	59	100%	4,460,391	100%
	SP Sapianov S.V.	41	69%	2,449,076	55%
General statistics for the second half of 2017	100% of contracting authority's procurements are made by way of contract reporting. Tenderer supplies solely by way of concluding direct contracts. The procurement item: furniture, electrical appliances.				

We also checked the procurements in which the supplier's share in the organizer's contracts exceeds 60% in terms of the contract value and 50% in terms of the number of contracts. Three revealed relationships were present in the previous sampling. Another two instances turned to be new (see Table 4).

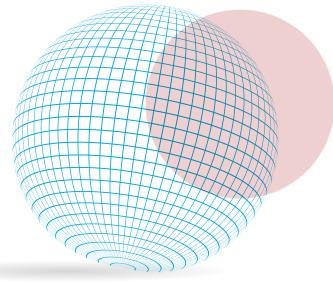


Table 4. Close relationship between contracting authorities and suppliers when reporting on contracts: more than 60% of the value and 50% of contracts (instances not included in Table 3)

Contracting authority	Supplier	Number of contracts	Percentage	Contract value (UAH)	Percentage
ME for operation and repair of housing fund «Zhytlo-servis»	All suppliers	133	100%	99,044,320	100%
	FFU Production LLC	66	50%	94,998,248	96%
General statistics for the second half of 2017	The contracting authority actively uses sub-thresholds and open tenders – only 53% of his lots were procured by way of contract reporting. The tenderer supplies to this contracting authority only and by way of signing direct contracts. The procurement item: reconstruction of football fields.				
ME «Engineering networks»	All suppliers	101	100%	9,842,225	100%
	ME «Kharkiv repair and construction enterprise»	56	55%	6,820,754	69%
General statistics for the second half of 2017	96.2% of completed lots of contracting authority are made by way of contract reporting. 99.8% of tenderer's contracts are received by the supplier through participation in non-competitive procedures. The procurement item: repair of residential buildings.				

In two of the above cases only one party abused an opportunity to work by way of contract reporting. For example, Prodcatering LLC and ME for operation and repair of housing fund «Zhytlo-servis» actively used the sub-threshold procurements and open tenders. However, in most cases both parties to the contract abused this type of procurements. The procurement items were competitive: foodstuffs, repair works,

equipment. In particular, State educational establishment «Sievierodonetsk vocational school» and SP Sapianov S.V. signed direct contracts to the amount of almost UAH 2.5 million. The procurement items included furniture and electrical appliances. The consequences of such arrangements between contracting authorities and suppliers may include nontransparent spending of public funds.



CASE 1. ELECTRICAL APPLIANCES OF PREMIUM CLASS

Description of the problem

During the period of six months State educational establishment «Sievierodonetsk vocational school» was conducting procurements solely by way of concluding direct contracts: 59 lots costing almost UAH 4.5 million. Great share of these procurements was made from one supplier – SP Sapijanov S.V., with whom 41 contracts were signed to the amount of UAH 2,449,076.

The supplier's behavior was the same. During the period of six months he received 82 contracts costing UAH 5,270,597. He was not participating in the competitive procedures and instead was signing direct contracts with five contracting authorities.

This tenderer supplied furniture and electrical appliances. The analysis of his procurements revealed the following problems. Firstly, specified procurement items were too general, for example, «Automatic washing machine 5 kg», which does not allow to compare prices for such items correctly. Secondly, even approximate comparison of prices with those of Rozetka online shop for the above categories of goods testifies to high possibility of overpricing. For example, in the category «Automatic washing machine 5 kg», the average price on Rozetka website makes up UAH 6-7 thousand per unit, whereas in one of his contracts it equals UAH 10,350 per unit, and in the category «Food mixers», the average price is UAH 4-5 thousand per unit, whereas in the contract it equals UAH 12,020 per unit.

Examples of tenders

UA-2017-11-16-001191-a, UA-2017-11-28-003142-c.

2.1.2. Avoidance of open tenders

When the expected value of the procured item is below UAH 200 thousand for goods and services and UAH 1.5 million for works, conducting open tenders is not required by the Law On Public Procurements. We monitor the contracting authorities with the average value of direct contracts close to the aforementioned thresholds. The average value is calculated by dividing the value by the number of contracts signed between a particular supplier and a particular contracting authority.

In case of goods and services, we analyzed the expected value of the lot ranging from UAH 185 thousand to UAH 200 thousand. The analysis has revealed 6,439 cases when the average contract price between a particular contracting authority and a particular supplier fell within this range. This figure keeps growing – almost by 5 percentage points as compared to the first half of 2017. Of

them, only 159 cases contain 5 or more lots, whereas all other cases are separate procurements from unique tenderers. These 159 cases are responsible for over UAH 292.4 million worth of contracts (see Annex 1). These procurements require further analysis for probable avoidance.

In case of works, sampling for the analysis was set from UAH 1.45 million to UAH 1.5 million. 320 cases were identified in this range – 1.7 times more than in the first half of 2017 (190 cases). The maximum number of lots per supplier is 6, and 3 to 6 lots were procured only in 13 cases. These 13 cases are responsible for about UAH 71.2 million expected value (see Annex 2). Due to a small number of cases, each of them can be analyzed by anybody interested in making procurements more transparent.

CASE 2. VILLAGE WORKS BELOW THRESHOLDS

Description of the problem

Dnipropetrovsk Regional Department for Water Resources conducted renovation of several villages in the region. 4 contracts were signed, each costing from UAH 1,493,183 to UAH 1,499,816. Total amount received by the contractor Mistkombud LLC makes up UAH 5.98 million. In view of the fact that the cost of each repair approaches threshold values, avoidance of open tenders is probable.

In the second half of 2017, Dnipropetrovsk Regional Department for Water Resources made 105 procurements. 92.4% of them were conducted by way of contract reporting.

Examples of tenders

UA-2017-12-20-000839-c, UA-2017-12-11-001594-a.

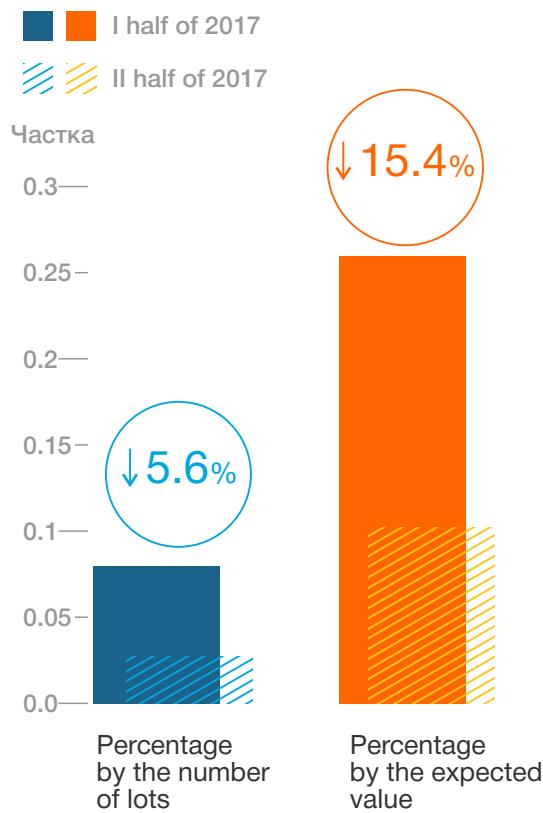


2.2. Negotiation procedure

Awarding direct contracts remains the most popular method of public procurements. As compared to the first half of 2017, a share of procurements through contract reporting increased by 9.4 percentage points in terms of the number of contracts, and by 2.3 percentage points in terms of the value of contracts. A search of close relationships between contracting authorities and suppliers has revealed 8 problematic cases. Almost UAH 117.8 million was spent on these procurements. A search of possible avoidance of open tenders has revealed 6,439 instances involving procurement of goods and services, and 320 instances involving procurement of works, in which the average value of the lot approached the thresholds set by the Law On Public Procurements. Over UAH 363.6 million was spent on the instances included in annexes to this report. The analysis of certain cases, in particular four sub-threshold lots for renovation of villages in Dnipropetrovsk region, has revealed a high probability of avoidance of competition in the above cases.

In the second half of 2017, a share of contracts awarded under this procedure decreased both by the number and by the value. In terms of the number of completed lots, a share of the negotiation procedure was only 3.1% (15,189), and in terms of the value – 10.6% (UAH 27.1 billion) of all procurements (see Diagram 2). A likely explanation of this change is that utilities usually supplied under natural monopolies were procured during the first half of 2017. This is confirmed by the fact that in the second half of 2016 the procurement statistics for this procedure was closer to the current data – 3.3% and 16.9% respectively (TI Ukraine, 2017a, p. 31), rather than to the data recorded during the first half of the year. Main violations during the negotiations were «Possible avoidance of open tenders» and «Price inflation». Consequently, a share of procurement conducted through negotiations fell as compared to the first half of 2017. Such dynamics is normal, since utilities have already been procured. The reasons of using this procedure for other procurements should be considered in more detail.

Diagram 2. Dynamics of the percentage of negotiation procedure in all procurements in terms of the number and the expected value of completed lots (first-second half of 2017)



The most common reason for using the negotiation procedure is the «Absence of competition in the corresponding market» (see Table 5). This reason was used in case of concluding 49.2% of contracts and made up 42.4% of the expected value of all procurements made through negotiations. As compared to the first half of 2017, these shares have decreased by 27.2 and 11.9 percentage points respectively, which corresponds to the overall trend for the procedure. Instead, more than half of funds – UAH 15.6 billion, was spent for reasons other than the absence of competition. The second most common reason is «Contracting authority cancels the tender twice due to lack of a sufficient number of tenderers»: its shares increased by 19.5 and 5.8 percentage points respectively, as compared to the previous period. All other reasons together contain 12.4% of lots and 39.1% of the value for this procedure, which is also greater than in the first half of the year. As we can see, despite the decrease in use of the negotiation procedure in absolute terms, a share of its use for reasons other than absence of competition has increased.

Table 5. Breakdown of the number and the value of contracts by reasons for using negotiation procedure

Reason	Number of contracts	Value of contracts (UAH)
Absence of competition in the corresponding market	7 477	11 480 418 458
Procurement of works of art	502	872 938 049
Procurement of legal services	29	582 634 865
Contracting authority cancels the tender twice due to lack of a sufficient number of tenderers	5 830	5 002 001 045
Urgent need in procurement	324	4 648 874 838
The need in additional construction works	443	1 822 811 673
The need in additional procurement	585	2 649 045 899
Not stated	1	106 600
TOTAL	15 191	27 058 831 427

It is worthy to note that reason «Urgent need in procurement» is still actively used by contracting authorities and almost UAH 4.6 billion was spent

for this reason. This is a very large amount for 324 lots. An example of unjustified use of this reason is provided below.

CASE 3. FUEL IS NEVER ENOUGH



Description of the problem

Negotiation procedure was used to award 17 contracts for procurement of boiler fuel for SE «Uladivka alcohol plant». The reason stated by the contracting authority was urgent need in procurement, and the amount exceeds UAH 26.8 million.

It should be noted that the above contracts were concluded each month during a six-month period – from 12 July to 13 December 2017. Each time, the reason for using the negotiation procedure was «Insufficient amount of fuel for continuous operation» with some variations of this phrase. At the same time, the procurement item is competitive: fuel was supplied by 12 different companies!

In this case we should record either the problem with planning the contracting authority's needs, or deliberate avoidance of open tenders. It is highly probable that the competitive selection of suppliers would allow to decrease costs for the above procurements.

Examples of tenders

UA-2017-05-25-001294-b, UA-2017-07-10-000302-a.

To sum up, the use of negotiation procedure has decreased as compared to the first half of 2017, both in terms of the number (by 5.6 percentage points) and in terms of the value (by 15.4 percentage points) of all procurements. This is expected, since utilities were procured in the first half of the year. The statistics for the procedure is close to the data observed in the second half of 2016. More than half of all funds spent using negotiation procedure – UAH 15.6 billion, was disbursed for reasons other than absence of competition. Of them, about UAH 4.6 billion was spent for the reason «Urgent need in procurement». An example of procurements unjustifiably conducted for the above reason is negotiations regarding procurement of boiler fuel for SE «Uladivka alcohol plant». In that case, the procured item was competitive and contracting authority's urgent need in such procurement was arising each month during a six-month period. Therefore, the amount spent could be lower in case of conducting open tenders.

3

COMPETITIVE PROCUREMENTS

In terms of the number of completed lots, during the second half of 2017, the competitive procurements were responsible for only 28.9%. In terms of the expected value, the situation improved: 72.5% of all costs.

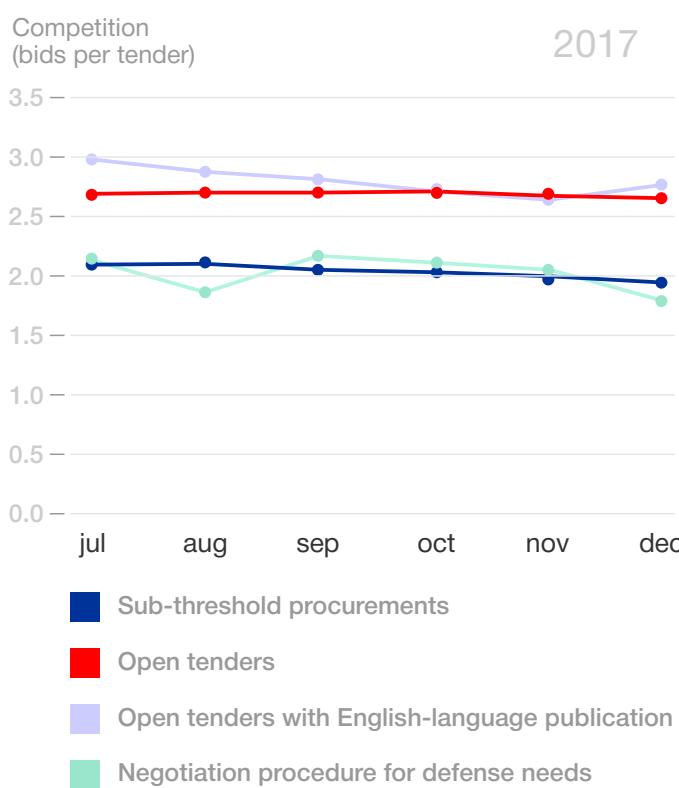
3.1. Competition trends

Competition¹² is analyzed primarily through the prism of statistical data for sub-threshold procurements and open tenders, because these two types of procurement combined are responsible for 96.6% of completed competitive lots. As compared to the first half of 2017, the average rate of competition at open tenders has slightly decreased – from 2.71 down to 2.69. Such

¹² The competition rate is measured as the average number of offers received in the procurement.

decrease was caused by the drop in November (2.67) and December (2.65), whereas the value remained stable until October. At the same time, competition rate at open tenders with English-language publication increased up to three offers per tender, and then dropped, with average value remaining at the level of the previous period – 2.8. Only at the sub-threshold procurements the average number of offers became considerably lower than in the first half of the year – 2.04 as compared to 2.2. At the end of the summer this value stagnated (2.1), and then dropped monthly from September (2.05) to December (1.94). Therefore, in general, competition stayed at the level of the first half of the year, however a slightly negative trend was observed (see Diagram 3).

Diagram 3. Dynamics of competition by procurement types, July–December 2017



The following hypotheses regarding possible reasons for absence of competition growth in the second half of 2017 can be formed:

- Increase of the monthly number of unique tenderers in e-procurement system at the level of growth of the monthly number of completed lots and offers per tenderer.

- Relatively stable monthly number of unique tenderers with relatively stable monthly number of completed lots and offers per tenderer.
- Increase of the monthly number of completed lots in e-procurement system above the growth of the monthly number of unique tenderers and offers per tenderer.

The above hypotheses were checked by comparing the monthly number of completed lots, unique tenderers and offers per tenderer. Gradual decrease in the number of completed lots at open tenders lasting since April ceased at the level of 5,659 lots in September. In November and December, this figure sharply raised and reached its maximum at the level of 8,594 lots (see Diagram 4). This is the maximum value since the beginning of monitoring the ProZorro system's operation at the national level. It should be noted that the number of unique tenderers also increased in November and December, however less dynamically. This figure reached almost 8 thousand per month in December. As to the average number of offers per tenderer, the value stayed at 2.3-2.5 – lower than in the first half of the year, and only in December reached 2.9. As we can see, the monthly number of completed lots and offers per tenderer were stable in the period from July to October, and then started to rise. The number of lots increased more dynamically than the number of tenderers and exceeded this figure in December. Therefore, the hypothesis 2 turned out to be true until October, and hypothesis 3 – after November.

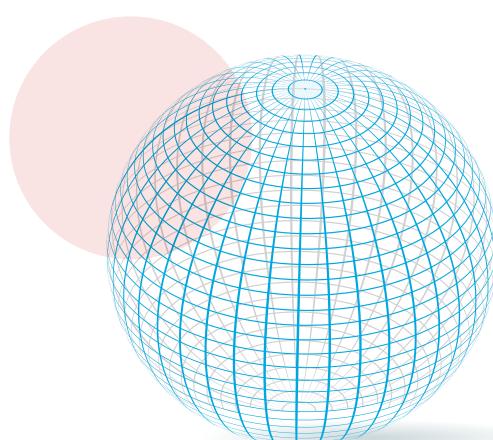
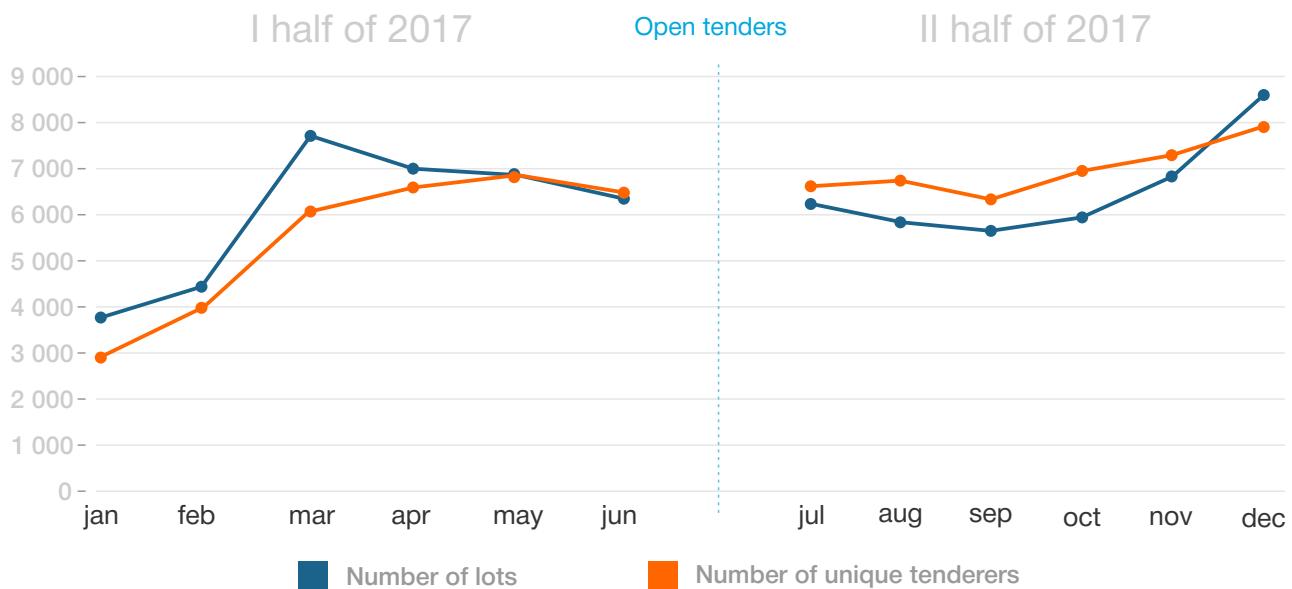


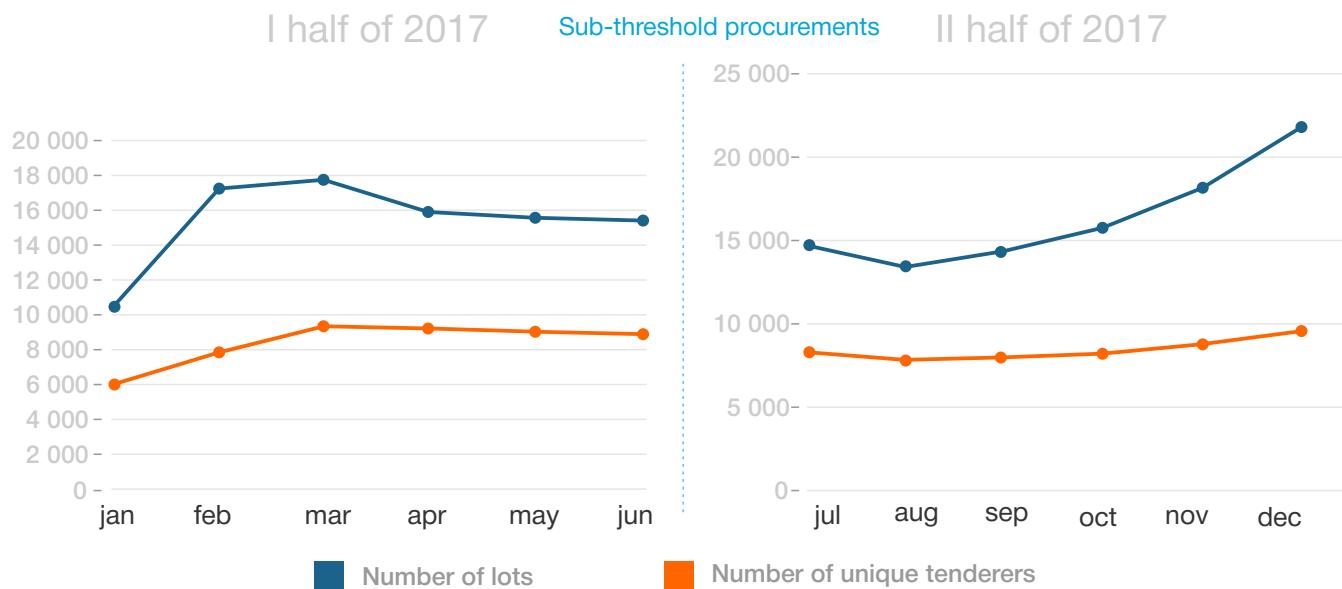
Diagram 4. Dynamics of the number of lots (blue) and the number of unique tenderers (red) for open tenders (first-second half of 2017)



In the sub-threshold procurements, the number of completed lots has been ranging between 13.5 and 14.5 thousand in July-September, having slightly declined as compared to the first half of the year (see Diagram 5). Since October we have been observing monthly growth of this indicator which reached its maximum in December – 21,752 lots. At the same time, the number of unique tenderers slightly dropped until September and considerably increased up to 9,613 only in December. The average number of

offers per tenderer in July-September remained almost at the level of the first half of the year (3.6-3.7) and considerably increased in November (4.1) and December (4.4). Thus, since October the number of lots has been rapidly increasing and almost reached the level recorded at the end of 2016. The number of unique tenderers and offers per tenderer also increased, however not significantly. Therefore, the hypothesis 2 proved correct until September, and hypothesis 3 – after October.

Diagram 5. Dynamics of the number of lots (blue) and the number of unique tenderers (red) for sub-threshold procurements (first-second half of 2017)



Overall, in case of open tenders, the number of completed lots and unique tenderers remained at the same level in July-October. The average number of offers per tenderer was consistently lower than in the first half of 2017. The increase of this indicator is hardly expected without overcoming the challenging issues, such as avoidance of open tenders by contracting authorities and low efficiency of controlling authorities. We can argue that for the first time since the ProZorro system's introduction at the national level, the participation of businesses in the system stabilized. A slight decline in competition rate at the end of the year was due to a sharp increase in the number of procurements. The number of lots in the system exceeded the number of tenderers, similar to the situation at the end of 2016. Most likely, this is a seasonal phenomenon, when contracting authorities make the greatest number of procurements in the beginning (March-April) and at the end (November-December) of the year.

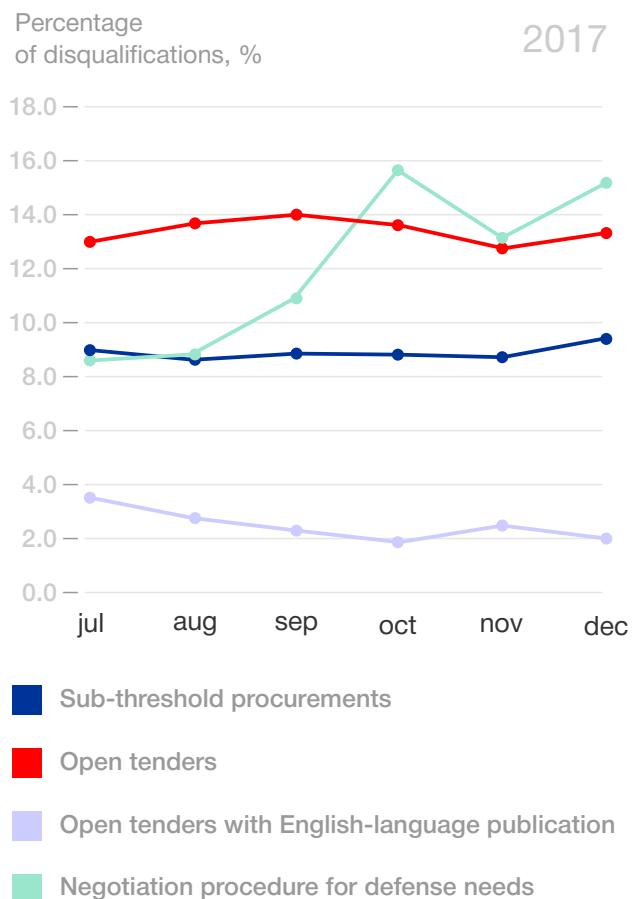
In the case of sub-threshold procurements, the tendency of stagnation of using such procurements continued in July-September. The use of this procedure increased in October. The number of lots grew so fast that competition rate declined, despite the positive market response – more number of tenderers and offers per tenderer. Similar to open tenders, this can be explained by seasonal procurements. At the same time, unlike in open tenders, business activity did not reach the level recorded at the end of 2016. Most likely, this is due to the lack of efficient mechanisms of appealing these procurements and continuation of active use of reporting on awarded contracts by contracting authorities.

3.2. Disqualification trends and government monitoring

A percentage of disqualifications at competitive tenders reaches 10.2%.¹³ This figure exceeds that in the first half of 2017 by 0.5 percentage point.

The first reason for the increase is the fact that for sub-threshold procurements, the percentage of disqualifications did not drop below 8.7% (see Diagram 8), whereas in January-February 2017 this figure equaled 7.7%. The second reason is the fact that for open tenders, the percentage of disqualifications exceeded 13% almost each month. Instead, in January-March it remained at about 12%. It should be noted that a percentage of disqualifications at open tenders with English-language publication dropped to 2-2.5% as compared to 3% in the previous period. As we can see, an average percentage of disqualifications has increased for two key types of procurements. The negative tendency of the first half of the year continues.

Diagram 6. Dynamics of a percentage of disqualifications by type of procurement, July-December 2017



¹³ A percentage of disqualifications is calculated by dividing the number of disqualified offers by the total number of offers for a particular type of procurement during the selected period.

Such situation is expected, because problems with government monitoring quality, highlighted in the previous report of TI Ukraine, remain relevant. According to the survey among tenderers conducted in the second half of 2017, their experience of participating in tenders could be improved by punishing the contracting authorities for corruption (66.7% of respondents) and simplifying the requirements to tender offers (57.6%) (IMG, 2017a, p. 16).¹⁴ The contracting authorities have currently many opportunities to affect the tender results, in particular, in sub-threshold procurements. In their turn, these authorities consider the increase in tenderers' good faith as a priority direction in the work to improve the situation with disqualifications (TI Ukraine, 2017b, p. 34). The growth of their awareness takes long time. As a result, based on the above data, three key reasons for the growth of a percentage of disqualified offers can be distinguished:

- Low efficiency of controlling authorities;
- Unjustified requirements of contracting authorities to tender offers;
- Low level of tenderers' good faith.

Implementation of electronic tender documentation in the ProZorro system expected in 2018 shall help resolve the problem of disqualifications. This will let tenderers automatically check the requirements of contracting authorities and avoid mistakes when submitting the offers. It should also have a positive impact on procurement monitoring, since it will be possible to identify the contracting authorities who set non-typical and excessive requirements for different types of procurements.

3.3. Negotiation procedure for defense needs

This procedure is regulated by the Law On the Procedure for Procurement of Goods, Works and Services for Guaranteed Satisfaction of Defense Needs (VRU, 2017a). It is more competitive as

compared to negotiation procedure under the Law On Public Procurements, since the number of tenderers is unlimited. At the same time, contracting authorities have more opportunities for violations than in the case of open tenders.

As to the number of lots, using the negotiation procedure for defense needs increased by 61.2% as compared to the first half of 2017. However, the value of contracts even slightly decreased – by 3.6%. During the reporting period, about UAH 6.4 billion has been spent via this procedure. It should be noted that the number of unique tenderers increased from 402 up to 708. However, the average competition rate was not affected and even dropped from 2.2 to 2.03 offers per tender. So, cost savings remained almost unchanged – 4%. A percentage of disqualified offers also stayed the same and equals 11.5%. Therefore, more procurements were conducted under this procedure as compared to the first half of the year, however the amount of spent funds slightly decreased. Involvement of more number of potential suppliers did not result in the increase of competition rate, since less price offers were submitted per tenderer on average. A percentage of cost savings and disqualifications remained at the level of the previous period.

In the TOP-3 contracting authorities in terms of the expected value, two predictably come from defense sector: the Ministry of Defense of Ukraine and Military Unit 3078 (see Table 6). They are responsible for 65.3% of costs and 44.6% of contracts via the procedure. The competition rate at their tenders was above the average and made up about 2.2 offers. In case of DMU a percentage of disqualified offers slightly raised as compared to the first half of 2017 – 10.8%, and its cost savings slightly increased – 4.35%. Worse situation is observed in case of MU 3078 – 17.8% of disqualifications and 2.39% of cost savings. As we can see, the major part of expenditures via the procedure took place at the tenders of these contracting authorities. Their procurements are characterized by the competition rate higher than the average. At the same time, they have relatively high level of disqualifications, in particular MU

¹⁴ Figures are given based on the results of online survey among 250 business respondents conducted in Quarter III of 2017. Contacts were provided by ProZorro SE. 99.5% of respondents participated in the procurements via the ProZorro e-system.

3078 has problems with this indicator. This might cause low cost savings for both authorities.

Table 6. TOP-3 contracting authorities in terms of the expected value for the negotiation procedure for defense needs

Contracting authority	Number of lots	Expected value (UAH)	Number of unique tenderers	Average number of offers per tender	Percentage of disqualifications	Percentage of cost saving
Ministry of Defense of Ukraine	470	2 888 238 751	231	2,25	10,8%	4,35%
National Police of Ukraine	105	1 292 668 129	56	1,98	12,5%	2,31%
Military Unit 3078	111	643 816 119	108	2,18	17,8%	2,39%

A special mention deserves the return of the National Police of Ukraine to active use of the above procedure. Reasonableness of such procurements requires thorough analysis, since this procedure is intended for defense objectives. It should be noted that the above contracting

authority is responsible for 20.2% of expenditures. Competition at its tenders is quite low – less than 2 tenderers. Not surprisingly, a percentage of cost saving is low as well, slightly exceeding 2.3%.

CASE 4. BOATS INTENDED TO PROTECT THE COUNTRY



Description of the problem

The National Police of Ukraine used the negotiation procedure for defense needs to procure 9 boats. There came two tenderers, and cost savings made up only 2.4%. The procurement amount is UAH 17.8 million.

A key problem of this procurement is that it should have been made under the Law On Public Procurements. TI Ukraine appealed to SASU and NABU. Based on the results of our appeal, no actions against the contracting authority were taken by the above authorities (DOZORRO, 2017).

In the second half of 2017, the National Police of Ukraine actively used the defense procedure. Procurements under this procedure made up 90% in terms of the number, and 99.2% in terms of the value of all procurements of this contracting authority. The procurement items were competitive, in particular, special clothing and vehicles.

Examples of tenders

UA-2017-08-19-000538-a.

Overall, the weight of the negotiation procedure for defense needs has increased in terms of the number of lots, and remained at the level of the first half of 2017 in terms of the value of concluded contracts. The competition rate decreased to two offers per tender, and cost saving remained moderate – 4%.¹⁵ A percentage of disqualified offers reached 11.5%. The key event comparing to the previous period is the fact that the National Police of Ukraine started abusing the above procedure again. This contracting authority is responsible for one-fifths of all costs incurred via this procedure during a six-month period. According to TI Ukraine, its procurements should have taken place through open tender procedure. At the same time, tenders of contracting authorities operating in the defense sector, such as DMU and MU 3078, have problems as well: high level of tenderers' disqualifications and low percentage of cost saving.

3.4. Open tenders with English-language publication

3,487 lots amounting to UAH 94.9 billion were purchased via this type of procurements. The number of lots decreased by 16%, whereas the value of procurements increased by 12.4% as compared to the first half of 2017. Although this procedure contains only 0.7% of contracts, in terms of the value it includes 37.1% of expenditures during a six-month period. At the same time, the number of unique tenderers is 2,724 – 10% less as compared to the previous period, and they submitted 9,765 offers – less than in the previous period by 16%. The competition rate remained at 2.8 offers per tender. The cost saving rate dropped by almost 3 percentage points – down to 5.5%. As we can see, this procurement procedure contained over one-third of all money spent by contracting authorities. The decreased number of unique

tenderers and price offers is a quite negative tendency. With low business activity, the competition rate remained stable and cost savings somewhat decreased.

Every unique tenderer submitted 3.6 offers on average. 2.5% of such offers were disqualified. These figures correspond to the statistics of the first half of 2017. The disqualification rate slightly declined, however the result may be considered normal because of prequalification. At the same time, these procurements still need to be checked for the existence of other potential violations. In particular, typical violations for open tenders with English-language publication include «Collusion of tenderers» and «Unjustified determination of winner».

Let's consider the tenderers which haven't won a single lot. We have discovered 12 instances when tenderer has submitted 10 or more offers without a win – two times less than in the first half of 2017. All together, they have submitted 141 price offers, that is also a significant reduction as compared to the previous period. The total value of these offers alone is extremely high – about UAH 13.8 billion, and 98.5% of them are offers of Trafigura Ukraine LLC (see Table 7).

It is important to stress that, among 12 tenderers, only AAA+ LLC and Poltavabudtsentr PE have the experience of not being admitted to the tender at prequalification stage. In their case the problem may be quality of preparing the documents. Other tenderers have been losing tenders primarily because of submitting overestimated offers. As we can see, together with the decreased number of lots and unique tenderers, the number of tenderers which haven't won a single tender also declined. The number of probable instances of collusion between the tenderers decreased as compared to the first half of the year.

¹⁵ For concluded tenders, the percentage of cost saving was calculated by dividing the difference between the expected value of the lot and the winning offer by the expected value of the lot, and then multiplying the result by 100.

Table 7. Tenderers losing 10 or more lots in open tenders with English-language publication without submitting a single winning offer

	Number of price offers	Value of offers (UAH)	Number of offers failing prequalification
Elektrotekh LLC	17	62 711 193	0
AAA+ LLC	15	153 880 790 ¹⁶	15
Promenergokomplektatsia LLC	12	24 685 000	3
Topservis-Medtekhnika LLC	12	33 542 028	2
Alofarm LLC	12	3 996 312	5
Poltavabudtsentr PE	11	9 443 502	10
Gloria-2008 LLC	11	14 273 770	0
SP Dmytryshyn .B.V.	11	4 430 117	0
Trafigura Ukraine LLC	10	13 561 035 498	1
Digest Group LLC	10	3 351 106	4
Dymytrov Experimental and Mechanical Plant LLC	10	39 553 000	0
Spetsmashservis LLC	10	13 401 981	1

Trafigura Ukraine LLC is the «leader» in terms of the value of losing offers: 10 unsuccessful offers worth the total of over UAH 13.5 billion. 9 of them were prequalified. This tenderer participated in tenders for the supply of gas fuel. It should be noted that in all cases the contract was received

by Ukrtransgas PJSC. Even though this market may be quite limited in size, the complete absence of wins by Trafigura Ukraine LLC indicates a probable collusion between the aforementioned tenderers.

¹⁶ Information about the value of offers failing qualification is unavailable for AAA+ LLC. For this tenderer, the expected value of lots for which it submitted the offers is provided.

CASE 5. DISCRIMINATORY PREPARATIONS FOR WINTER SEASON

Description of the problem

In autumn 2017, Municipal Company «Kyivavtodor» procured 22 road sweeping machines. The cost of procurement from Globus Auto LLC made up UAH 137.4 million, and cost savings were only 0.5%.

Short terms of delivery for such significant procurement (only 20 days) draw attention. Moreover, one of potential tenderers stated that only CityCat 2020 model manufactured by Bucher and supplied by Globus Auto LC could satisfy technical requirements of tender documentation. Both tenderers submitted their offers in concert, with only half an hour difference in time (Babak, 2017).

In the second half of 2017, Municipal Company «Kyivavtodor» made 9 procurements through open tender procedure with English-language publication. Their value equalled UAH 810 million. The competition rates and cost savings are extremely low – 2.1% and 0.7%, respectively. The procurement items were competitive: cars, road sweeping machines and repair services.

Examples of tenders

UA-2017-09-20-000243-a.



In general, open tenders with English-language publication continued containing about one third of all funds spent. However, the number of lots and price offers reduced by 16%. We can say that this procedure was not so actively used as in the first half of 2017. The competition rate remained the highest among all procurement types – 2.8 offers per tender, whereas cost savings dropped down to 5.5%. 12 tenderers submitted more than 10 offers without a single win, and this number is twice less as compared to the first half of the year. Thus, inefficient participation in tenders became less widespread due to not so active use of this procedure. Among the tenderers, the attention can be brought to Trafigura Ukraine LLC which submitted 10 unsuccessful offers amounting to about UAH 13.5 billion. In all cases, the winner was Ukrtransgas PJSC, which evidences a possible collusion. Another example was procurement of road sweeping machines of Municipal Company «Kyivavtodor» for UAH 137.4 million. The reduced delivery terms, technical requirements restricting competition and simultaneous actions of tenderers testify to discrimination of potential suppliers.

3.5. Open tenders

In the second half of 2017, 39,130 lots amounting to UAH 60.7 billion were procured through open tenders. The first figure was higher by 8.6% as compared to the previous period, and the second – by 62.7%. The number of unique tenders reached 20.5 thousand, that is 3 thousand more as compared to the first half of the year. The competition rate declined and equaled 2.68 offers per tender as compared to 2.7, and the cost savings significantly dropped – only 6.6% as compared to 10.4%. A percentage of disqualified offers slightly increased and equaled 13.4%. As we can see, although this procedure was more actively used as compared to the first half of the year, the competition rate and cost savings decreased. A situation with disqualifications did not improve as well.

Among violations typical for open tenders we distinguished the following: «Discriminatory requirements», «Unjustified disqualification» «Collusion» and «Unjustified determination of winner». As a rule, the greatest number of violations is recorded at open tenders. This is the

result of stricter rules of conducting such procedure as compared to other procurement types.

The number of tenderers which submitted over 20 offers without a single win slightly increased. They equaled 45 (see Annex 3), whereas in the first half of 2017 they amounted to 36. Over 50 unsuccessful offers were recorded in six cases (see Table 8). The total value of these six lots makes up UAH 2.6 billion, which exceeds the figure in the previous period by three times. In particular, a thorough monitoring is required for Trestbud-1 LLC, which submitted 265

unsuccessful offers amounting to almost UAH 1.4 billion. Only 8 of these offers were disqualified, whereas all other procurements were lost by the tenderer by price competition. The procurement items included building materials, foodstuffs, and computer equipment. We should also mention AAA+ LLC, whose participation was unsuccessful at the open tender with English-language publication due to failure to undergo prequalification. However, in this case only 11 of 175 price offers of the above tenderer were disqualified. The procurement items were quite different: safeguard services, electrical appliances, etc.

Table 8. Tenderers losing 50 or more lots through open tender procedure without submitting a single winning offer

Tenderer	Number of price offers	Value of offers (UAH)
Trestbud-1 LLC	265	1 394 194 984
AAA+ LLC	175	856 768 386
Ukrainian heavy machines LLC	79	255 316 040
Gravita LLC	60	41 352 286
Infra-cam LLC	52	10 671 657
Odesa Foodstuff Company LLC	50	17 794 093

For the purposes of the analysis, we identify 11 contracting authorities announcing more than 60 lots, with the number of unique participants at their tenders being less than the number of lots and the average number of offers less than 2.5 (see Annex 4). In particular, Subsidiary Company «Production Support Center» of Ukrainian Railways PJSC announced 330 lots attracting only 173 unique tenderers (see Table 9). It is especially interesting that this contracting authority disqualified 111 of 826 price offers. Not surprisingly, the cost savings in the tenders of this

contracting authority are minimal and make up 3%. The situation with SE «Ukrainian Research and Educational Center for Standardization, Certification and Quality» is similar, since only 65 unique participants submitted offers for its 274 lots. Although this contracting authority did not abuse disqualifications, their competition rate was 2.2 offers per tender and cost savings equaled 4.3% due to market's failure to participate in his procurements. The third case is the Department of Health of Odesa City Council, whose 128 lots attracted only 60 tenderers.

Similar to previous cases, the competition rate and cost savings are predictably low – 2.1 and 2.1% respectively. These three contracting

authorities announced 732 lots with the expected value of about UAH 852 million. Their tenders require more detailed analysis.

Table 9. TOP-3 tender organizers with more than 60 lots, the number of unique tenderers lower than the number of lots and the average number of offers below 2.5 via open tender procedure

Contracting authority	Number of lots	Number of unique tenderers	Number of price offers	Number of disqualifications	Expected value of lots (UAH)	Average number of offers per tender	% of cost saving
Subsidiary Company «Production Support Center» of Ukrainian Railways PJSC	330	173	826	111	789 556 610	2,5	3%
SE «Ukrainian Research and Educational Center for Standardization, Certification and Quality»	274	65	598	12	18 095 783	2,2	4,3%
Department for Health of Odesa City Council	128	60	271	17	44 247 970	2,1	2,1%

As to statistics of Professional Procurements SI, a centralized procurement organization, the amount of its procurements increased as compared to the first half of 2017. It completed 14 lots amounting to UAH 5.5 million – 3 million more as compared to the previous period. All its procurements were made through open tender procedure. The competition rate (3.6) and cost savings (11.5%) at its tenders slightly decreased and corresponded to general trends for this procedure. However, these figures remain much higher than the average for open tenders. This testifies to properly prepared tender documentation and observance of the procurement rules.

Partial decline of competition at the tenders of Professional Procurements SI may be explained by an excessive practice of disqualifications of this contracting authority, since a percentage of disqualified offers increased from 24% up to 32%. According to commentaries by a Professional Procurements SI representative set

out in the previous report, such statistics is related to strict approach to the evaluation of conformity of tender offers to selection criteria. At the same time, the procured items remained limited: computer and office equipment. Due to this fact, similar to the previous period, it is difficult to evaluate the efficiency of operation of a central purchasing authority.

Coming to the regional dimension, the cost savings declined. In the first half of 2017, there were only three regions with cost savings below 9%. In this period, approximately half of regions failed to reach this level, and two regions came down to 5% and less: Dnipropetrovsk region (4.6%) and Volhynian region (5%). The third place is taken by Kharkiv region (5.3%) (see Diagram 1). It should be noted that Dnipropetrovsk and Kharkiv regions were among three outsiders in the previous period as well. As we can see, a positive dynamics of cost savings in the regions ceased in the second half of the year. The number of

population hardly has any effect on that, because in terms of this parameter, the aforementioned regions are quite different: from 1 million in Volhynian region to over 3.2 million in Dnipro-petrovsk region.¹⁷

Volhynian region is listed among the ones where a percentage of disqualified offers is the highest – 15.3%. There are also regions for which this figure

exceeded the worst results of the first half of 2017: Kherson region – 15.9%, Mykolaiv region – 16.6%, Poltava region – 17%, Luhansk region – 17.9%. Of these regions, however, only Poltava region was ranked among the worst during the previous period. Therefore, after decrease in the first half of the year, the highest percentage of disqualifications has increased and reached almost 18%.

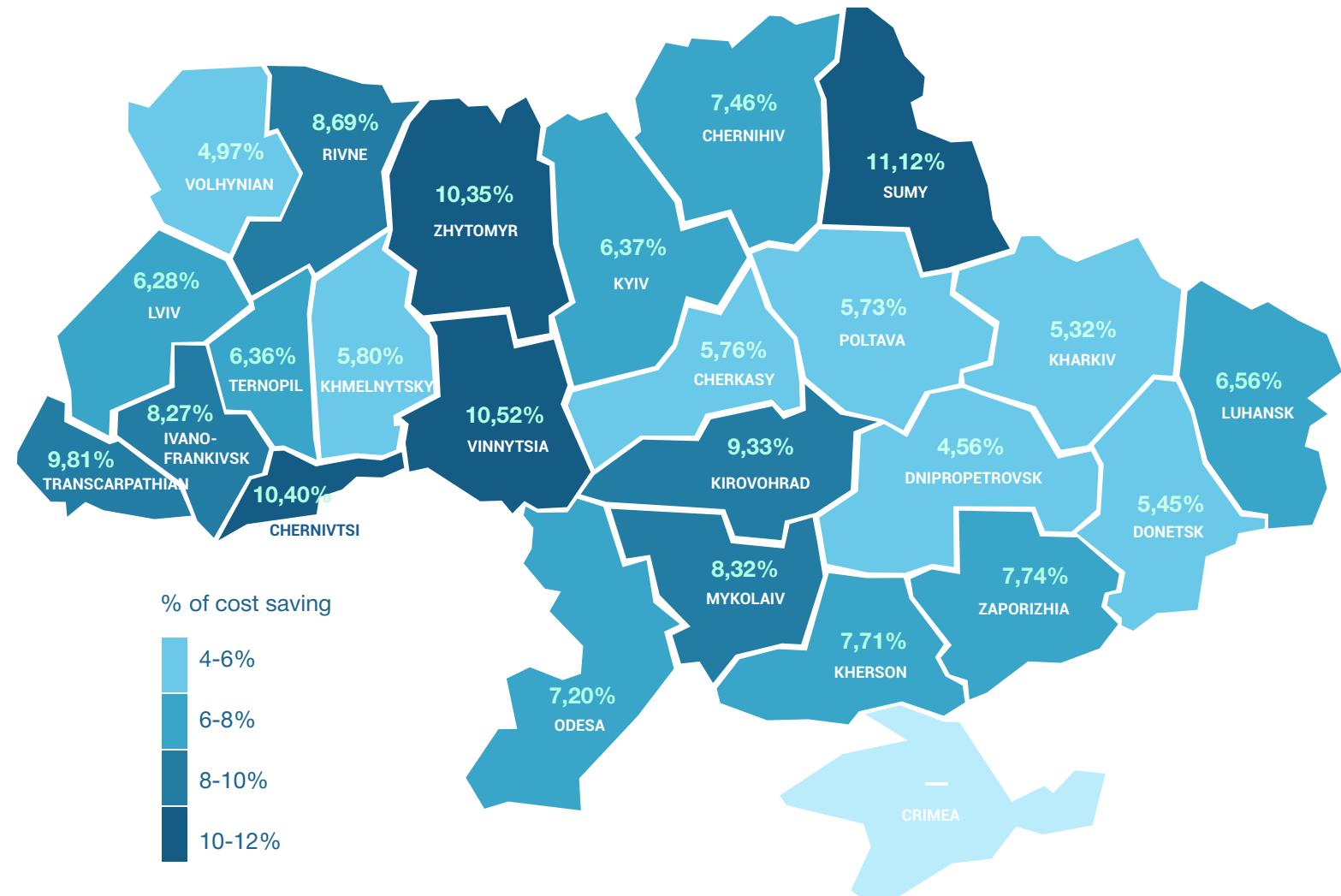


Diagram 1. The average percentage of cost saving by region for open tender procedure

Regional per capita spending slightly increased. At the same time, the most and the least active regions remained unchanged: Kyiv region – UAH 9,591, Luhansk region – UAH 351. Low level of procurements in terms of the value was also observed in Transcarpathian region – UAH 390. Instead, similar to the previous period, the most populated regions are leading: Lviv region – UAH

1,655, Dnipro-petrovsk region – UAH 1,706, Odesa region – UAH 1,792, Kharkiv region – UAH 2,081. The average spending indicator continued to increase as in the previous period: from UAH 768 to UAH 1,297, mirroring the general growth in the volume of procurements in terms of the value through open tender procedure in the second half of 2017.

¹⁷ Data by the State Statistics Committee (ukrstat.org), population as of 1 January 2017

CASE 6. HOW THE DISCRIMINATORY TENDER WAS STOPPED BY THE PUBLIC

Description of the problem

Chornomorka Village Council announced an open tender for reconstruction of general education school in village Chornomorka (Mykolaiv region). The expected value of procurement exceeded UAH 5 million. The contracting authority used non-price offer selection criteria, in particular, 30% of the specific weight of the criterion accounted for registration of tenderer with Chornomorka Village Council.

The auction was attended by 4 tenderers, and the third offer in terms of the value won. Although Promspetsbud LLC offered to perform works for UAH 4.8 million, at the expense of non-price criteria its offer was evaluated as UAH 3.36 and won the tender. Based on the appeal by NGO «Kryvyi Rih Investigation Center», the contracting authority canceled the procurement (Korinenko, 2018).

In the second half of 2017, Chornomorka Village Council made 16 procurements. 14 of them were made through contract reporting and one more – through negotiation procedure. The amount of spent funds exceeded UAH 10 million.

Examples of tenders

UA-2017-06-15-001884-b.



Overall, the use of open tender procedure continued to rise in terms of the number, and even more – in terms of the value of procurements (by 60%). However, the competition rate was quite low – 2.68 offers per tender, and cost savings decreased to 6.6%. A percentage of disqualifications increased up to 13.4%. We can say that the actively growing use of this procedure did not result in any quality changes in the tenders conduct. Possible reasons for this were incorrect offers of tenderers, unjustified tender requirements of the contracting authorities, and the lack of proper activity of the controlling authorities.

The growing number of tenders was accompanied by the increasing number of instances requiring analysis for possible violations. We have identified 45 tenderers and 11 contracting authorities having problems with effectiveness while using this procedure. The most vivid examples are Trestbud-1 LLC, which submitted 265 unsuccessful offers to the amount of almost UAH 1.4 billion, and Subsidiary Company «Production Support Center» of Ukrainian Railways PJSC, whose 330 lots attracted only 173 unique tenderers and average cost savings made up 3%.

Professional Procurements SI did not expand its activities. This central purchasing authority procured only 14 lots which were limited solely to computer and office equipment. Although the competition rate (3.6) and cost savings (11.5%) on its procurements remained higher than average for this procedure, the lack of diversification of procurements does not allow to evaluate the activity of this authority. At the same time, a percentage of disqualifications at its tenders increased up to one third of all offers. Such high figure requires more detailed analysis for reasonableness of tenderers' rejection.

The cost saving and disqualification figures for various regions have somewhat worsened. In terms of the cost savings, Dnipropetrovsk region (4.6%), Volhynian region (5%) and Kharkiv region (5.3%) were ranked among the worst. The first and the last of them were among the outsiders in the first half of the year as well. Volhynian region also showed one of the highest percentage of disqualifications – 15.3%. In some regions this figure reached almost 18%. In addition, the disparity between regions in terms of per capita spending increased. The lowest costs remained at the level less than UAH 400, whereas most

populated areas started to spend over UAH 1.5 thousand per person.

3.6. Sub-threshold procurements

The use of sub-threshold procurements slightly increased in terms of the number of lots: 98.4 thousand versus 92.6 thousand as compared to the first half of 2017. The expected value has increased more significantly and raised by half – up to UAH 23.5 billion. The number of unique tenderers remained at the level of the previous period – almost 23 thousand, who submitted about 200 thousand offers. A percentage of disqualified offers slightly hiked and reached 9%, similar to the percentage of questions without answers equaling 16.2%. Although the competition rate dropped to 2 offers per tender, the cost savings rose to 16.3%. As we can see, the use of sub-threshold procurements increased similar to open tenders. Although the values of disqualifications, unanswered questions and competition slightly worsened, the cost savings gained.

Typical violations committed in the sub-threshold procurements include «Discriminatory requirements», «Unjustified disqualification» and «Unjustified determination of winners». The use of «Avoidance of open tenders» is also probable in order to exploit the defects in regulation of this type of procurements.

For 317 contracting authorities the average expected value of procured lots ranges between UAH 185 thousand and UAH 200 thousand. In the first half of the year, this figure constituted 192. Of them, there are 11 cases with lots valued at UAH 199 thousand and more (see Annex 5) with the total expected value of these lots amounting to almost UAH 74 million. In the previous monitoring period there were 68 such contracting authorities with the expected value of lots reaching UAH 18 million. We can see the increased number of procurements with possible violations.

These procurements should be analyzed further. In particular, an example of false alarm is procurements by Subsidiary Company «Sothern Main Oil Pipelines» of Ukrtransnafta PJSC. In the case of this contracting authority, the average procurement value amounting to UAH 199,395 is a coincidence, because the authority has bought 30 lots, all with different procured items and value ranging from UAH 59,375 for preparing project documentation for renovation¹⁸ to UAH 700,000 for current repair of equipment.¹⁹ These sub-threshold procurements attracted 31 unique tenderers, and cost saving amounted to 8.1%. On the other hand, procurements of the Department of Education of Vilshanka Raion State Administration require more detailed analysis.

¹⁸ Tender webpage: prozorro.gov.ua/tender/UA-2017-09-14-000742-a

¹⁹ Tender webpage: prozorro.gov.ua/tender/UA-2017-11-15-001979-a

CASE 7. WHEN SUB-THRESHOLDS ARE NOT BETTER THAN DIRECT CONTRACTS

Description of the problem

The Department of Education of Vilshanka Raion State Administration continued to procure foodstuffs from SP Savchenko O.V. Two sub-threshold procurements, amounting to about UAH 199 thousand each, were made. Since they did not attract other tenderers, the total cost savings constituted 0%, which negates the idea of conducting the sub-threshold procurements. Together with three similar procurements in the first half of the year, the amount of payments to the winner made up about UAH 1 million.

The procurement items include about 50 kinds of foodstuffs, most of which repeat in each tender. Delivery terms were two months in each case, so there is no question about the urgency of procurements. The procurement item was determined by the second sign of CPV rather than the fourth, which probably restricted competition. Another obstacle could be short terms of sub-threshold procurements. The contracting authority is recommended to conduct open tenders, since such wholesale deliveries may be of interest to many tenderers.

Examples of tenders

UA-2017-08-08-000231-b, UA-2017-10-19-001368-a.



Overall, the problems of sub-threshold procurements remained similar to those ones in the first half of 2017. In particular, a percentage of disqualifications (9%) and unanswered questions (16.2%) is also high. The second of these figures is the direct result of the lack of contracting authority's responsibility for conducting the procurements of this type according to strict rules. Although the cost savings reached 16.3%, such result cannot be deemed as exemplary. Contracting authorities often inaccurately determine the initial price of small procurements. In addition, procurements of 317 contracting authorities require the audit for avoidance of open tenders. This figure increased as compared to the first half of the year. An example of inefficient use of the sub-threshold procurements is procurement of foodstuffs by the Department of Education of Vilshanka Raion State Administration from SP Savchenko O.V., since the cost savings at this tender equal zero.

3.7. Competitive dialogue

The competitive dialogue procedure is used in exceptional cases, when a contracting authority is unable to determine the necessary technical

and qualitative characteristics (specifications) of works or services. These are usually complex technical works, services, etc. In such case negotiations with the market are necessary. Price offers are submitted at the second stage, when tender announcement has been already clarified with potential suppliers. The contracting authority is entitled to select the winner without opening all offers. It should be noted that this procedure does not prescribe predominance of price criterion, and the number of participants can be further narrowed after the first stage. Since the competitive dialogue is not integrated in the analytics modules of the ProZorro system, the possibility of analyzing this procedure remains limited.

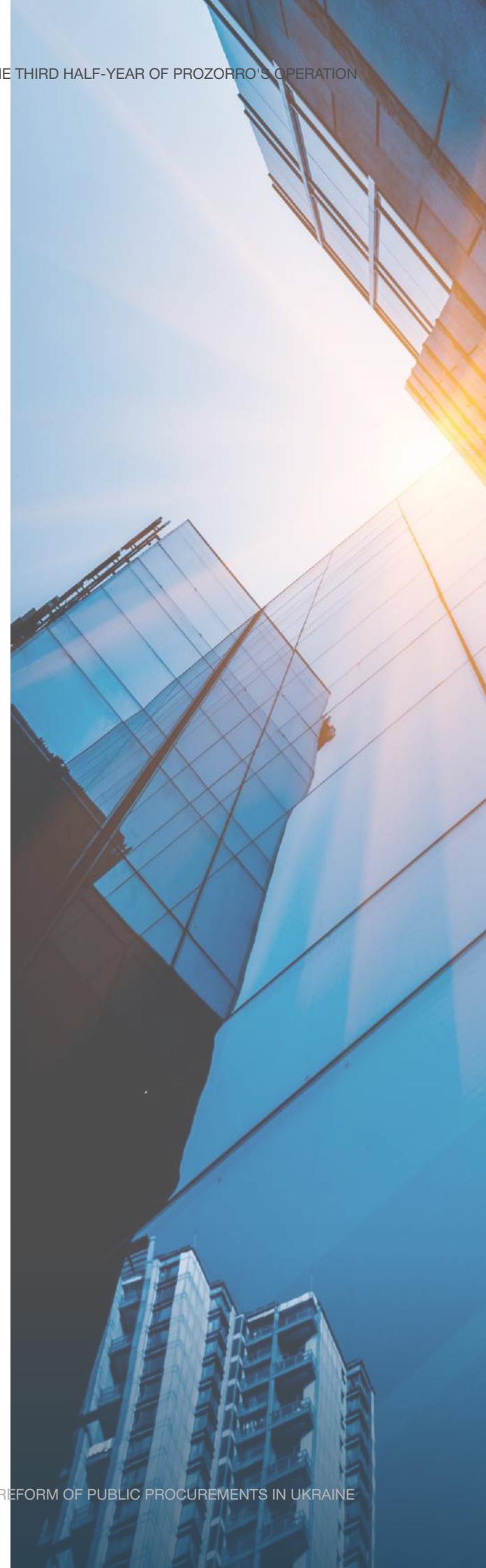
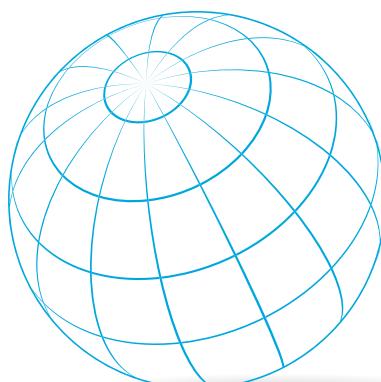
During the second half of 2017, four regular procurement tenders and one tender with English-language publication have been successfully concluded using the competitive dialogue procedure. The total expected value of these tenders was UAH 1.1 billion. All tenders attracted three potential suppliers, which is the minimum number for procurements of this type. Cost savings were 3.1%.

It should be mentioned that three of five contracts were received by Energy Resources Investment Company LLC. In two of these cases, the contracting authority was Chernihivoblenergo PJSC. The amount of these two procurements made up UAH 53.5 million, and cost savings were minimum – 0.4% and almost 0% respectively. In the second case the contracting authority selected the most expensive offer in terms of price, having rejected two cheaper ones.²⁰ The procurement item was technical re-equipment of transformation substation in village Kozelets. Despite the complexity of the analysis of conducting the competitive dialogue, the lack of cost savings and availability of disqualifications of other tenderers testify to possible violations.

The most expensive procurement under the procedure was made by SE «National Atomic Energy Generating Company «Energoatom» from LLC «BC «Ukrbudmontazh». The procurement item was the construction of a centralized storage facility for spent nuclear fuel.²¹ The value of this procurement exceeded UAH 928 million, and the cost savings amounted to 1.1%.

²⁰ Tender webpage: prozorro.gov.ua/tender/UA-2017-09-04-000413-a.2

²¹ Tender webpage: prozorro.gov.ua/tender/UA-2017-05-03-000021-c.2



Conclusions and recommendations

This report covered events which occurred in public procurements during the second half of 2017. We also analyzed the work performed on the problems highlighted in the previous report. We reviewed the data on procurements made via ProZorro system during this time. The aspects of transparency and efficiency of spending public funds were in the focus.

This study retained the monitoring methodology developed in the previous reports by TI Ukraine. Such approach made it possible to continue discussions of the pressing issues in the public procurements sector highlighted in the previous analytical work. In addition, the procurement analysis results for the second half of 2017 could be compared with those for the first half of the year.

The key event in legislation development was the adoption of draft law No. 4738-d. Now, the SASU as the controlling authority has a regulated procedure for monitoring of tenders, in particular on the basis of automatic risk indicators. At the same time, the procurements will not be suspended for the time of conducting the audit. The main recommendation in this regard is to strengthen the organizational capacity of SASU as the controlling authority. Necessary steps include review of its organizational structure, renewal of staff and conducting trainings for employees in monitoring open procurement data.

A less anticipated and potentially negative event took place: adoption of the draft law No. 7206 in the first reading. This document provides for amendments to the Law On Public Procurements. The main proposal of the draft law is to take into account the «nationality» of tenderers' production in the evaluation of tender offers. Although protection of national producer may have positive consequences for the economy, the draft law raises concerns in terms of transparency and compliance with Ukraine's international obligations. In particular, the need to confirm local production may

create additional opportunities for corruption and, as a result, negatively affect the participation of small and medium business in procurements. From TI Ukraine's point of view, this draft law requires further discussions with the involvement of business and civil society representatives.

Among the administrative and technical innovations let's highlight publication of the ProZorro system development plan. The public can currently track measures taken to improve the system and timeliness of work performance. The main recommendation is to regularly update this plan on the official site.

The second event is the implementation of energy service contracts procedure in the ProZorro system. This may increase the transparency of concluding such transactions. They are not the subject of TI Ukraine's reports, since they are not covered by the Law On Public Procurements, having their own peculiarities in the energy saving sector. A feasible step is the development of a separate methodology for monitoring energy service contracts by specialized public organizations.

The ProZorro professional analytics module was supplemented with a new tool – the analysis of concluded contracts. It allows to track what is happening at the post-tender stage of procurements. The urgent recommendations for the development of this tool are to specify the lists of reasons for termination of the contract and conclusion of additional agreements.

In the area of civic monitoring it is worth noting the beginning of the work of the Expert Group on the improvements of public procurement system. Representatives of the public received an opportunity to have regular meetings with public authorities. It is important to use this opportunity to promote urgent issues dealing with transparency of procurements.

Another important event was that DOZORRO portal has already brought together 22 public organizations. The results of the first year of the portal's operation acknowledged low activity of the controlling and law enforcement authorities. We hope that after adoption of the draft law No. 4738-d, the public appeals will lead to a greater number of efficient audits of procurements.

Also, pilot versions of risk indicators and best practices index of the contracting authorities have been launched. Their usefulness for civic monitoring will depend on the implementation of necessary improvements. Our recommendations include the expansion of data arrays for analysis and the integration of these tools into the ProZorro professional analytics module.

The expansion of non-price criteria for evaluation of tender offers remains a pressing issue for the development of the procurement system in Ukraine. Such expansion would allow the contracting authorities to select more cost-efficient and innovative solutions. Another problem is the lack of legislative regulation of sub-threshold procurements. According to business representatives involved in these trades, their regulation is necessary to improve competition and enable the tenderers to protect their interests. In addition, the implementation of complex measures to improve quality of data in the ProZorro system is required from Prozorro SE. In particular, the data fields that the contracting authorities fill in manually contain many errors and are not suitable for the analysis.

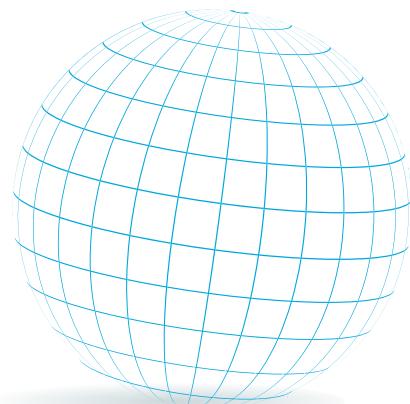
Among the analysis results of ProZorro's operation, let's note that the number and the expected value of completed procurements continued to increase during the second half of 2017. As compared to the first half of the year, the number of tenders rised by 20%, and the expected value – by 5.4%. We also observe an increase in the number of unique tenderers by 18%, whereas the number of price offers remained relatively stable. Therefore, although the amount of procurements and the number of tenderers climbed as compared to the previous period, the competition rate decreased. Not surprisingly, the average cost savings for all types of procurement slightly declined and amounted to 5.2%. This situation raises concerns, because for some reason the activity of business which makes supplies to the state did not upsurge.

A positive change is that the percentage of non-competitive procurements in terms of the value declined to less than 30% of all procurements. This is mainly due to less active use of the negotiation procedure in the second half of the year. Most typical

procurement items, such as utilities, were procured in the first half of the year. Instead, a percentage of contract reporting has increased to 70% in terms of the number of completed lots, and in terms of the value – to 17%. This is a continuation of the negative tendency in the growth of concluding direct contracts by the contracting authorities. Most of the unique tenderers took part in the procurements precisely through reporting, and therefore this could not boost the competition rate or cost savings.

The competition rate remained at around 2.7 in case of open tenders. The reason for this is that the number of completed lots and unique tenderers remained at the same level in July-October. At the end of the year the number of procurements sharply increased, repeating the situation at the end of 2016. This is probably a seasonal phenomenon, when the contracting authorities make most procurements in the beginning and at the end of the year. For the first time since the introduction at the national level, the market participation in the procurements via the ProZorro system has come to stabilize. We do not expect an increase in this figure without overcoming the problematic issues, such as avoidance of open tenders by the contracting authorities and low efficiency of the controlling authorities.

In case of sub-threshold procurements, the competition rate dropped to 2.04 offers per tender. In July-September the tendency of stagnation of their use continued. Since October, the procedure was used more actively. The number of lots grew so fast that the competition rate decreased, despite the positive market response – more tenderers and offers per tenderer. Similar to open tenders, this can be explained by seasonality of procurements. At the same time, unlike in open tenders, business activity did not reach the level of the end of 2016. This may be due to the lack of efficient mechanisms for challenging these procurements and the excessive use of contract reporting by the contracting authorities.



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Annexes

Список випадків з 5-ма та більше лотами, придбаними шляхом звітування про укладений договір, коли середня очікувана вартість лоту між замовником та постачальником знаходиться в діапазоні від 185 тис. грн включно до 200 тис грн

ANNEX 1

Замовник	Учасник	К-сть лотів	Частки участі	Очікувана вартість (грн)	Частки участі
КП «Харківспецбуд»	ТОВ «БМП Східбуд»	78	28%	14 916 734	27%
Департамент з управління житлово-комунальним господарством Запорізької міської ради	ТОВ «Смарттек»	73	30%	13 869 573	25%
Покотилівська селищна рада	ТОВ «Індіго Груп»	57	69%	10 877 357	78%
Департамент міського господарства Одеської міської ради	ПП «Курортне»	30	3%	5 994 392	2%
ПрАТ «Енергопостачальна компанія «Херсонобленерго»	ТОВ «Енергобудпроект-1»	27	18%	5 005 201	11%
Маловисківська міська рада	Філія «Маловисківський райавтодор»	25	74%	4 889 528	58%
Департамент житлово-комунального господарства Миколаївської міської ради	ТОВ «Ніка-Дорбуд»	24	5%	4 755 376	4%
Північне територіальне квартирно-експлуатаційне управління	ТОВ «Люкс-Інтернет»	23	28%	4 376 800	7%

Замовник	Учасник	К-сть лотів	Частки участі	Очікувана вартість (грн)	Частки участі
Великобілозерська сільська рада Великобілозерського району Запорізької області	ТОВ «БК Грандбуд»	21	24%	4 039 414	50%
Управління з питань охорони об'єктів культурної спадщини Одеської міської ради	ТОВ «Науково-виробничий центр «Екострой»	21	20%	4 130 880	25%
Департамент житлово-комунального господарства Луцької міської ради	ТОВ «Вишків-Брук»	19	9%	3 613 548	9%
Управління з питань охорони об'єктів культурної спадщини Одеської міської ради	ТОВ «Альп декор еко груп»	19	18%	3 769 393	23%
Департамент інфраструктури міського господарства Южноукраїнської міської ради	Приватне Науково-виробниче підприємство «Ергомера»	18	33%	3 435 150	29%
ПАТ «Публічне акціонерне товариство «Хмельницькобленерго»	ПП «Елко»	18	5%	3 417 548	10%
Комунальна корпорація «Київавтодор»	КП «Шляхово-експлуатаційне управління по ремонту та утриманню автомобільних шляхів та споруд на них Шевченківського району» м. Києва	17	7%	3 149 498	4%
ПАТ «Турбоатом»	ТОВ «Промінвестресурс-груп»	16	3%	2 992 612	0%
Рогозівська сільська рада	ТОВ «А-К автобан»	15	63%	2 889 051	41%
Територіальне управління Державної судової адміністрації України в Полтавській області	ФОП Горошко А.А.	15	17%	2 783 798	20%

Замовник	Учасник	К-сть лотів	Частки участі	Очікувана вартість (грн)	Частки участі
Чаплинська селищна рада	ПП «Енерго-тепло-водо-буд сервіс»	15	39%	2 784 153	34%
Акціонерна компанія «Харківобленерго»	ФОП Парака С. М.	14	7%	2 614 200	6%
ДП Вигодське лісове господарство	ТОВ «Слобідка»	14	7%	2 678 781	13%
Управління житлово-комунального господарства, архітектури та містобудування Шишацької селищної ради	ТОВ «Полтава-Євробуд»	14	27%	2 591 055	37%
Черкасько-Лозівська сільська рада	ТОВ «Фірма «Колорит-строй»	14	13%	2 610 397	36%
Відділ комунального господарства та благоустрою Чорноморської міської ради	ТОВ «Ілкомсвіт»	13	34%	2 443 789	21%
Управління житлово-комунального господарства, благоустрою та екології Тернопільської міської ради	КП енергомереж зовнішнього освітлення «Тернопільміськсвітло»	13	6%	2 539 118	2%
КП «Шепетівське ремонтно-експлуатаційне підприємство»	ТОВ «Смарт лайт груп»	12	75%	2 371 000	88%
КП «Благоустрій»	ТОВ «Дорбудмеханізація»	12	21%	2 244 713	18%
Управління поліції охорони в Запорізькій області	ТОВ «Епіцентр К»	12	71%	2 388 000	79%

Замовник	Учасник	К-сть лотів	Частки участі	Очікувана вартість (грн)	Частки участі
Щербанівська сільська рада Полтавського району Полтавської області	ТОВ «Полтава-Євробуд»	12	29%	2 222 608	25%
Військова частина А0665	ТОВ «Флаберс»	11	31%	2 050 241	34%
Деньгівська сільська рада	ФОП Погосян Т. Г.	11	31%	2 074 963	25%
Департамент будівництва житлово-комунального господарства містобудування та архітектури Івано-Франківської облдержадміністрації	ПП Штогрин Є. В.	11	3%	2 105 826	2%
Департамент комунального господарства та благоустрою Вінницької міської ради	Комунальне унітарне підприємство «ЕкоВін»	11	18%	2 109 478	11%
Дрогобицьке районне територіальне медичне об'єднання	ПП «Рін»	11	32%	2 158 768	33%
Виконавчий комітет Новопавлівської сільської ради	ТОВ «Мульті-груп»	10	100%	1 975 938	100%
Голованівська селищна рада	Філія «Голованівський райавтодор» ДП «Кіровоградський облавтодор»	10	53%	1 987 914	74%
Департамент з управління житлово-комунальним господарством Запорізької міської ради	ТОВ «Науково-виробнича фірма «Вогнетрив-автоматикасервіс»	10	4%	1 855 638	3%

Замовник	Учасник	К-сть лотів	Частки участі	Очікувана вартість (грн)	Частки участі
КП «Галицьке КП «Капітальне будівництво»	ТОВ «Будтранс-ІВ»	10	23%	1 948 324	24%
КП «Житлоінвестбуд-УКБ»	ТОВ «Проектно-будівельна компанія «Укрпроект»	10	9%	1 995 386	7%
Новосілківська сільська рада	ТОВ «Будівельна компанія «Авторембудсервіс»	10	56%	1 894 887	73%
Тошківська селищна рада	КП «Лисичанський Шляхрембуд»	10	100%	1 858 001	100%
Управління житлово-комунального господарства Шосткинської міської ради	ТОВ «Прогноз»	10	10%	1 981 246	31%
Управління ЖКГ виконкому Малинської міської ради	ТОВ «Системи та Технології»	10	28%	1 855 308	35%
Виробниче управління житлово-комунального господарства Затоківської селищної ради	ФОП Кюркчіу М. В.	9	33%	1 798 568	31%
Відділ освіти Вовчанської районної державної адміністрації	ФОП Грабар М. І.	9	22%	1 746 756	23%
Департамент житлового господарства Харківської міської ради	ФОП Олійник М. О.	9	0%	1 711 937	1%
Кам'янська міська рада	ТОВ «Інтербудтехсервіс»	9	9%	1 793 967	32%
КП «Харківспецбуд»	ТОВ «Промтехбудінвест»	9	3%	1 738 224	3%

Замовник	Учасник	К-сть лотів	Частки участі	Очікувана вартість (грн)	Частки участі
КП «Житлоінвестбуд-УКБ»	Товариство з додатковою відповідальністю «Проектно-виробнича компанія «Будівельна спілка»	9	8%	1 685 938	6%
МРЦ «Тополя» НГУ	МАЛЕ ПП «ЕРФОЛЬГ»	9	4%	1 781 483	33%
Рахівська міська рада	ФОП Сливка Я. Ю.	9	17%	1 741 020	10%
Ромоданівська селищна рада	ТОВ «Флінток»	9	75%	1 798 334	78%
Територіальне управління Державної судової адміністрації України в Київській області	ФОП Матвієнко Г. Л.	9	9%	1 685 909	9%
Територіальне управління Державної судової адміністрації України в Херсонській області	ФОП Атжигітова І.В.	9	17%	1 799 373	17%
Управління житлово-комунального господарства Ізмаїльської міської ради	ФОП Вовченко П.В.	9	3%	1 754 628	2%
Департамент будівництва, містобудування і архітектури житлово-комунального господарства Полтавської обласної державної адміністрації	ПП «Дікон-Буд»	8	14%	1 495 000	6%
КП «Житлоінвестбуд-УКБ»	ТОВ «Проектно-будівельна асоціація «Укрпроект»	8	7%	1 573 172	5%

Замовник	Учасник	К-сть лотів	Частки участі	Очікувана вартість (грн)	Частки участі
Національний університет «Одеська юридична академія»	ТОВ «Будін-торг»	8	4%	1 590 757	6%
Підгірненська сільська рада Василівського району Запорізької області	ТОВ «Атлант-Нікополь»	8	47%	1 504 518	41%
Служба автомобільних доріг у Львівській області	Філія «Львівський виробничий експлуатаційно-технічний вузол зв'язку» ДП дорожнього зв'язку, інформаційного забезпечення та автоматики «Укрдорзв'язок»	8	15%	1 488 360	13%
Відділ освіти Бородянської районної держадміністрації	ТОВ «Будбетон сервіс»	7	9%	1 338 200	11%
Відділ освіти Вишгородської районної державної адміністрації	ФОП Дудник В. О.	7	16%	1 388 900	9%
Відділ освіти Києво-Святошинської районної державної адміністрації	ТОВ «Капітель-Е»	7	7%	1 345 868	6%
Відділ освіти Красноградської районної державної адміністрації	ФОП Шклярський О.Є.	7	6%	1 379 438	11%
ДП «Первомайськвугілля»	ТОВ «Науково-консалтингова фірма «Агронафтасервіс»	7	30%	1 382 086	34%
ДП «Селидіввугілля»	ДП «Держвуглепостач»	7	9%	1 399 370	9%

Замовник	Учасник	К-сть лотів	Частки участі	Очікувана вартість (грн)	Частки участі
ДП «Ніжинське лісове господарство»	ФОП Сипливець О. Г.	7	3%	1 395 493	21%
ДУ «Науково-практичний медичний центр дитячої кардіології та кардіохірургії МОЗ України»	ПП «Комел+»	7	7%	1 332 875	11%
Каракуртська сільська рада	ТОВ «Будівельна компанія Авторембудсервіс»	7	33%	1 366 047	39%
Комітет з фізичного виховання та спорту Міністерства освіти і науки України	ФОП Понурко І. О.	7	50%	1 336 250	57%
КП «Харківспецбуд»	ПП «Дортехбуд»	7	2%	1 353 420	2%
КП «Житлоінвестбуд-УКБ»	ДП «Український центр у сфері благоустрою»	7	6%	1 396 910	5%
КП «Комунгосп ДМР»	ТОВ «Будтранс-ІВ»	7	25%	1 298 600	28%
Національний університет «Одеська юридична академія»	ФОП Ковальчук М. В.	7	4%	1 394 163	6%
НПУ імені М.П. Драгоманова	ФОП Вільчинська А. С.	7	2%	1 319 928	9%
Полицька сільська рада	ФОП Сафарян А. М.	7	64%	1 389 844	78%
Служба автомобільних доріг у Житомирській області	ТОВ «Мережа доріг»	7	12%	1 371 482	12%
Старосамбірська міська рада Старосамбірського району Львівської обл.	ПП «Ірина»	7	29%	1 323 677	44%

Замовник	Учасник	К-сть лотів	Частки участі	Очікувана вартість (грн)	Частки участі
Управління освіти, молоді та спорту виконавчого комітету Мукачівської міської ради	ФОВ Русин В. Ф.	7	10%	1 305 094	14%
Великодолинська селищна рада Овідіопольського району Одеської області	ФОП Дубровін А. Д.	6	13%	1 148 001	12%
Великомихайлівська селищна рада Великомихайлівського району Одеської області	ДП «Одеський облавтодор» Філія «В.Михайлівська ДЕД»	6	10%	1 160 642	9%
Виконавчий комітет Засульської сільської ради	Філія «Лубенське ДЕД» Дочірнього підприємства «Полтавський облавтодор» ВАТ «Державна акціонерна компанія «Автомобільні дороги України»	6	19%	1 150 750	20%
Відділ освіти Покровської міської ради Донецької області	ТОВ «Проект бюро «Архітект експерт»	6	3%	1 162 931	3%
Галицька районна державна адміністрація	ФОП Бойчук В. Я.	6	5%	1 135 458	65%
Головне управління житлово-комунального господарства виконавчого комітету Бориспільської міської ради	ФОП Мкртічян А. А.	6	2%	1 194 000	2%
Департамент будівництва житлово-комунального господарства містобудування та архітектури Івано-Франківської облдержадміністрації	ТОВ «Еко 777»	6	1%	1 158 973	1%

Замовник	Учасник	К-сть лотів	Частки участі	Очікувана вартість (грн)	Частки участі
Департамент енергетики, енергозбереження та запровадження інноваційних технологій Миколаївської міської ради	ФОП Ястреб Г. А.	6	5%	1 114 827	7%
Департамент житлово-комунального господарства Миколаївської міської ради	ТОВ «Дельта-Ойл»	6	1%	1 115 301	1%
Департамент патрульної поліції	ФОП Шило Д. А.	6	3%	1 179 900	4%
Державне космічне агентство України	ТОВ «Інформаційно-аналітичний центр «Спейс-інформ»	6	86%	1 194 000	94%
ДП «Артемсіль»	ПрАТ «Газенергокомплект»	6	1%	1 130 784	0%
Дрогобицьке районне територіальне медичне об'єднання	ФОП Деменко Г. Г.	6	18%	1 138 058	18%
Залужанська сільська рада	ФОП Аветісян А. А.	6	86%	1 194 000	94%
Кирило-Ганнівська сільська рада	ПрАТ «Миргородський агрошляхбуд»	6	100%	1 142 520	100%
Княжицька сільська рада Києво-Святошинського району Київської області	ТОВ «Стройбуд-17»	6	30%	1 175 000	31%
КП «Житлово-експлуатаційна організація № 2» Полтавської міської ради	ФОП Гененко Л. Ю.	6	100%	1 194 000	100%

Замовник	Учасник	К-сть лотів	Частки участі	Очікувана вартість (грн)	Частки участі
КП «Управління міського господарства»	ТОВ «Покровське управління механізації»	6	5%	1 119 530	10%
Лисичанська комунальна лікувально-профілактична установа станція швидкої медичної допомоги	ПП «Вудбуд»	6	21%	1 188 000	30%
Магдалинівська селищна рада	ПП «Прогресс»	6	43%	1 180 137	54%
ПАТ «Публічне акціонерне товариство «Хмельницькобленерго»	ПП «Ярсі»	6	2%	1 128 141	3%
Південне територіальне квартирно-експлуатаційне управління	ДП «Проектний інститут «Одеський промбудпроект» Державного ПАТ «Будівельна компанія «Укрбуд»	6	9%	1 172 304	3%
ПрАТ «Рівнеобленерго»	ТОВ виробничо-комерційна фірма «Будкомплект»	6	3%	1 139 465	1%
Прокуратура Чернігівської області	ФОП Мовлян А. В.	6	14%	1 186 749	24%
ПАТ по газопостачанню та газифікації «Івано-Франківськгаз»	ТОВ «Науково-виробниче комерційне підприємство «Укрінтал-Сервіс»	6	8%	1 184 733	22%
Територіальне управління державної судової адміністрації України в Дніпропетровській області	Приватне науково-виробниче підприємство «ППА Комплекс»	6	4%	1 129 936	4%
Територіальне управління Державної судової адміністрації України в Полтавській області	ФОП Ларіонов С.В.	6	7%	1 145 602	8%

Замовник	Учасник	К-сть лотів	Частки участі	Очікувана вартість (грн)	Частки участі
Управління з питань охорони об'єктів культурної спадщини Одеської міської ради	ТОВ «Екстер'єр-дизайн»	6	6%	1 199 880	7%
Управління освіти Бахмутської міської ради	ФОП Тодорова І. С.	6	8%	1 149 946	11%
Управління освіти і науки	ТОВ «Будінвент»	6	4%	1 140 000	3%
Філія «Іршанський гірничо-збагачувальний комбінат «ПАТ «Об'єднана гірничо-хімічна компанія»	ДП «Житомирський експертно-технічний центр Держпраці»	6	2%	1 160 000	2%
Чижиківська сільська рада	ТОВ «Ремонтно-будівельно-торгове підприємство»	6	43%	1 123 443	20%
Юрівська сільська рада	ТОВ «Немирів водпроектбуд»	6	32%	1 140 000	25%
Апеляційний суд міста Києва	ТОВ «Спеціальні реєструючі системи»	5	6%	964 580	27%
Виконавчий комітет Сергіївської сільської ради	ТОВ «МІБ»	5	19%	984 861	20%
Виконавчий комітет Смілянської міської ради	ТОВ «АЛЬЯНС ЕВОЛЮШН»	5	71%	992 500	85%
Відділ з питань освіти, молоді і спорту Заліщицької райдержадміністрації	Кооператив «Будівельник»	5	2%	961 256	17%
Відділ культури Чорноморської міської ради Одеської області	ПЗВОГ «Строітель»	5	50%	966 574	61%

Замовник	Учасник	К-сть лотів	Частки участі	Очікувана вартість (грн)	Частки участі
Відділ освіти Броварської РДА	ФОП Погиба А. В.	5	9%	993 076	10%
Відділ освіти Києво-Святошинської районної державної адміністрації	ТОВ «Аван ВК»	5	5%	959 665	4%
Відділ освіти Сумської районної державної адміністрації	ТОВ «Комплекс-груп»	5	9%	948 231	7%
Військова частина 3011 Національної гвардії України	ТОВ «Міталл Інком»	5	3%	996 234	13%
Військова частина 3077 Національної гвардії України	ФОП Колесніков Ю.Ю.	5	5%	962 000	8%
Військова частина A0665	ФОП ЗАБОЛОТНИЙ В. М.	5	14%	995 000	16%
Вінницько-Хутірська сільська рада	ТОВ «Компанія «Альянс-Альфа»	5	38%	984 780	21%
Горностаївська центральна районна лікарня	ФОП Литвененко В. В.	5	83%	953 011	90%
Данилівська сільська рада Васильківського району Київської області	ТОВ «Будкрафт»	5	83%	925 827	41%
Департамент інфраструктури Харківської міської ради	ТОВ «Віасисистемпро»	5	7%	939 719	6%
ДП «Артемсіль»	ТОВ «Промислова компанія «Сфера»	5	1%	990 335	0%

Замовник	Учасник	К-сть лотів	Частки участі	Очікувана вартість (грн)	Частки участі
Долинська сільська рада Ананіївського району Одеської області	ФОП Грицький О.В.	5	71%	941 860	75%
КЗ КОР «Київський обласний онкологічний диспансер»	ФОП Цирен О. К.	5	21%	998 000	29%
Київська міська рада Департамент економіки та інвестицій виконавчого органу	ТОВ «Ліга:Практик»	5	33%	970 000	38%
Київська районна адміністрація Одеської міської ради	ТОВ «Деслайт»	5	9%	985 316	15%
КЛПУ «Обласний госпіталь для ветеранів війни м. Святогірська»	ТОВ «Рікот»	5	17%	934 999	23%
Книшівська сільська рада Гадяцького району Полтавської області	ТОВ «МІБ»	5	83%	974 864	94%
Комишувахська селищна рада	Дочірнє підприємство «Луганський облавтодор»	5	63%	974 842	34%
КП «Управління автомобільних шляхів» Житомирської міської ради	Відкритого акціонерного товариства «Державна акціонерна компанія «Автомобільні дороги України»	5	19%	950 179	33%
Комунальний позашкільний навчальний заклад «Дитяча школа мистецтв №4 м. Одеси»	ТОВ «Перша Житомирська холдингова компанія»	5	45%	999 995	78%
КП «Житлоінфоцентр»	ФОП Савченко О. І. ТОВ «Дитячі та спортивні майданчики»	5	2%	954 709	19%

Замовник	Учасник	К-сть лотів	Частки участі	Очікувана вартість (грн)	Частки участі
КП «Чернівецьке тролейбусне управління»	ПП «Елма»	5	42%	999 083	51%
КП «Житомиртепло-комуненерго»	ФОП Ковальчук М.І.	5	1%	994 641	3%
Кринківська сільська рада Глобинського району	ФОП Геращенко Ю.М.	5	45%	958 470	39%
Курманівська сільська рада	ФОП Сідоров В.А.	5	45%	997 891	90%
Мельнице-Подільська селищна рада	ФОП Сухецький П. І.	5	11%	990 136	11%
Михайлівська селищна рада Михайлівського району Запорізької області	ФОП Дмитренко Ю. П.	5	14%	962 896	15%
Національний університет «Одеська юридична академія»	ТОВ «Інко»	5	3%	997 102	4%
Новозлатопільська сільська рада Розівського району Запорізької області	ТОВ «Бердянськбудрест»	5	83%	999 792	98%
ОКП «Донецьктепло-комуненерго»	ТОВ «ІТЦ «Спецбудпроект»	5	6%	953 287	5%
ПАТ «Суміхімпром»	Концерн «СоюзЭнерго»	5	1%	951 580	0%
ПрАТ «Енерго-постачальна компанія «Херсонобленерго»	ТОВ «МГК-Черкаси»	5	3%	975 750	2%
Сонячна сільська рада	ТОВ «Науково-виробнича фірма «Вогнетрив-автоматикасервіс»	5	38%	975 418	32%

Замовник	Учасник	К-сть лотів	Частки участі	Очікувана вартість (грн)	Частки участі
Територіальне управління Державної судової адміністрації України в Донецькій області	ТОВ «Виробниче-комерційна фірма «Сіндікат»	5	10%	952 940	12%
ТУ ДСА України у Черкаській області	ПП «Будтехсервіс-Черкаси»	5	4%	960 257	10%
Управління житлово-комунального господарства Ізмаїльської міської ради	ФОП Бартяну О. В.	5	2%	943 715	1%
Управління житлово-комунального господарства та містобудування Глухівської міської ради	ФОП Пугач М. І.	5	38%	934 795	58%
Управління освіти Хотинської районної державної адміністрації	ФОП Бежан Р. Ш.	5	10%	936 000	10%
Управління охорони історичного середовища Львівської міської ради	ТОВ «Реставрація стиль»	5	28%	975 181	21%
Управління справами Апарату Верховної Ради України Управління адміністративними будинками	ТОВ «РПВМ Відродження»	5	4%	950 825	13%
Фастовецька сільська рада	ПрАТ «Шляхова ремонтно-будівельна дільниця № 7»	5	100%	957 606	100%
Шишацька обласна гімназія інтернат для обдарованих дітей	ТОВ «Дилерська Компанія «Полтава-Автосвіт»	5	42%	935 000	49%

Список випадків із 3-ма та більше лотами, придбаними шляхом звітування про укладений договір, коли середня очікувана вартість лоту між замовником та постачальником знаходиться в діапазоні від 1,45 млн грн включно до 1,5 млн грн

ANNEX 2

Замовник	Учасник	К-сть лотів	Частки участі	Очікувана вартість (грн)	Частки участі
Південне територіальне квартирно-експлуатаційне управління	ТОВ «ДСТУ-Спецбуд»	6	9%	8 984 672	23%
Департамент економіки та розвитку Черкаської міської ради	ФОП Рустамян М.С.	4	6%	5 970 670	19%
Дмитрівський обласний психоневрологічний інтернат	ТОВ «Гермес-1»	4	8%	5 897 039	17%
Дмитрівський обласний психоневрологічний інтернат	ТОВ «Лугекспертіза»	4	8%	5 897 039	17%
Дніпропетровське обласне управління водних ресурсів	ТОВ «Містокомбуд»	4	4%	5 982 039	17%
Озерненська сільська рада	ЧП «Арутюн плюс»	4	7%	5 878 349	29%
Підгірцівська сільська рада Обухівського району Київської області	ПАТ «Пересувна механізована колона-43»	4	11%	5 894 851	57%
Білківська сільська рада	ТОВ «Агрошляхбуд-М»	3	25%	4 465 262	80%
Виконавчий комітет Новоолександрівської сільської ради	ТОВ «Торгівельний дім «Н'ю-лайн»	3	2%	4 446 000	17%
КП «Облтрансбуд»	ТОВ «Автодор»	3	2%	4 435 847	5%

Замовник	Учасник	К-сть лотів	Частки участі	Очікувана вартість (грн)	Частки участі
КП «Облтрансбуд»	ТОВ «Облтепло»	3	2%	4 404 308	5%
Молодіжненська сільська рада Овідіопольського району	ТОВ «Фортуна»	3	10%	4 432 655	32%
Управління інженерного захисту території міста та розвитку узбережжя Одеської міської ради	ТОВ «Проходчик»	3	9%	4 470 000	24%

Учасники, які подали 20 та більше цінових пропозицій без перемог за процедурою відкритих торгів

ANNEX 3

Учасник	Кількість цінових пропозицій	Сума пропозицій, грн
ТОВ «Трестбуд-1»	265	1 394 194 984
ТОВ «AAA+»	175	856 768 386
ТОВ «Українська великовантажна техніка»	79	255 316 040
ТОВ «Гравіта»	60	41 352 286
ТОВ «Інфра-кам»	52	10 671 657
ТОВ «Одеська продуктова компанія»	50	17 794 093
ТОВ «Машбудінвест»	44	160 147 872
ТОВ «Променергокомплектація»	43	52 615 207
ТОВ «Беркана +»	42	2 448 402
ТОВ «АТ Механіка»	37	103 594 810
ТОВ «Пирятинське ремонтно-транспортне підприємство»	35	38 061 500
ТОВ «Авант-гарде»	35	124 571 328
ТОВ «Меноріта»	35	119 874 816
ТОВ «Сучасні інформаційні системи»	34	43 874 042
ТОВ «BT-Технолоджі»	33	15 680 473
ТОВ «Небозвід»	32	2 652 777

Учасник	Кількість цінових пропозицій	Сума пропозицій, грн
ТОВ «Київбудінвест-ЛТД»	31	133 089 000
ФОП Гозулова О. В.	30	1 514 683
ТОВ «Науково-виробниче підприємство «Дрім тім»	28	1 854 843
ТОВ «Науково-виробниче підприємство «Хіменергомаш»	27	13 476 657
ТОВ «Торговельна компанія «Конструктив»	27	7 095 127
ТОВ «Фотон-Україна»	26	25 606 566
ФОП Мирських З. Г.	26	7 936 368
ТОВ «Волноваська паливно-енергетична компанія»	25	23 142 865
Українська дистрибуторська компанія «Мегаторг»	24	2 851 587
ФОП Чмірьов О. А.	24	10 235 612
ТОВ «Укртехноюг»	23	15 439 953
ТОВ «Ефект Центр»	23	11 817 599
ТОВ «Фільтр Продактс Україна»	23	23 975 558
ФОП Рогоза В. В.	23	13 275 574
ФОП Захарчук В. П.	23	20 866 850
ДП «Український державний інститут з проектування об'єктів дорожнього господарства «Укрдіпдор»	22	9 133 792

Учасник	Кількість цінових пропозицій	Сума пропозицій, грн
ТОВ «ВСК» Евріка»	21	1 201 292
ТОВ «Комснаб лідер»	21	1 109 201
ТОВ «Укртексім»	21	19 436 933
ТОВ «Науково-виробниче товариство «Низина-АгроПо2005»	21	987 000
ТОВ «Кариота»	21	48 018 250
ТОВ «Южфлотсервіс»	21	3 476 552
ТОВ «НПП «Техпром»	20	40 861 729
ТОВ «Плюс Атланта НК»	20	34 659 902
ТОВ «Євро Груп Україна»	20	7 217 869
ТОВ «Фінансово-промислова компанія «Ресурсгруп»	20	7 254 152
ФОП Каменчук Ю. В.	20	624 749
ФОП Лалак Л. Л.	20	14 207 641
ФОП Вареха В. В.	20	1 302 550

Замовники, які мають більше 60-ти лотів, кількість унікальних учасників, нижчу за кількість лотів, а також середню кількість пропозицій, меншу за 2,5 за процедурою відкритих торгів

ANNEX 4

Замовник	Очікувана вартість лотів (грн)	К-сть лотів	К-сть унікальних учасників	К-сть цінових пропозицій	К-сть дискваліфікацій	% економії	Середня к-сть пропозицій на торги
Філія «Центр забезпечення виробництва» ПАТ «Українська залізниця»	789 556 610	330	173	826	111	3,01%	2,50
ДП «Український науково-дослідний і навчальний центр проблем стандартизації, сертифікації та якості»	18 095 783	274	65	598	12	4,31%	2,18
Департамент охорони здоров'я Одеської міської ради	44 247 970	128	60	271	17	2,05%	2,12
Департамент охорони здоров'я Дніпропетровської обласної державної адміністрації	94 504 051	107	56	246	19	4,77%	2,30
Департамент охорони здоров'я Івано-Франківської обласної державної адміністрації	27 158 267	105	37	233	4	6,02%	2,22
Департамент житлово-комунального господарства та будівництва Дніпропетровської обласної державної адміністрації	1 069 813 614	91	49	215	11	2,07%	2,36

Замовник	Очікувана вартість лотів (грн)	К-сть лотів	К-сть унікальних учасників	К-сть цінових пропозицій	К-сть дискваліфікацій	% економії	Середня к-сть пропозицій на торги
Департамент житлового господарства Дніпровської міської ради	139 440 176	90	56	190	14	9,80%	2,11
Служба автомобільних доріг у Львівській області	617 966 877	86	50	201	12	2,71%	2,34
КУ «Центр фінансово-статистичного аналізу та матеріально-технічного забезпечення закладів і установ охорони здоров'я» Запорізької обласної ради	49 741 806	84	46	190	21	7,59%	2,26
Філія «Науково-дослідний та конструкторсько-технологічний інститут залізничного транспорту» публічного акціонерного товариства «Українська залізниця»	12 251 040	75	67	185	7	9,72%	2,47
ДП «Надвірнянське лісове господарство»	3 914 820	67	27	134	0	7,46%	2,00

Список замовників, для яких середня очікувана вартість лотів, придбаних на допороговій закупівлі, знаходиться між 199 тис. грн включно та 200 тис грн

ANNEX 5

Замовник	Очікувана вартість лотів (грн)	К-сть лотів
Управління освіти Оболонської районної в місті Києві державної адміністрації	42 369 274	212
Філія «Південні Магістральні Нафтопроводи» Публічного Акціонерного Товариства «Укртранснафта»	5 981 835	30
Державний вищий навчальний заклад «Слов'янський коледж транспортної інфраструктури»	598 800	3
ОСББ «Богданівець»	599 998	3
Благодійний фонд «Ciprius»	398 020	2
Відділ освіти Вільшанської районної державної адміністрації	399 629	2
Головне територіальне управління юстиції у Тернопільській області	398 990	2
Департамент житлового господарства Харківської міської ради	398 000	2
Державний навчальний заклад «Шосткинський центр професійно-технічної освіти»	398 000	2
Дігтярівський професійний аграрний ліцей Чернігівської області	398 900	2
ЖБК 224	398 580	2
ЖБК «Буревісник-2»	380 000	2

Замовник	Очікувана вартість лотів (грн)	К-сть лотів
ЖБК №118 «Ореол»	399 910	2
ОСББ «Молологвардійська-10»	399 999	2
ОСББ «Янтарне-79»	398 657	2
ОСББ «Зеніт-3»	398 496	2
ОСББ «Перемога-130»	398 598	2
ОСББ «Крушельницької, 1»	399 977	2
ОСББ «Суворовець»	399 752	2
Прилуцька міська дитяча лікарня	399 800	2
19 ДПРЧ ГУ ДСНС України у Херсонській області	199 000	1
Апеляційний суд Львівської області	199 999	1
Виконавчий комітет Глобинської міської ради	199 000	1
Виконавчий комітет Острозької міської ради	199 500	1
Відділ освіти Ковельської районної державної адміністрації	199 906	1
Відділ освіти Рокитнівської районної державної адміністрації	199 000	1
ВЧ 3053 Національної гвардії України	199 999	1
ВЧ 3072 Західного ОТО НГУ	199 000	1

Замовник	Очікувана вартість лотів (грн)	К-сть лотів
ВЧ А2171	199 999	1
ВЧ А3200	199 990	1
Головне управління Національної поліції в Хмельницькій області	199 600	1
Грибовицька сільська рада Жовківського району Львівської області	199 495	1
Державна установа «Мелітопольська установа виконання покарань (№ 144)»	199 999	1
Державний професійно-технічний навчальний заклад «Камінь-Каширське вище професійне училище»	199 900	1
Державний заклад «Іллічівська басейнова лікарня на водному транспорті Міністерство охорони здоров'я України»	199 095	1
Дніпровське міжрайонне управління водного господарства	199 000	1
ЖБК №117 «Здоров'є»	199 986	1
Жидачівська міська рада	199 970	1
ЖБК «Кристал» № 134	199 000	1
ЖБК №185 «Союз»	199 999	1
ЖБК №330	199 800	1
ЖБК №405	199 153	1
ЖБК №187 «Петровець»	199 900	1

Замовник	Очікувана вартість лотів (грн)	К-сть лотів
ЖБК № 338	199 290	1
КЗ «Міська дитяча клінічна лікарня»	199 999,9	1
КЗ «Ізяславська центральна районна лікарня»	199 000	1
КЗ ЛОР «Львівський обласний протитуберкульозний санаторій»	199 200	1
КЗ Сумської обласної ради «Обласний ліцей-інтернат спортивного профілю «Барса»	199 937	1
Кіровоградський місцевий центр з надання безоплатної вторинної правової допомоги	199 004	1
Класична гімназія при Львівському національному університеті імені Івана Франка	199 000	1
КЗ «Запорізький обласний театр ляльок» Запорізької обласної ради	199 800	1
Комунальна міська клінічна лікарня швидкої медичної допомоги	199 999	1
КУ «Обласне патолого-анатомічне бюро» Житомирської обласної ради	199 000	1
КП «Перспектива» Красносільської сільської ради Лиманського району Одеської області	199 500	1
КЗ «Вараський міський центр соціальної реабілітації дітей-інвалідів» імені З.А.Матвієнко	199 280	1
КЗ «Іванівська центральна районна лікарня» Іванівської районної ради»	199 950	1

Замовник	Очікувана вартість лотів (грн)	К-сть лотів
КЗ «Кременівська ЗОШ I-III ступенів імені братів Зосима Нікольської районної ради Донецької області»	199 700	1
КЗ «Харківський міський центр дозвілля молоді»	199 890	1
КЗ «Центр первинної медико-санітарної допомоги №3»	199 500	1
КП «Бахмутський парк культури та відпочинку»	199 000	1
КП «Благоустрій-Вишгород» ВМР	199 000	1
КП «Історико-культурний заповідник «Кладовища по вул. Зеленій»	199 999	1
КП «Київський іподром»	199 380	1
КП ПМР «Житлокомплекс»	199 800	1
Львівська лінгвістична гімназія Львівської міської ради Львівської області	199 000	1
Міністерство фінансів України	199 989	1
ОСББ «4 Джі»	199 000	1
ОСББ «Берізка 3»	199 990	1
ОСББ «Беляєва 10»	199 990	1
ОСББ «Богдана 30-А»	199 909	1
ОСББ «Героїв 23»	199 900	1
ОСББ «Дарницька, 19»	199 556	1

Замовник	Очікувана вартість лотів (грн)	К-сть лотів
ОСББ «Дім»	199 989	1
ОСББ «Дніпро 25»	199 962	1
ОСББ «Домовік-1»	199 980	1
ОСББ «Ефективні системи управління»	199 978	1
ОСББ «Кристал по вулиці Янтарна 79 у м. Дніпропетровську»	199 600	1
ОСББ «Лівобережне-31»	199 999	1
ОСББ «Металург-9»	199 000	1
ОСББ «Наш добробут, 25»	199 548	1
ОСББ «Новоорловська 2»	199 999	1
ОСББ «П. Орлика 21, 21А»	199 040	1
ОСББ «Робоча-73»	199 000	1
ОСББ «Сонячний-44»	199 907	1
ОСББ «Титова 9»	199 000	1
ОСББ «Титова 2»	199 000	1
ОСББ «Тополина-10»	199 922	1
ОСББ «Тополя-2/10»	199 395	1
ОСББ «Тополя-14»	199 198	1
ОСББ «Шолохова-19»	199 997	1

Замовник	Очікувана вартість лотів (грн)	К-сть лотів
ОСББ «Щасливий 864»	199 999	1
ОСББ «Правди 40-Б»	199 999	1
Обслуговуючий кооператив «ЖБК № 57 «Машинобудівник»	199 500	1
Обслуговуючий кооператив «ЖБК № 360»	199 800	1
Обслуговуючий кооператив «ЖБК № 392»	199 999,9	1
Обслуговуючий кооператив «ЖБК №135 «Ландиш»	199 000	1
Обслуговуючий кооператив «ЖБК №250»	199 000	1
Обслуговуючий кооператив «ЖБК «Рекорд №144»	199 996	1
Обслуговуючий кооператив «Міжрегіональний ЖБК «Південний»	199 798	1
ОСББ «Артеківська 14»	199 999,6	1
ОСББ «Щербіни-25»	199 999	1
ОСББ «152 Дивізії, 2А»	199 999	1
ОСББ «Абхазька-4»	199 000	1
ОСББ «Байкальська 11»	199 998	1
ОСББ «Верба-14»	199 999	1
ОСББ «Домінус»	199 999	1

Замовник	Очікувана вартість лотів (грн)	К-сть лотів
ОСББ «Захарченко 64»	199 900	1
ОСББ «Квартал добробуту»	199 352	1
ОСББ «Квартет-Л3»	199 800	1
ОСББ «Метробудівська 17»	199 528	1
ОСББ «Моніторна 10»	199 907	1

